

## Cabinet

Tuesday 9 March 2021

11.00 am

Online/Virtual: This meeting will be livestreamed on Southwark Council's YouTube channel here: <https://www.youtube.com/user/southwarkcouncil>

### Membership

Councillor Kieron Williams (Chair)  
Councillor Jasmine Ali

Councillor Evelyn Akoto  
Councillor Helen Dennis  
Councillor Stephanie Cryan  
Councillor Alice Macdonald

Councillor Rebecca Lury  
Councillor Catherine Rose  
Councillor Johnson Situ

### Portfolio

Leader of the Council  
Deputy Leader and Cabinet Member for  
Children, Young People and Education  
Public Health and Community Safety  
Social Support and Homelessness  
Council Housing  
Communities, Equalities and  
Neighbourhoods  
Finance, Business and Jobs  
Leisure, Environment and Roads  
Climate Emergency, Planning and  
Transport

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## INFORMATION FOR MEMBERS OF THE PUBLIC

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### Contact

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Members of the committee are summoned to attend this meeting

**Councillor Kieron Williams**  
Leader of the Council  
Date: 1 March 2021



# Cabinet

Tuesday 9 March 2021  
11.00 am

Online/Virtual: This meeting will be livestreamed on Southwark Council's YouTube channel here: <https://www.youtube.com/user/southwarkcouncil>

## Order of Business

Item No.	Title	Page No.
	<b>PART A - OPEN BUSINESS</b>	
	<b>MOBILE PHONES</b>	
	Mobile phones should be turned off or put on silent during the course of the meeting.	
1.	<b>APOLOGIES</b>	
	To receive any apologies for absence.	
2.	<b>NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT</b>	
	In special circumstances, an item of business may be added to an agenda within five clear working days of the meeting.	
3.	<b>NOTICE OF INTENTION TO CONDUCT BUSINESS IN A CLOSED MEETING, AND ANY REPRESENTATIONS RECEIVED</b>	1
	To note the items specified which will be considered in a closed meeting.	
4.	<b>DISCLOSURE OF INTERESTS AND DISPENSATIONS</b>	
	Members to declare any interests and dispensations in respect of any item of business to be considered at this meeting.	

Item No.	Title	Page No.
5.	<b>PUBLIC QUESTION TIME (15 MINUTES)</b>	
	To receive any questions from members of the public which have been submitted in advance of the meeting in accordance with the cabinet procedure rules. The deadline for the receipt of public questions is midnight Wednesday 3 March 2021.	
6.	<b>MINUTES</b>	2 - 11
	To approve as a correct record the minutes of the open section of the meeting held on 2 February 2021.	
7.	<b>DEPUTATION REQUESTS</b>	
	To consider any deputation requests. The deadline for the receipt of a deputation request is midnight Wednesday 3 March 2021.	
8.	<b>TEMPORARY ACCOMMODATION POLICY AND ACTION PLAN</b>	12 - 32
	To note the temporary accommodation policy and action plan and agree to publish and implement the Southwark Good Homes Standard.	
9.	<b>DISCRETIONARY SERVICE CHARGE LOAN POLICY REVIEW</b>	33 - 43
	To note the contents of the report proposing changes to the current discretionary service charge loan policy and agree to the changes to the policy.	
10.	<b>GATEWAY 1 - PROCUREMENT STRATEGY APPROVAL - LEASEHOLD AND ANCILLARY PROPERTIES BUILDINGS INSURANCE</b>	44 - 58
	To approve the procurement strategy outlined in the report to undertake a procurement in line with the Public Contract Regulations 2015 (PCR) for the leasehold and ancillary properties buildings insurance contract.	
11.	<b>INVESTMENT PROPOSAL FOR PLOTS A1, A2 AND K1 AT CANADA WATER</b>	59 - 66
	That further to the Master Development Agreement (MDA) between the council and British Land (BL) to seek approval to invest its land only in plots A1, A2 and K1.	

Item No.	Title	Page No.
12.	<b>STRATEGIC PROPERTY PURCHASE: STORK ON THE HILL MIDWIFERY CENTRE, BLANCHEDOWNE, DENMARK HILL</b>	67 - 75
	To seek approval to acquire the freehold interest of land.	
13.	<b>FORMER GARAGES ADJACENT TREVITHICK HOUSE BERMONDSEY</b>	76 - 88
	To approve the appropriation of the land to facilitate the carrying out of the development proposals for the area.	
14.	<b>GATEWAY 2 – CONTRACT AWARD CARE AT HOME AND IN THE COMMUNITY FOR CHILDREN &amp; YOUNG PEOPLE</b>	89 - 103
	To approve the establishment of a single-lot framework agreement for the provision of Care at Home and in the Community for Children & Young People (CYP Care at Home) for a period of up to four (4) years from 3 May 2021.	
15.	<b>GATEWAY 0 - STRATEGIC OPTIONS ASSESSMENT FOR THE FUTURE DIRECTION OF THE TREE SERVICE</b>	104 - 154
	To request that officers bring a Gateway 1 report to cabinet in 2021 for the procurement of the external tree works services and to note related recommendations.	
16.	<b>GATEWAY 0 - APPRAISAL OF MANAGEMENT OPTIONS FOR LEISURE CENTRES</b>	155 - 177
	To approve that a Gateway 1 paper is brought to cabinet in autumn 2021 to seek approval to a proposed insourcing strategy which will include a detailed programme and implementable plan to bring the leisure service in-house and note related recommendations.	
17.	<b>PUBLIC SPACE PROTECTION ORDER EXTENSION - TO TACKLE DOG RELATED ANTI-SOCIAL BEHAVIOUR</b>	178 - 191
	To approve the recommendation that the Public Space Protection Orders (PSPOs) should continue without variation until March 2024 and to note that a further review (including consultation with key stakeholders) of the PSPO to tackle dog related anti-social behaviour will be conducted in March 2022, with a view to renewing the PSPO by 31 March 2024 (subject to the outcome of the review).	

Item No.	Title	Page No.
18.	<b>GATEWAY 1 - PROCUREMENT STRATEGY APPROVAL - FACILITIES MANAGEMENT CONTRACT PROCUREMENT FOR THE OPERATIONAL ESTATE</b>	192 - 210

To approve a number of recommendations to bring the corporate facilities management (CFM) cleaning services in-house on expiry of the current contract in September 2022 and to procure the remaining hard and soft facilities management (FM) services recommended in the procurement strategy via a further competition process using the Crown Commercial Services (CCS) framework agreement

To approve potential (not guaranteed) lifecycle capital investment works.

19.	<b>EXTENSION OF THE MITIE FM LTD (INTERSERVE) FACILITIES MANAGEMENT CONTRACT</b>	211 - 222
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To approve the variation to extend the term (and agree associated changes noted in the report) of the consolidated facilities management (FM) contract with Mitie FM Limited (Mitie) (previously known as Interserve (Facilities Management) Limited (Interserve).

**DISCUSSION OF ANY OTHER OPEN ITEMS AS NOTIFIED AT THE START OF THE MEETING**

**EXCLUSION OF PRESS AND PUBLIC**

The following motion should be moved, seconded and approved if the cabinet wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure Rules of the Constitution.“

**PART B - CLOSED BUSINESS**

20.	<b>STRATEGIC PROPERTY PURCHASE: STORK ON THE HILL MIDWIFERY CENTRE, BLANCHEDOWNE, DENMARK HILL</b>	
21.	<b>GATEWAY 2 – CONTRACT AWARD CARE AT HOME AND IN THE COMMUNITY FOR CHILDREN &amp; YOUNG PEOPLE</b>	

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**DISCUSSION OF ANY OTHER CLOSED ITEMS AS NOTIFIED AT  
THE START OF THE MEETING AND ACCEPTED BY THE CHAIR  
AS URGENT**

Date: 1 March 2021



**Notice of Intention to conduct business in a closed meeting,  
and any representations received**

**Cabinet 9 March 2021**

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require that the council give a 28 notice period for items to be considered in private/closed session. This has been implemented through the publication of the council's forward plan.

The council is also required under these arrangements to give a further five days notice of its intention to hold the meeting or part of the meeting in private/closed session and give details of any representations received in respect of the private meeting.

This notice issued in accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 is to confirm that the cabinet meeting to be held on 9 March 2021 at 11.00am online/virtual meeting will be held partly in closed session for consideration of the following items listed on the agenda:

**Item 20:** Strategic property purchase: Stork on the Hill Midwifery Centre, Blanedowne, Denmark Hill

**Item 21:** Gateway 2 – Contract Award Care at Home and in the Community for Children & Young People.

The proper officer has decided that the agenda papers should not be made available to the press and public on the grounds that they involve the likely disclosure of confidential or exempt information as specified in categories 1 - 7, of the Access to Information Procedure Rules of the Constitution. The reason for both reports is that they contain information falling within category 3: information relating to the financial affairs of any particular person (including the authority holding that information).

In most cases an open version of a closed report is produced and included on the agenda.

No representations have been received in respect of the items listed for consideration in closed session. Any representations received after the issuing of this notice will be reported at the meeting.

Paula Thornton  
For Proper Constitutional Officer

**Dated:** 1 March 2021





## Cabinet

MINUTES of the OPEN section of the Cabinet held on Tuesday 2 February 2021 at 11.00 am. Online/Virtual meeting.

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**PRESENT:** Councillor Kieron Williams (Chair)  
Councillor Jasmine Ali  
Councillor Evelyn Akoto  
Councillor Stephanie Cryan  
Councillor Helen Dennis  
Councillor Alice Macdonald  
Councillor Leo Pollak  
Councillor Rebecca Lury  
Councillor Catherine Rose  
Councillor Johnson Situ

### 1. APOLOGIES

All members were present.

### 2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The chair gave notice of the following late items:

- Item 7: Deputation requests
- Item 10: Policy and Resources Strategy 2021-22
- Item 11: Policy and Resources Strategy: Capital Monitoring report, including capital programme update 2020-21 (Month 8)
- Item 12: Aylesbury Regeneration Programme: Delivery of New Council Homes on the First Development Site
- Item 15: Gateway 3 – Variation Decision: Extension of the Agency Worker contract
- Item 16: Gateway 1 – Procurement Strategy Approval Contractor Services for the Lindley Estate and Bells Gardens New Homes Development

Projects.

Reasons for urgency and lateness will be specified in the relevant minutes.

**3. NOTICE OF INTENTION TO CONDUCT BUSINESS IN A CLOSED MEETING, AND ANY REPRESENTATIONS RECEIVED**

No closed items were considered at this meeting.

**4. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**5. PUBLIC QUESTION TIME (15 MINUTES)**

**1. Marianne Kavanagh**

Which specific list of stakeholders, lobby groups and/or consultants has Southwark communicated with or worked with in devising the monitoring framework and engagement strategy for the forthcoming review of the ETO road measures in Dulwich Village, East Dulwich and Champion Hill?

**Response by Councillor Catherine Rose, Cabinet Member for Leisure, Environment and Roads**

For the forthcoming, comprehensive review of all of the Dulwich low traffic neighbourhood (LTN) schemes, including Dulwich Village, East Dulwich and Champion Hill the council has not directly, or specifically consulted with any stakeholder groups in devising its own monitoring framework and engagement strategy.

The review will be wide ranging in approach, based on best council practice, leading sector experience and industry best practice. The review will be carried out while working collaboratively with colleagues in our planning policy and public health teams. As well as in conjunction with our consultation, engineering and highways teams. The review will be data driven throughout, and the process will be open and transparent from start to finish.

It is anticipated the review will be ready from mid-February. All stakeholders will be provided with a clear timeline and scope of the review. The brief for the review, and the proposed monitoring and engagement plans will be published to the council website.

All stakeholder submissions to the engagement element of the review will be given full consideration and reported accordingly.

## 2. Clive Rates

When will Southwark publish the objections and other representations it received in connection with the Phase 1 Emergency Traffic Orders in Dulwich Village and when will it respond to those objections and representations?

### **Response by Councillor Catherine Rose, Cabinet Member for Leisure, Environment and Roads**

The council will be carrying out a comprehensive review of all of the Dulwich LTN schemes, including Dulwich Village, East Dulwich and Champion Hill. The review will include the schemes implemented under Phase 1 for Dulwich Village.

Part of the review will include a complete analysis of all representations to date, including objections to ETOs.

The review is anticipated to be ready from mid-February. All stakeholders will be provided with a clear timeline and scope of the review. The brief for the review, and the proposed monitoring and engagement plans will be published to the council website.

## 6. MINUTES

### **RESOLVED:**

That the minutes of the meeting held on 19 January 2021 be approved as a correct record and signed by the chair.

## 7. DEPUTATION REQUESTS

The report had not been circulated five clear days in advance of the meeting. The chair agreed to accept this item as urgent (the requests had been received in line with the council's constitutional deadline for the receipt of deputation requests).

### **RESOLVED:**

1. That the following deputation requests be heard:
  - Ledbury Resident Project Group
  - Dulwich residents support for low traffic neighbourhoods.
2. A representative from each of the above deputations addressed cabinet for five minutes and questions were asked of each deputation for a period of five minutes.

**8. PETITION: END THE 24/7 CLOSURES AROUND DULWICH VILLAGE JUNCTION AND MELBOURNE GROVE AND IMPLEMENT AN AREA-WIDE, CAMERA-CONTROLLED PERMIT SCHEME THAT ALLOWS FAIR AND REASONABLE ACCESS**

Cabinet heard representations from the petition spokesperson and asked questions.

**RESOLVED:**

1. That the petition be received.
2. That the evidence presented by the petition be noted and fed into the review process.

**9. LEDBURY ESTATE TOWERS - LEDBURY TOWERS RESIDENTS' BALLOT**

**RESOLVED:**

**Decisions of Cabinet**

1. That the detailed resident engagement to date be noted and Ledbury Resident Project Group be thanked for their work to date.
2. That it be noted that the proposals align with the Great Estates programme for redevelopment proposals and as such the below five tests will be achieved.
  - a positive ballot on any new estate regeneration (as per the commitment in the Council Plan 2018-2022)
  - a net increase in social rent homes alongside increased density, to meet the acute need of families on our waiting list
  - a right to remain for all rehoused tenants and leaseholders, for keeping communities together
  - intensive co-design of redevelopment proposal, to become co-authors of a new estate plan
  - a clear rationale for any redevelopment proposal, including an explanation of how this would increase housing supply (based on comprehensive density modelling) and/or a transparent stock condition survey.
3. That it be agreed to proceed to a resident ballot for the final option, on the basis of the proposals and commitments within the landlord offer document, for the Ledbury Towers in March 2021. The final option is that the Towers will be demolished in phases, starting with Bromyard House first and replaced

with up to 333 homes.

4. That authority be delegated to the strategic director of housing and modernisation in consultation with the cabinet member for housing any amendments to the landlord offer document in advance of the resident ballot.
5. That it be agreed to receive a report on the outcome of the ballot and a further report on the consequent delivery programme and financial implications in July 2021.
6. That a variation to the housing investment programme, making provision for the estimated costs of developing the delivery programme and assessing financial implications in advance of the cabinet report in July be agreed.

#### **Decisions of the Leader of the Council**

7. That the authority to approve a dedicated Ledbury Estate local lettings policy subject to a majority vote in favour of the redevelopment option in the resident ballot be delegated to the cabinet member for housing.
8. That the authority to agree a bespoke shared equity lease for the existing leaseholders in the Ledbury Towers which will allow sub-letting be delegated to the cabinet member for housing.

#### **10. POLICY AND RESOURCES STRATEGY 2021-22**

It was not possible to circulate this report five clear days in advance of the meeting. The chair agreed to accept this item as urgent as cabinet were required to prepare a budget proposal for submission to council assembly. This was the last cabinet meeting before council assembly on 24 February 2021. The council was required to set a lawful budget by 11 March 2021.

Councillor Ian Wingfield, chair of the overview and scrutiny presented the committee's recommendations to cabinet.

#### **RESOLVED:**

1. That it be noted that the 19 January 2021 cabinet report was considered by overview and scrutiny committee on 25 and 26 January 2021 and that the response to the recommendations arising be agreed (Appendix I of the report).
2. That it be noted the final local government finance settlement had not been published at the time of writing this report, no changes from the provisional settlement published on 17 December 2020 are anticipated.
3. That it be noted that the report presents the final balanced general fund

budget proposals for 2021-22 including:

- Efficiencies and improved use of resources savings of £12.175m
  - Income generation proposals of £0.446m
  - Savings impacting on services of £2.611m
  - Commitments and growth of £16.757m
  - Pay awards and contractual inflation of £4.200m (excluding children's and adults services).
4. That this balanced one year 2021-22 budget be submitted to council assembly for approval and
  5. That it be noted that a refreshed outlook of the financial position and local government financing will be considered in the spring to initiate the 2022-23 budget planning process, which is much earlier than previous years.
  6. That the following be removed from the schedule (at Appendix F of the report, public health budget proposals): "PH306 Long acting reversible contraception GP service - end funding for GP LARC service."

**NOTE:** In accordance with overview and scrutiny procedure rule 16.2 (a) (budget and policy framework) these decisions are not subject to call-in.

#### **11. POLICY AND RESOURCES STRATEGY: CAPITAL MONITORING REPORT, INCLUDING CAPITAL PROGRAMME UPDATE 2020-21 (MONTH 8)**

It was not possible to circulate this report five clear days in advance of the meeting. The chair agreed to accept this item as urgent as the council regularly updates cabinet on the capital monitoring position. This was vitally important in the current circumstances of the Covid-19 pandemic, and its financial impact on the council's overall financial position.

#### **RESOLVED:**

1. That the forecast outturn and resources for 2020-21 and future years for both the general fund and housing investment programmes as detailed in Appendices A, B and D of the report be noted.
2. That the virements and variations to the general fund and housing investment capital programme as detailed in Appendix C of the report be approved.
3. That the inclusion in the programme of the capital bids set out in Appendix E of the report be approved.
4. That the significant funding requirement of £384.1m which needs to be identified for the general fund programme to be fully delivered over the remaining term of the programme, as detailed in Appendix A of the report be

noted.

5. That the significant funding requirement of £103.9m which needs to be identified for the housing investment programme to be fully delivered over the remaining term of the programme, as detailed in Appendix B of the report be noted.

## **12. AYLESBURY REGENERATION PROGRAMME: DELIVERY OF NEW COUNCIL HOMES ON THE FIRST DEVELOPMENT SITE**

It was not possible to circulate this report five clear days in advance of the meeting. The chair agreed to accept this item as urgent due to the need for the council to conclude the revised contractual arrangements with Notting Hill Genesis (NHG) in order to secure the delivery of new council homes along with the associated and additional grant funding and, in turn, to be able to let the contract for Package B now on the basis of the negotiated tender.

### **RESOLVED:**

1. That in principle approval to the arrangements set out in the report for the delivery of 581 new council homes on the First Development Site at the Aylesbury Estate be confirmed.
2. That authority be delegated to the strategic director of housing and modernisation, in consultation with the strategic director of finance and governance and director of regeneration, to approve the detailed arrangements in line with the principles set out in the report.
3. That a further budget of £2.4m to meet the increase in estimated construction cost be approved and a reduction in anticipated Greater London Authority (GLA) grant available of £3.5m be noted.

## **13. EMPTY HOMES ACTION PLAN**

### **RESOLVED:**

1. That officers be instructed to review the resources required to deliver the empty homes action plan, including the capital requirement needed from the housing investment programme.
2. That the following proposed actions be agreed, which will be included in a new Empty Homes Action Plan, to bring empty homes back in to use and increase the supply of homes for homeless households in Southwark: (see paragraphs 35-44 of the report for further detail):
  - Maximise use of empty homes designated for redevelopment

- Explore offering enhanced grants tied to long-term leasing
- Plan proactive purchase and repair of empty homes
- Further consider use of Empty Dwelling Management Orders
- Improve the data on empty homes
- Raise awareness and provide advice on options to bring properties back in to use
- Incentivise property owners to let their homes through the council's social lettings agency to homeless families.

3. That representations be made to government concerning the limitations of legal powers and national policy with regard to the ability of local authorities to take action to return empty properties to use.

#### **14. GATEWAY 1 - ACCESS AGREEMENT FOR TRANSPORT FOR LONDON FRAMEWORK CONTRACTS**

##### **RESOLVED:**

That the council entering into agreements with Transport for London (TfL) for access to their Surface Transport Infrastructure Construction (STIC) framework agreement and to their Highways Maintenance and Projects framework agreement (HMPF) from 1 April 2021 for an initial duration of eight years for potential future award of construction projects following comparison of price, quality, programme and social value with the council's appointed contractor for highways maintenance and projects works be approved.

#### **15. GATEWAY 3 - VARIATION DECISION: EXTENSION OF THE AGENCY WORKER CONTRACT**

It was not possible to circulate this report five clear days in advance of the meeting. The chair agreed to accept this item as urgent to ensure the one-year contract extension can be implemented before the expiry of the existing contract (April 2021). The financial impact of not extending the contract would be significant for the council's existing agency workers and for the council regarding the cost savings the contract provides.

##### **RESOLVED:**

That the extension of the agency worker contract with Comensura Limited for a period of one year commencing 1 April 2021 at an estimated cost of £30m, making the total value of the contract £111.5m be approved.



**16. GATEWAY 1 - PROCUREMENT STRATEGY APPROVAL CONTRACTOR SERVICES FOR THE BELLS GARDEN AND LINDLEY ESTATE PROJECTS**

It was not possible to circulate this report five clear days in advance of the meeting. The chair agreed to consider this item as urgent as the scheme was due to go into planning shortly and any delay in the cabinet decision would push back the procurement time frames and the ability for the scheme to commence on start prior to May 2022.

**RESOLVED:**

1. That the procurement strategy for new build works at Lindley Estate and Bells Garden at an estimated cost of £46,000,000 with an contract duration of a maximum of 4 years be approved.
2. That the delegation of the gateway 2 award decision to the strategic director of housing and modernisation, in consultation with the cabinet member for housing, for the reasons outlined in paragraphs 38 to 39 of the report be approved.

**EXCLUSION OF THE PRESS AND PUBLIC**

That the press and public be excluded form the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in category 3 of paragraph 10.4 of the access to information procedure rules of the Southwark Constitution.

The following is a summary of the decisions taken in the closed part of the meeting.

**17. MINUTES**

**RESOLVED:**

That the minutes of the closed section of the meeting held on 19 January 2021 be approved as a correct record and signed by the chair.

The meeting ended at 1.00pm.

**CHAIR:**

**DATED:**

**DEADLINE FOR NOTIFICATION OF CALL-IN UNDER SECTION 17 OF THE OVERVIEW AND SCRUTINY PROCEDURE RULES IS MIDNIGHT, WEDNESDAY 10 FEBRUARY 2021.**

**THE ABOVE DECISIONS WILL NOT BE IMPLEMENTABLE UNTIL AFTER THAT DATE. SHOULD A DECISION OF THE CABINET BE CALLED-IN FOR SCRUTINY, THEN THE RELEVANT DECISION WILL BE HELD IN ABEYANCE PENDING THE OUTCOME OF SCRUTINY CONSIDERATION.**

<b>Item No.</b> 8.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Temporary Accommodation Policy and Action Plan	
<b>Ward(s) or groups affected:</b>		Electoral ward(s); All	
<b>Cabinet Member:</b>		Councillor Helen Dennis, Social Support and Homelessness	

## **FOREWORD FOR COUNCILLOR HELEN DENNIS, CABINET MEMBER FOR SOCIAL SUPPORT AND HOMELESSNESS**

To say that we have reached a national crisis in temporary accommodation is not an exaggeration. Shelter have estimated that there are now over 250,000 people in temporary accommodation across the UK, including many children, with an already desperate situation worsened by the COVID pandemic. London is disproportionately impacted and in Southwark, with over 3,000 households placed in temporary accommodation at the end of 2020, the challenge of finding appropriate and affordable accommodation for residents is immense.

This report brings forward an action plan for the ongoing procurement of temporary accommodation, fully utilising the Council’s own stock including through a reassessment of properties awaiting redevelopment on the Aylesbury Estate, whilst also giving the Council more flexibility to find good quality accommodation in a greater range of locations for leasing and to support private rented sector offers. We do not make this latter change lightly – searching for appropriate housing in Southwark and as close to Southwark as possible remains a core principle in line with legislation. However given the constraints of the Local Housing Allowance and the Benefit Cap which continue to price people out of the area, the Council is having to broaden its search. As set out in this report and detailed in our policies, households will continue to receive up to two offers, and will retain their right to bid for council housing in Southwark. The impact of this policy change will be closely monitored including through a new annual Temporary Accommodation report, which will be presented for scrutiny.

Alongside this change, we are bringing forward a significant investment in quality through our new Good Homes Standard for Temporary Accommodation. This builds on our existing commitment not to use Bed & Breakfast accommodation for families, recognising that ‘Temporary Accommodation’ can actually be someone’s home now for several years, especially given the growing waiting list for general needs council housing and reduced number of lets. Among other things, the Southwark Good Homes Standard, will improve

tenure security for those in temporary accommodation, and also seek to secure essentials like a cooker and fridge for people, when they first move into a property.

Alongside these policy papers and action plan, we have approved an additional £4m for temporary accommodation through the budget process, in order to meet the increase in demand that we've seen as a result of the COVID pandemic, and to meet the anticipated demand going into 2021/2 especially as arrears have built up in the private rented sector. We have also brought forward a related Empty Homes Action Plan, which signals our determination to use every power available to the Council to bring empty properties back into use. Southwark is committed to doing all we can within a constrained budget, to support our residents who find themselves without a home but ultimately, the Temporary Accommodation crisis will only be solved with a focus on the root causes of homelessness, the building of more social housing, and a more accessible and secure private rented sector.

## **RECOMMENDATIONS**

### **Recommendations for Cabinet**

1. That Cabinet notes the Temporary Accommodation Policy and Action Plan Report and agrees to publish and implement The Southwark Good Homes Standard (for homeless households) (Appendix 6).
2. That Cabinet agrees an annual temporary accommodation (TA) scrutiny report be produced.
3. That Cabinet notes homeless households in temporary accommodation placed outside of the borough will retain their rights to bid for Southwark's permanent social housing.

### **Recommendation for the Leader of the Council**

4. That the Leader of the Council delegates authority to the Cabinet Member for Social Support and Homelessness to bring forward an IDM to agree:
  - a. The revised *Accommodation Procurement Policy for Homeless Households* (Appendix 1) including a revised Temporary Accommodation Supply Action Plan.
  - b. The revised *Private Rented Sector Offers Policy for Homeless Households* (Appendix 2).
  - c. The revised *Temporary accommodation lettings framework* (Appendix 3).

## **INTRODUCTION**

5. This report aims to deliver revisions to existing approved policies to expand on our provision and access to good quality and affordable housing solutions for homeless families and individuals. This also meets

key priorities of our Homelessness Strategy 2018-22, namely preventing, tackling rough sleeping and responding to the local housing market.

6. Revisions to the existing homelessness policies aim to increase access to affordable and suitable accommodation as well as introducing the Southwark Good Homes Standards. The new policies:
  - remove restrictions on geographical limitations for procuring good quality homes,
  - confirm a standard for PRS and temporary accommodation homes,
  - confirm an approach to offer shared temporary accommodation for singles.
7. The approach remains in line with legislative requirements, government guidelines, relevant case law and our fairer future commitments. The first priority is still to secure good quality, affordable accommodation in Southwark and where this is not possible to secure then to look at areas as close as possible to Southwark until good quality, affordable accommodation is secured.

## **BACKGROUND INFORMATION**

8. The council has certain duties towards homeless persons as set out in the Housing Act 1996 Part VII as amended (HA96), and the Homelessness Reduction Act 2017 (hereafter referred to as HRA17), including the duty to carry out enquiries to establish the level of duty owed to a household. If the Council has reason to believe that a homeless applicant may be eligible, homeless and in priority need, it has a duty to ensure that suitable temporary accommodation (TA) is available to the household.
9. The Homelessness Reduction Act 2017 (HRA17), introduced relief duties, following on from new prevention duties, requiring councils to take reasonable steps to help secure accommodation for any eligible person who is homeless for up to 56 days.
10. Where a main housing duty is accepted then the household remains in TA until they are permanently rehoused or until the duty ends for any other reason. In recent times this has meant waiting for a Part 6 offer of social housing. Supply is being outstripped by demand in this respect and causing an increase in TA numbers.
11. The background leading to the implementation of these policies in July 2019 is set to a national housing crisis, a rental market that is largely unaffordable due to central government welfare reforms and a continued fall in social housing annual lettings due to the Right to Buy outstripping our own ambitious 11,000 new homes project.
12. The Local Housing Allowance (LHA) rates and benefit caps set by central Government now make it almost impossible to re-house people into private rented accommodation locally in Southwark and the available

move on options through the allocation of a social let has further decreased in the last 5 years by 38%. With 1,684 lets in 2014/15 compared to 1,037 lets in 2019/2020. Therefore resulting in residents occupying temporary accommodation for longer periods.

13. The previous customer journey prior to June 2019 policy implementation provided fewer opportunities of being re-housed into permanent affordable housing within a short time period. Homeless people were staying in TA between 3 to 4 years on average to be re-housed in permanent accommodation. This challenges the very concept of temporary accommodation whilst households await the security of settled accommodation.
14. As a result, following a thoughtful assessment of the homeless people's needs and an honest, holistic, transparent enabling approach, a new service was designed to have fewer people in temporary accommodation. Homeless people would still receive housing advice, assistance and support when needed and the service offer was designed to ensure the best accommodation is offered to homeless people in need, but the offer would not rely on expensive temporary accommodation.
15. Housing Solutions redesigned its service with the aim of making Private rented Sector Offers (PRSO) to households, as an option, where appropriate, at an earlier stage in homelessness prevention and relief activities. This re-design followed the best practice examples already adopted by councils in London.
16. The Procurement Policy (Appendix 1) is required to demonstrate Southwark's procurement and allocations following the Supreme Court decision in *Nzolameso v Westminster City Council*. The Private Rented Sector Offer policy (appendix 2) is required to give effect to existing provisions in Southwark's Housing Allocation Scheme to discharge housing duty to statutory homeless households by making a PRSO, subject to suitability and compliance with the Homelessness (Suitability of Accommodation) Order 2012. The Lettings framework (Appendix 3) is required to evidence compliance with the 1996 Housing Act (as amended) and the Localism Act 2011.
17. A large number of recent reports have demonstrated the negative effects of homelessness and temporary accommodation on people's physical and mental health and more stable, settled accommodation available in the private rented sector may contribute to resolving this.<sup>1</sup>
18. The net cost to the council's General fund for providing temporary accommodation for homeless households in 2016/17 was £3.7m and in 2017/18 was £4.8m. Following the recent pandemic it is anticipated that

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[https://www.local.gov.uk/sites/default/files/documents/22.7%20HEALTH%20AND%20HOMELESSNESS\\_v08\\_WEB\\_0.PDF](https://www.local.gov.uk/sites/default/files/documents/22.7%20HEALTH%20AND%20HOMELESSNESS_v08_WEB_0.PDF)

the net cost could reach in excess of £9m in 2020/21. This does not include the costs of the Housing Solutions Team or costs contained within the Housing Revenue Account (HRA). Therefore, there is now growing pressures on the council's finances and provision of accommodation.

19. While demand for housing and homelessness has steadily increased over the past few years, this has grown much more rapidly both in Southwark and across London. There are now over 3,000 households in TA at the end of 2020, whereas in April 2011 there were under 1,000. Table 1 below shows the homelessness approached recorded by Southwark Council as an indicator of the growth in homelessness demand over the last decade.

**1. Table 1:**

<b>Year</b>	<b>Homeless approaches</b>
<b>2011-12</b>	1,013
<b>2012-13</b>	1,049
<b>2013-14</b>	1,086
<b>2014-15</b>	1,822
<b>2015-16</b>	2,253
<b>2016-17</b>	2,354
<b>2017-18</b>	2,607
<b>2018-19</b>	2,953
<b>2019-20</b>	2,841
<b>2020-21</b>	2,884 (as at Dec 2020)

20. In response to this growing demand and recent further spike as a result of the impact of Covid-19 and likely ongoing impact, especially in the PRS, the provisional general fund budget arrangements for 2021-22 has allocated a further £4m in anticipation of ongoing temporary accommodation costs.

### **The existing homeless policy framework**

#### **(1) Accommodation Procurement Policy (Appendix 1)**

21. This policy responds to the acute difficulties in procuring sufficient temporary accommodation within Southwark and London for homeless households. It provides an action plan for meeting demand and sets out

procurement principles that will be followed for sourcing properties, both for temporary accommodation and for private rented sector offers. Legal and procurement advice was sought and provided.

*Aims of the policy*

22. The policy aims to provide enough housing for homeless households to meet demand. It aims to contain temporary accommodation costs by ensuring that supply is affordable to the council and within subsidy levels and this is a key procurement principle. The policy also aims to ensure that housing, for both temporary accommodation and for private rented offers, is affordable to low income households and within benefit levels, so it is sustainable in the longer term. This means that some properties procured will be outside London.
23. The policy also aims to ensure that locations where properties are procured are suitable for homeless households.
24. A wrap around support service will be provided to households that are being made private rented offers where they are relocating outside London and where they are moving within London where this is needed.

**(2) Private Rented Sector Offers Policy (Appendix 2)**

25. This set out that an offer of a suitable private rented tenancy may be made to any homeless household where the law allows. The policy acknowledges that a private rented sector offer is not appropriate for everyone. It excludes households which the council determines would be unable to manage a private rented sector tenancy and for households needing sheltered or wheelchair accessible housing. In these cases social housing will continue to be offered.
26. In order for private rented offers to be affordable to homeless households within benefit levels (or as close as possible), many of these offers are likely to be outside London. Support will be offered to households relocating outside London and to other households where needed, in order to minimise adverse impacts and to enhance the prospects of relocated families integrating into the new area.
27. The policy aims to reduce temporary accommodation use and contain costs by offering homeless households private rented housing, as an alternative to them spending many years in temporary accommodation waiting for social housing. The policy also aims to help to improve outcomes for homeless households in that they will receive a quicker permanent offer of housing, in an area where they are able to settle and put down long-term roots.
28. Every effort will be made to find affordable properties in Southwark or as close to the borough as possible and the evidence in the Accommodation Procurement Policy (Appendix 1) supports this by assessing availability



and affordability in Southwark and exploring incrementally outwards from the borough.

29. Accommodation will normally only be procured if it is affordable. Under the existing welfare reform conditions, it is necessary to ensure that households are not placed in accommodation that will result in them enduring avoidable financial hardship. Equally, it is not the intention of the policies for the council to have to provide ongoing financial support to cover housing costs for large numbers of households as this would be financially unsustainable given the significant financial pressures on public services.
30. Independent research<sup>2</sup> has also shown in June 2017 that 23 London local authorities were already discharging duty into the private sector, up from 18 two years earlier. The research found that nearly 2,500 households were given offers of private sector discharge across London in 2016: 20 per cent of these offers were in another London borough to where the homeless duty was owed and 15 per cent of the offers were for private tenancies outside London.
31. Due to this shortage of affordable accommodation, out of borough placements into more affordable areas have become more prevalent particularly across London and the South East generally. In London, the data shows that 37% of households placed in temporary accommodation are placed in a different borough to the one which owes them a duty<sup>3</sup>. In comparison, in quarter one, 2010/11; the equivalent proportion was only 13%.

### **(3) Temporary Accommodation lettings framework (Appendix 3)**

32. One of the outcomes described above is that, while the council will continue to seek accommodation within Southwark wherever possible, more housing for homeless households are likely to be outside London. This policy sets out how households will be prioritised for properties, both for private rented sector offers and for temporary accommodation, in different locations.
33. Over the last 5 years, there has been a 70% increase in homeless approaches to the local authority which has been further amplified with the recent Covid 19 pandemic.
34. A snapshot comparing the out of borough TA placements just before the implementation of the policies and the current performance can be seen in Table 2.

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<sup>2</sup> [www.lag.org.uk](http://www.lag.org.uk)

<sup>3</sup> Statutory homelessness and prevention and relief live tables: October to December 2016 (Table 775)

**Table 2**

	Tier 1	Tier 2	Tier 3	Tier 4	
Date	Southwark	Surrounding boroughs	Other London boroughs	Other areas within M25	Total
1 Jun 2019	1,631	715	305	63	2,714
1 Oct 2020	1,673	730	873	91	3,367
% Increase	2.6%	2.1%	174%	44%	24.1%

35. It is noted that an increase in temporary accommodation has meant there has been a requirement to also source accommodation outside of Southwark, with the greatest increase coming from other London boroughs.
36. Southwark has operated within the PRSO policy so that residents are able to source the property independently through our Self Help Scheme or through the assistance of Southwark Council whom have built up a number of links to access private accommodation.
37. In each instance, the council will conduct a number of checks to ensure the property is affordable, meets the needs of the household and is at a standard of quality in which residents would be happy to reside.
38. Table 3 shows that from the implementation of the Temporary Accommodation allocation, procurement and PRSO policies on the 19 June 2019 the number of residents placed into PRS accommodation.

**Table 3**

	Property outside Southwark	Property within Southwark	Total
Property found by Resident	175	73	248
Property found by Southwark	275	64	339
Total	450	137	587

*Data from 1 July 2019 – 22 Oct 2020*

39. The data above shows 80% of lets were successful found outside of the borough. Presenting suitable options for residents.
40. In the financial year 2019/20 this policy contributed to the Housing Supply team achieving an 85% increase in the number of PRSO lets.
41. From the data in Table 3, Southwark discharged duty to 467 households whom the council owed a statutory duty. The remainder of PRSO is made up of a combination of residents whom secured accommodation just after the statutory duty had ceased or residents whom required a move under other grounds such as council tenants required to leave the borough.

42. The council will need to be alive to the possibility there may be less requirement for residents to travel into London for employment purposes as a result of covid-19 and therefore consideration of other areas will also be an option for a number of residents.
43. Accommodation in the private rented sector within Southwark is often not affordable for many residents whom approach the council. The local housing allowance (LHA) sets the amount of housing support paid out either as part of Universal Credit (UC) or under the legacy Housing Benefit, to those living in the PRS. LHA rates are set by calculating the 30th percentile of rents in 'Broad Rental Market Areas'. In Southwark's case, the area includes neighbouring boroughs where rents are cheaper. The shortfall between LHA rates and private rents in Southwark is stark as shown in Table 4:

**Table 4**

Accommodation type	20/21 LHA rate	Effective monthly LHA rate	Median rents in Southwark (Jan 2021 <sup>4</sup> )	Gap between LHA and rents
<b>Shared Accom. Rate</b>	118.87	515.10	700	-267.92
<b>One bedroom</b>	264.66	1,146.86	1,517	-562.84
<b>Two bedroom</b>	310.68	1,346.28	1,800	-559.67
<b>Three bedroom</b>	385.48	1,670.41	2,058	-556.8
<b>Four bedroom</b>	506.30	2,193.97	2,500	-607.07

44. The benefit cap currently means that even if there is an increase to the LHA, as there was in March 2020, along with any uplift to monthly UC payments, as part of the emergency coronavirus measures, many people will not feel the benefit. In Southwark, between February and August 2020 the number of households receiving UC who were affected by the benefit cap rose from 300 to 1,320<sup>5</sup>. In most cases these households had pre-existing UC claims, and worsening financial circumstances meant they had to claim more which therefore took them to the benefit cap. For new claims since March 2020, the Government has implemented a nine-month grace period in which the benefit cap has not applied. As the grace period ends for households who have been claiming for more than nine months, it is likely that the numbers affected by the cap will increase even more.
45. For reference, the 2020 household income for benefit claimants living inside the Greater London area gets capped at:
- £1,916 per month (£23,000 a year) for a couple (whether your children live with you or not).

<sup>4</sup> Median Advertised Rents in Southwark, from [Southwark Housing Market Trends Bulletin, January 2021](#)

<sup>5</sup> Figures from DWP Stat-Xplore. Summary of calculations available on request. Accessed 27/11/20.

- £1,916 per month (£23,000 a year) for a single person whose children live with them.
  - £1,284 per month (£15,410 a year) for a single person without children or your children do not live with you.
46. The 2020 household income for benefit claimants living outside the Greater London area gets capped at:
- £1,666 per month (£20,000 a year) for a couple (whether your children live with you or not).
  - £1,666 per month (£20,000 a year) for a single person whose children live with them.
  - £1,116 per month (£13,400 a year) for a single person without children or your children do not live with you.
47. As the benefit cap levels show, the majority of non-working households are being capped as a result of the housing element requiring most of their benefit entitlement before living costs are even taken into account. Properties are therefore judged to be not affordable and therefore not suitable once a full affordability assessment is completed in compliance with homelessness legislation.

## **SUMMARY OF CHANGES PROPOSED**

48. The following revisions are proposed to extend our provision of quality services and access to affordable housing solutions for homeless families and individuals.

### **Appendix 1: Accommodation Procurement Policy for Homeless Households**

49. Revise 4th bullet point under paragraph 21 from “The council’s first priority will be to secure accommodation in Southwark, where it is not possible to secure good quality affordable accommodation in Southwark the council will next look in surrounding boroughs, then in other London boroughs and then in other areas within the M25. The council will also work to secure accommodation for those households who wish to live outside of this area.” to “The council’s first priority will be to secure accommodation in Southwark, where it is not possible to secure good quality affordable accommodation in Southwark the council will next look in surrounding boroughs, then in other London boroughs and then in other areas increasingly further afield. The council will also work to secure accommodation for those households who wish to live outside of this area.”
50. Revise text on Chart 1 on page 5 from “Other areas within the M25” to “Other areas increasingly further afield in line with the policy”.
51. Revised action plan with updated targets on the number of properties to be procured by the service. This also includes both private rented accommodation and temporary

accommodation to encompass the varying needs of the service. This will be monitored within and service and form part of the annual scrutiny report on accommodation procurement.

### **Appendix 2: Private Rented Sector Offers Policy for Homeless Households**

52. Remove the 3rd bullet point under paragraph 13: “Accommodation will be in or close to Southwark. Unless the household requests a move to a location that is further away, the accommodation offered will be within 90 minutes reasonable journey time by public transport from the address the household was living at before they became homeless and will also be within the M25. Travel times will be measured using the Transport for London online Journey Planner.”

### **Appendix 3: Temporary Accommodation Lettings Framework**

53. Remove paragraph on page 3: “Unless you request accommodation in a location that is further away, we will offer you accommodation within 90 minutes reasonable journey time by public transport from where you were living before you became homeless, this will also be within the M25 area. Travel times will be measured using the Transport for London online Journey Planner.”
54. Amend text on diagram on page 3 from “Other areas within the M25” to “Other areas increasingly further afield in line with the policy”
55. Amend end of 7th bullet point on page 5 from “90 minutes travelling distance by bus of their school or college, alternatively where the journey is possible within 90 minutes by train, tube or tram but not by bus the council will meet the cost difference between the bus fare and the fare using the train, tube or tram” to “Applicants who have as part of their household, a child or children who are enrolled in public examination courses in Southwark, with exams to be taken within the next six months.”
56. Remove 6th paragraph on page 6. “If you wish to keep your children in their current school the council will seek to offer you accommodation within 90 minutes journey time by public transport from their school. Where this journey to take the children in your household to and from this existing school is possible within 90 minutes by train, tube or tram but not by bus the council will pay the difference in cost between the bus fare and the fare using the train, tube or tram”

### **Appendix 6: Southwark Good Homes Standard (for homeless households)**

57. The Southwark Good Homes Standard (for homeless households) (Appendix 6) sets out standards for accommodating homeless households, with the same standard for both temporary accommodation

and PRS tenancies for instances where the council discharges its housing duty.

58. Therefore the Accommodation Procurement Policy for Homeless Households (Appendix 1) and the Private Rented Sector Offers Policy for Homeless Households (Appendix 2) will apply the Southwark Good Homes Standard (for homeless households).
59. The proposed Southwark Good Homes Standard for homeless households would move all families from nightly paid accommodation into Private Sector Leased accommodation or Private Rented Sector where affordable. The Good Homes Standard would also build on and advance the council's work which eliminated the use of Bed and Breakfast accommodation usage by families in November 2017, by providing tenancies to all homeless families after 28 days, something which is currently not achieved by the Housing Solutions service.
60. The council's current framework to provide accommodation for homeless households does not meet the following elements of the proposed Good Homes Standard:
  - Has a tenancy in the household's name (with a rent review clause to ensure any future increases are fair and reasonable). At the moment this standard is not implemented for Nightly Paid households. However, for all other households this standard currently exists.
  - The accommodation provided is self-contained for families, with inclusive bathroom and kitchen. The council's hostels do not currently meet these criteria and some households before COVID19 have been placed in shared accommodation. There are some homeless households still living in council owned and managed shared hostels, but these households are not sharing facilities with other households or are single households.
  - Has a cooker that is in good, clean, working condition. This is not a standard currently available in 100% of our temporary accommodation properties.
  - A written contract, including clear details of when and how your rent should be paid. At the moment this standard is not implemented for Nightly Paid households. However, for all other households this standard currently exists.
  - Clear guidance provided to ensure residents are aware of an escalation process for repairs and health and safety elements within the property that do not meet the standard. This includes the ability for the Council's Housing Supply Team to conduct a joint inspection to resolve the issue.
61. To achieve the good homes standard, it can be shown that those households in private sector leased accommodation, within the existing framework, cover the majority of the proposed Good Homes Standard. However, this is not the case for Nightly Paid accommodation and hostels used for families.

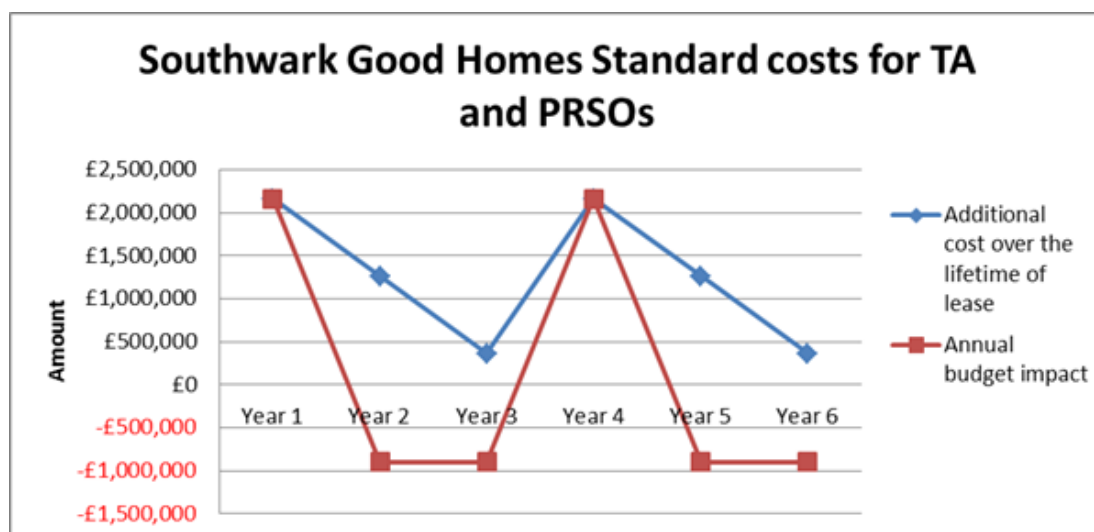
### **Cost assumptions**

62. It is assumed that any current homeless household in Private Sector Leased accommodation will remain within that accommodation. There are approximately 1,000 homeless households currently living in this accommodation, all within London, which meet the proposed standard.
63. The payment of incentives will need to continue to be paid to Private Sector landlords through the existing framework, which is assumed will remain as is. The average cost of the incentive payments per property is £3,000, which is a recurring cost to the authority every three years.
64. The Good Homes Standard required properties to have a cooker that is in good, clean, working condition, as well as a fridge. Based on the current take up, an allowance has been built in to the financial model for those properties currently in nightly paid and shared accommodation.
65. Meeting the good homes standard for TA only within the proposed policy framework set out in this paper and within the current framework, would require upfront incentive payments of £2.8m in year one to procure leased properties.. The incentive costs are based on the existing homeless households and assume all properties met the standard from the 1st April 2021 and remain in the accommodation for the rest of the financial year.
66. A further cost for white goods of up to £265,000 (if half the households not currently in leased TA needed a cooker and fridge) would also be required. The costs set out above refer to TA meeting the Good Homes Standard within the proposed policy framework set out in this paper for temporary accommodation.
67. The Good Homes Standard would also apply for all PRS offers and is estimated to add a further white goods cost of £142,000 per annum. Incentives and rent deposits for these properties are already provided where duty is likely to be owed.
68. However, each year there would be a saving in the net cost of the leased properties, compared with nightly paid self contained, of nearly £1.1m, therefore over the three years it is estimated to cost an additional £360,000, with the majority of expenditure occurring in year one. This additional cost would decrease if the policy change of allowing singles households to move into shared nightly rate TA, any moves into PRS or if any households moved outside of London (where incentives are currently lower).

### **Southwark Good Homes Standard (Graph 1):**

69. This graph shows the cost of the good homes standard over the lifetime of the lease (the cumulative cost across the years) and impact on the budget

annually based on the current number of households. In year 1 and 4 when the leases are agreed or renewed, incentives and possibly white goods cost will reoccur.



70. The council will discharge its homeless duty through the proposals above to homeless households in the future in order to enable the council to balance the precise housing needs of each household, meet our legislative duties and help to deliver a service within the budget provided for the service.
71. The Good Homes Standard will be reviewed on a quarterly basis throughout year one to monitor the impact including budgetary implications.
72. The proposed Good Homes Standard is a positive step forward and a step to provide greater security to homeless households. This new approach therefore sets out a framework which will take steps to eliminate unstable forms of temporary accommodation, namely nightly rate temporary accommodation.
73. The new policy of introducing the Good Homes Standard will contribute to the delivery of the Council's Fairer Future Promises.

### **Shared nightly rate accommodation for single homeless households**

74. A further proposal is to confirm an approach for providing shared nightly rate accommodation for single homeless households. This provision will be in line with legislative requirements and guidance, with *The Homelessness (Suitability of Accommodation) (England) Order 2003* and *The Homelessness (Suitability of Accommodation) (England) Order 2012* of particular relevance. The 2003 Order states that families should not reside in shared B&B for more than 6 weeks, this includes pregnant households. However, this ruling does not extend to single people.



75. The council would not look to place anyone into single accommodation if there were health risks associated with this and a suitability assessment will be completed for any placements into this type of accommodation.
76. Access to shared temporary accommodation for single households makes a significant difference to the cost pressures on the General Fund budget.
77. The table below illustrates potential savings by moving to a shared TA model for single households:

<b>Single Households</b>	<b>Self-contained (nightly and PSL)</b>	<b>Shared</b>	<b>Saving</b>
<b>Nos.</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
300	1,104	852	252
500	1,966	1,420	546
700	2,848	1,988	860

**(Table 5)**

78. There are currently circa. 650 singles in self-contained accommodation within TA, if half were moved to shared nightly rate, the minimum saving would be £252,000 p.a.

## **Conclusion**

79. Southwark Council is working within a housing and homelessness crisis to a backdrop of financial austerity.
80. The continued financial pressures faced by Southwark Council have been exacerbated by the Covid-19 pandemic and the revised policies are required to balance these pressures against maintaining a provision of quality, affordable homes. We are still not in a position to re-house enough of the homeless people who approach the Housing Solutions service for housing advice, assistance and support within council and housing association homes due to the severe reduction in available lettings. Lettings eight years ago totalled over 3,500 lettings per year, but today it is anticipated that lettings will be less than 1,000 per year.
81. Consequently, the council experienced an increase in households in temporary accommodation from the 2,766 on 31 March 2020 to 3,275 on 25 Sept (18% increase).
82. The current framework is still heavily reliant on rehousing homeless people in temporary accommodation which is causing extreme financial hardship for homeless people due to the expensive nature of this type of accommodation. If these homeless people could be rehoused into Private Rented accommodation at the Local Housing Allowance rates then the family's financial well-being would greatly be improved.

83. The current framework of rehousing homeless people into expensive nightly paid accommodation is placing severe financial pressure on the council, access to a greater supply of suitable and affordable good homes would help relieve some of this pressure.
84. Further to the Equalities and Health Analysis (appendix 4) and quarterly briefings of the impact monitoring on these policies, the council will work in partnership with Shelter to fully review the policy implications of this report following the 12 month anniversary/implementation of the new policies.
85. The council will provide honest, transparent support and services to all homeless customers designed around the fairer futures principles. Treating customers as we would treat an important member of our own family and providing better start in life for children.

### **Policy implications**

86. The proposed policies take account of the existing overarching Council policies:
  - Achieve budget savings over the next three financial years to achieve the council's Housing Investment Strategy.
  - Provide clear leadership and management to ensure the council is able to deliver commitments as set out in the Housing Strategy 2013 – 2043 and the action plans contained therein.
  - 'Look for housing solutions that consider how children will have the best start in life', taken from 'Our vision: a fairer future', The Housing and Modernisation Plan 2018/19-2021/22 which is tied in with the Council Plan 2018. In the same plan, the mission aim is stated as 'Manage homelessness and temporary accommodation effectively, leading to better outcomes for residents'.
  - Southwark's Homelessness Strategy 2018-22 stated under the strategic priority of vulnerability and health "to reduce the number of households in temporary accommodation, particularly in nightly rate (B&B style) by developing suitable offers of private rental sector accommodation."

### **Community impact statement**

87. An updated Equality Impact Assessment (EIA) is attached at Appendix 4. Overall the EIA concludes that not all of the potentially negative impacts on households can be mitigated, but that equality implications have been fully considered and that the policy approaches have been justified. It is required to consider the potentially negative impacts on protected groups and whether these impacts are justified by the council's wider objectives in implementing the policies. The impact of the policies and in particular the equality impact of the policies will in any event be kept under regular review.

## Legal implications

88. Where the council determines under the provisions of the Housing Act 1996 Part VII (as amended) that a person/household is eligible for assistance, homeless, in priority need and not homeless intentionally, it has a duty to secure suitable accommodation (unless it refers the applicant to another authority under the local connection provisions): s193(2), s206(1). The suitability of accommodation is governed by s210 of the 1996 Act, the Homelessness (Suitability of Accommodation) Order 1996 (SI 1996/3204) and by the Homelessness Code of Guidance for Local Authorities.
89. When discharging their housing duties under Part VII, an authority must, so far as reasonably practicable, secure that accommodation is available for the applicant's occupation in their own district: s208(1) of the 1996 Act. In all circumstances the homeless people would have the right to request a review of an offer of private sector offer and this would be reviewed by senior officers of the Council that had no involvement in the original decision to offer PRS accommodation.
90. The council is also under a general duty, pursuant to s11 Children Act 2004, to have regard to the need to safeguard and promote the welfare of children within their area. The council embraces the ethos of joint working between housing, care and support services in the Care Act 2014 and seeks to support and promote the needs of homeless households with vulnerable persons and/or carers.
91. In discharging its functions to homeless persons, the council must also have due regard to the Public Sector Equality Duty in s149 Equality Act 2010.
92. In *Nzolameso v Westminster City Council* (2015), the Supreme Court suggested that, whilst it is lawful to provide accommodation outside an authority's boundaries in proper observance of its housing duties, it must be able to explain, preferably by way of published policies, how allocations of temporary accommodation outside of district are made and outline the council's approach to procuring accommodation. The policies seek to afford transparency to accepted homeless applicants as to the process the council shall engage in order to lawfully discharge its accommodation duties, whilst noting that it shall in each case make specific assessments of the needs of individual applicants/households.

## Financial implications

93. The net cost to the council of providing temporary accommodation for homeless households in 2019-20 was £8.8m, against a budget of £6.7m, the overspend of £1.9m being met from corporate reserves. The forecast overspend for 2020-21 is currently around £10m, but potentially greater depending on the length of the current lockdown. Whilst this exceptional

position is largely due to the pandemic, there remains a substantial inherent budget pressure in this area. In recognition, it is proposed to increase resources by £4m for 2021-22 along with the adoption of important policy changes outlined above.

94. TA is demand driven and nationally, homeless levels have steadily increased over the last decade and continue to do so (an increase of 570 households year to date). This is largely due to the impact of welfare reforms and the unaffordable nature of the private rental market. However, these factors have been seriously exacerbated by Covid-19, and the impact will continue to be felt with more business failures and rising unemployment. Furthermore, as government financial assistance schemes cease and an inevitable spike in private sector evictions occurs once the embargo ends, all leading to considerable budget uncertainty throughout next year and beyond. It is therefore necessary to review the current policy framework with a view to maintaining the council's statutory homeless obligations but in a more cost effective and sustainable way. The policy changes proposed have been carefully considered and will help to reduce the budget pressure going forward.
95. However, the Good Homes Standard will add to the budgetary issues as they require significant upfront commitment to obtain leased properties and purchase white goods. The Council will need to remain alert to the substantial number of lease renewals that may recur at similar points in future years and may affect annual budget planning.
96. The new approach is targeted at some of the most disadvantaged households and the new approach is in line with the Council's Fairer Future principle spending money as if it were from our own pocket, however, with a recognition that we are spending more funds at a time the council's finance are under considerable strain as a result of COVID19.

### **Risk Management Implications**

97. There is a risk that there will be limited affordable private rented properties to meet the needs of homeless households. While the research gave an indication of different locations where properties may be available, market changes can happen quickly and the actual availability of properties depends on the willingness of landlords to let accommodation to homeless households. To mitigate this risk, incentives will continue to be offered to landlords to secure properties in line with local market intelligence. The supply and availability of properties will be kept under review but it needs to be noted that building up supply to meet demand is likely to take time.
98. There is a risk of legal challenges where offers are outside Southwark and London, or where shared accommodation is offered in light of Covid-19 risks. To minimise this, an individual suitability assessment will be carried out before an offer is made in line with legislation and statutory guidance. Counsel's advice has been taken on the preparation of the policies. Implementing and publishing the policies (appendices 1, 2 and 3) may

also reduce complaints and Member Enquiries.

### **Consultation**

99. No consultation is scheduled to take place.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Director of Law and Governance**

100. The report recommends the revision of 3 policies in Appendices 1, 2 & 3 which were introduced in 2019 to support the Council's discharge of its legal responsibilities to provide suitable accommodation to homeless households. The report recognises the duty to provide accommodation in its area, 'so far as reasonably practicable' under section 208(1) Housing Act 1996 and that the accommodation must be suitable. Location is a relevant suitability consideration as set out in the Homelessness (Suitability of Accommodation) (England) Order 2012. The report notes the likelihood of PRS accommodation being outside its area and states the policy will aim to ensure locations are suitable. Reasonable steps should continue to be made to secure that accommodation is made available in borough whenever possible.
101. Persons offered PRS accommodation in discharge of an accepted duty under Part VII will have the statutory right of review and the report notes the potential challenges that might arise.
102. It is noted that the council's current allocation scheme provides for the discharge of homelessness duties with an offer of PRS accommodation.
103. When considering the recommendations and the policies members must have regard to the public sector equality duty under S.149 of the Equality Act 2010 which requires the council, when taking decisions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it
  - (c) Foster good relations between those who share a relevant characteristic and those that do not share it.
104. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The duty also applies to marriage and civil partnership, but only in relation to (a) above.

105. In making a decision on the recommendations in this report, the cabinet member should give careful consideration to the Equalities Impact assessment at Appendix 4 to this report.
106. The council is entitled to formulate policies by which it will exercise its duties. Where this includes the exercise of discretion care must be taken when formulating and applying such policies to avoid fettering the the exercise of its discretion which may be subject to challenge.
107. Where property transactions referred to in the policies may fall inside the scope of the EU Regulations (the Public Contracts Regulations 2015 and the Public Procurement (Amendment Etc.) (EU Exit) Regulations 2020 (effective after the end of the transition period))resulting in procurement implications, various procurement options will be considered and necessary approval sought in a separate Gateway 1 report when needed.

#### **Strategic Director of Finance and Governance (H&M 20/122)**

108. The strategic director of finance and governance notes the recommendations within the report. Whilst the proposed policy amendments will have a positive budgetary impact, with the exception of the good homes standard, significant financial risks remain in relation to on-going demand and supply-side procurement, as well as the continued uncertainty of Covid. The council continues to lobby national government to provide greater resources to address the homelessness crisis and ensure that critical services are sustainable going forward.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
None		

#### **APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix 1	Accommodation Procurement Policy for Homeless Households
Appendix 2	Private Rented Sector Offers Policy for Homeless Households
Appendix 3	Temporary Accommodation Lettings Framework
Appendix 4	Equality and Health Analysis
Appendix 5	PRSO and TA Procurement modelling -.xlsx
Appendix 6	Southwark Good Homes Standard

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Helen Dennis, Social Support and Homelessness	
<b>Lead Officer</b>	Michael Scorer Strategic Director of Housing and Modernisation	
<b>Report Author</b>	Alex Skerten, Head of Housing Demand	
<b>Version</b>	Final	
<b>Dated</b>	17 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	25 February 2021	

<b>Item No.</b> 9.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Discretionary Service Charge Loan Policy Review	
<b>Ward(s) or groups affected:</b>		Council Leaseholders borough wide	
<b>Cabinet Member:</b>		Councillor Stephanie Cryan, Council Housing	

### **FOREWORD - COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR COUNCIL HOUSING**

As a landlord the council offers loans to leaseholders who may need financial support for their service charge payments. The current policy has been in place since 2004 and has not been reviewed until now to ensure that the policy is in alignment with modern lending standards and the expectations of our leaseholders. This report sets out a new Discretionary Service Charge Loan policy that not only meets the council's legal requirements but also makes the loans more accessible and flexible for leaseholders.

The new proposals will provide greater reassurance to leaseholders who are suffering from financial hardship, as we will now take both savings and income into consideration when granting a loan. We will also be introducing new interest rates for both resident and non-resident leaseholders linked to the Bank of England base rate so that there is more flexibility within the policy.

By renewing our policy we can be more reactive to the financial needs of leaseholders seeking finance from the council.

### **RECOMMENDATIONS**

#### **Recommendations for the Cabinet**

1. That cabinet notes the contents of this report proposing changes to improve the current discretionary service charge loan policy.
2. That cabinet agrees the changes to the policy as recommended in paragraphs 20-28.

#### **Recommendations for the Leader of the Council**

3. That the Leader of the Council delegates authority to the cabinet member for housing to agree a revised comprehensive policy reflecting the changes proposed in this report, and to review and if appropriate amend it, every five



years, or sooner if a significant event occurs (as defined by the Financial Conduct Authority (FCA)).

4. That the Leader of the Council delegates authority to the strategic director of finance and governance to review the service charge loan interest rates on an annual basis, in order for the council to be more reactive to business, economic and environmental changes.

## **BACKGROUND INFORMATION**

5. The current service charge loan policy was originally put in place in 2004. A copy is attached as Appendix 1. The current terms and conditions are summarised in the attached Appendix 2. Since 2004 there have been a number of changes to both the homeowner portfolio and to the FCA guidelines.
6. The number of leaseholders has increased.
7. Many of the leaseholders are no longer the original right-to-buy council tenants and are new tenants who have bought on the open market.
8. Under normal conditions leaseholders who purchased their property on the open market would have a private landlord and no alternative but to seek funding for significant major works service charges through the private sector. Due to happenstance, the council is the landlord and offers loans. Under the circumstances it is reasonable for the council to offer conditions closer to those of the private sector regarding loans and rates offered to ensure that the Housing Revenue Account is not subsidising homeownership and the council is covering its costs.
9. As of November 2020 there were 5,333 leasehold properties out of 15,543 for which the leaseholder had a different contact address to the property, suggesting the leaseholder does not live in the property. The vast majority of these properties are sub-let at full market value (normally three or four times the social rent), and many have also been made into houses of multiple occupation.
10. Since the policy was originally put in place, the FCA has twice significantly changed its guidelines making lending standards and practices more stringent and robust. Although the council is not under FCA jurisdiction, it is best practice to follow the industry standards where possible. If there was no scope in the old policy to implement these alterations, they have been included in this policy change report to make them possible.
11. Other legislation has changed or been put in place, for example the Pre-action Protocol for Possession Claims based on Mortgage Arrears, the introduction of the Mortgage Credit Directive, and changes to affordability and income assessments.
12. Costs, charges, interest rates, and industry comparatives have changed.

13. Technology for valuing the property, credit checks, and testing if the leaseholder can afford the loan has vastly improved and in reaffirmation to the old policy's commitments to responsible lending and the tighter guidance, it is now easier and more accurate to make use of software for property valuations, credit checks, and assessing affordability.

#### **KEY ISSUES FOR CONSIDERATION**

14. Due to the demographic changes of the tenants, currently, the council is offering loans to leaseholders who otherwise would have private sector landlords where their only option would be private sector finance.
15. There is a cost to the Housing Revenue Account in the provision of service charge loans due to the generous rates and fees, and it is inequitable to the council's secure tenants to continue to subsidise homeownership in this way.
16. The council policy has fallen behind modern lending standards making lending more risky whilst also not meeting leaseholders' expectations. It is therefore in need of improving and updating.
17. The recommended changes to the policy are summarised below and in the attached Appendix 3. These changes only apply to discretionary loans. The council is obliged to offer loans to help with payment of service charges payable in the first 10 years after the grant of the lease. These mandatory loans are more tightly regulated as to the amount, term, interest rate and level of administration charges, and the council's current offer would be unchanged by these recommendations.

#### **Recommended Policy Changes – new discretionary loans**

18. That the policy and procedures are regularly updated to reflect modern dynamics and lending standards with particular focus on:
- the application process (information we need to gather from and supply to the borrower),
  - assessing affordability through new technology (software), auto-decision making (software),
  - the arrears process (information we need to gather from and supply to the borrower as well as making available reasonable options before seeking possession through the Courts).
19. That technology (including automated decision making) be used for affordability and credit checking purposes. There are several reputable organisations that supply computer software to do this. The software works by checking credit agencies and banks' data. There is a small cost

per report which will be recharged to the borrower as part of the application fee.

20. That the fees continue to be reviewed annually in the Policy and Resources Strategy report (fees and charges appendix).
21. That the council is no longer the lender of last resort, as required by the current policy agreed in May 2004. This means that the council would have the discretion to allow a leaseholder who is in the process of switching mortgage provider to agree to the new provider taking a first charge over the property, without insisting that the service charge loan be repaid in full as part of the refinancing.
22. That the current policy is amended to allow administration, legal and application fees to be “rolled up” into the loan if the customer so wishes.
23. The May 2004 Policy stated “That loans are granted irrespective of the level of savings of an applicant”. It is recommended that:
  - Savings and investments should be taken into consideration as the leaseholder(s) might already have the money to pay for the invoice, but not the income to meet the affordability criteria at the time. Having savings should be taken into consideration to be used as an ‘emergency’ fund to help make payments and can also demonstrate responsible management of their finances.
  - Income should still be the priority when assessing affordability, as savings can be spent and the income would still need to be able to cover the payments.
24. For new repayment loans only, the following products will be available:
  - A repayment loan for resident leaseholders will have an interest rate of 2.5% above the Bank of England Base rate. There will be no cap, but a collar of 2.5%. A collar is the opposite of a cap. It is a minimum rate the interest can drop to. It should be reiterated that properties owned via a company are currently not suitable for any discretionary service charge loan from Southwark council.
  - A new repayment loan for non-residents only with an interest rate 4% above the Bank of England base rate. There will be no cap, but a collar of 4%. A collar is the opposite of a cap. It is a minimum rate the interest can drop to. It should be reiterated that properties owned via a company are currently not suitable for any discretionary service charge loan from Southwark council.
  - In exceptional cases, non-resident leaseholder may be offered the lower rates of interest offered to resident leaseholders or the deferred loan if they meet the criteria for exceptional hardship. The non-resident leaseholder must either meet:

- the [Mortgage Credit Directive Order 2015](#) (MCD) definition of a consumer buy-to-let and own no more than two properties (including their main residence).
  - if the leaseholder is a commercial buy-to-let non-resident, the leaseholder must own no more than two properties (including their main residence) and have no other form of employment or income excluding benefits and pension.
- In future, if the council's interest rates change, the collar will be whatever the additional interest rate is on top of the base rate at zero i.e. if the council's interest rates were changed to 1.75% above base rate, but the base rate dropped to -0.5% ,the interest rate would be 1.75%. This should be implemented incase interest rates go negative so the council can still cover their costs.
  - Leaseholders currently with loans will not have their interest rates changed as per their mortgage deeds; however the rates set out in this report will apply for all new loan applications with the exception of the deferred payment loans for customers suffering from exceptional hardship.
  - The interest rates should be changed to cover the costs of the service so that it's not subsidised by residents and capped on that basis.
  - The rate of interest payable on deferred payment loans for customers suffering exceptional hardship will stay the same at 2% above the Bank of England base rate, but with a collar of whatever the additional interest rate is on top of the base rate at zero. However, the criteria to obtain a deferred payment loan will be more clearly defined as per paragraph 25 below. The rest of the terms and conditions for deferred loans will stay the same.
  - The rest of the terms and conditions for repayment loans will stay the same as the current repayment loans unless laid out in this change report.
25. Leaseholders who are residents of the property and suffering from exceptional hardship.
- Failure to be granted a council repayment loan would not automatically mean the leaseholder will be eligible for a deferred payment loan.
  - Exceptional hardship experienced during the term of a repayment loan may lead to the loan being switched to a deferred payment product at the council's discretion. If subsequently the loan becomes affordable a repayment plan will be agreed with the leaseholder. This

will also extend to those who currently have council loans.

- When exercising its discretion the council will apply the criteria set out in para 4(a)-(g) of the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014.
26. To revise the policy to allow Southwark council to charge a reasonable arrears charge for discretionary loan accounts that fall £50+ in arrears in two consecutive months or twice in a 12 month period to cover administration costs. This fee will be reviewed annually in the Policy and Resources Strategy report (fees and charges appendix). To allow for a robust arrears process to be put in place, including legal action as appropriate.

### **Policy implications**

27. The proposed changes to the policy and procedures with particular focus on the application process, assessing affordability through new technology, auto-decision making, and the arrears process will ensure our standards are up-to-date to reflect modern lending expectations. It is recommended that the policy be reviewed a minimum of every five years to ensure it is still valid and following best practice. The policy should be reviewed sooner if a significant event occurs. This will mainly be based upon what the FCA defines as a significant event.
28. The use of technology and automated decision making will be acceptable methods for property valuations, affordability assessment, and credit checking: this will help ensure accuracy and consistency, and cut costs. Consumer protections required by the General Data Protection Regulation in connection with automated decision making and profiling will be incorporated into the council's procedures. In particular the council will, in each case where automated decision-making is used:
- Obtain the applicant's express consent
  - Explain how the applicant can access details of the information used to create their profile
  - Explain to the applicant how they can object to profiling
  - Establish a procedure for applicants to access the personal data input into the profiles so they can review and edit for any accuracy issues
  - Establish additional checks for our profiling/automated decision-making systems to protect any vulnerable groups (including children)
  - Only collect the minimum amount of data needed and have a clear retention policy for the profiles we create.

29. Interest rates for new loans should be reviewed annually and the decision for changes to interest rates should be delegated to the Strategic Director of Finance and Governance in order for the council to be more reactive to business, economic, and environmental changes. The fees should also continue to be reviewed annually in the Policy and Resources Strategy report.
30. That the council is no longer the lender of last resort. As explained above this will allow the council to be more accommodating to leaseholders who wish to refinance their primary mortgage.
31. Increasing the interest rates for the repayment loans will increase revenue helping the service to be cost neutral. If the service is not cost neutral the difference is paid for by Housing Revenue Account (HRA) i.e. secure tenants. The interest rates will still be below most retail banks' standard variable rate for similar customers.
32. Creating a third product for non-residents. The product will be the same as the resident capital and interest repayment loan, but with a higher interest rate 4% above the Bank of England base rate. This will increase revenue into the council and is still below most retail banks standard variable rate for similar customers. This extra revenue will help to make the service cost neutral which is fairer for all tenants.
33. Interest rates on deferred loans for leaseholders who are suffering from exceptional hardship will remain the same. The criteria for exceptional hardship will be based on the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 (or any revised version). This will ensure vulnerable leaseholders are appropriately recognised and protected. If a leaseholder experiences exceptional hardship during the term of their repayment loan, under the proposed changes to the policy, the council would have the ability to change their product to a deferred loan, which again will offer better protection to the leaseholder.

### **Community impact statement**

34. The increase in interest rates will mean that the loans may become unaffordable to some leaseholders due to not meeting the affordability requirements for our very restricted product range. The private sector offer a wider variety of loans that might be more affordable, more flexible, or better suited to their needs. The private sector also offer subprime mortgages which are more expensive, but will help the leaseholder raise funding. In exceptional circumstances leaseholders who cannot afford a repayment loan may be offered a deferred payment loan, or buy-back (subject to available funding).
35. By increasing the interest rates, the loans will become cost neutral which will benefit the council's secure tenants who will not be subsidising homeowners.

36. The changes to the policy will benefit leaseholders by making the protection more robust.
37. Officers have considered the impact on borrowers who have protected characteristics for the purposes of the Equality Act 2010. The council will undertake a further Equality Impact Assessment.
38. Age, disability, pregnancy & maternity – borrowers who rely on a limited or fixed income may not be able to afford the new loans because of the increased interest rates. Under these circumstances the borrower may be considered for a deferred loan for exceptional hardship which requires no regular payment. The new policy may increase the numbers that seek deferred payment loans. There are other options we can also consider such as ‘payment holidays’ or increasing the term: these would be considered on a case by case basis.
39. It is not considered that the policy would have any material impact on persons or any particular gender, marriage/civil partnership status, race, sex or sexual orientation. As regards religion, the policy change has no material impact on any particular religion. The council currently does not offer any Islamic Finance Options for long term financing.

#### **Resource implications**

40. The service is currently fully resourced for the policy changes proposed and for some increase to the portfolio.

#### **Legal implications**

41. See the legal concurrent below.

#### **Financial implications**

42. The changes the policy will potentially help bring in additional revenue for the council. This will stop the subsidising of the service charge loans.

#### **Consultation**

43. Consultation has been carried out with Homeowner Council (HOC) on 6 November 2019. The Homeowner Council asked to see the cost analysis of the service charge loan service, and this has been forwarded to them. They gave no feedback regarding our consultation or cost analysis.
44. The draft report has not been taken to the MySouthwark Homeowners Board as they have disbanded.
45. The draft report was sent via email to the Homeowner Online Panel for feedback on 6 January 2021. Leaseholders were asked to give feedback by email. In summary the feedback from the leaseholders were:

- General queries asking for clarification about some of the proposed changes.
  - A non-resident queried why non-residents should pay higher interest rates than residents and expressed their frustrations that they felt this was unfair.
46. Every leaseholder who gave feedback was responded to by email. Where applicable, leaseholders' questions were answered in our response. Leaseholders either did not reply to our response, or raised no further queries to our answers when they did.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Governance**

47. Sections 450A, 450B, and 450C of the Housing Act 1985 (the 'Act') enabled the Secretary of State to make regulations to empower local authorities to grant loans in respect of service charges to leaseholders. The Secretary of State made those regulations in the Housing (Service Charge Loans) Regulations 1992/1708 (the 'Regulations') which came into force on 17 August 1992 and have been amended a number of times since then.
48. The legislation provides for two service charge loan schemes: under section 450A the council must, upon request, grant a loan to cover the costs of larger service charges in respect of repairs and improvements. Under section 450B local authorities have the power to grant loans either to help leaseholders who do not comply with the mandatory rules or to 'top up' mandatory loans which do not cover the whole amount of the service charge being demanded.
49. A discretionary loan may be on such terms as the council may determine and must be secured as a mortgage on the property. The council has freedom to set its own interest rates for discretionary loans provided such rates are reasonable. The council can charge a fee to cover administrative and legal fees, which can at the council's option be added to the amount of the loan.
50. The report proposes that some aspects of the council's decision-making should be automated. Such processes are regulated by the Article 22 of the General Data Protection Regulation and the report to the Cabinet Member attaching the consolidated and revised policy will need to detail how the requirements of the GDPR will be met.
51. In the exercise of all its functions, the council must have due regard to the public sector equality duty in Section 149 of the Equality Act 2010. Specifically to have due regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who



share a relevant protected characteristic and those who do not share it. The relevant protected characteristics for this purpose are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. The potential impacts on residents with these characteristics are considered in the 'community impact' section of the report.

52. Part 3D of the council's constitution provides that changes to existing fees and charges may be dealt with by the individual cabinet member, except for matters which affect more than one cabinet portfolio: such decisions should be taken by full cabinet.

### **Strategic Director of Finance and Governance - (H&M20/124)**

53. The authority has a statutory obligation under the Statutory Instrument 1992/1708, The Housing (Service Charge Loans) Regulations 1992, to offer loans to leaseholders. Mandatory loan interest must be set as per Schedule 16 1985 Housing Act i.e. the higher rate of the 'Standard National Rate' or 'Local Average Rate' as defined in that Schedule. As of 31 March 2020 this was 3.6%. For discretionary loans, the authority is expected to charge a "reasonable" rate of interest. Reflecting the changes outlined in this report, a reasonable rate of interest has been determined by the council's Chief Financial Officer to be +2% above the Bank of England base rate for the deferred payment loans, +2.5% above the Bank of England base rate for residents repayment loans, and +4% above the Bank of England base rate for non-residents repayment loans.
54. The proposal to offer resident discretionary loans at base rate +2.5% (currently equivalent to a rate of 2.6%) is clearly more favourable to leaseholders than the mandatory scheme and should assist in achieving improved collection performance in respect of major works service charges. By no longer being the lender of last resort means the council's interests can be protected by securing debts against the property, whilst the fees and increase in the interest rate will help cover the costs of the service.
55. Neither scheme will entail any additional costs to the HRA. Reduced interest on cash flow received by the HRA will be offset by the interest paid on service charge loans and all administrative costs relating to the operation of the scheme will be recovered through the fees.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
None		

**APPENDICES**

No.	Title
Appendix 1	2004 Policy
Appendix 2	Current terms and conditions
Appendix 3	Summary of key changes

**AUDIT TRAIL**

<b>Cabinet Member</b>	Councillor Stephanie Cryan, Council Housing	
<b>Lead Officer</b>	Dominic Cain, Director of Exchequer	
<b>Report Author</b>	Alexander Ross	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		25 February 2021

<b>Item No.</b> 10.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1 - Procurement Strategy Approval Leasehold and Ancillary Properties Buildings Insurance	
<b>Ward(s) or groups affected:</b>		All leaseholders and a small number of freeholders	
<b>Cabinet Member:</b>		Councillor Stephanie Cryan, Council Housing	

**FOREWORD – COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR COUNCIL HOUSING**

Southwark’s duty as a landlord is to ensure that we have adequate buildings insurance in place to help safeguard our leaseholders. Our current buildings insurance contract expires in April 2022 and this report asks cabinet to agree a new procurement strategy for providing this cover.

Our buildings insurance cover needs to be comprehensive and meet the needs of our 14,134 leaseholders. It needs to offer good value for money and the size of the portfolio will lend to economies of scale in premiums payable. We will be consulting with leaseholders to ensure they are involved in the process and any suggestions made will be considered for inclusion in the final tendering process.

The council intends to undertake a competitive tender in line with the Public Contract Regulations 2015 as this will allow us to put in place new contracting arrangements as quickly as possible and continue to meet our statutory responsibilities.

**RECOMMENDATIONS**

**Recommendation for the Cabinet**

1. That the cabinet approves the procurement strategy outlined in this report to undertake a procurement in line with the Public Contract Regulations 2015 (PCR) for the leasehold and ancillary properties buildings insurance contract (including a separate claims handling service) for a period of three years commencing 1 April 2022, with an option to extend for two twelve month extensions, making a total estimated contract value of up to £25.57m. The estimated total contract value is up to £5.1m per annum (including insurance premium tax at 12%).

**Recommendation for the Leader of the Council**

2. That the leader of the council delegates authority to the Cabinet Member for Housing to award the contract for the reasons set out in paragraph 12.

## BACKGROUND INFORMATION

3. The leaseholders and ancillary properties buildings insurance contract relates to flats and maisonettes sold by the council under long lease terms. There are two separate policies within the contract covering:
  - The main policy where flats have been sold (under the Right to Buy scheme or through other disposals e.g. auction sales, social home buy)
  - A policy to insure under-leased blocks on a comprehensive basis (there are currently two).
4. In addition, the council may need to nominate buildings insurers, as per the terms of houses sold on leases.
5. The terms of the current lease requires the council as the freeholder:
 

Clause 4 (6) “To insure the building to the full insurance value thereof against destruction or damage by fire, tempest, flood and other risks against which it is normal practice to insure, or to make other appropriate and adequate arrangements and in the event of destruction or, damage by any such risk as aforesaid to rebuild or reinstate the property and the building”.
6. The most advantageous way to do this is by placing a contract with a single insurer. This ensures that a standard approach can be followed for both the leaseholders and the council.
7. The contract was last awarded in 2018 when Zurich were awarded the contract which commenced on 1 April 2018.
8. The estimated cost of the new contract is £5.1m per annum for a period of three years with an option to extend for 2 twelve month extensions, making a total estimated contract value of £25.57m (including insurance premium tax, which will be 12% from June 2021, but may be subject to change throughout the term of the contract). It should be noted that insurers can break the long term agreement at any point and impose a higher premium should the claims experience be higher than expected and this risk will have to be considered during the tender process.

### Summary of the business case/justification for the procurement

9. The council’s leasehold portfolio totals 14,134 properties. Although there is a limited market for these contracts, the size of the portfolio will attract international insurers and leaseholders should benefit from economies of scale in the premiums payable from those that submit tenders.
10. Leaseholder representatives were closely involved in the procurement of the current contract and will be for the new contract. The council will take into consideration any requirements suggested by leaseholder representatives. The council will include these requirements as part of the new tender

documents subject to the advice from the council's exiting insurance broker AJ Gallagher. The costs for using a broker will form part of the procurement costs.

11. The claims experience has been consistent for the last three years ranging between £2.8m and £3.1m annually. If this trend can be continued or improved for the period up to 1 April 2022, it will reduce the risk that deterioration of the claims experience has an adverse impact on pricing.
12. Due to the tight time constraints that will have to be met as detailed in the latter part of the procurement project plan, in conjunction with Section 20 consultation requirements, approval is being sought to delegate the award of this contract to the Cabinet Member for Housing. This will ensure that the council has appropriate insurance cover for its leasehold stock from 1 April 2022 otherwise it will be in breach of 14,134 leases of flats.

### **Market considerations**

13. Since the last tender in 2017, the insurance market has changed significantly with rates and premiums rising significantly. This has been driven by a number of factors including Grenfell, storm/flood losses in the last 2-3 years and Covid-19. Claims experience remains a factor but insurers are also now reacting to events such as Grenfell e.g. asking for detailed information in respect of the cladding of buildings and imposing terms or declining to offer terms where materials used are considered too much of a risk.
14. Capacity for the type of insurance business being considered here remains challenging. The market essentially comprises four insurers, of which only one will only do business with council directly. This is part of the reason as to why expressions of interest at the last tender did not result in formal bids. The council's existing insurer is the only insurer who deal direct at this time. The use of an insurance broker for this tender exercise should ensure that all possible insurer interest is secured and it is hoped competitive terms as a consequence.

### **KEY ISSUES FOR CONSIDERATION**

#### **Options for procurement route including procurement approach**

15. Do nothing – the council must take action otherwise it would place itself in breach of the terms of 14,134 leases, and this is therefore not an option.
16. Use of a framework – various insurance frameworks now exist (e.g. Crown Commercial Services and Yorkshire Purchasing Organisation) that were not available in the past. The products and services available from these organisation give local authorities direct access to their framework agreements, however there is no guarantee that the use of a framework will attract more bids at better rates. There is also a commission to pay for the use of these frameworks, which is currently 0.5% for the duration of the awarded contract.

17. Carry out an external procurement process – the council could elect to undertake a one stage competitive tender following the PCR 2015.
18. Self-insure – under the terms of the current lease, the council can “make other appropriate and adequate arrangements” rather than insure the building with a provider, and opt to self-insure. However, following counsel’s advice that the council would not be able to re-charge the costs, the option to self-insure has been deemed unfeasible.
19. Unlike some areas of insurance, there are still insurers for this type of insurance at this time. Although the use of an insurance broker does not guarantee those insurers will bid, a broker will guarantee access to these markets. Insurers will consider the risks of the council’s business based on its individual merits.

### **Proposed procurement route**

20. The proposed procurement route is to undertake a one stage competitive tender following the PCR 2015 which will allow the council to put in place new contracting arrangements for 1 April 2022. The council will be working with their insurance broker to procure, although not to manage, the contract.

### **Identified risks for the procurement**

21. The table below identifies a number of risks with this procurement, the likelihood of occurrence and the controls in place to mitigate the risks.

<b>R/N</b>	<b>Risk Identification</b>	<b>Likelihood</b>	<b>Risk Control</b>
R1	Price is significantly higher than the current contract	Medium	Although the contract cost will be recovered through the annual service charges, the tender will seek bids for a fixed price for the duration of the contract  The council will continue to be pro-active in liaising with the insurer to reduce the cost of claims
R2	Insurer goes out of business	Low	The credentials and financial viability of the bidders will be considered as part of the tender evaluation process
R3	Obtaining sufficient returned tenders to make the process competitive	Medium	Contact known insurers contracted with other local authorities and use a broker to assist with the procurement process as a

R/N	Risk Identification	Likelihood	Risk Control
			number of insurers are unlikely to negotiate directly with the council
R4	Unexpected contract price increase from year to year or insurer breaks long term agreement with increased premium	Low	If the claims experience of the policy deteriorates and results in higher premiums, the increase can either be recharged to home owners as a service charge or the council may adopt a flexible approach to funding the additional claims by establishing a subrogation fund
R5	Failure to consult with leaseholders under Section 151 of the Commonhold and Leasehold Reform Act 2002	Low	Meet dates set out in the procurement project plan. Tender process is managed by home ownership services who are also responsible for the statutory consultation with leaseholders
R6	Failure to comply with the Public Contract Regulations (2015)	Low	Meet dates set out in the procurement project plan Ensure that the procedures are transparent and comply with legislative requirements
R7	Failure to have all the information available at the required times	Medium	Keep leaseholder representatives informed and liaise with relevant council officers
R8	Changes to internal procedures and processes should a new insurer be appointed from 1 April 2022	Medium	Frequent communications with the insurer at a senior level. Ensure there is a smooth transition from one insurer to another. Communications to leaseholders and old insurer, if relevant to ensure client team have processes in place to cover situation where both old and new claims are being processed by different insurers during transition period
R9	When bidding, insurance companies customarily hold their terms for up to 90	Medium	Working closely with the broker, the council will offer companies the option to

R/N	Risk Identification	Likelihood	Risk Control
	<p>days from the date that they submitted their bid. (This is to mitigate against the risk of any deterioration in the council's claim experience.) However the timescale associated with the council's internal procurement procedures exceeds 90 days and therefore poses the risk that companies will be put off from making a bid</p>		<p>revise their original terms once the 90 day period has expired and before the contract start date. This builds confidence with the bidder that there is an agreed process in place to deal with any deterioration in claims experience</p>
R10	<p>There is a noticeable change in the council's claims experience in the period between the date the insurance company submits their bid and the start of the contract thus forcing the company to change their terms and increase their price</p>	Medium	<p>The council will work with the repairs and leaks from above teams, closely monitoring claims performance to minimise the cost of claims. Claims experience is directly linked to the performance of the council's repairs team in housing and modernisation identifying and carrying out repairs to the building. Additionally any unforeseen event outside of the council's control could occur which could adversely impact the claims experience</p>

### Key /Non Key decisions

22. This report is a strategic procurement and is therefore a key decision.

### Policy Implications

23. It is unlikely that many insurers will be interested in tendering as there is a limited market for this type of local authority scheme. Due to the size of the contract, the legislation requires the council to consult with all leaseholders. A Section 20 Notice of Intention must be served advising leaseholders of the nature of the contract. Leaseholders have a period of 30 days to make comments. As this contract will be subject to an open procedure as set out in the PCR, leaseholders are not entitled to nominate insurers. This first stage of the consultation process has to be undertaken before the contract can be advertised.



24. Notices of Proposal have to be sent to all leaseholders before awarding the contract advising them of the successful tenderer with details of the premiums they will pay from the commencement of the contract.

### Procurement Project Plan (Key Decisions)

Activity	Completed by/Complete by:
Forward Plan for Gateway 1 decision	Feb 2021
DCRB Review: Gateway 1 CCRB Review: Gateway 1	28 Jan 2021 11 Feb 2021
Notification of forthcoming decision – cabinet	March 2021
Approval of Gateway 1: Procurement Strategy Report	09 March 2021
Scrutiny call-in period and notification of implementation of Gateway 1 decision	17 March 2021
Issue Notice of Intention	22 March 2021
Invitation to tender	26 July 2021
Closing date for return of tenders	20 Sep 2021
Completion of evaluation of tenders	15 Oct 2021
Issue Notice of Proposal	25 Oct 2021
Forward Plan for Gateway 2 decision	Oct 2021
DCRB Review: Gateway 2 CCRB Review: Gateway 2	02 Dec 2021 09 Dec 2021
Notification of forthcoming decision	15 Dec 2021
Approval of Gateway 2: Contract Award Report	23 Dec 2021
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	14 Jan 2022
Standstill Period (end date)	28 Jan 2022
Contract award	07 Feb 2022
Add to Contract Register	07 Feb 2022
TUPE Consultation period	31 Mar 2022
Publication of award notice in FTS and Contracts Finder	07 Feb 2022
Contract start	1 April 2022
Contract completion date	31 Mar 2025
Contract completion date – if extension(s) exercised	31 Mar 2027

### **TUPE/Pensions implications**

25. The appointment of a new contractor in this proposed retender may amount to a Service Provision Change but the council's preliminary view is that there is unlikely to be relevant transfer under TUPE between the incumbent and new contractor. Nevertheless until due diligence is carried out definitive advice on TUPE cannot be provided. This due diligence work will be carried out before the tender process commences so that its results can be included in the tender pack. There are no TUPE implications for the council as an employer because the council's contract management and administrative function will remain with the council and these activities will not form part of the contract specification.

### **Development of the tender documentation**

26. The tender documentation will be prepared with the support of the council's insurance broker who has practical experience of providing this support to other local authorities and to this council.
27. The current strategic contract management team and a representative from the operational team will then develop the tender document with the support of the insurance broker.
28. The tender will be based on the previous tender documentation, but amended as necessary following comments by leaseholder representatives and on the advice of the insurance broker. The corporate risk and insurance manager, departmental procurement officer and a Legal Services officer will be involved in finalising the tender documentation to ensure compliance with best practice.
29. Whilst the council has its own standard form of contracts, there are specific contracts used in the insurance market. The wording used in the insurers draft agreement and terms and conditions will be reviewed by Legal Services in order to protect the council's interest.

### **Advertising the contract**

30. The contract will be advertised in FTS and Contract Finder via the London Tenders Portal with the support of the council's insurance adviser. Where individual leaseholders suggest insurers, they will be directed to the FTS notice.

### **Evaluation**

31. The contract will be awarded on the basis of MEAT (Most Economically Advantageous Tender) based on a price/quality ration of 70:30, using the Open procedure of the PCR (2015).

32. A larger weighting has been given to the price due to the highly specialised nature of the contract and limited market for bidders to be in a position to submit a tender.
33. The evaluation panel will consist of the business systems manager and pre assignment manager from homeownership services (HOS), the corporate risk and insurance manager and a representative from the council's insurance advisor. The range of council officers with different specialities and competencies is considered appropriate for this type of contract.
34. As with previous contracts, leasehold representatives will be given the opportunity to be involved in the process of reviewing the contract specification.

### **Community impact statement**

35. The contract will have an impact on leaseholders and a small number of freeholders as they will have to contribute towards the contract cost in their service charges.

### **Social Value considerations**

36. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.
37. Social Value is unlikely to be able to form part of this tender due to the nature of the services being provided, although suppliers will be asked on applicable elements such as apprenticeship opportunities, and the payment of London Living Wage / Real UK Living Wage will be made as part of the tender.

### **Economic considerations**

38. As part of the statutory consultation process, leaseholders are allowed to suggest their own (local) insurer. However, as public notice of this contract will be given, leaseholders cannot nominate providers and will be advised to direct any interested providers to the FTS Notice.
39. The terms of the contract, should leaseholders have to make a claim under the policy, will permit them to submit quotes from (local) contractors of their own choice to carry out repairs to the internal parts of their property. The contract also allows the insurer to instruct their own nominated contractor should the leaseholder not want to obtain their own quotes.

### **Social considerations**

40. The successful contractor will be required to demonstrate that they operate an Equal Opportunities Policy, comply with the provisions of the Equalities

Legislation, the Employment Relations Act 1999 (Blacklists) Regulations 2010 and the Prevent Duty under section 26 of the Counter-Terrorism and Security Act 2015. The council can exclude companies who break the law by blacklisting if they are either still blacklisting or have not put into place genuine actions concerning past blacklisting activities. The council can require "self cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent it from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:

- "Owned Up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities
- "Cleaned Up": taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct, and
- "Paid Up": paid or undertaken to pay compensation in respect of any damage caused.

41. The council's contract conditions will include an express condition requiring compliance with the blacklisting regulations and include a provision to allow the contract to be terminated for breach of these requirements. In addition, the council's contract conditions will include an express condition requiring compliance with the Prevent Duty. The council's working in occupied premises policy will include this provision and will require the successful contractor to notify the council if they have any concerns.
42. The successful contractor is expected to meet the London Living Wage (LLW)/ Real UK Living Wage (RUKLW) requirements. The terms and conditions of the insurer will be checked as part of the tender process and reported in the Gateway 2 report. If there is no provision for this it will be included for which there may be an additional cost associated. However, owing to the nature of this industry it is highly probable that all company employees will be earning over LLW/ RUKLW rates.
43. The successful contractor will be encouraged to consider trades union recognition in line with the council's Fairer Future Procurement Framework.

### **Environmental/Sustainability considerations**

44. All exchanges of information in relation to this procurement will be via the council's e-procurement system. During the course of the contract the provider will be required to use digital resources, including secure electronic mail and databases in order to eliminate the unnecessary use of paper.

### **Plans for the monitoring and management of the contract**

45. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate

details of this procurement are added to the contract register via the eProcurement System.

46. The contract will be for a fixed sum for the duration of the contract, perhaps with an allowance for inflation based on the house building cost index – depending on the tender price. The financial risk will fall on the insurer should the value of claims exceed the contract sum paid by the council.
47. The council will require access to the insurer's IT system detailing claims and action taken. The system will include details of the cost of claim (payments and any reserve) and actions taken by the insurer to finalise the claim. The system should be in such a format that reports can be run by the council for each claim and for specific periods.
48. Annual contract performance reports will be taken to DCRB in line with the requirements of CSOs. Regular monitoring meetings between relevant council officers and the insurer will also be held at least quarterly, or more frequently if required.
49. The contract will be administered in the first instance by council staff. They will send out claim forms, receive them back together with quotes from leaseholders' nominated contractors and scan the documents to the insurer. The staff will liaise with leaseholders and act as a link between the leaseholder and insurer to resolve any queries. These services will be documented in a separate agreement between the council and the insurer.
50. Council staff will also liaise with housing services where claims have been caused by a failing in a neighbouring tenanted property, e.g. where a leaseholder has a leak originating from the flat above them. Housing services staff will be requested to prioritise a repair to tenanted properties so that the authorisation can be given to leaseholders to instruct their nominated contractor to start repairs to their property. This will benefit leaseholders as claims are progressed quicker and it will assist in minimising the cost of the claim. As claim costs form the basis of bids from insurers, procedures in controlling costs from escalating will have a beneficial effect on future contracts.

### **Staffing/procurement implications**

51. There are no additional resource issues as home ownership services already has a buildings insurance officer who is responsible for the administration of the contract.
52. The buildings insurance officer and the team are supported by a manager who has experience of this contract since 2006. In addition, other staff in the team have been trained in dealing with queries from the insurer and leaseholders.

### **Financial implications**

53. The annual cost of the contract will be for a fixed sum, although it could include an annual inflation allowance relating to the house building cost index as set by the Royal Institution of Chartered Surveyors (RICS) index.
54. The contract will run over a period of three years commencing 1 April 2022, with an option to extend for two twelve month extensions. The estimated total contract value is £5.1m per annum (including insurance premium tax at 12%). This makes a total estimated contract value of £25.57m.
55. The cost of the contract is recharged in full to the leaseholders as a part of their annual service charges. There are no budgetary consequences as a result of this contract as there is a neutral effect on the Housing Revenue Account.

### **Investment implications**

56. None identified.

### **Legal implications**

57. The Landlord & Tenant Act, 1987, allows leaseholders to request a summary of insurance cover. The council has to provide a summary to the leaseholder which includes the insured amount, name of the insurer and the risks covered. Leaseholders can then apply in writing to the landlord to afford reasonable facilities to inspect the policy, see evidence of payment of premiums for that and previous periods and take copies or extracts.
58. Please see concurrent from the Director of Law and Governance.

### **Consultation**

59. 12 homeowners from the home owners on-line residents panel have been selected to join a task and finish group and participate in the procurement of the contract. The leaseholders will be given the opportunity to input into the tender specification and criteria by reviewing the previous tender documents, The group will also be invited to review the statistical information that the council has available in relation to the current local authority buildings insurance market. It is anticipated that this will happen over the course of 3-4 separate meetings. Subject to interest two of the working group will be invited to participate in scoring the quality evaluation of the tender.
60. The contract is subject to statutory consultation with the leaseholders. This involves a two stage process, with the first stage (a notice of intention) consulting the leaseholders on the council's intention to enter into a long term agreement for the provision of buildings insurance, and the second stage (a notice of proposal) detailing the results of the tender process.

61. Residents Forum will be updated as necessary during the course of the tendering.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (H&M 20/134)**

62. The Strategic Director of Finance and Governance notes the recommendation in this report to undertake an EU procurement for the leasehold and ancillary properties buildings insurance contract. The contract will cover an initial period of three years commencing 1 April 2022 with the option to extend for a further two years. The contract is for a fixed price currently estimated at £5.1m per annum, but subject to annual inflationary uplifts as determined by RICS. The size of the council's leasehold portfolio and claims history will influence contract pricing along with current market uncertainty arising from the Grenfell tragedy, which presents a risk in terms of market appetite for insurance provision of this type. In budgetary terms there are no implications for the Housing Revenue Account as the cost of the contract is fully rechargeable to leaseholders as part of their annual revenue service charge.

### **Head of Procurement**

63. This report seeks approval from cabinet to go out procurement for Leasehold and Ancillary Properties Buildings Insurance for a period of three years commencing 1 April 2022, with an option to extend for two x 12 month extensions, making a total estimated contract value of up to £25.57m. The estimated total contract value is up to £5.1m per annum (including insurance premium tax at 12%).
64. The proposed procurement route options are detailed in paragraphs 15 to 20 and preference is a single stage procurement which is allowable under EU Public Contract regulations 2015, the Brexit legislation and the councils contract standing orders (CSOs)
65. Risks are detailed in paragraphs 21, the tendering process is detailed in paragraphs 26 to 34 and plans for management and monitoring the contract is detailed in paragraphs 40 to 50.

### **Director of Law and Governance**

66. This report seeks the cabinet's approval to the procurement strategy for the leasehold and ancillary properties buildings insurance contract (including a separate claims handling service) as further detailed in paragraph 1. As the estimated contract value exceeds £4m, this approval relates to a strategic procurement and the decision is therefore reserved to cabinet.
67. The nature and value of these services are such that they are subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR 2015). As noted in paragraph 20, the intention is to undertake a one stage

competitive tender in compliance with the PCR 2015, so these tendering requirements will be satisfied. Officers from the contracts team in Law and Governance will assist in the procurement and advise on contract documentation throughout the procurement process.

68. Approval is also sought from the Leader to delegate the award (Gateway 2) decision to the Cabinet Member for Housing to ensure that the new contract can be effective from 1 April 2022.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 1 – Procurement Strategy Approval Leasehold and Ancillary properties Buildings Insurance	Preassignment Team 160 Tooley Street London SE1	Tabitha Cox, Preassignment Manager 020 7525 7252
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5380&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5380&amp;Ver=4</a>		

## APPENDICES

No	Title
None	



**AUDIT TRAIL**

<b>Cabinet Member</b>	Councillor Stephan Cryan, Council Housing	
<b>Lead Officer</b>	Duncan Whitfield, Strategic Director of Finance and Governance	
<b>Report Author</b>	Louise Turff, Homeownership services manager	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Governance	Yes	Yes
Director of Exchequer (For Housing contracts only)	No	No
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	<b>Yes</b>	<b>Yes</b>
<b>Date final report sent to Constitutional Team</b>		25 February 2021

<b>Item No.</b> 11.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Investment proposal for plots A1, A2 and K1 at Canada Water	
<b>Wards or groups affected:</b>		Rotherhithe and Surrey Docks	
<b>Cabinet Member:</b>		Councillor Rebecca Lury, Finance, Business and Jobs	

### **FOREWORD - COUNCILLOR REBECCA LURY, CABINET MEMBER FOR FINANCE, BUSINESS AND JOBS**

We remain excited and committed to supporting the development at Canada Water and look forward to seeing progress over the coming months and years.

2020 was of course a difficult year for the council and the whole country as we responded to Covid-19. It has placed significant additional financial burdens on the council, and will have long-term implications for our ability to be able to make spending decisions.

Therefore, at this time, we are recommending that the council retains land interest but makes no further contribution towards plot development cost.

We will continue to review our options as the scheme develops and look forward to a continuing close working relationship with the developer and local community.

### **RECOMMENDATION**

1. That further to the Master Development Agreement (MDA) between the council and British Land (BL) the council should invest its land only in plots A1, A2 and K1.

### **BACKGROUND INFORMATION**

2. This report deals with an option for the council to invest in the first phase of development of the BL masterplan at Canada Water; comprising the three plots A1, A2 and K1 located as shown on the plan at appendix 1.
3. On 13 March 2018 cabinet agreed the recommendation to conclude the Canada Water Master Development Agreement (MDA) with BL. The primary purpose in entering into the MDA was to bring about the comprehensive regeneration of the area for the benefit of the local community. Another consideration was to generate income to support service delivery. To that end, the agreement gives the council an option to invest on commercial terms in the project.

4. The MDA was signed on 10 May 2018 since when BL has worked to progress the masterplan, including obtaining planning consent for the scheme, which was granted on 29 May 2020. A section 106 agreement was entered into on 28 May 2020 to secure the council's strategic objectives for the masterplan and to mitigate the impacts of the development. The planning permission is a hybrid, with detailed permission granted for the initial development plots in phase 1 and the remainder of the permission granted in outline.
5. The first phase of the masterplan forms the basis of the investment proposals and is made up of three plots:
  - Plot A1 is a mixed use development comprising offices, retail, private housing and a small number of intermediate housing units.
  - Plot A2 includes the council's new leisure centre and offices.
  - Plot K1 is made up of 79 affordable housing units that in planning terms are linked to the private homes on A1.
6. The decision to grant planning permission was the subject of a claim for judicial review, but in October 2020 the High Court refused permission for the claim to be pursued. The masterplan is now free from challenge and preliminary works, including the construction of the interim petrol filling station and enabling works to the rear of the Printworks, have already begun on site.
7. BL announced recently the first pre-let for the project, that TEDI-London has chosen Canada Water as the location for their new engineering higher education campus. This is another clear statement of confidence in the regeneration of Canada Water and that the project has entered the delivery phase.

#### Council service delivery from phase 1

8. The first phase of the masterplan is important to the council not only because it launches the project, but because it will accommodate important council services.
9. The council has previously decided to investment up to £35 million in a new leisure centre, which will be house on plot A2. In January of this year the council decided to take up the option to buy the 79 affordable homes to be built on plot K1, which will be operated and managed as council homes.
10. Both of these investments are budgeted for and included in existing council programmes. As such they do not form part of the decision in this report but are relevant background.

### The council commercial investment opportunity

11. Over and above investing in council services as part of phase 1 of the masterplan, the council has the option of investing in the project on commercial terms. The objective being to generate a profit that would fund council front line services.
12. The MDA is a flexible form of partnership agreement. It is structured as a land transaction that credits the council with a 20% ownership stake in project land, as well as the right to invest up to 20% of the cost of developing each plot; in return for a commensurate share of the development value created.
13. The MDA anticipates the Canada Water project being delivered in phases comprising single or linked development plots over approximately 15 years. As plots come forward for development the council has an option to invest as set out in the MDA 'Plot Proposal' process. On a plot by plot basis the council has the choice to take up one of three options:
  - A. Sell the council's land interest in the plot and take no further part in its development.
  - B. Retain the council's land interest in a particular plot but make no further contribution towards plot development costs.
  - C. Retain the council's land interest in the plot and invest in its development, up to a limit of 20% of the total development cost.
14. The principle behind the MDA is that the council and BL invest side by side; so that to the extent the council invests in a plot it shares in the income generated by the plot. Income is generated either as capital receipts (for example in the case of private housing sales) or rent (for example from the letting of shops or employment space).
15. To the extent the council does not fully invest, BL will be entitled to charge interest and a priority return on all non match funded contributions. This means that if the council should not fully invest in a plot, the plot will have to bear additional charges (interest and priority return on non match funded elements) and the council's investment will represent, and be rewarded as a smaller proportion of total development cost.
16. When making a plot proposal to the council BL must provide information so that a considered investment decision can be taken. Once the information is received and validated the council has a limited period of time to confirm its response, which in this case ends on 23 March 2021.

### The general economic position

17. 2020 was of course a difficult year for the council and the whole country as we responded to Covid-19. First and foremost this has been a terrible human tragedy. It also meant additional demands put on council front line services and further stretched the council's financial resources.

18. At the national level, over the year as a whole, 2020 saw GDP fall by 9.9%. This contributed to an increase in the level of public sector debt as a % of GDP, rising to levels not seen since the early 1960's when the country was recovering from WWII. And of course these challenges have been compounded by the ending of the transition period that marked the UK's exit from the EU.
19. There has been much speculation on what should be the government's response to these events and how to 'repair' the public finances. How this will play out and what will be the implications for the council's short to medium term financial position is simply not known at this time.
20. This uncertainty has played a significant part in formulating the report recommendation.

### **KEY ISSUES FOR CONSIDERATION**

21. The council recently adopted a new Asset Management Plan, which includes as one of its elements the council's Investment Strategy. The principles of the Strategy have been applied to the investment options available under the MDA. That is, the three options:
  - A. Sell the council's land interest in the plot and take no further part in its development.
  - B. Retain the council's land interest in a particular plot but make no further contribution towards plot development costs.
  - C. Retain the council's land interest in the plot and invest in its development, up to a limit of 20% of the total development cost.
22. The logic behind the report recommendation is as set out below.
23. Option C is rejected on the basis that council investment in phase 1 should be prioritised on the delivery of front line services and that committing additional capital to a commercial investment in the current difficult economic climate would not be prudent and cannot be afforded.
24. Neither option A nor B requires additional capital investment by the council. Option A would generate a small one off capital receipt but no income; option B would in time generate a series of capital receipts and creates an income stream throughout the life of the development.
25. On the basis of an analysis of the projected returns, the Director of Regeneration recommends option B; the council to retain its land interest in the plots but to make no new additional capital investment.

### **Policy implications**

26. Cabinet is being asked to consider a recommendation to invest in the development of Canada Water via it partnership with BL. The

recommendation to invest has been informed by financial criteria but also by the principles established in the council's Asset Management Plan and its Investment Strategy.

### **Community impact statement**

27. The public sector equality duty at section 149 of the 2010 Equality Act (PSED), requires public bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people when carrying out their activities.
28. The recommendation in the report boils down to a decision between which of two investment options offers the better return. This is not considered to give rise to any equality implications.

### **Resource implications**

29. This report deals with a technical matter that is a direct consequence of a previous cabinet decision. As such it gives rise to no new direct resource implications.

### **Legal implications**

30. As the recommendation does not result in the disposal of any land or the investment of any capital there are no direct legal implications other than those discussed within the body of the report.

### **Financial implications**

31. The Canada Water site is to be developed out by way of plots. Each plot is intended to comprise a manageable area of development (manageable in both a practical and financial sense) comprising a building or a group of buildings. The council has received three plot proposals covering the first phase of the masterplan and contractually the council has a fixed period of time in which to confirm whether or not to take up the option to invest.
32. The recommendation to invest is set against a background of the council having already committed very significant capital investment in front line service delivery within phase 1 of the masterplan. It is also recognised that property investment on this scale, by its very nature, involves several years of capital outlay before any income is returned.
33. In carrying out the assessment of the plot proposals officers have been supported by external specialist contractors. The output from that exercise is summarised above in paragraphs 23 to 25.
34. Should cabinet agree the recommendation in this report, the council's contribution to the commercial investment of the first phase would be to leave its land in the project and make no further capital contribution.

### Post investment decision

35. Once the council confirms its decision to invest there are time limits as to when BL must commence the development of the plots, or else the councils is given the right to reappraise the plot and make a new investment decision. This situation applies in circumstances where works do not commence within 12 months of the date of the plot proposal or if the costs of the works at the commencement of plot works exceed 115% of the costs contained in the original submitted plot proposal. In these scenarios the council is entitled to re-appraise its investment decision.
36. At completion of a plot there is a reconciliation process when the partners' contributions to financing development of the plot are calculated. This fixes the share of capital receipts and future rent from the plot to be enjoyed by each MDA partner.

### Consultation

37. There has been internal consultation between officer in regeneration, legal services and finance.

### SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

#### Director of Law and Governance

38. The report sets out the three options open to the council in terms of its investment into a plot. The legal framework behind the options is all set out in the Master Development Agreement of 2018. It is open to the council to make an investment decision in respect of each plot as it is brought forward.
39. If the recommended option is chosen, there will be no disposal of land and no additional capital investment. Instead the council will retain its right to receive an income from the development of the relevant plot, albeit at a reduced level than if further capital expenditure had been made.

#### Strategic Director of Finance and Governance

40. The implementation of the British Land Masterplan for the regeneration of Canada Water provides the council with an opportunity to invest in plot proposals as they are brought forward and to potentially benefit from profits associated with those developments.
41. The Strategic Director of Finance and Governance notes the recommendation that the council does not invest in the first phase of development of the BL Masterplan at Canada Water (plots A1, A2 and K1) for the reasons set out in the financial implications (paragraphs 31 to 34). The council will retain its 20% ownership stake in project land.

42. The recommendation in this report does not give rise to any new financial commitments.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Report to Cabinet: Canada Water Master Development Agreement		
<b>Link: copy and paste into browser:</b> <a href="http://moderngov.southwark.gov.uk/documents/s74525/Canada%20water%20Report.pdf">http://moderngov.southwark.gov.uk/documents/s74525/Canada%20water%20Report.pdf</a>		
Corporate Asset Management Plan 2021		
<b>Link: copy and paste into browser:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6665&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6665&amp;Ver=4</a>		

## APPENDICES

No.	Title
Appendix 1	Site plan

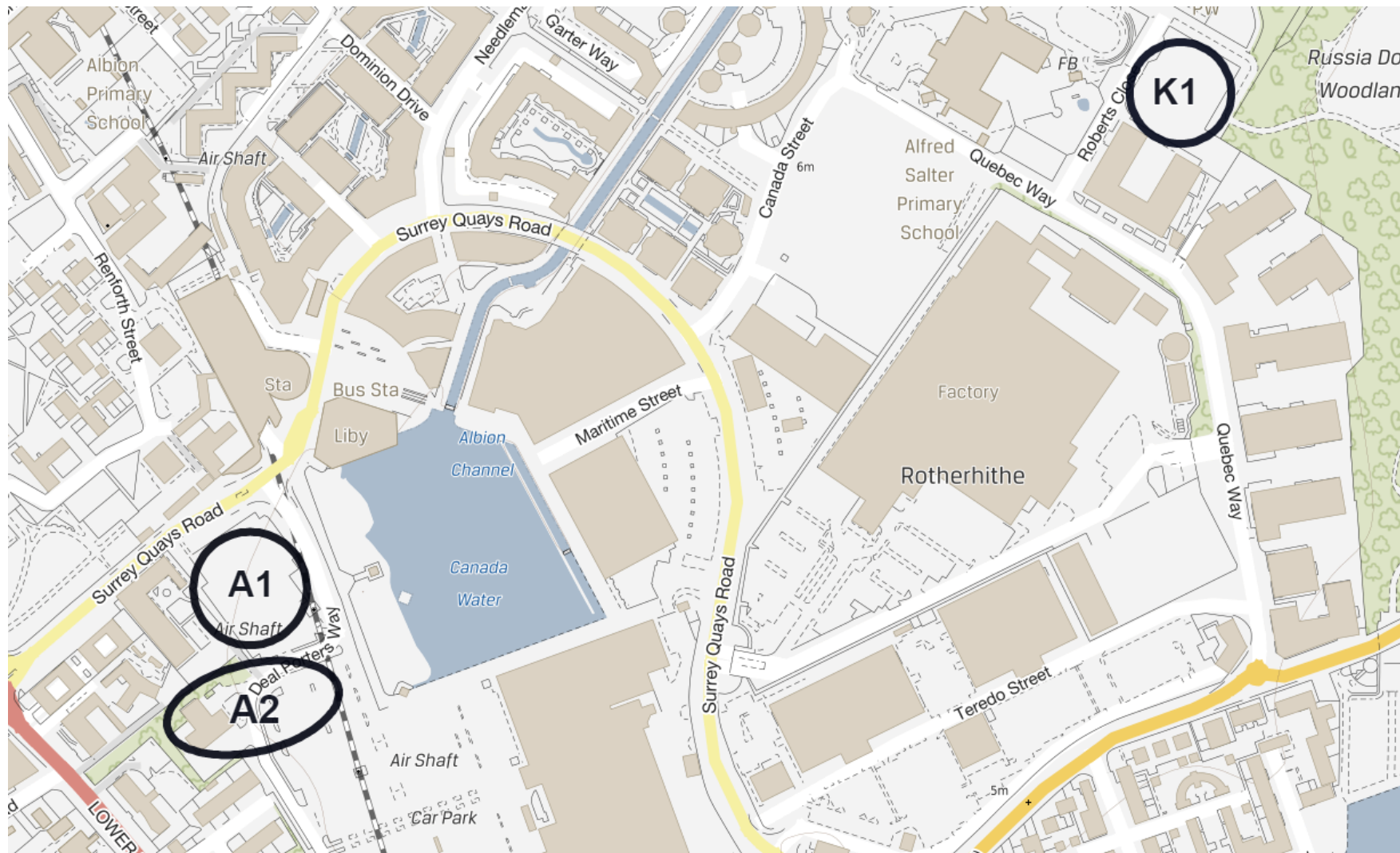
## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Rebecca Lury, Finance, Business and Jobs	
<b>Lead Officer</b>	Eleanor Kelly, Chief Executive	
<b>Report Author</b>	James Oates	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	25 February 2021	



# Appendix 1

## Approximate location of plots A1, A2 and K1



<b>Item No.</b> 12.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Strategic property purchase: Stork On The Hill Midwifery Centre, Blannedowne, Denmark Hill	
<b>Ward:</b>		Champion Hill	
<b>Cabinet Member:</b>		Councillor Stephanie Cryan, Council Housing	

### **FOREWORD – COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR COUNCIL HOUSING**

We have the opportunity to purchase a site that will help deliver our commitment to build 11,000 new council homes. The site we are looking to purchase is home to Stork on the Hill Midwifery Centre. Buying this property means that we will be able to build new council homes as well as providing space on the ground floor for a medical centre.

With 14,000 households in need of a council home this site will help to provide much needed new council homes and will provide a new home to some of our residents who have are currently living in overcrowded homes, fleeing domestic abuse or need to move for medical reasons, amongst others. For every new council home we build there are residents who are able to move in and have a place to call home.

As with all of our new council homes, we want to work with the local community to help shape the plans and build the homes that people need. This site gives the opportunity to work with residents to ensure their voice is heard in the design and build process to deliver exemplary new council homes.

### **RECOMMENDATIONS**

That Cabinet:

1. pursuant to s17 of the Housing Act 1985 the council acquires the freehold interest in the land edged red on the plan at Appendix A in accordance with the principal terms set out substantially in paragraph 15 of this report and fully in paragraph 3 of the closed version of the report
2. delegates to the director of regeneration authority to agree detailed terms of the transaction.

### **BACKGROUND INFORMATION**

3. Stork on the Hill Midwifery Centre is shown edged red on the plan at Appendix A of this report. It comprises a single storey brick and tile building dating from approximately 1996 and was until last year used as

a general practice doctor's surgery and clinic. The surgery use moved to the new Tessa Jowell Health Centre in East Dulwich and since then the property has been occupied by Kings College Hospital as a community midwifery clinic.

4. The freehold interest in the property is held by Denmark Hill Property Limited ("DHPL"). It is subject to a lease held by NHS Property Services Limited for a term of thirty years from 7 September 1995 at an annual rent. The lease is let on full repairing and insuring terms which effectively relieves the freeholder of any responsibility for the property. There is an under-lease in favour of Kings College. Cabinet will note that the lease will expire in less than five years time enabling DHPL to gain possession of the site. However the lease and under-lease have been subject to variations that may enable the freeholder to break the lease for redevelopment or the freeholder may need to apply to court for termination of the lease on the grounds of redevelopment.
5. Discussions have taken place with DHPL resulting in the council having the opportunity to purchase the property.

#### **KEY ISSUES FOR CONSIDERATION**

6. The council (through its Housing Revenue Account) is the predominant land owner in Blanedowne and the purchase of the subject property offers the opportunity to consolidate its ownership here.
7. In principle the property could in the future be redeveloped to reprovide the existing use or similar with housing above. This is subject to such a scheme complying with relevant planning policy.
8. Should the council purchase the property it will receive an income from it providing a return on the capital invested but this income is only assured until the lease expires in four years time.
9. On 28 November 2018 council assembly approved the current Council Plan. This sets a number of commitments to our community including *A Place to Belong*; one of the undertakings to meet this commitment is to *Build at least 1,000 more council homes.....by 2022*. Purchase of the subject property offers an opportunity to provide add a site to the council's portfolio to built new homes.

#### **THE COUNCIL'S ASSET MANAGEMENT PLAN**

10. On 19 January 2021 cabinet approved a refreshed Asset Management Plan ("AMP") part of which included an investment strategy. The purpose of the Plan is to align asset related decision making to the council's corporate priorities. This applies equally to existing assets and deciding whether to acquire new ones.

11. Section 6 of the Plan addresses Investment and Land Acquisition Strategy. It provides the following strategic criteria:
- Affordable housing supply
  - Securing economic and infrastructure investment
  - Securing sustainable, high-quality employment opportunities
  - Delivering a sustainable response to the climate emergency.
12. The purchase of the subject property will provide an opportunity to provide new social housing and the resultant construction work will secure economic investment and employment and the new homes provided can contribute to responding to the climate emergency. The proposal therefore fulfils the strategic criteria of the AMP.
13. The AMP then sets a four stage evaluation for possible purchases covering:
- ◆ Strategic fit/focus
  - ◆ Feasibility
  - ◆ Value for money/risk
  - ◆ Maximisation of opportunity.
14. Proposed purchases are then assessed against a matrix and must score at least 50/100. The assessment matrix for the subject property is set out at Appendix B to this report and scores 87.5/100. Cabinet is therefore assured the proposed purchase will be in keeping with the AMP. The Council's Asset Investment Board has considered the proposed purchase and recommends that it be pursued.

### **PRINCIPAL PURCHASE TERMS**

15. (a) The council acquires the freehold interest in the property subject to the lease held by NHS Property Services Limited.
- (b) The parties meet their own costs of the transaction.
- (c) The council pay the consideration set out in paragraph of the closed report.

### **RATIONALE FOR RECOMMENDATIONS**

16. ◆ To enhance the council's asset base.
- ◆ To provide an opportunity to deliver a Council Plan commitment namely additional social housing.

## Community impact statement

17. The Council Plan was the subject of extensive community consultation. The recommendations herein further the delivery of the *A Place to Belong* commitment set out in the Plan.
18. The Equality Act 2010 requires the council in the exercise of its functions to have due regard to the need to:
  - a) eliminate discrimination
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
19. Relevant protected characteristics for the purposes of the Equality Act are:
  - Age
  - Civil partnership
  - Disability
  - Gender reassignment
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex and sexual orientation.
20. In considering the recommendations herein the cabinet must have due regard to the possible effects of them on any groups sharing a protected characteristic in order to discharge its public sector equality duty. This is an ongoing obligation.
21. If the recommendations set out are approved, there will be no immediate impact as the existing use of the property will continue. In the future, if the use of the building is to change as a consequence of council action, there will need to be a review of the public sector equality duty taking into account the implications on protected characteristics arising from the action.

## **Financial implications**

22. The acquisition of the property will utilise capital resources but will provide an income for the duration of the lease set out in paragraph 4. Further details are set out in the closed version of this report.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Governance**

23. Section 17(1)(b) of the Housing Act 1985 states that a local housing authority may acquire houses, or buildings which may be suitable as houses, together with any land occupied with the houses or buildings.
24. There are adequate powers available to the council to acquire the property for housing.
25. The report comments that the acquisition is in accordance with the Asset Management Plan. It may well be the case that a future use for the site will be for social housing which would make provision for those members of society in greater need of housing. The report makes reference at paragraph 21 that the Public Sector Equality Duty will be considered further at that stage in order to ensure that the requirements of the Equality Act 2010 will be complied with

### **Strategic Director of Finance and Governance (H&M 20/138)**

26. Acquisition of the of the Stork on the Hill Midwifery centre will enable the council to consolidate its land ownership in the area. Paragraphs 4 to 18 of the closed report set out how the proposed consideration has been determined and how it represents value for money for the council. The acquisition is subject to the director of regeneration agreeing detailed terms and the cost will be met from resources supporting the council's Housing Investment Programme, which may include borrowing where appropriate.

### **Strategic Director of Housing and Modernisation**

27. The site may offer the opportunity to develop much needed new affordable homes, of which 50% on the council rented homes will be available to local residents in housing need. Any homes developed will assist in meeting the long term target to build 11,000 new Council homes by 2043.

## BACKGROUND DOCUMENTS

Background Papers	Weblink
Council Plan 2018/9 – 2021/22	<p><b>Link (please copy and paste into browser):</b>  <a href="http://moderngov.southwark.gov.uk/documents/s78763/Report%20Council%20Plan.pdf">http://moderngov.southwark.gov.uk/documents/s78763/Report%20Council%20Plan.pdf</a></p>
Refreshed Asset Management Plan report and Appendix I Part 1 approved by Cabinet on 19 January 2021	<p><b>Links (please copy and paste into browser):</b>  <a href="http://moderngov.southwark.gov.uk/documents/s92966/Report%20Corporate%20Asset%20Management%20Plan.pdf">http://moderngov.southwark.gov.uk/documents/s92966/Report%20Corporate%20Asset%20Management%20Plan.pdf</a>  <a href="http://moderngov.southwark.gov.uk/documents/s92967/Appendix%201%20Asset%20Management%20Plan%202021%20Managing%20Assets%20Through%20Recovery%20and%20Change%20-%20Part%201.pdf">http://moderngov.southwark.gov.uk/documents/s92967/Appendix%201%20Asset%20Management%20Plan%202021%20Managing%20Assets%20Through%20Recovery%20and%20Change%20-%20Part%201.pdf</a></p>

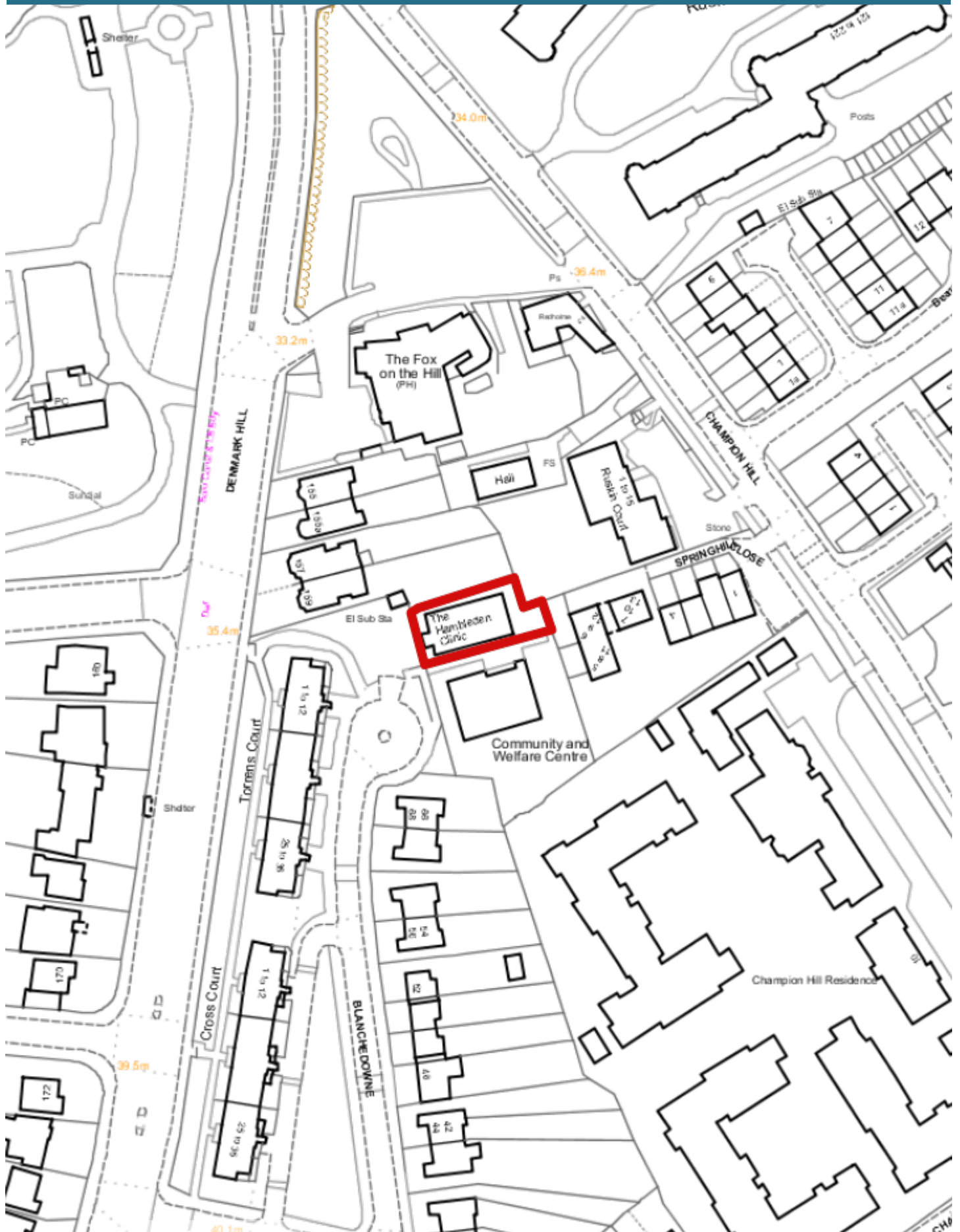
## APPENDICES

Appendix	Title
Appendix A	Stork On The Hill Midwifery Centre Denmark Hill plan
Appendix B	Stork On The Hill Midwifery Centre assessment matrix

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Stephanie Cryan, Council Housing	
<b>Lead Officer</b>	Eleanor Kelly, Chief Executive	
<b>Report Author</b>	Patrick McGreal, Regeneration North	
<b>Version</b>	Final	
<b>Dated</b>	24 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS/CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Strategic Director of Housing and Modernisation	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	25 February 2021	





**APPENDIX B****Stork On The Hill Midwifery Centre Denmark Hill***Acquisition Criteria Matrix*

The Business case for the proposed purchase is the report to Cabinet on 9 March 2021.

<b>Criteria</b>	<b>Priority</b>	<b>Considerations</b>	<b>Points available</b>	<b>Points allocated</b>	<b>Weighting</b>	<b>Score</b>
<i>Deliver corporate priorities</i>	New affordable homes	Opportunity for new homes	0-10	10	2.5	25
<i>Viable</i>	Finance and resources	The purchase is viable but future redevelopment is subject planning and appraisal at that time	0-10	7	2.5	17.5
<i>Value for money</i>	Other options considered?	The other option is to pass on the opportunity but this will not address the need for new affordable housing in the borough. The existing building provides an income that will exceed holding costs and if redevelopment does not proceed there is the prospect of the lease being renewed and the income continuing.	0-10	8	2.5	20
<i>Maximise current and future opportunity and flexibility</i>	Are there constraints	In principle the property is suitable for redevelopment in planning terms subject to compliance with policies. The property is not subject to restrictive covenants etc	0-10	10	2.5	25
					<b>Total</b>	<b>87.5</b>

<b>Item No.</b> 13.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Former Garages Adjacent Trevithick House Bermondsey	
<b>Ward:</b>		South Bermondsey	
<b>Cabinet Member:</b>		Councillor Stephanie Cryan, Council Housing	

**FOREWORD – COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR COUNCIL HOUSING**

At the time of writing, more than 14,000 households were recorded on Southwark’s housing register in need of rehousing, having risen sharply as a consequence of the pandemic – behind these figures are stories of families living in overcrowded homes, delaying key life decisions due to extortionate housing costs, health problems linked to housing, children’s educational attainment and younger people’s ability to invest in themselves and their futures thwarted. In this context, Southwark is resolved to maximise the overall social rented stock in our borough, including through pursuing an ambitious programme for building new council homes.

This year, we will begin construction on forty-nine new council homes by Trevithick House, as part of our long-term commitment to build 11,000 new council homes by 2043. Unlike in previous periods of council house building where large sites lent themselves to comprehensive estate development and (relatively) simpler approaches to land assembly, today, most of our development sites involve the repurposing of existing housing land with a greater risk of historic property rights emerging that may frustrate the process. We owe it to residents on our waiting list and to neighbouring residents who have contributed positively to the design and associated landscaping of these new homes to mitigate any risk to the development. Cabinet is therefore recommended to approve the appropriation of the highlighted land from housing to planning and back to housing, an administrative process that will enable construction of the approved scheme to proceed with confidence.

**RECOMMENDATIONS**

That Cabinet:

1. confirms that the land shown edged red on the plan at Appendix A that is currently held for housing purposes is no longer required for those purposes and approves the appropriation of the land to planning purposes to facilitate the carrying out of the development proposals for the area in accordance with section 226 of the Town and Country Planning Act 1990 and section 122(1) of the Local Government Act 1972.

2. confirms that following completion of the appropriation at paragraph 1 the land shown edged red on the plan at Appendix A will no longer be required for planning purposes and approves the appropriation of the land to housing purposes in accordance with section 9 of the Housing Act 1985 and section 122(1) of the Local Government Act 1972.

## BACKGROUND INFORMATION

3. The land in question comprises now demolished lock up and garages and open estate amenity land. Prior to this it accommodated terraced Victorian housing (part of former Cranham and Parfitt Roads as well as part of Galleywall Road). It is shown edged red on the plan at Appendix A to this report. The council holds the freehold interest in the land within its Housing Revenue Account and it forms part of the Rennie Estate. It is a mixed use area with business use to the north, residential to the south, a school and open land to the west and railway line to the east.
4. On 21 November 2020 planning committee resolved subject to the completion of a unilateral agreement (the equivalent of a s106 agreement where the applicant is the council) and referral to the GLA that consent be given for the construction of new housing on the site.
5. On 28 November 2018 council assembly approved the current Council Plan. This sets a number of commitments to our community including *A Place to Belong*; one of the undertakings to meet this commitment is to *Build at least 1,000 more council homes.....by 2022*. The recommended appropriations in this report are to further this commitment.
6. In pursuit of this commitment, a number of sites throughout the borough have been identified as providing capacity for additional new homes. Once identified, the development of those sites is consulted upon with the local community, a planning application is made and if appropriate planning consent is granted for the proposed new homes. Thereafter, if there are any third party rights that present a risk to the development cabinet has been asked on a number of occasions to appropriate the site to mitigate such risk. This report is another to enable the de-risking of a development that will provide new additional housing for social rent.
7. The scheme referred to above will provide:

20	x	One bedroom flats
17	x	Two bedroom flats
10	x	Three bedroom flats
2	x	Four bedroom flats
92	x	Cycle parking spaces
1	x	Children's playspace
3	x	Disabled parking spaces
11	x	Waste bins

### Landscaping of the grounds

8. All of these forty-nine new homes will provide housing to be let at council rent levels.
9. The contract for the construction will shortly be procured and it is intended for construction to commence later this year.

### KEY ISSUES FOR CONSIDERATION

10. The scheme will be provided by way of two blocks; one twelve stories in height and the other five stories. The taller block will be the same height as Trevithick House and the nearby Landmann House. The lower block facing Galleywall Road is in keeping height wise with the school on the opposite side of the road. Both blocks will be clad in brickwork. In keeping with the Great Estates initiative the scheme will provide enhanced amenity space and a children's playground. As part of the planning process, a lighting report was obtained from a specialist surveyor. This was considered in the planning process for daylighting and sunlighting and identifies potential interference with the lighting from the scheme to some rooms in neighbouring properties. Trevithick House, Barlow Court, Francis Bacon Court, Galleywall Primary School including caretaker's house and a property in the Galleywall Road Trading Estate were specifically identified in the report. The Executive Summary in the report states:

*Overall, we believe the daylight/sunlight impacts should be considered acceptable at planning. Whilst the BRE (Building Research Establishment) guidelines criteria are not met in a number of locations, ..... the retained values are considered good for an urban area.*

11. The daylighting/sunlighting report whilst generally positive does recognise there will be some impact to neighbouring properties. These adverse impacts were not of a degree to cause refusal of the scheme from a planning perspective but their existence poses a risk in being able to build the scheme because affected persons may apply to the court for an injunction to stop it proceeding. There is also the lesser risk that persons may claim an unregistered right over the former garage site where the new homes are to be built and to seek an injunction to stop their construction on account of interference with that right.
12. As part of the planning process nearby properties were consulted and five responses to the application were received. One response was neutral and four objected to the scheme. The grounds of objection were:
  - ◆ Nearby industrial use
  - ◆ Noise impact from the industrial estate to the new homes

- ◆ Height
- ◆ Daylight/sunlight (raised in three objections)
- ◆ Noise
- ◆ Impact on local bus network
- ◆ Privacy
- ◆ Community involvement

### **Appropriations**

13. The appropriation of land refers to the process whereby a council alters the purpose for which it holds land. Where land has been appropriated for planning purposes third party rights enjoyed over the land can be overridden. The beneficiaries of such rights may however claim compensation [equal to the loss in value of their property caused by losing the right] but cannot seek an injunction to delay or terminate the development. This will give the council the certainty that having commenced construction works a person with the benefit of an unregistered (with the Land Registry) right over land (such as a right to light) cannot apply to the court to have the development stopped. This is a very important tool in enabling development to proceed on urban sites. As mentioned, the beneficiary of any such right is entitled to financial compensation for the interference of the right. The council could either insure against such compensation claims but this will be costly or accept the risk of an injunction that may be fatal to development or result in perhaps significant unquantifiable costs.
14. The compensation a person affected by interference of a right may be entitled to, is based on the value of their properties before the right has been interfered with versus the value of the property with the interfered right. This compensation is based on the diminution in value of the affected property. If agreement between the parties is not possible it will be determined by the Upper Tribunal (Lands Chamber). The onus is upon the claimant to prove a loss in value and compensation only becomes payable once there is an actual interference with a right.
15. In this case it is recommended that the land edged red on the plan be appropriated from housing purposes to planning purposes. This will mitigate the risk of legal action to frustrate the scheme being delayed or completed. Thereafter it is recommended the land appropriated to housing purposes as to hold the land for planning purposes will not be consistent with the ultimate use of the land.
16. The rationale for the appropriations of the land shown at Appendix A is set out at Appendix B and cabinet is recommended to approve the appropriations.

17. The appropriation stages is summarised below:

Land currently held for housing purposes

Appropriate from housing to planning	↓	Third party rights interfered with by development cannot be enforced by injunction
Appropriate from planning to housing	↓	Construction of new housing can proceed

18. In considering the recommendations in this report cabinet must weigh the interference that implementation of the scheme may cause to nearby properties. Some properties may have rights interfered with particularly in relation to lighting against the benefits arising from the scheme namely forty-nine new council homes.

**Rationale for recommendations**

19. a. To mitigate against the construction of new council housing being frustrated or delayed by legal injunctions
- b. To de-risk the construction project so as to encourage the maximum number of bidders and achieve a lower construction cost.
- c. To deliver a current Council Plan commitment.

**Community impact statement**

20. The Council Plan was the subject of extensive community consultation. The recommendations herein further the delivery of the *A Place to Belong* commitment set out in the Plan.
21. The Equality Act 2010 requires the council in the exercise of its functions to have due regard to the need to:
- a) eliminate discrimination
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
22. Relevant protected characteristics for the purposes of the Equality Act are:

- Age
  - Civil partnership
  - Disability
  - Gender reassignment
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex and sexual orientation.
23. In considering the recommendations herein the cabinet must have due regard to the possible effects them on any groups sharing a protected characteristic in order to discharge its public sector equality duty. This is an ongoing obligation.
24. If the recommendations set out are approved, the council will be able to proceed with the construction of forty-nine new homes. Based on the information available it is not considered there are any particular groups sharing a protected characteristic that will be adversely impacted by the proposals. There will as mentioned earlier, be some impact to the Galleywall School and therefore the protected characteristic of age but the lighting report referred to considers this will be deminimis. However, the new housing should be beneficial across the range of protected characteristics.

### **Financial implications**

25. The construction of the new homes and their associated works will have a significant cost and an approved budget exists for this. The budget will need to make provision for any compensation claims for diminution in value that may arise as a consequence of the interference with any rights. The budget will be reviewed when the procurement process mentioned at paragraph 9 has been completed.
26. Where land is appropriated from the housing revenue account to the general fund there is a transfer of debt between the accounts. When land is appropriated from general fund to the housing revenue account this debt transfer is reversed. As both appropriations will take place on the same day there will be no net transfer of debt and there are, therefore, no financial implications arising directly from the recommendations made in this report.



## SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

### Director of Law and Governance

27. The report recommends the appropriation of council owned land for planning purposes, and thereafter, the appropriation of that land for housing purposes.
28. A council holds land and property for a variety of statutory purposes in order to perform its functions. A council is authorised by virtue of section 122 of the Local Government Act 1972 (“the 1972 Act”) to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement, where is no longer required for the purpose for which it is held immediately before the appropriation.
29. The land must already belong to the council. Paragraph 3 of the report confirms that the land to be appropriated is in the council’s freehold ownership.
30. The land must be no longer required for the purpose for which it is currently held. The report confirms at paragraph 8 of Appendix B that the land is no longer required for housing purposes.
31. The purpose for which the council is appropriating the land must be authorised by statute. It is proposed that the land is held for planning purposes. This is a purpose which is authorised by statute. Section 246 of the Town and Country Planning Act 1990 (“TCPA 1990”) defines such purposes as, inter alia, those for which can be acquired under ss226 or 227 of that Act. Section 227 provides that a council may acquire land by agreement for any purposes for which it is authorised to acquire land compulsorily by s226 TCPA 1990.
32. The purposes for which a council can acquire land pursuant to s226 TCPA 1990 include purposes “which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.” S226 also authorises the acquisition of land “... if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land.” In the case of either s226 or s227 the acquiring authority must be satisfied that whatever development proposals it has for the land in question these are likely to “contribute to the achievement of any one or more of the following objects – (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area; (c) the promotion or improvement of the environmental well-being of their area.” The council’s plan to build new homes on the land, of which all are council homes for rent, is capable of falling within all three categories.
33. Section 203 of the Housing and Planning Act 2016 came into force on 13 July 2016. This section contains a power to override easements and

other rights, and it replaces s237 TCPA.

S203 says:

“(1) A person may carry out building or maintenance work to which this subsection applies even if it involves

(a) interfering with a relevant right or interest...

(2) Subsection (1) applies to building or maintenance work where –

(a) there is planning consent for the building or maintenance work

(b) the work is carried out on land that has at any time on or after the day on which this section comes into force

(i) become vested in or acquired by a specified authority or

(ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990 [*i.e. for purposes for which an authority can acquire land under ss226 and 227*]

(c) the authority could acquire the land compulsorily for the purposes of the building or maintenance work, and

(d) the building or maintenance work is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b).”

35. What this means is that where land has been appropriated for planning purposes building work may be carried out on land even if this interferes with rights or interests if there is planning consent for the building work; and the work must be for purposes related to the purposes for which the land was appropriated, in this case planning purposes. By s204 those third party rights are converted into an entitlement to compensation to be calculated in accordance with ss7 and 10 of the Compulsory Purchase Act 1965.
36. This report confirms that the work being done on the land will be done in accordance with planning permission. Once the land has been appropriated and s203 triggered, that work will be authorised even where it interferes with third party rights.
37. Following the appropriation of the land for planning purposes it is recommended that the land is appropriated for housing purposes, as the land is to be used for the provision of new housing. At that point the land will no longer be required for planning purposes and will be appropriated for housing purposes.

### Strategic Director of Finance and Governance (H&M 20/135)

38. The strategic director of finance and governance notes the recommendation to appropriate land as described in order to facilitate regeneration and the building of new homes by Trevithick House. This land appropriation is proposed to occur in such a way that it will have a neutral financial impact. This scheme forms part of the council's new homes direct delivery programme and any associated costs will be contained with the Housing Investment Programme.

### Strategic Director of Housing and Modernisation

39. This report ensures that the proposed development of the former garages at Trevithick House can progress with the avoidance of legal challenge. Extensive consultation with local residents, together with a commitment to make a minimum of 50% of the new social rented homes available to local tenants in housing need leads the way in which social housing can be developed in inner cities. The scheme contributes to the Council's target to build 2,500 new homes by 2022 and its pledge to build 11,000 new homes by 2043.

### BACKGROUND DOCUMENTS

Background Papers	Weblink
Council Plan 2018-9 – 2021-22	<p><b>Link (please copy and paste into your browser):</b>  <a href="http://moderngov.southwark.gov.uk/documents/s78763/Report%20Council%20Plan.pdf">http://moderngov.southwark.gov.uk/documents/s78763/Report%20Council%20Plan.pdf</a></p>
Planning documentation	<p><b>Link (please copy and paste into your browser):</b>  <a href="https://planning.southwark.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=Q4VM9EKBLK500">https://planning.southwark.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=Q4VM9EKBLK500</a></p>
Report to Planning 21 November 2020	<p><b>Link (please copy and paste into your browser):</b>  <a href="http://moderngov.southwark.gov.uk/mgAi.aspx?ID=58892">http://moderngov.southwark.gov.uk/mgAi.aspx?ID=58892</a></p>

## APPENDICES

Appendix	Title
Appendix A	Former Garages Trevithick House Bermondsey
Appendix B	Rationale for appropriations of the land

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Stephanie Cryan, Council Housing	
<b>Lead Officer</b>	Eleanor Kelly, Chief Executive	
<b>Report Author</b>	Patrick McGreal, Regeneration North	
<b>Version</b>	Final	
<b>Dated</b>	23 February 2021	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Strategic Director of Housing and Modernisation	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	24 February 2021	



***Former Garages Adjacent Trevithick House Bermondsey  
Appendix B***

**Appropriation of the land (shown edged red on the plan) at Appendix A for purposes set out in s226 of the Town and Country Planning Act 1990 and to purposes set out in section 9 of the Housing Act 1985**

**Background to appropriation**

1. Under section 122(1) of the Local Government Act 1972 the Council may appropriate land for any purpose for which it is authorised to acquire land when the land is no longer required for the purposes for which it is held.
2. Under section 226(1)(a) and 227 of the Town and Country Planning Act 1990 the Council may acquire land if they think the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. This includes development of the sort contemplated in the redevelopment of the subject former garage site and estate amenity land. The power in section 226(1)(a) is subject to subsection (1A) of section 226. This provides that the acquiring authority must not exercise the power unless it considers the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area for which the acquiring authority has administrative responsibility. There are clear economic social and environmental and social benefits associated with the provision of new housing at the Trevithick House former garage site namely providing people with quality accommodation that may result in better educational attainment and general well being, and employment opportunities from the construction works. Accordingly the Council may appropriate land for the purposes of the development proposals land that it already owns if that land is no longer required for the purposes for which it is held. The land shown on the plan at Appendix A is no longer required for its current purposes for the reasons set out below and is not needed in the public interest for those purposes. The land can therefore be appropriated from its current use. As the appropriation will facilitate new housing development proposals it may be appropriated for planning purposes.
3. Where land has been appropriated for planning purposes Section 203 of the Housing and Planning Act 2016 (power to override easements and other rights) applies such that the erection, construction or carrying out or maintenance of any building or work on the land (by the council or a person deriving title from the council) is authorised if it is done in accordance with planning permission, notwithstanding that it interferes with certain private rights such as restrictive covenants and easements. The effect of triggering section 203 is that private rights are effectively overridden and converted into a claim for compensation pursuant to s 204. The level of compensation for interference with rights or breach of restrictive covenant is assessed on the basis of the loss in value of the claimant's land as a consequence of the interference or breach of covenant. An important consequence of the operation of Section 203 is that a claimant cannot secure an injunction, to prevent the development from going ahead - as indicated above, the remedy is a claim for compensation.
4. Prior to developing land it is usual practice to make prudent enquiries of what rights might exist over the land, this will involve inspecting the land to see if there are any obvious rights and checking land ownership information. However, some rights may not be apparent from inspection and historic ones may not always be recorded

at the Land Registry. The application of the power to override rights contained in s203 therefore mitigates this risk.

5. The right to claim compensation for the depreciation in value caused by the loss of right is enforced against the owner of the land which in this case is the Council.

### **Rationale for appropriating the subject site to planning purposes**

6. The former garage and estate amenity land site is under utilised in land use terms and the need for new housing at council rent levels greatly exceeds the existing use need. In pursuance of the adopted Council Plan and to address a need for new social housing, the site has been identified to be redeveloped for this purpose. Planning consent has been secured for the scheme outlined in paragraph 7 of the main report. As discussed in the main report there may be an adverse impact on the rights of light to nearby properties from the scheme. Appropriation will eliminate any risk of one or more property owners or occupiers applying to the court for an injunction. If an injunction is granted, the scheme will not be able to proceed. In any event, the risk of an application for an injunction is such that it will deter prospective builders from bidding to construct the new housing or result in a substantial risk contingency that undermines the viability of construction. In these circumstances it is appropriate to utilise the powers of section 203 to overcome this risk and enable the much needed new homes to be built.
7. As indicated above, the land is now required to be held for planning purposes to facilitate the redevelopment proposals associated with the planning permission for new housing. When land has been appropriated for section 203 purposes it will continue to benefit from its over-riding provisions even when the land is no longer held for planning purposes.
8. The land shown edged red at Appendix A is no longer required to be held for housing purposes. As indicated above, the land is now required to be held for planning purposes to facilitate the redevelopment proposals associated with the planning permission.

### **Rationale for appropriating the subject site to back to housing purposes**

9. Once the land is appropriated for planning purposes it should be appropriated back to housing purposes as this will be its ultimate usage and the cleansing effect of s203 means that it can be developed in confidence that the works won't be at risk of an application for an injunction to frustrate the development.
10. Section 9(1)(a) of the Housing Act 1985 provides a local housing authority may provide housing accommodation by erecting houses on land acquired. It is therefore apt that following the s203 appropriation the land is in accordance with section 122(1) of the Local Government Act 1972 appropriated for purposes within section 9(1)(a) of the Housing Act 1985.
11. The appropriation of the land whilst denying the beneficiaries of any third party rights over the land the ability to frustrate the regeneration of the land will not take away their ability to claim for compensation in respect of any diminution in the value of their land as a result of their rights being overridden.

<b>Item No.</b> 14.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 2 – Contract Award Care at Home and in the Community for Children & Young People	
<b>Ward(s) or groups affected:</b>		All wards	
<b>Cabinet Member:</b>		Councillor Jasmine Ali, Children, Young People and Education	

### **FOREWORD – COUNCILLOR JASMINE ALI, DEPUTY LEADER AND CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE AND EDUCATION**

Southwark Council prides itself on delivering great outcomes for all Southwark children and young people. We therefore do all that we can to guarantee the best possible services - including our young residents with special educational needs and or disabilities.

The report sets out the commissioning arrangements to provide children and young people with special educational needs or disability and their families with seamless, personalised support from child to adulthood. Giving our young people the necessary support to make their transition in these important life stages as successful as possible.

The legal and professional frame works can be found in the *Children and Families Act 2014* and the *Southwark Council's Children and Young People's Plan*.

The attached Gateway two report - outlines the steps taken by the commissioning team to get the commissioning framework where we are today and proposes a contract award to six already established service providers who according to our commissioning team did well in the final evaluations, their final scores ranged from 85 to 95 with 89% reaching the top scores.

The service providers that make up this contract are all established in supporting children and young people and enabling them to live, work and study as independently as possible. The move to this new framework is beneficial for our children, young people using the service as it moves away from the old 'spot purchasing' method so helps with continuity of care. This procurement is also beneficial for the frontline practitioners engaged in this work as it enables all services to adopt the Southwark Ethical Care Charter which will of course benefit the workforce and the children, young people and families that use this service.



There is one difference between the earlier *gateway one* report and this *gateway two*: It was initially agreed that the contract would be a joint venture between the council and the Clinical Commissioning Group (CCG) as documented in *gateway one*. This is no longer the case and this gateway reflects that the CCG will no longer be partners for this contract on this occasion.

I have no hesitancy in recommending that the cabinet agree to award the contract so that our services for children and young people with special education needs and or disabilities can continue to get the best possible support.

The social value from this procurement includes apprenticeships and other opportunities for young people, as a corporate parent, I expect the providers to ensure that our care leavers are prioritised for such opportunities.

The financial value of the contract is £4.8m and is scheduled to begin in May 2021, will now last for four years and will be managed by the All Age Disability Team.

## **RECOMMENDATIONS**

1. That cabinet approves the establishment of a single-lot Framework Agreement for the provision of Care at Home and in the Community for Children & Young People (CYP Care at Home) for a period of up to four (4) years from 3 May 2021 for an estimated total value of £4.8m and approves the deviation from the original Gateway 1 namely that Southwark Clinical Commissioning Group (CCG) had given notice that it did not wish to further its participation in a joint procurement process.
2. That cabinet approves the six named providers for the single-lot CYP Care at Home Framework Agreement as set out in the closed report.

## **BACKGROUND INFORMATION**

3. Care at Home for Children and Young People is managed by the All Age Disabilities team in Adult Social Care to support their development throughout their lives to support them living as independently as possible within the community.
4. A Gateway 1 (GW1) procurement strategy report for Care at Home for Children and Young people with Special Educational Needs and Disabilities (SEND) was approved by Cabinet in March 2018, proposing a three year framework (two years + one year) in partnership with NHS Southwark CCG (CCG) with an estimated total contract value of £13.8 million.
5. The procurement strategy also provided an opportunity to adopt the Southwark Ethical Care Charter for this area of spend and the workforce

and this provides an opportunity to improve stability in the workforce and therefore the satisfaction/experiences of CYP and their families

6. At the time of drafting this report, the estimated value of services purchased by the council through the framework was anticipated to be £2.6 million per annum, making a total contract value of £7.8 million.
7. Council-provided care packages are currently purchased on an ad hoc basis as required from a number of providers that were on a now expired framework. These care packages provide care and support for approximately 239 children and young people and their families so that independent living at home can be optimised.
8. The proposed framework would ensure that children and young people and their families get the very best care and support. The care should meet their needs, enable a better quality of life and should offer seamless and personalised support from childhood to adulthood. In addition, the procurement was also underpinned by a commitment to improve the outcomes for Southwark children and young people and to put the child or young person and their family right at the centre of the commissioning of care packages, so that they are empowered to have choice and control over their care.
9. Since the GW1 procurement strategy was approved, the CCG reconsidered their position with regards to the purchasing of packages and concluded that they would continue to procure them on an ad hoc basis. Reasons cited by the CCG for taking this decision were:
  - A desire to continue with their existing providers and continue to procure on an ad hoc basis, and;
  - A desire to maintain clear and distinct pathways between the CCG and Southwark Council.
10. A further review of the council purchased care at home packages identified that the contract value of £2.6m in the GW1 required an adjustment down to approximately £1.2m per annum. This adjustment followed a further review of the demand and needs within this section of our population.
11. In addition to the contract value amendment, the framework term was extended from three to four years so that the benefits secured through this procurement strategy are available for longer and as permitted under Public Contract Regulations (PCR) 2015.

## Procurement project plan (Key Decision)

12.

Activity	Completed by/Complete by:
Forward Plan (If Strategic Procurement) Gateway 2	08/12/2020
Briefed relevant cabinet member (over £100k)	13/02/2018
Approval of Gateway 1: Procurement Strategy Report	13/03/2018
Publication of OJEU Notice	06/01/2020
Publication of Opportunity of Contracts Finder	07/01/2020
Closing date for receipt of expressions of interest and SQ submission	20/02/2020
Completion of SQ short-listing of applicants	10/04/2020
Invitation to tender	24/08/2020
Closing date for return of tenders	30/10/2020
Completion of evaluation of tenders	30/11/2020
DCRB Review Gateway 2:	06/01/2021
CCRB Review Gateway 2:	14/01/2021
Notification of forthcoming decision – despatch of Cabinet agenda papers	15/02/2021
Approval of Gateway 2: Contract Award Report	09/03/2021
End of Scrutiny Call-in period and notification of implementation of Gateway 2 decision	17/03/2021
Alcatel Standstill Period (if applicable)	22/03/2021
Contract award	23/03/2021
Add to Contract Register	24/03/2021
TUPE Consultation period (if applicable)	24/03/2021
Contract start	03/05/2021
Publication of award notice in Official Journal of European (OJEU)	24/03/2021
Publication of award notice on Contracts Finder	24/03/2021
Contract completion date	02/05/2025

## KEY ISSUES FOR CONSIDERATION

### Description of procurement outcomes

13. The council intends to move away from ad hoc purchasing arrangements to a framework agreement consisting of six providers, and the successful providers will be required to work closely with each other in a developmental way with the council to improve outcomes for Children, Young People and Families in Southwark.
14. The primary objective aims of the CYP Care at Home service are as follows:
  - To enable Children and Young People to live as independently as possible within the family environment
  - To enable Children and Young People to develop and achieve skills
  - To enable Children and Young People to maintain their own networks of support within the community
  - To ensure Children and Young People are able to access meaningful community activities which promote learning and development
  - To ensure Children and Young People have opportunities for socialising
  - To ensure Children and Young People are safe within their home and community environment
  - To ensure Children and Young People have opportunities for choice and decision-making
  - To ensure other reasonable outcomes for Children and Young People as identified in their Care and Support Plan.

### Policy implications

15. Southwark Council's Children and Young People's Plan is underpinned by the Children and Families Act 2014, which outlines an expectation that children and young people and their families access a local offer of seamless, personalised support from childhood to adulthood.
16. The Children and Families Act requirement is intended to support parents or carers to continue providing care for their children at home, taking into account the parent or carers' need to engage in employment.
17. Nursing and personal care are regulated activities under Schedule 1 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. All providers carrying out regulated activity must be Care Quality Commission (CQC) registered.

### Tender process

18. The framework was advertised in the following places:
  - The Official Journal of the European Union (OJEU)

- ProContract
  - Contracts Finder.
19. The tender process took the form of a Restricted Procedure. As the value of the framework agreement was estimated well in excess of the EU threshold for light touch services, there was a requirement to follow the Light Touch Regime prescribed under the (EU) Public Contract Regulations 2015 and advertise the tender opportunity in OJEU.
  20. All providers were required to satisfy Southwark Council's minimum requirements of a CQC rating of "Good". In the event that a provider has a rating of "Requires Improvement" they were able to submit a self-cleansing statement as evidence that they are currently working towards a rating of 'Good' via a CQC improvement plan. If a provider had yet to be inspected or has a "Good" or "Excellent" rating but has not been inspected in the last 12 months, they were able to provide a supporting statement, reflecting their current circumstances for information purposes only. Providers with an "Inadequate" rating automatically received a fail and were not permitted to participate further in the process.
  21. In addition, all providers were required to comply with the Southwark Ethical Care Charter as stipulated within the tender documents.
  22. The council received Selection Questionnaires (SQ) from 32 providers.
  23. Each SQ submission was checked first for completeness and compliance, before being passed to Finance colleagues for financial assessment; namely, looking at the economic and financial standing of each provider.
  24. The financial assessments were carried out against the following criteria:
    - Credit score of 40 or higher
    - Financial risk assessment for the council by analysis of key credit ratios
    - A minimum turnover of 1.5 times the annual contract value (in this case the estimated total annual contract value of £1.2 million was divided by six [the anticipated number of providers admitted to the framework as set out in the Invitation to Tender (ITT)] to equal an annual contract value of £200,000).
  25. To achieve an overall pass in the financial assessment, applicants needed to meet all of the above criteria or satisfy the council that their financial assessment (in the case of credit checks) was sufficiently stable to deliver the service required, as detailed in the tender.
  26. The bidders that passed the financial assessment were then evaluated on their responses to the technical questions in Stage 3 of the SQ evaluation.
  27. There were 22 SQ submissions which progressed to Stage 3.

28. The responses to technical questions from each bidder were evaluated and scored by an evaluation panel consisting of three council officers across commissioning and children's and adults' services.
29. Each submission was evaluated and scored by panel members individually, and then a collective score was agreed upon by the panel at a moderation meeting.
30. In accordance with the Invitation to Tender (ITT), thirteen bidders were shortlisted and invited to tender (this includes three Southwark incumbent ad hoc providers).
31. The CYP Care at Home tender process was paused on the advice from corporate colleagues to pause all procurements during the Covid-19 pandemic until at least 30 June 2020, which led to an extensive gap between the SQ and ITT stages.
32. A Market Sounding exercise via questionnaire was sent out to shortlisted bidders in July 2020 to gauge whether they had sufficient capacity to progress with (restart) the ITT stage in light of Covid-19 should it recommence mid/late August 2020. 11 out of the 13 bidders responded positively. Two bidders failed to provide a response (despite follow-ups being made). The decision was taken to progress the procurement.

### **Tender evaluation**

33. Eleven bids in total were received. One bidder opted out, citing an inability to meet the requirements, and another did not respond.
34. The 11 tender submissions were evaluated on a Price 60% and Quality 40% ratio.
35. The Quality evaluation was made up of eight questions or method statements. The method statements were weighted in relation to their relative importance, as set out in the tender documents. The method statements covered the following areas:
  - Service Delivery - 50%
  - Workforce – 20%
  - User Experience – 15%
  - Partnership Working – 5%
  - Mobilisation – 5%
  - Social Value – 5%
36. The tender submissions of each bidder were evaluated and scored by an evaluation panel consisting of three council officers across commissioning and Children's and Adults' services. The panel consisted of two new panellists and one panellist carried over from the previous SQ stage.

37. A moderation meeting took place after each evaluator had individually scored each method statement and a consensus score for each method statement was achieved following this process.
38. The method statements were scored 0 – 5 and each had a minimum threshold score to ensure minimum quality thresholds of bids were upheld.
39. The Price evaluation was based on a per hour rate, which required bidders to submit a bid between floor and ceiling rates of £17.30p/h and £18.10p/h. All bids received were within these rates.
40. As outlined in the ITT, all prices submitted shall be fixed for the duration of the Framework Agreement; however, prices will be adjusted to accommodate any increases to the London Living Wage and on costs (i.e. (NI & pension contributions, travel, sick and holiday pay) at 37% of its increase.
41. Bidders were required to submit their rates via a pricing schedule issued by the council, which sought to itemise the cost breakdown, so the council could determine any apparent problematic or erroneous costs.
42. The outcome of this tender resulted in the average hourly rate of being reduced from £18.84 to £17.76. This will accrue savings of approximately £31,000 per annum and £126,000 over the total life of the contract. The achievement of this saving is dependent on the fluctuations of the demand for the service.

### **Final Evaluation Scores**

43. The final evaluation scores for each bidder comprised of a quality score for the method statements and a price score for the per hour rate.
44. Four bidders failed to meet one or more of the minimum threshold scores and were excluded from the final evaluation.
45. Final evaluation scores achieved by the top six bidders ranged from 85.10% to 95.89%.

### **Plans for the transition from the old to the new contract**

46. Current arrangements operate on a spot-purchase / ad-hoc basis. Packages of care will be eligible for transfer to the new framework providers except in cases where a current ad-hoc care provider is successfully appointed to the framework. Here, packages of care will continue to be administered by the same provider, albeit under the new terms (including price) of the framework agreement.
47. Service users who wish to remain with a current ad-hoc care provider not appointed to the framework will be able to do so via a Direct Payment

option in order to avoid any unnecessary service disruption. This will be determined on a case by case basis.

48. TUPE may apply upon award of framework places. However, as stated above, it is anticipated the majority of care packages will continue to be administered by their respective current care provider in order to avoid any unnecessary service disruption.
49. A six-week mobilisation period is in the procurement project plan, which will grant providers sufficient set-up time to begin receiving new care packages.

### **Plans for monitoring and management of the contract**

50. The contract(s) will be managed by the contract management team who sit within the Children, Adults and Families Services within the Commissioning Division.
51. The monitoring arrangements will provide information on whether or not the contract(s) is performing as expected. Quarterly reports will reflect the outcomes that have been achieved against the agreed target.
52. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author will ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.

### **Identified risks for the new contract**

53. The following risks and associated mitigations have been identified:

<b>Risks</b>	<b>Mitigation or control</b>	<b>Likelihood</b>
Provider failure and / or a drop in their CQC rating to 'Inadequate'.	The council has sought to engage with six providers via a framework agreement to act as sufficient cover in the event of provider failure.	Medium
Provider accepting packages of care without the necessary infrastructure / workforce in place.	During contract mobilisation, officers will seek assurance from providers that the necessary staffing levels have been obtained prior to commencement of the contract, referrals for care packages will be evenly distributed amongst providers on a rotational basis.	Medium
Placements Team not comprehending and / or utilising the	Early engagement with the Placements Team to ensure that the call-off mechanism as detailed in the	Low



<b>Risks</b>	<b>Mitigation or control</b>	<b>Likelihood</b>
rotational call-off procedure.	service specification is adhered to by staff at all times.	
Continuing impact of Covid-19	Any issues will be addressed during the contract mobilisation period.	Medium

### **Community impact statement**

54. Southwark Council's Borough Plan expresses that 'every child in Southwark deserves the best start in life...all children and young people in the borough to grow up in a safe, healthy and happy environment where they have the opportunity to reach their potential.' The procurement strategy and these contracts supports this ambition by ensuring children and young people and their families get the best care and support to meet assessed needs.
55. Southwark Council's Children and Young People's Plan, underpinned by the Children and Families Act 2014, outlines an expectation that children and their families access a local offer of seamless, personalised support from childhood to adulthood. As a result, children with disabilities are able to access care packages that enable a better quality of life. These care packages provide care and support for children, young people and their families so that independent living at home can be optimised.
56. Officers are mindful of the need to have due regard to the Public Sector Equality Duty imposed by section 149 of the Equality Act 2010, which requires the council to:
- Eliminate discrimination, harassment, victimisation or other prohibited conduct
  - Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and those who do not share it.
57. A further equality impact assessment will be undertaken at the end of February 2021 in order to ensure that the service delivery model remains appropriate for all service users. The health and wellbeing of Southwark Children and Young People will be at the core of the work for this service.

### **Social Value considerations**

58. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the GW1) are set out in the following

paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

59. The council's Fairer Futures Procurement Framework requires payment of the London Living Wage (LLW), where appropriate. It is appropriate for all staff working on this contract to be paid LLW. It is expected that payment of the LLW by the successful bidder will result in quality improvements for the service users. These should include a higher calibre of multi-skilled operatives that will contribute to the delivery of the services and will provide best value for the council. It is therefore considered appropriate for the payment of LLW to be required. Following award, these quality improvements will be monitored as part of the contract review process.
60. Successful bidders were required to sign up to the Fairer Futures Procurement Framework and reiterate their commitment to pay the LLW, as well as their commitment to pursuing various other social value measures, in a Social Value method statement.
61. The successful bidders have all satisfied the requirements of the council by committing to comply with the Southwark Ethical Care Charter (SECC) which includes, but not limited to, the following:
  - Care workers will be paid at least the LLW
  - Clients will be allocated the same care worker wherever possible
  - Care workers will be paid for their travel time
  - Care workers will be covered by occupational sick pay schemes
  - Homecare workers will be trained (at no cost to individual care workers)
  - Zero hour contracts will not be used in place of permanent contracts for care workers.
62. Various other social value measures included, but not limited to:
  - Raising living standard of local residents
  - Participation and citizen engagement
  - Local recruitment
  - Volunteer mentoring
  - Environmental sustainability.
63. Some examples of social value initiatives put forward by the successful bidders include, but are not limited to, the following:
  - Four out of six bidders demonstrated their commitment to apprenticeship schemes, one of which is currently working with eight apprentices to gain the relevant NVQ qualifications.
  - CYP engagement in the community through an array of measures, including; work experience placements, career workshops and mentoring, CV and interview advice, and free social events for those social-isolated.

- Locally-recruited staff that has an understanding of Southwark and reflect the community with regard to ethnicity, language, religion and culture.
- Deploying staff in 'patches' close to home, which aim at reducing car travel and maximising either walking or cycling through cycle-to-work schemes
- Employing an energy efficient approach through the use of green energy, paperless offices, low energy consumption LED lightbulbs, the use of local supply chains wherever possible, and "clear-up days" to rejuvenate green spaces within the borough for the benefit of the community.

### **Economic considerations**

64. This procurement aims to 'contractualise' the ad-hoc spend of the service's current spot-purchase arrangements.
65. The CYP Care at Home procurement will help Southwark Council manage budget pressures and sustainability of service by promoting clarity and regulating costs. The floor and ceiling rates used for this procurement represent an overall reduction in costs across the service.
66. The successful bidders have together demonstrated social value in their bid through their commitment to creating apprenticeships for local people and encourage the engagement of volunteers across the service.

### **Social considerations**

67. This service supports council plan commitment objectives to promote independence and well-being by funding activities and services to facilitate community representation and voice in the areas of health and social care. This will further the aim of promoting inclusive and representative community participation in the planning, commissioning, delivery and quality of these services in Southwark.
68. Four of the six successful bidders are categorised as Small, Medium or Micro Enterprises (SMEs).
69. Five of the six successful bidders are categorised as Black, Asian and Minority Ethnic (BAME) Organisations.
70. One of the six successful bidders is categorised as a company owned & managed by women.

### **Environmental/Sustainability considerations**

71. There are no environmental / sustainability considerations.

### **Market considerations**

72. The market for the CYP Care at Home service is stable and well developed. There is a strong presence of providers operating within Southwark.

### **Staffing implications**

73. Staffing and contract management resources will be met within the Children's Adults and Families commissioning team.

### **Financial implications**

74. Annual contract value of £1.2m is based on current spending patterns. As this is a framework agreement the contract value might vary in line with demand.
75. There is sufficient funding available in the Adult Social Care budget to fund the proposed framework agreement.

### **Legal implications**

76. Please see concurrent from the Director of Law and Governance

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (43EN20-21))**

77. The Strategic Director of Finance and Governance notes the recommendations of this report to establish a single lot framework for delivery of care at home for Children & Young People.
78. The estimated total contract value for this framework is £4.8m. The Strategic Director of Finance and Governance notes that budget for this contract has been identified in the Financial implications paragraphs (para 73 and 74) of this report.

### **Head of Procurement**

79. This report seeks approval from Cabinet to award the Care at Home and in the Community for Children & Young People to Verity Healthcare Ltd, Supreme Care Services Ltd, De Vere Care Partnership, Contact Professionals, Diamond Resourcing Plc t/a Better Healthcare Services and Unique Personnel (UK) Ltd for a period of four years from 3 May 2021 at a cost of £1.2m per year and a total of £4.8m for the four years.
80. Cabinet notes that this procurement created a single lot framework of providers; this is allowable under EU Public Contracts Regulations 2015, the new Brexit transition and the council contract standing orders (CSO).

81. The procurement is detailed in paragraphs 18 to 45, management and monitoring is detailed in paragraphs 50 to 52 and the risks are detailed in paragraph 53.
82. Social value and payment of London Living Wage (LLW) are detailed in paragraphs 58 to 62.

### **Director of Law and Governance**

83. This report seeks approval of the establishment of a single-lot Framework for the provision of care at home and in the community services for children and young people, the details of which are confirmed within the Recommendations at paragraphs 1 and 2.
84. Due to the nature and estimated value of these services their procurement is subject to the application of the (EU) Public Contracts Regulations 2015 as well as relevant domestic legislation and the council's Contract Standing Orders. The report details from paragraph 18 the process which has been followed in order to observe and ensure compliance with those legislative and corporate requirements.
85. Paragraph 56 of this report summarises the effect of the Public Sector Equality Duty ("PSED") contained in section 149 of the Equality Act 2010, and in making procurement decisions the council must consider and have due regard to any effects of the decision on the community at large and on people identified as possessing "protected characteristics", as defined in the Act. Paragraph 57 notes that a further equality impact assessment will be undertaken at the end of February 2021 in order to ensure that the service delivery model remains appropriate for all service users; this will assist the council to demonstrate compliance with the PSED.
86. The decision to approve the recommendations in this report is one which is expressly reserved to the Cabinet under the council Constitution.

### **BACKGROUND DOCUMENTS**

<b>Background documents</b>	<b>Held At</b>	<b>Contact</b>
Gateway Procurement Approval Strategy 1:	160 Tooley St, London, SE1 2QH	Cynthia Davis – Assistant Director Commissioning
<b>Link (please copy and paste into browser):</b> <a href="http://moderngov.southwark.gov.uk/ielIssueDetails.aspx?IId=50016070&amp;PlanId=0&amp;Opt=3#AI48880">http://moderngov.southwark.gov.uk/ielIssueDetails.aspx?IId=50016070&amp;PlanId=0&amp;Opt=3#AI48880</a>		

## APPENDICES

No	Title
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Jasmine Ali, Deputy Leader and Cabinet Member for Children, Young People and Education	
<b>Lead Officer</b>	David Quirke-Thornton, Strategic Director for Children's and Adults Services	
<b>Report Author</b>	Dan Paton, Procurement Specialist	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Governance	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		25 February 2021

<b>Item No.</b> 15.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 0 - Strategic options assessment for the future direction of the tree service	
<b>Wards or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Catherine Rose, Leisure, Environment and Roads	

**FOREWORD – COUNCILLOR CATHERINE ROSE, CABINET MEMBER FOR LEISURE, ENVIRONMENT AND ROADS**

The management of trees forms a key part of our broader approach to tackling the climate emergency agenda. They form a significant part of Southwark’s landscape and in addition to their environmental benefit they also impact on the quality of life of local residents. We are directly responsible for 82,500 trees in our borough, this is a huge undertaking, but one we are rightly proud of. We are committed to planting 10,000 more by 2022.

Maintaining trees safely is a key priority for the council and deemed essential in maximizing public safety, ensuring Southwark meets its duty of care obligations and managing corporate exposure to risk.

For both these reasons we wish to maintain a strong in-house team in terms of strategic policy, oversight and leadership in regards to tree planting and renewal of our tree stock. We also have a responsibility to develop a long term model of tree maintenance and works that allows us to be agile and responsive to the demands and costs of our tree service. We also wish to draw upon the wide variety of skills and specialisms that the industry has to offer and develop a model of delivery and management that is good value to our residents, but also delivers an excellent service, at scale and for the long term.

Following a review of our current approach a number of options have been worked up to inform a decision around the future direction of the service. We are working closely with staff, unions and stakeholders to ensure that the process to realigning the service is done in an orderly process that allows for the retention of key skills and knowledge, either as direct employees or as TUPE personnel working in partnership with us as contractors.

Trees are some of the longest living organisms of earth and decisions concerning their on-going management have the potential to impact multiple generations of Southwark residents in the future. The option detail outlines a number of differing approaches and considers cost, benefits, risk and logistical issues.

We are proud of Southwark's commitment to the "green agenda" and aspire to delivering an innovative and a fit for purpose service in this area which is both resilient, value for money and sustainable over the long term.

## **RECOMMENDATIONS**

### **Recommendations for Cabinet**

That Cabinet;

1. Notes that there is a need to review the way in which tree services are delivered and to consider new and more effective delivery models.
2. Notes the outcomes of the tree services strategic options assessment which recommends moving to a 'mixed economy model' with in house client management and tree planting teams and an outsourced tree works service, detailed in paragraphs 61 to 64.
3. Notes that that any impact on existing council employees as a result of the recommended option will be carefully considered and appropriate consultation with staff and recognised Trade Unions will take place. More detail about the consideration of the impact on staff can be found at paragraph 85.
4. Requests that officers bring a GW1 report to Cabinet in 2021 for the procurement of the external tree works services.

## **BACKGROUND INFORMATION**

5. Trees are generally recognised and appreciated for their amenity, presence and stature in the cityscape. However, there are many other environmental benefits that positively impact those living in our towns and cities. The trees in and around our urban areas (together with shrubs, hedges, open grass, green space and wetland) are collectively known as the 'urban forest'.
6. The urban forest improves our air, protects watercourses, saves energy, and improves economic sustainability. There are also many health and well-being benefits associated with being in close proximity to trees, and there is a growing research base to support this.
7. Southwark's publicly managed trees are a crucial part of the city's urban forest. Many of the benefits that Southwark's urban forest provides are offered through its public trees. Southwark residents are very environmentally aware when it comes to tree management issues, often contributing to local decisions related to tree issues and also volunteering to both plant trees and assist with low level maintenance. Current levels of local interest are expected to significantly grow as society in general becomes more aware of global climate issues.
8. Southwark manages approximately 82,500 trees in the following areas:



- Parks & Open Spaces – 46,500
  - Housing estates – 17,000
  - Highways – 16,000
  - A small number of schools – 3,000
9. In addition to the above there are approximately an additional 30,000 trees in Southwark which are located on private land. These are not managed by the council directly. However, the council does interface on planning matters through Southwark’s development management team. This team also deal with the green related elements of planning applications including consultation, planning appeals, court evidence, government guidance and legislation on natural heritage, biodiversity and green issues, Tree Preservation Orders (TPO’s) and Conservation Areas.
10. There are over 400 species of tree distributed across the whole of the borough. The northern part of Southwark is densely urbanised with less open space and fewer trees, however the many parks in these parts of the borough make a significant contribution to existing canopy cover levels. In this area, the trees for which Southwark Council is responsible are concentrated along roadsides and on housing estates. The southern part of Southwark is more suburbanised and includes large open spaces, large private gardens and 74 hectares of designated woodland including Dulwich Upper Wood and Sydenham Hill Woods, One Tree Hill and parts of Peckham Rye, Nunhead Cemetery and Camberwell Cemetery.

### **Climate change**

11. In March 2019 the council declared a climate emergency and vowed to “*do all it can to make the borough carbon neutral by 2030.*” A draft report has been written which sets out the plan for the emerging Southwark Climate Strategy 2020-2030 which suggests approaches to support the Council and communities to achieve carbon neutrality by 2030.
12. Tree management and planting is part of the emerging Southwark Climate Strategy and therefore putting in place a sustainable service that can deliver against these themes becomes a material consideration for this review.
13. Southwark’s tree stock provides broad ranging community benefits contributing to Southwark’s wider natural capital. This was assessed in December 2019 using the i-Tree Eco Stratified approach, which is a standard industry type measurement process.
14. The tables below illustrate the significant contribution Southwark’s tree stock makes towards climate change mitigation in terms of pollution removal, carbon storage (and sequestration), flood alleviation and demonstrating the importance of ensuring this valuable asset is protected, enhanced and managed effectively.

**Table 1 - Southwark public tree inventory - Headline figures**

<b>Annual Benefits</b>	<b>Volume</b>	<b>Financial Benefit</b>
Pollution Removal	19.5 tonnes airborne pollutants	£1,285,540
Carbon Sequestration	898 tonnes carbon	£220,513
Avoided Runoff	31,111m <sup>3</sup> runoff	£47,175
<b>Total Annual Benefit</b>		<b>£1,553,228</b>
Carbon Storage	50,839 tonnes	£12,490,663
<b>Total Current Benefit</b>		<b>£14,043,891</b>

**\*The carbon storage value is a total accrued value to date/carbon sequestration represents annual carbon stored. As such, this value is not included in the combined total value calculation.**

## **KEY ISSUES FOR CONSIDERATION**

### **Statutory and legal requirements**

15. Public safety is of paramount importance and needs to be balanced with the environmental and amenity benefits trees provide. Southwark has a “Duty of Care” to manage its trees responsibly. Residents and visitors to the borough have a high regard for trees and a reasonable expectation that they can enjoy the benefits of the environment assured that the associated risks presented by trees are managed to acceptable levels.
16. Risks are both financial and reputational and manifest themselves when trees cause damage to persons or property. The on-going completion of tree inspections and works within target date is considered the absolute corner stone of maintaining a “defendable system of work”, which is used as evidence to mitigate third party claims.
17. Tree Legislation – There are a number of areas of law that impact the tree service:
  - Wildlife and Countryside Act - Protection of birds during nesting season
  - Tree Preservation Order & Conservation Areas – Planning protection for trees
  - Highways Act Section 154 – trees adjacent to the highway
  - Common Law Entitlement – Trees overhanging boundaries
  - Statute Law – Case law and precedents set in court.

### **Strategic Direction**

18. At a time where the recent pace of change and development within Southwark has been having an increasing impact on the borough’s built

environment it is ever more important that the benefits that trees provide across the borough are protected and enhanced.

19. Southwark's Tree Management Policy (TMP) was adopted by Cabinet in December 2019 and focuses the efforts of all stakeholders to assist in the security, preservation and enhancement of the council's treescape and green spaces now and in to the future.
20. As part of the TMP, The Tree Risk Management Strategy (TRMS) sets out the basis and procedures required to meet statutory obligations in relation to tree risk management.
21. In addition to this is the council's current biodiversity plan which is called the Southwark Nature Action Plan (SNAP) 2020 – 2025. This policy sets out the council's plan for conservation and enhancement of the natural environment and drive for improvements in biodiversity and this is important for the following reasons:
  - To meet our legal commitments under the Natural Environment and Rural Communities Act 2006.
  - Help to enable more people to connect with the natural world for the benefit of their health and wellbeing
  - Helps to regulate our environment
  - Helps to provide a sense of place and community pride
  - Provides an education and engagement resource
  - Help conserve flora and fauna
  - Provides natural capital.
22. In light of the council's broader environment and climate change agenda capital funding of £5m was agreed in April 2020 to increase the number of trees planted annually. This is intended to reverse the current net loss of trees (more trees removed than planted) and grow the population for the benefit of future generations of Southwark residents. The current Borough Plan includes a target of planting a total of 10,000 trees from 20/21 to 21/22.
23. The timing of this capital funding enables the opportunity to consider the potential delivery of future tree planting and maintenance, as part of the wider service delivery considerations.

### **The key drivers for change**

24. The tree work service was internalised on 1 April 2014. Following an incident in 2017 it was identified that there was a significant backlog of both tree inspections and works. A systematic improvement programme was initiated that included improved reporting, collaborative working across Directorates, and clearance of the backlog of inspections and works.
25. In August 2018, following the recovery of the backlog of inspections and quantification analysis of Southwark's confirm inventory data, the tree stock was recalculated at 82,500 trees (previously thought to be 57,000 trees – a

45% increase). This process was independently verified by an ecosystem services inventory report published in December 2019. In addition the clearance of the backlog of inspections generated a significant amount of new works.

26. The backlog of tree works are in the process of being cleared. Unfortunately, due to the capacity of the existing in house team on a monthly basis the works issued are in excess of the number of jobs that can be completed by the team. This has required external contractor support to be procured to a greater and lesser degree since 2014. The backlog of works has increased this need substantially since 2017.
27. There is a known capacity shortfall of approximately 30% for the in house service, even prior to the TMP and enhanced inspections frequencies. Productivity and efficiency improvements implemented have been unable to significantly impact the shortfall.
28. With a better understanding of Southwark's tree stock we are able to predict the future demand for remedial works volume created by the surveying programme. The estimated number of monthly jobs is 777 (9,324 per annum) and the in house team currently delivers an average of 230 jobs per month. This leaves concerns about a future build up of backlog and associated risk if no changes are made to the management regime.
29. On top of the capacity issues of the current in house team there are challenges around the ability to meet the seasonal volume of work fluctuations associated with pollarding and insurance pruning programmes. This element of the service requires a concentrated 2,600 jobs in to a 5 month period, in addition to core works.
30. A new tree management operational model is now required to:
  - Respond to the need to expand current capacity to meet tree inspection and works scheduling targets
  - Provide a sustainable service to meet the needs of a growing tree asset
  - Deliver cyclical maintenance regimes to mitigate the risk of increasing tree subsidence related insurance claims and tree related health and safety issues
  - Provide the most cost effective solution to tree maintenance.

### **Current service arrangements**

31. The service is split between two teams. The strategic management of trees is undertaken by the client team, which is based in the Parks & Leisure Team (Environment and Leisure Directorate). The tree client team is responsible for tree governance, policy, strategy and tree inspections across all asset groups, specifying required works, tree planting (externally contracted), managing risk, insurance claims, enquiries and complaints, plus the procurement of external contractor support for tree works.

32. Tree maintenance work is managed in house by the Waste and Cleansing Division which is also located within Environment and Leisure directorate. Works undertaken include tree surgery, pollarding, felling, waste storage/disposal, emergency response service and stump grinding.
33. The tree works maintenance team currently has 16 posts in the core establishment. This is currently being supplemented by a further three operatives on a temporary basis to support the completion of the backlog of tree works programme.
34. The management and coordination of tree planting is undertaken by the client team. Tree planting is currently capital funded with external annually let contract arrangements facilitating planting across all asset groups with three year maintenance and aftercare. This activity is generally carried out by landscape gardeners and has differing skill set requirements to tree surgery. The work is also seasonal by nature requiring more labour in the winter for planting and less labour through the summer months for watering and maintenance. Accordingly, the works delivery is well suited to being let on a project basis externally or undertaken in conjunction with other gardening or tree service activities. Historically, planting numbers average 250 per year. The previous capital funding ended in 2019/20 and the new £5m capital programme was allocated in 2020/21.
35. There is currently significant support from external suppliers to deliver the historic and ongoing backlog of tree works due to the capacity of the in house team. This work is procured in line with Contract Standing Orders but due to the nature and length of the contracts may not be achieving best value for the council.

### **Benchmarking and soft market testing**

36. Benchmarking and soft market testing was undertaken in the early stages and periodically revisited as part of this review. Twenty-two Boroughs (including TFL) were canvassed to provide high level information relating to internal/external tree maintenance delivery, contract type and length, tree stock, inspection frequencies and annual contract budget.
37. Feedback indicated that the vast majority of London boroughs retain an internal client function but outsource tree work and planting as outlined below. The exercise also reviewed market capacity to meet the work demand and gauge interest. Multiple suppliers of differing size and specialisms were interviewed and the key themes illustrated that there was significant market interest and a wealth of experienced operators able to provide differing levels of provision.
  - 4 of the 22 organisations run an in house element, 2 of which reporting significant percentages of work processing with the need for some supporting externalisation.
  - 1 borough uses a smaller in house team (as is proposed in options 1 and 2).

- 20 organisations have formal contractual arrangements, of which 16 are term and 4 framework arrangements.
  - Contract terms vary from 2 – 10 years (including extensions).
  - Of the highest annual contract values (£600-£900k) 4 of the 6 boroughs have less than 50% of Southwark's tree stock, providing similar services.
  - The vast majority of organisations report tree work backlog issues of varying levels of significance, which was considered high risk.
38. Feedback from suppliers. All providers were experiencing difficulties with both recruiting and retaining qualified staff, this being an industry wide problem, in part due to the cost of living in London and the current economic climate.
39. Multi-disciplined contracts. There was little appetite for mixed contract provisions i.e. tree surgery and tree planting combined. Market feedback indicated that suppliers generally specialised in one or the other. It was felt that separate contracts would design out the potential of a sub-contracting environment and promote more competition within the already specialised market place.
40. Shared service delivery. During the process it was established that there are a small number of London authorities that share an external tree work provider but retain individual client management teams (cross boundary working). Feedback indicates that capacity and delivering work on time are significant issues of concern, further compounded by the current industry staff retention levels and recruitment challenges.
41. Voluntary sector/not for profit. Widely considered by the industry as not being a viable tree surgery option due to the technical and high risk nature of the work. There are no other known local authority examples of a successful working model in this regard. There is some scope for the further integration of this sector in the delivery of small scale tree planting projects, delivered primarily through volunteers.
42. Officer discussions with other authorities and the London Tree Officers Association (LTOA) from 2018 to date indicate that the arboricultural industry faces the challenges set out below. The LTOA is an organisation servicing London's public sector provision, coordinating best practice and contributing to government policy and initiatives. Benchmarking between authorities is largely undertaken through the LTOA. This organisation is well placed to identify examples of best practice.
43. Current industry challenges:
- Recruitment & retention of staff generally (London living costs reducing the pool of qualified available staff)
  - Broader economic impacts & Brexit
  - Reduced numbers of students choosing agricultural based qualifications

- Low number of large tree work contractors operating in the London area (potentially impacting on a competitive market place)
- Those authorities that have single supplier works delivery report issues with backlog and getting work done on time
- A small number of authorities now moving to framework contracts to spread the risk.

### Strategic service delivery options and assessment

44. The review initially considered a broad spectrum of delivery models which included variations of the following:

- No change: Retain the current split management function and in house tree work delivery service, supplemented by external contract support let on a batched procurement basis.
- Merge the client and works teams and expand the current in house provision to undertake all of the tree work.
- Adopt a mixed economy model merging the client and works teams and providing tree works delivery through a range of 4 options with varying degrees of internal and external provision
- Externalisation of the entire service
- Consider how best to deliver the £5m capital funded tree planting programme through either internal or external suppliers. Delivery of tree planting has been built into the individual option approaches.

45. Providing no service is not an option owing to the statutory requirements protecting public safety and the council's climate change mitigation commitments.

**Table 2 - Summary of options considered**

Item No.	OPTION
1.	<b>Mixed Economy</b> - Combining client and works delivery teams under one management structure. Majority of tree work externalised utilising a framework contract.
2.	<b>Mixed Economy</b> - Client in house – works delivery outsourced, supported by the full in-house team. Combining client and works delivery teams under one management structure. Majority of tree work externalised utilising a framework contract.
3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced) Client team as existing. Externalise tree work provision & planting. External framework contract let in 3 lots designed to meet the entire needs of the works service.
4.	<b>Mixed Economy</b> - Client in house – tree work delivery outsourced. Tree planting in-house Client team as existing. Externalise tree work delivery function. External framework contract let in 3 lots designed to meet the entire needs of the works service. In-house tree work delivery

Item No.	OPTION
	team will decrease from 16 to 9, providing tree planting in-house.
5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process Client team as existing (6), plus in-house tree work delivery team of 16 as existing. External contract support (as now) to assist with the core service and mitigate the risk of future backlog.
6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure. In house tree work delivery team will increase from 16 to 49 to meet expected demand. No need for supporting external contract support to mitigate the risk of future backlog.
7.	<b>Fully outsource both client and works delivery</b> - External supplier provides both client and tree work functions working to KPI's and Tree Management Policy criteria through procured contract arrangements. High level outcome monitoring only by Southwark.

### Recommended option

46. The service transformation process has now reached a point where the high level risk works have been addressed and scale and scope of the resource needed to manage the tree stock fully in the future have been identified. Based on the information and details outlined in the report and associated research and analysis, the recommendation for future delivery is a mixed economy model where the client management team and tree planting function remain in house, with tree work delivery being externalised.
47. The recommended option has been selected as it is well placed to limit the risk of any future backlog developing and represents the most appropriate balance between all the competing demands. Moreover, addressing the majority of the primary drivers for this review whilst protecting the council's exposure to ongoing risk.
48. The next stage of this report sets out the other options that were explored and how they were evaluated in order to have reached this recommendation.

### The assessment process

49. The options appraisal was structured and enables the measurement of options against a set of pre-determined broad ranging service related criteria.

### Assessment criteria

- Design & scope of provision
- Accountability, governance & participation
- Financial assessment
- Quality of service
- Risk management



- Productivity
- Innovation
- Capability, management & intellectual knowledge
- Organisational arrangements
- Corporate impact on authority
- Local, regional economical & community wellbeing
- Sustainable development/climate emergency response.

### Scoring methodology

- Scoring system - A scale of 0 – 5 based on how well each option addressed the assessment questions.
  - Risk rating - A scale of 1 – 3 (Low, Medium & High) dependent the significance of risk to the council.
  - Scores for each assessment question are calculated for each option multiplying the allocated score by the risk rating
  - A brief explanation regarding the thought process behind how each question has been marked is included at the end of each section
50. A detailed appraisal for all options is included as appendix 1, for comparison and context.
51. It quickly became apparent through the objective evaluation process that a number of the options were not viable for the reasons set out below.

**Table 3 - Rejected options summary**

Option No.	Option	Benefit	Risks
5.	<b>No Change</b>	Client control Technical expertise Some commercial flexibility Consistent with council values	Resource heavy Unsustainable Capacity issues Backlog risk Higher cost Increased risk of third party claims
6.	<b>Full In house</b>	Merged management structure Technical expertise Consistent with council values Reduced market capacity exposure Dual tree planting options	Single in house supplier Management capacity High cost Accommodation issues, waste storage and disposal Flexibility concerns Concerns about covering risk Contingency

Option No.	Option	Benefit	Risks
7.	<b>Fully Externalise</b>	Commercial flexibility Cost Reduction in management overheads Potential for more than one supplier	22 jobs at risk Limited internal client controls Loss of internal expertise Potential conflicts between public sector and commercial values Reduced responsiveness and flexibility

52. The benefits and risks associated with the remaining four options are explored below.

**Table 4 - Options comparison summary**

No	Option Name	Benefits	Risks
1.	Mixed economy – (Client in house – tree work delivery outsourced, supported by a reduced in house team. Tree planting delivered externally)	<ul style="list-style-type: none"> <li>• Single management structure (client &amp; tree works)</li> <li>• Retention of internal technical expertise</li> <li>• Partially consistent with council values</li> <li>• Multiple suppliers (4), business resilience</li> <li>• No accommodation impacts</li> <li>• No waste storage and disposal impacts</li> <li>• Commercial flexibility to deliver works to target</li> </ul>	<ul style="list-style-type: none"> <li>• Moderate business change required</li> <li>• Procurement of supporting contract arrangements required</li> <li>• 8 posts deleted &amp; potential risk of redundancy</li> <li>• TUPE considerations may apply in accordance with a multi supplier framework approach</li> <li>• Higher cost</li> </ul>
2.	Mixed economy - (Client in house – tree work delivery outsourced, supported by a dual function in house team supporting tree work and tree planting)	<ul style="list-style-type: none"> <li>• Single management structure (client &amp; tree works)</li> <li>• Retention of internal technical expertise</li> <li>• Consistent with council values</li> <li>• Multiple suppliers (4)</li> <li>• No accommodation impacts</li> <li>• No waste storage and disposal impacts</li> <li>• Commercial flexibility to deliver works to target</li> <li>• No jobs at risk</li> </ul>	<ul style="list-style-type: none"> <li>• A degree of business change required</li> <li>• Procurement (supporting contract)</li> <li>• Higher cost</li> </ul>

No	Option Name	Benefits	Risks
		<ul style="list-style-type: none"> <li>• Creation of additional part time seasonal tree planting roles</li> </ul>	
3.	<p>Mixed economy - (Client in house – tree work delivery outsourced – framework contract 3 suppliers). Tree planting delivered externally.</p>	<ul style="list-style-type: none"> <li>• Single management structure (client &amp; tree works)</li> <li>• Retention of internal technical expertise</li> <li>• Partially consistent with council values</li> <li>• Increased commercial flexibility to deliver works to target (3 suppliers)</li> <li>• Lower cost</li> <li>• No accommodation impacts</li> </ul>	<ul style="list-style-type: none"> <li>• A degree of business change required</li> <li>• Procurement of supporting contract arrangements required</li> <li>• 16 posts deleted, potential risk of redundancy</li> <li>• Potential multiple supplier TUPE considerations</li> </ul>
4.	<p>Mixed economy - (Client in house - tree work delivery outsourced – multiple suppliers). Tree planting function delivered in house.</p>	<ul style="list-style-type: none"> <li>• Single management structure (client &amp; tree works)</li> <li>• Retention of internal technical expertise</li> <li>• Partially consistent with council values</li> <li>• Multiple suppliers (4), business resilience</li> <li>• No accommodation impacts</li> <li>• No waste storage and disposal impacts</li> <li>• Commercial flexibility to deliver works to target</li> <li>• Lower cost</li> <li>• Creation of additional part time seasonal tree planting roles</li> </ul>	<ul style="list-style-type: none"> <li>• Moderate business change required</li> <li>• Procurement of supporting contract arrangements required</li> <li>• 7 posts deleted, potential risk of redundancy</li> <li>• Potential TUPE considerations in accordance with a multi supplier framework approach</li> </ul>

## Conclusions

53. Tree safety and risk management are key consideration for this review. This element of the service is managed by the client team who have worked proactively and put in place the required qualified staff resource, new tree policy/risk management strategy documents, an upgraded the asset database (Confirm system) and a programme of inspections. Forward progress is also evident in the governance of the tree backlog project.
54. The remaining challenge centres on the delivery of tree work and ensuring that a future service is well placed to deliver anticipated work volumes within target date. This is largely both a capacity and managerial issue. Accordingly, with the exception of option 3 (no in-house works provision) a merger of the management teams is recommended. This will improve efficiency and design out both historic process and multi data set challenges whilst facilitating one point of service governance.
55. It is clear that the current service has had capacity issues for some time, hence the build-up of the tree work backlog. Therefore, it is important to choose an option that has both flexibility to adjust to changing work volumes and make seasonal adjustments to accommodate winter pollarding programmes and insurance mitigation work (required annually to set frequencies to limit potential claims). Accurate recording of inspections and works being completed on time puts the council in the best possible position to defend third party claims and offset the risk of any future HSE prosecution. With that in mind a broad range of options were initially considered and included a larger in-house provision, full externalisation and a range of mixed economy hybrid models. Following member feedback the range of options were refined and adjusted with mixed economy focused models demonstrating higher degrees of flexibility.
56. The cost of the progressed options does not vary significantly with (options 3&4) attracting the lowest cost, with options 1&2 more expensive. To ensure ongoing health and safety compliance and business resilience it will be important to choose an option that is financially sustainable in the future. Any reduction in the works programme in subsequent years due to budget reductions will put Southwark at risk of a future backlog of work. This appears to be a common problem for many other London based local authorities. However, the reduced ability to defend third party claims and HSE duty of care related prosecutions would be particularly sensitive for Southwark given the 2017/18 HSE investigation. Accordingly, cost and ongoing affordability are a key consideration for this review.
57. As part of the procurement strategy Southwark has a stated preference to provide services in-house. With that in mind the client team of 6 is retained in all options. From a tree work delivery perspective the retention of the existing team is wholly available in option 2 with reduced re-focused teams also available via options 1 & 4. It should be noted that options 1, 3, and 4 all

have jobs at risk, which need to be considered in balance with the necessary need for service change and wider drivers for this review.

58. Market considerations also require careful thought as there is currently an industry wide challenge in both recruiting and retaining qualified staff, which has the potential to impact both internal and external service provisions. Client officers are of the view that having multiple suppliers would design in greater business resilience, in addition to providing enhanced contingency and greater service flexibility to meet demand. This approach also maximises the potential for a competitive market place to ensure a successful value for money procurement.
59. Separate capital funding is available for tree planting and the council has ambitious plans for this growing corporate priority. Accordingly, the delivery of this aspect of work needs to consider the appropriate balance of competing issues. Option 2 & 4 facilitate the provision of tree planting in-house. With options 1 & 3 delivering tree planting through external suppliers
60. Based on the options appraisal (appendix 1) the two options with the highest scores are the mixed economy models 4 and 2, closely followed by options 1 and 3. All are advantageous in their ability to manage future risk, also balancing cost and in-house service provision to varying degrees. The primary difference between the four being the 9 posts at risk and lower overall cost associated with option 1. As opposed to, no jobs at risk in option 2 but higher overall costs (revenue & capital) and as such a reduced volume of trees planted through the capital programme. Option 3 has the lowest revenue and capital tree planting cost but has the largest impact on internal jobs with 16 posts at risk. Option 4 also attracts a low revenue cost but a higher capital tree planting cost. There are 7 jobs at risk with this option.
61. On the basis of the options appraisal outcome and rationale above officers recommend option 4.
62. Option 4 provides a mixed economy model. This means the client management team and tree planting function would remain in house with tree work delivery being externalised. The core tree work service will be provided by three external suppliers let in lots through a framework contract arrangement with opportunities to engage local arboricultural businesses. Tree planting will be carried out internally through a reduced in house team adding significant qualitative outcomes associated with this significantly important area of work.
63. This option would provide a greater element of commercial flexibility to meet seasonal workload demands and mitigate the risk of future tree work backlog, multiple supplier provision being deemed lower risk in this regard. Delivery of tree planting in house would afford the Council greater control of both planting and aftercare, maximising quality outputs. This multiple supplier option enables a bespoke blend of service responses at a cost effective price whilst retaining a significant proportion of existing staff, maximising service flexibility and efficiency.

64. Soutwark's climate emergency declaration requires a shift in terms of the way tree maintenance and tree planting are delivered. The preferred option separates the two functions cleanly and will maximise opportunities for ensuring high quality service delivery, robust governance, and growing the tree stock through schemes that engage local communities and foster local ownership.

### Financial considerations

65. This paper sets out clearly the recommended direction for the council to take in order to fully and robustly manage its tree stock in accordance with law and in accordance with its own adopted strategies. The financial implications of all of the options considered was that the service requires an increase in financial resources in order meet the council's obligations. The financial implications will be considered as part of the annual budget setting processes.

### Capital implications

66. The majority of plant and equipment is being leased and paid from the revenue budget.
67. The council have committed £5m capital funding over 10 years to facilitate tree planting in line with its broader climate emergency agenda. Delivery options for planting are considered in this report.
68. The delivery of tree planting has been calculated in terms of both in house and externalised provisions to determine planting numbers. The calculation has been made using historic price detail and efficiency outputs.

### Risks

**Table 5 - Identified risks for the service and recommended strategic option**

Item No.	Risks	Mitigation	Risk Rating (High, med, low)
1	The time associated with the degree of service change required to implement	Efficient project management. Dual approach with Environment & Leisure colleagues	Med
2	Unknown procurement outcomes (market availability cost & quality)	Targeted specialist arboricultural market procurement, potential use of multiple suppliers	Med
3	Changes to the broader	No direct controls but partially	

Item No.	Risks	Mitigation	Risk Rating (High, med, low)
	economy (supplier continuity)	mitigated by having the service delivered through multiple suppliers	Med
4	Current industry challenges impacting the recruitment and retention of qualified arboricultural staff	Potential to use market based supplement. Partially mitigated by having the service delivered through multiple suppliers	Med
5	Risk of supplier delivery & capacity	Multiple supplier approach	Low
6	Future impacts on local authority funding (available budget to meet on-going policy commitments)	Securing growth & a budget agreement to fund the service. Tree policy in place with stated service standards & monitoring delivery against these standards	High

### Key/Non key decisions

69. This is a key decision.

### Policy implications

70. The Borough Plan 2020-22 sets out a series of commitments:

- create a fairer and more just society
- deliver new quality, affordable homes
- tackle the climate emergency
- rebuild the local economy
- give young people in our borough the best opportunities in life.

71. An effective tree service provision is linked to a number of themes in the Borough Plan through specific commitments set out below:

72. We will:

- make Southwark carbon neutral by 2030
- plant 10,000 new trees
- halve emissions by 2022
- make council homes greener
- improve air quality.



## Next steps

**Table 6 - Service delivery project plan (Key decisions)**

<b>Activity</b>	<b>Complete by:</b>
Enter Gateway 0 decision on the Forward Plan	29/11/2020
DCRB Review Gateway 0	08/01/2021
CCRB Review Gateway 0	21/01/2021
Deadline for submission to constitutional support	15/02/2021
Agenda Planning	23/02/2021
Deadline for final reports	25/02/2021
Approval of Gateway 0: Strategic Options Assessment	09/03/2021
Scrutiny Call-in period and notification of implementation of Gateway 0 decision	24/03/2021
DCRB Review Gateway 1	Summer 2021
CCRB Review Gateway 1	Summer 2021
Approval of Gateway 1	Summer 2021

## Community impact statement

73. As set out under the Equality Act 2010 and the Public Sector Equality duty (PSED) an equalities impact assessment was considered during the development of the service options. There is no clear, detrimental impact to any group or protected characteristic as outlined in the Equalities Act or the PSED.
74. Trees benefit our communities and the environment in a number of ways: improving air quality, reducing urban temperatures through shading and evapotranspiration, mitigating climate change, reducing noise and calming traffic, managing flood risks, supporting biodiversity and improving health and wellbeing. The service options present a framework of delivery to achieve the benefits above, minimising risks to Southwark.
75. A clear determination regarding the service's future direction is likely to have a positive impact on communities. By maintaining a healthy, protected and sustainably managed tree stock the service outcomes will contribute significantly to the health, safety and wellbeing of Southwark residents and visitors.
76. It is recognised that trees must be well maintained to ensure they do not have a detrimental impact on the community. Risks and concerns include: falling trees, obstructed pavements and examples of unreasonable tree related nuisance.

### **Social value considerations**

77. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing any procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. Social value considerations and how the delivery of these services can benefit the local area are detailed below.

### **Economic considerations**

78. This review considers an appropriate delivery model for the provision of tree services. The provision of this service already exists and therefore no significant impacts to the local economy are anticipated.

79. The procurement exercises associated with this recommendation will take into consideration how the delivery of these services can benefit the local area, for example:

80. Local contractors

- All of the options currently presented have opportunities to engage local contractors.
- A contract let in appropriately sized geographical lots will broaden market opportunity whilst ensuring the security of supply through the potential utilisation of both larger suppliers and SME's.

### **Social considerations**

81. Social considerations are to be built into the process for delivering the recommended option and will be reported in the Gateway 1 and Gateway 2 reports.

82. However, any supplier appointed would need to:

- guarantee the London Living wage for both its own staff and any subcontractors used
- follow all relevant standard provisions on blacklisting
- follow the standards for financial transactions and payment windows for their entire supply chain
- make every effort to reflect the council's fairer future principle by 'looking after every penny as if it was our own'.

83. Apprenticeships/internships

- Suppliers would need to engage with Southwark Council's apprenticeship model.
- There are significant opportunities to introduce apprenticeship schemes in to the in house team as part of any remodelled provision.
- Apprenticeships can be encouraged with external contractors through the quality assessment criteria of the procurement process.

- New apprenticeships will soon be available at levels 4 and 6 (ABC) for roles in the client team which should be explored in future recruitment processes.
84. Community engagement - Opportunities for community engagement are enhanced through in house delivery of the tree planting program in terms of consultation, participation, volunteering and education. This approach is complimentary to broader Southwark employment and climate change initiatives, such as the Green New Deal.
85. Internal staff impacts
- Impacts on the existing workforce will be fully considered at each stage of the Gateway process. This will include a transparent consultation process with both staff and the unions.
  - Staff will be supported through the general process to enable individuals to make objective decisions around their future.
  - Where applicable, staff will be prepared for a potential TUPE transfer
  - Staff will have the opportunity to feed into the design of service arrangements through the transition period.
  - The recommended option creates entry level roles for staff to undertake tree planting, which provides a layer of choice for existing staff and potential new full time and seasonal part time job opportunities.

### **Environmental/Sustainability considerations**

86. Nothing additional envisaged through the contract delivery to existing arrangements.

### **Plans for the monitoring and management of project**

87. The project to put the new arrangements in place will be managed by the Parks and Leisure Team with significant input by colleagues from the Waste and Cleansing Team.
88. The project will be monitored by the Tree Project Board consisting of key stakeholders from across the council such as
- HR
  - Legal
  - Procurement
  - Finance
  - Marketing and Communications
  - Insurance.
89. The project board will be reporting progress against key milestones and updating on key risks and issues with recommendation for mitigation to the Tree Sponsorship Group which is chaired by the Strategic Director for Environment and Leisure.

### **Resource implications**

90. The recommended option will be delivered using the existing staffing resources within the Environment and Leisure Directorate drawing on technical support (such as legal, procurement and finance) from the council's existing staffing structures.
91. Existing depot facilities can accommodate the recommended option. Plant, equipment and machinery will require disposal and replacement to enable the transition from in house tree surgery team to in house tree planting team. Initial tree planting training provision will be required.

### **TUPE/Pensions implications**

92. TUPE is likely to apply if there is a change in the identity of the provider of the tree service, or any part of it. The extent of the application of TUPE and its implications will depend on a number of factors and will be considered during the next phase of the proposed procurement exercise.

### **Investment implications**

93. With the exception of tree planting and the monies already earmarked for this task there are no significant capital implications for the core service. All costs are built into the revenue estimates. Tree planting capital is considered separately.

### **Consultation**

94. This report has been progressed as a joint exercise between the Leisure and Environment teams under corporate scrutiny from the lead member. Staff and trade union consultation will be carried out in accordance with the council's appropriate human resources policies and guidance.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance**

95. This report is requesting cabinet to note the need to review the tree service and the outcome of the tree services strategic options assessment detailed in the report. The report is also requesting officers to bring a Gateway 1 report in 2021 for the procurement of the external tree service.
96. The strategic director of finance and governance notes that all of the options considered indicate an increase in the current budgetary resources for the trees service which will be confirmed in future reports for cabinet approval.
97. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.

### **Head of Procurement**

98. This GW0 report seeks that Cabinet note the review of the tree services strategic options assessment notes that there is a need to review the way in which tree services are delivered and to consider new and more effective delivery models as summarised in paragraph 44.
99. The report also sets out the outcomes of the strategic options assessment for this service and recommends moving to a 'mixed economy model' with in house client management and tree planting teams and an outsourced tree works service as detailed in paragraph 45.
100. The next steps for the tree service would be for officers to bring a GW1 report to Cabinet in 2021 for the procurement of the external tree works services in line with the recommendations of this report.

### **Director of Law and Governance**

101. This report seeks the approval of the strategic options assessment for the future direction and delivery of the tree service in Southwark.
102. Under the council's Contract Standing Orders (CSOs) a pre-procurement/Gateway 0 report is required for any service contract with an estimated contract value of £10m or more, or other strategically important contract for services, goods or works where requested by the relevant Cabinet Member. Although the decision to approve the report recommendations is reserved to the relevant Cabinet Member, on this occasion Cabinet is requested to take the decision.
103. Paragraphs 44 and 45 note that the recommended strategic delivery option is for the council to adopt and implement a mixed economy delivery model. The report further notes that the proposed procurement strategy for the external delivery of tree works will be confirmed in a Gateway 1 report which is to be presented to Cabinet during 2021.

### **Director of Exchequer (For Housing contracts only)**

104. N/A

**BACKGROUND DOCUMENTS**

<b>Background Documents</b>	<b>Held At</b>	<b>Contact</b>
Southwark Tree Risk Management Strategy and Southwark Tree Management Policy 2020	Southwark Council 160 Tooley Street London SE1 2QH	<a href="mailto:Richard.diplock@southwark.gov.uk">Richard.diplock@southwark.gov.uk</a>
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6667&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6667&amp;Ver=4</a>		

**APPENDICES**

<b>No</b>	<b>Title</b>
Appendix 1	Options appraisal

**AUDIT TRAIL**

<b>Cabinet Member</b>	Councillor Catherine Rose, Leisure, Environment and Roads	
<b>Lead Officer</b>	Rebecca Towers, Director of Leisure	
<b>Report Author</b>	Richard Diplock, Group Manager Parks and Open Spaces	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Governance	Yes	Yes
Director of Exchequer (For Housing contracts only)	N/A	N/A
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		25 February 2021

## Arboricultural Services Options Appraisal – Options around future service provision

## APPENDIX 1

### Score Rating

- 0 - Does not meet any of the council's requirements or priorities
- 1 - Would only deliver the council's requirements or priorities to a limited extent
- 2 - Would deliver on the council's requirements or priorities in the main but with some shortcomings
- 3 - Delivers on the council's requirements and priorities satisfactorily
- 4 - Delivers above the council's requirements and priorities
- 5 - Delivers above the council's requirements and priorities and provides additional benefit

### WEIGHTING CRITERIA

- 3- HIGH** – Corporate strategic priority (Significant Council Impacts)
- 2- MEDIUM** – Service specific priority (Moderate council Impacts)
- 1- LOW** – Desirable Deliverables (Standard Council Impacts)

Chosen criteria	Item No.	Option under appraisal	Commentary	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
<b>1. Design and Scope of Provision</b>							
Vision and aspiration for services and infrastructure:  Organisations desire to operate services In house and associated procurement approaches	<b>1.</b>	<b>Mixed Economy</b>  (Client in house – works delivery outsourced, supported by a reduced in-house team	Combining client and works delivery teams under one management structure. Majority of tree work externalised utilising a framework contract. In-house tree work delivery team roles will decrease from 16 to 8, supporting external contract arrangements	<b>2</b>	• Meets the council's aspiration for internalisation in the main but with some shortcomings	<b>2 -Medium</b>	<b>4</b>
	<b>2.</b>	<b>Mixed Economy -</b> (Client in house, works delivery	Combining client and works delivery teams under one management	<b>3</b>	• Meets the council's aspiration for internalisation satisfactory		<b>6</b>



Chosen criteria	Item No.	Option under appraisal	Commentary	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
		outsourced, supported by the full in-house team	<p>structure. Majority of tree work externalised utilising a framework contract. In-house tree work delivery team of 16 will provide a re-focused dual function role. Tree Work - x8 roles will provide external support to the external contract. arrangements</p> <p>Tree Planting Capital Programme - The remaining 8 roles with additional part time seasonal support will support the tree planting programme and be funded accordingly</p>				
	3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced)	<p>Client team as existing. Externalise tree work provision &amp; planting.</p> <p>External contract let in 3 lots designed to meet the entire needs of the works service.</p>	1	<ul style="list-style-type: none"> <li>Meets the council's requirements or priorities in the main but with some shortcomings</li> <li>Client team retained only</li> <li>Tree work undertaken by 3 external suppliers</li> </ul>		2
	4.	<b>Mixed Economy</b> - (Client in house – tree work delivery outsourced. Tree planting in-house)	<p>Client team as existing. Externalise tree work delivery function.</p> <p>External contract let in 3 lots designed to meet the entire needs of the works service. In-house tree work delivery roles will decrease from 16 to 9, with additional part time seasonal support providing tree planting in-</p>	2	<ul style="list-style-type: none"> <li>Does not meet any of the council's requirements or priorities</li> <li>Management &amp; performance would be reliant on contractual arrangements &amp; associated KPI's.</li> </ul>		4

Chosen criteria	Item No.	Option under appraisal	Commentary	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
			house				
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	Client team as existing, plus in-house tree work delivery roles of 16 as existing. External contract support (as now) to assist with the core service and mitigate the risk of future backlog	3	<ul style="list-style-type: none"> <li>Meets the council's aspiration for internalisation satisfactory</li> <li>Model currently supported by external contract arrangements</li> </ul>		6
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	In-house tree work delivery roles will increase from 16 to 49 to meet expected demand. No need for supporting external contract support to mitigate the risk of future backlog	5	<ul style="list-style-type: none"> <li>Delivers above &amp; provides additional benefit</li> <li>Significant number of Southwark employees</li> </ul>		10be
	7.	<b>Fully outsource</b> - both client and works delivery.	External supplier provides both client and tree work functions working to KPI's and Tree Management Policy criteria through procured contract arrangements. High level outcome monitoring only by Southwark	0	<ul style="list-style-type: none"> <li>Does not meet any of the council's requirements or priorities</li> <li>Management &amp; performance would be reliant on contractual arrangements &amp; associated KPI's.</li> </ul>		0
<b>Marking explanation:</b> Scores take account of corporate drivers such as the preference for internalisation and procurement strategy. In-house weighted models scored more highly.							

Full commentary text per question provided above, with summary only below

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
<b>Design and Scope of Provision</b>						
<p>Understanding current opportunities and market mechanisms;</p> <p>Understanding how the market is structured and how it operates from an industry specific perspective in order to maximise service delivery. The market includes internal and external delivery models.</p>	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Offers an agile approach in terms of implementing efficiencies &amp; innovation</li> </ul>	2 Medium	8
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Satisfactory levels of agility in terms of implementing efficiencies &amp; innovation</li> </ul>		6
	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery & planting outsourced)	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Offers an agile approach in terms of implementing efficiencies &amp; innovation</li> </ul>		8
	4.	<b>Mixed Economy</b> - (Client in house, tree work delivery outsourced. Tree planting in-house	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Offers an agile approach in terms of implementing efficiencies &amp; innovation</li> </ul>		8
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Satisfactory levels of agility in terms of implementing efficiencies &amp; innovation</li> </ul>		6
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Satisfactory levels of agility in terms of implementing efficiencies &amp; innovation</li> </ul>		6

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
	7.	<b>Fully outsource</b> - both client and works delivery.	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Offers the most agile &amp; flexible approach in terms of implementing efficiencies &amp; innovation</li> </ul>		10
<b>Marking explanation:</b> Those models that are best placed to realise market opportunities & implement market efficiencies were scored more highly. Commercially weighted models were deemed more suitable in this respect.						
<b>2. Accountability, governance and participation</b>						
Scope for review and scrutiny: The organisations ability to scrutinise service delivery and access and control key data. The transparency of the service to enable appropriate levels of governance.	1.	<b>Mixed Economy</b> (Client in house – works delivery outsourced, supported by a reduced in-house team)	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Client transparency &amp; in-house tree work element unaffected.</li> <li>Scrutiny partially impacted by the supporting contract arrangements for tree work</li> <li>Potential restrictions around access to third party information, due to commercial sensitivities</li> </ul>	2 - Medium	8
	2.	<b>Mixed Economy</b> (Client in house – works delivery outsourced, supported by the full in-house team)	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Client transparency &amp; in-house tree work element unaffected.</li> <li>Scrutiny partially impacted by the supporting contract arrangements for tree work</li> <li>Potential restrictions around access to third party information, due to commercial sensitivities</li> </ul>		8
	3.	<b>Mixed Economy</b> (Client in house – tree work delivery & planting outsourced)	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Client transparency unaffected.</li> <li>Scrutiny would be impacted by the tree work contract arrangements</li> <li>Potential restrictions around access to third party information, due to commercial sensitivities</li> </ul>		6

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
	4.	<b>Mixed Economy</b>  (Client in house – tree work delivery outsourced. Tree planting in-house)	4	<ul style="list-style-type: none"> <li>Delivers on the council’s requirements and priorities satisfactorily</li> <li>Client transparency unaffected.</li> <li>Scrutiny would be impacted by the tree work contract arrangements</li> <li>Potential restrictions around access to third party information, due to commercial sensitivities</li> </ul>		8
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	4	<ul style="list-style-type: none"> <li>Delivers above the council’s requirements and priorities</li> <li>Client transparency &amp; in-house tree work element unaffected.</li> <li>Scrutiny partially impacted by the supporting contract arrangements for tree work</li> <li>Potential restrictions around access to third party information, due to commercial sensitivities</li> </ul>		8
	6.	<b>Fully In-house team</b>  Combining client and works delivery teams under one management structure	5	<ul style="list-style-type: none"> <li>Delivers above the council’s requirements and priorities and provides additional benefit</li> <li>Client transparency &amp; in-house tree work element combined as one.</li> <li>Offers no scrutiny restrictions</li> <li>Fully transparent</li> <li>Greater scope for internal audit</li> </ul>		10
	7.	<b>Fully outsource</b> - both client and works deliver.	2	<ul style="list-style-type: none"> <li>Meets the council’s requirements or priorities in the main but with some shortcomings</li> <li>Contract arrangements would govern access to information</li> <li>Potential restrictions around access to third party information, due to commercial sensitivities</li> <li>Potential conflicts between public sector &amp; commercial priorities</li> </ul>		4
<b>Marking explanation:</b> internalised & mixed economy models were scored more highly due to the levels of governance & internal transparency. External models being subject to the constraints of contracts & associated procedures.						
<b>3. Financial Assessment</b>						

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
Affordability: Medium and long term sustainability:  The affordability of the service over medium and long term periods and sustainability in the context of the current and future economic climates.	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team)	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>A reduced &amp; re-focused in-house provision (lower cost)</li> <li>Reduced exposure to future budget challenges &amp; constraints</li> </ul>	<b>3 – High</b>	9
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team)	3	<ul style="list-style-type: none"> <li>Meets the council's requirements or priorities in the main but with some shortcomings</li> <li>No change to existing staff structure</li> <li>Exposure to future budget challenges &amp; constraints</li> <li>Capitalisation of salaries for those working on tree planting will be required</li> </ul>		9
	3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced)	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>This option is the second lowest in terms of cost. primarily due to the externalisation of the tree work element of the service</li> <li>Lessened exposure to future budget challenges &amp; constraints</li> </ul>		12
	4.	<b>Mixed Economy</b> - Client in house – tree work delivery outsourced. Tree planting in-house	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>This option is the second lowest in terms of cost. primarily due to the externalisation of the tree work element of the service</li> <li>Lessened exposure to future budget challenges &amp; constraints</li> </ul>		12
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	2	<ul style="list-style-type: none"> <li>Meets the council's requirements or priorities in the main but with some shortcomings</li> <li>The current existing service provision</li> <li>Vulnerable to future budget challenges &amp; constraints</li> </ul>		6
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	1	<ul style="list-style-type: none"> <li>Meets the council's aspiration for internalisation to a limited extent</li> <li>The most costly option</li> <li>Greatest exposure to future budget challenges &amp; constraints</li> </ul>		3

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
	7.	<b>Fully outsource</b> - both client and works delivery.	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Lowest in terms of cost. primarily due to the externalisation of all aspects of the service</li> <li>Contractual obligations restrict exposure to future budget challenges</li> <li>Potential for third party legal challenge to budget reductions</li> </ul>		15
<b>Marking explanation: External models lower cost than internal provisions (see appendix 5).</b>						
<b>4. Quality of Service</b>						
Ability to meet the required Quality and Health & Safety standards:  The ability to meet quality and standards of health and safety in accordance with council's	1.	<b>Mixed Economy</b>  (Client in house – works delivery outsourced, supported by a reduced in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Internal client provision</li> <li>Management roles combined (single point of accountability)</li> <li>Design and monitoring of the service</li> <li>Qualitative outcomes</li> <li>In-house H&amp;S education &amp; controls</li> <li>External service elements controlled by contract</li> </ul>	3 - High	12
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Internal client provision</li> <li>Management roles combined (single point of accountability)</li> <li>Design and monitoring of the service</li> <li>Qualitative outcomes</li> <li>In-house H&amp;S education &amp; controls</li> <li>External service elements controlled by contract</li> </ul>		12

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
corporate policies, or contract specifications where scrutiny and control would be reduced.	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery & planting outsourced)	3	<ul style="list-style-type: none"> <li>• Delivers on the council's requirements and priorities satisfactorily</li> <li>• Internal client provision</li> <li>• Associated design and monitoring of contractual service</li> <li>• Qualitative outcomes in line with contract documentation</li> </ul>		9
	4.	<b>Mixed Economy</b> - (Client in house, tree work delivery outsourced. Tree planting in-house)	4	<ul style="list-style-type: none"> <li>• Delivers on the council's requirements and priorities satisfactorily</li> <li>• Internal client provision</li> <li>• Associated design and monitoring of contractual service</li> <li>• Qualitative outcomes in line with contract documentation</li> </ul>		12
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	4	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities</li> <li>• Internal client pro</li> <li>• Management roles combined (single point of accountability)</li> <li>• Design and monitoring of the service</li> <li>• Qualitative outcomes</li> <li>• In-house H&amp;S education &amp; controls</li> <li>• External service elements controlled by contract</li> </ul>		12
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	4	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities</li> <li>• Internal client provision</li> <li>• Management roles combined (single point of accountability)</li> <li>• Design and monitoring of the service</li> <li>• Qualitative outcomes</li> <li>• In-house H&amp;S education &amp; controls</li> </ul>		12
	7.	<b>Fully outsource</b> - both client and works deliver.	2	<ul style="list-style-type: none"> <li>• Meets the council's requirements or priorities in the main but with some shortcomings</li> <li>• Client provision provided externally</li> <li>• Tree Works provided externally</li> <li>• Procurement required</li> </ul>		6



Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
				<ul style="list-style-type: none"> <li>Contract performance may impact both quality &amp; H&amp;S standards</li> <li>Potential conflicts between public sector &amp; commercial priorities</li> </ul>		
<b>Marking explanation:</b> Internal models provide qualitative and measurable outcomes & are scored more highly. Models with greater degrees of external functionality are subject to varying levels of control.						
<b>5. Risk Management</b>						
Capacity to process work within designated timeframes:  Capacity to complete work within designated timeframes in the context of risk management.	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Greater flexibility</li> <li>A higher degree of contingency to meet variations in workload demand (3multiple supplier contract support, plus in-house team)</li> <li>An increased ability to process work within required timescales as risk work undertaken externally (in-house provision re-modelled)</li> <li>reduced risk of backlog</li> </ul>	<b>3 - High</b>	15
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Greater flexibility</li> <li>A higher degree of contingency to meet variations in workload demand (3multiple supplier contract support, plus in-house team)</li> <li>An increased ability to process work within required timescales as risk work undertaken externally (in-house provision re-modelled)</li> <li>reduced risk of backlog</li> </ul>		15
	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery & planting outsourced)	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>A higher degree of flexibility</li> <li>Good contingency to meet variations in workload demand</li> <li>Commercial flexibility around delivery</li> <li>3 Multiple suppliers (no in-house tree team) reduced risk of</li> </ul>		12

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
				backlog		
	4.	<b>Mixed Economy</b> - (Client in house – tree work delivery outsourced. Tree planting in-house)	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>A higher degree of flexibility</li> <li>Good contingency to meet variations in workload demand</li> <li>Commercial flexibility around delivery</li> <li>3 Multiple suppliers (no in-house tree team) reduced risk of backlog</li> </ul>		12
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>A degree of flexibility</li> <li>A degree of contingency to meet variations in workload demand</li> <li>An ability to process work within required timescales with significant contract support</li> <li>Capacity issues with internal works delivery</li> </ul>		12
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Less flexibility (single supplier)</li> <li>Limited contingency to meet variations in workload demand</li> </ul>		9
	7.	<b>Fully outsource</b> - both client and works delivery.	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>A higher degree of flexibility</li> <li>Good contingency to meet variations in workload demand</li> <li>Commercial flexibility around delivery</li> <li>Limited Southwark control</li> <li>Potential conflicts between public sector &amp; commercial priorities</li> <li>Increased risk of future backlog visibility</li> </ul>		9
<b>Marking explanation:</b> The mixed economy models provide service agility & flexibility and have therefore been scored more highly. Multiple suppliers deemed more flexible to deliver tree work within target dates. E.g. wide spread use of incentivisation mechanisms.						
Ability to service programme of	1.	<b>Mixed Economy</b> - (Client in house – works delivery outsourced, supported by a reduced in-house	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Internal client team available to meet inspection demand</li> </ul>	3 - High	15

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
tree inspections:  Ability to service and deliver programme of inspections in accordance with the frequencies required by Southwark's Tree Risk Management Strategy, in the context of risk management.		team				
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Internal client team available to meet inspection demand</li> </ul>		15
	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery & planting outsourced)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Internal client team available to meet inspection demand</li> </ul>		15
	4.	<b>Mixed Economy</b> - (Client in house, tree work delivery outsourced. Tree planting in-house)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Internal client team available to meet inspection demand</li> </ul>		15
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Internal client team available to meet inspection demand</li> </ul>		15
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Internal client team available to meet inspection demand</li> </ul>		15
	7.	<b>Fully outsource</b> - both client and works delivery.	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>No internal client team</li> <li>Third party provision under contract</li> <li>Potential conflicts between public sector &amp; commercial priorities</li> </ul>		9

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
<b>Marking explanation:</b> All options have an equally strong well resourced client provision capable of meeting service needs.						
<b>6. Productivity</b>						
Ability to meet anticipated work volume:  Ability and flexibility to respond to both static and changeable workload demand in timely manner. Ability to provide seasonal resource to time dependant work programmes.	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Wider flexibility to meet demand via the supporting external contract arrangements 4 suppliers)</li> <li>Limited ability to introduce an incentivisation scheme but reduced impacts due to the size of the team and work focus</li> <li>Reduced risk through multiple suppliers</li> </ul>	<b>3 - High</b>	15
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Wider flexibility to meet demand via the supporting external contract arrangements 4 suppliers)</li> <li>Limited ability to introduce an incentivisation scheme but reduced impacts due to the size of the team and work focus</li> <li>Reduced risk through multiple suppliers</li> <li>Limited flexibility in the delivery of tree planting</li> </ul>		15
	3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>A very good capacity to meet fluctuations in service demand via external contract arrangements (3 suppliers)</li> <li>No corporate restrictions in implementing an incentivisation scheme</li> <li>Internal client controls</li> <li>Reduced risk through multiple suppliers</li> </ul>		15
	4.	<b>Mixed Economy</b> - (Client in house – tree work delivery outsourced. Tree planting in-house	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>A very good capacity to meet fluctuations in service demand via external contract arrangements (3 suppliers)</li> <li>No corporate restrictions in implementing an incentivisation scheme</li> </ul>		15

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
				<ul style="list-style-type: none"> <li>Internal client controls</li> <li>Reduced risk through multiple suppliers</li> </ul>		
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Some flexibility via the supporting external contract arrangements</li> <li>Limited ability to introduce an incentivisation scheme</li> <li>Capacity limitations with internal element of the service</li> </ul>		9
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	2	<ul style="list-style-type: none"> <li>Meets the council's requirements or priorities in the main but with some shortcomings</li> <li>Minimal flexibility as a single in-house supplier</li> <li>Limited ability to introduce an incentivisation scheme</li> </ul>		6
	7.	<b>Fully outsource</b> - both client and works deliver.	3	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Reduced Southwark monitoring and control of the work programme which would be managed by an external third party supplier.</li> <li>No corporate restrictions in implementing an incentivisation scheme for tree works</li> <li>Potential conflicts between public sector &amp; commercial priorities</li> </ul>		9
<b>Marking explanation:</b> Market incentivisation mechanisms and multiple suppliers with commercial flexibility and with the ability to extend and/or reduce seasonal resource prompt higher scores for external weighted models.						
<b>7. Innovation</b>						
Ability to innovate to deliver operational efficiencies:	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Increased scope for agility and flexibility through the externalised element of the service</li> <li>Potential drivers through commercial ethos of suppliers.</li> <li>Limited service impacts due to the reduced size of the internal team</li> </ul>	1 - Low	4
Flexibility and	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced,	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Increased scope for agility and flexibility through the</li> </ul>		4

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
speed with which to implement operational change and efficiency		supported by the full in-house team		externalised element of the service <ul style="list-style-type: none"> <li>• Potential drivers through commercial ethos of suppliers.</li> <li>• Limited service impacts due to the reduced size of the internal team</li> </ul>		
	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery & planting outsourced)	5	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities and provides additional benefit</li> <li>• Very good scope for agility and flexibility through the externalised element of the service</li> <li>• Potential drivers through commercial ethos of external suppliers.</li> </ul>		5
	4.	<b>Mixed Economy</b> - (Client in house, tree work delivery outsourced. Tree planting in-house)	5	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities and provides additional benefit</li> <li>• Very good scope for agility and flexibility through the externalised element of the service</li> <li>• Potential drivers through commercial ethos of external suppliers.</li> </ul>		5
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	4	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities</li> <li>• Moderate scope for agility and flexibility through the externalised element of the service</li> <li>• Potential drivers through commercial ethos of external suppliers.</li> </ul>		4
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	3	<ul style="list-style-type: none"> <li>• Delivers on the council's requirements and priorities satisfactorily</li> <li>• Limited agility in this regard due to in-house corporate processes and procedures (single supplier)</li> </ul>		3
	7.	<b>Fully outsource</b> - both client and works deliver.	5	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities and provides additional benefit</li> <li>• Very good scope for agility and flexibility through the externalised element of the service</li> <li>• Potential drivers through commercial ethos of</li> <li>• Potential scrutiny impacted due to absence of client role</li> </ul>		5
	<b>Marking explanation:</b> External models deemed more agile in delivering service improvement and the desire to invest in business development in order to					

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
drive greater efficiency.						
<b>8. Capability, management and intellectual knowledge</b>						
Retention of key skills and intellectual knowledge:  Managerial and tree surgery skill sets and knowledge of Southwark policies and procedures. Geographical and technical knowledge of tree stock from environmental perspective.	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Some scope due to a proportion of the service being provided n-house</li> <li>Retention of staff knowledge for the externalised elements of the service may be limited to potential TUPE transfers (if applicable)</li> </ul>	1- Low	4
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Some scope due to a proportion of the service being provided n-house</li> <li>Retention of staff knowledge for the externalised elements of the service may be limited to potential TUPE transfers (if applicable)</li> </ul>		4
	3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced)	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Retention of knowledge for client team only</li> <li>Retention of staff knowledge for the tree work elements of the service may be limited to potential TUPE transfers (if applicable)</li> </ul>		3
	4.	<b>Mixed Economy</b> - (Client in house, tree work delivery outsourced. Tree planting in-house	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Some scope due to a proportion of the service being provided n-house</li> <li>Retention of staff knowledge for the externalised elements of the service may be limited to potential TUPE transfers (if applicable)</li> </ul>		4
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Some scope due to a proportion of the service being provided n-house</li> <li>Retention of existing staff knowledge</li> </ul>		4

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
		via the Gateway process				
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Deemed more likely due to the complete provision of the service in-house</li> <li>Greater staff retention(increased roles)</li> </ul>		5
	7.	<b>Fully outsource</b> - both client and works delivery.	1	<ul style="list-style-type: none"> <li>Would only deliver the council's requirements or priorities to a limited extent</li> <li>Externalised contractual arrangements required</li> <li>Retention of staff knowledge for the externalised elements of the service may be limited to potential TUPE transfers (if applicable)</li> </ul>		1
<b>Marking explanation:</b> Internal weighted models more likely to retain staff, local knowledge and considered more in tune with Southwark policies and procedures.						
Exit strategies and implication costs – medium to long term:  Ability to effect change in a time friendly and cost effective manner taking account of the varying time impacts of external	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Implementing an exit strategy for a mixed economy service would be contractually straight forward</li> <li>TUPE transfers may apply or Partial potential redundancy &amp; re-deployment considerations (8 posts)</li> <li></li> </ul>	2 - Medium	8
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team	4	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Implementing an exit strategy for a mixed economy service would be contractually straight forward</li> <li>TUPE transfers may apply or Partial potential redundancy &amp; re-deployment (16 posts) considerations</li> <li></li> </ul>		8
	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery &	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Implementing an exit strategy for a fully external tree work delivery would be governed by the contractual arrangements in</li> </ul>		10



Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
procurement constraints and council policies and procedures.		planting outsourced)		place <ul style="list-style-type: none"> <li>Natural breaks available when contracts are re-tendered</li> <li>Retention of client team industry expertise to inform the process</li> </ul>		
	4.	<b>Mixed Economy</b> - Client in house, tree work delivery outsourced. Tree planting in-house	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Implementing an exit strategy for a mixed economy service would be contractually straight forward</li> <li>TUPE transfers may apply Partial potential redundancy &amp; re-deployment considerations (8 posts)</li> </ul>		8
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Implementing an exit strategy for a mixed economy service would be contractually straight forward</li> <li>Partial potential redundancy &amp; re-deployment considerations for the in-house element</li> </ul>		6
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	1	<ul style="list-style-type: none"> <li>Would only deliver the council's requirements or priorities to a limited extent</li> <li>Implementing an exit strategy for a fully internal services would provide a level of challenge (union negotiations)</li> <li>Potential redundancy &amp; re-deployment considerations (16 staff)</li> </ul>		2
	7.	<b>Fully outsource</b> - both client and works delivery.	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Implementing an exit strategy for a fully external services would be governed by the contractual arrangements in place</li> <li>Natural breaks available when contracts are re-tendered</li> <li>No industry specific technical knowledge (client team) retained in-house</li> </ul>		6
<b>Marking explanation:</b> Externally weighted models adjudged to provide a greater degree of flexibility in terms of speed of change and the ability to overcome the required logistical challenges.						
<b>9. Organisational arrangements</b>						

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
Organisational ability to respond to changing circumstances:  Ability to adapt to significant requirements for business change e.g. pest and disease management	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Flexibility available as there are Four suppliers, including a reduced and re-modelled in-house team</li> <li>Ability to tailor contractual agreements proactively</li> <li>Commercial flexibility to expand &amp; contact resource to meet changes in demand</li> <li>Reduced risk due to multiple supplier approach</li> </ul>	2 Medium	10
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Flexibility available as there are Four suppliers, including a reduced and re-modelled in-house team</li> <li>Ability to tailor contractual agreements proactively</li> <li>Commercial flexibility to expand &amp; contact resource to meet changes in demand</li> <li>Reduced risk due to multiple supplier approach</li> </ul>		10
	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery & planting outsourced)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Flexibility available as there are Three external suppliers</li> <li>Ability to tailor contractual agreements proactively</li> <li>Commercial flexibility to expand resource to meet changes in demand</li> <li>Reduced risk due to multiple supplier approach</li> </ul>		10
	4.	<b>Mixed Economy</b> - Client in house, tree work delivery outsourced. Tree planting in-house	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Flexibility available as there are Three external suppliers</li> <li>Ability to tailor contractual agreements proactively</li> <li>Commercial flexibility to expand resource to meet changes in demand</li> <li>Reduced risk due to multiple supplier approach</li> </ul>		10

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Flexibility available as there are four suppliers</li> <li>Contractor flexibility to meet changing demand</li> </ul>		8
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	2	<ul style="list-style-type: none"> <li>Would deliver on the council's requirements or priorities in the main but with some shortcomings</li> <li>Changes to structures, working practices and terms and conditions (30 day consultation period required).</li> <li>No commercial contractual flexibility to meet changes in demand</li> </ul>		4
	7.	<b>Fully outsource</b> - both client and works delivery.	2	<ul style="list-style-type: none"> <li>Would deliver on the council's requirements or priorities in the main but with some shortcomings</li> <li>One or more commercial tree work providers</li> <li>One commercial client provider</li> <li>External tree work supplier(s) limited by contractual agreements</li> <li>No internal client controls leaving priority decision making to the contractor</li> </ul>		4
<b>Marking explanation:</b> Externally weighted models with greater number of suppliers, deemed more flexible in being able to deliver required change in a timely manner.						
<b>10. Corporate Impact on Authority</b>						
Impact of establishing different service arrangements to existing	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	4	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities</li> <li>Change limited plant and equipment upgrade for in-house team.</li> <li>A supporting tree work contract would need to be procured.</li> <li>The in-house tree team posts would need to be reduced in size to 8 roles. Potential TUPE considerations and / or redundancy</li> <li>Merger of management teams required</li> </ul>	3 - High	12

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
structures and accountability:  Level of required change associated with each option.	2.	<b>Mixed Economy</b> - Client in house, works delivery outsourced, supported by the full in-house team	4	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities</li> <li>• Change limited to plant and equipment upgrade for in-house team.</li> <li>• A supporting tree work contract would need to be procured</li> <li>• Tree planting element will require full re-training &amp; equipment provision, including the ability to identify utility services</li> <li>• No post reductions or potential staff redundancies required</li> </ul>		12
	3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced)	4	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities</li> <li>• Supporting tree work contract would need to be procured.</li> <li>• Reduction in posts. TUPE may apply or Potential redundancies may be required</li> </ul>		12
	4.	<b>Mixed Economy</b> - Client in house – tree work delivery outsourced. Tree planting in-house	4	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities</li> <li>• Supporting tree work contract would need to be procured.</li> <li>• Reduction in posts. TUPE may apply or Potential redundancies may be required</li> </ul>		12
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	4	<ul style="list-style-type: none"> <li>• Delivers above the council's requirements and priorities</li> <li>• Change limited to plant and equipment upgrade.</li> <li>• A supporting tree work contract would need to be procured</li> </ul>		12
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	1	<ul style="list-style-type: none"> <li>• Would only deliver the council's requirements or priorities to a limited extent</li> <li>• Significant change structure change required</li> <li>• Substantial arrangements required for additional transport, plant &amp; equipment</li> <li>• Green waste disposal increase</li> <li>• Extensive recruitment and training required, in challenging industry climate (recruitment &amp; retention of staff)</li> <li>• New larger accommodation/depot facilities required</li> </ul>		3

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
	7.	<b>Fully outsource</b> - both client and works delivery.	0	<ul style="list-style-type: none"> <li>Does not meet any of the Council's requirements or priorities</li> <li>Significant change required. Contracts would need to be procured for client services and for the tree work elements of the service. Both the client function and tree team posts would need to be deleted, TUPE may apply or potential for redundancies</li> </ul>		0
<b>Marking explanation:</b> The degree of change required to implement each option. Mixed economy external weighted options achieved the highest score.						
<b>11. Local/regional economy and community wellbeing</b>						
Job creation opportunities in Southwark:  Opportunities for employment for Southwark residents.	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	2	<ul style="list-style-type: none"> <li>Would deliver on the council's requirements or priorities in the main but with some shortcomings</li> <li>Recruitment will be required by the successful contractors to meet their contractual obligations, which may suit local candidates, but most likely will attract staff who live close to the contractors base of operation</li> </ul>	1 – Low	2
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Recruitment will be required by the successful contractors to meet their contractual obligations, which may suit local candidates, but most likely will attract staff who live close to the contractors base of operation</li> <li>Recruitment as required to maintain existing in-house staff compliment</li> </ul>		3
	3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced)	2	<ul style="list-style-type: none"> <li>Would deliver on the council's requirements or priorities in the main but with some shortcomings</li> <li>Recruitment will be required by the successful contractors to meet their contractual obligations, which may suit local candidates, but most likely will attract staff who live close to the contractors base of operation</li> </ul>		2

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
	4.	<b>Mixed Economy</b> - Client in house – tree work delivery outsourced. Tree planting in-house	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Recruitment will be required by the successful contractors to meet their contractual obligations, which may suit local candidates, but most likely will attract staff who live close to the contractors base of operation</li> <li>Recruitment as required to maintain existing in-house staff compliment</li> </ul>		3
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	3	<ul style="list-style-type: none"> <li>Delivers on the council's requirements and priorities satisfactorily</li> <li>Recruitment will be required by the successful contractors to meet their contractual obligations, which may suit local candidates</li> <li>Recruitment as required to maintain existing in-house staff compliment</li> </ul>		3
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	5	<p>Delivers above the council's requirements and priorities and provides additional benefit</p> <ul style="list-style-type: none"> <li>This option would require significant recruitment to facilitate works delivery, which would suit local candidates</li> </ul>		5
	7.	<b>Fully outsource</b> - both client and works delivery.	1	<ul style="list-style-type: none"> <li>Would only deliver the council's requirements or priorities to a limited extent</li> <li>Recruitment will be required by the successful contractors to meet their contractual obligations, which may suit local candidates, but most likely will attract staff who live close to the contractors base of operation, based on industry experiences.</li> </ul>		1
<p><b>Marking explanation:</b> Contractor recruitment may be suitable for local people but will depend on where the contractor base of operations is located. Options requiring greater numbers of Southwark staff were scored more highly</p>						
<p><b>12. Sustainable Development/ Climate Emergency Response</b></p>						

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
Environmental impact and quality including air quality, landscape, noise, climate change, biodiversity' recycling, reusing and minimizing waste, and efficient use of energy and water	1.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by a reduced in-house team	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Option able to deliver against this criteria</li> </ul>	<b>3 – High</b>	15
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Option able to deliver against this criteria</li> </ul>		15
	3.	<b>Mixed Economy</b> - (Client in house, tree work delivery & planting outsourced)	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Option able to deliver against this criteria</li> </ul>		15
	4.	<b>Mixed Economy</b> - Client in house, tree work delivery outsourced. Tree planting in-house	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Option able to deliver against this criteria</li> </ul>		15
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Option able to deliver against this criteria</li> </ul>		15
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Option able to deliver against this criteria</li> </ul>		15
	7.	<b>Fully outsource</b> - both client and works delivery.	5	<ul style="list-style-type: none"> <li>Delivers above the council's requirements and priorities and provides additional benefit</li> <li>Option able to deliver against this criteria</li> </ul>		15

Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
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**Marking explanation:** The ability of each option delivers equally in this aspect, whether through an SLA or external contract.

Chosen criteria	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)	
<b>Total (weighted) score (sum of scores across all the chosen criteria for each option)</b>	1.	<b>Mixed Economy</b> - (Client in house – works delivery outsourced, supported by a reduced in-house team)				141
	2.	<b>Mixed Economy</b> - (Client in house, works delivery outsourced, supported by the full in-house team)				142
	3.	<b>Mixed Economy</b> - (Client in house – tree work delivery & planting outsourced)				136
	4.	<b>Mixed Economy</b> - Client in house – tree work delivery outsourced. Tree planting in-house				143
	5.	<b>Do nothing</b> - Internal client team & existing In-house tree work delivery provision managed separately with supporting batched contract arrangements let via the Gateway process				126

153



Chosen criteria	Item No.	Option under appraisal	Score (0-5)	Description/rationale for score	Weighting (1-3)	Total score (score x weighting)
	6.	<b>Fully In-house team</b> - Combining client and works delivery teams under one management structure				108
	7.	<b>Fully outsource</b> - both client and works delivery.				94

<b>Option 4 total</b>	<b>143</b>	<b>1st</b>
Option 1 total	141	3rd
Option 2 total	142	2nd
Option 3 total	136	4th
Option 5 total	126	5th
Option 6 total	108	6th
Option 7 total	94	7th

<b>Item No.</b> 16.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 0 - Appraisal of management options for leisure centres	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Councillor Catherine Rose, Leisure, Environment and Roads	

## **FOREWORD – COUNCILLOR CATHERINE ROSE – CABINET MEMBER FOR LEISURE, ENVIRONMENT AND ROADS**

The outbreak of the COVID-19 pandemic and the resultant imposition of lockdowns have had a fundamental impact on the operation and financial performance of the sports and leisure sector in general, and therefore on the council's leisure facilities.

The council now has the opportunity to think creatively about how to deliver leisure services beyond June 2023, redesigning services to better serve residents. It's important that the spaces in Southwark leisure centres are fully utilised by the community and those who may not typically access a leisure centre are encouraged to do so.

This report sets out our future intentions for the delivery of our leisure services. The Council has a preference for in-house services and there is a clear intention and plan within this report to have direct responsibility over the management and operation of its leisure facilities and services. We are setting out a process that provides stability to the current service and all those that work hard to deliver the current leisure offer and services. Our commitment to staff and all our residents remains at the forefront of our approach until 2023 and will underpin the strategy for the service going forward.

This would enable the leisure service to be fully responsive to council priorities and would provide opportunities to work closely across council departments to deliver strategic outcomes in a more innovative and joined up way – linking the provision of leisure services with other council and partner services.

I'm excited about the potential for a directly delivered service that will provide our borough with an enriched sports, exercise and leisure offer. Our driving ambition is to deliver a world class leisure service and facilities for all.

## **RECOMMENDATIONS**

That cabinet:

1. Notes that the council's current contract with Sport & Leisure Management Limited (SLM) ends in June 2023 and this provides the council with the

opportunity to consider a new and more effective delivery model for its leisure service.

2. Notes the outcome of the leisure service strategic options assessment which demonstrates that insourcing, outsourcing or creating a Local Authority Controlled Company (LACC) are all reasonable management options for the council to consider.
3. Notes that insourcing the leisure service is currently the preferred option in that it addresses a number of key drivers for change, and provides the council with a range of benefits, as detailed in paragraphs 12 – 19 of this report.
4. Notes the associated advantages and risks with insourcing the leisure service, as detailed in Tables 4 and 5.
5. Notes that the recruitment of an experienced Programme Manager is required on a fixed term basis to implement the planning, and oversee the delivery, of the next steps of the preferred in-house option. In addition a strategic outcomes planning strategy is needed which will be undertaken by an external consultancy.
6. Requests that, subject to the approval of the recommendations in this Gateway 0 report, a Gateway 1 paper is brought to cabinet in autumn 2021 to seek approval to a proposed insourcing strategy which will include a detailed programme and implementable plan to bring the leisure service in-house.

## **BACKGROUND INFORMATION**

7. On 21 June 2016 the council entered into a seven year contract with an option to extend for a period or periods of up to a further seven years at the council's discretion with Sport & Leisure Management Limited (SLM) for the management of the council's eight leisure facilities and for the operation of the sports booking service. SLM operate under the name of Everyone Active (EA).
8. Before the COVID-19 pandemic began the leisure contract was performing well operationally but was not achieving the expected income levels for various reasons such as the impact of budget gyms and the success of the Free Swim and Gym Scheme. Both the council and SLM were in discussion at that time about the best way to address this.
9. On Friday 20 March 2020 the Government instructed that all public leisure centres should close the following day for public health reasons in relation to the coronavirus pandemic. A series of support packages have subsequently been agreed to ensure that leisure centres can open as restrictions have allowed.
10. In October 2020 Cabinet agreed to continue in contract with the council's leisure management contractor, SLM for cost and timing reasons from 1 April

2021 until the end of the contract in 2023. The cabinet also gave approval to enter into negotiations and agree a contract variation with SLM for financial support, in order for the council to fully evaluate the options available to it when the current contract ends in June 2023.

11. As all options available to the council require significant lead in times, it was agreed that a paper would be brought to the cabinet in March 2021 on the recommended option for the future delivery model for leisure. Officers, with the support of an external consultancy, which specialises in sport and leisure services, have carried out a comprehensive management options appraisal to aid the council in its decision on the future of the leisure service.

## **KEY ISSUES FOR CONSIDERATION**

### **The key drivers for change**

12. The outbreak of the COVID-19 pandemic and the resultant imposition of lockdowns have had a fundamental impact on the operation and financial performance of the sports and leisure sector in general, and therefore on the council's leisure facilities. SLM have understandably been unable to generate pre-COVID-19 levels of income from Southwark leisure centres and have required significant financial support to keep facilities open. In addition, prior to the COVID-19 pandemic, although the leisure contract was performing well operationally, it was not achieving its expected income levels. One of the key perceived advantages of outsourced leisure management arrangements had been the transfer of significant financial risk. However, this has proved not to be the case as a result of COVID-19 and has contributed to a desire for a new management model.
13. The council has a preference for in-house services wherever possible and there is a desire to have direct responsibility over the management and operation of its leisure facilities and services. This would enable the leisure service to be fully responsive to council priorities and would provide opportunities to work closely with other key council departments to deliver strategic outcomes in a more innovative and joined up way – linking the provision of leisure services with other council and partner services. The ability to manage facilities and services that are not necessarily commercially attractive, but which may maximise opportunities for residents across the borough, is also a key consideration when reviewing the future of the leisure contract.
14. The council now has the opportunity to think creatively about how to deliver leisure services beyond June 2023, redesigning services to better serve residents. It's important that the spaces in Southwark leisure centres are fully utilised by the community and those who may not typically access a leisure centre are encouraged to do so. This could be facilitated, for example, via a new health and wellbeing offer in which leisure centres are transformed into 'health hubs' offering a range of services from mental health support to healthy eating sessions.
15. Due to the impact of COVID-19, the health and wellbeing of Southwark

residents has never been so important. It is vital that as the country emerges from the pandemic, leisure services are prioritised.

16. The pandemic has undoubtedly had a disproportionate impact on the health and wellbeing of BAME communities which must be addressed as part of any new leisure service. Southwark stands together is a borough wide initiative in response to the racism and injustice experienced by Black Asian and Minority Ethnicity (BAME) communities and to the inequalities exposed by COVID 19. Surveys and public listening events have been held where these health inequalities have been highlighted.
17. The council's has committed to tackling this issue and has stated in the Fairer Future commitments: 'The disproportionate impact of COVID-19 has shown clearly that breaking down barriers that prevent people from living a healthy life must include tackling health inequalities that affect different communities. We're committed to closing the gap in health inequalities and tackling health issues that particularly affect our Black, Asian and minority ethnic communities.'
  - The council wants to reduce health inequality so that whatever your background you can live a healthy life.
18. The council also aspires to deliver a cost neutral leisure service. The aim is that the income from the new leisure service would cover all operational costs whilst delivering a range of services for residents.
19. In summary, a new leisure service management model is required to:
  - Ensure the council can provide leisure facilities and services according to its priorities, maximising opportunities for residents
  - Ensure the health and wellbeing of residents is prioritised as we emerge from the pandemic, especially those from BAME communities
  - Work innovatively with key departments and divisions across the council, and with partners, to provide excellent services for residents most in need
  - Minimise the immediate financial impact of the delivery of services

### **Current service arrangements**

20. In 2016 SLM was awarded the contract for the management of the following leisure facilities:
  - Camberwell Leisure Centre
  - Dulwich Leisure Centre
  - Peckham Pulse Healthy Living Centre
  - Seven Islands Leisure Centre
  - Southwark Athletics Centre
  - Surrey Docks Water Sports Centre
  - The Castle
  - Geraldine Mary Harmsworth Sports Facility

21. Included in the services to be provided is the management of the booking systems and services for all of the centres listed above as well as those listed below:
- Belair Park
  - Dulwich Park
  - Honor Oak Sports Ground
  - Peckham Rye Park
  - Southwark Park
  - Tabard Gardens
22. As part of SLM's contract they deliver the free swim and gym offer which provides:
- Free swim and gym for all residents and council staff all day on Fridays and Saturday/Sundays from 14:00hrs to close, at all centres.
  - The swimming includes general/lane swimming and age related swim sessions (child and adult go free).
  - The gym includes junior gym sessions for 14-15 year olds at specified times and free access to residents aged over 16.
  - Over 60s residents access to the current Silver programme for free. These are various swimming, gym and classes that operate at different times during the week.
  - Free swim and gym throughout the week for those on the GP physical activity referral scheme including Kickstart; and the NHS Health Checks Programme
  - Free disabled access to the gym and swimming pool all week.
  - Free swimming lessons for residents who are non-swimmers and aged 16 or over.

### **Benchmarking and soft market testing**

23. A review of the impact of the COVID-19 pandemic on the local authority leisure market has been undertaken:
- 32 of the 33 London boroughs outsource leisure facility management. One borough manages an in-house service.
  - A total of eight leisure management contractors had a presence in London; however GLL/Better (operating in 14 boroughs), Everyone Active (9 boroughs) and Fusion Lifestyle (5 boroughs) are the only organisations to have more than two contracts. Some boroughs have two operators delivering services in their boroughs.
24. The review highlighted that the financial challenges created by the pandemic and faced by the council and SLM since March 2020 are being faced by almost every local authority and leisure operator in the UK. In addition, the council's acceptance of some contractual liability for the net costs of services through both the periods of enforced closure and the associated business recovery phases is similar to the approach of the vast majority of local

authorities across the UK.

25. The significant financial challenges on the council's leisure contract forfeiture of an anticipated management fee payment and the net losses at the leisure facilities – are common to many other local authorities, including most London boroughs.
26. It also appears that SLM's management of the leisure facilities and (projected) financial performance of those facilities in 2020/21 is broadly in line with the levels of performance and, income recovery seen by many council leisure facilities across the UK.
27. The level of financial impact involved and the uncertainty of when that financial impact might end, means that many local authorities have started to consider radical solutions including facility closures and changes to established management arrangements. Whilst there are, to date, only a small number of examples of local authorities actually changing their management arrangements, the anticipation is that this number is likely to increase through 2021, with consideration of management options, coupled with facility reviews to deliver affordable and sustainable services.
28. The leisure sector as a whole faces an uncertain future. The impact of Covid may well change the sector significantly, after a period of time which has seen the rise of budget gyms and a more competitive market. Consumer choice, and the economy, will also be significant factors.

### **Strategic service delivery options and assessment**

29. Officers have, with assistance from an external leisure consultancy, who specialise in sport and leisure services, carried out a comprehensive management options appraisal to aid the council in its decision on the future of the leisure service. The appraisal considers and evaluates the following management options:
  - 1) Outsourcing of service – via a competitive procurement process.
  - 2) Insourcing – direct delivery by the council - transfer back to in-house management after a previous outsourcing arrangement
    - The council has direct responsibility for the management and operation of the site and the facilities and services located within it.
    - The council retains all income and expenditure and control over the service.
    - Any staff employed in the day to day operation of the facilities and services are employed by the council (where specialist services are required this may be outsourced or use existing council contractors such as facility maintenance).
    - Services use the central support services of the local authority.
    - Operating risks of the services remain with the local authority – e.g. responsible for under performance.

- In the event that the service is being taken back in-house after a previous outsourcing arrangement, there would be set up costs and timescale implications that would need to be established.
- 3) Set up a new organisation (Leisure Trust) – A non-profit distributing organisation (NPDO) is a form of business structure where, although profit is still sought, any profit is reinvested in services at arms length.
- A council would help establish an independent company or organisation (subject to legal advice being taken) to take on the operation and management of the leisure services through leases and grant funding arrangements.
  - Often set up to be bespoke to an individual authority, aligned to the community needs at the time of inception to deliver local outcomes.
  - Some Local NPDO trusts do operate other facilities beyond the local authority borders of their host client. Some of these larger Trusts are running multiple operations and securing contracts in open competition.
  - Normally recognised by the Charities Commission.
  - Tend to be independent from the council and any trustees would be required to act in the best interests of the new company and not the council.

4) Local Authority Controlled Company (LACC) - 'arm's length' organisation.

- Local authority must control all of the shares in the LACC and must also exercise effective day-to-day control over its affairs
- At least 80% of the activity of the LACC (over 80% of its turnover) must be for its public-sector owners.
- This model cannot significantly scale and replicate its service beyond the borders of the local authority in the way that a NPDO Trust is able to do.
- Where a council owns the company, it cannot be a charity although it may have charitable objectives.
- The council retains control over the service and ultimately, carries all the risk.

30. It should be noted that the council has also been in explorative discussions with other boroughs about the potential opportunities to work together to deliver a shared leisure services. These conversations are currently ongoing and will be considered as part of the Gateway 1 report in autumn 2021.

### **Recommended option**

31. Based on the information and details outlined in the report, all options are viable, but the current preferred option for future delivery is option 2: insourcing - direct delivery by the council – on account of its flexibility, ability to join up services across the council, and its fit with the council's values and priorities for residents and its workforce.
32. As noted in the evaluation results set out below in table 3, the management options appraisal concluded that as insourcing, outsourcing and setting up a



LACC all scored very similarly, they are all reasonable management options for the council to consider. However, this preferred option has been selected as it addresses the primary drivers for change as noted earlier in this report and as the council has a strong desire for control over delivery of this service.

33. In addition to addressing the primary drivers for change the below benefits of insourcing also include:
- Under in-house management the council is likely to retain some of the professional and operational expertise of the sites' management and staff through the TUPE process. Terms and conditions for staff may improve (particularly in regards to pensions) which in the short term could increase morale.
  - The local authority could seek innovative ways of generating additional revenue from their assets.
  - Another benefit of insourcing may be the opportunity for the council's own service departments to work closer together, developing one single internal economy where resources can be shared, and economies of scale (albeit on a small scale) delivered.
  - The option to insource is not without risk – financial, operational, reputational and organisational. These are detailed in Table 5 later in this report.

### The assessment process

34. The project board, comprised of key staff across the council, developed an evaluation matrix. The matrix includes the relative importance weightings set out against the council's key service criteria as noted in the below table.

**Table 1 - evaluation criteria**

Criteria	Description	Weighting %
Delivery of Outcomes	Ability to deliver the council's strategic outcomes, including health, sport and physical activity outcomes; ability to engagement with other council services including vulnerable groups; high priority groups; delivery of the council's climate agenda, additionally through Social Value; and maximising the benefits for local people.	25.0%
Strategic Control of Service	Ability to control the effective management of assets and provision of services for local people.	25.0%
Cost - Tax Structure	To reflect fiscal savings from the operational vehicle (management option) which are set by regulations. These include VAT and Non-National Domestic Rates (NDR).	10.0%

Criteria	Description	Weighting %
Cost - Service Delivery	Operating costs that are deemed to be elective including parity of terms and conditions of employees and pensions, levels of overheads and profit, capacity and ability to generate income, number of employees, levels of marketing budgets, savings in utility costs from bulk purchasing, economies of scale etc.	10.0%
Risk Operational -	The extent to which the council is exposed to the risks of operating the facilities, including day-to-day management, health and safety, provision of staff and the optimisation of maintenance and utility costs.	10.0%
Risk Commercial -	The extent to which the council is exposed to the commercial risks associated with the services and facilities, including risks such as changes in law, changes in utility tariff, new competition, uninsured risks etc.	10.0%
Championing the key principles of an Employer of Choice	Ability to create employment opportunities and contribution to the council's aspiration to become an employer of choice. Development of harmonisation of workforce and where possible the protection of the terms and conditions of the employees.	2.5%
Accessibility to Revenue and Capital Resources	Ability to leverage external funding, both revenue and capital interventions including the long-term development and investment in assets and the provision of accessible services which encourage physical activity.	2.5%
Flexibility to change	Ability to change with council policies. Ability to develop synergy with other stakeholders and respond to market trends.	2.5%
Ability to provide an effective IT solution, infrastructure and offering	Respond to market requirements, on-going revenue costs. Demonstrate economies of scale in IT provision, ability to spot and respond to user trends and delivery of positive customer communications through technology. Effective digital and social media presence	2.5%
		100%

### Scoring criteria

35. Once the relative importance weightings were determined for each criterion, each one was then scored between 0 and 5, from lowest score to highest for each management option. Please see below table for the description of the scores:

**Table 2 – description of score**

Score	Description of score
5	The model meets the criteria fully in line with the council's requirements
4	The model meets the criteria to a significant degree with the council's requirements
3	The model meets the criteria satisfactorily and has some disadvantages
2	The model does not meet the criteria to in a number of areas
1	The model does not meet the criteria in a number of key areas and has a significant number of disadvantages
0	The model does not meet the criteria to any degree

36. Final evaluation results for each management option have been determined through a calculation of the relative importance weightings and the score given for each criterion. The maximum score each option can receive is 5.0.

**Table 3 - evaluation results**

Rank	Management option	Total score
1	LACC	3.65
2	Insourcing	3.55
3	Outsourcing	3.53
4	A new organisation (Leisure Trust)	2.75

37. As outlined below in table 4 there are advantages and disadvantages of each of the options and they all have their own characteristics. The two options with the top score were the LACC and insourcing.

**Table 4 – options comparison summary**

Model	Advantages	Disadvantages
<b>In-house</b>	<ul style="list-style-type: none"> <li>• The council retains complete strategic and day to day control of the sites and service.</li> <li>• Delivery of a holistic solution with other council services including vulnerable groups, supporting public health, children services and social care outcomes and its own strategic objectives</li> <li>• Terms and conditions for staff may improve (particularly pensions) which in the short term could increase morale.</li> <li>• The service could share central support costs with other council departments.</li> <li>• Provision of services without the focus on profit.</li> <li>• A responsive and flexible model that would allow the council to</li> </ul>	<ul style="list-style-type: none"> <li>• The council retains the market risk and the liability for the operational performance and the capital maintenance costs of the sites.</li> <li>• Limited access to the benefits of developing new opportunities and from economies of scale.</li> <li>• The associated pay and pension costs involved with bringing a large workforce into the Local Government Pension Scheme (LGPS) would be significant.</li> <li>• The significant financial resourcing implications of bringing the service in-</li> </ul>

Model	Advantages	Disadvantages
	<p>deliver against priorities and maximise opportunities for residents</p>	<p>house.</p>
<b>Outsourcing</b>	<ul style="list-style-type: none"> <li>• Operator likely to optimise opportunities for income generation and economies of scale against social outcomes.</li> <li>• The council is normally able to transfer considerable operational risk over to the operator.</li> <li>• Economies of scale</li> <li>• Broader expertise and experience of the operator.</li> </ul>	<ul style="list-style-type: none"> <li>• The council does not have direct control over the sites</li> <li>• Operator may seek commercial rather than social objectives e.g. profit</li> <li>• Staff are transferred to the operator under TUPE, although pension benefits may be comparable only.</li> <li>• Council responsible for the impact under a change in law</li> </ul>
<b>LACC</b>	<ul style="list-style-type: none"> <li>• Opportunity for the LACC and the council to work together under a publicly owned corporate vehicle with shared interests and values</li> <li>• Management team is likely to understand the business, demographics and market</li> <li>• Workforce sharing</li> <li>• Benefits of having a single-issue focus for the management team.</li> <li>• Economies of scale</li> </ul>	<ul style="list-style-type: none"> <li>• Limited operational risks transferred to the organisation given it is wholly owned by the public sector.</li> <li>• Can be a costly alternative where public sector emoluments and pension benefits are maintained compared to an outsourcing model.</li> <li>• Need to ensure the leadership team have the necessary skills to balance the commercial risk and strategic objectives</li> <li>• Need to ensure that discretionary rate relief is possible to optimise the financial benefits.</li> </ul>
<b>New Leisure Trust</b>	<ul style="list-style-type: none"> <li>• Often set up bespoke to the individual authority and are aligned to the community needs at the time of inception to deliver local outcomes</li> <li>• NPDO trusts are also able to work with other public sector and voluntary partners and are normally recognised by the</li> </ul>	<ul style="list-style-type: none"> <li>• The company would be independent from the council and any trustees would be required to act in the best interests of the new company and not the council</li> <li>• The external leisure consultancy rated setting</li> </ul>

Model	Advantages	Disadvantages
	Charities Commission. <ul style="list-style-type: none"> <li>• NPDO trusts are also able to work with other public sector and voluntary partners and are normally recognised by the Charities Commission.</li> <li>• NPDO models can attract both mandatory rate relief and VAT exemption benefits</li> </ul>	up a new trust as the riskiest option as this would be an independent company and although it may have the same workforce, the lack of leadership and policies may result in difficulties in controlling assets, income and costs.

38. The upside of insourcing over a controlled company is that it has the capacity to work across a range of council services to address the day to day issues and also holistically, the delivery of the strategic outcomes of the council without being tied down to a specification or contract that needs to be renegotiated at every change made or requested. Officers feel connected with each other and tied to a common purpose of providing services to the community; this may be marginally lost with the LACC option.
39. The council has a wide range of strategic outcomes which will change over time. There are also sub-sets of objectives and priorities that are reflected within, inter alia, the health and wellbeing strategy, education plans, children services, early help plans, social care plans and sport and physical activity strategies.
40. These requirements can be documented within contracts and specifications; however, to build these relationships with external companies can often be difficult for council departments to deliver. Changes can be difficult to put in place, given there is normally a financial implication to be considered and approved. This can often be seen as providing a less flexible approach to the constant changes to the council's own outcomes and needs hence the reason for the preference of insourcing.

## Risks

Table 5 - Identified risks for the preferred strategic option - insourcing

Item no.	Risk	Risk Description	Likelihood score (1= low to 5= very high)	Severity score (1= low to 5= very high)	Impact Likelihood x Severity	Mitigation	Revised Impact
1	Mobilisation – failure to meet key deadlines.	The new management model is not delivered on time to dovetail with the expiry of the existing contract which results in service disruption and reputational damage for the council	2	3	Medium	<p>The recruitment of a Programme Manager to oversee the implementation of insourcing the leisure service. Continued monitoring by Leisure Programme Board to ensure key milestones are being met.</p> <p>Termination of the contract would result in reputational damage for both parties and be noted on all future SLM tender submissions.so the likelihood is unlikely.</p>	Medium
2	Financial – affordability of the new model.	The outcome of the procurement / change in management model results in costs being greater than working	2	4	High	Officers will follow Southwark's procurement procedures, such as the Contract Standing Orders (CSOs), which are designed to ensure that the	Medium

Item no.	Risk	Risk Description	Likelihood score (1= low to 5= very high)	Severity score (1= low to 5= very high)	Impact Likelihood x Severity	Mitigation	Revised Impact
		estimates / budgets.				<p>council achieves best value and continued improvement for all purchases.</p> <p>The financial costings have been provided by consultants with significant industry experience and validated by council officers.</p>	
3	Economic - leisure industry conditions.	The length of time that it will take for the recovery of the leisure industry is unknown. How will the leisure centres perform in the medium to long term?	4	4	High	GW1 report in the Autumn to provide detail of the ongoing costs and will seek cabinet agreement that those costs will be covered.	High
4	Staffing and culture – insufficient capacity within the organisation.	The organisation's capability and capacity to accommodate a new management model with the associated infrastructure, management and staffing requirements	3	4	High	Through detailed project planning the organisational capacity required will be identified and detailed in the GW1.	Medium

Item no.	Risk	Risk Description	Likelihood score (1= low to 5= very high)	Severity score (1= low to 5= very high)	Impact Likelihood x Severity	Mitigation	Revised Impact
		as the preferred in house model will impact on a number of other departmental functions.					
5	Reputational – failure to deliver on council commitments and service standards.	The preferred option does not deliver the additional benefits to the community.	2	3	<b>Medium</b>	Commission an external organisation to undertake a 'strategic outcomes planning strategy' to identify service benefits to the community.	<b>Low</b>
6	Covid recovery-ongoing uncertainty of the pandemic - the only recovery data existing so far is 3 months of operational data in the past year since the pandemic began.	The leisure centres are monitored by council officers to ensure continuous improvement.	3	2	<b>Medium</b>	Close monitoring of the operational and financial performance of the leisure centres when restriction are lifted using open book accounting with leisure operator in order to evaluate and assess recovery.	<b>Low</b>



Item no.	Risk	Risk Description	Likelihood score (1= low to 5= very high)	Severity score (1= low to 5= very high)	Impact Likelihood x Severity	Mitigation	Revised Impact
7	Asset management - There is an ongoing commitment to invest in the leisure centres which currently sits with the contactor	The council assumes all the maintenance and management costs of the buildings.	3	4	<b>High</b>	Robust monitoring of the facilities to be in place from the outset and early identification of lifecycle maintenance of the assets.	<b>Medium</b>
8	Legal and regulatory – health and safety responsibility.	Increased risk and exposure for the council as it will take on health and safety and other associated responsibilities previously held by the operator.	5	4	<b>High</b>	Ensuring that the health and safety management of the leisure services is sufficiently resourced.	<b>High</b>

## Key /Non Key decisions

41. This is a key decision.

## Policy Implications

42. The management of the leisure centres and delivery of excellent leisure services is directly linked to the council's commitment to a 'Fairer future for all', in particular:

We want to break down barriers that prevent people from thriving in Southwark, so that whatever your background you can live a healthy life.

43. The refreshed Borough Plan 2020 - 22 sets out a series of commitments across eight themes:

- COVID-19 response
- Southwark Together
- A green and inclusive economy
- Climate Emergency
- Tackling health inequalities
- Homes for all
- A great start in life
- Thriving neighbourhoods

44. Leisure centre provision contributes to the delivery of these commitments. In particular, the Borough Plan states, 'Invest in our leisure centres and ensure our residents can continue to access high quality leisure services.'

45. In addition, leisure centre provision is an important part of the Active Southwark strategy which was agreed by the cabinet in April 2019. The themes of the strategy are:

- Active People – understanding the circumstances of individuals to better shape our services and offer
- Active Places – shaping our environment and facilities so that they encourage more people to be more active
- Active Communities – maximising resources and building partnerships with our communities that promote physical activity.

## Next Steps

**Table 6 - Service Delivery Project Plan (Key Decisions)**

Activity	Complete by:
DCRB Review Gateway 0	17/02/2021
CCRB Review Gateway 0	18/02/2021

<b>Activity</b>	<b>Complete by:</b>
Agenda planning	23/02/2021
Deadline for final reports	25/02/2021
Approval of Gateway 0: Strategic Options Assessment	09/03/2021
Scrutiny Call-in period and notification of implementation of Gateway 0 decision	24/03/2021
Gateway 1 report to cabinet paper detailing implementation of insourcing option	Autumn 2021
Current contract end date	30/06/2023

### **Community impact statement**

46. To minimise any impact on the community and residents with protected characteristics, an equalities impact assessment will be carried out as part of the Gateway 1 report to the cabinet which will be brought back by autumn 2021.

### **Social Value considerations**

47. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing any procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured. Social value considerations and how the delivery of these services can benefit the local area are detailed below:

### **Economic considerations**

48. This review considers an appropriate delivery model for the provision of leisure services. There is likely to be a positive economic impact through local employment opportunities and the provision of apprenticeships etc. The economic considerations will be considered in-depth in the Gateway 1 report.

### **Social considerations**

49. Social considerations are to be built into the process for delivering the recommended option and will be reported in the Gateway 1 report.
50. Bringing the service in-house will mean that all council policies are adhered to in respect of responsible employment; for example, the London Living Wage will apply. The council will also ensure that the council's fairer future principle 'looking after every penny as if it was our own' is applied.

### **Plans for the monitoring and management of project**

51. The project will be managed by the Parks and Leisure Team and overseen by the proposed new, Programme Manager.

52. The project will be monitored by the Leisure Project Board consisting of key stakeholders across the council such as:

- HR
- Legal
- Procurement
- Finance
- Marketing and Communications
- Insurance
- IT
- Public Health
- Children's and Adults Services

53. The project board will be reporting progress against key milestones and updating on key risks and issues with recommendation for mitigation to the Leisure Sponsorship Group which is chaired by the Strategic Director for Environment and Leisure.

### **Resource implications**

54. At this stage of the project additional resources will be required in relation to the two points set out in paragraphs 5 and 6 relating to the appointment of a Programme Manager and the development of a strategic outcomes planning strategy which will be undertaken by an external consultancy. Resources will also be required from officers in several council departments including but not limited to the list below to support the gateway 1 process.

- Human Resources
- IT
- Legal
- Marketing
- Corporate Facilities Management
- Procurement
- Public health
- Finance

### **TUPE/Pensions implications**

55. There will be TUPE and pension considerations, however the details of this will be included in the Gateway 1 cabinet report.

### **Financial implications**

56. This paper sets out the current preferred option - for the future of leisure services in Southwark. The financial implications of the insourcing option are two fold, firstly the up front and significant financial resource that will be required to mobilise the preferred option and secondly the recovery of the leisure sector is currently uncertain, and will be impacted by income, the economy in general and competition in the sector. More may be known by

September, but it is possible that the financial position will be unclear for some time.

57. The more immediate resource requirements are related to the appointment of the programme manager and the commencement of the strategic outcomes planning strategy as set out in paragraphs 5 and 6.
58. A paper with detailed financial implications of the insourcing option will be brought to the cabinet in a Gateway 1 report in Autumn 2021.

### **Legal implications**

59. Please refer to the concurrent from the Director of Law and Governance.

### **Consultation**

60. This report has been progressed by the Leisure team, in conjunction with key stakeholders across the council, and under corporate scrutiny from the lead member. Staff and trade union consultation will be carried out in accordance with the council's human resources policies and guidance as appropriate.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (FC20/031)**

61. This report is requesting the cabinet to note the outcome of the leisure service strategic options assessment undertaken by external consultants and request that a further report is submitted by autumn 2021 providing a detailed programme and implementable plan to bring the leisure service in-house.
62. The strategic director of finance and governance notes that the insourcing the option will require an increase in budgetary resources for both revenue and capital, details of which will be included in cabinet report expected in autumn 2021. The financial implications for both revenue and capital budgets for operating the leisure centres in the future will need to be incorporated within the council's annual budget setting process, once approved by the cabinet.
63. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.

### **Head of Procurement**

64. This report asks that cabinet note the Gateway 0 report and strategic options assessment presented as opportunities for the future of the council's leisure service when the current contract expires at the end of June 2023.
65. The report asked cabinet to note that the outcome of the leisure service strategic options assessment demonstrates that insourcing, outsourcing or

creating a Local Authority Controlled Company (LACC) are all reasonable management options for the council to consider in the aim of an ever more effective delivery model for this service.

66. Cabinet are asked to note that insourcing the leisure service is currently the preferred option as it addresses a number of key drivers for change and provides the council with a range of benefits detailed in paragraphs 12 – 19 of the report. The risks associated with the insourcing option, including the cost of preparation and the ongoing service delivery are highlighted in table 5.
67. The report requests that, subject to the approval of the recommendations in this Gateway 0 report, a Gateway 1 paper is brought to cabinet in autumn 2021 to seek approval to a proposed insourcing strategy which will include a detailed programme and implementable plan to bring the leisure service in-house.
68. In support of the development of the Gateway 1 report, there are two resource implications detailed in paragraph 54 and contained within the report recommendations. Cabinet are asked to note the need to recruit an experienced Programme Manager on a fixed term basis to implement the planning, and oversee the delivery of the next steps of the preferred in-house option. Cabinet are also asked to approve the development of a strategic outcomes planning strategy to be delivered externally to the council.

#### **Director of Law and Governance**

69. This report seeks that cabinet notes the strategic options assessment for the delivery of the council's leisure services when the existing contract expires in June 2023. In particular is asked to note the recommendations in paragraphs 1-6 of this report as well as to approve the development of a strategic outcomes planning at the estimated cost detailed in paragraph 6 of this report.
70. Under the council's Contract Standing Orders, a pre-procurement/Gateway 0 report is required for any service contract with an estimated contract value of £10m or more, or other strategically important contract for services, goods or works where requested by the relevant cabinet member. The decision to approve the report recommendations is reserved to the relevant cabinet member, who may elect to refer the decision to cabinet, after consideration of the Gateway 0 report by the Corporate Contracts Review Board.
71. Paragraphs 12 to 19 of this report sets out the key drivers for change to a new leisure services management model and paragraph 29 outlines the management options appraisal which were considered and evaluated by the council with assistance from the council's external consultants. The advantages and disadvantages of each of the options are highlighted in Table 4 of this report.
72. As outlined in paragraph 32 of this report, the management options appraisal

concluded that insourcing, outsourcing and setting up a local authority controlled company are all reasonable management options for the council to consider. However, the preferred option is in-sourcing as this addresses the primary drivers for change outlined in paragraphs 12-19 of this report as well as providing the benefits outlined in paragraph 33. The risks associated with the preferred option are highlighted in Table 5 of this report.

73. Subject to the cabinet approving the recommendations in this GW0 report, a GW1 report will be brought to cabinet in autumn 2021 which will include a detailed programme and an implementable plan to bring the leisure service in-house. Legal officers from Law and Governance will continue to assist the Leisure Team as this project progresses, and will give the cabinet additional advice in due course

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
'Leisure Management Contract – Management options from April 2021', October 2020 cabinet paper	Leisure Team, 160 Tooley Street	Tara Quinn 07940788704
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MeetingId=6663">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MeetingId=6663</a>		

## APPENDICES

No.	Title
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Catherine Rose, Leisure, Environment & Roads	
<b>Lead Officer</b>	Rebecca Towers, Director of Leisure	
<b>Report Author</b>	Catherine Snell, Research & Development Officer	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Governance	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		25 February 2021



<b>Item No.</b> 17.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Public Space Protection Order Extension - to tackle dog related anti-social behaviour	
<b>Ward(s) or groups affected:</b>		All wards	
<b>Cabinet Member:</b>		Councillor Evelyn Akoto, Public Health and Community Safety	

**FOREWORD – COUNCILLOR EVELYN AKOTO, CABINET MEMBER FOR PUBLIC HEALTH AND COMMUNITY SAFETY**

The Covid-19 Pandemic has had a huge and significant impact on the country. Local authorities and their services continue to face many and varied challenges to address concerns of residents and focus on the need to implement measures that will reduce the spread of Corona Virus. Southwark Council along with many other local authorities have had to divert resources from ongoing projects, initiatives and services in order to put focus on the organisational effort to support the battle against Covid-19

Due to additional competing priorities brought about by the Pandemic and the need to take action to encourage behaviour which aimed at reducing infection rates, Southwark Council has not had the staff time resource to commit to the renewal of this PSPO.

Work to renew the PSPO includes the need to go to full public consultation. This piece of work, with its additional complexities, will take 18 months and, if not renewed, would leave the boroughs parks and open spaces without the protection they are currently afforded. We are therefore looking to extend the PSPO in its current form based on the review and recommendations taken forward in January 2020.

The information below highlights the performance of the PSPO from implementation until January 2020. Where available, further details have been included to bring relevant data up to date.

Previously, Southwark Council consulted local residents on whether we should introduce new Public Space Protection Orders (PSPOs) to better manage dog-related anti-social behaviour. After careful consideration, to strike the right balance between the needs of dog-owners and other residents, the Council approved the recommended orders in October 2017. In agreeing the orders, Cabinet also agreed that these should be reviewed to ensure that they were operating as intended.

This report considers the impact of the PSPOs and demonstrates that both dog-fouling and other dog-related anti-social behaviour incidents have reduced since their introduction. Feedback to the initiative has generally been positive.

Southwark is committed to providing services that create a cleaner, greener, safer borough for all. It is now clear that these PSPOs are playing an important role in securing that vision.

In January 2020, cabinet agreed to continue the current PSPO regime for dog-related anti-social behaviour until March 2021.

Following the above-agreed recommendation it is further recommended that Cabinet extend the current PSPO regime for dog related anti-social behaviour for a further 3 years taking the validity of the PSPO regime to March 2024, when it can be reconsidered and fully consulted on.

## **RECOMMENDATIONS**

That the cabinet:

1. Approve the continuation of Public Space Protection Orders (PSPOs) for dog-related anti-social behavior without variation until March 2024.
2. Note the findings of the review of the Public Space Protection Orders (PSPOs) to tackle dog-related anti-social behavior (ASB).
3. Note that a further review (including consultation with key stakeholders) of the PSPO to tackle dog-related anti-social behaviour will start in March 2022, with a view to renewing the PSPO by 31 March 2024, subject to the outcome of the review.

## **BACKGROUND INFORMATION**

4. In March 2017, cabinet agreed to carry out a public consultation on the introduction of PSPOs to tackle dog-related ASB, as prescribed under The Anti- Social Behaviour Crime and Policing Act 2014.
5. The consultation ran from 24 April 2017 to 5 June 2017. The consultation resulted in 2081 responses. This was the largest response to any online consultation undertaken by Southwark at the time, with over 47% of respondents identifying themselves as dog owners.
6. The PSPO requirements agreed by Cabinet on 31 October 2017 are detailed in Table 1 below. A Fixed Penalty Notice (FPN) for not complying with the PSPO requirements and restrictions is an offence under the legislation and can result in a fine of £100 or up to £1000 if it goes to court.

## 7. Table 1 - PSPO requirements and restrictions

PSPO requirements and restrictions	Area
Dog faeces must be cleaned up by those responsible for their dog(s)	Borough Wide
<p>Dogs must be put on lead when instructed to do so by an authorised officer*</p> <p>* Authorised Officer is an officer of the council with delegated authority to enforce the PSPO regulations, Civil Enforcement Officer, Police Officer or Police Community Support Officer.</p>	Borough Wide
<p>Dogs must be kept on a lead.</p> <p>Maximum of six dogs with one handler.</p>	Camberwell New Cemetery and Honor Oak Crematorium – Whole site as highlighted on Map
<p>Dogs must be kept on a Lead</p> <p>Maximum of six dogs with one handler.</p>	Camberwell Old Cemetery – Areas highlighted on Map
<p>Dogs must be kept on a Lead</p> <p>Maximum of six dogs with one handler.</p>	Nunhead Cemetery – Areas highlighted on Map
<p>Dog exclusion areas</p>	<p>Children's Play areas** within Parks and Open Spaces</p> <p>Children's play areas** within housing estates.</p> <p>**Defined as gated children's play areas containing play equipment.</p>
<p>Maximum of 6 dogs with one handler with 3 dogs allowed off a lead at any one time.</p>	<p>Borough Wide (excluding One Tree Hill***)</p> <p>*** The DCO regulations as set out for One Tree Hill have</p>

PSPO requirements and restrictions	Area
	automatically become a separate PSPO provision from the 20th October 2017, as prescribed under section 76 of the ASB Crime and Policing Act.

8. Enforcement of PSPO requirements and restrictions can be undertaken by a person with delegated authority. These are currently parks liaison officers (PLOs), community wardens, police officers and police community support officers.
9. It was agreed at Cabinet on 31 October 2017 that a report must be received 12 months after the implementation to review the introduction of PSPOs.
10. The education period for all PSPO requirements and restrictions, except for dog fouling, was extended by six months from the date of implementation. This period was necessary to ensure that the public were fully aware of the new PSPO requirements and restrictions and also enabled further feedback on siting of appropriate signage. PLOs began enforcing with FPNs for all PSPO requirements and restrictions from September 2018.
11. As noted in the Anti-Social Behaviour Crime and Policing Act 2014 a PSPO may not have effect for a period of more than 3 years, unless it is extended or varied. As such, a cabinet paper must be presented by March 2021 where recommendations will be made to either extend the current period for which the PSPO has effect, or to vary or discharge the PSPO.

### **The Preparation Phase**

12. The preparation phase ran from November 2017 to 26 March 2018. During this period a project delivery group was set up with key representatives from Parks, Housing, Legal Services, Regulatory Services, Traded Services and Service and Business Development. The project group met monthly to plan the implementation of the PSPO.
13. Key activities during the preparation phase included:
  - An audit of existing signage in parks and open spaces
  - The design and creation of PSPO signage
  - Development of the signage installation schedule
  - Consultation and site surveys for bespoke signage for Nunhead Cemetery
  - The production of a PSPO delivery plan

- The production of a PSPO education plan (see point 14 for further information)
  - The identification of authorised officers who would engage in enforcement activities
  - The reprinting of FPN books with relevant legislation.
14. A PSPO education plan was created to ensure the public were informed of the new requirements and restrictions as set out under the PSPO. The following actions were completed:
- A specific council webpage was created which provided information on the PSPO requirements and restrictions
  - A leaflet was created which detailed the PSPO requirements and restrictions; this included maps of the three cemeteries
  - A residents e-bulletin was sent out which highlighted the PSPO requirements and restrictions
  - An email sent to every TRA chair and secretary detailing the PSPO requirements and restrictions
  - An email was sent to all 'Friends of Parks' groups detailing the PSPO requirements and restrictions
  - The Safer Neighbourhood Boards and Local Policing Teams were informed of the PSPO requirements and restrictions.
  - Officers and councillors were informed about the PSPO requirements and restrictions.
  - Face to face education by the PLOs and community wardens across cemeteries and the 28 Green Flag Parks.
15. Fifteen wooden posts sympathetic to the area were fitted in Nunhead Cemetery to make the dog on/off lead areas clearer.
16. During the installation period approximately 1,500 – 2,000 PSPO leaflets were handed out by community wardens and PLOs to inform the public about the new requirements and restrictions under the PSPO.
17. On 23 March 2018 the PSPO Order was signed and sealed by our legal team and published on Southwark Council's PSPO webpage on 26th March 2018.

### **The Implementation Phase**

18. The PSPO became effective from 26 March 2018. As previously noted the period of education was extended by a further six months for all requirements and restrictions of the PSPO apart from the requirement to pick up after your dog.
19. During the extended education period, community wardens and PLOs spoke to dog owners, professional dog walkers and the wider community to ensure that they were aware of the new requirements and restrictions under the PSPO.

20. During the extended education period it was identified that further signage across parks and open spaces would ensure communities were aware of the PSPO requirements and restrictions. 148 additional signs were installed in July 2018.

### **Review of the PSPO**

21. A review has been undertaken, based on quantitative and qualitative data.

### **Quantitative data**

22. In the 12 months following the introduction of the PSPO there was a reduction of 1155 kg of dog waste collected across the borough. Staff also record the amount of dog fouling removed by council staff. This reduced by 1206 in the same period.
23. Data for the 11 months to February 2021 shows that there has been an increase of 570 pickups in the amount of dog fouling removed by staff in some areas of the borough. These increases would certainly be as a result of the Pandemic issues we have faced as a local authority and the national increase in dog ownership. This increase demonstrates the need for an enforceable PSPO once the lockdown restrictions are lifted.

### **Fixed Penalty Notices and additional education**

24. Between April 2018 and January 2020 authorised officers enforced the PSPO and provided further education on the PSPO in 234 instances. A key element of this is to encourage behavioural change of dog walkers, rather than enforcement, to ensure parks and open spaces can be enjoyed by all.
25. The PSPO requirement that needed the most additional education was for: 'Dogs must be kept on a lead and that the maximum of six dogs with one handler'. This resulted in authorised officers using the PSPO requirement 'Dogs must be put on a lead when instructed to do so by an authorised officer'. PLOs have confirmed that in these instances the majority of individuals complied fully with their requests, therefore, FPNs were not issued.
26. A total of 26 FPNs were issued between April 2018 and January 2020. The Pandemic has meant a shift in the Council's focus to support the Covid-19 containment effort and consequently no FPNs have been issued since the initial lockdown.
27. Prior to Covid-19 the majority of dog owners adhered to the request to follow PSPO requirements and restrictions and it is believed that for the most part that this has continued. Those who did not were issued FPNs and this will continue provided the PSPO can be extended in its current form for a further three years. As previously noted, the principal objective of the PSPO is to instigate long term behavioural change and to make

parks and open spaces enjoyable for all.

28. Between April 2018 and January 2020 there were 43 incidents of abusive and threatening behaviour directed at officers enforcing the PSPO. Body worn cameras are now utilised by our PLOs in order to mitigate abusive or threatening behaviour.

### **Qualitative data collected in 2019**

29. Feedback from 'Friends of' groups

The following 'Friends of' groups provided feedback on the introduction of the PSPO:

- Friends of Nunhead Cemetery (FONC)
- Dulwich Park Friends
- Friends of Nelson Square
- Friends of Belair Park
- Camberwell Cemeteries Working Group.

The 'Friends of' groups were generally very positive about the introduction of the PSPO. FONC, in particular, stated that the application of the dog control PSPO has had a very beneficial effect on the cemetery and its visitors. FONC also put forward ideas for continuing to support the PSPO requirements at Nunhead Cemetery suggesting an education leaflet (specific to Nunhead) be produced. Some groups said they would like to see greater presence and enforcement of the PSPO requirements and restrictions. The Camberwell Cemeteries Working Group raised concerns of incorrect and confusing signage within Cemeteries (Camberwell Old and New). A review of signage within these Cemeteries was undertaken in August 2019. Dulwich Park Friends said that six dogs is too many for one handler and they would like to see a reduction in this number.

### **Survey**

30. A short survey was undertaken for a one-week period in June 2019. This was carried out in the following locations: Nunhead Cemetery, Camberwell New Cemetery, Camberwell Old Cemetery, Burgess Park, Dulwich Park, Belair Park, Peckham Rye Park and Geraldine Mary Harmsworth Park. 106 people completed the survey.
31. Out of the 60 people that visit park(s) and cemeteries regularly 58% were aware of the dog-related PSPO in Southwark, 35% were not aware and 7% were 'not sure'.
32. Out of the 46 people that do not visit park(s) and cemeteries regularly 35% were aware of the dog related PSPO, 52% were not aware of the dog

related PSPO and 13% were 'not sure'.

33. 51% of people surveyed stated they had not noticed any difference since the PSPO was introduced, with a further 5% saying they were 'not sure'. 38% had noticed a difference.

### **Feedback provided to the parks liaison officers**

34. The PLOs have provided feedback on the public's reaction to the implementation of the PSPO. Key findings are noted below:

- The feedback received by the PLOs was generally positive with the majority of the public in favour of the PSPO across all sites visited.
- The majority of the public were receptive to the information and education provided by the PLOs.
- Over 200 people were spoken to in Nunhead Cemetery over a period of 10 days in February and March 2018. It is estimated that about 90% of those spoken to in the cemetery were happy with the PSPO.
- There were reports that some of the public felt that signage in Nunhead Cemetery could be clearer.
- Some commercial dog walkers would prefer to have four dogs off a lead at one time rather than the PSPO requirement of a 'Maximum of 6 dogs with one handler with 3 dogs allowed off a lead at any one time'. They said it is difficult picking up after dogs that have fouled whilst some dogs are on the lead, and it can also be difficult when all of the dogs want to socialise together.

### **KEY FINDINGS FROM THE REVIEW**

35. The recommendation from the review undertaken in 2019, was that the Public Space Protection Orders to tackle dog related anti-social behaviour should continue, without variation, until March 2021. This was based on the key findings from the review below:

- There has been a reduction of dog fouling in the borough since the PSPO was introduced
- The majority of feedback from the 'Friends of' groups has been positive. In particular, FONC have stated that the PSPO has had a very beneficial effect on the cemetery and its visitors
- PLOs have confirmed that the majority of individuals complied fully with their requests to adhere to the PSPO requirements and restrictions
- The feedback received by the PLOs was generally positive with the majority of the public in favour of the PSPO across all sites visited
- 58% of those who regularly visit parks and/or cemeteries were aware of the PSPO. However awareness drops to 35% for individuals who visit the parks and/or cemeteries less regularly.

36. From the findings of the review it is proposed that further education and



enforcement in key areas of concern should be undertaken i.e. in areas where there are high levels of dog fouling.

37. A signage review should be undertaken in the Camberwell Cemeteries. A signage audit was undertaken within the Camberwell Cemeteries in August 2019, resulting in signage being removed and relocated as appropriate. To note: a further audit was planned for February 2020 however did not take place. This review will take place in spring 2021.

#### **Future PSPO review**

38. Ordinarily the local authority would carry out a consultation prior to extending, varying or discharging a PSPO. On account of this, a further review of the PSPO was due in summer 2020. Due to the pandemic and the reallocation of resources, this review will now take place beginning in March 22 with view to renewing the PSPO by March 2024.
39. The concerns raised by commercial dog walkers and 'Dulwich Park Friends' regarding the PSPO requirement 'Maximum of 6 dogs with one handler with 3 dogs allowed off a lead at any one time' will be considered in this review.

#### **KEY ISSUES FOR CONSIDERATION**

**The PSPO and its requirements have had a significant impact in tackling dog-related anti-social behaviour and encouraging responsible dog ownership. There is a marked increase in dog ownership nationally which impacts on all parks and open spaces.**

**If the PSPO is not extended Southwark council will in effect lose its most effective enforcement tool to tackle dog fouling and all other dog-related anti-social behaviour.**

40. PSPOs were introduced under the Anti-Social Behaviour Crime and Policing Act 2014, giving provisions to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life – by imposing conditions on the use of that area that apply to everyone.
41. The PSPO requirements and restrictions continue to meet the two legal conditions as detailed below:
42. The first condition is that;
- Activities carried out in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
  - It is likely that activities will be carried out in a public place within that area and that they will have such an effect.
43. The second condition is that the effect, or likely effect, of the activities;

- Is, or is likely to be, of a persistent or continuing nature
  - Is, or is likely to be, such as to make the activities unreasonable, and
  - Justifies the restrictions imposed by the notice.
44. Introduction of PSPO requirements and restrictions for dog related ASB (detailed in Table 1) still meet the conditions as set by the 2014 Act in that;
- a) Dog related ASB has a detrimental effect on the quality of life on those who experience it within the borough. Any dog related ASB is considered unreasonable and justifies the restrictions proposed.
  - b) Dog fouling, although reduced, is still a concern across the borough.
45. Southwark continues to support responsible dog ownership in parks and open spaces. The following events took place year prior to the Pandemic's initial lock down:
- On 19 May 2018, the Dogs Trust participated in a community event at Nursery Row Park. They offered the following free of charge -
    - Microchipping and nail clipping
    - Basic health and weight checks
    - Health and training advice
  - The council's Dulwich Park Fair on 20 May 2018 included a dog show run by a local vet practice.<sup>1</sup>
  - The 'Friends of Peckham Rye' Park Fete includes a dog show each year. The last fete took place on 1 September 2018.
  - The Pasley Park fete and the Bermondsey Street festival, both last held on 15 September 2018, include an annual dog show.
  - Dogs Trust and 'Friends of Peckham Rye Common' ran a responsible dog ownership event on 18 December 2018 at Peckham Rye Common.

### **Policy implications**

46. In 2016, Southwark Council adopted the Animal Welfare Charter, which outlines its commitment to promoting animal wellbeing and providing information and guidance on animal care and legal responsibilities. The PSPO requirements and restrictions, as illustrated in Table 1, will enable and encourage responsible dog ownership, which is also highlighted as a requirement under the charter for dog owners who are council tenants.

### **Community impact statement**

47. The PSPO has been assessed in terms of its equalities impact in line with the Protected Groups set out in the Equalities Act 2010 and the Public

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<sup>1</sup> <https://dulwichparkfair.wordpress.com/2018-highlights/>

Sector Equality Duty. The PSPO seeks to enforce responsible dog ownership in terms of control and cleanliness within defined publicly accessible spaces. It is recognised that the majority of dog owners are responsible, and that these measures have been introduced to tackle those that are not and to also enhance the enjoyment and opportunity provided by public spaces for all.

48. An extensive consultation was carried out prior to the implementation of the PSPO. There are clear positive impacts in terms of health, especially for young children and expectant mothers who are most at risk from exposure to dog fouling. There are also wider indirect health benefits for all residents who may access spaces they previously avoided due to dog related ASB. No groups are being prevented from accessing the spaces set out in the PSPOs. There are positive impacts for the visually impaired. The PSPO has not resulted in a negative equalities impact on any protected group or characteristic.
49. Following the extension of the current PSPO, work will begin in 2022 on the renewal of the PSPO in time for implementation in March 2024. All areas covered as part of the community impact assessment will again be extensively reviewed to ensure the same positive outcomes as above.
50. Person(s) are exempt from PSPOs requiring dog walkers to pick up after their dogs if:
  - a) They are registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948; or
  - b) They have a disability which affects their mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which they rely for assistance.
51. Person(s) are exempt from any PSPOs that exclude dogs from areas if;
  - a) They are registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948; or
  - b) They are deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which they rely for assistance; or
  - c) They have a disability which affects their mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which they rely for assistance.
52. Prescribed charities as detailed below are members of Assistance Dogs UK and are accredited by Assistance Dogs International or the International Guide Dog Federation.

- Canine Partners (Registered charity no: 803680)
- Dog A.I.D. (Registered charity no: 1098619)
- Dogs for Good (Registered charity no: 1092960)
- Guide Dogs (Registered charity no: 209617)
- Hearing Dogs for Deaf People (Registered charity no: 293358)
- Medical Detection Dogs (Registered charity no: 1124533)
- Support Dogs (Registered charity no: 1088281)
- The Seeing Dogs Alliance (Registered charity no: 1156790)

### **Resource implications**

53. Resource implications for the delivery of the review will be met within the current staffing resources of environment and leisure department.

### **Financial implications**

54. There are no additional revenue budget requirements arising from the review of the PSPO.

### **Communication**

55. Notification of the intended extension of the PSPOs will be sent to all friends of groups in the borough. As part of this we will also make clear our commitment to carrying out a thorough consultation exercise beginning in 2022. This will give everyone the opportunity to make valuable contributions based on their experience of the PSPOs prior to any renewal. The council website will also be updated with the extension information.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Governance**

56. Legal comments are substantially embodied within the report as noted at paragraphs 39 to 43 in that a PSPO is intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area.
57. The Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 relating to PSPOs came into force on 20 October 2014 and repealed the law under which DCOs could be ordered with the proviso that existing DCOs would continue for three years and will then automatically lapse on 20 October 2017.
58. A PSPO, if made, will last for up to three years before requiring a review under section 60(1) of the Act; however there is no limit on the number of times an order can be reviewed and renewed. The review requirements will be different depending on the prohibitions or requirements being applied. Under section 61(1) of the Act an order can be varied or

discharged at any time by the authority that made it.

59. In deciding whether to make a PSPO the local authority must have regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights. These articles are not engaged and the proposed PSPO on dogs does not restrict these freedoms. The Council took these into consideration together with its equality duties under s149 of the Equality Act 2010 at the March 2017 cabinet meeting. These have been reviewed once again and are detailed in paragraphs 46 - 50 of this report.

### **Strategic Director of Finance and Governance**

60. The strategic director of finance and governance notes the recommendation to cabinet to approve the extension of the Public Space Protection Orders beyond March 2021 until March 2024.
61. The strategic director of finance and governance notes that there are no additional financial implications arising from this report. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.

### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
PSPO Cabinet Report 21 January 2020	Environment & Leisure	Tracy Umney 0207 525 7697
<b>Link (please copy and paste into browser):</b> <a href="http://modern.gov.southwark.gov.uk/documents/s86597/Report%20Public%20Space%20Protection%20Order%20Review%20-%20To%20Tackle%20Dog%20Related%20Anti-Social%20Behaviour.pdf">http://modern.gov.southwark.gov.uk/documents/s86597/Report%20Public%20Space%20Protection%20Order%20Review%20-%20To%20Tackle%20Dog%20Related%20Anti-Social%20Behaviour.pdf</a>		

### **APPENDICES**

<b>No.</b>	<b>Title</b>
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Evelyn Akoto, Community Safety and Public Health	
<b>Lead Officer</b>	Caroline Bruce, Strategic Director of Environment & Leisure	
<b>Report Author</b>	Hugh Folkes, Regulatory Services, Catherine Snell, Research & Development Officer and Tracy Umney, Unit Manager for Environment & Community Protection.	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law & Governance	Yes	Yes
Strategic Director of Finance & Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		25 February 2021

<b>Item No.</b> 18.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1 - Procurement Strategy Approval Facilities Management Contract Procurement for the operational estate	
<b>Ward(s) or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Rebecca Lury, Cabinet Member for Finance, Business and Jobs	

**FOREWORD – COUNCILLOR REBECCA LURY, CABINET MEMBER FOR FINANCE, BUSINESS AND JOBS**

The management of the council’s operational estate is currently delivered through a combination of a large external contract and a mixed model of in-house service delivery across our many buildings.

This report sets out a way forward to look at how we provide suitable facilities management in the coming years. It will consider potential changes to the size and composition of the estate, and reflect our anticipated needs over the coming period.

**RECOMMENDATIONS**

1. That Cabinet approve the following recommendations:
2. To bring the Corporate Facilities Management (CFM) cleaning services outlined in paragraph 59 in-house on expiry of the current contract in September 2022.
3. To procure the remaining hard and soft facilities management (FM) services recommended in this procurement strategy (outlined in paragraphs 34 to 35) via a further competition process using the Crown Commercial Services (CCS) framework agreement, RM3830 at an estimated annual cost of £7.6m for 4 years totalling £30.4m with an option to extend by a further two years, totalling an estimated £45.6m
4. To approve potential (not guaranteed) lifecycle capital investment works to the value of £3.5m per annum (outlined in paragraph 35), thereby increasing contract cost up to £66.6m.
5. That cabinet note the amendment to the approach approved in the Gateway 0 report, in line with the recommended new procurement strategy as set out below.

6. That cabinet delegate the Gateway 2 decision to the strategic director for housing and modernisation, for the reasons outlined in paragraph 39 of this report.

## **BACKGROUND INFORMATION**

7. A Gateway 0 report was presented to and approved by Cabinet on 13 March 2018. The paper recommended the approval of the strategic delivery option to divide the corporate facilities management services into three areas; in-house services, soft and hard FM services which would have been subject to a tender process.
8. Cabinet approved the 2020 procurement exercise via a Gateway 1 report dated 18 December 2018.
9. Having issued the invitation tender documents in June 2020, despite robust market testing and multiple expressions of interest the council received 4 x hard FM (technical services) and 1 x soft FM (cleaning, security etc.) tender submissions. However the council were unable to make a recommendation to award any contracts. In December 2020, a decision was taken by the Strategic Director of Housing and Modernisation to stop the procurement and carry out a review of the strategy, size and scope for facilities management services. The reasons for stopping the procurement and the outcome of the review are outlined in paragraphs 13 – 15 of this report.

## **KEY ISSUES**

10. The vision statement for the Corporate Facilities Management (CFM) team is, 'CFM aim to provide a reliable, consistent and proactive FM service to ensure our employees and the public have clean, safe and welcoming operational buildings provided by the council. We strive to provide our customers with services that are value for money'.
11. The service provides hard FM (planned preventative maintenance, reactive maintenance and statutory compliance such as fire and water risk assessments) and soft FM (help desk, cleaning, pest control, security services (fixed and ad-hoc), confidential waste, vending service and inter-site mail) to operational non-residential buildings within the borough.
12. Following a competitive procurement process and subsequent approval of the Gateway 2 on 23 October 2012, Interserve (now Mitie) were appointed to provide a Total Facilities Management (TFM) solution (hard and soft FM services) on behalf of Tooley Street, Queens Road and other principal buildings within the estate. The contract was awarded for a period of five years from February 2013, with an option to extend for a further two years. The contract was further extended in 2019 until 31 March 2021. A Gateway 3 report seeking a further extension will be presented to Cabinet in March 2021 seeking a further eighteen month extension, to enable the procurement programme to complete resulting in an estimated total contract value of £79m for the TFM contract.



13. Despite robust market testing and following a competitive tender exercise in 2020, the council were not able to award contracts. The council has subsequently reviewed the procurement strategy and post evaluation feedback suggests the following reasons also impacted on the procurement:
- Covid-19 pandemic meant all meetings with the Crown Commercial Services (CCS) and bidders were virtual, in turn bidders were unable to visit sites to get a better understanding of the mechanical assets or building fabric condition.
  - For Soft FM - the Council had concerns that there was insufficient genuine competition due to the number of tenders received to allow an award to be recommended. Some bidders that had expressed an interest failed to bid as they wanted the hard FM contract instead, in addition feedback suggested the removal of the cleaning service from flagship sites from the soft FM contract reduced supplier interest.
  - For Hard FM - the bids received showed a significant variance in terms of cost, structure and delivery models. This and the relatively low response rate led to doubts about the viability and sustainability of more than one of the tenders submitted.
  - The procurement was highly complex, and resulted in tender returns that would not enable the council to award a contract that would deliver the expected service standards.
14. Since the tender was issued and in response to the pandemic, the council has reviewed the way it delivers front-line services, resulting in the need for fewer operational buildings; by removing 5 key buildings (Sumner House, Talfourd Place, Curlew House, Kingswood House, Bournemouth Road) the contract scope and value of the new contract has now reduced significantly.
15. Finally, the Council believes that the packaging of the services may have acted as a disincentive to participation in the tender process for the reasons set out above.

### **Summary of the business case/justification for the procurement**

16. The council is responsible for ensuring the council buildings are maintained and are statutorily compliant for the health, safety and wellbeing of its employees. The business case/justification for the procurement is also detailed in paragraphs 14 and 18 - 19 of this report.
17. To ensure the council has enough time to procure, mobilise a new contract and undertake any Transfer of Undertakings (Protection of Employment) (TUPE) as deemed appropriate within the current contract, a further extension has been recommended of up to 18 months (which will include a break clause).

## Market considerations

18. The Gateway 0 report 13 March 2018 offered various options for the delivery of FM services and while that report suggested that following the collapse of Carillion the market moved away from the 'one size fits all' Facilities Management model the Covid-19 pandemic and subsequent tender returns suggest the market has shifted back to favouring the delivery of hard (technical) and Soft (cleaning, security etc.) facilities management contracts.
19. Based on the recent procurement experience and following feedback from the suppliers, the council has reviewed the strategy of having two contracts and would recommend returning to a contract that provides both hard and soft FM services to the operational estate, which would be more attractive to the market.
20. The Crown Commercial Services framework RM3830 was established in accordance with the Public Contracts Regulations 2015 and has therefore sought national engagement with multiple suppliers.
21. The framework is divided into three lots depending on the total contract spend:
  - Lot 1a – Total Contract Value up to £7m
  - Lot 1b – Total Contract Value between £7m and £50m (likely range)
  - Lot 1c – Total Contract Value over £50m.
22. Under the framework only suppliers with the capacity and resources to sustain the volume of work under Lot 1b are able to bid for each new contract, thus protecting both the supplier and the council.
23. The estimated cost for a bundled hard FM and soft FM contract is based on the current cost for these services, taking into consideration that the existing financial risk to the contractor is not uniform across the estate as buildings transferred from Kier to Interserve not being subject to the inclusive repair threshold (IRT) of £750 per reactive maintenance task.

## KEY ISSUES FOR CONSIDERATION

### Options for procurement route including procurement approach

24. The council has reviewed the previous procurement strategy as outlined in the Gateway 1 report 18 December 2018 and has considered the following procurement options prior to determining the procurement strategy set out in paragraphs 29 and 34 of this report.

#### Option 1 - Do nothing

25. This is not an option available to the council. The corporate facilities management team are responsible for ensuring council buildings are

maintained and continue to achieve statutory compliance. The contract for the incumbent provider (Mitie) is subject to an extension until 2022 to allow time to complete the procurement, as a replacement contract is required to continue the service.

### **Option 2 - Provide services in-house**

26. Following careful analysis and consideration, some of the services were deemed viable to bring in house (and formed part of the recommendation in the Gateway 0 report, however, due the remaining services not falling within the council's core business, significant resources would be required to deliver services to the required standard, which could result in very little return. The cost to deliver will be higher than an outsourced model.
27. The ability to deliver this in-house is not there at the moment although the new in-house service supporting the residential estate is improving it remains too early to transfer this complex service to the asset management Southwark Building Services team at this time. This remains an option for the future and should be considered ahead of the expiration of the new contract.

### **Option 3 - Procure via an existing Public Contract Regulation 2015 (PCR) compliant framework agreement (recommended)**

28. There are five organisations that have facilities management framework agreements that are available for the council to use: CCS, Eastern Shires Purchasing Organisation (ESPO), Fusion 21, NHS Shared Business Services and the Scape Group.
29. While there are a number of frameworks available for the council to use. The assessment has not changed and to reduce the procurement timescale, it is considered that the CCS framework RM3830 Management marketplace, Lot 1b (£7m - £50m) meets all of the council's essential requirements as shown in the Gateway 1 report 11 December 2018 and remains a preferred option.

### **Option 4 - Procure in line with the Public Contract Regulations 2015 (PCR)**

30. Due to the estimated value of the new FM contract being over the PCR Services threshold of £189,330 it is subject to the procurement regulations and therefore a PCR compliant procurement procedure is required to be followed. The council could therefore undertake a competitive procurement process via the restricted procedure, however this process would take longer (requiring more of the council's resource) than undertaking a further competition via a framework agreement.
31. This does not guarantee to attract anymore suppliers than those already on the framework agreement, as most of the major suppliers are on Lot 1b (£7m - £50m) which is the recommended Lot.
32. It is possible to split the procurement into hard FM and soft FM with an option to use RH3830 as the hard FM option and seek invitations tender through

the restricted tender route, although this would be very time consuming and be a very complex procurement project.

### **Option 5 – Shared services**

33. There are currently no opportunities to work with neighbouring councils to join shared service FM agreements. The longer term view detailed in option 2 is a future option for the council.

### **Proposed procurement route**

34. Following the aborted procurement in December 2020, and having considered all of the options and opportunities available to the council to use the existing compliant framework agreement RM3830 Facilities Management Marketplace, Lot 1b (£7m - £50m) remains the preferred option. The following services would be provided under this contract:

- Building fabric
- Mechanical, electrical and plumbing (MEP)
- Lifts and equipment falling within the lifting operations lifting equipment regulations 1998 (LOLER)
- Statutory Compliance (Fire safety, water hygiene, and asbestos etc.)
- Small works projects
- Cleaning (wider estate)
- Washroom services
- Security services
- Vending services (pass through)
- Confidential waste
- Inter-site mail.

35. In addition, the contract would allow for project works i.e. refurbishment and alterations consisting of works above £25,000 and up to £499,000 required by the council to alter or improve the working environment and activities which fall outside the repairs and maintenance regime.

36. The approach will be outlined in more detail in the Gateway 2 report but in essence it would request exemption under CSO 6.8 for the requirement to obtain five tenders from approved list, making the contract more attractive to bidders and reducing the time necessary to deliver small value projects. Offering 3 out of 4 projects to the contractor subject to value for money assessment and 1 out of 4 projects to the councils preferred supplier list or the wider market will ensure the council has the ability to benchmark costs and ensure continued best value.

### Identified risks for the procurement

No	Risk	Risk Rating	Description and Mitigation
1	<p><b>Abnormally low bids</b> There would be a risk of suppliers providing an unsustainable pricing model which could lead to particularly high or low cost models being submitted</p>	Low	<p>Robust evaluation of the pricing proposals will be conducted to ensure that the successful supplier can deliver sustainable services to the desired quality.</p> <p>CCS framework has an abnormally low bid process line with Public contract regulations</p>
2	<p><b>Exceptionally high bids</b> There is a risk that bidders will increase costs</p>	Medium	<p>Robust evaluation and reviews of the pricing proposals, increase in the number of evaluators assessing this area</p> <p>Hold accompanied site visit to ensure asset and building understanding (pandemic permitting)</p> <p>Challenge bidders understanding of contract pricing</p>
3	<p><b>Insufficiently robust specification</b> Poor specification results in contracted services not being fit for purpose to meet the council's requirements.</p>	Low	<p>Effective stakeholder engagement to identify needs and the analysis of services and their value to define the scope and specification of services.</p> <p>The project manager will hold workshops with internal stakeholders to ensure that all requirements are identified.</p>
4	<p><b>Insufficient resource</b> Not having the appropriate resource to deliver this project could result in long delays or even stop this project. Not providing this service would leave the council vulnerable</p>	Low	<p>Appropriate resources have been identified to ensure this procurement is resourced correctly.</p>
5	<p><b>Poor response</b> A poor response resulting in few suppliers presenting submissions undermines the procurement and limits the council's choice of suppliers.</p>	Low	<p>Open days for bidders will be held to inform potential suppliers and promote the procurement to the market.</p> <p>Following supplier feedback a bundled TFM approach is more attractive to bidders.</p>
6	<p><b>Failure of Suppliers</b> Working in low margin areas</p>	Low	<p>Tender evaluation methodology will provide reassurance of bidders' financial</p>

No	Risk	Risk Rating	Description and Mitigation
	such as facilities management, results in strain on suppliers when things go wrong (financially)		security. Reducing risk to the council
7	<b>TUPE</b> Staffs that are subject to TUPE on the insourced contract choose not to TUPE over to the council.	Low	In the event of the staff subject to TUPE on the insourced contract not wishing to TUPE into the council, the council will employ temporary / agency workers in the first instance, which will be followed by a recruitment campaign to permanently fill required vacancies.
8	<b>Delays to procurement programme</b> Procurement programme is delayed	Low	Resources are identified, tender and contractual documentation is in advanced format this has been built into the timetable.
9	<b>Changes to the way we work</b> Following the pandemic, changes to the way we use the operational estate, may require wholesale change to the size and scope of the contract, resulting in a contract that is vastly different from planned	Medium	Review of how and where we work will be completed prior to the invitation to tender being issued  Confirmation of departmental requirements will be sought prior to deliverables matrix completion
10	<b>Brexit</b> Following the UK withdrawal from the European Union, a supplier may struggle with staff, sourcing spare parts or equipment	Medium	The newer buildings on the operational estate were built using items sourced in the EU – replacement is slow and challenging.  Engineers are in short supply as are cleaners and security guards.  This area will be closely monitored, the contract will allow flexibility of supply chain if required.

### Key / Non Key decisions

37. This report deals with a key decision.

### Policy Implications

38. The theme of “Valuing the environment” and “Value for money” will be increasingly supported through the provision of the new FM service delivery platform and effective strategic management of FM. Supported policies include “Southwark Cleaner Safer” and the “Sustainable Community Strategy”.

### Procurement Project Plan (Key Decisions)

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	12/01/2021
DCRB Review Gateway 1	09/02/2021
CCRB Review Gateway 1	11/02/2021
Brief relevant cabinet member (over £100k)	11/02/2021
Notification of forthcoming decision - Cabinet	15/02/2021
Approval of Gateway 1: Procurement strategy report	09/03/2021
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	19/03/2021
Completion of tender documentation	30/09/2021
Closing date for receipt of expressions of interest	08/10/2021
Completion of short-listing of applicants	08/10/2021
Invitation to tender	12/10/2021
Closing date for return of tenders	06/01/2022
Completion of any clarification meetings/presentations/evaluation interviews	20/01/2022
Completion of evaluation of tenders	24/02/2022
Forward Plan (if Strategic Procurement) Gateway 2	25/02/2022
DCRB Review Gateway 2:	16/03/2022
CCRB Review Gateway 2	24/03/2022
Notification of forthcoming decision	25/03/2022
Approval of Gateway 2: Contract Award Report	11/04/2022
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	25/04/2022
Debrief Notice and Standstill Period (if applicable)	06/05/2022
Contract award	16/05/2022
Add to Contract Register	16/05/2022
Mobilisation	01/06./2022
TUPE Consultation period (if applicable)	01/06/2022
Place award notice on Contracts Finder	01/06/2022
<b>Contract start</b>	<b>01/10/2022</b>
Initial contract completion date	30/09/2026
Contract completion date – (if extension(s) exercised)	30/09/2028

39. As noted in paragraph 6 approval is being sought to delegate the Gateway 2 (award) decision to the strategic director of housing and modernisation. As shown in the procurement project plan, award of the contract is expected in April 2022, at a time which coincides with the local government elections and therefore absence of a cabinet meeting in which to seek approval. Allowing approval by the strategic director will ensure that the contract can be awarded and mobilised for the start date of 1 October 2022.

### **TUPE/Pensions implications**

40. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) are likely to apply to this proposed procurement exercise. The appointment of a new supplier for, and the insourcing of, the existing services could amount to a service Provision Change under TUPE. These will be reported on in the Gateway 2.
41. The proposal to bring in-house the cleaning service listed in paragraph 59 presents TUPE and pension implications for the council as an employer as any supplier employees engaged in the delivery of these services may transfer to the council.
42. TUPE may also apply to any incumbent and new supplier listed in paragraph 55, if that is the outcome of the tender, and in which case may result in the transfer of staff from one supplier to the other and/or their sub-contractors. There may also be pension implications for the council if there is a transfer to a new supplier from any incumbent supplier of any staff who were originally employed by the council to deliver the service/s and who are member of or who may be eligible for membership of the Local Government Pension Scheme (LGPS).
43. Due diligence work will need to be carried out and staffing information sought from the current suppliers. Once this due diligence information is provided the full TUPE and pensions implications can be more closely determined. The due diligence information will, as relevant, also be made available to bidders within the tender documentation pack.
44. The procurement project timetable will need to include sufficient timelines to ensure that the council and any affected supplier are able to comply with legal obligations that could potentially arise in respect of TUPE.

### **Development of the tender documentation**

45. The further competition documents will be a mix of council standard documents and CCS general tender documents for this framework agreement, and will be written by procurement and FM professionals. In order to conduct the further competition with the framework suppliers, the following areas will be included, but not limited to, in the final suite of documents: (1) specification of requirements; (2) pricing; (3) competition timescales; (4) evaluation criteria and weightings; (5) evaluation process;



and (6) Social value terms and conditions such as London Living Wage commitment and (7) additional, service levels, key performance indicators, insurances, implementation and exit plans. The CCS eSourcing tool will be used to undertake this procurement process due to all 34 suppliers already having their details uploaded onto this system. The final documents will be unloaded onto the council's e-procurement system (pro-contract) on conclusion of the procurement process.

### **Advertising the contract**

46. The contract will be advertised to the suppliers on the CCS portal under the RM3830 Facilities Management Marketplace Framework Agreement, Lot 1b - Facilities Management Services. There will be no need to advertise separately as this was already done when the framework was set up by the CCS.

### **Evaluation**

47. The evaluation panel that will be formed to evaluate the tender responses will consist of internal stakeholders (within the Council) and specialist external stakeholders as required. Expertise will be obtained from Corporate Facilities Management, Procurement, Legal, Finance and HR.
48. The suppliers registered on Lot 1b will be shortlisted based on the location they are able to provide services (for example, some smaller suppliers may choose to only provide services to the North of the country) and the council's requirements contained within the tender documentation. CCS has advised that access to Lot 1b is calculated by multiplying the contract sum x time (£5.5m x 6 years) making a total of £33m for Lot 1b. However, experience over the last four years shows that the actual value of works expected to use the contract is circa £7.6m per annum, equating to £45.6m over 6 years.
49. The high level weighting criteria used by CCS to appoint suppliers onto the framework agreement is 60% Price, 40% Quality (5% of which will be evaluated as social value). Whilst CCS would recommend that this is adopted by authorities using the agreement, there will be flexibility should the council choose to amend these weightings.
50. The procurement process will be undertaken via the CCS Framework Agreement, 'Facilities Management Marketplace (RM3830), Lot 1b, Facilities Management Services'.

### **Lot 1 – Facilities Management services**

<b>Sub-lot</b>	<b>Value</b>	<b>Anticipated number of London area suppliers</b>
A	£0 to -£7m	75
<b>B</b>	<b>£7m to -£50m</b>	<b>34</b>
C	£50+	30

51. The CCS framework agreement allows some flexibility in the evaluation criteria, to enable each organisation to tailor the framework contract to meet their own specific requirements. The council recommend the evaluation criteria as price (60%) and quality (40%); this is amended slightly from the council's standard 70% / 30% weighting due to the importance of providing a statutorily compliant services for health, safety and wellbeing of its staff and residents.
52. Pricing at (60%) shall be based on value for money for the council, the evaluation will consider the whole life cost of the contract.
53. Quality (40%) will include (but will not be limited to):
- providing all of the 'mandatory services' required by the council (to be included in the tender documents)
  - providing the above in the required 'geographical location'
  - the use of SME's within the supplier's supply chain
  - use of supply chain partners
  - added value / innovation
  - 5% (min) social value
  - approach to service delivery
  - mobilisation.
54. The 34 suppliers on the CCS Framework 3830 will be invited to tender for the contract (including small works projects) as part of a Facilities Management contract for the reasons set out in this report.

### **Community impact statement**

55. The contract will have a direct impact on those local residents who visit council premises which are subject to these contracts, and it would be expected that the appointed supplier complies with all relevant council policies and procedures.

### **Social Value considerations**

56. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.
57. Cabinet will recall the Gateway 0, 11 March 2018 and the Gateway 1, 18 December 2018 which outlined the in-house service options on expiry of existing contract. These were:
- **Tooley Street** - *Cleaning* and the FM Help desk
  - **Queens Road** – Post Room, Reception, *Cleaning* and Building management

- **Operational Estate – Pest Control.**

58. The council has successfully brought most of these services in house, leaving  **cleaning** at Queens Road and Tooley Street as the last remaining service, this is planned to be completed as part of any new contract mobilisation.
59. The council also expects suppliers to consider the additional benefits of social value to be delivered, this must support the social, economic or environmental well-being of Southwark and its residents and specifically support the delivery of the council's Fairer Future commitments and policies. Key areas of social value commitments include:
- Apprenticeships
  - Job creation
  - Work placement opportunities
  - Payment of London Living Wage where appropriate
  - Environmental and sustainability considerations
  - Health and wellbeing considerations.
60. Requirement for suppliers to comply with the council's Safer Lorries, Safer Cycling Pledge including the Fleet Operator's Recognition Scheme at Gold standard where appropriate.

### **Economic considerations**

61. The successful supplier will be encouraged to develop a local supply chain where possible, however a proportion of components are highly specialised and only available from national and international suppliers.
62. The CCS framework RM3830 also encourages the supplier to use local SME's to support their service delivery model, in addition to the council (potentially) awarding 1 in 4 small works projects to the wider market London market place.
63. The supplier will be required to provide apprenticeship opportunities for every £1m spent on the contract. The contract manager will monitor the contractor and report on progress. The key areas that the council believe are key to the success of any apprenticeship are:
- Minimum contract for 12 months
  - Quality training provision
  - Mentoring and support.

### **Social considerations**

64. The successful supplier will be required to demonstrate that they offer their staff and contractors guaranteed hours (and do not employ them on zero hours contracts), they operate an Equal Opportunities Policy, comply with the

provisions of the Equalities Legislation and the Employment Relations Act 1999 (Blacklists) Regulations 2010, and make guidance or policy documents concerning how the organisation embeds equality and diversity available to employees / subcontractors, recognised trade unions or other representative groups of employees.

65. The council is an officially accredited London Living Wage (LLW) Employer and is committed, to ensuring where appropriate contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is expected that payment of the LLW by the successful contractor for these contracts will result in quality improvements for the council. These should include a higher calibre of staff that will contribute to the delivery of services on site and it is therefore considered that best value will be achieved by including this requirement. It is therefore considered appropriate for the payment of LLW to be required. The successful contractors will be expected to meet LLW requirements and contract conditions requiring the payment of LLW will be included in the tender documents. As part of the tender process, bidders will also be required to confirm how productivity will be improved by payment of LLW. Following award, these quality improvements and any cost implications will be monitored as part of the contract review process.
66. A full equalities impact assessment will be carried out prior to issuing the tender documentation.

### **Environmental/Sustainability considerations**

67. Throughout the tender process the appointed suppliers will be required to agree to adhere to the following:
- not to use single use plastic and to use recycled paper where practical
  - conform to the council's modernised and agile ways of working (hot desking and better use of technology) whilst working onsite
  - encourage the use of low emission vehicles and the minimisation of journeys
  - report on the suppliers energy use, water consumption and CO2 emissions to ensure the industry standards are adhered to
  - ensure the disposal of all electrical equipment being replaced is in accordance with the latest Waste Electrical and Electronic Equipment Regulations (WEEE).
  - all new equipment will be low energy rated to meet current regulations
  - ensure that all recyclable packaging will be set aside and disposed of via a recycling centre
  - ensure that no hazardous materials will be used
  - encouraged to assist the council achieve its 2030 carbon neutral target by recognising there is a climate emergency and bringing innovation to facilities management service delivery.

### **Plans for the monitoring and management of the contract**

68. The council will create a steering board, which will be chaired independently from Corporate Facilities Management with representatives from Legal, Finance and Procurement who will be invited to ensure that all relevant council policies and procedures are adhered to.
69. The contract will be let and managed by the corporate facilities management division.
70. Key performance indicators (KPI's) will be set and challenged to ensure the successful contractor's performance is to the required standard.
71. The corporate facilities contracts team will review all applications for payment and monitor and administer defaults and recovery of costs for poor performance.
72. Monthly progress meetings, to be attended by officers will be arranged and recorded to review performance and compliance.
73. Annual performance reviews will be submitted to departmental contract review board (DCRB) and corporate contract review board (CCRB) in line with Contract Standing Orders.

### **Staffing/procurement implications**

74. FM and procurement resource have been identified to deliver this procurement project, with CCS providing additional support to shortlist the suppliers, ensure tender returns are compliant and will offer to independently chair the evaluation consensus meetings.
75. The likely insourcing of staff under TUPE will increase CFM staff numbers and internal management requirements as well as increasing wider management overheads in the council. The existing CFM contracts team already carry out contract management functions but the specification, procurement, TUPE and HR issues will require additional specialist resource to achieve.

### **Financial implications**

76. The proposal is to award one FM contract. The contract will cover planned hard FM services including small works projects and soft FM services (cleaning, security etc.) and laid out in paragraph 34 - 35. The current estimated annual cost is £7.6m for the FM services element and £3.5m for the small works. For an initial contract term of 4 years plus provision to extend for a further 2, gives a total contract value of £45.6m excluding inflation.
77. It is anticipated that the cleaning service (Tooley Street and Queens Road), waiting to be brought in house will be achieved during the new contract

mobilisation period, funding will be released through a reduction in any future contracted costs for FM services, this will only be properly evaluated as the process moves towards awarding the contract.

78. FM support in Tooley Street and Queens Road is currently provided in house and includes: post room, reception, event management, FM help desk and building management. These are all expected to continue.
79. Other financial considerations will be those associated with TUPE, the context of which is set out earlier in this report.
80. The planned contract arrangements will be funded through resources established within CFM other than those services requested as ad-hoc, where departments have responsibility to ensure they have the necessary funding.
81. Although the cancelled procurement did not reflect the expected higher costs as shown in Gateway 1, 18 December 2018, this report continues to err on the side of caution in terms of the estimated contract price. The actual financial impact will not be known until tenders are assessed. In the event that additional resources are required to fund the contract, this will be confirmed at the Gateway 2 report stage and addressed as part of the Council's budget setting process for 2023-24 along with any saving proposals to help fund the cost.
82. The contract is likely to be subject to an annual uplift for inflation, and London living wage details of which will also be confirmed in the Gateway 2 contracts approval report.
83. While this procurement process will be supported by current in house resources, it is recognised that additional expertise and support is also required to ensure that the right outcome is achieved. Plans are in place to help fund the cost of this support.

### **Investment implications**

84. None

### **Legal implications**

85. Please see concurrent from the Director of Law and Governance outlined below.

### **Consultation**

86. All internal departmental stakeholders have been consulted.

### **Other implications or issues**

87. None

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (H&M 20/137)**

88. This report seeks cabinet approval to the procurement strategy outlined in this report for the provision of soft and hard facilities management (FM) services to the council's operational buildings and includes cleaning services at Tooley Street and Queens Road being brought in house.
89. Budget provision will be reviewed as future costs become clear and immediate variations addressed through approval of the Gateway 2 contract award report, including the part year impact in 2022-23. The full year variation plus annual inflation and any uplift required by London Living Wage will also be reported and approved as part of the budget setting process for 2023-24 and subsequent years to ensure that adequate funding is available and any potential savings identified.
90. All potential lifecycle capital investment will be incorporated into the Council's capital programme and reported to Cabinet via future capital monitoring and programme refresh reports.

### **Head of Procurement**

91. The report seeks the approve of Cabinet to bring the Corporate Facilities Management (CFM) cleaning services outlined in paragraph 59 in-house on expiry of the current contract in September 2022.
92. This report seeks the approve of Cabinet to procure the remaining hard and soft facilities management (FM) services recommended in this procurement strategy (outlined in paragraphs 31 to 41) via a further competition process using the Crown Commercial Services (CCS) framework agreement, RM3830. The estimated annual cost is £7.6m over 4 years, totalling £30.4m with an option to extend by a further two years, making an estimated total contract value of £45.6m.
93. The report seeks approve for the inclusion of not guaranteed, potential lifecycle capital investment works under the external contract, up to the value of £3.5m per annum. More information is contained within paragraph 35 of the report, but this may increase the external contract value by a total of £21m over 6 years, equating to a potential contract value of up to £66.6m.
94. Cabinet are asked to note the amendment to the approach approved in the Gateway 0 report, in line with the recommended new procurement strategy.
95. The report details the proposed procurement strategy in paragraphs 34-36 of the report and the proposed evaluation criteria and process in paragraphs 47-55. Social value considerations, including the payment of London Living Wage are set out in paragraphs 57-68.

## Director of Law and Governance

96. This report seeks the approval of the cabinet to the procurement strategy for a facilities management contract for the council's operational estate outlined in this report.
97. CSO 5.1.2 provides that any procurement involving the use of a third party's Framework contract is subject to usual Gateway 1 procedures. This report therefore seeks approval to the use of the CCS Framework contract as outlined in paragraphs 3, 34 and 35 of this report.
98. As the Framework contract has already been tendered in accordance with the Public Contracts Regulations 2015, the council is not required to undertake a separate tendering exercise. The procurement strategy proposes the carrying out of a mini-tendering exercise between suppliers who are parties to the CCS Framework agreement, as is set out in the report, and which should enable a best value solution to be agreed with a preferred provider.
99. The TUPE/pensions implications in respect of bring the cleaning services back in-house and the outsourcing of the hard and soft FM are set out in paragraphs 40- 44 of this report as well as paragraph 76.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 0 - facilities management contract for the council's operational estate 13 March 2018	160 Tooley Street, SE1 2QH.	Paul Symington <b>Phone number</b> 0207 525 0225
Gateway 1 – Procurement strategy approval Facilities Management (FM) contract for the Council's Operational Estate 11 December 2018		
Gateway 3 – Extension of the Interserve Facilities Management contract 18 May 2020		
<b>Links (please and copy and paste into browser):</b>		
<a href="http://moderngov.southwark.gov.uk/documents/s74539/GW0%20-%20FM%20contract%20for%20the%20councils%20corporate%20estate.pdf">http://moderngov.southwark.gov.uk/documents/s74539/GW0%20-%20FM%20contract%20for%20the%20councils%20corporate%20estate.pdf</a>		
<a href="http://moderngov.southwark.gov.uk/documents/s79139/Report%20Gateway%201%20-%20Procurement%20Strategy%20Approval%20Facilities%20Management%20FM">http://moderngov.southwark.gov.uk/documents/s79139/Report%20Gateway%201%20-%20Procurement%20Strategy%20Approval%20Facilities%20Management%20FM</a>		



Background Documents	Held At	Contact
<a href="#">%20Contract%20for%20the%20Counci.pdf</a>  <a href="http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=4543">http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=4543</a>  <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6667&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6667&amp;Ver=4</a>		

## APPENDICES

No	Title
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Rebecca Lury, Finance, Business and Jobs	
<b>Lead Officer</b>	Paul Symington, Head of Corporate Facilities Management	
<b>Report Author</b>	Paul Symington, Head of Corporate Facilities Management	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Governance	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	25 February 2021	

<b>Item No.</b> 19.	<b>Classification:</b> Open	<b>Date:</b> 9 March 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Extension of the Mitie FM Ltd (Interserve) Facilities Management Contract	
<b>Ward(s) or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Rebecca Lury, Finance, Business and Jobs	

### **FOREWORD – COUNCILLOR REBECCA LURY, CABINET MEMBER FOR FINANCE, BUSINESS AND JOBS**

In light of the decision to re-introduce a gateway 1 report, we are proposing the extension to the existing contract to cover the interim period to ensure that we have suitable facilities management services across our council estate.

### **RECOMMENDATIONS**

1. That Cabinet approves the variation to extend the term (and agree associated changes noted in this report) of the consolidated facilities management (FM) contract with Mitie FM Limited (Mitie) (previously known as Interserve (Facilities Management) Limited (Interserve) as outlined in paragraph 8, for a period of up to 18 months, from 01 April 2021 to 30 September 2022, at an estimated total cost of £16m.
2. That Cabinet notes that from the contract start date 1 February 2013 to 30 September 2022 the estimated total contract value would be £79m.
3. That Cabinet notes that a three month break clause will be sought as part of the variation to allow for an earlier end to the contract if required, as further detailed in paragraph 14.

### **BACKGROUND INFORMATION**

4. Following a competitive procurement exercise using the Government Procurement Service (GPS) RM798 Framework Agreement, Interserve FM were awarded a contract to provide consolidated facilities management services for the council's headquarters at 160 Tooley Street and other council properties under the contract. The initial contract period was for five years from 1 February 2013 to 31 January 2018, with the option to extend for a further two years until 31 January 2020. This option has been implemented.
5. In September 2019 Cabinet approved a fourteen month extension to allow the procurement programme for two contracts Hard or Soft FM to be undertaken. Bidders could only win one of the contracts, and despite

extensive market testing, the invitation to tender failed to attract sufficiently robust interest to award new contracts.

6. As a direct consequence of the pandemic, the council is undertaking a review of the operational estate, and while any new contract has the right to flex buildings in or out, wholesale service change may increase the risk of a new supplier seeking compensation against the weighted cost of the contract. In December 2020, a decision to halt the procurement project was taken. This pause has allowed the council to reassess the size and scope of the new contract and review the procurement strategy.
7. In addition to the procurement activity, the contract with Kier for hard FM services ended, with the services transferring to Interserve in June 2020. While performance remains above satisfactory, there has been an increase in cost, although most of which can be attributed to the pandemic. To provide greater cost certainty during the extended period all operational buildings will be subject to the comprehensive element of the FM contract meaning all reactive and planned maintenance tasks up to £1000 are met by the contractor.
8. The council has recently been advised that with effect from 1 December 2020 Interserve Support Services business, and its incorporated companies have been acquired by Mitie PLC. This has resulted in a change of name of Interserve Facilities Management Limited to Mitie FM Limited. The council have been advised that there is no further impact on the contract or the service obligations as a result of this transaction.
9. This report therefore seeks to obtain approval to extend the contract with Mitie FM Ltd for up to eighteen months to allow the council to carry out a review of the size and scope of the contract and allow sufficient time to conclude the procurement process and mobilise a new facilities management contract.
10. Whilst the current contract was let to provide a mix of hard and soft FM service initially to Tooley Street, the contract allowed additional buildings and services to be added as well as additional project spend; all of which have been approved by earlier gateway 3 reports. From a single property at contract commencement date the contract now provides hard and soft services to 145 properties across the operational estate. Each variation has resulted in increasing the total number of operational buildings included in the contract for the provision of hard and/or soft services. This has resulted in a current estimated spend from 1 February 2013 to 31 March 2021 of £63m.
11. The contract is split into fixed costs with the provision for additional works above the threshold of £1,000, for planned and reactive works and ad-hoc or temporary ongoing security services. Fixed costs include mechanical and electrical planned preventative maintenance, cleaning, pest control and fixed site security.

## KEY ISSUES FOR CONSIDERATION

### Strategy Overview

12. The nature of the proposed variation is to extend the contract for a period of eighteen months to allow the council to conduct a review of the operational estate service delivery model, and the re-procure and mobilise a new FM contract. The completion date is estimated to be 30 September 2022.
13. The estimated value of this proposed variation is £16m, which, combined with the projected contract spend of £63m from 1 February 2013 to 31 March 2021 gives an overall estimated contract value of £79m.
14. All reasonable steps will be taken to complete the procurement process and achieve a contract start date earlier than 1 October 2022. In the current contract a break clause is included which allows the council to terminate the agreement (if required) on six months' notice without termination payments being payable. The council will enter discussion with the provider to reduce this term to three months, which will be reflected in the Deed of Variation.
15. Cabinet was presented with a Gateway 0 report 13 March 2018 and Gateway 1 report 11 December 2018 that recommended having two FM contracts (hard and soft FM) to provide resilience following the collapse of Carillion. The report also included bringing in-house multiple services (FM help desk, pest control, and cleaning at Tooley Street and Queens Road). The help desk has been brought in house and is operating successfully, pest control goes live on 1 April 2021. This leaves the cleaning service at Tooley Street and Queens Road which will be brought in-house as a part of the future procurement process in line with the TUPE Regulations.
16. The nature of the services for this additional period will remain the same as those listed in paragraph 10.
17. The contract with Interserve (now Mitie FM Ltd) is a NEC3 form of contract, which is designed to encourage both the council and the contractor to work in partnership and overcome any difficulties, prior to resorting to the contract performance schedules.
18. The contract has a performance management framework including penalty related key performance indicators (KPIs) and contract escalation procedures should the contractor fail to deliver. Early warning notices and risk reduction meetings are used to resolve perceived difficulties in the first instance. This process is available to both sides and works reasonably well.
19. The current performance of Interserve FM (now Mitie FM Ltd) is above satisfactory despite the pandemic, with KPI performance currently reflecting the company meeting 17 of the 19 KPI targets. During the

pandemic Interserve have proven to be a very resilient partner, supporting the council in maintaining, securing and cleaning across the operational estate.

### **Future proposals for this service**

20. A new Gateway 1 report will also be presented to Cabinet in March 2021. Subject to approval recommendations for contract award will be via a Gateway 2 report in April 2022 and the new contract is estimated to commence 01 October 2022.

### **Alternative options considered**

21. Do Nothing. This service has to continue, therefore this is not an option as the services provided by the contractor are required to ensure statutory property compliance and required levels of property service.
22. Let a New Contract. The market are not interested in a short term contract of up to 18 months and this would be reflected in significantly higher costs if bids were to be received.
23. Extension of Existing Contract. As this is a short term extension of a maximum of 18 months and is to allow the procurement of the new service to be completed then there were no alternative options which were considered appropriate.

### **Identified risks for the variation**

24. Corporate facilities management are aware of the well publicised financial position that Interserve faced during the 2018/19 financial year, however following the merger with Mitie they are in a much better financial position. Following their merger CFM have found no evidence to suggest that Mitie will not have the ability to fulfill this extension but will continue to monitor performance and meet regularly with the account director. A low risk rating is considered reasonable.

<b>Risk No.</b>	<b>Risk Identified</b>	<b>Risk level</b>	<b>Mitigation</b>
R1	Procurement process for CFM 2020 is delayed	Medium	<ul style="list-style-type: none"> <li>• CFM will control and monitor the process throughout.</li> </ul>
R2	Mitie FM cease trading	Low	<ul style="list-style-type: none"> <li>• Recent credit checks for the contract parties have shown a secure credit rating</li> <li>• Use of early warning mechanisms in NEC3 contract, which is applicable to both parties.</li> <li>• Contract monitoring</li> <li>• Regular meetings with Head of CFM</li> </ul>

			and Account Director to monitor identified risk.
	Key performance indicators (KPI) performance declines	Low	<ul style="list-style-type: none"> <li>Regular monitoring by CFM contracts team.</li> </ul>
R4	Extension of the contract challenged	Low	<ul style="list-style-type: none"> <li>CFM have written to the companies that previously expressed an interest in bidding for the new contract. There has been no challenge made by the companies to the halting of the procurement process.</li> <li>The extension of this contract to allow the conclusion of the procurement for a new contract is allowable under Regulation 72 of the Public Contract Regulations.</li> <li>There is a clear procurement process underway.</li> </ul>
R5	Pandemic C-19	Medium	<ul style="list-style-type: none"> <li>Potential for suppliers to struggle to meet contractual arrangements due to staff shortages during the pandemic</li> <li>The contractor has performed well during the pandemic, supporting the council throughout in a flexible, open and transparent manner. Nothing has been too much trouble for them.</li> </ul>
R6	Brexit	Medium	<ul style="list-style-type: none"> <li>Potential for supply chain issues especially sourcing specialist items from the European Union</li> <li>Potential for cleaning and security staffing issues</li> <li>This area will be closely monitored</li> </ul>

### Policy implications

25. A key element of the corporate plan that the FM strategy supports is 'transforming public services'. This requires sound resource management of the council's property assets, how they are utilised and their effective and efficient procurement and delivery of FM services are integral to the sound management of the council's property assets.
26. The medium term resources strategy aligns financial priorities with the management of assets and the associated resources with which the council delivers its services. Changes to the operational estate may significantly alter the facilities management requirements, by having an informed, flexible and modern service platform Corporate Facilities Management aim to support the council's medium and long-term objectives by providing opportunities for efficiency savings.

27. The theme of 'valuing the environment' will be increasingly supported through the delivery of an improved FM service and effective strategic management of FM. Supported policies include 'Southwark Cleaner Safer' and the 'Sustainable Community Strategy'. Other key corporate objectives are indirectly supported through improving working environments, improving customer facilities, removing single use plastics and enabling a more effective and flexible service delivery model in line with the fairer future procurement framework.

### **Contract management and monitoring**

28. The Head of CFM will continue to be the responsible person for the contract as the service manager, supported by the division's contract management, technical and operational teams.
29. The existing management and monitoring currently in place includes:
- Monitoring budget spend and compiling monthly spend profile reports
  - Checking invoices for accuracy
  - Providing robust single point of contact for end users
  - Proactively responding to complaint and service improvement requests
  - Weekly corporate compliance risk assessment monitoring
  - Regular project reviews and post work inspections
  - Monthly contractor performance monitoring meetings, six monthly service reviews and the annual performance review
  - Ensuring contractor monthly reports are received in a timely manner.
30. Mitie are required to comply with the requirements of the contract's agreed performance mechanism regime which is:
- To respond in accordance with the prioritisation of reported service performance failures.
  - To operate procedures and systems to record information in support of performance monitoring and to enable regular robust performance reporting.
  - To monitor the performance of the service and produce monthly performance reports for the employer.
31. Performance of the contract will continue to be measured and reported by means of a suite of key performance indicators (KPIs) covering management of the contract and customer services as well as both hard and soft FM service delivery.
32. CFM conduct regular site inspections and visits in order to measure and monitor the quality of the service provided and feedback from end users is actively sought.

33. As the estimated value exceeds the relevant Public Contract Regulation threshold, CFM will prepare a monitoring report to the relevant DCRB.
34. As the contract also relates to a strategic procurement, CFM will prepare an annual monitoring report to CCRB in line with contract standing orders.

### **Community impact statement**

35. This contract has a direct impact on the occupants of all the buildings covered by this contract, as well as all council staff, service users Southwark residents, visitors and the council's elected members.
36. It will continue to provide a healthy and safe working environment, which will seek to ensure that no elements of the council's equality agenda are negatively impacted.

### **Social value considerations**

37. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured.

### **Economic considerations**

38. Within the contract, Interserve FM (now Mitie FM Ltd) has employed three apprentices. All three completed their apprenticeship and have been offered a permanent role on the contract or with Interserve (now Mitie FM Ltd) elsewhere. The finance apprentice has since moved onto another organisation and the two building services/maintenance apprentices have recently completed their final year and continue to work for Mitie.
39. The apprentices attended college one day a week and the remainder of their week is spent gaining knowledge within Tooley Street and the wider estate, working with the static and mobile engineering team to ensure that they are able to demonstrate the skills learnt in the classroom. Mitie FM work closely with the college and apprenticeship schemes meeting frequently with the training officers to review progress and support where needed.
40. Prior to the contract extensions, the Mitie (formally Interserve) FM team were supported by a graduate who carried out; a KPI review, asset verification exercise, planning of PPM tasks, updating their computer aided facilities management (CAFM) system and working with contractors to collate the safe system of work documentation. Interserve (now Mitie FM Ltd) have committed to reviewing the possibility of taking on an intern or a management graduate trainee during the extension period, as their apprenticeships last approximately three years.



## **Social considerations**

41. The contract was tendered on the basis that London Living Wage (LLW) would apply to all contractor staff that work on the contract both directly employed by the contractor and sub contracted to them. A specific LLW service delivery plan was included in the quality evaluation and Interserve FM's (now Mitie FM Ltd) commitment to LLW was confirmed through the clarification process both in terms of price and scope. The contractor has continued to undertake ongoing LLW monitoring and reporting arrangements; however, the risk for LLW increases during the extension period will fall on the council from April 2022.
42. The council can exclude companies who break the law by blacklisting or have not put into place genuine actions concerning past black listing activities. The council can require "self-cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:
  - "owned up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities
  - "cleaned up": taken concrete technical, organisational and personal measures that are appropriate to prevent further criminal offences or misconduct
  - "paid up": paid or undertaken to pay compensation in respect of any damage caused.
43. The council has requested the necessary information from Interserve (now Mitie FM Ltd) and they have confirmed that they are not in breach of the requirements under Regulations 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010. The contract conditions also include a condition requiring compliance with legislation (including the Blacklisting Regulations).

## **Environmental/sustainability considerations**

44. Interserve (FM) (now Mitie FM Ltd) are required to provide services that support, and do not compromise, the Southwark green building targets, sustainability policy and Fairtrade status, and support the ongoing climate emergency programme, including removal of single use plastic, installation of LED lighting and air source heat pumps instead of gas fired boilers for office heating

## **Finance implications**

45. The proposed variation to extend the contract for a period of eighteen months to 30 September 2022 is estimated to be c. £16m, based on current activity/volumes and changes in the contract pricing mechanism,

bringing the combined estimated contract value over the period to c. £79m. The cost of the contract extension will be met from the existing budget resources available in both CFM and departmentally for this contract including index linked inflationary uplifts for 2021-22 and part-year 2022-23.

46. The contract is structured into a number of cost streams, with a fixed lump sum price element contained in Cost Stream 1 (CS1), along with additional cost streams, as follows:
- Cost Stream 2A (CS2A) - works above the financial threshold limit (FTL) of £1000
  - Cost Stream 2B (CS2B) - works outside of the contract scope
  - Cost Stream 2B (CS2Bs) – all ad hoc security works/requests
  - Cost Stream 2C (CS2C) – projects and task orders
47. As noted at paragraph 28 to 34, stringent contract management and monitoring arrangements will remain in place, including budget and performance monitoring/reporting.
48. This report notes it is the intention to bring cleaning services at Tooley Street and the Queens Road complex in-house when the new contract takes effect in October 2022. This change in the delivery model is likely to carry a greater cost than under the current and interim arrangements, and will be fully outlined in a separate Gateway 2 report in April 2022.

### **Legal implications**

49. Please refer to paragraph 54

### **Consultation**

50. All internal departmental stakeholders have been consulted.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

51. To This report seeks the approval of Cabinet for a variation to extend the term (and agree associated changes noted in this report) of the consolidated facilities management (FM) contract with Mitie FM Limited (Mitie) (previously known as Interserve (Facilities Management) Limited (Interserve) as outlined in paragraph 8. This covers a period of up to 18 months, from 01 April 2021 to 30 September 2022, at an estimated total cost of £16m.
52. The resultant contract period would therefore be from a start date 1 February 2013 to 30 September 2022, with an estimated total contract value of £79m. The report does note that a three month break clause will

be sought as part of the variation to allow for an earlier end to the contract if required, as further detailed in paragraph 14.

53. The report details the plans for the Management and Monitoring of the Contract in paragraphs 28-34, with risks and mitigating actions in para. 24. Social value considerations are set out in paragraphs 40-43, including the confirmation that London Living Wage (LLW) is payable under this contract.

#### **Director of Law and Governance**

54. This report seeks the cabinet's approval to the variation of the consolidated facilities management (FM) contract with Mitie as further detailed in paragraphs 1-3.
55. The original appointment of Interserve (now Mitie) was subject to, and awarded in accordance with the Public Contract Regulations applicable at that time, and it is therefore necessary to ensure that any variation to be made to the contract is permitted within those procurement regulations. Regulation 72 permits modifications to be made to contracts during their term, in certain circumstances. This includes at Regulation 72(1)(e) where the modification is not substantial. Having considered the circumstances noted at Regulation 72(8) which notes those modifications which are considered substantial, it is considered that the contract can be varied under this provision, as the extension is to allow the procurement to be undertaken and completed in circumstances that were beyond the council's control. Whilst a risk exists, it is considered low in these circumstances.
56. Contract standing order 2.3 requires that no steps are taken to vary a contract unless the expenditure involved has been included in approved estimates, or is otherwise approved by the council. Paragraphs 44-49 confirm the financial implications of this variation.

#### **Strategic Director of Finance and Governance (H&M 20/136)**

57. This report recommends that Cabinet approve the variation to extend the term of the consolidated facilities management (FM) contract with Mitie FM Limited (Mitie) (previously known as Interserve (Facilities Management) Limited (Interserve) for a period of up to 18 months, from 01 April 2021 to 30 September 2022, at an estimated total cost of £16m.
58. CFM will control the budget provision and in the longer term as the outcome of the re-procurement of FM services is determined the impact on resources will be reported to Cabinet in the normal way via budget setting and approval processes.
59. Departments will continue to monitor and control those budgets held beyond CFM for ad hoc FM service requests and in terms of lifecycle

investment, provision will continue to be confirmed within the Council's approved capital programme.

60. The report notes the plan for in house services to be extended to cleaning at Tooley Street and Queens Road and that the financial implications will be fully noted alongside the future contract award decision for FM services.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 0 - facilities management contract for the council's operational estate 13 March 2018	160 Tooley Street, SE1 2QH.	Paul Symington <b>Phone number</b> 0207 525 0225
Gateway 1 – Procurement strategy approval Facilities Management (FM) contract for the Council's Operational Estate 11 December 2018		
Gateway 3 – Extension of the Interserve Facilities Management contract 17 September 2019		
<b>Links (please copy and paste into browser):</b>		
<a href="http://moderngov.southwark.gov.uk/documents/s74539/GW0%20-%20FM%20contract%20for%20the%20councils%20corporate%20estate.pdf">http://moderngov.southwark.gov.uk/documents/s74539/GW0%20-%20FM%20contract%20for%20the%20councils%20corporate%20estate.pdf</a>		
<a href="http://moderngov.southwark.gov.uk/documents/s79139/Report%20Gateway%201%20-%20Procurement%20Strategy%20Approval%20Facilities%20Management%20FM%20Contract%20for%20the%20Council.pdf">http://moderngov.southwark.gov.uk/documents/s79139/Report%20Gateway%201%20-%20Procurement%20Strategy%20Approval%20Facilities%20Management%20FM%20Contract%20for%20the%20Council.pdf</a>		
<a href="http://moderngov.southwark.gov.uk/documents/s84631/Report%20Extension%20of%20the%20Interserve%20Facilities%20Management%20Contract.pdf">http://moderngov.southwark.gov.uk/documents/s84631/Report%20Extension%20of%20the%20Interserve%20Facilities%20Management%20Contract.pdf</a>		

## APPENDICES

No.	Title
None	

**AUDIT TRAIL**

<b>Cabinet Member</b>	Councilor Rebecca Lury, Finance and Resources	
<b>Lead Officer</b>	Paul Symington, Head of Corporate Facilities Management	
<b>Report Author</b>	Paul Symington, Head of Corporate Facilities Management	
<b>Version</b>	Final	
<b>Dated</b>	25 February 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	25 February 2021	

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Paula Thornton Tel: 020 7525 4395

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