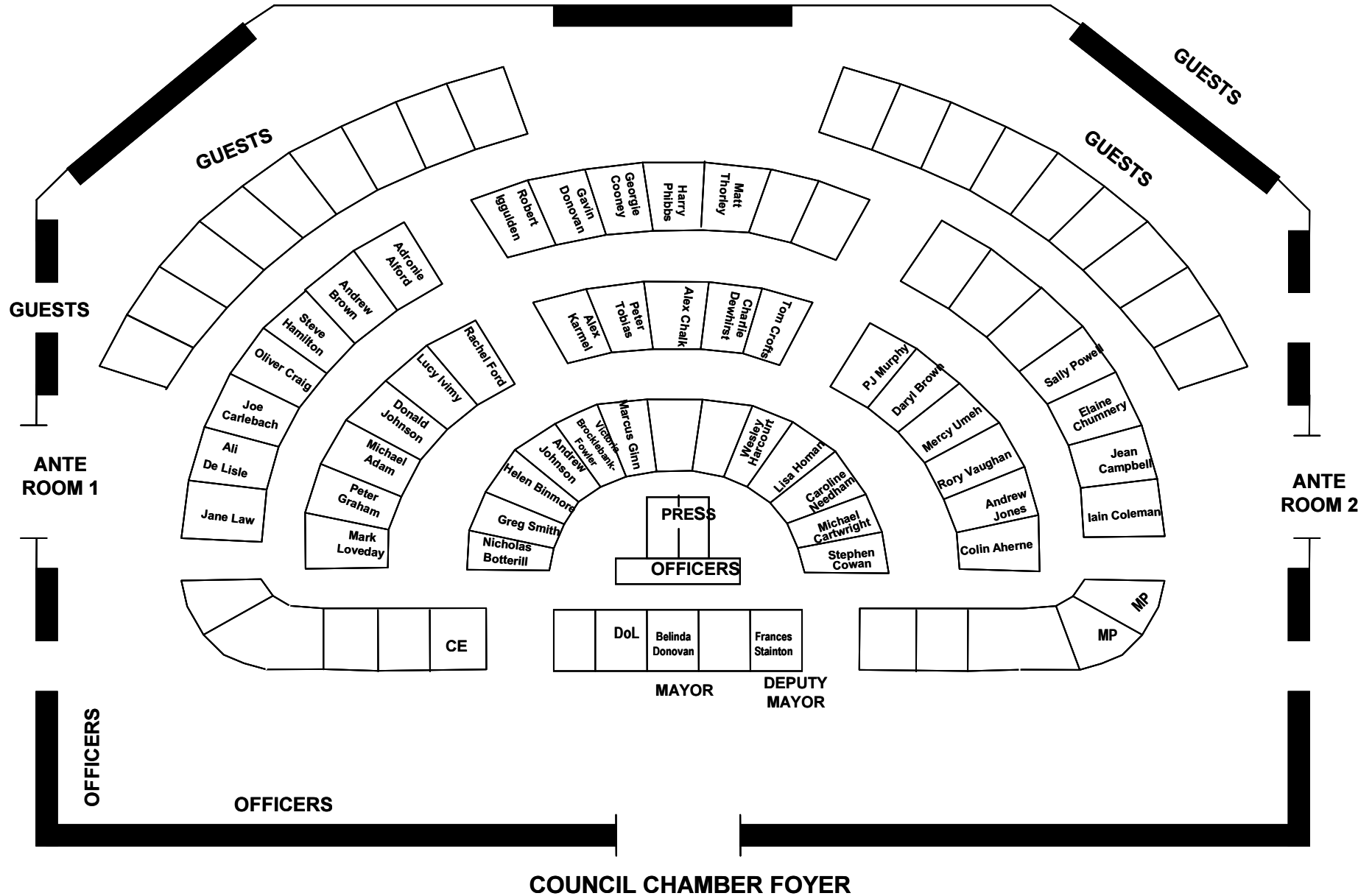


COUNCIL AGENDA

(Ordinary Council Meeting)

Wednesday 24 October 2012

COUNCIL CHAMBER SEATING 2012/13





The Mayor (Councillor Belinda Donovan)
Deputy Mayor (Councillor Frances Stainton)

ADDISON

Alex Chalk (C)
Belinda Donovan (C)
Peter Tobias (C)

HAMMERSMITH
BROADWAY

Michael Cartwright (L)
Stephen Cowan (L)
PJ Murphy (L)

RAVENSCOURT PARK

Charlie Dewhurst (C)
Lucy Ivimy (C)
Harry Phibbs (C)

ASKEW

Lisa Homan (L)
Caroline Needham (L)
Rory Vaughan (L)

MUNSTER

Michael Adam (C)
Adronie Alford (C)
Alex Karmel (C)

SANDS END

Steve Hamilton (C)
Ali de Lisle (C)
Jane Law (C)

AVONMORE &
BROOK GREEN

Helen Binmore (C)
Joe Carlebach (C)
Robert Iggulden (C)

NORTH END

Daryl Brown (L)
Georgie Cooney (C)
Tom Crofts (C)

SHEPHERDS BUSH
GREEN

Iain Coleman (L)
Andrew Jones (L)
Mercy Umeh (L)

COLLEGE PARK &
OLD OAK

Elaine Chumnerly (L)
Wesley Harcourt (L)

PALACE RIVERSIDE

Marcus Ginn (C)
Donald Johnson (C)

TOWN

Andrew Brown (C)
Oliver Craig (C)
Greg Smith (C)

FULHAM BROADWAY

Victoria Brocklebank-
Fowler (C)
Rachel Ford (C)
Matt Thorley (C)

PARSONS GREEN AND
WALHAM

Nicholas Botterill (C)
Mark Loveday (C)
Frances Stainton (C)

WORMHOLT AND
WHITE CITY

Colin Aherne (L)
Jean Campbell (L)
Dame Sally Powell (L)

FULHAM REACH

Gavin Donovan (C)
Peter Graham (C)
Andrew Johnson (C)



SUMMONS

Councillors of the London Borough of
Hammersmith & Fulham
are requested to attend the
Meeting of the Council on
Wednesday 24 October 2012
at Hammersmith Town Hall, W6

The Council will meet at 7.00pm.

16 October 2012
Town Hall
Hammersmith W6

Derek Myers
Chief Executive

Full Council Agenda

24 October 2012

<u>Item</u>		<u>Pages</u>
1.	MINUTES	319 - 338
	To approve and sign as an accurate record the Minutes of the Council Meeting held on 4 July 2012.	
2.	APOLOGIES FOR ABSENCE	
3.	MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS (IF ANY)	
4.	DECLARATIONS OF INTERESTS	
	If a Councillor has a disclosable pecuniary interest in a particular item, whether or not it is entered in the Authority's register of interests, or any other significant interest which they consider should be declared in the public interest, they should declare the existence and, unless it is a sensitive interest as defined in the Member Code of Conduct, the nature of the interest at the commencement of the consideration of that item or as soon as it becomes apparent.	
	At meetings where members of the public are allowed to be in attendance and speak, any Councillor with a disclosable pecuniary interest or other significant interest may also make representations, give evidence or answer questions about the matter. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken.	
	Where Members of the public are not allowed to be in attendance and speak, then the Councillor with a disclosable pecuniary interest should withdraw from the meeting whilst the matter is under consideration. Councillors who have declared other significant interests should also withdraw from the meeting if they consider their continued participation in the matter would not be reasonable in the circumstances and may give rise to a perception of a conflict of interest.	
	Councillors are not obliged to withdraw from the meeting where a dispensation to that effect has been obtained from the Audit, Pensions and Standards Committee.	
5.	PUBLIC QUESTIONS (20 MINUTES)	
	The Leader/relevant Cabinet Member to reply to questions submitted by members of the public:	
5.1	QUESTION 1 - MR JOHN GRIGG	339

6.	ITEMS FOR DISCUSSION/COMMITTEE REPORTS	
6.1	TOWN WARD BY-ELECTION	340
	To report the results of the Town Ward By-Election held on 12 July 2012.	
6.2	EARLS COURT REDEVELOPMENT - APPLICATION FOR CONSENT FOR DISPOSAL OF HRA LAND	341 - 451
	This report addresses the need to apply for consent from the Secretary of State for the Department for Communities and Local Government for the proposed disposal of parts of the West Kensington and Gibbs Green Estates (the Estates). The Cabinet has authorised the Council to enter into a Conditional Land Sale Agreement which would grant a conditional option to EC Properties LP, part of the Capital and Counties Properties plc group of Companies (Capco), to include Council owned land including the Estates in a comprehensive redevelopment of the Earls Court area.	
6.3	REVIEW OF THE COUNCIL'S STATEMENT OF GAMBLING PRINCIPLES	452 - 525
	This report seeks approval for the Council's Revised Statement of Gambling Principles 2013, which has been publicly consulted upon. A Statement of Principles provides advice and guidance to local authorities when exercising their functions under the Gambling Act 2005. It also provides guidance to applicants and objectors.	
	The Council's current Statement of Gambling Principles 2009 took effect in January 2010 and expires in January 2013. A draft revised Statement of Gambling Principles 2013 has been prepared for consideration based on the results of the consultation. This report outlines the review and consultation process, issues for consideration and the proposed amendments which were subject to public consultation.	
6.4	REVIEW OF THE COUNCIL'S CONSTITUTION - REVISED PROCEDURE FOR EXECUTIVE MEETINGS AND ACCESS TO INFORMATION	526 - 544
	This report is seeking approval to changes to the Constitution resulting from the making of new Regulations relating to private and public meetings of the Executive, and publication of documents and access to them by the public, Councillors and Overview and Scrutiny Committee members.	
	In addition, minor changes are recommended to officers' Schemes of Delegation and revised titles of posts.	
6.5	TREASURY MANAGEMENT OUTTURN REPORT	545 - 552
	This report provides information on the Council's debt, borrowing and investment activity for the financial year ending 31 March 2012.	

6.6	ANNUAL REPORT OF THE AUDIT AND PENSIONS COMMITTEE 2011/12	553 - 565
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This report details the work of the Audit and Pensions Committee during 2011/12 as it relates to an audit committee, outlining the key developments in:

Governance
Internal Control;
Risk management;
Internal Audit;
Anti-fraud;
External Audit;

It also sets out the plans for the future, built on the lessons learnt. The report provides an opportunity for all members to review the Committee and to review its performance.

7. SPECIAL MOTIONS

To consider and determine any Special Motions:

7.1	SPECIAL MOTION 1 - LONDON AIRPORTS	566
7.2	SPECIAL MOTION 2 - TRI-BOROUGH WORKING	567
7.3	SPECIAL MOTION 3 - LOW COST HOME OWNERSHIP	568
7.4	SPECIAL MOTION 4 - CHANGES TO COMMITTEE MEMBERSHIP	569
7.5	SPECIAL MOTION 5 - THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM'S VOLUNTARY DECLARATION TO HER MAJESTY'S REVENUE AND CUSTOMS	570
7.6	SPECIAL MOTION 6 - OBJECTION TO HAMMERSMITH AND FULHAM'S CONSERVATIVE ADMINISTRATION'S £2 MILLION FUNDING OF THE BARCLAYS BANK/BORIS BIKES SCHEME	571
7.7	SPECIAL MOTION 7 - HEATHROW AIRPORT THIRD RUNWAY	572
8.	INFORMATION REPORTS - TO NOTE	
8.1	SPECIAL URGENCY DECISIONS - MONITORING REPORT	573 - 574



COUNCIL MINUTES

(ORDINARY COUNCIL MEETING)

WEDNESDAY 4 JULY 2012

PRESENT

The Mayor Councillor Belinda Donovan
Deputy Mayor Councillor Frances Stainton

Councillors:

Michael Adam	Tom Crofts	Alex Karmel
Colin Aherne	Ali De-Lisle	Jane Law
Adronie Alford	Charlie Dewhirst	Mark Loveday
Helen Binmore	Gavin Donovan	PJ Murphy
Nicholas Botterill	Rachel Ford	Caroline Needham
Victoria Brocklebank-Fowler	Marcus Ginn	Harry Phibbs
Daryl Brown	Peter Graham	Sally Powell
Joe Carlebach	Steve Hamilton	Greg Smith
Michael Cartwright	Wesley Harcourt	Matt Thorley
Alex Chalk	Lisa Homan	Peter Tobias
Elaine Chumnerly	Robert Iggulden	Mercy Umeh
Georgie Cooney	Lucy Ivimy	Rory Vaughan
Stephen Cowan	Andrew Johnson	
Oliver Craig	Donald Johnson	

11. MINUTES

The minutes of the Annual Council Meeting held on 30 May 2012 were confirmed and signed as an accurate record.

12. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Jean Campbell, Iain Coleman and Andrew Jones.

Apologies for lateness were received from Councillors Tom Crofts, Ali de Lisle and Gavin Donovan.

13. MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS

The Mayor's Announcements were circulated and tabled at the meeting. (Copy attached as **Appendix 1** to these minutes).

14. DECLARATIONS OF INTERESTS

The following Councillors declared prejudicial interests in Special Motion 2 (Accident and Emergency Services) and Special Motion 6 (Objection to the Conservative-Led Government's Local Hospital Closures) in relation to their membership of the North West London Joint Health Overview & Scrutiny Committee: -

- Councillor Stephen Cowan as a substitute Member.
- Councillor Lucy Ivimy as a Member.
- Councillor Peter Tobias as a substitute Member.
- Councillor Rory Vaughan as a Member.

Councillor Dame Sally Powell declared a personal interest in Special Motion 2 (Accident and Emergency Services) and Special Motion 6 (Objection to the Conservative-Led Government's Local Hospital Closures) in relation to her membership of the Board of the West London Mental Health Trust.

Councillor Caroline Needham declared a personal Interest in Item 6.2 (Localism Act 2011 - Members' Complaint Procedures, Appointment of Independent Persons and Changes to the Constitution) as a former neighbour and friend of one of the appointed Independent Members.

15. PUBLIC QUESTIONS (20 MINUTES)

15.1 Question 1 - Mr Jed Keenan

7.04 pm - The Mayor called on Mr Jed Keenan who had submitted a question to the Leader (Councillor Nicholas Botterill) to ask his question. The Leader responded. Mr Keenan asked a supplementary question which was also answered.

(A copy of the public question submitted and the reply given is attached at **Appendix 2** to these minutes).

16. ITEMS FOR DISCUSSION/COMMITTEE REPORTS

16.1 Localism Act 2011 - Members' Complaint Procedures, Appointment of Independent Persons and Changes to the Constitution

7.09 pm - Under Standing Order 15(e) (vi), the Leader, Councillor Nicholas Botterill, formally moved the report with the following amendment to recommendation 4:

“That Ms Sophia Lambert CBE and Ms Janis Cammel OBE be appointed for a year, in conjunction with the Royal Borough of Kensington and Chelsea, as Independent Persons to consider complaints against Members and to offer their impartial views on each case, including any investigations undertaken.”

The amendment was unanimously agreed.

A speech on the report was made by Councillor Mark Loveday (for the Administration), before being put to the vote:

The report and recommendations were put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The report and recommendations were declared **CARRIED**.

7.16 pm **RESOLVED:**

1. That the revision to the advice in the Council's 'Guidance for Councillors and Officers dealing with Planning and Licensing' as outlined in the report, be adopted.
2. That the specific responsibility of maintaining high standards of conduct for Members be delegated to the Audit, Pensions and Standards Committee.
3. That the Members' Code of Conduct, as set out in Appendix 1 of the report, be adopted, and that the rules requiring Members to register and disclose pecuniary and non-pecuniary interests be noted.
4. That two Independent Members, Ms Sophia Lambert CBE and Ms Janis Cammel OBE) be appointed, in conjunction with the Royal Borough of Kensington and Chelsea, as Independent Persons to consider complaints against Members and to offer their impartial views on each case, including any investigations undertaken.
5. That a flat rate allowance of £500 per annum be paid to the Independent Person appointed by LBHF in 12 monthly instalments on the 15th of each month.
6. That the arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct, as set out in Appendix 2 of the report, be approved.
7. That the terms of reference of the Audit, Pensions and Standards Committee and the Audit, Pensions and Standards Sub Committees, as outlined in Appendix 3, be approved.
8. That Standing Order rule 20 be amended as set out in Appendix 4 of the report.

(Councillor Caroline Needham declared a personal Interest as a former neighbour and friend of one of the appointed Independent Members).

16.2 Revised Statement of Licensing Policy 2012

7.18 pm - The report and recommendations were moved for adoption by the Leader, Councillor Nicholas Botterill.

The report and recommendations were put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The report and recommendation was declared **CARRIED.**

RESOLVED:

That the Council's Revised Statement of Licensing Policy 2012 as set out in Appendix 1 of the report, be approved.

16.3 Appointment of Monitoring Officer

7.19 pm - The report and recommendation was moved for adoption by the Leader, Councillor Nicholas Botterill.

The report and recommendation was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The report and recommendation was declared **CARRIED.**

RESOLVED:

That Ms Tasnim Shawkat be appointed Monitoring Officer from 1 October 2012.

17. **SPECIAL MOTIONS**

17.1 Special Motion No. 3 - Children In Care

7.20pm Under Standing Order 15(e) (iii), Councillor Mark Loveday moved, and seconded by Councillor Donald Johnson, that Special Motion 7.3 - Children in Care take precedence on the agenda and be considered. The motion was unanimously agreed.

7.21pm – Councillor Helen Binmore moved, seconded by Councillor Donald Johnson, the special motion standing in their names:

“This Council:

1. Notes that:

- The number of looked after children in the borough has fallen in every year since 2006 and that by the end of 2011 there were only 233 children in care at the end of Year 2011/12;
- Hammersmith & Fulham Council has outperformed the national average by 40% every year for the last 5 years for children leaving care on permanency orders;
- The Council is ranked first in the country for Special Guardianship Orders, and;
- The Council has met both thresholds for the new Adoption Scorecard this year.

2. Welcomes:

- the work of the recently formed Children in Care Council;
- the official launch of the Council's ‘Pledge to all Children in Care’ in September, and;
- the establishment of the Hammersmith & Fulham Opportunity Trust.

3. Resolves to:

- Review the ‘Pledge to all Children in Care’ every year;
- Work closely and collaboratively with the Children in Care Council;
- Drive to secure stable attachments through permanency orders;
- Actively manage adoption cases and continue to tackle delays, and;
- Further support our children in care and care leavers by promoting the Hammersmith & Fulham Opportunity Trust.”

Speeches on the special motion were made by Councillors Helen Binmore and Donald Johnson (for the Administration).

Under Standing Order 15(e) (vi), Councillor Elaine Chumnerly moved, seconded by Councillor Caroline Needham, an amendment to the motion as follows:

“Delete “2006” in the second line of the first bullet point, and insert “2004”. “

Speeches on the amendment were made by Councillors Elaine Chumnerly and Caroline Needham (for the Opposition) and Councillor Georgie Cooney (for the Administration) before it was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The amended motion was declared **Carried.**

Councillor Helen Binmore (for the Administration) made a speech winding up the debate before the substantive motion was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion as amended was declared **CARRIED.**

7.41 pm – **RESOLVED:**

This Council:

1. Notes that:

- The number of looked after children in the borough has fallen in every year since 2004 and that by the end of 2011 there were only 233 children in care at the end of Year 2011/12;
- Hammersmith & Fulham Council has outperformed the national average by 40% every year for the last 5 years for children leaving care on permanency orders;
- The Council is ranked first in the country for Special Guardianship Orders, and;
- The Council has met both thresholds for the new Adoption Scorecard this year.

2. Welcomes:

- the work of the recently formed Children in Care Council;
- the official launch of the Council's 'Pledge to all Children in Care' in September, and;
- the establishment of the Hammersmith & Fulham Opportunity Trust.

3. Resolves to:

- Review the 'Pledge to all Children in Care' every year;
- Work closely and collaboratively with the Children in Care Council;
- Drive to secure stable attachments through permanency orders;
- Actively manage adoption cases and continue to tackle delays, and;
- Further support our children in care and care leavers by promoting the Hammersmith & Fulham Opportunity Trust.

17.2 Special Motion 1 - Right to Buy

7.42pm – Councillor Andrew Johnson moved, seconded by Councillor Harry Phibbs, the special motion standing in their names:

“This Council welcomes the decision by the Government to raise the cap on the Right to Buy discount from £16,000 to £75,000 with effect from 2nd April this year.

That this Council notes that:

- The Right to Buy has helped thousands of council tenants in H&F to buy their own home since it launched over 30 years ago.
- Completions under the scheme all but collapsed when the maximum discount in the capital was reduced in 2004 from £38,000 to £16,000, leading to a slump from 245 Right to Buy sales in 2003/04 to 7 in H&F last year.
- Since the revised discount came into force on 2nd April, a total of 119 new applications have been received by the Council’s HomeBuy unit, with a total of 134 applications currently being processed.
- That the first launch event of the Right to Buy road show at 145 King Street attracted over 384 residents.

That this Council resolves to:

- Continue to promote the Right to Buy to all eligible tenants within Hammersmith and Fulham
- Continue to promote other forms of low-cost home ownership to council tenants and provide them with help in getting onto the property ladder.
- Continue to lobby the Government to increase the discount in high value residential areas such as Hammersmith & Fulham, to make the discount more meaningful for our tenants.
- Re-invest a proportion of the receipts received from each sale into the provision of new affordable housing in line with current Government guidance on the use of receipts.”

Speeches on the special motion were made by Councillors Andrew Johnson and Adronie Alford (for the Administration).

Under Standing Order 15(e) (vi), Councillor Lisa Homan moved, seconded by Councillor Stephen Cowan, an amendment to the motion as follows:

“Delete the final bullet point and replace with:

“The Council recognises that London is suffering the consequences of a housing crisis. That means current statistics demonstrate that the average twenty-something will be in their fifties before they get a foot on the property ladder; it means that there are tens of thousands of hard working families struggling with

overcrowding and unsuitable housing conditions and it means that homeless levels are increasing. Fixing the supply of genuinely affordable homes to buy and rent is critical.

The Council therefore resolves to:

- Lobby the government to be able to keep and use 100% of the receipts from council home sales for re-investment in building new homes.
- To provide a like-for-like replacement home for each council home sold.
- Guarantees to use its discretion and ensure that rents on replacement homes are set in line with other social rents in the borough - not at 80% of market rate.
- Stop its policy of selling off council homes to property speculators (as featured in the BBC's Homes Under The Hammer) and in the process banning local residents from renting or even buying those homes to live in.
- Stop its policy of offering property speculators the opportunity to demolish up to a third of the Borough's current council housing stock
- Recognises its failure to build a single affordable home to rent on recent major property schemes and its failure to build any genuinely affordable homes to buy. The Council therefore resolves to follow the Borough and GLA's planning guidelines to help increase the supply of genuinely affordable housing to rent or buy."

Speeches on the amendment were made by Councillors Lisa Homan, Stephen Cowan and PJ Murphy (for the Opposition) and Councillors Harry Phibbs and Andrew Johnson (for the Administration) before it was put to the vote:

FOR	12
AGAINST	25
NOT VOTING	0

The motion was declared **Lost.**

Speeches on the substantive motion were then made by Councillors Lisa Homan and Stephen Cowan (for the Opposition) and Nicholas Botterill (for the Administration).

Councillor Andrew Johnson (for the Administration) made a speech winding up the debate before the substantive motion was put to the vote:

FOR	27
AGAINST	0
NOT VOTING	12

The motion was declared **CARRIED.**

8.25 pm – **RESOLVED:**

This Council welcomes the decision by the Government to raise the cap on the Right to Buy discount from £16,000 to £75,000 with effect from 2nd April this year.

That this Council notes that:

- The Right to Buy has helped thousands of council tenants in H&F to buy their own home since it launched over 30 years ago.
- Completions under the scheme all but collapsed when the maximum discount in the capital was reduced in 2004 from £38,000 to £16,000, leading to a slump from 245 Right to Buy sales in 2003/04 to 7 in H&F last year.
- Since the revised discount came into force on 2nd April, a total of 119 new applications have been received by the Council's HomeBuy unit, with a total of 134 applications currently being processed.
- That the first launch event of the Right to Buy road show at 145 King Street attracted over 384 residents.

That this Council resolves to:

- Continue to promote the Right to Buy to all eligible tenants within Hammersmith and Fulham
- Continue to promote other forms of low-cost home ownership to council tenants and provide them with help in getting onto the property ladder.
- Continue to lobby the Government to increase the discount in high value residential areas such as Hammersmith & Fulham, to make the discount more meaningful for our tenants.
- Re-invest a proportion of the receipts received from each sale into the provision of new affordable housing in line with current Government guidance on the use of receipts.

17.3 Special Motion No. 2 - Accident And Emergency Services

8.26pm – Councillor Marcus Ginn moved, seconded by Councillor Andrew Johnson, the special motion standing in their names:

“This Council notes that:

1. NHS North West London is proposing as options the closure of Charing Cross, Hammersmith or Chelsea and Westminster Hospital Accident & Emergency departments.
2. Residents in Hammersmith and Fulham value these hospitals and would not support any proposal that downgrades their status from that of major hospitals.
3. Hammersmith and Fulham is a high density inner-London borough in need of quick access to high quality accident and emergency services. The option of

closing Charing Cross, Hammersmith or Chelsea and Westminster Hospital A&E departments will result in H&F residents having to travel further to obtain this critical service.

This Council resolves to oppose the closure or downgrading of Charing Cross, Hammersmith or Chelsea and Westminster Hospital Accident & Emergency departments”.

Speeches on the special motion were made by Councillors Marcus Ginn and Andrew Johnson (for the Administration).

Under Standing Order 15(e) (vi), Councillor Lisa Homan moved, seconded by Councillor PJ Murphy, an amendment to the motion as follows:

“Delete all after “This Council” in the first line and insert the following:

“is deeply concerned that the Conservative-led government is looking to cut A&E and other essential services from Charing Cross, Chelsea and Westminster and Hammersmith hospitals. NHS managers have now confirmed that local NHS services will definitely be cut – it is just in the process of deciding exactly where the axe will fall.

The Council notes the Government’s shambolic leadership on NHS reform and resolves to campaign against these potentially disastrous cuts to local NHS services.”

Speeches on the amendment were made by Councillors Lisa Homan, PJ Murphy and Dame Sally Powell (for the Opposition) and Councillor Mark Loveday (for the Administration) before it was put to the vote:

FOR	10
AGAINST	25
NOT VOTING	0

The motion was declared **LOST**.

Councillor Marcus Ginn (for the Administration) made a speech winding up the debate before the substantive motion was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED**.

9.05pm – **RESOLVED:**

“This Council notes that:

1. NHS North West London is proposing as options the closure of Charing Cross, Hammersmith or Chelsea and Westminster Hospital Accident & Emergency departments.
2. Residents in Hammersmith and Fulham value these hospitals and would not support any proposal that downgrades their status from that of major hospitals.
3. Hammersmith and Fulham is a high density inner-London borough in need of quick access to high quality accident and emergency services. The option of closing Charing Cross, Hammersmith or Chelsea and Westminster Hospital A&E departments will result in H&F residents having to travel further to obtain this critical service.

This Council resolves to oppose the closure or downgrading of Charing Cross, Hammersmith or Chelsea and Westminster Hospital Accident & Emergency departments”.

(Councillors Cowan, Ivimy, Vaughan and Tobias declared prejudicial interests in this item. They left the room during the debate and did not vote on the item. Councillor Dame Sally Powell declared a personal interest in the item and participated in the debate accordingly).

17.4 Special Motion No. 4 - Legal Challenges

9.06pm – Councillor Stephen Cowan moved, seconded by Councillor PJ Murphy, the special motion standing in their names:

““This council undertakes to carry out an independent value-for-money review to consider the hundreds of thousands of pounds of tax payers’ money it is spending on legal fees, officers’ time and other council resources fighting local residents and local businesses on its high profile, large developments across the Borough.

The Council recognises that these are difficult times economically and that public money should be prioritised for front line services and tax cuts”.

Speeches on the special motion were made by Councillors Stephen Cowan and PJ Murphy (for the Opposition) and by Councillor Nicholas Botterill (for the Administration).

Councillor Stephen Cowan (for the Opposition) made a speech winding up the debate before the motion was put to the vote:

FOR	11
AGAINST	27
NOT VOTING	0

The motion was declared **LOST**.

17.5 Special Motion No. 5 - Child Poverty

9.26pm – Councillor Caroline Needham moved, seconded by Councillor Mercy Umeh, the special motion standing in their names:

“Hammersmith and Fulham have one of the highest rates of child poverty in the country with 33% of children in our area growing up without adequate resources. This council resolves to compile a comprehensive child poverty strategy and to submit that for consideration by the select committees no later than 31st December 2012. The strategy will define a series of measures the council commits to undertake to locally which will alleviate family poverty and meet our legal obligations, as set out in the Child Poverty Act 2010”.

Speeches on the special motion were made by Councillors Caroline Needham Mercy Umeh, Dame Sally Powell and Stephen Cowan (for the Opposition) and by Councillors Peter Graham and Helen Binmore (for the Administration).

Councillor Caroline Needham (for the Opposition) made a speech winding up the debate before the motion was put to the vote:

FOR	11
AGAINST	27
NOT VOTING	0

The motion was declared **LOST**.

17.6 Special Motion No. 6 - Objection to the Conservative-Led Government's Local Hospital Closures

9.59pm – Councillor Colin Aherne moved, seconded by Councillor Lisa Homan, the special motion standing in their names:

“This Council is deeply concerned that the Conservative-led government is looking at cut A&E and other essential services from Charing Cross, Chelsea and Westminster and Hammersmith hospitals. NHS managers have now confirmed that local NHS services will definitely be cut – it is just in the process of deciding exactly where the axe will fall.

The Council notes the Government’s shambolic leadership on NHS reform and resolves to campaign against these potentially disastrous cuts to local NHS services”.

The motion was put to the vote:

FOR	9
AGAINST	25
NOT VOTING	0

The motion was declared **LOST**.

(Councillors Cowan, Ivimy, Vaughan and Tobias declared prejudicial Interests in this item. They left the room during the debate and did not vote on the item. Councillor Dame Sally Powell declared a personal interest in the item and participated in the debate accordingly).

18. INFORMATION REPORTS - TO NOTE

There were no information reports to this meeting of the Council.

19. APPROVAL OF A PERIOD OF ABSENCE FROM MEETINGS BY A COUNCILLOR

10pm The Mayor moved under Standing 2.1 (f) urgent matters in accordance with the provisions of Paragraph 4 (5) of Part I of Schedule 12 of the Local Government Act 1972 (as amended by LGA 2000) that the circulated report requesting the approval of Councillor Iain Coleman's non attendance at meetings of the authority due to ill health pursuant to Section 85 of the Local Government Act 1972 be considered as a matter of urgency.

The motion was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED**.

The report and recommendations were put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The report and recommendations were declared **CARRIED**.

RESOLVED:

1. The Council notes that Councillor Iain Coleman has not been able to attend meetings of the Council due to ill-health since 19 March 2012.
2. That Council extends its sympathy to Councillor Coleman and wishes him a speedy recovery.
3. That Council approves Councillor Iain Coleman's non attendance at meetings of the authority due to ill health up to 3 February 2013 pursuant to Section 85 of the Local Government Act 1972.

* * * * * CONCLUSION OF BUSINESS * * * * *

Meeting started: 7.00 pm
Meeting ended: 10.05 pm

Mayor

**ANNOUNCEMENTS BY
THE MAYOR**

1. On 31st May 2012, accompanied by Andrew MacDonald, my Consort, I was delighted to attend and present the winners certificate of 'Bike It In Bloom' to Miles Coverdale Primary School, Coverdale Road, W12
2. On 1st June, I attended and launched the Volunteers Week event, Lyric Square, W6
3. On 1st June, I attended the CVSA 'Funders Fair' event at Lyric Theatre, Lyric Square, W6
4. On 1st June, accompanied by my Consort, I attended the Wimbledon Light Opera Society performance of 'Curtains', John McIntosh Arts Centre, London Oratory School, SW6
5. On 3rd June, accompanied by my consort, I was honoured to attend Her Majesty The Queen's 'Diamond Jubilee Royal Flotilla celebrations'. I boarded the Sapele at Imperial Wharf, forming part of Her Majesty The Queen's Flotilla to Tower of London
6. On 3rd June, accompanied by my consort, I attended Ellerby Street, Diamond Jubilee street party, SW6
7. On 4th June, I attended Perrers Road, Diamond Jubilee street party, W6 and judged the best decorated house competition.
8. On 4th June, I attended Scotts Road, Diamond Jubilee street party, W12
9. On 4th June, I attended Fielding Road, Diamond Jubilee street party, W14 and judged the Best Garden Party Hat, Best Corgi in Show and Best Tiara in Town.
10. On 4th June, I attended Bute Gardens, Diamond Jubilee street party, W6
11. On 5th June, I attended Nazareth House, Diamond Jubilee party, W6
12. On 5th June, I attended Melrose Street, Diamond Jubilee street party, W6
13. On 5th June, I attended Rylett Road, Diamond Jubilee street party, W6
14. On 5th June, I attended Friends of Margravine Diamond Jubilee party, Margravine Cemetery, W14
15. On 6th June, I attended George Irvin's Queens Jubilee Fun Fair, event, Bishops Park, SW6
16. On 6th June, I was delighted to attend and officially open the newly renovated Children's Play Area, Vine Square, Maystar Estate, W14

17. On 8th June, accompanied by my consort, I attended and presented certificates at the Volunteers' Awards Ceremony, HTH
18. On 10th June, I was delighted to attend the Mint Polo in the Park event, Hurlingham Park, SW6
19. On 12th June, accompanied by my consort, I attended the Fine Arts Fair, Olympia, W14
20. On 13th June, I was delighted to attend the AEGON Tennis Championships, Queens Club Palliser Rd, W14
21. On 15th June, I attended the 95th 'London Road Safety Campaign' AGM, City Hall, SE1
22. On 15th June, accompanied by my consort, I attended the HFVC Charity Ball, Stamford Bridge, SW6
23. On 16th June, I attended the Jamaican Diaspora UK Conference, Novotel Hotel Hammersmith, W6
24. On 16th June, I attended the Groundwork Family Fun Day, Wormwood Scrubs, Braybrook Street, W12
25. On 16th June, accompanied by my consort, Mr Charles Forsyth, I attended a charity tour of Capel Manor College and grounds , Enfield
26. On 16th June, I was delighted to attend and speak at the 100th Anniversary of the Independence of Albania, Hammersmith Town Hall, W6
27. On 16th June, accompanied by my consort, I attended the Egyptian Gala Dinner, The Copthorne Tara Hotel, W8
28. On 18th June, I was delighted to welcome representatives from the Mayhew Animal home to the Mayor's Parlour W6. I have nominated the Mayhew as one of my chosen charities for the mayoral year.
29. On 18th June, I was delighted to welcome representatives from West London Action for Children to the Mayor's Parlour W6 (one of my chosen charities for the mayoral year).
30. On 19th June, I attend the FEM 21 Working Lunch event, 1-3 Elgin Close W12
31. On 19th June, I attended and hosted the Pubwatch meeting, Mayor's Parlour, HTH
32. On 19th June, accompanied by my consort, Mr Andrew MacDonald, I attended the Lord Mayor of Westminster's reception, Westminster City Hall, SW1
33. On 20th June, accompanied by my consort, I attended Kensington Prep School 'Summer Concert', Cadogan Hall, SW1

34. On 21st June, I attended a Press Meeting photo call and interview for the Chronicle, Mayor's Office, HTH
35. On 23rd June, I was delighted to attend the Borough Walk 'Be a Super Hero' from South Park to Ravenscourt Park, which raised awareness "say no to Hate Crime" Ravenscourt Park, W6
36. On 23rd June, I attended and spoke at St Peter's School Fair, St Peter's Square Green, W6
37. On 23rd June, accompanied by my consort, I attended the Festival of Architecture, Lyric Square, W6
38. On 23rd June, accompanied by my consort, I attended Hounslow Mayor Making Celebratory Dinner, The Lampton Conference Centre, Civic Centre TW3
39. On 24th June, accompanied by my consort, I attended Hurlingham Club Chairman's 'Lunch and Tea' reception, The Hurlingham Club, SW6
40. On 25th June, I attended and laid a wreath on behalf of Hammersmith and Fulham at the 75th Anniversary Memorial Service for Miss Marta Cunningham CBE, founder of the Not Forgotten Association, Hanwell Cemetery
41. On 25th June, I was delighted to host a reception and raise the Armed Forces Day Flag, Hammersmith Town Hall roof. Rev Joe Hawes officiated, attended by Mrs Sandy Cahill, H&F Deputy Lieutenant, Lt Col John Boyd, Commanding Officer 4 Para and representatives from the regiment, representatives from HQ Squadron Royal Yeomanry and Cadets from 344 Fulham Squadron.
42. On 27th June, I welcomed representatives of the Shepherds Bush Neighbourhood Watch Ward Panel meeting to the Mayor's Parlour HTH.
43. On 28th June, accompanied by my consort, Mr Charles Forsyth, I attended and presented the award at the 'I love lunch' event, hosted by HammersmithLondon (BID), Hammersmith Ram PH, King Street, W6
44. On 29th June, I attended and presented the 'Barclays Let's Do It Community Awards', Barclays Bank, King Street, W6
45. On 29th June, I attended and presented a cup to 'LALA Restaurant' the winner of the 'I Love Lunch Best Restaurant competition', hosted by HammersmithLondon (BID), Queen Caroline Street, W6
46. On 29th June, accompanied by my consort, I presented certificates of achievement and spoke at the H&F Refugee Forum celebration evening, Polish Centre, King Street, W6
47. On 30th June, I was delighted to attend 'Celebrating Fulham', St John's Church Yard, Jerdan Place, SW6

48. On 30th June, accompanied by my consort, I attended The 4th Battalion Parachute Regiment Dinner Reception, Sandhurst
49. On 1st July, I was delighted to attend the 'London Youth Games', Sports competition. Pupils from Hammersmith and Fulham schools' represented the Borough, Crystal Palace Stadium
50. On 1st July, I attended the London Hong Kong Dragon Boat Festival 2012, Albert Docks
51. On 2nd July, accompanied by my consort, I attended Laytmer School 'Prize Giving' evening, King Street, W6
52. On 3rd July, as a keen cyclist, I was very pleased to attend and support the H&F 'Changing Places – Never Cycle On The Inside Of A Lorry', safe cycling event. I was able to see first hand from the drivers seat of the H&F HGV lorry, the dangers for cyclists, Beadon Road, W6
53. On 3rd July, accompanied by my consort, I attended the Ealing Hammersmith & West London College 'Celebration of Achievement evening, Colet Gardens, W6

PUBLIC QUESTION TIME

LONDON BOROUGH OF HAMMERSMITH & FULHAM

COUNCIL MEETING – 4 JULY 2012

Question by: Mr Jed Keenan

To: The Leader

QUESTION

“With regard to the timeframe for responding to enquiries submitted to the Council through normal channels, why are members of the public not provided with a standard of service that is equal to or better than Members of the Council?”

ANSWER

Under the Council's Constitution, there are established timescales for a response to be issued to an enquiry from a Councillor, Cabinet Member or Member of Parliament. It is important to note that such enquiries are the primary way for Councillors, Cabinet Members and Members of Parliament to interact with the Council's many services. Our residents and customers, have many different ways of interacting with the Council and the majority of these have timescales that are either statutory (e.g. Freedom of Information Requests or Planning Applications) or are policy-based (e.g. Corporate Complaints or Repairs ordering).

The standards (which have a tighter timescale for answering questions from Members and MPs) have existed for very many years under Administrations of both persuasions.

PUBLIC QUESTION TIME

LONDON BOROUGH OF HAMMERSMITH & FULHAM

COUNCIL MEETING – 24 OCTOBER 2012

Question by: Mr John Grigg

To: Cabinet Member for Community Care

QUESTION

'Is the Council aware that under the Government's Welfare Reform Act 280,000 people with disabilities will lose Disability Living Allowance in order to save £2bn, and are there any estimates of the number of people in Hammersmith and Fulham who will be effected, and are the council planning to investigate all means the borough can employ to alleviate suffering caused by the government's cut in services for the disabled.'

Agenda Item 6.1



RETURNING OFFICER'S REPORT TO COUNCIL

24 OCTOBER 2012

TOWN WARD BY-ELECTION

WARDS

All

Summary

As Returning Officer for the Authority, I have to report that Councillor Andrew Brown, the Conservative Party candidate, was elected as Ward Councillor to the vacancy in Town Ward at the By-election held on 12 July 2012.

**JANE WEST,
RETURNING OFFICER**

**CONTRIBUTORS
EDFCG**

RECOMMENDATION:

That the above information be noted.



Report to Council

24 OCTOBER 2012

LEADER

*Councillor Nicholas
Botterill*

**EARLS COURT REDEVELOPMENT -
APPLICATION FOR CONSENT FOR DISPOSAL
OF HRA LAND**

**Wards
North End
Fulham
Broadway**

This report addresses the need to apply for consent from the Secretary of State for the Department for Communities and Local Government for the proposed disposal of parts of the West Kensington and Gibbs Green Estates (the Estates). The Cabinet has authorised the Council to enter into a Conditional Land Sale Agreement which would grant a conditional option to EC Properties LP, part of the Capital and Counties Properties plc group of Companies (Capco), to include Council owned land including the Estates in a comprehensive redevelopment of the Earls Court area.

CONTRIBUTORS

EDFCG
DoL

RECOMMENDATIONS:

Council is asked to authorise the Executive Director of Housing and Regeneration to submit an application for the Secretary of State's consent for the necessary disposal of Housing Revenue Account (HRA) land situated in the Estates to facilitate a comprehensive redevelopment of the Earl's Court and West Kensington area, following the completion and signing of the Conditional Land Sale Agreement with EC Properties LP, part of the Capital and Counties Properties plc group of companies (referred to as CapCo within this report).

1.0 INTRODUCTION

- 1.1 This report sets out the background to and rationale for the comprehensive redevelopment scheme, and explains the need for the full Council to authorise an application to the Secretary of State for consent to dispose of land included within the Estates.
- 1.2 On 3 September 2012, the Cabinet authorised the Council to enter into a Conditional Land Sale Agreement (CLSA) with EC Properties LP, a subsidiary of Capital and Counties (Capco). The CLSA grants EC Properties LP a conditional option to purchase the Estates so that they may be included in the comprehensive redevelopment scheme. In return for its land the Council will receive 760 new replacement homes and £105m.¹
- 1.3 The Cabinet Report of 3 September 2012 is attached, as Appendix 1.
- 1.4 The Secretary of State's consent is required by the Housing Act 1985, since the Estates contain HRA land.
- 1.5 Officers have prepared the application to the Secretary of State and are now seeking the full Council's approval to submit the application.
- 1.6 Whilst the site of the former Gibbs Green school is within the Estates, it is not housing land and is therefore subject to different consents as was explained in the 3 September 2012 Cabinet Report.

2.0 BACKGROUND AND HISTORY

- 2.1 For three years the Council has been in discussions with other relevant landowners and has been considering the possibility of a redevelopment scheme across three principal land holdings (please see Appendix 1 of the Cabinet Report). The principal landowners are:
- Capco - leaseholders of Earls Court 1 and 2 and freehold owners of various sites in the area including the Seagrave Road car park site.
 - Transport for London (TfL) - freeholder of the Lillie Bridge Depot and Earls Court 1 and 2.
 - The Council - freehold owner of the Estates, and the site of the former Gibbs Green School.
- 2.2 The proposed comprehensive redevelopment scheme covers an area of approximately 73 acres² and sits across the boundary of the Boroughs of Hammersmith and Fulham (LBHF) and Kensington and Chelsea (RBKC).
- 2.3 The masterplan prepared on behalf of Capco proposes approximately 7,583³ new homes including 760 replacement homes and an estimated further 740 additional

¹ Including £0.5m for the Seagrave Road and Ricketts Street properties, and consideration for the Farm Lane and Gibbs Green School sites (which are not HRA land).

² Including the Seagrave Road Car Park Site but excluding Farm Lane.

³ The current planning application is for 5,845 homes in LBHF and 930 homes in RBKC (i.e. 6,775 homes), plus a separate planning application for 808 homes on the Seagrave Road Car Park site (i.e. 7,583 in total).

affordable homes, new offices and commercial activities, new education and health facilities (including a new primary school), new play and recreational facilities (including a new linear park), and a new high street with shops, cultural and community activities.

2.4 The West Kensington and Gibbs Green Estates

2.5 The Estates occupy an area of approximately 21 acres along the western length of the Earls Court buildings and the Lillie Bridge Depot. The Estates comprise 760 homes, two tenant halls, an empty nursery building, the former Gibbs Green School and the highway at Mund Street.

2.6 531 of the homes on the Estates are occupied by Council tenants and there are 171 properties owned by leaseholders / freeholders which were originally purchased from the Council under Right to Buy. There are also 58 social rented Housing Association (HA) properties on the Estates, which have been developed piecemeal over the past 30 years, with the sites sold by the Council to the three HAs on long leases. The three HAs are Family Mosaic HA, London and Quadrant HA and Shepherds Bush HA.

2.7 A breakdown of the tenure and property type of the residential properties on the Estates can be found in table 1 below:

Table 1 – Tenure and property type table as at 23rd April 2012

	1 Bed Flat	1 Bed House	2 Bed Flat	2 Bed House	3 Bed Flat	3 Bed House	4 Bed Flat	4 Bed House	TOTAL
Council	163	0	212	0	46	75	8	27	531
Leasehold/Freehold	21	0	85	0	24	29	2	10	171
Housing Association	4	3	6	13	0	25	0	7	58
Total	188	3	303	13	70	128	10	45	760

2.8 Planning Applications

2.9 Three planning applications were submitted by EC Properties LP in June 2011.

- Two outline applications were submitted: one to RBKC (Application 1) and one to the Council (Application 2) for the main development site, excluding the Seagrave Road car park site.
- A detailed planning application was also submitted to the Council for the Seagrave Road car park site. That application was recommended for approval by the Planning Application Committee on 16 February 2012, subject to finalising the terms of the Section 106 Agreement and there being no contrary direction from the Mayor of London. The Section 106 agreement was completed on 30 March 2012 and planning permission was issued on the same day.
- On 12 September 2012, the Council's Planning Applications Committee resolved to grant planning permission for the 'Earls Court 2 Exhibition Centre, Lillie Bridge Rail Depot, West Kensington and Gibbs Green housing estates

and adjoining land' (subject again to there being no contrary direction by the Mayor, and to an appropriate Section 106 Agreement being finalised).

- In the coming weeks RBKC's Planning Application Committee is due to consider the Earls Court 1 planning application from EC properties LP.

2.10 Consultation with Residents

2.11 Over the past three years the Council has been engaging and consulting with residents of the Estates through numerous newsletters, drop-in sessions, surgeries and exhibitions about the potential inclusion of the Estates within a comprehensive redevelopment scheme.

2.12 From 6 January 2012 to 12 March 2012, the Council undertook a formal consultation with residents on whether the Estates should be included in the proposed comprehensive redevelopment scheme. This formal consultation also satisfied the requirements of section 105 of the Housing Act 1985 in relation to the secure tenants on the Estates.

2.13 A total of approximately 30,000 consultation packs were distributed to the Estates and across the wider area (defined by Hammersmith Road to the North, Fulham Palace Road, New Kings Road to the South and Warwick Road and Finborough Road to the East).

2.14 Officers completed a full analysis of the consultation responses in a report which the Cabinet was asked to consider as part of the 3 September 2012 Cabinet decision. The analysis is not summarised here rather it is included at Appendix 5 of the Cabinet Report. Councillors should carefully read this report.

3.0 RATIONALE FOR SCHEME

3.1 In order to explore fully the rationale for the redevelopment of the Estates and understand whether inclusion of the Estates offers the optimum way forward, the Council instructed Jones Lang LaSalle (JLL) and Amion Consulting to prepare an options appraisal (the Economic Appraisal).

3.2 The Economic Appraisal (Appendix 2 of the Cabinet Report) considered four options for the Estates. These are set out in the table below.

Table 2 – Options explored in the Economic Appraisal

Option	Detail
Option 1	Maintain the Estates as they are. This could include a transfer to a housing association, or a resident-controlled private registered provider.
Option 2	Continue to maintain the Estates and develop plots of land within the Estates.
Option 3	Redevelopment of the Estates only (not as part of the comprehensive redevelopment plans). The existing properties on the Estates would be demolished and replaced with new housing and other supporting uses.
Option 4	Inclusion of the Estates within the comprehensive redevelopment scheme.

- 3.3 The Economic Appraisal concludes that the inclusion of the Estates within the comprehensive redevelopment scheme is the best option in terms of benefits for residents of the Estates and for the wider area, and that it offers the prospect of bringing, among other things, the following benefits to the area:
- 7,583 new homes
 - 36,033 construction jobs⁴
 - 9,528 permanent jobs⁵
 - £99.5m per annum of additional local expenditure.
- 3.4 In addition to the significant benefits identified in the Economic Appraisal, the consideration paid by Capco (£105m) will provide much-needed funds to be reinvested into the Borough. The current economic climate makes the receipt of such additional public funds particularly valuable. These funds will be apportioned between the general fund and the housing revenue account based on the land encompassed by the CLSA. The net funds received by the Housing Revenue Account will be reinvested for Housing and Regeneration purposes, including the repayment of Housing Revenue Account debt. It will also be used to develop or acquire new affordable housing to meet housing need.
- 3.5 Not least given the above benefits, the Council considers that the inclusion of the Estates in the redevelopment scheme would help to achieve a number of strategic aims for London, the Borough and RBKC.
- 3.6 The Mayor's London Plan (2011) identifies the Earls Court and West Kensington Opportunity Area as one of London's most important development opportunities. This is due to its potential ability to contribute significantly to achieving housing and job growth targets over the next 20-30 years. Both the Core Strategies for the Council and for RBKC contain planning policies specific to development in this Opportunity Area.
- 3.7 Officers consider that the comprehensive redevelopment of the Opportunity Area would contribute significantly towards meeting the over-arching vision of the Council's Community Strategy *Creating a borough of opportunity for all*, enabling local people to have a real stake in the area and share in its growing prosperity.
- 3.8 Officers also believe that the comprehensive redevelopment of the Opportunity Area significantly contributes towards meeting the vision and objectives detailed in the Housing Strategy 2012 (due to be considered by the Cabinet on 15 October 2012). These include:
- Building a Housing Ladder of Opportunity
 - Deliver Major Economic and Housing Growth within our Opportunity Areas
 - Tackle Economic and Social Polarisation through the creation of more mixed and balanced communities where no one tenure predominates.

⁴ Defined as person years of construction employment.

⁵ Defined as new gross direct jobs Appraisal.

4.0 THE CONDITIONAL LAND SALE AGREEMENT (CLSA)

4.1 The CLSA sets out the terms and arrangements between Capco and the Council. It details the steps that need to be undertaken in order for the land at issue to be transferred to Capco. The Council is to receive a 995 year head lease, a virtual freehold, in the properties provided as replacement homes.

4.2 The terms of the CLSA have been negotiated by officers, supported by expert professional advice. Legal advice has been obtained from SNR Denton and Counsel, commercial advice has been obtained from Jones Lang LaSalle (JLL) and financial advice, best consideration and due diligence advice has been obtained from PriceWaterHouseCoopers (PWC).

4.3 Payment for Council Land

4.4 There are two elements to the Council's consideration for the land. These are new replacement housing⁶ for the housing currently on the Estates and a monetary consideration of £105m. Taken together, the cash receipt and the replacement homes are considered to have a value of between £220m and £289m depending on the valuation approach used and officers, relying upon the specialist external advice of JLL and PWC, are of the view that the deal under the CLSA currently represents best consideration.

4.5 Re-provision of existing homes

4.6 The impact and implications of the process on local residents will be regulated by the Tenant and Leaseholder / Freeholder Guarantees, which are within the terms of the CLSA. Under the CLSA all homes currently within the Estates will be re-provided to the Council, as part of the comprehensive redevelopment scheme. This enables the Council to promise that existing residents of the Estates will be offered new accommodation within the new development.

4.7 Furthermore, the Council, from the outset, has required that existing residents should not be moved away temporarily while new replacement homes are built and that they should only have to move once. Although the process will be disruptive for local residents, this condition will help to safeguard existing communities and minimise community break-up. Consequently, land phases can only be vacated and passed over to Capco once new homes for residents in the affected phase have been re-provided elsewhere in the development area.

4.8 The Seagrave Road Car Park site is the only realistic option for achieving this 'one move' promise. It provides a site for the re-provision of approximately 200 existing estate properties, without the need for any demolition of existing homes. This will allow the remainder of the re-provision to take place – in phases - without residents having to move away to temporary accommodation.

4.9 Re-provision in this manner is time-consuming and, given the scale of the project, the full re-provision of Council properties is likely to take 10-15 years.

⁶ This is anticipated to form part of the planning obligations to be contained within the Section 106 agreement.

4.10 All of the new homes will be allocated through the Earl's Court / West Kensington Local Lettings Policy, which will be overseen by Director of Housing Options, Economic Development & Skills.

4.11 Benefits for Tenants

4.12 The Guarantees within the CLSA for Tenants are as follows:

- All secure tenants will remain secure council tenants and have the offer of a new home within the development, matched to their housing need.⁷
- Under-occupying tenants will be offered a new home with one additional bedroom above their need.
- Rents will continue to be set in line with other existing Council rents.
- A home loss payment of £4,700 per household will be made by the Council to all secure tenants who have been in their home for more than one year. This amount is set by central government.
- There will be no need for temporary accommodation – tenants will have one move only to their new home.
- New white goods, carpets and curtains will be provided in their new homes.
- The Council will fund all reasonable costs of moving.
- Tenants will have a dedicated re-housing Officer to help them through the process.
- An occupational therapist will be provided if requested and necessary identified adaptations will be undertaken to the new home.
- Compensation will be offered for loss of a garden or private parking space, if the new home does not have these.
- The Guarantees will be extended to existing Housing Association Assured Tenants, should they wish to become Council tenants.

4.13 Benefits for Leaseholders and Freeholders

4.14 The Guarantees within the CLSA for Leaseholders / Freeholders are as follows:

- Qualifying resident homeowners will be offered a new property in the development at a discount of 10%. Resident homeowners will be offered market value plus 10% (subject to a maximum of £47,000 set by statute) for their existing home.
- If after receiving a discount resident homeowners still cannot afford to purchase a home in the new development then the Council will meet the difference and hold this outstanding equity, but charge no rent or interest. Resident homeowners will not be expected to increase borrowing on their mortgage to afford a home in the new development.
- Service charges for the new leasehold properties will be capped at their existing level for 5 years. Existing freeholders will have their service charge capped at £1,000 pa for the first five years.

⁷ If a resident's need exceeds 5 bedrooms then other re-housing options will be considered.

- Resident homeowners who wish to be bought out and leave the area will be offered the market value plus 10%, subject to a maximum of £47,000 (unless they move under the Early Purchase arrangement).
- Homeowners will be able to choose the time when they wish to be bought out and move away up until the time when their property is required for development.
- Reasonable costs of moving, valuation and legal advice will be funded by the Council.
- Compensation will be provided for Decent Homes work which had been paid for and for which the full benefit had not been enjoyed by the time the property is required for development.
- Owners who have a demonstrable need to move away before the purchase contracts are released can be bought out for the market value under the Early Purchase arrangement.

5.0 APPLICATION TO SECRETARY OF STATE FOR DISPOSAL

- 5.1 On 3 September 2012, the Cabinet authorised the Council to enter into the CLSA. However, under the Housing Act 1985, the Council also has to obtain the Secretary of State's consent in order to include the Estates within the comprehensive redevelopment scheme. Without this consent, the comprehensive redevelopment scheme cannot go forward under the CLSA.
- 5.2 Under Article 4 of the Council's constitution only the full Council can approve an application to the Secretary of State in respect of any HRA land transfer of 500 or more properties. The total number of properties on the Estates is above this level, and therefore this report is being presented to the full Council to seek its approval.
- 5.3 If and when an application is made then the Secretary of State will consider matters such as whether the land has been disposed at market value, the value to the local community, the replacement affordable housing and any nomination rights the Council would have.
- 5.5 The proposed application to the Secretary of State is attached as Appendix 2.
- 5.6 In particular, the Secretary of State will require the following information:
- a committee report (see the 3 September 2012 Cabinet Report at Appendix 1 of this report)
 - a valuation (no more than three months old) produced by an independent qualified valuer (MRICS, FRICS); (see Appendix 10 of the Cabinet Report – JLL Best Consideration Letter)
 - a site plan (see Appendix 1 of the Cabinet Report).
 - A copy of the Council's Housing Strategy (see Annex A of the "Building a Housing Ladder of Opportunity, Incorporating Housing Strategy, Housing Allocation Scheme, Tenancy Strategy, Homelessness Strategy" report that went to Cabinet on 15 October 2012 , please see the following link to the report (item 16a Annex A) - http://www.lbhf.gov.uk//Directory/Council_and_Democracy/Committee_reports

[_minutes_and_agendas/Committee_calendar/Homepage.asp?mgpage=mgAi.aspx%26amp%3BDID%3D9714%23mgDocuments](http://www.lbhf.gov.uk/Directory/Council_and_Democracy/Committee_reports/_minutes_and_agendas/Committee_calendar/Homepage.asp?mgpage=mgAi.aspx%26amp%3BDID%3D9714%23mgDocuments))

- The Council has also included a copy of the Borough Investment Plan (see the “Borough Investment Plan” report that went to Cabinet on 5 December 2011, please see the following link to report (item 130) - http://www.lbhf.gov.uk/Directory/Council_and_Democracy/Committee_reports/_minutes_and_agendas/Committee_calendar/Homepage.asp?mgpage=ieListDocuments.aspx%26amp%3BCId%3D116%26amp%3BMId%3D1851) approved by the London Housing Board, chaired by the Mayor of London, at its meeting in December 2011.

6.0 RISK MANAGEMENT IMPLICATIONS

- 6.1 As part of the 3 September 2012 Cabinet Report officers considered the risks of the comprehensive redevelopment scheme (see Appendix 15 of the Cabinet Report). As new risks emerge they will be added to the register as necessary and the corporate risk register will be amended to reflect any changes in the nature of risk.

7.0 EQUALITIES STATEMENT

- 7.1 Officers have carried out an Equalities Impact Assessment (EqIA) of the CLSA, which includes (under the heading “Recommendation 1”) an analysis of the consequences / potential consequences of including the Estates within the comprehensive redevelopment scheme. The EqIA is attached in Appendix 12 of the Cabinet Report and for ease of reference is attached as Appendix 3 of this report. The Cabinet carefully considered this EqIA before it reached its decision on 3 September 2012 to authorise the Council to enter into the CLSA. However, the Secretary of State’s consent is required to enable the Estates to be included, under the CLSA, within the comprehensive redevelopment scheme. As a result this same EqIA needs to be considered with equal care by the full Council⁸ before it decides whether or not to authorise the Executive Director of Housing and Regeneration to submit an application for consent.
- 7.2 The EqIA identifies the impacts on the “protected groups”, i.e. those with protected characteristics under the legislation (age, sex, ethnic origin, sexual orientation, disability, etc); and explains how those impacts which are negative (for example, the need for disabled and old people to move home) can be mitigated, where this is possible.
- 7.3 To the extent that it is not possible for negative impacts on the protected groups to be mitigated, Councillors must weigh the negative impacts against the positive ones, and must weigh in the overall balance those impacts which are negative against the benefits (‘countervailing factors’) sought to be obtained from applying to the Secretary of State for consent to include the Estates within the comprehensive redevelopment scheme under the CLSA. Subject to the decision

⁸ Although Councillors need not consider the analysis of Recommendations 2 and 3 on pages 23 and 24 of the EqIA, which do not concern the inclusion of the Estates within the comprehensive redevelopment scheme.

being rational and lawful overall, it is for Councillors to decide what weight should be given to the countervailing factors.

- 7.4 In this case, the EqIA is quite a lengthy and complex document. Officers have devoted considerable time and attention to compiling it, and in doing so have addressed the points made by consultees during the consultation exercise on the impact of including the Estates within the comprehensive redevelopment scheme on those with the protected characteristics under the Equality Act 2010.
- 7.5 The countervailing factors which members will need to weigh in the balance against the negative impacts identified in the EqIA are those summarised in this report and addressed in greater detail in the 3 September 2012 Cabinet Report, namely the anticipated beneficial effects on the community as a whole of proceeding with the CLSA and including the Estates within the comprehensive redevelopment scheme: the creation of new jobs, the benefit to the local economy, the construction of better quality housing with lower maintenance costs, and so forth.

8.0 CONCLUSION

- 8.1 The Full Council is recommended to authorise the Executive Director of Housing and Regeneration to submit an application for the Secretary of State for consent to dispose of HRA land on the Estates. The reasons for this recommendation are summarised above. A full summary of the reasons why officers consider that the Estates should be included within the comprehensive redevelopment scheme is contained in section 11 of the 3 September 2012 Cabinet Report, which Councillors should read and consider carefully.

9.0 COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

- 9.1 JLL and PWC have been involved, as the Council's advisors, in considering and negotiating the terms of the CLSA. Signed letters from the Council's advisors are attached in Appendixes 12 and 13⁹ of the Cabinet Report. Based on the figures, the Executive Director for Finance and Corporate Governance is currently of the view that the terms offer best consideration. The letters include a number of caveats / issues, the key ones are listed below in table 6 in paragraph 12.1.1 of the 3 September 2012 Cabinet Report, together with the actions that have been taken in response.
- 9.2 Further commentary on the valuation and on the financial implications of the CLSA and the apportionment of consideration between the Housing Revenue Account and the General Fund can be found in section 12 of the 3 September 2012 Cabinet Report.

10.0 COMMENTS OF THE DIRECTOR OF LAW

- 10.1. The Council holds the Estates (excluding the school site) under Part II of the Housing Act 1985. The Council has the power to dispose of such land under the

⁹ The JLL letter is a "final draft", a further final letter will be issued when the CLSA is actually signed.

provisions of section 32, Housing Act 1985 with the consent of the Secretary of State.

10.2 The Secretary of State will place a variety of conditions on the disposal of the land which will include the re-provision of the existing units. It will not be possible to complete any sale of land until such time as vacant possession has been achieved.

11. SCHEDULE OF APPENDICES

Appendix 1	3 September 2012, Cabinet Report, "Earl's Court Redevelopment and statutory and wider consultation."
Appendix 2	<p>Application to the Secretary of State's consent to dispose of land under section 32 of the Housing Act 1985.</p> <ul style="list-style-type: none"> - Annex 1 - 3 September 2012, Cabinet Report, "Earl's Court Redevelopment and statutory and wider consultation." (Please see Appendix 1 above). - Annex 2 - Draft LBHF Housing Strategy (please see earlier link to Cabinet report on 15 October 2012). - Annex 3 – LBHF Borough Investment Plan (please see earlier link to Cabinet report on 5 December 2011).
Appendix 3	West Kensington and Gibbs Green/Earl's Court Potential Redevelopment Project- Equalities Impact Assessment.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
	None		
Responsible officer: Tomasz Kozlowski, Housing & Regeneration Department, 3 rd Floor, Town Hall Extension, ext 4532, tomasz.kozlowski@lbhf.gov.uk			



London Borough of Hammersmith & Fulham

Cabinet

3 SEPTEMBER 2012

LEADER

*Councillor Nicholas
Botterill*

**EARLS COURT REDEVELOPMENT AND
STATUTORY AND WIDER CONSULTATION**

**Wards:
North End
Fulham
Broadway**

This report sets out the structure of the Conditional Land Sale Agreement (CLSA), an agreement which would grant an option to the Capital and Counties Properties plc group of Companies (Capco) to include Council owned land including the West Kensington and Gibbs Green Estates (the Estates) in a comprehensive redevelopment scheme.

The report also includes an analysis of the statutory and wider consultation on the Council's proposal to enter into the CLSA with Capco.

CONTRIBUTORS

Executive Director of
Housing and
Regeneration
DLDS
EDFCG

**HAS AN EIA BEEN
COMPLETED?
YES**

**HAS THE REPORT
CONTENT BEEN
RISK ASSESSED?
YES**

Recommendations:

- 1. That the Cabinet note and consider the Analysis of Consultation Responses (Appendix 5) regarding the recent statutory and wider consultation.**
- 2. That the Cabinet note and consider the Equalities Impact Assessment (Appendix 12) prepared in respect of the proposed decisions which are the subject of this report.**
- 3. In light of the Analysis of Consultation Responses and the Equalities Impact Assessment and having regard to the regeneration benefits summarised in this report, that the Cabinet should agree that it is willing to enter into a Conditional Land Sale Agreement (CLSA) and relevant associated documents as set out in paragraph 6.12 of this report, with EC Properties LP, part of the Capital and Counties Properties plc group of companies (referred to as Capco within**

the report) to include the West Kensington and Gibbs Green Estates (the Estates) in the proposed comprehensive redevelopment scheme.

- 4. That approval is given to include the Tenant and Leaseholder/Freeholder Assurances within the agreed CLSA.**
- 5. That the Council approve the disposal to EC Properties LP (Capco) of land formerly occupied by Gibbs Green School within the overall CLSA on terms set out in this report, with the disposal proceeds to be applied to a replacement educational facility.**
- 6. To approve the disposal to EC Properties LP (Capco) of land at 11 Farm Lane within the overall CLSA, as set out in the report.**
- 7. To authorise the Executive Director of Housing and Regeneration to prepare an application for the Secretary of State's consent for the necessary disposal of Housing Revenue Account (HRA) land, for submission to Full Council and appoint supporting advisors necessary to help secure such consent.**
- 8. To give delegated authority to the Executive Director of Housing and Regeneration in consultation with the Executive Director of Finance and Corporate Governance to purchase leasehold and freehold interests situated on the land (Estates), included within the CLSA, by agreement up to a cumulative value of £15m funded from the Decent Neighbourhoods Fund and appoint advisors to support these acquisitions.**
- 9. To approve the 4 year budget as set out in section 9 funded from the Decent Neighbourhoods Fund and provide the Executive Director of Housing and Regeneration with delegated approval to finalise the allocation of resources within this budget envelope.**

10. That capital receipts arising from the CLSA are used to cover costs of disposal and those incurred in delivering the project and that the portion received in respect of land and properties currently held within the Housing Revenue Account is reinvested (so far as lawfully possible) in housing and regeneration, including:

- To fund capital expenditure on area-based improvements that help the Council achieve its corporate objectives;**
- To develop or acquire new affordable housing to meet identified housing needs, including where appropriate by the extension of properties;**
- To fund tenant incentive initiatives (qualifying as capital expenditure) that free up council housing which is in demand for those in housing need (e.g. for larger family accommodation);**
- Subject to the Council ensuring that its statutory housing responsibilities to meet housing needs are performed, to use receipts to reduce HRA or General Fund debt where this is identified as a priority, and where repayment of the debt is of net financial benefit to the Council's HRA or General Fund;**
- To invest in capital expenditure on planned maintenance of the Council's current housing stock until this is fully funded by the HRA revenue account.**

11. To authorise the Executive Director of Housing and Regeneration to consult on the draft Earl's Court Local Lettings Plan and Re-housing policy.

1. INTRODUCTION

- 1.1 The proposed development of the Earls Court Exhibition Centre and Lillie Bridge Depot presents an opportunity for the Council to include the West Kensington and Gibbs Green Estates within the comprehensive redevelopment scheme, as identified in Appendix 1.
- 1.2 The Estates could be included through a CLSA between the Council and EC properties LP (referred throughout the report as Capco). Broadly speaking, land would be transferred to Capco in phases, but only when new replacement homes are built in advance, (meeting residents' needs), to replace the current 760 properties on the Estates. The Council would receive a 995 year leasehold, (a virtual freehold), in respect of the replacement homes.
- 1.3 The Cabinet considered and endorsed a report on 23rd April 2012, which outlined the provisional terms negotiated for the CLSA. Officers confirmed that those provisional terms could be recommended for acceptance, providing no new material issues arose in the final phase of the detailed negotiations. Officers have now concluded detailed negotiations and confirm that the terms of the CLSA remain ones which can be recommended.
- 1.4 This report:
- Explains the vision, policy context and background to the possible comprehensive redevelopment of the Earls Court area.
 - Reviews the timetabling of the scheme and the planning process.
 - Summarises the history of discussions and engagement with estate residents.
 - Analyses the consultation responses received during the recent Section 105, Housing Act 1985 and wider consultation (building on the interim findings included within the 23rd April 2012 report).
 - Outlines the terms of the CLSA
 - Explains officers' reasons for recommending that the Council should enter into the CLSA with Capco.

2.0 VISION AND POLICY CONTEXT

2.1 Vision

- 2.1.1 Officers recognise that any major regeneration scheme of this sort involves uncertainty, anxiety and disruption for current occupiers. Residents in North Fulham and West Kensington have a strong sense

of community and pride in their neighbourhood. Current social housing on the Estates adequately meets the needs of most residents.

- 2.1.2 Officers believe that the redevelopment of the Earls Court area provides a chance to build on these solid foundations by attracting a substantial amount of new investment to the neighbourhood and the Borough more generally.
- 2.1.3 That investment has the potential to increase and improve housing provision (including affordable housing) and to give rise to new shopping, leisure, educational and healthcare facilities. If planned properly, the redevelopment would create a better neighbourhood environment, and would provide local residents with new open spaces and parkland. It could bring many new job and training opportunities to help ensure that everybody living in the area has the chance to get on in life. It could ensure that the neighbourhoods around Earls Court are better connected so that people feel part of a shared community. Overall, the redevelopment provides a once-in-a-generation opportunity for residents to benefit from new housing and facilities, and for housing and employment growth.
- 2.1.4 The Council is committed to delivering a Borough of Opportunity and wants all residents in the Borough to have the same opportunities: the same opportunity to send their child to a good school, to live in a safe and pleasant neighbourhood with access to good quality healthcare and leisure facilities; the same opportunity to get on in life by taking up new or better job and training opportunities. The redevelopment offers a vital chance to advance these aims.

2.2 Policy Context

- 2.2.1 The Mayor of London's London Plan sets out the planning requirements for an integrated economic, environmental, transport and social framework. The London Plan has 33 'Opportunity Areas' of which three are in the London Borough of Hammersmith and Fulham. Along with White City and Old Oak, the Earls Court West Kensington Opportunity Area is one of these Opportunity Areas. As such, it represents a key opportunity for London to accommodate new housing, commercial and other development.
- 2.2.2 The Council's vision for the Earls Court West Kensington Opportunity Area to regenerate the local economy and provide new housing is identified in the Council's Local Development Framework Core Strategy. The Earls Court West Kensington Opportunity Area is one of the Council's five key regeneration opportunity areas for growth in the Borough. The Council have also identified the Earls Court West Kensington Opportunity Area as a key theme within its Corporate Plan (October 2009) to regenerate the Borough.

2.2.3 In addition, the scheme is identified in the Council's Borough Investment Plan (December 2011) and Draft Housing Strategy (May 2012). The Council's comprehensive approach to regeneration is aimed at tackling the physical fabric of neighbourhoods, making them better places to live and work; and addressing high levels of deprivation.

3.0 BACKGROUND AND HISTORY

3.1 The proposed comprehensive redevelopment scheme covers an area of approximately 73 acres¹ within only three principal land-holdings (shown at Appendix 1). The principal landowners are:

- Capco, leaseholders of Earls Court 1 and 2 and freehold owners of the Seagrave Road car park site.
- Transport for London (TfL), freeholder of the Lillie Bridge Depot and Earls Court 1 and 2.
- The Council, freehold owners of the West Kensington and Gibbs Green Housing Estates, including the site of the former Gibbs Green School.

3.2 The proposed comprehensive redevelopment scheme sits across the boundary of the Borough's of Hammersmith and Fulham (LBHF) and Kensington and Chelsea (RBKC).

3.3 Capco and TfL have been discussing the possibility of a redevelopment of their land holdings for some considerable time and the Council has the opportunity to sell its land to Capco creating a larger and more comprehensive development opportunity.

3.4 The West Kensington and Gibbs Green Estates

3.4.1 The Estates occupy an area of approximately 21 acres along the western length of the Earls Court buildings and the Lillie Bridge Depot. The Estates comprise 760 homes, the two tenant halls, an empty nursery building, the former Gibbs Green School and highway at Mund Street.

3.4.2 531 of the homes on the Estates are owned and rented by the Council and there are 171 properties owned by leaseholders/freeholders which were originally purchased from the Council under Right to Buy. There are also 58 social rented Housing Association (HA), properties on the estate, which have been developed piecemeal over the past 30 years, with the sites sold by the Council to the three HAs on long leases. These three HAs are Family Mosaic HA, London and Quadrant HA and Shepherds Bush HA.

¹ Includes Seagrave Road Car Park Site and excluding Farm Lane

3.4.3 A breakdown of the tenure and property type of the residential properties on the Estates can be found in table 1 below:

Table 1 – Tenure and property type table as at 23rd April 2012

	1 Bed Flat	1 Bed House	2 Bed Flat	2 Bed House	3 Bed Flat	3 Bed House	4 Bed Flat	4 Bed House	TOTAL
Council	163	0	212	0	46	75	8	27	531
Leasehold/ Freehold	21	0	85	0	24	29	2	10	171
Housing Association	4	3	6	13	0	25	0	7	58
Total	188	3	303	13	70	128	10	45	760

3.4.4 The Estates are now between 40 and 50 years old and lie within the North Fulham area. In 2010, the area fell within the 20% most deprived areas in England, as defined by the Index of Multiple Deprivation.

Table 2 – Table of Deprivation

Deprivation indicator	The Estates	Borough Average
% of working age population on Jobs Seekers Allowance, Income Support, Incapacity Benefit OR Employment and Support Allowance	24.9	13.3
% of all tenants (Council and private) on Housing Benefit	63.2	27.5
Average household income of a household with a dependent child	£16,905	£22,105
Rate of ASB per 100 residents	6.6	3.5
% of tenants classified as overcrowded (based on Housing Benefit/Council Tax Benefit claimants only)	14.9	12.8

3.5 Transport for London and Network Rail land ownerships

3.5.1 Officers understand that, in order to deliver the comprehensive redevelopment scheme, Capco have to reach agreement with TfL for the treatment of their land ownerships and or TFL agree to bring forward their sites for redevelopment in line with the masterplan. In respect of Capco reaching agreement with TfL the Council believe that the following points will need to be addressed:

- Capco needs to agree a renegotiation of the term of their existing leases from TfL on Earls Court 1 and 2, identified in Appendix 1 in order to make the land capable of redevelopment.
- The Lillie Bridge depot currently contains an engineering depot and a train stabling facility. The engineering depot

will need to be re-located to enable the development to proceed. The train stabling facility could remain but would require a design solution.

- Officers understand that negotiations are ongoing between Capco and TfL.

3.5.2 It would also be desirable for Capco to reach agreement with Network Rail for developing over the West London Railway Line. Officers understand that negotiations are also ongoing in this regard.

3.6 The Planning and Masterplanning processes

3.6.1 London Plan and Core Strategy

3.6.1.1 The potential comprehensive development area including the Earls Court buildings, Lillie Bridge Depot, the Estates and Seagrave Road car park, was identified as an Opportunity Area in the London Mayor's Replacement London Plan in 2009. The London Plan, including the Opportunity Area, was adopted by the Mayor early 2012.

3.6.1.2 As has been noted, the Council's Core Strategy also recognises the development site and includes policies encouraging its comprehensive development. The Core Strategy was adopted in October 2011.

3.6.2 Supplementary Planning Document

3.6.2.1 The Council, RBKC and the Greater London Authority commenced work on a Supplementary Planning Document (SPD) in September 2010 for the Opportunity Area. The purpose of the SPD is to explore development options for the site and produce a framework for acceptable development interpreting existing planning policy. Consultation on the SPD has been undertaken and the SPD was adopted by the Council on 19th March 2012, by RBKC on 22nd March 2012 and is with the GLA currently for consideration.

3.6.2.2 Capco have provided the Council with an indemnity against any claims for statutory blight, which might arise from the adoption of the SPD.

3.6.2.3 On or about 19th June 2012, the Council received an application for permission to apply for judicial review of the decision to adopt the SPD, brought by the tenants and residents' associations of the two Estates (the TRAs). This is being opposed and is the subject of privileged confidential legal advice; the judicial review is therefore not discussed further here.

3.6.3 Masterplan and Planning Applications

3.6.3.1 Capco employed Terry Farrell & Partners to prepare a masterplan for the comprehensive development site, including the Estates, in June 2010. The masterplan proposal is for a residential mixed-use scheme of 10.1m square feet above ground (excluding the Seagrave Road site). The masterplan is centred on the concept of building four new 'villages' and a new high street linking North End Road and Earls Court tube station.

3.6.3.2 The masterplan proposes approximately 7,583² new homes including 760 replacement homes and an estimated further 740 additional affordable homes, new offices and commercial activities, new education and health facilities including a new primary school, new play and recreational facilities, (including a new linear park) and a new high street with shops, cultural and community activities.

3.6.3.3 Capco submitted three planning applications in June 2011, based on the Farrell masterplan.

- Two outline applications were submitted: one to RBKC (Application 1) and one to the Council (Application 2) for the main development site, excluding the Seagrave Road site.
- A detailed planning application was also submitted to the Council for the Seagrave Road car park site. That application was recommended for approval by PAC on 16th February 2012, subject to finalising Section 106 provision and there being no contrary direction from the Mayor of London. The Section 106 agreement was completed on 30th March 2012 and planning permission issued on the same day. The judicial review period for this decision has now expired.
- It is proposed that Application 2 will be taken to LBHF's Planning Committee on 12th September and Application 1 will be taken to RBKC's Planning Committee in the near future.

4. **CONSIDERATION OF OPTIONS**

4.1 Since early 2009 the Council, Capco and local residents have been considering the possible inclusion of the Estates within the wider comprehensive development. This has included assessing the benefits that could be created from such inclusion, the safeguards that would

² The current planning application is for 5,845 homes in LBHF and 930 homes in RBKC, (i.e. 6,775 homes in total), plus separate planning application for 808 homes in Seagrave road car park (i.e. 7583)

need to be secured for residents and the terms under which the Council's land and properties could be included.

4.2 Collaboration Agreement

4.2.1 In October 2009, the Council signed a Collaboration Agreement with Capco and TfL to provide a framework, within which the three parties could explore the full potential of the scheme and negotiate terms, under which land agreements might be entered into. TfL is of the view that the Collaboration Agreement expired in December 2011. Although the Council accepts that the Agreement has expired, it has not needed to determine the precise date of expiry, as discussions are on-going between the parties through the Landowners Board.

4.3 Exclusivity Agreement

4.3.1 In July 2011, the Council signed an Exclusivity Agreement with Capco. Capco paid £15m to the Council in return for the right to negotiate exclusively with the Council, to ascertain whether final terms of a CLSA could be concluded. £5m of this is non-refundable and £10m is refundable if the Council does not enter into the CLSA³. The original term of the agreement was for one year from 29th July 2011 and in view of the progress made with negotiations, the parties have entered into an agreement to extend this until the end of January 2013.

4.4 Estate Regeneration Options Analysis

4.4.1 In order to explore fully the rationale for the redevelopment of the Estates and understand whether inclusion of the Estates offers the optimum way forward, the Council instructed Jones Lang LaSalle (JLL) and Amion Consulting to prepare an options appraisal (the Economic Appraisal).

4.4.3 The Economic Appraisal (attached at Appendix 2) considered 4 options for the Estates. These are set out in the table below

Table 3 – Options explored in the Economic Appraisal

Option	Detail
Option 1	Maintain the Estates as they are. This could include a transfer to a housing association, or a resident-

³ If the Council does enter into the CLSA, this money will also be refundable if the Council does not comply with it's obligations under this agreement.

	controlled private registered provider.
Option 2	Continue to maintain the Estates and develop plots of land within the Estates.
Option 3	Redevelopment of the Estates only (not as part of the comprehensive redevelopment plans). The existing properties on the estate would be demolished and replaced with new housing and other supporting uses.
Option 4	Inclusion of the Estates within the Earls Court redevelopment scheme.

4.4.4 The Economic Appraisal concludes that the inclusion of the Estates within the wider redevelopment scheme is the best option in terms of benefits for residents of the Estates and for the wider area, and that it offers the prospect of bringing, among other things, the following benefits to the area:

- 7,583 new homes
- 36,033 construction jobs⁴
- 9,528 permanent jobs⁵
- £99.5m per annum of additional local expenditure

4.4.5 On 7th November 2011 the Leader of the Council and the Cabinet Member for Housing made the decision to accept provisionally and endorse the conclusions contained within the Economic Appraisal subject to the outcome of further consultation.

4.4.6 Members should read the Economic Appraisal in full.

4.4.7 In its analysis, the Economic Appraisal makes the assumption that the comprehensive redevelopment scheme would be realised in full. This assumption is considered in more detail in section 6.7.2. below.

4.5. Housing Stock Transfer

4.5.1 On 8th December 2009, the TRAs served notice on the Council proposing that the Estates be sold to a resident-controlled private registered provider. On the same date, the TRAs wrote to the Secretary of State for Communities and Local Government inviting him to make regulations for this purpose under section 34A of the Housing Act 1985. The Council met with the TRAs in January 2010 to discuss their proposal. (As yet, no regulations have been made under section 34A.)

4.5.2 The Council decided that it could not support the TRAs' proposal at that time. The Council wrote to the TRAs to explain this on 11th January 2010. The Council wrote in similar terms to the Secretary of State. In the letters the proposed stock transfer was described as 'premature'.

⁴ Defined as person years of construction employment in Appendix 2

⁵ Defined as new gross direct jobs in Appendix 2

This was because the 'potential opportunity' to which the redevelopment scheme gave rise had not been fully explored and evaluated by the Council. The Council took the view that it could not decide to support the disposal of the Estates to a resident-controlled private registered provider without first obtaining a proper understanding of the potential benefits and advantages of the comprehensive redevelopment scheme.

- 4.5.3 The TRAs have since established West Kensington & Gibbs Green Community Homes (WKGGCH) and are lobbying for the ownership of the Estates to be transferred to this community organisation.

4.6 Past Consultation with Residents

- 4.6.1 Over the past three years the Council has been engaging and consulting with residents of the Estates through numerous newsletters, drop-in sessions, surgeries and exhibitions about the potential inclusion of the Estates within the redevelopment scheme.
- 4.6.2 Consultation and discussion have centred around the concerns raised by residents about the impact of the proposed redevelopment scheme on them. These concerns have been addressed through the development of Tenant and Leaseholder / Freeholder guarantees. These guarantees are included within the proposed CLSA and are intended to provide clarification and assurances for local residents.
- 4.6.3 The West Kensington and Gibbs Green Steering Group was set up in order to negotiate with the Council and Capco and to secure effective safeguards and benefits for residents. The Council has funded independent legal advice for this group over the past two years to ensure that residents had proper representation and advice during the consultation process and were able to discuss issues effectively.
- 4.6.4 A chronology of the consultation process (up until the recent consultation addressed immediately below) is attached at Appendix 3.
- 4.6.5 During this time there have also been separate consultations by the Local Planning Authority with residents about the proposed development.

5.0 SECTION 105 AND WIDER CONSULTATION

- 5.1 From 6th January 2012 to 12th March 2012, the Council undertook a formal consultation with residents on whether the Estates should be included in the proposed comprehensive redevelopment scheme. This formal consultation also satisfied the requirements of section 105 of the Housing Act 1985 in relation to the secure tenants on the Estates.

- 5.2 A total of approximately 30,000 consultation packs were distributed to the Estates and across the wider area (defined by Hammersmith Road to the North, Fulham Palace Road, New Kings Road to the South and Warwick Road and Finborough Road to the East). The consultation pack is included at Appendix 4.
- 5.3 A progress report on the consultation and on the responses received was considered by Cabinet on 23rd April 2012. Officers have now completed a full analysis of the consultation responses, together with comments received after the 23rd April Cabinet. Officers have also commented on and responded to concerns raised where appropriate. The analysis is not summarised here. Rather, **Members are directed to Appendix 5, which Members should read in full.**

5.4 The housing stock transfer option

- 5.4.1 During the consultation on the future of the Estates, the TRAs and WKGGCH submitted their 'vision' for a housing stock transfer (first published on 8th December 2009), together with representations on the alleged advantages of this option as compared with the Council's proposal (see Section 5 of TRAs' response of 12 March 2012, attached as Annex 5 to Appendix 5, the Analysis of Consultation Responses).
- 5.4.2 In addition, 86% of those who objected to the Council's proposal in the recent consultation (575 individual consultees) supported a transfer of the housing stock to WKGGH.
- 5.4.3 Officers support some of the elements of the 'vision' and are in general supportive of the localism principles that underpin stock transfers. However, despite the support for a housing stock transfer, officers believe that the inclusion of the Estates in the redevelopment scheme is the better option overall. There are two principal reasons for this. First, officers consider that a number of the claims made in the WKGGCH 'vision' are unrealistic. Secondly, and more importantly, the Stock Transfer Option would prevent the Estates from being included in the redevelopment scheme, and officers consider that this would in turn significantly reduce the benefits that the redevelopment scheme would be likely to deliver. These two reasons are addressed in more detail below.
- 5.4.4 Overall, officers believes that the issue of a stock transfer to a body such as WKGGCH should be a consideration for the future, once the comprehensive redevelopment has been undertaken and the regeneration benefits realised. In particular, if the Estates are included in the redevelopment scheme, the Council would receive 995-year head leases for the replacement homes. The Council could transfer this interest to a body such as a WKGGCH once all of the new homes had been provided, thus allowing residents and the local area to gain the benefits of the comprehensive redevelopment scheme whilst also enabling local resident-led ownership of homes in the long term.

5.5 The WKGGCH 'vision'

- 5.5.1 WKGGCH make strong statements within their 'vision' about what the stock transfer option 'would' achieve. There would be 'an estate-based management and maintenance service tailored to meet individual needs' and staff 'would be out on the streets and patrolling the corridors' and 'things would be dealt with straightaway'. In addition, it is claimed that over time 'we would transform the corridors stairwells and outside spaces into safe and welcoming entrances; ... We would keep the concierge staff and give the big blocks on West Ken a facelift' and that the TRAs / WKGGCH 'would offer secure lift access for the blocks on Gibbs Green, using transparent lifts and shafts'.
- 5.5.2 As against this, the only reference to funding is the statement that '[t]here are ways of funding these and other estate-wide improvements that would avoid costs falling on leaseholders'. Officers do not agree. Officers consider that it would be very difficult to undertake such improvements without an increase to rents to service the necessary borrowing and/ or increases to service charges to tenants and leaseholders.
- 5.5.3 The Council has determined that the cost to simply to maintain these properties to the Decent Homes Standard over the next 30 years is likely to be approximately £60m. Any additional physical improvements would incur significant additional costs. For example, the cost of the type of lift, promised for the Gibbs Green estate could be in the region of £450, 000- £460, 000⁶, and cladding the larger blocks on the West Kensington estate would have significant cost implications.
- 5.6.4 In the past, housing stock transfers have typically been progressed by the local authority making an offer to the tenants and by the provision of a 'dowry'. However, Officers understand that in the currently constrained public sector funding climate there is unlikely to be a 'dowry' or other grant regime to support stock transfers where additional resources are required to support stock repair and improvement. Indeed it is worth noting that under the 2012 Housing Revenue Account Self Financing Determination the average debt per property across the Council was £19,988. In broad terms applying this average debt per property figure to the 531 council secure tenancies on the estates produces an indicative debt figure of circa £10 million. In the current economic climate, and with the current budgetary pressures that it is facing, it would not be feasible for the Council to provide the necessary funds and /or write off debt of this

⁶ This approximate costs range is taken from a feasibility study that was undertaken to understand the cost of installing a glass lift in a 5 story housing block on another estate in the Borough. Whilst the cost would of course be subject to all sorts of variables based upon the specific circumstances of the block this gives an indication of the cost range.

size, which would be needed to allow for the WKGGCH vision to be realised.

- 5.6.5 Further, Officers believe that to fund the costs of managing the Estates, WKGGCH would in all likelihood need to bring in an existing larger Registered Provider so as to allow economies of scale. This would in itself hinder the local element that WKGGCH is promoting in their 'vision'.
- 5.6.6 It is also stated in the 'vision' that WKGGCH 'would sort out overcrowding by moving existing tenants to bigger homes and by housing their grown up children – before taking in new tenants. And we would provide better choice and help for moving off the estates.'
- 5.6.7 Again, officers believe that this would be very difficult to deliver. It is not clear whether residents in larger homes that are under-occupied would be forced to move to smaller properties to allow overcrowded families to move into their homes. If this is not the case, and if WKGGCH are assuming that overcrowding can be tackled as and when void properties become available, tackling the overcrowding on the Estates (currently, 16%) may take a long time.
- 5.6.8 It is also premature for WKGGCH to state that they will be able to house the grown-up children of existing estate residents before taking in new tenants. This will depend on the 'offer' negotiated with the Council. The Council might well retain nomination rights and use void properties on the Estates to re-house priority residents on the Council's Housing Register. Officers also consider that WKGGCH cannot realistically claim that it will be able to provide better 'choice and help' for residents who are wanting to move away from the Estates when they own no other housing stock. (WKGGCH might in principle partner with a larger existing Registered Provider which might facilitate this, but as already noted this would undermine the claimed local element in the 'vision').

5.7 The benefits of comprehensive redevelopment

- 5.7.1 If the Council pursued the Stock Transfer Option then the Estates would not be able to be included in the redevelopment scheme.
- 5.7.2 This would mean that there would not be the provision of 760 privately-funded replacement new homes, nor would the Borough obtain all the other benefits that would flow from the comprehensive redevelopment scheme. As regards the former, the lifecycle costs of maintaining new homes would be lower than that of the (current) aging homes on the Estates.
- 5.7.3 On the assumption that the stock transfer did not give rise to any subsequent infill development on the Estates (which possibility is addressed below), and using the results of the Economic Appraisal, the

differences between the stock transfer option and the Council's proposal in terms of residential units, jobs, and employment floor space can be estimated as follows.

Table 4 – Loss of Gross Benefits

	Option 1 Do minimum – either with or without Estate Stock Transfer	Option 4 Comprehensive redevelopment of Earl's Court Area	Difference – lost opportunity
Gross direct residential units	2,868	7,583	-4,715
Gross direct construction jobs*	20,642	36,033	-15,391
Employment floor space (sq m)	30,063	201,397	-171,334
Gross direct permanent employment	1,287	9,528	-8,241

*Persons years of employment

5.7.4 The Economic Appraisal estimates that, as compared with the option 1 (do minimum –either with or without Estate Stock Transfer), Option 4 (the comprehensive redevelopment scheme), would give rise to £99.5m additional local expenditure per annum (of which £40.9m would be retained in the local area). The overall net present value of a redevelopment without the Estates (Option 1) is estimated in the Economic Appraisal to be £20m, whilst the overall net present value of the comprehensive redevelopment scheme (Option 4) is estimated to be £3.8bn.

5.7.5 The TRAs / WKGCH argue in table 1 in Section 5 of their response that the Stock Transfer Option would lead to an increase in the supply of housing because there would be infill development. Even if there were infill development, this would not address the poor layout of the Estates. More significantly, officers consider that there would be few opportunities for infill development should the estates be transferred,

5.7.6 Option 2 of the Estates Regeneration Economic Appraisal assessed the opportunities for in-fill development to create additional housing and it was believed that 341 new homes could be built. This however, included larger land parcels, such as Gibbs Green School, Farm Lane and Lillie Road, which would not be transferred if a housing stock transfer were to occur.

5.7.7 Within Option 2, 9 smaller sites were identified, within the Estates boundary, as being capable of infill development. On the basis of 750 habitable rooms per hectare, it was determined that 57 additional units could be provided across these 9 sites. These infill sites were identified on the basis of their suitability for development by 'walking' the estate, liaison with Housing Authority and reference to the existing quality of the stock and likely planning constraints on change of use and intensification of land use.

5.7.8 The appraisal work conducted by Jones Lang LaSalle has determined that income from land disposal (capital receipt) of these infill sites could achieve circa £4m of income. The small scale of these opportunities and their in-fill nature within the existing estate does, however, mean that maybe a limited opportunity market for these sites. Outside of the financial viability issues, the small scale of this intervention means that there will be limited added value to the environment within the estates for existing residents and considerably less than the comprehensive redevelopment - it could be argued that an infill approach will reduce the living environment in the estates via increased density and reduced access to open space.

6. CONDITIONAL LAND SALE AGREEMENT (CLSA)

6.1 If the Council's land is to be included within the wider comprehensive redevelopment scheme then the proposal is that the terms regulating the arrangements between Capco and the Council would be set out in the CLSA. The CLSA will set out in detail the steps that need to be undertaken in order for the land to be transferred to Capco. The Council would receive a 995 year head lease, a virtual freehold, in the properties provided as replacement homes.

6.2 The terms of the CLSA have been agreed between officers, supported by expert professional advice. Legal advice has been obtained from SNR Denton (Dentons) and Counsel, commercial advice has been obtained from Jones Lang LaSalle (JLL) and financial advice, best consideration and due diligence advice has been obtained from PriceWaterHouseCoopers. A summary of the CLSA can be found at Appendix 6. The core terms of the CLSA are detailed below.

6.3 The Offer to Tenants and Leaseholders/Freeholders – Estate Residents

6.3.1 Re-provision of existing homes

6.3.1.1 The impact and implications of the process on local residents will be regulated by the Tenant and Leaseholder / Freeholder Guarantees, which are within the terms of the CLSA. It is proposed in the CLSA that all homes currently within the Estates will be re-provided to the Council, as part of any redevelopment scheme. This enables the Council to promise that existing residents of the Estates will be offered new accommodation within the new development.

6.3.1.2 Furthermore, the Council, from the outset, has required that existing residents should not be moved away temporarily while new replacement homes are built and that they will only incur one move. Although the process will be disruptive for local residents, this condition will help to safeguard existing communities and minimise community break-up. Consequently, land phases can only be

vacated and passed over to Capco, once new homes for residents in the affected phase have been re-provided elsewhere in the development area.

- 6.3.1.3 The Seagrave Road Car Park site is important and the only realistic option in achieving the one move promise. It provides a site for the re-provision of approximately 200 existing estate properties, without the need for any demolition of existing homes. This will allow the remainder of the re-provision to take place – in phases - without residents having to move away to temporary accommodation.
- 6.3.1.4 Re-provision in this manner is time-consuming and, given the scale of the project, the full re-provision of council properties is likely to take 10-15 years.
- 6.3.1.5 All of the new homes will be allocated through the Earl's Court/West Kensington Local Lettings Policy, which will be overseen by Director of Housing Options, Economic Development & Skills. The first draft of this policy is attached at Appendix 7 – Earl's Court/West Kensington Local Lettings Plan interim statement. It is anticipated the Council will be consulting with residents later in the year on this first draft and the final re-housing policy will be brought back to Cabinet for approval following consultation.

6.3.2 Benefits for Tenants

- 6.3.2.1 The Guarantees within the CLSA for Tenants are as follows:
- All secure tenants will remain secure council tenants and have the offer of a new home within the development, matched to their housing need.⁷
 - Under-occupying tenants will be offered a new home with one additional bedroom above their need.
 - Rents will continue to be set in line with other existing council rents.
 - A home loss payment of £4,700 per household will be made by the Council to all secure tenants who have been in their home for more than one year. This amount is set by the government.
 - There will be no need for temporary accommodation – tenants will have one move only to their new home.
 - New white goods, carpets and curtains will be provided in their new homes.
 - The Council will fund all reasonable costs of moving.
 - Tenants will have a dedicated re-housing Officer to help them through the process.

⁷ Please note if a residents need exceeds 5 bedrooms then other re-housing options will be considered.

- An occupational therapist will be provided if requested and necessary identified adaptations will be undertaken to the new home.
- Compensation will be offered for loss of a garden or private parking space, if the new home does not have these.
- The Guarantees will be extended to existing Housing Association Assured Tenants, should they wish to become Council tenants.

6.3.2.2 Benefits for Leaseholders and Freeholders

6.3.2.2.1 The Guarantees within the CLSA for Leaseholders / Freeholders are as follows:

- Qualifying resident homeowners will be offered a new property in the development at a discount of 10%. Resident homeowners will be offered market value, plus 10%, (subject to a maximum of £47,000 set by statute) for their existing home.
- If after receiving a discount resident homeowners still cannot afford to purchase a home in the new development then the Council will meet the difference and hold this outstanding equity, but charge no rent or interest.. Resident homeowners will not be expected to increase borrowing on their mortgage to afford a home in the new development.
- Service charges for the new leasehold properties will be capped at their existing level for 5 years. Existing freeholders will have their service charge capped at £1,000 pa for the first five years.
- Resident homeowners who wish to be bought out and leave the area will be offered the market value plus 10%, subject to a maximum of £47,000 (unless they move under the Early Purchase arrangement).
- Homeowners will be able to choose the time when they wish to be bought out and move away up until the time when their property is required for development.
- Reasonable costs of moving, valuation and legal advice will be funded by the Council.
- Compensation will be provided for Decent Homes work which had been paid for and for which the full benefit had not been enjoyed by the time the property is required for development.
- Owners who have a demonstrable need to move away before the purchase contracts are released (as per 6.5.2) can be bought out for the market value under the Early Purchase arrangement.

6.4 The Structure of the Agreement

6.4.1 The Land

6.4.1.1 The land to be transferred under the CLSA is as follows (please see Appendix 1):

- The West Kensington and Gibbs Green Estates
- The former Gibbs Green School
- 11 Farm Lane

6.4.1.2 Capco have also indicated that they may wish to include Council-owned properties on Seagrave Road and Rickett Street within the comprehensive redevelopment scheme. At present, the Council has not received any plans to include these properties. However, should Capco come forward with detailed proposals for their inclusion, the Council will undertake a statutory consultation process with the affected properties. Following consultation the Council will make a decision on whether to include these properties⁸.

6.4.1.3 Should these additional properties be included, the Council will receive additional replacement properties within the development area and the tenants of these properties will be entitled to the tenant contract, i.e. the Guarantees described above in 6.3.2.1.

6.4.2 Trigger Date

6.4.2.1 The agreement is a conditional agreement for the sale of the Council's land. From the date of the agreement Capco will have a five year option window in which to decide whether they are able to and want to go ahead. This is to give Capco the opportunity to put in place required permissions and funding to proceed with the development. Once Capco decide to proceed, they serve a Trigger Notice on the Council. The land will transfer to Capco (or its subsidiary) in phases to be agreed with the Council, over time.

6.4.2.2 It is intended that the current momentum in the project and the financial outlays that Capco will have made on signing will mean they would be in a position to proceed well before the final Trigger date. However, the five year option window described above means there could be a delay in the commencement of the project up to 5 years from signing, up to 31.12.2017, as per illustration 1 in 6.4.4.3.

6.4.2.3 On signing of the agreement, and irrespective as to whether the Trigger Notice is eventually served, Capco will be required to purchase the Gibbs Green School site (subject to the council securing appropriate consents) and 11 Farm Lane, for a combined figure of £15m.

⁸ The occupiers of these properties have been informed about this possibility.

6.4.2.4 The Gibbs Green School Site is currently being used as a temporary site for Queensmill School secondary provision. Queensmill School moved to this site on a temporary basis whilst proposals for a purpose built school in White City are being pursued. Capco's early purchase of the Gibbs Green School will provide much-needed funds to provide secondary provision in White City. 11 Farm Lane is the site of a closed supported hostel. The decision to close the hostel was taken in February 2011.

6.4.3 Early Termination provisions

6.4.3.1 Provisions have been negotiated in the Agreement to secure project momentum.

- Capco must serve the Trigger Notice within 5 years of signing the CLSA or no later than 9 months after 150 new affordable units (out of the total of 200 required under the terms of the Seagrave Road section 106 Agreement) are completed on the Seagrave Road site. If this is not done, the Council can terminate the agreement.
- If within 10 years of signing the agreement Capco have not provided the Council with 50% of the required replacement of social rent housing, then the Council can terminate the agreement. This is conditional upon any delay not being caused by a lack of performance by the Council. There is provision allowing Capco some additional time to make this hurdle if they have nearly done so by this date.

6.4.4 Payment for Council Land

6.4.4.1 There are two elements to the Council's consideration for the land. These are new replacement housing⁹ for the housing currently occupying the Estates and a monetary consideration of £105m¹⁰. Taken together, the cash receipt and the replacement homes are considered to have a value of between £220m and £289m depending on the valuation approach used and officers, relying upon the specialist external advice of JLL and PWC, are of the view that the deal under the terms of the proposed CLSA currently represents best consideration

6.4.4.2 Replacement Housing

6.4.4.2.1 It is a condition precedent to the Council delivering vacant possession of the whole of the Estates that the Council will receive 760 homes in phases in replacement for the homes currently on the Estates. The Council would receive a 995 year Head lease, a virtual freehold, in the properties provided as replacement homes. These new homes will be tailored to existing residents' housing needs.

⁹ This is anticipated to form part of the planning obligations to be contained within the S106 agreement

¹⁰ Including £0.5m for the Seagrave Road and Ricketts Street properties

Currently there are 589 social rent properties and 171 private homes. This will ensure that there will be no loss of social rented homes from the number, which currently exists. As land may be transferred in phases, it is not a requirement that all Replacement Homes are provided before any land is transferred.

6.4.4.2.2 Qualifying resident Freeholders and Leaseholders will be offered an affordable replacement home on an equity share basis.

6.4.4.2.3 The replacement housing should be provided on land within the redevelopment area that is within the Council's boundary. Any other sites can only be used with the agreement of both parties and with the agreement of any residents being offered property.

6.4.4.2.4 The new housing will be built to the following standards:

- Space standards within the London Mayor's Design Guidelines
- Code for Sustainable Homes 4
- 100% Lifetime Homes
- Secured by Design certification
- HQI score of upper mid-quartile
- At least Silver Standard Building for Life.

6.4.4.2.5 During consultation and at the Cabinet Meeting of the 23rd April 2012, residents raised concerns about the size of the replacement properties being provided. Residents wanted an understanding of how the replacement homes would compare with the Parker Morris Standards, to which most Local Authority Housing adhered to between 1961-80, as the benchmark. To demonstrate these comparable standards, a comparison table has been produced and can be found at Appendix 8.

6.4.4.2.6 The re-provision must include 75 houses, 66 house equivalent homes (ground floor duplexes). The Council has also negotiated the same ratio of parking spaces for the replacement homes that may be granted to the developer, should they receive outline planning consent. Officers believe that this will mean that the number of car parking spaces provided for the 760 replacement homes should be approximately 456 spaces.

6.4.4.3 Cash Receipt

6.4.4.3.1 The cash payment will be received as follows:

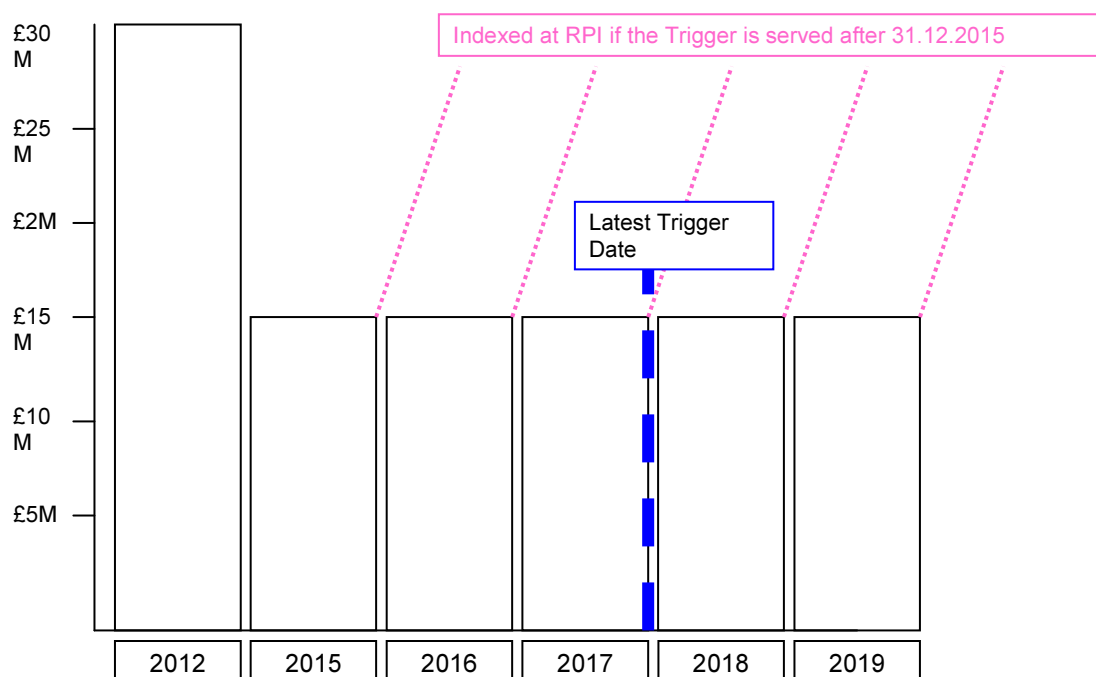
6.4.4.3.2 Exclusivity - £15m has been received in advance of signing the CLSA under the exclusivity agreement, of which £5m is non-refundable. Once Trigger is served this represents part of the cash consideration.

6.4.4.3.3 Other Sites - £15m for Gibbs Green School and 11 Farm Lane on the signing of the CLSA on the basis that the Council has complied with its disposal obligations. £12m of this will be used to construct a new educational facility at White City to which the current temporary use of the former school site will relocate.

6.4.4.3.4 Payment Schedule – Provided the Trigger Notice is exercised by Capco, the balance of the remaining £75m¹¹ is payable in 5 annual installments of £15m. If the Trigger is exercised after 31st December 2015 payments will be made and indexed by RPI from that date to ensure values are in line with that date. See illustration 1 below.

6.4.4.3.5 Overage - Overage will be payable to the Council for any consented floor space that is over 10.1m square feet.

Illustration1- Payment Schedule



6.5 Capco funding assistance

6.5.1 The Council will be required to buy back or otherwise determine existing leases and freehold interests across its own land in order to secure vacant possession.

6.5.2 The Council has agreed to buy back owners who wish to leave in the following ways:

¹¹ £74.5 million excluding the "Seagrave Houses"

- From the date of the submission of Capco's main application (June 2011) to buy back owners who have a demonstrable need to leave, for open market value.
- From the later of (i) an unchallengeable implementable planning permission on the main scheme, and (ii) satisfactory consent from the Secretary of State, to buy back all resident-owners, who wish to leave for open market value (in a 'no scheme world') plus 10% and all non-resident owners for open market value plus 7.5%.

6.5.3 Capco have agreed to make available funding for these buy backs on the following terms:

- A £7.5m facility will be made available by Capco from signing of the CLSA (to fund Early Purchase Agreements); this sum increases to £15m following the issue of secure Secretary of State consent for the sale and a secure satisfactory main scheme planning permission.
- From serving of the Trigger Notice Capco will be responsible for funding all buybacks required, if so required by the Council.

6.5.4 If these facilities are used the Council will have to refund Capco at a later date from the annual payment instalments for these purchases, as they are part of the cost of achieving vacant possession. The detailed risk analysis of these cash flows is being considered by the Executive Director of Finance and Corporate Governance and further commentary is included in the Executive Director of Finance and Corporate Governance's comments.

6.6 Long Stop Date

6.6.1 The final end date for the agreement is 2035. The Council will have received the cash consideration by 2020 (or 5 years after the trigger date) at the latest. If the agreement is to be terminated, then the parties will retain the properties that have been purchased.

6.6.2 There is a detailed termination procedure included within the CLSA. Where there is termination and not all the Option Land has been transferred to Capco, an overage regime will apply should the Council sell this land to a third party for more than it would have obtained from Capco (having regard to both the cash consideration and the value of the Replacement Homes). If this is the case, the Council will pay 25% of the additional consideration received. If at termination the Council owes damages to Capco for breach of its key commitments (largely relating to the process of securing vacant possession) this overage is increased to 75% until the damages are paid off.

6.7 Key Obligation on the Council – Securing Vacant Possession

6.7.1 Once the Trigger Notice is served Capco is entitled to serve notices on the Council requiring phases of land on the Estates to be vacated. The Council will only be expected to vacate and handover any phase of land after the replacement housing has been built to meet the needs (subject to limits based on the needs, as predicted at the date the CLSA is signed) of secure social rented existing residents, and to meet the entitlement of the resident leaseholders and freeholders in that phase.

6.7.2 Phasing Process

6.7.2.1 The draft CLSA explains in detail the process to secure vacant possession and transfer title in phases. As explained previously, it is anticipated that Capco will use the Seagrave Road site to enable the first phased re-provision. An indicative phasing plan has been included within the CLSA and is attached at Appendix 9. This plan is only indicative and the Council will be engaging with residents as the phasing plan develops. Capco are not restricted as to which phases are brought forward in what order, although a reasoned explanation for changes is required. Any proposal must always provide replacement housing in advance for the residents of a phase, before any land is transferred.

6.7.2.2 Capco will propose the phases on the Estates that they wish to acquire. When Capco propose a phase for development, they will have to produce a Phase Impact Assessment. This assessment will include a number of strategies that outline how the estate will continue to function as a place to live while that phase is developed. This will include how services will be maintained and how vehicular and pedestrian access will be maintained. The Council will not agree to the proposed transfer phase, unless they have agreed to the Phase Impact Assessment.

6.7.2.3 The CLSA does not require Capco to proceed with each phase. As already noted, the Economic Appraisal proceeded on the basis that Capco would in fact proceed with all the phases of the comprehensive redevelopment scheme. Opponents of the scheme have correctly pointed out that this is an assumption in the Economic Appraisal.

6.7.2.4 In deciding whether to enter into the CLSA, Cabinet members will need to evaluate carefully the risk of Capco being unable or unwilling to proceed with the comprehensive redevelopment scheme to its conclusion, e.g. because of financial difficulties, or a collapse in property values. Officers recognise that in a changing economy there is no such thing as absolute certainty and that the

risk of the project being jeopardised by a major change in the economic landscape in the coming years cannot be ruled out.

- 6.7.2.5 However, whilst the Council cannot require Capco to proceed with each phase, Capco's financial model is based on the comprehensive redevelopment being completed in full. Further, once Capco serves the Trigger Notice, it will be required under the CLSA to pay all the cash consideration (totalling £105m) in line with the profile outlined above.
- 6.7.2.6 If Capco does not proceed with each phase it will in all likelihood forego significant future profit from the delivery of the full masterplan and it would only in limited circumstances be entitled to a proportional refund of the consideration for the land. The cost to Capco in delivering the new homes is also likely to remain relatively small in comparison to the anticipated long-term development returns that Capco should achieve from delivery of the full masterplan.
- 6.7.2.7 The Council is also protected in that a phase of land cannot be transferred to Capco unless Capco has first provided the replacement homes for residents in that phase.
- 6.7.2.8 In addition to these commercial incentives the Council has negotiated non-performance termination clauses to protect residents and encourage Capco to develop all phases. These are detailed above in paragraph 6.4.3. Additionally, the CLSA gives the Council redress in the event that Capco does not achieve the halfway point condition, as per 6.4.3.1 in the relation to the development and phase drawdowns.
- 6.7.2.9 The risk of Capco being unable to complete the development cannot be entirely discounted. However, overall, and given the above, it is thought highly likely that once the building works on the Estates are commenced, Capco will have a considerable financial incentive to complete the comprehensive development in full.

6.7.3 Floor space Ceiling

- 6.7.3.1 The overall development needs to return 760 homes to the Council. The Council has agreed with Capco a ceiling floor space that reasonably represents 760 properties built to the size standards in the London Mayor's new Design Guidelines. In terms of agreeing a proposed phase the Council may ask for up to ten per cent additional replacement floor space within that individual phase to meet the identified need, but must stay within the overall allocation across the whole development.

6.7.4 Provision of Houses

6.7.4.1 The re-provided dwellings in each new proposed phase must contain at least 60% of the number of council for rent houses in the phase to be decanted. If Capco cannot achieve this and no other acceptable solution can be found then the council can veto the phase. Additionally each replacement phase should include 40% of the number of existing council for rent houses as house equivalent homes (ground floor duplexes) with front doors to the street and gardens. Both these provisions are subject to the ceiling amounts of 75 replacement houses and 66 ground floor duplexes.

6.7.5 Buy-back of existing Leasehold and Freehold Interests

6.7.5.1 To achieve vacant possession, the Council would seek to enter into contracts with owners under which they can either require the Council to buy their homes or to provide them with Replacement Homes. As explained previously, Capco (subject to certain triggers and qualifications) can be required to provide the Council with funding (at a cost) to meet these acquisition costs. This funding if utilised is then deducted from the annual payment instalments (as a cost of securing vacant possession).

6.7.6 Registered Provider (Housing Association) Ownerships

6.7.6.1 The Council will need to complete negotiations for relocation of the three Housing Associations (HAs) who have long leases and properties on the Estates. Assured tenants of the HAs will be offered the right to become council tenants and stay within the new development, under the terms of the Secure Tenant Contract. The Council may agree to provide alternative sites within the Borough or to compensate the HAs for their land interests. Potential sites being considered include Maclise Road and Fulham Cross.

6.7.7 Compulsory Purchase

6.7.7.1 Ultimately if agreement cannot be reached with existing tenants and owners the Council will need to utilise (subject to it being an appropriate use of such powers at the time) its compulsory purchase powers (CPO) to secure vacant possession. Importantly, the agreement does not and cannot impose an obligation to make and promote a CPO; it regulates the process by which appropriate authority within the Council is sought and (once received) progressed.

6.7.7.2 Once a phase has been agreed, Capco can serve the Council with a CPO Start Notice. This notice will trigger the Council's obligation to prepare the necessary documentation to take a report to full Council seeking a decision as to whether to seek a CPO for that phase.

6.7.7.3 As well as regulating the process for delivering 'clean' land by use of CPOs, the CLSA also sets out mechanisms for seeking authority to use appropriation and stopping up and closure orders.

6.7.7.4 The use of CPO and related powers will inevitably involve costs, both in connection with the costs of the process itself (e.g. legal and administrative). Because of the liability for compensation, the Council will be entitled to recover these costs from Capco, but (except in relation to land not owned by the Council) any recovered costs will be deducted from the consideration payable.

6.7.8 Damages and Liabilities

6.7.8.1 The Council will be subject to a performance regime for delivery of vacant possession to agreed dates. If the Council can be shown to have failed to meet identified key dates, due to matters within its control, then the Council will be liable for damages to Capco. The amount of damages that the Council will be required to pay is capped at £10m. If the damages exceed £10m they are only payable out of the overage referred to above. Officers are satisfied that the performance dates are reasonable and achievable.

6.8 Best Consideration

6.8.1 Given the complexity of this regeneration scheme, JLL and PWC have been appointed to advise the Council in respect of negotiations and for the offer to the Council. A residual land value model has been used to arrive at a valuation for the land; this is based on the Council transferring each phase of the site with vacant possession; therefore the Council will have to incur the costs of achieving this. This model has been adapted to reflect the potential transaction and the scheme as they have evolved. The model has been the subject of extensive review by the Council's advisors. This has included:

- Advising on the commercial aspects of the potential transaction.
- Reviewing the financial model prepared by CBRE on behalf of Capco.
- Assessing the potential transaction for Best Consideration and value for money.
- A financial model audit conducted by Mazars.

6.8.2 Letters from JLL and PWC are attached at Appendices 10 and 11. Based on these the Executive Director for Finance and Corporate Governance is of the view that the CLSA currently offers best consideration.

6.9 Indemnity and Covenant

6.9.1 Capco have provided the Council with a separate indemnity against any blight claims up to £50m from the date of adoption of the SPD. The CLSA provides for the continuation of this indemnity and provides the Council with an initial £50m guarantee, based on a net asset value test, an initial £30m of which is secured as a first charge against specific assets. These provisions within the CLSA are released as payments are made to the Council following the trigger date.

6.9.2 The Council has undertaken financial due diligence on the assets in EC Properties LP and Earls Court Ltd to ensure they are adequate. This work has been undertaken by PWC on the Council's behalf. This work will be reconfirmed just prior to the CLSA being signed and will be reassessed every six months. The CLSA also allows the Council to do an interim assessment, should circumstances arise, which raise concerns regarding the value of the assets, as well as the ability for the Council to terminate, should the asset provisions not be complied with. Capco can also trigger an intermediate assessment if there has been a beneficial change in circumstances. Capco will provide a first fixed charge over £30m of assets to secure its liabilities under the CLSA. It should be noted however that it is only in certain circumstances that there is likely to be a material liability owed by Capco to the Council in the event of a Termination.

6.9.3 The delivery of Seagrave Road car park site assists in the early implementation of the scheme. Capco currently own 100% of the Seagrave Road car park site, they have entered into a conditional joint venture contract to sell a 50% share to private interests of family trusts related to the Kwok Family. Officers are aware that Thomas Kwok and Raymond Kwok were arrested by the Hong Kong authorities in March 2012 in relation to Sun Hung Kai properties, a Hong Kong public listed company in which the Kwok family are shareholders. The Council have sought assurances from CapCo as to their ability to redevelop the Seagrave Road car park site. CapCo have advised that their conditional joint venture agreement remains in place and that they have been assured by the Kwok Family trust that the above matters will have no bearing on the Family Trust's involvement in the Seagrave Road car park redevelopment. However, in the event that the arrangements between CapCo and the Kwok Family Trust do not complete, then CapCo will undertake the development directly.

6.10 Project Delivery Group

6.10.1 It is a requirement within the CLSA that the Council and Capco will establish a joint Project Delivery Group. The functions of the Project Delivery Group will be to act as a co-operative body between the

Council and Capco, to monitor and assist with the delivery of the Project in line with the CLSA and as the initial body for resolving any disagreements.

6. 11 Right to Buy applications

6.11.1 The Council's 'offer' to resident homeowners within the redevelopment area applies to those who were resident and submitted a Right to Buy application prior to June 2011, the date of Capco's three planning applications based on the Farrell masterplan. Those residents who submitted a RTB application after this date are currently not eligible for the full resident homeowner 'offer', which includes an offer of a new home in the development area.

6.11.2 The Government increased the Right to Buy discount for secure tenants to a maximum of £75,000 in April 2012, and the Council has seen an increase in RTB applications since this date. The Council has noted a significant increase in RTB applications from the West Kensington Estate since the change in the maximum discount level. The Council will be monitoring this situation and will be developing a policy for dealing with RTB applications. The Council may consider serving a Demolition Notice (under the Housing Act 1985), which suspends the RTB obligations during a regeneration scheme, should the Cabinet decide to proceed with the comprehensive redevelopment.

6.12 Associated documents

6.12.1 In order to facilitate the operation of the CLSA, the Council has agreed with Capco to enter into a number of supporting documents. These include the releasing by the Council at the appropriate time of rights currently held in relation to firstly the Seagrave Road site and later the Estates.

6.12.2 The Council has also agreed with Capco to enter into a Compulsory Purchase and Closure Order Costs and Compensation Agreement and part of the effect of this document will be to supersede the terms of the blight indemnity agreement dated the 16th March 2012.

7. SECRETARY OF STATE CONSENT

7.1 If and when a decision is made to sign the CLSA, the Council would need to apply for Secretary of State's Consent to dispose of the housing land it intends to sell within 5 months of signing the CLSA. The decision to apply for consent needs to be confirmed by a Full Council meeting. If consent cannot be obtained (either without conditions or to both parties' satisfaction) or if deadlines are not adhered to by the Council then the agreement will be terminated. In

this case the Council will need to re-pay £10m of the £15m received under the Exclusivity Agreement.

- 7.2 Assuming a satisfactory Secretary of State Consent is secured, then should the Trigger Notice not be served in the five year period, the agreement will be terminated. In that event the Council will retain £15m paid to it under the Exclusivity Agreement and the £15m payments made for Gibbs Green School and 11 Farm Lane, provided the Council has satisfied its disposal obligations under the terms of the CLSA.
- 7.3 Gibbs Green School and 11 Farm Lane are subject to an overage agreement, to ensure that the Council still receives best value for the sale if the development does not proceed.
- 7.4 In the event that the Trigger Notice has been served, Gibbs Green School will form part of the Overage Land (for the purposes of Scheme Overage) and no overage will be payable other than Scheme Overage. If Termination occurs before service of the Trigger Notice then the Council will be entitled to buy back Gibbs Green School and Farm Lane at the price for which they were acquired, plus indexation and some agreed costs. If the Council rejects this opportunity, the entitlement to overage falls away. If material development has taken place then overage will be payable (at the rate of 25% of profit over a 20% IRR).
- 7.5 It is not necessary for the Council to obtain formal consent from the Secretary of State for the disposal of land, because a “self award” has been made under the general consents to dispose of the site (which does constitute a school playing area) under paragraph 8 of the schedule to the school Playing Fields General Disposal and Change of use Consent (no 3) 2004. This self award was acknowledged by the Partnership for Schools (Department for Education) in September 2011. It is the officer’s opinion that the Council has the necessary consent to dispose, but should any additional consent be required, this will be obtained.
- 7.6 Furthermore, the Council has self awarded itself consent under the Academies Act 2010 since the land is wholly or mainly used as a school and its area is less than 8,000 square metres. This is following advice provided by the Department for Education and is in accordance with paragraph 4 of the schedule to the Academies General Disposal and Appropriation Consent (no.1) 2003 Order.

8.0 DECISION MAKING PROCESS

- 8.1 If the Council enters into the CLSA, a number of key decisions will or may follow. These are detailed in the table below.

Table 6 – Decision making timetable

Decision	Governance	Timing
To apply to the Secretary of State for Consent to dispose of Housing Land	Full Council	March 2013 This needs to take place within 5 months from signing the CLSA.
To seek approval to commence a Compulsory Purchase Order if appropriate.	Cabinet	This will be on a phased basis over the duration of the project. It is not anticipated that this process will commence until 2013.

9. RESOURCES AND PROFESSIONAL ADVICE

9.1 In addition to work on the project carried out by Officers who form part of the currently budgeted establishment Cabinet have to date approved the following additional resources for the project prior to the agreement of the CLSA:

Table 7 – Cabinet approvals and professional fees to date

Cabinet Approvals for external advisors	JLL	Denton	Ashford¹²	PWC	D Johnson¹³	Total
Jul-09	150,000	150,000				300,000
Jun-10			20,000			20,000
Jul-11	60,000	120,000	50,000	110,000		340,000
Apr-12	150,000	750,000	20,000	150,000		1,070,000
Nov-11					71,710 ¹⁴	71,710
Total	360,000	1,020,000	90,000	260,000	71,710	1,801,710

9.2 This is a complex project and officers have undertaken a review of the resources that will be required after the agreement has been approved by Cabinet. The level of resources required will vary throughout the project, with the exact timing of detailed resource requirements depending on a large number of factors including the

¹² Ashfords have been providing the Residents Steering Group with legal advice to develop the tenant and leaseholder/freeholder assurances and subsequent contracts.

¹³ Davies Johnson Ltd worked exclusively on negotiating the CLSA. Prior to this, Davies Johnson Ltd advised the Council on other matters and his time/costs spent negotiating the CLSA can not be differentiated.

¹⁴ £71,710 was approved in November 2011, but actual payments made were £67,450

service of the trigger notice by Capco and the number of Leaseholders / Freeholders who opt to be bought out.

9.3 Following formal agreement of the CLSA officers will require additional resources to ensure a full project team can be put in place to enable successful delivery of the project. Officers have therefore set out below a proposed budget to 31st March 2013 (excluding the already approved costs of negotiating the CLSA prior to Cabinet approval) and for the subsequent three years. These projected resources have been factored into the indicative cash flows forecasts summarised in paragraph 12.11.3 of this report. The council will undertake a regular review of the resources in order to ensure they reflect the needs of the project throughout its lifetime and are fit for purpose. Expenditure will be reported on and budgets updated via the quarterly capital monitor, the corporate revenue monitor and via the Councils annual estimates process. The initial proposed costs are all expected to be of a capital nature and will be funded from the Decent Neighbourhoods Fund.

Table 8 - Proposed capital budget for to 31st March 2013¹⁵ and for the subsequent three years.

Costs	2013	2014	2015	2016
	£	£	£	£
Project Team Costs (includes staff already approved in previous reports and transfer of relevant establishment posts – see analysis below)	627,648	643,339	659,423	675,908
Additional costs not covered by existing approvals of CLSA to signing post cabinet approval	99,000			
Ongoing project costs, including; - Local Office set-up and running costs - Communications, engagement, publicity, printing etc - Internal recharges - external advisors	300,000	205,000	210,125	215,378
Occupational Therapist Assessments	20,394	41,808	21,426	
Legal Fees post signing of the CLSA; includes allowance for defending challenges	120,000	1,160,813	1,189,833	1,219,579
CPO Costs	0	704,688	722,305	740,362
Stopping Up Inquiries		51,250	52,531	53,845
Financial Advice	25,000	25,625	26,266	26,922
Total	2,993,042	2,832,522	2,881,909	2,931,994

9.4 It should be noted that this budget excludes the direct costs of leaseholder buybacks. As noted these are hard to predict and a

¹⁵ Excludes costs of CLSA to date as these are covered by existing approvals

separate recommendation has been included in this report to authorise an initial £15m tranche of funds from the Decent Neighbourhoods Fund for this purpose. This is commented on further in paragraph 12.10.7.

- 9.5 Cabinet has already approved £284,000 p.a for the current project team. As follows:

18th July 2011 - £168, 000
23rd April 2012 - £116, 000

- 9.6 To ensure the successful delivery of the project and meet the Council's obligations under the CLSA, additional project team members will be required as identified in table 9 below, these costs are included in Table 8 above.

Table 9 – Project Team costs

Posts	Employment Status	Date of approval
Head of Area Regeneration/Project Director	Full Time	Part of Current Budget Establishment
Project Manager	Full Time	
Re- housing Officer	Full Time	18 th July 2011
Housing Officer	Full Time	18 th July 2011
Principal Finance Officer	Full Time	
Buy Backs Officer	Full Time	18 th July 2011
Re-housing Officer	Full Time	23 rd April 2012
Principal Legal Officer	Full Time	23 rd April 2012 ¹⁶
Communications Officer	Full Time	23 rd April 2012
Regeneration Officer	Full Time	
Community Engagement Officer	Full Time	
Project Officer	Full Time	
Total: 627,648		

- 9.7 Due to the complexity of the project and obligations under the CLSA, external professional advice will be required to support delivery of the project, such as but not exclusively, specialist legal and property CPO advice, the initial costs of which are included in the above budget at Table 8. Such appointments will be commissioned in line with the

¹⁶ The approval in April 2012 was for a Principal Legal Officer on a part time basis.

Council's procurement standing orders and will be specific appointments to meet key delivery requirements. These will be managed by the project team and reviewed to reflect the needs of the project throughout the project lifetime to ensure fit for purpose.

10. EQUALITY IMPLICATIONS

- 10.1 As part of the recent consultation process the council invited residents to comment on the draft Equalities Impact Assessment (EqIA). The Council has updated the EqIA to reflect the comments received as part of this consultation process.
- 10.2 The EqIA is attached as Appendix 12 to this report. Section 149 of the Equalities Act 2010 requires the decision maker, i.e. the Council acting through its Cabinet, to have due regard to the goals in the Act as set out in section 149. Members will therefore need to consider carefully and evaluate the points made in the EqIA before deciding whether to proceed with the CLSA.
- 10.3 The EqIA describes the proposals; identifies the impacts on the "protected groups", i.e. those with protected characteristics under the legislation (age, sex, ethnic origin, sexual orientation, disability, etc); and explains how those impacts which are negative (for example, the need for disabled and old people to move home) can be mitigated, where this is possible.
- 10.4 To the extent that it is not possible for negative impacts on the protected groups to be mitigated, members must weigh the negative impacts against the positive ones, and must weigh in the overall balance those impacts which are negative against the benefits ('countervailing factors') sought to be obtained from proceeding with the CLSA. Subject to the decision being rational and lawful overall, it is for Cabinet members to decide what weight should be given to the countervailing factors.
- 10.5 In this case, the EqIA is quite a lengthy and complex document. Officers have devoted considerable time and attention to compiling it, and in doing so have addressed the points made by consultees during the consultation exercise on the impact of the Council's proposals on those with the protected characteristics under the 2010 Act.
- 10.6 The countervailing factors which members will need to weigh in the balance against the negative impacts identified in the EqIA are those identified in this report, namely the anticipated beneficial effects on the community as a whole of proceeding with the CLSA: the creation of new jobs, the benefit to the local economy, the construction of better quality housing with lower maintenance costs, and so forth. Those countervailing factors have already been discussed.

11. SUMMARY

- 11.1 As set out above in Section 5 above, the Council has consulted with local residents to seek their views on the Council's proposal to include the Estates within the redevelopment scheme. For secure council tenants on the Estates, this consultation also satisfied the requirements of section 105 of the Housing Act 1985. In reaching their conclusions on the recommendations within this report Members must carefully consider the Analysis of Consultation Responses (Appendix 5) that officers have prepared.
- 11.2 The consultation revealed that, on the Estates, a significant majority of consultees are opposed to the Council's proposal. When all Estates residents' views are considered there was a ratio of opposition to support of 4:1; when just secure tenants views are considered the ratio falls to 2:1.
- 11.3 As against this, a significant majority of consultees in the wider area supported the scheme (with a 7:1 ratio of support to opposition). Residents in the wider area were consulted as they will also be affected by the redevelopment, for example in terms of community facilities, public space, the potential for new jobs and disruption during construction. When the views of all consultees are considered, the proportion against the proposal (47%) is not much greater than the proportion in favour (45%).
- 11.4 Members must have careful regard to the views expressed by secure tenants when making the decision. Members should also consider the views of the other consultees on the Estates, and residents in the wider area. Despite the levels of opposition amongst secure tenants and on the Estates more generally, it remains open to Members to decide to enter into the CLSA if Members conclude that, overall, this is the best option. The Council conducted a consultation rather than a referendum. Whilst Members must carefully consider all the views expressed, Members are ultimately responsible for deciding what is the best overall for residents of the Estates, future secure tenants, other residents in the Borough and the Borough more generally. For the reasons summarised below officers have concluded that the comprehensive redevelopment scheme is the best option.
- 11.5 After the Council's proposal of including the Estates in the redevelopment scheme, the option that received the most support from consultees was the housing stock transfer option. As noted above Officers do not consider that this is an option that Members should consider pursuing at this time, primarily due to the fact that a housing stock transfer would significantly reduce the benefits that the redevelopment would be able to provide to the local area, the Borough and London as a whole.

- 11.6 One resident criticised the CLSA on the alleged basis that the Council is getting bad value, and indeed should not be treating with Capco at all. The bad value criticism needs to be considered in the light of the fact that the Council has used independent advisors of high repute to re-assure itself on the price that Capco will be paying. The criticism that the Council should not be dealing with Capco is perhaps more fundamental. Capco do not currently have the land interests that they need in order to realise the masterplan. In theory, an alternative masterplan for the area could have been realised by TfL and the Council acting in concert and seeking a development partner, with the necessary CPO powers available to be used to buy out Capco's interests. However, this option presupposes that TfL and the Council would have been willing to incur the tens of millions of pounds of development costs needed to commission their own masterplan and cover all other preliminary matters, entirely at their own risk. Officers consider that in practice this was unlikely to be a viable approach. Officers recommend treating with Capco because this is the most effective way of realising comprehensive redevelopment, without the Council risking significant public funds and becoming a lead developer.
- 11.7 Officers also believe that many (although not all) of the issues and concerns raised by residents on the Estates concerning the tenant and leaseholder / freeholder offers, the need to move home, and the new housing that will be provided can be addressed through further consultation and engagement. The recent consultation has shown a lack of understanding amongst individual residents about what will happen to them and what will be offered to them if the Estates are included in the redevelopment scheme. Officers would aim to tackle this through one-to-one meetings with estate residents to address individual concerns and ensure that residents fully understand how the comprehensive redevelopment will affect them.
- 11.8 In addition, Members need to bear in mind that the Council is offering Capco an *option* to purchase the Estates. Officers cannot guarantee that Capco will take up the option, and also cannot guarantee that Capco will build all of the permitted homes, and proceed with all the phases of the comprehensive redevelopment. However, as explained in section 6.7.2 of this report, officers believe that there is a considerable commercial incentive for Capco to proceed with and complete the comprehensive redevelopment scheme in full. The CLSA also gives the Council redress in the event that Capco does not proceed expeditiously with redevelopment phases.
- 11.9 Against this background, officers consider that Members can reasonably proceed on the basis that the comprehensive redevelopment scheme will in all likelihood be realised in full. The Economic Appraisal at Appendix 2 has assessed the benefits of this, and the amount of new housing (including affordable housing), jobs and economic development that would be likely to follow. Although the

TRAs criticised the Economic Appraisal during the consultation, officers consider that the Economic Appraisal can properly be used to assess the potential economic benefits of the comprehensive redevelopment scheme. Overall, the significant benefits identified in the Economic Appraisal provide powerful reasons to proceed with the CLSA. The current economic climate only serves to heighten the importance of measures that will stimulate the local economy and promote job growth.

- 11.10 In addition to the significant benefits identified in the Economic Appraisal, the consideration paid by Capco will provide much-needed funds to be reinvested into the Borough. Again, the current economic climate makes the receipt of such additional public funds particularly valuable. Whilst the exact net amount of cash available for reinvestment will depend on a number of factors, (including: the value and volume of leaseholder buybacks; the volume and value of sales of replacement "buyback" properties; and the final level of costs associated with the transaction), the current modelling gives an indicative range of net cash receipts after costs between £34million and £88million, assuming the trigger is served and no termination events occur. This provides a benefit of circa £5 to £13 million¹⁷ to the general fund and circa £29million to £75million to the Housing Revenue Account¹⁸. The net funds received by the Housing Revenue Account will be reinvested for Housing and Regeneration purposes including the repayment of Housing Revenue Account debt. It will also be used to develop or acquire new affordable housing to meet housing need, as outlined in recommendation 10.
- 11.11 Not least given the above benefits, officers consider that the inclusion of the Estates in the redevelopment scheme would help to achieve a number of strategic aims for London, the Borough and RBKC.
- 11.12 Within the Mayor's London Plan (2011) the Earl's Court and West Kensington Opportunity Area has been identified as one of London's most important development opportunities. This is due to its potential ability to contribute significantly to achieving housing and job growth targets over the next 20-30 years. Both the Core Strategies for the Council and for RBKC contain planning policies specific to development in the Opportunity Area.
- 11.13 Officers consider that the comprehensive redevelopment of the Opportunity Area would contribute significantly towards meeting the over-arching vision of the Council's Community Strategy *Creating a borough of opportunity for all*, enabling local people to have a real stake in the area and share in its growing prosperity.

¹⁷ This is net of costs of £12m built into the model for funding a replacement school

¹⁸ It should be noted that these are indicative figures produced as a result of a forecasting exercise and should not be taken as final confirmation of the value or timing of receipts

- 11.14 Officers also believe that the comprehensive redevelopment of the Opportunity Area significantly contributes towards meeting the vision and objectives detailed in the Draft Housing Strategy (2012). These include:
- Building a Housing Ladder of Opportunity
 - Deliver Major Economic and Housing Growth within our Opportunity Areas
 - Tackle Economic and Social Polarisation through the creation of more mixed and balanced communities where no one tenure predominates.
- 11.15 Members must also consider whether the terms of the CLSA are acceptable. The terms of the CLSA were reviewed at the 23rd April 2012 Cabinet Meeting. They are essentially unchanged. Members should nevertheless ensure that they fully understand the terms of the CLSA and the obligations on the Council as outlined in sections 6 and 7 of this report.
- 11.16 Finally, and as stated in section 10 of this report, Members will need to carefully consider and evaluate the points made in the EqlA before deciding whether to proceed with the CLSA. To the extent that the EqlA identifies negative impacts on protected groups that cannot be fully mitigated, members must weigh the negative impacts against the positive ones that the EqlA also identifies, and must weigh in the overall balance those impacts which are negative against the benefits ('countervailing factors') sought to be obtained from proceeding with the CLSA. Subject to the decision being rational and lawful overall, it is for Cabinet members to decide what weight should be given to the countervailing factors.
- 11.17 The ultimate responsibility for this weighing exercise lies with Members. For their part, officers consider that the benefits of proceeding with the CLSA outweigh the negative impacts, and that overall this represents the best option. On this basis, officers make the recommendations set out in this report.

12. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

12.1 Valuation of Earls Court Consideration and Valuation of site

- 12.1.1 JLL and PWC have been involved, as the Council's advisors, in considering and negotiating the terms of this transaction. Signed letters from the Council's advisors are attached to this cabinet report in Appendixes 10 and 11.¹⁹ Based on the figures, the Executive Director for Finance and Corporate Governance is currently of the view that the terms offer best consideration. The letters include a

¹⁹ The JLL letter is a "final draft", a further final letter will be issued when the CLSA is actually signed.

number of caveats / issues, the key ones are listed below in table 10, together with the actions that have been taken:

Table 10 - caveats

Caveat / Issue	Action taken
Duty of care letters over all input costs and revenues within the residual land value that have been provided by Capco's technical consultants including the valuation of the replacement properties for leaseholders (the intermediate units).	Letter received from CBRE and EC Harris Lambert Smith Hampton have provided indicative open market sales values for the Councils replacement properties, a prudent approach has been taken and the lower, older Savills values as provided via Capco have been used where open market value is appropriate for valuing consideration ²⁰ . JLL as part of their work on best consideration have also confirmed that the private housing sales rates used in the residual land value model are fair and reasonable.
Detailed model audit	Mazars have completed this work and concluded that the model meets its objectives and is capable of running the required sensitivities
Valuation of equity held in replacement leaseholder properties	The valuation of the equity held in the Leaseholder properties has been discounted in the indicative consideration figures below based on sales turnover on the Gibbs Green and West Kensington Estates over the last ten years.

²⁰ For the 171 replacement leaseholder / freeholder properties

Caveat / Issue	Action taken
<p>Clarify if any legal restrictions may be placed upon the re-sale of the intermediate homes, such as whether they can be sold as private homes on the open market.</p>	<p>There are no current restraints that would prevent this from happening. It should be noted that for properties held within the Housing Revenue Account the Council would require the receipt to be reinvested for Housing and Regeneration purposes or used for the repayment of HRA debt to prevent the monies having to be paid over to Central Government.</p>
<p>Capco should confirm that they will bear the risk on the completeness of the planning, site clearance costs and the costs associated with the continuity of occupation. The residual land value determined should not subsequently be revised to compensate.</p> <p>The parties accept that further design and cost plan development will continue until and beyond the submission of detailed planning applications for development phases and this will affect the programme, costs and values currently reflected in the financial model.</p> <p>Negotiations are still ongoing regarding the Section 106 obligations required by the scheme</p>	<p>There is no ability within the CLSA for Capco to transfer these risks or subsequently revise the consideration as a result of changes to these costs.</p> <p>It should be noted however that the CLSA does contain overage payable to the Council should the final consented gross internal area exceed that agreed as part of the master plan proposal.</p> <p>Likewise, there is an overage clause in place for Gibbs Green and Farm Lane, should the Trigger Notice not be served.</p>
<p>Notes 3,4 and 6 in PWC's letter refer to adjustments required to the residual land value as generated by the model</p>	<p>See paragraph 12.7.2 below, JLL have specified the cumulative impact of these amendments to the model in their letter. PWC have also considered the changes they have recommended when arriving at their opinion.</p>

12.1.3 It is important that the Council receives best consideration via the CLSA and there are a number of different approaches which can be taken to valuing the consideration we are receiving. Having given due consideration to the complexity of this regeneration scheme and following a workshop run by our advisors, JLL and PWC,

exploring the range of possible methods of valuing both the site and the consideration payable we have arrived - based on their advice - at the approach set out below.

- 12.1.4 It must be remembered throughout that the land valuation against which the consideration is being compared is based on the land being transferred to Capco with vacant possession. It should be noted that the figures detailed below are the result of a forecasting exercise and therefore should not be taken as confirmation of the final value or timing of the receipts.

12.2 Approach used to assess the Consideration

12.2.1 Cash consideration received under the Conditional Land Sale Agreement of £105m

- 12.2.1.1 £15m has already been received on the signing of the exclusivity agreement, on signing of the Conditional Land Sale Agreement this becomes part of the consideration for the land. A further £15m for Gibbs Green School and 11 Farm Lane will be received on signing of the Conditional Land Sale Agreement. The balance of the cash consideration is received in 5 equal annual instalments, the first being received on 31st December 2015 if the Trigger Notice is served on or before this date.

- 12.2.1.2 If the Trigger Notice is served after 31st December 2015 the first payment is due on service of the Trigger Notice with the four subsequent payments due on the anniversaries of the trigger date. If this happens the payments are indexed using RPI for the period between the month of December in the year in which the relevant advance payment would have been received as per paragraph 12.2.1.1 above and the index figure for the calendar month before the calendar month in which the payment is actually due as a result of the later service of the Trigger Notice.

- 12.2.1.3 The cash consideration received should therefore be discounted to allow for the time value of money between now and the projected date of receipts. A 6.6%²¹ discount rate yields a discounted value for the cash consideration of £82m. A 9% discount rate would yield a value of £77m, this more prudent assumption has been used in the core scenario illustrated below.

12.3 Valuation of replacement social housing provided under the CLSA including replacements for homes belonging to registered providers

- 12.3.1 In order to obtain vacant possession of the land the Council has an obligation to re-provide the social housing.

²¹ Treasury nominal discount rate (with an allowance for inflation at 3%) based on a risk free return.

- 12.3.2 The Council would, in order to be able to provide vacant possession, have to meet the cost of building replacement homes.
- 12.3.3 Therefore the cost of the re-provision of the social housing has been used to value this element of the consideration as this is the bill the Council would have to pay.
- 12.3.4 It is important to note that this is different to the income assumed from the sale of social housing that has been added to the financial model when arriving at the residual land valuation of £226m as detailed in paragraph 12.7.2 The income added to the residual land value model is based on an “Existing Use-Social House Valuation” as this is what the scheme would make from the social housing if it was sold to another buyer due to the Council having re-provided the housing elsewhere, say by using the theoretical cash that would be paid to the Council instead of the replacement homes should they not be being provided on the scheme.
- 12.4 Valuation of the replacement leaseholder / ex freeholder properties in which the Council retains an equity share.
- 12.4.1 If the leaseholders / freeholders were not taking on a replacement property then the Council would have to buy back their current properties in order to gain vacant possession of the land. As the leaseholder / ex-freeholder has taken a share in a replacement property the Council has not had to pay the leaseholder / ex-freeholder cash for this cost of vacant possession.
- 12.4.2 This cost would be equivalent to the share of market value the leaseholder receives in a new property. Therefore the market value of the leaseholder / ex-freeholder share has been used to value this element.
- 12.4.3 The equity share retained by the Council is ultimately tradable at market value when the leaseholder chooses to sell the property as properties would be sold outright on the open market. This element has therefore been valued at market value. However this element is not fully liquid, hence the value has been discounted as, although properties change hands over time, some will be held by the same owner for a very long period of time. A discount of 35.9% has been applied to the Council’s equity share based on the turnover of properties on the Estates based on an average turnover excluding re-sales of 5 properties per annum over a period of 15 years²².

²² The Council’s equity share in the Leasehold properties has been discounted by 35.9%. The annual sales volumes have been based on the volume of sales of leaseholder properties in 1999-2011 on the West Kensington and Gibbs Green Estates. Average sales as per the Land registry were 5.92 per annum, after excluding properties that sold several times in the period the average turnover was 5 properties per annum. There are 117 resident leaseholders and freeholders currently on the estate. At the historic sales rate all these properties would be sold at some point in 23 years. Over 15 years, based on historic data it is likely that 75 of the 117 resident leaseholder and freeholder properties would be sold, realising 64.1% of the equity. Given that the development period is anticipated to be at

12.5 Valuation of replacement “leaseholder” properties which are owned by the Council as the leaseholder / freeholder has opted to be bought out.

12.5.1 These will be 100% owned by the Council. Therefore they have been valued at market value.

12.5.2 It should be noted that the Council will provide replacement properties for all tenants as per the Guarantees. There is a risk that should there be net overcrowding across the Estates, the gross internal floor area specified in the agreement would be insufficient to provide all the replacement homes. Therefore for the Council to keep its promises, there is a risk that some of the replacement “leaseholder” properties currently allocated for sale would potentially need to be used to house tenants. However the financial impact of this could be mitigated by selling other properties as they become void whilst maintaining the same volume of social housing. Given this mitigation a significant financial impact is unlikely to crystallise, the value of the consideration would be protected and the promises to tenants that they would receive new homes within the development would be kept.

12.6 Summary of consideration received when valued using the above methodology:

12.6.1 The approach used above yields a range of valuations for the consideration from £275m to £284m, the exact number depends on the number of leaseholders / freeholders who opt to be bought out as follows in table 11:

least 10 years and that transactions will occur throughout this period this is considered by officers to be a reasonable assumption.

Table 11 – Buy back sensitivities

	Illustrative Gross Consideration assuming all Leaseholders bought back (i.e. before costs)	Illustrative Gross Consideration assuming only non resident leaseholders are bought back (i.e. before costs)
Cash Consideration: £105m discounted at 9% to allow for the phasing of payments ²³	£77m ²⁴	£77m
Non Cash Consideration:		
589 Replacement Social Homes ²⁵ : property received	£103m ²⁶	£103m
Replacement leasehold / Freehold properties for 54 non residents ²⁷ : property received	£32m	£32m
Replacement leasehold / freehold properties: all 117 resident: Leaseholders bought back. Note this also impacts on costs as shown in section 12.9 ²⁸ : property received	£72m ²⁹	N/A
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties: resident: Leaseholder share ³⁰ : see footnote	N/A	£48m
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties for residents: Council Equity Share in property	N/A	£24m
Discount Councils Equity share of Leaseholder buy backs ³¹	N/A	(£9m)
Total (Excluding costs)	£284m	£275m

²³ These figures assume the inclusion of the additional properties on "Seagrave Road", see PWC Letter in Appendix 11 for derivation of number

²⁴ A 6.6% discount rate would yield a value of £82m, this would increase the range of consideration to between £289m and £280m. Both calculations are based from May 2012 as per the April 2012 Cabinet report, changing the basis to September 2012 would increase both figures, so the more prudent approach has been adopted.

²⁵ Based on EC Harris costs used in residual land value model. The cost of replacing the social homes has been used as there is an obligation on the Council to provide replacement properties in order to be able to provide the site with vacant possession. Capco by providing the properties are effectively relieving the council of this obligation and are therefore paying the cost of these properties on behalf of the Council.

²⁶ Comprising £92.61m for the Council's 531 replacement social rented properties and £10.12m for the 58 replacement properties provided for the Housing Associations (Registered Providers) as per the Jones Lang LaSalle letter in Appendix 10.

²⁷ Currently valued at market value based on values provided by Savills via Capco, reviewed by JLL as part of their consideration advice and reviewed by Lambert Smith Hampton.

²⁸ Currently valued at market value based on values provided by Savills via Capco, reviewed by JLL as part of their consideration advice and reviewed by Lambert Smith Hampton.

²⁹ These leaseholders / freeholders would have to be bought out at a cost of circa £59m, this has been allowed for in the worst case cash flow scenario modelled later on in this note.

³⁰ Provision of these properties means that the Council does not have to fund the buyback of these leaseholders properties from the consideration. Therefore this forms part of the consideration as the land value is based on delivering the land with vacant possession and this would otherwise form a cost of achieving vacant possession.

³¹ The Council's equity share in the Leasehold properties has been discounted by 35.9%. The annual sales volumes have been based on the volume of sales of leaseholder properties in 1999-2011 on the West Kensington and Gibbs Green Estate. Average sales as per the Land registry were 5.92 per annum, after excluding properties that sold several times in the period the average turnover was 5 properties per annum. There are 117 resident leaseholders and freeholders currently on the estate. At the historic sales rate all these properties would be sold at some point in the 23 years. Over 15 years, based on historic data it is likely that 75 of the 117 resident leaseholder and freeholder properties would be sold, realising 64.1% of the equity. Given that the development period is anticipated to be at least 10 years and that transactions will occur throughout this period this is considered by officers to be a reasonable assumption.

12.7 Valuing the land with vacant possession

12.7.1 A residual land value model has been used to arrive at a valuation for the land; this is based on the Council transferring each phase of the site with vacant possession therefore the Council will have to incur the costs of achieving this. This model has been adapted to reflect the deal and the scheme as they have evolved. The model has been subject of extensive review by the Council's advisors. This has included:

- Advising on the commercial aspects of the deal.
- Reviewing the financial model prepared by Capco.
- Assessing the deal for Best Consideration and value for money.
- A detailed model audit by Mazars and who have concluded that the model meets its objectives and is capable of running the required sensitivities.

12.7.2 The current residual land valuation model generates a valuation of £182m. However JLL have identified a number of items which they consider require adjustment.³² These are detailed in JLL's letter in Appendix 10. After adjusting for these items JLL have proposed a base valuation of £226m. It is possible to make these adjustments in a number of different ways taking into account sensitivity analysis and variables, which again yield a range of values up to a maximum of circa £247m based on a 20% developers profit on the private for sale units in the model.

12.7.3 Farm Lane is not included within the residual land value model. Farm Lane enables the Council to meet its promises regarding replacement houses as well as enabling the main site to be decanted and built out over a shorter time frame. It can be argued that without this site the residual land value of the main site would decrease by more than the difference between the highest possible open market value of Farm Lane and the £5.7 million being received for Farm Lane as part of the overall consideration. Should the trigger not be served then the overage clause contained within both the Farm Lane and Gibbs Green former school site sale agreements is designed to ensure best consideration is in any event achieved, this includes an option for the Council to repurchase the sites from Capco at par³³. Commentary on the consideration paid for Farm Lane is contained within Appendix 1 of the JLL letter contained in Appendix 10 of this report.

12.7.4 Additionally, Capco is also seeking to reach agreement on TfL's land holding in the development area. The Council understands that the commercial terms and risk transfer inherent in the proposed deal are different to the Council's proposed transaction. The

³² These are also referred to in notes 3, 4 and 6 in PWC's letter

³³ The Council would also be liable for Stamp Duty Land Tax if either Farm Land or Gibbs Green School was repurchased under the CLSA

Council's current understanding is that the terms of the TfL transaction are now not comparable to the Council's deal. It should be noted that it is likely that the CLSA will be signed before the TfL deal is concluded.

12.8 *Range of values generated by other methods of valuing consideration*

12.8.1 Taking into account sensitivity analysis and variables the consideration can be valued in a number of different ways giving a range of available values. We believe we have used the most appropriate method but other possible methods are expanded on here to illustrate sensitivities.

12.8.2 In addition to the approach used above it is possible to:

a. value all the properties at existing use³⁴.

b. to value both the replacement social homes and the leaseholder equity in the resident leaseholder / freeholder replacement homes at cost.

12.8.3 These alternative approaches give a range of values as set out on the next page. All examples shown assume all current resident leaseholders choose to remain on the estate as this gives the lowest possible range for consideration.

³⁴ Replacement homes for non resident leaseholders are valued at market value in both scenarios as the council would in either example be able to sell these properties on the open market as there is no commitment to provide replacement properties for non resident leaseholders and the intention is to buy back all such properties.

Table 12 –range of values

	Alternative methods of valuing consideration		Base Illustrative Gross Consideration assuming only non resident leaseholders are bought back (i.e. before costs) as per paragraph 12.6.1 above
	Using valuation throughout (a. in paragraph 12.8.2)	Valuing replacement leaseholder equity at cost of provision. (b. in paragraph 12.8.2)	
Cash Consideration: £105m discounted at 9% to allow for the phasing of payments	£77m	£77m	£77m
Non Cash Consideration:			
589 Replacement Social Homes: property received	£48m ³⁵	£103m	£103m
Replacement leasehold / Freehold properties for 54 non residents: property received	£32m	£32m	£32m
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties: resident: Leaseholder share:	£48m	£22m	£48m
Leaseholder / freeholder elects to stay: 117 replacement leasehold / freehold properties for residents: Council Equity Share in property	£24m	£24m	£24m
Discount Councils Equity share of Leaseholder buy backs.	(£9m)	(£9m)	(£9m)
Total (Excluding costs)	£220m	£249m	£275m

12.8.4 This gives a maximum indicative range of values for consideration between £220 million and £289 million³⁶, compared to land values ranging from £188.2million to £253.2 million³⁷.

12.9 Costs

12.9.1 As noted above the consideration under the possible CLSA is paid on the basis that the Council transfer the land with vacant possession. The amount and the timing of costs will vary depending on the volume of resident leaseholders who opt to leave the Estates,

³⁵ Uses the lowest valuation provided by JLL to take a prudent approach, 427 of these properties are valued in the current residual land value model at £41.9m – equating to a value of £58m for the 589 properties.

³⁶ Assuming all leaseholders opt to be bought out and using the 6.6% treasury discount rate to value the cash element of the consideration

³⁷ £247m as per paragraph 12.7,2 above plus £5.7m for Farm Lane and £0.5m (and additional replacement properties) for the "Seagrave houses"

more details on this, the principal cost, are given in paragraph 12.10 below. They will also vary according to when the Trigger Notice is served and the speed of the development. Appendix 13 shows the likely indicative range of costs involved at current values (i.e. with no allowance for inflation). Section 9 of this report, comments on the initial budgetary requirements, which are anticipated to all be of a capital nature and which will be funded from the Decent Neighbourhoods Fund.

12.10 Buying Back Owners on the Estates

12.10.1 The Council will be required to buy back or otherwise determine existing leases and freehold interests across its own land in order to secure vacant possession.

12.10.2 The Council has agreed to buy back owners who wish to leave in the following ways:

- From the date on which Capco submitted the planning application for the main site, 23rd June 2011, buy back owners who have an identified need to leave, for open market value.
- From the later of an unchallengeable planning permission on the main scheme; a signed CLSA; and Consent from the Secretary of State, to buy back all owners who wish to leave for open market value (in a no scheme world) plus 10%³⁸.

12.10.3 There are two ways in which each of the individual buybacks could be funded:

- 1) The Council can buy back the properties directly from the leaseholders and freeholders. It can fund this in three ways by either:
 - using capital receipts, the most likely source of which is those generated by the expensive voids sales programme
 - borrow funds within the Housing Revenue Account (HRA) using the £37m of headroom that remains following the implementation of self financing subject to the comments in the 2012 budget statement. This uses the existing HRA asset base to increase gearing within the HRA.
 - borrow if there was the appetite via the general fund.

Income would be received from letting the properties purchased which would as a minimum partially, if not wholly, offset the borrowing costs.

- 2) By Capco, subject to the payment of holding costs, as follows:
 - Capco have made available a facility of £15m.

³⁸ 7.5% for non resident Leaseholders/ Freeholders

- From serving of the Trigger Notice (exercise of the option) Capco will be responsible for funding all buybacks if required to do so by the Council.
- 12.10.4 It is important to note that, should the Council opt for Capco to buy back the Leaseholders / Freeholders, the Council will have to pay Capco at a later date for these purchases as they are part of the cost of achieving vacant possession unless the agreement is terminated. On termination Capco simply retain the properties. This means that potentially on termination this could leave a developer with a high level of 'pepper-potted' ownership on the Estates.
- 12.10.5 The Council will also have to pay for the net holding costs incurred on any properties purchased by Capco until Capco take transfer of the land containing the property or until the agreement is terminated. These costs have to be paid to Capco as follows:
- Revenue costs to Capco of holding the properties need to be re-paid annually from the trigger date. Capco have a duty to maximize rent from properties, which will need to be deducted from costs.
 - Capital costs will be deducted from the payment installments received following the trigger. This can only be up to a maximum of 50% of the payment tranche. Capco will charge a holding cost on any money advanced to contribute to its costs of providing this finance. This has been agreed at flat rate of 6.5% over 6 month Libor.
 - Capco can fund the buybacks as above but the Council can pay off some or all of the capital debt at any point and gain a secure charge over the property. This option reduces or eliminates the capital holding cost. Revenue costs would still be payable to Capco as set out above.
- 12.10.6 The Capco funds are a useful facility, however they are available at rates substantially greater than the Public Works Loan Board. There is also a significant risk attached to them purchasing a large volume of properties on the Estates in that should for some reason the agreement terminate or the trigger never be served the Council would have Estates where potentially a large proportion of leaseholds / freeholds were held by the same developer. This could potentially render future regeneration on the estate more difficult following any termination event.
- 12.10.7 The Council can borrow at a lower rate than can be provided by Capco, has funds in the Decent Neighbourhoods Fund available and has a likely future stream of capital receipts within the HRA which could potentially be utilised to fund leaseholder buybacks. Prior to the Localism Act 2011 and HRA reform the Council could only easily let a buy back as an Assured Shorthold Tenancy at full market rent via the General Fund. It is now possible to utilise the

new Fixed Term tenancies created under the Localism Act and let at 80% of market rents within the HRA subject to obtaining Homes and Communities Agency permission and provided the Council can easily regain vacant possession at the end of the fixed term tenancy. The Director of Housing Options, Skills and Economic Development and his team are currently finalising proposals to this effect. This means it will be more financially advantageous for the Council to buyback properties directly from owners and the cash flow presented later in this note assumes this approach is used. This report proposes that the ability to buy back properties is delegated to the Executive Director of Housing and Regeneration in consultation with the Executive Director of Finance and Corporate Governance up to an initial cumulative value of £15m funded from the decent neighbourhoods pot. It should be appreciated that the Decent Neighbourhoods Fund does not currently contain this level of capital receipts but projections show that they will be generated by the current expensive void sales programme. The viability of each buyback and the availability of funds will be formally considered as part of each decision approving the buy back of properties from Leaseholders / Freeholders.

- 12.10.8 A regular six monthly assessment of the viability of each method will be carried out by officers and a further report will be bought back to Cabinet when 80% of the initial £15m funding tranche has been utilised or should the level of receipts from expensive void sales not be at anticipated levels.

12.11 Cash flows and sensitivities

- 12.11.1 Summarised below is an indicative cash flow assuming the Trigger is served. This assumes:

- the Council fund all the leaseholder buybacks as this results in the highest peak cash out flow. Sensitivities showing the impact of using different funding methods for buybacks on the peak cash outflow and the cash position at 2030 are shown below.
- all non resident leaseholders / freeholders are bought back and 25% of the resident leaseholders / freeholders are bought back. Sensitivities showing the impact of differing levels of buybacks on the peak cash outflow and the cash position at 2030 are shown below.
- buy backs occur in the first two years, in practice it is likely that buybacks will occur over the life of the scheme.
- the trigger is not served until the end of the 5 year period.
- it is based on indicative phasing received from Capco and an indicative fastest possible development time line has been used. Sensitivities showing the impact of a longer development period on the peak cash outflow and the cash position at 2030 are shown below.

- RPI of 2.5% and HRA loans pool borrowing at 5.6%. Sensitivities showing the impact of differing levels of RPI and the HRA loans pool rate on the peak cash outflow and the cash position at 2030 are shown below.
- that we are unable to protect the Council from Stamp Duty Land Tax on the replacement properties via the section 106. We will endeavour to use the Section 106 agreements to do this. This adds a significant cost of circa £23m³⁹ which is included within this cash flow.
- Property inflation is the same as RPI, the receipts from Capco are indexed as per the proposed agreement to allow for late payment. Sensitivities showing the impact of differing levels of property inflation on the peak cash outflow and the cash position at 2030 are shown below.
- A contingency on non buy back costs of 20%

12.11.2 The table shows the position if none of the replacement Leaseholder /Freeholder properties owned by the Council as a result of the buy backs are sold / generate a cash receipt, and the position if this mitigating action is taken. It also shows the net present value of the cash flows to the Council.

12.11.3 The indicative cash flow forecast can be summarised as:

Table 13 – indicative cash flow

Base Case: Council Funds all buybacks, buybacks let at 80% market rent	Cash in / (out) £,000
Peak Cash requirement excluding receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	(41,500)
Peak Cash requirement including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	(36,555)
Cash Requirement at 2030 including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	54,067
Net present value of cash flows to 2030 at a 6.6% discount rate including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	22,597
Net present value of cash flows to 2030 at a 9% discount rate including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and receipts from letting of those properties bought back	16,020
	Year of peak cash out flow
Year of peak cash outflow including buyback sales	2018

³⁹ Including indexation

12.11.4 Due to the nature of the CLSA ongoing forecasting will be required as the exact timing of events becomes clear.

12.11.5 It is important that during the course of the development that sufficient funds are held to enable the buying back of properties and to manage other risks. It is therefore recommended that until the volume of buy back requests on the Estates becomes apparent that sufficient funds are ring fenced within projected receipts to enable all leaseholders to be bought back if required.

Table 14 – Buyback sensitivities and cashflow

Sensitivity modelled	Impact on Peak Cash requirement including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and income on letting them	Impact on 2030 Cumulative Cash requirement including receipts from the sale of properties received to replace the ex-leasehold / freehold properties which the council has bought back and income on letting them
Sensitivities which increase peak cash requirements	£'000	£'000
100% buybacks, Council funds	(36,869)	34,044
Capco fund all buybacks, 100% Buybacks , use of Capco Facility Maximised	(23,766)	18,966
Plus 10% on all costs (includes 10% House Price Inflation in 2012)	(8,193)	(7,036)
House Price Inflation: 10% Increase in house prices in 2012, 20% decrease in house prices in 2020	(4,207)	(7,909)
Plus 10% on non buyback costs	(3,976)	(7,218)
1% Increase in Stamp Duty	(1,338)	(6,228)
Libor: 1% Increase and 1% increase in loans pool rate	(1,224)	(1,781)
RPI: 1% Increase	(1,211)	(470)
Extra £500 increase per property in maintenance costs	(58)	(404)
Sensitivities which decrease peak cash requirements	£'000	£'000
Slower development: all later phases delayed by 2 years	0	3,316
Council Terminates as only Seagrave Developed and does not manage corresponding costs down	1,460	(61,476)
House Price Inflation 10% decrease in house prices in 2012	4,172	(197)
Trigger not served	7,052	(55,936)
Maximum Capco funding used for buybacks, all non resident and 25% of resident leaseholders bought back	12,262	(11,811)

12.12 Impact on 30 year Housing Revenue Account (HRA) business plan

- 12.12.1 The CLSA will have a significant impact on the 30 year HRA business plan. It should be appreciated that as this is a conditional agreement there is a level of uncertainty at this point in time in terms of the timing of cash flows and officers will continue to work on this on an ongoing basis.
- 12.12.2 The initial business plan and forecasting will develop as certainty increases concerning the serving of the Trigger Notice, the detailed phasing and the volume of leaseholder buy backs. The principal impacts of the CLSA on the 30 year HRA business plan are:
- Significant stability on maintenance costs as a result of receiving high quality new build properties to replace properties which currently have a significant long term maintenance requirement.
 - A short-term contained increase in service costs.
 - Costs arising from holding the properties bought back from leaseholders if these are not fully covered by rental income.
 - Potential repayment of a significant amount of HRA debt in the longer term and / or additional funds available for investment in Housing and Regeneration.
 - A possible short term funding requirement if there is a significant demand for leaseholder buybacks if as anticipated the Council opts to buy back properties direct from Leaseholders / Freeholders (this depends on the net holding cost, see section 12.10 above).
 - A short-term call on HRA reserves to fund costs which are not capitalisable under CIPFA guidance e.g. security costs.
 - A possible call on HRA reserves if damages arise if vacant possession is not achieved in line with the timescales proscribed within the HRA. This is capped at £10m. It should be noted that this is more than the amount currently held within reserves and this potential exposure should be taken into account when setting target reserves balances for planning purposes.
 - Costs arising from legal challenges.

12.13 Financial Risks

- 12.13.1 The principal financial risks and their mitigating factors can be summarised as:
- Interest rates:
 - If the Council buys back the properties directly this can be mitigated by using the receipts from the Decent Neighbourhoods Fund (i.e. by not using funds to repay existing debt or to invest in new initiatives) and by the Council's ability to borrow fixed rate funds at a competitive

rate via the PWLB. There is however an opportunity cost that arises as these funds could have potentially been used for other purposes.

- If the Council use the Capco funding facility the Council is exposed to a level of interest rate risk as this facility is totally variable. This risk could be partially mitigated by paying off the capital debt with Capco early using funds as above. As noted in paragraph 12.10.7 above it is likely that the Council would instead buy back the properties directly from leaseholders / freeholders.
- The sensitivity of cash flows to interest rates is illustrated in paragraph 12.11.5 above.
- Inflation. This would increase costs which would be offset to some extent by additional income. The sensitivity to inflation is illustrated in paragraph 12.11.5 above.
- House Price Inflation (HPI): high levels of HPI would increase the cost of Leaseholder / Freeholder buy backs. However unless there was a later dip in the Housing Market this would result in the replacement properties received by the Council having a higher value. Should property prices decrease after the leaseholders / freeholders have been bought out but prior to the Council receiving the replacement properties the Council would have the ability to hold the properties in the longer term until the Housing Market cycle reversed subject to careful monitoring of the HRA 30 year business plan.
- Holding costs of properties in the event of a termination occurring.
 - Should the Council have opted to use Capco to fund the buybacks this could result in a significant cost to the Council with no return. Capco
 - Should the Council opt to buy back properties directly from the leaseholders / freeholders it is anticipated that following the Localism Act 2011 the rental income stream from the properties would cover the bulk of the holding costs of the properties as well as providing additional affordable accommodation. Should the CLSA then terminate the Council would be able to sell the properties purchased from leaseholders / freeholders if desired, recover the capital costs and benefit from any capital gain.
- Running costs for replacement properties, a sensitivity has been modelled for this in paragraph 12.11.5.
- Stamp Duty Land Tax (SDLT): if the agreement is incorrectly structured or there is a change in legislation there is a risk that the transfer of the social rented properties would attract SDLT based on their full market value. The cash flows modelled above assume this SDLT is payable. However as SDLT would be payable on the open market value of the replacement homes these figures should be viewed as indicative as the amount will depend on the property market at the time the homes are given

to the Council and on SDLT rates then in force. A sensitivity has been modelled for this in paragraph 12.11.5, a regime which places caps on service charges and some maintenance costs has been agreed via the Head lease and will be included in s106 agreements.

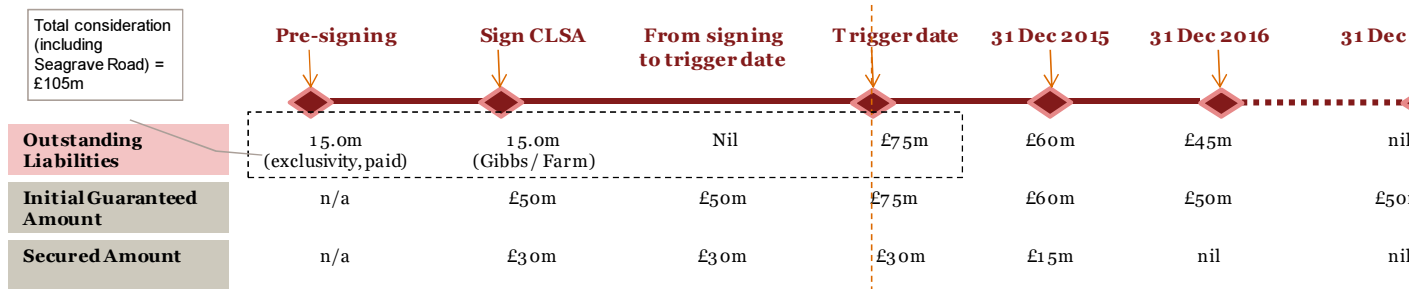
- Replacement properties; The Council will as promised provide replacement properties for all tenants. There is a risk that should there be net overcrowding across the estate that the gross internal floor area specified in the agreement would be insufficient to provide all the replacement homes required. This would mean that some of the replacement properties currently allocated for sale would need to be used to house tenants. However other properties could be sold as they became void thereby mitigating the financial impact. Given this mitigation this risk is unlikely to crystallise.
- Risk of challenge costs: Allowance has been made for these costs within the cash flow forecasts based on estimates provided by officers in our legal department however there is a risk that additional funds may be required.
- Damages, especially for failure to give vacant possession. The agreement caps these at £10m however it should be noted that it also contains an overage clause applicable to the Council that allows for additional damages to be paid via this overage clause should the agreement be terminated and should the Council sell the land to another developer within 5 years of termination

12.14 Indemnity and Capco covenant package

12.14.1 The Council has undertaken financial due diligence on the assets in EC Properties LP and Earls Court Ltd to ensure they are adequate. This work has been undertaken by PWC on the Council's behalf. Capco have provided the Council with a separate indemnity against any blight claims up to £50m from the date of adoption of the SPD. The CLSA provides for the continuation of this indemnity and provides the council until the trigger date with an initial guaranteed amount of £50m.

12.14.2 Following the trigger date the guaranteed amount increases to £75m, being the total value of advance payments that are outstanding under the agreement, falling to £60m following the payment of the first advance payment and £50m after the second. These amounts are then further adjusted in accordance with the CPO liabilities as specified in the CLSA. Subsequent to the payment of the second advance payment the amount guaranteed is then reduced as payments are made and CPO liabilities reduce. It should be noted however, that it is only in certain circumstances that there is likely to be a material liability owed by Capco to the Council in the event of a termination.

12.14.3 £30m of the guaranteed amount is secured as a first charge against specific assets with the remainder being covered by a net asset value (NAV) test which requires coverage of 120% in EC Properties LP and Earls Court Ltd. The NAV test is re-performed at 6 monthly intervals following the signing of the CLSA. The security on the assets is released following the receipt of the first two advance payments with subsequent guaranteed amounts being provided using the NAV test. This can be summarised by the following diagram^{40, 41}.



The above assumes the trigger date is before 31 December 2015. If it is later than this the first instalment becomes due on the trigger date, and subsequent instalments are due on the four subsequent anniversaries. Each instalment in this case will be adjusted by the retail price index between 31 December 2015 and the trigger date

12.14.4 If the financial test is failed then Capco is required to undertake actions such as acquiring or transferring from elsewhere within the Capco group additional assets, reducing liabilities, substituting the guarantor, providing additional guarantees or suitable security. If these remedial actions are not taken the Council is entitled to terminate the CLSA

12.14.5 Initial assessment of the guarantee and compliance with the NAV test has been undertaken by PWC. The CLSA also contains the ability for the Council to do an interim assessment should circumstances arise which give cause for concern around the availability of the assets as well as the ability for the Council to terminate should the asset provisions not be complied with.

12.15 Accounting Treatment

12.15.1 The land proposed to be sold by the Council is held partly in the General Fund and partly in the HRA. The total consideration will need to be apportioned between the two funds based on the acreage of land. Any receipts apportioned to the HRA will potentially be caught by capital pooling regulations. In order to avoid pooling the Council will have to ensure that all the monies pertaining to the HRA, both those received directly from Capco and those from the sale of properties are reinvested in Affordable Housing and Regeneration. This includes the repayment of HRA

⁴⁰ In addition to the amounts shown below there is a blight indemnity agreement in place until the signing of the CLSA for £50m.

⁴¹ Note the initial exclusivity payment forms part of the first £15m of consideration on signing of the CLSA.

debt and funding the cost of any buybacks. It is anticipated that with planning it should be possible to retain the full receipt.

- 12.15.2 As the cash receipts do not follow the land transfers, the accounting treatment is fairly complex.
- 12.15.3 The accounting treatment for each phase will need to be agreed with the external auditors and it should be recognised that the precise treatment may deviate from that set out below as the rules governing it are likely to change over the life of this project. One key issue will be how we hold the replacement properties for leaseholders, both those in which we retain an equity share and those which we own outright where the leaseholder has opted to be bought out. The table of costs set out in Appendix 13 gives an indication of the accounting treatment for costs based on current rules.
- 12.15.4 An initial £15m has already been paid to the Council on signing the Exclusivity Agreement. £10m of this is refundable if the CLSA is not entered into or Secretary of State's consent is not obtained for the overall disposal, £5m is not refundable. The £5m is currently treated as a capital receipt in advance and will become a capital receipt on the signing of the CLSA. The £10m is retained as a long term liability pending the granting of consent by the Secretary of State. Following the granting of a satisfactory Secretary of State consent the £10m can be retained by the Council in the event of termination because Capco have not served the Trigger Notice. Therefore following granting of Secretary of State consent this amount will become a capital receipt.
- 12.15.5 The £15m to be received for the sale of 11 Farm Lane and Gibbs Green School will form part of the total consideration. Title will transfer on receipt of consideration for Farm Lane and this will be treated as a general fund capital receipt. Gibbs Green School will exchange on transfer with completion occurring when the school site is vacated. The proportion of the receipt pertaining to Gibbs Green School will therefore be held as a capital receipt in advance and the funds will not be able to be used for capital purposes until completion occurs. Officers' initial cash flow forecasting indicates that this can be accommodated within the general fund capital programme, however it should be noted that if for some reason other receipts failed to crystallise there is a risk that a temporary general fund borrowing requirement would arise in order to fund works on the proposed new off site school.
- 12.15.6 The £75m cash consideration would, unless attributable to a land transfer, be refundable if at the point of termination the Council had failed to comply with certain conditions or if the Council served a termination notice as a result of the non completion of 50% of the social rented properties by the deadline given in the CLSA.

Therefore the remaining £75m cash consideration is also retained on the balance sheet as a long term liability and is released over time as land is transferred. As each land transfer occurs a reconciliation will need to be carried out

12.16 Service Charges

12.16.2 As far as possible the Council wants to minimise service charge costs for its own tenants. A detailed service charge agreement regime has been agreed which places caps on the level of service charges the Council will pay for the tenanted properties as part of the Head Lease and will be included in the s106 agreements.

12.17 Taxation

12.17.2 PWC have been appointed to advise on the taxation aspects of this scheme and have worked with us to ensure our structure is tax efficient. Their report is included in Appendix 14 and the tax implications are summarised below.

12.18 Stamp Duty Land Tax (SDLT)

12.18.1 SDLT is the principal area of concern and it will be important to ensure that the replacement properties being transferred to the Council are seen as affordable housing for SDLT purposes to ensure no SDLT charge arises on the transfer. It is understood that the easiest way to achieve this is to ensure they are specified as such in the S106. Should the S106 not specify this, or the land transactions not take place in the 5 years, following the planning obligation, then a very large SDLT liability could arise.

12.18.2 There is however a risk that even with the properties recognised as affordable within the Section 106 that HMRC will consider that the obligation to provide the properties is in the CLSA rather than within the Section 106 agreement and will consider that SDLT should be payable. The structure of the CLSA offers some protection against this but can not offer full protection unless all reference to the replacement properties is removed from it, this is not commercially practical as it would create other significant risks. Therefore all the cash flows presented in this report assume the Council incurs full SDLT based on open market value on the replacement properties as well as on the acquisition of the leaseholder buy backs, i.e. the cash flows include the large potential liability referred to in PWC's report, including those which might arise if Capco acquired properties from leaseholders / freeholders on the Council's behalf.

12.18.3 It should also be noted that if land is acquired under a CPO then, as detailed in the report, additional SDLT relief is possible and where possible the conditions for this should be satisfied. Again the cash

flows included above adopt a prudent position and assume no SDLT relief arises for the properties on the estates.

12.19 VAT

12.19.1 The grant of any interest in land by the Council will be, prima facie, exempt from VAT as no option to tax is being made. As a result, there is no VAT to charge on the consideration received from Capco.

12.19.2 Generally speaking, a local authority can recover VAT in full on its costs, provided it remains within its partial exemption 5% de minimis limit. This is calculated as 5% of the total VAT it incurs annually. A council is required to assess all of the VAT it incurs in respect of its exempt activity across the authority and where this is less than 5% of all of the VAT it incurs in total, the Council can reclaim VAT in full. However, where the Council exceeds the 5% limit, then all of the VAT the Council has incurred which relates to exempt activity is irrecoverable.

12.19.3 Therefore the Council has estimated the level of VAT to be incurred in respect of this transaction. Current cash flows indicate that amount of exempt input tax can be accommodated in the partial exemption de minimis limit with careful management, especially if the seven year rolling average is used. This will need to be reviewed on an ongoing basis as the CLSA contains a warranty which states that the Council will not opt to tax the land transfers..

12.20 Corporation tax

12.20.1 The Council will not incur any corporation tax as a local authority in the UK is not liable to corporation tax or income tax.

13. COMMENTS OF THE DIRECTOR FOR LEGAL AND DEMOCRATIC SERVICES

13.1 The Council is exercising a range of powers to participate in the scheme and secure the redevelopment and regeneration of the area. The principal powers to be exercised by Cabinet are set out below.

13.2 Section 123 of the Local Government Act 1972 allows the Council to dispose of non-housing land on such terms as it considers appropriate. Freehold disposals require the Council to obtain the best consideration reasonably obtainable (or the Secretary of State's consent to disposal at less than best consideration). The Council is entitled to rely on professional valuation advice as to whether best consideration (which is money or money's worth) has been achieved.

- 13.3 The Council holds the Estates under Part II of the Housing Act 1985 and has the power to dispose under section 32 of the Act with the consent of the Secretary of State at DCLG. An application for consent to dispose of more than 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or the Housing Act must be approved by Full Council under Article 4 of the Constitution.
- 13.4 As stated in paragraph 5 above the Council, as landlord, has carried out a formal consultation with tenants of the Estates which has satisfied the requirements of section 105 of the Housing Act 1985.
- 13.5 Council tenants whose accommodation is required for the redevelopment will be offered secure tenancies in the replacement accommodation. It is anticipated that this will be acceptable to many. Any occupiers who are secure tenants cannot be decanted against their will without either a court order under the Housing Act 1985 or the Council exercising its powers to acquire the secure tenancies under section 226 of the Town and Country Planning Act 1990. If agreement cannot be reached with tenants then the Council will consider the use CPO powers under section 226 and that the process will be triggered by the service of a CPO Start Notice. A rehousing strategy which took into account the needs of the social housing tenants would be developed before the Council was asked to consider further which power would be more appropriate to enable the Council to achieve the objective of a comprehensive redevelopment of the area. At that stage, the Council would need to consider fully any Human Rights Act issues and might need to undertake a further Equalities Impact Assessment or revisit and update aspects of the existing one, at Appendix 12.
- 13.6 Tenants who do not have an interest to sell to the Council may be entitled to a fixed home loss payment of (currently) £4,700 per unit. Tenants may be entitled to exercise their Right to Buy although there is a procedure under schedule 5A to the Housing Act 1985 where this can be avoided by the service of a demolition notice.
- 13.8 Existing leaseholders and any freeholders will need to have their interest acquired. As well as receiving market value, resident owners occupying as their main residence and who have lived in the premises for at least one year may be entitled to a home loss payment of 10% of market value up to a current maximum of £47,000 plus compensation for disturbance and reimbursement of legal and other expenses (on both the sale and also on acquiring a replacement property).
- 13.9 Section 120 of the Local Government Act 1972 Act allows the Council, for the purposes of any enactment or for the benefit,

improvement or development of their area, to acquire by agreement any land inside or outside its area. The redeveloped properties will be acquired by the Council for the purposes of its housing functions under the Housing Act 1985. Should the Council be required to exercise its compulsory purchase powers then this will be addressed in a further report to Cabinet.

13.10 Section 2 of the Local Government Act 2000 has been repealed and replaced in England by the general power of competence enacted in the Localism Act 2011. Section 1 of the 2011 Act gives the Council “power to do anything that individuals generally may do”. This is subject to restrictions but it is not considered that there is any *vires* problem with the proposed project which is the subject of this report.

13.11 Finally, section 111 of the Local Government Act 1972 allows the Council to do anything (whether or not involving the expenditure, borrowing or lending money or the acquisition or disposal of any property rights) which is calculated to facilitate or which is conducive or incidental to the discharge of any of its functions. The Council has various housing law functions to the discharge of which the proposed CLSA is considered conducive and incidental.

13.12 The Council therefore has the necessary powers to adopt the recommendations set out in the report. It is noted that the Council may seek to acquire land compulsorily at a future stage. The Council has the ability to do this provided the tests set out within section 226 of the Town and Country Planning Act 1990 are satisfied.

13.13 The Public Sector Equality Duty

13.13.1 The public sector equality duty provisions of the Equality Act 2010 came into force on 5th April 2011 and widened the general equalities duties with which a local authority has to comply. Given its importance to the decision, this legal aspect has already given separate consideration in section 10 of this report, above.

13.14 Procurement

13.14.1 The risk of challenge has been mitigated as far as possible in two ways. Advice from leading counsel has been received in this regard, the contents of which are protected by legal professional privilege. On the basis of leading counsel’s advice it is considered that the CLSA is not a public works contract to which the Public Contract Regulations 2006 apply.

13.15 Blight

13.15.1 The adoption of the Supplementary Planning document might give rise to attempted blight claims. An indemnity is in place from CapCo concerning this. Blight can also arise in the circumstances outlined in schedule 13 to the Town and Country Planning Act 1990 and one of these is the making of a compulsory purchase order. Accordingly, it will be necessary to ensure that there is a valid indemnity in force from a company which has a sufficient net asset value to cover the potential liabilities. This indemnity has already been addressed in this report.

14.0 COMMENTS OF CORPORATE RISK

14.1 The context of risk is attached in the risk log at Appendix 15 which highlight the risks associated with the project. As new risks emerge they will be added to the register as necessary and the corporate risk register will be amended to reflect any changes in the nature of risk.

15.0 Schedule of Appendices

Appendix 1	Land Ownership Plan
Appendix 2	Estate Regeneration economic appraisal
Appendix 3	Consultation History
Appendix 4	Consultation Information Pack
Appendix 5	Analysis of Responses to Consultation
Appendix 6	Summary of CLSA terms prepared by SNR Denton
Appendix 7	Earl's Court/West Kensington Local Lettings Plan Interim Statement
Appendix 8	London Design Guide Standards Comparison
Appendix 9	Initial Phasing Plan
Appendix 10	JLL Best Consideration Letter
Appendix 11	PWC Best Consideration Letter
Appendix 12	Equalities Impact Assessment
Appendix 13	Financial Cost Range
Appendix 14	PWC Tax Report
Appendix 15	Risk Assessment

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Cabinet Report - 18 th July 2011 (Open Report)	Sarah Lovell X5571	Housing and Regeneration
2.	Cabinet Members Decision – Estate Regeneration economic appraisal- 7 th November 2011	Sarah Lovell X5571	Housing and Regeneration
3.	Cabinet Report – 23 rd April 2012 (Open Report)	Sarah Lovell X5571	Housing and Regeneration
CONTACT OFFICER: Sarah Lovell & Tomasz Kozlowski		EXT: 5571 / 4532	

Appendix 2

APPLICATION FOR SECRETARY OF STATE'S CONSENT TO DISPOSE OF LAND OR PROPERTY UNDER SECTION 32 or 43 OF THE HOUSING ACT 1985 OR SECTION 25 LOCAL GOVERNMENT ACT 1988

(Please continue on an additional sheet, or expand in a covering letter, if necessary)

1. Applicant's Name and address.

London Borough of Hammersmith and Fulham
Hammersmith Town Hall
Kind Street
W6 9JU

2. Which section are you applying for consent under:-

Section 32 or 43 Housing Act 1985/ Section 25 Local Government Act 1988 (please delete as appropriate)

Section 32 of Housing Act 1985

Please note: It is not necessary to apply for consent under both section 25 and 32 for the same disposal. In the majority of section 25 cases the need for separate section 32 consent is not required.

3. Please provide the full address and location of the land/property (please attach a site plan):-

The West Kensington Estate
Fulham,
London, W14

The Gibbs Green Estate
Fulham,
London, W14

Please see attached plan Appendix 1 of Annex 1.

4. Is the land held under Part II of the Housing Act 1985? If not, please state under which provision the land is held.

Yes.

5. The land/property is tenanted/vacant (please delete as appropriate).

The land is tenanted. A breakdown of the tenure and property type of the residential properties on the Estates can be found in table 1 below.

	1 Bed Flat	1 Bed House	2 Bed Flat	2 Bed House	3 Bed Flat	3 Bed House	4 Bed Flat	4 Bed House	TOTAL
Council	163	0	212	0	46	75	8	27	531
Leasehold/Freehold	21	0	85	0	24	29	2	10	171
Housing Association	4	3	6	13	0	25	0	7	58
Total	188	3	303	13	70	128	10	45	760

There are also 58 social rented Housing Association (HA), properties on the estate, which have been developed piecemeal over the past 30 years, with the sites sold by the Council to the three HAs on long leases. These three HAs are Family Mosaic HA, London and Quadrant HA and Shepherds Bush HA.

6. If tenanted, please provide evidence that appropriate steps have been taken to consult secure tenants (Schedule 3A Housing Act 1985) or any other tenants.

From 6th January 2012 to 12th March 2012, the Council undertook a formal consultation with residents on whether the Estates should be included in the proposed comprehensive redevelopment scheme. This formal consultation also satisfied the requirements of section 105 of the Housing Act 1985 in relation to the secure tenants on the Estates.

The results of this consultation can be found at Appendix 5 of the enclosed Cabinet Report, which can be found at Annex 1.

Schedule 3A consultation is not relevant, as the Council will continue to be the landlord.

7. Disposal will be to:-

EC Properties LP
15 Grosvenor Street,
London,
W1K 4QZ

Is the buyer a wholly or partly owned subsidiary of the Council? If yes, what is the Council's share of the subsidiary?

No.

8. The disposal will be freehold/leasehold (If leasehold please give details):-

The disposal will be freehold. As part of the Conditional Land Sale Agreement, the Council would receive 760 replacement homes on a 995 year leasehold, (a virtual freehold), and remain the landlord of secure tenants affected by the scheme.

9. **The open market value of the site/ dwelling as assessed by the Councils District Valuer or independent qualified valuer. Please include a valuation report which is no more than three months old. Please note that an estate agent's offer or valuation price is not sufficient:-**

Please find enclosed the best consideration letter from the Council's appointed independent qualified valuer. This is a letter dated 13/08/12 from Jones Lang Lasalle.

Please also see Cabinet Report 03/09/12 at Annex 1.

10. **The consideration for the disposal.**

The Council will receive 760 brand new replacement homes and £105 million in cash, as consideration. The majority of the £105m, after costs, will be re-invested for housing and regeneration purposes. This is explained in detail in the enclosed Cabinet Report, dated 3rd September 2012 (Annex 1) . In particular please see:

- a. Section 6 & Appendix 6 – Conditional Land Sale Agreement
- b. Section 12 – Comments of the Executive Director of Finance and Corporate Governance
- c. Appendix 10 – Jones Lang Lasalle Best Consideration Letter
- d. Appendix 11 - PriceWaterHouseCoopers Best Consideration Letter

11. **Reasons for disposal including why the disposal offers the best use and value of the property/land, what the proceeds will be used for and how the disposal fits in with the Councils housing strategy and aims. Please include a Council Committee Report supporting the disposal:-**

The Cabinet Report dated 3rd September 2012 recommending entering into the Conditional Land Sale Agreement is attached at Annex 1. The majority of the cash consideration of £105 million will, after costs, be reinvested for housing and regeneration purposes. In addition to the financial consideration, the proposed redevelopment has a number of advantages for tenants and leaseholders;

- Brand new replacement home
- "One move only" – Developer has to build and deliver up replacement homes in the local area before any council land is transferred
- Tenants remain secure Council tenants and pay Council rents
- Phased approach allows communities to be moved together

The proposed transaction also has a number of advantages for the Council;

- Comprehensive redevelopment allows existing housing stock to be replaced on a "new for old" basis; significant maintenance liability on the estates are avoided; 16% of existing tenants who are overcrowded can be re-housed in homes with enough bedrooms to meet their needs.
- Replacement housing is funded by private sector funds through the developer rather than through scarce public sector resources. Scheme is able to progress with no public subsidy.

The Council's Housing Strategy "Building a Borough of Opportunity" is scheduled to be considered by the Council's Cabinet on 15/10/12. The Greater London Authority has confirmed that the Housing Strategy is in general conformity with the Mayor of London's Draft Housing Strategy. The Housing Strategy, which is attached at Annex 2, has 3 objectives:

Objective 1 - Deliver Major Economic and Housing Growth within our Opportunity Areas

Objective 2 – Tackle Economic and Social Polarisation through the creation of mixed and balanced communities, where no one tenure predominates and where housing aspirations and needs are met

Objective 3 – Manage a better streamlined housing service, with a focus on local decision making, delivering outcomes that improve resident satisfaction.

Within Objective 1, Earls Court is identified as an Opportunity Area, which can drive major housing, economic and job growth.

Earls Court is identified with the LBHF Borough Investment Plan, submitted to the Homes and Communities Agency and the Mayor of London, as a major regeneration opportunity. The Borough Investment Plan was approved by the London Housing Board, chaired by the Mayor of London, in December 2011. A copy of the LBHF Borough Investment Plan is attached at Annex 3.

The comprehensive redevelopment proposed produces significant regeneration benefits, as set out in the Cabinet Report and the Economic Appraisal (Appendix 2 of the 3rd September Cabinet Report). These benefits can be summarised below:

- 7,583 new homes
- 36,033 construction jobs
- 9,528 permanent jobs
- £99.5m per annum of additional local expenditure

12. If the disposal is of land/housing which will be redeveloped please include details of the content of the development, including the mix of tenures to be provided, nomination rights, an estimated cost of designing and constructing the social housing and confirm whether existing properties will be demolished:-

The potential comprehensive development area including the Earls Court buildings, Lillie Bridge Depot, the Estates and Seagrave Road car park, was identified as an Opportunity Area in the London Mayor's Replacement London Plan in 2009. The London Plan, including the Opportunity Area, was adopted by the Mayor early 2012.

The Council's Core Strategy also recognises the development site and includes policies encouraging its comprehensive development. The Core Strategy was adopted in October 2011.

Capco employed Sir Terry Farrell & Partners to prepare a masterplan for the comprehensive development site, including the Estates, in June 2010. The

masterplan proposal is for a residential mixed-use scheme of 10.1m square feet above ground (excluding the Seagrave Road site). The masterplan is centred on the concept of building four new 'villages' and a new high street linking North End Road and Earls Court tube station.

The masterplan proposes approximately 7,583 new homes including 760 replacement homes and an estimated further 740 additional affordable homes, new offices and commercial activities, new education and health facilities including a new primary school, new play and recreational facilities, (including a new linear park) and a new high street with shops, cultural and community activities.

The existing properties on the two housing estates will be demolished to facilitate the comprehensive regeneration scheme. The cost of replacing the 760 homes currently located on the estates is estimated at £170m.

- 13. Please confirm that the disposal/financial assistance is not covered by the General Consents under section 32 of the Housing Act 1985 issued in May 2012 and the revised General Consents under section 25 of the Local Government Act 1988 issued on 9 December 2010 and please explain why it is not covered:-**

The proposed scheme is an extensive regeneration of one of the Council's key estates. Residents will have been relocated to replacement new housing and the land will be vacant before it is transferred to the developer, however at the time of entering into the CLSA the dwellings are occupied and therefore we do not believe this is covered within the General Consents.

- 14. I certify that the information on this form is correct and that the disposal has been authorised by the appropriate Committee of the Council. I am not aware of any other information which might materially affect the Secretary of State's consideration of this application.**

Signature

Please print name

Position

Date

Please return the completed form and any enclosures to Henry Boye Zone 1/E1, Affordable Housing Management and Standards, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU

Equalities Impact Assessment

Overall Information	Details of Equality Impact Analysis
Financial Year and Quarter	2012-2013
Name and details of policy, strategy, function, project, activity, or programme	<p>The Earls Court Redevelopment Project</p> <p>The council is proposing to enter into a Conditional Land Sale Agreement (CLSA) to grant an option to EC Properties to include certain council-owned land within a comprehensive regeneration scheme that covers the Earls Court Exhibition Centre buildings and Seagrave Road car park (both owned by Capital and Counties plc, which owns EC Properties) and the TfL-owned Lillie Bridge Depot. The council-owned land includes the West Kensington and Gibbs Green estates.</p> <p>From 6th January – 12th March 2012 the Council undertook a consultation process to seek residents' views on the council's proposals to include the estates in the wider regeneration scheme. During this consultation residents were also invited to make comments on a draft Equalities Impact Analysis (EIA) that had been published on the council's website. The draft EIA sought to assess, by reference to the protected characteristics, the impact of entering into the CLSA on those directly affected by the development – the residents of the West Kensington and Gibbs Green estates, and the pupils at the Queens Mill School temporarily located at the former Gibbs Green School site.</p> <p>The council has considered the comments received as part of this consultation process, and has as a result updated the EIA and further refined its proposals.</p>
Lead Officer	<p>Name: Sarah Lovell Position: Project Officer Email: sarah.lovell@lbhf.gov.uk Telephone No: 020 8753 5571</p>
Date of completion of final EIA	17 th August 2012

<p>Section 02 Plan for completion</p>	<p>Scoping of Full EIA Start date of EIA: 18th June 2011 Lead Officer: Sarah Lovell</p>								
<p>What is the policy, strategy, function, project, activity, or programme looking to achieve?</p>	<p>The recommendations in question</p> <p>After a number of years of engagement and negotiation with residents of the West Kensington and Gibbs Green estates, residents of the local area and EC Properties / Capital and Counties, council Officers are considering recommending to the council that it enters into the CLSA with EC Properties. This would involve three key recommendations:</p> <ol style="list-style-type: none"> 1. That the Council enter into Conditional Land Sale Agreement with EC Properties LP. 2. That the Council approve the early purchase by EC Properties of land formerly occupied by Gibbs Green School. 3. That the Council approve the sale to EC Properties of land at 11 Farm Lane to support the redevelopment. <p>The Potential Impact of the Recommendations</p> <p>Below, the recommendations are assessed against the protected characteristics. ‘+’ indicates a positive impact, ‘-’ indicates a negative impact and ‘/’ indicates a neutral impact. ‘L’, ‘M’ and ‘H’ indicate that the impact is of low, medium or high relevance to the protected characteristic in question. Any mitigating measures are listed after each identified impact.</p> <p>RECOMMENDATION 1</p> <ul style="list-style-type: none"> • That the Council enter into Conditional Land Sale Agreement with EC Properties LP. <table border="1" data-bbox="1316 100 1465 1783"> <thead> <tr> <th data-bbox="1316 1525 1393 1783">Protected Characteristic</th> <th data-bbox="1316 1352 1393 1525">+/-</th> <th data-bbox="1316 1180 1393 1352">L/M/H</th> <th data-bbox="1316 100 1393 1180">Assessment</th> </tr> </thead> <tbody> <tr> <td data-bbox="1393 1525 1465 1783">Age</td> <td data-bbox="1393 1352 1465 1525"></td> <td data-bbox="1393 1180 1465 1352"></td> <td data-bbox="1393 100 1465 1180"><i>Where age is referred to, it refers to persons of a particular age (e.g. 32)</i></td> </tr> </tbody> </table>	Protected Characteristic	+/-	L/M/H	Assessment	Age			<i>Where age is referred to, it refers to persons of a particular age (e.g. 32)</i>
Protected Characteristic	+/-	L/M/H	Assessment						
Age			<i>Where age is referred to, it refers to persons of a particular age (e.g. 32)</i>						

year olds) or range of ages (e.g. 18 - 30 year olds).

(1) The impact of residents having to leave their current homes on the estates is likely to be greater for elderly residents than for other residents in general. Packing, moving and unpacking is likely to be particularly difficult for such people. Elderly residents may also suffer greater psychological effects, including stress and uncertainty, for example in relation to having to move, and as regards living in an initially unfamiliar environment (after moving). Further, elderly residents may rely more on neighbours and nearby family for support, and moving home may affect these support networks. 42 consultees raised concerns about the impact of having to move, given their age. 49 other consultees referred to concerns of this type in relation to family members, or as a general matter.

- Each household will have a dedicated Re-housing Officer, who will help them through the re-housing process. This will include identifying residents' re-housing needs and requirements, informing them about the re-housing and move process, keeping them updated with the project and move timescales and supporting residents throughout the whole process. The Re-housing Officer will be able to allocate additional support and services to assist elderly residents when moving home. For example, this support will - if requested - take the form of allocating a packing and unpacking service to help elderly residents with the physical move, or allocating more of the Re-housing Officers time to work with the resident and/or the resident's family / carer / support network.

- The Re-housing Officer will also be able to sign older residents up to the council's 'advocate scheme.' Under this scheme an older resident can nominate an 'advocate' (usually a son or daughter), who can then liaise with the Re-housing Officer to make all the necessary arrangements for the move, and handle related matters, on the older resident's behalf.

- Where residents need additional support the Re-housing Officer can refer residents to other council services. These services include Adult

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Services and the Floating Support Services, which offer free support to local residents to help them with many aspects of their lives. This support can include: helping residents settle into a new home, helping residents stay in contact with friends and family, reporting repairs, sorting out rent and other tenancy issues, filling in forms and writing letters and informing residents about other services. The council will also ensure that the Re-housing Officer completes a post-move visit with all households to see if the resident has settled into their new home and to see if they have any concerns that can be addressed. If a resident is having adjustment problems, the Re-housing Officer will allocate additional support for them, including from Adult Services or the Floating support services mentioned above.

- It is a condition of the CLSA and it will be a part of the redevelopment project's Local Lettings Policy that, where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. A needs assessment will help the Council to know what support networks and which neighbours each resident wants to move with.

(2) The impact on private tenants of not being offered a replacement home in the redevelopment may be greater for elderly private tenants than for other private tenants. Elderly private tenants may find this more stressful, and may lose local support networks if they are unable to find a new home in the local area. Private tenants who have elderly relatives nearby may find it harder to support or care for them (one private resident mentioned this issue). Families with school-age children who are private tenants may also suffer a detrimental impact if they are unable to find a new home in the local area.

- Private tenants will be offered housing advice by the Re-housing Officers. This will include information on their housing options and where they can receive additional re-housing advice and support. Where residents can demonstrate a clear connection to the local area the council will help them to find alternative accommodation within the area. However, beyond this, officers do not consider that it will be

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				<p>possible to further mitigate any age-related negative impacts on private tenants.</p> <p>(3) If the redevelopment goes ahead, council tenants will be re-housed based on their need. From the point of view of age, the impact of this would vary from case to case:</p> <p>(3a) For an older couple or an older single person whose children have left home and who are now occupying a large flat or house, the result would be that they would be offered a smaller property (albeit that they will be offered a home with one additional bedroom above their need). This would have a negative impact on such people.</p> <p>(3b) For a younger couple or a younger single person with children whose current accommodation is over-occupied, the result would be that they would be offered a new property that meets their needs (up to a maximum of a 5-bedroom property). This would be a positive impact.</p> <p>(4) The provision of new homes as part of the redevelopment provides the opportunity for better access (as regards common areas, lifts, level access, and access routes to homes from the wider area), which would positively impact on older residents with age-related mobility impairments, as well as parents with young children. The new homes will be built to new accessibility standards, including as set out in the Approved Document M - Access to and Use of Buildings and in the Lifetime Homes Standard. These standards are an improvement on those that applied when the existing estates were built. The proposals will also include provision for 10% of wheelchair accessible housing across the entire redevelopment. This should include provision of wheelchair accessible housing for all existing residents of the estates who, following an individual needs assessment, are found to require it.</p> <p>(5) During the consultation one resident mentioned that their home had been adapted due to their age. Adaptations will be made to the new</p>
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homes in accordance with the Occupational Therapist's assessment of the individual resident's needs. Those residents who currently have homes to which adaptations have been made, and who continue to need those adaptations, will have adaptations made to their new homes. Those residents who are assessed to need adaptations by the Occupational Therapist, but who are not currently living in homes with those adaptations, will have them completed for their new home. Overall, therefore, this aspect of the redevelopment is likely to have either a neutral or a positive impact on elderly residents.

(6) During the consultation, the Hammersmith & Fulham Disability Forum and a number of individual consultees raised issues regarding proximity to existing health / social / community / retail facilities, and bus routes. It is not possible to be precise about how far each resident who will be offered a new home will have to move. However:

(6a) If the resident's new home is on the main site (bounded by West Cromwell Road, the railway line, North End Road and Lillie Road) then the resident may end up being closer to or further away from existing facilities (the maximum additional distance being approximately 250m), depending on precisely where their new home is located. The impact of this may well be greater for elderly residents, and residents with young children.

(6b) Approximately 200 new homes will be re-provided for qualifying residents at the Seagrave Road site. The furthest distance between the furthest edge of the main site and the Seagrave Road site is approximately 800m and the nearest distance is approximately 320m. According to the plans, re-provided houses will be in a block at the rear of the Seagrave Road site. Amongst those re-housed on the Seagrave site, the increased distance from shops and other facilities is likely to be felt more by elderly residents and residents with young children.

- The proposed redevelopment will also give rise to a range of new facilities which can be accessed by residents, such as the

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				<p>proposed Sports and Leisure Hub. This should help to mitigate the impact for those residents who end up moving further away from existing facilities.</p> <ul style="list-style-type: none"> The planning process will require a new health facility to be provided as part of the redevelopment. The new health facility will be located so as to be easily accessible from across the redevelopment, as well as from the wider catchment area that it will be intended to serve. The health facility should provide, among other things, consulting/examination/treatment space, district nursing, health visiting, diagnostic services, dental surgery, optometry and a pharmacy. <p>(6c) Some elderly residents and residents with young children may be adversely affected by a move to Seagrave Road, as they may be moved further from bus routes.</p> <p>(7) The need to move home may have an impact on families with school-age children in that the distance from their home to their local school may change. However, the furthest distance that a family should have to move from their current home is approximately 800m.</p> <p>(8) There are approximately 190 houses on the estates, all of which have gardens. Should the estates be included within the redevelopment proposals the council will receive 75 houses with gardens and 66 maisonettes with gardens, resulting in a total of only 141 properties with gardens (equating to a loss of approximately 49 private gardens). The loss of a garden may well have a particular impact on families with children. 5 residents with children (and one resident with grandchildren who visited) raised this issue.</p> <ul style="list-style-type: none"> The Current planning application proposes to deliver 2.97 hectares of publicly accessible green space (including a park and 3 garden squares), 2.43 hectares of publicly accessible civic space (in the form of additional squares) and 2.175 hectares of play space.
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			H	<p>(9) Increased employment opportunities (as predicted by the Economic Appraisal) will have a positive impact for residents of working age. If the CLSA is signed, a skills audit of all residents on the Estates will be carried out in order to any identify barriers to work, and skills needs. On the basis of this information, a targeted training and employment plan will be produced by the council to assist residents to gain or regain employment.</p> <p>During the consultation a number of consultees appeared to be concerned about whether the need to move home would mean that they would not be able to send their younger children to the same school as their other (older) children, or that their children would have to move school. Officers have investigated this, and consider that there would be no such impact as none of the local community schools that the majority of children attend has a specific catchment area, and, for the purposes of admissions, the 'sibling' criterion is considered before the 'distance' criterion. Further, a child would not cease to be eligible to attend their current school simply because of the move.</p>
	Disability	+/-	L/M/H	<p style="text-align: center;">Assessment</p> <p><i>A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.</i></p> <p>(1) The impact of residents having to leave their current homes on the estates is likely to be greater for disabled residents than for other residents in general. Packing, moving and unpacking is likely to be particularly difficult for such people. Disabled residents may also suffer greater psychological effects, including stress and uncertainty. Further, disabled residents may rely more on neighbours and nearby family for support, and moving home may affect these support networks. Approximately 54 consultees raised impacts of this sort in relation to their own personal circumstances, or other people's circumstances.</p> <ul style="list-style-type: none"> ▪ The Re-housing Officers mentioned under 'age' above will take into account the different needs of disabled residents when providing

				<p>support to them in relation to the move.</p> <ul style="list-style-type: none"> ▪ The Re-housing Officers will be able to allocate additional support and services to assist disabled residents when moving home. This may be support with the physical move process and will - if requested - take the form of allocating a packing and unpacking service to help residents, organising all of the connections and disconnections of appliances and/or arranging a removal service. The Re-housing officer will also be able to allocate more time to work with the resident and/or the resident's family / carer / support network to address any psychological concerns that the resident may have. ▪ Where disabled residents need additional support the Re-housing Officer can refer residents to other council services, including Adult Services and the Floating Support Services, as set out under 'age' above. ▪ Where it would assist, the Re-housing Officer will also put disabled residents in touch with other local disability support organisations. ▪ The council will also ensure that the Re-housing Officer completes a post-move visit with all households to see if the resident has settled into their new home and to see if they have any concerns that can be addressed. If a disabled resident is having adjustment problems the Re-housing Officer will work to allocate additional support for them, including from Adult Services or the Floating Support Services. ▪ It is a condition of the CLSA, and it will be a part of the Earl's Court Redevelopment Project's Local Lettings Policy that, where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. A needs assessment will help the Council to know what support networks and which neighbours each resident wants to move with. This should help ensure that disabled residents move with local support networks, and familiar neighbours. <p>(2) Having to move home is likely to be particularly difficult for blind or</p>
		-	H	

			H	<p>partially-sighted residents who will, at least initially, be unfamiliar with their new homes and the immediate vicinity around their new homes. Two blind residents raised concerns of this type during the consultation process.</p> <ul style="list-style-type: none"> ▪ The Dedicated Re-housing Officer will work with any blind residents to ensure that they are fully supported throughout the move. This will include ensuring the necessary documents are produced in Braille, and that the resident's new home has the necessary adaptations. The Re-housing Officer will also include work with the resident to ensure that they are comfortable in their new home and its immediate vicinity, for instance by accompanying the resident to their new home and taking them to the local facilities and amenities, before the move takes place. <p>(3) Having to move home may well be particularly difficult for residents who suffer from mental illness. Many residents raised the issue of stress and the psychological impacts of moving, but only three consultees referred specifically to mental illnesses. Two of these consultees mentioned this on behalf of family members and one raised this as their own issue.</p> <ul style="list-style-type: none"> ▪ Where residents have mental health difficulties the Re-housing Officer will work with the residents' existing support network / carers / GPs to ensure that the necessary support and care is provided. Where appropriate, the Council will brief local health providers and any third sector support services. ▪ Where additional support is needed the council will be able to allocate additional support from Adult Services or the Floating Support Services. <p>(4) During the consultation a concern was raised about residents with disabilities having to move from ground floor homes to upper floor homes. New homes will be allocated on the basis of need, and so residents who most need ground floor homes due to their disability will be allocated them. However, it is possible that some disabled residents will move to upper floor homes from ground floor homes if, for instance, their disability</p>
	-	/ and -	M	

			<p style="text-align: center;">M</p>	<p>is not mobility-related, or does not otherwise require a ground floor home. To this extent, there may be a negative impact for some disabled residents.</p> <p>(5) The impact on private tenants of not being offered a replacement home in the redevelopment may be greater for disabled private tenants than for other private tenants. Disabled private tenants may find this more stressful, and may lose local support networks if they are unable to find a new home in the local area. Two private tenant consultees mentioned physical disability in relation to family members, and two other consultees raised it as a general concern.</p> <ul style="list-style-type: none"> ▪ Private tenants will be offered housing advice by the Re-housing Officers. This will include information on their housing options and where they can receive additional re-housing advice and support. Where residents can demonstrate a clear connection to the local area the council will help them to find alternative accommodation within the area. However, beyond this, officers do not consider that it will be possible to further mitigate the disability-related negative impacts on private tenants. <p>(6) During the consultation the impact of the move and construction on residents with asthma or other respiratory problems was raised. Lung disease was mentioned by two consultees directly, and by one consultee on behalf of her husband, and asthma was mentioned three times directly and once on behalf of a consultee's son. The Environmental Impact Assessment which accompanied the outline planning applications included an air quality assessment. Whilst this did not specifically address impact on asthma sufferers and those with specific respiratory problems, it did assess the impact of construction dust on local people in general, and concluded that it will only represent a 'nuisance' which would be 'controlled through the application of a series of best practice measures', a number of which were proposed. It is thus difficult to be sure about the extent of any negative impact on residents with asthma or other respiratory problems, but officers accept that there may be an adverse impact.</p>
			<p style="text-align: center;">M</p>	

				<ul style="list-style-type: none"> ▪ If construction does in fact have an adverse affect on any particular resident as a result asthma or other respiratory problems, then the Council will ensure that the resident in question is prioritised for an early move as a way of mitigating the effects of this impact. <p>(7) The provision of new homes as part of the redevelopment provides the opportunity for better access (as regards common areas, lifts, level access, and access routes to homes from the wider area), which would positively impact on disabled residents with mobility problems. As discussed above under ‘age’, the new homes will be built to improved accessibility standards. The proposals will also (as discussed above) include provision for 10% of wheelchair accessible housing across the entire development. This should include provision of wheelchair accessible housing for all existing West Kensington and Gibbs Green estate residents who require it. This will be informed by individual needs assessments conducted by the council.</p> <p>(8) 4 residents mentioned that they had adaptations in their current property, or that they would need adaptations in their new property. A number of other consultees indicated that they may have or need adaptations but they did not directly state this. Adaptations will be made to the new homes in accordance with the Occupational Therapist’s assessment of the individual resident’s needs. Those disabled residents who currently have homes to which adaptations have been made, and who continue to need those adaptations, will have adaptations made to their new homes. Those disabled residents who are assessed to need adaptations by the Occupational Therapist, but who are not currently living in homes with those adaptations, will have them completed for their new home. So, overall, this aspect of the redevelopment is likely to be either a neutral or a positive impact on disabled residents who need adapted homes.</p> <p>(9) As has been noted above under ‘age’, the planning process will require a new health facility to be provided as part of the redevelopment. This is likely to result in a positive impact for disabled residents.</p>
		+	M	
		/ or +	H	
		+	H	

			<p style="text-align: center;">+ and -</p>		<p>(10) During consultation, the issue was raised of proximity to existing social / community / retail facilities, bus routes, and health facilities (including local hospitals). It is not possible to be precise about how far each resident who will be being offered a new home will have to move. However:</p> <p>(10a) If the resident's new home is on the main site then the resident may end up being closer to or further away from existing facilities (the maximum additional distance being approximately 250m), depending on precisely where their new home is located. The impact of this may well be greater for disabled residents.</p> <p>(10b) Approximately 200 new homes will be re-provided for qualifying residents at the Seagrave Road site. The furthest distance between the furthest edge of the main site and the Seagrave Road site is approximately 800m and the nearest distance is approximately 320m. According to the plans, re-provided houses will be in a block at the rear of the Seagrave Road site. Amongst those re-housed on the Seagrave site, the increased distance from shops and other facilities is likely to be felt more by disabled residents.</p> <ul style="list-style-type: none"> ▪ These impacts will be to an extent mitigated by the new health facility (see (9) above). The proposed redevelopment will also give rise to a range of new facilities which can be accessed by residents, such as the proposed Sports and Leisure Hub. This should also help to mitigate the impact for those disabled residents who end up moving further away from existing facilities. <p>(10c) Some disabled residents may be adversely affected by a move to Seagrave Road, as they may be moved further from bus routes.</p> <p>(11) Disabled residents are likely to be more affected by the closure of</p>
			M		
			M		
			M		

			-	<p>pedestrian and vehicular routes during building work than other residents.</p> <ul style="list-style-type: none"> ▪ The phasing arrangements will help to mitigate this impact. Before a phase can be agreed for redevelopment the developer must be able to demonstrate and the council must agree how safe, commodious and adequately lit public road and footpath access and egress will be maintained for vehicles, cycles and pedestrians. This will allow access issues for disabled residents to be specifically considered and addressed. <p>(12) Three residents stated that they did not want to lose their car parking space because of their disabilities. The total number of parking spaces within the new development will be determined by planning policies. Although this cannot be precisely predicted at the present time, the overall number is likely to be approximately 456 parking spaces (as compared with is 540 at present). It is therefore likely that there will be a reduction in the number of spaces available for estate residents.</p> <ul style="list-style-type: none"> ▪ The council's Housing and Regeneration Team will develop a parking allocation policy to ensure that the parking spaces that are provided to the council are allocated to those residents who have the greatest need for them (in particular, the policy will prioritise blue badge holders, and residents who need a parking space for disability or health reasons). On this basis, officers do not anticipate that the reduction in parking spaces will have a significant negative impact on residents who need a parking space as a result of their disability. <p>(13) One disabled resident specifically mentioned the fact that she needed her garden for her disability. Officers have not been able to discover whether this is in fact the case.</p> <ul style="list-style-type: none"> ▪ The Council will allocate properties based on need, and should it be established that a resident has a need for a garden, this will be taken into consideration during allocation. <p>(14) Two residents mentioned the impact on the move on resident with</p>
		-	M	
		-	M	
		-	M	

				<p>learning disabilities. Residents with learning disabilities may well find it harder to understand the implications of the redevelopment, and organise their move to new homes.</p> <ul style="list-style-type: none"> The dedicated Re-housing Officer will work closely with any resident with learning disabilities to ensure that they are fully supported and fully understand the move process. They will ensure that information is related to the resident in a way that they can understand. The Re-housing Officer will also be able to organise aspects of the move for the resident including arranging household registration, disconnection of utilities and the packing and move arrangements. The Re-housing Officer will also be able to sign up residents with learning difficulties to the council's 'advocate scheme', as noted under 'age' above. Where residents need additional support the Re-housing Officer can refer residents to other council services, such as Adult Services or the Floating Support Services.
	<p>Protected Characteristic Gender reassignment</p>	<p>+/-</p> <p>-</p>	<p>L/M/H</p> <p>L</p>	<p>Assessment</p> <p><i>Gender reassignment is the process of transitioning from one gender to another.</i></p> <p>(1) In their response, the TRAs noted the possibility that moving home may generate more anxiety related to acceptance by new neighbours in relation to persons with this protected characteristic. In the event, none of the individual consultees made any reference to this protected characteristic.</p> <ul style="list-style-type: none"> Insofar as this negative impact arose, the council would propose to mitigate it by ensuring that a dedicated Re-housing Officer will be able to allocate additional support and services to any residents with this protected characteristic.

				<ul style="list-style-type: none"> Where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. 	
<p>Protected Characteristic Marriage and Civil Partnership</p>	<p>Protected Characteristic</p>	<p>+/-</p>	<p>L/M/H</p>	<p>Assessment</p> <p><i>Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.</i></p> <p>It is not anticipated that Recommendation 1 would have any particular impact on residents with this protected characteristic as compared with other residents. Officers note that none of the consultees disagreed with this assessment.</p>	
<p>Protected Characteristic Pregnancy and maternity</p>	<p>Protected Characteristic</p>	<p>+/-</p>	<p>L/M/H</p>	<p>Assessment</p> <p><i>Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.</i></p> <p>(1) The impact of residents having to leave their current homes on the estates would be likely to be greater for pregnant women, and women on maternity leave, than for other residents in general. Packing, moving and unpacking is likely to be difficult for pregnant women, and women on maternity leave. During consultation this issue was raised by one pregnant consultee, one consultee who was concerned about their pregnant mother and 3 consultees who raised it in relation to residents in general.</p> <ul style="list-style-type: none"> The dedicated Re-housing Officer will record all pregnancies at the earliest opportunity so that the associated housing issues can be taken into account by the council. The Re-housing Policy will ensure that pregnant women who might otherwise need to move at or shortly after their due date will be 	

				<p>prioritised for an earlier move, with the result that they can settle into their new home before their child is born.</p> <ul style="list-style-type: none"> ▪ In addition, the council will provide pregnant women and woman on maternity leave, a full support package, under the management of the Re-housing Officer. The Re-housing Officer will be able to organise and pay for moving arrangements, and will be able to help the resident with the paperwork associated with the move. The Re-housing Officer will also be able to liaise as appropriate with the relevant health professionals, for instance so as to notify them of the resident's new address. ▪ Where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. This should help ensure that pregnant women, and women on maternity leave, move with local support networks, and familiar neighbours. <p>(2) The provision of new homes as part of the redevelopment provides the opportunity for better access, which would positively impact on pregnant women and women on maternity leave. As discussed above, the new homes will be built to improved accessibility standards.</p> <p>(3) Pregnant women, and women on maternity leave, are likely to be more affected by the closure of pedestrian and vehicular routes during building work than other residents.</p> <ul style="list-style-type: none"> ▪ The phasing arrangements will help to mitigate this impact. Before a phase can be agreed for redevelopment the developer must be able to demonstrate and the council must agree how safe, commodious and adequately lit public road and footpath access and egress will be maintained for vehicles, cycles and pedestrians. This will allow access issues for pregnant women, and women on maternity leave, to be specifically considered and addressed. <p>(4) During the consultation the TRAs questioned whether pregnant women will be safe in substantially decanted blocks. The council will ensure that</p>
		+	H	
		-	M	
		-	H	

				<p>partially decanted blocks remain safe for any existing residents. Should a pregnant woman feel unsafe, the Council will ensure that she is prioritised for an earlier move.</p> <p>One consultee referred to a childminding business. Officers have spoken to the consultee to identify their concerns. The consultee was concerned that they would have to move out of the area and away from the schools and local residents who use their business. As the consultee is a secure council tenant and will be offered a new home in the area there should be no impact on the child minding business, or the families with young children who use it.</p>	<p>Assessment</p> <p><i>Race refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.</i></p> <p>2001 Census data is the most recent data available regarding ethnicity on the Estates. According to the 2001 Census, the predominant ethnicity of residents on the Estates is White British, accounting for 42%. This figure is considerably lower than the Borough (58%) and London (60%) averages, and particularly the national average (87%). Residents from minority (non-white) backgrounds account for 43% of the resident population of the estates. This figure is considerably higher than the Borough average (22%), London average (29%) and national average (9%).</p> <p>Accordingly, and to this extent, (1) the impact of having to leave homes on the estates, and any other disadvantages associated with the redevelopment, will be felt by an above-average number of residents from minority backgrounds, when compared with the ethnic profile of the Borough, London, or nationally.</p> <ul style="list-style-type: none"> Officers do not consider that this impact, which is itself a statistical consequences of the ethnic profile of the estates, can be mitigated in
Protected Characteristic	+/-	L/M/H	Assessment		
Race	-	H			

		-	H	<p>any practical way.</p> <p>(2) The impact of having to leave homes on the estates and move elsewhere may be greater for certain residents from minority backgrounds, for instance because of language difficulties, or because of a lack of familiarity with the functions of local government and/or local authority decision making more generally. Language problems were raised as an issue by 3 consultees directly. One consultee identified language problems as an issue for their mother.</p> <ul style="list-style-type: none"> ▪ The Re-housing Officer will be able to allocate additional support and services to assist residents from different racial groups who may have language difficulties in order that they know what is happening and can interact with the council. ▪ The Re-housing Officer will also be able to sign up residents to the council's 'advocate scheme' (described above) if for instance a resident has a son or daughter who is more fluent in English than they are. ▪ The council will ensure that the Re-housing Officer completes a post-move visit with all households to see if the resident has settled into their new home and to see if they have any concerns that can be addressed. If a resident is having adjustment problems the Housing Advisor will work to allocate additional support for them, including from Adult Services or the Floating Support Services. ▪ As noted above, where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact. <p>(3) Increased employment opportunities (as predicted by the Economic Appraisal) and the council's targeted training and employment plan (as described under 'age' above) is likely to be of particular relevance to those racial groups that in general have lower rates of economic activity than others, including Black Caribbean (62.5%), Pakistani (62.5%), White and Black Caribbean (60.7%) and the Other Asian (54.8%) groups (the</p>
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		+	H	borough average is 65%). The low economic activity rate among Irish residents (60.2%) partly reflects the older age structure of the population and the higher proportion who are over pensionable age (2001 Census Report 2: Ethnic Groups in Hammersmith and Fulham, p. 38).
	Protected Characteristic Religion/belief (including non-belief)	+/-	L/M/H	<p style="text-align: center;">Assessment</p> <p><i>Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.</i></p> <p>2001 Census data is the most recent data available regarding ethnicity on the Estates. According to the 2001 Census, the predominant religion of residents on the Estates is Christianity (60%), which is consistent with the Borough average (64%). The proportion of Muslim residents on the estates (13%) exceeds the Borough average (7%), London average (8%) and national average (2%), while other religions appear in very small proportions. Persons stating they have no religion account for 16% of residents on the estates, which is similar to the borough average (18%), London average (16%) and national average (15%).</p> <p>Accordingly, and to this extent, (1) the impact of having to leave homes on the estates, and any other disadvantages associated with the redevelopment, will be felt by an above-average number of Muslim residents, when compared with the religious make-up of the Borough, London, or nationally.</p> <ul style="list-style-type: none"> ▪ Officers do not consider that this impact, which is itself a statistical consequence of the religious profile of the Estates, can be mitigated in any practical way. <p>(2) One consultee raised the importance of being able to practise their culture and religion in the local area. There is a risk that the new homes</p>

					<p>for religious residents will be further from their current place of worship than their current homes on the estates. Equally, it is possible that re-housing religious residents would bring them closer to their place of worship. If the resident's new home is on the main site then the potential maximum additional distance from their current home would be approximately 250m. If the resident's new home was on Seagrave Road, the maximum distance a resident would have to move would be 800m.</p>	
	Protected Characteristic	+/-	L/M/H	Assessment	<p><i>Sex means a man or a woman</i></p> <p>The 2001 Census indicates that 90% of lone parent households are headed by women. The 2001 Census further indicates that 14% of households on the West Kensington estate are lone parent households and 9% of households on the Gibbs Green estate are lone parent households (there is no more recent data). Further, lone parent households are likely to find moving home particularly challenging.</p> <p>Accordingly, and to this extent, (1) the impact of having to leave homes on the estates would be likely to be greater for female residents than male residents.</p> <ul style="list-style-type: none"> Officers do not consider that this impact, which is itself a statistical consequence of the household composition profile of the Estates (as combined with the gender data on lone parent households), can be mitigated in any practical way. 	
	Sex			M	Assessment	<p><i>Sexual orientation means whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes</i></p> <p>(1) In their response, the TRAs noted the possibility that moving home may generate anxiety for lesbian, gay and bisexual residents as regards acceptance by new neighbours. In the event, none of the individual consultees made any reference to this protected characteristic.</p>
	Protected Characteristic	+/-	L/M/H	L		

			<ul style="list-style-type: none"> Insofar as this negative impact arose, the council would propose to mitigate it by ensuring that a dedicated Re-housing Officer will be able to allocate additional support and services to any residents with this protected characteristic. Where possible, residents will be moved in groups so as to ensure that existing support networks are kept intact.
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RECOMMENDATION 2

- That the Council approve the early purchase by EC Properties of land formerly occupied by Gibbs Green School.

Protected characteristic	+/-	L/M/H	Assessment
Age	/	None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic (as read with the exceptions in Schedule 18 to the Equality Act 2010) as compared with other residents.
Disability	-	M	The temporarily secondary autistic school located at Queens Mill School will need to be moved. This will inevitably cause disruption, which will be a negative impact for disabled children. The early purchase of the land will ensure that a secondary autistic school can be provided at a permanent and purpose-built facility in White City. This will be highly relevant to disabled children, and will in the long-term be positive for them.
Gender reassignment	/	None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
Marriage and civil partnership	/	None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with

					other residents.
	Pregnancy and maternity	/		None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
	Race	/		None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
	Religion/belief (including non belief)	/		None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
	Sex	/		None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
	Sexual Orientation	/		None	It is not anticipated that Recommendation 2 would have any particular impact on residents with this protected characteristic as compared with other residents.
	<p>RECOMMENDATION 3</p> <ul style="list-style-type: none"> That the Council approve the sale to EC Properties of land at 11 Farm Lane to support the redevelopment. <p>In February 2011, The Council's Cabinet took the decision to close the supported Hostel located at Farm Lane. The under-occupied hostel was deemed surplus to requirements and has been closed. A full EIA was completed for the decision to close this hostel. The Cabinet gave authority for the site to be disposed of in accordance with section 123 Local Government Act 1972.</p> <p>If the site is sold to EC Properties, it is anticipated that EC Properties / Capital and Counties will build residential homes on it. It is not anticipated at this stage that Recommendation 3 would in itself have any particular impact on residents with any of the protected characteristics, as compared with other residents.</p>				

Section 03

Documents and data reviewed

Analysis of relevant data

The following documents and data have been used to help inform this EIA:

The council's Community Strategy

The Community Strategy was produced in 2007 and sets the framework of objectives used for both the Core Strategy and the Single Equality scheme. The Strategy was developed with our local partners from across the public, private, voluntary and community sectors and was subject to public consultation. As partners in delivering local services the aim of the Council through the community strategy is to combine opportunity, with social responsibility and social justice to assist the vast majority of people in the borough to help themselves while supporting the most vulnerable in the community. The Community Strategy is therefore considered to be consistent with the equality duties from that time.

The council's Single Equality Scheme

The Single Equality Scheme contains our statutory and non-statutory equality schemes and simplifies how we meet our requirements for all, including groups protected by discrimination law. Officers gave careful consideration to the statutory codes in relation to race, gender, and disability at the time in preparing the scheme, as well as to the duties that were expected to arise from the Equality Act 2010, which received Royal Assent in April 2010, and most of the provisions of which came into force on 1 October 2010 (see below). The Single Equality Scheme was also devised with the new equality duty from April 2011 in mind.

The Single Equality Scheme objectives are based on the same Community Strategy objectives as the Spatial vision of the Core Strategy in terms of creating a borough of opportunity for all, including promoting home ownership and regenerating the most deprived parts of the borough. A comprehensive Regeneration should work to those same objectives.

The scheme aims to obtain the key outcomes for all groups as follows:

- Greater home ownership and housing of adequate standard
- High levels of participation in education and improved educational achievement
- Better health and reduced inequalities in health
- More people of working age working, greater access to sustainable employment opportunities and reduced unemployment
- Regeneration of deprived areas and better physical environment to live, work and visit
- Diverse cultural and ethnic identities are valued and celebrated
- Greater community involvement, volunteering and cohesion, reduced social isolation

- Positive parenting and reduced incidence of abuse and neglect
- Reduced criminal victimisation and violence
- Higher overall living standards and reduced poverty

Equalities Duties

Protected characteristics and the Public Sector Equality Duty

The public sector equality duty (PSED) states that in the exercise of our functions, the council must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited under the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people; and
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The Equality Act 2010 states that meeting the needs of disabled people that are different from the needs of people who are not disabled includes taking steps to take account of disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that compliance with the PSED may involve treating some people more favourably than others.

General Demographic Information

Property Information

The West Kensington and Gibbs Green estates occupy an area of 22 acres and are primarily owned by the council. There are currently 531 council-owned social rented properties, 132 leasehold properties and 39 freehold properties. There is also a number of small Housing Association developments throughout the two estates.

The table below shows the ownership and property types of all of the housing across the West Kensington and Gibbs Green estates.

	1 Bed Flat	1 Bed House	2 Bed Flat	2 Bed House	3 Bed Flat	3 Bed House	4 Bed Flat	4 Bed House	TOTAL
Council	163	0	212	0	46	75	8	27	531
Leasehold/Freehold	21	0	85	0	24	29	2	10	171
RSL	4	3	6	13	0	25	0	7	58
Total	188	3	303	13	70	128	10	45	760

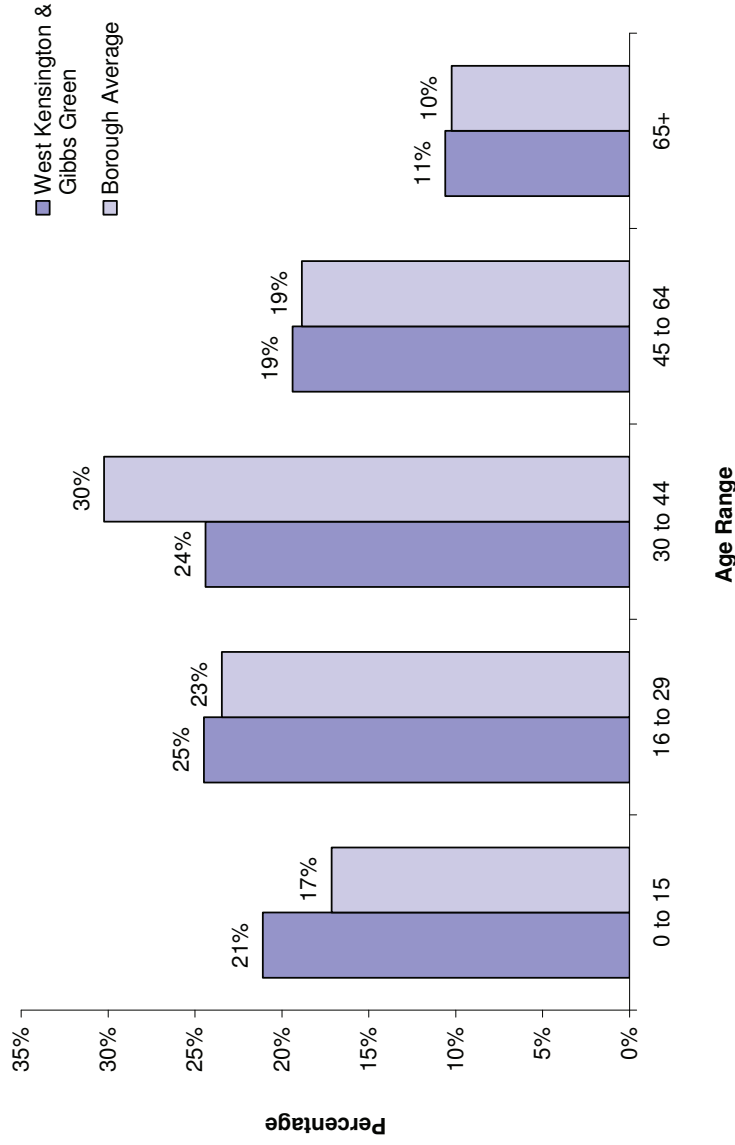
Updated Age Profile

The age profile of West Kensington and Gibbs Green estates differs significantly from the Borough average, primarily on the basis of a lower concentration of adults aged between 30 and 44 years (24% of estate compared to 30% throughout the Borough) and higher concentration of children aged less than 16 years, accounting for 21% of residents of the estates compared to 17% throughout the Borough. 11% of adults are in their retirement age (the Borough average being 10%). (ONS SLOA Mid-Year Estimate 2010.)

The adult to child ratio on the estates is 3:1, which is consistent with the London and England averages (both 3:1) but differs from the Borough average (4:1). It is noted that the adult to child ratio in the Borough is artificially high, in terms of the number of adults, due to the prevalence of young, single professionals.

Within the 471 council-owned properties on West Kensington estate that are currently occupied (4 properties are void as at April 2012), 114 main tenants are aged in excess of 65 years, representing 24%. Of these, 57 tenants are aged between 65 and 74 years, 42 are between 75 and 84 years, and 15 are aged in excess of 85 years. On Gibbs Green estate, there are 9 main tenants aged in excess of 65 years, of which 7 are aged between 65 and 74 years, 2 are between 75 and 84 years.

Age Profile



Disability

It is estimated that there are more than 10 million disabled people in the UK (Source: LBHF Access for All 2006) and more than 800,000 disabled people in London (Source: London Plan SPD: Planning for Equality 2007). This presents a significant challenge to ensure that any new development makes provision for people with disabilities.

The proportion of working age residents of West Kensington and Gibbs Green estates who are permanently sick or disabled (6%) is similar to the Borough (5%) and London (5%) averages. On the estates, 17% of residents are reported as having a Limiting Long-Term Illness (LLTI), which is slightly higher than figures recorded throughout the Borough and across London (both 15%). These data are taken from the 2001 Census. There is no more up-to-date data.

Gender Reassignment

Official statistics, such as census data, are not collected on gender reassignment.

Marriage and Civil partnership

Half of the residents on the West Kensington and Gibbs Green estates are single and have never been married, which is slightly lower than the LBHF average (55%). A considerable proportion of residents are married (28%), although this figure is slightly lower than the Borough average (29%). The estates comprise a higher proportion of divorced /separated residents (14%) than the Borough (11%).

Pregnancy and Maternity

The teenage pregnancy rate within North End ward is very slightly higher than in the Borough, with 52 conceptions per 1,000 teenagers compared to 50 conceptions per 1,000 teenagers throughout the Borough. (LBHF Children Services Department, 2009/10)

Race

The predominant ethnicity of residents on West Kensington and Gibbs Green estates is White British, accounting for 42%, although this figure is considerably lower than the Borough (58%) and London (60%) averages, and particularly the national average (87%).

Residents from minority (non-white) backgrounds account for 43% of the resident population of the estates. This figure is considerably higher than the Borough (22%), London (29%) and national (9%) averages. Between 2001 and 2009, the proportion of residents from Black and Minority Ethnic (BME) backgrounds has remained relatively unchanged on the estates. (Source: LBHF iWorld.)

The proportion on residents of West Kensington and Gibbs Green estates who are from Black / Black British backgrounds (27%) greatly exceeds the Borough (11%), London (11%) and national (2%) averages. The predominant ethnic minority groups identified on the estates are Black African (13% of residents), particularly Somalian and Eritrean communities, and Black Caribbean (10%). These figures are considerably higher than those recorded across the Borough (both 5%), London (both 5%) and England (both 1%). Only a small proportion of residents on the estates are from Chinese backgrounds (3%).

The Census 2001 provides the most recent complete dataset on the ethnicity of the estates.

Information about the ethnicity of current Council tenants on the estates is incomplete, but nevertheless indicates that the Census 2001 figures for the estates remain broadly accurate. The information suggests that 44% of tenants on the Gibbs Green estate are from White Backgrounds, compared to 39% on the West Kensington

estate. 29% of tenants on the West Kensington estate are of Black / Black British backgrounds; this compares to 24% of tenants on the Gibbs Green estate.

Religion/belief (including non – belief)

The predominant religion of residents of the West Kensington and Gibbs Green estates is Christianity (60%), which is consistent with the Borough average (64%). The proportion of Muslim residents on the estates (13%) exceeds the Borough (7%), London (8%) and national (2%) averages, while other religions appear in very small proportions. Persons stating they have no religion account for 16% of residents on the estates, which is similar to the Borough (18%), London (16%) and national (15%) averages.

There are no available datasets which update the religious make-up of the estates. Census 2001 data is the only available data.

Sex

There are more women in the Borough than men, which is also the case in London and England. The Single Equalities Scheme (SES) indicates that there are more female headed households in the borough which represents a key equality gap for the council. 90% of lone parent households are headed by women (2001 Census).

Economic Activity

Statistics for England and Wales show that women are less economically active than men. 65.4% of women and 80.5% of men are economically active in the borough. This is lower than the London wide figures of 66.8% for women and 83.0% for men (Source – Nomis APS, 12 months to June 2011).

The Borough has a marginally higher proportion of full time employed male residents of working age (87.9%) than the London average (87.0%), but the proportion is lower than the national average (88.4). The borough has a higher proportion of full time employed females (75.6%) than the London (67.0%) and national (57.6%) averages.

The proportion of working age population on out-of-work benefits in the area (for the lower layer super output areas that the two estates fall within) stands at 23.0% (as compared to borough and London figures of 13.3% and 12.7%, respectively). (Source: DWP, Aug 2011).

The Job Seekers Allowance (JSA) claimant rate is 7.8%, which is nearly double the borough average (4.3%) and London average (4.4%). Long-term unemployment is a key issue and accounts for 42.5% of all unemployed residents (the borough average is 45.6%). Youth unemployment has increased over the past year and the youth demographic now represents 27.0% of all JSA claimants (for the borough the figure is 20.7%). (Source: DWP,

	<p>Feb 2012).</p> <p>Sexual Orientation Official statistics, such as census data, are not collected on sexual orientation within the borough. However, the ONS's most recent research indicates that 1.5% of the adult population identify as lesbian, gay, or bisexual (LGB). This figure differs significantly from the figure from the Department of Trade and Industry which published a figure of approximately 6% LGBT (and transgender). The proportion in London is thought to be higher, perhaps up to 10%.</p> <p>Please note: The information on the West Kensington and Gibbs Green estates within this sections has been collated from various sources available to the council, including LBHF iWorld, DWP records, Source – Nomis APS, 2001 Census information, ONS SLOA Mid-Year Estimate 2010 and the West Kensington and Gibbs Green Estates Profile November 2009.</p>
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Section 04	Agreement, publication and monitoring
Chief Officer sign-off	<p>Name: Melbourne Barrett Position: Executive Director Of Housing and Regeneration Email: Melbourne.barrett@lbhf.gov.uk Telephone No: 0208753 4228</p>
Key Decision Report	<p>Date of report to Cabinet/Cabinet Member: 3rd September 2012 Confirmation that key equalities issues found here have been included: Yes</p>
Opportunities Manager for advice and guidance only	<p>Name: Carly Fry Position: Opportunities Manager Date advice / guidance given: 12th July 2012 Email: PEIA@lbhf.gov.uk Telephone No: 020 8753 3430</p>

Agenda Item 6.3



Report to Council

24 OCTOBER 2012

LEADER

Councillor Nicholas Botterill

REVIEW OF THE COUNCIL'S STATEMENT OF GAMBLING PRINCIPLES

Wards

All

This report seeks approval for the Council's Revised Statement of Gambling Principles 2013, which has been publicly consulted upon.

CABINET MEMBER FOR RESIDENTS SERVICES

Councillor Greg Smith

A Statement of Principles provides advice and guidance to local authorities when exercising their functions under the Gambling Act 2005. It also provides guidance to applicants and objectors.

The Council's current Statement of Gambling Principles 2009 took effect in January 2010 and expires in January 2013. A draft revised Statement of Gambling Principles 2013 has been prepared for consideration based on the results of the consultation.

This report outlines the review and consultation process, issues for consideration and the proposed amendments which were subject to public consultation.

CONTRIBUTORS

Transport & Technical Services Department

Legal and Democratic Services

Finance and Corporate Services

RECOMMENDATIONS:

Council is asked to approve the Council's revised Statement of Gambling Principles 2013 as set out in Appendix D of this report.

1. BACKGROUND

- 1.1 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the gambling policy applies.
- 1.2 The first statement of principles was published by the London Borough of Hammersmith and Fulham on 20 December 2006 and took effect on 31 January 2007. The Council's current Statement of Gambling Principles 2009 took effect in January 2010. The draft revised Statement of Gambling Principles 2013 is the third statement of principles and must be published at least 28 days before it comes into effect in January 2013.

2. REPORT

2.1 Introduction

- 2.1.1 The Gambling Act 2005 Act came into force in September 2007 and created a new system of licensing and regulation for commercial gambling. The Act gave licensing authorities a number of important regulatory functions in relation to gambling. The main functions are as follows:
- licence premises for gambling activities;
 - consider notices given for the temporary use of premises for gambling;
 - grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
 - regulate gaming and gaming machines in alcohol licensed premises;
 - grant permits to family entertainment centres for the use of certain lower stake gaming machines;
 - grant permits for prize gaming;
 - consider occasional use notices for betting at tracks; and
 - register small societies' lotteries.
- 2.1.2 The 2005 Act sets out three licensing objectives which the licensing authority has a duty to promote. These are:
- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.1.3 This Authority currently has the following number of premises with a gaming permits or premises licences:

- Adult Gaming Centres - 13
- Betting Shops - 54
- Track betting premises (all the football grounds) - 3
- Gaming Permits - 59
- Small Society Lotteries – 57

There has been no significant increase or decrease in the number of premises requiring a gaming permit or a premises licence, within the last three years.

2.1.4 The licensing authority can only consider matters within the scope of the Gambling Act, Guidance and associated Codes of Practice and cannot become involved in the moral issues relating to gambling.

2.2 Review Process

In reviewing the statement of principles we have considered:

- The promotion of the three licensing objectives;
- The guidance issued under Section 25 of the Gambling Act 2005,
- The current Statement of Gambling Policy 2009;
- Local crime prevention
- Disability Equality Scheme and Single Equality Scheme

2.2.1 Consultation process

On 15 March 2012 a questionnaire was sent to all responsible authorities and stakeholders asking if they would like to propose any amendments to the forthcoming revision of the Statement of Gambling Principles. The responses from this questionnaire formed the draft policy which was subject to a 12 week consultation.

The 12 week public consultation took place between 30 April 2012 and 23 July 2012. A letter was sent to all gambling premises and residents associations which specified the website address of an online consultation. The letter advised that paper copies of the consultation were available if required. The online consultation address was also emailed to all responsible authorities, Councillors and Stakeholders. A copy of the draft Statement of Gambling Principles was included on the website for consultees to refer as they made their response (Appendix C).

A proposed draft pool of conditions was also sent to all responsible authorities, residents associations and Councillors separately to the Policy, on 2 July 2012.

The Act requires the licensing authority to consult on its Statement of Principles with the Police; those who represent the interests of gambling businesses in their area; and those which represent interested persons likely to be affected (Section 349 (3)).

In addition to the statutory consultees, the following were also consulted:

- Trade associations
- Residents' associations
- Businesses
- Fire authority
- Ward councillors
- Neighbouring authorities
- Chamber of Commerce
- Drug and alcohol action team
- Crime and disorder reduction partnership
- Other relevant people who could be affected by this policy

2.2.2 Proposed amendments to the policy

As a result of the public consultation the proposed amendment to the policy were as follows:

2.2.3 No Casino resolution

To continue the Council's 'No Casino' resolution. In the past concerns have been raised about the potential inequality between the three competing town centres in the borough if one area were granted a Casino licence and the others were not. No comments were received during the consultation period supporting the removal of this resolution.

2.2.4 Pool of Conditions

To include a pool of conditions, attached as Appendix B, which could be applied to different types of premises. These conditions would apply to premises such as Adult Gaming Centres, Betting Shops and Family Entertainment Centres.

It is hoped that this change will make it easier for applicants, residents, the licensing committee, and agencies such as the Police to understand and request consistent conditions for each type of premises when making, commenting on or considering applications. The suggested conditions have been added to during the consultation period at the request of the Police (these additional conditions are highlighted in red).

2.2.5 Opening hours for Adult Gaming Centres and Family Entertainment Centres

A condition has been added to the pool of conditions which can limit the opening times of any gambling premises. This condition can be requested by any responsible authority when a new application is made with the relevant time restrictions being inserted. Section 5.7 has also been added to the policy which asks that all premises licence applications specify opening hours within their operating schedule in order that the impact of a premises can be fully considered under the licensing objectives.

2.2.6 Primary Use

To include a new section on 'primary use' of premises to ensure that premises licences are not applied for purely to take advantage of gaming machines entitlements. Section 4 of the draft policy has been amended to include the revised wording.

2.2.7 Statement of principles

To include a statement of principles specifically for Family Entertainment Centres (often referred to as arcades). The Council is unable to attach conditions to these types of permits. A statement of principles would place more responsibility on the owners of the premises and was supported by residents during the consultation period. This statement of principles has been benchmarked against other London Local Authorities and is now included in section 16.3 and 16.4 of the final draft policy.

2.2.8 Relevant representations

To include a section on 'relevant representations', to provide guidance to objectors, and outline what is and is not relevant as a representation helping to ensure that they are valid and can be taken into account. Section 7 (within the final draft policy) which relates to interested parties currently provides information about relevant representations.

It is felt that by re-naming this section 'Relevant representations and interested parties' it will more accurately clarify where this information is located. Additional wording is proposed at section 7.6 which states 'Representations will not be accepted if they do not relate to one or more of the three licensing objectives', to further strengthen the guidance in this section.

2.2.9 Other amendments

It was felt that the wording in certain areas of the policy could be clarified. The following sections have been amended: Section 5.2 and 5.6 in relation to which conditions should be attached to a premises licence and Section 8.1 and 8.2 in relation to the review of a premises licence.

2.3 Responses received during consultation

Responses received during the consultation period between 30 April 2012 and 23 July 2012 are available as background documents along with responses from the Police and Environmental Protection.

In summary:

- The Police response was generally supportive of the proposed amendments to the policy. The Police asked for three additional conditions to be added to the pool of conditions.

- The Council's Environmental Protection team also made supportive comments in relation to the amendments. They asked for additional conditions to control noise and / or nuisance behaviour. Unfortunately as the conditions were not relevant to the licensing objectives they could not be added. This decision has been verified with the Council's legal team.
- Two residents asked that stronger controls should be introduced to control customers who create noise and disturbance outside gambling premises. As nuisance behaviour of this type is not relevant to the gambling objectives this cannot be addressed directly in the policy. However a section has been added into the policy, at point 7.7, which gives contact details for the Council's Environmental Protection service who do have powers to curb this type of activity.
- 13 responses were received from residents or resident associations.
- 61% (8) of residents were in favour of a pool of conditions being added to the policy. 31% (4) did not know or chose not to answer the question. 1 person did not agree with a pool of conditions.
- 77% (10) of local residents were in favour of the Council's 'no casino' resolution. The remaining 3 residents chose not to answer the question.
- The majority of respondents were in favour of each of the changes proposed.

3. RISK MANAGEMENT IMPLICATIONS

- 3.1 The licensing authority can only consider matters within the scope of the Gambling Act, Guidance and associated Codes of Practice and cannot become involved in the moral issues relating to gambling.
- 3.2 Consideration must be given to the three licensing objectives as well as providing the necessary protection to residents, whilst promoting greater choice and flexibility to businesses and their customers.
- 3.3 The review of the Statement of Gambling Principles 2013 will be added to the departmental Risk register to ensure that the risks are managed.

4. CONCLUSION

- 4.1 Careful consideration has been given to the consultation responses and amendments have been made to the revised Statement of Gambling Principles 2013 where it was considered as appropriate.
- 4.2 The key responses have been summarised in section 2.3 of this report. The Revised Statement of Gambling Principles 2013 at Appendix D of this report includes the necessary changes.

4.3 The revised policy has been approved by the Transport, Environment and Residents Services Select Committee on the 10 September 2012 with no comments.

5. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

5.1 The report seeks to adopt the existing Statement of Gambling principles and re-affirm its position with regards to casinos. As such this maintains the status quo and there are no financial implications.

6. COMMENTS OF THE DIRECTOR OF LAW

6.1. The Council has a duty in respect of each three year period to determine its policy with respect to the exercise of its licensing functions and publish a statement of gambling principles by 2 January 2013. The Council is under a duty to undertake a consultation as set out in paragraph 2.2.1 above.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1	Guidance Issued under section 182 of the Licensing Act 2003	Adrian Overton Ext 3081	PPS/ENV
2	Statement of Gambling Policy 2009	Adrian Overton Ext 3081	PPS/ENV
3	12 week consultation letter	Adrian Overton Ext 3081	PPS/ENV
4	Consultation questionnaire	Adrian Overton Ext 3081	PPS/ENV
5	Pool of conditions letter	Adrian Overton Ext 3081	PPS/ENV
6	Proposed Pool of conditions	Adrian Overton Ext 3081	PPS/ENV
7	Police Response	Adrian Overton Ext 3081	PPS/ENV
8	Environmental Protection Response	Adrian Overton Ext 3081	PPS/ENV
9	Consultation Responses	Adrian Overton Ext 3081	PPS/ENV

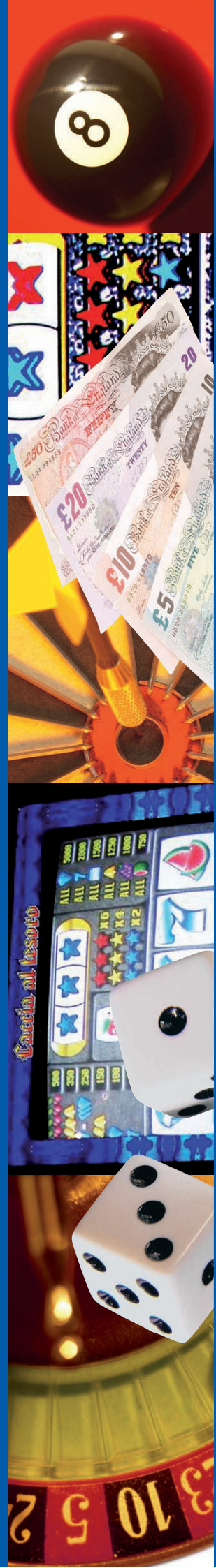
APPENDICES

- Appendix A Statement of Gambling Principles 2009
- Appendix B Draft Pool of conditions – final version
- Appendix C Statement of Gambling Principles 2013 – consulted version
- Appendix D Statement of Gambling Principles 2013 – final version

Statement of gambling policy

December 2009

If you would like any part of this document interpreted into your own language, or produced in large print or braille, please telephone 020 8753 1081.



Under the Gambling Act 2005 we must publish a statement of the principles which we are going to apply in relation to gambling. This statement will apply from 31 January 2010.

We have prepared this statement of principles after considering the guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. We have consulted people on this policy (see page 9) and have considered any responses to the draft statement before adopting and publishing this final document.

We will review and publish this statement at least every three years, and consult people again about any amended parts. If you would like more information, please contact us.

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King Street
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1 Introduction

1.1 The Gambling Act 2005 (the Act) introduced a unified regulator for gambling in Great Britain – the Gambling Commission – and a new licensing system for commercial gambling to be managed by the Commission or by local authorities, depending on the matter that needs to be licensed. The only exceptions are spread betting (regulated by the Financial Services Authority), remote gambling (regulated by the Gambling Commission) and the National Lottery (regulated by the National Lottery Commission). We, the Licensing Authority and the Gambling Commission, will share responsibility for all matters previously regulated by the magistrates' court.

1.2 The Gambling Commission will be responsible for granting operating and personal licences for commercial operators and personnel in the industry. We will issue premises licences for:

- betting offices and racetracks;
- bingo clubs;
- adult gaming centres; and
- family entertainment centres.

We will also issue permits for:

- gaming machines in alcohol-licensed premises, such as pubs;
- gaming machines for members' clubs;
- gaming in members' clubs;
- family entertainment centres not licensed to sell alcohol (category-D machines only, that is, those that have the lowest level of stakes and prizes);
- occasionally - and temporary-use notices; and
- provisional statements.

1.3 Under the Act, we must consider the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- preventing gambling from being a source of

crime or disorder, being associated with crime or disorder or being used to support crime;

- making sure that gambling is carried out in a fair and open way; and
- protecting children and other vulnerable people from being harmed or exploited by gambling.

1.4 Under section 153 of the Act, when making decisions about premises licences and temporary-use notices, we should allow the premises to be used for gambling if we think it is:

- in line with any relevant code of practice and guidance issued by the Gambling Commission; and
- reasonably consistent with the licensing objectives and in line with the principles set out in this document.

1.5 Under the Act, we must:

- be responsible for licensing premises where gambling activities are to take place by issuing premises licences;
- issue provisional statements;
- regulate members' clubs and miners' welfare institutes that want to offer certain gaming activities by issuing club gaming permits or club machine permits (or both);
- issue club machine permits to commercial clubs;
- grant permits for certain lower-stake gaming machines at family entertainment centres that are not licensed to sell alcohol;
- receive notices from premises that are licensed to sell alcohol (under the Licensing Act 2003) that they want to use one or two gaming machines;
- issue gaming machine permits for premises that are licensed to sell or supply alcohol for people to drink on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- register small-society lotteries below set limits;



- issue prize gaming permits;
- receive and approve temporary-use notices;
- receive occasional-use notices;
- provide information to the Gambling Commission about the licences we have issued (see the section on exchanging information); and
- maintain registers of the permits and licences that we issue.

2 The borough

2.1 Hammersmith & Fulham is one of 13 inner-London boroughs. It is situated in the centrewest city and Heathrow airport.

It is a long, narrow borough, running north to south with a river border at its south and southwest side. It is bordered by six London boroughs – Brent to the north, Kensington and Chelsea to the east, Wandsworth and Richmond-upon-Thames to the south, and Ealing and Hounslow to the west. Not including the City of London, it is the third smallest London borough in terms of area, covering 1,640 hectares. It has three town centres – Shepherd's Bush, Hammersmith and Fulham.

2.3 Hammersmith & Fulham is made up of 16 electoral wards. These range in size from 55 hectares to 344 hectares. These areas are shown on the map on page 9.

- 2.4 When producing this statement we have considered:
- local crime prevention;
 - the licensing policy;
 - our planning, transport, tourism and cultural strategies; and
 - our equality agenda.

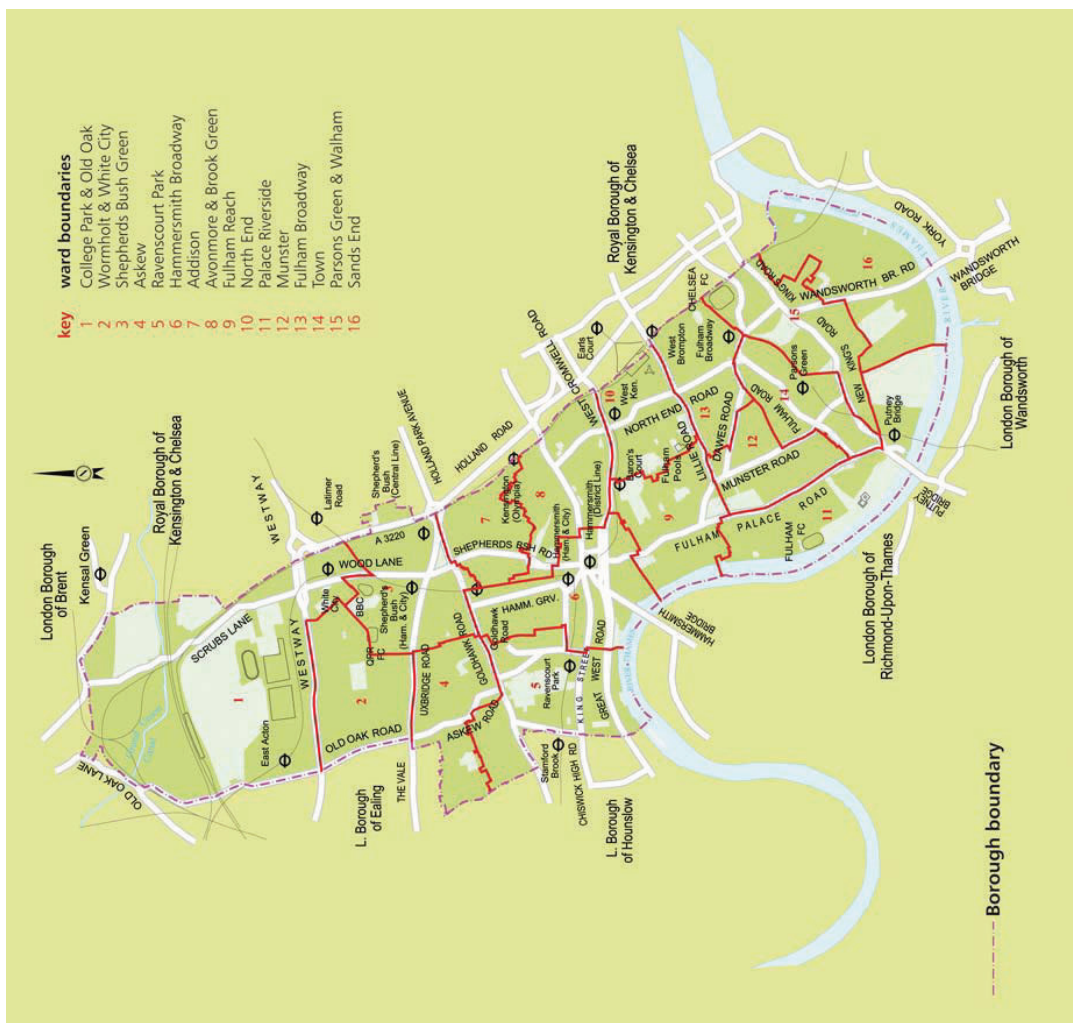
2.5 We consulted the following people before finalising and publishing this statement.

- The police
- Local Safeguarding Children's Board (LSCB)
- Trade associations
- Residents' associations
- Businesses
- Fire authority
- Ward councillors
- Neighbouring authorities
- Chamber of Commerce
- Drug and alcohol action team
- Crime and disorder reduction partnership
- Trade unions
- Other relevant people who could be affected by this policy

2.6 If you would like to see the full list of comments made on the draft statement, please contact us. Our contact details are on page 3.

2.7 This statement was last approved at a meeting of the full council on 29 November 2006 and was published on our website on 20 December 2006. Copies were put in the public libraries as well as being available in the town hall.

2.8 This statement of principles will not stop any person from making an application, commenting on an application, or applying for a review of a licence, as we will consider each one individually and according to the Gambling Act 2005 (except for casinos, see section 16 on page 15).





3 General principles

3.1 The Act and any associated regulations will apply to premises licences as well as specific conditions set out in regulations.

We can exclude some conditions and attach others, where we consider it to be appropriate.

3.2 We are aware that the Gambling Commission's guidance for local authorities says that moral objections to gambling are not a valid reason to reject applications for premises licences, and also that a licensing authority must not consider unmet demand when deciding an application. However, to meet the licensing objectives, we will have to consider whether a particular place is appropriate.

Under the Act, 'premises' includes 'any place'. A single premises cannot have different premises licences operating at different times. However, it is possible for a single building to have more than one premises licence, as long as they are for different parts of the building and the different parts of the building can reasonably be considered as different premises.

Whether different parts of a building can properly be considered as separate premises will always be a question of fact in the circumstances.

3.3 However, the Gambling Commission does not consider areas of a building that are artificially or temporarily separate to be different premises.

3.4 If more than one application is received for premises licences in a single building, we will make a decision on whether the proposed premises are genuinely separate to the extent that they merit their own licence and are not an artificially created part of what is readily identifiable as a single and separate unit. A decision of this nature will be taken by the licensing sub-committee.

When determining whether two or more proposed premises are separate, we will take a number of factors into account. Depending on the specific circumstances of the case these may include:

• Do the premises have different postal addresses?

• Is a separate registration for business rates in place at the premises?

• Are the neighbouring premises owned by the same person or not?

• Can each set of premises be accessed from the street or a public passageway?

• Can the premises be accessed only from any other gambling premises?

• How are the premises separated? Are any partitions fixed, of full height and transparent in any part?

Where the licensing authority determines that more than one premises licences can be granted within a single building, then specific measures may be required to be included as conditions on the licences. Such measures may include:

- the supervision of entrances
- segregation of gambling from non-gambling areas, which may include the type and position of partitions and/or
- the supervision of the premises and gaming machines

3.5 We pay particular attention to the Gambling Commission's guidance for local authorities, which says the following.

Licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling.

Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.

• Customers should be able to participate in the activity named on the premises licence.

3.6 You cannot get a full premises licence until the premises in which you are going to offer the gambling are built. The Gambling Commission has advised that 'the premises' means the premises in which gambling may now take place. So a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. The Gambling Commission emphasises that making sure the building is complete means that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

3.7 In line with the Gambling Commission's guidance for local authorities, we will pay particular attention to protecting children and vulnerable people from being harmed or exploited by gambling, as well as issues of crime and disorder.

3.8 If any policy is developed which affects where gambling premises can be located, we will update this statement. However, any such policy will not prevent anyone from making an application and we will consider each application individually, except for an application for a casino (see section 16 on page 15). You will have to show how any possible concerns can be overcome.

3.9 We will try to avoid repeating any work already carried out under other systems where possible, including planning. We will not consider whether a licence application is likely to be awarded planning permission or building regulations

approval. However, we will carefully consider any concerns about conditions which are not able to be met by licensees due to planning restrictions.

4 Conditions

4 Any conditions attached to licences will be lawful and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

4.1 We will make decisions on individual conditions, on a case-by-case basis, although there will be a number of measures we will consider using if necessary, such as using supervisors, appropriate signs for adult-only areas and so on. We will also expect you to offer suggestions as to how you will meet the licensing objectives effectively.

4.2 We will also consider specific measures which may be needed for buildings which have more than one premises licence. These may include supervising entrances, separating gambling from non-gambling areas used by children and supervising gaming machines in non-adult gambling premises to achieve the licensing objectives.

4.3 Appropriate licence conditions may be as follows.

- All gaming machines are in an area of the premises which is separated from the rest through a physical barrier which prevents people from entering other than through a specific entrance.

- Only adults are allowed into the area where these machines are.

- Access to the area where the machines are is supervised.

- The area where these machines are must be arranged so that it can be monitored by the staff or the licence holder.



- Recognised proof-of-age schemes must be in place.
 - At the entrance to and inside any of these areas, notices should be clearly displayed showing that people under 18 are not allowed in these areas.
 - The entrance and gaming machines must be in appropriate places.
 - Closed-circuit television must be provided.
 - Door supervisors must be provided.
 - There must be specific opening hours.
 - There must be self-barring schemes. This means that problem gamblers can ask for their casual membership to be suspended and ask to be denied entry so they can deal with their addiction.
 - Information leaflets and helpline numbers for organisations such as Gamcare must be provided.
- These considerations will also apply to premises where more than one premises licence is needed.
- 4.6 We may consider whether door supervisors are needed to meet the licensing objectives of protecting children and vulnerable people from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. We may feel it necessary to add specific conditions in relation to door supervisors, particularly when the door supervisors do not have to be registered with SIA. These conditions may include:
- the need to be easily identifiable, with the person's name badge clearly on display; and
 - the need to have received specific training related to the task being performed.
- 4.7 This recognises the work door supervisors carry out in terms of searching individuals, dealing with potentially aggressive people and so on.
- 4.8 For premises other than casinos and bingo premises, operators and licensing authorities may decide that entrances and machines should
- be supervised in particular cases, but they will need to decide whether these supervisors need to be licensed by the SIA or not. It will not be automatically assumed that they need to be.
- 4.9 There is no evidence that betting offices need door supervisors to protect the public. The authority will only order a betting shop to appoint a door supervisor if there is clear evidence that the premises cannot be properly supervised from the counter.
- 5 Responsible authorities**
- 5.1 The responsible authorities as defined by the Act are listed in the glossary on page 21.
- You can get the contact details of all the responsible authorities under the Act from our website at www.lbhf.gov.uk
- 5.2 We must set out the principles we will apply when naming an organisation which will be able to advise us on protecting children from harm. The principles are that the organisation must be:
- responsible for an area covering the whole of the licensing authority's area; and
 - be answerable to elected people, rather than any group with an interest in gambling.
- 5.3 We appoint the Local Safeguarding Children's Board (LSCB) for this purpose.
- 6 Interested parties**
- 6.1 Interested parties can comment on licence applications, or apply for a review of an existing licence. Interested parties are defined in section 158 of the Act as follows.
- 'For the purposes of this part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b).'
- 6.2 We will decide each case individually. We will not apply a strict rule when making decisions. We will consider the examples of considerations provided in the Gambling Commission's guidance for local authorities at paragraphs 8.14 and 8.15 of that guidance.
- 6.3 The Gambling Commission has recommended that we make it clear that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission guidance for local authorities 8.17). However, we will not generally view these organisations as interested parties unless they have a member who can be classed as an interested person under the terms of the Act (that is, lives close enough to the premises or has business interests that might be affected by the activities being applied for).
- 6.4 Interested parties can be people who are democratically elected such as councillors and MPs. We won't need specific evidence of them being asked to represent an interested person as long as the councillor or MP represents the ward that is likely to be affected. Other than these, however, we will generally need written evidence that a person or organisation 'represents' someone who either lives close enough to the premises to be likely to be affected by the authorised activities or has business interests that might be affected by the authorised activities. We will accept a letter from one of these people, asking for the representation.
- 6.5 If people want to approach councillors to ask them to represent their views, they should be careful that the councillors are not part of the licensing committee dealing with the licence application. Councillors may be restricted in representing constituents under the members' code of conduct in cases where they have a particular interest. Please contact us if there are any doubts (our contact details are on page 3).
- 7 Reviews**
- 7.1 Interested parties or responsible authorities can ask us to review a premises licence (see the glossary on page 18 for a list of relevant authorities). However, we will decide whether the review should be carried out. Our decision will be based on whether the request for the review:
- raises an issue relevant to any relevant code of practice, any relevant guidance issued by the Gambling Commission, the licensing objectives or this statement;
 - is frivolous or vexatious;
 - will cause us to alter, revoke (withdraw) or suspend the licence; or
 - raises grounds that are substantially the same as, or different from, grounds within an earlier request for a review or from representations made in relation to the application for the premises licence.
- We can also review a licence for any reason we consider to be appropriate under the law.
- 8 Enforcement**
- 8.1 We have signed up to the regulators' compliance code and will follow the principles set out in it. We will try to make sure that any enforcement action we take is:
- **proportionate** – regulators should only get involved when necessary solutions are appropriate to the risk posed, and costs have been identified and reduced;
 - **accountable** – regulators must be able to justify decisions, and be open to public questioning;
 - **consistent** – rules and standards must be put into practice fairly;
 - **transparent** – regulators should be open, and keep regulations simple and user-friendly; and
 - **targeted** – regulations should be focused on the problem, and reduce side effects.



8.2 We will also follow a risk-based inspection programme. While the Gambling Commission's guidance suggests that we should include the criteria we will use for this, this has not been possible. At the time of writing, the Gambling Commission has not published its risk criteria regulations or codes of practice. We will consider this model once it is available.

8.3 Once premises have been licensed it is essential that they are monitored to make sure that they are run in line with their operating schedules and with any licence conditions. It will also be important to monitor the borough for unlicensed premises.

8.4 The main enforcement role for us in terms of the Act will be to make sure that premises are used in line with the licences and other permissions which we authorise. The Gambling Commission will be the enforcement body for the operating and personal licences. The Gambling Commission will also deal with concerns about the manufacture, supply or repair of gaming machines.

8.5 We will investigate complaints about licensed premises in relation to the licensing objectives which we are responsible for. However, to begin with, you should raise the complaint directly with the licence holder or business concerned to try and find a solution.

9 Exchanging information

9.1 We will follow the Act whenever we exchange information with other people. Sharing information with certain other people will not break the Data Protection Act 1998.

9.2 We will also consider any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

9.3 If any guidelines are produced about exchanging information with other organisations, we will make them available.

9.4 You can find guidance on how to get information under the Freedom of Information Act or Data Protection Act on our website at www.lbbf.gov.uk

10 Provisional statements

10.1 We will decide whether premises can be considered for a premises licence. The guidance issued by the Gambling Commission advises that the building should be complete so that the authority could, if necessary, carry out a full inspection.

10.2 We cannot consider any more representations from relevant authorities or interested parties after we have issued a provisional statement, unless they concern matters which could not have been dealt with at the provisional statement stage, or they reflect a change in your circumstances. We may also refuse the premises licence (or grant it on terms different to those attached to the provisional statement) if the matter:

- could not have been raised by objectors at the provisional licence stage; or
- reflects a change in the operator's circumstances.

11 Temporary-use notices

11.1 These allow premises to be used for gambling where there is no premises licence but where a gambling operator wants to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary-use notice would include hotels, conference centres and sporting venues.

11.2 A temporary-use notice may only be granted to a person or company holding a relevant operating licence. For example, the holder of a betting operating licence could apply to provide betting facilities at a snooker tournament.

11.3 The Secretary of State will list the gambling activities that may be covered by a temporary-use notice, as well as activities that may not be and activities that may not be combined with any other.

12 Occasional-use notices

12.1 Where there is betting on a track on eight days or less in a calendar year, betting may be allowed under an occasional-use notice without the need for a full premises licence.

12.2 We have very little power in relation to these notices other than making sure that betting is not allowed for more than eight days in a calendar year.

13 Consultation

13.1 We will expect you to advertise the application in line with the regulations made under the Act.

13.2 We will carry out a consultation process in line with the regulations made under the Act.

In exceptional circumstances we may consider it appropriate to carry out a more thorough public consultation.

We will publicise details of applications received.

14 Adult gaming centres, family entertainment centres, licensed to sell alcohol, bingo premises, betting premises

14.1 When deciding applications for a premises licence for these premises, we will consider the need to protect children and vulnerable people from harm or being exploited by gambling.

We will expect you to satisfy us that there will be enough measures in place to meet this licensing objective.

14.2 We will expect you to offer your own measures to meet the licensing objectives.

Appropriate measures and licence conditions may include the ones listed in section 4 on page 11.

14.3 We will consider the guidance issued by the Gambling Commission and will take into account the size, suitability, layout of the premises and, if relevant, the number of counters available for face-to-face transactions.

15 Family entertainment centres not licensed to sell alcohol

15.1 If a premises does not hold a premises licence but wants to provide gaming machines, it may apply to us, the licensing authority, for this permit. The person applying must show that the premises will be completely or mainly used for gaming machines (section 238).

15.2 Unlicensed family entertainment centres will be able to offer only category-D machines with a gaming machine permit. There can be any number of category-D machines with such a permit (depending on other considerations such as fire regulations and health and safety, which will not be issues for the licensing authority under the Gambling Act). We cannot issue permits for vessels or vehicles.

15.3 We cannot attach conditions to this type of permit. We have not yet adopted a statement of principles for permits.

16 Casinos

16.1 We have a 'no casino' resolution in this borough because it is mainly residential and a casino would be out of character with the area. Also, at the moment, we have varied leisure and night-time activities around three town centres. We would not want to create an inequality between these competing town centres.

16.2 The 'no casino' resolution came into effect on the same date as this statement. We will review this resolution at least every three years, and can withdraw it at any time.

16.3 This means that we will not consider any applications for a premises licence for a casino. We will return any applications we receive with a notice that a 'no casino' resolution is in place.



17 Track betting

- 17.1 We are aware that tracks may need more than one premises licence and we will especially consider the effect on the third licensing objective (that is, protecting children and vulnerable people from being harmed or exploited by gambling).
- 17.2 We would expect you to show that suitable measures are in place to make sure that children do not have access to adult-only gaming facilities. Appropriate measures and licence conditions may include the ones listed in section 4 on page 11.
- 17.3 We will expect you to have plans that explain very clearly what you want authorisation for under the track betting premises licence and which, if any, other areas need a separate application for a different type of premises licence.

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18 Travelling fairs

- 18.1 We will firstly consider whether you fall within the legal definition of a travelling fair.
- 18.2 If category-D machines or equal-chance prizes are going to be available at a travelling fair, we must decide whether or not the facilities for gambling are the main amusements at the fair.
- 18.3 Fairs cannot be held on a piece of land for more than 27 days a year, no matter whether it is the same or a different travelling fair using the land. We will work with our neighbouring authorities to make sure that land which crosses administrative boundaries is monitored so that the legal limits are not broken.

19 Gaming machine permits for premises that sell alcohol

- 19.1 Premises licensed to sell alcohol for people to drink on the premises are entitled to have two gaming machines, of categories C or D (or both). The licensee just needs to tell us about them. We can, however, remove this entitlement if:
- the machines are not provided in line with the licensing objectives;

- gambling has taken place on the premises that breaks a condition of section 282 of the Gambling Act (that is, written notice has not been provided to the licensing authority, a fee has not been paid and any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been met);
- the premises are mainly used for gambling; or
- an offence under the Gambling Act has been committed on the premises.

- 19.2 If a licensee wants to have more than two machines, they need to apply for a permit and we must consider that application based on the licensing objectives, any guidance issued by the Gambling Commission issued under section 25 of the Act, and any other relevant conditions.
- 19.3 One of the licensing objectives is to protect children and vulnerable people from harm or being exploited by gambling. We will expect you to show us that there will be enough measures to make sure that people under 18 do not have access to the adult-only gaming machines. Appropriate measures and licence conditions may include the ones listed in section 4 (the conditions are on page 11).
- 19.4 Some alcohol-licensed premises may apply for a premises licence for areas of the premises which are not licensed for selling alcohol. Any such application would most likely need to be made and dealt with as a premises licence for an adult gaming centre.
- 19.5 We can decide to grant the application with a smaller number of machines or a different category of machines than you have applied for. Conditions (other than these) cannot be attached.
- 19.6 The holder of a permit must follow any code of practice issued by the Gambling Commission about where and how the machine must be used.
- 19.7 We have not yet adopted a statement of principles for permits.

20 Prize gaming permits statement of principles on permits - schedule 14 on paragraph 8 (3)

- 20.1 Gaming is defined as prize gaming if the nature and size of the prize does not depend on the number of people playing or the amount paid for or raised by the gaming. The operator decides the prize before anyone starts to play on the machines.
- 20.2 A prize gaming permit is a permit we issue to authorise gaming facilities with prizes on specific premises.
- 20.3 An application for a permit can only be made by a person who uses or plans to use the relevant premises. If the applicant is an individual, they must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is for the same premises. The application must be made to the authority in whose area the premises are completely or partly situated.
- 20.4 When making our decision on an application for this permit, we do not need to consider licensing objectives but must consider any Gambling Commission guidance.
- 20.5 There are conditions in the Act which the permit holder must follow. These are:
- the limits on participation fees, as set out in regulations;
 - all chances to take part in the gaming must be offered on the premises on which the gaming is taking place and on one day, the game must be played and completed on the day the chances are offered and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not be more than the amount set out in regulations (if a money prize), or the set value (if a non-monetary prize); and
 - taking part in the gaming must not entitle the player to take part in any other gambling.

21 Club gaming and club machine permits

- 21.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club gaming machine permit.
- 21.2 Gambling Commission guidance says: 'Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.'
- 21.3 We may only refuse an application if:
- you do not fulfil the requirements for a members' or commercial club or miners' welfare institute and so are not entitled to receive the type of permit which you have applied for;
 - your premises are used wholly or mainly by children or young people;
 - you have committed an offence under the Act or have broken the conditions of a permit while providing gaming facilities;
 - a permit held by you has been cancelled in the previous 10 years; or
 - an objection has been lodged by the commission of the police.
- 21.4 There are conditions attached to club gaming permits that no child uses a category-B or category-C machine on the premises and that the holder follows any relevant code of practice about where and how gaming machines are used.



22 Glossary

- 22.1 **Adult gaming centre** – a premises that may have up to four category-B machines (restricted to B3 and B4), any number of category-C machines and any number of category-D machines.
- 22.2 **Betting premises** – a premises that may have up to four gaming machines of category-B (restricted to B2, B3 and B4), C or D.
- 22.3 **Bingo premises** – a premises that may have up to four category-B machines (restricted to B3 and B4), any number of category-C machines and any number of category-D machines.
- 22.4 **Categories of gambling** – regulations will define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. These are the current proposals.

	Maximum stake	Maximum prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when a non-monetary prize	£5 cash or £8 non-monetary prize

- 22.5 **Club machines permit** – a premises will need this permit if it is a members' club, a commercial club or a miners' welfare institute, with up to three machines of category-B (restricted to B4) C or D (that is, three machines in total).
- 22.6 **Family entertainment centre** (with commission operating licence) – a premises that may have any number of category-C machines and any number of category-D machines. Category-C machines must be in a separate area to make sure that they are only played by adults.

- 22.7 **Family entertainment centre** (with gaming machine permit) – a premises that may have any number of category-D machines. There is no power for the licensing authority to set a limit on the number of machines covered by the permit.
- 22.8 **Gaming machines** – all machines on which people can gamble.
- 22.9 **Occasional-use notices** – where there is betting on a track on eight days or less in a calendar year, betting may be allowed under an 'occasional-use notice' without the need for a full premises licence.
- 22.10 **Regulators' compliance code** – protects the public, the environment and groups such as consumers and workers through the 'business-friendly' enforcement of regulations. It is a procedure that can be adopted by enforcement officers to help businesses and others meet their legal responsibilities without unnecessary expense while taking firm action, including prosecution where appropriate, against those who break the law or act irresponsibly.

- 22.11 **Remote gambling** – gambling that takes place on the internet.
- 22.12 **Responsible authorities** – these are public organisations that must be told about applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, a premises licence. They are:
- a licensing authority in whose area the premises is completely or partly situated;
 - the Gambling Commission;
 - the chief officer of police or chief constable for the area in which the premises is completely or partly situated;
 - the fire and rescue authority for the same area;
 - the local planning authority;
 - the pollution department;
 - the Local Safeguarding Children's Board (LSCB); and
 - HM Revenue & Customs.

- 22.13 **Spread betting** – allows an investor to bet on whether they believe that the price quoted is likely to strengthen (go up in value) or weaken (go down in value). The profit or loss for a spread better depends on the difference in the buy and sell price.
- 22.14 **Temporary-use notices** – these allow premises to be used for gambling where there is no premises licence but where a gambling operator wants to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary-use notice would include hotels, conference centres and sporting venues.
- 22.15 **Travelling fair** – completely or mainly providing amusements on a site that has been used for fairs for no more than 27 days in each calendar year. Any number of category-D machines can be made available but the facilities for gambling must not be the main amusements at the fair.

If you have any comments about this statement, please send them by e-mail or letter to us.

Licensing Section
Public Protection and Safety
Environment Services
5th Floor Town Hall Extension
King Street
Hammersmith
London W6 9JU
Email: licensing@lbhf.gov.uk
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Annex 1 – Mandatory Conditions

Gambling Act 2005 – Mandatory and Default Conditions by premises type

All Premises		
All	Summary of the terms and conditions of the premises licence shall be displayed in a prominent place with the premises.	Mandatory
All	The layout of the premises shall be maintained in accordance with the plan.	Mandatory
All	The premises shall not be used for the sale of tickets in a private lottery or customer lottery or the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.	Mandatory
Betting Premises		
Betting Premises	A notice stating that no person under the age of 18 is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Betting Premises	Access to the premises shall be from a street or from other premises with a betting premises licence. Apart from this there must be no direct access between the premises and other premises which are used for the retail sale of merchandise or services.	Mandatory
Betting Premises	The premises shall not be used for any purpose other than for providing facilities for betting apart from anything permitted under the Gambling Act 2005 and having an ATM, permitted visual/sound apparatus and permitted publications.	Mandatory
Betting Premises	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.	Mandatory
Betting Premises	No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes: a) Communicating information about, or coverage of, sporting events, including- (i) information relating to betting on such an event; and (ii) any other mater of information, including an advertisement, which is incidental to such an event; b) Communicating information relating to betting on any event (including the result of an event) in connection with which betting transactions may be or have been effected on the premises.	Mandatory
Betting Premises	No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.	Mandatory
Betting Premises	No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided via the sound / visual apparatus referred to above.	Mandatory
Betting Premises	No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises. A notice explaining this shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Betting Premises	A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.	Mandatory
Betting Premises	HOURS: No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next day.	Default
Betting Tracks only		
Tracks(all)	No customer shall be able to access the premises directly from another premises which has a casino premises licence or an adult gaming centre premises licence.	Mandatory
Tracks (all)	A notice stating that no person under the age of 18 is permitted to bet on the	Mandatory

	premises shall be displayed in a prominent place at every public entrance to the premises.	
Tracks(all)	The terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access.	Mandatory
Tracks(all)	The premises licence holder shall make arrangements to ensure that betting operators who are admitted to the premises for the purpose of accepting bets- (a) will be operating under a valid operating licence; and (b) are enabled to accept such bets in accordance with- (i) the conditions imposed under sections 92 (general betting operating licence) or 93 (pool betting operating licence) of the 2005 Act, or (ii) an authorisation under section 94 (horse-race pool betting operating licence) of that Act	Mandatory
Tracks(all)	The premises licence holder shall make arrangements to ensure that reasonable steps are taken to remove from the premises any person who is found to be accepting bets on the premises otherwise than in accordance with the 2005 Act.	Mandatory
Tracks(all)	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.	Mandatory
Horseracing Tracks (converted from an existing track)	The licence holder shall ensure that any part of the tracks which, prior to 1 st September 2007, were made available for betting operators (or their assistants) will continue to be so.	Mandatory
Horseracing Tracks (converted from an existing track)	The charge for admission to an existing betting area for providing facilities for betting shall not exceed five times the cost of the highest charge paid by members of the public (for betting operators) or the highest charge paid by member of the public (for the betting operator's assistant). All betting operators and betting operators' assistants will be charged the same for admission to the same part of the track. No other charged may be made and the charges must only cover reasonable costs.	Mandatory
Horseracing tracks (all)	The premises licence holder shall provide a place on the premises where betting operators and betting operators' assistants may provide facilities for betting. This does not apply to converted licences until 1 st September 2012.	Mandatory
Dog Tracks	A totalisator on the premises shall only be operated at a time when the public are admitted for the purpose of attending dog races and no other sporting events are taking place on the premises, and for the purpose of effecting betting transactions on the dog races taking place on the premises.	Mandatory
Dog Tracks	At any time when the totalisator is being used, no betting operator or betting operator's assistance shall be excluded from the premises for the reason that s/he proposes to negotiate bets on the premises. There must also be space made available where the betting operators and their assistants can conveniently accept and negotiate bets in connection with the dog races running on the premises that day.	Mandatory
Tracks (all)	HOURS: No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next, except where there is a sporting event taking place on the premises. Where there is a sporting event taking place on the premises then gambling may take place at any time that day.	Default

Bingo

Bingo	A notice stating that no person under the age of 18 is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Bingo	No customer shall be able to enter the premises directly from any other premises in respect of which one of the following permissions has effect: <ul style="list-style-type: none"> • A casino premises licence 	Mandatory

	<ul style="list-style-type: none"> • An adult gaming centre premises licence • A betting premises licence other than a track premises licence • 	
Bingo	<p>Where children and/or young persons are permitted by the licence holder to enter the premises, and category B or C gaming machines are made available for use on the premises, then the gaming machines must be:</p> <ul style="list-style-type: none"> • separated from the rest of the premises by a physical barrier to prevent access other than via an entrance designed to be the entrance • supervised at all times to ensure children or young persons do not enter the area • arranged so that the area can be observed by persons responsible for supervision or closed circuit television which is monitored <p>The gaming machines area must also have a notice at the entrance stating that no person under the age of 18 years is permitted to enter the area.</p>	Mandatory
Bingo	Where there is a charge for admission there must be a notice of the charge displayed in a prominent place at the principal entrance to the premises.	Mandatory
Bingo	A notice setting out any other charges in respect of the gaming (except prize gaming) shall be displayed at the main point where payment for the charge is to be made. Such a notice must include the cost (in money) of each game card or set of game cards, payable by an individual in respect of the game of bingo, and the amount that will be charged by way of a participation fee. There should also be in the notice a statement that all/part of the participation fee may be waived at the discretion of the person charging it. This notice can be displayed in electronic form.	Mandatory
Bingo	The rules of each type of game that is available (other than gaming machines) shall be made available to customers within the premises by either displaying a sign, making leaflets or other written material available, or running an audio-visual guide prior to any game commencing.	Mandatory
Bingo	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.	Mandatory
Bingo	HOURS: No facilities for gambling shall be provided on the premises between midnight and 9am, apart from gaming machines.	Default
Arcades		
Adult Gaming Centres	A notice stating that no person under the age of 18 is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Adult Gaming Centres	<p>No customer shall be able to access the premises directly from any other premises in respect of which a premises licence of the following types of permit have effect:</p> <ul style="list-style-type: none"> • unlicensed family entertainment centre gaming machine permit • club gaming or club machine permit • alcohol licensed premises gaming machine permit 	Mandatory
Adult Gaming Centres	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.	Mandatory
Adult Gaming Centres	No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises. A notice to this effect shall be displayed at every entrance to the premises in a prominent place.	Mandatory
Family Entertainment Centres	<p>No customer shall be able to access the premises directly from a premises where there is:</p> <ul style="list-style-type: none"> • a casino premises licence • an adult gaming centre premises licences • a betting premises licence(other than a track premises licence) 	Mandatory

Family Entertainment Centres	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.	Mandatory
Family Entertainment Centres	Where category C gaming machines are made available for use on the premises, then the gaming machines must be: <ul style="list-style-type: none"> separated from the rest of the premises by a physical barrier to prevent access other than via an entrance designed to be the entrance supervised at all times to ensure children or young persons do not enter the area arranged so that the area can be observed by persons responsible for supervision, or closed circuit television which is monitored The gaming machines area must also have a notice at the entrance stating that no person under the age of 18 is permitted to enter the area.	Mandatory
Family Entertainment Centres	No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises. A notice to this effect shall be displayed at every entrance to the premises in a prominent place.	Mandatory

Annex 2 – Local Pool of Licence Conditions

The following conditions can be applied to a number of different gambling premises. They can be used as a guide for applicants, residents, Councillors, agencies and responsible authorities such as the Police when making, commenting on or considering applications. This list is not exhaustive and should be used as a guide to help promote the three licensing objectives.

CCTV
CCTV shall operate at all times while the premises remains open to the public and all images captured will be recorded and stored on site for a minimum period of 31 days
Copies of CCTV recordings will be made available to the Police and/or the Licensing Authority on request within 48 hours of the request being made together with facilities for viewing where requested. If the CCTV equipment is inoperative, or is otherwise not installed and working to the satisfaction of the Police or the Licensing Authority, then within 48 hours the Police or Licensing Authority shall be notified and an estimate given of the repair timescale. The premises will comply with all reasonable requests from the Police, which may include the suspension of licensable activities if necessary.
Training
Full training shall be given to each member of staff employed at the premises. This training should include sections on compliance, fraud, robbery and crime prevention.
Written records of all staff training shall be kept at the premises and should be made available to the Police and / or authorised Council officers on request
Responsible Management
An incident log book will be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder, and ejections at a minimum. The log book shall be kept on the premises and be made available for inspection at all times the premises is open, and management shall regularly check the book to ensure that all staff are using it. This book should be made available for inspection by the Police or Council Officers at any time the premises is open.
Protecting children, proof of age schemes
A Proof of Age scheme shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence, a current passport or a PASS ID card shall be treated as acceptable forms of identification
All staff shall be trained in the Proof of Age policy and how to identify acceptable means of identification.
Posters shall be displayed in prominent positions around the entrance to the premises advising

customers of the Proof of Age policy in force at the premises
A refusals book shall be kept at the premises to record details of all refusals to provide gambling activities. This book shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The book shall be made available to the Police and/or authorised Council officers, on request.
Door Supervisors
Any door supervisors working at the premises must be licensed by the Security Industry Authority
A minimum of (insert number) door supervisors shall be on duty on the premises during the hours of (insert times) on (insert days of the week)
A minimum of (insert number) of door supervisors shall be provided on (insert days of week) to patrol external areas of the premises between the hours of (insert times)
Random searches of customers shall be undertaken of customers entering the premises between the hours of (insert times) and prominent signage provided to this effect
Crime Prevention
A metal detection device shall randomly be used by door supervisors to search patrons for weapons
A search arch shall be used at the entrance to the premises to detect customers who may be carrying weapons
An electronic door lock (maglock) shall be fitted to the front door of the premises.
Any drugs or weapons confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable
All gaming machines shall have a control behind the counter to allow machines to be turned on or off.
(Insert crime prevention device – see below) shall be installed at the premises to the satisfaction of the Police licensing officer
<ul style="list-style-type: none"> ▪ Shutters ▪ Re – enforced steel back / front doors ▪ Window bars ▪ External lighting ▪ Security mirrors ▪ Prevention signage
No facilities for gambling shall be provided on the premises between the hours of (Insert time) on one day and (Insert time) on the next day
Any entrance or exit doors to the premises shall remain closed at all times (i.e. not propped open)
A panic button shall be installed behind the counter or service area in the premises. This button should alert the Police to any incident taking place at the premises.
Lone working is not permitted in the premises at any time

Appendix C

Under the Gambling Act 2005 we must publish a statement of the principles which we are going to apply in relation to gambling. This statement will apply from 31 January 2013.

We have prepared this statement of principles after considering the guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. We have consulted people on this policy (see page 9) and have considered any responses to the draft statement before adopting and publishing this final document.

We will review and publish this statement at least every three years, and consult people again about any amended parts. If you would like more information, please contact us.

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1 Introduction

1.1 The Gambling Act 2005 (the Act) introduced a unified regulator for gambling in Great Britain – the Gambling Commission – and a new licensing system for commercial gambling to be managed by the Commission or by local authorities, depending on the matter that needs to be licensed. The only exceptions are spread betting (regulated by the Financial Services Authority), remote gambling (regulated by the Gambling Commission) and the National Lottery (regulated by the National Lottery Commission). We, the Licensing Authority and the Gambling Commission, will share responsibility for all matters previously regulated by the magistrates' court.

1.2 The Gambling Commission will be responsible for granting operating and personal licences for commercial operators and personnel in the industry. We will issue premises licences for:

- betting offices and racetracks;
- bingo clubs;
- adult gaming centres; and
- family entertainment centres.

We will also issue permits for:

- gaming machines in alcohol-licensed premises, such as pubs;
- gaming machines for members' clubs;
- gaming in members' clubs;
- family entertainment centres not licensed to sell alcohol (category-D machines only, that is, those that have the lowest level of stakes and prizes);
- occasionally - and temporary-use notices; and
- provisional statements.

1.3 Under the Act, we must consider the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- making sure that gambling is carried out in a fair and open way; and
- protecting children and other vulnerable people from being harmed or exploited by gambling.

1.4 Under section 153 of the Act, when making decisions about premises licences and temporary-use notices, we should allow the premises to be used for gambling if we think it is:

- in line with any relevant code of practice and guidance issued by the Gambling

Commission; and

- reasonably consistent with the licensing objectives and in line with the principles set out in this document.

1.5 Under the Act, we must:

- be responsible for licensing premises where gambling activities are to take place by issuing premises licences;
- issue provisional statements;
- regulate members' clubs and miners' welfare institutes that want to offer certain gaming activities by issuing club gaming permits or club machine permits (or both);
- issue club machine permits to commercial clubs;
- grant permits for certain lower-stake gaming machines at family entertainment centres that are not licensed to sell alcohol;
- receive notices from premises that are licensed to sell alcohol (under the Licensing Act 2003) that they want to use one or two gaming machines;
- issue gaming machine permits for premises that are licensed to sell or supply alcohol for people to drink on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- register small-society lotteries below set limits;
- issue prize gaming permits;
- receive and approve temporary-use notices;
- receive occasional-use notices;
- provide information to the Gambling Commission about the licences we have issued (see the section on exchanging information); and
- maintain registers of the permits and licences that we issue.

2 The borough

2.1 Hammersmith & Fulham is one of 13 inner-London boroughs. It is situated in the centrewest of London, on the transport routes between the city and Heathrow airport.

2.2 It is a long, narrow borough, running north to south with a river border at its south and south-west side. It is bordered by six London boroughs – Brent to the north, Kensington and Chelsea to the east, Wandsworth and Richmond-upon-Thames to the south, and Ealing and Hounslow to the west. Not including the City of London, it is the third smallest London borough in terms of area, covering 1,640 hectares. It has three town centres – Shepherd's Bush, Hammersmith and Fulham.

2.3 Hammersmith & Fulham is made up of 16 electoral wards. These range in size from 55 hectares to 344 hectares. These areas are shown on the map on page 9.

2.4 When producing this statement we have considered:

- local crime prevention;
- the licensing policy;
- our planning, transport, tourism and cultural strategies; and
- our equality agenda.

2.5 We consulted the following people before finalising and publishing this statement.

- The police
- Local Safeguarding Children's Board (LSCB)
- Trade associations
- Residents' associations
- Businesses
- Fire authority
- Ward councillors
- Neighbouring authorities
- Chamber of Commerce
- Drug and alcohol action team
- Crime and disorder reduction partnership
- Trade unions
- Other relevant people who could be affected by this policy

2.6 If you would like to see the full list of comments made on the draft statement, please contact us. Our contact details are on page 3.

2.7 This statement was last approved at a meeting of the full council on 29 November 2006 and was published on our website on 20 December 2006. Copies were put in the public libraries as well as being available in the town hall.

2.8 This statement of principles will not stop any person from making an application, commenting on an application, or applying for a review of a licence, as we will consider each one individually and according to the Gambling Act 2005 (except for casinos, see section 16 on page 17).

3 General principles

3.1 The Act and any associated regulations will apply to premises licences as well as specific conditions set out in regulations. We can exclude some conditions and attach others, where we consider it to be appropriate.

3.2 We are aware that the Gambling Commission's guidance for local authorities says that moral objections to gambling are not a valid reason to reject applications for premises licences, and also that a licensing authority must not consider unmet demand when deciding an application. However, to meet the licensing objectives, we will have to consider whether a particular place is appropriate.

3.3 Under the Act, 'premises' includes 'any place'. A single premises cannot have different premises licences operating at different times. However, it is possible for a single building to have more than one premises licence, as long as they are for different parts of the building and the different parts of the building can reasonably be considered as different premises. Whether different parts of a building can properly be considered as separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider areas of a building that are artificially or temporarily separate to be different premises.

3.4 If more than one application is received for premises licences in a single building, we will make a decision on whether the proposed premises are genuinely separate to the extent that they merit their own licence and are not an artificially created part of what is readily identifiable as a single and separate unit. A decision of this nature will be taken by the licensing sub-committee. When determining whether two or more proposed premises are separate, we will take a number of factors into account. Depending on the specific circumstances of the case these may include:

- Do the premises have different postal addresses?
- Is a separate registration for business rates in place at the premises?
- Are the neighbouring premises owned by the same person or not?
- Can each set of premises be accessed from the street or a public passageway?
- Can the premises be accessed only from any other gambling premises?
- How are the premises separated? Are any partitions fixed, of full height and transparent in any part?

Where the licensing authority determines that more than one premises licences can be granted within a single building, then specific measures may be required to be included as conditions on the licences. Such measures may include:

- the supervision of entrances
- segregation of gambling from non-gambling areas, which may include the type and position of partitions and / or the supervision of the premises and gaming machines

3.5 We pay particular attention to the Gambling Commission's guidance for local authorities, which says the following.

Licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

3.6 You cannot get a full premises licence until the premises in which you are going to offer the gambling are built. The Gambling Commission has advised that 'the premises' means the premises in which gambling may now take place. So a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. The Gambling Commission emphasises that making sure the building is complete means that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

3.7 In line with the Gambling Commission's guidance for local authorities, we will pay particular attention to protecting children and vulnerable people from being harmed or exploited by gambling, as well as issues of crime and disorder.

3.8 If any policy is developed which affects where gambling premises can be located, we will update this statement. However, any such policy will not prevent anyone from making an application and we will consider each application individually, except for an application for a casino (see section 16 on page 17). You will have to show how any possible concerns can be overcome.

3.9 We will try to avoid repeating any work already carried out under other systems where possible, including planning. We will not consider whether a licence application is likely to be awarded planning permission or building regulations approval. However, we will carefully consider any concerns about conditions which are not able to be met by licensees due to planning restrictions.

4 Premises Licences

4.1 Any person or business that wishes to offer gambling for which an operating licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Authority for a premises licence.

4.2 Premises licences can authorise the provision of facilities on:

- (a) casino premises,
- (b) bingo premises,
- (c) betting premises including tracks and premises used by betting intermediaries,
- (d) adult gaming centre premises, or
- (e) family entertainment centre premises.

4.3 For each premises type the Act makes it clear that the primary activity should be that described in the premises licence type. It is the council's opinion that all gambling premises, whether subject to application or currently licensed, must operate primarily in the use of the licence type applied for or issued.

4.4 A premises licence issued by the Licensing Authority will be subject to mandatory and/or default conditions and conditions imposed by the council. The council may consider that conditions, other than the mandatory or default conditions, are necessary to ensure that the premises are reasonably consistent with the licensing objectives, the Commission's codes of practice and/or local authority guidance, and this statement of principles.

4.5 The primary activity of each premises licence type is specified on the premises licence when it is issued. Section 150 of the Gambling Act 2005 authorises the provision of gambling facilities for the following types of premises licences:

- (a) casino premises
- (b) bingo premises
- (c) betting premises, including tracks and premises used by betting intermediaries
- (d) adult gaming centre premises (for category C and D machines)
- (e) family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue family entertainment centre gaming machine permits, which authorise the use of category D machines only).

(See the glossary at point 23 for definitions of categories of gaming machines)

4.6 In betting premises the primary activity will be betting, with gaming machines as an ancillary offer on the premises. The Commission have provided information relating to the primary gambling activity in both the Local Authority Guidance and Supplement 4 of the Licence Conditions and Codes of Practice which was published in January 2009. This supplement sets out the requirements on the operator to ensure that their premises operate within the terms of the Act and the relevant conditions. It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

4.7 The council will take decisions in accordance with the Commission's view on primary gambling activity and will expect applicants to operate premises in line with the Commission's Guidance and conditions on their operators licence. The council will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed. For example a betting (other) premises licence application that only has 4 gaming machines but no betting counter or associated betting facilities shown on the proposed plans, will not be considered as offering the primary gambling activity in accordance with that indicated on the application.

5 Conditions

5.1 Any conditions attached to licences will be lawful and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

5.2 Certain matters are set out in the Act may not be the subject of conditions. These are :

- conditions which make it impossible to comply with an operating licence.
- conditions as to gaming machines that contradict the provisions in the Act.
- conditions making activities, premises or parts of them operate as a membership club
- conditions on fees, winnings, stakes or prizes.

5.3 We will make decisions on individual conditions, on a case-by-case basis, although there will be a number of measures we will consider using if necessary,

such as using supervisors, appropriate signs for adult-only areas and so on. We will also expect you to offer suggestions as to how you will meet the licensing objectives effectively.

5.4 We will also consider specific measures which may be needed for buildings which have more than one premises licence. These may include supervising entrances, separating gambling from non-gambling areas used by children and supervising gaming machines in non-adult gambling premises to achieve the licensing objectives.

5.5 Appropriate licence conditions may be as follows.

- All gaming machines are in an area of the premises which is separated from the rest of the premises by a physical barrier which prevents people from entering other than through a specific entrance.
- Only adults are allowed into the area where these machines are.
- Access to the area where the machines are is supervised.
- The area where these machines are must be arranged so that it can be monitored by the staff or the licence holder.
- Recognised proof-of-age schemes must be in place.
- At the entrance to and inside any of these areas, notices should be clearly displayed showing that people under 18 are not allowed in these areas.
- The entrance and gaming machines must be in appropriate places.
- Closed-circuit television must be provided.
- Door supervisors must be provided.
- There must be specific opening hours.
- There must be self-barring schemes. This means that problem gamblers can ask for their casual membership to be suspended and ask to be denied entry so they can deal with their addiction.
- Information leaflets and helpline numbers for organisations such as Gamcare must be provided.

5.6 The licensing authority will ensure that where category C or above machines are on offer in premises to which children are admitted the following conditions should apply :

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent any views of machines in category C or above and any access to them other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

5.7 The licensing authority expects all premises licence applications to specify opening hours. Particular attention will be paid to the opening hours for Adult Gaming Centres and Family Entertainment Centres which do not have opening hours specified as part of their mandatory conditions.

5.8 These considerations will also apply to premises where more than one premises licence is needed.

5.9 We may consider whether door supervisors are needed to meet the licensing objectives of protecting children and vulnerable people from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. We may feel it necessary to add specific conditions in relation to door supervisors, particularly when the door supervisors do not have to be registered with SIA. These conditions may include:

- the need to be easily identifiable, with the person's name badge clearly on display; and
- the need to have received specific training related to the task being performed.

5.10 This recognises the work door supervisors carry out in terms of searching individuals, dealing with potentially aggressive people and so on.

5.11 For premises other than casinos and bingo premises, operators and licensing authorities may decide that entrances and machines should be supervised in particular cases, but they will need to decide whether these supervisors need to be licensed by the SIA or not. It will not be automatically assumed that they need to be.

5.12 There is no evidence that betting offices need door supervisors to protect the public. The authority will only order a betting shop to appoint a door supervisor if there is clear evidence that the premises cannot be properly supervised from the counter.

6 Responsible authorities

6.1 The responsible authorities as defined by the Act are listed in the glossary on page 21.

You can get the contact details of all the responsible authorities under the Act from our website at www.lbhf.gov.uk

6.2 We must set out the principles we will apply when naming an organisation which will be able to advise us on protecting children from harm. The principles are that the organisation must be:

- responsible for an area covering the whole of the licensing authority's area; and
- be answerable to elected people, rather than any group with an interest in gambling.

6.3 We appoint the Local Safeguarding Children's Board (LSCB) for this purpose.

7 Interested parties

7.1 Interested parties can comment on licence applications, or apply for a review of an existing licence. Interested parties are defined in section 158 of the Act as follows. 'For the purposes of this part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b).'

7.2 We will decide each case individually. We will not apply a strict rule when making decisions. We will consider the examples of considerations provided in the Gambling Commission's guidance for local authorities at paragraphs 8.14 and 8.15 of that guidance.

7.3 The Gambling Commission has recommended that we make it clear that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission guidance for local authorities 8.17). However, we will not generally view these organisations as interested parties unless they have a member who can be classed as an interested person under the terms of the Act (that is, lives close enough to the premises or has business interests that might be affected by the activities being applied for).

7.4 Interested parties can be people who are democratically elected such as councillors and MPs. We won't need specific evidence of them being asked to represent an interested person as long as the councillor or MP represents the ward that is likely to be affected. Other than these, however, we will generally need written evidence that a person or organisation 'represents' someone who either lives close enough to the premises to be likely to be affected by the authorised activities or has business interests that might be affected by the

authorised activities. We will accept a letter from one of these people, asking for the representation.

7.5 If people want to approach councillors to ask them to represent their views, they should be careful that the councillors are not part of the licensing committee dealing with the licence application. Councillors may be restricted in representing constituents under the members' code of conduct in cases where they have a particular interest. Please contact us if there are any doubts (our contact details are on page 3).

8 Reviews

~~7.1 Interested parties or responsible authorities can ask us to review a premises licence (see the glossary on page 21 for a list of relevant authorities). However, we will decide whether the review should be carried out. Our decision will be based on whether the request for the review:~~

~~8.1 An interested party or a responsible authority (see the glossary on page 18 for a list of relevant authorities) may apply to the council to review a premises licence. Such reviews can be made in relation to, amongst other things if there are repeated incidents of crime and disorder associated with the premises or the gambling activity which the premises operator has failed to adequately address, where incidents that have adversely effected one or more licensing objectives have occurred at a premises that could have been prevented if advice and guidance from a responsible authority had been heeded, if the premises due to the activities being undertaken is either attracting children or people likely to be involved in crime and disorder.~~

~~8.2 As a review of a premises licence can lead to its revocation the council will consider whether informal actions to ensure timely or immediate compliance have been exhausted prior to an application being made. The council accepts that an application for review may be appropriate without informal measures being taken, but will seek to establish that all options have been considered in determining review applications.~~

~~8.3 Our decision will be based on whether the request for the review:~~

- ~~• raises an issue relevant to any relevant code of practice, any relevant guidance issued by the Gambling Commission, the licensing objectives or this statement;~~
- ~~• is frivolous or vexatious;~~
- ~~• will cause us to alter, revoke (withdraw) or suspend the licence; or~~

- raises grounds that are substantially the same as, or different from, grounds within an earlier request for a review or from representations made in relation to the application for the premises licence.

8.4 We can also review a licence for any reason we consider to be appropriate under the law.

9 Enforcement

9.1 We have signed up to the regulators' compliance code and will follow the principles set out in it. We will try to make sure that any enforcement action we take is:

- proportionate – regulators should only get involved when necessary solutions are appropriate to the risk posed, and costs have been identified and reduced;
- accountable – regulators must be able to justify decisions, and be open to public questioning;
- consistent – rules and standards must be put into practice fairly;
- transparent – regulators should be open, and keep regulations simple and user-friendly; and
- targeted – regulations should be focused on the problem, and reduce side effects.

9.2 We will also follow a risk-based inspection programme. While the Gambling Commission's guidance suggests that we should include the criteria we will use for this, this has not been possible. At the time of writing, the Gambling Commission has not published its risk criteria regulations or codes of practice. We will consider this model once it is available.

9.3 Once premises have been licensed it is essential that they are monitored to make sure that they are run in line with their operating schedules and with any licence conditions. It will also be important to monitor the borough for unlicensed premises.

9.4 The main enforcement role for us in terms of the Act will be to make sure that premises are used in line with the licences and other permissions which we authorise. The Gambling Commission will be the enforcement body for the operating and personal licences. The Gambling Commission will also deal with concerns about the manufacture, supply or repair of gaming machines.

9.5 We will investigate complaints about licensed premises in relation to the licensing objectives which we are responsible for. However, to begin with, you should raise the complaint directly with the licence holder or business concerned to try and find a solution.

10 Exchanging information

10.1 We will follow the Act whenever we exchange information with other people. Sharing information with certain other people will not break the Data Protection Act 1998.

10.2 We will also consider any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

10.3 If any guidelines are produced about exchanging information with other organisations, we will make them available.

10.4 You can find guidance on how to get information under the Freedom of Information Act or Data Protection Act on our website at www.lbhf.gov.uk

11 Provisional statements

11.1 We will decide whether premises can be considered for a premises licence. The guidance issued by the Gambling Commission advises that the building should be complete so that the authority could, if necessary, carry out a full inspection.

11.2 We cannot consider any more representations from relevant authorities or interested parties after we have issued a provisional statement, unless they concern matters which could not have been dealt with at the provisional statement stage, or they reflect a change in your circumstances. We may also refuse the premises licence (or grant it on terms different to those attached to the provisional statement) if the matter:

- could not have been raised by objectors at the provisional licence stage; or
- reflects a change in the operator's circumstances.

12 Temporary-use notices

12.1 These allow premises to be used for gambling where there is no premises licence but where a gambling operator wants to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary-use notice would include hotels, conference centres and sporting venues.

12.2 A temporary-use notice may only be granted to a person or company holding a relevant operating licence. For example, the holder of a betting

operating licence could apply to provide betting facilities at a snooker tournament.

12.3 The Secretary of State will list the gambling activities that may be covered by a temporary-use notice, as well as activities that may not be and activities that may not be combined with any other.

13 Occasional-use notices

13.1 Where there is betting on a track on eight days or less in a calendar year, betting may be allowed under an occasional-use notice without the need for a full premises licence.

13.2 We have very little power in relation to these notices other than making sure that betting is not allowed for more than eight days in a calendar year.

14 Consultation

14.1 We will expect you to advertise the application in line with the regulations made under the Act.

14.2 We will carry out a consultation process in line with the regulations made under the Act. In exceptional circumstances we may consider it appropriate to carry out a more thorough public consultation. We will publicise details of applications received.

15 Adult gaming centres, family entertainment centres licensed to sell alcohol, bingo premises, betting premises.

15.2 When deciding applications for a premises licence for these premises, we will consider the need to protect children and vulnerable people from harm or being exploited by gambling. We will expect you to satisfy us that there will be enough measures in place to meet this licensing objective.

15.3 We will expect you to offer your own measures to meet the licensing objectives. Appropriate measures and licence conditions may include the ones listed in section 4 on page 12.

15.4 We will consider the guidance issued by the Gambling Commission and will take into account the size, suitability, layout of the premises and, if relevant, the number of counters available for face-to-face transaction.

16 Family entertainment centres not licensed to sell alcohol

16.1 If a premises does not hold a premises licence but wants to provide gaming machines, it may apply to us, the licensing authority, for this permit. The person applying must show that the premises will be completely or mainly used for gaming machines (section 238).

16.2 Unlicensed family entertainment centres will be able to offer only category-D machines with a gaming machine permit. There can be any number of category-D machines with such a permit (depending on other considerations such as fire regulations and health and safety, which will not be issues for the licensing authority under the Gambling Act). We cannot issue permits for vessels or vehicles.

16.3 We cannot attach conditions to this type of permit. We have not yet adopted a statement of principles for permits.

17 Casinos

17.1 We have a 'no casino' resolution in this borough because it is mainly residential and a casino would be out of character with the area. Also, at the moment, we have varied leisure and night-time activities around three town centres. We would not want to create an inequality between these competing town centres.

17.2 The 'no casino' resolution came into effect on the same date as this statement. We will review this resolution at least every three years, and can withdraw it at any time.

17.3 This means that we will not consider any applications for a premises licence for a casino. We will return any applications we receive with a notice that a 'no casino' resolution is in place.

18 Tracks

18.1 We are aware that tracks may need more than one premises licence and we will especially consider the effect on the third licensing objective (that is, protecting children and vulnerable people from being harmed or exploited by gambling).

18.2 We would expect you to show that suitable measures are in place to make sure that children do not have access to adult-only gaming facilities. Appropriate

measures and licence conditions may include the ones listed in section 4 on page 12.

18.3 We will expect you to have plans that explain very clearly what you want authorisation for under the track betting premises licence and which, if any, other areas need a separate application for a different type of premises licence.

19 Travelling fairs

19.1 We will firstly consider whether you fall within the legal definition of a travelling fair.

19.2 If category-D machines or equal-chance prizes are going to be available at a travelling fair, we must decide whether or not the facilities for gambling are the main amusements at the fair.

19.3 Fairs cannot be held on a piece of land for more than 27 days a year, no matter whether it is the same or a different travelling fair using the land. We will work with our neighbouring authorities to make sure that land which crosses administrative boundaries is monitored so that the legal limits are not broken.

20 Gaming machine permits for premises that sell alcohol

20.1 Premises licensed to sell alcohol for people to drink on the premises are entitled to have two gaming machines, of categories C or D (or both). The licensee just needs to tell us about them. We can, however, remove this entitlement if:

- the machines are not provided in line with the licensing objectives;
- gambling has taken place on the premises that breaks a condition of section 282 of the Gambling Act (that is, written notice has not been provided to the licensing authority, a fee has not been paid and any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been met);
- the premises are mainly used for gambling; or
- an offence under the Gambling Act has been committed on the premises.

20.2 If a licensee wants to have more than two machines, they need to apply for a permit and we must consider that application based on the licensing objectives, any guidance issued by the Gambling Commission issued under section 25 of the Act, and any other relevant conditions.

20.3 One of the licensing objectives is to protect children and vulnerable people from harm or being exploited by gambling. We will expect you to show us that there will be enough measures to make sure that people under 18 do not have access to the adult-only gaming machines. Appropriate measures and licence conditions may include the ones listed in section 4 (the conditions are on page 12).

20.4 Some alcohol-licensed premises may apply for a premises licence for areas of the premises which are not licensed for selling alcohol. Any such application would most likely need to be made and dealt with as a premises licence for an adult gaming centre.

20.5 We can decide to grant the application with a smaller number of machines or a different category of machines than you have applied for. Conditions (other than these) cannot be attached.

20.6 The holder of a permit must follow any code of practice issued by the Gambling Commission about where and how the machine must be used.

20.7 We have not yet adopted a statement of principles for permits.

21 Prize gaming permits (statement of principles on permits – schedule 14 paragraph 8 (3))

21.1 Gaming is defined as prize gaming if the nature and size of the prize does not depend on the number of people playing or the amount paid for or raised by the gaming. The operator decides the price before anyone starts to play on the machines.

21.2 A prize gaming permit is a permit we issue to authorise gaming facilities with prizes on specific premises.

21.3 An application for a permit can only be made by a person who uses or plans to use the relevant premises. If the applicant is an individual, they must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is for the same premises. The application must be made to the authority in whose area the premises are completely or partly situated.

21.4 When making our decision on an application for this permit, we do not need to consider licensing objectives but must consider any Gambling Commission guidance.

21.5 There are conditions in the Act which the permit holder must follow. These are:

- the limits on participation fees, as set out in regulations;

- all chances to take part in the gaming must be offered on the premises on which the gaming is taking place and on one day, the game must be played and completed on the day the chances are offered and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not be more than the amount set out in regulations (if a money prize), or the set value (if a non-monetary prize); and
- taking part in the gaming must not entitle the player to take part in any other gambling.

22 Club gaming and club machine permits

22.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club gaming machine permit.

22.2 Gambling Commission guidance says: 'Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations'.

22.3 We may only refuse an application if:

- a you do not fulfil the requirements for a members' or commercial club or miners' welfare institute and so are not entitled to receive the type of permit which you have applied for;
- b your premises are used wholly or mainly by children or young people;
- c you have committed an offence under the Act or have broken the conditions of a permit while providing gaming facilities;
- d a permit held by you has been cancelled in the previous 10 years; or
- e an objection has been lodged by the commission of the police.

22.4 There are conditions attached to club gaming permits that no child uses a category-B or category-C machine on the premises and that the holder follows any relevant code of practice about where and how gaming machines are used.

23 Glossary

23.1 Adult gaming centre – a premises that may have up to four category-B machines (restricted to B3 and B4), any number of category-C machines and any number of category-D machines.

23.2 Betting premises – a premises that may have up to four gaming machines of category-B (restricted to B2, B3 and B4), C or D.

23.3 Bingo premises – a premises that may have up to four category-B machines (restricted to B3 and B4), any number of category-C machines and any number of category-D machines.

23.4 Categories of gambling – regulations will define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. These are the current proposals.

Maximum stake Maximum prize

A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p	or £5 cash or
	30p when a	£8 non-monetary
	non-monetary	
	prize	

23.5 Club machines permit – a premises will need this permit if it is a members' club, a commercial club or a miners' welfare institute, with up to three machines of category-B (restricted to B4) C or D (that is, three machines in total).

23.6 Family entertainment centre (with commission operating licence) – a premises that may have any number of category-C machines and any number of category-D machines. Category-C machines must be in a separate area to make sure that they are only played by adults.

23.7 Family entertainment centre (with gaming machine permit) – a premises that may have any number of category-D machines. There is no power for the licensing authority to set a limit on the number of machines covered by the permit.

23.8 Gaming machines – all machines on which people can gamble.

23.9 Occasional-use notices – where there is betting on a track on eight days or less in a calendar year, betting may be allowed under an 'occasional-use notice' without the need for a full premises licence.

23.10 Regulators' compliance code – protects the public, the environment and groups such as consumers and workers through the 'business-friendly' enforcement of regulations. It is a procedure that can be adopted by enforcement

officers to help businesses and others meet their legal responsibilities without unnecessary expense while taking firm action, including prosecution where appropriate, against those who break the law or act irresponsibly.

23.11 Remote gambling – gambling that takes place on the internet.

23.12 Responsible authorities – these are public organisations that must be told about applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, a premises licence. They are:

- a licensing authority in whose area the premises is completely or partly situated;
- the Gambling Commission;
- the chief officer of police or chief constable for the area in which the premises is completely or partly situated;
- the fire and rescue authority for the same area;
- the local planning authority;
- the pollution department;
- the Local Safeguarding Children's Board (LSCB); and
- HM Revenue & Customs.

23.13 Spread betting – allows an investor to bet on whether they believe that the price quoted is likely to strengthen (go up in value) or weaken (go down in value). The profit or loss for a spread better depends on the difference in the buy and sell price.

23.14 Temporary-use notices – these allow premises to be used for gambling where there is no premises licence but where a gambling operator wants to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary-use notice would include hotels, conference centres and sporting venues.

23.15 Travelling fair – completely or mainly providing amusements on a site that has been used for fairs for no more than 27 days in each calendar year. Any number of category-D machines can be made available but the facilities for gambling must not be the main amusements at the fair.

If you have any comments about this statement, please send them by e-mail or letter to us.

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Appendix D

Under the Gambling Act 2005 we must publish a statement of the principles which we are going to apply in relation to gambling. This statement will apply from **31 January 2013**.

We have prepared this statement of principles after considering the guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. We have consulted people on this policy (see page 9) and have considered any responses to the draft statement before adopting and publishing this final document.

We will review and publish this statement at least every three years, and consult people again about any amended parts. If you would like more information, please contact us.

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1 Introduction

1.1 The Gambling Act 2005 (the Act) introduced a unified regulator for gambling in Great Britain – the Gambling Commission – and a new licensing system for commercial gambling to be managed by the Commission or by local authorities, depending on the matter that needs to be licensed. The only exceptions are spread betting (regulated by the Financial Services Authority), remote gambling (regulated by the Gambling Commission) and the National Lottery (regulated by the National Lottery Commission). We, the Licensing Authority and the Gambling Commission, will share responsibility for all matters previously regulated by the magistrates' court.

1.2 The Gambling Commission will be responsible for granting operating and personal licences for commercial operators and personnel in the industry. The Licensing Authority will issue premises licences for:

- betting offices and racetracks;
- bingo clubs;
- adult gaming centres; and
- family entertainment centres.

We will also issue permits for:

- gaming machines in alcohol-licensed premises, such as pubs;
- gaming machines for members' clubs;
- gaming in members' clubs;
- family entertainment centres not licensed to sell alcohol (category-D machines only, that is, those that have the lowest level of stakes and prizes);
- occasionally - and temporary-use notices; and
- provisional statements.

1.3 Under the Act, we must consider the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- making sure that gambling is carried out in a fair and open way; and
- protecting children and other vulnerable people from being harmed or exploited by gambling.

1.4 Under section 153 of the Act, when making decisions about premises licences and temporary-use notices, we should allow the premises to be used for gambling if we think it is:

- in line with any relevant code of practice and guidance issued by the Gambling Commission; and

- reasonably consistent with the licensing objectives and in line with the principles set out in this document.

1.5 Under the Act, we must:

- be responsible for licensing premises where gambling activities are to take place by issuing premises licences;
- issue provisional statements;
- regulate members' clubs and miners' welfare institutes that want to offer certain gaming activities by issuing club gaming permits or club machine permits (or both);
- issue club machine permits to commercial clubs;
- grant permits for certain lower-stake gaming machines at family entertainment centres that are not licensed to sell alcohol;
- receive notices from premises that are licensed to sell alcohol (under the Licensing Act 2003) that they want to use one or two gaming machines;
- issue gaming machine permits for premises that are licensed to sell or supply alcohol for people to drink on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- register small-society lotteries below set limits;
- issue prize gaming permits;
- receive and approve temporary-use notices;
- receive occasional-use notices;
- provide information to the Gambling Commission about the licences we have issued (see the section on exchanging information); and
- maintain registers of the permits and licences that we issue.

2 The borough

2.1 Hammersmith & Fulham is one of 13 inner-London boroughs. It is situated in the centrewest of London, on the transport routes between the city and Heathrow airport.

2.2 It is a long, narrow borough, running north to south with a river border at its south and south-west side. It is bordered by six London boroughs – Brent to the north, Kensington and Chelsea to the east, Wandsworth and Richmond-upon-Thames to the south, and Ealing and Hounslow to the west. Not including the City of London, it is the third smallest London borough in terms of area, covering 1,640 hectares. It has three town centres – Shepherd's Bush, Hammersmith and Fulham.

2.3 Hammersmith & Fulham is made up of 16 electoral wards. These range in size from 55 hectares to 344 hectares. These areas are shown on the map on page 9.

2.4 When producing this statement we have considered:

- local crime prevention;
- the licensing policy;
- our planning, transport, tourism and cultural strategies; and
- our equality agenda.

2.5 We consulted the following people before finalising and publishing this statement.

- The police
- Local Safeguarding Children's Board (LSCB)
- Trade associations
- Residents' associations
- Businesses
- Fire authority
- Ward councillors
- Neighbouring authorities
- Chamber of Commerce
- Drug and alcohol action team
- Crime and disorder reduction partnership
- Trade unions
- Other relevant people who could be affected by this policy

2.6 If you would like to see the full list of comments made on the draft statement, please contact us. Our contact details are on the first page of this policy.

2.7 This statement of principles will not stop any person from making an application, commenting on an application, or applying for a review of a licence, as we will consider each one individually and according to the Gambling Act 2005 (except for casinos, see section 17).

3 General principles

3.1 The Act and any associated regulations will apply to premises licences as well as specific conditions set out in regulations. We can exclude some conditions and attach others, where we consider it to be appropriate.

3.2 We are aware that the Gambling Commission's guidance for local authorities says that moral objections to gambling are not a valid reason to reject applications for premises licences, and also that a licensing authority must not consider unmet demand when deciding an application. However, to meet the licensing objectives, we will have to consider whether a particular place is appropriate.

3.3 Under the Act, 'premises' includes 'any place'. A single premises cannot have different premises licences operating at different times. However, it is possible for a single building to have more than one premises licence, as long as they are for

different parts of the building and the different parts of the building can reasonably be considered as different premises. Whether different parts of a building can properly be considered as separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider areas of a building that are artificially or temporarily separate to be different premises.

3.4 If more than one application is received for premises licences in a single building, we will make a decision on whether the proposed premises are genuinely separate to the extent that they merit their own licence and are not an artificially created part of what is readily identifiable as a single and separate unit. A decision of this nature will be taken by the licensing sub-committee. When determining whether two or more proposed premises are separate, we will take a number of factors into account. Depending on the specific circumstances of the case these may include:

- Do the premises have different postal addresses?
- Is a separate registration for business rates in place at the premises?
- Are the neighbouring premises owned by the same person or not?
- Can each set of premises be accessed by different entrances from the street or a public passageway?
- Can the premises be accessed only from another gambling premises?
- How are the premises separated? Are any partitions fixed, of full height and transparent in any part?

Where the licensing authority determines that more than one premises licences can be granted within a single building, then specific measures may be required to be included as conditions on the licences. Such measures may include:

- the supervision of entrances
- segregation of gambling from non-gambling areas, which may include the type and position of partitions and / or the supervision of the premises and gaming machines

3.5 We pay particular attention to the Gambling Commission's guidance for local authorities, which says the following.

Licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following :

- *The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to*

participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.

- *Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.*
- *Customers should be able to participate in the activity named on the premises licence.*

3.6 You cannot get a full premises licence until the premises in which you are going to offer the gambling are built. The Gambling Commission has advised that 'the premises' means the premises in which gambling may now take place. So a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. The Gambling Commission emphasises that making sure the building is complete means that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

3.7 In line with the Gambling Commission's guidance for local authorities, we will pay particular attention to protecting children and vulnerable people from being harmed or exploited by gambling, as well as issues of crime and disorder.

3.8 If any policy is developed which affects where gambling premises can be located, we will update this statement. However, any such policy will not prevent anyone from making an application and we will consider each application individually, except for an application for a casino (see section 17). You will have to show how any possible concerns can be overcome.

3.9 We will try to avoid repeating any work already carried out under other systems where possible, including planning. We will not consider whether a licence application is likely to be awarded planning permission or building regulations approval. However, we will carefully consider any concerns about conditions which are not able to be met by licensees due to planning restrictions.

4 Premises Licences

4.1 Any person or business that wishes to offer gambling for which an operating licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Authority for a premises licence.

4.2 For each premises type the Act makes it clear that the primary activity should be that described in the premises licence type. It is the council's opinion that all

gambling premises, whether subject to application or currently licensed, must operate primarily in the use of the licence type applied for or issued.

4.3 A premises licence issued by the Licensing Authority will be subject to mandatory and/or default conditions and conditions imposed by the council. The council may consider that conditions, other than the mandatory or default conditions, are necessary to ensure that the premises are reasonably consistent with the licensing objectives, the Commission's codes of practice and/or local authority guidance, and this statement of principles.

4.4 The primary activity of each premises licence type is specified on the premises licence when it is issued. Section 150 of the Gambling Act 2005 authorises the provision of gambling facilities for the following types of premises licences:

- (a) casino premises
- (b) bingo premises
- (c) betting premises, including tracks and premises used by betting intermediaries
- (d) adult gaming centre premises (for category C and D machines)
- (e) family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue family entertainment centre gaming machine permits, which authorise the use of category D machines only).

(See the glossary at section 23 for definitions of categories of gaming machines)

4.5 In betting premises the primary activity will be betting, with gaming machines as an ancillary offer on the premises. The Commission have provided information relating to the primary gambling activity in both the Local Authority Guidance and Supplement 4 of the Licence Conditions and Codes of Practice which was published in January 2009. This supplement sets out the requirements on the operator to ensure that their premises operate within the terms of the Act and the relevant conditions. It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

4.6 The council will take decisions having regard to the Commission's view on primary gambling activity and will expect applicants to operate premises in line with the Commission's Guidance and conditions on their operators licence. The council will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to demonstrate that the premises are intended to be used for the primary gambling activity proposed. For example a betting premises licence application that only has 4 gaming machines but no betting counter or associated betting facilities shown on the proposed plans, will not be considered as offering the primary gambling activity in accordance with that indicated on the application.

5 Conditions

5.1 Any conditions attached to licences will be lawful and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

5.2 Certain matters which are set out in the Act may not be the subject of conditions. These are :

- conditions which make it impossible to comply with an operating licence.
- conditions as to gaming machines that contradict the provisions in the Act.
- conditions making activities, premises or parts of them operate as a membership club
- conditions on fees, winnings, stakes or prizes.

5.3 We will make decisions on individual conditions, on a case-by-case basis, although there will be a number of measures we will consider using if necessary, such as using supervisors, appropriate signs for adult-only areas and so on. We will also expect you to offer suggestions as to how you will meet the licensing objectives effectively.

5.4 We will also consider specific measures which may be needed for buildings which have more than one premises licence. These may include supervising entrances, separating gambling from non-gambling areas used by children and supervising gaming machines in non-adult gambling premises to achieve the licensing objectives.

5.5 Appropriate licence conditions may be as follows :

- a) All gaming machines are in an area of the premises which is separated from the rest of the premises by a physical barrier which prevents people from entering other than through a specific entrance.
- b) Only adults are allowed into the area where these machines are.
- c) Access to the area where the machines are is supervised.
- d) The area where these machines are must be arranged so that it can be monitored by the staff or the licence holder.
- e) Recognised proof-of-age schemes must be in place.

- f) At the entrance to and inside any of these areas, notices should be clearly displayed showing that people under 18 are not allowed in these areas.
- g) The entrance and gaming machines must be in appropriate places.
- h) Closed-circuit television must be provided.
- i) Door supervisors must be provided.
- j) There must be specific opening hours.
- k) There must be self-barring schemes. This means that problem gamblers can ask for their casual membership to be suspended and ask to be denied entry so they can deal with their addiction.
- l) Information leaflets and helpline numbers for organisations such as Gamcare must be provided.

5.6 The licensing authority will ensure that where category C or above machines are on offer in premises to which children are admitted conditions 'a' to 'f' above should apply.

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent any views of machines in category C or above and any access to them other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

5.7 The licensing authority expects all premises licence applications to specify opening hours. Particular attention will be paid to the opening hours for Adult Gaming Centres and Family Entertainment Centres which do not have opening hours specified as part of their mandatory conditions.

5.8 These considerations will also apply to premises where more than one premises licence is needed.

Door Supervisors

5.9 We may consider whether door supervisors are needed to meet the licensing objectives of protecting children and vulnerable people from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source

of crime. We may feel it necessary to add specific conditions in relation to door supervisors, particularly when the door supervisors do not have to be registered with SIA. These conditions may include:

- the need to be easily identifiable, with the person's name badge clearly on display; and
- the need to have received specific training related to the task being performed.

5.10 This recognises the work door supervisors carry out in terms of searching individuals, dealing with potentially aggressive people and so on.

5.11 For premises other than casinos and bingo premises, operators and licensing authorities may decide that entrances and machines should be supervised in particular cases, but they will need to decide whether these supervisors need to be licensed by the SIA or not. It will not be automatically assumed that they need to be.

5.12 There is no evidence that betting offices need door supervisors to protect the public. The authority will only order a betting shop to appoint a door supervisor if there is clear evidence that the premises cannot be properly supervised from the counter.

6 Responsible authorities

6.1 The responsible authorities as defined by the Act are listed in the glossary on page 21.

You can get the contact details of all the responsible authorities under the Act from our website at www.lbhf.gov.uk

6.2 We must set out the principles we will apply when naming an organisation which will be able to advise us on protecting children from harm. The principles are that the organisation must be:

- responsible for an area covering the whole of the licensing authority's area; and
- be answerable to elected people, rather than any group with an interest in gambling.

6.3 We appoint the Local Safeguarding Children's Board (LSCB) for this purpose.

7 Relevant representations and interested parties

7.1 Interested parties can comment on licence applications, or apply for a review of an existing licence. Interested parties are defined in section 158 of the Act as follows. 'For the purposes of this part a person is an interested party in relation to an

application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b).'

7.2 The Gambling Commission has recommended that we make it clear that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission guidance for local authorities 8.17). However, we will not generally view these organisations as interested parties unless they have a member who can be classed as an interested person under the terms of the Act (that is, lives close enough to the premises or has business interests that might be affected by the activities being applied for).

7.3 Interested parties can be people who are democratically elected such as councillors and MPs. We won't need specific evidence of them being asked to represent an interested person as long as the councillor or MP represents the ward that is likely to be affected. Other than these, however, we will generally need written evidence that a person or organisation 'represents' someone who either lives close enough to the premises to be likely to be affected by the authorised activities or has business interests that might be affected by the authorised activities. We will accept a letter from one of these people, asking for the representation.

7.4 If people want to approach councillors to ask them to represent their views, they should be careful that the councillors are not part of the licensing committee dealing with the licence application. Councillors may be restricted in representing constituents under the members' code of conduct in cases where they have a particular interest. Please contact us if there are any doubts (our contact details are on page 3).

7.5 We will decide each case individually. We will not apply a strict rule when making decisions. We will consider the examples of considerations provided in the Gambling Commission's guidance for local authorities at paragraphs 8.14 and 8.15 of that guidance.

7.6 Representations will not be accepted if they do not relate to one or more of the three licensing objectives (as set out in section 1.3 of this policy)

7.7 Environmental issues such as noise or light pollution cannot be considered under the Gambling Act 2005 as they do not relate to the licensing objectives. Issues of this type can be considered under the Environmental Protection Act 1990 and should be referred to the Council's Environmental Protection team on : 0208 753 1081 or environmentalprotection@lbhf.gov.uk

8 Reviews

~~7.1 Interested parties or responsible authorities can ask us to review a premises licence (see the glossary on page 21 for a list of relevant authorities). However, we will decide whether the review should be carried out. Our decision will be based on whether the request for the review:~~

~~8.1 An interested party or a responsible authority (see the glossary at section 23 for a list of relevant authorities) may apply to the council to review a premises licence. Such reviews can be made in relation to, amongst other things if there are repeated incidents of crime and disorder associated with the premises or the gambling activity which the premises operator has failed to adequately address, where incidents that have adversely effected one or more licensing objectives have occurred at a premises that could have been prevented if advice and guidance from a responsible authority had been heeded, if the premises due to the activities being undertaken is either attracting children or people likely to be involved in crime and disorder.~~

~~8.2 As a review of a premises licence can lead to its revocation the council will consider what informal actions to ensure timely or immediate compliance have been undertaken by the applicant and the licence holder prior to an application being made. The council accepts that an application for review may be appropriate without informal measures first being requested by an applicant, but will actively encourage that appropriate alternative forms of action have been considered prior to review applications being made.~~

~~8.3 Our decision will be based on whether the request for the review:~~

- ~~• raises an issue relevant to any relevant code of practice, any relevant guidance issued by the Gambling Commission, the licensing objectives or this statement;~~
- ~~• is frivolous or vexatious;~~
- ~~• will cause us to alter, revoke (withdraw) or suspend the licence; or~~
- ~~• raises grounds that are substantially the same as, or different from, grounds within an earlier request for a review or from representations made in relation to the application for the premises licence.~~

~~8.4 We can also review a licence for any reason we consider to be appropriate under the law.~~

9 Enforcement

9.1 We have signed up to the regulators' compliance code and will follow the principles set out in it. We will try to make sure that any enforcement action we take is:

- proportionate – regulators should only get involved when necessary solutions are appropriate to the risk posed, and costs have been identified and reduced;
- accountable – regulators must be able to justify decisions, and be open to public questioning;
- consistent – rules and standards must be put into practice fairly;
- transparent – regulators should be open, and keep regulations simple and user-friendly; and
- targeted – regulations should be focused on the problem, and reduce side effects.

9.2 We will also follow a risk-based inspection programme. While the Gambling Commission's guidance suggests that we should include the criteria we will use for this, this has not been possible. At the time of writing, the Gambling Commission has not published its risk criteria regulations or codes of practice. We will consider this model once it is available.

9.3 Once premises have been licensed it is essential that they are monitored to make sure that they are run in line with their operating schedules and with any licence conditions. It will also be important to monitor the borough for unlicensed premises.

9.4 The main enforcement role for us in terms of the Act will be to make sure that premises are used in line with the licences and other permissions which we authorise. The Gambling Commission will be the enforcement body for the operating and personal licences. The Gambling Commission will also deal with concerns about the manufacture, supply or repair of gaming machines.

9.5 We will investigate complaints about licensed premises in relation to the licensing objectives which we are responsible for. However, to begin with, you should raise the complaint directly with the licence holder or business concerned to try and find a solution.

10 Exchanging information

10.1 We will follow the Act whenever we exchange information with other people. Sharing information with certain other people will not break the Data Protection Act 1998.

10.2 We will also consider any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

10.3 If any guidelines are produced about exchanging information with other organisations, we will make them available.

10.4 You can find guidance on how to get information under the Freedom of Information Act or Data Protection Act on our website at www.lbhf.gov.uk

11 Provisional statements

11.1 We will decide whether premises can be considered for a premises licence. The guidance issued by the Gambling Commission advises that the building should be complete so that the authority could, if necessary, carry out a full inspection.

11.2 We cannot consider any more representations from relevant authorities or interested parties after we have issued a provisional statement, unless they concern matters which could not have been dealt with at the provisional statement stage, or they reflect a change in your circumstances. We may also refuse the premises licence (or grant it on terms different to those attached to the provisional statement) if the matter:

- could not have been raised by objectors at the provisional licence stage; or
- reflects a change in the operator's circumstances.

12 Temporary-use notices

12.1 These allow premises to be used for gambling where there is no premises licence but where a gambling operator wants to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary-use notice would include hotels, conference centres and sporting venues.

12.2 A temporary-use notice may only be granted to a person or company holding a relevant operating licence. For example, the holder of a betting operating licence could apply to provide betting facilities at a snooker tournament.

12.3 The Secretary of State will list the gambling activities that may be covered by a temporary-use notice, as well as activities that may not be and activities that may not be combined with any other.

13 Occasional-use notices

13.1 Where there is betting on a track on eight days or less in a calendar year, betting may be allowed under an occasional-use notice without the need for a full premises licence.

13.2 We have very little power in relation to these notices other than making sure that betting is not allowed for more than eight days in a calendar year.

14 Consultation

14.1 We will expect you to advertise the application in line with the regulations made under the Act.

14.2 We will carry out a consultation process in line with the regulations made under the Act. In exceptional circumstances we may consider it appropriate to carry out a more thorough public consultation. We will publicise details of applications received.

15 Adult gaming centres, family entertainment centres licensed to sell alcohol, bingo premises, betting premises.

15.2 When deciding applications for a premises licence for these premises, we will consider the need to protect children and vulnerable people from harm or being exploited by gambling. We will expect you to satisfy us that there will be enough measures in place to meet this licensing objective.

15.3 We will expect you to offer your own measures to meet the licensing objectives. Appropriate measures and licence conditions may include the ones listed in section 4 on page 12.

15.4 We will consider the guidance issued by the Gambling Commission and will take into account the size, suitability, layout of the premises and, if relevant, the number of counters available for face-to-face transaction.

16 Family entertainment centres not licensed to sell alcohol

16.1 If a premises does not hold a premises licence but wants to provide gaming machines, it may apply to us, the licensing authority, for this permit. The person applying must show that the premises will be completely or mainly used for gaming machines (section 238).

16.2 Unlicensed family entertainment centres will be able to offer only category-D machines with a gaming machine permit. There can be any number of category-D machines with such a permit (depending on other considerations such as fire regulations and health and safety, which will not be issues for the licensing authority under the Gambling Act). We cannot issue permits for vessels or vehicles.

~~16.3 We cannot attach conditions to this type of permit. We have not yet adopted a statement of principles for permits.~~

16.3 As part of any Unlicensed Family Entertainment permit application the council will require applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes (para 24.7)

16.4 The council will expect the applicant to show that there are policies and procedures in place to protect children and vulnerable people from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include:

- measures / training for staff as regards suspected truant school children on the premises;
- measures / training covering how staff would deal with unsupervised very young children being on the premises;
- measures / training covering how staff would deal with children causing perceived problems on or around the premises.
- Measures / training covering how staff would identify the signs and symptoms of persons engaged in the illegal use of controlled drugs.

17 Casinos

17.1 We have a 'no casino' resolution in this borough because it is mainly residential and a casino would be out of character with the area. Also, at the moment, we have varied leisure and night-time activities around three town centres. We would not want to create an inequality between these competing town centres.

17.2 The 'no casino' resolution came into effect on the same date as this statement. We will review this resolution at least every three years, and can withdraw it at any time.

17.3 This means that we will not consider any applications for a premises licence for a casino. We will return any applications we receive with a notice that a 'no casino' resolution is in place.

18 Tracks

18.1 We are aware that tracks may need more than one premises licence and we will especially consider the effect on the third licensing objective (that is, protecting children and vulnerable people from being harmed or exploited by gambling).

18.2 We would expect you to show that suitable measures are in place to make sure that children do not have access to adult-only gaming facilities. Appropriate measures and licence conditions may include the ones listed in section 4 on page 12.

18.3 We will expect you to have plans that explain very clearly what you want authorisation for under the track betting premises licence and which, if any, other areas need a separate application for a different type of premises licence.

19 Travelling fairs

19.1 We will firstly consider whether you fall within the legal definition of a travelling fair.

19.2 If category-D machines or equal-chance prizes are going to be available at a travelling fair, we must decide whether or not the facilities for gambling are the main amusements at the fair.

19.3 Fairs cannot be held on a piece of land for more than 27 days a year, no matter whether it is the same or a different travelling fair using the land. We will work with our neighbouring authorities to make sure that land which crosses administrative boundaries is monitored so that the legal limits are not broken.

20 Gaming machine permits for premises that sell alcohol

20.1 Premises licensed to sell alcohol for people to drink on the premises are entitled to have two gaming machines, of categories C or D (or both). The licensee just needs to tell us about them. We can, however, remove this entitlement if:

- the machines are not provided in line with the licensing objectives;
- gambling has taken place on the premises that breaks a condition of section 282 of the Gambling Act (that is, written notice has not been provided to the licensing authority, a fee has not been paid and any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been met);
- the premises are mainly used for gambling; or
- an offence under the Gambling Act has been committed on the premises.

20.2 If a licensee wants to have more than two machines, they need to apply for a permit and we must consider that application based on the licensing objectives, any guidance issued by the Gambling Commission issued under section 25 of the Act, and any other relevant conditions.

20.3 One of the licensing objectives is to protect children and vulnerable people from harm or being exploited by gambling. We will expect you to show us that there will be enough measures to make sure that people under 18 do not have access to the adult-only gaming machines. Appropriate measures and licence conditions may include the ones listed in section 4 (the conditions are on page 12).

20.4 Some alcohol-licensed premises may apply for a premises licence for areas of the premises which are not licensed for selling alcohol. Any such application would most likely need to be made and dealt with as a premises licence for an adult gaming centre.

20.5 We can decide to grant the application with a smaller number of machines or a different category of machines than you have applied for. Conditions (other than these) cannot be attached.

20.6 The holder of a permit must follow any code of practice issued by the Gambling Commission about where and how the machine must be used.

20.7 We have not yet adopted a statement of principles for permits.

21 Prize gaming permits (statement of principles on permits – schedule 14 paragraph 8 (3))

21.1 Gaming is defined as prize gaming if the nature and size of the prize does not depend on the number of people playing or the amount paid for or raised by the gaming. The operator decides the price before anyone starts to play on the machines.

21.2 A prize gaming permit is a permit we issue to authorise gaming facilities with prizes on specific premises.

21.3 An application for a permit can only be made by a person who uses or plans to use the relevant premises. If the applicant is an individual, they must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is for the same premises. The application must be made to the authority in whose area the premises are completely or partly situated.

21.4 When making our decision on an application for this permit, we do not need to consider licensing objectives but must consider any Gambling Commission guidance.

21.5 There are conditions in the Act which the permit holder must follow. These are:

- the limits on participation fees, as set out in regulations;
- all chances to take part in the gaming must be offered on the premises on which the gaming is taking place and on one day, the game must be played and completed on the day the chances are offered and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not be more than the amount set out in regulations (if a money prize), or the set value (if a non-monetary prize); and
- taking part in the gaming must not entitle the player to take part in any other gambling.

22 Club gaming and club machine permits

22.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club gaming machine permit.

22.2 Gambling Commission guidance says: 'Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations'.

22.3 We may only refuse an application if:

- a you do not fulfil the requirements for a members' or commercial club or miners' welfare institute and so are not entitled to receive the type of permit which you have applied for;
- b your premises are used wholly or mainly by children or young people;
- c you have committed an offence under the Act or have broken the conditions of a permit while providing gaming facilities;
- d a permit held by you has been cancelled in the previous 10 years; or
- e an objection has been lodged by the commission of the police.

22.4 There are conditions attached to club gaming permits that no child uses a category-B or category-C machine on the premises and that the holder follows any relevant code of practice about where and how gaming machines are used.

23 Glossary

23.1 Adult gaming centre – a premises that may have up to four category-B machines (restricted to B3 and B4), any number of category-C machines and any number of category-D machines.

23.2 Betting premises – a premises that may have up to four gaming machines of category-B (restricted to B2, B3 and B4), C or D.

23.3 Bingo premises – a premises that may have up to four category-B machines (restricted to B3 and B4), any number of category-C machines and any number of category-D machines.

23.4 Categories of gambling – regulations will define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. These are the current proposals.

Maximum stake Maximum prize

A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p	or £5 cash or
	30p when a	£8 non-monetary
	non-monetary	
	prize	

23.5 Club machines permit – a premises will need this permit if it is a members' club, a commercial club or a miners' welfare institute, with up to three machines of category-B (restricted to B4) C or D (that is, three machines in total).

23.6 Family entertainment centre (with commission operating licence) – a premises that may have any number of category-C machines and any number of category-D machines. Category-C machines must be in a separate area to make sure that they are only played by adults.

23.7 Family entertainment centre (with gaming machine permit) – a premises that may have any number of category-D machines. There is no power for the licensing authority to set a limit on the number of machines covered by the permit.

23.8 Gaming machines – all machines on which people can gamble.

23.9 Occasional-use notices – where there is betting on a track on eight days or less in a calendar year, betting may be allowed under an ‘occasional-use notice’ without the need for a full premises licence.

23.10 Regulators’ compliance code – protects the public, the environment and groups such as consumers and workers through the ‘business-friendly’ enforcement of regulations. It is a procedure that can be adopted by enforcement officers to help businesses and others meet their legal responsibilities without unnecessary expense while taking firm action, including prosecution where appropriate, against those who break the law or act irresponsibly.

23.11 Remote gambling – gambling that takes place on the internet.

23.12 Responsible authorities – these are public organisations that must be told about applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, a premises licence. They are:

- a licensing authority in whose area the premises is completely or partly situated;
- the Gambling Commission;
- the chief officer of police or chief constable for the area in which the premises is completely or partly situated;
- the fire and rescue authority for the same area;
- the local planning authority;
- the pollution department;
- the Local Safeguarding Children’s Board (LSCB); and
- HM Revenue & Customs.

23.13 Spread betting – allows an investor to bet on whether they believe that the price quoted is likely to strengthen (go up in value) or weaken (go down in value). The profit or loss for a spread bet depends on the difference in the buy and sell price.

23.14 Temporary-use notices – these allow premises to be used for gambling where there is no premises licence but where a gambling operator wants to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary-use notice would include hotels, conference centres and sporting venues.

23.15 Travelling fair – completely or mainly providing amusements on a site that has been used for fairs for no more than 27 days in each calendar year. Any number of category-D machines can be made available but the facilities for gambling must not be the main amusements at the fair.

If you have any comments about this statement, please send them by e-mail or letter to us.

Licensing Section
Public Protection and Safety
Environment Services
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King Street
Hammersmith
London W6 9JU

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Annex 1 – Mandatory Conditions

Gambling Act 2005 – Mandatory and Default Conditions by premises type

All Premises		
All	Summary of the terms and conditions of the premises licence shall be displayed in a prominent place with the premises.	Mandatory
All	The layout of the premises shall be maintained in accordance with the plan.	Mandatory
All	The premises shall not be used for the sale of tickets in a private lottery or customer lottery or the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.	Mandatory

Betting Premises		
Betting Premises	A notice stating that no person under the age of 18 is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Betting Premises	Access to the premises shall be from a street or from other premises with a betting premises licence. Apart from this there must be no direct access between the premises and other premises which are used for the retail sale of merchandise or services.	Mandatory
Betting Premises	The premises shall not be used for any purpose other than for providing facilities for betting apart from anything permitted under the Gambling Act 2005 and having an ATM, permitted visual/sound apparatus and permitted publications.	Mandatory
Betting Premises	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.	Mandatory
Betting Premises	No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes: a) Communicating information about, or coverage of, sporting events, including- (i) information relating to betting on such an event; and (ii) any other mater of information, including an advertisement, which is incidental to such an event; b) Communicating information relating to betting on any event (including the result of an event) in connection with which betting transactions may be or have been effected on the premises.	Mandatory
Betting Premises	No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.	Mandatory
Betting Premises	No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided via the sound / visual apparatus referred to above.	Mandatory
Betting Premises	No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises. A notice explaining this shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Betting Premises	A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.	Mandatory
Betting	HOURS: No facilities for gambling shall be provided on the premises between the	Default

Premises	hours of 10pm on one day and 7am on the next day.	
Betting Tracks only		
Tracks(all)	No customer shall be able to access the premises directly from another premises which has a casino premises licence or an adult gaming centre premises licence.	Mandatory
Tracks (all)	A notice stating that no person under the age of 18 is permitted to bet on the premises shall be displayed in a prominent place at every public entrance to the premises.	Mandatory
Tracks(all)	The terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access.	Mandatory
Tracks(all)	The premises licence holder shall make arrangements to ensure that betting operators who are admitted to the premises for the purpose of accepting bets- (a) will be operating under a valid operating licence; and (b) are enabled to accept such bets in accordance with- (i) the conditions imposed under sections 92 (general betting operating licence) or 93 (pool betting operating licence) of the 2005 Act, or (ii) an authorisation under section 94 (horse-race pool betting operating licence) of that Act	Mandatory
Tracks(all)	The premises licence holder shall make arrangements to ensure that reasonable steps are taken to remove from the premises any person who is found to be accepting bets on the premises otherwise than in accordance with the 2005 Act.	Mandatory
Tracks(all)	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.	Mandatory
Horseracing Tracks (converted from an existing track)	The licence holder shall ensure that any part of the tracks which, prior to 1 st September 2007, were made available for betting operators (or their assistants) will continue to be so.	Mandatory
Horseracing Tracks (converted from an existing track)	The charge for admission to an existing betting area for providing facilities for betting shall not exceed five times the cost of the highest charge paid by members of the public (for betting operators) or the highest charge paid by member of the pubic (for the betting operator's assistant). All betting operators and betting operators' assistants will be charged the same for admission to the same part of the track. No other charged may be made and the charges must only cover reasonable costs.	Mandatory
Horseracing tracks (all)	The premises licence holder shall provide a place on the premises where betting operators and betting operators' assistants may provide facilities for betting. This does not apply to converted licences until 1 st September 2012.	Mandatory
Dog Tracks	A totalisator on the premises shall only be operated at a time when the public are admitted for the purpose of attending dog races and no other sporting events are taking place on the premises, and for the purpose of effecting betting transactions on the dog races taking place on the premises.	Mandatory
Dog Tracks	At any time when the totalisator is being used, no betting operator or betting operator's assistance shall be excluded from the premises for the reason that s/he proposes to negotiate bets on the premises. There must also be space made available where the betting operators and their assistants can conveniently accept and negotiate bets in connection with the dog races running on the premises that	Mandatory

	day.	
Tracks (all)	HOURS: No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next, except where there is a sporting event taking place on the premises. Where there is a sporting event taking place on the premises then gambling may take place at any time that day.	Default

Bingo		
Bingo	A notice stating that no person under the age of 18 is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Bingo	No customer shall be able to enter the premises directly from any other premises in respect of which one of the following permissions has effect: <ul style="list-style-type: none"> • A casino premises licence • An adult gaming centre premises licence • A betting premises licence other than a track premises licence • 	Mandatory
Bingo	Where children and/or young persons are permitted by the licence holder to enter the premises, and category B or C gaming machines are made available for use on the premises, then the gaming machines must be: <ul style="list-style-type: none"> • separated from the rest of the premises by a physical barrier to prevent access other than via an entrance designed to be the entrance • supervised at all times to ensure children or young persons do not enter the area • arranged so that the area can be observed by persons responsible for supervision or closed circuit television which is monitored The gaming machines area must also have a notice at the entrance stating that no person under the age of 18 years is permitted to enter the area.	Mandatory
Bingo	Where there is a charge for admission there must be a notice of the charge displayed in a prominent place at the principal entrance to the premises.	Mandatory
Bingo	A notice setting out any other charges in respect of the gaming (except prize gaming) shall be displayed at the main point where payment for the charge is to be made. Such a notice must include the cost (in money) of each game card or set of game cards, payable by an individual in respect of the game of bingo, and the amount that will be charged by way of a participation fee. There should also be in the notice a statement that all/part of the participation fee may be waived at the discretion of the person charging it. This notice can be displayed in electronic form.	Mandatory
Bingo	The rules of each type of game that is available (other than gaming machines) shall be made available to customers within the premises by either displaying a sign, making leaflets or other written material available, or running an audio-visual guide prior to any game commencing.	Mandatory
Bingo	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.	Mandatory
Bingo	HOURS: No facilities for gambling shall be provided on the premises between midnight and 9am, apart from gaming machines.	Default

Arcades

Adult Gaming Centres	A notice stating that no person under the age of 18 is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.	Mandatory
Adult Gaming Centres	No customer shall be able to access the premises directly from any other premises in respect of which a premises licence of the following types of permit have effect: <ul style="list-style-type: none"> • unlicensed family entertainment centre gaming machine permit • club gaming or club machine permit • alcohol licensed premises gaming machine permit 	Mandatory
Adult Gaming Centres	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.	Mandatory
Adult Gaming Centres	No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises. A notice to this effect shall be displayed at every entrance to the premises in a prominent place.	Mandatory
Family Entertainment Centres	No customer shall be able to access the premises directly from a premises where there is: <ul style="list-style-type: none"> • a casino premises licence • an adult gaming centre premises licences • a betting premises licence(other than a track premises licence) 	Mandatory
Family Entertainment Centres	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.	Mandatory
Family Entertainment Centres	Where category C gaming machines are made available for use on the premises, then the gaming machines must be: <ul style="list-style-type: none"> • separated from the rest of the premises by a physical barrier to prevent access other than via an entrance designed to be the entrance • supervised at all times to ensure children or young persons do not enter the area • arranged so that the area can be observed by persons responsible for supervision, or closed circuit television which is monitored <p>The gaming machines area must also have a notice at the entrance stating that no person under the age of 18 is permitted to enter the area.</p>	Mandatory
Family Entertainment Centres	No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises. A notice to this effect shall be displayed at every entrance to the premises in a prominent place.	Mandatory

Annex 2 – Local Pool of Licence Conditions

The following conditions can be applied to a number of different gambling premises. They can be used as a guide for applicants, residents, Councillors, agencies and responsible authorities such as the Police when making, commenting on or considering applications. This list is not exhaustive and should be used as a guide to help promote the three licensing objectives.

CCTV

CCTV shall operate at all times while the premises remains open to the public and all images captured will be recorded and stored on site for a minimum period of 31 days

Copies of CCTV recordings will be made available to the Police and/or the Licensing Authority on request within 48 hours of the request being made together with facilities for viewing where requested. If the CCTV equipment is inoperative, or is otherwise not installed and working to the satisfaction of the Police or the Licensing Authority, then within 48 hours the Police or Licensing Authority shall be notified and an estimate given of the repair timescale. The premises will comply with all reasonable requests from the Police, which may include the suspension of licensable activities if necessary.

Training

Full training shall be given to each member of staff employed at the premises. This training should include sections on compliance, fraud, robbery and crime prevention.

Written records of all staff training shall be kept at the premises and should be made available to the Police and / or authorised Council officers on request

Responsible Management

An incident log book will be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder, and ejections at a minimum. The log book shall be kept on the premises and be made available for inspection at all times the premises is open, and management shall regularly check the book to ensure that all staff are using it. This book should be made available for inspection by the Police or Council Officers at any time the premises is open.

Protecting children, proof of age schemes

A Proof of Age scheme shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence, a current passport or a PASS ID card shall be treated as acceptable forms of identification

All staff shall be trained in the Proof of Age policy and how to identify acceptable means of identification.

Posters shall be displayed in prominent positions around the entrance to the premises advising customers of the Proof of Age policy in force at the premises

A refusals book shall be kept at the premises to record details of all refusals to provide gambling activities. This book shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The book shall be made available to the Police and/or authorised Council officers, on request.

Door Supervisors

Any door supervisors working at the premises must be licensed by the Security Industry Authority

A minimum of (insert number) door supervisors shall be on duty on the premises during the hours of (insert times) on (insert days of the week)

A minimum of (insert number) of door supervisors shall be provided on (insert days of week) to patrol

external areas of the premises between the hours of (insert times)
Random searches of customers shall be undertaken of customers entering the premises between the hours of (insert times) and prominent signage provided to this effect
Crime Prevention
A metal detection device shall randomly be used by door supervisors to search patrons for weapons
A search arch shall be used at the entrance to the premises to detect customers who may be carrying weapons
An electronic door lock (maglock) shall be fitted to the front door of the premises.
Any drugs or weapons confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable
All gaming machines shall have a control behind the counter to allow machines to be turned on or off.
(Insert crime prevention device – see below) shall be installed at the premises to the satisfaction of the Police licensing officer
<ul style="list-style-type: none"> ▪ Shutters ▪ Re – enforced steel back / front doors ▪ Window bars ▪ External lighting ▪ Security mirrors ▪ Prevention signage
No facilities for gambling shall be provided on the premises between the hours of (Insert time) on one day and (Insert time) on the next day
Any entrance or exit doors to the premises shall remain closed at all times (i.e. not propped open)
A panic button shall be installed behind the counter or service area in the premises. This button should alert the Police to any incident taking place at the premises.
Lone working is not permitted in the premises at any time



Monitoring Officer's Report to Council

24 OCTOBER 2012

REVIEW OF THE COUNCIL'S CONSTITUTION - REVISED PROCEDURE FOR EXECUTIVE MEETINGS AND ACCESS TO INFORMATION

WARDS

All

CONTRIBUTORS:

DoL

Summary

This report is seeking approval to changes to the Constitution resulting from the making of new Regulations relating to private and public meetings of the Executive, and publication of documents and access to them by the public, Councillors and Overview and Scrutiny Committee members.

In addition, minor changes are recommended to officers' Schemes of Delegation and revised titles of posts.

Recommendation

That the Constitution be amended to reflect the changes in section 3 of this report.

1. Introduction

- 1.1 The Council at its meetings on 30 May and 4 July 2012 approved changes to the Constitution for the 2012/13 Municipal Year. Further amendments are now required to reflect the changes resulting from the implementation of the Local Authorities (Executive Arrangements) (Meetings and Access to information) (England) Regulations 2012, which were made on 10 August and came into force on 10 September 2012.

2. Effects of the Regulations

- 2.1. While the Regulations reproduce many of the elements of the current regime, they contain a number of new features designed to make Executive decisions as open and transparent as possible. The main features of the Regulations as they apply to the H&F governance model are as follows:
- Extending public access to meetings and documents where the Executive or an individual Executive member makes a decision. The presumption that Executive meetings must be held in public (except where confidential or exempt information is being considered) is strengthened.
 - No part of an Executive meeting can now be held in private unless 28 days public notice is given. The 28 days notice will allow members of the public to have an opportunity to object to holding of a private meeting and the Council will have to publish their representations and the Council's reply to them.
 - There is no longer a requirement to publish a Forward Plan. This is replaced by a list of Key Decisions, which the Council must publish at least 28 days before the relevant Executive meeting. Similar procedures apply as before to urgent Key Decisions, where timescales do not permit such notice to be given.
 - The recording of decisions and the reason for them, together with details of alternative options considered, is extended from Executive (Cabinet) decisions to decisions made by individual members of the Executive (Cabinet Members Decisions). All Councillors will now receive copies of such a record in relation to Cabinet Members' Decisions and the records will be published in accordance with the requirements of the Regulations.
 - Unpublished background papers used to prepare a Cabinet report or upon which an important part of the report is based must be made available for public inspection alongside the Cabinet report.

- In accordance with the Regulations, all Councillors will receive copies of Cabinet Members' Decision reports (including exempt reports), replacing the present summaries reported to Cabinet. All Councillors already receive open and exempt Cabinet reports.
 - Members of Overview and Scrutiny Committees have additional rights regarding access to documents relating to decisions which Cabinet and Cabinet Members have taken, including relevant exempt documents.
- 2.2 The Regulations apply only to Executive functions and references to reports and documentation specifically exclude draft versions. Existing provisions in respect of non-Executive functions and decisions made by non-Executive bodies such as Overview and Scrutiny, Planning and Licensing are unaffected.

3. Proposed changes to the Constitution

- Access to Information Rules
- 3.1 The new regulatory requirements summarised above require changes to terminology and procedures throughout the Constitution. The main changes are to Article 3 (Citizens and the Council) to incorporate the increased rights of notice and the making of representations in relation to Executive decisions to be made in private; and to the Access to Information Rules which require extensive amendment to incorporate the changes summarised above. The proposed new Access to Information Rules are attached as Appendix 1 to this report.
- Officers' Scheme of Delegation and Titles
- 3.2 Since the last report to the July Council meeting, a number of powers delegated to the Executive Director of Environment, Leisure and Residents Services have been found to be also exercisable by the Executive Director of Transport and Technical Services. These powers are:

Police and Criminal Evidence Act 1984
 Criminal Procedures and Investigation Act 1996
 Criminal Justice Act 1988
 Theft Act 1968
 Theft Act 1978
 Regulation Of Investigatory Powers Act 2000
 Proceeds Of Crime Act 2002

It is recommended that the Schemes of Delegation be amended to enable these powers to be jointly exercisable by the two Executive Directors.

3.3 There have been a number of changes to officers' post titles since the last report to Council and these will need to be reflected in the revised Constitution.

- Regulation of Investigatory Powers Act 2000 (RIPA)

3.4 From 1 November 2012 all applications for directed surveillance and access to communication data under the Regulation of Investigatory Powers Act 2000 (RIPA) must be authorised by Magistrates. Some amendments to the Scheme of Delegation are necessary to ensure that senior officers who have the delegated authority to approve RIPA applications also have delegated authority to authorise officers to make application to the Magistrates Court for judicial approval. The amendments affect the Schemes of Delegation of the Executive Directors of Finance and Corporate Governance, Environment, Leisure and Residents Services, Transport and Technical Services and Housing and Regeneration, making minor amendments to the current text and adding power to authorise officers to make application to the Magistrates court for judicial approval pursuant to Section 223 of the Local Government Act 1972.

- Changes by the Monitoring Officer

3.5 Currently all changes to the Constitution are approved by the full Council at its Annual or another Council meeting. With the infrequent nature of Council meetings and the constant changes to law and legislation this can cause difficulty. This report also seeks approval for the Monitoring Officer in consultation with the Leader, Chief Whip and Opposition Whip from time to time to make changes to constitution when necessary in the following cases:-

- (i) to Part Three (Responsibility for Functions) as may be necessary to reflect any decision made by a person or body with the authority to delegate or sub-delegate powers to exercise executive or non-executive functions;
- (ii) to Article 11.01 and Part 7 (Management Structure) as may be necessary to reflect any changes made in the allocation of functions to officers;
- (iii) such changes as may be necessary to comply with or give effect to any legislative requirements;
- (iv) such other changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable.

Any changes made by the Monitoring Officer shall be reported to the next available Council meeting for information. The proposed

changes to Article 14 of the constitution are attached as Appendix 2 to this report.

3.6 The Council is recommended to agree to the amendment of the Constitution to reflect the above changes.

4. Comments of the Executive Director of Finance and Corporate Governance

4.1 There are no direct financial implications for the purposes of this report.

5. Comments of the Director of Law

5.1 These are incorporated within the report.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
	None	Kayode Adewumi, Head of Governance and Scrutiny Tel. 020 8753 2499	Finance and Governance

Proposed revised Access to Information Procedure Rules

1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Area Committees (if any), Regulatory Committees and Panels, and public meetings of the Executive (together called meetings).

Certain rules also apply to Executive decisions taken by individual members of the Executive.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules or specified elsewhere in this Constitution (See Council Procedure Rules).

4. NOTICES OF MEETING

Subject to Rule 13 in relation to meetings of the Executive and its Committees, the Council will give at least five **clear days** notice of any public meeting (defined as meaning working days, and excluding the day of publication of the agenda and the day of the meeting, weekends and bank holidays) by posting details of the meeting at the venue, Hammersmith Town Hall, local libraries and on the Council's website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- (a) Subject to Rule 15 in relation to meetings of the Executive and its Committees, the Council will make copies of the agenda and those reports open to the public available for inspection at Hammersmith Town Hall, local libraries and on the Council's website at least five clear days before the meeting. If an item is added to an agenda later, the revised agenda will be open to inspection from the time the item is added to the agenda. Where reports already included on

an agenda are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

- (b) The proper officer may exclude from the copy of any report made available for public inspection any part which, in the proper officer's opinion, relates to matters likely to be considered in a private meeting.

6. SUPPLY OF COPIES

- (a) The Council will make available at all meetings referred to in Rule 1 copies of the relevant agenda and reports (except those which will be considered in private) for use by the public.
- (b) The Council will also supply copies of:
 - (i) any agenda and reports which are open to public inspection;
 - (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - (iii) if the Director of Law thinks fit, copies of any other documents supplied to Councillors in connection with an itemto any person on payment of a charge for copying, postage and any other costs.

7. ACCESS TO DOCUMENTS AFTER THE MEETING

The Council will make available for public inspection the following for a period of at least six years after a meeting:

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was held in private or which disclose exempt or confidential information; and
- (b) a summary of any proceedings held in private where the minutes open to inspection would not provide a reasonably fair and coherent record; and
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

These documents will be available via the Council's website or at Hammersmith Town Hall during normal business hours for inspection or printing by members of the public, or for supply by post as requested, on payment of postage, copying or other relevant charges.

8. BACKGROUND PAPERS

8.1 List of background papers

The Director of Law will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

not including published works or those which disclose exempt or confidential information (as defined in Rule 10 below) and, in respect of reports for decision by the Executive or individual members thereof, the advice of a political adviser.

8.2 Public inspection of background papers

- (a) The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.
- (b) In the case of decisions made at a meeting of the Executive or its Committees, background papers (apart from those which disclose exempt or confidential information as defined in Rule 10) will be available for inspection by members of the public at least five clear days before the meeting, or at the time when the meeting is convened if this is at shorter notice.

Background papers will be made available for public inspection via the Council's website, or at Hammersmith Town Hall during normal business hours for printing by members of the public or for supply by post as requested, on payment of postage, copying or other relevant charges.

9. SUMMARY OF PUBLIC'S RIGHTS

A summary of the public's rights to attend meetings and to inspect and copy documents will be available at the Council's main offices.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted, or the nature of the proceedings, that confidential information would be disclosed in breach of the obligation of confidence.

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted, or the nature of the proceedings, that exempt information would be disclosed provided that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The public may also be excluded from meetings where, as a result of disruption caused by them, the meeting is unable to properly discharge its functions.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public, unless a private hearing is necessary for one of the reasons specified in Article 6 of the Human Rights Act.

The meeting will pass a resolution to exclude the public during discussion of items which are confidential or exempt. The resolution will identify why such items are to be treated as confidential or exempt in accordance with Rules 10.3 and 10.4 below.

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of Exempt Information

Exempt information means information falling within any of the 7 categories of exempt information specified overleaf (and subject to any qualifications detailed thereon), as may be amended from time to time by regulations:

<u>ACCESS TO INFORMATION ACT</u>
<u>EXEMPT CATEGORIES OF INFORMATION – SCHEDULE 12A, LOCAL GOVERNMENT ACT 1972</u>
1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes –

(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

(b) to make an order or direction under any enactment.

7. Information relating to any action taken or proposed to be taken in connection with the prevention, investigation or prosecution of crime.

10.5 Qualifications:

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it requires to be registered under:

- (a) The Companies Act 1985,
- (b) The Friendly Societies Act 1974,
- (c) The Friendly Societies Act 1992,
- (d) The Industrial & Provident Societies Act 1965 to 1978,
- (e) The Building Societies Act 1986, or
- (f) The Charities Act 1993.

10.6 Information is not exempt information if it relates to proposed development for which the local Planning authority may grant itself Planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.7 Information which –

- (a) falls within any of categories in 1 - 7 of paragraph 10.4 above; and
- (b) is not prevented from being exempt by virtue of paras.10.5 or 10.6

is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Director of Law thinks fit, the Council may exclude access by the public to reports (or parts of reports) which in his/her opinion relate to items during which, in accordance with Rule 10 above, the meeting is likely to be held in private. Such reports (or parts thereof) will be marked "Not for publication", together with the category of information likely to be disclosed as set out in Rule 10.

Reports which are marked "draft" are not open to public access.

12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 – 24 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 16 (General Exception) or Rule 17 (Special Urgency) apply. A key decision is as defined in Article 12.03 of this Constitution.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency), a key decision may not be taken unless:

- (a) a notice (called here a Key Decisions List) has been published at Hammersmith Town Hall and on the Council's website in connection with the matter in question stating:
 - (i) the matter in respect of which a key decision is to be made; and
 - (ii) the date on which the key decision is to be made; and
 - (iii) the names of the members of the executive making the key decision; and
 - (iv) a list of documents to be submitted in relation to the key decision as set out in Rule 8 and how copies of such documents and other relevant documents (if not exempt) can be obtained.
- (b) at least 28 calendar days have elapsed since the publication of the Key Decisions List (not including the day of publication or the day the decision is to be taken); and
- (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings); or, if the meeting is convened at shorter notice, at the time that the meeting is convened.

14. PROCEDURE BEFORE TAKING KEY DECISIONS IN PRIVATE

- (a) In accordance with Article 3.01(b) of this Constitution, the Executive and its Committees may take a decision at a private meeting only if:
- (i) a notice has been published at Hammersmith Town Hall and on the Council's website setting out the reasons why the meeting is to be held in private, and at least 28 calendar days have elapsed since the publication of the notice (not including the day of publication or the day the decision is to be taken); and
 - (ii) at least 5 clear days have elapsed since the publication of a further notice at Hammersmith Town Hall and on the Council's website setting out the reasons why the meeting is to be held in private, details of any representations received by the Council about why the meeting should be open to the public, and the Council's response to any such representations.
- (b) If the date by which a private meeting must be held makes compliance with (a) above impracticable, the decision may only be taken if:
- (i) the Chairman of the body making the decision obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence, the Deputy Mayor, will suffice; and
 - (ii) a notice setting out the reasons why the private meeting is urgent and cannot reasonably be deferred is published at Hammersmith Town Hall and on the Council's website as soon as reasonably practicable after such agreement has been obtained.

15. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

If a meeting of the Executive or its committees is convened at shorter notice than specified in Rule 4, the Council will make copies of the agenda and reports open to the public available for inspection at Hammersmith Town Hall and on the Council's website from the time the meeting is convened.

16. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the Key Decisions List, then subject to Rule 17 (Special Urgency), the

decision may still be taken if:

- (a) the proper officer has informed the Chairman of a relevant Overview and Scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter about which the decision is to be made;
- (b) the proper officer has made copies of that notice available to the public at the offices of the Council and on the Council's website, stating why the requirements of Rule 13 cannot be complied with; and
- (c) at least 5 clear days have elapsed since the proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

17. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 16 (General Exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual), or the Chairman of the body making the decision:

- (a) obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence, the Deputy Mayor, will suffice; and
- (b) the proper officer makes available at Hammersmith Town Hall and on the Council's website a notice setting out why the decision is urgent and cannot reasonably be deferred.

The Leader will submit quarterly reports to the Council on the Executive where decisions have been taken in the circumstances set out in this Rule during the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. OVERVIEW AND SCRUTINY COMMITTEES' POWERS IN RELATION TO THE EXECUTIVE

18.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Key Decisions List; or

- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Mayor, or in his/her absence, the Deputy Mayor, under Rule 17;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by majority vote. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

18.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

19. RECORD OF EXECUTIVE DECISIONS

After any meeting of the Executive or any of its committees, whether held in public or private, the proper officer, or where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, details of any alternative options considered and rejected at that meeting, a record of any conflict of interest in relation to the decision and any note of dispensation granted by the Head of Paid Service.

20. RECORD OF DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive, he/she will prepare, or instruct the proper officer to prepare, a record of the decision and the reasons for it, details of any alternative options considered and rejected in making the decision, a record of any conflict of interest declared by any other member of the Executive who is consulted by the Executive member in relation to the decision, and any note of dispensation granted by the Head of Paid Service.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential

information.

21. INSPECTION OF DOCUMENTS RELATING TO EXECUTIVE DECISIONS AND DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

- 21.1 The proper officer will make available for public inspection the records described in Rules 19 and 20, together with those reports relating to Executive Decisions and decisions made by individual members of the Executive (apart from those which disclose exempt or confidential information as defined in Rule 10).
- 21.2 These records and reports will be made available via the Council's website or at Hammersmith Town Hall during normal business hours for printing by members of the public or for supply by post as requested, on payment of postage, copying or other relevant charges.

22. OVERVIEW AND SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 23.2 below, an Overview and Scrutiny Committee (including its sub-committees or Panels) will be entitled within 10 clear working days of making the request to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive or its committees; or
- (b) any decision taken by an individual member of the Executive.

22.2 Limit on rights

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise as part of a forward programme of work; or
- (c) any document containing the advice of a political adviser.

In cases where a document or part of a document is withheld from a member of an Overview and Scrutiny Committee for the reasons set out in (b) or (c) above, the members of the Overview and Scrutiny committee will be provided with the reasons in writing.

23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

23.1 Material relating to current and previous business

Subject to Rule 23.2, all members will be entitled to inspect any document which relates to any business to be considered at a meeting of the Executive or its Committees at least five clear days before the relevant Executive meeting, with the exception of any document which contains the advice of a political adviser. Where the meeting is convened at shorter notice, such documents will be available for inspection when the meeting is convened. Where reports already included on an agenda are prepared after the summons has been sent out, the proper officer shall make each such report available to members or as soon as the report is completed.

23.2 Material relating to Executive Decisions taken in private

All members will be entitled to inspect any document which contains material relating to any key decision considered at a private meeting (except those available only in draft form) within 24 hours of the decision being made, unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1,2,3, (only to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) 4 and 7, of the categories of exempt information set out in Rule 10.4; or
- (b) it contains the advice of a political adviser.

23.3 Material relating to decisions made by individual members of the Executive

All members will be entitled to inspect any document which contains material relating to any decision made by an individual member of the Executive (except those available only in draft form) within 24 hours of the decision being made, unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1,2,3, (only to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) 4 and 7, of the categories of exempt information set out in Rule 10.4; or
- (b) it contains the advice of a political adviser.

23.4 Members' Common Law Rights to information

In addition to the above provisions, a member may be entitled at common law to have access to information held by the Council in order to carry out his or her duties as a member. Requests for documents under this paragraph shall be made in writing to the relevant Executive Director and specify:-

- (i) the documentation requested;

- (ii) the reason for requesting the documentation and the uses to which it will be put; and
- (iii) where the request is urgent, the reason for urgency.

If the Executive Director is satisfied that the member is entitled to inspect the documentation, he/she will as soon as reasonably practicable provide the member with a copy of the document, or if it is impracticable to do so, allow the member to inspect the original.

If the Executive Director is of the view that the member is not entitled to the document, then he/she shall refer the request to the Monitoring Officer, whose decision shall be final.

23.5 Freedom of Information Act 2000

Members also share the same rights of access to information as members of the public under the Freedom of Information Act 2000. A request for information under the Act must:

- Be in writing (electronic requests are acceptable)
- Contain a name and address for correspondence
- Describe the information requested

The Council will comply with all requests for information under the Act unless one or more of the statutory exemptions apply.

Article 14 - Review and Revision of the Constitution

14.01 Duty to monitor and review the Constitution

The Council's Monitoring Officer will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

Protocol for monitoring and review of the Constitution by the Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders;
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice;
5. consult all Councillors on their views;
6. bring suggestions and recommendations to the Cabinet or relevant Scrutiny Committee for discussion and debate.

14.02 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the proposal at its Annual or another Council meeting.

However, the Monitoring Officer in consultation with the Leader, Chief Whip and Opposition Whip may make the following changes from time to time:

- (i) to Part Three (Responsibility for Functions) as may be necessary to reflect any decision made by a person or body with the authority to delegate or sub-delegate powers to exercise executive or non-executive functions;
- (ii) to Article 11.01 and Part 7 (Management Structure) as may be necessary to reflect any changes made in the allocation of functions to officers;

- (iii) such changes as may be necessary to comply with or give effect to any legislative requirements;
- (iv) such other changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable.

Any changes made by the Monitoring Officer shall be reported to the next available Council meeting for information.

- (b) **Implementation:** Changes approved by the Council will take effect from the conclusion of the meeting at which those changes are agreed unless the recommendation specifies otherwise.
- (c) **Change from a Leader and Cabinet form of Executive to another permitted form of Executive.** The Council must seek approval to such changes by means of a local referendum.

AMENDED MAY 2012, JULY 2012, OCTOBER 2012



Report to Council

24 OCTOBER 2012

LEADER
*Councillor Nicholas
Botterill*

TREASURY MANAGEMENT OUTTURN REPORT

Wards:
All

This report provides information on the Council's debt, borrowing and investment activity for the financial year ending 31 March 2012.

CONTRIBUTORS

EDFCG
DoL

RECOMMENDATIONS:

- 1. To note that the Council has not undertaken any borrowing for the period 1 April 2011 to 31 March 2012.**
- 2. To note the investment activity for the period 1 April 2011 to 31 March 2012.**

1. INTRODUCTION AND BACKGROUND

- 1.1 This report presents the Council's Annual Treasury Report for 2011/12 in accordance with the Council's treasury management practices. It is a regulatory requirement for this outturn report to be presented to the Cabinet by 30 September each year.
- 1.2 There are two aspects of Treasury performance – debt management and cash investments. Debt management relates to the Council's borrowing and cash investments to the investment of surplus cash balances. This report covers:
- The treasury position as at 31 March 2012
 - The UK economy and interest rates
 - Investment strategy and outturn for 2011/12
 - The borrowing strategy and outturn for 2011/12
 - Compliance with treasury limits and prudential indicators
- 1.3 The borrowing amounts outstanding and cash investment for the relevant periods are as follows:

Table 1 – Balances

	31/03/12	31/03/11	31/03/10
	£'000	£'000	£'000
Total borrowing	262,166	475,520	475,520
Total cash balances	109,300	70,000	137,000

2. TREASURY POSITION AS AT 31 MARCH 2012

2.1 Investments

The table below provides a breakdown of the cash deposits, together with comparisons from the previous year.

Table 2 – Investments

Investment Type	31 March 2012	31 March 2011
	£000's	£000's
Call Account	18,800	30,000
Term Deposits	69,500	10,400
Money Market Funds	21,000	30,000
Total	109,300	70,400

- 2.2 The Council had invested in four money markets funds during 2011-12 Prime Rate, Goldman Sachs, Insight and Blackrock producing returns ranging from 0.55 to 0.96%, all are AAA rated.
- 2.3 The term deposits ranged from overnight to 1 year. The weighted average interest rate of return on the investments over the year was 1.18%.

3. BORROWING

3.1 Treasury Borrowing

No new borrowing was undertaken during the year. PWLB debt maturing during the year, which was not refinanced, totalled £16 million, with an average nominal interest rate of 9.84%. This resulted in a reduction in the average PWLB borrowing rate from 5.70% to 5.61%.

3.2 An analysis of movements on loans during the period is shown below:

Table 3 – Movement on loans

	Balance 31.03.11 £000s	Loans/Invs Raised £000s	Loans/Invs Repaid £000s	Balance 31.03.12 £000s
PWLB	475,520	0	(16,000)	
PWLB HRA settlement			(197,354)	
Total debt	<u>475,520</u>	<u>0</u>	<u>(213,354)</u>	<u>262,166</u>

Table 4 – Outstanding Debt

	31 March 2011		31 March 2012	
	Principal	Average Rate	Principal	Average Rate
	£000's		£000's	
PWLB General Fund	60,993		44,785	
PWLB HRA	414,527		217,381	
Total	475,520	5.70%	262,166	5.61%

3.3 The implementation of housing finance reform at the end of the year abolished the housing subsidy system financed by central government and consequently all housing debt has been reallocated nationally between housing authorities. The result of this reallocation is that this Council received, at the end of the year, a repayment of debt by the Department of Communities and Local Government of £197.35 million (which resulted in a corresponding decrease in its HRA CFR). The CLG has also paid the premium (breakage costs) of £53.99 million.

Table 5 – Capital Financing Requirement (CFR)

	31 March 2011 Actual £'000	31 March 2012 Budget £'000	31 March 2012 Actual £'000
CFR General Fund	121,768	111,679	99,684
CFR HRA	414,527	217,427	217,381
Total CFR	536,295	329,106	317,065

- 3.4 The CFR represents the underlying borrowing need of the HRA and General Fund. The reason why actual borrowing is lower than the CFR is because the Council has effectively borrowed from its internal resources.

4. THE ECONOMY AND INTEREST RATES

- 4.1 **Sovereign debt crisis.** 2011-12 was the year when financial markets were apprehensive, fearful of the potential of another Lehman's type financial crisis, prompted by a precipitous Greek Government debt default. At almost the last hour, the European Central Bank (ECB) calmed market concerns of a liquidity crisis among European Union (EU) banks by making available two huge three year credit lines, totalling close to €1 trillion at 1%. This also provided a major incentive for those same banks to then use this new liquidity to buy EU sovereign debt yielding considerably more than 1%.
- 4.2 A secondary benefit of this initiative was the bringing down of sovereign debt yields, for the likes of Italy and Spain, below unsustainable levels. The final aspects in the calming of the EU sovereign debt crisis were two eleventh hour agreements: one by the Greek Government of another major austerity package and the second, by private creditors, of a "haircut" (discount) on the value of Greek debt that they held, resulting in a major reduction in the total outstanding level of Greek debt. These agreements were a prerequisite for a second EU / IMF bailout package for Greece which was signed off in March.
- 4.3 Despite this second bailout, major concerns remain that these measures were merely a postponement of the debt crisis, rather than a solution, as they did not address the problem of low growth and loss of competitiveness in not only Greece but also in other EU countries with major debt imbalances. These problems will, in turn, also affect the financial strength of many already weakened EU banks during the expected economic downturn in the EU. There are also major questions as to whether the new Greek Government will be able to deliver on its promises of cuts in expenditure and increasing tax collection rates, given the hostility of much of the population.
- 4.4 The UK coalition Government maintained its tight fiscal policy stance against a background of warnings from two credit rating agencies that the UK could lose its AAA credit rating. Key to retaining this rating will be a return to strong economic growth in order to reduce the national debt burden to a sustainable level, within the austerity plan timeframe. The USA and France lost their AAA ratings from one rating agency during the year.

- 4.5 **UK growth** proved mixed over the year. In quarter 2, GDP growth was zero, from the major western central banks: the US economy was flat but then quarter 3 surprised with a return to robust growth of 0.6% q/q before moving back into negative territory (-0.3%) in quarter 4. The year finished with prospects for the UK economy being decidedly downbeat due to a return to negative growth in the EU in quarter 4, our largest trading partner, and a sharp increase in world oil prices caused by Middle East concerns. However, there was also a return of some economic optimism for growth outside the EU and a third dose of quantitative easing to boost growth.
- 4.6 **UK CPI inflation** started the year at 4.5% and peaked at 5.2% in September. The fall out of the January 2011 VAT increase from the annual CPI figure in January 2012 helped to bring inflation down to 3.6%, finishing at 3.5% in March. Inflation is forecast to be on a downward trend to below 2% over the next year.
- 4.7 The Monetary Policy Committee agreed an increase in quantitative easing (QE) of £75bn in October on concerns of a downturn in growth and a forecast for inflation to fall below the 2% target. QE was targeted at further gilt purchases. The MPC then agreed another round of £50bn of QE in February 2012 to counter the negative impact of the EU debt and growth crisis on the UK.
- 4.8 **Gilt yields** fell with the **Bank Rate** unchanged at 0.5% throughout the year. Expectations of when the first increase would occur were steadily pushed back until the second half of 2013 at the earliest. Deposit rates picked up in the second half of the year as competition for cash increased among banks.
- 4.9 **Risk premiums** were also a constant factor in raising money market deposit rates for periods longer than 1 month. Widespread and multiple downgrades of the credit ratings of many banks and sovereigns, continued Euro zone concerns, and the significant funding issues still faced by many financial institutions, meant that investors remained cautious of longer-term commitment.

5. INVESTMENT STRATEGY AND OUTTURN FOR 2011/12

- 5.1 The investment strategy for 2011/12 was to place cash investments with certain institutions as set out in the Treasury Management Strategy, to focus on the security and liquidity of the investments rather than to seek yield. Where security and liquidity criteria could be satisfied, investments would then be placed taking yield into account.
- 5.2 The investments outstanding at 31 March 2012 amounted to £109.3 million: £18.8 million was invested in NatWest Call Account, £21 million invested in 3 money Market Funds, £10 million with a Local Authority and £59.5 million invested in short term deposits.

Table 6 – Investment Portfolio as at 31 March 2012

Deposit	Counterparty	£'000
Call Account	NatWest	18,800
Money Market Funds	Goldman Sachs	1,000
	Insight	10,000
	Primerate	10,000
Term Deposits	DMADF	4,500
	LloydsTSB	35,000
	NatWest	15,000
	Birmingham City Council	10,000
	Barclays Bank	5,000

5.3 Interest earnings for 2011/12 were £1.20 million compared to £1.19 million for 2010/11.

5.4 An analysis of movements on investments during 2011/12 is shown below.

Table 7 – Movement on Investments

	Balance 31.03.11 £000s	Loans/Invs Raised £000s	Loans/Invs Repaid £000s	Balance 31.03.12 £000s
Investments	70,400	1,021,600	(982,700)	109,300

6. BORROWING STRATEGY AND OUTTURN 2011/12

6.1 The treasury strategy for 2011-12, approved by the Council on 23 February 2011, was based on the expectation that base rate, whilst remaining low, would rise gradually from the fourth quarter of 2011 with similar gradual rises in medium and longer term fixed interest rates over 2011-12. Continued uncertainty in the aftermath of the 2008 financial crisis led to a continuation of a cautious approach for investments with low counterparty risk the main consideration, resulting in relatively low returns compared to borrowing rates.

6.2 Due to the level of cash balances held by the Council of £70.4 million at 31 March 2011, it was anticipated that there would not be any need to borrow during 2011/12.

6.3 An analysis of the Council's long term (PWLB) borrowings by maturity (i.e. date of repayment) is as follows:

Table 8 – PWLB Debt by maturity

PWLB	31 March 2011 £000s	31 March 2012 £000s
Up to One year	16,000	100
One to two years	175	11,556
Between two and five years	52,881	18,614
Between five and ten years	70,400	40,164
More than ten years	<u>336,064</u>	<u>191,732</u>
Total	<u>475,520</u>	<u>262,166</u>

7. COMPLIANCE WITH TREASURY LIMITS AND PRUDENTIAL INDICATORS

During the financial year the Council operated within its treasury limits and Prudential Indicators as set out in the Council's Treasury Strategy Report.

Table 9 – Authorised Limit and Operational Boundary 11/12

External debt indicator	Approved limit (£m)	Actual borrowing	Days exceeded
Authorised limit ¹	364		
Operational boundary ²	303	262	None

Table 10 – Maturity Structure of Borrowing

Maturity structure of borrowing	Lower Limits (%)	Upper Limits (%)	Actual at 31 March 2012 (%)
Under 12 months	0	15	0.04
1-2 years	0	15	4.41
2-5 years	0	60	9.80
5-10 years	0	75	12.62
10 years and over	0	100	73.13

Table 11 – Limits on interest rate exposure

Upper limits on interest rate exposure	Approved maximum limit	Actuals as at 31 March 2012
Debt		
Fixed interest rate exposures	330,000	262,166
Variable interest rate exposures	66,000	0

¹ Authorised limit for external debt is the limit above which external debt must not go without changing Council Policy

² Operational boundary for external debt is the limit against which external debt will be constantly monitored.

8. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

8.1 These are contained within this report.

9. COMMENTS OF THE DIRECTOR OF LAW

9.1 There are no direct legal implications for the purpose of this report.

10. RECOMMENDATIONS

10.1 To note the borrowing and investment activity for the period 1 April 2011 to 31 March 2012.

LOCAL GOVERNMENT ACT 2000
BACKGROUND PAPERS

No.	Brief Description of Background Papers	Name/Ext. of holder of file/copy	Department/Location
1.	Loans and Investments Ledger	Rosie Watson Ext: 2563	Westminster City Hall, Treasury and Pensions Team 16 th Floor,
2.	CIPFA Treasury Management Code of Practice	Rosie Watson Ext: 2563	Westminster City Hall, Treasury and Pensions Team 16 th Floor,



REPORT TO COUNCIL

24 OCTOBER 2012

LEADER

*Councillor Nicholas
Botterill*

**ANNUAL REPORT OF THE AUDIT AND
PENSIONS COMMITTEE 2011/12**

**WARDS
All**

This report details the work of the Audit and Pensions Committee during 2011/12 as it relates to an audit committee, outlining the key developments in:

Governance
Internal Control;
Risk management;
Internal Audit;
Anti-fraud;
External Audit;

It also sets out the plans for the future, built on the lessons learnt. The report provides an opportunity for all members to review the Committee and to review its performance.

CONTRIBUTORS

FCS and all
Departments

RECOMMENDATIONS:

That the Council approves the annual report.

Audit & Pensions Committee

Annual Report 2011/12

Introduction

- 1 This report relates to the period 1 April 2011 to 31 March 2012. As there is separate reporting arrangements in relation to the Pensions element of this Committee's work this report excludes all matter relating to pensions. The Audit and Pensions Committee (the Committee) has a wide ranging 'audit committee' brief that underpins the Council's governance processes by providing independent challenge and assurance of the adequacy of governance, risk management, and internal control. This includes audit, anti-fraud and the financial reporting framework; the Committee is also the Council's Approval of Accounts Committee. The Terms of Reference for the Committee for 2011/12 are reproduced at Appendix 1 for information.
- 2 The table below details last year's Committee members. I would like to thank all members for their positive contributions throughout the year. The members have a wide range of skills and bring both technical and professional experience to the role. Within the membership there are qualified accountants and all members have some experience or have received development training in relation to the governance processes they challenge.

Members of the Audit Committee

Member	Role
Councillor Mike Adam	Chairman
Councillor Michael Cartwright	Vice Chairman
Councillor Robert Iggulden	Member
Councillor Nicholas Botterill	Member
Councillor PJ Murphy	Member
Councillor Marcus Ginn	Member
Eugenie White	Co-opted Member

- 3 To further support the Committee members, officers have provided development training.
- 4 This report details the key successes and work of the Committee in relation to its role as an audit committee in 2011/12. The Committee has overseen transformation in all areas of its responsibilities and has actively contributed to leading and shaping those changes. Key achievements include:
 - Moving risk management reporting from process compliance to identifying and tracking risks and issues arising from the register contents;

- Continued performance improvements in responding to internal audit reports and recommendations across the Council, and delivery of the Internal Audit plans;
- Developments in the Council's anti-fraud culture with continued improvements in the performance of the Corporate Anti-Fraud Service (CAFS);
- Delivering through CAFS of the National Fraud Initiative;
- Approval of the 2010/11 year annual accounts.

Governance

- 5 The Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions which includes arrangements for the management of risk. The governance framework comprises the systems, processes, culture, and values by which the authority is directed and controlled and it engages with and leads the community. It enables the Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.
- 6 The Council has reviewed its code of corporate governance and found them to be consistent with the principles of the CIPFA/SOLACE *Framework Delivering Good Governance in Local Government*.
- 7 The Audit and Pensions Committee has a responsibility to assess the adequacy and effectiveness of the corporate governance arrangements that have been put in place. This is achieved in a number of ways. The Committee reviews in detail the Annual Governance Statement (AGS) that accompanies the annual accounts, to ensure it properly identifies the Council's governance arrangements, and that it accurately identifies significant control weaknesses. The process for producing the statement is outlined at Appendix 2, showing the range of supporting evidence considered by the Committee as part of its deliberations.
- 8 The statement in the 2011/12 draft accounts demonstrates a clear improvement with only three extant significant control weaknesses. The Committee also considers the work of Internal Audit and risk management in identifying and evaluating risks and ensuring arrangements are put in place to manage them. The Audit and Pensions Committee's view of governance is reflected in the Annual Governance Statement. The supporting review of governance states that the Council is compliant with the CIPFA/SOLACE governance guidance issued in 2007.
- 9 The authority's financial management arrangements conform with the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2010).

Internal Control

10 A pivotal role of the Committee is its work in developing the Council's internal control and assurances processes culminating in the Annual Governance Statement (AGS). Part 2 of section 4 of the Accounts and Audit (A&A) Regulations 2011 require the Council to review the effectiveness of its governance arrangements including the system of internal control and to publish an AGS each year to accompany the financial statements. The information for the AGS is generated through the Council's Assurance framework which is outlined in Appendix 2, encompassing:

- Risk management;
- Internal Audit;
- Anti-Fraud programme;
- External Audit;
- Third party assurances such as other inspection and review agencies;
- Annual assurance statements from departmental heads and specialist interest areas such as IT and procurement.

The Committee leads this review by receiving reports at every meeting from most of these areas.

Risk Management

11 Risk Management is a business discipline that public and private sector organisations use to maximise the potential for successful delivery of business opportunities and at the same time control costs and mitigate against potential threats that may impact on the achievement of corporate objectives. It also forms a key part of the Council's corporate governance arrangements, strategic management, project, financial and performance management process and aids the scrutiny process by providing transparency of decision making of officers plus policy and agenda setting of Members.

12 Operationally the engagement, ownership, management and delivery of risk management, including TriBorough risk management, as part of daily business practice has been maintained throughout the year culminating in attainment of Substantial Assurance from the annual audit of the risk management framework. The process has been particularly effective in raising Members' and officers' awareness of both the risk and opportunities associated with major projects and programmes of work plus the development of risk registers into specialist areas has embedded the process further into the organisation.

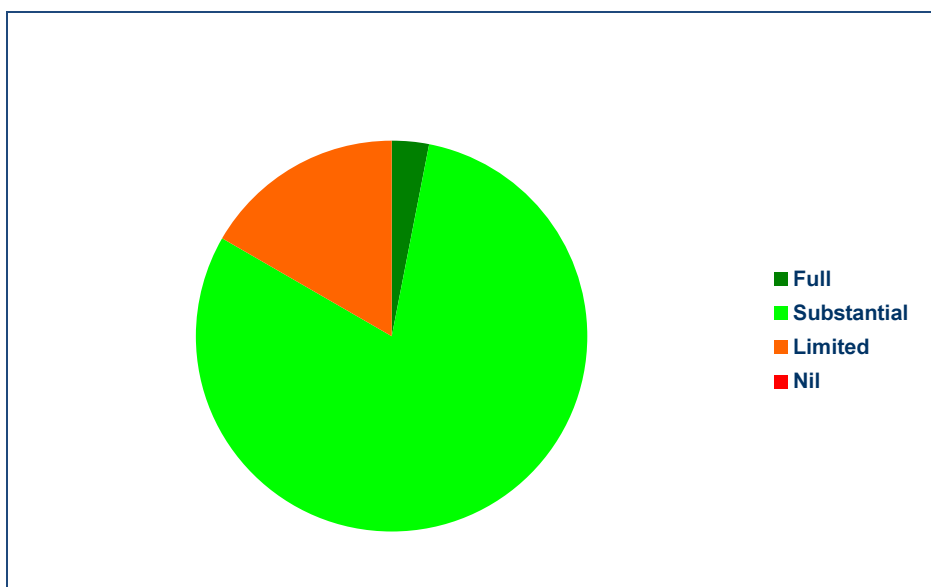
13 There has been consistency in business risk assessment; risks have either decreased as a result of being managed and mitigated, or in some cases increased due to the continuing economic fragility and uncertainty surrounding the Eurozone. Risks have been monitored throughout the year and the H&F Business Board have focussed on addressing key areas of risks through the ongoing review and maintenance of the Enterprise Wide Risk Register.

- 14 This has been delivered through very testing economic times and the comprehensive scrutiny of risk undertaken quarterly by the Audit and Pensions Committee has been robust and effective. Benefits from the process include improved organisational resilience and improved performance in service delivery to the community.

Internal Audit

- 15 The Council's internal audit service is outsourced to Deloitte & Touche Public Sector Internal Audit Ltd, who began delivering the service on 1 October 2004 and has won the contract re-tenders since.
- 16 The Internal Audit plans for the 2011/12 year were based on the departmental and the corporate risk registers supported by the production of an Assurance Framework. The draft plans were then reviewed and updated with departments through annual planning meetings with their Department Management Teams and were approved by the Business Board and the Committee.
- 17 The audit work that was completed for the year to 31 March 2012 involved 85 separate reviews of which 66 received an audit assurance. The levels of audit assurance achieved on the systems audited by year end are depicted in the chart below. This shows that 83% of the systems audited achieved an assurance level of substantial or higher, while 17% received an assurance level of limited.

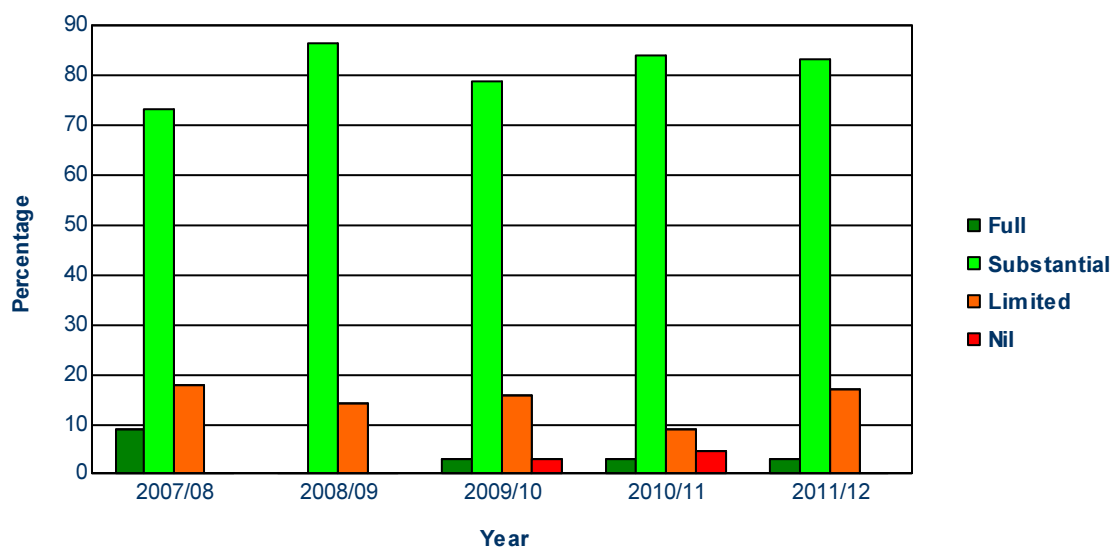
Assurance Levels for the year to 31 March 2012



- 18 There were two audits where FULL assurance opinion was issued. No audits received a NIL assurance, although 11 reports received a limited assurance.
- 19 To provide a wider perspective, the chart below shows the levels of assurance provided for all systems audited from the 2007/08 year onward. This indicates that the trend of the overall system of internal control had been improving.

Given the audit plan now being risk based and therefore more focussed on areas of greater risk or known issues this suggests an underlying improvement in control.

Assurance Levels of Reports from 2007/08 to 2011/12



- 20 Indicators to evaluate the success of Internal Audit in affecting organisational change to improve processes and control are those measuring the implementation of audit recommendations by their due date. By the 31 March 2012 of the 1503 recommendations raised by Internal Audit since 1 April 2008, a total of 1447 or 96% have been implemented by 31 March 2012. This shows that Internal Audit are having a significant influence.

Internal Audit Performance 2011/12

- 21 The table below shows that delivery of the 2011/12 year Internal Audit plans was the most successful since the Deloitte contracts began. The target for delivery of audit plans in year of 95% was exceeded even beyond that delivered in the previous year. This level of performance is expected to continue in future years.

Key Performance Indicators 2011/2012

	Performance Indicators	Annual Target	Performance	Variance
1	% of deliverables completed	95	98	+3
2	% of planned audit days delivered	95	96	+1
3	% of audit briefs issued no less than 10 working days before the start of the audit	95	95	Achieved
4	% of Draft reports issued within 10 working days of exit meeting	95	92%	-3

Anti-Fraud

- 22 During the 2011/12 year CAFS (Corporate Anti-Fraud Service) delivered 209 successful outcomes against a target of 127. These figures include 24 successful prosecutions, the remaining cases include administrative penalties, recovered properties, and removals from the Housing Register.
- 23 As a consequence of its counter fraud work the unit identified total fraud to the value of approximately £8.5 million. This figure includes £1 million that is potentially recoverable by the Council and a further £731k was actually recovered during the year. Where possible a financial value to the Council has been placed on the counter fraud work that CAFS undertakes on tenancies using the Audit Commission calculation that each recovered property is worth £75k to councils. Therefore the 25 recovered tenancies plus the 66 tenancies prevented have been valued at £6.8 million. All these financial values do not include values recovered from debts arising from fraud work in previous years. Nor does it account for any additional value such as the deterrent effect achieved from successful casework and the publicity gained from the results, plus the fraud awareness activity and the proactive work undertaken to prevent fraud occurring in the first place.
- 24 The work undertaken by the service has continued to expand with increased referrals for tenancy fraud and internal fraud, plus joint work undertaken with the police. The service now has three qualified Financial Investigators and a fully functioning Proactive resource and a legal officer. The service is also looking to use council intelligence more effectively.

Annual Accounts and Financial Reporting

- 25 Following some additional training provided to the Committee on local government accounts, the Committee reviewed the 2010/11 year annual accounts in its meeting in June 2011 in undertaking its role as the Approval of Accounts Committee. The training helped ensure that the Committee interpreted the accounts effectively and raised informed questions prior to approving the accounts.

Future developments

- 26 Some of the more significant issues likely to have a focus for the Committee are considered to include:
- a. The continued pressure being applied to councils through the new financial realities for public finances;
 - b. The organisational change programme within the council including that related to the tri-borough arrangements. This will include ensuring that control is maintained for existing services and projects, plus ensuring that new processes have control designed into them;
 - c. The Single Fraud Investigation Service linked to Universal Credit. This needs to be kept under review to be clear on the potential impact on the fraud service.

AUDIT AND PENSIONS COMMITTEE
TERMS OF REFERENCE 2011/2012
(relating to the audit element of the Committee)

1. Membership

1.1 The Committee will have the following membership:

4 Administration Councillors
2 Opposition Councillors

1.2 The Chairman will be drawn from one of the Administration Councillors; the Vice-Chairman will be an Opposition Councillor.

1.3 The Committee may co-opt non-voting independent members as appropriate.

1.4 The agenda of meetings of the Committee will be divided into separate sections for Audit and Pensions matters.

1.5 The Pension Fund's external investment managers will be required to attend meetings of the Committee when dealing with Pensions matters and to submit reports and make presentations as required.

1.6 The Trades Unions and representatives from the admitted and scheduled bodies in the Pensions Fund shall be invited to attend and participate in meetings considering Pensions matters, but shall not have a formal vote.

1.7 The Committee may ask the Head of Internal Audit, a representative of External Audit, the Risk Management Consultant, Assistant Director (Business Support) and any other official of the organisation to attend any of its meetings to assist it with its discussions on any particular matter.

2. Quorum

2.1 The quorum of the Committee shall be 3 members.

3. Voting

3.1 All Councillors on the Committee shall have voting rights. In the event of an equality of votes, the Chairman of the Committee shall have a second casting vote. Where the Chairman is not in attendance, the Vice-Chairman will take the casting vote.

4. Procedures

4.1 Except as provided herein, Council Procedure Rules (as applicable to all Committees) shall apply in all other respects to the conduct of the Committee.

4.2 Meetings of the Committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

5. **Meetings**

5.1 The Audit and Pensions Committee will meet at least four times a year.

5.2 Meetings will generally take place in the spring, summer, autumn, and winter. The Chairman of the Committee may convene additional meetings as necessary.

5.3 The Chief Executive may ask the Committee to convene further meetings to discuss particular issues on which the Committee's advice is sought.

6. **Reporting**

6.1 The Audit and Pensions Committee will formally report back in writing to the full Council at least annually.

7. **Responsibilities**

(a) Audit

7.1 The Audit and Pensions Committee will advise the Executive on:

- the strategic processes for risk, control and governance and the Statement on Internal Control;
- the accounting policies and the annual accounts of the organisation, including the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;
- the planned activity and results of both internal and external audit;
- the adequacy of management responses to issues identified by audit activity, including the external auditor's annual letter
- the Chief Internal Auditor's annual assurance report and the annual report of the External Auditors.
- assurances relating to the corporate governance requirements for the organisation;
- (where appropriate) proposals for tendering for either Internal or External Audit services or for purchase of non-audit services from contractors who provide audit services.

7.2 The Committee's responsibilities in relation to the annual accounts will include:

- to approve the Council's Statement of Accounts, in accordance with the deadlines set out in the Accounts & Audit Regulations 2003;
- acting as the Approval of Accounts Committee, to be held in June;

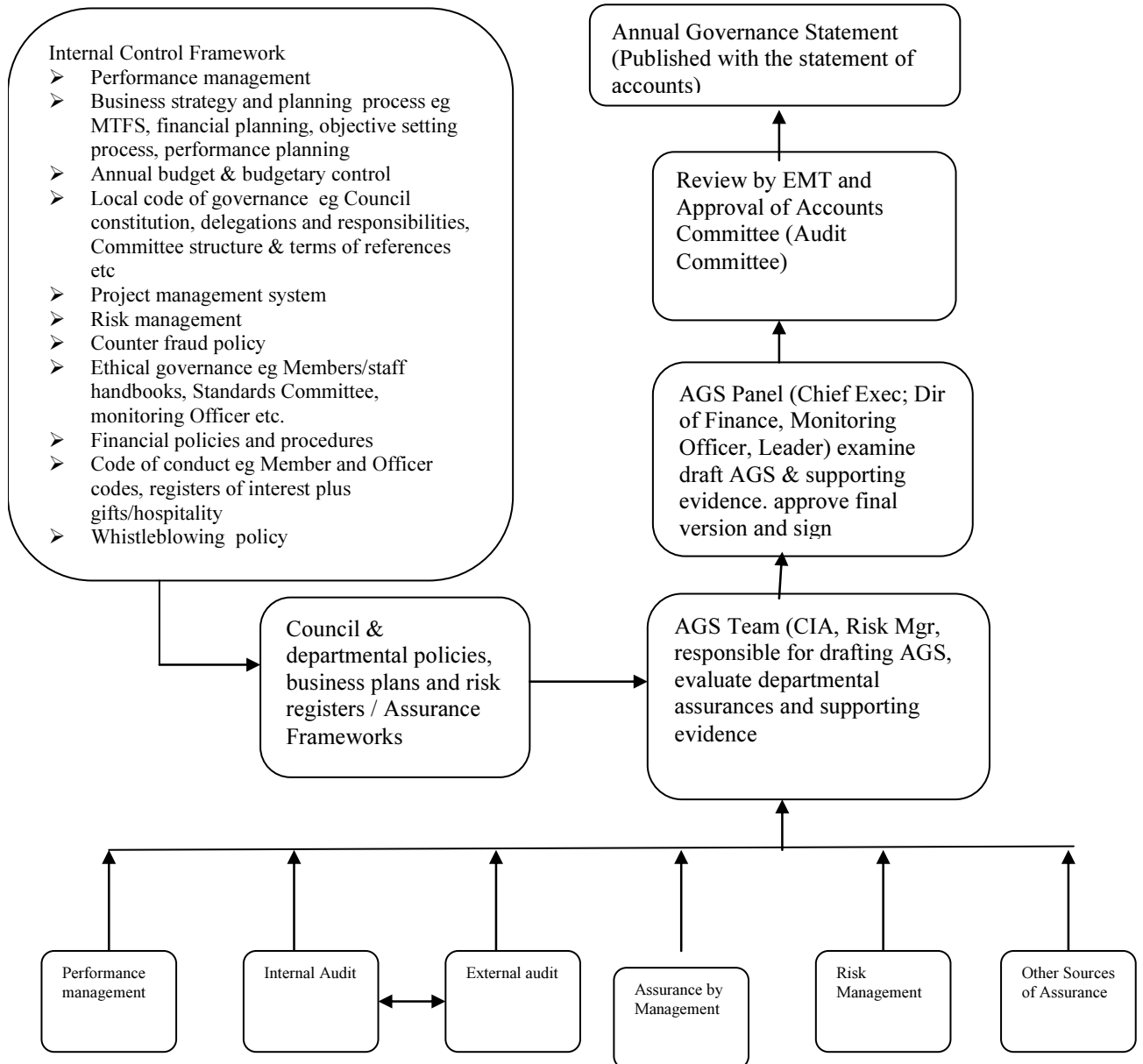
- to consider any report as necessary from the external auditor under Statement of Auditing Standard 610;
- to re-approve the Council's Statement of Accounts following any amendments arising from the external audit, in accordance with the deadlines set out in the Accounts & Audit Regulations 2003.

7.3 The Committee's responsibilities in relation to risk management will encompass the oversight of all risk analysis and risk assessment, risk response, and risk monitoring. This includes:

- the establishment of risk management across the organisation, including partnerships;
- awareness of the Council's risk appetite and tolerance;
- reviewing of the risk portfolio (including IT risks);
- being appraised of the most significant risks;
- determining whether management's response to risk and changes in risk are appropriate.

7.4 The Council has nominated the Committee to be responsible for the effective scrutiny of the Treasury Management Strategy and policies.

Council Framework for the Annual Governance Statement



LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
1.	CIPFA publication 'Audit Committees – practical guidance for local authorities	Geoff Drake Ext. 2529	Finance and Corporate Services department 6 th Floor Town Hall Extension

Agenda Item 7.1

SPECIAL MOTION NO. 1 – LONDON AIRPORTS

Standing in the names of:

- (i) Councillor Nicholas Botterill
- (ii) Councillor Victoria Brocklebank-Fowler

“1. This Council notes that:

- A two and a half runway airport solution at Heathrow Airport can never provide the successful air transport hub which London needs;
- Additional runway capacity at Heathrow would mean an unacceptable increase in aircraft noise for parts of Hammersmith and Fulham which have to date been less adversely affected, and that;
- The recent operational freedom trials at Heathrow have proved to be highly damaging to borough residents who presently get some respite through runway alteration.

2. This Council utterly rejects any revised plans to build an additional short runway at Heathrow Airport.

3. This Council supports the Mayor of London in his bid to secure a new four runway airport to the east of London as the only practicable economic and environmental solution to London’s requirement for a truly resilient international airport hub.”

SPECIAL MOTION NO. 2 – TRI-BOROUGH WORKING

Standing in the names of:

- (i) Councillor Nicholas Botterill
- (ii) Councillor Greg Smith

“This Council notes with pride the progress made over the past 15 months in securing successful Tri-borough and Bi-borough working and the financial savings and service improvements which have resulted from this bold initiative now being copied up and down the country.”

Agenda Item 7.3

SPECIAL MOTION NO. 3 – LOW COST HOME OWNERSHIP

Standing in the names of:

- (i) Councillor Andrew Johnson
- (ii) Councillor Harry Phibbs

“This Council notes that:

- Since 2006, over 700 families who live or work in the Borough have been helped onto the property ladder through the Council’s low cost ownership programme;
- There are over 4,143 people currently on the Council’s Home Buy register for low cost homeownership properties, and that;
- For the years 2009-10, 2010-11, 2011-12, 68% of purchasers of low cost homeownership properties had an income of under £40,000.

This Council resolves to:

- Increase the overall levels of homeownership within Hammersmith and Fulham by increasing the supply of intermediate housing;
- Increase the ability of existing local authority tenants to become homeowners through the Right to Buy and access to other low cost homeownership properties, and to;
- Use the Local Housing Company to maximum effect to deliver a range of intermediate properties on HRA land through the Hidden Homes programme.”

SPECIAL MOTION NO. 4 – CHANGES TO COMMITTEE MEMBERSHIP

Standing in the names of:

- (i) Councillor Mark Loveday
- (ii) Councillor Jane Law

“The following changes to the Education and Children’s Services Select Committee membership will be made, effective from the day after the Council meeting:

Councillor Harry Phibbs - to come off the Education and Children’s Services Select Committee.

Councillor Andrew Brown – to be appointed a member of Education and Children’s Services Select Committee.”

Agenda Item 7.5

SPECIAL MOTION NO. 5 – THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM’S VOLUNTARY DECLARATION TO HER MAJESTY’S REVENUE AND CUSTOMS

Standing in the names of:

- (i) Councillor Michael Cartwright
- (ii) Councillor PJ Murphy

“This council regrets its *careless*” approach to managing the Borough’s finances which has resulted in it setting aside almost £1m for possible back taxes and fines that may be liable for payment to Her Majesty’s Revenue and Customs.

The Administration notes that it chose to ignore warnings that were consistently raised by the Opposition since December 2010 and apologises to the tax payers of the Borough for causing this vast waste of public monies in these austere times.”

**SPECIAL MOTION NO. 6 – OBJECTION TO HAMMERSMITH AND FULHAM’S
CONSERVATIVE ADMINISTRATION’S £2 MILLION FUNDING OF THE
BARCLAYS BANK/BORIS BIKES SCHEME**

Standing in the names of:

- (i) Councillor Lisa Homan
- (ii) Councillor Stephen Cowan

“This Council agrees to take all possible measures to block the payment of £2m of Hammersmith and Fulham public money to fund the Barclays Bank/Boris Bikes scheme.

Furthermore, it calls for an independent inquiry to discover what led the Conservative Administration to prioritise £2m of scarce Borough resources for the Conservative London Mayor’s pet project.”

Agenda Item 7.7

SPECIAL MOTION NO. 7 – HEATHROW AIRPORT THIRD RUNWAY

Standing in the names of:

- (i) Councillor Andrew Jones
- (ii) Councillor Caroline Needham

“This Council regrets the shambles surrounding the government’s position on airports in the south east of England and re-asserts its strong objections to Heathrow being granted permission to build a third runway.

The London Borough of Hammersmith and Fulham also agrees to work with residents, other London Boroughs, the GLA and the London Mayor to effectively campaign against the Heathrow third runway.”

Report to Council

24 OCTOBER 2012

LEADER

*Councillor Nicholas
Botterill*

**SPECIAL URGENCY DECISIONS –
MONITORING REPORT**

The attached report presents details of decisions taken by the Leader or Cabinet Members under the special urgency provisions of the Constitution (very urgent decision not in the Key Decisions list). The report covers the period 1 May to 30 September 2012.

WARDS

All

CONTRIBUTORS

EDFCG
DoL

RECOMMENDATIONS:

That the report be noted.

1. SPECIAL URGENCY PROVISIONS OF THE CONSTITUTION

- 1.1. Rule 16 of the Access to Information Procedure Rules in the Council's Constitution allows for specially urgent key decisions which are not in the Key Decisions list to be taken without giving the prescribed public notice of five clear working days, provided the relevant Scrutiny Committee Chairman agrees that the decision cannot reasonably be deferred.
- 1.2. Rule 17.3 requires the Leader to submit reports to the Council on Executive decisions taken under Rule 16 during the preceding quarter. The reports must include the number of decisions so taken and a summary of the matters in respect of which those decisions are taken. There has been one Rule 16 decision during the last quarter.

2. SPECIAL URGENCY DECISIONS TAKEN BY THE LEADER IN THE PERIOD 1 MAY TO 30 SEPTEMBER 2012

Decision taken and date	Reason for urgency
Hamlet Gardens: Agreement on phased decanting	The owner of Hamlet Gardens wishes to see a swift resolution to the position over the use of the accommodation and there is currently a requirement to reach an agreement by Friday 28 September. It is very much in the Council's interest to reach an agreement.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

No.	Documents	Name/ext. of holder of file/copy	Department
1	Council Constitution	David Viles Ext. 2063	Finance and Corporate Services, Legal and Democratic Services