

COUNCIL AGENDA

COUNCIL MEETING

Wednesday 22 January 2020



The Mayor – Councillor Daryl Brown
Deputy Mayor – Councillor Mercy Umeh

ADDISON

Adam Connell (L)
Rachel Leighton (L)
Sue Fennimore (L)

ASKEW

Lisa Homan (L)
Rowan Ree (L)
Rory Vaughan (L)

AVONMORE &
BROOK GREEN

David Morton (L)
Rebecca Harvey (L)
Fiona Smith (L)

COLLEGE PARK &
OLD OAK

Alexandra Sanderson (L)
Wesley Harcourt (L)

FULHAM BROADWAY

Ben Coleman (L)
Sharon Holder (L)
Helen Rowbottom (L)

FULHAM REACH

Iain Cassidy (L)
Christabel Cooper (L)
Guy Vincent (L)

HAMMERSMITH
BROADWAY

Stephen Cowan (L)
PJ Murphy (L)
Patricia Quigley (L)

MUNSTER

Adronie Alford (C)
Alex Karmel (C)
Dominic Stanton (C)

NORTH END

Daryl Brown (L)
Larry Culhane (L)
Zarar Qayyum (L)

PALACE RIVERSIDE

Amanda Lloyd-Harris (C)
Donald Johnson (C)

PARSONS GREEN AND
WALHAM

Matt Thorley (C)
Mark Loveday (C)
Frances Stainton (C)

RAVENSCOURT PARK

Jonathan Caleb-Landy (L)
Bora Kwon (L)
Asif Siddique (L)

SANDS END

Lucy Richardson (L)
Ann Rosenberg (L)
Matt Uberoi (L)

SHEPHERDS BUSH
GREEN

Andrew Jones (L)
Natalia Perez (L)
Mercy Umeh (L)

TOWN

Andrew Brown (C)
Belinda Donovan (C)
Victoria Brocklebank-
Fowler (C)

WORMHOLT AND
WHITE CITY

Colin Aherne (L)
Sue Macmillan (L)
Max Schmid (L)

SUMMONS

Councillors of the London Borough of
Hammersmith & Fulham
are requested to attend the
Meeting of the Council on
Wednesday 22 January 2020
at 3 Shortlands, W6 8DA

The Ordinary Council will meet at the rising of
the Special Council meeting starting at
7.00pm.

14 January 2020
3 Shortlands
Hammersmith W6

Kim Smith
Chief Executive

Full Council Agenda

22 January 2020

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1. MINUTES	To approve the minutes of the meeting held on 16 October 2019.	7 - 22
2. APOLOGIES FOR ABSENCE		
3. MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS		
4. DECLARATIONS OF INTERESTS	<p>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.</p> <p>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.</p> <p>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.</p> <p>Councillors are not obliged to withdraw from the meeting where a dispensation to that effect has been obtained from the Standards Committee.</p>	
5. PUBLIC QUESTIONS	The Leader or relevant Cabinet Member to reply to the following questions submitted by members of the public:	
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6.4	REVIEW OF THE CONSTITUTION This report recommends the creation of an additional Assistant to Cabinet role, updates to the departmental register of authority, and updates to Contract Standing Orders.	70 - 142
6.5	TOWN HALL CIVIC CAMPUS PROGRAMME: APPROVAL TO PURCHASE COMMERCIAL UNITS AND JOINT VENTURE UPDATE This report seeks approval to enable the acquisition of commercial units that will be constructed by the King Street Joint Venture as part of the Civic Campus Programme. Exempt appendix This report has an appendix which contains information exempt within the meaning of Schedule 12A to the Local Government Act 1972 and is not for publication. The appendix has therefore been circulated to Councillors only. Any discussions on the contents of an exempt appendix will require Council to pass the proposed resolution identified in the exempt appendix to exclude members of the public and the press from the proceedings for that discussion.	143 - 184

7. SPECIAL MOTIONS

To consider and determine any Special Motions:

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COUNCIL MINUTES

COUNCIL MEETING

WEDNESDAY 16 OCTOBER 2019



PRESENT

The Mayor – Councillor Daryl Brown
Deputy Mayor – Councillor Mercy Umeh

Councillors:

Colin Aherne	Rebecca Harvey	Patricia Quigley
Adronie Alford	Sharon Holder	Rowan Ree
Victoria Brocklebank-Fowler	Lisa Homan	Lucy Richardson
Andrew Brown	Donald Johnson	Ann Rosenberg
Daryl Brown	Andrew Jones	Helen Rowbottom
Jonathan Caleb-Landy	Alex Karmel	Alexandra Sanderson
Iain Cassidy	Bora Kwon	Asif Siddique
Ben Coleman	Rachel Leighton	Fiona Smith
Adam Connell	Amanda Lloyd-Harris	Frances Stainton
Christabel Cooper	Mark Loveday	Dominic Stanton
Stephen Cowan	Sue Macmillan	Matt Thorley
Larry Culhane	David Morton	Matt Uberoi
Belinda Donovan	PJ Murphy	Mercy Umeh
Sue Fennimore	Natalia Perez	Rory Vaughan
Wesley Harcourt	Zarar Qayyum	Guy Vincent

1. MINUTES

RESOLVED

The minutes of the Council meeting held on 17 July 2019 were confirmed and signed as an accurate record.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Max Schmid.

Apologies for lateness were received from Councillor Donald Johnson (who entered the meeting at 7.08pm).

3. MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS

Death of former councillor Jafar Khaled

The Mayor informed the Council of the death of former Labour Councillor Jafar Khaled who represented Shepherd's Bush Green Ward. Councillors Stephen Cowan, Andrew Brown, Adronie Alford, Mercy Umeh and Jonathan Caleb-Landy made speeches paying tribute to him.

The Council then stood for a minute of silence in remembrance.

Retirement of Steve Miley, former Director of Children's Services

The Mayor welcomed Steve Miley back to the Council following his retirement on the 4th of October 2019. The Mayor paid tribute to his commitment to helping the borough's children and families over the past three decades.

Councillors Stephen Cowan, Sue Macmillan, Larry Culhane, Andrew Brown and Donald Johnson made speeches paying tribute.

The Mayor presented Steve Miley with a token of the Council's appreciation for his years of service to the children of the borough.

NOTE: During this item the meeting was disrupted by a fire alarm and so 17 minutes were added to the end of the meeting.

4. DECLARATIONS OF INTERESTS

Councillor Rory Vaughan declared a non-pecuniary interest in Special Motion 1 – 'Education' as a School Governor at St. John's Catholic Primary School.

Councillor Rory Vaughan also, as an employee of the Financial Services regulator, declared an interest in Special Motion 2 – Freedom of Movement. He left the room before the debate started and did not vote on the motion.

5. PUBLIC QUESTIONS (20 MINUTES)

5.1 Question 1 - Ruling out charges for motorists

Question from Brian Mooney, Resident

Brian Mooney was unable to attend the meeting to ask his question in person so the question was taken as read and the Leader of the Council provided his response.

"Will Hammersmith and Fulham Council rule out:

- a) Charging any tolls for motorists using Hammersmith Bridge?
- b) Charging motorists to drive on any other council-managed roads?
- c) Supporting any attempt by Transport for London to charge motorists for driving within the borough or any neighbouring borough?"

Answer from Councillor Stephen Cowan, Leader of the Council

“No – Yes – Yes.

That’s the answer. And the explanation is – there is no such thing as a magic money tree. And if we have to, we will put the tolls in. But we would prefer other mechanisms and we are pursuing them with our partners at TfL and indeed engage in conversations with the Government.”

5.2 Question 2 - Children's exposure to wireless emissions

Question from Hazel Barker, Resident

Hazel Barker was unable to attend the meeting to ask her question in person so the question was taken as read and the Cabinet Member for Children and Education provided his response.

“I am pleased that the Council aspires to be the greenest and assumed local leadership for public health. I have noticed that France has banned WiFi in nursery schools and childcare centres on health grounds. It has also severely restricted its use in other schools and insisted on measures to protect children under 14 years from cellphone (wireless) radiation.

As a mother I am quite concerned. What do you regard as an acceptable level of exposure to wireless (RF frequency) emissions for schoolchildren, and what steps are you taking to involve parents and carers in limiting exposure?”

Answer from Councillor Larry Culhane, Cabinet Member for Children and Education

“I would like to say that the UK consult with the International Commission on Non-Ionising Radiation Protection (ICNIRP, for short), to ensure this Council is alerted to changes in action levels for exposure to non-ionising radiation caused by electro-magnetic fields. Information from the ICNIRP is relayed to local authorities through central government departments, such as Public Health England and the Health and Safety Executive.

Our Corporate Health and Safety Team advise us of any changes in Health and Safety guidelines, including risk assessment reviews where necessary. Consultation and advice on risk assessment reviews take place via the respective service areas and its stakeholders, for example, in a school or nursery, through Children Services, with employers of the school, governing bodies or PTAs.

Cell tower emission compliance ensures residents are not adversely affected by microwave emissions from base stations. It’s a responsibility of the network provider commissioning the construction, adaptation or relocation of a base station to assess the EMF output and provide a safe distance between the emissions and the public. EMF in the microwave: RF drops very rapidly from source, is therefore not uncommon for members of the public to enquire why base stations seem so close to the living environment.

Local authority planning policy will normally scrutinise a network provider's documentation of compliance prior to granting a new adapted or relocated base station.

I would like to publicly thank Miss Barker for submitting this question and I will be contacting her after this meeting to see if we can meet and discuss her concerns in more detail."

5.3 Question 3 - Update on Hammersmith Bridge

Question from Xingang Wang, Resident

"Can the Leader of the Council provide an update on Hammersmith Bridge?"

Answer from Councillor Stephen Cowan, Leader of the Council

"Yes, and thank you for asking the question.

It is indeed a closed question, and so the answer is yes, I can. And the answer is that if you look on the H&F website, there is an extensive level of information; I would encourage all residents to look at the 2 films that we've made that set out the complexities around what is happening with Hammersmith Bridge, and indeed, reaffirm our commitment that this administration fully intends to deal with those complexities and reopen the bridge as quickly as possible."

Follow-up question from Xingang Wang

"Thank you for your answer. As it happened, what brought me to this fantastic city and country was my master degree – Engineering at Imperial College: the finest science and engineering university in the world. So, if you need [any] help about the bridge, let me know.

My supplementary question is: it has been leaked from a Hammersmith and Fulham officer that [inaudible] the reassurance from yourself and the Mayor, that the Council is now considering opening the bridge to only foot traffic, cyclists and the buses. Can you confirm or deny this?"

Follow-up answer from Councillor Stephen Cowan, Leader of the Council

"Yeah, I can deny it. I think there's a problem with leaks, which is, it doesn't seem like a leak. We work very closely with our team of experts and the Highways department and they are very solidly behind the programme.

The advice the Highways department gave us very early on was that for a long time, the custodians of the bridge had been negligent. And if we just talk about the immediate 8 years prior to when we came into office, there was no comprehensive, structural integrity review of the bridge. And the question that Mr. Wang will know full well, that when you have ancient suspension bridges, they need to be maintained – maintained fully. And the particular difficulty of Hammersmith Bridge is, it is made out of a combination of wood, [wrought?] iron and cast iron. And anybody – even though I, for a short period of time, did metal shop as part of my

education – and anybody will tell you that the interesting things about those ancient materials, is they corrode if not looked after properly.

Now, one of the things we get to do as politicians is to ask the simple questions, because we're not experts in many things, and the officials who work for us, are.

And so it is a great respect that Wesley Harcourt asked that simple question in 2014, which is, could the suspension bridge collapse as we've seen others do, such as in Genoa, in Italy. And the answer was, we don't think so, Councillor. And Wesley and I said, 'have we checked?' And the answer was, 'well, there hasn't been a check'. In fact, in the previous 8 years, there had been a programme put forward by the Highways officers, to refurbish the bridge, and a significant sum, I think, it was only a million pounds. But the Deputy Leader of the Council cut it to quarter of a million pounds, when she was in her job as the Cabinet Member for the Environment.

And there was little explanation for why that cut had happened: I think it was - it *appears* to be – an ill-judged view and value for money. As anyone will tell you, who owns any type of structure, they *do* need to be maintained, particularly if it's 132 years old; particularly if it's made out of cast and iron metal and it's an early and revolutionary piece of technology.”

6. ITEMS FOR DISCUSSION/COMMITTEE REPORTS

6.1 Results of the Local Government By-Election on 19 September 2019

8.15pm – Council noted that Helen Rowbottom of the Labour Party was elected as a Councillor for the Fulham Broadway ward at the by-election held on 19 September 2019.

6.2 Review of the Constitution

8.15pm – The report and recommendations were formally moved for adoption by the Leader of the Council, Councillor Stephen Cowan.

Speeches on the report were made by Councillor Stephen Cowan (for the Administration) and Councillors Alex Karmel and Andrew Brown (for the Opposition).

The report and recommendations were then put to the vote:

FOR	32
AGAINST	11
NOT VOTING	0

8.22pm – RESOLVED

1. That the new financial thresholds outlined in paragraph 5.6 of the report, be approved.
2. That authority be delegated to the Assistant Director of Legal and Democratic Services to update Financial Regulations and the constitution, and update and amend Contract Standing Orders.

3. That the key decision threshold be increased from £100,000 to £300,000.
4. That a Cabinet Urgency Sub-Committee be created with the Terms of Reference as attached at Appendix 1 of the report.
5. That a Standards Committee be established with the Terms of Reference as attached at Appendix 2 of the report.
6. That any spend in excess of £20 million of the Budget framework be approved increasing the limit from £5 million.
7. That the Pension Fund Sub-Committee's quorum be amended to two councillors.
8. That the Audit and Pensions Committee's terms of reference be noted at Appendix 3 of the report.

6.3 Allocation of Seats and Proportionality

8.23pm – The report on the allocation of seats and proportionality on committees was noted.

6.4 Committee Membership Changes and Outside Bodies Appointments

The Mayor noted that Councillors Karmel and Loveday had been nominated by the Opposition to the Standards Committee. Recommendation 4 was amended to reflect the nominations.

8.24pm - The report and recommendations, with the above amendment, were formally moved for adoption by the Leader of the Council, Councillor Stephen Cowan.

The report and amended recommendations were put to the vote:

FOR	UNANIMOUS
AGAINST	0
NOT VOTING	0

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

8.24pm – RESOLVED

1. That Councillor Helen Rowbottom be appointed to the vacancy on The Economy, Housing and the Arts Policy and Accountability Committee.
2. That Councillor Rachel Leighton replace Councillor Fiona Smith on Hammersmith United Charities.
3. That Councillor David Morton be appointed to The Reserve Forces and Cadet Association in Greater London.
4. That Councillors Rebecca Harvey, Helen Rowbottom, Rowan Ree, Rory Vaughan, Mark Loveday and Alex Karmel be appointed to the Standards Committee.

5. That Councillor Wesley Harcourt to be appointed the Western Riverside Waste Authority's (WRWA) representative to answer questions on the discharge of the WRWA's functions at Council meetings¹.

7. **SPECIAL MOTIONS**

8.25pm – Under Standing Order 15(e)(3), Councillor Colin Aherne moved to give precedence to Special Motions 5, 2, 3 and 4. The motion was agreed.

7.5 Special Motion 5 - Call for a Sea-Change in the Government's Treatment of Disabled People

8.25pm – Councillor Patricia Quigley moved, seconded by Councillor Ben Coleman, the special motion in their names:

"This Council supports the Labour administration's aspiration for Hammersmith & Fulham to be the most inclusive borough in the country.

The Council welcomes the Labour administration's commitment to continuing to provide free home care and reduced prices for meals on wheels - a commitment matched by no other council.

The Council welcomes the report of Hammersmith & Fulham's Independent Disabled People's Commission and supports the administration's commitment to the full implementation of the report's recommendations - despite severe cuts in government funding. Those recommendations include:

Taking a human rights approach to policy and services, using the UN Convention on the Rights of Persons with Disabilities as the framework for change.

Working in co-production with Disabled residents on the development, implementation and monitoring of policy.

The Council notes that:

- *The UN Committee on the Rights of Persons with Disabilities has identified the British government as failing to uphold disabled people's human rights.*
- *Government estimates released in February 2019 suggests that as many as 210,000 disabled people were underpaid Employment and Support Allowance (ESA) over several years of government miscalculations. The DWP announced it had made the blunder in 2017.*
- *DWP Officials found some disabled people transferring to ESA from incapacity benefit during 2011 and 2014 were put on the wrong system for assessing their new payments, leaving 70,000 disabled people out of pocket.*
- *In 2018, the DWP announced 180,000 disabled people were owed an ESA payment, leaving those owed the payment during those three years short of cash.*

¹ As required under Section 41 of the Local Government Act 1985.

- *The government has now placed the figure closer to 210,000 disabled people - and will be investigating 540,000 cases in total.*
- *Disabled people are now required to complete a 45-page form to win back their ESA benefit due to this government's blunder.*
- *The government has revealed that thousands of claimants have died before they could receive the repayment.*
- *The Department for Work and Pensions has confirmed that more than 4,500 disabled people were wrongly stripped of their Personal Independence Payment in the switch from the previous Disability Living Allowance.*
- *The government has confirmed that almost 100,000 disabled people were forced last year to wait longer than two weeks for their benefit payments.*
- *The Ministry of Justice has confirmed that nearly three-quarters of PIP assessments by the private firms to which the government has wholly outsourced this task are now being overturned.*
- *The suggested financial estimate for the blunder by the DWP is £920 million in back payments. That is not including the monies paid to the private companies for carrying out checks on disabled people.*

The government's approach to Disabled people has evidently created a cruel and hostile environment and caused Disabled people unnecessary stress, anxiety, depression and loss of independence.

This Council therefore calls on the government to change radically its approach to Disabled people and for all councillors to lobby the government to adopt the recommendations of Hammersmith & Fulham's Independent Disabled People's Commission."

Speeches on the special motion were made by Councillors Patricia Quigley, Rebecca Harvey, Lucy Richardson, Rory Vaughan, and Ben Coleman (for the Administration) - and Councillors Amanda Lloyd-Harris and Andrew Brown (for the Opposition).

Councillor Patricia Quigley summed up the debate before the special motion was put to the vote:

FOR	33
AGAINST	0
NOT VOTING	11

The special motion was declared **CARRIED**.

9.03pm – RESOLVED

This Council supports the Labour administration's aspiration for Hammersmith & Fulham to be the most inclusive borough in the country.

The Council welcomes the Labour administration's commitment to continuing to provide free home care and reduced prices for meals on wheels - a commitment matched by no other council.

The Council welcomes the report of Hammersmith & Fulham's Independent Disabled People's Commission and supports the administration's commitment to the full implementation of the report's recommendations - despite severe cuts in government funding. Those recommendations include:

Taking a human rights approach to policy and services, using the UN Convention on the Rights of Persons with Disabilities as the framework for change.

Working in co-production with Disabled residents on the development, implementation and monitoring of policy.

The Council notes that:

- The UN Committee on the Rights of Persons with Disabilities has identified the British government as failing to uphold disabled people's human rights.
- Government estimates released in February 2019 suggests that as many as 210,000 disabled people were underpaid Employment and Support Allowance (ESA) over several years of government miscalculations. The DWP announced it had made the blunder in 2017.
- DWP Officials found some disabled people transferring to ESA from incapacity benefit during 2011 and 2014 were put on the wrong system for assessing their new payments, leaving 70,000 disabled people out of pocket.
- In 2018, the DWP announced 180,000 disabled people were owed an ESA payment, leaving those owed the payment during those three years short of cash.
- The government has now placed the figure closer to 210,000 disabled people - and will be investigating 540,000 cases in total.
- Disabled people are now required to complete a 45-page form to win back their ESA benefit due to this government's blunder.
- The government has revealed that thousands of claimants have died before they could receive the repayment.
- The Department for Work and Pensions has confirmed that more than 4,500 disabled people were wrongly stripped of their Personal Independence Payment in the switch from the previous Disability Living Allowance.
- The government has confirmed that almost 100,000 disabled people were forced last year to wait longer than two weeks for their benefit payments.
- The Ministry of Justice has confirmed that nearly three-quarters of PIP assessments by the private firms to which the government has wholly outsourced this task are now being overturned.
- The suggested financial estimate for the blunder by the DWP is £920 million in back payments. That is not including the monies paid to the private companies for carrying out checks on disabled people.

The government's approach to Disabled people has evidently created a cruel and hostile environment and caused Disabled people unnecessary stress, anxiety, depression and loss of independence.

This Council therefore calls on the government to change radically its approach to Disabled people and for all councillors to lobby the government to adopt the recommendations of Hammersmith & Fulham's Independent Disabled People's Commission.

7.2 Special Motion 2 - Freedom of Movement

9.03pm - Councillor Christabel Cooper moved, seconded by Councillor Helen Rowbottom, the special motion in their names:

"This Council recognises that Hammersmith & Fulham has strong European and international ties, with over 40% of the population born outside of the UK from over 100 different countries. The Council believes that migrants have made an important contribution to the civic, cultural and economic life of both the United Kingdom and this borough, with many delivering essential public services to residents.

This Council believes that the Tory government's planned Immigration Bill which would end freedom of movement after Britain leaves the EU, discriminates against low-paid workers and will have negative impacts on many people who live and work in the borough. It notes that this is likely to lead to workforce pressures, particularly in the health and social care fields and in construction and development; this is most likely to occur in social care services, where a 3% increase in staffing costs would amount to additional annual costs of £1.4m.

The Council condemns the Tory government's "Hostile Environment" measures which have turned landlords and public service providers into border guards and resulted in the inhumane treatment of many migrants who have contributed for decades to the life and economy of this country.

The Council therefore:

- welcomes the unanimous decision of delegates at the 2019 Labour Party Conference to support free movement, equality and rights for migrants whether Britain remains within the European Union or whether it leaves*
- demands that the government to scrap all Hostile Environment measures*
- opposes the Immigration and Social Security Co-ordination Bill which is currently being debated in Parliament*
- resolves to challenge anti-immigrant narratives and to take positive action to ensure that all migrants feel welcome in Hammersmith & Fulham, through events such as the Community Day and through promoting a message of cohesion with 200 lamp post banners across the borough stating that 'Everyone's Welcome in Hammersmith & Fulham'.*

Speeches on the special motion were made by Councillors Christabel Cooper, Helen Rowbottom (who made her maiden speech), and Iain Cassidy (for the Administration) - and Councillor Andrew Brown (for the Opposition).

Councillor Christabel Cooper summed up the debate before the motion was put to the vote:

FOR	32
AGAINST	11
NOT VOTING	0

The special motion was declared **CARRIED**.

9.27pm – RESOLVED

This Council recognises that Hammersmith & Fulham has strong European and international ties, with over 40% of the population born outside of the UK from over 100 different countries. The Council believes that migrants have made an important contribution to the civic, cultural and economic life of both the United Kingdom and this borough, with many delivering essential public services to residents.

This Council believes that the Tory government's planned Immigration Bill which would end freedom of movement after Britain leaves the EU, discriminates against low-paid workers and will have negative impacts on many people who live and work in the borough. It notes that this is likely to lead to workforce pressures, particularly in the health and social care fields and in construction and development; this is most likely to occur in social care services, where a 3% increase in staffing costs would amount to additional annual costs of £1.4m.

The Council condemns the Tory government's "Hostile Environment" measures which have turned landlords and public service providers into border guards and resulted in the inhumane treatment of many migrants who have contributed for decades to the life and economy of this country.

The Council therefore:

- welcomes the unanimous decision of delegates at the 2019 Labour Party Conference to support free movement, equality and rights for migrants whether Britain remains within the European Union or whether it leaves
- demands that the government to scrap all Hostile Environment measures
- opposes the Immigration and Social Security Co-ordination Bill which is currently being debated in Parliament
- resolves to challenge anti-immigrant narratives and to take positive action to ensure that all migrants feel welcome in Hammersmith & Fulham, through events such as the Community Day and through promoting a message of cohesion with 200 lamp post banners across the borough stating that 'Everyone's Welcome in Hammersmith & Fulham'.

7.3 Special Motion 3 - LGBT+ Inclusive Education For All

9.27pm – Councillor Natalia Perez moved, seconded by Councillor Larry Culhane, the special motion in their name:

“This Council notes that LGBT+ inclusive relationships and sex education is crucial to the development of young LGBT+ people, and in creating a more tolerant and open society. This Council notes that the current climate for LGBT+ people in the UK means that nearly half - including 64 per cent of trans pupils - are bullied for being LGBT+ in Britain’s schools. This Council notes that the repeal of Section 28 was a pivotal moment for LGBT+ rights, and that the UK must never move backwards on LGBT+ rights by stopping LGBT+ inclusive education in schools. Council notes that people of all faiths and no faith are LGBT+ and it is vital that all children receive comprehensive and inclusive relationships and sex education, regardless of their parents’ beliefs.

This Council welcomes the introduction of statutory Relationships Education and Relationships and Sex Education (RSE), which all primary and secondary schools in England respectively will be required to teach from September 2020. Council affirms unequivocally its support for compulsory LGBT+ inclusive Relationships Education and Relationships and Sex Education in all state funded primary and secondary schools. Council commits to ensuring that schools are delivering RSE in line with new Government guidance.”

Speeches on the special motion were made by Councillors Natalia Perez, Fiona Smith, Ben Coleman, and Larry Culhane (for the Administration) - and Councillors Donald Johnson and Andrew Brown (for the Opposition).

Councillor Natalia Perez summed up the debate before the motion was put to the vote:

FOR	UNANIMOUS
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED**.

9.52pm – RESOLVED

This Council notes that LGBT+ inclusive relationships and sex education is crucial to the development of young LGBT+ people, and in creating a more tolerant and open society. This Council notes that the current climate for LGBT+ people in the UK means that nearly half - including 64 per cent of trans pupils - are bullied for being LGBT+ in Britain’s schools. This Council notes that the repeal of Section 28 was a pivotal moment for LGBT+ rights, and that the UK must never move backwards on LGBT+ rights by stopping LGBT+ inclusive education in schools. Council notes that people of all faiths and no faith are LGBT+ and it is vital that all children receive comprehensive and inclusive relationships and sex education, regardless of their parents’ beliefs.

This Council welcomes the introduction of statutory Relationships Education and Relationships and Sex Education (RSE), which all primary and secondary schools in England respectively will be required to teach from September 2020. Council

affirms unequivocally its support for compulsory LGBT+ inclusive Relationships Education and Relationships and Sex Education in all state funded primary and secondary schools. Council commits to ensuring that schools are delivering RSE in line with new Government guidance.

7.4 Special Motion 4 - Support for HS2

9.52pm – Councillor Lisa Homan moved, seconded by Councillor Wesley Harcourt, the special motion in their names:

“This Council reaffirms its support for HS2. The Council is very disappointed at the government’s pausing of the programme and is deeply alarmed at calls from conservative London Assembly members to scrap it.

The Council notes that HS2 will bring massive transport, economic, environmental and employment benefits to both Hammersmith & Fulham and much of the UK and is exactly the type of bold national infrastructure project the country needs.

Deliberate delay over the project’s future risks the delivery of 25,000 desperately needed new homes, 65,000 new jobs and around 3 million square metres of new business and retail space in the Old Oak & Park Royal Development Corporation (ODPC) area alone of which over 80% is within Hammersmith and Fulham. In addition to risking the biggest regeneration project in London, delays also put at risk regional and redistributive growth in the midlands and north of England.

The Council calls on the government to stop dithering and to provide immediate certainty to the future of HS2 and resolves to do everything within the Council’s power to ensure it happens.”

Speeches on the special motion were made by Councillors Lisa Homan and Wesley Harcourt (for the Administration).

Under Standing Order 15(e)(6), Councillor Mark Loveday moved, seconded by Councillor Andrew Brown, an amendment in their names:

“In the first paragraph, delete “Conservative London Assembly members” and insert “Conservative, Labour, Green and Brexit Party politicians”

Delete final paragraph and insert:

“The Council calls on the government to provide immediate certainty to the future of HS2 and resolves:

to make an urgent detailed submission to the Oakervee Review arguing the case for HS2, the Old Oak rail interchange and the benefits of the scheme to our community;

and

to do everything within the Council’s power to ensure it happens.””

Speeches on the amendment to the special motion were made by Councillors Mark Loveday and Andrew Brown (for the Opposition) – and Councillor Stephen Cowan (for the Administration).

The guillotine fell at 10.18pm (there was a time extension due to a fire alarm disrupting the proceedings earlier in the meeting).

The amendment was put to the vote:

FOR	9
AGAINST	32
NOT VOTING	0

The amendment was declared **LOST**.

The substantive motion was then put to the vote:

FOR	UNANIMOUS
AGAINST	0
NOT VOTING	0

The substantive motion was declared **CARRIED**.

10.22pm – RESOLVED

This Council reaffirms its support for HS2. The Council is very disappointed at the government's pausing of the programme and is deeply alarmed at calls from conservative London Assembly members to scrap it.

The Council notes that HS2 will bring massive transport, economic, environmental and employment benefits to both Hammersmith & Fulham and much of the UK and is exactly the type of bold national infrastructure project the country needs.

Deliberate delay over the project's future risks the delivery of 25,000 desperately needed new homes, 65,000 new jobs and around 3 million square metres of new business and retail space in the Old Oak & Park Royal Development Corporation (ODPC) area alone of which over 80% is within Hammersmith and Fulham. In addition to risking the biggest regeneration project in London, delays also put at risk regional and redistributive growth in the midlands and north of England.

The Council calls on the government to stop dithering and to provide immediate certainty to the future of HS2 and resolves to do everything within the Council's power to ensure it happens.

7.1 Special Motion 1 - Education

The special motion was withdrawn.

Meeting started: 7.00 pm
Meeting ended: 10.22 pm

Mayor

PUBLIC QUESTIONS

QUESTION NO. 1 – HARWOOD TERRACE CLOSURE

From: Carolyn Daly, Resident

To: Councillor Wesley Harcourt, Cabinet Member for the Environment

Question:

“The residents of Peterborough Villas are now locked in whether it is a car or a bicycle they are driving it’s become very difficult to enter or exit Peterborough villas, not to mention the noise and pollution the residents are experiencing. The residents of Peterborough Villas were not included in the initial informal consultation although they are clearly the residents most adversely impacted by the gridlock on Bagleys Lane. What was the criteria for the first consultation as it seems that only those benefiting from the closure were consulted?”

Agenda Item 5.2

QUESTION NO. 2 – THE CLOSURE OF HARWOOD TERRACE

From: Karen Thompson, Resident

To: Councillor Wesley Harcourt, Cabinet Member for the Environment

Question:

“The Fulham Gas Works development and the expansion of Chelsea Creek will add thousands of homes to the area.

Can the Council share what analysis it used to assess the impact of the closure of Harwood Terrace on the surrounding area in the context of all the traffic volume expected to come from these new developments (and especially given the closure of Hammersmith Bridge)?”

QUESTION NO. 3 – CLOSURE OF HARWOOD TERRACE

From: Nicola Dryden, Resident

To: Councillor Wesley Harcourt, Cabinet Member for the Environment

Question

“As per a freedom of information request, PCNs at the Bagleys Lane/New Kings Road yellow box junction have increased a whopping 83% in the four weeks prior and post the Harwood Terrace closure yielding an additional £213,760 for the Council. Why has the Council not liaised with TfL to adjust the lighting sequence at the “money box” junction given the thousands of vehicles displaced by the unilateral closure of Harwood Terrace?”

Agenda Item 5.4

QUESTION NO. 4 – 5G MOBILE PHONE MASTS

From: Kate Jakobsson, Resident

To: Councillor Ben Coleman, Cabinet Member for Health and Adult Social Care

Question:

“The Minister for Digital has tried to dissuade local authorities from refusing mobile phone masts etc on health grounds. However the official ICNIRP guidelines are very limited, out of date and carry a heavy disclaimer. The weight of independent research shows that 5G and related technology is likely to cause serious health problems, causing a strain on our health services.

What will Hammersmith and Fulham Council do to stand up to the government and protect everyone’s health?”

QUESTION NO. 5 – HARWOOD TERRACE CLOSURE

From: Alex Agha, Resident

To: Councillor Ben Coleman, Cabinet Member for Health and Adult Social Care

Question:

“The Council’s Consultation hub, under the heading Reducing traffic and improving safety around Harwood Terrace dated 15 March 2019 states that the closure will “only make the scheme permanent if feedback from residents supported it.”

With an unprecedented 2,000 objections, a resident’s petition with over 300 residents and a business petition with over 100 signatures, isn’t it clear that the experimental scheme is not supported by neither the vast majority of residents or businesses and should be stopped?”

Agenda Item 5.6

QUESTION NO. 6 – HARWOOD TERRACE CLOSURE

From: Lady Emma Hill-Wood, Resident

To: Councillor Wesley Harcourt, Cabinet Member for the Environment

Question:

“Please can you answer the reasons factually as to why you are not re-opening Harwood Terrace with immediate effect?”

QUESTION NO. 7 – CLOSURE OF HARWOOD TERRACE

From: Susan Haug, Resident

To: Councillor Wesley Harcourt, Cabinet Member for the Environment

Question:

“LBHF Council has sought public consultations as “best practice” in experimental traffic orders in other road closures in the area; for example, most recently regarding Perrymead/Studdridge/Rycroft Streets. As a local resident, I received notification of this and was able to submit comments at the time. Unusually, the Harwood Terrace experimental traffic order only consulted 40 Harwood Terrace addresses -- in short, primarily those standing to benefit directly from such a closure. This restricted consultation resulted in 60-40% rejection of the closure proposition. Nonetheless, the Council took the radical action of closing the street thereby causing major traffic disruption in this previously relatively quiet and manageable area.

Shouldn't the Council have followed a similar best practices strategy in the Harwood Terrace experimental traffic order by at least consulting those residents living in the area most directly affected on Bagleys Lane, Acfold Road, Bovingdon, Cresford and Maltings Place? These streets are most severely and directly impacted by this experimental closure as they are sandwiched between the now bottle-necked egresses of Wandsworth Bridge Road/Imperial Road/New Kings Road. I ask this question especially in light of the rejection of the original “informal” consultation?”

Agenda Item 5.8

QUESTION NO. 8 – WEST KENSINGTON ESTATE

From: Sally Taylor, Resident

To: Councillor Stephen Cowan, Leader of Council

Question:

“I am a resident of West Kensington estate, Flat 7, W14 9UA and want to ask the council to confirm that the estates of West Kensington and Gibbs Green are fully returned to LBHF from the developers and why the original sale of our homes (against our wishes) ever went ahead at such a low price?”

QUESTION NO. 9 – HARWOOD TERRACE CLOSURE

From: Alexandra Jarvis, Resident

To: Councillor Wesley Harcourt, Cabinet Member for the Environment

Question:

“The closure of Harwood Terrace has greatly improved the quality of lives of the residents living in this small residential street.

Could the Cabinet member for the Environment please assure the residents of Harwood Terrace that he will continue to support the road not being used as a rat run?”

Agenda Item 5.10

QUESTION NO. 10 – HARWOOD TERRACE CLOSURE

From: Nick Smith, Resident

To: Councillor Wesley Harcourt, Cabinet Member for the Environment

Question:

“Since Harwood Terrace has been closed the air quality in the area has significantly improved and residents no longer have to contend with over 400 vehicles an hour using their quiet street as a rat run.

Would the Cabinet member for the Environment please make sure that rat running through Harwood Terrace is not allowed in the future?”



Youth Take Over Challenge 2019 'With Me 4 Me' Report

1. Overview:

Youth Takeover Day (*renamed Take Over Challenge in 2016*), is an annual national event introduced in 2007 by the Children's Commissioner for England and now sponsored by First News, a weekly publication for children.

<https://subscribe.firstnews.co.uk/>

Each year thousands of children and young people are involved in 'taking over' roles across the country in a range of organisations including Local Authorities, schools, police and fire stations and newspapers.

2019 was the 10th and biggest ever annual Take Over Day in LBHF. Our Youth Council in partnership with the Family Assist Team and supported by the Young Hammersmith and Fulham Foundation, as well as a wide range of partners and local business, hosted **Take Over Challenge- With Me 4 ME** at Chelsea Football Club on 25th November 2019.

In previous years, Take Over Days have included a range of job shadowing, work experience placements and group challenges. However in 2019, the Youth Council decided to use the event to drive forward the key areas of their manifesto; challenging young people and supporting professionals to give suggestions and to develop recommendations on issues such as knife crime, mental health, sexual health, positive relationships and access to opportunities and services.

The day was aimed at encouraging more council departments, youth service providers and key decision makers to engage with and listen to the views of young residents on the issues that matter most to them and to enable young people to tangibly influence the future of our services and the support and opportunities they receive.

Knife Crime was a focus of the event, being the focal point of the Youth Council manifesto and having been identified as the key concern for the borough's young

residents in both the 2018 and 2019 Make Your Mark Ballots. (See <https://youtu.be/pVxxoB-ozTY> for a summary of the 2019 results).

A partnership was established with the Family Assist Team to plan the event and a working group was set up including Youth Councillors, the LBHF Education and SEND teams, MET Police and the Young Hammersmith and Fulham Foundation, who helped to steer the 2019 Take Over Challenge.

A huge range of partners offered their expertise and were involved in hosting activities and setting challenges on areas that the young people can tangibly influence including: LBHF officers and commissioners, Public Health, the MET Police, School Police, the Family Support Service, Chelsea FC, QPR, the Violence Intervention Project, Khulisa, Street Doctors, Turning Point and Image in Action.

Further organisations including H&F Mind, CAMHS, Barnardo's, Kick it, Xenzone Counselling Service, the Princess Trust, Key 4 Life, Crime Stoppers, Masbro and the Police Cadets, gave information and shared opportunities for young people on the day.

2. Event specifics

Members of the Youth Council hosted the event which was attended by 132 young people from the following schools and provision.

Fulham Cross Girls	17
Burlington Danes Academy	3
Bridge Academy AP	5
Latymer AP	2
Hurlingham Academy	24
Hammersmith Academy	8
Cambridge School	25
Children in Care Council	7
Latymer Upper School	3
West London Free School	1
Sacred Heart	4
QPR Apprenticeship Programme	7
Fulham Boys	3
West London College	4
West London Free School	1
William Morris Sixth Form	12
Fulham College Boys	6
Total	132

Our Youth Council and partners used the Great Hall and Centenary room at Chelsea FC (*provided free of charge*) to host a series of performances, promotional stands, challenges to seek the views of young people, give them a chance to try lots of different activities and get advice and opportunities.

On arrival participants were split into designated groups of 5-7 young people with assigned mentors (*volunteers from CHS and partner organisations*) who supported them throughout the day to work through the wide range of interactive and multi-media activities (*see programme in Appendix 1 for more information*).

The day began with registration and an opportunity to access promotional stands.

We had an interactive icebreaker from Dance West, followed by a speech from the CEO of First News and then an amazing performance from Synergy Theatre, “*To My Younger Self*”- written and performed by people previously involved in the Criminal Justice System.

The groups were then assigned 2 activities in each of four coloured and themed zones, which included the following activities:

Green Zone –feeling okay and emotional wellbeing

- **H&F Mind**- Interactive game- ‘*Cheer Pong*’ introducing participants to the 5 ways to well- being.
- **Family Assist**- Activity on mindfulness.
- **THRIVE LDN**- consultation on their regional campaign and how it can be localised to H&F.
- **Kooth Counselling**- promotion of online services.
- **Family Support**- Sharing the science (brain functionality).

Yellow Zone – Staying safe

- **Synergy Theatre**- Q+A with cast of ‘*To My Younger Self*’
- **Family Assist and MET Police**- Consultation seeking young people’s views on knife crime and staying safe.
- **Street Doctors and School Police Team**- Street safety workshop.
- **Khulisa**- Activity on resilience.
- **Violence Intervention Project**- Session on shame and links to youth violence.

Blue Zone- employability and opportunities

- **Imperial College**- TECH corner.
- **QPR**- Apprenticeships and employability session.
- **Youth Commissioners**- Consultation- Budgeting exercise on youth provision.

- **Bush Theatre**- Drama workshop on interview skills.
- **Chelsea FC**- Apprenticeship and employability session.

Orange Zone- your body matters

- **WILDE**- Activity on healthy relationships.
- **Young Hammersmith and Fulham Foundation**- Consultation on access to sexual health services in the borough.
- **Education Team**- Consultation on sexual health and relationship education in our schools.
- **Turning Point and Image in Action**- Session on consent and influence of drugs and alcohol (SEN focused).
- **Family Assist Team**- STI game and awareness.

Members of the Youth Council were assigned to the consultation activities in each zone (*highlighted in yellow above*) and recorded key feedback and quotes from the young people. They then fed this back to a panel of professionals representing each of the 4 themes for a question and answer session.

The day was ended with performances from Oki a local rap artist and spoken word from the Anti- Tribalism movement whose performances focused on the key themes being addresses and a speech from our Leader Cllr Stephen Cowan.

3. Allocated Budget and breakdown of spend

Note use of the space at Chelsea FC and a range of ‘freebies’ and sponsored prizes were sought for free from partners and local business.

3.1 Allocated Budget

£11,000 from Youth Voice Budget (sits within Education)
£4,000 from Public Health
£1,800 from Education Team for film

Total: £16,800

3.2 Budget Breakdown

£10,471 Catering, AV Equipment, Security and set up
£800 Logo design and communications
£1,800 Film to capture Youth Voice
£300 Photography

£250 Journalist to work with Young Reporters
£1,500 Decoration, signage and T-shirts for mentors, providers and zone leaders and misc. resources:
£100 Volunteer and provider expenses

4. What young people told us...

A consultation session was carried out in each zone (*highlighted in yellow on p3 and p4*). The feedback captured by the Youth Councillors, from the panel discussion and answers young people gave to questions posed on the application form, is summarised below:

4.1 Key feedback from the Green Zone/Observations- (mental health and emotional well-being)

- Schools should talk about emotional well-being and mental health regularly and, where possible, have dedicated times to focus on it (they should place as much importance on mental health as physical health). Lots of sessions on mindfulness, relaxation etc.
- Encourage those that have experienced mental health issues to speak to other young people and help to raise awareness.
- Ensure that services are accessible and tailored to the needs of specific groups including ethnic minorities, young people with disabilities and LGBTQ+ communities.
- *“You really need to listen to what young people who are going through things and what they are telling you they need”.*
- Ensure that schools are clear on what support is available for students, so they can advise them properly.
- Have links to services including Kooth Online Counselling Service from school websites and useful apps. Various apps have been introduced to support with staying mentally health- but young people are unaware.
- Advertise services- let young know about what help and support is available to them in a way that they would like to be told (*full promotion of the Young Hammersmith and Fulham Foundation Website- with a focus on things to do and people to speak to*).
- Better use of social media- young people helping to promote opportunities and support to other young people.

- Some good examples of counselling in schools- others not so great. Schools to share the good things they do with each other- which will hopefully encourage those schools that don't have much provision to do more.
- More information is needed on where young people can access support (promoted in a youth friendly, non- stigmatising way and for 'lower level support needs. *"You can only get support when things get really bad and it shouldn't be like that"*).
- Services that support young people should ensure that they check in regularly with them and continue to do so when they have finished working with them. Things can quickly change in a young person's life and they are left vulnerable.
- Services and schools to ensure they involve parents fully (*when the young people want them to*) which boosts awareness on how best they can talk to and support their child.

4.2. Key feedback/Observations from the Orange Zone (Sexual Health and Relationships).

- Colleagues were concerned by the limited knowledge of the young people on majority of subjects / issues in relation to their bodies, sexual health, and relationships.
- There appears to be a focus on reactive services in the borough and not enough pro- active services, giving young people the information to make an informed choice, before they must go to a reactive service.
- There was a variety of stakeholders that young people felt comfortable engaging with for advice: friends, family (especially older siblings and cousins – often not parents).
- Teachers were not felt as being the best people to discuss this topic with.
- Most young people could not name sexual health services in the borough.
- Young people tended to have a negative perception of sexual health learning provision in their schools. Common complaint that they only received biological lessons and nothing much beyond.
 - PSHE did cover some content but felt it was patchy / focussed on relationships and not sex.
 - For those who did receive sexual health teaching, they often felt it was repetitive.

Young people were asked to create people a 'Youth Manifesto for SRE'.

Suggestions included:

- One-to-ones with young people and professionals so they can ask questions.
- Less teacher awkwardness, maybe more external people leading the session.
- Group and individual 1-2-1s at youth clubs.
- More sessions in mixed groups so young people can learn about different genders' experiences.
- Better information on contraception.
- Focus on life skills
- Parental relationships/how to talk to parents and children
- The dangers of information on fake social media accounts, online safety, which websites are trustworthy for info on sex and relationships.
- More on consent.
- More on contraception.
- How to identify that you might have an STI.
- How to identify/have good relationships (including friendships).
- Self-worth.
- What to do if you are sexually assaulted.
- Trust.
- Teaching parents and children how to communicate with each other.
- Creating a safe space in the family.
- Help people find websites they can trust.
- How to behave in sexual relationships – how to have conversations about sex.
- 'Red flags' what you should and shouldn't do in relationships.
- Sex: Sexual health, practicalities, positive sexual experiences.
- More outside speakers.
- More PSHE – not just in form time when no one listens
- A range of different opinions
- Smaller groups
- More than just science – needs to be realistic.
- Very few understood the term menstrual cycle. (when it was re phased into periods, then only a few more understood that term)
- None of them understood how to work out their menstrual cycle.
- No young people had had a conversation on miscarriage, termination, choices, in their school environment.
- Very few had had a conversation on positive relationships and the different types of relationships that people had.
- 80% did plan to have children in the future but had never had a conversation on their fertility and health.
- 20% said they did not want children, due to the state of the planet and its future.
- A couple said that they might adopt.
- Very few knew about how sperm was made and the health/ life of a sperm.
- Very few knew about ovaries and eggs and only 2 of them knew how many eggs were released monthly.
- Some young people thought you would have to have sex several times before you got pregnant.

- Overall, they had a very sporadic knowledge on contraception and STI's.
- None of them knew where to get free condoms, or emergency contraception from.
- Very few were able to say what websites they could look up for further information and advice on sexual health support.

4.3. Key feedback/Observations from the Blue Zone (Opportunities)

Young people were asked to work in groups to decide how to spend a Youth Commissioning Budget and then to 'pitch' their ideas to Commissioners and Youth Councillors.

The following ideas were suggested by the young people:

1. Create an APP for young people in the area.

Phone APP called – Youth help

- Would show places to go in the area
- Aimed at YP aged 12 and above
- Allows YP to connect to each other
- An incentive provided if YP attends the activity more than five times
- APP is updated every three months with new activities if the older activities are under attended
- APP responds to your personal profile and offer activities that suit that profile
- APP conducts primary research on what is wanted/needed in the area through surveys/questionnaires
- Feedback from parents on usage is fed into the APP
- APP has a charity embedded for children in need and will make provisions to accept donations
- APP has a virtual person that speaks to individuals that is personalised
- This is run by young people that use the APP and passed down as they grow out of the age range
- Security – whatever is said on the APP stays within the APP unless there is reason for concern
- Safeguarding area – for YP to go to with any issues
- The page will automatically be closed if anything bad is uploaded
- Each YP has a unique ID

2. Quiet Space – called Eureka

- Not like a library; a quiet space where YP can come and take 'time-out'
 - They could be stressed and need quiet time
 - Have big families with no space for themselves
 - Autistic
- The space should be above ground level with a calming view
- Benefits
 - Thinking time
 - Revising for homework with an advisor to support (not a homework club)
 - YP with mental health to come to a safe place
- Mobile zone

- YP can focus on computer activity without being interrupted by others
 - Listen to music with headphones – chill out
- Building donated by H&F

3. Art classes called - Art Health – caters for all YP & adults with artistic interests

- Choice of art
 - Using different materials
 - Twice a week - all year round
- Intimate setting in open area so that work can be showcased and exhibited
- All art completed displayed on site – feedback appreciated
- Peer support teaching others their skills
- Adults also in group so YP can gain experience – learning through example
- Tutors available:
 - Teach various techniques
 - Demonstrate transferrable skills across all areas of art
- Computer graphics with tutor teaching technical design
- Cost effective to mix both types of art – technical & Traditional

4. Gaming Area called - Retro Lounge

- Computer games centre
- Lower income families can participate, which would allow more YP to take part
- Allows YP to play with friends at the centre in a safe environment
- Coding classes taught
- YP can compete against each other in a safe environment
- Games and equipment donated – old games etc.
- YP trial new games together
- Prize as incentive for attending regular sessions
- Youth clubs / schools to encourage YP to attend the activity
- All games to have an underlying education theme

5. Sports – called Sports Camp

- YP aged 10 – 16 mixed gender
- Activities – talks and discussions around life
- Activity in the holidays
- Focus on dance and football

6. Driving Lessons called – Junior Drivers

- Driving lessons for YP aged 16 to get them ready for when they receive their provisional licence
- Preparation for test
- Volunteers to loan cars for training
- Lessons will
 - Build confidence
 - Provide access to more jobs with a licence after leaving school/college

- Qualification – theory through GCSE
- USP – electric cars to be used

7. Mobile music bus – called Beats on Wheels

- Mobile bus comes to your local area
- Free to use
- Not just about recording music

Benefits

- Social interaction / café / pop-up-juice bar
- Help to achieve a qualification learning how to use the equipment

8. Recycling service of bikes – pimp my bike or bling my bike

First thought about the mobile DJ bus idea but felt that it would not attract many young people to it. They felt it needed some sponsorship maybe from a radio station. They also said it would promote bad behaviour amongst young people as in misuse of the equipment etc.

- Find a space to transform into a workshop
- As well as doing up the bikes; young people; who build up skills for repairing bikes can help young people with their bikes if they have issues with them – lots of young people rely on bikes to get to school and college
- Showcase the bikes – some sort of event or gallery for the bikes

9. Impact

- Give kids something to do – keep them off the streets
- Gives them ownership over something they have been involved in especially if the young people themselves were involved in the running of it or promotion of the service
- Lots of young people would be interested in this – they thought it would do well
- So many bikes that are stored away or in the park just left. Lots of bikes to do up
- Gives young people skills to work as a team as well as creative skills and mechanical.
- They found the costing of the service difficult but said that they have heard of projects like this in the boroughs that they live and said that lots of businesses could donate the items to do up the bikes.

Several young people also made the point that there should be more opportunities for girls to access sports that are not integrated with boys; separate sessions. Culturally difficult for them to attend activities as it means to mix with boys.

4.4. Key feedback/Observations from the Yellow Zone (staying safe)

Young people were asked:

4.4.1. How can the Police/LA make you feel safer in London/your community?

Answers included:

- Search more people (but in a justifiable and non- discriminatory way).
- Be more present and look approachable (aggressive and unfriendly perception of police).
- Be more responsible,
- Theatre performances including retrospective stories of people who have been through that experience (such as Synergy Theatre's *to My Younger Self*- shown at TOC is an effective way to get the message to young people. Young people seemed to appear more interested when speaking to the actors compared to other groups.
- Police to be around more, out on patrol.
- Building better relationships with and understanding of young people.
- Come into school/talk to people.
- Being around, getting more involved with the community and young people.
- Have a better understanding of the issues that young people are facing from a young person's perspective.
- More awareness and sharing information on what police are doing to tackle crime and keep us safe.
- More accessible places where police are and ways to contact police that young people know about.
- More positive interactions rather than being just enforcement.
- Police to do more workshops in schools on how we can keep ourselves safe.
- Places that young people hang around to be better lit up and patrolled.

4.4.2 What makes you feel unsafe in your community?

Answers included:

- Big groups of young people that are loud.
- Dark streets and alley ways.
- Bad lighting.
- "Being in the wrong place at the wrong time."
- Excessive police presence.
- Gangs and gang violence.
- Intimidating young people.
- Gangs around schools.
- Going out at night.
- Watching things on the news like murder, knife crime.
- Hearing about young people getting stabbed/hurt locally.
- Some areas have 'dodgy' people hanging around.

4.4.3 How can you keep yourself safe when you are out and about in your community?

Answers included:

- Always have a phone on your so you can call someone if you are in trouble.
- Always have credit on your phone and battery life and try to ensure you go out with more than one person.
- Be alert and aware of surroundings, rather than 'zoning out' on your phone.
- Tell someone where you are going.
- Don't have jewellery and belongings on show.

Deliverers and Youth Councillors also observed:

A lack of awareness about what can make you a target for crime (common things young people do) for example

- theft- waking around with headphones in,
- lack of awareness about who you can turn to if you're a victim of crime/theft, what to immediately do/how to respond if you're a victim of crime, what resources are available etc.

Also, a lack of awareness of the consequences of carrying offensive weapons:

- what happens when you carry an offensive weapon, what counts as an offensive weapon, consequences to yourself and someone harmed by a knife (1 minute to bleed to death), consequences of having a criminal record limitation on colleges, travelling abroad and so on.

5. Feedback on the event

5.1 Positive comments

An online feedback form was sent to participants and the Youth Council and supporting professionals were asked to provide feedback. Positive comments received so far include:

- *"The event really encouraged young people's voices to be heard which allow them to express their thoughts and be a part of the bigger picture shaping the lives of the younger generation to get involved in making a difference in H&F and services they feel would benefit young people".*

Jay Aryanel (Zamil Uddin) Project Manager & Youth Campaign Officer, Ctrl-Z

- *"Can I say well done to you and your team for putting on a great event, the feedback from some young people I know was really positive"*

Kevin Smith MET Police

- *"I had a really good day, learned so much and enjoyed everything"*

Hammersmith Academy Student

- *“What a fantastic day and creative way to consult and work with young people”. **Turning Point***
- *“Just to say Ozan the Member of Youth Parliament was fab! He really did help with our workshop sessions! Got a lot more engagement from the young people with him there encouraging them. Great day”*

Susan Hughes Commissioner

- *“Overall it was a fantastic day, everyone I spoke to had a good experience and the consultations were incredibly useful for the Youth Council. We were able to listen to the views of people who we wouldn’t normally speak to, and their feedback help us better deliver our manifesto pledges. All the performers were brilliant and each of them left us with something to think about that was relevant to the day’s themes. In my activity (youth commissioning), we had a diverse range of ideas for youth services in the borough, many of which haven’t been thought of so far. I left with a much better sense of what YP want in terms of youth services, and much of what they said was different to what I’d thought before. E.g. How much people will realistically use a service, potential for people to misuse/abuse it, will it open any future opportunities, how can new services be advertised to get going? Once a few people start coming it’s more likely that people will hear through friends and go along - no one wants to show up to an empty room”.*

Ozan Erder Member of Youth Parliament

- *“It was really fun and interesting”*
BDA Student

- *“I loved being there. Meeting young people makes my job alive and worthwhile. I thought the Youth Council did a fantastic job”.*
Jacqui Mcshannon Director of Children’s Services.

- *“I thought yesterday went brilliantly so I wanted to say huge congratulations to you and the rest of the team. I really enjoyed being a part of it all and representing the Bush Theatre”.*

Izzy Hatton Bush Theatre

- *“I think it was a really good event and we got to talk about the things that really matter”.*

William Morris Student

- *“I think that Take Over Challenge this year has allowed the Youth Council to understand the views of young people about the key parts of our manifesto and it has shown the Council and other leading members of the borough what*

areas we need to focus on to engage more young people and make them feel safer in their community”

Hasana Hajimasaleh Youth Councillor

“Most of all I enjoyed the performances and workshop on knife crime and safety. It’s important we keep talking about how we can change things. It was good to see lots of adults working with and listening to us.”

Fulham Cross student

5.2. Suggested improvements

- Earlier notification and promotion of schools (there was a delay with confirming a free venue big enough to accommodate the event, which led to a delay in promotion to schools).
- More involvement of YOS and CHS service users.
- A fire alarm set off in the Chelsea hotel had an unforeseen knock on effect on registration and didn’t leave much time for people to access the promotional stands. Allow more time for promotional stands and have them nearer to where the young people sit for lunch.
- The panel Q&A seemed a bit too long, make it shorter but more engaging would be good. Maybe the panellists could just give examples or there could be a more interactive way of giving feedback.
- Youth Council to try out all activities beforehand to ensure they are as engaging, interesting and relevant as possible (some didn’t work as well as others)
- The service providers in the Centenary Room didn’t have much to do for most of the day. Might be better if they’re there during registration only.
- More time in the zones and less on speeches.
- Perhaps less activities for slightly longer time.
- Some mentors didn’t follow the rota, which led to some activities being missed out and others overcrowded. Hold a mentor briefing a week in advance of the day highlighting the importance of sticking to time.
- Have Youth Council deliver the briefing in the morning.

6. Expected outcomes and Next Steps

- The feedback will be presented to Full Council, CEPAC and all key partners including the MET Police, Public Health and targeted services. They will be asking Directors and Heads of Service to share with their teams and to agree a response to the young people's feedback.
- Feedback from the Green zone will be fed into Joint Targeted Area Inspection preparation. (The theme for 2019-20) is Children Living with Mental Health. They have also been shared with Thrive LDN's Evaluation Lead who has added them to the data they have been collating from young people across London (whilst also logging them as specific to the borough of H&F for future local campaigns and engagement).
- Feedback from the Orange zone is being compiled into a report as part of a bigger sexual health research project, and this will be used to inform a working group looking at linking together local services with SRE in schools.
- Imperial college, Fulham Cross School and the Youth Council have developed an SRE intervention that can potentially be rolled out across all schools.
- School Police teams have confirmed that they will arrange to deliver more workshops with young people and on what they do and why stop, and search is used as well as safety tips for young people.
- A film is being finalised that captures Youth Voice in the development and delivery of Take Over Challenge. This will be shared widely and can be used to promote future events.
- 12 of the young people involved have expressed an interest in joining the Youth Council (7 have attended so far) and the schools involved are keen to support the recruitment drive in February, UK Youth Parliament and Youth Mayor elections in March and Youth Achievement Awards in April.
- The event was a fantastic opportunity for networking with a massive range of organisations and services supporting young people in the borough brought together (many for the first time).
- Youth voice opportunities were widely promoted to schools who are keen to engage in future Take Over Challenges and youth voice opportunities including Youth Council recruitment, UK Youth Parliament and Youth Mayor elections and the Youth Achievement Awards.
- A report of the day was written by a group of Young Reporters and shared widely <https://www.lbhf.gov.uk/articles/news/2019/11/young-people-tackle-big-issues-youth-takeover-challenge-day>

7. Photos from the Day

<https://www.flickr.com/photos/hammersmithandfulham/albums/72157711961628337>

**Brenda Whinnett
Youth Voice Coordinator
January 2020**

London Borough of Hammersmith & Fulham

Report to: Full Council

Date: 22 January 2020

Subject: Council Tax Support Scheme 2020/21

Report of: Cabinet Member for Finance and Commercial Services – Councillor Max Schmid

Responsible Director – Hitesh Jolapara, Strategic Director of Finance and Governance

Summary

Since 2013, the council has been required to set its own council tax support scheme each year, setting out how it wants to help those households on low income pay their council tax.

Doing everything we can to protect our low-income residents from the effects of austerity is a council priority.

Despite continuing cuts in funding (59% in real terms since 2010), the council has always wanted to ensure that residents are no worse off in this borough than they would have been had the original council tax benefit regulations stayed in place. This is contrary to many authorities who have decided to levy a charge against their poorest residents.

Our ruthless financial efficiency has enabled Hammersmith & Fulham Council to provide higher levels of financial support to our low-income residents, compared to other councils and this report enables that commitment to continue.

Funding was originally based on current H&F council tax benefit levels, less 10%. However, now, the funding forms part of the Revenue Support Grant allocation received at the Local Government Finance Settlement (LGFS).

Since our scheme was introduced in 2013, we have seen many changes to welfare benefits, including housing benefit and the continued roll out of Universal Credit to our residents. As a result of these changes, we have worked hard to protect our residents by continuing to design our scheme to provide the very same level of support for these often-vulnerable households. Our aim has always been to mitigate future hardships or shortfalls as a result of welfare reform.

Recommendations

1. This report seeks agreement that the Council will, for another year, continue to support our most vulnerable residents by protecting our local scheme. Once again for the eighth year running, we are proposing providing the

maximum 100% support to our residents where they are on low incomes. This is at a time when we continue to have reduced funding from Central Government and are observing that many other local authorities, including our neighbours, are asking their vulnerable residents to now contribute towards their council tax, at levels often up to 25% of their actual charge.

Wards Affected: All

H&F Priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
<ul style="list-style-type: none"> Building shared prosperity 	<p>We'll support our low-income residents by ensuring our scheme gives them the maximum benefit of up to 100%, contributing to keeping their living costs, including their council tax, affordable.</p>
<ul style="list-style-type: none"> Creating a compassionate council 	<p>We are continuing our local support scheme to the most vulnerable amongst us, so we know they are looked after financially.</p>
<ul style="list-style-type: none"> Doing things with residents, not to them 	<p>We'll continue to listen to and work with our residents by offering financial support to them when nationally local authorities are reducing financial help and support.</p>
<ul style="list-style-type: none"> Taking pride in H&F 	<p>We want to be our residents to know we are working to protect and maintain policies that protect our most vulnerable.</p>

Financial Impact

The council tax support scheme operates by offering a discount to residents who need help paying their council tax. The cost of the scheme is shared between Hammersmith & Fulham and the Greater London Authority based on their respective council tax charges. The Hammersmith & Fulham share of the scheme cost was £8.3m in 2019/20 and is estimated to be £8.1m in 2020/21. This reduction reflects a lower caseload.

Funding for the council tax support scheme was originally provided through Revenue Support Grant (RSG) from the Government. Government grant funding has been cut in each year since 2010/11. The total reduction in general grant, since April 2010 to April 2019, has been £73m. This is a cash terms reduction of 47% and real terms reduction of 59%. Funding for 2020/21 and future years is remains uncertain.

Legal Implications

The Council is required, each financial year, to consider whether to revise its

scheme or to replace it with another. The Council must make this decision no later than 31 January in the financial year preceding when the scheme is to take effect.

The Council has a statutory duty to set the council tax each year and this report is part of this process. The Council can only vary or set council tax discounts or higher amounts as legally empowered to do so. The relevant regulations and legislation are the Local Government Finance Act 1992, the Local Authorities (Calculation of Council Tax Base) Regulations 2012, and the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003. The Council Tax base has been calculated in accordance with the relevant Acts and regulations.

Implications completed by: Rhian Davies, Borough Solicitor

Contact Officer(s):

Name: Will Stevens/Andy Lord

Position: Finance Business Partner's

Telephone: 020 8753 2531

Email: will.stevens@lbhf.gov.uk

Verified by Emily Hill/ Hitesh Jolapara

Background Papers Used in Preparing This Report

None.

DETAILED ANALYSIS

1. Proposals and Analysis of Options

- 1.1. This report proposes to forgo any additional revenue again for the 8th year running by continuing to protect our council tax support scheme by not making any significant changes to it, including importantly not introducing a minimum contribution or reducing the maximum amount of support we can award. This will ensure our low-income residents won't have to start to pay an element of their council tax, but instead we will be continuing with our fairer system based on old benefit rates and income tapers.
- 1.2. We propose, in addition, to apply the annual uprating of the allowances, applicable amounts, and income for both pensioners and working age DWP benefits, as per the Housing Benefit uprating circular that is issued to all local authorities in November of each financial year. This circular advises the new rates from April 2020. All local authorities have a duty to apply uprating to their housing benefit Scheme and we propose to continue to reflect this uprating within our council tax support scheme to mirror the original intention of the default scheme. This will ensure transparency, ease of administration and clarity for our residents.
- 1.3. Our current scheme offers all working-age people the ability to claim up to 100% council tax support, depending on their income and household circumstances. Latest Government statistics show that nationally just 37 councils continue to provide this generous level of support.
- 1.4. Currently there are 14,116 households receiving council tax support in Hammersmith & Fulham. Of these, 5,016 are pensioner age therefore would be unaffected by any changes and 9,100 are working age. Therefore, had we proposed any changes to the introduce a minimum contribution to our scheme, this would have impacted the largest proportion of our caseload, those being of working age. As stated previously, pensioners must remain protected as in the original design of the scheme and this remains unchanged.
- 1.5. Across London, many local authorities have chosen to raise additional revenue through the council tax support scheme by introducing a minimum charge for working-age customers receiving council tax support. The average minimum contribution has been around 20% of their total council tax liability.

Cost of the scheme

- 1.6. In general, with the introduction of Universal Credit, the cost to the authority of the scheme has been reducing as the caseload has been decreasing slowly. However, this remains a risk to the authority for future years as the cost of the scheme could increase due to increases in council tax levels and caseload should the economy suffer, or the tax base continue to increase.

- 1.7. The Council continues to have pressures to find savings, and therefore we will be observing our neighbouring authorities in 20/21 to understand the changes they have introduced this year to their schemes, including rises to minimum contributions or the change to income band schemes.
- 1.8. We will want to understand the effect it has on their residents, the subsequent impact on recovery costs, activity, and the potential savings it may generate for the authority in terms of actual spend on the scheme.
- 1.9. We are very interested to see the impact moving to an income-band-based approach has on residents, as it is suggested that these types of schemes can be much clearer to residents to understand. However, we note they can also have some disadvantages as they create cliff edges where customers can drop out of entitlement very quickly, as a £1 additional income can move them in or out of eligibility. We will report back on our findings later next year to help inform any future decisions on our scheme.
- 1.10. For 2020/21 the Council estimates that it will provide a total of £11.46m in council tax support. This equates to 10,595 band “D” equivalents based on 2019/20 council tax levels.
- 1.11. Attached appendix 1 is a summary of the proposed changes to the schemes across London authorities for 20/21

2. Reasons for Decision

- 2.1. We propose to continue with our scheme as is, providing the maximum amount of support to our working age caseload for the 8th year running. We believe this best serves our residents, who are continuing to see a rise in housing costs in general, as well as still experiencing negative impacts from the introduction of Universal Credit.
- 2.2. Whilst the overall principle of UC should have a positive effect on households, enabling financial independence, we are aware that in reality the outcome has seen a rise in the use of foodbanks, a rise in arrears and complexities around income collection for both council rent and council tax.
- 2.3. The council has concluded that if changes were made to the scheme to introduce a minimum contribution towards council tax for working age customers on low incomes, we would be seeking repayment from the poorest in our society, many of whom have already seen reductions in their income due to earlier welfare reform changes.

3. Equality Implications

- 3.1. An updated EIA has been attached at appendix 2. There will be no groups adversely affected by the proposals made.
- 3.2. Implications verified/completed by: Peter Smith Head of Policy & Strategy tel 020 8753 2206

4. Risk Management Implications

- 4.1. Local authorities have received significant cuts to budgets imposed on them by national Government, in addition the Government's Universal Credit Scheme has posed challenges to the poorest and most vulnerable in society. Council tax benefit was a UK-wide benefit that provided support for council tax to low-income families. This was abolished in April 2013 and local authorities in England were charged with designing their own council tax support schemes in its place. Although these must maintain support for pensioners at its previous level, local authorities have wide discretion to design their own schemes for working-age families. The Council's scheme contributes positively to our residents, meeting their needs and expectations. It also contributes to our council values most specifically being a compassionate council, so the most vulnerable among us are looked after.
- 4.2. Implications verified/completed by Michael Sloniowski Risk Manager tel 020 8753 2587

5. Other Implications

- 5.1. There are no procurement or IT implications associated with the report.
- 5.2. Implications verified by Joanna Angelides Procurement Consultant 0208 753 2586 and Veronica Barella Chief Information Officer tel 020 8753 2927

6. Consultation

- 6.1. There is no requirement to consult this year as we are not proposing any changes to our scheme.

List of Appendices:

Appendix 1 – Comparison of CTRS Schemes

Appendix 2 – Equality Impact Analysis of Local Council Tax Support Scheme 2020/21

CTRS scheme questionnaire

Authority	2019/20 (current scheme)			2020/21				Any other comments
	Current CTRS scheme - minimum contribution or banded	Minimum claimant contribution	Annual expenditure under current scheme	Are you planning to change your scheme in 2020/21	If yes, will it be minimum contribution or banded discount?	Minimum claimant contribution	Is the change delivering savings? If so how much?	
Barking								
Barnet								
Bexley	Banded discount, with minimum contribution	20%	£12.2M	No				No plans to amend scheme for 2020 at this stage, however still early days of this scheme so will be kept under review (banded scheme only introduced from April 2019). Our new banded scheme is proving very slightly more expensive than the previous 20% minimum contribution. We don't appear to be getting any complaints about cliff edges or similar so far, although it's probably a bit too soon to judge whether it's helping in terms of overall collection. The rationale for introducing a banded scheme was the impact of Universal Credit on managing predictable payment plans for those affected.
Brent	Minimum contribution	20% unless "vulnerable" (mainly if receiving disability benefits - in which case up to 100% rebate)	£27.2M	Yes	Banded discount	No minimum contribution	Change to be cost-neutral to 2019/20 expenditure	Scheme will be banded discounts with non-dep deductions
Bromley								
Camden	Taper scheme no minimum contribution	No Minimum contribution	£26m	Yes	Banded discount based on London Living Wage	No minimum contribution	Not from CTS expenditure	£500k from staff savings
City of London								
Croydon								
Ealing								
Enfield								
Greenwich								
Hackney								
Hammersmith	Old Default	No	£11.5m	No				Considering changing following year possible banding
Haringey								
Harrow	Minimum contribution	30% unless "vulnerable" (mainly if receiving disability benefits - in which case up to 86% rebate)	£14m	Yes	Banded discount	30% unless "vulnerable" (mainly if receiving disability benefits - in which case up to 86% rebate)	No	
Havering								
Hillingdon								
Hounslow								
Islington	Minimum contribution	8% for all working age claimants	£26.1M	Yes	Not yet decided			We are looking at both options of minimum and banding, looking at cost effective.
Kensington	Old default scheme	NO	11M	No				
Kingston								
Lambeth				No				
Lewisham	Minimum contribution	25%	£18m	No indication			Not envisaged	all working age are liable for 25%, no exceptions or enhancements. No hardship fund but those in difficulty can apply for write off (£13a).
Merton								
Newham								
Redbridge								
Richmond	Default	Minimum contribution removed from 19/20		No indication			No indication	
Southwark	Minimum contribution	15%	Circa £20m	No				Hardship payments available as now
Sutton								
Tower Hamlets								
Waltham Forest								
Wandsworth	Minimum contribution	Virtually, a minimum contribution of 30%, but we prefer to do a Band D comparison as due to the low CT our 30% is nearer 15 - 20% in other boroughs.		No fundamental changes			No	WBC also have a similar vulnerability scheme which means disabled household still receive 100% CTR. We made a tweak so there is one level of non-dep deduction but generally the default scheme.
Westminster								

Equality Impact Analysis (EIA) of Local Council Tax Support Scheme 2020/21

(A) Overview and Summary

Since 2013, the council has been obliged to set a local scheme to award council tax support (CTS) for residents on a low income. From then, the council has adopted a scheme that reflects the benefit regulations and nobody in the authority has been worse off. As this meant that there was no change for claimants, there was no requirement to complete an equalities impact assessment.

Universal Credit

Universal Credit (UC) was introduced in October 2013 for a very specific cohort of out of work claimants. Initially, the take up was slow but from June 2016, The DWP have introduced the full digital service to the borough. This means everyone of working age within the borough should claim UC.

For out of work claims, the CTS assessment is simple. Maximum support is awarded the same as a passported legacy benefit (such as Jobseekers Allowance).

The authority decided for the 2016/17 scheme to assess in work claims for UC as it was not possible to rely on legacy benefit regulations as UC was not introduced when these were rescinded.

The council has decided that for in-work UC claimants, the CTS will be assessed using the UC applicable amounts rather than the applicable amounts taken from the housing benefit regulations (as we normally do). This meant that these claimants received more CTS as the UC rates higher.

The council decided in 2019/20 to enhance the assessment process in by

- adding a threshold of £5 to the notifications we receive from the Department of Works and Pensions that tell us of changes to Universal Credit any increases of £5 or less will be ignored.
- Since 019/20 We allow a dormant council tax support form to be valid for up to 6 months after the claim date. This is in line with Universal Credit regulations where a claim can remain open for 6 months in case the claimant becomes entitled during that period there is entitlement to housing benefit, we have now reflected this in to our scheme.
- If there is entitlement to housing benefit, we have introduced that our scheme should treat this as an intention to claim. We are suggesting this to ensure that anyone on receipt of housing benefit, who becomes entitled to council tax support does not lose out if they do not claim in time.

A public authority must, in the exercise of its functions, comply with the requirements of the Equality Act 2010 and section 149 (the Public Sector Equality Duty). This EIA is intended to assist the Council in fulfilling its public sector equality duty ("PSED"). It assesses, so far as is possible on the information currently available, the equality impact of our decision to assess in work UC claims based on the UC rates rather than the rates used for non UC cases.

(B) Methodology

There is little difference in the way that we have decided to calculate UC claims as the UC applicable amount are similar to those used in legacy benefits. Our proposals to enhance our assessment process will facilitate CTS claims and awards for our customers.

Analysis of the impact of the assessment of UC claims for CTS

Local Council Tax Support (LCTS) came into effect on 01 April 2013, and replaced Council Tax Benefit which was abolished as part of the Government's Welfare Reforms (which include the introduction of Universal Credit). H&F decided for the following years to absorb the cost of the changes, which means that people receive the same or very similar help to pay their council tax as they did under council tax benefit.

At present, there are 14116 persons receiving Council Tax Support , 5016 of these are pensionable age and therefore are protected in this scheme, leaving 9100 of working age customers. Of these 9100, 3198 are in receipt of Universal Credit which equates to 35.14%.

The original cohort selected by the DWP as part of the take up of UC largely focused on single claimants but has now extended to all new claims throughout the whole borough.

Because of the historical focus on single claimants, the UC caseload on CTS is still heavily biased towards single people.

On our latest evidence suggest couples make up 9.54% of the Working Age UC cohort.

The split of male / female customers receiving CTRS shows 61.51 are female and 3.49% are male

In terms of Customers in receipt of CTRS where one or more has a disability we now have 750 recipients which represents 23.45%. This is an increase on previous years, which is understandable as the UC migration programme moved from single customers to couples and families over the last 12 months.

It is not possible to extract meaningful ethnicity data from the caseload.

From the limited information that we hold, there is little impact on CTS recipients.

However, we can see that there is a positive impact on those affected as the authority's scheme for UC is more generous during this transitional period of the Welfare Reforms.

The authority does not select the claimants who receive UC as this is done by the DWP.

(C) Conclusion

For the claimants affected by our assessment of UC, the change has a positive impact because it awards them more council tax support than if we used legacy benefit rates. For any other claimant, the overall affect is neutral as they are not affected by the change in anyway.

Also, all protected groups are not disproportionately represented in this change. Those who receive UC are not selected disproportionately from any group.

We have chosen the option that benefits those affected rather than puts them at a disadvantage so there are no further mitigating actions that the authority can take.

Because UC is a new benefit and an emerging part of the government's welfare reform agenda, the affects to the CTS caseload will need to be monitored and subject to review.

Based on current information we feel that this is the fairest way forward but we will monitor any impacts as more people are affected to ensure that no group is impacted adversely. It will also be important though to also monitor how this affects the value of CTS awards to ensure that this more generous scheme is not too expensive for the council to implement.

The scheme will run for a year so there will be further opportunities to review for 2021/22. If change is required, then further work will be needed to assess its impact on the protected groups.

London Borough of Hammersmith & Fulham

Report to: Full Council

Date: 22 January 2020

Subject: Council Tax Base and Collection Rate 2020-21 and Delegation of the Business Rate Estimate

Report of: The Cabinet Member for Finance and Commercial Services –
Councillor Max Schmid

Responsible Director – Hitesh Jolapara, Strategic Director of Finance and Governance

1. Summary

This report is a Statutory requirement and contains an estimate of the Council Tax Collection rate and calculates the Council Tax Base for 2020/21. The Council Tax Base will be used in the calculation of the Band D Council Tax undertaken in the Revenue Budget Report for 2020/21.

The proposed Council Tax Base for 2020/21 of 80,495 is an increase of 1,238 on the figure agreed for 2019/20 of 79,257. Based on the 2019/20 Band D charge of £762.02 the increase in the tax base will result in an increased income of £943,381 for Hammersmith and Fulham.

The report also seeks to delegate authority to the Strategic Director of Finance and Governance to determine the business rates tax base for 2020/21.

On 8th October 2019 the Leaders' Committee for London Council's agreed to continue to pool business rates across all 34 London authorities in a pan-London pool in 2020/21, subject to the Mayor for London agreeing to forgo the GLA's share of any net financial benefit. This pool would replace the pilot 75% business rates pool for 2019/20 which no longer has government support. The current indicative benefit for Hammersmith and Fulham from the pool is £0.5m.

2. Recommendations

1. That the estimated numbers of properties for each Valuation Band as set out in this report be approved.
2. That an estimated Collection rate of 97.5% be approved.
3. That the Council Tax Base of 80,495 Band "D" equivalent properties be approved.

4. To delegate authority to the Strategic Director of Finance and Governance in consultation with the Cabinet Member for Finance and Commercial Services, to determine the business rates tax base for 2020/21.
5. To note that Full Council has approved the recommendations in the Council Tax Support Scheme 2020/21 report, prior to the recommendations in this report, as they are reflected as Band “D” equivalents in the Council’s Tax base calculations in section 8 below.
6. To confirm that the London Borough of Hammersmith and Fulham wishes to continue in a pan-London business rates pool in 2020/21.
7. To delegate authority to the Strategic Director of Finance and Governance in consultation with the Cabinet Member for Finance and Commercial Services, to agree the recommendations in this report from 2021/22 in advance of budget setting.

Wards Affected: All

3. H&F Priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
<ul style="list-style-type: none"> • Building shared prosperity 	Keeping the Council Tax low helps residents to maintain affordable living costs.
<ul style="list-style-type: none"> • Creating a compassionate council 	We continue to lead on Ethical Debt Collection by working closely with vulnerable residents and not employing Enforcement Agents for the collection of council tax.
<ul style="list-style-type: none"> • Being ruthlessly financially efficient 	The recommendations in this statutory annual report will ensure that the Council continues to maximise income through increasing the premium on long term empty properties to 200% and not granting discounts or exemptions to second homes or unoccupied and unfurnished properties. These recommendations alone generate approx. £1.98m income to the council and contributes to the Council continuing to set one of the lowest Council Tax payable in the country.
<ul style="list-style-type: none"> • Taking pride in H&F 	The Council’s policy on not granting discount’s or exemptions on empty or second properties encourages bringing these properties back in to use and creating safer and cleaner communities for residents and contributing to the prevention of homelessness.

4. Financial Impact

Tax Base is set by 31 January each year, as outlined in the Local Government Finance Act 1992. It is used within the overall Council Tax and budget setting process, due to be reported to budget Council on 26th February 2020.

The proposed Council Tax Base for 2020/21 of 80,495 is 1,238 Band D equivalents, higher than the 79,257 agreed for 2019/20. The main reasons for the change are:

Increase in the tax base due to new non-exempt properties	1,125
SPD reduction	154
Reduction in Council Tax Support scheme discounts	289
Other Adjustments to Discounts	- 298
Gross Total Change	1,270
Adjusted for Collection rate of 97.5%	32
Total change	1,238

Based on 2019/20 Council tax levels, the increase in tax base will generate additional income of £0.94m for Hammersmith and Fulham and £0.40m for the Greater London Authority.

The cost of the local council tax support scheme is based on current regulations. No allowance is made for potential government welfare reforms due to uncertainty on what changes might be made. This is treated as a risk within the Medium-Term Financial Strategy.

Prior Year Collection Fund Surplus

The Local Government and Finance Act 1988 requires that all council tax and non-domestic rates income is paid into a Collection Fund, along with payments out regarding the Greater London Authority precept, the business rates retention scheme and a contribution towards a Council's own General Fund. As at the close of 2018/19, due to the receipt of higher than expected income, the Collection Fund was in surplus by £2.583m. The Hammersmith and Fulham share of this surplus is £1.818m and this will be accounted for in the 2019/20 budget proposals. The balance is payable to the Greater London Authority.

Implications completed/verified by: Will Stevens/Andy Lord, Finance Business Partner Tel: 020 8753 2531

5. Legal Implications

The statutory requirement that the Council calculates its Council Tax Base is set out in detail in section 13 below.

Implications verified/completed by: Kevin Beale, Principal Corporate Solicitor

6. Background Papers Used in Preparing This Report

MHCLG Return CTB1 (October 2019)	Jamie Mullins x1650	2ndFloor, Clock Works Building
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7. DETAILED ANALYSIS

Proposals and Analysis of Options

Discounts

7.1 Second Homes

There are some 1944 second homes in the borough. The Council does not offer a discount on second homes which adds 2319 Band "D" equivalents to the tax base for 2020/21. These discounts are included in Section 8 below.

Based upon 2019/20 Council Tax levels, this generates income to the Council of £1.76m. This income is allowed for within the Council's Medium-Term Financial Strategy. Our preceptor, the GLA, also benefits from the reduction in the discount and the increase in income to the Council.

7.2 Empty Properties

There are some 254 empty (unoccupied and unfurnished) properties in the borough. The Council does not offer a discount for empty properties which adds an additional 276 Band "D" equivalents to the tax base for 2020/21

Based upon 2019/20 Council Tax levels, this generates income to the Council of £0.210m. This income also directly benefits the GLA.

7.3 Empty Homes Premium

There are some 125 properties in the borough that have been empty for more than two years. The effect of charging a 200% premium on these properties add an additional 20.5 Band "D" equivalents to the tax base for 2020/21 as compared with 2019/20. These premiums are included in Section 8 below.

This equates to additional income for the Council (net of preceptors) of approximately £15k (based on the 2020/21 Band D Council Tax).

7.4 Council Tax Support

Under Council Tax Support, Hammersmith & Fulham and the GLA absorb the full cost of the scheme, which mirrors the previous council tax benefit arrangements.

For 2020/21, the Council has provided for a total of £11.46m in Council Tax Support discounts. This equates to 10,591 band "D" equivalents based on 2019/20 Council Tax levels.

The tax base regulations require the cost of the scheme to be treated as a discount and deducted from the Council's tax base calculation in Section 8.

8. Valuation Band Properties

The latest information on the number of properties within each valuation band is contained within a return (CTB1), which the Council provided to the MHCLG on 11th October 2019.

This return reflected the actual number of properties shown in the Valuation List as at 09th September 2019 and the Council's records as at 07th October 2019.

Band	Band Size	Total Dwellings	Total after Discounts, Premiums, Exemptions and Disabled Relief	Ratio	Band "D" Equivalents
A	Values not exceeding £40,000	4,092.0	2939.0	6/9	1,959.3
B	Values exceeding £40,000 but not exceeding £52,000	6,450.0	4,956.8	7/9	3,855.3
C	Values exceeding £52,000 but not exceeding £68,000	14,308.0	12,358.0	8/9	10,984.9
D	Values exceeding £68,000 but not exceeding £88,000	24,999.0	22,425.3	9/9	22,425.3
E	Values exceeding £88,000 but not exceeding £120,000	16,176.0	14,817.3	11/9	18,110.0
F	Values exceeding £120,000 but not exceeding £160,000	9958.0	9222.0	13/9	13,320.7
G	Values exceeding £160,000 but not exceeding £320,000	11,408.0	10,766.3	15/9	17,943.8
H	Values exceeding £320,000	2,621.0	2,537.8	18/9	5,075.5
	Total	90012.0	80023.3		93,674.8

A detailed analysis of the properties in each valuation band can be summarised as follows. There are 90,012 dwellings on the list with some 27,536 properties estimated to receive a single person's discount. The total Band "D" equivalent is approximately 93,674 properties.

9. Adjustments to the Valuation List

The above table shows the valuation band position at 9th September 2019, but the Council is also required to consider the Council Tax Support Scheme and any other likely changes during the financial year 2020/21. Therefore, the following adjustments need to be considered:

I. New Properties

There are likely to be a number of new properties, conversions etc added to the valuation list at some point during the year. There are approximately 449 units currently under construction on various sites in the Borough that will be added to the tax base sometime during 2020/21. It is estimated after allowing for different completion dates that this will equate to an additional 387 Band 'D' equivalents

II. Banding Appeals

There have been over 10,000 appeals lodged with the valuation office in respect of initial Council Tax bandings. There are now only a small number unsettled so it is not proposed to make any adjustments for these.

III. Single Person Discounts

The council undertakes a review of single person discounts being awarded to taxpayers each year. The current review has commenced in October 2019 and based on previous reviews it is estimated that a further 681 band D equivalent SPD discounts will be removed which will add an additional 170 Band "D" equivalents to the tax base for 2020/21, which will be worth £127,257

IV. Student Exemptions

Dwellings wholly occupied by students are exempt from Council Tax. The projected Council Tax base needs to be adjusted to allow for students that have yet to prove their exemption for the new academic year. It is estimated that an adjustment of 1026 Band "D" equivalents is required.

V. Council Tax Support

The cost of the scheme equates to 10,591 band "D" equivalents, based on 2019/20 Council Tax levels, which are deducted from the tax base for 2020/21. This is less than the deduction of 10,878 Band D equivalents made in 2019/20. This is due to a reduction in the number of claimants applying for a discount.

VI. Care Leavers

For 2019/20, the council has provided discounts for care leavers up to the age of 25. This equates to 54 band D equivalents based on 2019/20 council tax

levels. The cost of this discount is fully funded by the council and needs to be deducted from the council's tax base calculation below.

The Council is required to set its Tax Base on the total of the relevant amounts for the year for each of the valuation bands shown or is likely to be shown for any day in the year in the authority's valuation list.

Taking into account the latest information from the CTB1 return to the MHCLG and the proposed adjustments, The Council is requested to approve the estimated numbers of properties for each valuation band as set out in the following table:

Band	Band "D" Equivalent Actual September	Adjustments for New Properties	Adjustments for Student Exemptions	SPD	Adjustments for Council Tax Support Scheme	Care Leavers	Revised Band "D" Equivalents
A	1,959.3	0	-18	5	-737	-11	1198.3
B	3,855.3	197	-37	11	-1379	-16	2631.3
C	10,984.9	68	-136	24	-2719	-13	8208.9
D	22,425.3	105	-290	54	-3206	-11	19077.3
E	18,110.0	13	-266	37	-1629	-1	16264
F	13,320.7	3	-173	16	-599	0	12567.7
G	17,943.8	0	-100	20	-317	-2	17544.8
H	5,075.5	0	-6	3	-5	0	5067.5
Total	93,674.8	386	-1026	170	-10,591	-54	82559.8

10. Collection Rate

The Council is also required to estimate its Collection Rate for 2020/21 at the same time as arriving at the estimated number of properties within the Tax Base. In arriving at a percentage Collection Rate for 2020/21, the Council should take into account the likely sum to be collected, previous collection experience and any other relevant factors.

The actual sum to be collected from local council taxpayers cannot be finally determined until the preceptor's requirements are known and the Council has approved its budget. The Council therefore has to make an estimate of the sums to be collected locally making estimated allowance for sums from Council Tax Support and write-offs/non-collection.

The actual collection rate for 2019/20 achieved to the end of October 2019 is 65.02%, comprising cash collection of £57.3m and Council Tax Support of £11.1m. It is estimated that a further £26.2m (32.0%) will need to be collected by 31 March 2020 and £0.43m (0.5%) thereafter.

Collection performance has been calculated in order to comply with MHCLG performance indicator calculations. Latest calculations for 2018/19 and

2019/20 show that the current collection rate can be continued for 2020/21. It is therefore suggested that the collection rate for 2020/21 is maintained at 97.5%.

The Council continues to work with Intrum, it's Ethical Joint Venture partner, to explore methods of recovery of outstanding debts as we no longer use Enforcement Agents for the collection of council tax

11. The Tax Base

Under Section 33(1) of the Local Government Finance Act 1992 and the Regulations, the Council's tax base is calculated by multiplying the estimated number of Band "D" equivalents by the estimated collection rate.

Based on the number of Band "D" equivalents in the table in paragraph 9. above and the estimated collection rate in paragraph 10. above, the calculation is as follows:

(Band D equivalents) x (Collection Rate) = (Tax Base)				
82,559	x	97.5%	=	80,495

12. Business Rates Tax base

The Local Government Finance Act 2012 made it obligatory for authorities to formally calculate the estimated level of business rates (the business rates tax base) it anticipates collecting for the forthcoming financial year and passing this information to precepting authorities by 31 January. The Government will continue to set the tax rate (known as the non-domestic multiplier).

The tax base is based on data from the Valuation Office with local allowance for the appropriate level of business rates appeals, any discretionary reliefs and any forecast growth. This information is pulled together into a government return (NNDR1). The detailed guidance on completing the NNDR1 is not likely to be issued until just before Christmas. This guidance will include allowance for any changes to the business rates system that may be announced by the Chancellor post- election. Given that the return must be submitted by 31 January, it is recommended that the responsibility for setting these figures be delegated to the Strategic Director Finance and Governance in consultation with the Cabinet Member for Finance and Commercial Services.

The business rates system will change for a fourth successive year. A rates revaluation in 2017/18 was followed by a pilot 100% rates retention scheme (for any growth in business) for London in 2018/19 and a 75% retention pilot in 2019/20. The government have announced that they will not support a retention pilot in 2020/21 but London local government is working towards taking forward its own pan-London pool. Indicative estimates are that this will benefit Hammersmith and Fulham by £0.5m (and London overall by £23m). This compares to the estimated benefit of £1.9m in 2019/20. Confirmation is required that Hammersmith and Fulham wish to participate in the new pan London pool.

13. Reasons for Decision

Under Section 33(1) of the Local Government Finance Act 1992 and The Local Authorities (Calculations of Council Tax Base) (England) Regulations 2012, the Council (as billing authority) is required to calculate its Council Tax Base. This comprises both the estimated numbers of properties within each Valuation band plus the Council's estimate of its collection rate for the coming financial year.

Under Section 11A of the Local Government Finance Act 1992, Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 and Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 the Council reduced discounts for both Second Homes and Unoccupied and Unfurnished dwellings to 0% with effect from 2013/14, this remains in place

Under Section 11B of the Local Government Finance Act 2012 the Council introduced the Council Tax Empty Homes Premium with effect from 1 April 2014, this remains in place. This increased the charge on dwellings that have been unoccupied and substantially unfurnished by an additional 50% of the council tax that would be payable if the dwelling were occupied by two adults and no discounts were applicable. The premium increased to 100% from 01/04/2019 and from the 01/04/2020, the premium will increase to 200% for dwellings which have remained unoccupied and substantially unfurnished for over five years.

14. Equality Implications

- 14.1 There are no anticipated negative implications for groups with protected characteristics, under the Equality Act 2010, by the approval of these proposals.

Implications completed by: Fawad Bhatti, Public Services Reform, tel. 07500 103617

15. Risk Management Implications

- 15.1 The report considers the implications required by the Council to meet its obligations under the Local Government Finance Act 2012 which made it obligatory for authorities to formally calculate the estimated level of business rates (the business rates tax base) it anticipates collecting for the forthcoming financial year and passing this information to precepting authorities by 31 January. The Council is also required to estimate its Collection Rate for 2020/21 at the same time as arriving at the estimated number of properties within the Tax Base. The Council is required under Section 33(1) of the Local Government Finance Act 1992 and The Local Authorities (Calculations of Council Tax Base) (England) Regulations 2012, the Council (as billing authority) to calculate its Council Tax Base. The proposals therefore are compliant with statutory duties and are provided in accordance with management of corporate risk 7 on the Corporate risk register.

*Implications verified by: Michael Sloniowski Risk Manager, tel: 020 8753 2587
mobile: 07768 252703*

Agenda Item 6.4

London Borough of Hammersmith & Fulham

Report to: Full Council

Date: 22/01/2020

Subject: Review of the Constitution

Report of: The Leader of the Council – Councillor Stephen Cowan

Responsible Director – Hitesh Jolapara, Strategic Director of Finance and Governance

Summary

This report asks Council to approve changes to the departmental register of authorities, the Officer Scheme of Delegation and approve the creation of an additional Assistant to the Cabinet position.

Recommendations

1. That an additional Assistant to the Cabinet position be created to support the Cabinet.
2. To note that Councillor Rebecca Harvey was appointed by the Leader as an Assistant to the Cabinet in July 2019 and agreed the payment of a Special Responsibility Allowance for this post.
3. That amendments to the departmental register of authorities be approved (Appendix 1).
4. To note the new Contract Standing Orders attached at Appendix 2

Wards Affected: None

H&F Priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
<ul style="list-style-type: none">• Building shared prosperity	A Lead Member for Child Refugees will positively impact on the lives of child refugees living in the Borough.
<ul style="list-style-type: none">• Creating a compassionate council	The Council has a goal to help refugee children across the Channel. The Lead Member will ensure that they are looked after and receive the best care

	and support possible.
<ul style="list-style-type: none"> • Taking pride in H&F 	The Council led the campaign for the Government to allow child refugees from Calais into in the country. The council has created capacity to help at least 10 unaccompanied children from the camp, as soon as the Home Office gave permission for them to travel.

Financial Impact

An assistant to Cabinet position is entitled to a Special Responsibility Allowance (SRA) of £2,700 per year. There is sufficient provision in the existing budget to fund the cost of this additional SRA as contained in this report.

Legal Implications

The Local Government Act 2000 requires the Council to have and maintain a Constitution. The Monitoring Officer is satisfied that the Council's Constitution continues to fulfil its stated purposes, as set out in Article 1 of the Constitution.

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Verified by Emily Hill, Assistant Director Corporate Finance, 07826 531849
Emily.Hill@lbhf.gov.uk

Name: Rhian Davies
Position: Borough Solicitor
Telephone: 07827 663794
Email: Rhian.davies@lbhf.gov.uk

Background Papers Used in Preparing This Report

None.

DETAILED ANALYSIS

1. Proposals and Analysis of Options

- 1.1 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner.
- 1.2 The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.
- 1.3 The Council's Monitoring Officer is required to review the Council's Constitution each year to ensure that its aims and principles are given full effect in accordance with Article 15 of the Constitution.

Departmental Register of Authorities and the Officer Scheme of Delegation

- 1.4 Approval is sought for the amendments to the departmental register of authorities and the Officer Scheme of Delegation to reflect enacted new legislation by the Monitoring Officer.

Assistant to the Cabinet

- 1.5 Councillor Rebecca Harvey was appointed by the Leader as Lead Member for Child Refugees in July 2019. This report requests the creation of an additional Assistant to the Cabinet position and backdate the allowance to July 2019 when Councillor Harvey was first appointed as the Lead Member for Child Refugees and undertook the duties.

Contract Standing Orders

- 1.6 At the October 2019 Full Council meeting authority was delegated to the then Assistant Director of Legal and Democratic Services to "*update Financial Regulations and the constitution, and update and amend Contract Standing Orders.*" The Contract Standing Orders were updated and amended, and the new version introduced on 5th November 2019. A further update was undertaken on the 3rd January 2020 to reflect the new EU financial thresholds (applicable from 1 Jan 2020).

2. Reasons for Decision

- 2.1 The Council's Monitoring Officer is required to review the Council's Constitution each year to ensure that its aims and principles are given full effect in accordance with Article 15 of the Constitution.

3. Equality Implications

- 3.1 The equalities implications of this decision have been considered to be neutral.
- 3.2 Implications verified by: Fawad Bhatti, Social Inclusion Policy Manager– Tel: 07500103617

List of Appendices:

- Appendix 1 - Changes to the Departmental Register of Authorities
- Appendix 2 – Contract Standing Orders

Proposed Changes to Departmental Register of Authority

The Environment > Highways

That authority to enter into agreements under Section 8 and 38 of the Highways Act 1980 be delegated to the following officers:

- Assistant Director, Environment Special Projects Highways
- Chief Officer – Public Realm

The Environment > Trading Standards

That the following amendments to Trading Standards delegations be agreed:

Legislation	Function	Proper Officer(s)
Accommodation Agencies Act 1953	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Administration of Justice Act 1970	S 40 Punishment for unlawful harassment of debtors.	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Agriculture Act 1970	S67 Enforcement	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Animal Boarding Establishments Act 1963	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Animal Health Act 1981	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Animal Welfare Act 2006	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Aniti-Social Behaviour Act 2003	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Breeding of Dogs Act 1973	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Cancer Act 1939	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Children & Young Persons Act 1933	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Children and Young (Protection from Tobacco) Act 1991	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Children and Young Persons (Harmful Publications) Act 1955	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Christmas Day (Trading) Act 2004	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Clean Air Act 1993	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Companies Act 2006	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Consumer Protection Act 1987	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Copyright, Designs & Patents Act 1988	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Criminal Justice Act 1988	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Criminal Justice and Public Order Act 1994	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Crossbows Act 1987	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Dangerous Wild Animals Act 1976	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Education Reform Act 1988	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Enterprise Act 2002	Part VIII – Enforcement of certain consumer legislation.	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Estate Agents Act 1979	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Explosives Acts 1875	As appropriate	Director for Environmental Health, Head of Environmental Health Residential, Environmental Protection Manager, Pest Control Manager, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Licensing Manager, Commercial Services Manager and Head of Environmental Health Commercial, Private Housing and Health Manager, Trading Standards Officers and Senior Trading Standards Manager, Environmental Health Officer
Farm and Garden Chemicals Act 1967	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Financial Services Act 2012	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Financial Services Act 2012 (Consumer Credit) Order 2013	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Financial Services and Markets Act 2000	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Firearms Act 1968	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Fireworks Act 2003	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Food Safety Act 1990	Food Safety Act 1990 and a) any Orders or regulations made there under or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and b) any modification or re-enactment to the foregoing	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Gambling Act 2005	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Hallmarking Act 1973	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Housing and Planning Act 2016	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Intoxicating Substances (Supply) Act 1985	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Knives Act 1997	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Legal Services Act 2007	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Licensing Act 2003	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Motor Cycle Noise Act 1987	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
National Lottery Act 1993	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Offensive Weapons Act 2019	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Olympic Symbols etc. (Protection) Act 1995	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Pet Animals Act 1951	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Petroleum (Consolidation) Act 1928	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Poisons Act 1972	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Prices Acts 1974	S 2 & S 4 - Power for Orders to be made by Secretary of State which the Local Authority has a duty to enforce	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Riding Establishment Act 1964	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Scrap Metal Dealers Act 2013	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Sunbeds (Regulation) Act 2010	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Sunday Trading Act 1994	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Tattooing of Minors Act 1969	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Tenant Fees Act 2019 and the Housing and Planning Act 2016 as it relates to Client Money Protection Scheme	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
animals Act 1971	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Trade Description Act 1968	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Trade Marks Act 1994	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Unsolicited Goods and Services Act 1971 and 1975	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer

Video Recordings Act 1984	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer
Weights and Measures Act 1985	As appropriate	Director of Environment, Chief Officer Safer Neighbourhoods & Regulatory Services, Head of Environmental Health (Licensing and Trading Standards), Trading Standards Manager, Trading Standards Officer or Senior Trading Standards Officer



Contract Standing Orders

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Section A - Scope of the Contract Standing Orders

1. BASIC PRINCIPLES

- 1.1. These Contract Standing Orders (CSOs) are made pursuant to [section 135](#) of the Local Government Act 1972. They apply to all Council staff and external consultants with responsibility for letting contracts.
- 1.2. Words or phrases that begin with an initial capital letter, initialisms and acronyms are defined in [APPENDIX 1: Glossary](#).
- 1.3. Clear and consistent lines of management accountability must be demonstrable and enforced. We need to embed a new ruthlessly financially efficient mindset which shows we have zero tolerance, right across the Council, for non-compliance with Contract Standing Orders, Financial Regulations and controls.
- 1.4. Officers with responsibility for buying goods or purchasing services or procuring works, entering into concession arrangements, modifying or extending contracts or otherwise dealing with contract arrangements must comply with the minimum requirements established by these CSOs. The aims of these CSOs are to promote good purchasing practice, public accountability and transparency, to support the delivery of Council's objectives and priorities, to ensure that the Council obtains value for money, compliance with legislation and to deter corruption. Following the rules is the best defence against allegations that a decision has been made incorrectly or fraudulently. Failure to follow them may result in disciplinary action being taken or even criminal proceedings.
- 1.5. Every contract entered into by the Council must be in connection with a Council function and shall be procured in accordance with all relevant legislation including EU Regulations. These CSOs have been written to reflect the current legislative requirements; however, in the event of any inconsistencies between these CSOs and the requirements of the Regulations the latter will take precedence.
- 1.6. Where you consider there is any ambiguity in these CSOs please let the Head of Procurement know, who will determine any such query following consultation with the Borough Solicitor.
- 1.7. Each Strategic Leadership Team (SLT) Member must take immediate action in the event of breach of these CSOs by reporting this breach to the Head of Procurement. It will be the responsibility of the Head of Procurement to determine the nature of the breach. If it is deemed to be serious (e.g. involving a Key Decision, or where a corrupt/criminal act is suspected) the Head of Procurement will refer the matter to the Director of Audit, Fraud, Risk and Insurance for investigation with view to identifying the steps to be taken to avoid a recurrence and to ensure appropriate action is taken.

2. WHAT TRANSACTIONS DO THESE CONTRACT STANDING ORDERS APPLY TO?

- 2.1. These CSOs apply to all contractual arrangements made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. This includes all types of procurements, re-lets, direct awards, variations, novations, extensions and any other contractual transactions which the Council enters into.
- 2.2. However, they only apply where the Council is **providing** goods, works or services to another to the limited extent set out in [CSO 34](#). All the other provisions relate to where the

Council is the purchaser.

- 2.3. These CSOs do not apply to contracts relating to:
- 2.3.1. An employee's individual terms of employment,
 - 2.3.2. the acquisition, disposal, or transfer of land (to which Financial Regulations will still apply), or
 - 2.3.3. the making of grants.
- 2.4. Special cases, relating to the:
- (a) engagement of solicitor/barristers, or adjudicators/arbitrators in construction disputes,
 - (b) supply of personal and social care services to a single individual,
 - (c) where the Council is **providing** goods and services to another,
- are set out in [Section H](#) below. These special cases only have to comply with the provisions of [Section H](#).

3. ESTIMATING CONTRACT VALUES

- 3.1. The procedures which apply to Contracts are different, depending on their value. Therefore, producing a contract estimate is the very first thing to do when considering if a contract needs to be put in place. For a High Value Contract you also need to ascertain whether the contract spend will be from Capital or Revenue.
- 3.2. The value of a Contract is the total estimated spend throughout the lifetime of the proposed contract including any anticipated extensions. It is not the annual value. See [Appendix 3](#) for more details on calculating the value of a contract.
- 3.3. Where the Contract is a concession contract (e.g. to run a café open to the public or other facility where service users are charged) special rules apply – see Appendix 3.
- 3.4. For the purposes of these CSOs the procedures are split as follows:
- 3.4.1. Low Value Contracts valued at below £50,000 - see [Section B](#);
 - 3.4.2. Medium Value Contracts valued at £50,000 up to the Services Threshold (currently £181,302¹) - see [Section C](#); and
 - 3.4.3. High Value Contracts valued at above the Services Threshold (currently £181,302) – see [Section D](#).
- 3.5. Where you know that there are, or will be, similar or recurrent transactions for the same goods, services or works the value of those similar/ recurrent transactions must be aggregated to determine the value of the overall transaction.
- 3.6. Estimates of contract value must not be manipulated by artificially dividing the contract requirement into smaller contracts or lots, whether or not this is done with the intention of avoiding competition or a particular decision-making route. However, having smaller contracts to make these genuinely attractive to suppliers based in the borough or other SMEs may be allowed, as would encouraging bidders on larger contracts to use local supply chain/labour as part of their bid; take advice from the Head of Procurement.

¹ Enforced from 1 January 2018, due to be revised on 1 January 2020.

4. IDENTIFYING A BUSINESS NEED AND PROCUREMENT PRINCIPLES

- 4.1. Under the [Local Government \(Contracts\) Act 1997](#), local authorities can enter into contracts with third parties in connection with any of their functions. However, first the SLT Member must be able to demonstrate there is a business need for the proposed Contract.
- 4.2. Being Ruthlessly Financially Efficient means our three financial obsessions are:
 - 4.2.1. Necessity - what would happen if the spend isn't approved?
 - 4.2.2. Value for money - how much really needs to be spent and could this be a one-off cost?
 - 4.2.3. Collaboration - who is responsible? Can partners and other organisations share the costs?
- 4.3. Having identified a business need for works, goods or services, the SLT Member must consider whether:
 - 4.3.1. to seek a new contractual arrangement with an external provider; or
 - 4.3.2. to provide, deliver and manage the service or works or make the goods within the Council (i.e. an in-house delivery model); or
 - 4.3.3. to procure the services through arrangements made by another public sector provider;
 - 4.3.4. to enter into a shared service agreement; or
 - 4.3.5. the required goods, services or works are covered within the scope of any contractual arrangements the Council already has in place, provided that such Contract allows for extra goods, services or works to be included or added, and there is no breach of the Regulations (approval for a contract modification under these CSOs may also be required).
- 4.4. If a decision is made that the services, works or goods can be resourced in-house then in law there is no award of a Contract and so these CSOs no longer apply (although under Financial Regulations, other parts of the Constitution, or good governance practice, a formal approval report may still be required). Otherwise, the process followed must follow these CSOs, including that any Reports required must be prepared and submitted in accordance with these CSOs. [Report templates are available on the Intranet](#).
- 4.5. Unless otherwise agreed by the Head of Procurement, all procurement exercises over £10,000 will be undertaken using the Council's e-tendering system. This includes call-offs from Frameworks or DPS.
- 4.6. All procurements (including Quotes) must be carried out in a fair, open and transparent manner. All procurement exercises over £10,000 must have a fixed closing date, the same for every participant, set up on the capital e-sourcing system. The Head of Procurement will make appropriate arrangements for the opening of Tenders via capital e-sourcing, which includes the verification of the contract sum stated in each Tenderer's Form of Tender against other information submitted.
- 4.7. Where a procurement exercise is for a High Value Contract, a formal Tender Appraisal Panel (TAP) must be set up to ensure that the Council receives value for money and to demonstrate transparency.
- 4.8. Social Value: there is an obligation on all local authorities to consider social value during the letting of all service contracts. This is set out in the [Public Services \(Social Value\) Act 2012](#). It

does not apply to contracts proposed to be called off a Framework. The Council's policy on Social Value must be complied with to ensure that the Act is complied with.

5. SLT MEMBERS' RESPONSIBILITIES

- 5.1. These CSOs must be strictly complied with; they are the Council's minimum requirements. A more thorough procedure may be appropriate for a particular Contract.
- 5.2. SLT Members have responsibility for all Contracts put in place within their Departments. **This includes seeking advice on the proposals in draft reports before they are sent to officers for statutory comments and implications.** Each SLT Member is accountable to the Cabinet for the performance of their duties in relation to procurement strategy, contract approval and management, including those matters set out in [Appendix 6](#). The following conditions must be observed:
 - 5.2.1. all procurement exercises and awarded Contracts must be recorded on the e-tendering system;
 - 5.2.2. officers need to have training to ensure they know how to use the e-tendering system;
 - 5.2.3. ensuring appropriate arrangements are in place within his/her department for the storage of original Contracts not sealed as a Deed once completed (signed and dated). All original contracts exceeding £30,000 should be passed to Legal Services who will enter the details onto the Contracts Register and store the original contract offsite;
 - 5.2.4. an electronic copy of all completed contracts over £10,000 must be saved on the Corporate /Contracts Register.
- 5.3. The SLT Member can authorise any officer within their Department to act on their behalf. However, such authority will not affect their accountability for actions taken in their name. **As a result, these Contract Standing Orders are addressed throughout to the SLT Members. However, it is recognised that in practice these Contract Standing Orders will be implemented by staff (including consultants) within the SLT Member's department.**
- 5.4. Throughout the CSOs there are requirements for formal decisions to be taken. This is undertaken by preparing a report recommending a decision and this demonstrates an audit trail of the decision once taken. [Report templates are available on the Intranet](#). Various departments input into these reports and it is for the SLT Member to ensure that those departments are consulted. Implication sections from the consulted department cannot be inserted on their behalf and under no circumstances should Implication sections be amended by anyone other than the author of those comments. The Head of Procurement must be sent the report once finalised and approved.

6. CONFLICTS OF INTEREST

- 6.1. [Part 5 of the Constitution](#) incorporates Codes of Conduct of both Officers and Members, these state what interests are to be declared when the member is elected/ the officer is appointed and the need to keep these updated as circumstances change.
- 6.2. The need to ensure that any procurement process is conducted fairly means that extra responsibilities are put on those running a procurement. The SLT Member should ensure that for all procurements of Medium and High Value Contracts, including direct awards, all officers and consultants involved complete a declaration confirming they (or their

spouse/partner) do not have pecuniary interests or non-pecuniary interest which could conflict with the interests of the Council in securing a fair procurement. The declarations should be saved on the e-tendering portal.

- 6.3. If a Member or an officer of the Council or a consultant working on the Council's behalf becomes aware that a Contract in which they have an interest is being re-tendered or has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Borough Solicitor. Such written notice is required, irrespective of whether the pecuniary interest is direct or indirect. Consideration will then be given as to the appropriate action.
- 6.4. The Borough Solicitor shall maintain a record of all declarations of interests notified by Members and officers.

7. PREVENTION OF CORRUPTION

- 7.1. All Council officers and Members must comply with the relevant [Code of Conduct](#) and the Council's anti-fraud and corruption strategy and must not invite or accept any gift or reward in respect of the award or performance of any Contract. It will be for the officer/ Member to prove that anything received was not received corruptly.
- 7.2. High standards of conduct during a procurement are obligatory. While in the normal course of events, gifts and hospitality from suppliers can be accepted provided that they are declared in accordance with the Gifts and Hospitality Policy, while a tender process is ongoing, such hospitality should be declined. Corrupt behaviour will lead to dismissal and can be fraud or another crime under the statutes referred to in 7.3. Such matters will be investigated and appropriate action taken, including legal proceedings.
- 7.3. The Borough Solicitor shall ensure that all contract conditions contain robust terms that will allow the Council to terminate a contract where there have been acts relating to fraud, bribery, or corruption as defined under the [Bribery Act 2010](#), and/or section 117(2) of the [Local Government Act 1972](#); and/or the contractor/supplier has committed an act which is an offence under the [Enterprise Act 2002](#). More information about the Bribery Act is available in the Council's Anti-Bribery Policy or speak to the Head of Fraud.

Section B - Low Value Contracts up to £50,000

8. LOW VALUE CONTRACTS

- 8.1. Contracts valued at up to £50,000 are to be procured and awarded as set out in this [Section B](#). However, there are special cases set out in [Section H](#).
- 8.2. Before any contract is considered the SLT Member must be satisfied there is a business need for the contract (see [CSO 4](#)). The SLT Member must also ensure that a contract estimate is calculated and recorded and be satisfied that the estimated contract value is below £50,000. If the contract value could be £50,000 or greater the process for Medium Value Contracts should be followed.

9. ADVERTISING PROCESS AND COMPETITION REQUIREMENT FOR ALL LOW VALUE CONTRACTS

- 9.1. The SLT Member is responsible for ensuring value for money in all procurement matters. The following competition requirements have been set considering the contract value and to achieve value for money. The SLT Member must meet these requirements for all Low Value Contracts:

Estimated Value	Advertising Requirement	Competition requirement ²
£1 to £10,000	None	<p>Either:</p> <ul style="list-style-type: none"> At least one written Quotation obtained with preference to sourcing from providers based in the borough; or Call-off from suitable third party or Hammersmith & Fulham Framework or DPS (rules of the Framework or DPS to be followed).
£10,000 to £49,999	None	<p>Either:</p> <ul style="list-style-type: none"> Written Quotations or Tenders with a minimum of three companies invited to Quote or Tender through the e-tendering system with a preference to sourcing from providers based in the borough; or Advertised opportunity inviting Quotations or Tenders – use e-tendering system and Contracts Finder (latter within 24 hours of appearing in e-tendering system) Call off from suitable third party or Hammersmith &

² If the Contract involves works to housing premises where the Council could make recovery of costs from leaseholders pursuant to s20 of the Landlord and Tenant Act 1985 the rights of the leaseholders must be taken into account when considering the competition for the works. Failure to consult as required by the Service Charges (Consultation Requirements) (England) Regulations 2003 means that the Council's ability to recover costs from leaseholders is limited to £100/£250 depending upon the proposed arrangement for delivering the Works. Take appropriate advice, especially where you are thinking of using a Framework, Approved List or DPS.

		Fulham Framework or DPS using the e-tendering system
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9.2. For recurring Low Value Contracts SLT Members may consider establishing an Approved List or Dynamic Purchasing System (subject to approval from the Head of Procurement and other appropriate approval) to reflect the aggregated estimated value of goods, work or services estimated as likely to be procured through the Approved List or DPS.

10. APPROVAL PROCESS FOR LOW VALUE CONTRACTS

10.1. SLT Members approve the award of all Low Value Contracts within their area, once [CSO 9](#) has been complied with.

10.2. The SLT Member must ensure that a written record is prepared of the procurement process followed, to accompany the request for approval of the award of contract, to include:

10.2.1. a description of the competition process that was adopted and confirmation that this was in accordance with [CSO 9](#);

10.2.2. a report on the results of the competition and the Quotations or Tenders received;

10.2.3. the registered name of the contractor to be awarded the Contract;

10.2.4. details of the contract price and relevant budget that will be funding the Contract;

10.2.5. commencement and expiry dates.

10.3. Details of all contracts that have a value of £5,000 or greater must be published by the SLT Member in the Corporate Contracts Register on the e-tendering system in accordance with the [Transparency Regulations 2015](#) and the [Local Government Transparency Code 2015](#) published by the Department for Communities & Local Government.

10.4. In addition, an electronic copy of the completed (dated) Contract, where valued at £10,000 or more, must be uploaded to the Contracts Register along with a copy of the record referred to at [CSO 10.2](#).

10.5. Except for out of hours purchases or minor expenses, no telephone orders are to be placed for goods, works or services, unless otherwise agreed by the Head of Procurement. A purchase order number must be provided to the supplier at the time of the order.

Section C - Medium Value Contracts - £50,000 to Below Services Threshold

11. MEDIUM VALUE CONTRACTS

- 11.1. Contracts valued between £50,000 and the Services Threshold (currently £181,302³) are to be procured and awarded as set out in this [Section C](#). However, there are special cases set out in [Section H](#).
- 11.2. Before any Medium Value Contract is considered the SLT Member must be satisfied there is a business need for the contract (see [CSO 4](#)). The SLT Member must also ensure that a contract estimate is calculated and recorded and be satisfied that the estimated contract value is between £50,000 and the Services Threshold (currently £181,302). If it could be greater the process for High Value Contracts should be followed.

12. PROCUREMENT STRATEGY FOR MEDIUM VALUE CONTRACTS

- 12.1. The SLT Member decides upon the most appropriate Procurement Strategy. Once the Procurement Strategy is decided upon, a Tender Appraisal Panel (TAP) must be established to take responsibility for managing all aspects of the procurement process. The provisions of [paragraph 39](#) of [Appendix 8](#) shall apply to the TAP and the Tender process.

13. ADVERTISING PROCESS AND COMPETITION REQUIREMENT FOR ALL MEDIUM VALUE CONTRACTS

- 13.1. The SLT Member is responsible for ensuring value for money in all procurement matters. The following competition requirements have been set in light of the contract value and in order to achieve value for money:

³ Enforced from 1 January 2018, due to be revised on 1 January 2020.

Type of Medium Value Contract	Competition requirement ⁴	Advertising Requirement
Supplies/Services	<ol style="list-style-type: none"> 1. Invitation without pre-qualification stage to submit Tenders 2. Call off from suitable third party or Hammersmith & Fulham Framework or DPS (rules of the Framework or DPS to be followed) 	<p>For 1:</p> <p>Advertised opportunity – use capital e-sourcing and Contracts Finder (latter within 24 hours of appearing in e-tendering system)</p>
Works and Maintenance Services for assets eg housing repairs and FM (except information technology)	<ol style="list-style-type: none"> 1. Invitation to submit Quotations through the e-tendering system (though Tenders can be invited where considered appropriate); or 2. Call off from suitable third party or Hammersmith & Fulham Framework or DPS (rules of the Framework or DPS to be followed) 	<p>For 1:</p> <p>Advertised opportunity – use capital e-sourcing and Contracts Finder (latter within 24 hours of appearing in e-tendering system)</p> <p>OR</p> <p>Invite at least four written Quotes or Tenders preferably from suppliers based in the borough</p> <p>For 2:</p> <p>Follow the rules of the Framework/DPS and use the e-tendering system for all mini-competitions</p>

13.2. The procurement process for all Medium Value Contracts must be run without any pre-selection (pre-qualification) stage. This is sometimes called open or single-stage tendering. However, the asking of questions during any Tender exercise about whether the provider meets the Council's minimum requirements of suitability, capability, legal status and financial standing (see reg 111 of the Regulations).

⁴ If the Contract involves works to housing premises where the Council could make recovery of costs from leaseholders pursuant to s20 of the Landlord and Tenant Act 1985 the rights of the leaseholders must be taken into account when considering the competition for the works. Failure to consult as required by the Service Charges (Consultation Requirements) (England) Regulations 2003 means that the Council's ability to recover costs from leaseholders is limited to £100/£250 depending upon the proposed arrangement for delivering the works. Take appropriate advice, especially where you are thinking of using a Framework, Approved List or DPS.

14. TENDER DOCUMENTATION

- 14.1. The SLT Member must prepare a specification and all appropriate Quote or Tender documentation using the Council's standard form documentation. Amendments to the Council's standard form documentation must be agreed with the Head of Procurement or, in appropriate cases, Borough Solicitor. The award criteria must relate specifically to the contract to be procured and shall be based on the most economically advantageous tender.
- 14.2. See also [Appendix 3](#) of these CSOs concerning the contents of the terms and conditions of contract.
- 14.3. For recurring Medium Value Contracts SLT Members may consider establishing a Council Framework or Dynamic Purchasing System subject to approval from the Head of Procurement and after appropriate approval to reflect the aggregated estimated value of goods, works or services to be placed through the Framework or DPS.
- 14.4. It is not anticipated that there will be interviews with tenderers on a Medium Value contract. However, if there are, full records of the interview must be kept and the purpose of the interviews and how they will be used in the evaluation process must be set out in the Invitation to Tender.

15. APPROVAL PROCESS FOR AWARD OF MEDIUM VALUE CONTRACTS

- 15.1. SLT Members approve the award of all Medium Value Contracts within their area, once CSO 13 has been complied with
- 15.2. If the value of the Contract to be awarded is more than 10% higher than the initial estimated value of the Contract and over the Service Threshold, the SLT Member must consult the Head of Procurement before the decision is taken.
- 15.3. The SLT Member must prepare an award report in the standard form. [Report templates are available on the Intranet.](#)
- 15.4. The award report must contain the comments of the Strategic Director of Finance & Governance, the Director of Audit, Risk, Fraud and Insurance, the Head of Procurement and the Borough Solicitor.
- 15.5. Provided that the SLT Member approves the award report the Contract shall be awarded by way of a notification via the e-tendering system and:
 - 15.5.1. Where the value of the contract is below £100,000, then unless the Borough Solicitor considers otherwise, it will be entered as a simple agreement signed by the relevant SLT Member (electronic signatures are permitted);
 - 15.5.2. Where the value of the contract is £100,000 or more, the Borough Solicitor will arrange for the Contract to be sealed on behalf of the Council where this is appropriate, and a link to the award report as published on the Council's website must be provided with the request for sealing.
- 15.6. For all Medium Value Contracts, the Contract documentation must be concluded (including the formal execution of contracts by both/ all parties) before its commencement. Only in exceptional circumstances, and then only with the written consent of the Borough Solicitor, may a contract commence on the basis of an exchange of correspondence.
- 15.7. An electronic copy of the completed (dated) Contract must be uploaded to the Contracts Register along with a copy of the award report. A Contract must be kept for six years after

the end of the Contract.

- 15.8. Documents which relate to the procurement process should be kept for a minimum period of 12 months, provided there is no dispute about the award (these may be stored electronically).
- 15.9. The SLT officer must ensure a record is kept of:
 - 15.9.1. pre-tender market research (if any);
 - 15.9.2. the subject-matter and value of the contract, Framework Agreement or DPS;
 - 15.9.3. where applicable, the results of the qualitative selection and reduction of numbers;
 - 15.9.4. the names of the selected candidates or tenderers and the reasons for their selection;
 - 15.9.5. the names of the rejected candidates or tenderers and the reasons for their rejection;
 - 15.9.6. the name of the successful tenderer and the reasons why its tender was selected;
 - 15.9.7. where applicable, the reasons why the contracting authority has decided not to award a contract or Framework Agreement or to establish a dynamic purchasing system;
 - 15.9.8. where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders;
 - 15.9.9. where applicable, conflicts of interests detected and subsequent measures taken;
 - 15.9.10. clarification (and where appropriate post-tender negotiation) (to include minutes of meetings);
 - 15.9.11. the contract documents;
 - 15.9.12. post-contract evaluation and monitoring; and
 - 15.9.13. written records of communications with Candidates and with the successful Candidate(s).

Section D - High Value Contracts – over the Services Threshold

16. HIGH VALUE CONTRACTS

- 16.1. Contracts valued over the Services Threshold (currently £181,302⁵) are to be procured and awarded as set out in this [Section D](#). However, there are special cases set out in [Section H](#).
- 16.2. Before any High Value Contract is considered the SLT Member must be satisfied there is a business need for the contract (see [CSO 4](#)). The SLT Member must also ensure that a contract estimate is calculated and recorded, which will determine the process to be followed to approve the procurement strategy and the contract award.

17. PREPARING FOR HIGH VALUE CONTRACTS – SERVICE REVIEW TEAM

- 17.1. For every High Value Contract, the SLT Member shall establish a Service Review Team comprising:
- 17.1.1. Contract Officer,
 - 17.1.2. client-side officers,
 - 17.1.3. relevant stakeholders, and
 - 17.1.4. relevant professional officers (including legal, finance, procurement, IT and HR as appropriate) including external advisers as applicable and warranted.
- 17.2. The Service Review Team shall take responsibility for all pre-procurement related activity as set out in [Appendix 8](#) including:
- 17.2.1. carrying out preliminary market consultation and consultation, and coming to a decision as to whether a new contract arrangement is to be procured or that the business need is to be met within the Council;
 - 17.2.2. researching available Frameworks and DPS, or considering whether an existing contract can be varied to add in the new business need (advice to be taken from the Head of Procurement in these cases, and the Borough Solicitor if appropriate);
 - 17.2.3. developing the [Procurement Strategy](#);
 - 17.2.4. identifying whether the Contract will be paid for from Capital or Revenue; and
 - 17.2.5. maintaining records of all internal and external meetings.

18. PROCUREMENT STRATEGY APPROVAL PROCESS FOR HIGH VALUE CONTRACTS

- 18.1. Prior to starting any tendering exercise for a High Value Contract, the Service Review Team must prepare a report ([template on the Intranet](#)) for approval of the Procurement Strategy for the procurement. This is submitted as follows:

⁵ Enforced from 1 January 2018, due to be revised on 1 January 2020

Capital Contracts		Procurement Strategy Approval	
Services Threshold (currently £181,302 ⁶) to £1.5m		Chief Executive/SLT Member in consultation with the relevant Cabinet Member	
£1,500,001 - £5m		The relevant Cabinet Member	
In excess of £5m		Cabinet	
Revenue Contracts		Procurement Strategy Approval	
Services Threshold (currently £181,302) to £500,000		Chief Executive/SLT Member in consultation with the relevant Cabinet Member	
£500,001-£5m		The relevant Cabinet Member	
In excess of £5m		Cabinet	

19. ADVERTISING PROCESS FOR HIGH VALUE CONTRACTS

- 19.1. The SLT Member is responsible for ensuring value for money in all procurement matters. The SLT Member will use the methods for selecting potential bidders as set out below in the relevant table. All processes (including call- offs from Frameworks or a DPS) must be run through the Council's e-tendering system, unless the Head of Procurement agrees otherwise. The process must be set out in the Procurement Strategy.

Requirements for "Supply and Service" Contracts (excluding "Social and Other Specific Services")

Value	Competition requirement	Advertising requirement
Above Services Threshold (currently £181,302)	Either: 1. Use of an existing Framework or DPS which is compliant with the Regulations; or 2. Procedure selected in accordance with the Regulations as approved through the Procurement Strategy.	For 1, Follow the rules of the Framework/DPS and use the e-tendering system for all mini-competitions For 2, all of the following: <ul style="list-style-type: none"> • Contracts Finder • Contract Notice published in Official Journal of the European Union • Opportunity listing on the e-tendering system webpage • Trade Journal (if SRT decides)

⁶ Enforced from 1 January 2018, due to be revised on 1 January 2020.

Requirements for “Social and Other Specific Services” as defined in Schedule 3 of the Regulations		
Value	Competition requirement	Advertising requirement
From Services Threshold (currently £181,302 ⁷)– up to the “Social and Other Specific Services” Threshold	<p>Either:</p> <ol style="list-style-type: none"> 1. The use of a suitable Framework or DPS; <p><i>OR (if not appropriate)</i></p> <ol style="list-style-type: none"> 2. Either a single-stage (open) Tender procedure or two-stage (with pre-qualification stage) Tender procedure as set out in the Procurement Strategy. 	<p>For 1:</p> <p>Follow the rules of the Framework/DPS and use the e-tendering system for all mini-competitions</p> <p>For 2, all of the following:</p> <ul style="list-style-type: none"> • Contracts Finder • Opportunity listing on the e-tendering system webpage • Trade Journal (if TAP decides)
From the “Social and Other Specific Services” Threshold and above	<p>Either:</p> <ol style="list-style-type: none"> 1. Use of an existing Framework or DPS which is compliant with the Regulations; <p><i>OR (if not appropriate)</i></p> <ol style="list-style-type: none"> 2. Procedure selected in accordance with the Regulations (regs 74-77) as approved through the Procurement Strategy. 	<p>For 1:</p> <p>Follow the rules of the Framework/DPS and use the e-tendering system for all mini-competitions</p> <p>For 2, all of the following:</p> <ul style="list-style-type: none"> • Contracts Finder • Contract Notice published in Official Journal of the European Union • Opportunity listing on the e-tendering system webpage • Trade Journal (if TAP decides)

⁷ Enforced from 1 January 2018, due to be revised on 1 January 2020.

Requirements for Works contracts (meeting the definition in the Regulations)		
Value	Competition requirement	Advertising Requirement
From Services Threshold (currently £181,302 ⁸) to Works Threshold (currently £4,551,413)	<p>Either:</p> <ol style="list-style-type: none"> the use of a suitable Framework or DPS; <p>OR (<i>if not appropriate</i>)</p> <ol style="list-style-type: none"> Either a single-stage (open) tender procedure or two-stage (with pre-qualification stage) tender procedure as set out in the Procurement Strategy 	<p>For 1:</p> <p>Follow the rules of the Framework/DPS and use the e-tendering system for all mini-competitions</p> <p>For 2:</p> <ul style="list-style-type: none"> Contracts Finder Opportunity listing on the e-tendering system webpage Trade Journal (if TAP decides)
Above Works threshold (currently £4,551,413)	<p>Either:</p> <ol style="list-style-type: none"> Use of an existing Framework or DPS which is compliant with the Regulations; or Procedure selected in accordance with the Regulations as approved through the Procurement Strategy. 	<p>For 1:</p> <p>Follow the rules of the Framework/DPS and use the e-tendering system for all mini-competitions</p> <p>For 2:</p> <ul style="list-style-type: none"> Contracts Finder Contract Notice published in Official Journal of the European Union Opportunity listing on the e-tendering system webpage Trade Journal (if TAP decides).

19.2. If the Contract involves works to housing premises where the Council could make recovery of costs from leaseholders pursuant to s20 of the [Landlord and Tenant Act 1985](#) the rights of the leaseholders must be taken into account when considering the competition for the works. Failure to consult as required by the [Service Charges \(Consultation Requirements\) \(England\) Regulations 2003](#) means that the Council's ability to recover costs from

⁸ Enforced from 1 January 2018, due to be revised on 1 January 2020.

leaseholders is limited to £100/£250 depending upon the proposed arrangement for delivering the works. Take appropriate advice from the appropriate Solicitor.

Establishing a Tender Appraisal Panel

- 19.3. Once approval for Procurement Strategy is granted in accordance with [CSO 18](#), a Tender Appraisal Panel (TAP) shall be established to take responsibility for managing all aspects of the procurement process. This may be the same membership as the SRT or may be different.
- 19.4. The provisions of [paragraph 39](#) of [Appendix 8](#) apply to the TAP.

20. TENDER PROCESS

- 20.1. [Appendix 8](#) shall apply to the Tender process.
- 20.2. Unless the Borough Solicitor agrees otherwise the TAP shall use the Council's standard documentation for the tender and contract documentation.
- 20.3. Unless the Head of Procurement agrees otherwise:
- 20.3.1. the time limits for submission of selection questionnaires (as applicable) and Tenders are as set out in [Appendix 7](#);
- 20.3.2. all Tenders and Responses to Mini-Competition must be received through the Council's e-tendering system; and
- 20.3.3. the contract terms shall comply with the provisions of [Appendix 3, section 2](#).

21. APPROVAL PROCESS FOR CONTRACT AWARD OF HIGH VALUE CONTRACTS

- 21.1. The TAP shall prepare an award report for all High Value Contracts and submit the report for decision as follows:

Capital Contracts		Contract Award Approval
Services Threshold (currently £181,302) to £1.5m		Chief Executive/SLT Member in consultation with the relevant Cabinet Member
£1.5m and above		The relevant Cabinet Member
Revenue		Contract Award Approval
Services Threshold (currently £181,302 ⁹) to £0.5m		Chief Executive/SLT Member in consultation with the relevant Cabinet Member
£0.5m and above		The relevant Cabinet Member

- 21.2. If the value of the Contract to be awarded is more than 10% higher than the initial estimated value of the Contract and over £10,000,000 approval must be sought from

⁹ Enforced from 1 January 2018, due to be revised on 1 January 2020.

Cabinet.

- 21.3. The TAP shall prepare an award report in the standard form. [Report templates are available on the Intranet.](#)
- 21.4. The award report must contain the comments of the Strategic Director of Finance & Governance, the Head of Procurement, the Director of Audit, Risk, Fraud and Insurance Manager and the Borough Solicitor.
- 21.5. Once the award decision has been made the service should ensure that the supplier is set up on the Council's finance system. If the contract is awarded to a new supplier, the service should request a new supplier set-up which will be approved by Procurement on receipt of the final award report. All service areas should raise purchase orders and approve invoices to pay suppliers through self-service on the Council's finance system. Officers should not undertake this for anyone outside of their own team area. This way the approval goes to the responsible budget holder and the right teams can complete the good receipting when service or goods are received. No orders should be made without providing a valid purchase order, without this there is no approval to spend and the supplier will not be paid.
- 21.6. Where the award report concerns the award of contract in excess of £300,000 in value or the expenditure is otherwise significant, then it is a Key Decision (see Article 12 of the [Constitution](#)) and must be submitted to Committee Services for publication on the Council's website. The award decision cannot be implemented without the expiry of the call-in period for that decision as shown on the website AND (if a Regulated Contract) expiry of the Standstill Period (see [Appendix 8](#)).
- 21.7. Provided that the report has been approved in accordance with this [CSO 21](#) and any Standstill Period has expired, the TAP shall ensure that the Contract is entered into and arrange for the Borough Solicitor to seal the Contract on behalf of the Council.
- 21.8. For all High Value Contracts, the Contract documentation must be concluded (including the formal execution of contracts by all parties) before its commencement. Only in exceptional circumstances, and then only with the written consent of the Borough Solicitor, may a contract commence based on an exchange of correspondence or letter of intent.
- 21.9. An electronic copy of the completed (dated) Contract must be uploaded to the Contracts Register along with a copy of the award report.

Section E - Waiver

22. GROUNDS FOR WAIVER

- 22.1. In the event that any requirement of these CSOs cannot be complied with, and this is for one of the reasons set out in [22.3](#) below, the SLT Member may apply for a waiver of the relevant CSO.
- 22.2. **It should be noted a waiver cannot be sought in relation to any legal requirements contained in the Regulations or other legislation.**
- 22.3. A waiver can only be granted where one of the following grounds applies:
- 22.3.1. Where the works, services, or supplies can only be supplied by a particular economic operator for any of the following reasons:
- 22.3.1.1. the procurement relates to a unique work or intellectual property rights of the provider; or
 - 22.3.1.2. competition is absent for technical reasons; or
 - 22.3.1.3. where there is no reasonable alternative or substitute in the market; provided that the reasons for the absence of competition is not due to an artificial narrowing of the Council's requirements;
- 22.3.2. the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- 22.3.3. the circumstances of the proposed contract are covered by legislative exemptions; or
- 22.3.4. the procurement will be run as Collaborative Procurement or other partnership arrangement with another public body, and the procurement procedures of that other public body will apply (see further [CSO 32](#));
- 22.3.5. The Council has no influence over supplier selection because:
- 22.3.5.1. The procurement activity is grant funded and the supplier is named as a condition of that funding; or
 - 22.3.5.2. Where the Council is matching grant funding and the original grant has been given conditional on the use of a named supplier;
- 22.3.6. there are other circumstances which are genuinely exceptional.

23. AUTHORISING A WAIVER

- 23.1. The SLT Member shall prepare a waiver report in the standard form as set out below and submit the report to the appropriate decision maker as follows:

Contract Value	Form of request	Comments required from	Decision Maker
Waiver in relation to Low and Medium Value Contract	Waiver Request Form	No comments required	Head of Procurement
Waiver in relation to High Value Contracts	Waiver Request Form	The Borough Solicitor	S151 Officer on recommendation of Head of Procurement

- 23.2. The [Waiver Request Form](#) shall **ONLY** seek a waiver of the relevant CSO and shall not include any other recommendations. A subsequent procurement strategy approval or award report will follow the provisions of CSOs as applicable.
- 23.3. A record of the decision and reasons will be kept by the Procurement team. A report on all waivers shall be submitted to SLT quarterly and reviewed annually with the Audit and Pension and Standards Committee.

Section F - Post Award/In-contract Decisions

24. MODIFICATIONS (VARIATIONS) AND NOVATIONS

24.1. Approval must be sought for all variations, modifications and any novations to Contracts in accordance with this [CSO 24](#). **Note: extensions are dealt with in [CSO 25](#).**

24.2. The only exception to this is:

- (a) if the change is in relation to a construction contract where provisional sums have been allowed for in the contract sum and the change relates to instructing the expenditure required against those provisional sums, in which case the provisions of the contract should be followed; or
- (b) the contract is a term Contract allowing repeated orders for works, goods or services over its term, in which case the placing of an order is not modification of the Contract where it is within the scope of that Contract and its order process and any EU advertised estimated contract value for the whole Contract is not exceeded (though new budgetary approval may still be required).

24.3. Modifications (except extensions) of Low and Medium Value Contracts, PLUS High Value works contract below the Works Threshold

24.3.1. For all Low and Medium Value Contracts, High Value Social and other specific services contracts below the threshold (currently £615,278) and High Value Works Contracts below the Works Threshold (currently £4,551,413) where the proposed change in value is not modifying the current value by +/-10% or more, the SLT Member must be able to demonstrate the type of modification was provided for in the original contract¹⁰ and:

24.3.1.1. that the cumulative value of the modification plus any other previous modifications do not increase the total contract value so that it exceeds the Relevant Thresholds; or

24.3.1.2. for construction or highways works only, that the works are covered by a contingency sum which was authorised as part of the award of the contract, provided that the contract was awarded in accordance with these Contract Standing Orders.

24.3.2. For all High Value Works Contracts below the Works Threshold (currently £4,551,413) where the proposed change in value is modifying the current value by +/-10% or more, approval shall be sought from the relevant SLT Member in consultation with the relevant Cabinet Member in accordance with [CSO 24.3.1.1](#) and/or [CSO 24.3.1.2](#) above.

24.3.3. The SLT Member shall prepare a record demonstrating that:

24.3.3.1. [CSO 24.3.1](#) has been complied with; and

24.3.3.2. where [CSO 24.3.1.2](#) is relied upon, confirmation of the previous approval for the Contract; and

24.3.3.3. details of the relevant budget for the modification.

¹⁰ Regulation 72 Public Contract Regulations may be used as a guide in determining whether or not to modify these contracts. See Appendix 6

24.3.4. The SLT Member (in consultation with the Cabinet Member where CSO 24.3.2 applies) may then approve the modification subject to compliance with Financial Regulations.

24.4. Modifications of Above Threshold Contracts (Regulated Contracts)

24.4.1. Modification of an Above Threshold Contract, or one that has become Above Threshold when previous modifications and extensions are taken into account, are only permitted in accordance with [regulation 72](#) of the Regulations. See [0](#) for details of the exemptions granted by [regulation 72](#). A new procurement procedure in accordance with these CSOs is required for modifications which are not permitted under [regulation 72](#).

24.4.2. Modifications to all contracts that are Above Threshold must first be referred to the Borough Solicitor and the Head of Procurement to ascertain whether the modification is permissible under the Regulations.

24.4.3. Where the assessment under [CSO 24.4.1](#) determines that the proposed modification is permitted under regulation 72, the SLT Member must prepare a [report](#) (see [report template on the Intranet](#)) explaining:

24.4.3.1. how the modification is permitted under [regulation 72](#) of the PCR; and

24.4.3.2. details of the relevant budget for the modification.

24.4.4. The SLT Member submits the report for decision by the relevant decision maker as follows:

Type of Above Threshold (Regulated) Contract	Total Contract Value (aggregated with the previous modifications and extensions)	Decision Maker
Capital	Services Threshold (currently £181,302 ¹¹) to £1.5m	Chief Executive/Relevant SLT Member
	£1.5m and above where the value of the proposed modifications does not represent +/-10% or more of the current contract value	Chief Executive/Relevant SLT Member in consultation with the relevant Cabinet Member
	£1.5m and above where the value of the proposed modification is less than +/-10% of more of the current contract value	Relevant Cabinet Member

¹¹ Enforced from 1 January 2018, due to be revised on 1 January 2020.

Type of Above Threshold (Regulated) Contract	Total Contract Value (aggregated with the previous modifications and extensions)	Decision Maker
Revenue	Services Threshold (currently £181,302) up to £0.5m	Chief Executive/Relevant SLT Member
	Above £0.5m where the value of the proposed modifications is less than +/-10% or more of the current contract value	Chief Executive/Relevant SLT Member in consultation with the relevant Cabinet Member
	Above £0.5m where the value of the proposed modification represents +/-10% or more of the current contract value	The relevant Cabinet Member

24.5. Novations

- 24.5.1. A novation is where a contract is to be transferred from one provider to another. It is more common where there is business reorganisation or amalgamation within a wider group of companies. It is often the provider who approaches the Council asking for approval to a novation, and at this point legal advice should be taken immediately. Officers should not authorise invoices received from a new provider in relation to the same service until the novation has been formally approved and implemented (normally a deed of novation is required).
- 24.5.2. A novation of an Above Threshold Contract, or one that has become Above Threshold when previous modifications and extensions are taken into account, is permissible if it falls within regulation [72\(1\)\(d\)](#) of the PCR¹².
- 24.5.3. Where a new provider is proposed to replace the one to which the Contract was initially awarded, the SLT Member should follow [CSO 24.3](#) or [24.4](#) as applicable to the value of the Contract as if the novation is a modification of the Contract.
- 24.5.4. All novations will require legal advice, regardless of value, the cost of which must be recovered from the party requesting the novation. An undertaking to pay the legal fees is required at the beginning of the discussions.

25. CONTRACT EXTENSIONS

BELOW THRESHOLD

- 25.1. All Below Threshold contract extensions are treated in the same way as modifications under [CSO 24.3](#). They are approved by the SLT Member, or by the SLT Member in consultation with the Cabinet Member if the value of the proposed extension is 10% or more of the current contract value.

¹² See 0

Above threshold

25.2. An extension to an Above Threshold Contract, or one that has become Above Threshold when previous modifications and extensions are taken into account, is only permissible under this [CSO 25](#) if:

25.2.1. the Contract includes a clear and unambiguous extension provision to extend the contract term on the same terms and conditions and the price for the extension is either included in the Contract or the price is calculable with reference to review provisions within the Contract ([reg 72\(1\)\(a\)](#) of the Regulations), OR

25.2.2. one of the other [regulation 72](#) exemptions applies (see further [Appendix 6](#)).

In any event, legal advice must be sought as set out for modifications of Above Threshold Contracts in [CSO 24.4](#). In all cases evidence of contractor performance, Value for Money and benchmarking must accompany a request for an extension.

25.3. Where legal advice confirms an extension is permissible, then approval must be sought by the SLT Member submitting a [report](#) (see [report templates on the Intranet](#)) and the approval decision shall be taken by:

Requirement	Total Contract Value (aggregated with previous modifications and extensions)	Decision Maker
All contracts (irrespective of value) where the award of contract decision referred to provision for a contract extension AND the contract terms made explicit provision for an extension (ie reg 72(1)(a) of the Regulations applies)		SLT Member
Capital	Up to Services Threshold ¹³ (currently £181,302)	Chief Executive/Relevant SLT Member
	Services Threshold (currently £181,302) to £1.5m	Chief Executive/Relevant SLT Member in consultation with the relevant Cabinet Member
	£1.5m and above	The relevant Cabinet Member
Revenue	Up to Services Threshold (currently £181,302)	Chief Executive/Relevant SLT Member
	Services Threshold (currently £181,302) up to £0.5m	Chief Executive/Relevant SLT Member in consultation with the relevant Cabinet Member
	Above £0.5m	The relevant Cabinet Member

¹³ Enforced from 1 January 2018, due to be revised on 1 January 2020.

26. CONTRACT TERMINATION PROVISIONS

- 26.1. Where the SLT Member considers that there is a need to prematurely terminate a Contract (or part of a Contract), the advice of the Borough Solicitor must be obtained.
- 26.2. A report is prepared incorporating the legal advice, and the decision to terminate is taken by:

Contract Value (including previous modifications and extensions)	Authorised Person
Up to £1,500,000	SLT member in consultation with relevant Cabinet Member, the s151 Officer and Borough Solicitor
£1,500,000 up to £5,000,000	The Cabinet Member(s)
Over £5,000,000	Cabinet

27. CONTRACT MANAGEMENT

- 27.1. For all High Value Contracts or contracts which are considered high risk, a Contract Manager must be identified during the tender period and their details **must** be added to the corporate Contract Register under the entry for the relevant contract.
- 27.2. The Contract Manager must:
- 27.2.1. undertake appropriate risk assessments that have considered service continuity, health and safety, fraud and Information management risks;
 - 27.2.2. maintain a risk register during the contract period;
 - 27.2.3. ensure appropriate contingency measures are in place for identified risks;
 - 27.2.4. escalate high risks to their Head of Service or Director and the relevant departmental management team;
 - 27.2.5. formally review monthly and regularly monitor and report to the Corporate Procurement Team on:
 - 27.2.5.1. a Contractor's performance;
 - 27.2.5.2. the regularity of meetings held with the Contractor;
 - 27.2.5.3. risk management and any issues arisen (for example, reported fraud, information loss or breach of security, service continuity (credit worthiness), significant health and safety incidents) that have identified and how these are being addressed;
 - 27.2.5.4. compliance with specification and contract costs and identifying as early as possible any potential over-spends;
 - 27.2.5.5. any Best Value requirements;
 - 27.2.5.6. user satisfaction; and
 - 27.2.5.7. the data quality and supplier information ensuring that it is fit for purpose.

27.2.6. Budget holders must check that services, goods and works have been delivered to the required standard before goods are 'received' and invoices approved. Officers checking and approving invoices must ensure invoices are in line with agreed contracts and should challenge suppliers and contractors where necessary before any payments are made and ensure that any penalties or rebates are claimed.

27.3. Post-Contract Monitoring, Evaluation and Review

All Above Threshold Contracts, or Contracts which are high risk, are subject to a post award:

27.3.1. audit or review at least once during the contract term; and

27.3.2. a review evaluating the extent to which the purchasing need and the contract objectives are met by the contract. This should be undertaken normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

Section G - Frameworks and Dynamic Purchasing Systems (DPS)

28. FRAMEWORKS AND DPS

Calling Off from Frameworks and DPS:

- 28.1. The availability of a Framework or DPS should be considered as early as possible in the procurement planning process, once the business need has been established.
- 28.2. A Call-Off Contract from a Framework Agreement or DPS is still a Contract governed by these CSOs and should follow the process set out in these CSOs for identifying the business need, approval of [Procurement Strategy](#) and award of contracts, unless a waiver has been granted. However, the competition process must be as set out in the relevant Framework or DPS.
- 28.3. Legal advice must be obtained in relation to any Above Threshold Contract which is proposed to be called off from a third-party Framework or DPS, to ensure that the Framework / DPS was set up in a way that is compliant with the Regulations and that its proposed use is within the scope of the Framework or DPS.

Setting up a Council Framework Agreement or DPS

- 28.4. The SLT Member may decide to establish a Framework or DPS that the Council will call off from (and from which other public bodies may be entitled to call off - i.e. the Council would be the lead authority for the Framework). Where this is proposed the SLT Member shall follow the CSOs in the same way as usual, while recognising that the Council Framework or DPS may be with a single supplier or multi-supplier.
- 28.5. In order to assess the value of the Framework or DPS for the purpose of ascertaining which procedure to follow under these CSOs, the value of the Framework or DPS shall take into account the total estimated value of all anticipated Call-Off Contracts, including by any third parties eligible to use the Council Framework Agreement/DPS.
- 28.6. A Call-Off Contract from a Council Framework Agreement or DPS is also governed by the CSOs. The SLT Member should consider what call offs are likely and as applicable seek authorisation for the awarding first Call-Off Contract, at the same time that the award decision is taken to appoint providers to the Framework Agreement.
- 28.7. If other contracting authorities may purchase through the Framework Agreement, include in the award report to appoint to the Framework /DPS an additional approval for the Council to enter into any ancillary documentation such as Access Agreements if applicable.

Section H - Special procedures

29. JOINT VENTURES

- 29.1. When appointing a joint venture partner, the advice of the Borough Solicitor must be sought.
- 29.2. These CSOs must be followed for the selection of the joint venture partner and any contracts which are subsequently awarded to the joint venture. Financial Regulations must also be complied with. There is also a requirement in [part 3 of the Constitution](#) for participation in a company to be approved by Full Council.

30. UTILITY PROCUREMENT

- 30.1. Due to the volatility of the energy market, prices of water, diesel, electricity, gas, oil and petroleum fluctuate on a daily basis and the sums quoted by Central Purchasing Bodies in this sector require immediate acceptance. In order to achieve the best value for the Council all decisions relating to energy procurement including the Procurement Strategy, award and/or the variation of contracts may be approved jointly by the Strategic Director of Finance & Governance and the Assistant Director for Property and Facilities Management. All decisions relating to the award of or variation of energy related contracts will be reported to the Cabinet Member for Finance and Commercial Services for information purposes only.

31. APPOINTMENT OF EXTERNAL SOLICITORS, COUNSEL, EXPERTS WITHIN LEGAL PROCEEDINGS AND ARBITRATORS /ADJUDICATORS

- 31.1. The Borough Solicitor commissions all external solicitors, Counsel, experts within Legal Proceedings (actual or contemplated) and arbitrators /adjudicators.
- 31.2. The engagement of barristers, experts and adjudicators/arbitrators in construction disputes shall be subject to completion of a formal letter, contract of appointment or brief. The barrister, expert or arbitrator /adjudicator or chambers must either be named in the relevant Contract or be on an approved list maintained by the Borough Solicitor for this purpose and the appointment shall be approved by the Borough Solicitor. Where there is no approved list, then the Borough Solicitor will determine the method of selection, likely to be appointed from a list maintained by a third party.
- 31.3. The engagement of external solicitors shall be made via the London Boroughs Legal Alliance Solicitors Framework, following a mini-competition exercise. In appropriate cases the Borough Solicitor may dispense with the requirement. Appointment shall be made by formal letter or appointment contract, once approved by the Borough Solicitor. In exceptional cases the Borough Solicitor may authorise the use of external solicitors not on the London Boroughs Legal Alliance Solicitors Framework.

32. PARTNERSHIP WORKING AND COLLABORATIVE PROCUREMENT

- 32.1. Partnership working with other local authorities or public bodies can achieve better results in a procurement process than the Council working alone. This goes wider than using a Framework or DPS set up by another public body, but also covers the forming a joint company/ shared service (see [CSO 32.4](#) below) or conducting a Collaborative Procurement.
- 32.2. There are various models for running a Collaborative Procurement, so legal and

procurement advice should be sought at the earliest opportunity. Examples include:

- 32.2.1. a common SQ stage and specification but then the procurement diverging,
 - 32.2.2. jointly establishing a Framework or DPS for the participants to use,
 - 32.2.3. another local authority conducting a procurement on behalf of a wider group and appointing a provider, so that the Council will only have a contractual relationship with the lead authority and not the provider,
 - 32.2.4. a full partnership where all the participating local authorities are jointly contracting with the chosen provider.
- 32.3. In nearly every case, the Collaborative Procurement will need to proceed with one of the participants as a lead contracting authority. In recognition of this, use of another public authority's contract procedures is a specific ground for waiving the Council's own CSOs (see [Section E](#)).
- 32.4. The Regulations at [regulation 12](#) recognise two other models under which public authorities can work together without needing to comply with the Regulations. One is the formation of a joint "in-house" company and the other a co-operation model in the public interest. Legal advice must be taken at the earliest opportunity if either of these are being considered. Where one of these exemptions applies, a waiver of the competition requirements of these CSOs may be available under the "legislative exemption" ground (see [Section E](#)).

33. SOCIAL CARE, SPOT/BLOCK PURCHASING OF DOMICILIARY CARE AND RESIDENTIAL AND NURSING CARE

- 33.1. The Council has certain statutory duties to provide, or arrange to provide, practical help or care services to individuals within the community or in a residential setting. Such arrangements may be made through existing Frameworks that the Council can call-off from (sometimes called umbrella agreements), through a block Contract (where the Council has contracted to purchase a block of hours of care/bed spaces without naming the individuals) or spot purchased for a particular individual or group of individuals.
- 33.2. Block Contracts and any Hammersmith & Fulham Frameworks need to be procured in accordance with these CSOs. However, provided that the relevant value is below the Relevant Threshold, neither spot purchasing nor the placement of an individual into a setting in accordance with a block contract or Framework are covered by these CSOs and a waiver is not required. However, the placement must be recorded in writing, incorporating a care plan for the individual.
- 33.3. The Council will maintain information on home care providers and providers of supported living, residential and nursing care placements that can be used for the spot purchase of care services. Such providers, whether or not covered by a block contract or Framework, must have met the minimum national standards laid down by the Care Quality Commission and any additional standards put in place by the Council.

34. COUNCIL SUPPLYING GOODS OR SERVICES TO OTHER BODIES

- 34.1. These Contract Standing Orders do not apply to the putting in place of arrangements, whereby the Council provides goods or services to other public bodies except to the limited extent set out in this [CSO 34](#). Where this is proposed, legal advice must be taken at the earliest opportunity, particularly around the contract terms proposed by the purchaser and the risks (such as unlimited liability) that the Council is expected to take on under these

terms. Financial Regulations must also be complied with.

- 34.2. Prepayment should be sought wherever possible, otherwise invoices must be raised promptly following provision of the good or service and in accordance with established payment terms. Early and prompt action must be taken to collect debts and recover any arrears in accordance with Council's Income Management policy.
- 34.3. Approval for the Council entering into the arrangement shall be taken by the SLT Member.

APPENDIX 1: GLOSSARY

Defined term	Definition/description
Above Threshold Contract	A Contract or Framework with a value above the Relevant Threshold set under the Regulations.
Access Agreement	An agreement providing access to one party to call off a Framework or DPS owned or operated by another party.
Approved List	A list of approved providers described on the e-tendering system who have expressed an interest in carrying out services, supply of goods or works. It is only permissible to use it for Low and Medium Value Contracts. An Approved List is usually set up for a specific period of time and purpose following a public advertisement. Admission to the Approved List shall be on the basis that the Council's minimum requirements in terms of finance, references, Health & Safety, diversity and environmental considerations are met. The Approved List shall not contain details of schedules of rates and admission has to be free (in accordance with section 21 of the Local Government Act 1988). Approved Lists may then be used for the purpose of inviting a Quotation or Quotations.
Borough Solicitor	The Borough Solicitor of the Council having overall responsibility for the provision of legal advice in relation to all the Council's functions or such others authorised by him/her.
Award Criteria	The evaluation criteria applied during a Tender process in order to determine the most economically advantageous tenderer, using a combination of price and quality.
Below Threshold	A Contract or Framework or DPS with a value below the Relevant Threshold set under the Regulations (see Appendix 2).
Best Value Duty	The duty on local authorities to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness, as set out in the Local Government Act 1999.
Business Case	A document used to obtain management commitment and approval for investment in business change, which alters the way that suppliers are selected and goods and services are purchased, or how the Council delivers a service. It provides a framework for planning and management of this change and ongoing identification of risks. The viability of the resulting project will be judged on the contents of the Business Case.
Cabinet	The executive committee of the Council, made up of all the Cabinet Members.

Defined term	Definition/description
Cabinet Member	A member of the Cabinet as appointed by the Leader.
Call-Off Contract	A Contract which is called off from a Framework or DPS.
Capital Contract	A Contract involving Capital Expenditure
Capital Expenditure	Expenditure incurred in acquiring, constructing or enhancing property, plant or equipment, but excludes day to day servicing, repairs and maintenance.
Central Purchasing Body	As defined in the Regulations, being another contracting authority which: <ul style="list-style-type: none"> • acquires goods or services intended for one or more contracting authorities; • awards public contracts intended for one or more contracting authorities; or • concludes Frameworks for work, goods or services intended for one or more contracting authorities.
Code of Conduct for Members	The code regulating conduct of members of the Council forming part of the Council's constitutional document.
Code of Conduct for Officers	The code regulating conduct of officers forming part of the Council's constitutional document.
Collaborative Procurement	A procurement exercise run jointly with other public bodies and in which the Council participates.
Contract	A binding agreement made between two or more parties for the supply of goods or services or the delivery of works, which is intended to be enforceable at law, and to which these CSOs apply pursuant to CSO 2.
Contract Manager	The Council officer who manages a Contract awarded by the Council.
Contract Notice	An "advertisement" published in the Official Journal of the European Union (OJEU) in accordance with these CSOs and the Regulations seeking Tenders or expressions of interest from candidates to tender for works, supplies or services. A Contract Notice must be published in the Official Journal of the European Union (OJEU) where the EU thresholds are exceeded.
Contract Officer	An officer of the Council designated by the SLT Member to deal with procurement of a specific contract.
Contract Register	A register of the contracts in place across the Council in excess of £5,000 to include an electronic copy of the Contract if valued at £10,000 or more, forming part of the e-tendering system.
Contract Standing Orders (CSO or CSOs)	This set of rules forming part of the Council's constitutional document.

Defined term	Definition/description
Deed	The legal term for a particular form of Contract with particular requirements as to its execution (i.e. signature). The execution of a Contract as a deed extends the limitation period from 6 years to 12 years. All contracts with a value of £100,000 or more must be executed as deeds and sealed by the Council.
Dynamic Purchasing System or DPS	Defined in the Regulations as a type of Approved List. Prices have not been provided but those on the DPS have fulfilled minimum standards. Unlike a standard Approved List it can be used for High Value Call-Off Contracts. A dynamic purchasing system must remain open to new applicants to join at any time and “mini-competition” exercises have to be carried out to place specific contracts.
Estimated Value	The value of the Contract as estimated by the SLT Member in line with Appendix 3.
e-tendering system	The electronic procurement system approved for use by the Section 151 Officer for the management of all procurement activity across the Council.
Financial Regulations	The financial regulations approved by the Council and issued by the Section 151 Officer forming part of the Council’s constitutional document.
Framework	A contractual arrangement (let in accordance with regulation 33 of the Regulations unless the value of all purchases through the Framework is estimated to be Below Threshold) that can be up to 4 years in duration and provides a mechanism for the Council to place individual Call Off Contracts for goods, works or services.
Head of Procurement	The Officer of the Council having overall responsibility for procurement.
High Value Contract	A Contract where the estimated value (or subsequent to a procurement exercise, the actual value) is above the Services Threshold (currently £181,302).
Innovation Partnership	To be used in specific situations set out in regulation 31 of the Regulations.
Invitation to Tender	Invitation to tender documents in the form required by these CSOs or published on the Council’s intranet.
Low Value Contract	A Contract where the estimated value (or subsequent to a procurement exercise, the actual value) is less than £50,000.
Medium Value Contract	A Contract where the estimated value (or subsequent to a procurement exercise, the actual value) is from £50,000 up to (but not including) the Services Threshold (currently £181,302).
Minimum	A questionnaire used with a single-stage procurement pursuant to section

Defined term	Definition/description
Standards Questionnaire	111 of the Regulations, such questionnaire is returned with the main Tender and is used to assess suitability, capability, legal status and financial standing.
Modification	An amendment to a Contract whether requiring new, additional or amended services, supplies or works.
Nominated Supplier and Nominated Subcontractor	Those persons or organisations specified by the Council in a Contract for the discharge of any part of that Contract.
Non-commercial Considerations	<p>Matters designated as such under section 17 of the Local Government Act 1988, i.e.:</p> <ul style="list-style-type: none"> • Whether the terms on which contractors' contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only. • Any involvement of the business activities or interests of contractors with irrelevant fields of government policy. • The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons. • The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors. • Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees. • Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support. • Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984. <p>Note: the duty not to have regard to non-commercial considerations is modified to the extent that the Council considers this necessary or expedient in order to comply with its duties under the Public Services (Social Value) Act and the PSED.</p>
Parent Company Guarantee	A guarantee which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, under the terms of the guarantee, can require the parent company to do so instead or pay money in lieu.
PCR or Regulations	The Public Contracts Regulations 2015 SI 2015/112 effective date 26 February 2015 (which implements the EU Directive 2014/24/EU into UK law)

Defined term	Definition/description
	as amended or replaced.
Public Sector Equality Duty (PSED) and Protected Characteristics	<p>The Public Sector Equality Duty or PSED covers the following characteristics (known as Protected Characteristics):</p> <ul style="list-style-type: none"> • Age • Disability • Gender reassignment • Pregnancy and maternity • Race • Religion or belief • Sex (gender) • Sexual orientation • Marriage and civil partnership (not always relevant to the duty) <p>The Council is subject to the Public Sector Equality Duty and must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> • eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by 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. <p>The Equality Act 2010 states that meeting different needs involves 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 duty may involve treating some people more favourably than others.</p>
Quotation	A quotation of a price for the provision of services, works or supplies without assessment of any quality aspects.
Quote	An invitation-only procurement route whereby the Council seeks Quotations.
Regulated Procurement	A procurement exercise for a Contract, Framework or DPS that has an estimated value that is Above Threshold and that are subject to the full extent of PCR 2015.
Regulation 84 Report	The report required under regulation 84 of the PCR.
Regulations or PCR	The Public Contracts Regulations 2015 SI 2015/112 effective date 26 February 2015 (which implements the EU Directive 2014/24/EU into UK law)

Defined term	Definition/description
	as amended or replaced.
Relevant Threshold	The relevant threshold above which the Contract is to be procured as required under the PCR, as set out in Appendix 2 ,
Service Review Team	The team established to undertake the service review of a High Value Contract (see CSO 17.1).
Services Threshold (currently £181,302)	The threshold for proposed contracts for services (except Social and Other Specific Services) and supplies set under the PCR, as set out in 0.
SLT Member	Officers who are a member of the Strategic Leadership Team.
Social and Other Specific Services	Are described in Appendix 2 .
Social and other Specific Services Threshold (currently £181,302)	The threshold for Social and Other Specific Services set under the PCR as set out in Appendix 2 .
Standstill Period	For Above Threshold Contracts, the period of ten days set out in the PCR after notification of an award decision to Tenderers, during which the Contract must not be formally awarded.
Tender	A tenderer's proposal submitted in response to an invitation from the Council to be assessed on the basis of a combination of price and quality.
Tender Appraisal Panel (TAP)	A panel constituted to manage all Tender processes (as described in paragraph 39 of Appendix 8).
Unregulated Procurement	A procurement exercise for a Below Threshold Contract (or, unusually, an Above Threshold Contract for which an exemption is available) and so is not subject to the full extent of PCR.
Value for Money	Value for money is not the lowest possible price; it requires assessment of goods or services that fully meet the Council's needs, combined with the level of quality required, delivery at the time you need it, and at an appropriate price.
Works	Are described in Schedule 2 of the Regulations.
Works Threshold (currently £4,551,413)	The threshold for Works set under the PCR, as set out in Appendix 2

Appendix 2: Relevant Thresholds

The Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 apply to Contracts when the estimated value equals or exceeds the Relevant Threshold.

The Relevant Thresholds for the purposes of the Public Contracts Regulations 2015 as of 1 January 2018 are as follows:

Contract Type	Threshold
Contracts for the supply of goods (including installation) Contracts for the provision of services	£181,302 ("Services Threshold")
Contracts for the supply of Works	£4,551,413 ("Works Threshold")
Contracts for the provision of Social and Other Specific Services the "Social and Specific Services" Threshold including: Health, social and related services Administrative social, educational, healthcare and cultural services Compulsory social security services Benefit Services Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services Religious services Hotel and restaurant services Legal services, to the extent not excluded by regulation 10(1)(d) Other administrative services and government services Provision of services to the community Investigation and security services International services Postal services International services; and Miscellaneous services (see schedule 3 of the PCR for more details)	£615,278

The Relevant Threshold for the purposes of the Concession Contracts Regulations 2016 as of 1 January 2018 is £4,551,413.

The thresholds will change on 1st January 2020 when they are revalued against the Euro values stated in the legislation.

Appendix 3: Contract Value and Contracts Requirements

1. TOTAL VALUE OF A CONTRACT

- 1.1. The total value of the Contract is the whole of the value or estimated value (in money or equivalent value) excluding VAT. It should include all money to be paid whether in instalments or whether it is paid or received by the Council (though see below for concession contracts). The total value of the contract is calculated from the start date of the contract to its conclusion, including any extensions provisions.
- 1.2. The total value shall be calculated as follows:
 - 1.2.1. Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.
 - 1.2.2. Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions over the term of the Contract this may be by assessing how many orders are likely to be placed during a 12-month period and multiplying it by the number of years of the term.
 - 1.2.3. For pilots which may be rolled out in the event of a successful pilot, the value shall be the total value of the pilot and the roll out.
 - 1.2.4. For Nominated Suppliers and Sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.
 - 1.2.5. Where an in-house service provider is tendering, by taking into account redundancy and similar/associated costs if they are not successful.
- 1.3. For concessions contracts, the estimated contract value must be based on the estimated turnover to be generated by the Contractor over the term of the Contract excluding VAT. This means that the value is the total estimated turnover (income) generated by the Contractor throughout the lifetime of the proposed concession contract including any potential extensions (net of value added tax). It is incorrect to use only the value of any payment made by the Council to the concessionaire to estimate the value of a concession contract.

2. CONTRACT REQUIREMENTS

- 2.1. All Contracts shall be in writing and in a format approved by the Borough Solicitor. They must not include non-commercial Considerations. Irrespective of value, they must clearly specify:
 - 2.1.1. the works, goods, materials or services to be carried out, furnished or provided (description and quality),
 - 2.1.2. the price or rates to be paid, together with a statement of any discounts or other deductions (amount and timing) which apply,
 - 2.1.3. the time, or times, within which the contract is to be performed, and
 - 2.1.4. all other contractual terms, which will be based upon:
 - 2.1.4.1. the Council's standard terms & conditions; or
 - 2.1.4.2. standard terms and conditions issued by a relevant professional body (e.g. JCT or NEC in relation to construction related works); or
 - 2.1.4.3. bespoke terms & conditions drafted by the Borough Solicitor.
- 2.2. In addition, every Contract of purchase over £25,000 must also as a minimum state clearly:

- 2.2.1. that the contractor may not assign or sub-contract without prior written consent of a SLT Member (and where it is a “sub-contract”, written consent of a contract administrator)
- 2.2.2. any insurance requirements
- 2.2.3. health and safety requirements
- 2.2.4. ombudsman requirements
- 2.2.5. Freedom of Information Act obligations
- 2.2.6. Civil Contingencies Act 2004 requirements
- 2.2.7. business continuity if relevant;
- 2.2.8. data protection requirements, if relevant
- 2.2.9. that charter standards are to be met, if relevant
- 2.2.10. equalities and other diversity related requirements
- 2.2.11. (where agents are used to let contracts) that agents must comply with the Council’s CSOs relating to contracts
- 2.2.12. Provisions which comply with CSO 7.3
- 2.2.13. a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, if relevant.
- 2.3. Where it is proposed to use a supplier’s own terms, the advice, and for high value contracts the agreement, of the Borough Solicitor must be sought in relation to any terms and conditions which differ from the Council’s standard terms.
- 2.4. Payment terms
 - 2.4.1. In accordance with regulation 113 of the PCR 2015, the Council must pay undisputed invoices to contractors within 30 days. The Council must also require in its contracts that all contractors pass on to their subcontractors no less favourable payment terms than they receive from the Council.
 - 2.4.2. The Council is Living Wage Foundation accredited. The accreditation requires that all contractors/subcontractors working on Council contracts are paid in line with or above the [London Living Wage Foundation rates](#).
 - 2.4.3. Tenderers will be required to demonstrate how they will allow the Council to monitor the timescales within which they pay their subcontractors.

Appendix 4: Summary of Approvals

The following is a summary of the approval processes for pre-procurement strategy and contract awards

Type of contract	Value	Procurement Strategy	Award Approval
All Low Value and Medium Value contract (ie below Services Threshold)	Up to Services Threshold (currently £181,302)	Not required	Chief Executive/SLT Member
Revenue Contracts	From Services Threshold (currently £181,302) up to £0.5m	Chief Executive/SLT member in consultation with Cabinet Member	Chief Executive/SLT member in consultation with Cabinet Member
Revenue Contracts	£0.5m to £5m	Cabinet Member	Cabinet Member
Revenue Contracts	Over £5m	Cabinet	Cabinet Member
Capital Contracts	From Services Threshold (currently £181,302) to £1.5m	Chief Executive/SLT member in consultation with Cabinet Member	Chief Executive/SLT member in consultation with Cabinet Member
Capital Contracts	£1.5m - £5m	Cabinet Member	Cabinet Member
Capital Contracts	Over £5m	Cabinet	Cabinet Member

Note: an approval of an award of contract shall also by implication include approval for the Council to enter into the following associated documents:

1. Access Agreements where (a) the Council is the Framework owner and uses Access Agreements to enable other public bodies to join, or (b) which the Council needs to enter into in order to use a third party Framework
2. Performance bonds and parent company guarantees
3. Collateral warranties with sub-contractors of the appointed supplier

Table 2: Approval levels for waivers, modifications, extensions, and terminations

The following is a summary of the approval processes for Waivers, Contract Modifications, Extensions and Terminations

Type of contract	Value	Modifications	Extensions	Terminations	Waiver
All Low Value and Medium Value contracts	Up to Services Threshold (currently £181,302)	Chief Executive/SLT Member	Chief Executive/SLT Member	Chief Executive/SLT Member	Head of Procurement
High Value Contracts:					
Revenue Contracts	Services Threshold (currently £181,302) to £0.5m	Chief Executive/SLT Member	Chief Executive/SLT Member in consultation with the Cabinet Member	SLT member in consultation with relevant Cabinet Member, the s151 Officer and Borough Solicitor	S151 Officer on recommendation of Head of Procurement
Revenue Contracts	£0.5m to £1.5m	<ul style="list-style-type: none"> Chief Executive/SLT Member in consultation with the Cabinet Member (<i>the total value of the contract is not modified by +/- 10% or more</i>) 	The Cabinet Member	SLT member in consultation with relevant Cabinet Member, the s151 Officer and Borough Solicitor	
Revenue Contracts	£1.5m to £5m		The Cabinet Member	The Cabinet Member(s)	
Revenue Contracts	Over £5m	<ul style="list-style-type: none"> Cabinet Member (<i>the total value of the contract is modified by +/- 10% or more</i>) 	The Cabinet Member	Cabinet	
Capital Contracts	Services Threshold (currently £181,302) to £1.5m	Chief Executive/SLT Member	Chief Executive/SLT Member in consultation with the Cabinet Member	SLT member in consultation with relevant Cabinet Member, the s151 Officer and Borough Solicitor	S151 Officer on recommendation of Head of Procurement
Capital Contracts	£1.5m - £5m	<ul style="list-style-type: none"> Chief Executive/SLT Member in consultation with the Cabinet Member (<i>the total value of the contract is not modified by +/- 10%</i>) 	The Cabinet Member	The Cabinet Member(s)	
Capital Contracts	Over £5m	<ul style="list-style-type: none"> Cabinet Member (<i>the total value of the contract is modified by +/- 10%</i>) 	The Cabinet Member	Cabinet	

Appendix 5: SLT Members responsibilities

The SLT Member's responsibilities referred to in [CSO 5](#) are as follows:

- to ensure compliance with legislation and Council Policy;
- to ensure value for money in all procurement and contract matters;
- to ensure compliance with these CSOs and the Financial Regulations;
- to maintain a departmental register of decisions taken for contract-related activities;
- to ensure that all relevant staff are familiar with the provisions of these CSOs, Financial Regulations and the Council's e-tendering system and that they receive adequate training on their operation;
- to ensure compliance with any guidelines issued in respect of these CSOs;
- to take immediate action in the event of a breach of these CSOs or within his or her area;
- to keep proper records of all contracts, tenders, etc. including electronic data files (where electronic tendering systems are used), minutes of tender evaluation panels and other meetings;
- to keep appropriate departmental records of all contracts awarded (using the Council's e-tendering system¹) where these have a total value of £5,000 and over (in keeping with the statutory requirements on transparency);
- the safekeeping of all original contracts which have been completed by signature and where the value is below £100,000. For contracts which exceed this figure an electronic copy of the sealed contractual paperwork is uploaded on the Council's Contracts Register or passed to the Procurement Team for upload in the Contracts Register (and thereafter safekeeping);
- comply with these CSOs, Financial Regulations, Codes of Conduct and with all UK and European Union binding legal requirements and must also:
 - keep the records required by [regulation 84](#) of the PCR and [CSO 18](#);
 - ensure that Tender procedures are conducted in accordance with procedures set out in the Invitation to Tender;
 - ensure that agents, consultants, and contractual partners acting on their behalf also comply; and
 - take all necessary legal, financial and professional advice.

In addition, no member or officer may accept any form of hospitality from any candidate during a procurement competition (or similar exercise). Hospitality from suppliers, service providers or contractors who have or may have in the future current contracts with the Council may only be accepted in accordance with the "Guidance on Gifts and Hospitality" which forms part of the Council's Constitution (for members) and "Policy and Procedure for: Acceptance of Gifts and Hospitality by Employees: Guidance on the receipt of gifts, benefits and hospitality" that is part of the Council's Personnel Procedures (for officers). For both members and officers the appropriate Register of Gifts and Hospitality should be completed in accordance with this guidance.

Appendix 6: Modifications and regulation 72 of the PCR

Some modifications to Contracts are permissible if they can be said to be covered by one or more of the following safe harbours:

Regulation of the PCR	Scenario	Criteria
Reg 72(1)(a)	Where the initial documents set out that it is possible for the Council to modify the terms of the contract or Framework Agreement.	This ability to modify must be written in <u>clear, precise and unequivocal review clauses</u> in the initial documents provided that the clauses state the scope and nature of possible modifications or options and do not provide for modifications which would alter the overall nature of the Contract/Framework Agreement.
Reg 72(1)(b)	Where additional works, services and/or suppliers have become necessary for the contractor to perform its obligations under the contract/Framework Agreements.	To rely on this, it must be shown that it is not possible to change contractor because: <p>A) economic and technical reasoning applies such as interchangeability, or interoperability with existing equipment, services or installations procured under the initial procurement and</p> <p>B) this would cause ‘<u>significant inconvenience</u>’ or ‘<u>substantial duplication of costs</u>’ for the Council.</p> <p>In addition, the value of the additional works, services and/or suppliers required cannot exceed 50% of the value of the original Contract.</p> <p>Finally, a notice must be published accordance with regulation 51 of the PCR.</p>
Reg 72(1)(c)	Where an unforeseeable circumstance has arisen	This can only be relied upon where: <ul style="list-style-type: none"> • where the need for the change has been brought about by circumstances which a diligent contracting authority could not have foreseen; and • the modification does not change the overall nature of the contract; and • any increase in price caused by this modification cannot exceed 50% of the value of the original contract. <p>Finally, a notice must be published accordance with regulation 51 of the PCR.</p>
Reg 72(1)(d)	Where a new contractor replaces the original as a result of corporate restructuring, a takeover, merger, acquisition, or insolvency	Provided that: <ul style="list-style-type: none"> • the contract includes an unequivocal review clause permitting the transfer; and • the transfer is as a consequence of universal or partial succession into the position of the initial contractor following corporate restructuring including takeover, merger, acquisition or insolvency of another economic operator that fulfils the criteria for qualitative selection initially established; and

Regulation of the PCR	Scenario	Criteria
		<ul style="list-style-type: none"> • this does not result in other substantial modifications to the contract and not aimed at circumventing the PCR.
Reg 72(1)(e)	Where the modification is not substantial	<p>A substantial modification is one which:</p> <ul style="list-style-type: none"> A) Renders the contract/framework materially different in character; or B) Would have attracted additional bids or an alternative bid pool during the procurement process or would have meant the council could have accepted another bid; or C) Makes the agreement more favourable to the contractor in a way that was not provided for in the original documentation; or D) Where the scope of the contract/framework is extended considerably; or E) Where a new contractor replaces the original for reasons not set out in regulation 72(1)(d) above.
Reg 72(1)(f)	Low value modification	<p>Where:</p> <ul style="list-style-type: none"> • the value of the modification will not exceed certain thresholds; and • the modification does not exceed 10% of the original contract value for services and supplies and 15% of the original contract value for works contracts. <p>Provided always that the nature of the contract is not changed.</p> <p>When considering the value any modifications made should be considered so that the cumulative value must comply with the above.</p>

Appendix 7: Time Limits for Procurements

The following time limits apply to Above Threshold procurements.

Procedure	Minimum time limits	Days	Days if Council accepts electronic submission of tenders	Days if PIN is used (in addition to a contract notice)	Days if all reductions apply (electronic tenders and PIN)
Open (Regulation 27)	Minimum time for receipt of tenders from date contract notice sent	35	30	15	N/A
Restricted (Regulation 28)	Minimum time for receipt of requests to tender (SQ response) from the date the contract notice sent	30	N/A	N/A	N/A
	Minimum time for receipt of tenders from the date the invitation to tender sent	30	25	10	5
Competitive negotiated (Regulation 29)	Minimum time for receipt of requests to tender (SQ response) from the date the contract notice sent	30	N/A	N/A	N/A
	Minimum time for receipt of initial tenders from the date the invitation to tender sent	30	25	10	5
Competitive dialogue and Innovation partnership (Regulation 30 and 31)	Minimum time for receipt of requests to participate in dialogue or negotiate from the date the contract notice sent	30	N/A	N/A	N/A
	Minimum time for receipt of tenders from the date the invitation to tender sent	No minimum. Timescale determined by contracting authority.	N/A	N/A	N/A

Appendix 8: Procurement process step by step for High Value procurements

1. GLOSSARY OF SPECIFIC TERMS

1.1. Set out below are some specific terms which apply to this Appendix.

Competitive Dialogue Procedure	To be used in specific situations set out in Regulation 30 of the PCR.
Competitive Procedure with Negotiation	To be used in specific situations set out in Regulation 29 of the PCR.
Negotiated Procedure without prior publication	Used in exceptional circumstances. Refer to Regulation 32 of the PCR.
SQ or Selection Questionnaire	An application form use for admission to a DPS or an Approved List or in response to an invitation to Tender where pre-qualification is being used.
Prior Information Notice	A notice that is published in OJEU advising the market of the intention to start tendering within the next 12 months. It may be used to seek the views from interested parties on proposed packaging arrangements, or (in certain circumstances) as a call for competition.
Restricted procedure	Two stage process defined in the PCR Reg 28 that involves a pre- qualification assessment of all candidates responding to a Contract Notice prior to deciding who will be invited to tender.
Select list	A list of those to be invited to Tender compiled following expressions of interest received from external organisations who have responded by submission of an SQ to an: <ul style="list-style-type: none"> • Advertisement appearing in a local news-paper and/or trade journal (if considered appropriate); and/or • Publication on the Council’s website; and/or • Contracts Finder advert; and/or • OJEU Contract Notice (except for non-priority [Part B] services – a Voluntary OJEU Contract Notice may be considered), if the estimated value is above EU threshold
Dynamic Purchasing System	To be used in specific situations set out in Regulation 34 of the PCR.

35. PRELIMINARY MARKET CONSULTATIONS (REGULATION 40 AND 41 OF THE PCR)

- 35.1. The SRT may arrange a preliminary market testing exercise where:
- 35.1.1. potential suppliers and others are consulted with prior to the issue of the Invitation to Tender in general terms about the nature, level, broad estimated value and standard of the supply, contract packaging and other relevant matters provided this does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency, and
 - 35.1.2. may, where an existing contract exists, obtain from the current service provider information on service delivery aspects.
- 35.2. Where technical advice on the preparation of contract documentation is sought from any organisation or person(s) who may have a commercial interest in bidding, arrangements must be put in place so not as to prejudice the outcome by distorting competition and/or compromising the equal treatment of all potential Candidates. Where there is potential that the process may be distorted or compromised then advice from the Head of Procurement and the Borough Solicitor must be sought.
- 35.3. You should consider the use of a PIN notice to draw the market consultation to the alteration of potential respondents. The Council's e-tendering system must be used when a Prior Information Notice (PIN) is issued.

36. PROCUREMENT STRATEGY

- 36.1. For High Value Contracts, the SRT shall prepare the [Procurement Strategy](#) for approval by the relevant SLT Member. Where the proposed Contract relates to a new service or initiative or the purchase or construction of a new asset, the [Procurement Strategy](#) must also include a Business Case.
- 36.2. The [Procurement Strategy](#) must cover:
- 36.2.1. **Procurement method:** consider what procurement method is most likely to achieve the purchasing objectives, including:
 - 36.2.1.1. internal provision ("make decision"); or
 - 36.2.1.2. external sourcing ("buy decision"); and/or
 - 36.2.1.3. collaboration (including a joint working arrangement between the Council and other local authorities) with other purchasers, partnering and long-term relationships; and/or
 - 36.2.1.4. the use of a DPS or Framework already let by the Council, or a DPS or Framework let by another Central Purchasing Body and which has been awarded on the basis that it can be used by others in particular the Council;
- 36.3. Where paragraph 37.2.1.4 applies, as part of its report seeking approval the SLT Member shall provide evidence that:
- 36.3.1. the Council is within the class of persons eligible to call off from the DPS or Framework;
 - 36.3.2. the goods, works or services required to be procured are within the scope of the DPS or Framework;
 - 36.3.3. the call off procedures required under the rules of the DPS Framework or have been established and will be followed, and that a fair and transparent process will be used;
 - 36.3.4. the Borough Solicitor has reviewed the proposed call off terms and conditions (to the extent that they are specified by the DPS or Framework) to ensure that they do not compromise the Council's interests.
- 36.4. In general, the SLT Member shall ensure that the report seeking approval for the [Procurement](#)

[Strategy](#) includes:

- 36.4.1. **Contract Period:** this should include any potential extensions and/or break periods. If the Contract is a Framework Agreement then the Contract Period shall not exceed 4 years.
- 36.4.2. **Contract Value:** the estimated Contract value. Ensuring that there is an estimating process which sets out the initial Contract estimate, revised estimates and tender estimate. Such estimates must reflect current or expected market values and must not be over or under inflated as a means of avoiding the requirements of either or both the PCR or these CSOs.
- 36.4.3. **Expenditure:** appraise the need for the expenditure and its priority and identify the relevant budget and confirm that:
 - 36.4.3.1. there is approval for the expenditure in accordance with Financial Regulations; and
 - 36.4.3.2. for non-procurement related issues, the appropriate approvals, for example, those found in Financial Regulations have been complied with;
- 36.4.4. **Consultation:** consultation undertaken with service users (as may be appropriate) about the proposed procurement method, contract standards and also performance and user satisfaction monitoring.
- 36.4.5. **Options:** consider the needs of the business and sourcing possibilities. This includes options for extension.
- 36.4.6. **Procurement Process:** take into account any procurement guidance issued by the Head of Procurement, and/or the Chief Executive (or any other officer they nominate). Depending on whether the Contract Value is:
 - 36.4.6.1. Below the Relevant Threshold for supplies/services in which case the procurement shall be an open procedure;
 - 36.4.6.2. above the Relevant Threshold for supplies/services or all High Value Contracts for works in which case decide on the most appropriate process:
 - open procedure; or
 - restricted procedure; or
 - light touch arrangement (applicable only to social and other specified services); or
 - only with the Head of Procurement's prior approval:
 - competitive dialogue; or
 - competitive procedure with negotiation; or
 - innovation partnership; or
 - use of the negotiated procedure without prior publication (direct award) and
 - whether the procurement competition will include an electronic auction (including reverse).
- 36.4.7. **Advertising Process:** in accordance with CSO 18 agree the appropriate advertising process.
- 36.4.8. **Contract packaging** - consideration of whether the Contract can be divided into separate lots and if the contract is not divided reasons as to why not should be recorded in the [Regulation 84](#) Report and [Procurement Strategy](#).
- 36.4.9. **Establishing a Framework Agreement:** where the [Procurement Strategy](#) relates to the

establishment of a framework for other public sector bodies to purchase through, the Strategy must show how it will ensure compliance with the Local Authorities (Goods and Services) Act 1970 and/or the Local Government Act 2003 as appropriate and must be approved by the Head of Procurement.

- 36.4.10. **Preliminary Market Consultations:** consider the outcome of any preliminary market consultations aimed at ensuring the draft specification and the terms & conditions are achievable at realistic costs to the Council.
- 36.4.11. **Tender documentation:** The SRT shall in the Procurement Strategy report:
- 36.4.11.1. detail the main provisions contained in the draft specification and ascertain what the relevant European or international standards (may be referenced to a corresponding British standard) which apply to the subject matter of the contract. Such standards must comply with [regulation 42](#) of the PCR. The SRT must conclude those standards that are necessary properly to describe the required quality.
 - 36.4.11.2. detail how the procurement shall ensure stimulation of the market and to ensure sufficient tenders are received;
 - 36.4.11.3. define the objectives of the purchase and, where appropriate, ensure that they meet the requirements of the Council;
 - 36.4.11.4. identify any significant variations to the Council's standard terms and conditions;
 - 36.4.11.5. identify the Award Criteria to be used (not just the split between price: quality) and the reasoning for the recommendation ensuring the optimum combination of whole life cost and quality;
 - 36.4.11.6. securing wider social, economic and environmental benefits for the community for all contracts (services, works, supplies, concession etc). Including specifically for service contracts how the proposed tender documents meet the statutory requirements contained in the Public Services (Social Value) Act 2012 and the Council's policy on social value;
 - 36.4.11.7. consider, where it is appropriate, the Council's responsibilities under the Civil Contingency Act in terms of potential emergencies and the continuity of high priority services; and
 - 36.4.11.8. other legislation relating to the contract.
- 36.4.12. **Data Protection:** The SRT should consider what personal data will be collected or processed as part of the contract. A Data Protection/ Privacy Impact Assessment should be carried out and reference should be made to the guidance provided by the Information team within the Council.
- 36.4.13. **Special Conditions:** The SRT shall consider special conditions relating to the performance of a contract in accordance with [regulation 70](#) of the PCR. These may include economic, innovation-related, environmental, social or employment-related considerations.

37. AWARD CRITERIA

- 37.1.1. In accordance with the PCR all award criteria and sub-criteria relating to the award must be clearly published and refer only to relevant considerations.
- 37.1.2. The award of all High Value Contracts must be on the basis of the most economically advantageous tender. The recommended quality:price ratio is 60:40. Deviations from this split can be proposed but justification to changes should be included in the award approval report submitted.

- 37.1.3. The award criteria must be published as part of the tender documentation.
- 37.1.4. Evaluation must only be made using the published criteria and sub-criteria. Criteria may include:

- | | | |
|---|--|-----------------------------|
| ➤ Price | ➤ quality of service | ➤ quality of goods |
| ➤ whole-life running costs | ➤ whole life cycle costs | ➤ technical merit |
| ➤ cost effectiveness | ➤ quality | ➤ delivery date |
| ➤ long-term relationships | ➤ safety | ➤ after-sales services |
| ➤ technical assistance | ➤ partnering arrangements | ➤ social value |
| ➤ relevant environmental considerations | ➤ aesthetic and functional characteristics (including security and control features) | ➤ any other relevant matter |

- 37.2. Social value must form part of evaluation of the award criteria for any High Value Contract. A minimum of 5% of the quality score shall be attributed to social value in accordance with the Council's Social Value Policy.
- 37.3. Award Criteria and sub-criteria must be designed to secure an outcome giving best value for money for the Council. The Award Criteria and selection criteria must not include:
- 37.3.1. Non-commercial Considerations; or
- 37.3.2. matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.
- 37.4. The Award Criteria must be set out in the [Procurement Strategy](#).

38. CONTRACT PACKAGING – CONSIDERATION OF DIVIDING INTO LOTS

- 38.1. In accordance with [regulation 46](#) of the PCR, the Council may decide to divide the procurement competition into separate lots. However, where the decision of the Council is not to subdivide into lots that decision must be recorded in:
- 38.1.1. the [Regulation 84](#) Report if the Contract is Above Threshold; and/or
- 38.1.2. the [Procurement Strategy](#).
- 38.2. However, the consideration must not be to enter into separate Contracts, nor select a method of calculating the total value, in order to avoid the requirements of the PCR or to minimise the application of these CSOs (otherwise known as disaggregation).

39. TENDER APPRAISAL PANEL

- 39.1. The TAP may be similar in its composition to that of the SRT. It will ensure that the procurement exercise is managed in accordance with existing legislative requirements and the Procurement Strategy that has been approved by the Council. Its roles include finalising all final documentation required to undertake a procurement exercise, with appropriate legal and procurement advice it also conducts evaluations at qualification and/or award stages.
- 39.2. The TAP will be chaired by the SLT Member or his/her delegated deputy (or where there are

several departments involved, in the department with the highest spend), with a senior sponsor, and include relevant stakeholders (e.g. Contract Officer). It will consult and engage relevant professional officers including but not limited to legal, finance, procurement, IT and HR. It will also commission additional expertise where this is warranted. It will be responsible for:

- 39.2.1. ensuring a contract is put in place in accordance with legal requirements,
 - 39.2.2. meeting required deadlines and service requirements,
 - 39.2.3. obtaining value for money, and
 - 39.2.4. meeting the agreed objectives set out in the Procurement Strategy.
- 39.3. In most instances the TAP will identify and appoint a Contract Officer who will be responsible for the day to day running of the procurement exercise. The Contract Officer will be a member of the TAP.
- 39.4. Before beginning the tendering process, the Contract Officer responsible for it must, in a manner commensurate with the complexity and value of the project:
- 39.4.1. act on the agreed recommendations set out in the agreed Procurement Strategy;
 - 39.4.2. take into account any procurement guidance issued;
 - 39.4.3. assess the risks associated with the procurement and how to manage them; and
 - 39.4.4. have due regard to the Council's Social Value responsibilities under the Public Services (Social Value) Act 2012 and Public Sector Equality Duty arising from the Equality Act 2010 and other relevant legislation.
- 39.5. The TAP shall appoint the appropriate professional officers (and in most instances this will include the Contract Officer) to evaluate expressions of interest or tenders received. These professional officers will individually score the submissions received and award marks (where appropriate) against the pre-published criteria set out in the Procurement Strategy. All evaluators are required to record their individual scores in the Council's e-tendering system. The TAP⁵ will then consider these individual scores and shall arrive at and agree a consensus score for all criteria during the moderation meeting. The moderation meeting is chaired by the Head of Procurement or a delegated (procurement) officer. The TAP shall not adopt, as a methodology, an average scoring arrangement.
- 39.6. The TAP will keep accurate records of all meetings, retain appropriate documentation and maintain proper records for transparency and audit purposes as set out in [regulation 84](#) of the PCR (where applicable) and paragraph 47 below.
- 39.7. The TAP will undertake post-project reviews where required. It will implement any corporate or collaboration requirements including supporting arrangements around any agreed approval processes and participating in any audits.
- 39.8. The TAP and appropriate SLT Member shall be responsible for ensuring that all persons or bodies invited to tender for the supply of goods, services or works to the Council have been suitably assessed and meet the PCR.

40. TENDER DOCUMENTATION

- 40.1. At the point of advertising the opportunity (for single-stage tendering) or when inviting Tenders after pre-qualification, all tender documentation must be complete and available on the Council's e-tendering portal for access by all economic operators who express interest in the project. This Invitation to Tender comprises at least the following:
- 40.1.1. the specification;
 - 40.1.2. the invitation to tender containing instructions on the process;
 - 40.1.3. the draft contract;

- 40.1.4. the form of tender;
- 40.1.5. response requirements; and
- 40.1.6. the Award Criteria.

- 40.2. Where an open procedure is used, the Invitation to Tender shall also include a Minimum Standards Questionnaire.
- 40.3. The TAP shall be responsible for preparing the Invitation to Tender documentation.

41. INVITATION TO TENDER/QUOTE

- 41.1. High Value Contracts are awarded on the basis of the most economically advantageous tender, and tenderers must be informed of the evaluation model and award criteria in the Invitation to Tender documents. The subsequent evaluations must be carried out in accordance with them.
- 41.2. The Invitation to Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this clause shall be considered.
- 41.3. All Invitations to Tender instructions shall be on the Council's Standard Form.
- 41.4. All candidates invited to tender or quote must: (a) be issued with the same information, (b) at the same time and (c) subject to the same conditions. Any supplementary information must be given on the same basis.

42. PRE-QUALIFICATION STAGE

- 42.1. Where a pre-qualification stage applies, the government's SQ Form shall be used, together with appropriate service-specific questions. This must be published through the e-tendering system together with a methodology for evaluating the SQ responses and a draft specification. However, if the High Value Contract is also above the Threshold, then the Award Criteria for the Tender stage(s) must also be published, together with the draft contract and method statement questions that are used to evaluate against the Award Criteria. See also paragraph 43 below for conduct of this shortlisting stage.

43. SHORTLISTING

- 43.1. The shortlisting of economic operators applies where expressions of interest have been sought using either the restricted procedure, or light touch procedure, competitive procedure with negotiation, or competitive dialogue procedure.
- 43.2. The TAP is responsible for shortlisting of economic operators.
- 43.3. The form of selection questionnaire is included on the Council's e-tendering system and should not be amended. Only additional questions can be included. The selection questionnaire is backward looking and should not include any questions about the provision of the project to the Council, but instead should ask about current capacity and standing. Information sought at selection stage cannot be re-sought (or re-used) at tendering stage.
- 43.4. The TAP will agree the methodology for selecting economic operators to invite to tender and this shall be set out in the SQ Guidance documentation.
- 43.5. The TAP shall arrive at a consensus decision on which economic operators to invite to tender.
- 43.6. Where an economic operator is a subsidiary of a parent company, and:
 - 43.6.1. there is some concern about the financial stability of the economic operator; and/or
 - 43.6.2. the award of the Contract is based on an evaluation of the parent company,

then the TAP must consult the Strategic Director of Finance and Governance about the use a Parent Company Guarantee.

- 43.7. There is no requirement to obtain a bond from a candidate unless the TAP considers it an appropriate way to mitigate risks identified during the procurement process.

44. SUBMISSION, RECEIPT AND OPENING OF TENDERS:

44.1. Unless otherwise agreed by the Head of Procurement, all Quotations and Tenders must be received through the Council's e-tendering system.

44.2. The Head of Procurement will be responsible for the verification of all tenders and quotations that have been submitted electronically through the e-tendering system.

44.3. Any Quotation or Tender received after the date and time for its return cannot and must not be accepted. Late tenderers will be advised that their Tender has been rejected because it was received after the date and time scheduled for its return.

44.4. The Contract Officer must not disclose the names of tenderers or candidates to any Council staff not involved in the procurement process.

45. EVALUATION AND AWARD OF CONTRACTS

45.1. The TAP will take responsibility for the evaluation of all tenders received and the arrival of the final consensus scores.

45.2. In accordance with statutory requirements contained in the PCR the confidentiality of Quotations, Tenders and the identity of Candidates must be preserved at all times, and information about one Candidate's response must not be given to another Candidate. Where questions are received prior to the return of tenders, then the Contract Officer shall anonymise both the question(s) and response(s) and forward to all tenderers for information, unless the questions are tenderer-specific.

45.3. In accordance with 41.1 above, where a Contract is to be awarded on the basis of the most economically advantageous tender received, the evaluations must be carried out in accordance with the pre-published evaluation model and award criteria.

45.4. [Regulation 56\(4\)](#) of the PCR provides the Council with discretion to accept Tenders that appear to be incomplete or erroneous or where specific documents are missing provided that such requests are made in full compliance with the principles of equal treatment and transparency. These omissions and or errors must be resolved in order to evaluate all Tenders on an equal and transparent basis

45.5. The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested explain the discrepancy. Such a discrepancy may, in certain circumstances, be acceptable under [regulation 56](#) of the PCR, otherwise the tender must be required to confirm or withdraw their tender. Alternatively, if the rates in the Tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.

45.6. The Council has a statutory duty under [regulation 69](#) of the PCR to investigate any tender that appears to be abnormally low.

45.7. Where the tender recommended for acceptance is more than 10% below the estimate, a report in accordance with these CSOs the awarding report required in accordance with these CSOs shall explain the reasons for the difference and confirm that the contractor has provided written confirmation that they are able to fulfil the contract for their tendered sum.

45.8. SLT Members shall ensure that submitted tender prices or rates are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily. Details of correspondence needs to be kept on the project file, and this information needs to be recorded in

decision award reports (to SLT Members, Cabinet Member Decisions or Cabinet Reports).

- 45.9. As soon as possible after the contract has been awarded the Council must send a contract award notice to the Official Journal of the European Union. In accordance with the PCR this must be done within 30 days. The only exception is any contract that is Below Threshold.

46. POST-TENDER

- 46.1. Post-tender clarification must only be conducted in accordance with the guidance issued by the Head of Procurement and/or the Borough Solicitor, both of whom must be consulted wherever it is proposed to enter into such post-tender clarifications.
- 46.2. Negotiation is not permitted post tender (or final tender in the case of a CPN).
- 46.3. Where tenders are received above the approved budget, the Officer may consider adjusting the specification and **all the candidates** must be asked to re-submit based on an amended specification in order, to bring the cost within budget. However, where it is identified that there needs to be a fundamental change to the specification (or contract terms), the Contract must not be awarded but retendered in accordance with the PCR.

47. AWARD OF CONTRACT

- 47.1. This shall be communicated through the e-tendering system using a formal letter of award. For Above Threshold Contracts, it must first be preceded by the standstill process referred to in paragraph 48.1.1.

48. RECORDS AND DEBRIEFING CANDIDATES

48.1. Standstill Period and Debriefing

- 48.1.1. The requirements of Reg 55 and Reg 86 of the PCR shall be complied with for all Above Threshold Contracts. See further paragraph 50.
- 48.1.2. For Below Threshold Contracts, debriefing may be conducted after award notification.

48.2. Report of procurement process

- 48.2.1. Regulations 83 and 84 of the PCR provides a statutory framework for the retention of contract documentation and a requirement to develop a contemporaneous report detailing the decisions taken during all procurement processes above the thresholds. This must be complied with for Above Threshold Procurements.

49. RECORD RETENTION

- 49.1. A Contract must be kept for six years (12 years if the Contract is a deed) after the final settlement of the Contract.
- 49.2. Documents which relate to the procurement process should be kept for a minimum period of 12 months, provided there is no dispute about the award (these may be stored electronically).

50. DEBRIEFING OF CANDIDATES – REGULATED PROCUREMENTS

- 50.1. Where a tendering exercise is regulated by the provisions of the PCR, Candidates must be simultaneously notified (in writing) and as soon as possible after any decision has been made in connection with their exclusion from the process or the outcome of the award decision is known. The process is set out in [regulation 55](#) of the PCR and must be strictly adhered to. There is a similar process in the [Concession Contracts Regulations 2016](#).
- 50.2. Where the Council has applied a quality-price award criteria it has a statutory duty to inform the unsuccessful candidates of the relative advantages of the successful tenderer. This is usually carried out as part of the statutory cooling-off period after the award decision has been made. For

tenders that are subject to the PCR there are strict rules that the Council must comply with and advice on their application must be sought from the Head of Procurement and/or the Borough Solicitor.

- 50.3. The process shall be communicated in writing only and at no time will any officer of the Council be engaged in a verbal debrief with the unsuccessful candidates.

APPENDIX 9 – REPORT TEMPLATES

Report templates, the procurement strategy template and the waiver form template are available here:
<https://officesharedservice.sharepoint.com/sites/Governance/SitePages/Reports.aspx>

London Borough of Hammersmith & Fulham

Report to: Full Council

Date: 22/01/2020

Subject: Town Hall Civic Campus Programme: Approval to Purchase Commercial Units and Joint Venture Update

Report of: Councillor Andrew Jones, Cabinet Member for the Economy

Responsible Director: Jo Rowlands, Strategic Director for the Economy

Summary

This report seeks approval for the capital budget to enable the acquisition of commercial units that will be constructed by the King Street Joint Venture as part of the Civic Campus Programme. For each of the buildings, the Council will then secure leasees paying rent to the Council, covering the cost of the acquisition over 45 years. Negotiations have already begun and discussions are well advanced with potential occupiers.

The report also explains the rationale for investing in the units, the budgets required and the approvals needed at this stage from Full Council in order to progress with the investment. In order for the Council to proceed it will need to be satisfied that it offers value for money and is affordable within the Council's overall budget.

Recommendations

1. Appendix A is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. Approve a capital budget of up to £64m for the purchase of the office space, start up units, commercial units, restaurant and cinema as set out in this report and the associated professional fees and Stamp Duty Land Tax (SDLT). The total budget will be funded by general fund borrowing represented by an increase in the Council's capital financing requirement, supplemented by capital receipts, or developer contributions when available, with final confirmation of funding delegated to the Strategic Director, Finance and Governance, in consultation with the Cabinet Member for Finance and Commercial Services.
3. Approve a capital budget of up to £25m to purchase a 50% stake in the joint venture limited liability partnership with A2 Dominion, funded by general fund borrowing, represented by an increase in the Council's capital financing requirement.

4. That the Council, where appropriate, grant a lease of any of the Civic Campus commercial units to H&F Housing Developments Limited or any newly created company or companies (limited by shares).
5. That authority be delegated to the Borough Solicitor to exercise Financial Regulation 3.4.3, i.e. to acquire an interest in a company, joint venture or other enterprises, in respect of the Civic Campus Programme and to finalise any legal formalities including, but not limited to, appointing Directors and amending articles of association related to the project.

Wards Affected: Hammersmith Broadway

H&F Priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	Investment in the commercial units will allow the Council to manage and control the affordable workspace elements, meaning it can direct their use for shared prosperity
Being ruthlessly financially efficient	The investment in the commercial units will allow the Council to generate a long term income and the potential for capital receipts in the future
Taking pride in H&F	Investment in the commercial units allows the Council to take a long term stewardship approach to the Civic Campus, maintaining quality for the long term benefit of residents

Financial Impact

The full financial implications for the Civic Campus Programme were set out in the Full Council report in January 2019. This report seeks approval for two items not included at that time, being:

- i. an additional capital budget of up to **£64m** to purchase the commercial elements of the scheme (commercial property investment). The final acquisition price will be subject to satisfactory valuation advice that meets best value requirements.
- ii. a capital investment of **£25m** as a temporary re-investment of equity prior to the distribution of JV profits (the equalisation mechanism).

Commercial property investment

The expected purchase price of the commercial units and the capital budget required is £64m. It is expected this will be funded from external borrowing, with a potential contribution from S106. Alternative funding such as capital receipts, could be applied should they become available, and approval is sought for the final decision on funding to be delegated to the Strategic Director of Finance and Governance, in consultation with the Cabinet Member for Finance and Commercial Services.

If funded fully by borrowing, the Council will incur additional annual revenue costs of interest and Minimum Revenue Provision (MRP) (2.81% and 2.22% respectively) of the purchase price over the life of the borrowing/ asset amounting to £3.2m. There may be opportunities to amend the profile MRP through a revised policy for property investments resulting in lower costs in earlier years, increasing when the investment properties are established and inflation increases expected rental income.

The Council expects to generate an income stream from leasing units on a commercial basis to cover these costs. The leases will need to be managed with commercial terms to enable the investment to be self-financing. Income is reduced by costs of: management, marketing, rent free periods and voids, fees (eg legal, lettings, rent reviews), rates and service charges and other capital expenditure.

The expected rents and costs, and the profile of these, have been provided by Colliers and have been reviewed by the Council's advisers, BNP Paribas, to ensure that the assumptions on which the model is based are reasonable.

In relation to tax, legal advice will need to be obtained in relation to potential tax leakage and inefficiency in relation to SDLT.

Equalisation mechanism

To ensure that the Council and A2Dominion share equally both risks and rewards, it is proposed that the Council provide a cash injection of up to £25m as equity into the joint venture (JV) at the most financially efficient point in the development programme. This will be funded by general fund borrowing, represented by an increase in the Council's capital financing requirement. This has a cost to the Council, above that reported in January 2019, as the Council will either lose the opportunity cost of forgone investment income, or need to borrow and incur interest costs. Provided the development is financially viable this equity will be returned to the Council before any distribution of profits.

The additional costs of interest (or opportunity cost) will be reduced by increased profit distribution from the joint venture, due to reduced financing costs of the JV. This is because the Council's opportunity cost is expected to be significantly lower than the JV's borrowing costs. The interest cost is sensitive to the timing of the equity investment and modelling of the expected cashflows are being undertaken and discussed with A2Dominion to determine the most efficient point at which the Council should invest its cash into the JV.

There remain risks, as set out in the January 2019 report, that should the JV not generate sufficient sales revenues or incur additional costs to those set out in the

development appraisal model, that the Council will not have its equity of up to £25m returned to it.

Other financial risks and opportunities

The expected income and costs of the scheme, and therefore whether the scheme is self-financing, depends on a number of assumptions. If these assumptions differ from the base case, these could result in additional income or additional costs of the investment. These assumptions, in addition to those set out in above, include the external borrowing interest rate, inflation on costs and rental, the market and occupancy of the properties, and capital value on exit.

Legal Implications

The Council has the power to acquire a lease of the land by virtue of Section 120 of the Local Government Act 1972. Were the Council to proceed without such an acquisition (where it is more efficient for SDLT reasons to retain ownership) and then grant a lease of the relevant space to a tenant, its power to do so arises under section 123 Local Government Act 1972 provided it secures 'best consideration'. The Council will secure best consideration advice prior to granting a lease.

Further support for the transaction is available under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.

The Council's power to invest arising under Section 12, Local Government Act 2003 is relevant and can be exercised for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs. In exercising this power, the Council would rely on the second limb, namely that the proposals aid prudent financial management and should have regard to relevant statutory guidance. The financial implications should consider how the proposals assist the prudent management of the Council finances.

Gowling WLG have advised that where the Council intends to retain a long term ownership in a block, the unintended consequences of the project incurring a double charge to SDLT can be avoided by the initial grant of a lease (the "Nominee's Lease") of the relevant space to a nominee of the Council (being a wholly owned private limited company holding the lease as bare trustee for the Council). The subsequent grant of leases of each Block by the Council to the LLP will be made subject to any relevant nominee's lease. H & F Housing Developments Limited has been identified as an appropriate nominee. All leases will be granted following confirmation of fulfilment of the statutory duty on the Council to secure best consideration

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Background Papers Used in Preparing This Report

None.

Detailed summary

- 1.1 The report recommends that the Council proceeds to acquire the commercial units from the joint venture. This is on the basis that doing so will allow the Council to:
- Retain control of the campus as a whole, maintaining the appropriate long term stewardship role for the Council in the regenerated campus
 - Benefit from the regeneration uplift the scheme will deliver
 - Ensure the buildings' occupiers help to achieve the Council's Industrial Strategy
 - Benefit from the long term income streams and potential future capital receipts available from the investment.
- 1.2. The viability modelling and sensitivity testing that the Council has completed shows that the acquisition is financially viable, generates a surplus in the long term and has a positive NPV. The Council will continue to monitor, and review the market and finance environment before the completion of any acquisition, and will be supported by external advice and valuation, to ensure that the proposition continues to be financially viable.
- 1.3. The report also provides an update on the joint venture and the equalisation of equity by the Council in the Joint Venture company and seeks approval for the capital budget necessary.

- 1.4. On 2nd December 2019 Cabinet approved the following recommendations:
- a) Subject to receiving a satisfactory external valuation advice, that the Council enter into a conditional sale agreement, and any other legal agreements which are required, with the King Street Joint Venture for the purchase of:
 - 6,011sqm NIA of B1 office space.
 - 523sqm NIA for office start-up units.
 - 649sqm NIA commercial uses in A1–A3 use class.
 - A new four-screen cinema totalling 1,283sqm NIA and 335sqm NIA restaurant.
 - b) Delegated authority to the Strategic Director for the Economy, in consultation with the Cabinet Member for the Economy, to finalise and complete negotiations with the Joint Venture company and enter into all necessary legal agreement/s in order to give effect to the decision above.
 - c) Delegated authority to the Strategic Director for the Economy, in consultation with the Assistant Director for Legal and Governance and the Cabinet Member for the Economy, to agree onward pre-sales and lettings to appropriate occupiers for each of the buildings following external property advice on commercial terms and values.

2. REASONS FOR DECISIONS

- 2.1. The decisions establish the strategic rationale for investing in the commercial units as part of the Civic Campus programme. The decisions allow the Council to enter into sale contracts with the joint venture, which will enable the development as a whole to proceed. They will also enable the identification and approval of budget for the investments and the onward leasing of any acquired units to third party occupiers.
- 2.2. Full Council has already granted approval to enter into a joint venture with A2 Dominion. Approval is now needed for the mechanism by which the Council will invest its equity ensuring that it is an equal partner in the joint venture.

3. PROPOSALS AND ISSUES

Strategic Overview

- 3.1. The Council's Cabinet on 3rd December 2018 approved the strategic business case and delivery strategy for the Civic Campus Programme and Full Council on 23rd January 2019 approved entering into a joint venture with A2 Dominion for the delivery of the scheme, a conditional land sale agreement from the Council to the JV, and the associated funding for the Civic Campus.

- 3.2. The strategic rationale for the Civic Campus Programme was set out in the reports, in summary, as:
- i. The urgent need to intervene in the failing existing Town Hall office buildings, whilst creating an opportunity for improved ways of working in order to be ruthlessly financially efficient and address the financial challenges faced by the Council;
 - ii. Contributing to the borough's housing ambitions by increasing the supply of good quality, genuinely affordable housing for local residents to meet local housing need;
 - iii. Creating pride in H&F by transforming King Street into a new civic and cultural destination; improving the public realm and Grade II listed Town Hall, providing new local amenities for residents, including a new four screen cinema, café/restaurant, retail and public event spaces; and
 - iv. Promoting economic growth in line with the H&F Industrial Strategy, Economic Growth for Everyone, through the creation of new retail and commercial space, including affordable space for start-up businesses to combat High Street decline.
- 3.3. This report is concerned with the Council's role in delivering items iii and iv, and how investment in these units can allow the Council to benefit from the regeneration opportunity that they present.
- 3.4. For the development to proceed the Council and A2 Dominion will enter into a 50:50 joint venture. The Council will dispose of the land surrounding the Town Hall to the JV, under a conditional land sale agreement (CLSA). The consideration for the sale of this land is the delivery by the joint venture of the new town hall extension.
- 3.5. To protect the Council through this process, there have been a number of conditions placed on the sale of land to the joint venture. This will ensure that a number of crucial aspects of the deal are set in place before development can proceed, giving the Council security that the scheme will proceed as planned and the extension to the Town Hall will be built, protecting the Council's interests.
- 3.6. A key condition is that either a letting or purchaser has been secured for all the commercial elements. This means end-users or owners for all commercial elements of the scheme must be in place before the land can be formally disposed to the joint venture.
- 3.7. Under the terms of the CLSA the Council has the right to purchase the units.
- 3.8. Cabinet on the 2nd December approved the recommendations set out at 1.8 and 1.9 above.

The Council's Investment and Regeneration Opportunity

- 3.9. The Civic Campus masterplan has the following commercial units that the JV will be required to sell or enter into conditional sale agreements in order for the scheme to proceed:

- 6,011sqm NIA of B1 office space.
 - 523sqm NIA for office start-up units.
 - 649sqm NIA commercial uses in A1–A3 use class.
 - A new four-screen cinema totalling 1,283sqm NIA.
 - A restaurant at 335sqm NIA.
- 3.10. The development will create a new civic and community campus, including new fit-for-purpose, inclusively designed office accommodation for the Council and act as a catalyst for change, with the inclusion of open public realm and shared spaces within the Town Hall used by the neighbourhood as well as the greater community.
- 3.11. With its new population of residents and workers, civic and leisure destinations, the scheme will be able to attract a more diverse set of retailers to this location and improve its offer to workers, residents and visitors alike. Not only will the new square provide much needed open space for local residents, it will be able to be used for programmed events to attract more visitors.
- 3.12. The development will deliver a regeneration uplift, increasing the value of homes, commercial spaces and businesses in the area thanks to the improved quality of the environment and the increased demand in the area (from additional staff and residents).
- 3.13. There are four key reasons for the Council to invest in the commercial units:
- To retain control of the campus as a whole, maintaining the appropriate long term stewardship role for the Council in the regenerated campus
 - Benefit from the regeneration uplift the scheme will deliver
 - Ensure the buildings' occupiers help to achieve the Council's Industrial Strategy
 - Benefit from the long term income streams and potential future capital receipts available from the investment.

The development will contribute to the delivery of the Industrial Strategy for H&F in the following ways:

- A Great Place in London: improving H&F town centres and commercial hubs to transform what they offer and enhance their reputation in Europe and around the world.
 - Deliver a new Civic Heart in Hammersmith
 - Deliver 10,000 new homes – 50 per cent of these genuinely affordable – over 20 years

- Encouraging Enterprise: making H&F the best borough in Europe for business to start-up, survive and grow:
 - Address under-utilised Council land or assets
 - Use planning mechanisms to create new workspaces
 - Support investment in new office space.

Options considered

3.14. The Council has assessed two options for investment in the commercial units being delivered at the Civic Campus

- **Option 1** - the base case or *do nothing* scenario, which is to retain the status quo and do not purchase the units but allow the JV to sell the units to the open market.
- **Option 2** – the Council to purchase the units on the open market either through:
 - a traditional borrowing structure sourced from either the Public Works Loan Board or on the open market, or alternatively
 - a commercial loan structured as a sale and leaseback with a large commercial dealer.

Analysis of options – this analysis is based upon the Council’s property investment strategy outlined below.

Investment property strategy

3.15. From a civic and operational point of view, the acquisition of the commercial units would allow the Council to select proposed commercial tenants and occupiers that complement the new civic campus.

3.16. From an investment point of view, there are a number of key criteria for a property investment acquisition that needs to be considered.

3.17. The investment value is determined by the rent income flow and its sustainability, attractiveness of the space for commercial/business occupiers. The investment value of a commercial asset depends on the total anticipated rental flow but also the anticipated growth in income from a particular property sector. The yield from commercial property is different for retail, offices, restaurant and cinema use. There have been a number of acquisitions of freehold offices within the Borough and specifically within W6 which help guide the value of the brand new offices being constructed as part of the campus.

3.18. The majority of the capital value of the investment is the office block (Block B) within the development. The Council appointed external property agents

at the time of its decant office search who have very recent property intelligence of office lettings and office disposals. The external property consultant also undertook best consideration advice as part of the Town and Country Act 1990. There have been few office transactions in the last three months as the market has slowed down, waiting for a resolution of Brexit and its effect on the economy and property investment market. It is important to note, the office block will not be finished and let out until mid-2022. Property sector experts are forecasting that increases in commercial office rents will re-stabilise by that point. The BNP Paribas have been appointed to validate and review assumptions in the financial model.

- 3.19. The property market for retail premises is changing as customers change their purchase avenues with less footfall in many High Streets and town centres. King Street, Hammersmith, has adapted to the changing needs of the retail world and the Civic Campus masterplan reflects these changes. It will have smaller retail units clustered around the new Civic Campus and an increased footfall with more residents, workers and visitors. Property advice received is that the rental and yield performance of the proposed units in the Civic Campus should be robust in this part of King Street/Hammersmith.
- 3.20. The Council is in the final stages of completing heads of terms for the cinema. These income flows profiled in the investment are relatively small but will also help to increase the attractiveness to businesses (existing and new).
- 3.21. The investment appraisal calculations have profiled rent-free periods that reflect market norms for offices, retail and other uses. There are also assumptions on voids for time-limited periods during the cashflow. These reflect time required to re-let properties.
- 3.22. The Council has laid out heads of terms for the property transaction in the form of a conditional sub-lease. The sub-lease will be structured so it allows the Council to sub-let, assign and retain stewardship of the estate to maximise its investment value.

Option 1

- 3.23. The current JV option is to build the commercial units and sell separate elements to occupiers/investors on completion, ie development of the units is conditional on the JV securing end occupiers for the relevant space. Option 1 includes a do-nothing appraisal, estimating the impacts if the Council was not to alter the current JV agreement in place.
- 3.24. The land sale agreement is conditional on having end-users identified for all elements, therefore limiting the JV's (in which the Council has a 50% interest) exposure to leasing risk. It will limit the Council's exposure to any fluctuations in the market in comparison with purchasing the units. On the downside, it may prove a difficult aspiration to deliver should market conditions deteriorate.

- 3.25. The financial impact of this option on the Council is limited to its role as a 50% partner within the JV. The Council, however, must act in the interests of the JV and therefore will be tied to the aspirations of the JV partner.
- 3.26. This denies the Council full control over non-residential elements of the Civic Campus.
- 3.27. As a consequence, the Council will lose the opportunity to benefit from any regeneration uplift (beyond its share in the returns from the JV) because the asset will be sold. It will also lose control of who occupies the commercial units, although some control can be exercised by mutually agreed lease conditions. Private long-term ownership of the commercial units may not be aligned to the Council's regeneration aspirations or its industrial strategy.

Viability of Option 1

- 3.28. Viability of Option 1 – there is no additional financial impact to the Council in this option.

Option 2

- 3.29. Option 2 is that the Council purchase the commercial units from the JV as an investment with consideration of how the Council funds that purchase.
- 3.30. Subject to final legal advice on efficient structuring of the transaction, the Council would enter into a conditional sale agreement with the Joint Venture, the Council agreeing to purchase the units on completion for a fixed price under long lease from the JV. The lease agreement would have provisions incentivising the JV to complete the units on time and on budget. Failure to do so would result in compensation to the Council (as investor/ purchaser) or allow the Council to void the sale contract if the delay was significant.
- 3.31. The Council would be responsible for leasing the cinema, restaurant, café, retail and office. The Council would have external agents to undertake these lettings and manage the commercial space. The Council would be able to do this ahead of completion through conditional leasing or pre-letting arrangements, similar to the ones that the Council would enter into with the JV. This would allow the Council to have certainty of who the occupiers would be on completion and taking an investment approach to occupiers, except in the case of the affordable office space which has a clear objective to support the Council's Industrial Strategy.
- 3.32. This would create a significant amount of leasing risk to the Council as the markets for office, cinema and restaurants are prone to market fluctuations. Such risk is mitigated by robust market research and financial assumptions in the appraisal modelling; as well as signing up occupiers to the pre-lettings agreements as early as possible.
- 3.33. The market research and operational cost assumptions have been provided by Colliers and Frost Meadowcroft for the Council and reviewed by BNP Paribas.

- 3.34. As potential long-term owners of the commercial properties the Council must consider what its exit routes are if the mitigations on the market exposure are not achieved.
- 3.35. A number of exit strategies have been considered by officers and the main ones are outlined below:
- Retain and repurpose – because of its long-term ownership, the Council would have the flexibility to use some of the commercial units for Council uses or convert to residential
 - Sell – the option to sell the commercial units as an investment is always available, the main risk is whether the Council's loan could be re-paid. The financial modelling demonstrates that the units could be sold on the open market and either break even or return a modest surplus – these amounts are dependent upon assumptions of capital growth.

Viability of Option 2

- 3.36. The financial modelling demonstrates that the Option 2 proposal is a viable investment for the Council based upon the current assumptions. Meaning that:
- the debt is fully paid off in a 45 year period
 - debt interest payments are covered (no additional general fund subsidy required)
 - the properties have a capital value at year 45 estimated at over £100m, on the basis of a 5% yield
 - the potential for an estimated cumulative net revenue surplus of £4,212,673m over a 45 year period.
- 3.37. The total cost of the acquisition would be up to £64m including transaction costs. The net annual income after all expenditure (see assumptions on operational costs in 4.39 below) is sufficient to pay the annual interest on the loan and the minimum revenue provision (MRP) that will build up enough funds by year 45 to pay back any associated borrowing.
- 3.38. At the end of the 45-year period the Council will own the commercial units without any debt and they will have a value of approximately £116m dependant upon capital appreciation, based on assumed annual inflation of 2% and yield of 5%.
- 3.39. For modelling purposes a borrowing rate of 2.81% has been used to assess the viability (based on the PWLB rate available to the Council on 16 October 2019) and a minimum revenue provision (MRP) over the 45 year life of the asset.

How could option 2 be funded?

Public Works Loan Board Funding or open market funding

- 3.40. The funding could be sourced through either the Public Works Loan Board or the open market to achieve the most advantageous interest rate for the Council.
- 3.41. Upon completion of the construction the Council would purchase the building from the JV at an agreed value, set out in the conditional sale agreement.
- 3.42. The interest and debt (including minimum revenue provision) would be repaid using the Council's income through rental revenue from the occupiers.
- 3.43. The Council maintains control of the commercial units, but it can sell its interest at any time, if required for example if the commercial lettings are difficult to achieve or if the Council want to release capital for other uses. Optimal exit years have been identified in Years 7, 17 and Year 27 to maximise the returns for the Council. It is very common for commercial investors to sell out or re-finance and this proposal allows the Council to achieve similar flexibility.

Sale and leaseback

- 3.44. The funding could alternatively be sourced through a commercial loan structured as a sale and leaseback with a large institutional investor.
- 3.45. In this scenario, the Council would retain the freehold of the building but enter into 125-year lease with the investor, who would then lease it back to the Council. The lease back to the Council could be for a period of 30-50 years depending on the most advantageous financial position for the Council.
- 3.46. The investor would provide funds for land and construction (subject to a retention to cover against cost-overruns). The Council would enter into the leasing arrangement at the beginning of construction and would commit to pay the investor lease payments once the buildings have completed. The Council would separately contract with the Joint Venture to ensure the delivery of the commercial units on time and on budget. At the end of the lease period the Council could purchase the reversionary interest for a £1.
- 3.47. As in the PWLB or open market alternative above, the risk for leasing the units is exactly the same and is retained by the Council above. However, the exit route flexibility in the option is reduced as the investor would wish to control the sale to protect their loan. However, this option might provide for lower revenue costs in the early years of the investment whilst the revenue streams mature. The Council would benefit from regeneration uplift in terms of increasing profit rents, and from increases in capital value, once the 50-year leaseback term has expired. But the Council has to accept a leaseback that is linked to the consumer price index (CPI).
- 3.48. The Council will receive a number of benefits from this funding option, including full open market value for its land interest on day one and 100% of project development costs on a flexible drawdown basis that would help to ensure the building programme is maintained.

Preferred funding route

- 3.49. The preferred option route will be tested by officers to ensure that the optimum funding route is chosen.
- 3.50. If the Council decides to fund this through borrowing, the Council also has the option to fund the units throughout construction if that proves financially more advantageous.

Options compared

- 3.51. Benefits, risk and financial impact for the Council (not the JV) are compared in the table below:

NON-MONETARY BENEFIT	OPTION 1 Status Quo	OPTION 2 Purchase commercial units
Meets the Council's priorities	Possibly	Yes
Retain /attract talent to the Borough	Unknown	Yes
Improve commercialisation and future revenue opportunities for the Council	No	Yes
FINANCIAL IMPACT		
Purchase Price incl costs	£nil	£64m
Interest Rate	N/A	2.81% and MRP
Hold Period	N/A	45 years with flexibility to sell or re-purpose
Viable	Yes	Yes
RISK	Low	Medium, but mitigations
Recommended	No	Yes

Recommended – Option 2

- 3.52. The conclusion of the above analysis suggests that Option 2 enables the Council to achieve its strategic objectives to:
- Benefit from the regeneration uplift the scheme will deliver

- Ensure the building's occupiers help to achieve the Council's Industrial Strategy
 - To retain control of the campus as a whole, maintaining the appropriate long term stewardship role for the Council in the regenerated campus
 - Benefit from the long term income streams and potential future capital receipts available from the investment.
- 3.53. The proposal shows a positive discounted cashflow (net present value (NPV)) for all modelled sensitivities shown in Exempt Appendix A – i.e. the investment would be expected to be favourable in cash terms for all scenarios as modelled.
- 3.54. However, it is important to also consider the impact on the Council's revenue position. There are scenarios in the sensitivity model where, while the overall investment may still be cash positive, the Council incurs a net revenue cost. Furthermore, at the extremes of the model this cost could be significant. This is because:
- The income in the model is a combination of capital and revenue; in local authorities, capital income (capital receipts) cannot be used to support revenue expenditure.
 - Local authorities are obliged to make a charge to revenue over the life of the investment to set aside a provision to repay the underlying debt (known as the minimum revenue provision or MRP).
- 3.55. The base scenario currently shows a revenue positive position however this is currently at the margin and a ten to twenty basis point increase in interest rates would turn this negative.
- 3.56. There are some mitigations the Council could explore. For example, all ongoing expenditure is currently considered as revenue; much of this could feasibly be capital in nature. This would not alter the lifetime revenue cost but may help to manage peaks and troughs in the revenue forecast. However, this could also increase borrowing costs.
- 3.57. As can be seen from the matrix in Exempt Appendix A any changes to the interest rates and net operating income have an impact upon the long-term performance of the investment.
- 3.58. The interest rates will be fixed at the time the capital is borrowed so that is a short-term risk and for modelling purposes a figure of 2.81% has been used based on the PWLB rate at 16 October 2019.
- 3.59. The longer-term risk concerns the ability to let the units and to protect the assumed net operational income. The following mitigations have been considered:
- If the office rents were lower than profiled or there was some void space, then the Council could re-locate staff (and its partners) from other

freehold assets to allow them to be sold or re-developed with an income or from leased accommodation to save on lease costs. The cost/benefits of moving Council staff into the office accommodation would need to be fully assessed so actual financial expenditure and savings were understood.

- Although, not included within the proposed purchase of the commercial units, there are other options for the other Civic Campus that could be considered.
- If there was void space within new office meanwhile uses could be considered.

3.60. Further mitigation to be considered as an exit route if the Council wished to realise a capital receipt:

- The Council could sell a long lease of the office block at any time or it could sell the freehold of the office block and also the cinema and ancillary uses at the time. A marketing strategy including advice on tax and structure of a deal to realise capital receipts would be required. If the office was occupied by one occupier then at a future date it might want to acquire a long lease of the block to have control over its future location in the Borough.
- The Council may wish to grant a long lease of the new additional (under a long lease) offices at the Town Hall to secure a capital receipt.
- An option could be to sell the commercial assets to secure capital receipts as a contribution for a different regeneration or place making project or any other capital project in the Borough.
- The Council could do a sale and leaseback at a future date but this could result in a revenue pressure.

4. JOINT VENTURE EQUALISATION

4.1. The January 2019 Full Council report noted that:

“On completion of the development, each party would share 50:50 in the benefits produced by the JV either in distribution of profits or the assets developed. It is proposed that the Council will receive the new extension to the Town Hall building, as well as a share of any JV profits from the scheme. The JV agreement will include an equalisation process so that each party contributes and benefits equally, depending on the profit or assets returned on completion and the price paid”

4.2. In the previous arrangement the Council withdrew its equity from the JV in the form of the handover of the new Town Hall extension as part of the conditional land sale. However, this arrangement was unequal as the Council

withdrew its equity whilst A2Dominion still had equity in the joint venture and therefore incurred financing costs, as the completion of the Town Hall extension happened in advance of the other sales. Officers have therefore explored the opportunity to improve profitability for the JV by introducing an equalisation mechanism alongside the conditional land sale agreement.

- 4.3. The Council will purchase a 50% stake in the joint venture limited liability partnership with A2 Dominion for £25m cash investment. This has implications for the Council, as the Council will now bear a financing/interest cost or opportunity cost for this £25m investment for the period under which this cash is invested in the JV (not expected to be in excess of 3 years). However, it is expected that all of this increased financing cost should be returned to the Council through an increased share of profits from the JV.
- 4.4. The injection of cash into the JV will reduce the JV's financing/ interest costs and therefore increase profits payable to the partners. Therefore it will be beneficial for the Council to inject equity (as cash) where the Council's cost of short/ medium term borrowing is less than half of the JV's financing costs, the Council's share of profit exceeding the additional cost of borrowing, although there will be a timing difference.
- 4.5. Officers are working with A2Dominion to model the most efficient timing of the Council's equity investment to reduce the JV's financing costs and therefore increase profits available for distribution to the JV partners.
- 4.6. The injection of the cash as equity however will reduce the JV's requirement for other loan funding. The Council expected to provide this funding to the JV at a state-aid compliant rate and therefore this cash injection will reduce the Council's opportunity to obtain a margin on any on-lending to the JV.
- 4.7. The equity is expected to be returned to the Council before any share of profits from the JV. There remain risks, as set out in the January 2019 report, that should the JV not generate sufficient sales revenues that the Council will not have its equity of up to £25m returned to it.
- 4.8. As noted, Full Council has approved the Council entering into the JV. Prior to formally completing the JV agreement, the Assistant Director for Legal and Governance will review the documentation, and supported by advice from Gowlings WLG, will make a recommendation to the Civic Campus Programme Board (the internal governance board for the project).

5. CONSULTATION

- 5.1. Consultation for the wider Civic Campus programme has been outlined in previous Cabinet reports.

6. EQUALITY IMPLICATIONS

- 6.1. The Council has given due regard to its duties under Section 149 of the Equalities Act 2010 and a full Equality Impact Assessment is being conducted.
- 6.2. The Civic Campus design team has actively engaged the Disability Planning Forum and members of the Disabled Residents Team (a key stakeholder group) using the Council's new co-production approach to planning for the Civic Campus Programme and Town Hall refurbishment.
- 6.3. *Implications completed by Fawad Bhatti, Policy & Strategy officer, tel. 07500 103617*

7. LEGAL IMPLICATIONS

- 7.1. Gowlings have been retained by the Council to provide advice on the Civic Campus commercial units purchase, and have previously advised on the JV set up and appropriation. The advice on the Civic Campus commercial units purchase is set out in the exempt appendix.
- 7.2. The rationale for the acquisition is both investment and regeneration led. The purpose for which land is acquired is relevant to the powers to be relied upon. Officers have identified the site as an investment opportunity, and it underpins the wider regeneration of the area. The Council has the power to acquire a lease of the land by virtue of Section 120 of the Local Government Act 1972. Were the Council to proceed without such an acquisition (where it is more efficient for SDLT reasons to retain ownership) and then grant a lease of the relevant space to a tenant, its power to do so arises under section 123 Local Government Act 1972 provided it secures 'best consideration'. The Council will secure best consideration advice prior to granting a lease.
- 7.3. Further support for the transaction is available under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.
- 7.4. The Council's power to invest arising under Section 12, Local Government Act 2003 is relevant and can be exercised for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs. In exercising this power, the Council would rely on the second limb, namely that the proposals aid prudent financial management and should have regard to relevant statutory guidance. The financial implications should consider how the proposals assist the prudent management of the Council finances.
- 7.5. The Ministry of Housing Communities and Local Government (MHCLG) issued revised statutory guidance under section 15 of the Local Government Act 2003 on local authority investments on 1 April 2018 (the Guidance). In approving the proposals both officers and decision makers should have regard to relevant aspects of the MHCLG Guidance.

- 7.6. Local Authorities are required to have an updated investment strategy as is required in the Guidance. The investment metrics must be confirmed as being acceptable in line with the current Investment Strategy.
- 7.7. The Guidance references 'non-financial assets' which includes certain property portfolios: 'non-financial assets that the organisation holds primarily or partially to generate a profit; for example, investment property'. There are specific requirements for non-financial investments, and property portfolios, set out in paragraphs 37 to 40 of the Guidance. The Guidance requires local authorities to consider whether the asset retains enough value to provide security of investment using the fair value model in International Accounting Standard 40: Investment Property as adapted by proper practices.
- 7.8. In taking forward the proposals, finance officers should be aware of the impact of MHCLG's guidance and whether the arrangements qualify as 'non-financial assets' under it. Consideration of the financial implications should include the extent to which the proposals amount to fair value and any proposed mitigation of risks.

Implications completed by Richard Beckingsale, Gowlings Solicitors acting on behalf of the Council and verified by Rhian Davies, Assistant Director of Legal and Democratic Services.

8. COMMERCIAL AND PROCUREMENT IMPLICATIONS

- 8.1. There are no additional commercial and procurement implications beyond those set out elsewhere in the report.

Implications completed by: Andra Ulianov, Procurement Consultant, tel. 0208 753 2284

9. IT IMPLICATIONS

- 9.1. No IT implications are considered to arise from this report. Should this change, for example, by requiring new systems to be procured or existing systems to be modified, IT Services should be consulted.
- 9.2. IM implications: Any suppliers/partners involved in this acquisition will be expected to have a GDPR policy in place and staff will be expected to have received GDPR training. If not already in place, a Privacy Impact Assessment should be carried out, and (Cloud) Supplier Security Questionnaire(s) should be completed by any suppliers/partners, to ensure that all the potential data protection and information security risks around this acquisition are properly assessed with mitigating actions agreed and implemented.
- 9.3. Any contracts arising from this report will need to include H&F's data protection and processing schedule. This is compliant with Data Protection law (the General Data Protection Regulation (GDPR) 2016; and the Data Protection Act (DPA) 2018).

Implications completed by: Tina Akpogheneta, Interim Head of Strategy and Strategic Relationship Manager, IT Services, tel 020 8753 5748.

10. RISK MANAGEMENT IMPLICATIONS

- 10.1. Insurance – The Council will grant the JV a conditional land sale agreement of the wider Civic Campus and it will be the Council’s responsibility to ensure there is building insurance cover for the whole scheme.
- 10.2. Where there are head-leases or sub-leases the Council will undertake inspections of the estate to ensure all insurance obligations are carried out.
- 10.3. As this is a multi-let Civic Campus, the Council will seek guidance on the cover and stipulations to ensure a robust insurance plan is in place.
- 10.4. As part of the delegated authority sought under the recommendations, the Strategic Director of Economy, Borough Solicitor and Civic Campus Programme Project officers will need to liaise further with the shared insurance service to ensure that effective insurance arrangements are in place for the construction phases of the project. It is currently proposed the Council will undertake the refurbishment of the Town Hall on one contract and the JV will undertake the rest of the construction on another contract. This contract may need to be in phases or find a mechanism to manage the anticipated issue that the works to build a vertical extension to the Town Hall will require the Council as the insurer of the existing structure to effect Joint named Construction insurance for those works.
- 10.5. Officers have considered the risks associated with the various stages of this programme, as set out above, and sought to put in place appropriate mitigations. It is recommended that they continue to review, monitor, and escalate as appropriate until the programme objectives have been delivered and ensure that new risks identified are assigned to risk owners. The financial implications section in this report identifies a number of key financial risks which will need to be closely monitored and managed and subject to regular reporting to Members.
- 10.6. A summary of the key risks and mitigation measures set out by officers is provided below:

Risk and impact	Mitigation measures
Financial assumptions (including those identified in the Financial Implications) are incorrect and affect the viability of the scheme.	To proceed, the Council will need to be satisfied that the scheme offers value for money and is self-funding and affordable within the Council’s overall budget.
Selection of the right funding option to give the	In addition to assessing the overall viability of the scheme, a full comparison of funding

<p>maximum flexibility for the Council in long term.</p>	<p>opportunities will be examined before the optimum route is chosen.</p>
<p>The JV does not deliver the commercial units on time or to budget</p>	<p>The Council is a 50:50 partner in the JV.</p> <p>The Council has commissioned a review of A2Dominion Group's financial strength, including A2Dominion Developments. A Parent Company Guarantee will also be sought for A2Dominion's and A2 Dominion Developments' share of obligations under the JV agreement.</p> <p>The JV Board will receive monthly construction updates on build progress.</p> <p>The Council will only purchase the units under a conditional contract and it will only take a lease on practical completion. Any pre-lets will also have this conditionality too.</p> <p>There are liquidated and ascertained damages (LADs) within the JV contract that will mitigate losses for delay to the scheme being delayed that prevents use of the new commercial units.</p>
<p>Brexit has a detrimental effect on the supply chain, construction workforce, interest rates, borrowing and inflation, thereby affecting scheme viability.</p>	<p>The Council and its partners will continue to monitor the implications of Brexit making any reasonable adjustments to the programme delivery strategy and reviewing scheme viability prior to go live.</p> <p>The proposed draft Brexit deal may help provide greater certainty and confidence in the UK market</p> <p>The Council's sale contract with the JV will require a fixed price.</p> <p>The JV price with the construction contractor will be fixed.</p>
<p>The market deteriorates leading to lower rental values, thereby affecting scheme viability.</p>	<p>Sensitivity analysis has been undertaken as part of the business case development we will continue to monitor viability.</p> <p>There are mechanisms in the conditional sub-lease agreement that will determine the acquisition price by a third party.</p>

Rental values do not recover in event of a recession.	The Council can consider exit routes of re-purposing the assets or selling. The Council would need external advice to outline options that cover tax and effect on Council's capital and revenue costs.

Implications validated by: David Hughes, Director of Audit, Fraud, Risk and Insurance, tel: 0207 361 2389

11. IMPLICATIONS FOR BUSINESS

- 11.1. This is a significant commercial opportunity for businesses in the borough, with c.£140 million of commercial contracts expected to be available. The Local Planning Authority through the s106 agreement would secure a commitment to partner with the economic development team and the local supply chain programme to ensure that local companies are able to bid for opportunities.
- 11.2. The current proposals also include affordable studios and workspace which will be targeted at small to medium enterprises, as well as an additional 65,000 sqft of B1 office space, which will support business generally in the Hammersmith Town Centre area.

Implications verified by David Burns, Assistant Director – Growth, tel. 020 8753 6090.

Appendixes

- Appendix A – Exempt Appendix
- Appendix 1 – Options Appraisal

COMMERCIAL UNITS OPTIONS APPRAISAL

1 EXECUTIVE SUMMARY

This options appraisal report examines the case for the Council to purchase the commercial elements being constructed as part of the Civic Campus project. It sets out and considers reasons why that is a good objective for the Council, together with two options to achieve that aim. It recommends which is the best option to pursue, in support of the recommendations in the main cabinet report.

The case for the Council buying the commercial elements of the scheme is summarised as it will allow the Council to:

- Retain control of the campus as a whole, maintaining the appropriate long-term stewardship role for the Council in the regenerated campus
- Benefit from the regeneration uplift the scheme will deliver
- Ensure the buildings' occupiers help to achieve the Council's Industrial Strategy
- Benefit from the long-term income streams and potential future capital receipts available from the investment.

2 BACKGROUND

2.1 The scheme

The Civic Campus Hall programme is a major regeneration programme for the London Borough of Hammersmith & Fulham (H&F).

It will transform West King Street into a civic, cultural and commercial destination; delivering a new four-screen cinema, commercial space (with affordable business space), 204 homes (of which 52% are affordable homes for local people), café, restaurant and retail establishments, a public events space and the extension and renewal of the Grade II-listed Town Hall. It will transform the way the Council operates and delivers its services to residents.

Background the project and the business case process and approval can be found the cabinet report 3rd December 2018.

3 STRATEGIC CASE FOR BUYING THE COMMERCIAL ELEMENT

3.1 Contribution to wider regeneration

As part of the Council's December 2018 Cabinet report, the strategic business case for the West King street programme was approved, concluding that;

The programme represents a significant opportunity for the Council to improve the use of its public assets, drive efficiency of operation and enhancement to public services whilst simultaneously creating social and economic value through development of a new cinema and much needed affordable housing.

The scheme will regenerate this part of King Street and create an a new destination. It will create a new civic and community campus, including new fit-for-purpose inclusively designed offices for the Council. It will act as a catalyst for change, with the inclusion of public realm and shared spaces within the Town Hall campus used by the neighbourhood as well as the greater community.

With its new population of residents and workers, civic and leisure destinations, the scheme will attract a more diverse set of retailers and improve the offer to workers, residents and visitors alike. The new square will provide much needed open space for local residents and can be used for programmed events to attract more visitors.

Associated economic benefits include increased footfall and commercial opportunities for local businesses with c.£140 million of commercial contracts generated by the scheme.

The project will help the borough meet ambitions set out in its industrial strategy *Economic Growth for Everyone* to make the borough one of the best places in Europe to do business. It will provide new attractive start-up and flexible workspace, while the refurbished town hall and new council workspace will reduce the Council's expenditure on maintenance and increase Council efficiency.

The development will help fulfil these key aims of the Council's Industrial Strategy for H&F:

- A Great Place in London: improve H&F town centres and commercial hubs to transform what they offer and enhance their reputation in Europe and around the world.
 - Deliver a new Civic Heart
 - Deliver 10,000 new homes – 50 per cent of these genuinely affordable – over 20 years
- Encouraging Enterprise: making H&F the best borough in Europe for business to start-up, survive and grow:
 - Address under-utilised council land or assets
 - Use planning mechanisms to create new workspaces
 - Support investment in new office space

3.2 Why invest in the commercial units and key conditions of the deal

The Council is considering buying the commercial units for four key reasons. These are:

- Retain control of the campus as a whole, maintaining the appropriate long-term stewardship role for the Council in the regenerated campus
- Benefit from the regeneration uplift the scheme will deliver
- Ensure the buildings' occupiers help to achieve the Council's Industrial Strategy
- Benefit from the long-term income streams and potential future capital receipts available from the investment.

The Council is entering into a conditional land sale agreement with the joint venture partner, to deliver the scheme (The Council and A2 Dominion are 50:50 partners in the joint venture). The Council will provide the required land to the partnership and A2Dominion will act as the construction partner, leading on the development of the scheme.

To protect the council through this process, there are a number of conditions placed on the sale of land into the joint venture. These will ensure that crucial aspects of the deal are set in place, providing security to the deal and protecting the Council's interests. These conditions specifically address:

- (a) affordable housing;
- (b) building contract;
- (c) decant;
- (d) fit-out;
- (e) funding;
- (f) non-residential units;
- (g) land value;
- (h) offices;
- (i) planning;
- (j) relocation;
- (k) Rights of Light strategy;
- (l) any title conditions
- (m) Stopping-up;

One of the key conditions is that either a letting, or purchaser, has been secured for all the commercial elements of commercial units. This means that end users/occupiers for all commercial elements must be in place before the sale contract to the JV can be completed.

The commercial units form a critical part of the overarching regeneration and one of the cornerstones of the land agreement. The baseline agreement assumes that they will be sold following redevelopment. There is an opportunity for the Council to purchase these units as an investment asset, above and beyond the current regeneration development.

4. PLACEMAKING AND SCHEME COMPONENTS

4.1 Design and role in placemaking

The scheme's design and its component uses have been carefully considered and designed to achieve the Council's regeneration ambitions and to fulfil the needs of residents, local businesses and the Council itself, and to restore and encourage the long term social, economic and environmental sustainability of this crucial part of the borough.

Block B forms a new eight-storey element at the north west corner of the scheme, addressing King Street on its northern elevation and the new civic square on its eastern elevation. The height of the block relates to the new datum set by the town hall's rooftop extension and other nearby buildings.

The block includes the uses set out below. Its upper element, slightly higher than surrounding buildings, forms a new wayfinding "marker" for this part of King Street, signalling the civic campus' presence as a destination offering its range of mixed uses to pedestrians further east on King Street.

Block B, together with the new smaller Block C to the eastern side of this part of the new public plaza, help frame the new civic space and the historic main front elevation of the refurbished listed town hall, and both blocks include active uses at ground floor to enliven the square - which can also be programmed for cultural events.

Within Block B these uses include the prominent entrance to the Grade A office space on its upper floors, a restaurant with frontages to King Street and the new plaza, and a cinema with its main entrance on King Street.

4.2 Offices

The 6,011 sqm of office space on the upper floors is reached via an externally expressed lift core that helps generate a distinct identity for Block B, acts as a marker when viewed from King Street and contributes to the lively character of the new square.

Block B has six typical office floors, designed to be flexibly let and occupied by multiple users. The seventh floor provides more office space and a generous roof terrace. A bicycle store and facilities are on the ground floor.

4.3 Cinema

The 1283 sqm (NIA) cinema occupies part of the ground floor, with its main foyer and café accessed from King Street. Its four screens (2x150 seats and 2x50 seats)

are at basement level. Spaces for associated plant and servicing are in the basement and on the ground floor.

4.4 Restaurant

A 335 sqm (NIA) restaurant occupies the remainder of the ground floor space together with associated plant, and shares servicing access with the cinema and offices above. It has frontage to King Street and the new public plaza.

4.5 Affordable workspace

The 526 sqm (NIA) affordable workspace occupies part of the ground floor in Block A, fronting onto the Town hall.

4.6 Retail/café units

There are three units that occupy the majority of the Block C ground floor. The café unit is 120 sqm (NIA) and fronts onto the public plaza and town hall. The smaller retail unit is 190 sqm (NIA) with frontage on King street and the public plaza. The larger retail unit is 480 sqm (NIA) with frontage onto King Street.

5 DEMAND FOR THE COMMERCIAL UNITS

5.1 Market research

As part of the due diligence for the Civic Campus JV financial viability studies, the Council's consultants Colliers and Frost Meadowcroft have been appointed to provide advice on all uses apart from residential. They provided indicative values and yields that have been used in the appraisals and inform this options appraisal.

We have also been reviewing long term market demand for the office, cinema, restaurant and retail to understand the terms of indicative leases which have fed into our modelling. We have also received further advice from BNP Paribas who advised the Council on its best consideration valuation.

We are confident assumptions used are robust and backed up with evidence. Given current economic/Brexit uncertainty we have taken a cautious approach, carried out sensitivity analyses and considered potential exit routes.

5.2 Offices

Hammersmith has an established, decades-long presence as a key London office sub-market. Chiefly centred around Hammersmith roundabout, Hammersmith's office market has grown with the expansion of Heathrow because of its convenient road and underground connections to the UK's principle airport, and rapid journey times to City and West End.

Hammersmith town centre caters adequately for the daily needs of workers in terms of shops, restaurants, services, transport and nearby homes, although this offer has perhaps not kept pace with rival emerging centres - like Shepherds Bush, or Shoreditch or Islington for example.

Overall vacancy rates in central London offices are low at 4.3%, while supply has contracted to 9.5m sq ft, the lowest since 2016, according to JLL's latest Q4 2018 survey. And despite Brexit, London's overall leasing market remains strong. The annual total of pre-lets for 2018 of just under 4.1m sq ft (35% of all take-up) was the highest on record.

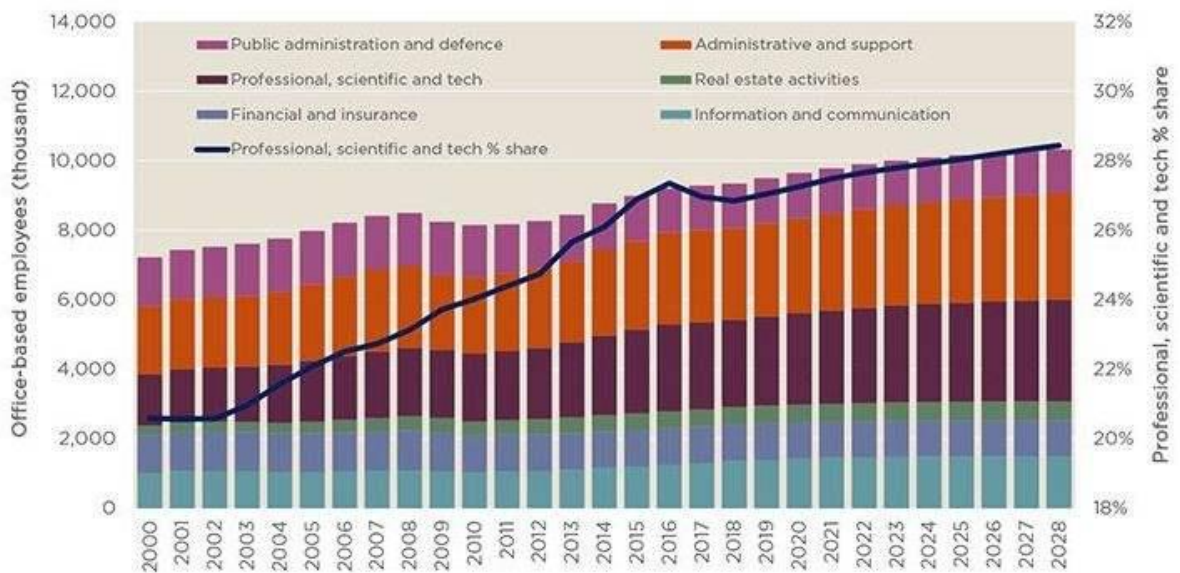
Background economic activity and demand for business space in the central London market remains strong, despite Brexit, domestic political, and international economic uncertainty, including predictions of gently rising interest rates.

There is also a beneficial effect for office values in the borough from reducing reliance on cars, improved overground links, and continuing growth in cycling, with office providers increasingly encouraging cycling by providing shower, changing and cycle storage in schemes, enshrined in planning policy. This is encouraging workspace in a wider range of locations.

The Savills research article below demonstrates a positive outlook for offices:

POSITIVE OFFICE-BASED EMPLOYMENT FORECASTS FOR NEXT 10 YEARS

The 10-year forecasts for UK office-based employment, as shown in the chart above, shows a rising trend. Despite the notion of automation/AI replacing human activity for specific tasks, there still remains a need for additional office space in the future. In a post-Brexit world, the UK will increasingly play to its strengths and the rising percentage share of employees within the 'professional, scientific and tech' sector is key. Office space for these sub-sectors should be an investor's focus.



https://www.savills.co.uk/research_articles/229130/279227-0

This is the promising background to the office offering and the development itself should help improve Hammersmith's offer to businesses seeking increasingly scarce new workspace, for which there is likely to be ready demand.

5.3 RESTAURANT

Hammersmith town centre has a wide range of places to eat and drink of varied quality. It would seem likely a successful operator would be interested in the restaurant space, not least because of the Council presence and that of other occupants on site or in offices nearby and the presence of the cinema.

5.3 CINEMA

Demand for cinemas is reliant on the disposable income of individuals, and therefore general economic conditions. Hammersmith & Fulham, however, is one of the capital's most prosperous boroughs, with rising levels of employment and business formation.

The cinema is likely to attract local residents and tourists, and presumably workers, enhancing the vibrancy and frequency of visits to Hammersmith town centre - a key requirement of planning policy.

5.4 RETAIL

The age profile of the Hammersmith Primary Retail Market Area includes a particularly high proportion of adults aged 25-44; young adults aged 15-24 are also over-represented. In the 2011 Census, the Hammersmith area contained an above average proportion of working age adults within the most affluent social group. In contrast, the least affluent social groups are particularly under-represented in the area. These demographics mean Hammersmith remains affluent and residents' disposable income is favourable for retailers and leisure establishments.

Although there is little evidence for rental growth, supply remains low which will keep pressure on rents to remain stable, if not rise, when newly renovated stock becomes available.

5.5 AFFORDABLE WORKSPACE

523sqm of affordable workspace is to be provided in the scheme in the form of units targeted at start-up businesses. There is a requirement for this space to be included in the scheme, set out in the S106 condition accompanying the planning permission, in line with the Council's planning policies, and helping to achieve the aims set out in its industrial Strategy, *Economic Growth for Everyone*.

Inclusion of the space will help improve the offer to new local businesses and their employees and assist with reversing economic decline in this part of the borough.

6 THE CASE FOR BUYING THE COMMERCIAL UNITS

Two options were assessed in evaluating the proposed acquisition of the commercial units:

- **Option 1** - the base case or "do nothing" scenario is to retain the status quo, and not to purchase the commercial units, but allow the JV to sell these to the open market.
- **Option 2** – the Council to purchase the commercial units on the open market in the following ways:
 - a traditional mortgage structure sourced from either the Public Works Loan Board or the open market, or alternatively;
 - a commercial loan structured as a sale and leaseback with a large commercial dealer;
 - The Council also has the option to fund the units throughout construction if that proves financially more advantageous

6.1 OPTION 1

Summary -

The current JV option is to build commercial units and sell separate use elements to occupiers/investors on completion, as part of the overall scheme, on completion.

Option 1 includes a do-nothing appraisal, estimating the impacts if the Council did not alter the current JV agreement, in which the Council is a 50% partner.

The land sale agreement is conditional on having end-users identified for all elements, therefore limiting the JV's exposure to construction and leasing risk. This will significantly benefit the Council in the long term as it will mitigate the construction and leasing risk surrounding the new build scheme, limiting the Council's exposure to fluctuations in the market.

On the downside, it may prove a difficult aspiration to deliver should market conditions deteriorate.

The financial impact of this option on the Council is limited to its role as a 50% partner within the JV. The Council, however, must act in the interests of the JV and therefore will be tied to the aspirations of the JV partner.

The Council will lose the opportunity to benefit from any regeneration uplift as a consequence of this option because the asset will be sold. It will also lose control of who occupies the commercial units, although this can be mitigated by lease conditions to a certain extent. Private long-term ownership of the commercial units also may not be aligned to the Council's regeneration aspirations or its Industrial Strategy.

6.2 OPTION 2

Summary

Option 2 is for the Council to purchase the commercial units from the JV as an investment with consideration of how the Council funds that purchase. That could be either:

- a traditional mortgage structure sourced from either the Public Works Loan Board or on the open market, or alternatively
- a commercial loan structured as a sale and leaseback with a large commercial dealer
- The Council also has the option to fund the units throughout construction which might prove marginally more financially advantageous in the right interest rate environment

Key considerations

The Council is considering buying the commercial elements from the JV as an investment, for three key reasons:

- to benefit from regeneration uplift
- to ensure the building's occupiers help achieve borough ambitions
- the Council wants to retain control of the main elements of the campus as long-term civic steward and landlord

The Council would be responsible for leasing to cinema operator, restaurant, café, retail and office occupiers. This would create significant leasing risk to the Council as the market for offices, cinema and restaurants are prone to market fluctuations. Such risk is mitigated by robust market research and financial assumptions in the appraisal modelling. Market research and operational cost assumptions have been provided by Colliers and Frost Meadowcroft and reviewed by BNP Paribas.

Operational costs include:

- Rental levels for each asset class, office, retail, restaurant, cinema and affordable workspace
- Rental inflation at 2%
- Cyclical repairs/lifecycle costs
- Capital expenditure at lease ends
- Re-leasing costs
- Rent-free periods on new lettings

Exit routes

As long-term owners of the commercial units the Council must consider what its exit routes are if the mitigations on the market exposure are not achieved. A number of exit strategies have been considered by officers. The main exit routes are outlined below:

- **Retain and re-purpose** – the Council would have the flexibility to use some of the commercial units for Council uses or convert to residential
- **Sell** – the option to sell is always available, the main risk is whether the Council's loan could be re-paid. The financial modelling (see Appendix 1) demonstrates that the units could be sold on the open market at certain

years and either break even or return a modest surplus. These values are dependent upon assumptions of capital growth.

Risks and benefits

Benefits, risk and financial impact for the Council (not the JV) are compared in the table below:

NON-MONETARY BENEFIT	OPTION 1 Status Quo	OPTION 2 Purchase commercial units
Meets the Council's priorities	Possibly	Yes
Retain /attract talent to the Borough	Unknown	Yes
Improve commercialisation and future revenue opportunities for the Council	No	Yes
FINANCIAL IMPACT		
Purchase Price including costs	£nil	£64M
Interest Rate	N/A	2.81% and MRP
Hold Period	N/A	45 years with flexibility to sell or re-purpose
Viable	Yes	Yes
RISK	Low	Medium, but mitigations
Recommended	No	Yes

Risks and mitigation measures

Risk and impact	Mitigation measures
Selection of the right funding option to give the maximum flexibility for the Council in long term.	A full comparison of funding opportunities will be examined before the optimum route chosen.

<p>Proposed arrangements are found to be in breach of Public Procurement Regulations, leading to legal challenge.</p>	<p>The contractual arrangements will be structured so as to avoid the creation of an enforceable obligation to undertake works. The Council has been advised of such an approach in the context of the delivery of the development as a whole by the A2Dominion joint venture</p>
<p>The JV does not deliver the commercial units on time or to budget</p>	<p>The Council is a 50:50 partner in the JV.</p> <p>The Council has commissioned a review of A2Dominion Group's financial strength, including A2Dominion Developments. A Parent Company Guarantor will also be sought for A2Dominion's and A2 Dominion Developments share of obligations under the JV agreement.</p> <p>The JV Board will receive monthly construction updates on build progress.</p> <p>The Council will only purchase the units under a conditional contract and it will only take a lease on practical completion. Any pre-lets will also have this conditionality too.</p> <p>There are LADS within the JV contract that will mitigate losses for delay to the scheme being delayed that prevents use of the new commercial units</p>
<p>Brexit has a detrimental effect on the supply chain, construction workforce, interest rates, borrowing and inflation, thereby affecting scheme viability.</p>	<p>The Council and its partners will continue to monitor the implications of Brexit making any reasonable adjustments to the programme delivery strategy and reviewing scheme viability prior to go live.</p> <p>The proposed draft Brexit deal may help provide greater certainty and confidence in the UK market</p> <p>The Council's sale contract with the JV will require a fixed price.</p> <p>The JV price with the construction contractor will be fixed.</p>
<p>The market deteriorates leading</p>	<p>Sensitivity analysis has been undertaken as</p>

to lower rental values, thereby affecting scheme viability.	<p>part of the business case development we will continue to monitor viability.</p> <p>There are mechanisms in the conditional sub-lease agreement that will determine the acquisition price by a third party.</p>
Rental values do not recover in event of a recessions.	The council can consider exit routes of re-purposing the assets or selling. The Council would need external advice to outline options that cover tax and effect on Council's capital and revenue costs

Conclusion

This option will require the Council to pay c£64M as the purchase price (including costs) for the commercial units.

In addition to the previously stated regeneration and stewardship benefits, the financial viability model (see Exempt Appendix 1) demonstrates that over a 45-year period the loan can be paid off in full and all annual interest payments met.

This is based on the rental values suggested by Colliers and Frost Meadowcroft and reviewed by BNP Paribas. The cost of borrowing has been modelled based upon current PWLB rates and MRP assumptions from the Council finance team.

There are also the potential exit routes described above to protect the Council if the rental values are not achieved.

Option 2 is therefore the recommended option.

7 FINANCIAL CASE AND FUNDING ROUTES

The Council will need to decide if it borrows from PWLB or another lender, or whether a sale and leaseback deal may be better.

7.1 Traditional mortgage structure sourced from Public Works Loan Board or the open market

The recommended Option 2 will require the Council to purchase the units for c£64M, subject to valuation.

On completion of construction the Council would purchase commercial units from the JV. The funding would be sourced through either the Public Works Loan Board or the open market to achieve the most advantageous rate for the Council.

The Council would be responsible for leasing to cinema operator, restaurant and office occupiers. The debt would be repaid using the Council's net income through rental revenue from Commercial units' occupiers.

The loan would be either on an "interest-only" or "blended debt repayment" basis. An interest-only payment takes the total loan amount and charges only an interest payment on this over the amortised life of the loan. At the end of the amortisation period, a large one-time payment is required to pay off the outstanding balance.

The blended debt repayment option, blends both the interest and principal payments into one payment. This will reduce the outstanding balance on the loan over its lifespan and in turn reduce interest payments as the loan reduces. It has options, therefore, to maximise income through rents, or reduction of debt.

Optimal exit years have been identified in Year 5, 10 and 27 to maximise the returns for the Council, based on an analysis of likely tenancy turnover and anticipated building expenditure.

The Council is familiar with the PWLB route and, given current interest on long term borrowings are low at present, that may be the best option.

Officers are aware of other investors who are interested in lending to local authorities in current economic circumstances, however, because they have a very good covenant.

7.2 Commercial loan structured as a sale and leaseback

Officers have had initial discussions with Aviva on a sale and leaseback deal. This was only for Block B, however.

The proposal is that the Council would enter into 125-year lease from Aviva, and then Aviva would provide funds for land and construction (subject to a retention to cover against cost-overruns).

The council would enter into a 50-year leaseback on completion and would also be responsible for leasing to cinema operator, restaurant and office occupiers.

The Council would have a contract with the Civic Campus JV (Council and A2Dominion) to build commercial units on time, to budget.

In this structure, the freehold would remain with the Council. Aviva will fund 100% of the development costs of the new office and cinema and take a long leasehold of 250 years with the option to collapse the lease on maturity of the term.

The Council will take a headlease back from Aviva for a period of 50 years and will be in charge of operating the buildings. This will include all operational leases and management of the buildings.

The Council would benefit from regeneration uplift in terms of increasing profit rents, and from increases in capital value, once the 50-year leaseback term has expired. But the Council has to accept a leaseback that is linked to the consumer price index (CPI).

The Council will receive a number of benefits from this funding option, including full open market value for its land interest on day one and 100% of project development costs on a flexible drawdown basis that would help to ensure the building programme is maintained.

In addition to this, the Council could receive an annual operating surplus from the building based on a projected positive variance in net operating income and the Aviva debt service.

The current figures (Block B only) suggest that over the 50-year lease term there is no significant difference in the borrowing costs between this option and the traditional PWLB or open market option.

Working with Aviva would provide an external "challenge" to Council assumptions during the development process, helping to support timely and effective delivery, and subsequent management of the completed project.

7.3 Long-term issues/risk analysis and management implications

The final decision on where the Council borrows the money will be made closer to finalising the forward purchase agreement with the JV as the Council will want to ensure it gets the best deal on offer at that time.

For modelling purposes officers have used a 2.81% interest rate plus set aside of MRP.

The recommended Option 2 is financially viable, however officers recognise that the Council must carry out scenario testing to ensure the investment is still viable where circumstances change.

Sensitivity analysis

The viability has been based upon the following assumptions:

- Colliers/Frost Meadowcroft assumptions on the operational costs and reviewed by BNP Paribas
 - Rental levels for each asset class, ie office, retail, restaurant, cinema and affordable workspace
 - Rental inflation at 2%
 - Cyclical repairs/lifecycle costs
 - Capital expenditure at lease ends
 - Re-leasing costs
 - Rent free periods on new lettings
 - Increase in capital value of the units

- S106 monies are available to enable the affordable workspaces and the use of them has been reflected in the sensitivities in 4.49 below

See the full options appraisal at Exempt Appendix A for more details

7.4 How could option 2 be funded?

Public Works Loan Board Funding or open market funding

The funding could be sourced through either the Public Works Loan Board or the open market to achieve the most advantageous interest rate for the Council.

Upon completion of the construction the Council would purchase the building from the JV at an agreed value, set out in the conditional sale agreement.

The interest and debt (minimum revenue provision) would be repaid using the Council's income through rental revenue from the occupiers. The loan would be either on an "interest-only" or "blended debt repayment" basis.

An interest-only payment takes the total loan amount and charges only an interest payment on this over the amortised life of the loan. At the end of the amortisation period, a large one-time payment is required to pay off the outstanding balance.

The blended debt repayment option, blends both the interest and principal payments into one payment. This will reduce the outstanding balance on the loan over its lifespan and in turn reduce interest payments as the loan reduces. It has options, therefore, to maximise income through rents, or reduction of debt.

The Council maintains control of the commercial units, but it can sell its interest at any time, if required for example if the commercial lettings are difficult to achieve or if the Council want to release capital for other uses. Optimal exit years have been identified in Years 7, 107 and Year 27 to maximise the returns for the Council. It is very common for commercial investors to sell out or re-finance and this proposal allows the Council to achieve similar flexibility.

Sale and leaseback

The funding could alternatively be sourced through a commercial loan structured as a sale and leaseback with a large institutional investor.

In this scenario, the Council would retain the freehold of the building but enter into 125-year lease with the investor, who would then lease it back to the Council. The lease back to the Council could be for a period of 30-50 years depending on the most advantageous financial position for the Council.

The investor would provide funds for land and construction (subject to a retention to cover against cost-overruns). The Council would enter into the leasing arrangement at the beginning of construction and would commit to pay the investor lease payments once the buildings have completed. The Council would separately contract with the Joint Venture to ensure the delivery of the commercial units on

time and on budget. At the end of the lease period the Council could purchase the reversionary interest for a £1.

As in the PWLB or open market alternative above, the risk for leasing the units is exactly the same and is retained by the Council see above. However, the exit route flexibility in the option is reduced as the investor would wish to control the sale to protect their loan. However, this option might provide for lower revenue costs in the early years of the investment whilst the revenue streams mature. The Council would benefit from regeneration uplift in terms of increasing profit rents, and from increases in capital value, once the 50-year leaseback term has expired. But the Council has to accept a leaseback that is linked to the consumer price index (CPI).

The Council will receive a number of benefits from this funding option, including full open market value for its land interest on day one and 100% of project development costs on a flexible drawdown basis that would help to ensure the building programme is maintained.

Preferred funding route

The preferred option route 2 will be tested by officers to ensure that the optimum loan facility is chosen. The decision on how the development should be funded is included in the delegation.

The Council also has the option to fund the units throughout construction if that proves financially more advantageous

Options compared

4.47 Benefits, risk and financial impact for the Council (not the JV) are compared in the table below:

NON-MONETARY BENEFIT	OPTION 1 Status Quo	OPTION 2 Purchase commercial units
Meets the Council's priorities	Possibly	Yes
Retain /attract talent to the Borough	Unknown	Yes
Improve commercialisation and future revenue opportunities for the Council	No	Yes
FINANCIAL IMPACT		
Purchase Price including costs	£nil	£64M
Interest Rate	N/A	2.81% and MRP

Hold Period	N/A	45 years with flexibility to sell or re-purpose
Viable	Yes	Yes
RISK	Low	Medium, but mitigations
Recommended	No	Yes

Recommended – Option 2

The conclusion of the above analysis suggests that Option 2 enables the Council to achieve its strategic objectives to:

- Benefit from the regeneration uplift the scheme will deliver
- Ensure the building's occupiers help to achieve the Council's Industrial Strategy
- To retain control of the campus as a whole, maintaining the appropriate long-term stewardship role for the Council in the regenerated campus
- Benefit from the long-term income streams and potential future capital receipts available from the investment.

The proposal shows a positive discounted cashflow for all modelled sensitivities – i.e. the investment would be expected to be favourable in cash terms for all scenarios as modelled.

However, it is important to also consider the impact on the Council's revenue position. There are scenarios in the sensitivity model where, while the overall investment may still be cash positive, the Council incurs a net revenue cost. Furthermore, at the extremes of the model this cost could be significant. This is because:

- The income in the model is a combination of capital and revenue; capital income (capital receipts) cannot be used to support revenue expenditure.
- The Council is obliged to make a charge to revenue over the life of the investment to set aside a provision to repay the underlying debt (known as the minimum revenue provision or MRP).

The base scenario currently shows a revenue positive position however this is currently at the margin and a ten to twenty basis point increase in interest rates would turn this negative.

There are some mitigations the Council could explore. For example, all ongoing expenditure is currently considered as revenue; much of this could feasibly be capital in nature. This would not alter the lifetime revenue cost but may help to manage peaks and troughs in the revenue forecast. However, this could also increase borrowing costs.

Changes to interest rates and net operating costs impact on the long-term performance of the investment as can be seen from the matrix in Appendix 1.

Interest rates will be fixed at the time the capital is borrowed and for modelling purposes a robust figure of 2.81% has been used.

Management implications and mitigation tactics

The longer-term risk concerns the ability to let and manage the units and to protect assumed net operational income. The following mitigations have been considered:

- If the office rents were lower than profiled or there were tenancy voids, then the Council could re-locate staff (and that of its partners) from other Council-owned properties to allow the assets to be sold or re-developed with an income. The cost/benefits of moving H&F staff into the office accommodation would need to be fully assessed so actual financial expenditures were understood
- The Council could consider letting space in the new Civic Campus (new top floor) on a commercial lease for an events company with some reserved times for community/civic uses
- The Council may wish to let out HTH space on a commercial basis to public sector partners too as further agile working is implemented
- Lease out space at 145 King Street to provide additional income.
- If there were voids within the new offices, meanwhile uses could be considered to generate short term income

Further mitigation to be considered as an exit route if the Council wished to realise a capital receipt:

- The Council could sell to sell a long lease of the office block at any time or it could sell the freehold of the office block and also the cinema and ancillary uses at the time. A marketing strategy including advice on tax and deal structure to realise capital receipts would be required. If the office was occupied by one occupier, then at a future date it might want to acquire a long lease of the block to have control over its location in the borough
- The Council may wish to grant a long lease of the new addition (under a long lease) offices at the Town Hall to secure a capital receipt

- A further option would be to sell the commercial assets to secure capital receipts as a contribution for a different regeneration or place-making project in the borough
- The Council could do a sale and leaseback at a future date, but this would result in a revenue pressure.

Soft market testing of the commercial units market

Officers have been working with Colliers and Frost Meadowcroft to soft test the current market for the commercial units. The latest position is:

Cinema

The previous redevelopment proposal by King Street Developments (KSD) included a cinema. This was included in KSD's planning application and is popular with local residents.

Our current planning permission requires a four-screen cinema. We have continued discussions with a cinema operator that has a diverse offering of Hollywood, Independent and Foreign Language film as well as streamed events such as Opera will appeal to residents.

We have, via Colliers, spoken to an operator who have made an offer to lease the cinema on a 25-year lease basis on terms reflected in the viability model.

Restaurant

Colliers have advised it may be beneficial to retain the restaurant until the long-term occupier of Block B offices is determined. This would mean the lessee of the offices could make use of the restaurant if they wished. Co-working operators routinely seek a café or restaurant as part of their offering to occupiers. The Council could still sell the restaurant on a long lease to an investor if it wishes.

Offices

Through our agents, Colliers and Frost Meadowcroft, we asked co-working companies if they would be interested in a suitable office scheme (without revealing the exact site) to be ready for occupation in four years' time. They said they would be interested and would require minimum space of 4000 sqm. A marketing pack is being put together so that we can start the soft market testing in more detail.

Retail & café units

As with the restaurant units the advice from Colliers is to wait until closer to completion before we market the retail units. However, there has been an interest in the larger unit from a convenience store operator. Officers are having initial discussions as they may be prepared to enter into an agreement for lease.

Affordable workspace

These units have not been soft market tested as yet, as we know there is a high demand for discounted workspace.

9 PLANNING AND TIMETABLE

Resolution to grant planning permission was achieved in February 2019, subject to a GLA review and finalisation of S106.

The conditional land sale and formation of the JV will therefore happen in December 2019 following expiry of the planning judicial review period.

There are nine conditions linked to the land sale agreement (see 3.2 above). The conditions that form part of the sale agreement will need to be satisfied by April 2020 to enable the main start on site in June 2020.

As the financial and risk impact of the Commercial units' condition is significant for the overall scheme the Council needs to make the decision whether to invest in the Commercial units in **December 2019**.

10 RECOMMENDATIONS

10.1 Recommend to Cabinet that the Council purchases the commercial units at the Civic Centre campus from the JV at a value of c£63M (subject to final valuation).

10.2 Recommend that Cabinet delegate authority to officers to agree final terms with the JV and to agree the most advantageous funding terms.

SPECIAL MOTION NO. 1 – HARWOOD TERRACE CLOSURE

Standing in the names of:

- (i) Councillor Mark Loveday
- (ii) Councillor Matt Thorley

This Council notes:

1. The serious problem of traffic experienced in residential parts of South Fulham throughout the Peterborough Estate, Hurlingham and Sands End and in particular along Harwood Terrace.
2. That on 21 October 2019, the Council closed Harwood Terrace to traffic at the junction with Imperial Road for an experimental period of 6 months.
3. That the impact of this closure has been enormous and divisive for the local community in South Fulham and has generated over 2,000 complaints.

This Council resolves:

1. Whilst acknowledging the Council's efforts to address serious traffic problems in Harwood Terrace, that the current "pilot" scheme is not fit for purpose and has had a disproportionate impact on other parts of the road network in South Fulham.
2. Agrees to terminate the experimental traffic scheme with immediate effect and reopen Harwood Terrace to vehicles.
3. Undertakes a proper and comprehensive traffic study in South Fulham.
4. Implements measures to residential streets in South Fulham which do not simply shift traffic onto other residential streets.

Agenda Item 7.2

SPECIAL MOTION NO. 2 – WELCOMING THE RETURN OF THE WEST KENSINGTON & GIBBS GREEN ESTATES

Standing in the names of:

- (i) Councillor Andrew Jones
- (ii) Councillor Zarar Qayyum

This Council thanks the Labour administration for winning the return of the West Kensington and Gibbs Green estates and agrees the former Conservative administration should never have sold them in the first place.

The Council notes that as well as it being morally wrong for the former Conservative administration to have sold the estates against the residents' wishes, it was also one of the worst property deals done by any local authority in modern history.

The Council notes with alarm that:

- At the time of the sale to Capital and Counties Properties Plc (Capco), the whole Earls Court scheme was valued at £12.05 billion but that the two estates, which comprise 20.87 acres and make a high proportion of the Earls Court scheme were sold for just £110 million.
- The Conservative administration negotiated just 11% 'affordable' housing – most of which would have been unaffordable to local people.
- The deal done on replacement council homes was not linked to inflation and therefore not sufficient to provide replacement homes for the vast majority of residents. That meant:
 - The vast majority of tenants would not have been given new homes on the scheme and would have needed to be re-housed elsewhere
 - Leaseholders and freeholders would only have been given the legal minimum sum and therefore unlikely to afford to stay in Hammersmith & Fulham
 - Temporary tenants would not have been re-housed in this deal.

The Council recognises that the Conservative administration planned a similar approach for the rest of the borough's council housing and had talks with developers about doing the same to residents' homes on:

- The Clem Atlee estate
- The Queen Caroline estate

- Ashcroft Square
- Linacre Court
- The White City estate
- And many others

The Council also notes that the Capco Earls Court scheme was deemed undeliverable and that the company was openly seeking a larger masterplan to further increase the value of the scheme while travelling around the world trying to sell the whole Earls Court scheme, including our residents' homes, to a variety of buyers in China, Saudi Arabia, and elsewhere.

The Council also notes how Capco's Earls Court scheme collapsed in value and was sold in November 2019 for just £425million.

The Council calls on Hammersmith & Fulham's Conservative councillors, and Greg Hands MP to apologise for their active and ignorant support of Capco's dreadful Earls Court scheme and for their local party causing such huge levels of anxiety and worry to thousands of people living on the West Kensington and Gibbs Green estates and to people living in council homes across the borough.

The Council thanks the residents of the West Kensington and Gibbs Green estates for their bold fight and their resilience and welcomes them back.