

COMMISSIONERS' INDIVIDUAL DECISION MAKING

Wednesday, 15 March 2017


Commissioners' Decision Log No. 75

1. **ACADEMY CONVERSIONS: BYGROVE AND STEBON PRIMARY SCHOOLS (Pages 1 - 28)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Democratic Services
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Agenda Item 1

Individual Commissioner Decision Decision Log No: 075	 TOWER HAMLETS
Report of: Corporate Director, Place	Classification: Unrestricted
Academy Conversions: Bygrove and Stebon Primary Schools	

Is this a Key Decision?	No
Decision Notice Publication Date:	N/A
General Exception or Urgency Notice published?	Not required
Restrictions:	None

EXECUTIVE SUMMARY

This report seeks Commissioners' approval for the council's proposal to grant a 125-year lease to the academy trust for the site known as Stebon Primary School. The Commissioners are asked to note that the council will be surrendering its lease for the site known as Bygrove Primary School, in order to allow a new lease to be agreed between the Westminster Diocese and the academy trust. These were considered and agreed by the Mayor in Cabinet on 7th March 2017.

The attached Cabinet report sets out the details of the proposal. The decision sheet from Cabinet is also attached.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

DECISION

The Commissioners are recommended to:

1. Provide their prior written agreement that the council may enter into a lease for the site known as Stebon Primary School with the academy trust;
2. Note that, as per the Department for Education's guidance, the lease will be for a 125-year term at a peppercorn rent;
3. Note that the council will be surrendering the lease for the site known as Bygrove Primary School, in order to allow a new lease to be agreed between Westminster Diocese and the academy trust.

APPROVALS

1. **(If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Commissioners.

Signed  Date 15/3/2017

2. **Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 15/3/17

3. **Monitoring Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

~~(For Key Decision only — delete as applicable)~~

~~I confirm that this decision—~~

~~(a) has been published in advance on the Council's Forward Plan OR~~

~~(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.~~

Signed  Date 15/03/17

4. **Commissioner** 

I agree the decision proposed in paragraph above for the reasons set out in paragraph 1 in the attached Cabinet report.

Name MAY CAWLEY CBE Signed 

Date 15/3/17

Name Signed

Date


Name Signed

Date

Name Signed

Date

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Cabinet 7 March 2017	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director, Children's Services and Graham White, Interim Corporate Director, Governance	Classification: Unrestricted
Academy Conversions: Bygrove and Stebon Primary Schools.	

Lead Member	Councillor Rachael Saunders, Deputy Mayor and Cabinet Member for Education and Children's Services.
Originating Officer(s)	Layla Richards, Service Manager Policy Programmes and Community Insight. Peter Stone, Academy Conversions Project Manager.
Wards affected	Lansbury and Mile End
Key Decision?	Yes
Community Plan Theme	A great place to live A fair and prosperous community A safe and cohesive community A healthy and supportive community.

Executive Summary

This report asks for Mayoral approval for completion of lease arrangements and commercial transfers, related to the academy conversions of Bygrove and Stebon Primary Schools.

Both schools have indicated their wish to convert to academies on 1 April 2017.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree to the grant of a 125-year lease to the new academy trust for Stebon Primary School;
2. Note that the proposed grant of a 125 year lease to the new Academy Trust for Stebon Primary School will be subject to the Commissioners' consent;
3. Agree that the Council's existing lease for Bygrove Primary School site may be surrendered, in order to allow a new lease to be agreed between

the Westminster Diocese and the academy trust;

4. Authorise the Corporate Director, Place, to agree the final terms and conditions for the grant of the new lease for Stebon Primary School and the surrender of the existing lease for Bygrove Primary School;
5. Approve the Council to enter into commercial and staffing transfer agreements for both schools;
6. Authorise the Corporate Director, Children's Services, after consultation with the Acting Corporate Director, Governance and the Corporate Director, Resources to enter into and undertake any remaining issues and/or agreements associated with the conversion of the two schools;
7. Authorise the Acting Corporate Director Governance to execute all documentation required to implement the decisions;
8. Authorise the Corporate Director, Resources to execute the Local Government (Contract) Act 1997 Certificate required to implement the decisions.

1. REASONS FOR THE RECOMMENDATIONS

- 1.1 Both schools are maintained community schools and received academy orders dated 17 October 2016. The schools intend to convert simultaneously and form a new multi academy trust.
- 1.2 Both schools have indicated their wish to convert to academies on 1 April 2017.

2. ALTERNATIVE OPTIONS

- 2.1 There is no alternative to the planned course of action. Once applications from Governing Bodies have been approved by the Secretary of State, the expectation is that the local authority will work with schools on all transfer matters.

3. ACADEMY CONVERSION

Background

- 3.1 Conversion usually involves two key transactions for the Council, these being the land transfer and commercial transfer. The commercial transfer deals with the transfer of existing contracts, staff, associated assets and liabilities and is effected by a Commercial Transfer Agreement ("CTA"). The Council is the employer of staff at both schools in this case and staff consultation will be carried out with the support of the Council's HR team. Execution of the CTA is the final severance between the school and the local authority.

- 3.2 Both schools currently planning to convert are community schools. The Council owns the land on which Stebon School is situated but holds the Bygrove site on a lease from Westminster Diocese. The expectation is that the Council will transfer the land of Stebon School to the Academy Trust and will, if necessary, surrender its lease of the Bygrove site if that is required for the Trust to acquire an interest. The Guidance from the Department of Education is that the transfer of Council land is to be by way of a 125 year lease for a peppercorn rent. Failure to transfer or to delay transferring can lead to intervention by the DfE under the Academies Act 2010. The lease seeks to protect the Council's interests in the following ways:
- the stipulated use in the lease is for education purposes and community, fundraising and recreational purposes ancillary to the provision of educational services;
 - not to assign/transfer the lease to anybody other than a successor charitable or public body approved by the Secretary of State;
 - not to take out any charge or loan on the schools without prior approval by the Council;
 - not to underlet the whole of the school or underlet part for a term in excess of seven years;
 - the lease will automatically end upon termination of the funding agreement between the school and the Department for Education (DfE).
- 3.3 As these conversions will involve "disposal" of land, the Commissioners' consent is required.

Conversion process – property implications

- 3.4 The Council owns the land and buildings of Stebon School. It is proposed that the Council will enter into a lease for 125 years with the trust under the standard form of academy lease. There are no special matters requiring additional consents.
- 3.5 The Council holds the Bygrove site on a lease from Westminster Diocese. The current lease is for 10 years until 2020. The school, the DfE and the Diocese are working to agree the lease arrangements for the academy trust. The Council is not party to the proposed new lease but will agree to surrender the existing lease for a new lease to take effect.

Conversion process – commercial transfer

- 3.6 In general, the Commercial Transfer Agreement (CTA) is intended to ensure that all information on the transferring staff is recorded and transferred to the academy trust so that the appropriate arrangements for payment of salaries, pension contributions, etc. can be made. The CTA also includes details of any assets, liabilities and contracts that will transfer to the academy trust and those that will remain with the local authority.
- 3.7 In both cases there will be transfer of staff, as the LA is the employer. Staff are entitled to transfer under their existing employment terms and conditions,

under the Transfer of Undertakings Protection of Employment (TUPE) Regulations 2006 as amended. The newly formed trust must inform the current employer (the LA) in writing, of any measures it envisages taking in relation to staff after transfer. For Bygrove Primary School this may affect up to 48 LA employees and for Stebon Primary School, up to 112 employees.

- 3.8 The consultation will be led by the Schools in conjunction with the Local Authority.
- 3.9 As regards pensions, when a maintained school becomes an academy, they must continue to provide access to the Teachers' Pension Scheme (TPS) for teaching staff and remit contributions to the TPS. Support staff who transfer will simply continue their membership of the Local Government Pension Scheme (LGPS), as an academy is a scheme employer in the LGPS. On conversion, the school becomes a separate employer in the LGPS and a separate employer contribution rate will need to be calculated by the relevant LGPS fund.
- 3.10 The contribution rate is made up of two elements; the cost of future benefit accrual and a proportion of the cost of meeting the past service deficit. In setting the rate for recovery of the past service deficit, specific advice has been sought in relation to pensions liabilities. The recommended approach, in accordance with guidance from the Pensions Committee is to allow for a twenty year recovery period for the amount of deficit attributable to active transferring members, together with that attributable to deferred and pensioner members of the LBTH Local Government Pension Scheme, to all schools converting to academies on or after 1st April 2017.
- 3.11 Both schools have a number of Service Level Agreements ("SLAs") with the Council. It may be that the schools will confirm their intention to carry on with these arrangements post conversion, at which point they will be able to enter into new contracts with the Council, like any other school.

Conversion Process - Assets (not including land and buildings)

- 3.12 An asset register is being completed and all "other" assets will be transferred to the respective academies.

Conversion Process - Contracts

- 3.13 All contracts and licences currently held by the schools are being confirmed, along with the schools' intentions regarding the continuation of the contracts.
- 3.14 If the contracts are to cease, any remaining liabilities will be transferred via the CTA. All continuing contracts will be novated.

4 CONTINUING RELATIONSHIP

Admissions

- 4.1 All academies are required to adopt clear and fair admission arrangements in line with admissions law and the School Admissions Code. When schools convert, they become admission authorities and therefore responsible for their own admission arrangements. This will involve periodic consultation, and regularly publishing their admission arrangements.
- 4.2 The Council retains the responsibility for ensuring that all children and young people in the borough have a school place. Stebon and Bygrove schools have expressed their intention to adopt the admissions arrangements that the Local Authority uses for its community schools. Each school is aware that it **must** continue to participate in the Local Authority's arrangements for the co-ordination of admissions at the various points of entry as well as the local Fair Access Protocol, which ensures that - outside the normal admissions round - unplaced children, especially the most vulnerable, are placed in school quickly.

Special Education Needs

- 4.3 Local authorities retain responsibility for pupils with statements or Education, Health and Care (EHC) plans in academies on the same basis as for such pupils in maintained schools. The Local Authority will continue to commission special places and they must:
- ensure that academy pupils are appropriately assessed and have EHC plans as part of the entry criteria
 - consider parents' representations for an academy to be named on an EHC plan and act reasonably in considering those representations
 - fund any individually assigned SEN Top up resources
 - monitor arrangements for SEN pupils in academies
 - conduct reviews of the SEN statements or EHC plans of children in academies at least annually and each six months for children under five.

Exclusions

- 4.4 The DfE statutory Guidance on Exclusion is equally applicable to Academies and Free Schools. Whilst Academies are not required to invite the LA Exclusions Officer to Governors' Pupil Discipline Committee hearings, parents can request the LA Exclusions Officer to attend the hearing. Schools often seek advice on the use of exclusions. Especially as much greater emphasis is now placed on avoiding indirect (or direct) discrimination against vulnerable groups of pupils. There can also be additional financial implications for the school, on top of any funding that would normally follow an excluded pupil.

Trading

- 4.5 The Council will continue to offer a range of support services to academies and free schools on a traded basis. Academies are currently charged an additional 10% for services as there are additional administrative costs to the Council. It is proposed that any existing SLAs are honoured at current rates until the date of conversion.

School Forum

- 4.6 Under the School Forum Regulations 2012, the Council was required to secure representation from academies in proportion to the number of pupils. In July 2012, the LBTH School Forum agreed to increase the membership of the Schools Forum with one academy representative to comply with those Regulations.

Insurance

- 4.7 Schools must ensure that adequate insurance cover has been arranged prior to conversion, to take effect from midnight at the date of conversion. The DfE has produced a guidance note on the issues arising from this and the way in which costs are reimbursed.

Landlord responsibilities

- 4.8 Where the Council owns the freehold of a school site it will become the landlord in respect of the 125 year academy lease. The Council's landlord role is limited, consistent with the existence of a long term lease. It has a right to check that the academy is meeting its obligations under the lease including as to repairs and maintenance, statutory compliance and insurance.

Policies

- 4.9 Academies are required to have the following policies and other documents in place, by law.

Statutory policies required by education legislation:

- Charging and remissions policy
- School behaviour policy
- Sex education policy
- Special educational needs policy.

Statutory policies required by other legislation, which particularly impact on schools:

- Data protection
- Health and safety
- Accessibility Plan
- Central record of recruitment and vetting checks
- Complaints procedure statement

- Freedom of information
- Home-school agreement document
- Minutes of, and papers considered at, meetings of the governing body and its committee
- Premises management documents
- Equality information and objectives (public sector equality duty) statement for publication
- School information published on a website
- Register of pupils' admission to school
- Register of pupils' attendance
- Staff discipline, conduct and grievance (procedures for addressing).

Documents referenced in statutory guidance:

- Child protection policy and procedures
- Early Years Foundation Stage
- Statement of procedures for dealing with allegations of abuse against staff
- Supporting pupils with medical conditions.

5 COMMENTS OF THE CHIEF FINANCE OFFICER

- 5.1 As Academies the schools will in future receive funding from the Education Funding Agency, with the vast majority of their funding based on the same formula as for maintained schools. The only differences being for those services for which funding has been de-delegated for maintained schools, with the agreement of the School Forum.
- 5.2 Schools which convert to academy status between April and August 2017 will receive Education Services Grant funding at the current rate of £77 per pupil prorated to the number of days open as an academy. Each academy school will also receive grant funding to meet the additional VAT that they incur and to meet their insurance costs. A grant of up to £25,000 for each school is available to assist with their cost of conversion.
- 5.3 The Council currently does not receive a direct source of funding to cover the costs linked to academy conversion. However there is an opportunity to apply for the '*Academy conversion grant for local authorities*', a one-off grant of between £35,000-£65,000. The deadline for applying was 10th February 2017. An application was made and the outcome expected on 24th February. An update will be given to Cabinet on 7th March. If grant funding is not awarded, this is likely to impact project timescales and incur additional Council expenditure.
- 5.4 Any accumulated surplus of the schools will also transfer with them on conversion. However, these amounts will be updated for 2016/17 when the year end balances are finalised.

- 5.5 In order to protect the Council, the appropriate financial arrangements have been made for assets and ensuring financial liability transfers with those assets, as per the Commercial Transfer Agreement.

6 LEGAL COMMENTS

- 6.1 The Academies Act 2010 (**'the 2010 Act'**) introduced a fast track procedure for maintained schools wishing to transfer to academy status. The Act provides a procedure for the transfer of assets, land and buildings to the newly established academy. Section 5B(1) of the 2010 Act provides that where an Academy order has effect in respect of a school, the governing body of the school and the Council must take all reasonable steps to facilitate the conversion of the school into an Academy. Section 5B(2) of the 2010 Act provides that where the Secretary of State notifies the governing body or Council that the Secretary of State is minded to enter into Academy arrangements with a specified person then they are under a duty to take all reasonable steps to facilitate the making of Academy arrangements with that person. This therefore imposes a statutory duty on the Council.
- 6.2 Both schools are maintained community schools. The 2010 Act requires Academies to follow the same statutory framework for Special Educational Needs (SEN) as Council schools. Schools will receive funding for children with statements of SENs/Education Health Care Plans ('EHCP') in the same way, whether they are Academies or local authority schools. If children have statements/EHCPs with an enhanced package of support, both types of school will get additional funding directly from the Council, again, in the same way. Where children have special needs, but do not have a statement/EHCP, once again, Academies are required to have regard to the Code of Practice for SEN in exactly the same way as Council schools. This means that in both types of school, children will be supported according to the level of need and involvement of external agencies.
- 6.3 The Council owns the land and buildings at Stebon School. The Council will be required to grant the Trust a 125 year lease for a peppercorn rent. The Bygrove school site is currently held by the Council under a 10 year lease expiring in 2020 from the Diocese of Westminster. The parties will need to agree a surrender of existing lease and agree to grant a new 125 year lease to the Trust.
- 6.4 The DfE's expectation is that all land and facilities used wholly or mainly for the purpose of the converting school will transfer on an "as is" basis and be made available to the academy in accordance with the mechanisms set out in the guidance titled "Land Transfer Advice 2013". Under the Education Acts, local authorities require the consent of the Secretary of State to dispose of any interest in land. This includes where a school converts to academy status. Consent would normally involve application to the Secretary of State through the Education Funding Agency, but in the case of conversions, this need for consent is taken forward as part of agreeing the conversion, and the Department of Education ('DfE') does not require a distinct application.

- 6.5 The requirement for a 125 year lease is not contained in statute, but is the expectation of the DfE and the DfE provides model leases on its website and which can be used. There are also model land clauses preventing the academy trust from disposing of its leasehold interest in the public land and which will need to be included in the relevant academy's Funding Agreement.
- 6.6 The DfE expects local authorities and schools to take timely steps to ensure that such transfers are completed in time for conversion. However, in circumstances where the parties concerned cannot reach agreement and/ or in the DfE's view there are unacceptable delays to the process then the Secretary of State can exercise powers under Schedule 1 of the 2010 Act to either make a scheme compulsorily transferring school land, or a scheme or direction transferring any existing interest, rights, or liabilities.
- 6.7 The Direction issued by the Minister on 17th December 2014 (as amended) requires the Council, until 31st March 2017, to *"..... obtain the prior written agreement of the Commissioners **before** entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation."* Therefore, as this report involves the disposal of land by way of a 125 year lease, written consent will be required before any commitment to dispose takes place.
- 6.8 As to the transfer of assets (other than land), contracts and employees, this is done by way of a "commercial transfer agreement" and is based on the model transfer agreement as published by the DfE.
- 6.9 As set out in the report, it is considered that the Transfer of Undertakings (Protection of Employees) ("TUPE") Regulations 2006 apply to this academy transfer and to the staff of the existing two primary schools.
- 6.10 The model transfer agreement deals with the transfer of things necessary for the operation of the Academy, namely:
- Transfer of Assets
 - Assignments/novation of contracts
 - Employee/TUPE issues
- 6.11 Typical terms of the model transfer agreement also cover issues such as:-
- Transfer and apportionment of assets
 - Transfer, novation/apportionment and termination of contracts which are either school specific or council wide contracts
 - transfer of employees in accordance with TUPE regulations e.g. staffing information and warranties, apportionments, information and consultation, indemnities and warranties, pensions
 - transfer of records e.g. documents on personnel, pupils
- 6.12 In preparing this documentation account is taken of any contracts that need to be novated or assigned to the Academy e.g. for existing equipment. Where the school is receiving services under Service Level Agreements from the

Council and wishes to continue these arrangements, the Service level Agreements are converted into formal contracts.

6.13 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not. There are no direct equality implications arising from the proposed transactions as they are statutorily required to be made but relevant considerations have been made in the One Tower Hamlets Section of the report.

6.14 The Council is currently engaged via external counsel in negotiating a CTA with another school in the borough which also wishes to convert. This document should form a standard template for use in further school conversions. This will ensure parity of treatment of any schools that seek to convert in the future and produce efficiencies in the Council's internal processes.

7 ONE TOWER HAMLETS CONSIDERATION

7.1 Both schools work collaboratively to enable all children to experience the best possible educational opportunities, outcomes and life chances. Bygrove and Stebon schools are members of the developing Tower Hamlets Education partnership.

8 BEST VALUE (BV) IMPLICATIONS

8.1 None Identified.

9 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

9.1 None identified.

10 CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 None identified.

11 SAFEGUARDING IMPLICATIONS

11.1 New statutory guidance for schools and colleges will come into effect from September 2016. This updated guidance lays greater emphasis on schools and colleges and their staff being part of a wider safeguarding system for children, as described in "Working Together to Safeguard Children" (March 2015) and the need to fulfil responsibilities in relation to this. On conversion, the LA will continue to work collaboratively with both schools, to safeguard and promote the welfare of all children in the borough.

Linked Report

None.

Appendices:

None.

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None.

Officer contact details for documents:

Layla Richards
Service Manager Policy Programmes and Community Insight
Ext: 2364

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LONDON BOROUGH OF TOWER HAMLETS
RECORD OF THE DECISIONS OF THE CABINET
HELD AT 5.05 P.M. ON TUESDAY, 7 MARCH 2017

**C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG**

Members Present:

Mayor John Biggs	
Councillor Sirajul Islam	(Statutory Deputy Mayor and Cabinet Member for Housing Management & Performance)
Councillor Shiria Khatun	(Deputy Mayor and Cabinet Member for Community Safety)
Councillor Rachael Saunders	Deputy Mayor and Cabinet Member for Education & Children's Services
Councillor Rachel Blake	(Cabinet Member for Strategic Development)
Councillor Asma Begum	(Cabinet Member for Culture)
Councillor David Edgar	(Cabinet Member for Resources)
Councillor Amy Whitelock Gibbs	Cabinet Member for Health & Adult Services

Other Councillors Present:

Councillor Peter Golds	(Leader of the Conservative Group)
Councillor Abdul Mukit MBE	
Councillor John Pierce	
Councillor Andrew Wood	

Officers Present:

Mark Baigent	(Interim Divisional Director, Housing and Regeneration)
John Coker	(Strategic Housing Manager, Place)
Margaret Cooper	(Section Head Transport & Highways, Public Realm, Communities Localities & Culture)
Shalina Hussain	(Communications Officer, Communications, Chief Executive's)
Judith St John	(Acting Divisional Director, Sports, Leisure and Culture)
Debbie Jones	(Corporate Director, Children's)
Neville Murton	(Divisional Director, Finance, Procurement & Audit)
Matthew Pullen	Infrastructure Planning Team Leader
Denise Radley	(Corporate Director, Health, Adults & Community)
Karen Sugars	(Acting Divisional Director, Integrated Health)
Ann Sutcliffe	(Divisional Director, Property & Major Programmes)
Will Tuckley	(Chief Executive)
Graham White	(Acting Corporate Director, Governance)

Melanie Aust	(Business, Enterprise, High streets & Town Centres Manager)
Dr Somen Banerjee	(Director of Public Health)
Peter Robbins	Head of Mayor's office
Matthew Mannion	(Committee Services Manager, Democratic Services, Governance)

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of:

- Councillor Ayas Miah
- Councillor Joshua Peck

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

There were no Declarations of Disclosable Pecuniary Interest.

3. UNRESTRICTED MINUTES

DECISION

1. That the unrestricted minutes of the Cabinet meeting held on Tuesday 7 March 2017 be approved and signed by the Mayor as a correct record of proceedings.

4. OVERVIEW & SCRUTINY COMMITTEE

4.1 Chair's Advice of Key Issues or Questions

Nil items.

4.2 Any Unrestricted Decisions "Called in" by the Overview & Scrutiny Committee

Nil items.

5. UNRESTRICTED REPORTS FOR CONSIDERATION

5.1 Tower Hamlets Carers Strategy 2016 - 2019

DECISION

1. To note the contents of this report and approve the Carers' Strategy, 2016-19 attached as Appendix 1 to the report.

2. To note the contents of the Carers' Dignity Charter which has been co-designed with carers, with a recommendation that it is endorsed by the council and health partners.

Action by:

CORPORATE DIRECTOR, HEALTH, ADULTS AND COMMUNITY (D. RADLEY)

CORPORATE DIRECTOR, CHILDREN'S SERVICES (D. JONES)

(Service Manager, Strategic Commissioning)

Reasons for the decision

Tower Hamlets Carers' Strategy, 2012-2015 has come to an end and needs to be refreshed. Within this time there have been a number of major legislative and policy changes within health and social care that impact on carers. This includes the refreshed 2014/16 National Carers' Strategy, 'Recognised, Valued and Supported, the next steps for the Carers' Strategy', the Children and Families Act 2014, and the Care Act 2014.

The Care Act 2014 and Children and Families Act 2014 require local authorities to be proactive in identifying carers, to assess the needs of carers in their own right and to provide support which meets their needs. These legislative changes put further emphasis on the need for support to carers, both locally and nationally and the present strategy seeks to capitalise on that opportunity. The refreshed Tower Hamlets Carers' Strategy will ensure that the existing systems and processes meet the needs of unpaid carers of all ages and that the Council complies with its legal obligations in a clear and transparent way.

This strategy has also been produced as a direct response to a health scrutiny challenge session, held on 13th May 2015 at Tower Hamlets Carers' Centre. The challenge session focused on how the Care Act 2014 had been implemented locally, specifically in relation to the council's duty to support unpaid carers. A key recommendation made at this challenge session was "that the Carers' Strategy be developed in partnership with local service providers, the Carers' Forum and in consultation with local carers". Key recommendations from the health scrutiny challenge session have been embedded into the new Tower Hamlets Carers' Strategy. The strategy responds to the invaluable feedback we received from individual carers, the Carers' forums, and professionals.

Alternative options

The alternative option is to do nothing, which means the council is at reputational risk of not meeting its obligations to carers. Additionally, the strategy is designed to support the delivery of excellent services for carers in the borough. If the Council took no action to support carers, there is a high risk of the caring relationship breaking down and individuals losing their independence and control. It might also place added pressure on budgets for directly-provided care and increase the numbers of people entering residential care provision.

5.2 Consultation on Health and Wellbeing Strategy 2017-2020 -summary of findings and implications

DECISION

1. To note the findings of the consultation and the approach to delivering the strategy.
2. To approve the Strategy.

Action by:

CORPORATE DIRECTOR, HEALTH, ADULTS AND COMMUNITY (D. RADLEY)

(Director of Public Health (S. Banerjee))

Reasons for the decision

The purpose of the decision is to formally approve the Tower Hamlets Health and Wellbeing Strategy that has been developed by the Tower Hamlets Health and Wellbeing Board following a period of consultation between the 11th November and 23rd December

Alternative options

To proceed with the strategy without formal approval.

5.3 Leasehold Alterations, and Housing Parcel of Land Sales Policies

DECISION

1. To agree the Leasehold Alterations policy set out in **section 3** of the report, and detailed in Appendix 1 and 2 to the report.
2. To agree the Housing Land Sales policy set out in **section 4**, and detailed in Appendix 3 to the report.

Action by:

CORPORATE DIRECTOR, PLACE (A. DALVI)

(Interim Service Head Regeneration, Strategy, Sustainability and Housing Options (M. Baigent))

(Housing Client Manager (J. Kiwanuka))

(Head of Asset Management (R. Chilcott))

Reasons for the decision

The Council's sale of housing owned land policy and procedure seeks to ensure that land sales are dealt with consistently and best value is always sought. The Council also has a separate responsibility to deal ethically and fairly with all potentially interested parties. This means that any party who may have an interest in making an offer for housing land has the opportunity to do so in circumstances no less favourable than any other party.

The Council is obliged to seek 'best consideration' upon disposal of any asset, (as required by Section 123 of the Local Government Act 1972). This means that the Council is under a statutory and public duty to obtain the best price reasonably obtainable for any property, or land, which it sells. In the last few years, the Council has received an increasing number of enquiries with regards to a) sales of communal grounds for use as private garden, and b) sales of communal drying rooms, lofts and storage spaces. Therefore it is necessary to review the original policy so as to set out an approach towards the discretionary sale of HRA Land and to make it clear from the outset what areas the Council will consider in terms of the disposal of its assets.

Under the terms of their lease, leaseholders are able to request that the landlord considers requests for alterations and the Council has a duty to consider such applications. This allows the Council, like other social landlords, to manage its assets by preventing unauthorised alterations and improvements which can adversely affect its buildings both internally and externally. The Council and Tower Hamlets Homes (THH) have become aware that there are an increasing number of such unauthorised alterations. Therefore, the Council has reviewed its approach to give clear guidance as to what type of alterations is acceptable and prevent the increase in unauthorised alterations.

Alternative options

Residents' expectations and Council priorities have changed since 2011 and 2004 when policies for leasehold alterations and housing land sales were agreed respectively.

Retaining the policies in the current form would not serve the aspiration of the Council and that of the residents. Therefore, it is of significant importance for the Council to refresh its policies to be consistent and equitable to the residents' expectations and its aspirations.

Leaseholders have applied for Council consent on a range of works both internal and external; this report proposes a new and more systematic policy for the Council with clearer definitions of the different types of alterations and the criteria for authorising them.

5.4 The Infrastructure Delivery Framework: Approval of S106 Funding to Roman Road Town Centre Delivery Project

DECISION

1. To approve the allocation of **£331,197** of S106 funding to the **Roman Road Town Centre Delivery Project** as profiled in the Project Initiation Document attached at Appendix A to the report and Table 1 in the report.
2. To approve the adoption of a capital budget for **£327,000** as profiled in the Project Initiation Document attached at Appendix A to the report and Table 2 in the report.

Action by:

CORPORATE DIRECTOR, PLACE

(Business, Enterprise, High streets & Town Centres Manager (M. Aust))

Reasons for the decision

Approval is sought to deliver this project for the following reasons:

1. The project will help contribute to the delivery of positive improvements to people's lives that will underpin the Community Plan themes of:
 - A Great Place to Live;
 - A Fair and Prosperous Community;
 - A Safe and Cohesive Community.
2. They will improve the wellbeing of residents and workers; improve the economic vitality of Roman Road East Town Centre, including employment and enterprise opportunities, as well as overall levels of public participation.

Please refer to the attached Project Initiation Document (PID) for more information about the projects.

Alternative options

The expenditure items within the attached PID can be individually or collectively approved. The only alternative option is to not allocate the funding to some or any of these projects.

It should be noted that the use of S106 funding proposed for allocation in this report is restricted, as it must be spent in accordance with the terms and conditions of its expenditure pertaining to a specific S106 agreement related to the development from which it originates. This may restrict the spend of S106 funding for certain infrastructure types or projects and also by the geographic location of the project.

Any alternative spend of this funding would have to be on the projects that would meet the requirements of the relevant S106 agreement.

5.5 Local Implementation Plan - Delivery Plan Update

DECISION

1. To note the reallocation of the schemes proposed for funding in the LIP Delivery Plan 2017-18 (Appendix 1 to the report).
2. To note that the schemes were approved in the Council's 2017/18 Capital Programme in the January 2017 Cabinet Budget Report.
3. To agree that where possible the Council's Framework Contracts for Highways (CLC 4371) be used for the implementation of these works as appropriate.

Action by:

CORPORATE DIRECTOR, PLACE (A. DALVI)

(Head of Engineering (M. Cooper))

Reasons for the decision

Financial Regulations require the adoption of capital estimates for specific schemes to authorise expenditure by Council Officers on the delivery.

Alternative options

None considered.

5.6 Academy Conversion - Bygrove and Stebon Primary Schools

DECISION

1. To agree to the grant of a 125-year lease to the new academy trust for Stebon Primary School;
2. To note that the proposed grant of a 125 year lease to the new Academy Trust for Stebon Primary School will be subject to the Commissioners' consent;
3. To agree that the Council's existing lease for Bygrove Primary School site may be surrendered, in order to allow a new lease to be agreed between the Westminster Diocese and the academy trust;
4. To authorise the Corporate Director, Place, to agree the final terms and conditions for the grant of the new lease for Stebon Primary School and the surrender of the existing lease for Bygrove Primary School;
5. To approve the Council to enter into commercial and staffing transfer agreements for both schools;

6. To authorise the Corporate Director, Children's Services, after consultation with the Acting Corporate Director, Governance and the Corporate Director, Resources to enter into and undertake any remaining issues and/or agreements associated with the conversion of the two schools;
7. To authorise the Acting Corporate Director Governance to execute all documentation required to implement the decisions;
8. To authorise the Corporate Director, Resources to execute the Local Government (Contract) Act 1997 Certificate required to implement the decisions.

Action by:**CORPORATE DIRECTOR, CHILDREN'S SERVICES (D. JONES)****ACTING CORPORATE DIRECTOR, GOVERNANCE (G. WHITE)**

(Service Manager, Policy, Programmes and Community Insight (L. Richards))

(Academy Conversions Project Manager (P. Stone))

Reasons for the decision

Both schools are maintained community schools and received academy orders dated 17 October 2016. The schools intend to convert simultaneously and form a new multi academy trust.

Both schools have indicated their wish to convert to academies on 1 April 2017.

Alternative options

There is no alternative to the planned course of action. Once applications from Governing Bodies have been approved by the Secretary of State, the expectation is that the local authority will work with schools on all transfer matters.

5.7 Best Value Action Plan: Fourth 6 monthly update report**DECISION**

1. To agree the final 6 monthly update prior to submission to the Secretary of State (Appendix 1 to the report);
2. To agree the Best Value arrangements for 2017 – 18 as set out in paragraph 3.6 of the report.
3. To agree the Best Value Improvement Plan 2017-18 (Appendix 2 to the report) which will be monitored on a six monthly basis by Cabinet and the Overview and Scrutiny Committee;

Action by:**ACTING CORPORATE DIRECTOR, GOVERNANCE (G. WHITE)**

(Divisional Director, Strategy, Policy and Equality (S. Godman))

Reasons for the decision

The Council is required to monitor the Best Value Action Plans to comply with Secretary of State Directions. The Best Value Improvement Plan 2017-18 details the Council's improvement journey during the next financial year.

Alternative options

The Council is required to comply with Secretary of State Directions. The actions within the plans have been the subject of consultation with a range of parties, and the Commissioners, which has considered alternative options.

The Council can take no actions next year. This is not recommended as the Best Value Improvement Plan supports the continuous improvement across the areas found in the Best Value Plans.

5.8 Corporate Budget Monitoring - Month 9 (Q3 2016/17)**DECISION**

1. To note the Council's Revenue and Capital financial forecast outturn position as at the end of December 2016 as detailed in Sections 3 to 8 of the report.
2. To note the summary savings position and management action being taken.
3. To note the summary Balance Sheet Information.

Action by:

CORPORATE DIRECTOR, RESOURCES (Z. COOKE)
(Chief Accountant (K. Miles))

Reasons for the decision

The regular reporting of Revenue and Capital Budget Monitoring information provides detailed financial information to members, senior officers and other interested parties on the financial performance of the council. It sets out the key variances being reported by budget holders and the management action being implemented to address the identified issues.

Set alongside relevant performance information it also informs decision making to ensure that members' priorities are delivered within the agreed budget provision.

It is important that issues are addressed to remain within the approved budget provision or where they cannot be contained by individual service management action, alternative proposals are developed and solutions proposed which address the financial impact; Members have a key role in approving such actions as they represent changes to the budget originally set and approved by them.

Alternative options

The Council could choose to monitor its budgetary performance against an alternative timeframe but it is considered that the reporting schedule provides the appropriate balance to allow strategic oversight of the budget by members and to manage the Council's exposure to financial risk. More frequent monitoring is undertaken by officers and considered by individual service Directors and the Council's Corporate Management Team including approval of management action.

To the extent that there are options for managing the issues identified these are highlighted in the report in order to ensure that members have a full picture of the issues and proposed solutions as part of their decision making.

5.9 Draped Seated Woman - selection of local hosting partner

The Exempt Appendix was noted and agreed as exempt.

DECISION

1. To agree that the award of the contract to host "Draped Seated Woman" (locally known as "Old Flo") be awarded to the bidder with the highest score (see exempt Appendix 1 to the report)
2. To delegate to the Corporate Director – Children's Services and in her absence to the Acting Divisional Director, Sport, Leisure, Culture and Youth authority to enter into a contract with the said highest scoring bidder.

Action by:**CORPORATE DIRECTOR, CHILDREN'S SERVICES (D. JONES)**

(Acting Divisional Director, Sport, Leisure, Culture and Youth (J. St John))

Reasons for the decision

The decision is required in order to implement the Mayor's pledge to return Draped Seated Woman by Henry Moore back to Tower Hamlets. In line with the Mayor's decision taken on 1st December 2016, which set the contract approach, officers have now completed a procurement exercise. This report sets out the outcome of the procurement process and recommends to the Mayor that the highest scoring bidder be appointed to host Draped Seated Woman.

Alternative options

The following alternative options are available to the Mayor:

Not to accept the officers' recommendation to appoint the highest scoring bidder and restart the procurement process.

Not to accept the officers' recommendation to appoint the highest scoring bidder and develop alternative options to return Draped Seated Woman to the borough.

6. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT

Nil items.

7. EXCLUSION OF THE PRESS AND PUBLIC

Nil items.

8. EXEMPT / CONFIDENTIAL MINUTES

Nil items.

9. OVERVIEW & SCRUTINY COMMITTEE

9.1 Chair's Advice of Key Issues or Questions in Relation to Exempt / Confidential Business

Nil items.

9.2 Any Exempt / Confidential Decisions "Called in" by the Overview & Scrutiny Committee

Nil items.

10. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS CONSIDERED TO BE URGENT

Nil items.

The meeting ended at 6.30 p.m.

Mayor John Biggs

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