

**LONDON BOROUGH OF TOWER HAMLETS****RECORD OF THE DECISIONS OF THE CABINET****HELD AT 5.30 P.M. ON WEDNESDAY, 14 DECEMBER 2022****C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,  
LONDON, E14 2BG****Members Present in Person:**

Mayor Lutfur Rahman	
Councillor Maium Talukdar	(Deputy Mayor and Cabinet Member for Education, Youth and Lifelong Learning (Statutory Deputy Mayor))
Councillor Kabir Ahmed	(Cabinet Member for Regeneration, Inclusive Development and Housebuilding)
Councillor Saied Ahmed	(Cabinet Member for Resources and the Cost of Living)
Councillor Gulam Kibria Choudhury	(Cabinet Member for Health, Wellbeing and Social Care)
Councillor Abu Chowdhury	(Cabinet Member for Jobs, Skills and Growth)
Councillor Iqbal Hossain	(Cabinet Member for Culture and Recreation)

**Other Councillors Present in Person:**

Councillor Musthak Ahmed  
Councillor Peter Golds

**Officers Present in Person:**

Ann Sutcliffe	(Corporate Director, Place)
Warwick Tomsett	Joint Director, Integrated Commissioning
Jill Bayley	(Head of Legal Safeguarding)
Stephen Bramah	(Corporate Head of Strategy and Improvement)
Joseph Leach	(Business Intelligence and Performance Lead)
Will Tuckley	(Chief Executive)
Susannah Beasley-Murray	(Divisional Director of Supporting Families)
Nji Oranu	(Service Manager, Children's Social Care)
James Thomas	(Corporate Director, Children and Culture)
Sam Harney	(Mayor's Political Advisor)
Joel West	(Democratic Services Team Leader (Committee))

**Officers In Attendance Virtually:**

Stephen Shapiro	(Acting Director of Property and Major Programmes)
Kevin Bartle	(Interim Corporate Director, Resources & Section 151 Officer)
Nisar Visram	(Director of Finance, Procurement & Audit)

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of

- Councillors Kabir Hussain, Ohid Ahmed and Suluk Ahmed.
- Janet Fasan, Director Legal and Monitoring Officer for whom Jill Bayley, Head of Safeguarding was deputising
- Denise Radley, Corporate Director Health Adults and Community for whom Warwick Tomsett, Joint Director of Integrated Commissioning was deputising.

**2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS**

There were no declarations of disclosable pecuniary interest.

**3. UNRESTRICTED MINUTES****DECISION**

1. That the unrestricted minutes of the Cabinet meeting held on Wednesday 30 November 2022 be approved and signed by the Chair as a correct record of proceedings.

**4. ANNOUNCEMENTS (IF ANY) FROM THE MAYOR**

See the minutes.

**5. OVERVIEW & SCRUTINY COMMITTEE****5.1 Chair's Advice of Key Issues or Questions**

No Pre-Decision Scrutiny Questions had been received.

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

The Mayor and Cabinet noted that a call in on the 'Housing Revenue Account (HRA) 2022-25 Capital Programme: Latest position' decision made by Cabinet on 30 November had been accepted by the Monitoring Officer and would proceed to the Overview and Scrutiny Committee on 9 January 2023.

## 6. UNRESTRICTED REPORTS FOR CONSIDERATION

### 6.1 Strategic Delivery and Performance report (22/23) – Quarters 1&2

#### DECISION

1. To note the summary status as set out at the beginning of the attached monitoring report;
2. To note the performance of the strategic measures in Q1/Q2, including those measures which are red or amber (and in these cases performance commentary has been provided); and
3. To note progress in delivering Strategic Plan activities at the mid-year point, including those activities that are flagged as delayed and overdue.

#### Action by:

#### **CHIEF EXECUTIVE (W. TUCKLEY)**

(Corporate Head of Strategy and Improvement (S. Bramah))

#### Reasons for the decision

The council's reporting cycle involves quarterly reports that include performance measures.

Target levels on the performance measures that relate to the strategic plan are set considering:

- Alignment to an external target, such as a statutory, national or Mayoral target;
- An aim to improve on our benchmark performance position within the appropriate benchmark family group or maintain a high level of performance for measures where we are among top performing councils;
- Management information and evidence, especially for new measures where targets have previously not been set;
- Operational practicalities.

Targets for all measures are set against the operating realities of the service – for example service changes, funding changes, changes in legislation or in local or national policy. These changes may result in the need to re-baseline the targets from one year to the next to reflect the changing circumstances in which the service operates.

#### Alternative options

The Mayor/Cabinet can decide not to review the performance information. This is not recommended as Members have a key role to review and challenge underperformance and utilise performance information to inform resource allocation.

## 6.2 Budget Monitoring 2022/23 Quarter 2 including Capital

### DECISION

1. To note the council's forecast outturn position against General Fund, Dedicated Schools Budget, Housing Revenue Account and earmarked reserves for 2022-23, based on forecasts as at 30<sup>th</sup> September 2022;
2. To note the progress made against the 2022-23 savings targets, based on forecasts as at 30<sup>th</sup> September 2022;
3. To note the council's forecast outturn position against General Fund and Housing Revenue Account capital programme approved budgets for 2022-23, based on forecasts as at 30<sup>th</sup> September 2022;
4. To note that there are no equalities implications directly resulting from this report, as set out in Section 4 of the report.

### Action by:

#### **CORPORATE DIRECTOR RESOURCES (K. BARTLE)**

(Director of Finance, Procurement and Audit (N. Visram))

### Reasons for the decision

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 Leadership Team (CLT) 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.

### Alternative options

The regular reporting of Revenue and Capital Budget Monitoring information through the year and the preparation of the provisional outturn position after the year end 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.

Further information across the council's key financial activities is also included to ensure that CLT and Members have a full picture to inform their consideration of any financial decisions set out in this report and also their broader understanding of the council's financial context when considering reports at the various council Committees.

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; CLT and Members have a key role in approving such actions as they represent changes to the budget originally set and approved by them.

### **6.3 Development of London Dock School – Appropriation for Planning Purposes and use of Section 203 Powers (Rights of Light)**

#### **DECISION**

1. To delegate authority to the Corporate Director, Place to appropriate the Land for planning purposes in accordance with Section 122 Local LGA 1972 and the subsequent use of the Council's powers under s203-s206 of the Housing and Planning Act 2016 to override Rights to Light of neighbouring properties that may be infringed by the development of the Land.
2. To delegate authority to the Corporate Director, Place to agree any potential settlement of Rights of Light claims with an affected party, together with any associated/professional fees.
3. To authorise the Director of Legal to enter into any legal agreements considered necessary or desirable for the Council to put in effect the recommendations in this report.
4. To note that the cost of the proposed settlement of Rights of Light compensation payments and associated/professional fees will be met from the capital budget for the London Dock School scheme.

#### **Action by:**

**CORPORATE DIRECTOR, PLACE (A. SUTCLIFFE)**

Acting Director, Property and Major Programmes (S. Shapiro)

#### **Reasons for the decision**

The Council has instructed a Rights of Light consultant DPR to carry out a detailed analysis to identify surrounding properties which would suffer an adverse impact to the level of light currently maintained. They have advised a total of **7** neighbouring properties are likely to experience potential Rights of Light infringements.

These 7 properties comprise:

- sites owned by LB Tower Hamlets
- A school
- A block of flats
- commercial offices
- A recently developed mixed use block of ground floor commercial and residential upper parts

DPR have advised that the two sites owned by LBTH and the school have an education/social function use and therefore are not actionally affected

DPR has also assessed the level of light infringement to each individual property that is affected and provided details of the potential settlement budget for the release of these rights. Full details of the affected parties, settlement budgets as well as negotiations are set in the exempt Appendices. Due to the high risk of an injunction to prevent the scheme being delivered and the associated settlement costs, the Council needs to consider appropriate use of its powers to mitigate these risks.

### **Alternative options**

Do nothing option: if the Council decides not to appropriate the Land then there is the potential that affected private property owners could continue injunction proceedings which could stop the construction of the project or significantly delay its delivery. As a result, this would put at risk the Council's approved budget to deliver this scheme and impact the Council's education policy, whilst jeopardising 1,200 school places as part of this approved scheme.

If the development is not materially commenced 18 months from date of Underlease (being February 2022) St George can serve three months' notice to determine the Underlease. St George must pay the termination sum of £4 million plus. Legal has been informed by the project team that the works have "materially commenced".

If the development of the school is not completed entirely by the 7<sup>th</sup> November 2025, St George can serve three months' notice to determine, subject to St George paying the termination sum of four million pounds. There is however a desire to have completed the works in time for the academic year commencing September 2023

As detailed at paragraph 4.2 of the report, the works on the Land have commenced and if an injunction is ever pursued by an affected party, then the Council will have to pay compensations to the contractors.

The carrying out of the development is dependent upon adhering to a programme. That programme cannot be met unless those entitled to Rights of Light agree to infringements or the infringements are authorised by Section 203. The Council needs to maintain its programme to lawfully implement the development and enable the school to open for the 2023 academic year. If the proposed development were not to come forward due to an inability to

implement the planning permission, the education policy for the borough would be in jeopardy as these places would need to be distributed across the Borough.

#### **6.4 Planning for School Places 2022/23 - Review and Recommendations**

##### **DECISION**

That the Cabinet notes:

1. factors influencing pupil population change in Tower Hamlets;
2. latest pupil roll projections for Tower Hamlets and options for future school development sites to provide additional places, should they be required;
3. progress on the development of new and existing secondary school sites;
4. latest figures on SEN, current provision and sufficiency plan;
5. plans for the implementation of the council's School Organisation and Capital Investment Strategy;
6. the specific equalities considerations as set out in Paragraph 5 of the report.

##### **Action by:**

**CORPORATE DIRECTOR, CHILDREN AND CULTURE (J. THOMAS)**

Service Head Pupil Access and School Sufficiency (T. Bryan)

##### **Reasons for the decision**

The council is legally responsible for the planning and provision of school places across its local area. This responsibility includes:

- Ensuring there are sufficient school places (Education Act 1996).
- As far as possible, complying with the preferences expressed by parents (School Standards and Framework Act 1998).
- Increasing opportunities for parental choice (Education and Inspections Act 2006).
- Providing fair access to educational opportunity (Education and Inspections Act 2006).

While the council is responsible for school place planning, changes to education legislation (2010 Academies Act and 2011 Education Act) altered the way in which new education provision can be established, with the council's role changing from being a direct provider of school places to being a strategic commissioner. This , means that, when the borough is in need of a new school, the council must now seek proposals for an academy or free school. A traditional council run community school will only be allowed when no suitable free school or academy is proposed. This is commonly known as the free school presumption, whereby the council is required to:

- Publish and invite proposals from academy sponsors to establish a new 'free school'<sup>1</sup> (academy);
- Carry out an assessment of the proposals; and
- Put forward recommendations to the Regional Director (London), who acts on behalf of the Secretary of State for Education.

Regional Directors' are government appointed senior civil servants who are now responsible for overseeing the performance of schools and academies, children's social care and special educational needs and disabilities services in the various regions of England.

The Regional Director's main responsibilities in respect of school organisation and place planning include:

- supporting local authorities to ensure that every local area has sufficient places for pupils;
- deciding on academy sponsors to run new free schools;
- deciding on applications from local authority maintained schools to convert to academy status;
- addressing underperformance in schools and academies, offering support and, where necessary, intervening to deliver rapid improvement. This includes the power to require a local authority (council) maintained school, judged 'inadequate' by Ofsted, to convert to academy status and become part of a multi academy trust (MAT);
- taking decisions on the creation, consolidation and growth of multi-academy trusts (MATs).

The council will therefore work with the Regional Director and a variety of partners, including council maintained and academy schools, to ensure that enough school places are available for children and young people in the right areas and at the right time to meet demand. Whilst doing so it must also seek to maintain a focus on high quality education as well as enabling a culture of high performing and financially sustainable schools.

In meeting its responsibility to ensure sufficiency the council is required to address both deficit and surplus school places across the education estate. The council will therefore consider how best to organise schools for the efficient and effective delivery of education. Any revenue benefit that results from changes to the education estate is then redistributed to schools through the school funding formula.

Proposals to provide additional school places will often require long-term planning to implement e.g. opening a new school, expanding an existing one or increasing provision for children with special educational needs. Evidence

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<sup>1</sup> DfE [Free Schools](#) (England)



about the projected need for places must therefore be robust and reviewed regularly, in order to identify emerging need and new projects to inform the council's sufficiency strategy.

The content of this report aligns with the functions of the council as a Local Planning Authority, and the approach taken to make best use of the current allocation of school development sites in the Local Plan.

### **Alternative options**

An alternative would be to do nothing to manage the supply of school places. This would likely result in the council having to take a number of short term measures. Dealing with under-provision would require action to quickly provide additional places in the form of bulge classes at existing schools or expansions into temporary buildings. Dealing with over-provision would require action to financially support schools who are unable to balance their budgets to maintain quality education. These measures can address issues in the short-term, but they do not provide best value and should not be viewed as a sustainable approach to managing demand for school places.

## **6.5 Secure Children's Home for London and Pan-London Commissioning Vehicle**

### **DECISION**

1. To agree to the Borough becoming a member of the jointly owned Pan London Vehicle for Commissioning.
  - a. The Pan London Vehicle ("PLV") will be a company limited by guarantee ("CLG") and owned by the London local authorities. The PLV will not be focussed on profit generation, and it is intended that any surplus generated by the PLV will be reinvested into its activities.
  - b. Be part of the PLV, secure children's home provision for a five-year period from 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2028, with a break-point after two years once the refreshed business case has been developed to include service pricing structure, commissioning approach, practice model and location, the 20k per year membership payable for five years, has now been removed for the development stage (first two years) of the PLV, which will be funded by the Department of Education grant.
  - c. Collaborate with other PLV members on future joint commissioning programmes.
  - d. Commits in principle to joint oversight and risk/benefit sharing, through the PLV, of the secure children's home provision, for a five-year period to 31<sup>st</sup> March 2028, including the build, service development and service commissioning phases, subject to ratification after the revision of the secure children's home business case, and renewable on a ten yearly cycle thereafter, with break-point after five years.

- e. Delegates authority to the Corporate Director, Children and Culture, in consultation with The Mayor to:
  - f. finalise the legal documents required to set up, join and run the PLV and
  - g. make the final determination on the Council's membership of the PLV, following completion of the revised secure children's home business case and, if appropriate, enter into all the legal agreements, contracts and other documents on behalf of the Council required to implement and run any aspect of the PLV arrangements.
2. To note the Equalities Impact Assessment as set out in Section 4 of the report.

**Action by:****CORPORATE DIRECTOR, CHILDREN AND CULTURE (J. THOMAS)**

Senior Commissioning Manager Integrated Commissioning (K. Sanderson)

**Reasons for the decision**

The total expenditure on residential provision by children's social care by London Boroughs has increased by 28% from £1.6bn in 2015 to £2.1bn 2021, despite a decrease in the rate of looked after children of 10%. Overspends collectively exceed £100m. There is considerable variation between boroughs, ranging from an increase in expenditure of 2% to 133%.

Tower Hamlets total expenditure on residential provision (including secure accommodation) in 2021 was £3,790,978.52, in 2020 it was £3,347,150.00, and 2019 this figure was £5,062,554.00. A possible explanation for the decrease in expenditure could be as a direct result of the transformation work conducted post the 2019 Ofsted inspection and the pandemic, Covid19.

There is a clear need to create more secure children's home provision for London. Detailed analysis supports the creation of 24 secure welfare beds. These beds will allow London children to be placed within London, which will give young people better outcomes at a lower cost. The funding commitment from the Department for Education of £50+ million offers London an opportunity to invest significantly in improving outcomes for our most vulnerable children and young people.

Even with this additional funding, the financial, operational, and reputational risk required to take on this project is more than any single local authority could manage. The case for creating this provision relies on collaboration between London local authorities, and to this end, the establishment of the PLV will allow London local authorities to share both the risks and benefits of the project. The PLV is the required infrastructure for the project to succeed.

The PLV therefore provides Tower Hamlets a means of leveraging £50+ million of investment for our children and young people. London local authorities are being asked to seek approval from their Cabinets to join the PLV for a five-year period from 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2028, at a fixed annual cost of £20K (years 3 to 5), subject to inflation adjustment.

**Alternative options**

Do nothing, therein not become a member of the PLV and maintain the 'as is' position. That is the, continued commissioning of High-Cost Low Incidence placements for children and young people requiring a secure children's home, which will mean children being placed outside of London and at a distance from their home authority and their familiar cultural context.

Children who cannot be placed in a secure children's home are **often placed in less suitable and sometimes higher cost alternatives** - often in excess of **£10k per week**.

**6.6 Homecare for Adults- contract extension****DECISION**

1. To authorise the Corporate Director Health Adults and Communities and Deputy Chief Executive to agree with the existing providers to extend the current contracts to ensure continuity of services to protect vulnerable people until the 31 December 2023 in order to recommission, procure and mobilise the newly procured contracts aligned to the Administration priorities. During the one-year contract extension, the Council will invite new providers (especially small and/or specialist providers) to provide spot care or to offer services to those residents who are commissioning their own care through personal budget arrangements.

**Action by:****CORPORATE DIRECTOR HEALTH ADULTS AND COMMUNITIES AND DEPUTY CHIEF EXECUTIVE (D. RADLEY)**

Interim Head of Service- Ageing Well, Integrated Commissioning (B. Gladstone)

**Reasons for the decision**

The current contracts for the provision of homecare services to adults are due to expire on 31 December 2022. A tender process that commenced in April 2022 was paused in August 2022 due to formal requests for a review of the previous administrations methodology for delivering homecare to service users in the borough by the Mayor. The review has determined that changes to the commissioning and contracting model are required in order for the Council to end up with contracts that deliver in a manner to meet the Council's new strategic priorities. The changes are a significant enough departure from the previous advertised methodology and specification to require the existing process to be abandoned and a new process to be commenced in line with the law. This also allows operators who were not interested in the opportunity to be treated fairly now that the Council's commercial requirements have changed.

To implement the required changes, further work will need to be undertaken to understand the implications of changes and to finalise a preferred model which can then be presented to the market via the tender process. This will

need to incorporate some engagement and co-production with service users, care workers and homecare providers. Officers will need to recommence the commissioning and procurement process in early 2023.

The new procurement process is anticipated to take a total of twelve (12) months to complete. This will include a period of pretender market analysis and engagement (3 months), the preparation of revised tender documentation including a service specification, contract schedules and agreed price: quality weighting and scoring mechanism (3 months), a two-stage tender process (5 months) and contract award (1 month). In addition, a further period of transition and contract mobilisation will be necessary following contract award.

The Council is committed to protecting the most vulnerable people in the borough and in this case has a legal duty to do so. The extension of the existing contracts is necessary to ensure that there is seamless continuity of care services to those people who are reliant on them.

### **Alternative options**

It would be technically and legally possible to spot-purchase any number of providers to deliver homecare in the Borough as an alternative to a framework contract. However, this would present an increased risk to the effective oversight of the quality and safety of homecare provision to vulnerable residents in need of care and support living across the Borough. In addition, each package of care would be subject to the Council's procurement procedures and therefore some form of quotation process with competition would be required each time. This could significantly delay the provision of care in many cases and would be clearly not desirable

During the period of the contract extension, Officers will continue to work beyond the five commissioned providers under the framework contract with a larger number of homecare providers that are commissioned under 'spot' arrangements to provide services to Tower Hamlets residents. Currently, the Council commissions work from a total of 42 'spot' providers, 11 of whom are registered in the Borough. These providers are used when the contracted (framework) providers are unable to accept the work. In addition to this, a larger number of homecare providers are directly commissioned by residents through personal budget arrangements.

## **7. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT**

Nil items.

## **8. EXCLUSION OF THE PRESS AND PUBLIC**

Nil items.

## **9. EXEMPT / CONFIDENTIAL MINUTES**

Nil items.

**10. OVERVIEW & SCRUTINY COMMITTEE**

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

Nil items.

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

Nil items.

**11. EXEMPT / CONFIDENTIAL REPORTS FOR CONSIDERATION**

Nil items.

**12. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS CONSIDERED TO BE URGENT**

Nil items.

The meeting ended at 6.35 p.m.

Chair, Mayor Lutfur Rahman  
Cabinet