



Meeting of the

CABINET

Wednesday, 11 September 2013 at 5.30 p.m.

AGENDA PACK ONE – SECTION ONE

VENUE

Committee Room, 1st Floor, Town Hall, Mulberry Place, 5 Clove
Crescent, London, E14 2BG

Members:

Mayor Lutfur Rahman	– (Mayor)
Councillor Ohid Ahmed	– (Deputy Mayor)
Councillor Rofique U Ahmed	– (Cabinet Member for Regeneration)
Councillor Shahed Ali	– (Cabinet Member for Environment)
Councillor Abdul Asad	– (Cabinet Member for Health and Wellbeing)
Councillor Alibor Choudhury	– (Cabinet Member for Resources)
Councillor Shafiqul Haque	– (Cabinet Member for Jobs and Skills)
Councillor Rabina Khan	– (Cabinet Member for Housing)
Councillor Rania Khan	– (Cabinet Member for Culture)
Councillor Oliur Rahman	– (Cabinet Member for Children's Services)

[Note: The quorum for this body is 3 Members].

Committee Services Contact:

Matthew Mannion, Democratic Services,
Tel: 020 7364 4651, E-mail: matthew.mannion@towerhamlets.gov.uk

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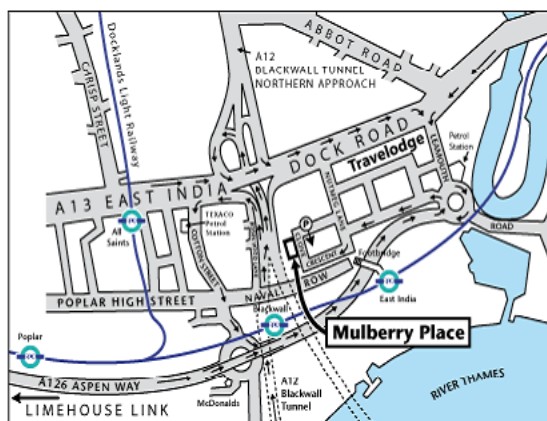
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QR code for smart phone users

LONDON BOROUGH OF TOWER HAMLETS

CABINET

WEDNESDAY, 11 SEPTEMBER 2013

5.30 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

PUBLIC QUESTION AND ANSWER SESSION

There will be an opportunity (up to 15 minutes) for members of the public to put questions to Cabinet members before the Cabinet commences its consideration of the substantive business set out in the agenda.

Questions can be submitted in advance to the Town Hall or be asked on the evening.

Send any questions to Matthew Mannion, Democratic Services, Town Hall, Mulberry Place, Poplar, E14 2BG or email matthew.mannion@towerhamlets.gov.uk by 5pm the day before the meeting, Tuesday 10 September 2013.

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS (Pages 1 - 4)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note.

3. UNRESTRICTED MINUTES

PAGE NUMBER	WARD(S) AFFECTED
5 - 14	

The unrestricted minutes of the Cabinet meeting held on 31 July 2013 are presented for information.

4. PETITIONS

To receive any petitions.

5. OVERVIEW & SCRUTINY COMMITTEE

5.1 Chair's Advice of Key Issues or Questions in Relation to Unrestricted Business to be Considered

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

(Under provisions of Article 6 Para 6.02 V of the Constitution).

UNRESTRICTED REPORTS FOR CONSIDERATION

6. A GREAT PLACE TO LIVE

7. A PROSPEROUS COMMUNITY

7.1 Planning for School Places - 2013/14 Review 15 - 38 All Wards

7.2 Education, Social Care and Wellbeing Capital Programme 2013/14 39 - 56 All Wards

7.3 Proposed Expansion of Stebon School 57 - 70 Mile End East

8. A SAFE AND COHESIVE COMMUNITY

8.1 Licensing Policy Review 71 - 198 All Wards

8.2 Sexual Entertainment Venue Policy 199 - 296 All Wards

9. A HEALTHY AND SUPPORTIVE COMMUNITY

9.1 Public Health Procurement Plan 2014-15 297 - 326 All Wards

10. ONE TOWER HAMLETS

10.1 Co-regulation and Accountability of Registered Providers 327 - 364 All Wards

10.2 Mental Health and Housing: Response to the Scrutiny Challenge Session 365 - 382 All Wards

10.3 Removing Barriers to Youth Employment: Response to the Scrutiny Review 383 - 420 All Wards

11. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT

12. UNRESTRICTED REPORTS FOR INFORMATION

12.1 Exercise of Corporate Directors' Discretions 421 - 426 All Wards

13. **EXCLUSION OF THE PRESS AND PUBLIC**

In view of the contents of the remaining items on the agenda, the Committee is recommended to adopt the following motion:

“That, under the provisions of Section 100A of the Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985, the Press and Public be excluded from the remainder of the meeting for the consideration of the Section Two business on the grounds that it contains information defined as Exempt in Part 1 of Schedule 12A to the Local Government, Act 1972”.

EXEMPT/CONFIDENTIAL SECTION (PINK)

The Exempt / Confidential (Pink) Committee papers in the Agenda will contain information, which is commercially, legally or personally sensitive and should not be divulged to third parties. If you do not wish to retain these papers after the meeting, please hand them to the Committee Officer present.

	PAGE NUMBER	WARD(S) AFFECTED
14. EXEMPT / CONFIDENTIAL MINUTES		
Nil items.		
15. OVERVIEW & SCRUTINY COMMITTEE		
15 .1 Chair's advice of Key Issues or Questions in Relation to Exempt / Confidential Business to be Considered.		
15 .2 Any Exempt / Confidential Decisions "Called in" by the Overview & Scrutiny Committee		
(Under provisions of Article 6 Para 6.02 V of the Constitution).		
EXEMPT / CONFIDENTIAL REPORTS FOR CONSIDERATION		
16. A GREAT PLACE TO LIVE		
Nil items.		
17. A PROSPEROUS COMMUNITY		
Nil items.		
18. A SAFE AND COHESIVE COMMUNITY		
Nil items.		

19. A HEALTHY AND SUPPORTIVE COMMUNITY

Nil items.

20. ONE TOWER HAMLETS

Nil items.

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

**22. EXEMPT / CONFIDENTIAL REPORTS FOR
INFORMATION**

Nil items.

SCRUTINY PROCESS

The Overview and Scrutiny Committee, at its meeting on **Tuesday 1 October 2013** may scrutinise provisional decisions made in respect of any of the reports attached, if it is “called in” by **five** or more Councillors except where the decision involves a recommendation to full Council.

The deadline for “Call-in” is: Friday 20 September 2013 **(5.00 p.m.)**

Councillors wishing to “call-in” a provisional decision, or members of the public wishing to submit a deputation request, should contact: **John Williams**
Service Head Democratic Services:
020 7364 4205

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Agenda Item 2

DECLARATIONS OF INTERESTS

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

Interests and Disclosable Pecuniary Interests (DPIs)

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

Effect of a Disclosable Pecuniary Interest on participation at meetings

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

Further advice

For further advice please contact:-

John Williams, Service Head, Democratic Services, 020 7364 4204

APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

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LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE CABINET

HELD AT 5.34 P.M. ON WEDNESDAY, 31 JULY 2013

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

Members Present:

Mayor Lutfur Rahman	(Mayor)
Councillor Ohid Ahmed	(Deputy Mayor)
Councillor Shahed Ali	(Cabinet Member for Environment)
Councillor Abdul Asad	(Cabinet Member for Health and Wellbeing)
Councillor Alibor Choudhury	(Cabinet Member for Resources)
Councillor Shafiqul Haque	(Cabinet Member for Jobs and Skills)

Other Councillors Present:

Councillor Kabir Ahmed	(Executive Advisor to the Mayor and Cabinet)
Councillor Gulam Robbani	(Executive advisor to the Cabinet and Mayor on adult social care)
Councillor Rachael Saunders	(Deputy Leader of the Labour Group)

Officers Present:

Robin Beattie	(Service Head, Strategy & Resources & Olympic Impact, Communities Localities & Culture)
Anne Canning	(Interim Corporate Director, Education Social Care and Wellbeing)
Aman Dalvi	(Corporate Director, Development & Renewal)
Isabella Freeman	(Assistant Chief Executive - Legal Services, Chief Executive's)
Ben Gadsby	(Political Adviser to the Conservative Group)
Stephen Halsey	(Head of Paid Service and Corporate Director Communities, Localities & Culture)
Ellie Kuper-Thomas	(Strategy, Policy and Performance Officer - Executive Mayor's Office, One Tower Hamlets, Chief Executive's)
Jackie Odunoye	(Service Head, Strategy, Innovation & Sustainability, Development & Renewal)
Louise Russell	(Service Head Corporate Strategy and Equality, Chief Executive's)
Andy Bamber	(Service Head Safer Communities, Crime Reduction Services, Communities, Localities and Culture)
Deborah Cohen	(Service Head, Commissioning and Health, Education, Social Care and Wellbeing)
John Coker	(Strategic Housing Manager, Development & Renewal)

Colin Cormack	(Service Head Housing Options, Development & Renewal)
Maura Farrelly	(Community Resources Officer - Advice & Anti-Poverty, Third Sector Team, Development & Renewal)
Frances Jones	(Service Manager One Tower Hamlets, Corporate Strategy and Equality Service, Chief Executive's)
Martin Ling	(Housing Policy Officer)
Murziline Parchment	(Head of Executive Mayor's Office, Democratic Services, Chief Executive's)
Andy Scott	(Interim Service Head Economic Development, Development and Renewal)
Takki Sulaiman	(Service Head Communications, Chief Executive's)
David Tolley	(Head of Consumer and Business Regulations Service, Safer Communities, Communities Localities & Culture)
Matthew Mannion	(Committee Services Manager, Democratic Services, Chief Executive's)

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of:

- Councillor Rabina Khan (Cabinet Member for Housing)
- Councillor Rania Khan (Cabinet Member for Culture)
- Councillor Oliur Rahman (Cabinet Member for Children's Services)
- Councillor Rofique U Ahmed (Cabinet Member for Regeneration)

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

None were declared.

3. UNRESTRICTED MINUTES

The unrestricted minutes of the Cabinet meeting held on 3 July 2013 were presented for information.

4. PETITIONS

No petitions were received.

5. OVERVIEW & SCRUTINY COMMITTEE

5.1 Chair's advice of Key Issues or Questions in relation to Unrestricted Business to be considered

Councillor Rachel Saunders, Vice-Chair of the Overview and Scrutiny Committee (OSC) provided an update on their meeting held on Tuesday 23 July 2013.

She reported that:

- The Call-In report in relation to the Community Chest and Community Events Fund 2012-14 Executive Mayoral Decision had been discussed. A number of issues had been raised including how 'local community organisation' was defined and some concerns over the transparency of decision making. A report back had been presented to the Mayor for his consideration.
- The Cumulative Impact Policy for Brick Lane had been presented. The Committee recognised the anti-social behaviour issues in the area but noted that licensed premises provided significant job opportunities and that Brick Lane was a key tourist attraction and they felt that further consideration of these issues would be beneficial.
- OSC would welcome involvement in working to set up the Health and Wellbeing Board, noting that the Government had requested that they be set up by April 2013.
- The OSC Work Programme had been agreed for the year and the committee planned to explore a number of issues including the Decent Homes programme, right to buy, school places, youth services and support for disabled staff.

Finally she expressed the hope that the mayor would be able to accept an invitation to attend an OSC meeting to discuss the challenges and opportunities facing the borough.

In respect of the Call-In report, Councillor Alibor Choudhury the Cabinet Member for Resources confirmed his view that the process was transparent and fair and the awards benefited the whole community.

The **Mayor** thanked Councillor Rachel Saunders for her update.

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

The Clerk advised that no requests had been received by the Assistant Chief Executive (Legal Services) to 'call-in' for further consideration, by the Overview and Scrutiny Committee, any provisional decisions taken by the Mayor in Cabinet, at the Cabinet meeting held on 3 July 2013.

6. A GREAT PLACE TO LIVE

6.1 Private Sector Renewal Policy

The **Mayor** welcomed the report as a good piece of work and agreed the recommendation as set out.

RESOLVED

1. To approve the Private Sector Renewal Policy attached at Appendix 1 to the report.

6.2 Fuel Poverty and Insulation Works on HRA Properties (Project 2)

The **Mayor** welcomed the report as another good piece of work and agreed the recommendations as set out.

RESOLVED

1. To adopt a capital estimate of £4.063 million for fuel efficiency works on HRA properties to supersede the existing approvals of £1.809 million that are already incorporated into the approved budget, noting that the increase of £2.254 million is the Department of Climate Change grant funded element of the scheme.
2. To agree the proposed Fuel Poverty and Insulation Works on HRA Properties.
3. To agree the procurement of the contract, for insulation works on HRA assets, funded by DECC, the Council and ECO, through the RENEW Framework following a competitive tendering process.
4. To authorise the Corporate Director D/R in consultation with ACE Legal to award the contract to the successful contractor following completion of the competitive tendering process.
5. To authorise the Assistant Chief Executive (Legal Services) enter into all necessary documents to implement the decisions made in respect of this report.

7. A PROSPEROUS COMMUNITY

7.1 Proposals for Bow School

Anne Canning, the Interim Corporate Director, Education, Social Care and Wellbeing introduced the report. She highlighted that the concerns expressed in the petition had been fairly addressed and there was no reason not to continue with the project.

The **Mayor** welcomed the project as a good news story for the borough and the pupils who would benefit from the school and agreed the recommendation.

RESOLVED

1. To agree that statutory proposals for the enlargement and change of character of Bow School from September 2014 should be implemented as published.

8. A SAFE AND COHESIVE COMMUNITY

8.1 Cumulative Impact Policy (Brick Lane Saturation Zone)

Councillor Ohid Ahmed, Deputy Mayor, introduced the report. He highlighted the problems of antisocial behaviour in the area and the number of licensed premises that already existed. He reported that 86% of respondents to the consultation had been in favour of the proposal.

The **Mayor** agreed the recommendations as set out in the report.

RESOLVED

1. To consider the proposed Cumulative Impact Policy and agree that it may go forward to Full Council for adoption.
2. To note that it is intended to present the Cumulative Impact Policy to Full Council on the 18th September 2013.
3. To agree that when the policy goes before full Council for adoption it will form part of the reviewed Statement of Licensing Policy.
4. To recommend that Full Council approve the Cumulative Impact Policy for the Brick Lane area.

9. A HEALTHY AND SUPPORTIVE COMMUNITY

9.1 Supporting Carers - Respite Care Breaks

Councillor Abdul Asad, Cabinet Member for Health and Wellbeing, introduced the report. He highlighted that the proposals were looking to ensure better outcomes for residents whilst also helping local employment and supporting the London Living Wage.

The **Mayor** agreed the recommendation as set out in the report.

RESOLVED

1. To approve the approach set out in the report to the recommissioning of respite care breaks.

10. ONE TOWER HAMLETS

10.1 Welfare Reform and Discretionary Support

Colin Cormack, Service Head Housing Options, introduced the report highlighting the number of funds covered including discretionary funds.

Councillor Alibor Choudhury, Cabinet Member Resources, reported how the Council wanted to support as many people into employment as possible. He highlighted a number of issues including that:

- Not all those affected by the benefit cap were well served by existing Job Centre Plus operations and many had additional barriers to starting work such as childcare or language difficulties.
- The Council would provide additional support such as work-focussed interviews with experienced advisors and skills and job matching.
- The Council would also work to bring together different support agencies related to employment, financial management and skills.
- They were also looking to develop a practical solution to barriers such as affordable childcare, language and other training opportunities.

He therefore recommended that the Council agree to the larger £2.2 million funding option set out in Paragraph 7.9.2.

The **Mayor** thanked the Cabinet Member Resources for his contribution and agreed the recommendations, including to provide £2.2 million funding for the Temporary Accommodation Support Fund.

RESOLVED

1. To note the likely impact of welfare reform and the limited funds available to provide support meaning we need to think carefully about how to support those most in need;
2. To agree the option at paragraph 7.9.2 to provide funding of £2.2 million to the Mayor's Temporary Accommodation Support Fund.
3. Subject to the decision relating to recommendation 2.2 above, transfer £950,000 from the earmarked reserve for Homelessness to the Housing Options Budget for 2013/14 to support the Mayor's Temporary Accommodation Support Fund.
4. To consider any additional or new considerations which should form the basis of determining eligibility for the Support Fund;
5. To review the revised Discretionary Housing Payments policy;

10.2 Financial Inclusion Strategy

Andy Scott, Interim Service Head, Economic Development, introduced the report. He highlighted that the strategy had been out to consultation and that in particular it had been very well received by the partnership executive.

The **Mayor** agreed the recommendation as set out in the report.

RESOLVED

1. To agree the Financial Inclusion Strategy and Action Plan 2013 – 17 as set out in Appendix 1 to the report.

10.3 Quarter 2 Special Contracts Forward Plan

It was noted that as item ESCW 4471 had already been considered earlier in the meeting, it should be removed from the list.

The **Mayor** agreed to its removal and agreed that the rest of the contracts could go out to tender.

RESOLVED

1. That, subject to the removal of ESCW (AHWB) 4471 (Carers Respite Breaks Framework Agreement) from the list of contracts, all the remaining contracts could go out to tender.
2. That the agreed contracts, after tender, could proceed to contract award subject to the relevant Corporate Director who holds the budget for the service area consulting with the Mayor and the relevant lead member prior to contract award.
3. To authorise the Assistant Chief Executive (Legal Services) to execute all necessary contract documents in respect of the awards of contracts referred to at recommendations 1 above.

11. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT

Nil items.

12. UNRESTRICTED REPORTS FOR INFORMATION

12.1 Exercise of Corporate Directors' Discretions

The **Mayor** agreed the recommendation set out in the report.

RESOLVED

1. To note the exercise of Corporate Directors' discretions as set out in Appendix 1.

13. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

That pursuant to regulation 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the press and public be excluded from the remainder of the meeting:

- (a) As it was likely, in view of the nature of the business to be transacted in Section Two of the agenda, that if members of the public were present

during consideration of this business there would be disclosure of exempt information.

- Exempt information is defined in section 100I and, by reference, Schedule 12A of the Local Government Act 1972 (“the 1972 Act”). To be exempt, information must fall within one of the categories listed in paragraphs 1 to 7 of Schedule 12A, must not fall within one of the excluded categories in paragraphs 8 and 9 and the public interest in maintaining the exemption must outweigh the public interest in disclosing the information.
 - Agenda item 14 “Exempt/ Confidential Minutes” – contained information relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to the financial affairs of the Council.

(b) As although there is a public interest favouring public access to local authority meetings, in this case the Cabinet concluded that given the information contained in:

- Agenda item 14 “Exempt/ Confidential Minutes” – contained information relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to the financial affairs of the Council.

that the public interest in maintaining the exemption on the information outweighed the public interest in disclosing it.

14. EXEMPT / CONFIDENTIAL MINUTES

The Exempt/Restricted minutes of the Cabinet meeting held on 3 July 2013 were presented for information.

15. OVERVIEW & SCRUTINY COMMITTEE

15.1 Chair's advice of Key Issues or Questions in relation to Exempt / Confidential Business to be considered.

Nil items.

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

Nil items.

16. A GREAT PLACE TO LIVE

Nil items.

17. A PROSPEROUS COMMUNITY

Nil items.

18. A SAFE AND COHESIVE COMMUNITY

Nil items.

19. A HEALTHY AND SUPPORTIVE COMMUNITY

Nil items.

20. ONE TOWER HAMLETS

Nil items.

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

Nil items.

22. EXEMPT / CONFIDENTIAL REPORTS FOR INFORMATION

Nil items.

The meeting ended at 6.06 p.m.

Chair, Mayor Lutfur Rahman
Cabinet

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Agenda Item 7.1

Committee/Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 22/134
Report of: Corporate Director Education, Social Care & Wellbeing Originating officer(s) Pat Watson, Head of Building Development		Title: Planning for School Places – 2013/14 Review Wards Affected: All	

Lead Member	Cllr Oliur Rahman
Community Plan Theme	A Prosperous Community
Strategic Priority	Priority 3.1: Support lifelong learning opportunities for all

1. **SUMMARY**

- 1.1 The Council has a statutory duty to provide sufficient school places for the local population. In Tower Hamlets, the school age population is increasing and this is projected to continue. The Council has to plan to meet the projected need.
- 1.2 In September 2012 Cabinet received a report “Planning to Meet the Growth Requirement for School Places 2012 – 2022”. This set out the the need for additional capacity, how the need is projected and plans being put in place to meet the need.
- 1.3 This report provides an annual review of the latest projection information, actions that have been taken to meet the need and seeks further decisions for the programme.
- 1.4 A separate report on this agenda, the Education, Social Care & Wellbeing Capital Programme, has associated recommendations for capital expenditure to implement proposals.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

- 2.1 Note the contents of this report;
- 2.2 Note the continuing rising need for school places and confirm the priority for school places to be provided to contribute towards sustainable communities;
- 2.3 Note the site allocations achieved for primary and secondary schools (paragraph 6.9) and confirm support for the implementation of these allocations, subject to detailed proposals for each site;
- 2.4 Support the proposed expansions of Stebon and Olga Primary Schools (paragraphs 6.14, 6.15) and note that these proposals are subject to publication of statutory proposals and recommendations included in a separate report on this agenda (Education, Social Care & Wellbeing Capital Programme);
- 2.5 Support the proposed expansion and change of age range of St Paul's Way Trust School (paragraph 6.17), subject to publication of statutory proposals, and recommendations included in a separate report on this agenda (Education, Social Care & Wellbeing Capital Programme);

3. REASONS FOR THE DECISIONS

- 3.1 The Council has a statutory duty to provide and plan for school places. The report sets out the 2013 projections of need and details the actions proposed in the medium and longer term to meet need.
- 3.2 Planning for school places has to be kept under review to ensure that there are proposals to meet the projections of need. The rising trend of need continues although there may be minor variations in figures year to year.
- 3.3 The LA has proposals in place to meet the need and these can require long term planning to implement. Decisions sought in this report are to ensure that the programme of providing additional places can continue and have certainty to meet the identified need. Where decisions are not made in time, there may be a need for additional short term measures to ensure children can be offered a school place. These measures, such as bulge classes, can be difficult to implement and are not a sustainable approach to providing places. Such measures can operate for primary places but will not be suitable for secondary places.

4. ALTERNATIVE OPTIONS

- 4.1 The Council has to comply with its duty to provide school places. Some of the need for places is being met by the establishment of new free schools which are decided by the Secretary of State for Education. However, the majority of proposals for new places will be initiated by the Council. This report sets out options towards meeting the need for places.
- 4.2 Where the Council has not made sufficient plans to ensure permanent places are available when needed, short term proposals may be needed which may be less cost-effective by reliance on temporary buildings.

5. BACKGROUND

- 5.1 On 5 September 2012 the Mayor in Cabinet received a report Planning to Meet the Growth Requirement for School Places 2012 – 2022. This gave detailed information on the approach to projecting need, the extent of need projected to 2022, and short medium and long term approaches to meeting the need.
- 5.2 Subsequently various proposals for meeting need have progressed and other proposals have been developed. This report provides an update on the current position based on the 2013 school roll projections and taking account of proposals for additional capacity.

6. BODY OF REPORT

- 6.1 The need for school places in Tower Hamlets is rising and the trend is projected to continue. The projections based on 2013 actual school rolls and using the most recent development and census data show very similar outcomes to the 2012 projections, with some variation in the trajectory.
- 6.2 In the period 2013 to 2023, it is projected that the total school roll of children aged 4-16 will rise by 40%. This amounts to 14,000 pupils in total, with approximately 8,000 more primary pupils and 6,000 more secondary pupils. These figures are slightly higher than those reported in 2012.
- 6.3 Additional school places will be needed every year for the foreseeable future. Schools are planned in FE (forms of entry) which is 210 places for a primary school and 150 places for a secondary school. Based on the current planned capacity information (taking account of known plans for additional provision), the summary of additional need is:

Primary Schools

It is projected that there will be 837 more Reception aged pupils in 2023/24 than in 2012/13. This means there will be a need for 20FE more of primary capacity, with 10FE needed by 2018/19.

Secondary Schools

It is projected that there will be 1360 more 11 year olds in 2023/24 than in 2012/13. This means there will be a need for 30FE more of secondary capacity, with 13FE needed by 2019/20.

Projections

- 6.4 The report in September 2012 included details of the methodology for projecting school rolls. The LA purchases the school roll projection service from the GLA which provides the service for the majority of London LAs. Appendix A to this report sets out the detail of the 2013 round of projections.
- 6.5 The annual projections are kept under review with the information on the capacity of all schools and proposals in development for new capacity. This allows any shortfall to be identified and planned for.
- 6.6 Appendix B sets out the current proposals to meet the anticipated shortfall in primary places for the period to 2018/19.

ACTION TAKEN TO DATE TO MEET THE NEED FOR PLACES

- 6.7 Planning to meet the need for school places takes into account short, medium and long term options in order to ensure the supply of places in time to meet the anticipated need for places at the relevant time.
- 6.8 The steps taken are:
 - Reviewing existing school sites to determine where there may be physical capacity for cost-effective expansion
 - Reviewing other Council-owned assets to consider where there may be opportunity to provide school places
 - Working with partners to establish if there are any opportunities for developing proposals to create school capacity by sharing assets
 - Including the need for school places in the longer term infrastructure planning to ensure land for schools is taken into account in the strategic planning process.
- 6.9 Progress and actions taken since the September 2012 report:

EXPANSION PROPOSALS	
Expansion of Bonner Primary School by 2FE with change of use of PDC	60 places per year confirmed from September 2013, with early opening of 60 places from January 2013.
Expansion of Woolmore School from 1FE to 3FE	Agreed to be implemented from September 2014
Expansion of Cayley Primary School by 1FE	Works completed to allow 30 additional places from September 2013
Further expansion options in development (further details below)	<ul style="list-style-type: none"> • Stebon Primary School proposed to expand by 1FE from September 2014 • Proposals to expand Olga Primary School

EXPANSION PROPOSALS	
	<p>from September 2016</p> <ul style="list-style-type: none"> Proposals to expand St Paul's Way Trust School to provide primary places from September 2014
Proposals for Bow School confirmed	The school will relocate from September 2014, expand to 9FE and admit girls and boys.
STRATEGIC DEVELOPMENTS – site allocations secured in the strategic planning process	
Bromley by Bow district centre	Primary school. Development timetable to be confirmed.
Fish Island (Mid)	Site allocation for a primary school at Neptune Wharf. Planning application submitted to LLDC includes outline permission for a 3FE school
Fish Island East (within LLDC area)	Primary school. Development timetable to be confirmed.
London Dock	Site allocation for a 6FE secondary school. Planning application submitted includes outline permission for a school
WestferryPrintworks site	Site allocation for a secondary school. No development timetable
Bow Common and Leven Road Gas Works sites	Primary school site allocation at both sites. Development timetable to be confirmed.
Ailsa Street	Primary school site allocation. Development timetable to be confirmed.

6.10 The Council sought site allocations for primary and secondary schools which were upheld by the Inspector following the Examination in Public on the Managing Development DPD. Where site allocations have been secured, the development timetable is in the hands of the developer so there is some uncertainty about when the sites may come forward. The site for a school will be secured through planning obligations (s. 106 or CIL, Community Infrastructure Levy). It will be for the Council to develop the school buildings and determine how the school will operate.

6.11 Further details on specific sites is below.

New Free Schools

6.12 In addition to the school provision that the Council is planning, free schools agreed for opening by the Secretary of State for Education contribute to the local supply of places. The following are open or agreed for opening in Tower Hamlets:

Canary Wharf College	Opened in September 2011, 40 places per year (primary)
Wapping High School	Opened in September 2012, 81 places per year (secondary)
CET Primary School	Opened in September 2012, 50 places per year
City Gateway	Opened in September 2012, 14-19 provision
Canary Wharf College	Agreed to open in September 2014, 40 places per year (primary)
London Enterprise Academy	Agreed to open in September 2014, 11-16 school with 440 places
East London Academy of Music	Agreed to open in September 2014, 16-19 with 144 places

6.13 The schools agreed for opening September 2014 do not yet have confirmed sites. The East London Science School is opening in September 2013 at a temporary site at Three Mills within LB Newham but close to the borough boundary. It is a secondary school with 120 places per year. A permanent site is to be identified.

NEW PROPOSALS FOR SCHOOL EXPANSIONS AND NEW SITES FOR SCHOOLS

Expansion of Stebon School

6.14 A separate report on this agenda sets out the background to this proposal and details of the consultation to date. It is proposed to expand the existing Stebon School by 1FE to provide 90 places per year from September 2014.

Expansion of Olga Primary School

6.15 A proposal has been developed to expand the school from 1FE to 3FE by rebuilding the school on the existing site. It is proposed to implement this from September 2016 to meet the projected need for places.

6.16 The school is included in the Grouped Schools PFI contract and so the development proposals are being drawn up with the contractor, Tower Hamlets Schools Ltd. The implications for increased charges for the larger building will be developed before the scheme is implemented. Increased charges for services will be funded from the school's increased revenue budget.

St Pauls Way Trust School – expansion and change of age range

6.17 A proposal has been developed to allow St Pauls Way Trust School to extend its age range from 11-18 to 4-18 by providing 2FE of primary places. The proposal has been developed in partnership by the school, the Council and Poplar Harca. As part of its redevelopment programme, Poplar Harca proposes to rebuild two blocks on Burdett Estate. This provides the opportunity to create school accommodation on the ground floor with residential floors above.

- 6.18 It is proposed that Poplar Harca and the Council will enter into a development agreement for the Council to fund the capital costs for the school element of the project. The Council will take a long lease of the completed school accommodation and sub-let this to the Trustees of the school. The school will continue to operate with existing LA admissions criteria and will be funded for the additional capacity according to the school funding formula.
- 6.19 This is regarded as an innovative project which will:
- Build on the success of St Pauls Way Trust School and contribute to the partnership approach of the St Pauls Way Transformation Project
 - Create 2FE of additional capacity in a cost-effective approach in an area where the population is growing and more school places are needed
 - Provide an opportunity to create school places in partnership which would not otherwise arise
- 6.20 The proposal is at this stage subject to planning approval and statutory proposals for the changes to the school. The governing body of the school will consult on the proposal and, taking account of the response, proceed to publish statutory proposals which will be for the LA to determine.
- 6.21 Subject to the above, it is anticipated that the new accommodation will be available to allow the school to occupy from September 2016. However, the school will be able to open from September 2014 by using some temporary accommodation in the Burdett community centre. There is sufficient space to allow the school to operate two classes for two years before the new building is completed.
- 6.22 Poplar Harca will seek the Council's support for implementation of the overall proposal by requesting CPO powers are exercised to ensure that any interests can be properly dealt with. This will be subject to a separate Cabinet report from the Corporate Director, Development & Renewal.
- 6.23 It is recommended that this proposal is supported, and note that it is subject to recommendations in the Education, Social Care & Wellbeing Capital Programme report elsewhere on this agenda.
- 6.24 The proposed location of this option is very close to Stebon School. Both proposals are supported because of the significant rising need for school places in the Poplar area.

School site allocations

- 6.25 As referred to above, the Council has secured site allocations for new schools. The timing of development is out of the Council's hands but it will need to work with developers to agree suitable proposals for the location and outline of the school at the planning application stage. The developer and the Council will secure sufficient land, finance or facilities in relation to the specific allocations.

- 6.26 The Council will be responsible for funding the capital costs of the new school. Subject to detailed proposals for each relevant site, the Council will acquire a long leasehold interest in the land. The planning process will determine a time limit for the Council to exercise the development opportunity.
- 6.27 There will be different considerations at each site which will affect the detailed discussions at planning stage, including planning policy requirements and the overall financial viability of the development. For the primary site allocations, there may be opportunities to consider a mixed use development of a school with housing above, although this is likely to be less suitable for secondary provision. Such proposals would be subject to considerations of leasehold terms and service charge arrangements.
- 6.28 The current position on the allocated sites is:

Fish Island – Neptune Wharf site

- 6.29 A site allocation for a 3FE primary school was agreed. The planning authority for this area is the LLDC (London Legacy Development Corporation). A planning application has been submitted which includes outline permission for a school. Subject to obtaining the planning approval, the development of the school is likely to be within 3 years. The school will be able to serve the residents of the approximately 630 new homes to be built at Neptune Wharf itself, as well as the surrounding area.

London Dock site

- 6.30 This is the former News International site where a site allocation for a secondary school was secured. A planning application has been submitted showing a site with capacity for a 6FE secondary school with sixth form. This is a compact design reflecting the inner city location and the overall development aspirations for the site. Subject to the determination of the planning application and terms of a s. 106 agreement, it is anticipated that the Council would be able to develop this site within 10 years.
- 6.31 This is an important site in planning the provision of secondary capacity. Projections show that new secondary capacity will be needed by 2018, even allowing for the new capacity already planned by the LA and the free schools which have been agreed.

Bow Common and Leven Road Gas Works sites

- 6.32 Early engagement has started between planning officers and the developer. The potential development timetable is to be determined but is now assumed in the medium term.

Other allocated sites

- 6.33 The development timetables for these sites is to be determined. Once the Council's CIL Charging Schedule is in place from 2014 these sites will be secured through CIL. At this stage we do not know if any of the applications other than London Dock will be submitted before CIL is in place.

FURTHER CONSIDERATIONS AND FUNDING IMPLICATIONS

- 6.34 The projections of need for school places and plans to meet projected shortfall will continue to be kept under review annually. Due to the continuing uncertainties of population changes and other external factors, this remains an area of uncertainty and one of high risk for the Council if it fails to have in place sufficient school capacity at the right time to meet its statutory duty.
- 6.35 Free schools contribute to the local supply of places but decisions on their opening are outside the Council's control. This is a further complicating factor in planning the supply of places.
- 6.36 It should be noted that the Secretary of State has introduced lower space standards for new schools which is accordingly reflected in capital funding allocations and seen in some of the accommodation proposed for new free schools. This is likely to have an impact on the standard of school accommodation that the LA will be able to achieve in future.
- 6.37 Ensuring there are sufficient school places is an essential part of the Council's infrastructure planning to create sustainable communities. The LA plans for the supply of places across the borough as a whole. Whilst students will travel further distances for a secondary school, it is accepted that primary schools should be accessible close to home. The pressure for primary school places is greatest in Bow and Poplar and the Isle of Dogs, principally the areas where there is the most of the new housing development. Opportunities for expanding primary schools in these areas is given priority. Some developments have already taken place or are planned (eg. expansion of Arnhem Wharf and St Luke's Schools on the Isle of Dogs, expansion of Culloden & Manorfield Schools and planned expansion of Woolmore School) but there are now few further existing school sites with expansion capacity. This area will continue to see new housing development but providing sufficient primary school places within the Isle of Dogs will continue to present the most difficulty. Planning Officers will be reviewing the potential to provide additional primary school capacity on development sites coming forward on the Isle of Dogs.
- 6.38 The Council will continue to explore opportunities to expand schools and, where necessary, by creating annexe sites such as has been implemented with the expansion of Bonner School using the English Street PDC site. However, there will be some sites which will have to be opened as new schools. In these instances, it may be possible to open a new school without a competition (for example a new voluntary aided school) but there may also be circumstances where the "academy/free school presumption" applies. This will mean that the LA has first to advertise for expressions of interest from academy or free school operators and submit any received to the Secretary of State. He will then select the provider for the new school. Where no suitable provider comes forward, the LA can then proceed to hold a competition, but it cannot put forward its own proposals for a new community school at that stage. This can only be done, with the Secretary of State's agreement, where no suitable provider can be appointed after a competition.

- 6.39 In addition to planning for mainstream primary and secondary places, the Council has to keep under review the need for sufficient 6th form provision and provision for students with SEN for whom mainstream schools are not suitable. The proposals for the relocation of Bow School to its new site include provision of 6th form education, and the outline proposals for the new school at London Dock include capacity for 6th form places. However, this area of provision planning need further review to ensure there are sufficient places as well as a suitable range of choice.
- 6.40 Planning for SEN provision is in development, taking account of the rising needs for different types of special education need and the most appropriate way to meet the need. Proposals will come forward in due course.

Funding Implications

- 6.41 The principal method of funding the capital investment required to create school places is the Basic Need capital grant from the DfE. This is supplemented by s. 106 contributions specifically for mitigating the impact of new housing developments.
- 6.42 The DfE funding allocation notified in March 2013 covers the period 2013/14 – 2014/15. The Basic Need allocation for the period is £16.437m, broadly in line with the allocations in previous years. LAs have made representations to the DfE about the difficulties presented by short term funding allocation for this area of work where schemes necessarily involve long term planning. The nature of the allocation process makes it difficult for the Council to plan for the implementation of some of the sites referred to in the report (such as the site allocations) where this requires a financial commitment beyond the current funding allocation period. This will have to be addressed for the Council to be able to reach suitable agreements on relevant developments.
- 6.43 The specific proposals for the expansion of St Paul's Way Trust School were submitted to the DfE in response to an opportunity to bid for Targeted Basic Need funding (TBN). The bid was successful and an allocation of £4.23m has been made. The Council will provide the balance of funding to meet the total project costs.
- 6.44 S. 106 receipts have been included in the funding of the capital programme schemes. There is a significant sum identified for school contributions in agreements which have been signed but where the payments have not yet been triggered (generally when the construction starts and/or when a development is occupied). There is no certainty about receiving the full value in all signed agreements, or when the funds will be received, so this makes some difficulties for financial planning.
- 6.45 The Council is moving towards the adoption of the Community Infrastructure Levy (CIL). CIL payments for most new housing developments will replace s. 106 payments in mitigating the impact of new development on school places. The Council's Infrastructure Delivery Plan (IDP) identifies the need for more school places to reflect the growth population and will be updated to take account of further changes. At this stage the income flow of CIL payments

is not certain and this will need to be taken into account in the allocation of CIL income for infrastructure priorities. Education, Social Care & Wellbeing and Development & Renewal Directorates are working together to plan and programme infrastructure delivery for the short, medium and long term.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 The requirement for providing additional school places for the next three years was included in the capital programme in March 2013, but there is only DfE Basic Need capital grant for the period 2013/14 – 2014/15 and the additional need will extend far beyond the end of the capital programme. Not all of the funding required to fund the capital programme has been confirmed as grant from the Government. . Funding for the additional secondary provision already planned is included in the BSF programme.
- 7.2 To put the issue in financial context, this report is suggesting that, over the next 10 years, current forecasts indicate a need for 20 extra primary forms of entry (over schemes already identified and Free School places already available) and 30 extra secondary forms of entry (beyond those planned through the new secondary school at Bow Lock, capacity currently available and planned in Free Schools).
- 7.3 The costs of an extra form of entry will vary significantly, depending on the complexity of the design solution necessary (eg. a conversion of an existing facility not currently used as a school may be more cost effective than an extension of an existing school). Nonetheless, recent experience has indicated that a permanent form of entry at a primary school may cost between £4.5m and £5m and at a secondary school between £3.5m and £4m. This would suggest a potential ball-park range of £195m - £220m over 10 years, indicating a required average resource of £19m-£22m each year.
- 7.4 The capital programme being presented to Cabinet in September 2013 includes funding for additional school places (basic need) as per the table below. If this level of resourcing were to be sustained over the next ten years that would cover a substantial proportion of what is expected to be needed.

Funding for additional school places included in ESCW Capital Programme Report for Cabinet September 2013	2013/14 £'000	2014/15 £'000	2015/16 £'000
Primary Expansions	£16,438	0	0

- 7.5 The 2013/14 Primary Expansions funding from the Department for Education is for two years together (2013/14 and 2014/15), suggesting an annual allocation of c£8.2m. In recent years, the DfE has been providing in-year supplements but there is no guarantee of this.

- 7.6 Given the extent of the expected demand pressures for places in the coming years, the Authority's statutory responsibilities can be funded if the combination of DfE capital grant monies is sufficient and the flow of anticipated s.106/CIL contributions towards education provision is maintained. If not, the Authority will have to supplement these sources by reprioritising within the capital programme, identifying asset disposals to generate capital receipts and rely on new free schools contributing to meeting the demand. Otherwise, the Authority would be in danger of failing to meet its statutory duties for the provision of school places.
- 7.7 Government funding does not provide for any purchase of land for new schools, so these estimates assume that sufficient land will be available from the Council's holdings to accommodate new schools or that land is acquired through the strategic planning process (for example where land is secured and this is reflected in any s. 106 agreement with the developer). If land is required but not available, the Council may need to purchase this at market rates and fund accordingly from the Council's resources
- 7.8 Due to the long term nature of planning this provision, greater certainty of available funding is preferable in order to be able to plan effectively.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1. One of the Council's duties in respect of education is to secure that sufficient schools are available for primary and secondary education in Tower Hamlets. This obligation arises under section 14 of the Education Act 1996. The schools must be sufficient in number, character and equipment to provide all pupils with the opportunity of appropriate education.
- 8.2. In deciding what provision to make in respect of primary and secondary schools, the Council is required to consider the need to secure diversity in the provision of schools and increasing opportunities for parental choice. This sits alongside the Council's general equality duty, which requires it to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Equalities analysis will need to be carried out alongside the development of proposals.
- 8.3. Some of the options proposed in the report involve the expansion of existing schools. The enlargement of a school's premises so as to increase the school's capacity by: (a) more than 30 pupils; and (b) 25% or 200 pupils (whichever is the lesser) is a prescribed alteration. If the Council wishes to make such alterations, it will need to comply with the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007, which require a two-stage consultation process, including publication of the proposals, prior to determination.

- 8.4. If the Council sees a need for a new school, then Part 2 of the Education and Inspections Act 2006 will apply. There is a presumption that the new school will not be a new community school. Section 6A of the Education and Inspections Act has imposed a requirement on local authorities in England to seek proposals for the establishment of an Academy if they think a new school needs to be established in their area.
- 8.5. Officers will need to ensure that any of the projects under consideration are carried out in accordance with legal requirements.
- 8.6. The expansion of existing schools or the provision of new schools will require planning permission under the Town and Country Planning Act 1990. Recent changes to the permitted development legislation enables various types of building to change use to use as a state-funded school, subject to the approval of the local planning authority regarding transport and highways, noise impacts and contamination.
- 8.7. Procurement for the various projects will need to be carried out in accordance with the Council's Procurement Procedures and, where relevant, the Public Contract Regulations 2006. Compliance with the procurement procedures should assist the Council to comply with its duty as a best value authority to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" (section 3 of the Local Government Act 1999).

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1. The LA has a statutory duty to ensure sufficient school places for local residents. Education is key to ensuring economic prosperity for the individual and for the community. The LA has a duty to ensure diversity of provision to enable parents to express their preference for a school place. These duties are taken into account in planning provision of school places.
- 9.2. The LA has to plan for the overall social infrastructure to meet the needs of the rising local population. This informs the development of the Council's asset management and service planning to ensure that the required infrastructure is provided and that the competing needs are balanced.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1. The proposals to provide additional school places to meet the needs of the population will be implemented taking account sustainable design standards and materials. As far as possible primary school provision is planned to ensure that children can access a local school and so minimise impact on travel.

11. **RISK MANAGEMENT IMPLICATIONS**

- 11.1. The Council has a statutory duty to provide sufficient school places. In order to plan to meet this need projections are obtained annually and reviewed each year against the known school capacity. It is clear that the projections indicate that a significant rise in the need for places has to be planned for. There may be variations in the projections so the Council has to retain some flexibility in its ability to respond to the need.
- 11.2. The plans required to meet the need for school places can often require the balance of complex and competing considerations, for example for other social infrastructure requirements. Because of the long time that is required to implement projects, decisions need to be taken in sufficient time to plan the use of resources and to identify shortfalls.
- 11.3. The Council has to manage the risk of failing to meet its statutory duties by having sufficient options available for implementation to meet the need and by keeping the changing circumstances under review.

12. **CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 12.1 There are no specific implications arising.

13. **EFFICIENCY STATEMENT**

- 13.1 The proposals for meeting the need for school places seek to make the best use of the Council's own assets before other assets are acquired.

14. **APPENDICES**

Appendix A	2013 School roll projections
Appendix B	Proposals for primary school capacity to meet projected need

Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
List of "Background Papers" used in the preparation of this report

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
None	Pat Watson 020 7364 4328 Town Hall, Mulberry Place, E14 2BG

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2013 SCHOOL ROLL PROJECTIONS

GLA - School Roll Projections Service**School Roll Projections Model Methodology**

The model methodology has remained the same as detailed in the previous 2012 report on the GLA school roll projections. This report formed an appendix to the Cabinet report Planning to Meet the Growth Requirement for School Places 2012 – 2022, 5 September 2012.

ONS has not yet released a consistent back series of population estimates in light of the 2011 Census result, so it has only been possible to use two years of trend data in the school roll projections model at this time instead of the usual four years of data.

GLA borough wide population projections

- All of the population projections have been rebased to accommodate the 2011 Census results.
- Household formation and average household size assumptions have been updated with interim household projections from DCLG.
- Other assumptions underpinning the model will not be updated until more detail from the census is made available by ONS

Development Trajectory

- The housing development trajectory used in the model is now provided by Development & Renewal on the same basis as for the examination in public process last September.

School rolls in January 2013 compared to projections

The GLA School roll projections for 2012/13 underestimated the actual demand for places seen at both reception and primary by 38 and 28 places respectively. At reception this meant that actual school rolls were 1.2% higher than projected. The year 7 and secondary projections overestimated demand by 6 places at year 7 and 12 places for the secondary total. Actual school rolls were within 0.25% of the projected figure for the primary total, year 7 and the secondary total.

	Reception	Primary	Year 7	Secondary
January 2013 School Census	3,380	22,047	2,595	12,749
GLA Projection	3,342	22,019	2,601	12,761
Variance (places)	-38	-28	+6	+12
Variance (FE)	-1.3	-0.9	+0.2	+0.1

2013 round of School Roll Projections

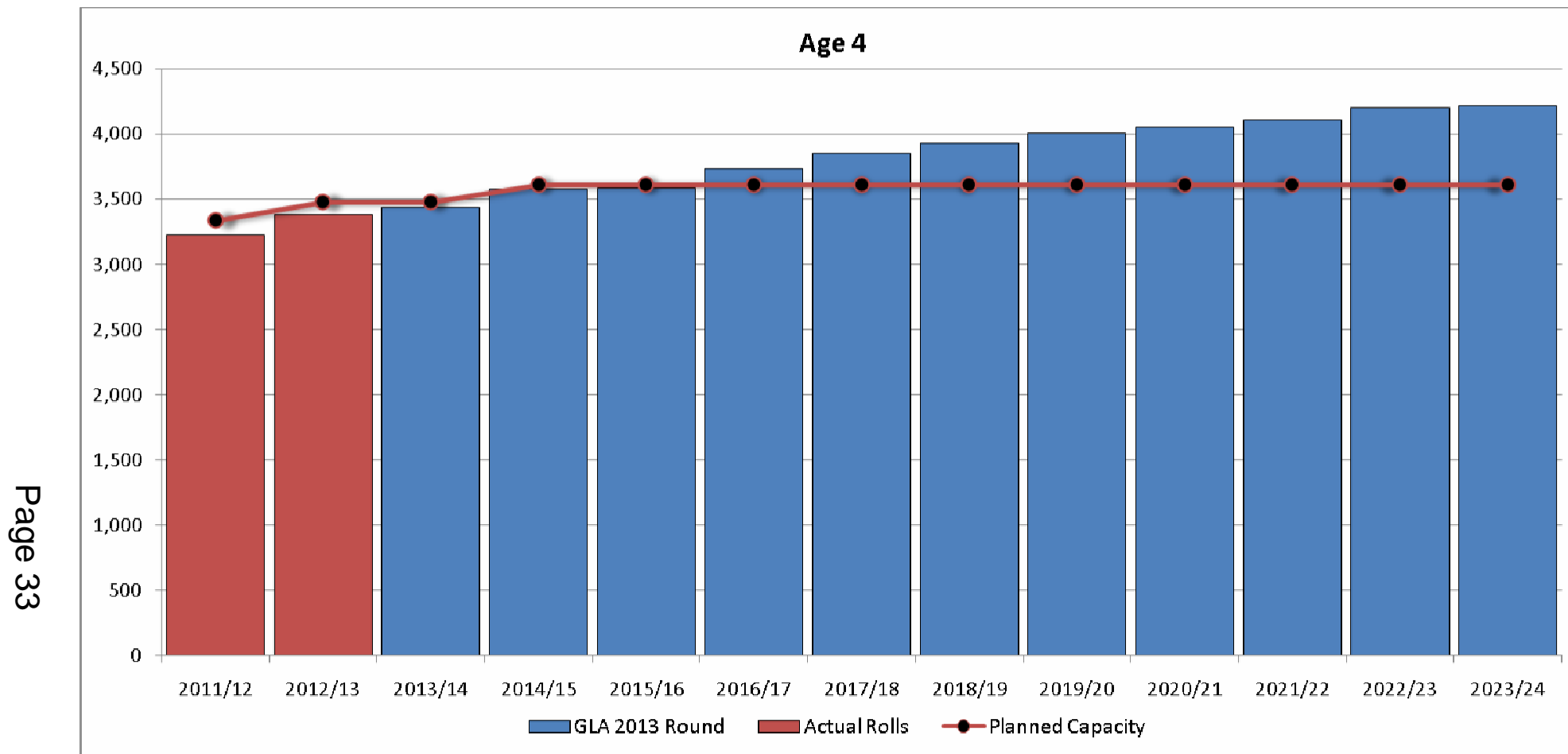
Growth in demand for reception places is anticipated to grow at a faster rate than was previously projected, with reception demand projected to increase by 23% over the next 10 years. The current projections are for planned capacity to be exceeded at reception class by 2016/17

With the effect of smaller year groups exiting primary education at year 6, and significantly larger year groups entering at reception, the overall primary school roll is projected to increase by more than 32% over the same period. The current projections are for planned capacity to be exceeded at primary in 2015/16.

Year 7 rolls are now projected to grow at a slightly reduced rate over the near term than before, however, this still equates to growth in the year 7 roll of 44% over the next 10 years. The current projections are for planned capacity to be exceeded at year 7 by 2017/18.

The overall secondary school roll is also projected to increase by 44% over the next 10 years with planned capacity expected to be exceeded by 2018/19.

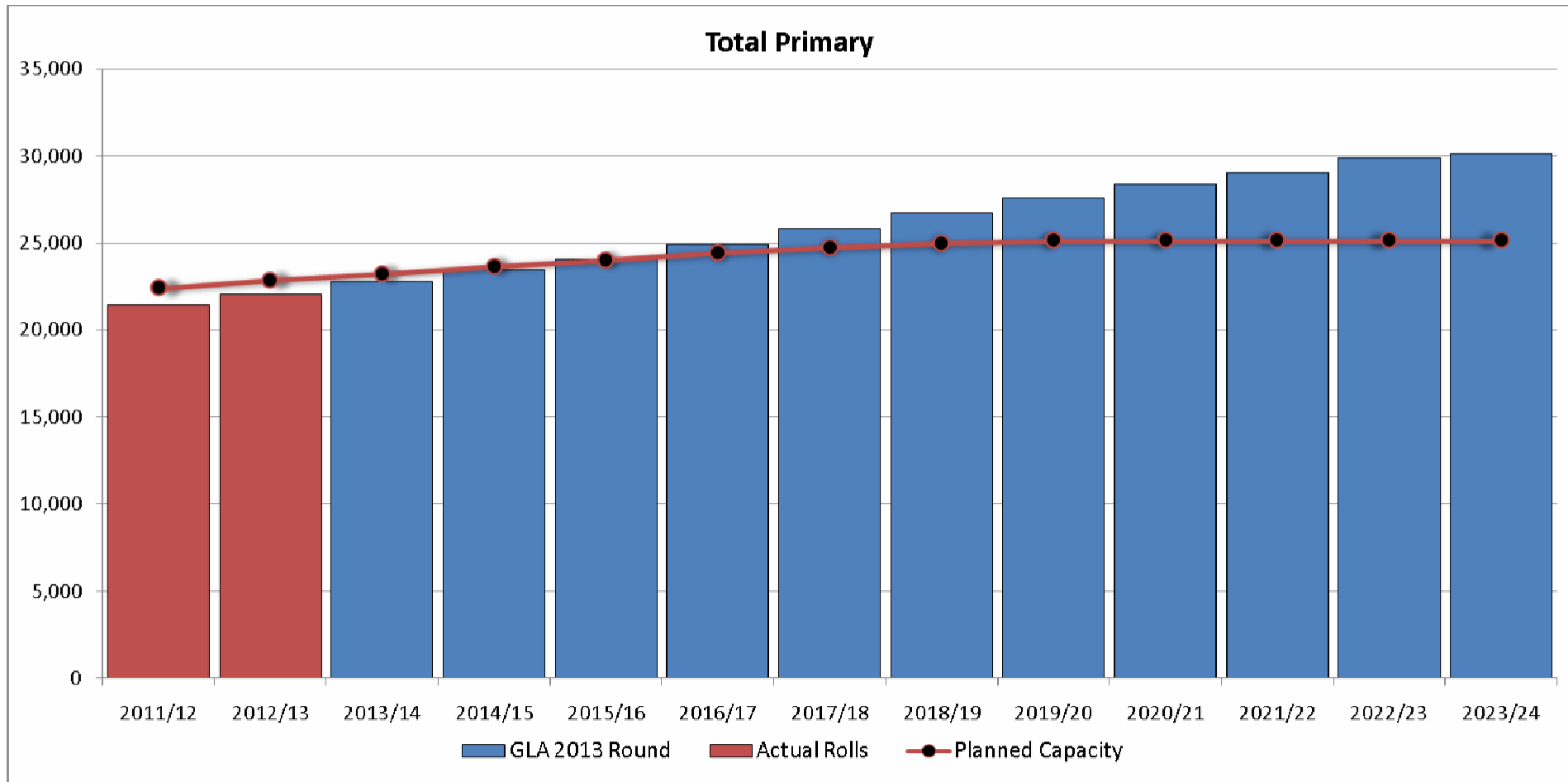
Reception Class Projections



Age 4	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Actual Rolls	3,229	3,380											
GLA 2013 Round			3,434	3,581	3,589	3,734	3,850	3,930	4,007	4,055	4,112	4,205	4,217
Total Capacity	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Reception	3,336	3,476	3,476	3,610	3,610	3,610	3,610	3,610	3,610	3,610	3,610	3,610	3,610
Variance from Capacity	107	96	42	29	21	-124	-240	-320	-397	-445	-502	-595	-607
Variance FE (30)	3.6	3.2	1.4	1.0	0.7	-4.1	-8.0	-10.7	-13.2	-14.8	-16.7	-19.8	-20.2

Primary Projections (ages 4 to 10)

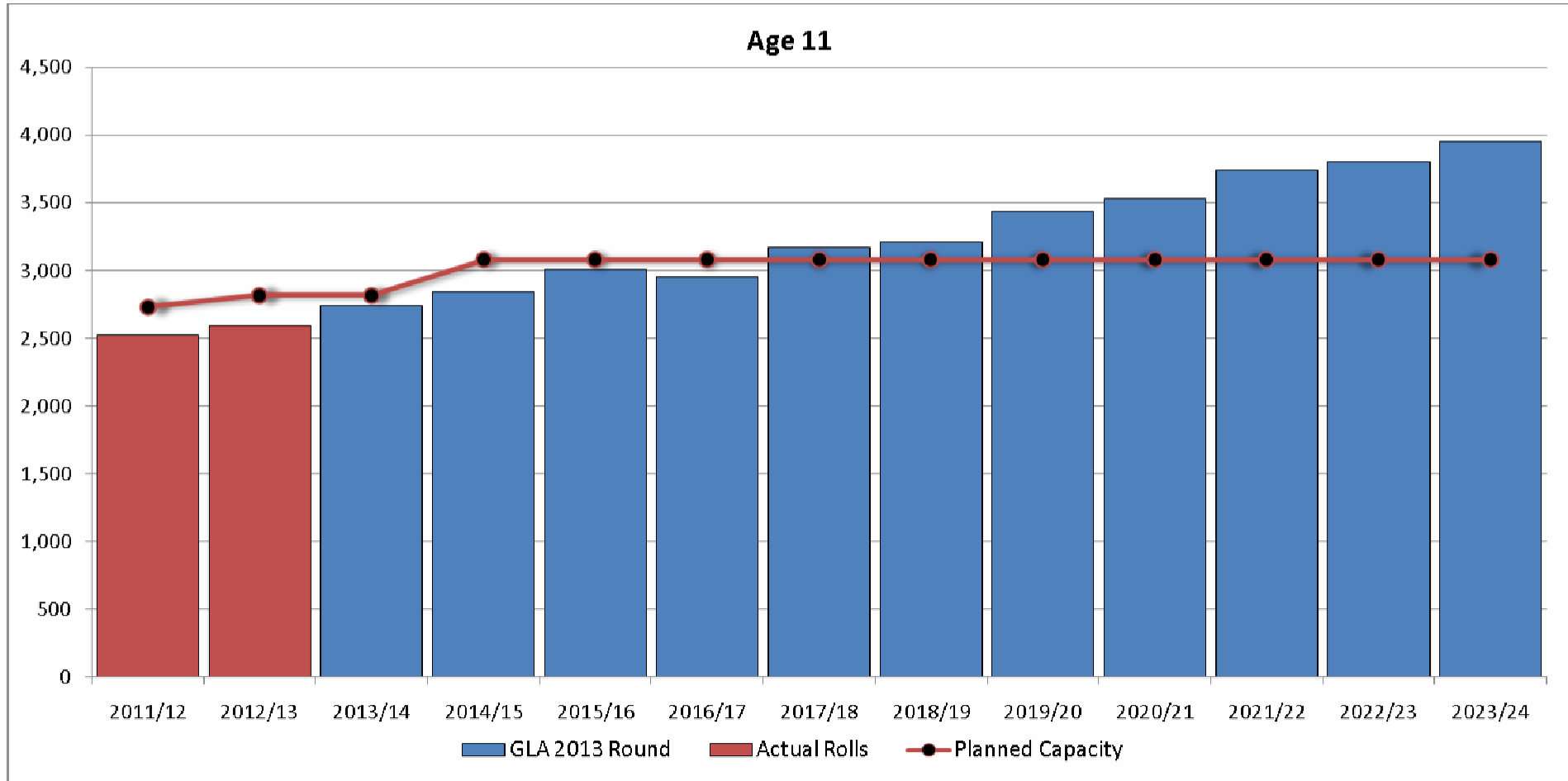
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Ages 4 to 10	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Actual Rolls	21,429	22,047											
GLA 2013 Round			22,783	23,468	24,076	24,926	25,815	26,719	27,579	28,356	29,071	29,915	30,162
Total Capacity	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Primary	22,398	22,835	23,207	23,667	24,026	24,427	24,748	24,972	25,136	25,136	25,136	25,136	25,136
Variance from Capacity	969	788	424	199	-50	-499	-1,067	-1,747	-2,443	-3,220	-3,935	-4,779	-5,026
Variance FE (210)	4.6	3.8	2.0	0.9	-0.2	-2.4	-5.1	-8.3	-11.6	-15.3	-18.7	-22.8	-23.9

Year 7 Projections

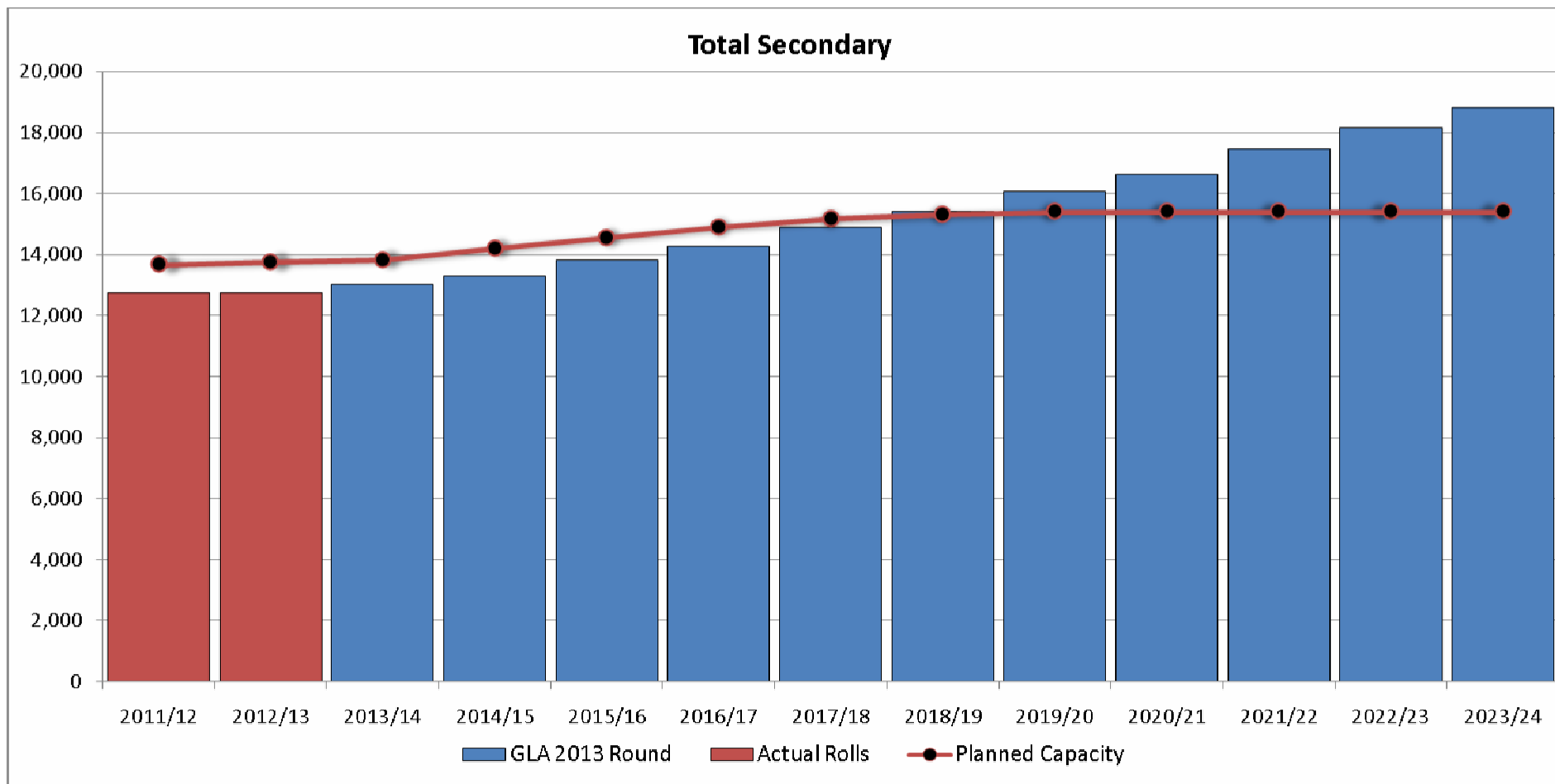
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Age 11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Actual Rolls	2,524	2,595											
GLA 2013 Round			2,740	2,844	3,004	2,952	3,168	3,210	3,439	3,528	3,741	3,801	3,954
Total Capacity	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Year 7	2,735	2,816	2,816	3,051	3,051	3,051	3,051	3,051	3,051	3,051	3,051	3,051	3,051
Variance from Capacity	211	221	76	207	47	99	-117	-159	-388	-477	-690	-750	-903
Variance FE (30)	7.0	7.4	2.5	6.9	1.6	3.3	-3.9	-5.3	-12.9	-15.9	-23.0	-25.0	-30.1

Secondary Projections (ages 11 to 15)

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Ages 11 to 15	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Actual Rolls	12,743	12,749											
GLA 2013 Round			13,022	13,305	13,824	14,263	14,907	15,424	16,083	16,629	17,456	18,153	18,828
Total Capacity	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Secondary	13,675	13,756	13,837	14,153	14,469	14,785	15,020	15,165	15,255	15,255	15,255	15,255	15,255
Variance from Capacity	932	1,007	815	848	645	522	113	-259	-828	-1,374	-2,201	-2,898	-3,573
Variance FE (150)	6.2	6.7	5.4	5.7	4.3	3.5	0.8	-1.7	-5.5	-9.2	-14.7	-19.3	-23.8

PROPOSALS FOR PRIMARY SCHOOL CAPACITY TO MEET PROJECTED NEED

	2013/14		2014/15		2015/16		2016/17		2017/18		2018/19	
Proposed capacity	3476		3476		3666		3756		3846		3936	
Projected reception roll	3434		3581		3589		3734		3850		3930	
Shortfall (-)		42		-105		77		22		-4		6
	New capacity		Proposed capacity		Proposed capacity		Proposed capacity		Proposed capacity		Proposed capacity	
Page 37	Cayley		Stebon	30	Additional site	90	Primary expansion tbc	30	Fl new school	90		
	Bonner Mile End		Woolmore	60			Olga	60				
			SPWTS	60								
			Canary Wharf College 2	40								
		TOTAL new capacity	0	TOTAL new capacity	190	TOTAL new capacity	90	TOTAL new capacity	90	TOTAL new capacity	90	TOTAL new capacity
	Shortfall (-)	42	Shortfall (-)	85	Shortfall (-)	167	Shortfall (-)	112	Shortfall (-)	86	Shortfall (-)	6

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Agenda Item 7.2

Committee/Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 23/134
Report of: Corporate Director Education, Social Care and Wellbeing		Title: 2013/16 Education, Social Care and Wellbeing Capital Programme	
Originating officer(s): Pat Watson		Wards Affected: All	

Lead Member	Cllr. Oliur Rahman, Lead Member for Children, Schools & Families
Community Plan Theme	A Prosperous Community
Strategic Priority	Priority 3.1: Support lifelong learning opportunities for all

1.0 **SUMMARY**

- 1.1 This report advises Cabinet on the 2013/16 Education, Social Care and Wellbeing (ESCW) Capital Programme and seeks various approvals as set out in the report.

2.0 **DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 Note the contents of this report and specifically the out-turn for the 2012/13 CSF and Adult Services' Capital Programmes (detailed in Appendix A) and proposed allocation of the funding available in 2013/14 and 2014/15 (as detailed in Appendix B);
- 2.2 Approve the adoption of capital estimates for 2013/14 capital condition and improvement programme schemes as shown in Appendix C and authorise expenditure (paragraph 6.6);
- 2.3 Note the remaining projects within the Primary Capital Programme (PCP) schemes as shown in Appendix D (paragraph 6.9);
- 2.4 Note the Primary School Expansion Programme as detailed in Appendix E (paragraph 6.11);
- 2.5 Approve the revised capital estimates of £4.90m for the works at Arnhem Wharf Primary School to be funded from the uncommitted funds within the ESCW capital programme (paragraph 6.13);

- 2.6 Approve the revised capital estimates of £5.3m for the works at Bonner (Mile End) Primary School to be funded from the uncommitted funds within the ESCW capital programme (paragraph 6.15);
- 2.7 Approve the adoption of a capital estimate of £5.5m for the proposed expansion of Stebon Primary School (paragraph 6.16);
- 2.8 Approve the adoption of a capital estimate of £5.5m for the proposed 2FE primary provision by the expansion of St Paul's Way Trust School (paragraph 6.18);
- 2.9 Authorise the Corporate Director, Education, Social Care & Wellbeing, the Director of Development & Renewal and the Assistant Chief Executive (Legal Services) to negotiate and agree the necessary development agreement and leases with Poplar Harca & St Paul's Way Trust School to facilitate the school expansion (paragraph 6.21);.
- 2.10 Approve the adoption of a capital estimate of £10.7m for the proposed expansion of Olga Primary School (paragraph 6.23);
- 2.11 Approve the adoption of a capital estimate of £500,000 to cover the costs of developing proposals to be considered for inclusion in the capital programme and authorise expenditure (paragraph 6.27);
- 2.12 Approve the adoption of a capital estimate of £370,000 for the costs of providing additional short term accommodation if required for additional pupils until major works have been carried out to provide permanent additional school places and authorise expenditure (paragraph 6.28);
- 2.13 To note the grant funding from the Department for Education of £1.2m as part of the Council's duty to provide free early education from 1 September 2013, and that suitable projects will be formally approved using delegated authority (paragraph 6.30);
- 2.14 To note that the Short Breaks grant funding for 2013/14 is not announced until August 2013, and that suitable projects will be formally approved using delegate authority (paragraph 6.34);
- 2.15 Approve the adoption of a capital estimate of £370,000 for the proposed works to 35 Ronald Street to be funded from the Adults' Personal Social Services Capital Grant (paragraph 6.38);
- 2.16 That the Director of Education, Social Care and Wellbeing (ESCW), in respect of all proposed tenders referred in this report, is authorised to agree tenders for projects within the approved programmes and capital estimate;
- 2.17 That any scheme exceeding the approved budget, the Director of ESCW is authorised to prepare and carry out a Bill of Reductions where relevant to ensure expenditure is contained within the agreed costs.

3.0 REASONS FOR THE DECISIONS

3.1 The Local Authority (LA) has a responsibility to maintain its properties to ensure that they are safe and secure for staff and users. In the case of schools, the LA also has a statutory responsibility to provide sufficient places for children and young people of school age. Cabinet is asked to note the programme and approve the adoption of the capital estimates so that the required works can proceed.

4.0 ALTERNATIVE OPTIONS

4.1 When identifying which works to include within the capital programme alternative options are always considered. This is to ensure that the projects both meet value for money and address the needs identified. Expansion projects are recommended following options appraisals and to select the options which best meet the location needs of the rising school age population.

5.0 BACKGROUND

5.1 This report advises Members on the CSF and Adult Services Capital Programmes' out-turn for 2012/13 (as described in Appendix A) and the proposed allocations of available funding (as detailed in Appendix B), and seeks authority for necessary additions/revisions to the programme to enable projects to be progressed.

6.0 BODY OF REPORT

6.1 Allocations and Funding

6.2 In the April 2013 Report to Cabinet on the CSF capital programme, Members were advised of the expected out-turn for 2012/13 and the allocation of the available funding for 2013/14 and 2014/15.

6.3 With the merger of Children, Schools and Families and Adult Social Care into the Education, Social Care and Wellbeing Directorate, this report includes the capital funding available and proposed allocation for both services.

6.4 The actual out-turn for 2012/13 is £15.465m (see Appendix A). Together with the new funding identified, the total available funds for 2013/14 to 2015/16, excluding BSF, amounts to £59.749m (Appendix B). The report seeks agreement to further projects to be resourced from these funds.

6.6 Capital Condition and Improvement Projects 2013/14

6.7 The projects at schools that have been included within the programme are listed in Appendix C. Projects are included on the basis that they are either necessary to rectify serious building or supply faults to ensure safe and continued operation of premises by users, or to meet statutory requirements eg. accessibility, fire protection, etc. A separate allocation of £200,000 was agreed by Cabinet in

February 2013 to address similar urgent condition and statutory requirement works at ESCW non-school premises in 2013/14 and 2014/15.

- 6.8 Projects are included within the Adult Services programme on the basis that they are either urgent condition works or for service improvement.

6.9 Primary Capital Programme (PCP)

- 6.10 The PCP has been completed. The remaining projects where final accounts are being agreed and the expected costs are listed in Appendix D.

6.11 Primary School Expansion Projects (Appendix E)

- 6.12 In 2012 Cabinet approved funding for a number of projects within the Primary School Expansion programme amounting to £41.28m. The works at Arnhem Wharf, Ben Jonson, Culloden, Manorfield, Marnier and Wellington Primary schools have now been completed.

- 6.13 In the case of Arnhem Wharf, additional costs were incurred as a result of design changes that were necessary to address problems that arose during the programme. The estimated additional cost of £100,000 cannot be covered within the project contingencies as they had already been fully committed

- 6.14 The schemes to expand Cayley Primary and Bonner Primary schools are progressing well and are on programme. Two Reception classes have already opened at the new Bonner (Mile End) site and the additional Reception class at Cayley will open in September 2013.

- 6.15 As part of the refurbishment to the Professional Development Centre to provide accommodation for the Bonner expansion, some delays and additional works have been incurred in re-phasing the works to accommodate the existing use of the building. The estimated additional cost will be £300,000.

- 6.16 **Stebon Primary School** - Feasibility work has been undertaken on the proposed expansion of the school from 2 FE to 3 FE (420 to 630 pupils plus nursery classes). A scheme is being developed and the initial estimate is £5.5m. Initial consultation with the school and community on the proposal has taken place and another report on this agenda seeks approval to publish statutory proposals for implementation of the expansion in September 2014.

- 6.17 Subject to the statutory proposals it is proposed to commence on site in early spring 2014, for a construction period of approximately 12 months. Cabinet is recommended to adopt the capital estimate of £5.5m for the expansion of Stebon School.

- 6.18 **St Paul's Way Trust School** - The school and Trustees have worked with the LA and the local RSL, Poplar Harca, on a partnership programme of regeneration for the local area, St Paul's Way Transformation Project. A proposal has come forward that involves the school extending its age range by adding 2FE of primary provision. This will be implemented in a mixed use development with

the school on the ground floor and residential units above. The Council would take a long lease of the school accommodation and sub-let this to the school's trustees for the purposes of the school and associated community use out of school hours.

- 6.19 The school could open the new capacity in September 2014 by temporary use of an existing community centre, with the new permanent accommodation being completed by September 2016, subject to statutory proposals. The LA will contribute the capital costs of building the school through a development agreement with the RSL. The initial estimate for the school related works is £5.5m to include both the main works and the temporary accommodation costs.
- 6.20 Cabinet is recommended to adopt the capital estimate of £5.5m to implement the expansion and change of age range of St Paul's Way Trust School by the addition of 2FE primary provision, to be funded from the 2013/16 Basic Need allocation.
- 6.21 The specific proposals for the expansion of St Paul's Way Trust School were submitted to the DfE in response to an opportunity to bid for Targeted Basic Need funding (TBN). The bid was successful and an allocation of £4.23m has been made. At the time of writing, the availability and timing of funds has not been confirmed. When the confirmation is available, this will be included in a subsequent Cabinet report to include the funds into the programme and allocate any available balance of funding.
- 6.22 It is recommended that the Corporate Director, Education, Social Care & Wellbeing, the Director of Development & Renewal and the Assistant Chief Executive (Legal Services) are authorised to negotiate and agree the necessary development agreement and leases with Poplar Harca & St Paul's Way Trust School to facilitate the school expansion.
- 6.23 **Olga Primary School** - Feasibility work has been undertaken on the proposed expansion of the school from 1 FE to 3 FE (210 to 630 pupils plus nursery classes). The initial estimate is £10.7m. Because of the age and layout of the existing building, it is considered more economically viable to decant the existing pupils into temporary accommodation and to demolish the existing building and then build the new school.
- 6.24 Further development of the scheme is required to confirm the programme and costs. The next stage will then be to consult the school and community on the proposal before seeking approval from Cabinet to publish statutory proposals for implementation in September 2016.
- 6.25 Cabinet is recommended to adopt the capital estimate of £10.7m for the expansion of Olga Primary School, with the initial development costs being funded from the 2013/16 Basic Need allocation

6.26 Project Development and Provision for Temporary Accommodation

- 6.27 There is a need to continue with development of proposals to provide additional capacity. Feasibility studies will continue to be undertaken to develop the programme. It is recommended that a sum of £500,000 is included in the programme to fund the feasibility studies and scheme development.
- 6.28 In the short term it may be necessary to identify suitable school sites to locate the additional pupils until major works have been completed to provide the places needed in the longer term. It is recommended that a sum of £370,000 is included in the programme as a financial provision.
- 6.29 With both allocations, where funds are not required they will be included in the main programme.

6.30 Early Education Provision

- 6.31 Free early education will become a statutory entitlement for eligible two year olds from 1 September 2013, with the local authority having a duty to secure provision. The Department for Education has awarded Tower Hamlets £1.2m of capital funding in 2012-13 as a contribution to local authorities' capital budgets, this is slightly lower than the indicative figure reported to Cabinet in February 2013. Revenue funding for free early education for two year olds will form part of the Dedicated Schools Grant (DSG) from 2013-14.
- 6.32 The Early Years Service is working closely with childcare providers to identify potential capital development projects that fit with the strategic aims of the funding programme. Once projects are identified, the providers will be supported in refining and developing their projects.
- 6.33 Once suitable projects have been identified formal approval will be requested by delegated authority.

6.34 Short Break Provision

- 6.35 In April 2013 Cabinet approved the use of the balance of £126,348.87 from the 2012/13 Short Breaks Funding to renovate the Youth Services One Stop Shop, based at 150 Burdett Road. This would create a new purpose built accessible Hub with interactive sports and leisure facilities for young people with disabilities and their siblings/ friendship groups.
- 6.36 As the building shares a site with the Urban Adventure Base, it will help make other facilities at the site more inclusive through better use by disabled young people and also benefit young carers from the Young Carers Group who use Urban Adventure Base. The Hub will be available for exclusive use by young people with disabilities and their siblings for 60% of the after school, weekend and holiday sessions, including sessions on Saturdays and Sundays. The remaining 40% of weekly sessions will be universal provision, available for all young people.

6.37 The Short Breaks Funding grant funding for 2013/14 is not announced until August 2013. Once the amount is known, suitable projects will be formally approved using delegated authority.

6.38 Modernising Learning Disability Services – Improvements to 35 Ronald Street

6.39 The learning disabilities day opportunities review was carried out in 2010-11. This mapped and scoped existing services and also used feedback, best practice models and scoping from needs assessments and demographic data to propose services for the future. The focus was to ensure services responded to individual needs and valuing people, promoting independence and choice and transforming adult social care agenda.

6.40 Following a report on the findings and recommendations for modernising learning disability services, Cabinet agreed a procurement plan in February 2012. It was also agreed that the in-house service (now Create) should be excluded from the tendering process, although there was a commitment that they would be supported to become a Community Hub. The commitment has been to make the in-house service champion a flagship provision and to include within it the tenants as part of the new service specification for Community Hubs. The benefits of this will be to actively ensure service users access a range of community services and facilities to meet their individual needs, services are all disability (wheelchair) accessible including having washing and personal care facilities on site, to open up services so that they are universally accessible and able to support a broader range of age groups and the use of personal and cash budgets.

6.41 The proposed facility at 35 Ronald Street will also provide space for a new floating Employment Service, which is currently out to tender. The link with the service was also core to the integration and synergy with the external and specialist providers and services.

6.42 The proposed improvement works to 35 Ronald Street will include installing a lift and disabled toilet to make the building more accessible, a new front entrance which is more welcoming and address current structural issues, improve security and provide a social cafe (open to public) with a kitchen designed for training/employment purposes.

6.43 Cabinet is recommended to adopt the capital estimate of £370,000 for the proposed works to 35 Ronald Street, to be funded from the 2013/14 Adults PS Capital Allocation.

6.44 Projects for the use of the remaining unallocated funding are being developed and formal approval will be requested by delegated authority.

7.0 COMMENTS OF THE CHIEF FINANCIAL OFFICER

7.1 The Education Social Care and Wellbeing (ESCW) (CSF) capital budget of £42.883m, agreed at Cabinet on 10 April 2013 reflected the profiled position

based on spending to the end of quarter 3 2012/13 and expected government grants known at that point in time. This report now provides an update on the combined budget of the old CSF and AHWB programmes to reflect the quarter 4 2012/13 spending, known government grants for 2013/14 and any further changes either affecting the profile of spend or the priorities.

7.2 Table 1 below explains how the capital budget of £59.749m in Appendix B has moved from the figure agreed by Cabinet in April 2013 of £42.883m and Table 2 makes the same comparison for the resources in the programme.

Table 1: Explanation of Movement in ESCW Capital Programme budget 2013/14-2015/16 from 10th April 2013

Programme	Component	£m
Overall	CSF capital budget as per Cabinet 10 April 2013	42.883
Conditions & Improvements	Additional carry forward after confirmation of final outturn	1.696
Primary Expansion	Additional new estimates adopted and changes to carry forward after confirmation of final outturn	34.535
Primary Capital Programme	Additional carry forward of budgets in relation to final account payments	0.250
Early Education Funding	Reduction in grant after final confirmation	-0.093
Short Breaks Provision	Reduction in expenditure in 12/13 after confirmation of final outturn	-0.053
Adult Services Programme	Inclusion of Adult Services programme, now part of the new ESCW Directorate	2.603
Other Commitments	Reduction in expenditure 12/13 after confirmation of final outturn	-0.557
Uncommitted Balances	Reduction in this item as all budget now allocated to schemes	-21.515
ESCW capital budget 2013/14-2015/16 as per this report (Appendix B)		59.749

Table 2: Explanation of Movement in funding of ESCW Capital budget 2013/14-2015/16 from 10th April 2013

Component	£m
CSF capital budget as per Cabinet 10 April 2013	42.883
Additional carry forward of resources based on 2012/13 outturn	9.406
Additional funding for Lukin Street LPP, in relation to capital receipts to fund Primary School Expansion Schemes	0.762
New S106 funding to fund Primary School Expansion in 2015/16	6.586
Add: Adults PS Capital Allocation 2013/14	0.788
Add: Adults PS Capital Allocation 2014/15	0.804
Adjusted Early Education funding now included within the carry forward	-1.300
Adjusted Short Break funding now included in the carry forward	-0.180
ESCW capital budget 2013/14-2015/16 as per this report (Appendix B)	59.749

7.3 Projects included in this report are all affordable and within the available resources.

8.0 CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE(LEGAL SERVICES)

- 8.1 To the extent that any of the funding for projects referred to in the report is provided from ring-fenced grants, officers will need to ensure that grant conditions are complied with.
- 8.2 The Financial Regulations set a threshold of £250,000, above which Executive approval is required for a capital estimate. The Financial Procedures supplement this requirement. In accordance with Financial Procedure FP 3.3, senior managers are required to proceed with projects only when there is a capital estimate adopted and adequate capital resources have been identified. Where the estimate is over £250,000 the approval of the adoption of that capital estimate must be sought from the Executive.
- 8.3 The proposed projects appear capable of being carried out within the Council's statutory functions. In this regard –
- The Council has a duty under the Education 1996 to secure that sufficient schools are available for Tower Hamlets. The Council has a duty under the School Standards and Framework Act 1998 to make premises available as part of its duty to maintain schools.
 - The Council is also subject to duties under the Health and Safety at Work etc Act 1974 to ensure so far as is reasonably practicable the health and safety of staff, pupils, visitors and volunteers on school premises.
 - The Council is required to provide community care services within the meaning given in the National Health Service and Community Care Act 1990, which may include the provision of services to persons with learning disabilities. The availability of suitable premises may be a necessary part of that service delivery.
- 8.4 It will be for officers to ensure that individual commitments are carried out in accordance with legal requirements.
- 8.5 Procurement for the various projects will need to be carried out in accordance with the Council's Procurement Procedures and, where relevant, the Public Contract Regulations 2006. Compliance with the procurement procedures should assist the Council to comply with its duty as a best value authority to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" (section 3 of the Local Government Act 1999).

- 8.6 Before adopting the capital estimates, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Information is contained in section 9 of the report relevant to these considerations and further equality analysis will be required as part of the delivery of nominated projects.

9.0 ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 The implementation of the ESCW capital programme is part of the LA's strategy to improve achievement by improving the teaching and learning environment.
- 9.2 Strategies to raise educational attainment, including improving quality of school buildings, support students moving into employment.
- 9.3 The expansion of schools under the capital programme is necessary to ensure the Council meets its legal obligation to secure sufficient schools for Tower Hamlets, but will also promote equality of opportunity for children and young people (including within the meaning of the Equality Act 2010).

10.0 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The proposed capital works aim to improve and preserve the quality of the buildingstock. Sustainability considerations are applied as far as possible to design and materials used. Major projects included are expected to obtain a rating of Very Good in the BREEAM Assessment.

11.0 RISK MANAGEMENT IMPLICATIONS

- 11.1 The individual projects will be closely monitored to ensure that programmes are completed on time and within the budget provision.

12.0 CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 There are no specific implications arising.

13.0 EFFICIENCY STATEMENT

- 13.1 The capital works identified in the report will seek to improve energy efficiency and reduce ongoing maintenance.

APPENDICES

- Appendix A – CSF/Adult Services Capital Out-Turn 2012/13
- Appendix B - Proposed Allocation of Funds 2013/14 to 2015/16
- Appendix C - ESCW Condition and Improvement Programme
- Appendix D - Primary Capital Programme
- Appendix E –School Expansion Programme

**Local Authorities (Executive Arrangements) (Meetings and Access to Information)
(England) Regulations 2012**
List of “Background Papers” used in the preparation of this report

Brief description of ‘background papers’

None

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Out-turn 2012/13**Appendix A**

	Resources	Commitments	Carry Fwd
Supported Borrowing (SB)			
Other ICT	1.454	0.800	0.654
Grants (G)			
Capital Maintenance	7.543	1.142	6.401
Basic Need/New Pupil Places	27.466	11.881	15.585
School Contributions	0.068	0.068	0.000
ICT Grant	0.012	0.000	0.012
Harnessing Technology	0.021	0.000	0.021
Sure Start – Globe Town	0.046	0.019	** 0.027
Short Breaks	0.248	0.121	0.127
Modernisation	1.053	0.768	0.285
Swanlea Crossrail Contribution	0.014	0.000	** 0.014
LHC Rebate	0.065	0.000	0.065
Osmani and BMX Bike Track Grants	0.128	0.046	** 0.082
Early Education Provision (2 Year Olds)	1.207	0.000	1.207
Lukin Street Legal Fee Contribution	0.026	0.026	0.000
DoH Capital Grant	0.020	0.020	0.000
Mental Health Single Capital Pot (SCPC) - Previously SCE (R)	0.057	0.022	0.036
Adults' Personal Social Services Capital Grant	1.055	0.079	0.976
	39.029	14.193	24.836
Developer Contributions (S106)			
Bishops Square – Christ Church Community provision	0.300	0.300	0.000
Bishop Challenor	0.850	0.000	** 0.850
	1.150	0.300	0.850
Local Priorities Programme (LPP)			
Youth Services Accommodation	0.024	0.017	** 0.007
Bishop Challoner community facilities	0.600	0.000	** 0.600
Non-School Condition & Statutory	0.075	0.055	** 0.020
Swanlea – Crossrail Contribution	0.350	0.000	** 0.350
	1.049	0.072	0.977
RCCO			
Unapplied Children's Services grants within the Early Intervention Reserve	1.100	0.100	** 1.000
	1.100	0.100	1.000
Total:	43.782	15.465	28.317

Other commitments included in Appendix B (Total: £2.949m)

APPENDIX B
Proposed Allocations of Funds 2013/14 to 2015/16

CAPITAL BUDGETS (£m)					FUNDING (£m)						
Programme	2013/14	2014/15	2015/16	Total	G	SB	RCCO	SC	S106	LPP	Total
Condition & Improvements	1.093	0.100		1.193	0.993					0.200	1.193
Primary School Expansion	19.570	17.450	14.400	51.420	41.118	0.654			8.886	0.762	51.420
Primary Capital Programme	0.250			0.250	0.250						0.250
Early Education Provision	1.207			1.207	1.207						1.207
Short Breaks Provision	0.127			0.127	0.127						0.127
Adult Services Programme	1.799	0.804		2.603	2.603						2.603
Other commitments (* Appx. A)	2.949			2.949	0.122		1.000		0.850	0.977	2.949
Total Allocations	26.995	18.354	14.400	59.749	46.420	0.654	1.000	0	9.736	1.939	59.749
Funded by:											
Carry Forward (see Appendix A):					24.836	0.654	1.000		0.850	0.977	28.317
2013/15 DfE Basic Need					16.438						16.438
2013/14 DfE Capital Maint.					3.554						3.554
LBTH Resources										0.962	0.962
Developer Contributions (S.106)									8.886		8.886
2013/14 Adults PS Capital Allocation					0.788						0.788
2014/15 Adults PS Capital Allocation					0.804						0.804
Funding by Year											
Grant (G)	22.765	18.254	5.401	46.420							
Supported Borrowing (SB)	0.654			0.654							
Developer Contribution (S.106)	0.737		8.999	9.736							
Local Priorities Programme (LPP)	1.839	0.100		1.939							
RCCO	1.000			1.000							
Total Funding:	26.995	18.354	14.400	59.749	46.420	0.654	1.000	0	9.736	1.939	59.749

ESCW CONDITION & IMPROVEMENT PROJECTS

Premises	Works	Estimate	Previous Spend £m	Apr 13- Mar 14 £m	Apr 14 - Mar 15 £m
2012/13 Commitments (Schools)					
Blue Gate Fields J&I	Upgrade Electrical Supply	0.200	0.088	0.112	0.000
Globe	Replace heating pipework (Phase 1)	0.100	0.000	0.100	0.000
Third Base PRU	Window replacement	0.090	0.080	0.010	0.000
Mayflower	Replace heating	0.140	0.127	0.013	0.000
William Davis	Replace heating pipework	0.210	0.163	0.008	0.000
	Total:	0.740	0.458	0.243	0.000
2013/14 Programme (Schools)					
Blue Gate J&I	Boiler Replacement	0.070	0.000	0.070	0.000
Cubitt Town Junior	Create Fire Escape Staircase	0.020	0.000	0.020	0.000
Mayflower Primary	Electrical Rewire Phase 3	0.080	0.000	0.080	0.000
Smithy Primary	Recover Roof	0.080	0.000	0.080	0.000
Statutory Requirements	To support schools in providing physical access for staff/ pupils and improving fire protection.	0.500	0.000	0.500	0.000
	Schools Total:	0.750	0.000	0.750	0.000
Non-Schools					
Eva Armsby CC	Replace Roof Covering	0.060	0.000	0.060	0.000
Statutory Requirements	To address works required to meet statutory requirements eg. fire prevention	0.140	0.000	0.040	0.100
	Non-Schools Total:	0.200	0.000	0.100	0.100
Total of Condition and Improvements		1.690	0.458	1.093	0.100
Adult Services					
Ronald Street		0.370	0.000	0.370	0.000
Balance	Projects to be developed	2.354	0.121	1.429	0.804
Total of all Condition & Improvement Schemes		2.724	0.121	1.799	0.804

APPENDIX D

Primary Capital Programme (PCP) Projects

Premises	Works	Allocation £m	Previous Spend £m	Apr 13- Mar 14 £m	Total £m
Canon Barnett	Refurbishment, remodel ground floor and planned maintenance	1.02	1.04	0.02	1.06
Malmesbury	Remodel and planned maintenance	1.39	1.27	0.12	1.39
Stebon	Refurbishment, extension and planned maintenance	1.05	1.07	0.00	1.07
Elisabeth Selby	Refurbishment, extension and planned maintenance	1.23	1.22	0.01	1.23
Smithy Street	Refurbishment, extension and planned maintenance	1.88	1.88	0.00	1.88
Voluntary Aided Schools					
St John's CE	Refurbishment and planned maintenance; including additional site	1.60 (1.26 grant)	1.16	0.10	1.26
	TOTALS:	7.83	7.64	0.25	7.89

Appendix E

School Expansion Programme

Premises	Allocation £m	Previous Spend £m	Apr 13 - Mar 14 £m	Apr 14 – Mar 15 £m	Apr 15 – Mar 16 £m	Revised £
Arnhem Wharf	4.80	4.57	0.33	0.00	0.00	4.90
Bethnal Green Centre Refurbishment	2.30	0.18	2.09	0.03	0.00	2.30
Bonner	5.00	1.92	3.08	0.30	0.00	5.30
Site to be Identified *	9.60	0.00	1.95	3.35	4.30	9.60
Cayley	5.80	3.16	2.56	0.08	0.00	5.80
Culloden	5.70	5.49	0.02	0.00	0.00	5.51
Marner	7.16	6.84	0.32	0.00	0.00	7.16
Olga	10.70	0.00	1.20	5.50	4.00	10.70
St Paul's Way Trust	5.50	0.00	0.20	0.50	4.80	5.50
Stebon	5.50	0.00	2.00	2.70	0.80	5.50
Wellington	3.58	3.35	0.05	0.00	0.00	3.40
Woolmore	10.50	0.11	4.90	4.99	0.50	10.50
Sub Total:	76.14	25.62	18.70	17.45	14.40	76.17
Provision of Bulge Classes	0.37	0.00	0.37	0.00	0.00	0.37
Schemes Development	0.50	0.00	0.50	0.00	0.00	0.50
Sub Total:	0.87	0.00	0.87	0.00	0.00	0.87
Totals	77.01	25.62	19.57	17.45	14.40	77.04

* Subject to later decision

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Agenda Item 7.3

Committee/Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 24/134
Report of: Corporate Director Education, Social Care & Wellbeing Originating officer(s) Pat Watson, Head of Building Development		Title: Stebon School – Proposed Expansion Wards Affected: Mile End East	

Lead Member	Cllr Oliur Rahman
Community Plan Theme	A Prosperous Community
Strategic Priority	Priority 3.1: Support lifelong learning opportunities for all

1. SUMMARY

- 1.1 This report explains the background to the proposals and informs Cabinet of the consultation that has taken place to date. The report recommends that statutory proposals are now published for the enlargement of the school.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

- 2.1 Note the contents of this report;
- 2.2 Agree that statutory proposals should be published for the enlargement of Stebon Primary School to admit 90 pupils in each year from September 2014.

3. REASONS FOR THE DECISIONS

- 3.1 Proposals have been developed to expand Stebon Primary School to assist in the LA's programme to provide primary school places to meet growing local need. Initial consultation on the proposals has been held. Cabinet is asked to consider the proposed expansion, the response to the initial consultation and the recommendation that statutory proposals for the expansion should be published. The publication of statutory proposals is required in order to implement this change to the school.

4. ALTERNATIVE OPTIONS

- 4.1 In order to meet the rising need for school places, the Council has implemented a number of school expansion projects and continues to develop further schemes to meet need. Longer term development plans for the borough include proposals for new primary schools. However, further expansion proposals are needed to keep pace with the need, so taking no action would leave the Council at risk of being unable to discharge its statutory functions. The options for expansion have been considered having regard to the factors set out in paragraphs 6.9 to 6.11 of the report.

5. BACKGROUND

- 5.1 In September 2012 the Mayor in Cabinet received a report Planning to Meet the Growth Requirement for School Places 2012 – 2022 and elsewhere on this agenda is a report with an annual review of the position in 2013. That report sets out the projected need for school places and actions in place to meet the need. There is a steeply rising need for additional primary and secondary school places.
- 5.2 Stebon Primary School is in Wallwood Street, E14 . At present it admits 60 pupils in each year group (2 forms of entry) and has a maximum capacity of 420 pupils, plus nursery classes. There is a rising need for primary school places in the borough. The greatest pressure for admission to primary schools is being experienced in the central and eastern areas of the borough, including Poplar. The Local Authority has to ensure that there are sufficient school places available to meet the needs of the population.

6. BODY OF REPORT

Decision-making on school expansion proposals

- 6.1 There is a statutory framework for implementing certain alterations to schools, including enlargements. The requirements are included in the Education & Inspections Act 2006 with associated regulations. For community schools, the Local Authority (LA) can propose certain alterations, including enlargements.
- 6.2 The prescribed process requires a two stage consultation process. The initial, pre-statutory consultation should provide information on the proposals and include a wide range of consultees. The outcome of this stage is then considered and, if the LA agrees, statutory proposals are published for a specified period (usually four weeks). After this period, the LA must consider any responses to the second consultation and decide whether or not to implement the proposals, or modify them in the light of the consultation.
- 6.3 There is a right of appeal to the Schools Adjudicator for certain parties against the LA's decision.

- 6.4 The timetable for the process is shown in paragraph 6.27, taking into account the legal requirements of the consultation and decision-making process.

THE NEED FOR ADDITIONAL PRIMARY SCHOOL PLACES

- 6.5 The report referred to above elsewhere on this agenda, Planning for School Places – 2013/14 Review , includes details of the need for additional primary school places and options considered to meet the need.
- 6.6 The LA keeps the need for additional school places under regular review to ensure that there are sufficient places to meet need. Annual school roll information is used to project the need for places in future years. The projection methodology takes into account the trend in school rolls, actual birth data and population projections. This information is compared with data on the capacity of existing schools and the extent of unfilled places in schools in order to assess if additional capacity has to be planned for, or if there is excess capacity which can be reduced.
- 6.7 The LA continues to experience pressure on admission to Reception year particularly in the areas in the centre and east of the borough where new residential development has been taking place. Options continue to be developed to meet the steeply rising need for additional places.
- 6.8 The position for the current year and in the medium term is as follows:

	Places available 2013/14	
Reception	3,476	
	January 2014 projected roll	January 2016 projected roll
Reception	3,413	3,509
Total R-Y6	22,762	23,853

IDENTIFICATION OF POTENTIAL SITES FOR EXPANSION

- 6.9 The Local Development Framework and Core Strategy indicated that some new primary schools are likely to be required, even after allowing for some schools which are not now completely full and that some schools could be expanded on their existing sites. In managing the best use of its assets and the available finance, the LA has first considered which of the existing school sites could be expanded. Proposals have been or are being implemented to expand a number of primary schools and further options will continue to be investigated.
- 6.10 In identifying potential sites for expansion, the following factors have been considered:
- the physical capacity of the existing site and buildings to be expanded;
 - the location of the school – is it in an area where the need is rising;

- the practical implications of the scheme – can it be implemented with an acceptable level of disruption to the school;
- 6.11 In addition to the above factors, in taking the decision to proceed with the proposals at any site, the LA will consider the strength of the individual school, its popularity and success, and its capacity to adapt to the increase in size.
- 6.12 Having regard to all these factors, expansion at Stebon School is considered a suitable option as set out below.

Stebon School

- 6.13 The opportunity for Stebon School to be expanded was identified as part of the ongoing estate review that the Directorate has undertaken. The school site has capacity for an extension to the building and it is an area of the borough where there is pressure on admission to reception year. There has been considerable redevelopment activity in the area local to the school and more is planned.
- 6.14 A planning application for the new school building was submitted in August. Following detailed feasibility work, it is proposed build an extension to the school to provide the additional accommodation required, with some associated remodelling to the existing building. Subject to planning permission and the statutory proposals, work will start in early 2014.
- 6.15 The proposal has been developed in consultation with the Headteachers and governing body who support the proposal.

Funding Implications

- 6.16 The estimated capital cost of the scheme is £5.5m. The separate ESCW Capital Programme report on this agenda recommends the adoption of a capital estimate for the scheme. The capital costs will be funded from the Basic Need grant from the DfE.
- 6.17 Additional revenue funding will be provided to the school through the LA's funding formula to reflect the increased roll.

Implementation of the Expansion

- 6.18 It is proposed that the increase should take effect from September 2014, subject to the approval of the statutory proposals. This means that the first increased year group of 90 will be admitted in September 2014. The school will have three nursery classes.
- 6.19 It is proposed to admit the extra pupils to the school at reception year only until all year groups are full to three forms of entry. This will mean that the school has time to gradually adapt to the increase in size and introduce any new management arrangements as the pupil numbers increase.

CONSULTATION

- 6.20 The initial consultation period was from 10 June to 5 July 2013. The proposed building design was on display in the school for parents and children to see. A copy of the consultation paper issued is included as Appendix A. The consultation paper was sent to:
- all parents and carers of children now at Stebon School

- all staff at Stebon School
- all governors of Stebon School
- all headteachers and chairs of governors of primary schools in Tower Hamlets
- all councillors in Tower Hamlets
- local MPs
- the London Boroughs of Newham and Hackney
- the London Diocesan Board for Schools and the Westminster Diocese Education Service
- local trades unions

6.21 The consultation list was determined having regard to the requirements of the Prescribed Alterations Regulations. It is not considered that there are any schools affected by the proposal, but the head teachers and governors of other schools were notified so that they would have an opportunity to provide input.

6.22 Consultation meetings were held to discuss the proposals with parents.

6.23 The overall response to the proposed expansion of the school was positive although a couple of comments were made that the school's improvement is not yet sufficiently well-established for the expansion to proceed. The consultation paper included a form to return and the analysis of those returned is as follows:

For	Against
57	3

6.24 Two parents' meetings were held at the school during the consultation period. The response from parents who attended these meetings was positive and they welcomed the proposal to invest in the school and generally saw this as positive for their children and the area. At the parents' meetings there were questions and discussion on a number of issues which were responded to by the LA officers and the headteachers in the meetings:

- impact on the playground during the works
- how will the school be affected by the works on site

FURTHER ACTION NOW PROPOSED FOR STEBON SCHOOL

6.25 The comments noted in 6.23 above against the proposed expansion have been taken into account. The LA and governing body believes that the school is making good progress under the leadership of the current headteachers, as supported by Ofsted monitoring visits, and that the expansion proposals should be pursued.

6.26 The consultation that has been conducted complies with the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 and the Secretary of State's guidance on consultation. The outcome of the consultation has been reviewed and there is support for the proposals.

- 6.27 The Mayor in Cabinet is recommended to agree to publication of statutory proposals for the expansion of Stebon Primary School. The statutory proposals will be published in East End Life and made available at the school. Any comments or representations on the proposals should be submitted to the Council by the end of the four week period.
- 6.28 If there are no objections to the statutory proposals in the four week period, the decision to implement will be dealt with by the Corporate Director, Education, Social Care & Wellbeing in accordance with the scheme of delegation. If there are objections to the proposals, the decision will be referred to Cabinet.
- 6.29 The timetable for the process is set out below:

Cabinet receives a report on the initial consultation and decides on publishing formal statutory proposals	11 September 2013
Statutory proposals published with 4 weeks allowed for comments	23 September – 18 October 2013
The decision will be taken to implement the proposals either by the Council's Cabinet if there are objections; or, if there are no objections, by the Corporate Director, Education, Social Care & Wellbeing	By 17 December 2013
Building works commence	Spring 2014
Additional pupils admitted to Reception year	September 2014
Building works complete	December 2014

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 The capital works for Stebon School expansion are due to cost £5.5m in total, with most of the work taking place during 2014/15 financial year. The capital estimate is being considered on an alternative paper by Cabinet.
- 7.2 The capital works will be funded from the Basic Need Grant received from the Department for Education.
- 7.3 Future revenue costs of the expanded school will be funded through the school enrolling more pupils and attracting more formula funding through the Dedicated Schools Grant

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1. One of the Council's duties in respect of education is to secure that sufficient schools are available for primary and secondary education in Tower Hamlets. This obligation arises under section 14 of the Education Act 1996. The schools must be sufficient in number, character and equipment to provide all pupils with the opportunity of appropriate education.
- 8.2. In deciding what provision to make in respect of primary and secondary schools, the Council is required to consider the need to secure diversity in the provision of schools and increasing opportunities for parental choice. This sits alongside the Council's general equality duty, which requires it to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Equalities analysis will need to be carried out alongside the development of proposals.
- 8.3. Section 19 of the Education and Inspections Act 2006 provides that where a local authority proposes to make prescribed alterations to a maintained school, it must publish its proposals. The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 ("the Prescribed Alterations Regulations") specify what alterations made by local authorities are prescribed alterations and specify the procedure to be followed when publishing and determining such proposals. The enlargement of a school's premises so as to increase the school's capacity by: (a) more than 30 pupils; and (b) 25% or 200 pupils (whichever is the lesser) is a prescribed alteration. The proposals described in this report fall within that definition so the procedure in the Prescribed Alterations Regulations must be followed.
- 8.4. The Prescribed Alterations Regulations require the Council to follow a two stage process involving consultation prior to publication of a proposal, followed (assuming the Council wishes to proceed) by publication of the proposal. As part of the initial consultation, prescribed information must be provided to prescribed persons. The Council is required to have regard to the Secretary of State's guidance as to consultation on proposals. The guidance recommends that the consultation allows adequate time, provides sufficient information for those being consulted to form a considered view and makes clear how the views can be made known. Proposers must be able to demonstrate how they have taken into account the views expressed during the consultation in reaching any subsequent decision as to the publication of proposals. Based on the information in the report, the initial consultation complies with the requirements of the Regulations and guidance and so the Council is in a position to determine whether to publish a proposal. This is an executive function.

- 8.5. The Prescribed Alterations Regulations prescribe what information must be specified in a proposal and how it should be publicised. The proposal should be published within a reasonable timeframe following consultation so that it is informed by up to date feedback. A statutory notice containing specified information and stating how complete copies of the proposals can be obtained must be published in a local newspaper, and also posted at the main entrance to the school (and all the entrances if there are more than one) and at some other conspicuous place in the area served by the school (eg. local library, community centre). It is essential that the published notice complies with the statutory requirements as set out in the Regulations.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1. The expansion of schools is necessary to ensure the Council meets its legal obligation to secure sufficient schools for Tower Hamlets, but will also promote equality of opportunity for children and young people (including within the meaning of the Equality Act 2010).
- 9.2. The provision of school places and the LA's admission arrangements aim to promote fair access to schools particularly in terms of the distance from home and to allow siblings to attend the same school.
- 9.3. The new extension to the school building will be fully accessible which will enhance the range of provision available in mainstream schools for children with physical disabilities. The school will be inclusive for children with special education needs.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The design of the building and materials proposed to be used for Stebon School have taken account of sustainability and energy efficiency. Products to be chosen will offer significant energy saving values; insulation products that have an approved environmental profile; and timber from certified sustainable sources.
- 10.2 The design must comply with Building Regulations, Part L which has strict guidelines in respect of carbon emission levels and energy efficiency.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 The project at Stebon School has a high capital value and close monitoring of the project through the preparatory stages is in place and will continue through implementation stages with appropriate, experienced project management resources. If the proposals do not proceed, there will be a risk to be managed that some children will be without a school place local to their home.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 There are no specific implications arising.

13. EFFICIENCY STATEMENT

- 13.1 The Council is using its assets efficiently by seeking to extend and expand existing school sites to meet the needs of the rising school age population before acquiring land to build a new school

14. APPENDICES

Appendix A – Stebon School Consultation Document

Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
none	N/A

LB TOWER HAMLETS

CONSULTATION ON PROPOSALS TO EXPAND STEBON PRIMARY SCHOOL

Introduction

In Tower Hamlets there is a rising school age population. The Council has to ensure there are sufficient school places so that all resident children can attend school locally. The Council considers that Stebon Primary School can be successfully developed to improve facilities and accommodate additional places and this paper is published for consultation on this proposal.

This expansion will allow Stebon School to increase from 60 pupils in each year to 90 pupils in each year. The first additional children will be admitted from September 2014.

Consultation Process

This paper is being sent to:

- all parents and carers of children now at Stebon School
- all staff at Stebon School
- all governors of Stebon School
- all headteachers and chairs of governors of primary schools in Tower Hamlets
- all councillors in Tower Hamlets
- local MPs
- the London Boroughs of Newham and Hackney
- the London Diocesan Board for Schools and the Westminster Diocese Education Service
- local trades unions

This consultation period runs from 10 June to 5 July 2013. A form is included at the end of this paper for the return of your views.

There will be parents' meetings at the school on 14 June at 9.00 am and 2.30 pm – we hope as many parents as possible will be able to come to one of the meetings to hear about the proposals and let the Council know your views.

Why are more school places needed?

In Tower Hamlets there has been considerable development to provide new homes and this is anticipated to continue for some years to come. It is projected that nearly 3,000 new homes will be built on average each year until 2025. The birth rate is rising and it is clear that the population trend will continue to rise. The Council needs to plan for the services that the population will need, including schools.

The Council has already carried out schemes to increase the size of some primary schools to ensure that there are enough places for all the children who need a place. Between 2012 and 2022 the total number of children at primary schools will increase by approximately 7,500 pupils, a rise of 34%. The Council therefore has to continue to make plans for providing extra places.

The main areas where the need for school places is rising are in the central and eastern areas of the borough, including Poplar and the Isle of Dogs. These areas will benefit from a large amount of the new residential development. In time, the projections of the increase in the school roll will require new primary schools to be built.

Stebon School

Stebon School is in an area of the borough where the school age population is rising. The Council has considered the existing school site and buildings and, working with the headteachers and governing body, we have shown that it is possible to provide new accommodation and improvements to the existing school which will allow the size of the school to be increased. The Council considers this to be an exciting development opportunity for the school.

The Council believes that the experienced leadership of the new Headteachers will enable them and the staff to effectively include the increased roll whilst continuing to improve the standards for all children and maintaining the character of the school which parents value. The admissions criteria for the school will not change and so the children at the school will continue to be those who live in the local area.

The Council will spend about £5 million on the expanded facilities for Stebon School. This will be a great new opportunity for the local community to ensure that local children have excellent facilities and the best education for their start in life.

Expanding the school will bring additional resources and facilities to the school, so that the range of opportunities for children will be expanded. There will be more teaching and support staff and increased professional development opportunities for existing staff which will help to recruit and retain good quality teaching and non-teaching staff.

The school will get a larger budget for the additional children and to support the extended building.

The building plans for the school

The Council has been working with the Headteachers and governing body to develop the plans for the school. The building plans are on display in the school during the consultation period.

The new school will enable the Headteachers and staff to build on the character and ethos of Stebon. They want to ensure that what parents and children value about the school is maintained as the school expands.

The plans for the expansion of the school include providing new classrooms, resource areas, additional toilets, parents' room, a new, larger staff room with a work preparation area and a larger assembly/dining hall. A new lift will also be installed to allow access for people with disabilities. Because of the need to carefully plan the works to manage the impact on the running of the school, the works will be phased over about a year.

The construction work will be planned with the highest priority given to the safety of everyone at the school and carried out by a contractor who is very experienced in working on occupied school sites. The Council is working with the Headteachers on the plans for how the works are carried.

Size of the increase in roll

The school now has 60 places in each year group with two nursery classes. Under the new proposals, there will be 90 places in each year and three nursery classes. The total school roll over time will eventually be 630, plus the nursery classes. There will be no change to the admissions arrangements to the school.

How will the increase take effect

The extra children will be admitted to the school in Reception year only from September 2014, so that the full increase will arise after 7 years. Additional children will not be admitted above the total of 60 for a year group where 60 was the original year group number, but there may be admissions where there are vacancies in any year group.

Effect on children now at the school

The increase in roll will happen over a 7 year period which will allow the school to gradually absorb the changes. The children now on roll of the school will be in the existing school during the building works to create the new school. Very careful planning is continuing by the Authority and the Headteachers to ensure that the disruption to school life is kept to the minimum possible. Some of the existing play area will not be in use during the works and the Headteachers will work out the best way to make sure children can still have good play opportunities during the works. The works will also affect the games court used by the community outside school hours but access to a games area should be maintained for the majority of time during the works.

Other expansion proposals in the area

The Council is considering other options for schools where it may be possible to expand. Consultation on proposals will take place as they are developed. The eastern part of the borough is one of the areas where the highest levels of new housing are anticipated and it is likely that one or more new primary schools will eventually be built.

Timing

This consultation runs from 10 June to 5 July 2013. The timetable for consultation and taking decisions following this stage of consultation is:

Initial consultation	10 June to 5 July 2013
The Council's Cabinet receives a report on the consultation and decides on publishing formal statutory proposals	11 September 2013
Statutory proposals published with 4 weeks allowed for comments	23 September to 18 October 2013
The decision will be taken to implement the proposals either by the Council's Cabinet if there are objections; or, if there are no objections, by the Executive Director of Education, Social Care & Wellbeing	By 17 December 2013
Building works commence	January/February 2014
First additional Reception year pupils are admitted	September 2014
Works completed	December 2014

Next steps

During this current consultation period, the Council wants to hear from as many people as possible. Please let us know your views by completing and returning the form on the next page.

There will be parents' meetings at the school on 14 June at 9.00 am and 2.30 pm – we hope as many parents as possible will be able to come to one of the meetings to hear about the proposals and let the Council know your views.

STEBON PRIMARY SCHOOL

CONSULTATION ON THE PROPOSED EXPANSION OF STEBON SCHOOL

	Please tick as appropriate
I agree with the proposal to expand the school	<input type="radio"/>
I do not agree with the proposal to expand the school	<input type="radio"/>

Other comments

NAME	
PARENT, GOVERNOR, OTHER (please state)	
DATE	

Please return this page by 5 July 2013 to:

The school office; or

Pat Watson, Head of Building Development, Children's Services, Town Hall,
Mulberry Place, 5 Clove Crescent, E14 2BG, or
e-mail to: pat.watson@towerhamlets.gov.uk

Agenda Item 8.1

Committee/Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 25/134
Report of: Corporate Director / Head of Paid Service Stephen Halsey Originating officer(s) David Tolley – Head of Consumer and Business Regulations		Title: Licensing Policy Review and ‘No casino’ resolution Wards Affected: All	

Lead Member	Deputy Mayor Cllr Ohid Ahmed
Community Plan Theme	A Safe and Cohesive Community
Strategic Priority	Focusing on Crime and ASB

1. **SUMMARY**

- 1.1 All local authorities have to review their existing Statement of Licensing Policy and adopt a new policy by the end of 2013. This is one of their responsibilities they have to enable the Council to administer licences under the Licensing Act 2003.
- 1.2 The purpose of the Statement of Licensing Policy is to define how the responsibilities under the Act are going to be exercised and administered.
- 1.3 A statutory consultation process has taken place between the 5th April and 10th May 2013.
- 1.4 The reviewed Statement of Licensing Policy will ultimately go to full Council for adoption.
- 1.5 Cabinet also requested that a ‘No Casino’ resolution be consulted upon, that would amend the Gambling Policy 2013. The consultation showed a majority in favour of the resolution. If agreed, the policy will go to full Council for adoption.

2. **DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 To agree the forward programme for the adoption of the Statement of Licensing Policy.

- 2.2 Recommend that Full Council approve the Licensing Policy.
- 2.3 Note that it is intended that the Statement of licensing Policy will take effect from 1st November 2013 until 31st October 2018. The existing Statement of Licensing Policy will be revoked on the 31st October 2013.
- 2.3 Recommend that Full Council approve the 'no casino' resolution.

3. REASONS FOR THE DECISIONS

- 3.1 The Council is statutorily required to review its Statement of Licensing Policy every three years. As part of the review a statutory consultation must take place.

4. ALTERNATIVE OPTIONS

- 4.1 Cabinet does have the option not to review its Statement of Licensing Policy but the Council will be open to legal challenge for not having a properly consulted and adopted Policy.

5. BACKGROUND

- 5.1 The Council's current Statement of Licensing Policy was adopted by Full Council in December 2010.
- 5.2 Tower Hamlets Council is defined as a Licensing Authority under the Licensing Act 2003. As a Licensing Authority we must review our Licensing Policy every three years and publish the outcome of that review.
- 5.3 We must, as a minimum carry out the statutory consultation laid down in the Act.
- 5.4 Following consultation, Cabinet must consider the revised Statement of Licensing Policy and full Council must adopt the Statement of Licensing Policy.
- 5.5 The Licensing Act 2003 gives local authorities a range of responsibilities relating to licensing. The Statement of Licensing Policy states how the Council will exercise its authority.
- 5.6 This policy covers the following:
- How the Licensing Authority will use its regulatory powers in relation to applications and reviews of the activities it regulates, to the extent it is allowed by statute.
 - The main licensing objectives for the authority which are set by legislative requirements.
 - The Licensing Authority approach to regulation
 - The scheme of delegation

5.7 The Statement of Licensing Policy is prescribed by central government in its guidance to Local Authorities. The policy produced has to comply with guidance issued by central government. The current policy is compatible with this advice and guidance.

6. **BODY OF REPORT**

6.1 Under the Licensing Act 2003, the Council as the Borough's licensing authority must review its Statement of Licensing Policy and publish the outcome of that review.

6.2 The current review has taken into account the legislative changes that will affect the policy. The changes respond in the main to guidance and regulatory change from central government during the course of the last three years.

6.3 The Statutory Consultation requirements consist of:-

- The Chief Officer of Police for the Licensing Authority area
- The Fire Authority for the area
- Such persons as the Licensing Authority consider to be representative of holders of existing licences
- Such persons as the Licensing Authority considers to be representative of holders of existing clubs
- Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area

6.4 The full list of consultees is detailed in Appendix One. All licenceholders were written to. General comments from groups and forums have been summarised in Appendix Two. The online submissions are summarised in Appendix Three.

6.5 The statutory changes are outlined in Appendix Four and the revised policy for adoption is detailed in Appendix Five.

6.6 The consultation documents have been presented to the Licensing Committee and noted by them.

6.7 The following are relevant issues that have been raised in the consultation process and will need to be determined by Members.

Late Night Levy: This enables a levy to be placed on businesses that operate past a set terminal hour past midnight. Some limited exemptions can be applied. The extra funds paid by businesses would require 70% net being paid into the Metropolitan Police at a regional level for use on Policing in the capital. The remaining 30% can be spent on the late night economy in Tower Hamlets. This has been estimated to be £74,000. A consultation exercise would need to be undertaken if this provision was to be used.

Early Morning Restriction Orders: This would enable the Council to determine if part or all off the Borough could be restricted in selling alcohol from midnight and 6am. An evidence base would need to be determined and a consultation exercise undertaken.

Framework Hours: The current framework hours in the Policy give an indication of the desired opening hours of premises, however each case is considered on its merits. The current hours are:

Sunday	0600hrs to 2230hrs
Monday to Thursday	0600hrs to 2330hrs
Friday and Saturday	0600hrs to midnight

Two of the groups that have responded have suggested a later start to the framework hour;

On licences	
Sundays	1200hrs
Monday to Thursday	1000hrs
Friday and Saturday	1000hrs

Off Licences	
Monday to Saturday	0800hrs
Sundays	1000hrs

Guidance has been published under section 182 of the Licensing Act 2003 that addresses the issue of framework hours. They should operate in such a way that does not restrict discretion and recognise that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good, evidential reasons to restrict these hours. There must be a justification provided if change is considered appropriate. The current responses do not justify the change from a locality perspective but simply compare the hours to that of Westminster City Council.

Increase the consultation area: Three groups have responded that they would like to have a greater consultation area of more than 40 meters from the applicant premises. Only one group has stipulated a distance of 100 meters. There would be resource implications to run licensing consultations over larger areas.

Touting: There were some concerns regarding the Touting elements within the Policy and some businesses have expressed a desire to improve trade without compromising the Licensing Policy and the welfare of residents and visitors to the area. It is claimed that the touting policy is having a negative impact on business.

Some restaurateurs would like to introduce a 'Meeters and Greeters' scheme to regulate on street business promotion by;

- Developing a jointly agreed Code of behaviour and standards with Councilors, Businesses and local residents
- Ensure any on street staff wear identifiable badges making clear their name and the business (with contact details) they represent
- Restrict on street promoters or marketing staff to a certain number to avoid congestion
- Provide professional training so frontline workers and business owners/managers are clear on what is expected both in terms of customer engagement and dealing with other businesses/traders
- The need for a robust process of constant and effective monitoring to and police the scheme

A scheme of this type falls outside the scope of the Statement of Licensing Policy and can be instigated and managed by the restaurateurs, providing the conditions detailed in the Statement of Licensing policy are not contravened.

Health Considerations: The Public Health Team has made recommendations for two conditions that relate back to the Licensing objective of Public Safety. Guidance made under section 182 of the Licensing Act 2003 states that blanket conditions on premises are not suitable and that such conditions should be considered as 'pool conditions'

However, there are currently mandatory conditions that could cover the 'pool conditions' proposed by Public Health. The condition suggested by Public Health states:

For off licences, there shall be no promotional sales of alcoholic drinks at the premises at a price lower than normally sold at the premises. This will include offers that encourage the purchase of multiple alcoholic drinks products for a reduced price such as 'two for the price of one', 'three for the price of two', 'buy-one-get-one-free' & 'buy six get x% off'

This is more detailed than the corresponding mandatory condition:

The responsible person must take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

The proposed condition from Public Health goes beyond irresponsible promotions and is seeking to stop any promotion at all. The condition cannot be applied to current licences retrospectively; therefore new premises would be put at a disadvantage.

The second condition relates to:

There shall be no sale of alcoholic drinks at a price lower than £0.50 per unit (where a unit of alcohol is defined as 10ml by volume or 8g by weight, of pure alcohol (ethanol)).

This condition does not retrospectively apply to all licences, thus this could put new premises at a disadvantage.

6.8 The current Statement of Licensing Policy remains current until December 2013. It is proposed that this policy is replaced on the 1st November 2013 with the reviewed policy to enable the cumulative impact policy to be brought in early. The new policy cannot be brought in earlier due to then need to advertise and publish it.

6.9 The consultation also covered the request from Cabinet to consider a 'No Casino' resolution that would form part of the revised Gambling Policy. This received majority endorsement from those that completed the online consultation. Appendix Six sets out a suggested text for amendment to the Gambling Policy.

6.10 The justification for the 'no casino' policy can be drawn from the fact that the Borough already hosts 77 Betting Shops and 5 adult gaming centers. According to the NHS there is a link between gambling and alcohol abuse. Many gambling addicts are also addicted to alcohol. Rates of depression and attempted suicide among gambling addicts are around double the national average. Gambling addicts are also more likely to go to prison as a result of criminal activity. This is almost entirely through theft and fraud. (NHS Choices: Your health your choices)

6.11 The following recommendations are put forward for consideration in relation to the non-statutory changes to the Statement of Licensing Policy and are included in the draft Statement of Licensing Policy attached at Appendix Five.

Proposed Change	Recommendation
Late Night Levy	The Council may impose a levy but is required to consult before doing so. The Statement of Licensing Policy should recognise this power but indicate that the Council would only carry out consultation if some justification for a levy is brought forward. Justification would probably come from a responsible authority.
Early Morning Restriction Orders	The Council may make an early morning restriction order but is required to consult before doing so. The Statement of Licensing Policy should recognize this power but indicate that the Council would only carry out consultation if some justification for an order is brought forward. Justification would probably come from a responsible authority. Restrictions on problem premises

	may presently be imposed via the current review process.
Framework hours	The supporters of moving the frame work hours to midday (Sunday only) and 10.00hrs for on licences and 10.00hrs (Sunday only) and 0800hrs for off licences has not been justified. It also will not be retrospective to current licence holders. The Licensing Sub Committee judges each case on its merits and is not bound by these hours.
Increase in the consultation area	The Council's statement of licensing policy presently provides that it will notify residents and businesses within a 40 meter radius of the premise the subject of the application. This is discretionary and considered to be good practice. If the area was to be extended this would create an administrative burden for the Licensing Team, which it would lack the resources to meet. It is proposed that the applications placed on the website for interested parties to review, along with retaining current arrangements
Touting	It is recommended that the work around Touting continues and that the conditions on current licences are maintained.
Health Considerations	<p>The Public Health condition concerning promotions goes further than the current mandatory condition and could not be retrospective, leading to inconsistency and unfairness. It is recommended that this condition is not adopted as a pool condition.</p> <p>The condition concerning the price per unit of alcohol would be contrary to Government guidance and lacks the required justification as to why this would be a proportionate means of achieving the licensing objectives. It is recommended that this condition is not adopted as a pool condition.</p>

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 There are no specific financial implications emanating from the amendments to the Statement of Licensing Policy.
- 7.2 There is however non statutory changes within the recommendations put forward for consideration. The proposed change that will have a financial impact is the introduction of a Late Night Levy for businesses operating past a set terminal hour after midnight. A limited number of exemptions will be applied. The anticipated income generated from the levy would be shared out 70% net to Metropolitan Police and the remaining 30% net to the Council estimated at £74,000.
- 7.3 The additional income generated from the levy will provide an opportunity for re investment into the late night economy in Tower Hamlets which will need to

be considered alongside the Medium Term Financial Plan savings targets as part of the budget process.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 The Council is a licensing authority under the Licensing Act 2003. Section 5(1) of the Licensing Act requires the Council to determine and publish its policy with respect to the exercise of its licensing functions. Since 25 April 2012, the requirement is for the Council to prepare and publish its statement of licensing policy in respect of each 5 year period. Once the licensing policy is in place, the Council is required to have regard to the policy in the exercise of its licensing functions.
- 8.2 The Licensing Act specifies a minimum level of consultation which the Council must carry out before determining its licensing policy for a 5 year period. This requires specified persons to be consulted, as referred to in the body of the briefing paper.
- 8.3 When determining its licensing policy, the Council is required to have regard to the following –
- Promoting the four licensing objectives, namely: (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.
 - Statutory guidance issued by the Secretary of State.
- 8.4 Pursuant to the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the determination of the statement of licensing policy under section 5 of the Licensing Act 2003 cannot be a function of the council's executive. Consistent with this requirement, the Council's Constitution makes the licensing policy part of the budget and policy framework. The preparation of the policy must thus comply with the Budget and Policy Framework Procedure Rules.
- 8.5 It is proposed that the statement of licensing policy refer to the fact that the Council may impose a late night levy or an early morning restriction order, but that in each case the Council would first have to carry out consultation which it will not undertake unless justification is first provided by a responsible authority. If the Council is not itself aware of a justification for either a late night levy or an early morning restriction order, then it seems reasonable to defer consultation until such time as a justification becomes apparent.
- 8.6 The late night levy is a charge on persons licensed to sell alcohol late at night, which is a means of raising a contribution towards the costs of policing the late-night economy. Section 125 of the Police Reform and Social

Responsibility Act 2011 (“the 2011 Act”) empowers the Council to decide that the late night levy is to apply in Tower Hamlets. The 2011 Act specifies matters which the Council must consider at the time of making that decision. The procedure to be followed in relation to a proposal to apply the late night levy is specified in the Late Night Levy (Application and Administration) Regulations 2012. The Council must consult with the relevant local policing body, the relevant chief officer of police, and holders of relevant late night authorisations. The Council must publish notice of its proposal to apply the late night levy. This procedure is separate from that which is being followed to revise the licensing policy. If reference to the late night levy is to be included in the licensing policy, then the decision to apply the levy should be completed prior to, or at the same time as, adoption of the revised licensing policy.

- 8.7 Section 172A of the Licensing Act 2003 permits the Council to make an order effectively preventing the sale of alcohol in a specified period between midnight and 6 am (an early morning alcohol restriction order, or EMRO). Section 172B of the Licensing Act and the Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012 set out procedural requirements to be followed when making an early morning alcohol restriction order. The proposal must be advertised. If relevant representations are made, the Council must hold a hearing to consider the representations, unless all parties agree that a hearing isn’t necessary. There are prescriptions as to the content of EMROs and as to the manner and form in which they are to be made.
- 8.8 There was a suggestion during consultation that the Council might extend the framework hours referred to in its statement of licensing policy. This is not recommended in the report. The framework hours give a guide to the level of scrutiny the Council will apply in considering licence applications. Consistent with Government guidance, the framework hours are not in any sense “normal” or “usual” and every application has still to be considered on its merits. Any change to the framework hours would need to be considered by reference to the need to promote the licensing objectives, for which no justification has been provided.
- 8.9 There was a suggestion during consultation that the Council might notify people of licence applications in a wider area from the premises. The Council’s statement of licensing policy presently provides that it will notify residents and businesses within a 40 metre radius of the premise the subject of the application. This is discretionary and not required by the Licensing Act 2003.
- 8.10 Representations were made during consultation regarding the Council’s approach to enforcement action against touting. The Mayor has agreed an Enforcement Policy, which provides that the Council’s approach to enforcement is founded on firm but fair regulation around the principles of :
- raising awareness of the law and its requirements;
 - proportionality in applying the law and securing compliance;
 - consistency of approach;
 - transparency about the actions of the Council and its officers; and

- targeting of enforcement action.
- 8.11 There is no requirement for touting enforcement to be addressed within the Council's statement of licensing policy.
- 8.12 Two licensing conditions have been proposed by Public Health. The first concerns drink promotions. There is already a mandatory condition applying to all licences, which is in the following terms: "The responsible person must take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange, or participate in any irresponsible promotions in relation to the premises." The mandatory condition is targeted at irresponsible promotions. By contrast the condition proposed by Public Health seeks to stop all promotions. There is no indication of why such a condition would be a proportionate means of achieving the licensing objectives and in the absence of such a justification it should not be adopted as a pool condition.
- 8.13 The second condition proposed by Public Health seeks to impose a minimum price for alcoholic drinks. This is not consistent with Government guidance. There is no indication of why such a condition would be a proportionate means of achieving the licensing objectives and in the absence of such a justification it should not be adopted as a pool condition.
- 8.14 It is noted that it is intended to publish the Licensing Policy earlier than actually required so as to enable the proposed Special Policy in respect of Cumulative Impact to be brought into effect. At Cabinet on 31st July 2013, the Mayor agreed that the Special Policy in respect of Cumulative Impact being presented to Full Council on 18th September 2013 with the intention that such policy be agreed and published.
- 8.15 It is proposed that the Council makes a "no casino" resolution. Section 166(1) of the Gambling Act 2005 ("the 2005 Act") permits the Council to resolve not to issue casino premises licences and section 166(2) provides that in passing a resolution under subsection (1) a licensing authority may have regard to any principle or matter. Any resolution: (a) must apply to the issue of casino premises licences generally, (b) must specify the date on which it takes effect, (c) may be revoked by a further resolution, and (d) shall lapse at the end of the period of three years beginning with the date on which it takes effect (without prejudice to the ability to pass a new resolution).
- 8.16 A resolution under section 166(1) is required to be published by being included in a revision of the Council's three year statement of gambling policy. This is required by section 166(5) of the Gambling Act. The Council is required to consult before revising the gambling policy, which the report indicates has been carried out.
- 8.17 The making of a "no casino" resolution is a matter which may not be the responsibility of the Council's executive, by virtue of regulation 2(1) and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The Council's Constitution includes the making of such a

resolution in the terms of reference of the Licensing Committee. Amendment or revision of the gambling policy is one of the functions which may not be the responsibility of the executive (see Regulation 4(4)). This would need to be taken to full council.

- 8.18 When preparing and determining its statement of licensing policy, or considering a “no casino” resolution, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. This will require equality analysis, which is provided in Appendix 7 of the report.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 An equalities impact assessment has been undertaken (appendix seven) and no adverse impacts have been identified.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 There are no adverse impacts identified.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 The Council will be at risk of legal challenge if a properly consulted and adopted Statement of Licensing Policy is not in place by the end of 2013.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 One of the key licensing objectives is to prevent licensed premises from being a source of crime and disorder. The policy supports and assists with crime and disorder reduction by controlling those who manage premises open to members of the public and imposing conditions on relevant premises licences.

13. EFFICIENCY STATEMENT

- 13.1 There are no efficiency issues relating to this report.

14. APPENDICES

Appendix One: List of Groups/Organisations Consulted
Appendix Two: Summary of Written Responses
Appendix Three: Summary of On Line Responses
Appendix Four: Proposed Changes to the Statement of Licensing Policy
Appendix Five: Draft Statement of Licensing Policy
Appendix Six: Proposed 'No Casino' Resolution
Appendix Seven: Equalities Impact Assessment

Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
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None	
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Appendix One

List of group /organisations consulted

Residents / community groups / networks

Advice Providers Forum
Attlee Centre
Bangladeshi Mental Health Sector Forum
BowNET
Brick Lane Mosque
Carers Centre Together
ChristChurch
Cloisters Residents Association
Community Plan Delivery Groups
DisabilityCoalitionTower Hamlets
Docklands Youth Services
Early Years Development and Childcare Partnership
Early YearsNetworkTower Hamlets (EYNTH)
East London Mosque/LMC
Employment and Training Forum
Homeless Networks for 3rd Sector groups
Link Age Plus
Local youth work forums
Mental Health Carer's Forum
Muslim Women's Collective
New Residents and Refugee Forum (Tower Hamlets)
Older People Services Provider Forum
Open Shoreditch
Osmani Centre
Police and Community Safety Board
Rainbow Hamlets (LGBT)
Real (Disability)
RSLs/RSL Forum
Safe Exit Forum
Somali Health Forum
SPIRE
Spitalfields Community Group
Spitalfields Housing Association Ltd
Spitalfields Market Residents' Association
Spitalfields Small Business Association
Spitalfields Society
St George Residents' Association
St Hildas East Community Centre
Supporting People Inclusive Forum
The Tower Hamlets Pan Disability Panel (THPDP)
The Voluntary Sector Children and Youth Forum (VSCYF)
Third Sector Advisory Group
Tower Hamlets ChangeUp Consortium
Tower Hamlets Community Advice Network (THCAN)
Tower Hamlets CVS/Third Sector Forums and Networks
Tower Hamlets Domestic Violence forum
Tower Hamlets Housing Forum
Tower Hamlets Inter Faith Forum
Tower Hamlets Involvement Network (THINK)
Tower Hamlets LGBT community forum
Ward panel Sergeants/Ward panel members

Community Safety Partnership (sub group leads)

Confidence and Satisfaction Board
Crime and Antisocial Behaviour Reduction Board
Drug and Alcohol Action Team
Integrated Offender Management Board
No Place for Hate
Safeguarding Boards (Children and Adults)
Violence Against Women and Girls Board
Youth Offending Team Management Board

Internal staff forums

Accessible Transport Forum
BAME Staff Forum - e-mail, on-line survey
Disabled staff forum
LGBT staff forum

Responsible authorities

Metropolitan Police Service
The Fire Authority
Health and Safety Authority
Planning Authority
Licensing Authority
Environmental Protection
Child Protection
Public Health

Youth Organisations and Clubs

4Children
4th Poplar Scout Group
5th Tower Hamlets Scout Group
A' Team Arts
Aberfeldy Youth Project
Air Cadets 444 (Mile End) Squadron
Ale Douvan
Alpha Grove Youth Club
Arbour Youth Centre
Bangladesh Football Association
Bangladesh Youth Movement
Bangladesh Youth Movement Women's Centre of Excellence
Bethnal Green Sharks Swimming Club
Bethnal Green Youth Consortium
Bijoy Youth Group
British Street Youth Project
Café Reconnect
Caxton Hall Late Night Youth Project
Chisenhale Dance Space
Chisenhale Gallery
ChristChurchGardens Youth And Community Centre
Complete Works Creative Company
Columbia Youth Project
CubittTown Youth Project
Da Real Lyf Project
Davenant Youth Centre of Excellence
East London Football Club
EastLondonTabernacleChurch
Eastside Youth Centre

Elite Youth
Ensign Youth Club
Fifth Tower Hamlets Scouts Group
George Green's School Youth Provision
Glamis Adventure Playground
Golden Moon Youth Project
Good Shepherd Mission
Grand Union Youth Orchestra of East London
Green Candle Dance Company
Greenlight Youth Club Ltd
Haileybury Youth Centre
Half Moon Young People's Theatre
Harpley Youth Project
Hermitage Mother Tongue and Study Support Centre
Hi8us South
Hind Grove Community Project
IanMikardoSchool
IndyMedia3 Productions
Iskaashi Youth Centre
Jagonari Women's Educational Resource Centre
Juva Youth Football Club Project
KeenStudentsSchool
Khelaghar Supplementary School
Limehouse Youth Club
Lincoln HARCA Junior Youth Club
Linc Senior Youth Project
Locksley Youth Club
London Tigers
Magic Me
Marnar Youth Project
Martineau Youth Project
Maximising Unity and Leisure Youth Group
Meath Youth Project
Millennium Volunteers
Motiv8 Youth
Mudchute Farm
Multi Skill Development - SevenMillsSchool Sports Partnership
Multi Youth In Bow
New Generation Youth Club
Newark Youth Project
New Avenues Youth and Community Project
Ocean Somali Community Association
Ocean Youth Connexions Ltd
OFHA Detached
Olga Education and Training Project
Open Youth
Osmani Trust
Paradise Zone Youth Centre
Poplar African & Caribbean Community Education Group
Poplar Boys and Girls Club
Poplar Harca - Linc Senior Youth Project
Poplar Youth Alliance
Poplar Youth Association Limited
Purple Broccoli Theatre Limited
Redcoat Youth Centre
Rich Mix Cultural Foundation
SaturdayMusicSchool
Shadow Youth Alliance
ShadwellBasin Outdoor Activity Centre
Somali Youth Development Association

Somali Youth Project
 South Poplar and Limehouse Action for Secure Housing (SPLASH)
 SpitalfieldsCity Farm
 Splash (South Poplar And Limehouse)
 Splash Youth and Community Programme
 St AndrewsWharf Youth Project
 St Hilda's Youth Project
 St Paul with St Stephen Youth Club
 Step Forward
 Stepney Dynamic Youth
 Stepping Stones Farm
 Stifford Community Centre
 Streets Of Growth
 Swanlea Youth Project
 Teviot Youth Project (Teviot Youth Club)
 The Federation of London Youth Clubs (London Youth)
 The GAP Project
 The Village Club
 Tower Hamlets Guides
 Tower Hamlets Summer University Limited
 Tower Hamlets Youth and Community Band
 Tower Hamlets Youth Exchange Group
 Tower Project SEN
 Udichi Shilpi Gosthi
 Urban@Attlee
 Urban Adventure Base
 Urban Youth
 Wapping Youth Centre
 Weavers Adventure Playground Association
 Wessex Girls and Young Women's Project
 Whitechapel Girls and Young Women's Project
 Whitechapel Youth Centre
 Workhouse
 XseAcademy
 Young Face of Africa UK
 Young Foundation (The)
 Young News
 Young Rose Association Limited
 Youth Action UK - Haileybury
 Youth Action UK - Whitechapel Youth Project (Boys)
 Youth Empowerment Scheme and Peace Project
 Youth Majlis

Advocacy Services

CarersCentreTower Hamlets(Princess Royal Trust)
 Advocacy Partners
 Age Concern
 Alzheimer's Society – Tower Hamlets
 APASENTH
 Bilingual Health Advocacy and Interpreting Service
 Black Women's Health and Family Support
 Blind Aid
 Children's Society Disability Advocacy Project
 Chinese Mental Health Association
 Daryeelka Maanka
 DeafPLUS - Breakthrough Deaf and Hearing Integration
 Diabetes UK Advocacy Services
 Disability Law Service
 DisabilityCoalitionTower Hamlets

Family Rights Group
Independent Complaints Advocacy Service
LegalAdviceCentreTower Hamlets
MencapTower Hamlets Advocacy Project
Mind In Tower Hamlets
Multi-lingual Health Advocacy Service
Positive East
Praxis Community Projects Ltd
Social Action For Health
The MAP Squad
Tower Hamlets Advocacy Project
Tower Hamlets Law Centre
Voicability
Women's Health and Family Services

RSL and Housing Forums

A2 Dominion
Eastend Homes
East Thames
Gateway Housing Association
Industrial Dwellings Society
Karin Housing Association
Look Ahead Housing & Care
Mitali Housing Association
Mornington Grove Housing Co-Operative Limited
Newlon
OFHA
One Housing Group
Peabody Trust
Peter Bedford Housing Association
Poplar HARCA (Housing and Regeneration Community Association)
Providence Row Housing Association
Reside Housing Association Limited
Sangam Housing Co-Operative Limited
South Poplar and Limehouse Action for Secure Housing (SPLASH)
Southern Housing Group Limited
Spitalfields Housing Association
St Margaret's House Settlement
Swan Housing Association
The Kipper Project
Tower Hamlets Community Housing Ltd (THCH)
Tower Hamlets Homes

Appendix Two

Statement of Licensing Policy Review 2013

Summary of written responses

Group	Change of framework hours	Consult on Late Night Levy	Early Morning Restriction Orders	Increase 40m consultation range	Searchable database	Other
Spitalfields Community Group	n/a	Yes	Yes	Yes	Yes	n/a
Eaton Terrace Residents Association	Yes	n/a	n/a	Yes	n/a	n/a
SPIRE	Yes	Yes	Yes	Yes	Yes	WC provision in Brick Lane
Secrets (St Katherines) Ltd	n/a	No	No	n/a	n/a	n/a
BanglaTown Restaurant Association	n/a	n/a	n/a	n/a	n/a	No to prescribing Capacities, SIA door supervisors, CCTV storage. To permit on street promotion in cooperation with BTRA, Residents and Council
Resident	Yes	n/a	n/a	n/a	n/a	n/a

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Appendix Three

On line Responses to the Statement of Licensing Policy Review

Response	Background	Integrating Strategies	Pool of Conditions	Late Night Levy Consultation	Early Morning Restriction Orders	'No Casino' Resolution	Other Comments
Resident		Noise limits enforced in Victoria Park					Longer consultation time needed. Live Music Act deregulation inappropriate.
Thames Reach	Impact of Off Licences should be considered	Health and welfare to be considered	Additional conditions on illicit products	Yes		Yes	Consider restrictions on selling alcohol from Off Licences with a strength of more than 5.6% as this has an impact on anti-social behaviour
Licence Holder				No	No	Yes	
Responsible Authority	Health to be a consideration		Health conditions to be considered	Yes	Yes	Yes	
Licence Holder	Include a more diverse range of leisure activities		Conditions to be considered on a case by case basis – not	No	No		Remove references to sexual Entertainment Venues until a policy is agreed

Unknown	Anti-social Behaviour to be considered	Need for more enforcement	blanket conditions						
Unknown	Saturation Policy needed								
Unknown			Yes						
Resident		Noise Control issues need to be considered	Yes	Yes				Noise in shared buildings with residents to be limited	
Resident		Anti-social behaviour strategies to be considered	Yes	Yes				Planning considerations to be taken into account during Licensing reviews. Framework hours to be reviewed, Greater distance for consultation by the Council i.e. extend the 40m rule. Searchable database needed for the public.	
Licence Holder			Yes	Yes			Yes	Table and Chairs capacities to be considered	
Licence Holder			Yes	Yes			No		
Licence Holder		Less CCTV to be installed	No	Yes			No		

Unknown								No				
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Appendix Four

Proposed Statutory/Guidance Policy Changes to Statement of Licensing Policy

Reference	Area of change and reason	Proposal
Background and Context page 2	Remove: A Safe and Supportive Community. A Healthy and Supportive Community Policy Update	A Safe and Cohesive Community A Healthy and Supportive Community
Policy page 3	Policy review period Legal Update	Policy is to be reviewed every five years
Consultation page 3	Publishing date of Policy – remove 2011 Contextual Update	Policy will be published in 2013
Consultation page 3	Removal of Crime and Reduction Partnership Contextual Update	Community Safety Partnership
Main Principles of the Licensing Policy: Section 4.6 page 4	Delete due to change in the law Legal Update	The Police Reform and Social Responsibility Act introduced the provision for the licensing authority to make representations. The licensing authority will not make representations that should be made by another responsible authority. The licensing authority may wish to make representations on its own account when they could include bringing together a number of minor unconnected complaints that in themselves do not require another responsible authority to make a representation, but when taken together may constitute a public nuisance, represent breaches of licence conditions only observed by licensing officers or which undermines the licensing objectives.
Main Principles of Licensing Policy page 4	Expansion of items covered under objectives Contextual Update	Addition:

		<ul style="list-style-type: none"> • <i>The prevention of crime and disorder</i> <p>Consideration, among other things, a prescribed capacity; door supervisors; an appropriate ratio of tables and chairs to customers; and a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.</p> <ul style="list-style-type: none"> • <i>Public safety</i> <p>Consideration of requiring specific types of training for a DPS or security staff, including awareness of first aid or initiatives to protect women and vulnerable customers; provision and storage of CCTV footage; and ensuring safe departure of those using the premises.</p> <ul style="list-style-type: none"> • <i>The prevention of public nuisance</i> <p>Consideration the prevention of irresponsible promotions, methods of preventing and managing noise and light pollution; and ways of managing litter.</p> <ul style="list-style-type: none"> • <i>The protection of children from harm</i> <p>Consideration of age verification schemes; test purchasing policies; and restrictions on the hours when children may be present.</p>
<p>Health as a responsible authority</p>	<p>Addition due to change in law Legal Update</p>	<p>Addition: the Directors of Public Health is also now a responsible authority. It is expected that the PCT/DPH will be particularly useful in providing evidence of alcohol-related health harms when the licensing authority revises its policy, (perhaps in relation to cumulative impact policies or early morning restriction orders). PCTs/DPHs may also be useful in providing evidence such</p>

Licensing Authority as a Responsible Authority		as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.
	<p>Addition due to a change in law</p> <p>Legal Update</p>	<p>The Council as a licensing authority is now included in the list of responsible authorities under the Licensing Act 2003.</p> <p>The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes.</p> <p>The Council as a Licensing authority is not expected to act as responsible authorities on behalf of other parties (for example, local residents, local Councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these bodies have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.</p> <p>It is also reasonable for the Council as a licensing authority to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.</p> <p>The 2003 Act enables the Council as a licensing authorities to act as a</p>

		<p>responsible authority as a means of early intervention; it may do so where it considers it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.</p> <p>The Council recognises that in cases where it as the licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest.</p> <p>The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different individual to the officer who is acting for the responsible authority.</p> <p>The officer acting for responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing.</p> <p>At the outset, of an application, or another licensing process a Licensing Officer in the Licensing Team will be allocated to act as the Licensing authority acting as a responsible authority. This licensing officer is not involved in the application process but sets up a separate record to consider the application for the authority in its capacity as responsible authority, engaging with other</p>
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		responsible authorities where appropriate and determining whether the authority acting as a responsible authority wants to make a representation. In certain circumstances the officer acting for the Licensing Authority as a Responsible Authority will be an officer from another team.
Main Principles of the Licensing Policy; Section 4.15	Delete Licensing Service Manager Contextual Update	Add; Trading Standards and Licensing Manager
Main Principles of the Licensing Policy; Section 4.17	The Councils voluntary consultation process Contextual Update	Members Licensing Committee. The statutory consultation period will not be extended providing the Council has been given a full application by the applicant. The voluntary consultation carried out by the Licensing Team, detailed in para 4.15 and 4.16 will be carried out at the determination of the Trading Standards and Licensing Manager. If the licensing authority in the unlikely event fails to carry out the voluntary consultation within the statutory consultation period, this will not be grounds for refusing of delaying any application.
Crime and Disorder Section 5	Addition of control of illicit goods. Inclusion of conditions Contextual Update	Illicit Goods: alcohol and tobacco The Licensing Authority will consider licence review applications where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found this may be considered by the Licensing Authority as evidence of poor management and have the potential to undermine the licensing objectives. Illicit alcohol means alcohol that is, counterfeit, bears counterfeit duty stamps and or smuggled Illicit tobacco means, counterfeit, and/or non UK duty paid tobacco products”. Illicit goods mean articles that are counterfeit, that do not comply with the classification and labelling requirements of the Video Recordings Acts and/or that breach other Trading Standards legislation such as consumer safety and unfair commercial practices.

		<p>In particular the Licensing Authority is mindful of the advice provided in the guidance issued by the Home Office under section 182 of the Act "Reviews arising in connection with crime".</p> <p>The Licensing Authority will exercise its discretion to add a standard condition as follows:-</p> <p>Smuggled goods</p> <ol style="list-style-type: none"> 1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery. 2) The premises licence holder shall ensure that all receipts for goods bought include the following details: <ol style="list-style-type: none"> I. Seller's name and address II. Seller's company details, if applicable III. Seller's VAT details, if applicable IV. Vehicle registration detail, if applicable 3) Legible copies of the documents referred to in 2) shall be retained on the premises and made available to officers on request. 4) The trader shall obtain and use a UV detection device to verify that duty stamps are valid. 5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately.
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<p>Touting section 5.7</p>	<p>Provision of touting conditions Contextual Update</p>	<p>5.7 Touting - The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits "touting as follows:-</p> <p>No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 metres radius of the premises as shown edged red on the attached plan.(marked as Appendix -)</p> <p>Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.</p>
<p>Cumulative Effect: page 8</p>	<p>Currently consulting on a Cumulative Impact Zone in the west of the Borough Delete 6.7 Policy Update</p>	<p>Addition at 6.7 After public consultation which concludes on the 22nd March 2013, the western part of the Borough may be declared as a Cumulative impact zone. If this is adopted it will be included as part of the Licensing Policy, when the Licensing Policy is presented to full Council. The effect of adopting such a policy is to create a rebuttable presumption that a licence application which is likely to add to the existing cumulative impact will normally be refused following relevant representations. The cumulative impact zone will have an effect on alcohol on sales, alcohol off sales and late night refreshment licence applications.</p>
<p>Cumulative Effect para 6.8 page 9</p>	<p>Review period for a cumulative impact zones Legal Update</p>	<p>Change from 3 years to 5 years to fit in with the licensing policy.</p>
<p>Cumulative Effect para 6.12 and 6.13</p>	<p>Effects of a cumulative impact zone Policy Update</p>	<p>Deletion of para 6.12 and 6.13 – this has been covered with the introduction of the cumulative impact zone (currently out for consultation).</p>
<p>Health Considerations page 13</p>	<p>Insertion of health considerations Policy Update</p>	<ul style="list-style-type: none"> Health Considerations of Licensing <p>Excess alcohol consumption can lead to a wide range of personal health related harms which are well documented in both the Alcohol Joint Strategic Needs Assessment factsheet and Tower Hamlets Substance Misuse Strategy.</p>

		<p>The short-term negative health effects of hazardous drinking can include impaired senses, mood or personality changes, loss of consciousness and an increased risk of injury and accidents, while regular alcohol consumption can lead to heart disease, stroke, liver disease, stomach damage and certain types of cancerⁱ. Although these are important personal health related harms they, by and large, fall outside the scope of the four licensing objectives as defined in the Licensing Act.</p> <p>However the consequences of drinking go far beyond the individual drinker's health and well-being. They include harm to the unborn foetus, acts of drunken violence, vandalism, sexual assault and child abuse, and a huge health burden carried by both the NHS and friends and family who care for those damaged by alcohol. Many of these affects are relevant to the licencing regimeⁱⁱ. The short-term negative health effects of harmful drinking can include impaired senses, mood or personality changes, loss of consciousness and an increased risk of injury and accidentsⁱⁱⁱ.</p>
Strategies page16	Late Night Levy consideration Legal Update	<p>Addition: The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.</p> <p>Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.</p> <p>Guidance has also been introduced in relation to:</p> <ul style="list-style-type: none"> • implementing the levy and the consultation process • the design of the levy • exemptions from the levy

		<ul style="list-style-type: none"> • reductions in levy charges • how revenue raised from the levy may be spent • the levy charges • the levy collection process <p>With regard to exemptions, the licensing authority will have discretion whether to exempt certain premises or not.</p> <p>Licensing Authorities also have discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.</p> <p>Any revenue from the levy must be split between the licensing authority and the Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. The Late Night Levy Guidance, at paragraph 1.40 suggests that licensing authorities may wish to use existing partnership arrangements with the Police to ensure that the police intentions for the share of the levy revenue paid to them are genuine.</p> <p>These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a 'local' power that licensing authorities can choose whether or not to exercise.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial views are sought from stakeholders during this consultation.</p>
Early Morning Restriction	Addition due to change in	Addition: The power for licensing authorities to introduce an EMRO is specified

<p>Orders</p>	<p>legislation Legal Update</p> <p>in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions came into force on 31st October 2012.</p> <p>Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.</p> <p>Guidance has been introduced in relation to:</p> <ul style="list-style-type: none"> • the EMRO process • the evidence base • introducing an EMRO • advertising an EMRO • dealing with representations • hearings • implementation • limitations • enforcement <p>The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives.</p> <p>The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.</p>
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		<p>The decision to implement an EMRO should be evidence based and licensing authorities may wish to outline in the policy the grounds which they will take into consideration when considering implementation of an EMRO. This should include consideration of the potential burden imposed as well as the potential benefits. The Licensing Authority reserves the right to introduce an EMRO if it so desires and consultation and evidence from responsible authorities demonstrates the need.</p> <p>The function of making, varying or revoking an EMRO is specifically excluded from the statutory delegation of functions to the Licensing Committee.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial views are sought from stakeholders during this consultation.</p>
Duplication page 17	Duplication of legislation Contextual Update	Addition at 14.9: The responsible authorities are committed to avoid duplication with other regulatory regimes and the control measures contained in any conditions which are provided for in other legislation. This Policy does not intend to duplicate existing legislation and regulatory regimes that are already places obligations on employers and operators.
Striptease page17	Change of heading Contextual Update	The Licensing Policy does not deal with Sexual Entertainment Venues. These can be dealt with by a separate legislative regime if the Council adopts amendments to the Local Government (Miscellaneous Provision) Act 1982 schedule 3 which requires the development of a separate policy as required by that statute. Until this is adopted the following will apply.
Striptease page 17	Deletion of old consultations Contextual Update	Delete para 15.10 and 15.11
Enforcement page 19	Enforcement update Legal Update	Addition at 16.4 ‘ In relation to enforcement the Council will abide by the Regulators Compliance Code and the Enforcement Concordat and the Council’s Enforcement Policy. A copy of this policy is available on the Councils

<p>Conditions</p>		<p>website. In most cases a graduated form of response will be used to resolve issues of non-compliance although it is recognised that in serious cases a prosecution or a review application are appropriate means of disposal. The Council will use test purchases as a legitimate way to determine compliance to the license conditions. Failed test purchases will be disposed with by reference to the Council Enforcement Policy.</p>
	<p>Addition on the clarification on the use of conditions Contextual Update</p>	<p>Add: Conditions (other than the statutory mandatory conditions) may only be attached to a licence or club premises certificate if relevant representations are received (except for conditions drawn from the applicant's operating schedule since these are voluntary propositions). Any such conditions will be tailored to the individual style and characteristics of the premises and events concerned.</p> <p>Conditions should be:</p> <ul style="list-style-type: none"> • clear • enforceable • evidenced • proportionate • relevant • be expressed in plain language capable of being understood by those expected to comply with them. <p>Conditions must be attached at a hearing; unless the authority, the premises user, and the relevant responsible authority have agreed a hearing is unnecessary.</p> <p>Licensing authority cannot impose blanket standard conditions. A pool of conditions is included in the appendix.</p> <p>Conditions can only be carried forward from a premises licence or club premises certificate onto a TEN where relevant objections have been made by</p>

		the police or Environmental Health.
Live Music	Deletion of open spaces report Contextual Update	Delete para 17.4 and 17.5
Live Music Act 2012	Addition of new legislation Legal Update	<p>Addition: The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act :</p> <ul style="list-style-type: none"> • Removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence relating to premises authorised to supply alcohol for consumption on the premises. • Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence. • Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces (but not necessarily for workers) not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment). • Removes the licensing requirement for the provision of entertainment facilities and widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

Risk assessments	Update of Police details page 20 Contextual Update	Delete 'email site at (please insert hyperlink)
Temporary Event Notices Process	Addition about late Tens page 22 Legal Update	<p>Addition. Late TENS are limited in number and can be prevented by a single objection from a responsible authority. The maximum time period of a TEN is 168 hours.</p> <p>A Cumulative Impact policy is designed to reduce crime. Disorder and nuisance from a concentration of licensed premises. If a Cumulative Impact Policy is adopted it is possible that objections will be made by the police or Environmental Health on the grounds that the giving of a TEN would undermine the licensing objectives in the designated zone.</p>
Licence Suspensions	New legislation Legal Update	<p>Addition: This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. The council must suspend premises licences and club premises certificates on the non-payment of annual fees.</p> <p>The regulations state that the premises licence holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place.</p> <p>A single request for payment will be sent and the licensing Authority will then take measures to suspend the licence if payment is not received within 28 days.</p> <p>Income recovery procedures will be commenced along with enforcement visits to ensure that the suspension is maintained until payment or licence surrendered</p>

Table of delegation	Update for new powers Legal Update	<ul style="list-style-type: none"> • Determination of minor variation application-all cases Officers • Determination of application to vary premises licence at community premises to include alternative licence condition. If a police objection Sub Committee and all cases Officers • Power to suspend a premises licence (S.55A (1) LA2003) or club premises certificate (S.92A (1) LA2003) for non payment of annual fees all cases Officers • Power to specify the date on which suspension takes effect. This must be at least 2 working days after the day the Authority gives notice - all cases Officers • Power to impose existing conditions on a premises licence, club premises certificate and Temporary Event Notice where all parties agree that a Hearing is unnecessary – see S.106A LA2003 - All cases Officers • Power to make representations as responsible authority - all cases Officers
Advice and Guidance	Additional guidance Contextual Update	<p>Add: Application forms, fees, and details regarding each type of application, including the minor variations process can be obtained from the Councils website or by contacting the Licensing Team on 0207 364 5008 or licensing@towerhamlets.gov.uk.</p> <p>The Licensing Authority encourages informal discussion before the application process in order to resolve potential problems and avoid unnecessary hearings and appeals.</p>
Appendix One	Update on health as a responsible authority Legal Update	<p>Add; Director of Public Health London Borough of Tower Hamlets Mulberry Place Clove Crescent</p>

London E14 1BY

Licensing Policy under the Licensing Act 2003

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Background and Context

This Policy should be read in conjunction with:

The Licensing Act 2003 available from

www.hmso.gov.uk/acts/acts2003/20030017.htm or by telephoning 01603 723011

Government Guidance under Section 182 of the Licensing Act 2003:

available on the website www.dcms.gov.uk or by telephoning 0207211 6200

Tower Hamlets guidance documents on making applications under the Licensing Act 2003 available from http://www.towerhamlets.gov.uk/lgs/851-900/860_alcohol_and_entertainment.aspx

Or available from the Licensing Service on 020 7364 5008

Tower Hamlets is a Borough that is diverse, improves choice and provides enjoyment for residents and visitors to the Borough of all ages. We want to provide an environment that is safe and welcoming for all to enjoy. While at the same time we also want to ensure that we protect the quality of life for our residents by ensuring that we have sensible controls that keep anti social behaviour, and undesirable developments selling hot food and drink between 23:00 and 05:00 to a minimum.

However the policy only applies where the discretion of the licensing authority is engaged. That is, all applications which are unopposed must be granted as applied for. The only conditions that can be applied must relate to statements made in the application itself.

The Licensing Policy objectives and associated benefits have clear links with the Council's vision to improve the quality of life for everyone living and working in the Borough.

The four major themes that the Council have set out in the Tower Hamlets Partnership's Community Plan by means of which the vision is delivered are:

A Great Place to Live

A Prosperous Community

A Safe and Cohesive Community

A Healthy and Supportive Community

There's more detailed information about the four themes, and how they support One Tower Hamlets at:

www.towerhamlets.gov.uk/lgs/.../800022_community_plan.aspx

1 Introduction

1.1 Tower Hamlets Council is the Licensing Authority under the Licensing Act 2003 (the Act) and is responsible for granting licences in the Borough. This policy covers the following activities:

- Retail supply of alcohol
- Supply of alcohol to club members
- Provision of regulated entertainment
- Supply of hot food and / or drink between 23:00 and 05:00 hours

2 The Policy

2.1 The 2003 Act requires that the Council, after consultation, adopts and publishes a Licensing Policy. It is a requirement that this Policy is reviewed at least every **five** years. The Licensing Authority will generally apply the policy when making decisions on applications made under the Act. However each individual application must still be treated on its own merits and must be given proper consideration.

2.2 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and the draft Guidance issued under Section 182 of the Act.

3 Consultation

3.1 The Council recognises the important role of responsible authorities, the licensing trade, local residents and other stakeholders have to play in influencing this Policy. The Council will consider a wide range of views that are made in response to the consultation before finalising and publishing the policy in 2013.

3.2 The Council will ensure that its consultation is broadly based, available on the internet and the responsible authorities as well as wide range of community, public, welfare and religious organisations are consulted.

3.3 The Council will give due weight to the views of all the persons / bodies consulted before the Policy Statement is agreed and implemented by the Council.

3.4 The Licensing Authority undertakes to involve the Tower Hamlets **Community Safety** Partnership (or equivalent organisation) in policy development and review.

3.5 All major reviews will be broadly based, as well as complying with statutory requirements.

4 Main Principles of the Licensing Policy

4.1 The Act requires that the Licensing Authority carries out its various licensing functions so as to promote the following four licensing objectives:-

4.2 *The prevention of crime and disorder*

Consideration, among other things, a prescribed capacity; door supervisors; an appropriate ratio of tables and chairs to customers; and a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

4.3 *Public safety*

Consideration of requiring specific types of training for a DPS or security staff, including awareness of first aid or initiatives to protect women and vulnerable customers; provision and storage of CCTV footage; and ensuring safe departure of those using the premises.

4.4 *The prevention of public nuisance*

Consideration of the prevention of irresponsible promotions, methods of preventing and managing noise and light pollution, and ways of managing litter.

4.5 *The protection of children from harm*

Consideration of age verification schemes, test purchasing policies, and restrictions on the hours when children may be present.

4.6 All of the Policy and its implementation must be consistent with those four objectives.

4.7 Nothing in the Licensing Policy will undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits and / or override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.

4.8 Licensing is about the control of licensed activities in licensed premises and the people in control of selling alcohol and or selling hot food and drinks past 23:00hrs and before 05:00 hrs. Conditions are likely to be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.

- 4.9 In relation to all applications, however, if its discretion is engaged, the Licensing Authority will also consider the impact on the vicinity of the application.
- 4.10 The Police Reform and Social Responsibility Act introduced the provision for the licensing authority to make representations. The licensing authority will not make representations that should be made by another responsible authority. The licensing authority may wish to make representations on its own account when they could include bringing together a number of minor unconnected complaints that in themselves do not require another responsible authority to make a representation, but when taken together may constitute a public nuisance, represent breaches of licence conditions only observed by licensing officers or which undermines the licensing objectives.
- 4.11 The Directors of Public Health (DPH) is also now a responsible authority. It is expected that the DPH will be particularly useful in providing evidence of alcohol-related health harms (perhaps in relation to cumulative impact policies or early morning restriction orders). The DPH may also be useful in providing evidence such as alcohol-related Accident & Emergency admissions or ambulance service data that might be directly relevant to an application under the Act.
- 4.12 If representations are made by a "responsible authority" or interested party a hearing would then be convened where the Licensing Authority would exercise its discretion.
- 4.13 Where no representations are made the application must be granted subject only to the mandatory conditions or conditions that are consistent with the applicant's operating schedule.
- 4.14 When considering these conditions, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.15 Licensing laws are not the primary method of controlling anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. However, they are a key aspect of such control and will always be part of an overall approach to the management of the evening and night time economy.

- 4.16 In this respect, the Licensing Authority recognises that, apart from the licensing function, (and issues around cumulative effect) there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including (the list is not exhaustive):_
- planning controls
 - ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments
 - designation of parts of the Borough as places where alcohol may not be consumed publicly
 - regularly liaison with Borough Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises
 - the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate
- 4.17 The Licensing Authority recognises the positive benefits that the leisure industry brings to the Borough. This includes not just jobs and associated regeneration but also through music, dance and other entertainment that celebrates the rich mixture of cultural diversity and creativity that exists in the Borough.
- 4.18 The responsible authorities are given in **Appendix 1**.
- 4.19 The consultation with local residents about a premises or club which is applying for a licence is carried out by the business which is applying for the licence. Notification of applications under the Licensing Act 2003 is limited to an advertisement in a local paper and the display of a pale blue notice on the premises, both done by the applicant.
- 4.20 Following consultation the Licensing Authority has determined to itself contact all residents and businesses within 40 metres of the applicant's premises, where the application is for a new club or premises licence or its variation. The consultation will be strictly neutral, and will repeat the information required in the statutory notification.

4.21 For larger events and premises of a capacity of more than 1000 persons the Council will carry out a reasonable and relevant level of consultation with local residents and businesses. The scope of this consultation will be decided by the **Trading Standards and Licensing Service Manager**.

4.22 The statutory consultation period will not be extended providing the Council has been given a full application by the applicant. The voluntary consultation carried out by the Licensing Team, detailed in para 4.20 and 4.21 will be carried out at the determination of the Trading Standards and Licensing Manager. If the licensing authority in the unlikely event fails to carry out the voluntary consultation within the statutory consultation period, this will not be grounds for refusing or delaying any application.

5 The Licensing Authority as a Responsible Authority

5.1 The Council as a licensing authority is now included in the list of responsible authorities under the Licensing Act 2003.

5.2 The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes.

5.3 The Council as a Licensing authority is not expected to act as responsible authorities on behalf of other parties (for example, local residents, local Councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these bodies have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

5.4 It is also reasonable for the Council as a licensing authority to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

- 5.5 The 2003 Act enables the Council as a licensing authorities to act as a responsible authority as a means of early intervention; it may do so where it considers it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.
- 5.6 The Council recognises that in cases where it as the licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest.
- 5.7 The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different individual to the officer who is acting for the responsible authority.
- 5.8 The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing.
- 5.9 At the outset, of an application, or another licensing process a Licensing Officer in the Licensing Team will be allocated to act as the Licensing authority acting as a responsible authority. This licensing officer is not involved in the application process but sets up a separate record to consider the application for the authority in its capacity as responsible authority, engaging with other responsible authorities where appropriate and determining whether the authority acting as a responsible authority wants to make a representation. In certain circumstances the officer acting for the Licensing Authority as a Responsible Authority will be an officer from another team.

6 Crime and Disorder

- 6.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 6.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or

activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where a Crime Prevention Officer from the Metropolitan Police makes recommendations for premises that relate to the licensing objectives, the operating schedule should normally incorporate the suggestions.

- 6.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 6.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.
- 6.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in Section 182 of the Licensing Act 200. (See **Appendix 2.**)
- 6.6 **CCTV** -The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.
- 6.7 **Touting** -The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits 'touting' as follows:-
 - 1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 metres radius of the premises as shown edged red on the attached plan.(marked as Appendix -)
 - 2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

- 6.8 **Street Furniture** - This would include Advertising Boards, they are sometimes placed in such a way as to be a nuisance to the public on the highway, or they encourage the consumption of alcohol in areas that are not licensed. The Licensing Authority expects applicants to have ensured that they fully comply with the Council's rules relating to authorisation of obstructions on the highway and a licence permission to place advertising boards or street furniture on the highway should normally have been obtained from Tower Hamlets Markets Service before an application for a licence is made. Where proportionate and appropriate, and in its discretion is engaged, the Licensing Authority will impose conditions in relation to street seats and tables or boards, including on private land.
- 6.9 **Fly Posting** - The Council has experienced significant problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it appropriate and in its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.
- 6.10 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group. Where appropriate and proportionate, if in its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make to achieving the licensing objectives and is committed to working with them. Model Pool Conditions from the Licensing Act 2003, Section 182 Guidance are in Appendix 2.
- 6.11 **Illicit Goods: Alcohol and Tobacco** - The Licensing Authority will consider licence review applications where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found this may be considered by the Licensing Authority as evidence of poor management and have the potential to undermine the licensing objectives.
- 6.12 Illicit alcohol means alcohol that is, counterfeit, bears counterfeit duty stamps and or smuggled
- 6.13 Illicit tobacco means, counterfeit, and/or non UK duty paid tobacco products.
- 6.14 Illicit goods mean articles that are counterfeit, that do not comply with the classification and labelling requirements of the Video Recordings Acts and/or that breach other Trading Standards legislation such as consumer safety and unfair commercial practices.
- 6.15 In particular the Licensing Authority is mindful of the advice provided in the guidance issued by the Home Office under section 182 of the Act "Reviews arising

in connection with crime”.

6.16 The Licensing Authority will exercise its discretion to add a standard condition as follows:-

Smuggled goods

- 1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.
- 2) The premises licence holder shall ensure that all receipts for goods bought include the following details:
 - I. Seller's name and address
 - II. Seller's company details, if applicable
 - III. Seller's VAT details, if applicable
 - IV. Vehicle registration detail, if applicable
- 3) Legible copies of the documents referred to in 2) shall be retained on the premises and made available to officers on request.
- 4) The trader shall obtain and use a UV detection device to verify that duty stamps are valid.
- 5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately.

7 Cumulative Effect

- 7.1 The Licensing Authority will not take 'need' into account when considering an application (i.e. commercial demand), as this is not a licensing objective. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and some distance from the premises.
- 7.2 Representations may be received from a responsible authority / interested party that an area has become saturated with premises, which has made it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.
- 7.3 In these circumstances, the Licensing Authority may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new licences because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.
- 7.4 The Licensing Authority will take the following steps when considering whether to adopt a special saturation policy:-
- identification of serious and chronic concern from a responsible authority or representatives of residents about nuisance and disorder
 - where it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area
 - assessing the causes
 - adopting a policy about future licence applications from that area
- 7.5 The Licensing Authority will not adopt a "cumulative impact" policy in relation to a particular area without having consulted individuals and organisations listed in Section 5(3) of the Licensing Act (i.e. those who have to be consulted about this policy). It will also have ensured that there is consultation with local residents.
- 7.6 The Licensing Authority will consider representations based on the impact on the promotion of the licensing objectives in the Borough generally of the grant of the particular application in front of them.

- 7.7 However, the onus would be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.
- 7.8 The Licensing Authority will review any special saturation policies every **five** years to see whether they have had the effect intended, and whether they are still required.
- 7.9 The Licensing Authority will not use such policies solely:-
- as the grounds for removing a licence when representations are received about problems with existing licensed premises, or,
 - to refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits
 - to impose any form of quota
- 7.10 The Licensing Authority recognises that there is a wide diversity of premises requiring a licence and will have full regard to the differing impact these will have on the local community.
- 7.11 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.

8 Special Cumulative Impact Policy for the Brick Lane Area

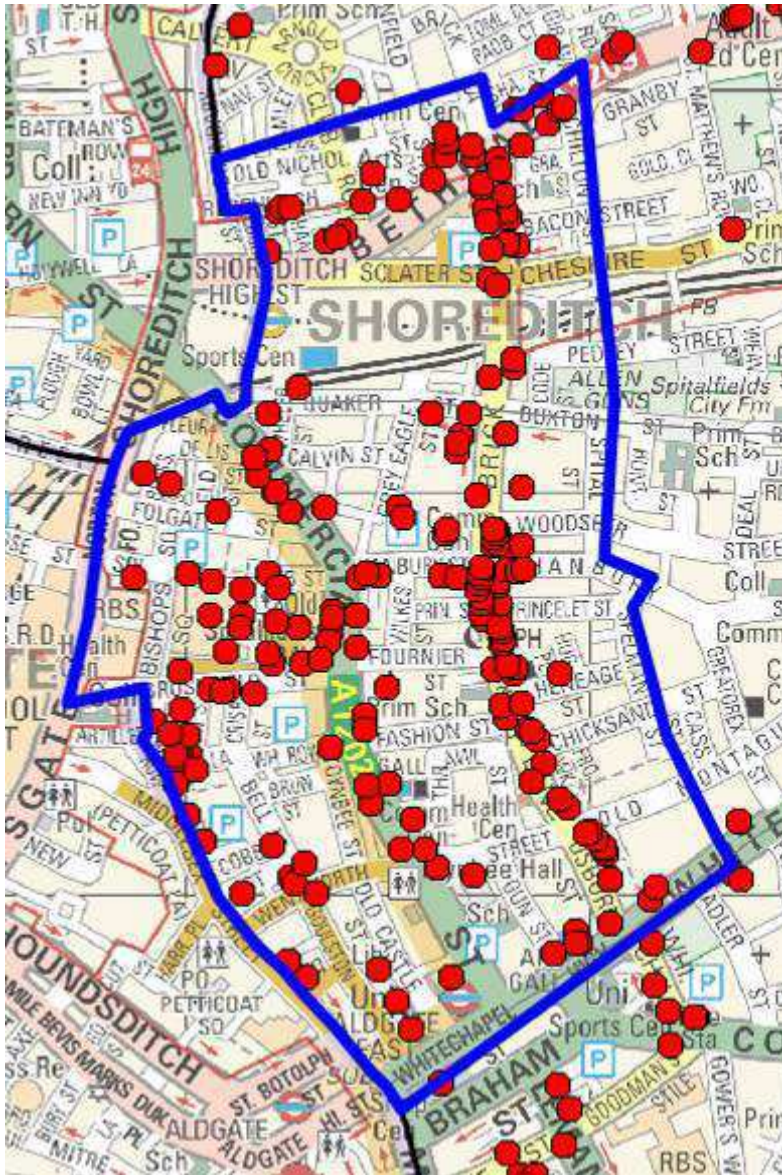
- 8.1 As with many other London Borough's the majority of late night licensed premises are concentrated within one area of the Borough. Following guidance issued under the Licensing Act 2003 a cumulative impact policy was adopted on 18th September 2013 by the Council.
- 8.2 After consultation the Council recognises that because of the number and density of licensed premises selling alcohol, on and off the premises and the provision of late night refreshment (sale of hot food after 11pm) within the Brick Lane Area as defined in Figure One, there might be exceptional problems of nuisance, disturbance and/or disorder outside or away from those licensed premises as a result of their combined effect.
- 8.3 The Licensing Authority is now of the view that the number, type and density of premises selling alcohol for consumption on and off the premises and/or the provision of late night refreshment in the area highlighted in Figure One is having a cumulative impact on the licensing objectives and has therefore declared a cumulative impact zone.

- 8.4 The effect of this Special Cumulative Impact Policy is to create a rebuttable presumption for applications in respect of the sale or supply of alcohol on or off the premises and/or late Night Refreshment for new Premises Licences, Club Premises Certificates or Provisional Statements and applications for variations of existing Premises Licences, Club Premises Certificates (where the modifications are relevant to the issue of cumulative impact for example increases in hours or capacity). Where the premises are situated in the cumulative impact zone and a representation is received, the licence will be refused. To rebut this presumption the applicant would be expected to show through the operating schedule and where appropriate with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced. This policy does not act as an absolute prohibition on granting/varying new licences in the Cumulative Impact Zone.
- 8.5 The Special Cumulative Impact policy will not be used to revoke an existing licence or certificate and will not be applicable during the review of existing licences.

Figure One

The Cumulative Impact Zone in the Brick Lane area

The Cumulative Impact Zone is detailed in the map below. The map shows all of the premises(dots) currently licensed under the Licensing Act 2003 in the Brick Lane Area. The Cumulative Impact Zone is defined by the dark line.



Map courtesy of Metropolitan Police

9 Public Safety

- 9.1 The 2003 Act covers a wide range of premises that require a licence, and so such premises present a mixture of risks to users and should be constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 9.2 The Licensing Authority will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek advice from the Council's Environmental Health (Health & Safety) Officers and the London Fire and Emergency Planning Authority before preparing their plans and Schedules.
- 9.3 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps that will be taken to ensure public safety. This needs to take into account any unique characteristics that arise in connection with

the licensable activity, any requirements that are specific to the premises.

- 9.4 The Licensing Authority, where its discretion is engaged, will consider attaching Conditions to licences and permissions to promote safety, and these may include Conditions drawn from a Model Pool of Conditions as proportionate and appropriate are contained in Appendix 2.
- 9.5 The Licensing Authority will impose conditions that relate to its licensing objectives, and in a way that is proportionate to the individual circumstances of the premises seeking a licence.

10 Prevention of Nuisance

- 10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 10.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.
- 10.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in 8.2, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.

11 Prevention of Harm to Children

- 11.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 11.2 The Act does not prohibit children from having access to any licensed premises; the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 11.3 Applicants are recommended to consult with the Area Child Protection Committee or such other body, as the Licensing Authority considers appropriate.
- 11.4 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:-

- Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
- With a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is provided
- Where irresponsible drinking is encouraged or permitted.

11.5 Where its discretion is engaged, the Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:

- Limitations on the hours when children may be present
- Limitations on ages below 18
- Limitations or exclusion when certain activities are taking place
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

11.6 No conditions will be imposed requiring that children must be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.

- 11.7 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 11.8 All licence holders will be expected to comply the Portman Group Code of Practice, and in particular the Retailer Alert Bulletin.
- 11.9 The Licensing Authority expects all licensed suppliers of alcohol to have robust measures, effectively managed and monitored, in place to ensure that minors are fully protected from harm.

12 **Access to Cinemas**

- 12.1 Films cover a vast range of subjects, some of which deal with adult themes and / or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 12.2 In order to prevent children from seeing such films, the Licensing Authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified according to the recommendations of the BBFC, or the Council itself. The Licensing Authority will not consider reclassifying any films already classified by the BBFC. The Council will charge for classifying films, on a full cost recovery basis.
- 12.3 The Licensing Authority will classify films itself where it is satisfied that no BBFC classification exists. It will inform relevant licensee and require such classifications to be clearly contained in any advertising or informative material relating to such films.

13 **Children and Public Entertainment**

- 13.1 Many children go to see and / or take part in an entertainment arranged substantially for them. Consequently additional arrangements are required to safeguard them at such times.

- 13.2 Where 11.1 applies, and its discretion is engaged, the Licensing Authority will require the following arrangements in order to control their access and egress and to assure their safety:-
- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof
 - No child unless accompanied by an adult to be permitted in the front row of any balcony
 - No standing to be permitted in any part of the auditorium during the Performance
- 13.3 Where children are taking part in any regulated entertainment, and its discretion is engaged, the Licensing Authority will require the operating schedule to clearly state the steps taken to assure their safety.
- 13.4 Where its authority is engaged, the Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.

14 Health Considerations of Licencing

- 14.1 Excess alcohol consumption can lead to a wide range of personal health related harms which are well documented in both the Alcohol Joint Strategic Needs Assessment factsheet and Tower Hamlets Substance Misuse Strategy. The short-term negative health effects of hazardous drinking can include impaired senses, mood or personality changes, loss of consciousness and an increased risk of injury and accidents, while regular alcohol consumption can lead to heart disease, stroke, liver disease, stomach damage and certain types of cancer. Although these are important personal health related harms they, by and large, fall outside the scope of the four licensing objectives as defined in the Licencing Act.
- 14.2 However the consequences of drinking go far beyond the individual drinker's health and well-being. They include harm to the unborn foetus, acts of drunken violence, vandalism, sexual assault and child abuse, and a huge health burden carried by both the NHS and friends and family who care for those damaged by alcohol. Many of these affects are relevant to the licencing regime.
- 14.3 The short-term negative health effects of harmful drinking can include impaired senses, mood or personality changes, loss of consciousness and an increased risk of injury and accidents.

15 LicensingHours

- 15.1 This Part of the Statement details the Licensing Authority's approach to licensing hours. It states the reasons for the policy and identifies the issues the Licensing Authority will take into account when considering applications during the framework hours. It only has any application when the discretion of the local authority is engaged.
- 15.2 The policy set out in this Part applies to applications for:-
- a new premises licence;
 - a new club premises certificate;
 - variation of a converted premises licence;
 - variation of an existing premises licence;
 - variation of a converted club registration certificate; and
 - variation of an existing club premises certificate where relevant representations are made.
- 15.3 The policies set out in this Part may, depending on the circumstances of the application, apply to applications for a provisional statement.
- 15.4 Any condition setting out the hours of premises refers to the hours during which alcohol may be sold or supplied or (as appropriate) the hours during which other licensable activities may take place pursuant to the premises licence or club premises certificate. In attaching conditions on hours the Licensing Authority will generally require that customers should not be allowed to remain on the premises later than half an hour after the cessation of licensable activities.
- 15.5 Tower Hamlets has a number of licensed venues that already have extended licensing hours. It also borders other London councils that have high concentrations of licensed premises including premises with extended licensing hours.
- The Licensing Authority considers that the possibility of disturbance to residents late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to consider when addressing the hours during which licensable activities may be undertaken.
- 15.6 The Licensing Authority is concerned to ensure that extended licensing hours do not result in alcohol-related antisocial behaviour persisting into the night and early hours of the morning. For these reasons, applications to carry on licensable activities at any time outside the framework hours will be considered on their own merits with particular regard to the matters set out in the Policy section below.

15.7 The Licensing Authority has had regard to the Guidance to the Act when determining this policy. The end times set out in the policy are not (and should not be regarded as) the 'usual' or 'normal' terminal hour for licensable activities in the Borough. Instead, the 'framework hours' serve to identify cases where the Licensing Authority will pay particular regard to the likely effect on the local neighbourhood of carrying out the proposed licensable activities during the hours applied for. Applications for hours up to the end of the Framework Hours will not automatically be granted. This policy will be applied only where relevant representations are made. Each case will be considered on its merits.

15.8 Sunday - 06 00 hrs to 22 30 hrs
Monday to Thursday - 06 00 hrs to 23 30 hrs Friday
and Saturday - 06 00 hrs and midnight

Applications in respect of premises licences and club premises certificates to authorise licensable activities outside the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following.

- a) The location of the premises and the general character of the area in which the premises are situated. (i.e. does the area include residential or business premises likely to be adversely affected).
- b) The proposed hours during which licensable activities will be taken place and the proposed hours during which customers will be permitted to remain on the premises.
- c) The adequacy of the applicant's proposals to address the issues of the prevention of crime and disorder **and** the prevention of public nuisance.
- d) Where the premises have been previously licensed, the past operation of the premises.
- e) Whether customers have access to public transport when arriving at or leaving the premises at night time and in the early hours of the morning.
- f) The proximity of the premises to other licensed premises in the vicinity and the hours of those other premises.

- 15.9 Applicants who apply for authorisation to carry on licensable activities, throughout the entirety of the hours outside the framework hours, when they do not intend to operate at these times run a risk that Responsible Authorities and interested parties may be more inclined, than they might otherwise be, to make relevant representations about the application.

Although this policy applies to all licensable activities, the Licensing Authority will have regard to the proposed use of the premises when considering applications to carry on licensable activities outside the framework hours. Subject to any relevant representations that may be made to the contrary in individual cases, premises where the following licensable activities are authorised are not considered to make a significant contribution to the problems of late-night antisocial behaviour, and as such these premises will generally have greater freedom to operate outside the framework hours. These premises are:-

- Theatres.
- Cinemas.
- Premises with a club premises certificate.

- 15.10 In addition and in relation to all applications, whatever the hours applied for where its discretion is engaged, the Licensing Authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents.

- 15.11 Where a negative impact is likely on local residents or businesses it is expected that the applicants' operating schedule will describe how this impact will be minimised.

16 Shops, Stores and Supermarkets

- 16.1 The Licensing Authority will generally licence shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.

- 16.2 However, it may consider there are very good reasons for restricting those hours, for example, where police representations are made in respect of particular premises known by them to be the focus of disorder and disturbance.

17 Integrating Strategies and Avoiding Duplication

- 17.1 The Council's licensing function relates, in broad terms to a number of other matters in particular;
- Local crime prevention
 - Planning
 - Transport
 - Tourism
 - Cultural strategies
 - The night time economy
- 17.2 The Licensing Authority will set up multi-disciplinary working groups to ensure proper integration of local crime prevention, planning, transport, tourism, cultural and night time economy strategies.
- 17.3 The Licensing Authority will arrange for protocols with the Borough Police to enable them to report to the Committee responsible for transport matters on the need for the swift and safe dispersal of people from relevant venues in the Borough.
- 17.4 Arrangements will be made for the Licensing Committees to receive reports on the following matters to ensure these are reflected in their decisions:
- The needs of the local tourist economy and cultural strategy for the Borough, and
 - The employment situation in the Borough and the need for investment and employment where appropriate
 - The night time economy, its economic contribution to the Borough and the Council's strategy for its development and management. As the Council develops its policy towards the night time economy, through Community Plans or Town Centre Plans and Core Strategies, otherwise the Licensing Policy will be reviewed as necessary.
- 17.5 Planning, Building Control and Licensing regimes are properly separated by the Licensing Authority, who wishes to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

- 17.6 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing Committees are not bound by decisions made by a planning committee, and vice versa.
- 17.7 The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 17.8 There are also circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 17.9 Applicants for new premise or club licences or variations of them are advised to consult the London Borough of Tower Hamlets' Planning Authority about any planning restrictions which may apply to their premises. The Planning website is <http://www.towerhamlets.gov.uk/data/planning/index.cfm>.
- 17.10 The responsible authorities are committed to avoid duplication with other regulatory regimes and the control measures contained in any conditions which are provided for in other legislation. This Policy does not intend to duplicate existing legislation and regulatory regimes that are already places obligations on employers and operators.
- 17.11 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.
- 17.12 Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.
- 17.13 Guidance has also been introduced in relation to:
- implementing the levy and the consultation process
 - the design of the levy
 - exemptions from the levy
 - reductions in levy charges
 - how revenue raised from the levy may be spent
 - the levy charges
 - the levy collection process
- 17.14 With regard to exemptions, the licensing authority will have discretion whether to exempt certain premises or not.

- 17.15 Licensing Authorities also have discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.
- 17.16 Any revenue from the levy must be split between the licensing authority and the Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. The Late Night Levy Guidance, at paragraph 1.40 suggests that licensing authorities may wish to use existing partnership arrangements with the Police to ensure that the police intentions for the share of the levy revenue paid to them are genuine.
- 17.17 These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a 'local' power that licensing authorities can choose whether or not to exercise.
- 17.18 This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date.
- 17.19 The power for licensing authorities to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions came into force on 31st October 2012.
- 17.20 Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.
- 17.21 Guidance has been introduced in relation to:
- the EMRO process
 - the evidence base
 - introducing an EMRO
 - advertising an EMRO
 - dealing with representations
 - hearings
 - implementation
 - limitations
 - enforcement
- 17.22 The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour.
- 17.23 The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives.
- 17.24 The only exemptions relating to EMROs are New Years Eve and the provision

of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

- 17.25 The decision to implement an EMRO should be evidence based and licensing authorities may wish to outline in the policy the grounds which they will take into consideration when considering implementation of an EMRO. This should include consideration of the potential burden imposed as well as the potential benefits. The Licensing Authority reserves the right to introduce an EMRO if it so desires and consultation and evidence from responsible authorities demonstrates the need.
- 17.26 The function of making, varying or revoking an EMRO is specifically excluded from the statutory delegation of functions to the Licensing Committee.

18 Sexual Entertainment

The Licensing Policy does not deal with Sexual Entertainment Venues. These can be dealt with by a separate legislative regime if the Council adopts amendments to the Local Government (Miscellaneous Provision) Act 1982 schedule 3 which requires the development of a separate policy as required by that statute.

Until this is adopted the following will apply

- 18.1 The Licensing Authority will only seek to attach conditions that are reasonable, proportionate and necessary for the promotion of the licensing objectives.
- 18.2 The Licensing Authority confirms that, if its discretion is engaged and where appropriate and necessary for the promotion of the licensing objectives it will use the Government's suggested model pool of conditions that are attached as an Appendix 2 to the Licensing Authority.
- 18.3 In addition standard conditions required by the Licensing Act 2003, its regulations or guidance will be attached as relevant.
- 18.4 The licensing authority when its discretion is engaged will always consider all applications on their individual merits, however all applications involving adult entertainment of nudity or semi-nudity are unlikely to be successful where the premises is in the vicinity of:
- Residential accommodation;
 - schools;
 - places of worship;
 - other premises where entertainment of a similar nature takes place;
 - community centres; and
 - youth clubs.
- 18.5 Only nudity or semi-nudity which is predominantly the performance of dance to

music is permitted by this policy. Sex Encounter establishments are controlled by the Local Government (Miscellaneous Provisions) Act 1982 as amended by Part 111 of the Greater London Council (General Powers) Act 1986, and the London Borough of Tower Hamlets has set a limit of zero on such establishments.

The licensing authority will appropriately monitor the premises it has licensed to ensure that all performances involving nudity or semi-nudity are dance to music or a like entertainment, and take appropriate enforcement action if they are not.

- 18.6 Where its discretion is engaged the licensing authority will make enquiries to ensure that the proposed application is indeed for music and dance and not an activity which is caught by the Sex Encounter establishment legislation.
- 18.7 All applications for adult entertainment involving nudity or semi-nudity will be scrutinised to ensure they meet the licensing objectives.
- 18.8 All applications that do not specifically request nudity or semi-nudity will have a condition imposed which forbids it. This will be the case for both opposed and unopposed applications.
- 18.9 Where applications involving nudity or semi-nudity are made and its discretion is engaged the Licensing Authority will expect Operating Schedules to address the following matters and to include such conditions as are necessary to promote the licensing objectives:
 - a. A code of conduct for dancers and appropriate disciplinary procedures, developed in consultation with the police and the council.
 - b. Rules of conduct for customers, developed in consultation with the police and the council.
 - c. Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and (where required) permission to work.
 - d. The exclusion of persons under 18 from the premises when such activities are taking place.
 - e. That publicity and advertising does not cause offence to members of the local community

19 Enforcement

- 19.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act and the Licensing Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 19.2 The Licensing Authority will work closely with Borough Police to establish protocols to ensure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high risk premises.
- 19.3 The Licensing Authority considers the protection of minors to be a particular priority for enforcement and will, in partnership with other agencies, especially the Police, seek to use the criminal sanctions of the Licensing Act to their fullest extent to achieve such protection.
- 19.4 In relation to enforcement the Council will abide by the Regulators Compliance Code and the Enforcement Concordat and the Council's Enforcement Policy. A copy of this policy is available on the Council's website. In most cases a graduated form of response will be used to resolve issues of non-compliance although it is recognised that in serious cases a prosecution or a review application are appropriate means of disposal. The Council will use test purchases as a legitimate way to determine compliance to the license conditions. Failed test purchases will be disposed with by reference to the Council Enforcement Policy
- 19.5 Conditions (other than the statutory mandatory conditions) may only be attached to a licence or club premises certificate if relevant representations are received (except for conditions drawn from the applicant's operating schedule since these are voluntary propositions). Any such conditions will be tailored to the individual style and characteristics of the premises and events concerned.
- 19.6 Conditions should be:
clear
enforceable
evidenced
proportionate
be expressed in plain language capable of being understood by those expected to comply with them.
- 19.7 Conditions must be attached at a hearing; unless the authority, the premises user, and the relevant responsible authority have agreed a hearing is unnecessary.
- 19.8 Licensing authority cannot impose blanket standard conditions. A pool of

conditions is included in the appendix.

- 19.9 Conditions can only be carried forward from a premises licence or club premises certificate onto a TEN where relevant objections have been made by the police or Environmental Health.

20 Live Music, Dancing and Theatre

- 20.1 In its role of implementing local authority cultural strategies, the Licensing Authority recognises the desirability of encouraging and promoting live music, dance, theatre and festivals for the wider cultural benefit of the community, particularly for children. This broad strategy includes all forms of licensable live entertainment. The Licensing Authority recognises that a rich cultural provision has a positive role in community cohesion.
- 20.2 When considering applications for such events and the imposition of conditions on licences or certificates, the Licensing Authority will carefully balance these cultural needs with the necessity of promoting the licensing objectives.
- 20.3 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused. The Licensing Authority will regulate live performances on a risk assessed basis and we will be mindful of the licensing objectives and the need to ensure we are not committing disproportionate costs to regulation.
- 20.4 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act :
- 20.5 Removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence relating to premises authorised to supply alcohol for consumption on the premises.
- 20.6 Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence.
- 20.7 Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces (but not necessarily for workers) not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).
- 20.8 Removes the licensing requirement for the provision of entertainment facilities and widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live

or recorded music instead of unamplified live music.

21 Risk Assessments

- 21.1 When the Licensing Authority's discretion is engaged it expects applicants to have regard to the advice of the Metropolitan Police in relation to the licensing objective of the prevention of crime and disorder. Therefore it recommends for significant events (please see note below for definition), a comprehensive risk assessment is undertaken by premises licence holders to ensure that crime and disorder and public safety matters are identified and addressed. Accordingly, for premises that wish to stage promotions, or events (as defined below) the Licensing Authority recommends that applicants carry out the Risk Assessment and debrief processes and when relevant include in their Operating Schedule.
- 21.2 The Licensing Authority further recommends the Metropolitan Police Promotion/Event Risk Assessment Form 696 and the After Promotion/Event Debrief Risk Assessment Form 696A as useful and effective tools for this purpose. Where the Risk Assessment forms are used to assess the likely risks from any promotion or event, the Licensing Authority anticipates that these will be completed in consultation with the Metropolitan Police. Risk assessments should be submitted to the Metropolitan Police and the Licensing Authority within 14 days of any proposed event and debrief forms submitted within 14 days of the conclusion.
- 21.3 Forms 696 and 696A are available on the Metropolitan Police web completion and transmission of the forms is undertaken by licensees.
- 21.4 **Promotion or Event** - The majority of venues have regular repeat artistes and DJs. Only one risk assessment and subsequent debrief is required for an artiste at the venue concerned. Where venues have promotions with different artistes or DJs on each occasion, it is anticipated that the risk assessment forms will be completed for each of these occasions.
- 21.5 The Premises Licence Conditions proposed by can be recommended as part of a pool of standard conditions. They will not be imposed on any licence as a condition, unless as suggested in the policy statement, applicants address risk assessment in their operating schedules, or one of the statutory authorities submits relevant representations for any application received. If conditions are to be applied, they will have to be relevant and proportionate to the matters raised in representations by the Responsible Authorities.
- 21.6 The recommended risk assessment conditions are:
Prevention of Crime and Disorder - The licensee shall undertake a risk assessment of any significant promotion or event (as defined below) using the MPS Promotion/Event Risk Assessment (Form 696) or an equivalent and provide a copy* to the Metropolitan Police Service and the licensing authority not less than **14 days** before the event is due to take place.

- 21.7 Where an 'event' has taken place, the licensee shall complete an MPS after Promotion/Event Debrief Risk Assessment (Form 696A) and submit this* to the Metropolitan Police and the Licensing Authority, within 14 days of the conclusion of the event.
*submission of electronic documents by e-mail is preferred.
- 21.8 **Definition of a 'Significant Event'**
This definition relates to events that require a Promotion/Event Risk Assessment Form 696.
- 21.9 A significant event will be deemed to be: any occasion in a premises licensed under the provisions of the Licensing Act 2003, where there will be a live performer(s) – meaning musicians, DJs, MCs or other artists; that is promoted in some form by either the venue or an outside promoter; where entry is either free, by invitation, pay on the door or by ticket.
- 21.10 Licensees are advised to consult the local Metropolitan Police Licensing Unit to clarify whether their proposed event is significant.

22 Temporary Event Notices Process

- 22.1 The Licensing Act 2003 allows small scale events (for less than 500 people at a time and lasting for no longer than 96 hours) which include any licensable activities to be held without the need for a premises licence. However advance notice must be given to the Licensing Authority and the Metropolitan Police of at least ten full working days.
- 22.2 Under the Licensing Act 2003, the number of temporary events notices that a personal licence holder can give is limited to 50 a year. People who are not personal licence holders can only give notice of 5 events in any one year. The number of times a premise can be used in one year is limited to 12. In any other circumstances, full premises licence or club premises certificate would be required for the period of the event involved.
- 22.3 The Licensing authority, with other partners will assist organisers to plan their events safely, check that the limitations set down in the Act are being observed and that there are no limitations or restrictions under other legislation.
- 22.4 The Police must also be notified of an application. This allows the Police to intervene if necessary in order to prevent crime and disorder.
- 22.5 Organisers of outdoor events are strongly advised to contact the Council's Arts and Leisure section, Environmental Health and Health and Safety as well as the emergency services for advice.
- 22.6 **Late TENS are limited in number and can be prevented by a single objection from a responsible authority. The maximum time period of a TEN is 168 hours.**

22.7 A Cumulative Impact policy is designed to reduce crime. Disorder and nuisance from a concentration of licensed premises. Due to the Cumulative Impact Policy it is possible that objections will be made by the police or Environmental Health on the grounds that the giving of a TEN would undermine the licensing objectives in the designated zone.

22.8 The Licensing Authority expects to be given 28 days notice of temporary events, and for them to have been discussed with the Metropolitan Police before submission to the Council.

23 Review Process

23.1 Working in partnership

The promotion of the licensing objectives and achieving common aims relies on a partnership between licence holders, authorised persons, interested parties, the Police, Fire Authority and the Licensing Authority. The licensing authority will try to give licence holders early warning of any concerns about problems identified at any licensed premises and identify the need for improvement

23.2 Purpose of reviews:

The review process is integral to the operation of the Licensing Act 2003. The Government's intention is a light touch regulatory regime with regard to the granting of new licences and variations. Only when there have been representations will the Licensing Authority have the discretion not to grant licences. If problems arise in connection with a premises licence, it is for the Responsible Authorities and the interested parties to apply for a review of the licence. Without such representations, the Licensing Authority cannot review a licence.

23.3 Proceedings

Under the Licensing Act 2003 for reviewing a premises licence are provided as protection for the community, where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

23.4 Initiating Reviews

At any stage, following the grant of a premises licence, any of the Responsible Authorities or any interested party, such as a resident living in the vicinity of the premises and Councillors, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

23.5 The Police and Environmental Health Officers have various additional powers of - closure. The Licensing Authority cannot initiate its own reviews of premises licences, however, officers of the London Borough of Tower Hamlets who are specified as Responsible Authorities under the Act may request reviews.

- 23.6 In every review case an evidential basis for the allegations made will need to be submitted to the Licensing Authority. When a request for a review is initiated from an interested party, the Licensing Authority is required to first consider whether the representation made is irrelevant to the licensing objectives, or is vexatious or frivolous.
- 23.7 Where the Licensing Authority receives a request for a review in accordance with the closure procedures contained in legislation it will arrange a hearing in accordance with the regulations set out by the Government.
- 23.8 Powers following determination of review - The Licensing Authority in determining a review may exercise the range of powers given to them to promote the licensing objectives. The Licensing Authority must take the following steps if it considers it necessary to promote the licensing objectives:
- a. Modifying the conditions of the premises licence (which includes the addition of a condition or any alteration or omission of an existing condition temporarily or permanently);
 - b. Excluding a licensable activity from the scope of the licence;
 - c. Removing the designated supervisor;
 - d. Suspending the licence for a period not exceeding three months;
 - e. Revoking the licence.

Steps that can be taken by the Council include:

- a. Taking no action;
 - b. Issuing an informal warning;
 - c. Recommending improvements within a particular time;
 - d. Monitoring by regular inspection and invite to seek a further review if problems persist.
- 23.9 Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, the revocation of the licence will be seriously considered. However, revocation also remains an option if other licensing objectives are being undermined.

23.10 Licence Suspensions

This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. The council must suspend premises licences and club premises certificates on the non-payment of annual fees.

23.11 The regulations state that the premises licence holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place.

23.12 A single request for payment will be sent and the licensing Authority will then take measures to suspend the licence if payment is not received within 28 days.

23.13 Income recovery procedures will be commenced along with enforcement visits to ensure that the suspension is maintained until payment or licence surrendered

24 Responsibility of Licence Holders and Designated Premises Supervisors

24.1 When licence holders or designated premises supervisors move, leave a premise or dispose of their premises they remain responsible in law until they have informed the licensing authority and arranged a transfer, which may involve notification to the Police as well. Any licensees or designated premises supervisors who are not sure what to do should contact the licensing authority.

25 “No Traveller” and similar signs

25.1 When its discretion is engaged and a relevant representation is made relating to the exclusion or discouragement of any minority adult group the Licensing Authority will add a condition which forbids such as practice.

25.2 The Licensing Authority is especially concerned that such practices adversely affect social cohesion and are likely to hinder the promotion of the licensing objective relating to law and order.

26 Promotion of Racial Equality

26.1 Legislation requires the local authority to have due regard to the elimination of unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The Licensing Authority expects all licence applications to be consistent with this duty.

26.2 The Council as an organisation has a race equality scheme and monitoring licensing forms a part of that overall scheme.

27 Duplication

27.1 As far as possible the Licensing Authority will seek to avoid duplication with other regulatory regimes. The Licensing Authority will however impose tailored conditions where it judges it necessary to meet the licensing objectives.

28 Administration, Exercise and Delegation of Functions

28.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

28.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.

28.3 The Table on the following page sets out the agreed delegation of decisions and functions to Licensing Committee / Sub-Committees and Officers

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		Police objection including unspent convictions	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representations are made
Application for provisional statement		If a relevant representation made	If no relevant representations are made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representations are made
Application to vary designated premises supervisor		If police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If police objection	All other cases
Application for interim authorities		If police objection	All other cases
Application to review premises licence/club premises certificate		All cases	

Decision on whether a complaint is irrelevant, frivolous, vexatious etc;			All cases
Decision to object when local authority is consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
Decision on whether a minor variation application is valid, the need to go out to consultation and determination.			All cases
Determination of minor variation application			All cases
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All cases
Power to suspend a premises licence (S.55A (1) LA2003) or club premises certificate (S.92A (1) LA2003) for non payment of annual fees			All cases
Power to specify the date on which suspension takes effect. This must be at least 2 working days after the day the Authority gives notice			All cases
Power to impose existing conditions on a premises licence, club premises certificate and Temporary Event Notice where all parties agree that a Hearing is unnecessary – see S.106A LA2003.			All cases
Power to make representations as responsible authority			All cases

28.4 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Council Officers. All such matters dealt with by Officers will be reported for information and comment only to the next Committee meeting. These decisions cannot be reversed.

- 28.5 This form of delegations is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case.
- 28.6 The officers to exercise the discretion are officers who are responsible for the Licensing function, who are given the appropriate delegated authority.
- 28.7 Application forms, fees, and details regarding each type of application, including the minor variations process can be obtained from the Councils website or by contacting the Licensing Team on 0207 364 5008 or licensing@towerhamlets.gov.uk.
- 28.8 The Licensing Authority encourages informal discussion before the application process in order to resolve potential problems and avoid unnecessary hearings and appeals.

Appendix 1:

List of Responsible Authorities

There are a number of "Responsible Authorities". These have been designated by the Government. Any variation applications should be discussed with the relevant authorities first. All new and variation applications have to be sent to the responsible authority. If you are not sure you will need to check which organisation is responsible for health and safety before you send off your forms.

- (a) **The Chief Officer of Police** for any Police area in which the premises are situated

Metropolitan Police Service
Licensing Unit
Limehouse Police Station
27 West India Dock Road E14 8EZ Tel: 020 275 4911/ 4950

- (b) **The Fire Authority** for any in which the premises are situated –

Fire Safety Regulation

NE 2 Area

London Fire Brigade

169 Union Street

London

SE1 0LL

Tel: 020 8555 1200

- (c) The enforcing Authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 and the local Weights and Measures Authority (within the meaning for section 69 of the Weights and Measures Act 1985) for any area in which the premises are situated –

i.) Health and Safety

London Borough of Tower Hamlets
Consumer and Business Regulations
Mulberry Place
PO Box 55739
5 Clove Crescent
London E14 1BY

Tel: 020 7364 5008

OR

ii.) Health and Safety Executive
Field Operations Division
4thFloor, North Wing,
Rose Court, 2 Southwark Bridge
London SE1 9HS

Tel: 020 7556 2100

OR

iii.) Maritime Coastguard Agency
Marine Office
Central Court
1B Knoll Rise
Orpington, Kent
BR6 0JA

Tel: 0168 9890400

AND

iv.) Local Weights and Measures Authority
Trading Standards
Consumer and Business Regulations
Mulberry Place
5 Clove Crescent
London E14 1BY

Tel: 020 7364 5008

***Each licensee should know which Authority is responsible for their Health and Safety – a copy of the application should be sent to the relevant Authority.**

- (d) The local **Planning Authority** within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated –

Directorate of Development and Renewal
Development Control
Mulberry Place
5 Clove Crescent
London E14 1BY

Tel: 020 7364 5009

- (e) The local Authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of **Pollution** of the environment or of harm to human health—

London Borough of Tower Hamlets

Environmental Protection

Mulberry Place

5 Clove Crescent

London E14 1BY

Tel: 020 7364 5007

- (f) A body which:

- i.) Represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the **protection of children** from harm; and
- ii.) Is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters

Jane Cooke, Group Manager, **Child Protection**

CPRS Unit

2nd Floor

Mulberry Place

5 Clove Crescent

London

E14 2BG

Tel: 020 7364 3496

Public Health

Dr Somen Banerjee

Interim Director of Public Health Tower Hamlets

4th floor Mulberry Place

5 Clove Crescent

London E14 2BG

Tel 0207 364 7014

This list can also be found at:

www.towerhamlets.gov.uk/data/business/data/regulations/data/licensing-act-2003

Appendix 2 Mandatory

Conditions

The Policing and Crime Act 2009 allowed the Government to impose mandatory conditions with regard to the responsible retailing of alcohol. These conditions must be intended to support and actively promote the licensing objectives. The aim of the mandatory conditions is to ensure that those businesses, both small and large, who are selling alcohol irresponsibly, act more responsibly to help tackle alcohol-related crime and disorder.

The mandatory licensing conditions apply to all alcohol retailers. They refer to irresponsible drink promotions, banning the dispensing of alcohol directly into the mouth, provision of free tap water for customers, ensuring that an age verification policy is in place, and ensuring that smaller measures are made available to customers.

From 6th April 2010

1. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

- (d) provision of free or discounted alcohol in relation to the viewing on the premises of sporting event, where that provision is dependent on–
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
3. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
 4. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

In addition From 10th October 2010:

5. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
6. The responsible person shall ensure that–
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures–
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

Appendix 3:

List of Government Pool Conditions from the S.186 Guidance of the Licensing Act 2003

Conditions relating to the prevention of crime and Disorder

It should be noted in particular that it is unlawful under the 2003 Act to:-

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported.
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Text/Radiopagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- a) A requirement that the text/pager equipment is kept in working order at all times;
- b) A requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- c) A requirement that any police instructions/directions are complied with whenever given; and a requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Doorsupervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- a) preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- b) keeping out excluded individuals(subject to court bans or imposed by the licence holder);
- c) searching and excluding those suspected of carrying illegal drugs,or carrying offensive weapons; and
- d) maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety (see Appendix E).

Bottlebans

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- A. given to customers on the premises whether at the bar or by staff service away from the bar;
- B. no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- A. bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form can cause very serious injuries.

Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary.

For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Appendix E).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise positioning of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises, that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles).

This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the "vertical" consumption of alcohol (HVVDs)

Large capacity "vertical drinking" premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- a) a prescribed capacity;
 - b) an appropriate ratio of tables and chairs to customers based on the capacity;
- and
- c) the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

AnnexE

Conditions relating to public safety (including fire safety)

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Annex F. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) ("The Purple Book") ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X

- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 011 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: www.streetartsnetwork.org.uk/pages/publications.htm
- The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

People with Disabilities

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- A. When people with disabilities are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- B. People with disabilities on the premises are made aware of those arrangements.

Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

all exits doors can be easily opened without the use of a key, card, code or similar means;

- A. doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- B. any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- C. all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- D. fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- E. the edges of the treads of steps and stairways are maintained so as to be conspicuous.

Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Log-book.

Curtains, hangings, decorations and upholstery

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- hangings, curtains and temporary decorations are maintained in a flame retardant condition;
- any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- temporary decorations are not used without prior notification to the licensing Authority/fire authority.

Accommodation limits

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

Fire action notices

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

Outbreaks of fire

In certain premises where existing legislation does not provide adequately for the Safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- fire brigade must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

Loss of water

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

Access for emergency vehicles

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Access for emergency vehicles is kept clear and free from obstruction.

First aid

In certain premises where existing legislation does not provide adequately for the Safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Adequate and appropriate supply of first aid equipment and materials is available on the premises;
- If necessary, at least one suitably trained first-aider shall be on duty when the Public are present; and if more than one suitably trained first- that their respective duties are clearly defined.

Lighting

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

Temporary electrical installations

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];
- temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also *Managing Health and Safety in Swimming Pools* issued jointly by the Health and Safety Commission and Sport England).

Alterations to the premises

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Special effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

AnnexF

Theatres, cinemas, concert halls and similar places (promotion of public safety)

In addition to the points made in Annex E, there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

Premises used for closely seated audiences

Attendants

- (a) The number of attendants on each floor in a closely seated auditorium should be as set out below:
- Between 1-100 members of the audience present on a floor – 1 attendant must be present on that floor.
 - Between 101-250 members of the audience present on a floor – 2 attendants must be present on that floor.
 - Between 251 - 500 members of the audience present on a floor – 3 attendants must be present on that floor.
 - Between 501-750 members of the audience present on a floor – 4 attendants must be present on that floor.
 - Between 75-1000 members of the audience present on a floor – 5 attendants must be present on that floor.

And one additional attendant for each additional 250 persons (or part thereof)

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

- (e) No article shall be attached to the back of any seat which would reduce the clear width of seat ways or cause a tripping hazard or obstruction.
- (f) copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

Standing and sitting in gangways etc.

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to-
 - (i) sit in any gangway;
 - (ii) stand or sit in front of any exit; or
 - (iii) stand or sit on any staircase including any landings.

Drinks

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

Balcony Fronts

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

Special effects

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire

authority.

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium. Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retardant fabric.

Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

Seating

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

Premises used for film exhibitions

Attendants – premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out below:

- Between 1-250 members of the audience present on a floor – 2 attendants must be present on that floor.
- And one additional attendant for each additional 250 members of the audience present (or part thereof)
- Where there are more than 150 members of an audience in any auditorium or on any floor at least one attendant shall be present in any auditorium or on any floor.

Attendants– premises with a staff alerting system

- (a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out below:
- Between 1 - 500 members of the audience present on the premises – 2 attendants must be present on that floor and 1 other staff member must be on the premises who will be available to assist in the event of an emergency
 - Between 501 - 1000 members of the audience present on the premises – 3 attendants must be present on that floor and 2 other staff member must be on the premises who will be available to assist in the event of an emergency
 - Between 1501 or more members of the audience present on the premises – 5, plus one for every 500 (or part thereof) persons (or part thereof) persons over 2000 on the premises, attendants must be present on that floor and 5 plus one for every 500 over 2000 on the premises other staff member must be on the premises who will be available to assist in the event of an emergency
- (b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- (i) the holder of the premises licence or the manager on duty at the premises; or
 - (ii) member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - (iii) member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

Minimum lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

Flammable films

No flammable films should be allowed on the premises without the prior notification of

the licensing authority/fire authority.

AnnexG

Conditions relating to the prevention of public nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises.

These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

Noise and vibration

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters or amplification equipment used at the premises;
- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution in certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

AnnexH

Conditions relating to the protection of children from Harm

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

Access for children to licensed premises– ingeneral

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.
- Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should explain their reasons; and outline in detail the steps that they intend to take to protect children from harm on such premises.

- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 23:00, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should, explain their reasons and outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Age Restrictions– specific

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 20:00 does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example; family entertainment; or non-alcohol events for young age groups, such as under 18's dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example; during "Happy Hours" or on drinks promotion nights; or during activities outlined in the first bullet point in the first paragraph above.

Age restrictions– Cinemas

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
 - U - Universal. Suitable for audiences aged four years and over
 - PG - Parental Guidance. Some scenes may be unsuitable for young children
 - 12A - Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult
 - 15- Passed only for viewing by persons aged 15 years and over
 - 18- Passed only for viewing by persons aged 18 years and over
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

"Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on duty provided that the prior written consent of the person's parent or legal guardian has first been obtained."

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Annex F).

Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 (as amended) set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements.

However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- Venue – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- Fire safety – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- Special effects – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report.

If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with.

The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

Annex I

Statutory qualifying conditions for clubs

The following qualifying conditions for clubs are extracted from the Licensing Act 2003.

62 The general conditions

- (1) The general conditions which a club must satisfy if it is to be a qualifying club in relation to a qualifying club activity are the following.
- (2) Condition 1 is that under the rules of the club persons may not —
 - (a) be admitted to membership, or
 - (b) be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission.
- (3) Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.
- (4) Condition 3 is that the club is established and conducted in good faith as a club (see section 63).
- (5) Condition 4 is that the club has at least 25 members.
- (6) Condition 5 is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

63 Determining whether a club is established and conducted in good faith

- (1) In determining for the purposes of condition 3 in subsection (4) of section 62 whether a club is established and conducted in good faith as a club, the matters to be taken into account are those specified in subsection (2).
- (2) Those matters are—
 - (a) any arrangements restricting the club's freedom of purchase of alcohol;
 - (b) any provision in the rules, or arrangements, under which—
 - (i) money or property of the club, or
 - (ii) any gain arising from the carrying on of the club, is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;

- (c) the arrangements for giving members information about the finances of the club;
 - (d) the books of account and other records kept to ensure the accuracy of that information;
 - (e) the nature of the premises occupied by the club.
- (3) If a licensing authority decides for any purpose of this Act that a club does not satisfy condition 3 in subsection (4) of section 62, the authority must give the club notice of the decision and of the reasons for it.

64 The additional conditions for the supply of alcohol

- (1) The additional conditions which a club must satisfy if it is to be a qualifying club in relation to the supply of alcohol to members or guests are the following.
- (2) Additional condition 1 is that (so far as not managed by the club in general meeting or otherwise by the general body of members) the purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members —
- (a) are members of the club;
 - (b) have attained the age of 18 years; and
 - (c) are elected by the members of the club.

This subsection is subject to section 65 (which makes special provision for industrial and provident societies, friendly societies etc.).

- (3) Additional condition 2 is that no arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club.
- (4) Additional condition 3 is that no arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from
- (a) any benefit accruing to the club as a whole, or
 - (b) any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

65 Industrial and provident societies, friendly societies Etc.

- (1) Subsection (2) applies in relation to any club which is—
 - (a) registered society, within the meaning of the Industrial and Provident Societies Act 1965 (c. 12) (see section 74(1) of that Act),
 - (b) a registered society, within the meaning of the Friendly Societies Act 1974 (c. 46) (see section 111(1) of that Act),
or
 - (c) a registered friendly society, within the meaning of the Friendly Societies Act 1992 (c. 40) (see section 116 of that Act).
- (2) Any such club is to be taken for the purposes of this Act to satisfy additional condition 1 in subsection (2) of section 64 if and to the extent that—
 - (a) the purchase of alcohol for the club, and
 - (b) the supply of alcohol by the club, are under the control of the members or of a committee appointed by the members.
- (3) References in this Act, other than this section, to —
 - (a) subsection (2) of section 64, or
 - (b) additional condition 1 in that subsection, are references to it as read with subsection (1) of this section.
- (4) Subject to subsection (5), this Act applies in relation to an incorporated friendly society as it applies in relation to a club, and accordingly —
 - (a) the premises of the society are to be treated as the premises of a club,
 - (b) the members of the society are to be treated as the members of the club,and (c) anything done by or on behalf of the society is to be treated as done by or on behalf of the club.
- (5) In determining for the purposes of section 61 whether an incorporated friendly society is a qualifying club in relation to a qualifying club activity, the society is to be taken to satisfy the following conditions —
 - (a) condition 3 in subsection (4) of section 62,
 - (b) condition 5 in subsection (6) of that section,
 - (c) the additional conditions in section 64.
- (6) In this section "incorporated friendly society" has the same meaning as in the Friendly Societies Act 1992 (see section 116 of that Act).

AnnexJ

The Safer Clubbing Checklist for club owners, managers and event promoters

The role of club owners, managers and event promoters is to ensure that all aspects of their venue are designed and run in ways which maximise the safety of customers, performers and staff.

Key activities of club owners, managers and event promoters include:

- Communicating all safety requirements clearly to performers ensuring that they are familiar with and understand the safety requirements for the venue
- Developing a constructive working relationship with licensing authority officers and police officers with licensing responsibilities
- Developing a venue drug policy in consultation with licensing and police officers
- Ensuring that all staff are aware of their responsibilities within the drug policy and that they receive training and support to discharge these fully
- Employing door supervisors from a reputable company and with SIA Accreditation
- Employing experienced and fully trained first aiders
- Providing free and easily accessible supplies of cold water and ensuring the provision of water is supervised to prevent contamination of water by others (a Mandatory Condition)
- Liaising with appropriate drug service personnel to provide training to staff, and information, advice and support to clubbers
- Considering inviting and supporting drug outreach work, including integrating outreach workers into the staff team
- Sharing intelligence on drug use and drug dealing with police officers and other local venues
- Informing clubbers of their rights and responsibilities, and encouraging feedback on safety issues
- Considering the provision of safe transport home
- Ensuring that all staff are aware of the law and the responsibilities of the club to work within it

AnnexK

Key actions for licensing authorities in connection with Safer Clubbing

In connection with Safer Clubbing, the role of the licensing authority officers is to take the lead in ensuring that dance venues are designed and run in a way which maximises the safety of customers, performers and staff. With the police, they are responsible for monitoring and enforcing compliance with regulations.

Key activities of licensing authority officers include:

- Providing clear information on how to apply for a premises licence
- Providing induction training to councillors serving on licensing committees
- Advising venue owners on how to establish and maintain a safe environment
- Advising venue owners, in partnership with police officers and police licensing officers, on developing a venue drug policy
- Ensuring that sufficient first aiders are always present and are trained to a high Standard
- Informing clubbers of their rights
- Liaising with police licensing and other officers to ensure good communication about potentially dangerous venues
- Encouraging venues to use outreach services
- Encouraging venues to provide safe transport home
- Surveying clubbers on their views of the safety aspects of different local venues
- Monitoring the operation of clubs at times of peak occupancy
- Ensuring that door supervisors are from a reputable company and with SIA Accreditation
- Ensuring that door supervisors are properly trained

Appendix 4:

Licensing Contact Details

A printed version of the policy can be obtained from:

**The Licensing Section,
MulberryPlace (AH),
PO Box 55739,
5 Clove Crescent,
LondonE14 1BY**

Telephone: 020 7364 5008

Email: licensing@towerhamlets.gov.uk

It is also available for inspection at the above office.

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Appendix Six

Amendment to the Gambling Policy 2013

The Gambling Act, section 166, allows licensing authorities to resolve not to issue casinopremises licences. The licensing authority has consulted with residents and businesses to seek their views before deciding whether to make such a resolution. As a result of the consultation the council has resolved not to issuecasino premises licences.

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EQUALITY ANALYSIS QUALITY ASSURANCE CHECKLIST

Name of 'proposal' and how has it been implemented (proposal can be a policy, service, function, strategy, project, procedure, restructure/savings proposal)	Licensing Policy Review and 'No Casino' Resolution
Directorate / Service	CLC, Safer Communities, Consumer and Business Regulation
Lead Officer	David Tolley
Signed Off By	

Stage	Checklist Area / Question	Yes / No / Unsure	Comment (If the answer is no/unsure, please ask the question to the SPP Service Manager or nominated equality lead to clarify)
1	Overview of Proposal		
a	Are the outcomes of the proposals clear?	Yes	<p>This report submits proposed changes to the Statement of Licensing Policy. The report asks Mayor in the Cabinet to agree:</p> <ul style="list-style-type: none"> • the forward programme for the adoption of the Statement of Licensing Policy • that the Statement of licensing policy will take effect from 1 November 2013 until 31 October 2018 • the adoption of the 'no casino' resolution to go forward to full Council. <p>The Licensing Act 2003 requires all local authorities to review their existing Statement of Licensing Policy and adopt a new policy by the end of 2013. As a Licensing Authority, the Council must review its Licensing Policy every three</p>

			<p>years and publish the outcome of that review. The Council's current Statement of Licensing Policy was adopted by the full Council in December 2010.</p> <p>The policy aims to define how the responsibilities under the Act are going to be exercised and administered. A statutory consultation process took place between 5 April 2013 and 10 May 2013.</p> <p>Cabinet requested that a 'No Casino' resolution be consulted upon. The consultation showed a majority in favour of the resolution. If Cabinet agree, the policy will go to the full Council for adoption.</p> <p>The purpose of the Statement of Licensing Policy is to define how the responsibilities under the Licensing Act 2003 are going to be exercised and administered. The licensing policy and its implementation aim to promote the following four licensing objectives stipulated by the Licensing Act 2003:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm.
b	<p>Is it clear who will be or is likely to be affected by what is being proposed (inc service users and staff)? Is there information about the equality profile of those affected?</p>	Yes	<p>The key proposed changes have arisen from the consultation. These are likely to affect businesses, customers and local residents. The proposed changes to the Statement include:</p> <ul style="list-style-type: none"> • Late Night Levy • Early morning restriction orders • Framework times • Increase the consultation area • Touting

- Health considerations of Licensing.

The following are relevant issues that have been raised in the consultation process and will need to be determined by Members:

Late Night Levy

This would enable a levy to be placed on businesses that operate past a set terminal hour past midnight. 70% of the fund raised would be paid into the MET at a regional level; 30% can be spent on the late night economy in the borough. A consultation exercise needs to be undertaken if this provision was to be used.

If this levy was introduced, the businesses in the borough that decided to operate past a set terminal hour past midnight would need to pay. It is impossible to identify protected characteristics of businesses affected if the levy is introduced, because:

1. It would be unknown which business would set to operate in the late time, and
2. There is currently no data available to the Council on protected characteristics specific to borough businesses and no clear way of securing this accurately. This is a problem faced by all Local Authorities and D&R are reviewing this issue

Early morning restriction orders (EMRO)

The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour (ASB). This would enable the Council to determine if part or all off the Borough could be restricted in selling alcohol from

<p>midnight and 6am. The decision to implement an EMRO should be evidence-based, so a consultation would be required and this would also seek to collect equalities data.</p> <p>This provision would affect businesses. As above, there is currently no data available on protected characteristics of the businesses. There is also no data on protected characteristics of customers who buy alcohol during the time period. However, some data (e.g. London ambulance calls for binge drinking and enforcement data on street drinking perpetrators in the Whitechapel area) may inform the profile of such customers. Reductions in ASB in the area would benefit residents across all equalities profiles.</p> <p><u>Framework hours</u></p> <p>Two of the groups have suggested a later start to the framework hour (e.g. On-licences, Mon-Sat: current start time 0600hrs; proposed 1000hrs). The framework hours must be justified why such a change is appropriate.</p> <p>The later start of on-licences and off-licences might affect licensed businesses and their customers. It might limit the businesses' sales and customers' shopping opportunities. It may also help reduce health problems caused by alcohol.</p> <p><u>Increase of the consultation area</u></p> <p>Three groups have responded that they would like to have a greater consultation area of more than 40 meters from the applicant premises. Residents and businesses that reside/are located around an applicant premises would be affected. Ward based population data is available to support equalities analysis for the general populace in the area.</p> <p><u>Touting</u></p> <p>The Council has had a significant number of complaints</p>		
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relating to premises which are substantially or mainly restaurants where "touting" is a problem. The Licensing Authority, where its discretion is engaged, will insert a standard condition that prohibits 'touting' as follows:-

- No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 metres radius of the premises
- Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

It is recommended that the work around Touting continues and that the conditions on current licences are maintained. The policy is designed to have a positive impact overall for businesses and customers/visitors.

Health considerations

The following conditions have been recommended by the Public Health:

- For off licences, no promotional sales of alcoholic drinks at a price lower than normally sold at the premises (e.g. two for the price of one).
- No sale of alcoholic drinks at a price lower than £0.50 per unit (a unit of alcohol: 10ml by volume or 8g by weight, of pure alcohol (ethanol)).

These conditions cannot be applied to current licences; therefore, new premises could be put at a disadvantage. Business holders of new licensed premises and customers would be affected. The data on customers who buy alcohol on promotion and/or cheap alcohol are unavailable. Data on patients with diseases that can be caused by regular alcohol

			<p>consumption (e.g. heart disease, stroke, liver disease, stomach damage and certain types of cancer) may be an indicator for the equalities profile of those likely to be affected by these measures.</p>
C	<p>Is there a narrative in the proposal where NO impact has been identified? Please note – if a Full EA is not to be undertaken based on the screen or the fact that a proposal has not been ‘significantly’ amended, a narrative needs to be included in the proposal to explain the reasons why and to evidence due regard</p>	No	<p>If the policies stated above are adopted, the following impact might be made. Further evidence/research might be required to establish the impact of the policy:</p> <p><u>Late Night Levy</u></p> <ul style="list-style-type: none"> • businesses in the borough that decided to operate past a set terminal hour past midnight need to pay the levy. • The MET at a regional level would receive 70% of the collected levy. • The borough’s night time economy might be benefitted by the investment using the 30% of the collected levy. • Customers/visitors might benefit from the policy in terms of safety during late night (through the investment funded by the levy). <p><u>Early morning restriction orders (EMRO)</u></p> <ul style="list-style-type: none"> • Restrict businesses’ opening hours • Restrict customers’ alcohol shopping time • Local residents and businesses may have positive impact from the policy through the reduction of alcohol related crime and disorder, nuisance and ASB. <p><u>Framework hours</u></p> <ul style="list-style-type: none"> • Restrict businesses’ opening hours • Restrict customers’ shopping opportunities • Local residents and businesses may have positive impact from the policy through the reduction of alcohol related crime and disorder, nuisance and ASB.

			<p><u>Increase of the consultation area</u></p> <ul style="list-style-type: none"> • More residents and businesses will have opportunities for consultation. <p><u>Touting</u></p> <ul style="list-style-type: none"> • Customers, visitors and residents benefit from the no touting policy, which may have also made positive impact on the local economy. • Some businesses claimed that the touting policy is having a negative impact on business. They may think that touting contributes to their sales. However, the service receives complaints about aggressive touting and 'no touting' may contribute to cohesion in the area and help improve the image of the area. <p><u>Health considerations</u></p> <ul style="list-style-type: none"> • Business holders of new licensed premises will have restriction on promotion sales and prices of alcohol, unlike existing business holders. • Customers of the new licensed premises will not have promotion sales and alcohol priced lower than £0.50, which may help cut down alcohol consumption and reduce health problems caused by alcohol. It is known that higher alcohol prices reduce alcohol consumption in lower socio-economic groups.
2	Monitoring / Collecting Evidence / Data and Consultation	Yes	The responses from the consultation (written and online) held between 5 April 2013 and 10 May 2013 provide respondents' views on the policy and some insight on the current problems, including alcohol and noise and ASB. For example, Thames Reach stated that alcohol from Off Licences with a strength of more than 5.6% has an impact on anti-social behaviour.
	Is there reliable qualitative and quantitative data to support claims made about impacts?		
	a		

	Is there sufficient evidence of local/regional/national research that can inform the analysis?	Yes	The extensive consultation process was held between 5 April 2013 and 10 May 2013 (Appendix 1 shows a list of groups consulted). Comments arising from the consultation have been incorporated in the proposal.
b	Has a reasonable attempt been made to ensure relevant knowledge and expertise (people, teams and partners) have been involved in the analysis?	Yes	The service asked over 250 various organisations, including residents/community groups, youth clubs, advocacy groups and RSLs (Appendix 1) to participate in the consultation. Other professional organisations including the Licensing team, responsible authorities (e.g. MET, Fire authority, health and safety authority, planning authority) informed the policy.
c	Is there clear evidence of consultation with stakeholders and users from groups affected by the proposal?	Yes	The online consultation was also made available on the Council website. Yes. See Appendix 1: List of groups/organisations consulted.
3	Assessing Impact and Analysis		
a	Are there clear links between the sources of evidence (information, data etc) and the interpretation of impact amongst the nine protected characteristics?	Yes	The consultation data do not distinguish the nine protected characteristics. However, the impact on businesses of the policy and residents' concern with alcohol are shown in the data. There was no objection against EMRO and the Late night levy from the residents, residents groups and responsible organisations respondents. Some businesses were not in favour of EMRO (3 out of 11 total responses) and the Late night levy (4 out of 13) (Appendix 2 and 3). It is reasonable to assume that reductions in ASB and potential health improvements are beneficial for all residents and responsible businesses and across the protected characteristics
	Is there a clear understanding of the way in which proposals applied in the same way can have unequal impact on different groups?	Yes	If this policy was endorsed by consultation and adopted, some businesses would have impact from the policy. For example, Late Night Levy will increase financial burden on businesses and EMRO will reduce operating hours of

			businesses. The policy's effect on employment may need to be considered before introducing. From the consultation data and the analysis above, residents may have positive impact from the policy adoption through the prevention of crime and disorder.
b	Has the assessment sufficiently considered the three aims of the Public Sector Equality Duty (PSED) and OTH objectives?	Yes	<p>The licensing policy and its implementation aim to promote the following four licensing objectives stipulated by the Licensing Act 2003:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm. <p>These objectives, if they are achieved, will contribute to help develop cohesion, which are stipulated in both PSED and OTH. They may also contribute to develop equalities in the borough by reducing ASB and crime and disorder that currently take place in a particular area.</p>
4	Mitigation and Improvement Action Plan		
a	Is there an agreed action plan?	NA	No action plan is included in the policy.
b	Are all actions SMART (Specific, Measurable, Achievable, Relevant and Time Bounded)	NA	No action plan is included in the policy.
c	Are the outcomes clear?	NA	No action plan is included in the policy.
d	Have alternative options been explored	NA	No action plan is included in the policy.
6	Quality Assurance and Monitoring		
a	Are there arrangements in place to review or audit the implementation of the proposal?	Yes	The policy has been reviewed every three years. It is proposed that the policy is to be reviewed every five years.
b	Is it clear how the progress will be monitored to track impact across the protected characteristics?	Yes	The policy has been reviewed every three years and it is proposed that the policy is to be reviewed every five years. The policy review will be conducted via consultation.

7				
a	Does the executive summary contain sufficient information on the key findings arising from the assessment?	NA	No executive summary is included in the report.	
8	Sign Off and Publication			
a	Has the Lead Officer signed off the EA? Please note – completed and signed off EA and Quality Assurance checklists to be sent to the One Tower Hamlets team	Yes		

Any other comments	
Signature	Date

Please keep this document for your records and forward an electronic version to the One Tower Hamlets Team

Agenda Item 8.2

Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 26/134
Report of: Corporate Director – Steve Halsey Communities Localities and Culture Originating officer(s) David Tolley, Head of Consumer and Business Regulations Service		Title: Sexual Entertainment Venues – Adoption of Policy Wards Affected: All	

Lead Member	Deputy Mayor – Ohid Ahmed
Community Plan Theme	A Safe and Cohesive Community
Strategic Priority	Fostering Greater Community Cohesion

1. **SUMMARY**

- 1.1 This report advises on the progress for the adoption of legislation and policy for the control of lap dancing and striptease premises in the Borough. Consultation carried out in relation to both the adoption of legislation and the shaping of the policy has been completed and analysed. If adopted, the policy will establish a nil limit for licenses for new premises but would allow current operators to continue subject to regulatory controls.

2. **DECISIONS REQUIRED**

- 2.1 The Mayor in Cabinet is recommended to:-
- 2.2 Adopt the proposed policy for Sexual Entertainment Venues which:
- (1) establishes a nil limit on licenses for new premises;
 - (2) allows existing licensed sexual entertainment venues to continue to operate subject to regulatory controls and license fees.
- 2.3 Agree that the policy for Sex Establishments should take effect on the same day that Schedule 3 takes effect in Tower Hamlets.

- 2.4 Note that the Licensing Committee will be asked to resolve that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 be applied in the London Borough of Tower Hamlets area to enable the proposed Sexual Entertainment Venues Policy to be brought into effect:
- 2.5 Note that the Licensing Committee will be asked to make regulations prescribing standard conditions as set out in Appendix 2.
- 2.6 Note that the Licensing Committee will be asked to resolve that fees as set out in Appendix 3 should apply to applications for Sexual Entertainment Venues.

3. REASONS FOR THE DECISIONS

- 3.1 The legislation that allows greater control of Sex Establishments is discretionary. Therefore if the Council wishes to avail itself of these powers the relevant legislation has to be adopted.
- 3.2 Cabinet (3rd August 2011) indicated that it wished to apply Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 to the London Borough of Tower Hamlets area. In order to progress to adoption the authority is required to undertake consultation specific to the adoption of these powers. This consultation has now been completed and analysed. The Licensing Committee has the appropriate delegation to resolve that Schedule 3 should apply to the London Borough of Tower Hamlets.
- 3.3 Local Authorities adopting Sex Establishments legislation are not required to have in place a policy. It is accepted good practice however that the Authority should develop a Policy that defines how the legislation will be administered and applied. Policy development should be carried out with appropriate consultation. This consultation has been completed and analysed. The policy, as recommended, provides a pragmatic solution to the achievement of Executive aspirations for a strong policy line against the exploitation of women. It reflects the consultation findings, equalities considerations, research review and previous Overview & Scrutiny findings. The law does not allow moral or religious considerations to drive council policy in this area.

4. ALTERNATIVE OPTIONS

- 4.1 The principal options considered are set out in the body of the report.
- 4.2 Adoption of the legislation is not compulsory and so the Council could choose not to pursue adoption. However the council would not be able to make decisions based upon the broader considerations allowed for in the 2009 Act including the appropriateness of the establishment within a locality and overall numbers of establishments across the borough.

- 4.2 The proposed policy is recommended over other policy options for reasons set out in the report. It would be possible not to have a policy at all, in which case each license application would be considered on a case by case basis resulting in a higher risk of inconsistency in approach which could in turn increase the potential for legal challenge or reputational damage where discrepancies occur.

5. BACKGROUND

- 5.1 The legislation brought in by Government in 2009 allows Local Authorities the discretion to adopt the new legislation. Once the powers have been adopted the Council can, through its licencing processes:

- i) Control the number of premises
- ii) Control the location of premises
- iii) Give local people a greater say over sexual entertainment venues in their area.

- 5.2 This report requests consideration of the adoption of the provisions for regulating sexual establishments which cover licences for sex shops, sex cinemas and sexual entertainment venues (SEVs) as set out in the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') as amended by the Policing and Crime Act 2009

6 BODYOF REPORT

- 6.1 A policy has been developed (Appendix One) that sets out how the new legislation will be administered and applied. The policy identifies how the Council would exercise its power to restrict the number and location of premises in the Borough. Standard conditions are detailed in Appendix Two and the schedule of fees at Appendix Three.

- 6.2 The policy has been developed to reflect and complement existing Council plans and strategic approach, namely:-

- Tower Hamlets Community Plan.
- Tower Hamlets Crime & Drug Reduction Partnership Plan.
- Tower Hamlets Enforcement Policy.
- Tower Hamlets Core Strategy.
- TowerHamletsTown Centre Spatial Strategy.
- Tower Hamlets Statement of Licensing Policy (Licensing Act 2003).
- Tower Hamlets Statement of Licensing Policy (Gambling Act 2005).

- 6.3 The policy has also been prepared with regard to:

- Consultation responses
- Human Rights Act 1998
- Equalities Act 2010

- 6.4 The policy seeks to contribute to the “One Tower Hamlets” principle by fostering community cohesion, reducing inequalities and empowering communities.
- 6.5 Furthermore, and linking to the documents identified above, the policy seeks to:-
- i) Address concerns about the level of crime and fear of crime.
 - ii) Contribute to retaining the richness in Tower Hamlets’ diversity.
 - iii) Recognise the importance of place shaping and ensuring connected and cohesive communities through planning and design.
 - iv) Encourage respect among communities.

Consultation on the Adoption of the Legislation

- 6.6 Consultation on the adoption of the sexual entertainment venues legal framework ran for six weeks from March 18th 2013 to April 29th 2013. The consultation was promoted through East End Life, press releases to all local and Bengali media and on the council’s website. Emails notifying about the consultation were sent out, this included emails sent to the responsible authorities, the Licensing Committee, Faith groups, Community Safety Partnership, Women’s Organisations, Networks and Forums, Advocacy Services and RSL and Housing Associations. All sexual entertainment venues and their registered owners received letters notifying them of the consultation.
- 6.7 The consultation was hosted online on the Council’s website and paper copies were provided if requested. The consultation posed the question ‘Do you think the council should adopt new powers to regulate sexual entertainment venues via an enhanced licensing regime?’
- 6.8 A total of 4,973 responses (526 online and 4,447 paper returns) were received, with 1,424 forms being returned from the Pleasure Lounge. The responses were as follows:
- 108 (2.2%) ‘Yes’ responses, in favour of adopting
4,865 (97.8) ‘No’ responses, not in favour of adopting
- 6.9 There is strong evidence that the sex industry has coordinated a response from its clientele to such an extent that it has undermined the consultation as being one that can provide an accurate picture of wider community opinion. The results are in stark contrast to the more balanced community response received to the Councils consultation on the policy approach that might be taken to control sex entertainment venues. This serves to point up the inconsistent nature of the consultation specific to the adoption of the relevant powers. Whilst the result may be unrepresentative of the community as a whole and heavily skewed by the intervention of the sex entertainment industry the Council should never the less take the response in to consideration when reaching a decision. Whilst the Council is required to

undertake consultation on the adoption of the legislation, a strong 'No' response does not prevent adoption if there remain good reasons for regulation of sex establishments under the scheme established by Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982..

- 6.10 It is important to recall that adoption of the scheme will enable the Council to regulate the number and location of premises and give local people a greater say over venues in their areas. Whilst each case will still have to be considered on its own merits, it allows the Council to adopt strong policies to protect women, reduce ASB and limit negative impacts brought about by these venues.
- 6.12 Overall it is considered preferable to adopt a scheme in Tower Hamlets and take into account the views of those in favour of sexual entertainment venues when setting the Council's policy and in the consideration of each application.
- 6.13 London Councils that have a cap on numbers or limit to existing establishments include: Camden, Hackney, Hammersmith & Fulham and Westminster

Consultation on the draft Policy

- 6.14 Consultation responses to the draft policy have been analysed by the company Social & Market Strategic Research (SMSR). SMSR have concluded that there was a small majority in favour of the proposal to have a nil value policy for all localities. In this regard the questionnaires return a 52% 'for' to 48% 'against' split and with a +/-2% sampling error, the Focus Groups were also equally split on this point. A higher level of support was received in relation to the defined localities (75%) and the policy considerations (60%) than was given to the zero tolerance policy direction (52%).
- 6.15 In relation to those against the nil policy there is a flawed perception that the localities have been identified primarily to support the nil establishment policy and that the approach taken is biased towards that end and is therefore 'unfair'. The localities are, in fact, drawn from the Council's Core Strategy and are based upon analysis of local characteristics for planning and development purposes. The Focus Groups identified that the localities are not necessarily appropriate for analysing the impact of sexual establishments. The Expert submissions also argued from a legal perspective that the localities should be application specific not pre-determined. Home Office guidance does not specify how localities should be defined, but highlights the potential for challenge in the event that the areas defined are unreasonable.
- 6.16 Adoption of the policy as drafted for consultation purposes would be likely to result in the non-renewal of licenses for existing businesses. The existing businesses have stated that they would seek to legally challenge a 'Nil' policy. The Council needs to ensure that any policy that it adopts is robust, proportionate and fair.

- 6.17 Analysis of the representations made through the consultation indicate that key issues for those who oppose the policy are the legitimacy of the locality definitions and the suggestion of bias in the approach (specific examples are set out in the SMSR report Appendix Four), although these are not the only concerns raised.
- 6.18 Whilst there is a small majority in favour of the 'Nil' policy, when the sampling error factor is taken in to account it represents a two percent margin of difference. This means that the consultation may be viewed as demonstrating strong public support for tighter controls but falling short of overwhelming public support for a blanket 'Nil' policy.
- 6.19 Careful consideration has therefore been given to the proposed policy response given the balance of the Consultation returns and the fact that there are a significant number of consultation responses that do not support a 'Nil' policy position.

Human Rights Act considerations

- 6.20 The grant or refusal of a licence is a matter which may arguably engage rights under Article 1 of the First Protocol of the European Convention on Human Rights (ECHR). A Premises Licence under the Licensing Act 2003 is considered to be a property right within the meaning of Article 1 Protocol 1.
- 6.21 Article 1 of the First Protocol of the ECHR entitles individuals to the peaceful enjoyment of their possessions, however, the Council can deprive individuals of the same where it would be in the public interest to do so.
- 6.22 Public interest must be considered within the framework of a 'fair balance' test. This requires that a balance be struck between the protection of the right of property and the general interests of the community. Further the consideration must also satisfy the test of proportionality.
- 6.23 Essentially therefore by adopting a nil policy that applies to all premises within the area of the Council all existing premises licensed under the 2003 Act will forfeit the ability to trade. This may be argued by those who currently operate premises to be incompatible with the ECHR. Such premises have traded for a number of years under the auspices of a Premises Licence pursuant to the 2003 Act. Such Act allows for the review of a Premises Licence where the operation fails to promote one (1) or more of the four (4) licensing objectives. Where a review is triggered then a potential sanction is the revocation of the Licence. The existing premises have operated in such a way that there has been no revocation of Licences. It is possible that if any premises should now lose its licence due to application of a nil policy then this may be argued to be disproportionate and incompatible with the ECHR.

Equalities and Cohesion considerations

- 6.24 The Council is required to have due regard to any changes to policy that might have a differential impact upon people who share a protected characteristic's.

A full Equalities Analysis of the final policy proposals has been undertaken in relation to the proposed policy position. This clarifies that there is evidence that the SEV Policy could have differential impacts on women, lesbian, gay and bisexual people, people from specific religious and ethnic minority communities.

- 6.25 The consultation findings show that there are notably divided views across some groups or characteristics. The findings also provide some evidence to underpin the assessment of how the policy might impact groups in different ways.
- 6.26 The organisations OBJECT (a human rights organisation specifically set up to challenge the sexual objectification of women) and CAPE (Communities Against People Exploitation) presented written responses to the consultation supporting a nil policy on the basis that SEV's have a negative impact on the safety of women. OBJECT argued associations with prostitution and trafficking, along with the negative impact on attitudes towards women and the negative impact on aspirations of young women and girls as key drivers for their support.
- 6.27 Rainbow Hamlets (RH) made representation to the consultation on behalf of the LGBT community and in particular expressed the view that the draft policy was not balanced, that proposals were based on a particular moral viewpoint and that there was no evidence that existing establishments were problematic to the surrounding community. RH asserts that claims regarding the impact of sex establishments are unsubstantiated. Just 37% of bisexual respondents and 12% of gay or lesbian respondents were in favour of the nil policy.
- 6.28 In the period leading up to and following the 2009 Act there has been a range of research relating to the impact of SEV's on particular groups and on locations. The clearest evidence arising from this is the negative impact on people and particularly women living close to such establishments. Research has shown that the areas around the clubs provoke negative feelings amongst some women in particular; making women feel less safe and changing or restricting their movement due to negative safety perceptions.
- 6.29 Concerns relating to the objectification of women are raised on the basis that SEV's promote the idea that it is acceptable to view women merely as sex objects and this links to broader issues around how women and girls are portrayed in society.
- 6.30 There appears to be little substantive empirical and unbiased research available to date to support suggested links between SEVs and the trafficking of women. Evidence from a 2003 LILITH report that SEV's were the specific cause of increased levels of rape in Camden has been challenged and subsequently re-evaluated. Whilst it is important to note that this does not mean such links do not exist, it is equally important to base core policy on sound research rather than hearsay or perception.
- 6.31 The Council also has a responsibility to proactively:

- i) Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- ii) Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- iii) Foster good relations between people who share a protected characteristic and people who do not share it.

6.32 The policy position forming the recommendations to Cabinet accord with its strategic approach and plans for promoting gender equality. It is consistent with its Safe & Cohesive theme priorities to reduce the fear of crime and to foster greater community cohesion. It also takes in to consideration the views of all consultees.

Summary

6.33 The consultation on the proposed “nil” policy yielded divided views. The modified proposal, whilst having due regard to human rights, the legal requirement to consider every application on its merits and the assorted views of those who do not support a nil policy, remains one that puts the Councils responsibilities set out in 6.31 and concerns about the women’s safety first. Whilst remaining a robust Nil policy it directly addresses the concerns raised by providing a restricted exception that recognises ~~in favour of~~ existing sexual entertainment venues ability to remain provided they continue to abide by the terms of their licence. It is considered that this strikes the appropriate balance between the various considerations outlined above. It is important to note that whilst the law requires that new applications must be determined on their merits the proposed Nil Policy with limited exemption only for existing venues is the most robust option available to the Council substantially restricting opportunities in the Borough for Sex Entertainment Venues to get a foot hold.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 The adoption of the provision will introduce a new fee structure for Sexual Entertainment Venues premises. They will need to hold two licences one for alcohol and another for the venue. The new fees for the SEV’s are set out in Appendix 3. The number of SEV’s that would be affected by the adoption of the new licensing regime is currently 11. If all apply and were granted SEV licenses this would achieve £99,000 in fees. This is the maximum that could be achieved and would be dependent on the relative number of refusals for which there is a partial return of the fee paid. The fee will need to be utilised to fund the administration of the new regime process and any potential legal challenge upon refusal.
- 7.2 With the threat of any legal challenge arising from adoption of the policy considerably reduced, the service will need to ensure that the policy can be adopted within existing budgeted resources

**8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE
(LEGAL SERVICES)**

- 8.1. On 6 April 2010, amendments to the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) came into effect which permitted local authorities to regulate sexual entertainment venues (“the SEV amendments”) in addition to other sex establishments.
- 8.2. For the purposes of the 1982 Act a sexual entertainment venue (“SEV”) means any premises at which entertainment of the following kind is provided before a live audience for the financial gain of the organiser or the entertainer –
- A live performance or a live display of nudity
 - Which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 8.3. The following are not SEVs for the purposes of the 1982 Act –
- Sex cinemas and sex shops (which come within the more general definition of sex establishments).
 - Premises at which the relevant entertainment has been provided no more than 11 times in a 12 month period, provided that on each occasion the entertainment has not been provided for more than 24 hours and the occasions are at least a month apart.
- 8.4. Under section 2 of the 1982 Act the Council may decide that Schedule 3 to the Act, which contains a regime for controlling sex establishments, is to apply in Tower Hamlets. If the Schedule 3 regime is applied in Tower Hamlets, then no person may operate a sex establishment (including an SEV) in the borough without first obtaining a licence from the Council. The requirement for a licence is backed up by provision for offences, each of which carry a maximum penalty of £20,000.
- 8.5. If premises obtain a sex establishment licence under the Schedule 3 licensing regime, those premises will not also require a licence under the Licensing Act 2003 in respect of entertainment permitted by the sex establishment licence. The premises would still, however, require permission under the Licensing Act 2003 in respect of other licensable activities conducted at the premises (e.g. the sale of alcohol or the provision of regulated entertainment that is not permitted by the sex establishment licence).
- 8.6. Prior to the SEV amendments in 2010, the Council had determined that the scheme for licensing sex establishments in Schedule 3 of the 1982 Act should apply in Tower Hamlets. However, at the time of introducing the

SEV amendments in 2010, the Policing and Crime Act 2009 put in place transitional arrangements (“the Transitional Arrangements”), which specified that a new resolution is required if a local authority wants the Schedule 3 licensing scheme to extend to SEVs in addition to other types of sex establishments such as sex cinemas and sex shops.

8.7. The procedure for deciding that Schedule 3 of the 1982 Act should apply in Tower Hamlets is as follows –

- The Council must consult local people about whether or not to apply the SEV licensing regime in Tower Hamlets. The Transitional Arrangements set up an initial 12-month period in which local authorities might resolve that the SEV amendments would apply in their areas. If an authority did not resolve to adopt the SEV amendments within the timeframe (i.e. by 5 April 2011), then the authority was then required to consult local people about whether to adopt the SEV amendments. The Council has to comply with this requirement to consult and the report sets out the results of that consultation.
- The Council must pass a resolution specifying that the Schedule shall apply in Tower Hamlets. The resolution must specify the day on which the Schedule shall come into force (“the Specified Day”), which must be more than one month after the day on which the resolution is passed.
- The Council must then publish a notice that it is adopting the Schedule 3 regime. This must be published for two consecutive weeks in a local newspaper which is circulated in Tower Hamlets. The first publication of the notice must be at least 28 days before the Specified Day. The notice must state the general effect of Schedule 3.

8.8. The Council should have a rational basis for any resolution to adopt the sex establishment (including SEV) licensing regime in Tower Hamlets. The results of the consultation exercise must be taken into account. In this respect, the consultation conducted in relation to whether or not to adopt the sex establishment licensing regime (the 2013 consultation), is the more relevant of the two consultation exercises referred to in the report. If the Council intends to take a different approach than that indicated by the preponderance of views expressed in the 2013 consultation, then it will need to be satisfied there are good reasons for taking that approach. There is material in the report both in favour of and against the adoption of the SEV licensing regime. Before adopting the regime, the Council will have to be satisfied that the reasons in favour of adoption are sufficiently cogent.

8.9. As to the adoption of the legislation, Regulation 2(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Schedule 1 to the Regulations provide that the functions relating to sex establishments under section 2 of and schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 cannot be a function of the executive. Pursuant to the Council’s Constitution, this function has been delegated to

the Council's Licensing Committee. The power to resolve that schedule 3 of the 1982 Act applies to the Council's area is therefore a matter for the Licensing Committee.

- 8.10. The Home Office has published guidance in relation to the regulation of sexual entertainment venues following the 2010 amendments ("the SEV Guidance"). The Council is not bound to follow the SEV Guidance, but should take it into account as an indication of best practice. The SEV Guidance makes clear that the Council is not required to publish a licensing policy relating to sex establishments. The Council may, however, publish a licensing policy for sex establishments if it wishes and may publish a policy that applies only to particular types of sex establishments such as SEVs. If the Council publishes a licensing policy, it must take care that the policy does not prevent any individual application from being considered on its merits at the time the application is made. The report sets out the justification for adopting a policy, rather than having no policy, and the Mayor may reasonably take the view that a policy is required if he adopts the SEV licensing regime.
- 8.11. The actual policy proposed in the report is set out in Appendix 1. According to the SEV Guidance, the matters that the Council might include in a licensing policy include statements about –
- Locations the Council is likely to consider being appropriate or inappropriate for sex establishments.
 - How many sex establishments, or sex establishments of a particular kind, the Council considers to be appropriate for a particular locality.
- 8.12. The Council should have a rational basis for any content included in an SEV policy that it seeks to implement. The Council conducted consultation in 2011 on what its SEV policy should be. The results of that consultation are relevant considerations and should be taken into account before the Mayor determines a policy. The numbers of people in favour of or against any particular element of the policy may be one consideration. If an element is to be included in the policy it would be preferable for there to be an evidence base to support its inclusion. This may emerge from the content of submissions, studies and other evidence. There is material in the report which may be taken in support of the policy set out in Appendix 1, but this must be balanced carefully against any contrary material. Before adopting the proposed policy, the Mayor should be satisfied that it is the correct approach having regard to the competing considerations.
- 8.13. The Council is at risk of legal action, whether or not it adopts the SEV licensing regime and whether or not it adopts the policy in the form proposed in Appendix 1. It is critical that any decision taken properly weighs the results of consultation and the available evidence, giving

appropriate weight to any weaknesses in the supporting evidence and to any contrary material.

- 8.14. Section 6 of the Human Rights Act 1998 makes it unlawful for the Council to act inconsistently with a right under the European Convention on Human Rights (“ECHR”). Relevant rights for the purposes of SEV licensing are as follows –
- Article 1 of Protocol 1 to the ECHR entitles every person to the peaceful enjoyment of their possessions. No one shall be deprived of his or her possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
 - Article 10 to the ECHR provides a qualified right to freedom of expression. The freedom of expression may be subject to necessary restrictions, prescribed by law (e.g. the requirement for a licence under Schedule 3 of the 1982 Act) which are, relevantly, for public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the reputation or rights of others.
- 8.15. The Government has indicated in the SEV Guidance that provided a local authority exercises its powers rationally and in accordance with the purposes of the 1982 Act, it is unlikely there will be a disproportionate restriction on ECHR rights. However, the SEV Guidance also indicates that it would be prudent for local authorities to consider whether any interference with an applicant’s ECHR rights is necessary and proportionate (in relation to freedom of expression) or can be justified in the public interest (in relation to peaceful enjoyment of possessions). Such impacts may be considered when determining licensing applications, but it would assist if any policy adopted by the Council is necessary, proportionate or justifiable in the public interest. The report seeks to demonstrate how the proposed policy meets these requirements.
- 8.16. SEV Licences are renewable yearly and although the council has discretion not to renew where it has granted a licence, it would have to consider whether there was a change of circumstances from when the licence was previously granted or last renewed, sufficient to warrant the changed approach. A transfer of an existing licence is not a “new” application, however similar considerations will apply and it is unlikely that the mere fact of a change in proprietor would be a proper reason for refusing the transfer (although it is possible that there may be particular characteristics of the new applicant for transfer which may support a different approach).
- 8.17. The Policy recognises that, despite the council considering that a nil limit applies, each application from applicants for new licences (i.e. not existing premises) must still be considered on its own merit. New applicants, however, will be required to demonstrate why the Council should

depart from its policy. The Policy also provides that if existing premises were to cease trading then there is no presumption that the Council will consider any new applications for those premises more favourably.

- 8.18. The making of such a policy is not a matter that is required under the Local Government Act 2000 and the 2000 Regulations not to be the responsibility of the Executive and, therefore in the absence of any resolution to the contrary (and there is none) it falls to the Executive to make this policy.
- 8.19. It is proposed to introduce application fees as set out in Appendix 3. Paragraph 1 of Schedule 3 to the 1982 Act allows the Council to set a fee. Such fee must be reasonable and should properly reflect the anticipated costs for the Council in administering the application, holding a hearing to consider the application (including legal costs) and the costs associated with licensing visits should a licence be granted. Fees should not therefore be set at an unreasonably high level to dissuade applications.
- 8.20. As to setting fees, again as this is a specific function under Schedule 3 of the 1982 Act and as this function is a function that cannot be the responsibility of the executive and as this function has been delegated to the Licensing Committee then the setting of the fees is for the Licensing Committee.
- 8.21. Standard conditions have been proposed that will be applied to all licensed SEVs. Paragraph 13(1) of Schedule 3 to the 1982 Act gives the Council power to make regulations prescribing standard conditions (i.e. the terms, conditions and restrictions on or subject to which licences under Schedule 3 to the 1982 Act are in general to be granted, renewed or transferred by the Council). Such conditions must be proportionate and must be precise so that everyone (Premises Licence holder, those charged with enforcing the conditions, and local residents) would know where they stand. These proposed conditions meet those criteria.
- 8.22. As to the setting standard conditions, again as this is a specific function under Schedule 3 of the 1982 Act and as this function is a function that cannot be the responsibility of the executive and as this function has been delegated to the Licensing Committee then the setting of the conditions is for the Licensing Committee.
- 8.23. Before taking the proposed decisions in relation to the licensing of SEVs, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not. An equality analysis has been conducted and is set out in Appendix 5

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 The Sexual Entertainment Venue Policy has been developed with “One Tower Hamlets” as being a key part of its rationale. The Policy intends to contribute to retaining the richness in Tower Hamlets’ diversity, recognise the importance of place shaping and ensuring connected and cohesive communities through planning and design and encourage respect among communities.
- 9.2 Legislation gives local authorities the opportunity to control SEV’s. The legislation was drafted to allow communities to have a say about whether sex establishments should be allowed to operate in their community and it gives the local authority the power to determine limits on numbers and localities.
- 9.3 Cabinet has previously agreed that consultation should be undertaken on the draft policy. Strong views were expressed by the businesses (venues) and pressure groups regarding the impact of SEV’s in relation to employment, crime and anti-social behaviour and the specific impact upon some groups; in particular women and girls. Consultation was therefore designed to ensure that views were gathered from the wider community in order to provide a clearer understanding of what the community feels about the impact of this industry in the borough.
- 9.4 The consultation was analysed by an independent company SMSR. They conclude that the consultation does not provide a clear mandate for implementation of the policy as currently set out.
- 9.5 The group Rainbow Hamlets has identified that there are a declining number of places and venues for LGBT people to meet in the Borough– from 20 in the 1980s to 4 now. It has stated that these spaces provide a community function for people to meet and offer a centre point for information and services as well as a safe space for individuals who are out and not out. If these were to close there could prospectively be no safe spaces for LGBT people in the borough. More detailed analysis of the breakdown by equalities groups is set out elsewhere in this paper including the specific issues that relate to the White Swan venue and associated detrimental impact on community cohesion that might arise should a nil policy be implemented.
- 9.6 The principles guiding the draft Policy were founded on a belief that overall SEV’s have a negative impact on communities and in particular upon women and girls, and that a nil option is the optimum approach to negate this impact. The consultation suggests that a different view is held by a significant proportion of the community, that well managed premises are not perceived

as a particular problem by this group, and that the proposal for a nil a policy is perceived by them as not being justified

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

10.1 There are no SAGE implications for this report

11. RISK MANAGEMENT IMPLICATIONS

11.1 The adoption of legislation and a 'Nil' policy may lead to a Legal challenge from businesses that are currently operating within the Borough. The policy and approach have been developed with the best available advice and opinion in order to reduce the likelihood of challenge and to ensure that the Council is in a position to resist any such legal challenge should it be made.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

12.1 The Sexual Entertainment Venue Policy has been developed to complement Crime and Drug Reduction Partnership Plan. The Policy has also taken into consideration the concerns about the levels of crime and the fear of crime in the Borough.

13. EFFICIENCY STATEMENT

13.1 This report is not concerned with expenditure, reviewing or changing service delivery or the use of resources

14. APPENDICES

Appendix 1 – The Sexual Entertainment Venue Policy

Appendix 2 – Standard Conditions for Sexual Entertainment Venues

Appendix 3 – Fee Structure

Appendix 4 – Socialand Market Strategic Research Analysis

Appendix 5 – Equalities Impact Assessment

Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012

List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
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None

N/A

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Appendix One

Tower Hamlets Council

Sex Establishment Licensing Policy

Introduction

This policy sets out Tower Hamlets Council's proposed approach to regulating sex establishments and the procedure that it will adopt in relation to applications for sex establishment licences.

The policy of the Council is to refuse applications for sexual entertainment venues. This policy is intended to be strictly applied and will only be overridden in genuinely exceptional circumstances. Such circumstances will not be taken to include the quality of the management, its compliance with licence conditions, the size of the premises or its operating hours.

The policy is intended as a guide to applicants, licence holders, people who want to object to applications and members of the Licensing Committee who are responsible for determining contested applications. It also aims to guide and reassure the public and other public authorities, ensuring transparency and consistency in decision making.

When the decision making powers of the Council are engaged each application will be dealt with on its own merits but this policy gives prospective applicants an early indication of whether their application is likely to be granted or not. It also provides prospective applicants details of what is expected of them should an application be made.

The legal controls for sex establishment premises are contained in the Local Governmental (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986 and the Policing and Crime Act 2009 ("the 1982 Act").

There are 3 types of sex establishments which fall into the licensing regime:-

Sex shops

Sex cinemas

Sexual entertainment venues

The role of the Council in its position as Licensing Authority is to administer the licensing regime in accordance with the law and not in accordance with moral standing. The Council recognises that Parliament has made it lawful to operate a sex establishment and such businesses are a legitimate part of the retail and leisure industries.

Policy Rationale

The policy has been developed to set out how the legislation will be administered and applied within the London Borough of Tower Hamlets. The policy identifies how the Council would exercise the licensing regime in relation to sexual entertainment venues.

The policy has been developed to reflect and complement existing Council plans and strategic approach, namely:-

- Tower Hamlets Community Plan.
- Tower Hamlets Crime & Drug Reduction Partnership Plan.
- Tower Hamlets Enforcement Policy.
- Tower Hamlets Core Strategy.
- Tower Hamlets Town Centre Spatial Strategy.
- Tower Hamlets Statement of Licensing Policy (Licensing Act 2003).
- Tower Hamlets Statement of Licensing Policy (Gambling Act 2005).

The policy has also been prepared with regard to:

- Consultation responses

- Human Rights Act 1998
- Equalities Act 2010

The policy seeks to contribute to the “One Tower Hamlets” principle by fostering community cohesion, reducing inequalities and empowering communities.

The public consultation that was undertaken concerning the adoption of a nil policy did not have overwhelming support. Therefore careful consideration has been given to the policy response, given the balance that the consultation returns did not give overwhelming support.

Policy Considerations

Existing Licensed Premises

The Council has had the ability to licence sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982 for many years.

There are no licensed sex shops in Tower Hamlets.

The businesses that hold premises licences under the Licensing Act 2003 with permissions that will be affected by the adoption of the sexual entertainment venue licensing regime are as follows:-

NAME	ADDRESS
THE BEEHIVE	104-106 Empson Street, London, E3 3LT
EONE CLUB	168 Mile End Road, London, E1 4LJ
NAGS HEAD PUBLIC HOUSE	17-19 Whitechapel Road, London, E1 1DU
THE PLEASURE LOUNGE	234 Cambridge Heath Road, London, E2 9NN
WHITE SWAN	556 Commercial Road, London, E14 7JD
ASTON'S CHAMPAGNE AND WINE BAR BASEMENT & 1ST FLOOR	187 Marsh Wall, London, E14 9SH
CLUB PAISA	28 Hancock Road, London, E3 3DA
OOPS	30 Alie Street, London, E1 8DA
WHITE'S GENTLEMANS CLUB	32-38 Leman Street, London, E1 8EW

SECRETS	43-45 East Smithfield, London, E1W 1AP
IMAGES	483 Hackney Road, London, E2 9ED

Tower Hamlets Council has adopted schedule 3 to the 1982 Act with effect from **XXXXX 2013** so that it can:

- set a limit on the number of sexual entertainment venues
- determine premises that are appropriate for the borough and
- licence sexual entertainment venues

Sexual entertainment venues are those that regularly provide lap dancing and other forms of live performance or live display of nudity solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

Establishments that hold events involving full or partial nudity less than once a month may be exempt from the requirements to obtain a sex establishment licence or have provided such on no more than 11 occasions in a 12 month period and applicants are advised to contact the Licensing Team for advice.

Limits on the number of licensed premises

The Council has determined that there are a sufficient number of sex shops, sex cinemas and sexual entertainment venues currently operating in the borough and it does not want to see an increase in the numbers of premises that are currently providing these activities.

Whilst the Council intends to adopt a policy to limit the number of sexual entertainment venues in the borough to nil, it recognises that there are a number of businesses that have been providing sexual entertainment in Tower Hamlets for several years. The Council will not apply this limitation when considering applications for premises that were already trading with express permission for the type of entertainment which is now defined as sexual entertainment on the date that the

licensing provisions were adopted by the authority if they can demonstrate in their application:

- High standards of management
- A management structure and capacity to operate the venue
- The ability to adhere to the standard conditions for sex establishments

The Council will consider each application on its merit although new applicants will have to demonstrate why the Council should depart from its policy. Furthermore if any of the existing premises cease trading there is no presumption that the Council will consider any new applications more favourably.

Location of premises

The Council's policy is that there is no locality within Tower Hamlets in which it would be appropriate to license a sex establishment. Accordingly, the appropriate number of sex establishments for each and every locality within Tower Hamlets is zero.

As previously stated in the policy the Council will treat each application on its own merits however applicants should be aware that the Council will take into consideration the location of the proposed premises and its proximity to:

- residential accommodation,
- schools,
- premises used by children and vulnerable persons
- youth, community & leisure centres,
- religious centres and public places of worship
- access routes to and from premises listed above
- existing licensed premises in the vicinity

Impact

In considering applications for the grant of new or variation applications the Council will assess the likelihood of a grant causing impacts, particularly on the local community.

The Council will take the following matters into account:

- the type of activity
- the duration of the proposed licence
- the proposed hours of operation
- the layout and condition of the premises
- the use of other premises in the vicinity
- the character and locality of the area
- the applicant's previous knowledge and experience
- the applicant's ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant
- any reports about the applicant and management of the premises received from residents, Council officers or the police
- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers
- crime and disorder issues
- cumulative impact of licensed premises, including hours of operation
- the nature and concerns of local residents
- any evidence of complaints about noise or disturbance caused by premises

In considering applications for renewal the Council will take into account

- the applicant's ability to minimise the impact of their business on local residents and businesses
- any reports about the licensee and management of the premises received from residents, Council officers or the police
- whether appropriate measures have been agreed and put into place to mitigate any adverse impacts

- any evidence of complaints about noise or disturbance caused by premises

In considering applications for transfer the Council will take into account:

- the applicants previous knowledge and experience
- the applicants ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant
- any reports about the applicant and management of the premises received from residents, Council officers or the police
- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers

Applicants

Where appropriate the Council expects applicants to:

- demonstrate that they are qualified by experience
- have an understanding of general conditions
- propose a management structure which will deliver compliance
- have appropriate operating conditions for example
 - i. management competence
 - ii. presence of management at the premises
 - iii. credible management structure
 - iv. enforcement of rules internally – training & monitoring
 - v. a viable business plan covering door staff, CCTV
 - vi. policies for welfare of performers
- demonstrate that they can be relied upon to act in best interests of performers through remuneration, facilities, protection, physical and psychological welfare
- have a transparent charging scheme with freedom from solicitation
- a track record of management compliant premises or employ individuals with such a track record

New applicants may be invited for interview by the Licensing Officer and /or Police Officer prior to the application being referred to the Licensing Committee for determination.

Applications from anyone who intends to manage the premises on behalf of third party will be refused.

Premises appearance and layout

The Council expects premises to:-

- have an external appearance which is in keeping with the locality
- prevent the display outside the premises of photographs or other images which may be construed as offensive to public decency
- adequate lighting to allow monitoring of all public areas
- surveillance by CCTV
- surveillance by CCTV of all private booths

Conditions

The council will prescribe, and from time to time revise, standard conditions which will apply generally to licences that the council will grant or renew.

Through standard conditions the council seeks to ensure that sexual entertainment venues are well managed and supervised, restrict the sexual entertainment activities and the manner in which they are permitted to be provided, protect performers, and control the impact of the venue and its customers in relation to its locality.

Specifically, standard conditions could include measures which are found in the appendix of this policy.

The Application Process

Making a new, renewal, transfer or variation application

The Act requires the Council to refuse an application if the applicant:

- Is under the age of 18 or
- Is disqualified by virtue of having had their licence revoked in the last 12 months or
- Is not resident in an EEA state, or has not been an EEA state resident for the last 6 months immediately preceding the date when the application was made or
- Has been refused an application in the last 12 months immediately preceding the date when the application was made or
- Is a corporate body which is not incorporated in an EEA state

Applications forms and details of current fee levels are available:

- on the Council's website (www.towerhamlets.gov.uk)
- from the Licensing Team on 020 7364 5008
- by email to licensing@towerhamlets.gov.uk

The Council prefers to receive electronic applications and *offers a choice of payment options the details of which are contained in the application pack.*

The Council expects the premises to have planning consent for the intended use and hours of operation, or otherwise have lawful planning status before making an application for a new licence.

In order for the application to be valid the applicant must:

- Submit the completed application form
- Pay the application fee
- Submit a floor plan, drawn to scale showing the layout of the premises (new applications only)
- Submit a location plan (1:1250) showing the location of the premises (NB. plans will not be required for transfers nor renewal applications)
- 2 passport size photos of the applicant where the applicant is an individual rather than a limited company

- 2 passport size photos of the manager if applicant is a limited company(NB: photos will only be required if there has been a change of applicant or manager since the last application)
- Display an A4 notice at the proposed premises for 21 days beginning with the date of the completed application is made setting out the application details. The notice must be in a prominent position so that it can be easily read by passers-by. A notice template will be provided with the application form.
- Publish a notice on at least one occasion in a local newspaper, during the period of ten working days starting on the day the application was given Council. The advert can be any size or colour but must be readable.

The date of the application is the date that it is received by the Council.

Applicants who wish to advertise the application in another local newspaper are advised to contact the Licensing Team beforehand, to confirm that it is acceptable.

On receipt of a valid application the Council will consult:

- The Police
- The Fire Brigade
- Building Control
- Health and Safety
- Ward Councillors

For new and variation applications the Council will also consult:

- Development Control Team
- Local residents living within 50m of the premises

Authorised Officers from the Council, Fire Brigade and Police may choose to inspect the premises and require works to be carried out to bring the premises up to the required standard before the premises can be used for licensable activities.

The Council will not determine an application for a licence unless the applicant allows an authorised officer reasonable opportunity to enter the premises to make such

examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

Representations

Anyone wishing to object to the application must submit a representation, in writing, not later than 28 days after the date of the application.

Representations can either be submitted via

- Our website: www.towerhamlets.gov.uk
- Email to: licensing@towerhamlets.gov.uk
- Post to: Consumer and Business Regulations, Licensing Team, 6th Floor, Mulberry Place, 5 Clove Crescent, E14 2BG.

A person making a representation must clearly state their name, address, and the grounds for objecting to the application and indicate whether they consent to have their name and/ or address revealed to the applicant. Copies of representations will be made available to the applicant 14 days before the committee hearing.

The Council will not consider objections that are frivolous or vexatious or which relate to moral grounds (as these are outside the scope of the Act).

The Council prefers to receive electronic representations.

Late representations may be admissible at the discretion of the Council if there's sufficient reason to indicate that applicants will not be significantly prejudiced by the decision to allow a late objection to be considered. In making such a decision the Council will take into account:

- The length of the delay
- The amount of time that the applicant has to consider the representation before the hearing date
- If other representations have been received before the deadline

Determining an application

Applications with no representations will be determined under delegated authority to officers.

Applications with representations recommending that conditions be attached to the licence and which are acceptable to both the applicant and person making the representation can be determined under delegated authority to officers.

All other contested applications will be referred to the Licensing Committee for determination. The applicant, anyone making a representation and the ward Councillors will be notified the date, time and venue of the hearing and invited to attend to address the committee in person.

Applications can take up to 14 weeks to be determined. If an application is likely to take longer than 14 weeks to determine the Council will notify the applicant in writing before this deadline. Applications for sex establishment licenses are exempt from the tacit consent provisions of the EU Services Directive on the grounds of public interest and the legitimate interests of third parties.

The applicant will be notified in writing about the outcome of their application within 5 working days of the decision being made.

Sex Establishment licences are usually issued for 12 months, but can be issued for a shorter period if deemed appropriate.

In order to continue operating as a sex establishment the licence holder must make a renewal application prior to the expiry of the existing licence.

Appeals

Any applicant who is aggrieved by a decision to refuse an application or by the imposition of any conditions can appeal to the Magistrates Court within 21 days beginning with the date of receiving the decision in writing.

Grounds for refusing an application

1. The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason

2. That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself

3. That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality

4. That the grant or renewal of the licence would be inappropriate, having regard:-
 - a. to the character of the relevant locality

 - b. to the use to which any premises in the vicinity are put; or

 - c. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Transitional Arrangements

Broadly speaking, those existing sexual entertainment venues (lap dancing clubs etc) with a premises licence under the Licensing Act 2003, under which it is lawful to provide such entertainment, will continue to be able to operate for one year after the Council adopts the 2009 Act provisions or, if later, the determination of any application submitted during that year.

The 'transitional period' will last for 12-months beginning with the date that the Council resolves that Schedule 3 as amended by the 2009 Act will come into force in their area ('the 1st appointed day'). Six months following the 1st

appointed day will be known as the '2nd appointed day' and the day on which the transitional period ends will be known as the '3rd appointed day'

Existing Operators

To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later

For the purposes of the Transition a "2003 Act Licence" means a premises licence or club premises certificate under the Licensing Act 2003 under which it is lawful to provide relevant entertainment.

"Preparatory work" refers to work carried out by an operator, such as a refurbishment or refit, in order that they can use the premises as a sexual entertainment venue in the future. The operator will have been granted a 2003 Act licence before the 1st appointed day but will not have used the premises as a sexual entertainment venue by that date. It is likely that such operators will be known to the Council. However, where a dispute arises between the Council and a licence-holder over whether the licence-holder qualifies as an existing operator by virtue of this provision the Council will need to seek evidence from the licence-holder to demonstrate that they clearly intended to operate a sexual entertainment venue in the future and work had been done to achieve this end.

For the purposes of the Transition a "2003 Act Licence" means a premises licence or club premises certificate under the Licensing Act 2003 under which it is lawful to provide relevant entertainment.

Appointed Days

1st Appointed Day

The day on which the Sexual Entertainment Venue regime comes into force in the Borough and the beginning of the transitional period (xxxxxxx2013)

2nd Appointed Day

The day 6 months after the 1st appointed day (xxxxxxxxxx2013)

3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period (xxxxx2014)

New Applications

New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence

Determining Applications Received On or Before the 2nd Appointed Day

Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards.

As the Council is able to refuse applications having regard to the number of sex establishments they consider appropriate for a particular locality, all applications made on or after the 1st appointed day but on or before the 2nd appointed day shall be considered together. This will ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.

No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 3rd appointed day, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

Determining Applications Received After the 2nd Appointed Day

Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.

As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

Outstanding Applications

The Council will attempt where possible to determine outstanding applications made under the 2003 Act, which include an application for the provision of relevant entertainment, before the date that Schedule 3 as amended by the 2009 Act comes into force in their area.

Where it has not been possible to determine application before the 1st appointed day, applicants will need to submit an application for a sex establishment licence as set out in Schedule 3 if they wish to provide relevant entertainment. From the 1st appointed day onwards outstanding applicants shall be dealt with as though they are new applicants

Additional information and advice

Please contact:

Consumer and Business Regulations

Licensing Team

6th Floor,

Mulberry Place,

5 Clove Crescent,

E14 2BG.

licensing@towerhamlets.gov.uk

020 7364 5008

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Appendix Two

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

General

1. The Licensee must remain in personal control of the premises at all times that it is trading or nominate in writing an individual over the age of 18 with the authority to direct activities within the Premises.
2. The licensee shall notify the Council, in writing, of any change in directors, trustees, partners or other persons concerned in the management of the licensed activities within fourteen days of such change.
3. The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council to prove compliance with this Licence.
4. The licensee must give written notice to the Council if s/he wishes to surrender the licence.
5. The Council reserves the right to amend or alter these conditions (provided that such change will not prevent the operators from viably carrying on the business of the premises) following consultation with licensees
6. The meaning of "sexual entertainment" is given in Section 27 of the Policing and Crime Act 2009.

Management

7. A suitable and sufficient number of door supervisors and trained staff will be employed (based on a risk assessment) when sexual entertainment is offered. Their duties will include monitoring customers and performers to ensure that the Code of Conduct for Dancers and the House Rules are being obeyed and enforcing if necessary.
8. The Licensee shall prepare and implement a Code of Conduct for Performers. The Code shall be approved by the council and will not be altered without their consent.
9. The Licensee shall prepare House Rules governing the conduct of customers. The Rules shall be approved by the council and shall not be altered without their consent.

Premises

10. The approved layout of the premises shall not be altered without prior consent of the council.

11. The Licensee shall ensure that the interior of the premises where sexual entertainment is offered shall not be capable of being seen from the outside of the premises, and that the exterior is maintained to a satisfactory level of decorum.

12. The sexual entertainment shall take place only in the areas designated by the Council and the approved access to the dressing room(s) shall be maintained whilst sexual entertainment is taking place and immediately thereafter.

13. CCTV shall be installed to cover the inside and the outside of the premises covering all areas to which the public have access, including private performance areas and booths, entrances and exits but excluding toilets. All cameras shall continually record whilst the premises are open to the public and the recorded images shall be kept available for a minimum of 31 days. Recorded images shall be made available to an authorised officer or a police officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours' notice.

Advertising

14. The Licensee shall not permit the display outside of the premises of photographs or other images, excluding trademarks or logos, which are unacceptable to the Council, and which indicate or suggest that sexual entertainment takes place on the premises.

15. Where the Council has given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend public decency or be likely to encourage or incite crime and disorder that advertisement shall be removed or not be displayed.

Admission to the Premises

16. No person under the age of 18 years shall be permitted on the premises when sexual entertainment is being offered, and a clear notice to this effect will be displayed at the entrance.

17. Customers who appear to be under the age of 21 must be asked to provide a Pass-Scheme approved photographic card, their passport or photographic driving licence to prove their age. Prominent notices must be clearly displayed to this effect at the entrance(s) to the premises.

18. The content of the House Rules will be made known to customers prior to their admission to the premises when sexual entertainment is provided.

19. Signs must be displayed at appropriate locations advising that any customer attempting to make physical contact with a performer will be asked to leave;

Performers

20. Entertainment will be given only by the performers engaged by or through the Licensee and there will be no audience participation.

21. The licensee shall keep a record of each performer, including their proper name and any aliases, and their residential address. With each record the licensee shall keep a copy of a photographic form of identity and proof of address of the performer.

22. On days when sexual entertainment is provided, the licensee, or their representative, shall keep a record of those performers working at the premises on that day in a daily record. The daily record shall be immediately available for inspection by authorised officers.

23. The licensee shall ensure that each performer signs the code of conduct in their proper name, acknowledging that they have read and understood and are prepared to abide by the code of conduct, and signed copies be kept on the premises for inspection by authorised officers.

24. During a performance there shall be no full bodied physical contact between the customer and the dancer other than the transfer of money or token at the beginning, during and conclusion of the dance.

25. During a performance there shall be no full bodied physical contact between dancers and they are not to touch each other's breasts and or genitalia.

26. Performers must remain fully dressed while on the premises, except while performing in areas approved by the Council for sexual entertainment and in the approved changing rooms.

27. Performers must redress at the conclusion of the performance.

28. Performers must never be in the company of a customer except in an area open to the public (excluding the toilets) within the premises.

29. The Licensee is to implement a policy for the safety of the performers when they leave the premises.

Customers

30. The House Rules regarding customer behaviour will be implemented at all times that the premises are operating with sexual entertainment.

31. No member of the public shall be admitted or allowed to remain in the dance area if they appear to be intoxicated or under the influence of illegal substances.

32. Customers may not be permitted to photograph film or electronically record any performance.
33. Customers shall not be permitted to enter non-public areas of the premises such as changing rooms.

Appendix Three

Sexual Entertainment Fees

Application type	Fee
New Application	£9000
Renewal Application	£9000
Refund if refused	£1500
Transfer of licence	£230
Variation	£3750

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Consultation on Sex Establishments Policy in Tower Hamlets

On behalf of
London Borough of Tower Hamlets



Prepared by SMSR Ltd



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INVESTOR IN PEOPLE



Final Report
September 2012

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1.0 Introduction

Background

In 2009 the last government granted local authorities greater powers to control and regulate sex establishments in their areas, such as lap dancing, pole dancing and table dancing clubs, strip shows, peep shows and live sex shows. This was in response to local authorities' concerns that the existing system did not allow local people to have any control over whether sex establishments operated in their communities.

An assessment conducted by Tower Hamlets Council played an important part in influencing the government to introduce the new legislation. The assessment included a consultation to find out what local people thought of sex establishments in the community.

The responses the Council received from local people and organisations were overwhelmingly weighted against having sex establishments in the borough, saying they have an adverse impact on neighbourhoods and that the council should do all it can to restrict this type of activity.

Subsequently the council adopted the government's new legislation and with a view to implement they produced a draft policy which says that there is no location within Tower Hamlets suitable for sex establishments.

This draft policy was based on views previously provided by the community, issues of community cohesion and empowerment, concerns about level of crime and fear of crime, and the suitability of localities to have sex establishments.

Following a series of focus groups held in the borough, the Council developed a questionnaire that gave the community, local businesses and organisations the opportunity to have their say on the proposals.

SMSR Ltd is an independent research company with twenty years' experience of working for the public sector and who specialise in local government consultation measuring performance and perceptions across the UK.

In November 2011, SMSR Ltd was commissioned by the London Borough of Tower Hamlets to process all completed questionnaires, analyse the data and report the findings. In addition SMSR Ltd was asked to analyse the findings of four focus groups¹ held earlier in the year and a number of legal submissions sent to the Council from legal companies on behalf of four local organisations. The findings of these and the questionnaire results are featured in this report.

¹ SMSR also recruited the groups on behalf of the Council.

Research Aims and Objectives

The overall aim of the research is to provide an independent measure of residents, businesses and local organisation's opinions and feedback on the proposal for nil sex establishments in the borough of Tower Hamlets.

The main objectives of the research were as follows:

- To measure levels of agreement or disagreement with the way in which the Council have defined 24 areas or localities based on certain characteristics in order to be able to decide whether any part of Tower Hamlets is a suitable location for sex establishments.
- To understand why respondents are in agreement or disagreement on the defined localities.
- To measure levels of agreement that the Council's policy considerations which they have identified are the right elements to consider when summing up the characteristics of an area.
- To understand why respondents are in agreement or disagreement with the Council's policy considerations
- To measure the level of agreement with the proposal that there should be nil sex establishments in the borough
- To understand why respondents are in agreement or disagreement with the Council's proposal for nil sex establishments
- To give respondents the opportunity to provide any other comments regarding the draft sex establishment policy.

The survey has been designed to provide statistically valid data but also provide information that is particularly important to the council's decision making on this important issue.

Report Structure

Included in the report is a set of topline findings which provides quick reference to all the questions asked throughout the survey. Any significant differences in opinion across the demographic variables are also illustrated and commented on throughout the report, including age, gender, ethnicity, sexuality, religion and area.

The findings from the focus group meetings are also highlighted and discussed in this report which is followed by an analysis of the expert/legal submissions.

An executive summary brings together the findings from all three forms of consultation and is followed by SMSR's conclusions and recommendations.

Acknowledgements

SMSR would like to thank Colin Perrins for his continued help throughout the processing and analysing stage of the consultation and his regular input and interest in the overall process. Thanks also go to Susan Mulligan and John McCrohan for their contributions as well as all the residents, businesses and stakeholders who gave up their time to complete a survey, attend a focus group or made a written or legal submission.

2.0 Executive Summary

2.1 Questionnaire Findings

Localities

Three-quarters (75%) of all respondents were in agreement with the defined localities. The most popular comment in favour of the defined localities was:

- It is logical/makes sense/I agree

The most frequent comment against was:

- The localities have been designed to implement a nil establishment policy / council agenda

Policy considerations re localities

Overall, 60% felt the policy considerations have incorporated the right elements. The most popular comment in favour was:

- Policy considerations are valid/I agree with the policy considerations

The most frequent comment against was:

- The Council is biased/have an agenda to implement nil establishments

Proposed nil sex establishment policy

Approximately half (52%) were in support of the proposal with 48% against. However, bearing in mind the sampling error of approx. +/- 2% we can only conclude that opinion was split. The most popular comment in favour of a nil policy was

- Sex Establishments cause/attract crime and ASB

The most frequent comment against was that

- The establishments create no more problems than regular bars/clubs.

Throughout the survey findings, there are very strong and more frequent responses from those against the council's proposals, with a significant number suggesting this is an unfair and bias process and policy.

Overall

In terms of residents, then overall the survey has produced an inconclusive split vote especially when one takes the sampling error into the account. Running sub analyses highlights the sub groups who are either in support of or against the proposed policy.

- Those in favour are more likely to be: Male, Asian/Asian British and these with a Muslim belief/religion
- That not in favour tended to be: Female, Black/Black British / and White respondents.

2.2 Focus Group Findings

Overall the focus groups have demonstrated that resident's opinion is almost equally divided towards the proposed Council's 'nil policy' regarding sex establishments in Tower Hamlets.

Area definition

Overall there was widespread agreement with the use of the 24 areas to define Tower Hamlets. However concern MUST be raised that the focus group discussions appear to focus on the validity of these 24 areas in terms of them defining / representing Tower Hamlets rather than in terms of their impact on the proposed sex establishment 'nil' policy.

Policy Considerations

The focus groups demonstrated widespread support for the policy considerations included in the consultation especially those which states that any such establishment must not be located near to:

- Residential areas.
- Places frequented by children (schools, playgrounds, leisure centres)
- Doctor's surgeries

Views were mixed with regards to religious establishments, some stating that this created a moral dimension and others feeling that provided the mutual hours of operation did not coincide then it wasn't important. The one area of concern raised about the proposed policy considerations was the apparent lack of reference to crime statistics and the impact that any sex establishment may have upon them in a given area especially in terms of:

- Anti-social behaviour
- Drugs

The Nil Policy

As has been previously noted, opinion was evenly split with regard to the proposed nil sex establishment policy. A variety of concerns were raised relating mainly to

- **Overall** issues of freedom of choice.
- **Policy** - This should be on a case by case basis and allowed in certain designated / specific areas.
- **Economic** - that sex establishments give an economic boost to the area and create jobs
- **Policy considerations** – that the definition of localities had been chosen to compliment / reinforce the proposed nit sex establishment policy.

Overall

These focus groups resulted in opinion that was also split towards the proposed 'nil sex establishments' policy. It was instead suggested that a limited/targeted policy, in certain specific designated areas be considered, with each application being on a case by case basis with there being clear operational policy / enforcement.

2.3 Expert Submissions

'Expert' submissions were made by the legal representatives of four existing establishments together with written statements from three representative organisations, CAPE, Rainbow Hamlets and OBJECT together with a submission from a private resident.

Locality definition

The legal submissions argued twofold:

- i) That the locality should not be predefined but rather be application specific
- ii) That the basis of the definition is designed to confirm the proposed policy.

Rainbow Hamlets felt the area definition process had not been transparent.

Policy considerations

The legal submissions argued that there is no evidence basis for the stated policy elements and that they are only relevant in the context of 'pre-defined localities' which are disputed.

Cape suggested that the Council adopts the City of Leicester's policy of shutting existing clubs that were too close to residential areas as did OBJECT quoting authorities that had already introduced a nil policy.

Rainbow Hamlets felt that the policy references and privileges some communities over others e.g. based on ethnicity and faith.

The proposed nil Policy

All the legal submissions and Rainbow Hamlets strongly objected to the proposed policy, raising the following points:

- **Moral or religious objections**

That there is a bias towards these and that one cannot just base a policy on moral or political objections.

- **Human rights**

That it has not been demonstrated how the proposed policy has taken the human rights of the welfare of current owners and operators into consideration of currently licensed establishments.

- **Consultation**

That it isn't in accordance with the statutory provisions of the legislation but has been done in such a way as to support the Council's draft policy.

- **Inconsistency of argument.**

That there is inconsistency between saying:

- a) Each case will be decided on its merits and
- b) That applications from existing traders are unlikely to be considered an exception to the policy'

- **Bias in Mayor's statement.**

They claim its wording is such that it invites solely negative comments and takes no account of any positive factors or refers to any police evidence or crime statistics.

- **Positive evidence on how lap dancing clubs are run**

That there are several previous reports which have not been taken into consideration which contain positive comments about the way lap dancing/strip clubs operate.

- **Economic issues**

There is no reference to the economic impact of a nil policy.

Other comments

- Concern relating to the robustness of the consultation process used for the 2008 review of striptease that is referred by the Authority.
- The authority has adopted a moral stance towards sexual entertainment venues as shown by the differences between the positive statements in the LBTH Borough development policy and the negative statements in the consultation document regards the impact of 'sexual entertainment venues'.
- They also question the robustness and validity of the finding of the Authorities' scrutiny committee regards 'licensing of strip clubs'.
- An individual submission stated his opposition to the proposed nil policy as a resident of the Borough stating it cannot be defended on moral or equalities grounds.

Overall

There is strong and passionate opposition from the four existing organisations, Rainbow Hamlets and a resident and the existing organisations have the legal backing/expertise behind them and therefore the key arguments put forward by these organisations should be considered and reviewed accordingly. It is clear, not unsurprisingly, that they are very much against the 'nil sex establishments' proposal.

However, both CAPE and OBJECT were strongly in favour of the proposed nil policy quoting the following key arguments:

- a) Other authorities that had introduced such a policy and had strong reasons for doing so
- b) In the case of OBJECT, they stated a series of assertions linking lap dancing clubs with various aspects of negative social behaviour, attitudes and values together with a focus on equality.

Both claim the fundamental rationale behind their arguments was one of equality.

3.0 Methodology/Sample

Background

The draft policy was designed by the Council based on views previously provided by the community and by taking these views into account and considering the aims and objectives mentioned earlier, the Council designed a questionnaire that they felt would give all stakeholders an opportunity to give their views on the policy and the proposals.

Questionnaire

The questionnaire was sent out as a hard copy to all households and businesses and included a letter from the Mayor explaining the rationale behind the consultation. The opportunity to receive a translation was also provided as part of the questionnaire with 23 different languages highlighted.

Included on the letter which accompanied the survey was a link; giving all the option to complete the survey online. The link was also publicised across Tower Hamlets during the consultation period.

In total 4,302 surveys have been included in the final sample, an analysis of which makes up the first section of this report.

Any questionnaires that did not include a Tower Hamlets postcode or that had an unrecognisable postcode were removed from the sample unless a link to the borough could be established. In addition 121 were excluded after a hand writing expert commissioned by the Council identified these as duplicated surveys.

The breakdown of the final sample is as follows:

Gender	Number of Responses	Percentage of responses
Male	1,026	23.8%
Female	2,203	51.3%
Transgender	12	0.3%
Prefer not to say	113	2.6%
Not stated	948	22.0%

Age	Number of Responses	Percentage of responses
12-19	120	2.8%
20-25	519	12.1%
26-34	1,028	23.9%
35-43	742	17.2%
44-52	454	10.6%
53-59	206	4.8%
60-64	96	2.2%
65+	104	2.4%
Prefer not to say	115	2.7%
Not stated	918	21.3%

Ethnicity	Number of Responses	Percentage of responses
Asian or Asian British	1,467	34.0%
Black or Black British	154	3.6%
Mixed/Dual Heritage	128	3.0%
White	1,201	28.0%
Other	0	0.0%
Prefer not to say	312	7.2%
Not stated	1,040	24.2%

Religion	Number of Responses	Percentage of responses
None	558	13.0%
Buddhist	40	0.9%
Christian	616	14.3%
Hindu	32	0.7%
Jewish	43	1.0%
Muslim	1,286	29.9%
Sikh	27	0.6%
Other faith	76	1.8%
Prefer not to say	542	12.6%
Not stated	1,082	25.2%

Disability	Number of Responses	Percentage of responses
Yes	136	3.2%
No	2,577	59.9%
Prefer not to say	351	8.2%
Not stated	1,238	28.8%

Sexual Orientation	Number of Responses	Percentage of responses
Bisexual	147	3.4%
Gay man or lesbian/gay woman	161	3.7%
Heterosexual	2,123	49.3%
Other	579	13.5%
Not stated	1,292	30.0%

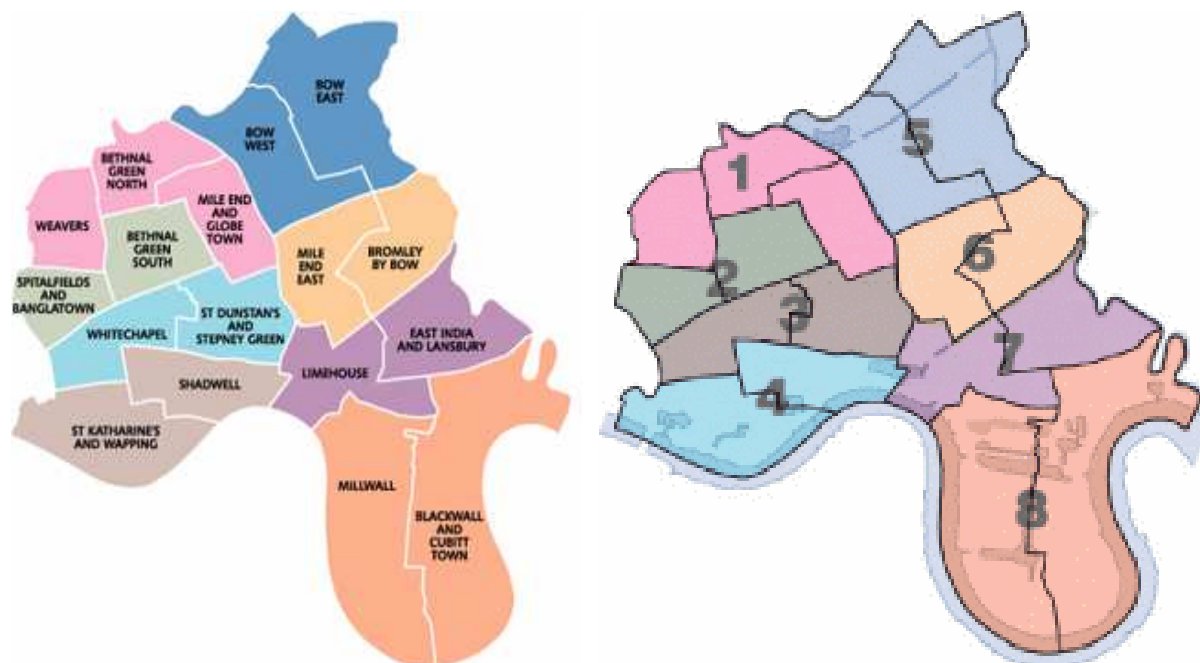
LAP Area	Number of Responses	Percentage of responses
LAP 1	918	21.3%
LAP 2	520	12.1%
LAP 3	562	13.1%
LAP 4	407	9.5%
LAP 5	193	4.5%
LAP 6	427	9.9%
LAP 7	405	9.4%
LAP 8	235	5.5%
E1-E14 ²	560	13.0%
Out of area with link to TH	75	1.7%

² This covers anyone who gave either an E1, E2, E3 and E14 that was not a full postcode

Focus Groups

Prior to the questionnaire development, the Council ran 4 focus groups across the Borough to establish a more in-depth view of the policy and proposals. These groups were recruited by SMSR Ltd using the Council's citizen's panel and were facilitated by officers from the Council. The results of the groups are discussed in this report.

The group venues were selected to ensure that all attendees had a random chance to be invited from all eight of the LAP's which each event aiming to include and cover two individual LAP's.



The dates, locations and profile of each group are as follows:

Monday, 26th September 2011, Crisp St Idea Store (LAP's 7 & 8)
Attended: 10 (7 males / 3 females)

Tuesday 27th September 2011, Whitechapel Idea Store (LAP'S 3 & 4)
Attended: 11 (6 males / 5 females)

Wednesday 28th September 2011, Bow Idea Store (LAP'S 5 & 6)
Attended: 9 (5 males / 4 females)

Thursday 29th September 2011, St Hilda's Community Centre (LAP's 1 & 2)
Attended: 17

A separate consultation was set-up and facilitated by Rainbow Hamlets on behalf of the LGBT community on 24th October 2011 at Oxford House.

Legal Submissions

In addition to the formal consultation methodologies carried out by the Council, a number of legal submissions were submitted. There were submissions from three legal firms representing 4 different organisations

There was also written submissions received from three representative organisations: the Chair of CAPE (Community Against People Exploitation, OBJECT, Rainbow Hamlets together with a submission by an individual citizen of Tower Hamlets. An analysis of these submissions is also included in this report.

Rounding

It should be noted that when the results of the questionnaire are discussed within the report, often percentages will be rounded up or down to the nearest one per cent. Therefore occasionally figures may add up to 101% or 99%.

Sampling error

As with any survey, the results are exact and are subject to a sampling error resulting from the fact that a) it was not a census and b) there is variability across residents in regards their views / opinions.

Sampling error is defined in two ways:

- i) The size of the error e.g. +/- 3%
- ii) The level of confidence in the result e.g. 95%

The actual calculation of the error is based on a statistical formula which is based on the following:

- The sample size – 4,302
- The populations size – approximately 238,000³
- The degree of variability of opinion – assumed to be 50%.

This gives a sampling error of
+/- 1.5% @ 95% confidence i.e. 3.0% in total
This error increases to
+/- 1.9% @ 99% confidence i.e. 3.6% in total

³ Office for National Statistics 2010 Mid Year Population Estimates

4.0 Results

4.1 Questionnaire Results

4.1.1 Background

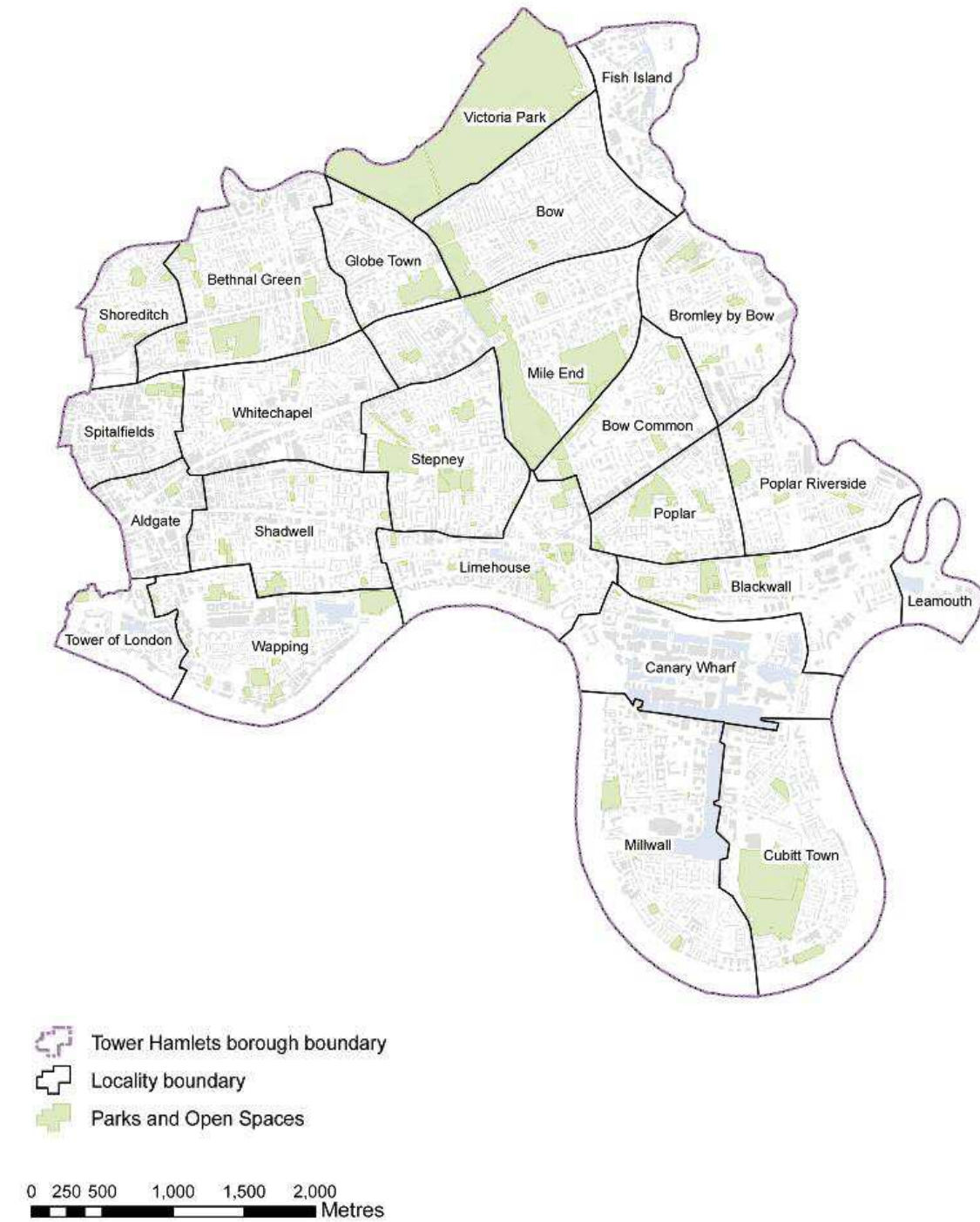
The vast majority of respondents that completed a questionnaire said they were a resident (89%), with 7% of respondents stating they were a business and 4% mentioned another link that they had to the borough.

Are you?		
Link to Borough	Number	Percentage (%)
A Resident	3808	88.6
A business	286	6.6
A trade organisation	6	0.1
Other	167	3.9
Not competed	35	0.8
Total	4,302	100.0

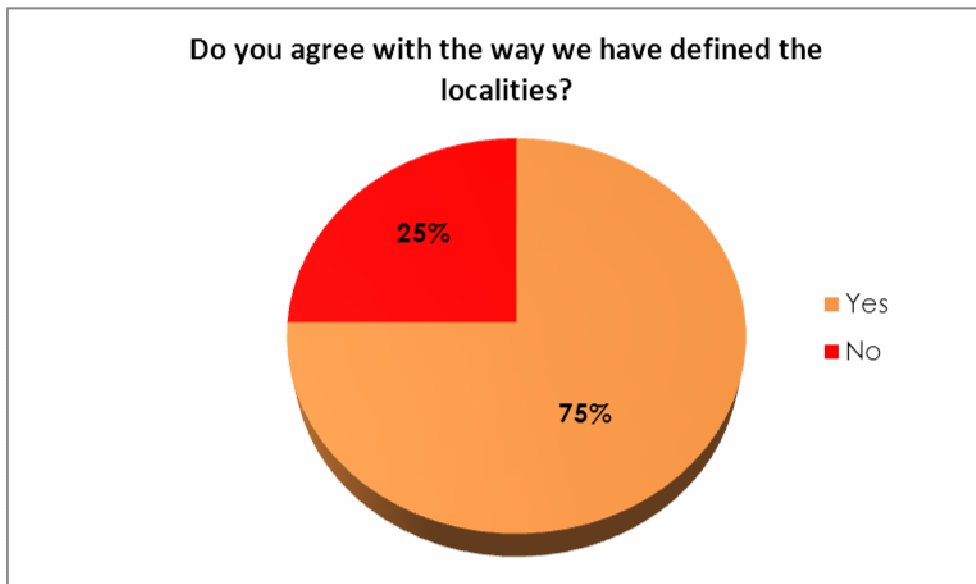
Included in the 'other' response were employees, links to family members, links to local religious organisations or charity organisations, those studying in the area or someone that owns a property in the borough.

4.1.2 Localities

In order to decide whether any part of Tower Hamlets is a suitable location for sex establishments, the Council defined specific areas within the borough, based on their characteristics as follows:



Respondents were asked to state whether they agree with the way the localities had been defined. Three-quarters of all respondents were in agreement with the defined localities, whilst 25% were not.



Base No: 4,197

Variations in overall result

a) Ethnicity/Age/Gender

Those with an Asian /Asian British background (85%) and those aged 12-19 gave the highest level of support for the defined localities, whilst those aged 53-59 (60%) and 60-64 (52%) along with respondents with a mixed /dual heritage (27%) and black / black British background (49%) gave far lower levels of support.



b) Religion

The vast majority of respondents (89%) with a Muslim religion/belief agreed with the defined localities, compared to 60% of Christians and 64% of those with no belief.

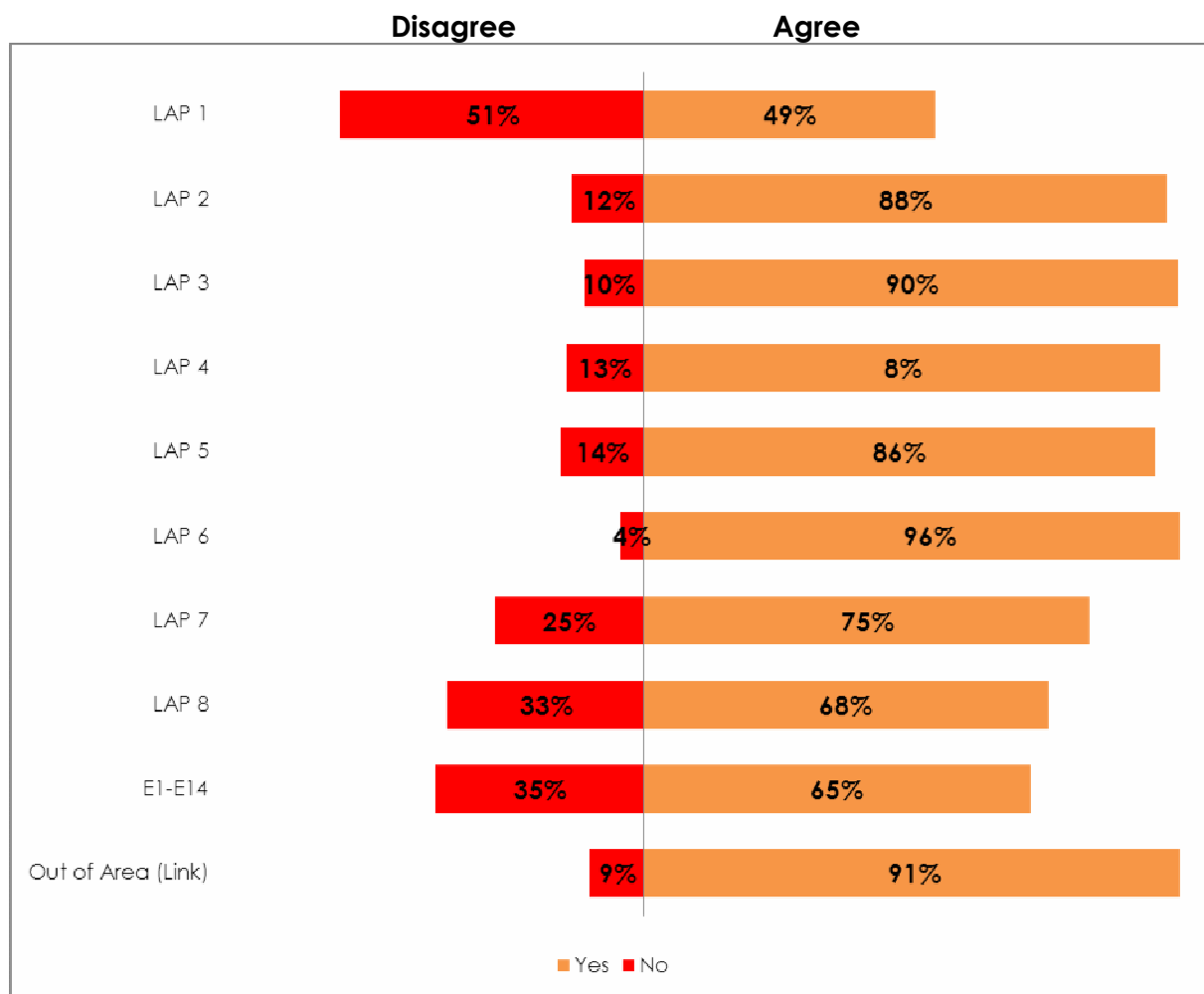
c) Sexuality

Heterosexual respondents also indicated higher levels of agreement (72%) especially when compared with bisexual respondents (62%) and gay and lesbian respondents (56%).

d) LAP

More than 85% of those living in LAP's 2 (88%), 3 (90%), 5 (86%) and 6 (96%) said they agreed with the defined localities. More than 9 out every ten respondents living out of the area also agreed with the mapping criteria.

Those living in LAP 1 indicated the highest level of opposition as 51% disagreed with the defined localities, leaving 49% in agreement.



4.1.3 Reasons for Agreement / Disagreement

A total 100 explanations were provided from those who agreed with the defined localities proposed by the Council with 38 of these suggesting it was a logical or sensible map.

Why? (Yes)		
Reason	Number	Percentage* (%)
It is logical/makes sense/I agree	38	13.8
It accurately reflects communities/localities within the borough	28	10.2
It is clear / easy to understand	22	8.0
Because they are equal in size and population density	7	2.5
It seems to cover all the major areas	5	1.8

*of the overall response to the question why?

Although just 25% disagreed with the defined localities, these respondents were more vocal in their reasoning giving 188 responses in total. A third of these responses to the question 'why?' was based on the view that the localities had been designed specifically to reinforce the council agenda of a nil policy.

Why? (No to proposed policy)		
Reason	Number	Percentage* (%)
Localities have been designed to implement nil establishments policy / council agenda	90	32.7
Some existing areas have been split in two	22	8.0
The political/ward boundaries should be used	19	6.9
The map is not clear enough/difficult to understand	17	6.2
The localities are not fair to people involved with establishments	13	4.7
The areas do not address the problem or are not relevant	8	2.9
There should be fewer localities	5	1.8
Localities should be larger	3	1.1
Localities should be defined by high streets	3	1.1
The needs of each locality should be looked at	3	1.1
Surrounding areas and people will be affected by the change	2	0.7
Difficult to say as I don't know the area well	2	0.7
Some areas have been excluded	1	0.4

*of the overall response to the question why?

4.1.4 Policy Considerations

The council summarised the characteristics of each locality by looking at the following aspects:

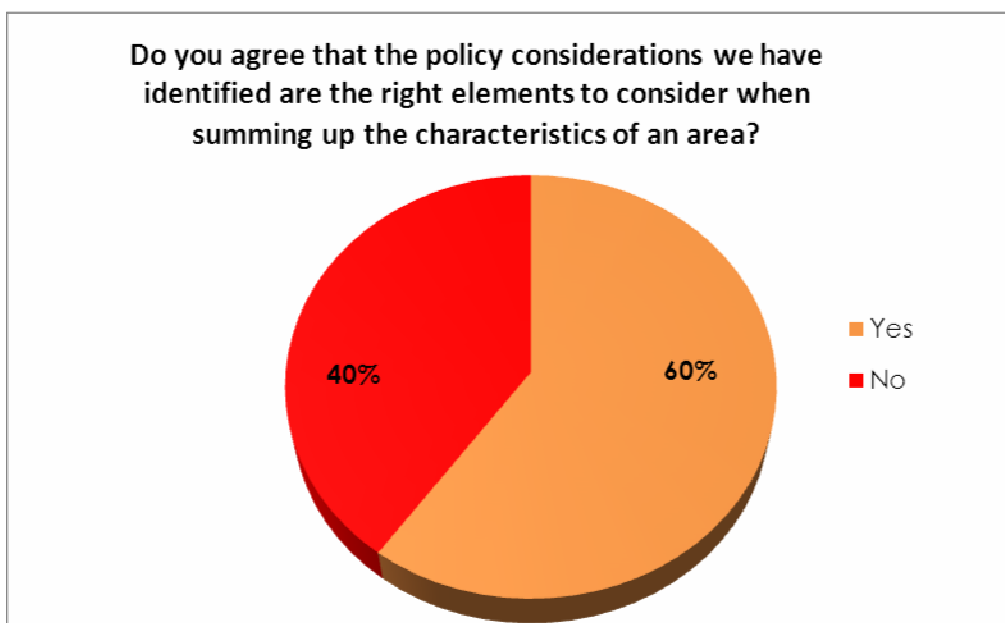
- Increase in population and residential density and related infrastructure
- Borough ethnicity profile
- Economic and health specific deprivation
- Our diverse cultural communities.

They also considered the locations of:

- Premises attracting vulnerable people such as GP surgeries and addiction centres
- Areas and premises attracting families such as leisure and sport facilities and play spaces, parks and open spaces
- Premises attracting young people such as schools, nurseries and other educational establishments
- Places of worship
- Residential properties

Respondents were then asked to state whether they agreed that the policy considerations have identified the right elements when making the locality summarisation.

Overall there was a 60/40 split in favour of those that said 'yes' the policy considerations have incorporated the right elements.



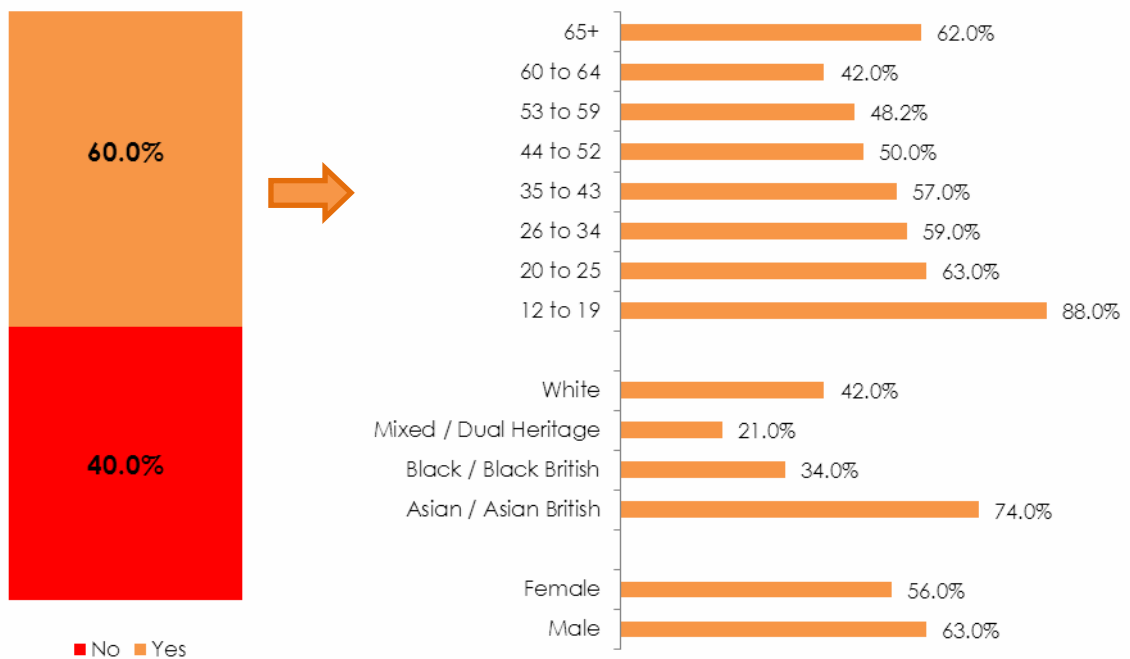
Base No: 4,078

Variances in overall result

Looking at other sub analyses, there is a similar picture to the levels of agreement in regards the defined localities.

a) Ethnicity/Age/gender

The younger age groups: 12-19 (88%), 20-25 (63%) and those with an Asian /Asian British background (74%) gave higher levels of support for the Council's policy considerations. Male respondents (63%) were more in favour than female respondents (56%).



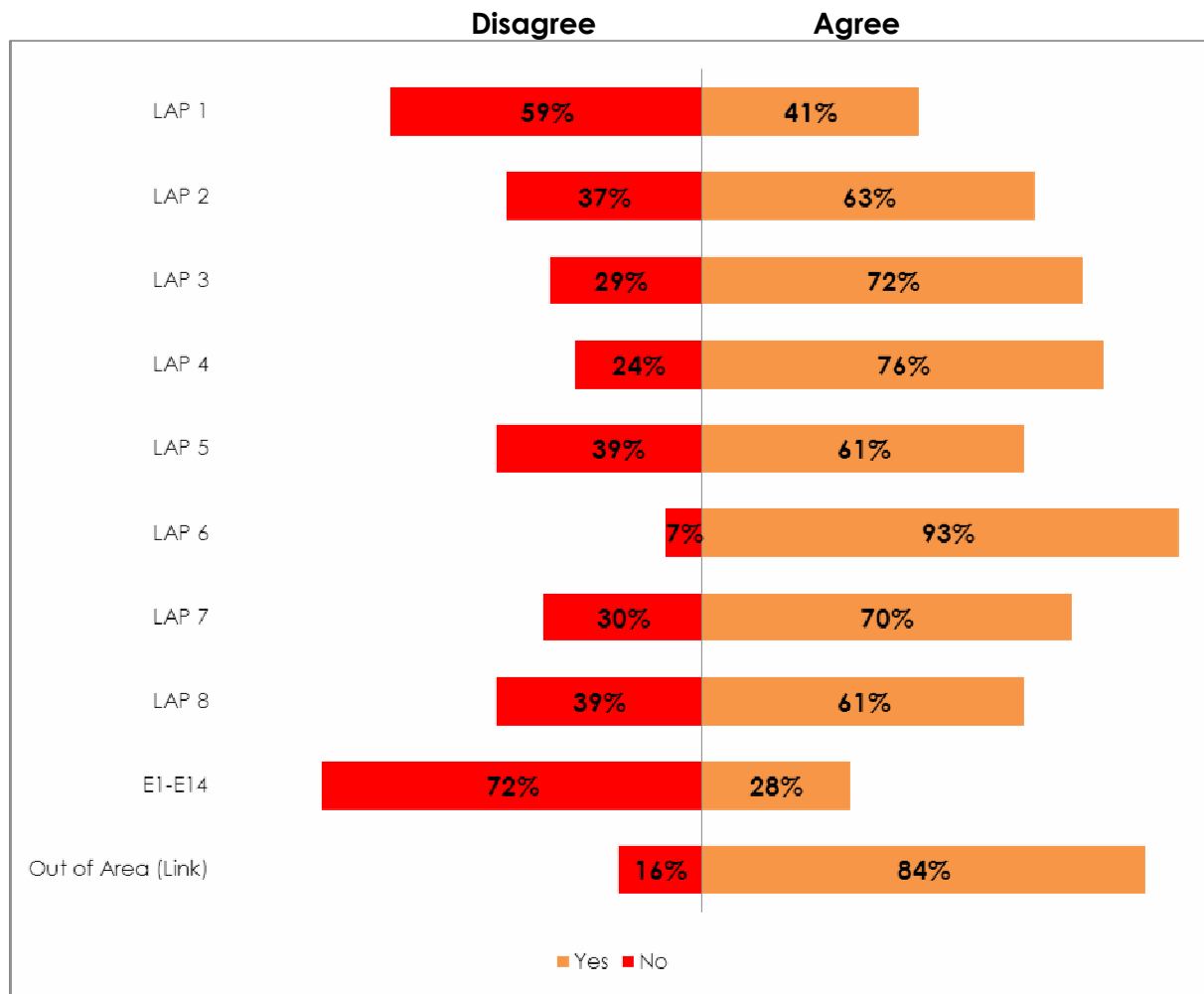
b) Religion

In regards religion, 81% of Muslim respondents agreed the council had identified the right elements when summing up the characteristics of an area; as opposed to two-thirds of Christian respondents who disagreed with policy considerations in summing up an area.

LAP

Those living in areas E1-E14 (72%) were less likely to agree with this policy consideration and again LAP 1 residents were more likely to disagree (59%).

The vast majority of those living in LAP 6 (93%) agreed with the policy considerations.



4.1.5 Reasons for Agreement / Disagreement

There were 77 comments provided by those who supported the policy consideration. They were mainly in general agreement that the Council had identified the right elements when summing up the characteristics of an area.

Why? (Yes)		
Reason	Number	Percentage* (%)
Policy considerations are valid/I agree with the policy considerations	54	15.7
They are fine/logical/alright/make sense	12	3.5
These characteristics are typical of any London Borough	6	1.7
Methodology is not listed as to how you characterise localities	4	1.2
Groups can work together	1	0.3

*of the overall response to the question why?

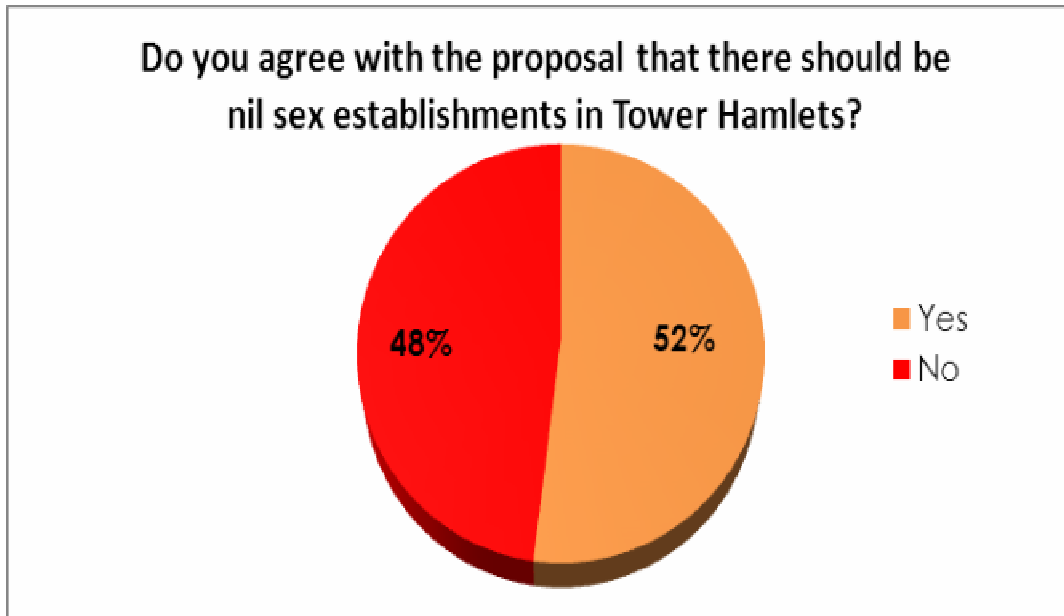
More than a fifth (23%) said they believed the Council had an agenda to implement the nil sex establishments and that the policy is biased. Approximately 12% of those who gave a reason for their initial answer said they couldn't see the point of the question and (10%) that it is legally and morally wrong to prevent freedom of choice).

Why? (No)		
Reason	Number	Percentage* (%)
Council is biased/have an agenda to implement nil establishments	78	22.7
Can't see the point to this question, its validity or relevance	40	11.6
Legally and morally wrong to prevent freedom of choice	35	10.2
Multicultural society means everyone's rights should be considered	33	9.6
Existing sex establishments are well run and contribute to the economy	33	9.6
Policy considerations have no bearing on sex establishments	30	8.7
Religion or ethnicity should not sum up an area	28	8.1
No problems arise as most establishments only open evenings	25	7.3
Other characteristics should be considered	17	4.9
Licensed premises and betting offices are more damaging to society	9	2.6
Any establishment should be looked at individually, not generically	1	0.3
Proposal appears to stereotype individuals	1	0.3
Unlikely to confuse a sex establishment with a school, church, mosque etc	1	0.3

*of the overall response to the question why?

4.1.6 Proposed nil sex establishment policy

When respondents were asked whether or not they agreed with the proposed policy, 52% were in support of the proposal and 48% were against. Bearing in mind the sampling error of approx. +/- 2% it is fair to say that opinion was split.

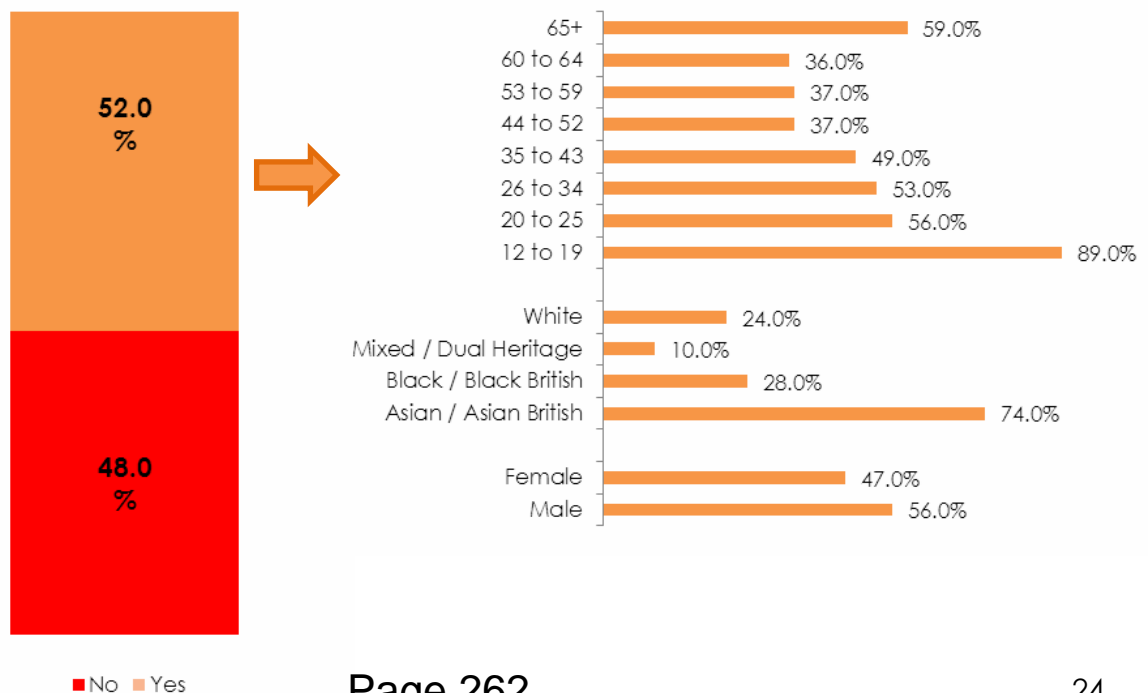


Base: 4,147

Variations in overall result

a) Ethnicity/Age/gender

In terms of being in favour of the proposal, males (56%) were more supportive of the nil sex establishments' proposal; as were those with an Asian or Asian British background (74%). Those aged 12-19 (89%), 20-25 (56%), 26-34 (53%) and 65+ (59%) all indicated higher levels of agreement than the 52% average.



b) Religion

Muslim respondents were hugely in favour of a nil policy (82%). Christian respondents (81%) and those with no religion (75%) were less supportive of this proposal.

c) Sexuality

Heterosexual respondents had a fairly split opinion with 47% for and 53% against. Just over a third (37%) of bisexual respondents were in favour as where just 12% of gay or lesbian respondents.

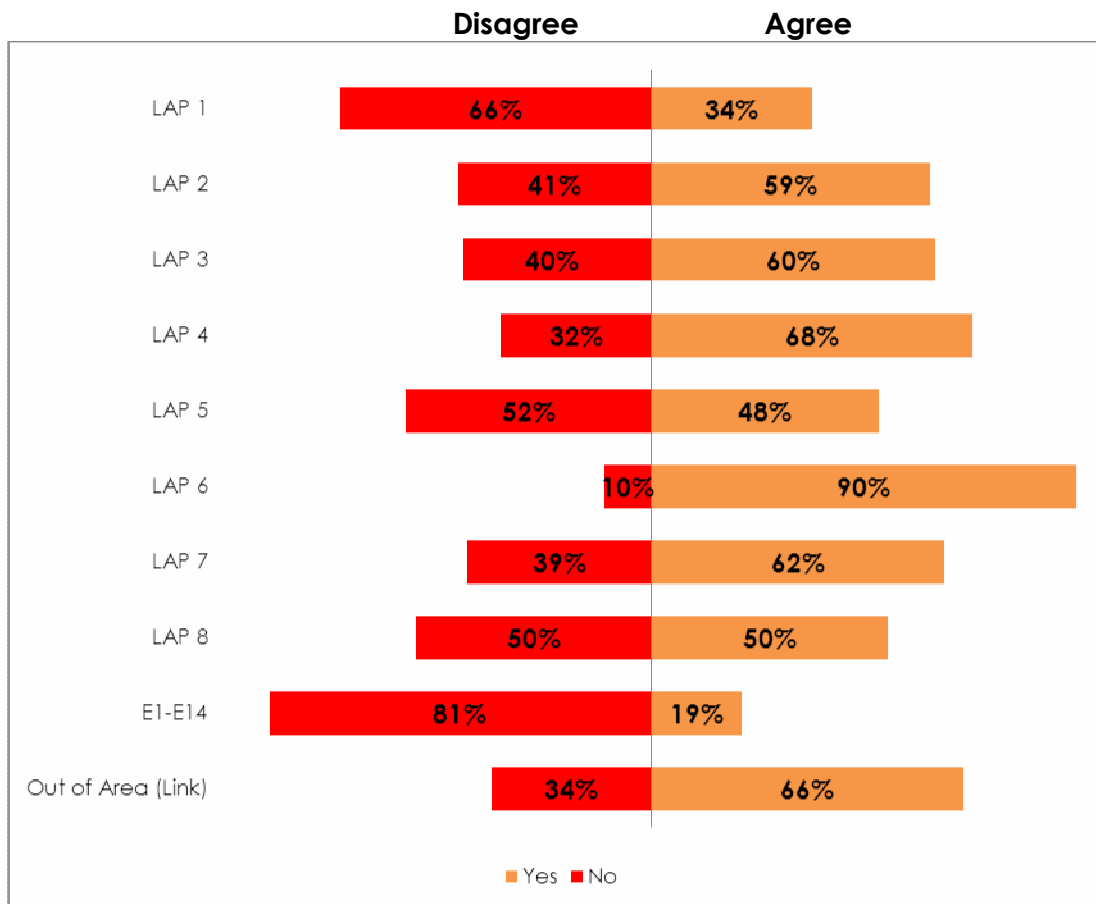
d) Against the proposed policy

More than half of the following demographics were **against** the proposal:

- Females (53%),
- Black / Black British (72%),
- Mixed/dual heritage (90%),
- White (76%),
- Those aged 35-43 (51%), 44-59 (63%) and 60-64 (64%).

LAP

Opinions in different LAP's varied from one to another with the highest levels of support emanating from LAP 1 and the highest level of opposition coming from those living in E1-E14 who didn't give a full postcode.



4.1.7 Reasons for Agreement / Disagreement

Of the 331 responses from those who agreed with a nil policy, approximately 8% argued that sex establishments can contribute to levels of crime and ASB, 6% were also concerned that children can be exposed or corrupted and that it encourages exploitation of women and sex trafficking.

Why? (Yes)		
Reason	Number	Percentage* (%)
Sex Establishments lead to cause/attract/crime and ASB	60	7.5
Children should not be exposed to/corrupted by establishments	50	6.2
Encourages degradation/exploitation of women/sex trafficking	49	6.1
Not suitable for residential/family areas	42	5.2
Sex establishments are against religion/cultures/morals	38	4.7
Establishments harms/corrupts families/communities	31	3.9
My general opinion/no reason given	21	2.6
Establishments bring in undesirable people to the area	12	1.5
Establishments encourage promiscuous/immoral behaviour	10	1.2
It causes people to feel unsafe/uncomfortable/vulnerable	8	1.0
Due to policy considerations stated	7	0.9
Establishments harm businesses and the local economy	2	0.2
There are establishments in other boroughs which people can travel to	1	0.1

*of the overall response to the question why?

In total 507 responses were provided as to why respondents had disagreed with the nil policy, with 90 of these who said they did not believe sex establishments to cause any more problems than a regular bar or club.

Why? (No)		
Reason	Number	Percentage* (%)
Establishments create no problems/no more than regular bars/clubs	90	11.2
Controlled/safe environment for entertainment/I enjoy establishments	76	9.5
Establishments boost employment/economy	72	9.0
Sex establishments should remain as a legal/regulated business	51	6.3
Reduces illegal establishments/activities	51	6.3
My general opinion/no reason given	31	3.9
Groups are trying to impose their beliefs on the borough	28	3.5
Sex establishments are part of the borough's history/identity	22	2.7
Would destroy people's businesses/livelihoods	20	2.5
The Council's bias/has an agenda	19	2.4
Policy too extreme/all or nothing	17	2.1
Definition of sex establishments is unclear	15	1.9
More evidence required to back up policy	11	1.4
There are suitable areas for establishments in Tower Hamlets	2	0.2
Leads to increase in safety due to more security staff	2	0.2

*of the overall response to the question why?

4.1.8 Other comments

Finally respondents were asked if they had any other comments with regard to the draft policy, resulting in a total of 922 responses. As with the other comments, these were both positive and negative and many echoed previous comments made earlier in support of their previous 'yes' or 'no' answers. The table below shows the most frequent responses.

Do you have any other comments regarding the draft sex establishment policy?		
Comment	Number	Percentage* (%)
In favour		
I generally agree with the policy/there should be no sex establishments in Tower Hamlets	130	14.1
Establishments lead to/cause/attract crime and ASB	120	13.0
Children should not be exposed to/corrupted by establishments	51	5.5
Establishments are against religion/cultures/morals	46	5.0
Establishments are degrading/exploitative of women	40	4.3
Against		
A nil policy is against freedom of choice/human rights/equal opportunities	106	11.5
Establishments create no problems/causing no harm/discreet	88	9.5
Closing establishments will damage the economy	75	8.1
Sex establishments should remain as a legal/regulated business	62	6.7
Sex establishments provide enjoyable entertainment	47	5.1
I generally do not agree with the policy of nil establishments	46	5.0
A nil policy may drive establishments underground / illegal / unsafe	44	4.8
The policy is driven by religion	43	4.7

4.2 Focus Group Results

4.2.1 Background

The focus groups all followed the same structure, addressing the same three questions that were on the survey consultation form:

- 1 Do you agree with the way we have defined the 24 localities (specific areas within the borough, based on their characteristics)?
- 2 Do you agree that the policy considerations we have identified are the right elements to consider when summing up the characteristics of an area?
- 3 Do you agree with the proposal that there should be 'nil' sex establishments in Tower Hamlets?

Some groups had a preliminary session where various general issues were discussed such as the definition of a sex establishment.

As mentioned in section 3.0 the groups were located in venues that aimed to cover all eight LAPS and where as follows:

St Hilda's Community Centre (1 & 2)

Whitechapel Idea Store (LAP'S 3 & 4)

Bow Idea Store (LAP'S 5 & 6)

Chrip St Idea Store (LAP's 7 & 8)

Comments from the different groups have been used in the following section to support the findings and following any comment the venue in which the attendee made the comment has been referenced. Reference codes are as follows:

St Hilda's Community Centre (SH)

Whitechapel Idea Store (W)

Bow Idea Store (BS)

Chrip St Idea Store (CS)

4.2.2 Definition of areas and boundaries

The actual question was:

'Do you agree with the way we have defined the 24 localities (specific areas within the borough, based on their characteristics)'?

The definition is important as the policy is largely based on an 'area' basis. A range of options for defining areas were available from treating the Borough as a single entity to viewing it as a series of micro locations as for example the Mosaic household analysis does. For this consultation, the Borough had been sub divided into 24 localities, based on the Council's Core Strategy.

As was to be expected a range of opinions was received. Most of these comments related to their impact on describing the Borough rather than its impact on the proposed sex establishment policy.

Comments fell into 4 groups:

1. Areas were too small: -

Some members of the group thought that the areas that LBTH has been divided up into were too small and that perhaps the areas should be paired up to reduce the number. There was a 70/30 majority in favour of the argument that the areas were probably too small. (CS)

2. Treat the Borough as a whole

One resident said it would be better to look at the borough in its entirety rather than divide it into localities. Other residents agreed that the boundaries meant little and the consultation should treat the borough as a single unit. (BS)

3. Specific detail

These referred to specific location issues e.g. Victoria Park's status as a division on its own was branded "pointless" as it mostly encompasses just the park (CS) or the Mile End boundary looks odd, cutting Globe Road and Roman Road in half, this makes little sense as Mile End Park goes all the way to Victoria Park. (SH)

4 Basis of policy

In one group there was a view expressed that a better policy would be to show a split between residential and commercial areas. (W)

One resident pointed out that people were being asked if they agreed with the division of the borough into 24 localities which is based on the Council's Core Strategy which few of them have read or are aware of, making it difficult for them to answer this question as these localities mean little to them. (B)

One resident noted that the sex establishment policy was affected by where and how the boundaries were drawn. (CS)

Two other areas of contention were:

1 Canary Wharf

There seemed to be a dispute as to the composition of this area. Some looked at just one sub section of it, namely the financial activity area and therefore felt it was primarily commercial.

"I think places that are suitable on looking at the locality map are places like Spitalfields and Canary Wharf and that these should be considered as entertainment areas, due to their localities as they attract tourists and city workers who travel into the borough" (SH)

"I don't understand why not Canary Wharf, I hardly see any children over there" (SH)

Others however looked at it as a whole, pointing out that Canary Wharf does have a large residential population and cannot be classified as just a business / commercial area. (W)

2 Boundaries

Concern was expressed as to whether one could just look at Tower Hamlets in isolation and not take into account what was taking place on / across its borders and indeed some felt the boundaries may be suitable locations.

"What about the border between Tower of London and Aldgate - these are the best places on the border of the City" (SH)

It was noted that neighbouring Councils already provide sex establishments (W) with Camden, Hackney and Newham having a restricted policy whereby they allow existing establishments to continue to operate but will not license any new sex establishments whilst the City of London has a nil policy

Overall – Area Considerations

As noted previously, most of the comments regards the use of the 24 localities appeared to be made as a means of describing LBTH rather than in relation to the impact on the proposed sex establishment policy e.g.:

“Victoria Park's status as a division on its own was branded “pointless” as it mostly encompasses just the park”

Only one respondent (Crisp Street) made a specific reference to the relationship between area definitions and the sex establishment policy by noting that the consequences for the sex establishment policy was affected by where and how the boundaries were drawn (CS).

This single comment does however raise a major issue as given that there is almost total agreement that the sex establishment policy needs to take into account certain social/built environment factors e.g. that they should not be near any places where families and children frequent, then depending upon the basis of the areas chosen then that will largely define the relative importance of those policy considerations and hence influencing the consequential impact on the proposed policy.

Therefore if one defines the borough at the macro level of it being a single whole place then it will automatically dictate a ‘nil policy’ as clearly there are many places where children and families go in the borough.

If however one went to the other extreme and defines the Borough on a micro street by street basis then it would be possible to have a targeted sex establishment policy as there are clearly individual streets in the borough where there is no family and children traffic.

A good example of this is Canary Wharf. By looking at the whole area, then it encompasses residential areas with families and children so excluding sex establishments. If however one redefines it into smaller areas, some of these will be almost exclusively commercial / none residential and therefore exclude families and children so potentially allowing sex establishments.

We assume that this was the reasoning behind the comments calling for the use of a residential/commercial approach for assessing the validity of the proposed sex establishment policy.

4.2.3 Policy considerations

The actual question was:

'Do you agree that the policy considerations we have identified are the right elements to consider when summing up the characteristics of an area'?

Specific policy considerations relating to location

There was almost universal agreement across all the groups was that any LBTH sex establishment policy must state that they **MUST NOT** be located near:

- Residential areas.
- Places frequented by children (schools, playgrounds, leisure centres)
- Doctor's surgeries (BS)

Indeed there was concern regarding the establishment of a sex establishment near any place that attracted families and children, so leisure and sports facilities, play spaces, parks and open spaces, schools, nurseries together with residential areas were mentioned. (SH)

In addition there was some debate as to whether the sex establishment's policy should also exclude 'proximity to places of worship'. Opinion was mixed as some respondents felt that provided the sex establishment was discrete and operated at different opening hours then it shouldn't be a problem.

Another person felt that it introduced a moral element and that any decision on whether to allow a sex establishment to operate should be impartial and not founded on any moral objections. (BS)

Other concerns raised by individuals related to the lack of consideration in the policy towards:

- Sexual orientation
- Disability.
- The nature of the area and the crime rates.

Other policy considerations raised were:

1 Nature and location of promotions for sex establishments

Adverts

That there must be controls on where adverts are located/placed in addition to controls of where they are located.

"I am concerned that there are Billboard Ads for a sex establishment along the road where I live which also has 2 primary schools" (SH)

"I don't understand why a sex club is allowed to use a lorry which drives around the borough showing images of scantily dressed women" (SH)

Signage

Other group attendees, whilst not opposed to the existence of sex establishments were anxious that the signage be discreet, and not explicit.

2 The lack of reference to crime/anti-social behaviour statistics

The major missing issue in policy considerations, raised in the Bow Group is the issue of crime and crime rates and the impact that sex establishments do/may have on crime in an area. The two specific possible crime considerations raised were:

- Anti-social behaviour
- Drugs

They questioned as to whether it could be proven there was a direct link between the two.

Overall – Policy considerations

Most groups felt that policy considerations regarding location considerations were valid and furthermore there is almost complete agreement that the policy regards the location of sex establishments in LBTH must state that they **MUST NOT** be located near:

- Residential areas.
- Places frequented by children (schools, playgrounds, leisure centres)
- Doctor's surgeries (BS)

Views were not unanimous with regards to their location near religious establishments, some feeling that this created a moral dimension and others feeling that it was not important if the hours of operation did not coincide.

Operational policy

One policy issue raised was the need for operational controls in terms of:

- Promotional activity and that it was felt that it needs to be discreet including the signage.
- That any consequential anti-social behaviour be controlled.

Missing policy consideration

Maybe the major missing area in terms of policy considerations was that of not including crime statistics and the impact that sex establishments do/don't have on crime in a given area.

4.2.4 Proposed policy

The actual question was:

'Do you agree with the proposal that there should be 'nil' sex establishments in Tower Hamlets'?

An overall summary of the group conclusions provides a split picture:

Location	For	Against	Other
Crisp Street	5	4	-
St Hilda's			Agreed 'in general'
Whitechapel	5	6	-
Bow			Disagreed – want 'targeted' policy
	10	10	

One of the limitations of the consultation is that people did not offer detailed explanations if they supported the policy other than a rather bland 'it's right', but they DID offer more detailed explanations when disagreeing with it. It is therefore difficult to give a balanced view.

Arguments for the nil policy

- Some were concerned that too many sex establishments would attract undesirables to the area.
- That sex establishments create antisocial behaviour.

Arguments against the nil policy

i) Overall

- Some felt that a blanket ban was "wrong" and an overreaction.
- Opting for a 'nil' policy would simply drive the trade underground and sex establishments would operate illegally.
- Disagreed with a 'nil' policy but favoured setting a limit on the number of establishments
- It was a matter of personal choice if people wish to frequent sex establishments
- Disagreed as they felt it was a question of freedom of choice and people should be able to attend this type of establishment if they chose to
- There is no need for change. The existing legislation is sufficient. Maintain the 'status quo'
- Why one should have to leave LBTH to attend a sex establishment
- Felt a nil policy is regressive and 'going back in time'
- One resident commented that the 'nil' policy proposal is not impartial and favours the Council's aim to ban sex establishments in the borough. The council could have given people a range of options to choose from which would have been more impartial

“I have no problem ideologically with sex establishments but I do socially, the proximity of these clubs to residential properties and schools, their advertising on bill boards on heavily used pedestrian streets is not acceptable to me’, I do agree though with one area for this type of establishment being Canary Wharf” (SH)

ii) Specifics

Policy

- There's a need for more clarity on the criteria (CS)
- A license to operate a sex establishment should be evaluated on a case by case basis (BS)
- That they be allowed in certain specific locations such as Wapping and Canary Wharf whilst taking into account the universally accepted policy of constraint in residential locations re presence of families, children, etc (SH)
- That the policy is too general, TH could allow a sex establishment in Spitalfields for example, (W)
- Concern that this policy just moves the problem to another Borough (WC)
- That policy is affected by where and how the boundaries are drawn (CS)

Economic

- It results in potential lost revenue. (CS)
- Sex establishments would boost the economy in an area by providing jobs (bar staff, cleaners etc) (BS)

Operational

- Many were not opposed to the existence of the establishments but were anxious that the signage be discreet, and not explicit. (CS)
- Sex establishment should be allowed if they were operated discretely (BS)
- Sex establishments should exist as long as they are properly licensed and managed (W)
- *‘If these establishments had more stringent monitoring measures such as a smoking area which is away from the street and a discrete entrance, as along Hackney Road,..... I would then be ok with such an establishment in the area. (SH)*
- Main concern relates to anti-social behaviour (SH)

Boundaries

- Location is key in deciding whether a sex establishment should be allowed to operate in an area. (BS)

Drugs

- The need to address concerns re the potential links with drug abuse (CS)

Overall – Policy

As noted previously, one of the limitations of this consultation is that little explanation was offered as to why residents agreed with the policy, only why they did not. However, in the summary 'count' above, opinion across the 4 groups was almost evenly split between being for and against the policy.

There were a series of arguments made by those disagreeing with the proposed nil policy. These arguments fell into the following categories:

Overall

These arguments tended to revolve around the issue of freedom of choice. One respondent did however make the seemingly valid point that it was better to have a controlled policy rather than a nil policy as all that would do is drive it underground.

Policy

That it should be on a case by case basis and allowed in certain designated / specific areas.

Economic

That sex establishments give an economic boost to the area and create jobs

Location

That the localities had been chosen to match the considerations of the proposed nil policy.

Operational

These concerns are not so much about the policy as its working / enforcement and that issues such as signage, advertising, anti-social behaviour needs policing.

4.3 Expert Submission Analysis

4.3.1 Background

Three types of submissions were made:

i) Legal submissions

Four submissions were reviewed, they being:

- Joelson Wilson on behalf of Secrets (St Katherine's) Ltd
- Dundas & Duce on behalf of The Nags Head
- Jeffrey Green Russell on behalf of Majingo's
- Jeffrey Green Russell on behalf of Metropolis*

Note – the submission from Jeffrey Green Russell on behalf of Metropolis is the same as they presented on behalf of Majingo's.

The Dundas & Duce / Nags Head submission was a short general submission. The other two / three submissions gave specific responses to each of the questions in the consultation document.

ii) Representative organisations

Three separate written submissions were made from

- The chair of CAPE Group (Community Against People Exploitation)
- OBJECT
- Rainbow Hamlets

iii) Tower Hamlets Resident

- A separate written submission from a private resident was made

Legal submissions

4.3.2 Locality Definition

Joelson Wilson / Secrets (St Katherine's) Ltd

1 Policy should be application specific

They did not agree with the way the Council have defined the areas, believing that they shouldn't be defined regards the policy but rather by reference to a specific licence application stating that the relevant location is decided by the facts of each application on a case by case basis. They quoted a legal precedent regards locality definition.

Jeffrey Green Russell / Majingo's/Metropolis

2 Definition is designed to confirm proposed policy

Their main submission is that the Authority has devised the 24 locality areas in order to confirm their proposed nil establishment policy as each of the areas contains schools, families, surgeries and play areas which therefore dictate a nil policy. They also add that as there are already existing localities i.e. wards, they question the necessity of devising these new ones.

4.3.3 Policy considerations

Jeffrey Green Russell / Majingo's/Metropolis

Their points made are:

1 No basis/evidence for the stated policy elements

They expressed concern that the authority has provided no evidence as to why they are proposing the stated policy elements of not having a sex establishment near certain facilities such as surgeries, schools or playing fields. They note that there is no evidence or complaints arising from the location of their clients Majingo's or Metropolis establishments which have been in the same locations for several years.

Joelson Wilson / Secrets (St Katherine's) Ltd

2 Stated policy considerations are only relevant in the context of 'pre-defined localities' which they are disputing

They did not agree that the policy considerations identified are correct as they state they are only relevant in the context of a given area/'locality'. They again refer to their response to the previous locality question where they disagree with the stated approach saying that a location should be identified on the basis of a specific licence application. They also quote a legal precedent. They also feel that 'in the vicinity' is more relevant to the characteristics of an area and therefore feel that reference to a 200 metre radius is overly prescriptive and too inflexible.

4.3.4 The proposed nil policy

Jeffrey Green Russell / Majingo's/Metropolis

1 Moral or religious objections

They contest the Authority's desire to set a nil number of sex establishments. They note that this submission is similar to a zoning enquiry and as such state that one cannot solely rely on submissions from moral or political objections. They add that given the richness and variety of Tower Hamlets cultural life, it is surprising that the Authority believes it should have a nil policy.

Dundas & Duce/Nags Head

1 Human rights

They claim it does not take into consideration the human rights of the current owners and operators of currently licensed establishments.

2 Consultation

They state it isn't fair and isn't in accordance with the statutory provisions of the legislation but has been done in such a way as to support the Council's draft policy.

3 Moral or religious objections

The claim that the Council has deliberately not asked in the consultation whether any persons who are supporting its proposed 'nil establishment policy' are doing so on moral or religious grounds which they feel is highly likely to be a deciding factor for many.

Joelson Wilson / Secrets (St Katherine's) Ltd

They do not agree with the proposed nil policy for the following five reasons:

1 Human Rights.

They claim it interferes without justification in a wholly disproportionate way with the human rights of the owners, proprietors, staff and customers. They claim that an 'existing operator' is entitled to rely on Article 1 of the 1st Protocol of the European convention of Human Rights noting it states the right to 'the peaceful enjoyment of possessions' and claim that 'built up goodwill' is defined in the 1st Protocol as a possession and the proposed policy doesn't reflect this. They again quote case history.

They also question the validity of the statement in the consultation document that the Council has taken into consideration the human rights of these persons. They state that the proposed policy and its practical application must reflect such rights. Finally they compare the relative brevity of your human rights policy to that of Camden's.

2 Inconsistency of argument.

They claim that the following statements are inconsistent:

- a) 'Each case will be decided on its merits' (para 5.7)
- b) The claim that 'if an application relates to an existing trader against whom there has been no previous complaint it is unlikely to be considered a reason for applying an exception to the policy' (para 5.8)

They believe that the Licensing Authority should take into account the previous manner of operation of such establishments.

3 Bias in Mayor's statement

They claim that the accompanying statement by the Mayor could be construed as inviting solely negative comments and takes no account of any positive factors.

4 Positive evidence on how lap dancing clubs are run

They refer to five reports; they claiming that each contains positive comments about the way lap dancing/strip clubs operate:

- A Culture Media and Sports committee
- A Metropolitan Police evidence to a House of Commons culture committee
- A local LBTH police report
- Consultations in two other London Boroughs
- A Leeds University research report

They state that they believe that policy needs to differentiate between existing 'well run' establishments and new applicants.

5 Economic issues

Reference is made to the economic impact of a nil policy, quoting for example that 'Secrets' in East Smithfield was a one million pound investment.

4.3.5 Other comments

Jeffrey Green Russell / Majingo's/Metropolis

They raise two points:

1 Need to allow for existing operators

Two reasons are given:

- **Human Rights.** They state that there is no evidence of how the human rights of the existing persons associated with the existing businesses have been taken into account so that removal of the proprietor's right to trade is an infringement of their human rights.
- **Track record.** They also note that the premises have been the subject of continual inspection by Police and Authority personnel and no complaints have been made.

2 2008 review of striptease by the Authority

They note that reference is made to this and express concern regards the robustness of the consultation process undertaken in this review noting:

- No contact was made or evidence gathered from the licensed operators.
- Whilst co-opted members included a church and Muslim group, no such request was made to a trade organisation or the businesses.
- It is claimed that it paid special attention to an organisation whose stated aims are the closure of such premises.
- That they only received only 100 submissions which cannot be representative of the population of Tower Hamlets.
- That they paid little regard to the Police who indicated they had no problems with such establishments in the Borough.

Joelson Wilson / Secrets (St Katherine's) Ltd

They made the following four points:

1 Description of 'Sex Entertainment venue'

They refer to the difference in descriptions between the Act of '**Sexual** entertainment venue' and in the consultation document and the accompanying Mayors letter of '**Sex** establishments' and '**Sex** entertainment venues' both of which they claim gives a misleading impression as to the establishments activities.

2 The Authorities inappropriate adoption of a moral stance towards sexual entertainment venues

They refer to differences in positive statements in LBTH policy regards borough development and negative statements in the consultation document re the impact of 'sexual entertainment venues'. They conclude that they believe that the reasoning behind the proposed policy is that of the Authority taking an 'inappropriate' moral stance. They refer to another legal case.

3 Matters from the report to the Authorities' scrutiny committee re 'Licensing of strip clubs'

They make reference to this document and query some of its comments including:

- 'Extensive consultation' which they say consisted of only approximately 100 responses.
- Misleading statements on the Authority's web site re 'overwhelming responses/evidence' which they state is not true.
- No reference to the positive comments received in this 'extensive consultation'.
- That members of the scrutiny committee felt there was a strong link between strip clubs and crime when there is no evidence to this effect.

4 Overly prescriptive restrictions on layout

They state that they feel the statement in para 6.1.4 re their location is overly prescriptive, they quoting the positive operation of their client's six sites in London over some 15 years.

Representative organisation submissions

CAPE

This referred to the nil policy which the City of Leicester introduced under the legislation in which they decided to shut down 3 venues as their considered their locations were not appropriate, being close to residential properties and stating that this policy is transferrable to Tower Hamlets. They also made specific reference their concern about the growth of lap dancing clubs in the borough, stating that this has absolutely nothing to do with closing gay bars but with the safety of women. They note that The White Swan will be able to apply for an exemption that allows it to continue.

OBJECT

OBJECT offered two complementary documents in support of the proposals as their overall assertion was to strongly recommend the introduction of a nil policy for sexual establishments in Tower Hamlets. They quoted the following reasons supporting each one with relevant information.

- Lap dancing clubs normalise the sexual objectification of women and run counter to promote equality between women and men.
- Lap dancing clubs promote a 'sex object culture' which negatively impacts on aspirations of young women and girls
- Lap dancing clubs encourage demand for prostitution and trafficking
- Physical and sexual violence and assault against women are common in Lap dancing clubs
- Lap dancing clubs have a negative impact on women's safety in the local vicinity
- Lap dancing clubs have a negative impact on women's safety in wider society
- Objections to Lap dancing clubs are based on issues of equality, not morality
- In addition they referred to the following two issues:
- They quote certain local authorities that have introduced a nil policy and explain their reasoning
- Human rights: They argue that the potential use of human rights legislation by existing operators is unlikely to be successful including a rationale.

Rainbow Hamlets

Rainbow Hamlets discussed the policy and the consultation document with members at an AGM and in contrast to OBJECT and CAPE, Rainbow Hamlets as strongly opposed to the proposals. Their views are put forward on behalf of the LGBT community of the Borough and their meeting was held in the presence of the Authority's Trading Standard's Officer.

In regards the localities proposition, Rainbow Hamlets disagreed with concern as to whether one could just look at Tower Hamlets in isolation and not take into account what was taking place on / across its borders and indeed some felt the boundaries may be suitable locations.

There was also concern that they are largely based on the Authority's Place strategy but stating that as this has yet to be published they considered that the policy development process has not been transparent. They also argued that gay venues have a wide catchment area so cannot be 'site specific'.

Rainbow Hamlets also made reference to Canary Wharf stating that existing establishments here had no detrimental impact on the surrounding community

They raised concerns about the policy considerations under the following headings:

Integration of policies, strategies and initiatives

- Economic impact

Demographics

- There have been no record of complaints about historic venues or any anti-social or criminal issues
- That the proposed policy could have other implications e.g. the impact of the proposed 200 meter buffer zone on a faith community

Ethnicity

- Their assertion is that the policy references and privileges some communities over others e.g. ethnicity and faith.

Deprivation

- They state that the claims made regarding impact of sex establishments are unsubstantiated

Canary Wharf

- They make specific reference to the lack of impact that establishments have had there

Policy frameworks

- They make several points, the general thrust being they do not provide a balanced viewpoint.

Rainbow Hamlets attendees stated that in the light of all the points they had made that they disagreed with the proposed policy, their overall claim being that it is based on a moral viewpoint and suggested that the Authority adopts Hackney's policy of allowing existing venues to continue but not allowing any new ones.

White Swan

There is a separate reference to the White Swan on Commercial Road by Rainbow Hamlets, raising two key points:

- i) That it should have been included in the Authority's list of consultees
- ii) That it is evidence of the minimal impact that such an establishment has on the community and that shutting it down may well have a detrimental effect upon community cohesion.

Response from a private resident

He stated his opposition to the proposed policy as a resident of the borough claiming it cannot be defended on moral or equalities grounds and that these businesses provide a very valuable outlet for perfectly normal healthy behaviour that should be tolerated in any modern society which should include minority groups.

5.0 Conclusions and Recommendations

None of the three consultations have resulted in a clear vote in favour of the proposed policy. Looking at the three specific issues raised in the consultation, the following conclusions can be drawn.

Localities

The majority of the general public who took part in either the general consultation or the focus groups approved of the idea and specific choice of the localities. There is however a caveat which was identified in the focus groups, namely that most saw the localities in relation to it being a means of describing the borough rather than as a means of realising the proposed sexual establishment policy. Indeed the expert submissions stated that the locality should not be predefined but rather be application specific and that the basis of the chosen definition is designed to confirm the proposed policy.

Policy considerations relating to the localities

Again there was a similar result from the two main consultations with general agreement for the policy considerations although opinion from the questionnaire findings was more evenly split with 60% in favour of the considerations. The expert consultations claimed that there is no evidence basis for the stated policy elements and that the policy considerations are only relevant in the context of 'pre-defined localities' which they dispute. Therefore it should be noted that although there is strong support, there is also significant opposition, with a hint of suspicion regarding the Council's agenda.

The policy

The first two consultations with the general public did not produce a clear result either way be it for or against the proposed policy with opinion split down the middle. There was also again a fairly strong level rationale from those who were against the policy with 'a hidden agenda and Council bias' mentioned frequently. The legal submissions raised a series of concerns relating to various issues including the assertion that it has not been demonstrated how the human rights of the current owners and operators of currently licensed establishments has been taken into consideration. In contrast, submissions from the two representative organisations were strongly in favour of the proposed nil policy, primarily on the grounds of equality.

Recommendations

Whilst it is not our duty to recommend a way forward, one possible avenue to consider is that of having a limited, tightly controlled policy, restricting such establishments to a few clearly defined areas. This recognises a key concern raised in the consultation that a nil policy will not result in an elimination of sexual establishments in the borough but will merely drive them underground so it is better to manage and control them.

A second option would be to allow any current recognised sex establishment to continue trading but establish a nil policy on any new ventures in the area, appeasing both current organisations and to some extent the general public. This would require further testing to gauge stakeholder opinion. This was supported by Rainbow Hamlets recommended adoption of the Borough of Hackney's policy of allowing existing establishments to continue but not allowing any new ones.

Full Equality Analysis

Section 1 – General Information

Name of policy or function:

Sexual Entertainment Venues Policy

Business Unit:

CLC, Safer Communities, Consumer and Business Regulations

Is this a policy or function?

Policy with associated licensing functions

Is this a new or existing policy or function?

New

Is the policy or function strategic, developmental or operational/functional?

Operational/Functional

Date when the original policy/function was initiated: N/A

Date on which the policy/function is to be reviewed: Cabinet tbc

Names and roles of the people carrying out the Equality Analysis:

Oscar Ford: Strategy & Business Development Manager (CLC Equalities Lead)
David Tolley: Head of Consumer and Business Regulations Service (CLC)
Frances Jones: OneTower Hamlets Service Manager (Scrutiny & Equality)

Section 2 – Aims and Objectives

What are the aims, objectives or purpose of the policy/function?

Legislation gives local authorities the opportunity to control SEV's. The legislation was drafted to allow communities to have a say about whether sex establishments should be allowed to operate in their community and it gives the local authority the power, through its licensing policy arrangements, to determine limits on numbers and localities.

The Council's draft Sex Establishment Policy was developed with "One Tower Hamlets" as a key part of its rationale and it is drafted to establish a clear and unambiguous position on Sexual Entertainment Venues.

What are the main activities of the policy/function?

The policy establishes a cap on the total number of SEV premises that will be licensed, and it provides a basis for agreeing or refusing licenses with reference to:

- The suitability of any given location
- The management of the establishment
- The conduct within, and in the vicinity of (i.e., associated with) the establishment.

The policy includes both statutory and discretionary conditions that protect performers and help control the management of the premises.

Who is expected to benefit from the policy/function?

The policy affects the whole borough and potentially everyone that lives in, works in or visits the area and whom might be affected by the existence and operation of sexual Entertainment Venues in the locality. It has particular relevance for people who own, work in or frequent SEV's.

The policy is based on a consideration of the potential impact of SEV's on these groups as well as the wide community and is aimed at ensuring that any negative impacts on individuals or the community that might arise as a consequence of the operation of SEV's are minimised or negated.

Section 3 – Consideration of data and research Identifying Differential / Adverse Impacts

Question -

A policy/function can aim to treat all people fairly but unless you analyse data and stats and speak to the people it is going to affect how do you really know?

Evidence Base -

For each of the equality strands in the table below please now **evidence** how you came to the conclusions around differential and negative impacts in relation to the policy or function.

Please use the evidence prompts below to form an evidence base to justify your claims around differential impacts. If there is limited evidence we **strongly recommend** undertaking consultation

Please note – during consultation, if you identify a differential impact it may be advantageous to discuss whether this impact is also negative and record your findings accordingly. If no differential impact is identified there will be NO negative impact.

Evidence Prompt

1 List all qualitative and quantitative evidence

List all examples of quantitative and qualitative data available

(include information where appropriate from other directorates, Census 2001 etc)

- Tower Hamlets Community Plan.
- Tower Hamlets Crime & Drug Reduction Partnership Plan.
- Tower Hamlets Enforcement Policy.
- Tower Hamlets Core Strategy.
- TowerHamletsTown Centre Spatial Strategy.
- Tower Hamlets Statement of Licensing Policy (Licensing Act 2003).
- Tower Hamlets Statement of Licensing Policy (Gambling Act 2005).

2 Equalities profile of users or beneficiaries

Use the Council's approved diversity monitoring categories and provide data by target group of users or beneficiaries to determine whether the service user profile reflects the local population or relevant target group or if there is over or under representation of these groups

The current premises that are offering some form of sexual entertainment are:

NAME	ADDRESS
THE BEEHIVE	104-106 Empson Street, London, E3 3LT
EONE CLUB	168 Mile End Road, London, E1 4LJ
NAGS HEAD PUBLIC HOUSE	17-19 Whitechapel Road, London, E1 1DU
THE PLEASURE LOUNGE	234 Cambridge Heath Road, London, E2 9NN
WHITE SWAN	556 Commercial Road, London, E14 7JD – LGB venue
ASTON'S CHAMPAGNE AND WINE BAR BASEMENT & 1ST FLOOR	187 Marsh Wall, London, E14 9SH
CLUB PAISA	28 Hancock Road, London, E3 3DA
OOPS	30 Alie Street, London, E1 8DA
WHITE'S GENTLEMANS CLUB	32-38 Leman Street, London, E1 8EW
SECRETS	43-45 East Smithfield, London, E1W 1AP
IMAGES	483 Hackney Road, London, E2 9ED

3 Equalities profile of staff

Indicate profile by target groups and assess relevance to policy aims and objectives e.g. Workforce to Reflect the Community. Identify staff responsible for delivering the service including where they are not directly employed by the council.

4 Barriers

What are the potential or known barriers to participation for the different equality target groups? Eg, communication, access, locality etc

5 Recent consultation exercises carried out

Detail consultation with relevant interest groups, other public bodies, voluntary organisations, community groups, trade unions, focus groups and other groups, surveys and questionnaires undertaken etc. Focus in particular on the findings of views expressed by the equality target groups. Such consultation exercises should be appropriate and proportionate and may range from assembling focus groups to a one to one meeting.

The Consultations carried out involved Legal Submissions, Focus Groups and questionnaires. The following background of respondents was reviewed.

Gender	Number of Responses	Percentage of responses
Male	1,026	23.8%
Female	2,203	51.3%
Transgender	12	0.3%
Prefer not to say	113	2.6%
Not stated	948	22.0%

Age	Number of Responses	Percentage of responses
12-19	120	2.8%
20-25	519	12.1%
26-34	1,028	23.9%
35-43	742	17.2%
44-52	454	10.6%
53-59	206	4.8%
60-64	96	2.2%
65+	104	2.4%
Prefer not to say	115	2.7%
Not stated	918	21.3%

Ethnicity	Number of Responses	Percentage of responses
Asian or Asian British	1,467	34.0%
Black or Black British	154	3.6%
Mixed/Dual Heritage	128	3.0%
White	1,201	28.0%
Other	0	0.0%
Prefer not to say	312	7.2%
Not stated	1,040	24.2%

Religion	Number of Responses	Percentage of responses
None	558	13.0%
Buddhist	40	0.9%
Christian	616	14.3%
Hindu	32	0.7%
Jewish	43	1.0%
Muslim	1,286	29.9%
Sikh	27	0.6%
Other faith	76	1.8%
Prefer not to say	542	12.6%
Not stated	1,082	25.2%

Disability	Number of Responses	Percentage of responses
Yes	136	3.2%
No	2,577	59.9%
Prefer not to say	351	8.2%
Not stated	1,238	28.8%

Sexual Orientation	Number of Responses	Percentage of responses
Bisexual	147	3.4%

Gay man or lesbian/gay woman	161	3.7%
Heterosexual	2,123	49.3%
Other	579	13.5%
Not stated	1,292	30.0%

6 Additional factors which may influence disproportionate or adverse impact

Management Arrangements - How is the Service managed, are there any management arrangements which may have a disproportionate impact on the equality target groups?

7 The Process of Service Delivery

In particular look at the arrangements for the service being provided including opening times, custom and practice, awareness of the service to local people, communication

The Sexual Entertainment Policy covers the detail of how to apply etc,

Please Note -

Reports/stats/data can be added as Appendix – Please send any reports/consultation findings/data and stats to the One Tower Hamlets team

Target Groups	Impact – Positive or Adverse	Reason(s)
Race	Positive	The consultation response identifies distinct differences in views between people of different racial backgrounds. 74% of Asian/Asian British respondents were in favour of a total Nil policy, whereas 72% of Black/Black British respondents, 90% of Mixed/Dual Heritage respondents and 76% White respondents were against the proposed nil policy.
Disability	Neutral	
Gender	Positive	Just under half of female consultation respondents (47%) were supportive of the 'Nil' policy proposal. Research findings from another Borough indicate that women may in particular avoid areas around to SEV's at night. A broader consideration is the impact that SEV's may have on attitudes towards women through the 'normalisation' of male-oriented sexual entertainment and the encouragement or reinforcement of sexist attitudes. In the Borough we are not aware of people trafficking and that performers work in venues freely. Personal incomes would be affected if premises closed. The organisations OBJECT (a human rights organisation specifically set up to challenge the sexual objectification of women) and CAPE (Communities Against People Exploitation) presented written responses to the consultation supporting a nil policy on the basis that SEV's have a negative impact on the safety of women. OBJECT argued associations with prostitution and trafficking, along with the negative impact on attitudes towards women and the negative impact on aspirations of young women and girls as key drivers for their support.
Gender Reassignment	Neutral	

Sexual Orientation	Potential adverse	Consultation response from the local LGBT community forum Rainbow Hamlets highlighted a potential detrimental effect that might arise should a Nil policy be implemented, identifying an existing establishment as having a positive impact on community cohesion, especially amongst the LGBT community. By establishing a policy position that allows existing operations to continue, there is no immediate adverse impact on this group*.
Religion or Belief	Positive	The consultation response identifies distinct differences in views between people of different religious backgrounds. 82% of Muslim respondents were in favour of a total Nil policy, whereas 81% of Christian respondents and 75% of those who said they had no religious belief were against a nil policy.
Age	Neutral	
Socio-economic	Potential adverse	SEV's are businesses and any policy or licensing decision that results in the cessation of an existing operation would have economic consequences for employees and the self-employed persons who work at the venues. Actual numbers and backgrounds are not known, however the nature of the establishments means that adverse economic impact would specifically fall upon female performers and their economic dependents. By establishing a policy position that allows existing operations to continue, there is no immediate adverse impact on this group*.
Marriage and Civil Partnerships.	Neutral	
Pregnancy and Maternity	Neutral	
Other inc staff	Potential adverse	The introduction of more stringent licensing policy and conditions is likely to require additional monitoring, evidence gathering and enforcement action to be undertaken by council staff. Appropriate training and support should be provided to protect staff engaged in these areas from any adverse impacts.

Section 4 – Conclusions and Recommendations

Is there any evidence of or view that suggests that different equality or other target groups have a disproportionately high/low take up of the service/function?

Yes

If yes, please detail below how evidence influenced and formed the policy? e.g. why things were added/removed.

O&S review findings
Consultation on adopting the policy
Campaign group responses
Consultation response from Rainbow Hamlets
Consultation on adopting the legislation
Employment issues
Human Rights issues

Does the policy/function comply with equalities legislation?

Yes

If there are gaps in information or areas for further improvement, please list them below:

Research in relation to SEV's is inconclusive as to the impact of the establishments on protected groups.

How will the results of this Equality Analysis feed into the performance planning process?

The SEV project and this associated EA have been incorporated into the Service Plan for Business Regulation and Consumer Protection along with appropriate measures and milestones for delivery, performance monitoring and review.

Section 5 – Action Plan and Monitoring Systems

As a result of these conclusions and recommendations what actions (if any) **will** be included in your business planning and wider review processes (team plan)? Please consider any gaps or areas needing further attention.

Recommendation	Key activity	Progress milestones including target dates for either completion or progress	Officer responsible	Progress
Example 1. Better collection of feedback, consultation and data sources 2. Non-discriminatory behaviour	1. Create and use feedback forms. Consult other providers and experts 2. Regular awareness at staff meetings. Train staff in specialist courses	1. Forms ready for January 2010 Start consultations Jan 2010 2. Raise awareness at one staff meeting a month. At least 2 specialist courses to be run per year for staff.	1.NR&PB 2. NR	

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Recommendation	Key activity	Progress milestones including target dates for either completion or progress	Officer responsible	Progress
Further consideration of equalities impacts on protected groups are recommended in situations where licensing decisions are due to be taken that could result in removal of that license.	Undertake EA's to accompany applications for SEV licences as and when these are presented to the Licensing Committee	Target dates are dependent upon license expiry and application dates.	David Tolley	
Appropriate training and support should be	Service Plan and PDR process actions	Service Plan and PDR cycle	David Tolley	

provided to protect staff engaged in these areas from any adverse impacts.				
Maintain ongoing review of SEV related research	Continue to monitor research to further inform analysis of equalities impacts	Ongoing	David Tolley	

Have monitoring systems been put in place to check the implementation of the policy/function and recommendations?

Yes

How will the monitoring systems further assess the impact on the equality target groups?

A set of operating conditions form an intrinsic part of the Policy and associated licensing controls. These include controls that have been specifically designed to improve protection of the public in external areas and performers inside the establishments. Breaches of these conditions (and therefore likely to have a negative impact on protected groups) will result in the implementation of enforcement controls and any breaches will form part of the material considerations for the Licensing Committee at the point at which applications for licence renewals are considered and determined.

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Section 6 – Completed Equality Analysis

The draft Equality Analysis will be peer assessed and recommendations made (if needed)

Once any recommendations have been made to the equality analysis – it will be sent back to the author to be signed off by the relevant service head/manager. The equality analysis will then be sent to the One Tower Hamlets Team to be published on the council website.

Name: (signed off by)	
Position:	

Date signed off: (approved)	

Section 7 Appendix – FOR OFFICE USE ONLY

This section to be completed by the One Tower Hamlets team

Policy Hyperlink:

Equality Strand	Evidence
Race	
Disability	
Gender	
Sexual Orientation	
Religion and Belief	
Age	
Socio-Economic	
Other	

Link to original EQIA	Link to original EQIA
EQIAID (Team/Service/Year)	

Agenda Item 9.1

Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 28/134
Report of: Corporate Director: Anne Canning; Interim Corporate Director, Education, Social Care and Wellbeing Originating officer(s): Somen Banerjee, Interim Director of Public Health		Title: <u>Public Health Procurement Plan , 2014-15</u> Wards Affected: All	

1. **SUMMARY**

- 1.1 Approximately 200 live public health contracts were transferred to the Council in April 2013 along with the transfer of public health commissioning responsibilities. (Appendix E summarises the range of services.) Most of the current contracts which are funded through public health grant were extended to 31st March 2014 before the transfer but will need to be reprocured in time for new contracts to start on 1st April 2014. Procurement needs to commence as soon as possible to enable this timetable to be met. For one current contract – which includes the School Health Service and other maternity and early years services – a longer review period is recommended and an extension of the existing contract by six months to allow for this.

The Council's Public Health team have reviewed all the current contracts to (i) ensure there is a strong strategic fit with Council priorities (ii) identify where financial savings can be sought from the procurement process, and (iii) ensure alignment with the Mayor's procurement priorities.

The procurement plan for 2014-15 is set out in detail in Appendix B. The Mayor in Cabinet is recommended to approve the recommendations set out in section 2 below.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

- 2.1 Consider the contract summary at Appendix A, and
 - 2.1.1 Confirm that contracts set out in Appendix A can proceed to contract award after tender subject to the relevant Corporate Director who holds the budget for the service area consulting with the Mayor and the relevant lead member prior to contract award, and
 - 2.1.2 Identify any contracts about which specific reports – relating to contract award – should be brought before Cabinet prior to contract award by the appropriate Corporate Director for the service area, and
 - 2.1.3 Authorise the Assistant Chief Executive (Legal Services) to execute all necessary contract documents in respect of the awards of contracts referred to at recommendation 2 above and
- 2.2 In addition to the above, and in order to allow for a comprehensive review of the School Health Service to take place, to approve a six month continuation of the current contract for the **Child Health and Nutrition Services** either by extension of the contract or an interim six month contract, in either case to end on 31st September 2014.

3. REASON FOR DECISIONS

- 3.1 Public health contracts, which were transferred from the NHS Primary Care Trust through the Public Health transition process, end on 31st March 2014. The contracts require reprocurement, generally through a competitive tender process.
- 3.2 For community pharmacy public health services there is no competitive marketplace as it is considered essential that these services are provided through local pharmacies situated in Tower Hamlets and it is considered important that as many of the pharmacies as possible participate in delivery of these services to create maximum benefit for the health and wellbeing of the residents of the borough.
- 3.3 For one service area – Child Health and Nutrition Services – a comprehensive review of the School Health Services element is recommended, and for this to be carried out thoroughly and with appropriate levels of stakeholder consultation – a six month extension of the existing contract which is held by Bart's Health NHS Trust or an interim contract with Bart's Health to continue the service to 30 September 2014 would be required.

4. ALTERNATIVE OPTIONS

- 4.1 The Mayor in Cabinet could require officers to consider alternative approaches to, or timescales for, the procurement plans set out in this report. This option is not recommended as it would lead to delays in the award of new contracts that may lead to discontinuity of service delivery.
- 4.2 The Mayor in Cabinet could instruct that specific contracts not be reprocured. However, this would be likely to lead to a deterioration of health of the population particularly amongst the most vulnerable groups and those most at highest risk of poor health. It would also be in breach of the Council's duties under the Health and Social Care Act 2012. For this reason this alternative option is not recommended.

5. BACKGROUND

- 5.1 Public health roles and responsibilities were transferred to the Council on 1st April 2013 as required by the Health and Social Care Act 2012. A team of 42 staff, led by the interim Director of Public Health transferred across to an interim location in the Education, Social Care and Wellbeing Directorate.
- 5.2 A public health grant budget of £31,382,000 has been allocated to Tower Hamlets for 2013-14 and a budget of £32,261,000 for 2014-15. This budget includes DAAT public health grant funding and a significant element of DIP funding that was previously grant funded through the national DTP. The public health budget is ring fenced for delivery of the public health responsibilities that now rest with local authorities, including the cost of public health staff that are directly employed and the various service contracts that deliver public health services and health improvement interventions. The public health activities that are eligible expenditure for the public health grant are described in **Appendix A**.
- 5.3 There were roughly 200 public health contracts in place in the Primary Care Trust in 2012-13 (including a significant number of small pharmacy contracts) and in order to enable a manageable process for the transfer of contracted activity to the Council most of the existing PCT public health contracts were extended until 31 March 2014 and transferred to the Council on 1 April 2013.
- 5.4 All the contracts have an end date of 31st March 2014 and there is therefore an urgent need to develop a procurement plan for 2014-15.
- 5.5 Developing a procurement plan for 2014/15 and subsequent years presents new opportunities:
- to build on what has worked
 - to look at things in a fresh way

- to explore synergies with other commissioning across the Council
- to plan public health commissioning based on council procurement processes and timelines
- to secure increased value and improved outcomes from public health investment.

5.6 This report sets out how this is being approached and the key elements of the recommissioning programme which are:

- Review of current public health commissioning
- Developing a strategic approach to public health commissioning in consultation with officers across the Council
- Setting out the procurement plans and key timelines for the new contracts to be in place for 1st April 2014

The Mayor in Cabinet is recommended to agree that in order to achieve the required timelines the contract procurement process can commence.

BODY OF THE REPORT

6. RATIONALE FOR PUBLIC HEALTH COMMISSIONING

- 6.1 Tower Hamlets has the highest premature death rates in London. This is caused by socio-economic deprivation and very high smoking rates, poor diet, low levels of physical activity and high levels of problem drinking in those who drink.
- 6.2 Despite major improvements in educational attainment, reduction in overcrowding and improving physical space the combination of unhealthy lives and deprivation leads to very high premature death rates from heart disease and stroke, cancer (particularly lung cancer), lung disease, liver disease and mental health problems.
- 6.3 Public health commissioning seeks to address both short term risk factors helping people to live healthier lives, avoid premature death or disability and also longer term structural factors through evidence based interventions, both universal and targeted. The objective is to support activity that has the greatest impact on improving the health of people in Tower Hamlets within the available resources.
- 6.4 Significant investment in public health by the primary care trust has led to improving outcomes in some health indicators, but there are significant challenges and the borough remains in the bottom quartile on a significant number of health measures included in the new national indicator set, the Public Health Outcomes Framework. **Table A** shows the indicators where the borough is currently doing well and not so well.

Table A The National Public Health Outcomes Framework – Tower Hamlets Performance Summary

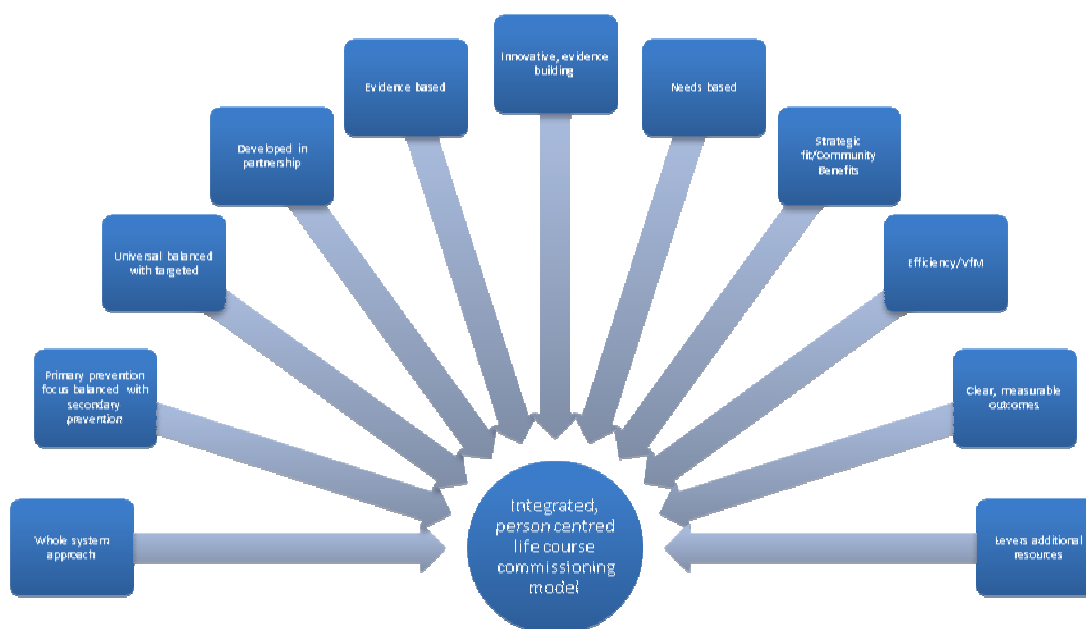
	Prebirth/early years/children	Young people	Adults	Older People	Cross cutting
Wider determinants	<p>Children in poverty <i>School readiness</i> <i>Pupil Absence</i></p>	<p>Entrants to youth justice 16-18 year old NEET</p>	<p>LD in stable accommodation MH service uses in stable accommodation <i>Prison with mental health problems</i> Employment with LT health conditions <i>Sickness absence</i> <i>Domestic abuse</i> Violent crime Reoffending Statutory homeless</p>	<p><i>Perception of community safety in older people</i></p>	<p>Killed or seriously injured on road Population affected by noise Utilisation of outdoor space for exercise/health reasons <i>Social isolation</i> <i>Fuel poverty</i></p>
Health Improvement	<p>Low birth weight Infant mortality <i>Breastfeeding initiation</i> Breast feeding 6-8 weeks Smoking status at delivery Under 18 conceptions <i>Child development at 2-2.5 years</i> Excess weight (4-5) Excess weight (10-11) Admissions injury in under 18s Wellbeing of looked after children <i>Smoking prevalence 15 year olds</i></p>	<p><i>Self harm</i></p>	<p><i>Diet</i> <i>Excess weight in adults</i> <i>Physically active adults</i> Smoking prevalence Successful completion of drug treatment Substance dependence in prison Recorded diabetes <i>Alcohol related admissions</i> Cancer diagnosed at stage 1/2 Cancer screening coverage – breast Cancer screening coverage - cervical Non cancer screening access Take up of NHS Health Check Self reported wellbeing</p>	<p>Injuries due to falls in 65 plus</p>	
Health protection	<p>Population vaccination coverage (childhood imms)</p>	<p><i>Chlamydia diagnoses (15-24)</i></p>	<p>HIV at a late stage of infection Treatment completion for TB Flu vaccination at risk</p>	<p>Flu vaccination 65 plus</p>	<p>Mortality air pollution Sustainable development plan <i>Interagency emergency plan</i></p>
Healthcare	<p>Infant mortality Tooth decay in children aged 5</p>		<p>Mortality rate from preventable causes Under 75 mortality cardiovascular Under 75 mortality cancer Under 75 mortality liver disease Under 75 mortality respiratory disease <i>Mortality rate from infectious diseases</i> Under 75 mortality rate in adults with SMI Suicide</p>	<p>Admission within 30 days Preventable sight loss <i>Health-related quality of life</i> Hip fractures in 65+ <i>Excess winter deaths</i> <i>Estimated diagnosis rate dementia</i></p>	

Red = bottom ten in London, **Green** = top ten in London, *italics* = measurement of indicator yet to be established or no da

7. REVIEW OF CURRENT COMMISSIONING AND FUTURE COMMISSIONING INTENTIONS

7.1 Section 1 above sets out why it is necessary to re-commission public health services from 1st April 2014. The legal and procedural requirements of re-procuring services for April 2014 mean that the time available to conduct an in-depth re-evaluation of public health commissioning intentions is limited. However, it is the intention to use the time available to review the current commissioning portfolio, identify whether it is delivering the required outcomes and start the process of redesign to ensure that we use the resources available as effectively as possible to deliver public health outcomes.

7.2 Our vision for public health commissioning in Tower Hamlets is that we will work towards **an integrated, person-centred and life course based commissioning model**. The diagram below sets out the principles applied to redesigning services to deliver this.



7.3 At the strategic level our commissioning is driven by the priorities set out in the borough's **Health and Wellbeing Strategy** and high level strategic plans and priorities. We started our review with a discussion involving a wide ranging group of senior officers across the Council about the objectives and principles of public health commissioning. Based on this discussion officers within the public health team were tasked with reviewing current contracts to identify whether they should be:

- re-procured in the current form,
- be re-procured with some significant revisions,
- whether a different type of intervention should be procured to deliver the outcomes, or
- whether there is no priority need to commission in this area.

7.4 The Team were also asked to identify any new proposed interventions that would contribute to achieving priority outcome targets. The views of commissioners were then discussed with the Public Health Commissioning Reference group, a sub group of the Competition Board, which includes senior representation from other Council directorates – ESCW, CLC, D and R and Chief Executives – and also Healthwatch, Legal Services and the corporate procurement function. This enabled identification of where there are significant synergies and/or alignments of service delivery with other Council commissioned or directly provided services that would enable provision to be more cost effective and any potential duplication to be eliminated.

7.5 This is a set of initiatives that will address key outcomes in the Strategic Plan and the Health and Wellbeing Strategy. In the Strategic Plan key targets are:

- All age, all-cause mortality rate
- Number of people who have stopped smoking
- Proportion of children in reception who are obese
- Under 18 conception rate

In the Health and Wellbeing Strategy the priority outcomes are:

Maternity and Early Years Priorities

- Improved maternal health
- Low child mortality /good health in early years
- Early detection and treatment of child disability and illness
- Reduced levels of obese and overweight children
- Reduced dental decay in young children
- Continue the reduction in under 18 conceptions

Healthy Lives Priorities

- Reduced levels of child obesity and overweight
- Reduced prevalence of smoking, substance misuse, hazardous and harmful drinking
- Higher rates of physical activity
- Reduced prevalence of sexually transmitted infections

Long Term Conditions Priorities

- Reduced premature mortality from cardiovascular diseases, diabetes, hypertension, respiratory disease and cancer

The commissioning programme described here is a major contributor across all the priority targets listed above.

- 7.6 Discussions about public health commissioning have been taking place with the Mayor and Lead Members. Members have particularly stressed:
- the importance of providing robust community outreach in key service areas;
 - the need to ensure that a wider range of community organisations are able to participate in the delivery of public health interventions, and
 - The need to ensure that value for money is secured from all service providers, particularly on high value contracts.

We will ensure that contract specifications and terms and conditions reflect these requirements. In respect to community outreach and participation public health has close contacts with the voluntary sector and has historically commissioned a wide range of activity from local community bodies. It is a procurement priority to maintain and increase community based delivery of public health interventions.

There is an emphasis on achieving value for money for the investment of public health grant across all the service areas and a commitment to securing additional delivery outcomes for the same or where possible reduced levels of public health funding. For some services a unit cost comparison can be benchmarked against national cost targets or cost comparisons with other areas. For example successful smoking quits achieved by Tower Hamlets GP and pharmacy services work out at £350 per quitter which is within the national guidelines. It is more cost effective than hospital based services as well as representing a massive saving to the personal budget of the individual concerned and potentially to the public purse in respect to downstream treatment costs for cardiovascular or respiratory disease. Other types of community-based early intervention such as for cancer can be delivered for as little as £20 per person which is very strong vfm. Some clinical services are based on national payment by results tariffs that have been negotiated nationally by commissioners and providers to provide value for money for public funding.

8. SERVICE AREAS TO BE COMMISSIONED

- 8.1 Some immediate priorities were identified through the review of existing commissioning:

- 8.1.1 Child Health and Nutrition - This is a group of services, currently provided by Bart's Health, that includes School Health, Breastfeeding Support, Public Health Dietitians & School Nutritionist, Access to Healthy Start Vitamins and Child Weight Management. We want to test the market for possible alternative providers. It is also a useful opportunity to review the service specification for the School Health service to ensure that it meets the changing needs of local schools and also to update the other service specifications to ensure that they are based on the most up to date evidence and needs analysis and to get best value. *It is therefore proposed to implement a longer review period for the School Health Service, which means that we are proposing a six month extension of the current contract.. Following the consultation and*

service review the revised service specifications will take into account the fact that responsibility for commissioning Health Visiting and the Family Nurse Partnership (currently commissioned by NHS England) is expected to transfer to the Council in April 2015.

Key outcomes from these services include:

- 41,223 school children at over 100 primary and secondary schools benefit from the School Health service
- 2,800 4-5 year olds in reception and 2,500 10-11 year olds in year 6 are screened for height and weight each year.
- HPV vaccination is provided for approximately 2,000 12-13 year olds in year and school leavers booster and Meningitis C for approximately 2,000 14-15 year olds in year 10
- 800 children and 200 pregnant women are referred to the child weight management service of which 450 and 100 will commence a weightmanagement programme; at least 140 children and 30 women achieve a BMI reduction
- Breast feeding support will be provided to all women resident in Tower Hamlets delivering their baby (average 4,500 per year)
- Healthy start vitamins will be freely available to all women during pregnancy and to all children under 5
- 16 Cook 4 Life courses will be provided for parents with young children

8.1.2 Health Trainers: Health Trainers work on an individual and group basis with people within their local community. They conduct an assessment of all aspects of an individuals' life, help individuals set goals to improve their health and help them achieve those goals through specific health trainer activities (e.g. group fitness/sports activities, healthy walks, and healthy eating advice) or referral to other local services e.g. local leisure services, smoking cessation, specialist weight management, alcohol counselling, debt advice, self-help groups. The service has been running for five years. It has been commissioned on a locality basis with one provider organisation per locality. In order to develop outreach into the community the service is commissioned from local community organisations situated in the locality. Each organisation has five health trainers (wte) recruited from the community including a team leader. In addition, there is a volunteer programme of health champions from the community who are provided with training and support.

Based on five years' experience of the programme we now wish to develop the service by giving a wider range of community organisations the opportunity to participate in delivery. We also want to make sure there is equitable delivery across all areas of the borough and will have a health trainer based in each ward, working in 'clusters' reflecting natural communities.

Key outcomes from the Health Trainers service are:

- 7,300 residents each year will be engaged through the Health Trainer programme, of which 4000 will be involved in healthy lives activities organised by health trainers, and 1400 involved in additional healthy eating activities.
- 800 people will be referred on to Level 2 or Level 3 tobacco cessation services;
- 1,400 will be screened for levels of alcohol consumption

8.1.3 Adult Obesity, Nutrition and Physical Activity (Fit 4 Life) - *Over the past five years public health have commissioned a range of weight management and physical activity programmes from community organisations, leisure services and Bart's Health. Based on this experience we wish to significantly redesign the service to improve targeting, use resources more efficiently and target those with greatest need and capacity to benefit.*

Fit 4 Life Tower Hamlets will provide assessment, goal setting and motivational coaching supported by healthy eating, physical activity and weight management programmes for adults at high risk of, or with, diabetes and cardiovascular disease as well as severely obese people with other long term conditions (e.g. chronic breathing difficulties). All of these conditions can be improved through sustained improvements to diet and exercise which can only be achieved if the client is motivated to change and has the opportunity to change. The programme will be re-designed to ensure that people make full use of existing services in the community to reach their goals.

National evidence and local commissioning show we can achieve better health gain and value for money by refocusing local provision to:

- *Target adults* at greatest health risk.
- *Personalise* action plans for behaviour change so they are specific to individual health needs, clients' daily lives (e.g. culture, income and locality) *and* individual motivation, confidence and skills to change
- *Provide accessible local opportunities in the community* for exercise and healthier eating which capitalise on what is already available (e.g. leisure centres, walking groups, dancing) balanced by specialist programmes
- *Sustain* improvements in diet and physical activity for at least a year through motivational and practical support from the Fit4Life Centre.
- *Provide a cost effective and culturally competent skill mix* which captures the best from across the local community, voluntary sector, the NHS and the fitness industry.
- *Work as one system* from the client and GP perspectives

Key outcomes from the Fit 4 Life service are:

- At least 1400 adult clients a year will start a physical activity or other weight

reduction programme tailored to their needs ; at least 75% of clients who start a programme will complete their agreed action plan

- 50% of clients will have sustained at least one change to physical activity levels and diet 1 year after starting an action plan

8.1.4 Community Tobacco Cessation - Given the priority to help people stop smoking in the borough, we have developed a range of services to ensure access to accredited smoking cessation services (including through GP and pharmacy services see 4.1.6 and 4.1.7 below). We know that 1 in 2 Bangladeshi men smoke so we have specifically commissioned the Bangladeshi Stop Smoking Service to focus on this group (commissioned from Queen Mary's University). This service has been particularly successful and innovative (e.g. providing successful clinics in mosques). For people who find it particularly hard to stop, we also commission a specialist service located at the Royal London site (commissioned from Queen Mary's University).

We know that smoking prevalence is particularly high in people with mental health problems so as part of the mental health strategy we want to commission services through the community mental health teams. Smoking in pregnancy is another priority as it harms both mother and baby and so we also commission a service to help mothers stop smoking during and after pregnancy.

In reprocurring tobacco cessation services our priority is to ensure that we extend the service reach to all parts of the community where there is high smoking prevalence and to involve wider range of community organisations. (Please also refer to sections 4.1.6 and 4.1.7 below as the GP smoking cessation and pharmacy smoking cessation services are also core elements in the provision of locally delivered tobacco cessation support.)

Key outcomes from community tobacco cessation services are:

- 600 Bangladeshi cigarette smokers will be engaged by smoking outreach services of which 320 will achieve a 4 week quit; 400 smokeless tobacco users will be engaged of which 200 will quit use
- 600 smokers having difficult quitting will be referred to the Specialist Stop Smoking Service of which half will quit
- See also GP and community pharmacy

8.1.5 Sexual Health - To address historically high rates of teenage pregnancy and increasing rates of both STIs and HIV a partnership sexual health strategy has been implemented over the last five years that seeks to increase access to sexual health services. Service levels are:

- Level 1 services provide sexual health advice, basic contraception, STI screening and are available in all GPs,

- Level 2 provide treatment, more complex diagnostic services and full range of contraception from Mile End Hospital and satellite clinics and
- Level 3 from The Royal London works with the most complex cases.

TH Teenage Pregnancy rates have halved through concerted efforts across health, education and the third sector. More work needs to be undertaken to prevent STIs and to target services to high need groups e.g. young people, gay/ bisexual men and people from black ethnic minorities.

The re-procurement of sexual health services will increase the focus on prevention and enable greater focus to be placed on shifting activity to more cost effective lower service levels (eg primary care, community based sexual health services), enabling better access and improving the patient environment. In particular we wish to further strengthen prevention services with the long term objective of reducing demand for acute services.

Key outcomes from sexual health services are approximately:-

- 27,000 first appointments in sexual health services providing advice on prevention of further infection and contraception as well as an offer of sexually transmitted infections (STIs) screening and HIV testing
- 14,500 follow up appointments for treatment and on-going advice
- 5000 STIs diagnosed and treated
- 2,000 people per year from high risk groups will receive prevention interventions including access to information and advice, counselling, 1:1 support, workshops and a range of other support through sexual health promotion services
- For 2013 additional screening, brief advice and referral is being introduced for substance misuse
- (To note – the prevention activity outlined above is in addition to planned public health investment in schools and youth services to promote sexual health)

8.1.6 Pharmacy public health services - Community pharmacies are an important setting to promote public health programmes due to high footfall, widespread coverage across the borough and the opportunity to access those at high risk and existing disease.

For 14/15 we propose to develop two of the existing services:

- *Stop smoking services - to provide structured tobacco cessation support to smokers or users of oral tobacco who wish to stop.*
- *sexual health - to provide emergency hormonal contraception to prevent unwanted pregnancies and additional pharmacy services for residents including chlamydia testing.*

In recommissioning these services we would be respecifying the service requirements and ensuring value for money.

Key outcomes from the Pharmacy services are:

- 2,700 smokers set a quit date of which 1,200 will achieve a 4 week quit
- Pharmacists will conduct up to 6,000 consultations on sexual health matters including providing emergency contraception in 5,500 cases and condoms in 4,000 cases.
- 700 women will be provided with long action contraception;

8.1.7 GP Public Health Services – this was agreed through the Quarter 2 Forward Plan report approved at Cabinet on 31st July 2013.

8.2 It is proposed that the current contract with Bart's Health that includes School Nursing service and other maternity and child services should be extended by six months to enable the School Nursing service in particular to be fully reviewed. This will now be shown in the Quarter 3 Forward plan. There is, however, a desire to press on as soon as possible with the other procurement of other services so that new contracts can be in place by 1 April 2014.

8.3 Outside the level 5 Tollgate contracts there are approximately 10 other contracts with an aggregate current value of £500,000 that it is proposed to reprocur and these will also need to start procurement soon to meet the Mayor's requirement to recommission as early as possible. These are shown in Appendix B.

8.4 In addition there are 9 services that are currently commissioned internally from LBTH directorates – both within ESCW and other directorates – with a total budget of around £1 million. It is proposed to continue these and to potentially commission 2 new initiatives at a cost in region of £200k. These are shown in a separate **Appendix C** as they are not listed on the Forward Procurement Plan (**Appendix B**).

8.5 The draft Public Health Procurement Plan is attached as **Appendix B**.

9.0 MANAGING THE PROCUREMENT PROCESS

9.1 There is a considerable volume of procurement to be undertaken this year and the procurement timelines are very tight for services to complete the procurement process in time for April 2014. The time pressure is especially acute for the level 5 contracts with a lifetime value over £250,000. The calculation is that level 5 contracts will need to be advertised by mid-September at the latest to be able to complete the Council procurement process, including Cabinet award report and call in period. The Tollgate forms have now been discussed at the Competition Planning Forum on 25th July and at Competition Board on 8th July. In order to manage the Tollgate process contracts have been bundled under 9 public health programme themes so that each Tollgate might

cover a single contract or several different lots. One of the Tollgates – Child Health and Nutrition – requires a longer review period for reasons set out in 4.1.1 above and procurement is likely to start later. This means that the current contract may need to be extended for a period up to six months.

**PUBLIC HEALTH COMMISSIONING AND PROCUREMENT TIMELINE
2013-14**

Key Milestone	Timeline
Establish Commissioning Support	Completed
Establish PH Commissioning Advisory Group	Completed
Review commissioning intentions/service redesign options	1.04 – 30.06.2013
Draft Procurement Plan and Tollgate 1 Forms (over £250k)	Completed
Competition Planning Forum	Completed
Competition Board	Completed
CMT	Completed
Procurement Plan discussed with MAB	31.07.13
Report to Cabinet	11.09.13
Contracts advertised	20.09.13
Supplier events	30.09.13
Invitation to Tender issued	15.10.3
Review of Public Health Function and Commissioning Completed	31.10.13
Tollgate 2 Report to Competition Board	23.12.13
Mayoral Briefing /Contract recommendations to Cabinet	10.01.14
Contracts awarded	15.02.14
Contracts start date	01.04.14
Tollgate 3 report to Competition Board	TBC

- 9.2 Slightly more flexibility is available in respect to smaller value contracts (level 2 or level 3) but Lead Members have indicated that contracts should be recommissioned as early as possible so it is proposed to commence procurement of these at an early stage.
- 9.3 To help meet the challenging timetable extra support is being provided by corporate Procurement and Legal Services. This is including a short programme of bespoke training sessions of the public health leads on the Council procurement process with a focus on completion of Tollgate forms, writing specifications and pricing contracts and evaluation.

10. ENGAGEMENT AND CONSULTATION

- 10.1 Improving public health outcomes is not just the task of public health professionals and we recognise that other commissioners will also be delivering services and interventions that impact on the public health outcomes. Part of our task is to make sure that how we use our resources is effectively aligned with our partners, adding value and enhancing positive impact and not duplicating or wasting resources. We have therefore taken care to engage with a range of stakeholders particularly:
- The Mayor and Lead Members
 - Other services within the Council
 - Community organisations and the CVS
 - The CCG and other commissioning bodies across the health economy.
- 10.2 Public health being led by the Council particularly gives a chance to work with the Mayor and elected councillors and with Council colleagues to address the wider determinants of health. In line with the Council's procurement imperatives there is a requirement to realise a range of community benefits including creating the opportunity for local organisations to compete to provide public health services. It is anticipated that the opportunities for local groups will continue to expand and the public health service is committed to working with and supporting the development of local capacity to successfully deliver appropriate services. At the next procurement stage we will be encouraging consortia delivery to create more opportunities for smaller local community organisations to get involved.
- 10.3 We recognise that other community benefits can derive from these contracted services and we are developing a bespoke check list to include new employment opportunities, apprenticeships, work placements and links with schools and colleges, business supply opportunities, training sessions, sponsorship, active travel and environmentally friendly practices.
- 10.4 Public health grant funded services are diverse in nature and range from very large contracts with a life time value of several £ million to relatively small contracts, including several under £5k. The current providers of services are also diverse ranging from very large NHS acute trusts with

a several hundred million pound budget to medium level voluntary sector organisations and smaller, more local community groups. With the exception of pharmacy contracts – which only qualified pharmacies are accredited to provide - very few contracts are currently held in the private sector.

- 10.5 At the same time there are some specialist service areas delivering medical and pharmacological treatments that can only realistically be delivered by appropriately qualified and equipped service providers. In some cases the services are tariff-based so the basis for market completion is limited but the Council will still need to apply a quality threshold and use its procurement tools to ensure that the best quality, value for money services are delivered for Tower Hamlets residents.
- 10.6 It is recommended that further work is undertaken in the short and medium term to develop and strengthen the market place for public health service provision at the local borough level. This market strengthening work would focus particularly on capacity building the voluntary sector to be even more capable of competing strongly for public health commissioned contracts in future.

11. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 11.1 The Public Health Service transferred from the NHS to the Council on the 1st April 2013 and to fund these services the council received a grant allocation of £31.382m in 2013/14. An allocation of £32.261m has also been confirmed for 2014/15, however, beyond this no further announcements have been made.
- 11.2 The services transferred are provided through approximately 200 contracts which have been novated to the Council at point of transfer and, in most cases, extended to 31st March 2014 to ensure continuity of service.
- 11.3 As the majority of contracts are due to expire on the 31st March 2014 there is an urgent need to develop and implement a procurement plan for 2014/15 and beyond.
- 11.4 This report sets out the procurement plan and key timelines for the new contracts to be in place for the 1st April 2014.
- 11.5 Should the procurement plan not be agreed or if the process is delayed, it may be necessary to further extend current contracts beyond March 2014. This is likely to delay the service and contract efficiencies desired.
- 11.6 On the basis that funding levels are currently only confirmed till 2014/15, the procurement plan assumes that new contracts will be let for an initial period of 1 year with options to renew annually for up to a further two years as funding allocations for future years is confirmed. The annual cost of these new contracts is expected to be maintained within current

funding envelopes. However, there is a degree financial risk attached to the open access contracts in that future demand for services within these contracts and thus spend on the contracts cannot be accurately predicted and are difficult to control. This risk is being mitigated, as much as possible, through measures detailed in the risk register attached as appendix D.

12. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 12.1 Following the passing of the Health and Social Care Act 2012 by parliament the Council received both the power and the obligation to provide Public Health services from 1st April 2013 of the types detailed in the body of this report. As is usual with the Council we are seeking to purchase these services from providers who will deliver the services to the wider Tower Hamlets community
- 12.2 Also the Council has a duty under the Local Government Act 1999 to ensure that it achieves Best Value in the purchases it makes and therefore must subject these purchases to varying levels of competition
- 12.3 Whilst some of these procurements are high value and above the relevant EU Threshold, all of the services are classified as Part B. This means that the European advertising requirements are relaxed so they don't have to be advertised in Europe. However, it should be noted that the law requires that these procurements are nevertheless subjected to a "reasonable" level of advertising. Also for the above threshold contracts a standstill period prior to award must be observed and a final award notice placed in OJEU.
- 12.4 The greatest risk to the Council from a procurement perspective is with those services that are described as "open access". This means that any resident of the borough may access these services with little or no control by the Council. Therefore, cost certainty is limited. Also, this contradicts the essence of the procurement process.
- 12.5 However, the Council also has a duty, when contracting with an organisation providing services to the community to engage in a certain amount of checking. For example, have the organisations employed staff of suitable knowledge and experience, are they financially viable and do they carry the appropriate registrations?. The proposal for these contracts is that we will advertise and receive the basic information of the type found in a Pre Qualification Questionnaire and then a contract will be awarded on Council terms to all suppliers who pass this test.
- 12.6 A number of contracts have been identified as being suitable to provide local benefits. These will be included up to a maximum of 5% of the evaluation criteria for quality (in line with Counsel's opinion) and form part of the contractual obligations to which winning bidders are committed.

12.7 One further area of risk is that the Council must be aware that it has a duty to pay for a number of these services (for example, sexual health related services) where the recipient resides within the borough but receives the services out of borough. Again, cost control is an issue but Public Health has identified the main out of borough partners and is working to negotiate agreements to provide cost certainty. Also the Council has engaged with NHS England in order to assist with the monitoring and bill payment for out of borough services in order to ensure that the Council only pays for those individuals who are resident in the borough

13. ONE TOWER HAMLETS CONSIDERATIONS

An Equalities Impact Screening Assessment for each of the contracts covered is being completed, and service specifications reviewed and amended as required to address any equalities issues identified.

14. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

A number of the services provided under the contracts covered by this report contribute to the improvement of the environment as well as improving the health and wellbeing of the population. Examples of these include smoking cessation services, and services that promote healthier travel, and services which promote healthier eating (local produce).

15. RISK MANAGEMENT IMPLICATIONS

Key risks are described in Appendix D. The major risk to the process is from time delays in the commissioning review and/or procurement process. There is no contingency time available for slippage so it is important to take procurement of services forward as soon as possible.

Risks are reviewed regularly through the Public Health Commissioning Advisory Group.

16. CRIME AND DISORDER REDUCTION IMPLICATIONS

Reducing hazardous, harmful drinking and substance misuse will reduce anti-social behaviour, crime and disorder.

17. EFFICIENCY STATEMENT

The procurement programmes outlined in this report (section 8 above) will be managed in full compliance with the Council's Financial Regulations and Procurement Rules, and individual tenders will be designed to ensure that contracts are awarded to the bidder or bidders submitting the most economically advantageous tender(s), taking account of economy, efficiency and effectiveness.

18. APPENDICES

Appendix A–Public Health Contracts Over £250,000 value to be procured for 2014-15

Appendix B - Public Health Procurement Plan 2015-15

Appendix C- Public Health Services Provided by London Borough of Tower Hamlets

Appendix D–Risk Register

Appendix E – Summary of Public Health Grant Funded Services

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

Background Papers	Web address
Report to Cabinet 9 th January 2013 entitled, Future Commissioning Arrangements for Public Health Services	http://moderngov.towerhamlets.gov.uk/documents/g3784/Public%20reports%20pack%2009th-Jan-2013%2017.30%20Cabinet.pdf?T=10
Tower Hamlets Health and Wellbeing Strategy (Draft)	http://www.towerhamlets.gov.uk/search.aspx?cx=008280465879053608327:251xeiiz6ey&cof=FORID:11;NB:1&ie=UTF-8&q=health%20and%20wellbeing%20strategy
Tower Hamlets Strategic Plan	http://www.towerhamlets.gov.uk/search.aspx?cx=008280465879053608327:251xeiiz6ey&cof=FORID:11;NB:1&ie=UTF-8&q=health%20and%20wellbeing%20strategy
Local Authority Circular, Ring Fenced Public Health Grant, (Gateway Reference 18552), Department of Health, updated 19 th April 2013.	https://www.gov.uk/government/publications/ring-fenced-public-health-grants-to-local-authorities-2013-14-and-2014-15

Appendix A

Public Health Contracts Over £250,000 Value to be Reprocured for 2014-15

Directorate Contract	Contract Value	Scope of Contract	Length of New Contract, or Contract Extension	Funding	Planned Date for Invitation to Tender or * Contract signature.	Category
ESCW(AHW B) 4462	£900,000 (six months)	<u>Child Health and Nutrition – extension of current services</u> that provide services for 0-5 and 5-11 age groups. Includes breast feed support work, child weight management and the School Health and Immunisation Service which includes school nursing.	6 months	Public Health Grant	Contract to commence 1 st April 2014	Care and Commissioning
ESCW(AHW B) 4463	£4,444,712 per annum £13,334,136 over three years	<u>Community Sexual Health Services</u> Procurement of a range of mandatory sexual health diagnosis and treatment services including Tower Hamlets community sexual health clinics and the in borough acute Genito Urinary Medicine. GUM service is PBR tariff based. Also includes community-based HIV Counselling service and pharmacy emergency contraception.	1 year + extensions up to a max 3 years	Public Health Grant	Contract to commence 1 st April 2014	Care and Commissioning
ESCW(AHW B) 4464	£1,054,521 per annum £3,163,563 over three years	<u>Smoking Cessation Services</u> Includes smoking cessation services, targeted smoking cessation services and smoking cessation support provided through community pharmacies.	1 year + extensions up to a max 3 years	Public Health Grant	Contract to commence 1 st April 2014	Care and Commissioning

Directorate Contract	Contract Value	Scope of Contract	Length of New Contract, or Contract Extension	Funding	Planned Date for Invitation to Tender or * Contract signature.	Category
ESCW(AHW B)4465	£827,285 per annum £2,481,855 over three years	<u>Health Trainers</u> Procurement of community based health awareness and health improvement programme delivered through four community anchor organisations with a string community outreach element.	1 year + extensions up to a max 3 years	Public Health Grant	Contract to commence 1 st April 2014	Care and Commissioning
ESCW (PH) 4509	£645,891 per annum £1,937,673 over three years	<u>Community Pharmacy Services</u> Procurement of services provided by community pharmacies across Tower Hamlets including smoking cessation and emergency contraception.	1 year + extensions up to a max 3 years	Public Health Grant	Contract to commence 1 st April 2014	Care and Commissioning
ESCW(AHW B)4470	£837,000 per annum £2,511,000 over three years	<u>Fit for Life</u> Assessment, goal setting and motivational coaching supported by healthy eating, physical activity and weight management programmes for adults at high risk of, or with, diabetes and cardiovascular disease as well as severely obese people with other long term conditions (e.g. chronic breathing difficulties).	1 year + extensions up to a max 3 years	Public Health Grant	Contract to commence 1 st April 2014	Care and Commissioning

B APPENDIX B - Public Health Procurement Plan (attached separately)

C APPENDIX C – Public Health Services Provided by LBTH Internally (additional to Appendix B)

LBTH – Services Funded through Public Health Grant			
(i) Existing Services			
Programme Theme	Service Area	LBTH Directorate Provider	Value p.a.
Maternity, Early Years and Children	Healthy Early Years Accreditation	ESCW	£75,000
	Healthy Lives Team	ESCW	£192,000
	Healthy Schools - Alcohol	ESCW	£50,000
	Healthy Families	ESCW	£30,000
	Peer Education	ESCW	£92,164
Young People	Aspire (Tobacco Cessation)	ESCW	£205,110
	Educational Psychology	ESCW	£40,000
Tobacco Cessation	Tobacco Control	CLC	£305,000
Obesity and Nutrition	Food for Health Award	CLC	£30,000
(ii) New Proposals			
Healthy Community	Healthy Lifestyles Referral Hub	CLC	£120,000
Healthy Community	Private Sector Housing – EHO Referral Pilot	CLC	£70,000

APPENDIX D RISK REGISTER

PUBLIC HEALTH COMMISSIONING AND PROCUREMENT RISKS				
Financial and Contract Risks	Risk level	Risk Type(s)	Contingency	Lead
Inadequate consultation with members	High	Member/Mayoral Decision	Engage Mayor and Lead Members at the earliest opportunity; Plan for early decisions and build in time contingency where possible.	SB
Not enough time to review services adequately before re-commissioning	High	Process/service delivery	Plan for incremental move towards service re-design; build in break clauses and contract review	KW
Upward cost pressures from open access services e.g. sexual health	High	Financial	Retain flexibility on use of tariffs where non-mandated; impose cap and collar where useful mechanism to control cost increases;	SB
Contract resources not fully directed at delivery of front line services	High	Financial Service Delivery	Very clear specification of services to be provided and performance measures; detailed financial breakdown and thorough contract financial monitoring	SB
New contracts are not in place by 01.04.14	Medium	Time Service Delivery Reputational	Develop contingency plan with Legal Services.	KW
Reductions in Public Health funding for commissioning in future	Medium	Financial	All contracts procured on a 1 year basis plus the ability to extend a year at a time	KW
Limited market for public health procurement	Medium	Procurement process	Advertise services in small lots; avoid block contract approach, allow consortia bids.	KW
Inadequate consultation of stakeholders	Medium	Legal/process	Work with Health Watch to develop a plan for service user engagement; use existing networks, service user feedback, service audits etc.	KW

APPENDIX E SUMMARY OF PUBLIC HEALTH GRANT FUNDED SERVICES

	Early years	Children/Adolescents	Adults
General services			
Promoting health in the community and awareness raising		School nursing	Health Trainers Programme Health Literacy (ESOL) Cancer awareness (small c)
Identifying highest risk			Health Checks Programme
Outreach proposal			Under discussion
Specialist services			
Tobacco	Specialist stop tobacco: •Smoking in pregnancy	Specialist stop tobacco: •Young people	Specialist stop tobacco: •Community based •GP practices •Community pharmacy
Nutrition/Physical activity	Breast feeding support Healthy Start Vitamins (egVit D) Active Play and Healthy eating Child weight early intervention Fluoride Varnish	Active Play Child weight management	Adult weight management, improving diet, physical activity •Targeted at highest risk (Fit 4 Life)

	Improving nutritional standards in food outlets (Food for Health Awards), increasing availability of fresh food and vegetables in local stores (Buywell), Grassroot promotion of physical activity/health eating (Can Do Grants), Food growing network support		
Sexual Health and HIV		Young people's service	Prevention and treatment in: <ul style="list-style-type: none"> • Community • Community pharmacists • GP practices • Community health services • Acute services

Bold = over £250k value

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APPENDIX B: Public Health Procurement Plan Summary as at August 2013

KEY
over £250k
£173-250k
£25 - 173k
£5-25k

Strategic Commissioning Lead	Procurement programme	Contracts to be tendered via this procurement (with name of current supplier)	Duration of Contract	Value of contract (over term of contract)	Notes	Date by which current supplier must be notified of end of contract	Cabinet Quarterly Forward Plan	Type of procurement to be undertaken				Procurement Initiation Form	Competition Planning Forum (Tollgate 1) (For contracts above £250k)		Strategic Competition Board (Tollgate 1)	Advert	Competition Planning Forum (Tollgate 2)		Strategic Competition Board (Tollgate 2)	Cabinet		
								Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced		Tollgate 1 Deadline	Meeting Date			Tollgate 2 Deadline	Meeting Date				
Esther Trenchard-Mabere	Maternity and Early Years	Breastfeeding Support Workers, UNICEF Baby Friendly, School Health & Immunisation, Weight Management	1+1+1 years	£2,755,992 pa	To be procured in 5 lots	31.3.13 (whole contract); 30.09.13 (part contract)	Insert date reported to Cabinet via quarterly plan	Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	Insert date completed PIF to be returned to Procurement	Tollgate 1 Deadline	Meeting Date	Tollgate 2 Deadline	Meeting Date	Planned advert date	Tollgate 2 Deadline	Meeting Date	Strategic Competition Board (Tollgate 2)	Meeting Date	Cabinet
		Health Dietitians and School Nutritionist (all currently provided by Bart's Health NHS Trust) (5 lots)	1+1+1 years	£3,300,000	4 locality based lots proposed	30.09.13	11.09.13	Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.4.13	17.6.13	25.6.13	8.07.13	TBC	15.08.13	TBC	TT	TBC		
		Health Trainers (Osmani Centre, Stifford Centre, Bromley by Bow Centre, Poplar & Limehouse Network)	1+1+1 years	£50,000	5 lots	31.12.13	N/A	11.09.13	Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	12.07.13	N/A	25.6.13	08.07.13	N/A	15.08.13	TBC	N/A	N/A	TBC
		Fit 4 Life - adult weight management and Physical activity for people with long term conditions (Social Action for Health, Bromley by Bow Centre, Bart's Health, GLL)	1+1+1 years	2,511,000		30.09.13		11.09.13	Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.4.13	17.6.13	25.6.13	8.07.13	TBC	15.08.13	TBC	TBC	TBC	TBC
		PATH - Active play for children aged 5-13 and their families (PATH)	1+1+1 years	£195,000		28.02.14			Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.6.13	N/A	N/A	N/A	N/A	15.08.13	N/A	N/A	N/A	N/A
Esther Trenchard-Mabere	Obesity and Nutrition	Bike It (increasing cycling in primary and secondary schools (SUSTRANS))	1+1+1 years	£240,000	To be jointly procured with CLC Cycling Support Programme (TFL funded)	31.12.13		Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.6.13	N/A	N/A	N/A	N/A	15.08.13	N/A	N/A	N/A	N/A	
		Active Play and Healthy Eating for children aged 0-4 and their families (Toyhouse Libraries)	1+1+1 years	£142,950		31.12.13			Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	31.07.13	N/A	N/A	N/A	N/A	15.08.13	N/A	N/A	N/A	N/A
		Buy well retail programme (Rice Retail Management)	1+1+1 years	£150,000		30.09.13			Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	31.07.13	N/A	N/A	N/A	N/A	15.08.13	N/A	N/A	N/A	N/A
		Can Do Community Grants - Active Lives and Healthy Eating (Osmani Trust, Stifford centre, Bromley by Bow centre, Island House)	1+1+1 years	£160,000		31.12.13	31.12.13 (Osmani and Island House), 28.02.14 (Stifford and Bromley by Bow)		Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	31.07.13	N/A	N/A	N/A	N/A	15.08.13	N/A	N/A	N/A	N/A
		Specialist Smoking Clinic (Bart's Health), Bangladeshi Stop Smoking service (QMUL), Smoking in Pregnancy (Bart's Health)	1+1+1 years	£3,060,000	2 specialist service lots	30.09.13			Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.4.13	17.6.13	25.6.13	8.07.13	TBC	15.09.13	TBC	TBC	TBC	TBC
Chris Lovitt	Smoking Cessation	Pharmacy Smoking Cessation and NRT	1+1+1 years	£1,500,000		30.09.13		Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.4.13	17.6.13	25.6.13	8.07.13	TBC	15.09.13	18.12.13	23.12.13	TBC	TBC	
		Smoking Cessation GP Networks (8 networks),	1+1+1 years	£870,000	Currently commissioned via the CCG. Future to be commissioned via NHS England. Consultation of LMC reqd before changes.	30.09.13		Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.4.13	17.6.13	25.6.13	08.07.13	TBC	N/A	18.12.13	23.12.13	TBC	TBC	
		Sexual Health Community Services (ESCW 4463): Tower Hamlets CASH Clinic, Young People's Service, Outreach	1+1+1 years	up to £6.6 million	3 lots proposed	30.09.13			Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced	30.4.13	17.6.13	25.6.13	8.07.13	TBC	15.09.13	TBC	TBC	TBC	TBC

APPENDIX B: Public Health Procurement Plan Summary as at August 2013

KEY
over £250k
£173-250k
£25 - 173k
£5-25k

Strategic Commissioning Lead	Procurement programme	Contracts to be tendered via this procurement (with name of current supplier)	Value of contract (over term of contract)	Notes	Date by which current supplier must be notified of end of contract	Cabinet Quarterly Forward Plan	Type of procurement to be undertaken				Procurement Initiation Form	Competition Planning Forum (Tollgate 1) (For contracts above £250k)		Strategic Competition Board (Tollgate 1)	Advert	Competition Planning Forum (Tollgate 2)		Strategic Competition Board (Tollgate 2)	Cabinet
							Level 2 (3 quotes) Up to £25k	Level 3 (4 quotes) £25k to £173k	Level 5 (competitive tender) Above £173k	Level 5 Reduced		Tollgate 1 Deadline	Meeting Date			Tollgate 2 Deadline	Meeting Date		
		Sexual Health GUM - in borough and out of borough - 14 acute trust providers	up to £7 million (PBR Tariff)	NO PROCUREMENT - any willing provider/national GUM PBR	30.09.13	02.07.13					30.4.13	17.6.13	25.6.13	8.07.13	N/A	TBC	TBC	TBC	TBC
		NELNET (Homerton Trust)	£30,000	Joint with other east London boroughs			✓			31.07.13	n/a				N/A	N/A	N/A	N/A	N/A
		Sexual Health Promotion and HIV Prevention (ESCW 4470):HIV Counselling and Support for high risks groups - black men/ gay and bisexual men (Positive East)	£1,060,000		30.09.13	11.09.13	✓				30.4.13	17.6.13	25.6.13	8.07.13	15.09.13	TBC	TBC	TBC	TBC
		Sexual Health GP Networks,	£725,979	Currently commissioned via the CCG. Future to be commissioned via NHS England. Consultation of LMC reqd before changes.	30.09.13	11.09.13			/		30.4.13	17.6.13	25.6.13	08.07.13	N/A	18.12.13	23.12.13	TBC	TBC
		Pharmacy Sexual Health services	£437,673		30.09.13	11.09.13			/		30.4.13	17.6.13	25.6.13	08.07.13	N/A	18.12.13	23.12.13	TBC	TBC
		Sexual Health Contract Management (NELC (CSU))	£50,000		N/A		✓				n/a	n/a							
Paul Iggulden	Cancer Early Diagnosis	Health Education through Literacy (Bromley by Bow Centre)	£96,900		28.02.14		✓				31.07.13	n/a	n/a	n/a	15.08.13.13	N/A	N/A	N/A	N/A
		Cancer Community Engagement (Age UK, Bromley by Bow, Neighbours in Poplar, Poplar Harca)	£178,000		28.02.14			✓			31.07.13	n/a	n/a	n/a	15.08.13.13	N/A	N/A	N/A	N/A
		Cancer Early Diagnosis small c (8 GP networks)	£120,000		28.02.14		✓				31.07.13	N/A	N/A	N/A	15.08.13.13	N/A	N/A	N/A	N/A
Paul Iggulden	Long Term Conditions	NHS Health Checks (over 40s)	£620,661	Currently commissioned via the CCG. Future to be commissioned via NHS England. Consultation of LMC reqd before changes.	30.09.13	11.09.13			/		30.4.13	17.6.13	25.6.13	08.07.13	N/A	18.12.13	23.12.13	TBC	TBC
Somen Banerjee	Oral Health	Healthy Teeth in Schools	£80,000	Currently being reproposed	N/A		✓				N/A	N/A		31.07.13					N/A

Agenda Item 10.1

Committee/Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 29/134
Report of: Cllr Sirajul Islam, Scrutiny Lead for Resources. Corporate Director: Aman Dalvi Originating officer(s) Louise Russell, Service Head, Strategy & Equality Shibbir Ahmed, Strategy, Corporate Strategy & Performance		Title: Co-regulation and accountability of Registered Housing Providers (RP's) Wards Affected: All	

Lead Member	Cllr Rabina Khan
Community Plan Theme	A Great Place to Live
Strategic Priority	1.1: Provide good quality affordable housing 1.2: Maintain and improve the quality of housing 1.6: Develop stronger communities

1. **SUMMARY**

- 1.1 This report contains the findings and recommendations of a scrutiny review on co-regulation and accountability of Registered Housing Providers (RPs) which has been agreed by the Overview and Scrutiny Committee. The report also includes a proposed action plan for responding to those recommendations.

2. **DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 Note the review report (Appendix 1) and agree the action plan (Appendix 2) in response to the recommendations.

3. **REASONS FOR THE DECISIONS**

- 3.1 Housing co-regulation was chosen as a priority issue for the Overview and Scrutiny Committee in 2012-13 given the significant regulatory changes in this area and the high proportion of social housing in the borough. Housing is a priority for the Mayor and it was felt strongly that a scrutiny review could make a valuable contribution to the work on this agenda.

4. ALTERNATIVE OPTIONS

- 4.1 To take no action. This is not recommended as the proposed recommendations are strategic, measurable and attainable. A timetable for delivering the recommendations has also been agreed by officers at the most senior levels of the organisation. The action plan is outlined in appendix 2.
- 4.2 To agree some, but not all recommendations.

5. BACKGROUND

- 5.1 The key aim of the review was to:
- Understand how RPs are currently held to account and performance managed.
 - Assess how well developed arrangements for co-regulation and new tenant scrutiny arrangements are in the borough.
 - Explore the requirement in Localism Act for a local 'democratic filter' to resolve tenant complaints and options for implementing this for council managed housing stock as well as stock managed by Register Providers in the borough.

6. BODY OF REPORT

- 6.1 The report of the Scrutiny Working Group and the action plan for implementing the recommendations are contained in Appendices 1 and 2.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report describes the findings and recommendations of the Scrutiny Working Group on the new housing co-regulation framework.
- 7.2 There are no specific financial implications emanating from this report, but in the event that the Council agrees further action in response to this report's recommendations then officers will be obliged to seek the appropriate financial approval before further financial commitments are made - in conjunction with Tower Hamlets Homes and other Registered Social Landlord (RSL) partners.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 The Council is required by section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements that ensure the committee has specified powers. Consistent with this obligation, Article 6 of the Council's Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive in connection with the discharge of any functions. It is consistent with the Constitution and the statutory framework for the Executive to provide a response.
- 8.2 The Tower Hamlets Community Plan contains the Council's sustainable community strategy within the meaning of section 4 of the Local Government Act 2000. The Partnership seeks to tackle inequality and promote inclusion under the theme of

One Tower Hamlets. It also makes affordable housing and housing quality priorities under the theme of A Great Place to Live. A number of the recommendations arising from the review are for the Council to work with its registered provider partners to promote management standards and co-regulation. Provided that the limits of the Council's powers are respected, the recommendations are capable of being carried out within the Council's statutory functions.

- 8.3 Section 51 and Schedule 2 of the Housing Act 1996 prescribe a framework for the handling of housing complaints from the social rented sector. Amendments made by the Localism Act 2011 took effect from 1 April 2013, shifting responsibility for local authority housing complaints to the Housing Ombudsman (registered provider complaints had already been going to the Housing Ombudsman).
- 8.4 Tenants and other individuals may have complaints against social landlords investigated by a housing ombudsman pursuant to a scheme approved by the Secretary of State. Under an approved housing complaints scheme, it is the duty of the relevant housing ombudsman to investigate any complaint duly made and not withdrawn. The housing ombudsman must determine a complaint by reference to what the ombudsman considers fair in all the circumstances of the case.
- 8.5 A complaint against a social landlord will not generally be "duly made" to a housing ombudsman under an approved scheme unless it is referred on to the ombudsman in writing by a designated person. This requirement has been referred to as the "democratic filter". A designated person who can refer a housing complaint to the housing ombudsman is –
- a member of the House of Commons,
 - a member of the local housing authority for the area, or
 - a designated tenant panel.
- 8.6 A designated tenant panel is a group of tenants which is recognized by a social landlord for the purpose of referring complaints against the social landlord. The social landlord is required to keep its housing ombudsman informed of any tenant panels which it recognizes. The Council may work to support the establishment of one or more tenant panels to deal with complaints against the Council as landlord.
- 8.7 When considering its response to the recommendations of the Overview and Scrutiny Committee, the Executive must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 Co-regulatory principles and localism underpin the regulatory approach with tenants at the heart of the decision making processes.

- 9.2 The new frameworks seeks to capture the need to be as inclusive as possible by providing the opportunity for all tenants to play a role in ensuring that RPs manage to the highest possible standard in Tower Hamlets.
- 9.3 More than a quarter of all affordable housing stock in the borough is managed by Registered Providers (RPs) hence they are absolutely key to the successful implementation of the Council's housing strategy.
- 9.4 This report aims to highlight the close partnership that is needed between the Council and RP's and puts forward a set of recommendations to ensure the success of the co-regulatory approach; the protection of consumer standards; and the drive for continuous service improvement.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 There are no direct environmental sustainability implications arising from this report or its recommendations.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 There are no direct risk management implications arising from this report or its recommendations.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 There are no direct crime and disorder reduction implications arising from this report or its recommendations.

13. EFFICIENCY STATEMENT

- 13.1 There are no direct efficiency implications arising from this report or its recommendations.

14. APPENDICES

Appendix 1: Co-regulation and accountability of Registered Housing Providers (RPs)– Report of the scrutiny review group

Appendix 2: Scrutiny Review action plan

Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
None	N/A

APPENDIX 1

Scrutiny Working Group Report

**Co-regulation and Accountability of
Registered Housing Providers (RP's)**



London Borough of Tower Hamlets

May 2013

Acknowledgements

The working group would like to thank all the officers and partners that supported this Review.

Working Group Chair:

Councillor Sirajul Islam

Working Group Member:

Councillor Marc Francis

Councillor John Pierce

Development and Renewal Directorate:

Tracey St-Hill - Principle Registered Provider Officer (Strategic Housing)

Chief Executive's Directorate:

Shibbir Ahmed - Strategy, Policy and Performance

External:

- § Sandra Fawcett – Swan Housing (CEO) and Chair of Tower Hamlets Housing Forum (THHF)
- § Linda Collier - Head of Service User Relations (Housing Ombudsman Service)
- § Andre Jeoffroy - Member of Gateway's and the LBTH Resident Scrutiny Panel (Didn't come to the session)
- § Phil Sadler Sedler & Jenny Fisher -Tower Hamlets Tenants Federation
- § Emma Wallington - Tenant Participation Advisory Service (TPAS)
- § Fokrul Hoque - Strategic Engagement Manager (Tower Hamlets Homes)¹
- § Neha Sawjani - Head of Performance, Improvement & Policy (One Housing Group)
- § Mina Bance - Performance, Improvement & Policy Co-ordinator (One Housing Group)

¹ Please note that Tower Hamlets Homes (THH) is not an RP rather they are an ALMO (Arms Length Management Organisation). A not-for-profit company set up to deliver high quality housing services for residents living in 22,000 Tower Hamlets Council homes. The Council owns the homes, and THH manage the tenancies and leases on behalf of the Council.

Chair's Forward

The make-up of social housing has changed considerably in the last 10 years. In 2003 the council used to own and manage 28% of all housing stock in the borough, it now manages only 12%. The private rented sector is now the fastest growing housing sector in the borough; it has risen from 18.3% of the stock in 2003 to around 23% of the stock in 2011. More than a quarter of all affordable housing stock in the borough is managed by Registered Providers (RPs) and this proportion is increasing year on year. At the moment we have 53 Registered Providers managing 27,632 homes within Tower Hamlets, with 24 whom we have regularly engagement with and from which we have 16 on the Executive Committee of the Tower Hamlets Housing Forum (THHF).²

RP's are absolutely key to the successful implementation of our housing strategy. We firmly believe that only thorough close partnership working can this Authority ensure decent performance and drive improvements for our residents. This is why we have decided to carry out this review and increase our understanding how RPs are currently held to account and performance managed.

As a Panel we were impressed by the positive and constructive approach taken by our RP partners towards the Review. All our witnesses were refreshingly open and honest with us about those things that were not working as well as they should. But rather than dwell on the negative, all were able to give examples of good practice and suggest ways in which matters could be improved.

I would like to thank my fellow Panel members, Cllr Marc Francis and Cllr John Pierce, who contributed their time and ideas. I very much enjoyed working with them and believe this report has been the stronger as a result of the team approach we took.

On behalf of the Panel I would like to extend very special thanks to our Scrutiny Officer, Shibbir Ahmed for his hard work, professional skills and his enthusiasm for supporting us with the review.

Councillor Sirajul Islam
Chair of Working Group, Scrutiny Lead, Resources

² M:\Policy and Strategy\Directorate Policy Support\Housing Strategy\MAB12_12_12_Strategic_Housing_issues_draft_1.doc

1.0 Summary

Key Findings

- § The Chartered Institute of Housing (CIH) defines co-regulation (commonly referred to as resident-led self-regulation / tenant scrutiny) as: *“an approach where housing organisations’ frameworks for directing, accounting for, monitoring, assessing and modifying their own behaviour and performance are based on residents’ priorities, views, and engagement with relevant processes.*
- § Co-regulation arrangements have been adopted by all the Register Housing Providers (RP’s) that we spoke to or received submissions from.
- § The level of implementation is varied - some excellent practice was highlighted but also some areas of particular concern which need further work.
- § It is evident that if co-regulation and tenant scrutiny is adopted fully (both in practice and in spirit) it could provide a real asset to housing providers in terms of inbuilt checks and balances and enable greater accountability for tenants.
- § Co-regulation has the potential to build knowledge and capacity of both tenants and organisations which can in turn lead to real improvements that is clearly recognised by tenants. However this requires a significant level of investment of time and resources.
- § The main gap and potential weakness of the co-regulation framework is that it is voluntary and not underpinned by the statutory regulations that were in place before, which means holding RPs to account on implementing co-regulation can prove to be very challenging.
- § Most of the RPs we spoke to were positive about the real opportunities that are available through the new co-regulation process such as improved joint-working between landlords, peer reviews, shared mystery shopping and area based scrutiny across several landlords.
- § Joint working can help pool resources and provide much better value for money on initiatives that could see real choice and influence for residents.
- § There appeared to be a genuine desire and appetite amongst the RP’s that we spoke to for developing a sector led local quality assurance standards and local partnership approaches to performance management which involve tenants, housing officers and councillors, to work together to improve services and empower residents in the borough.
- § There are opportunities for landlords to focus resources on services and outputs that residents want and design more meaningful quality assurance methods with tenants.
- § There is also the possibility of incorporating self-assessment methodologies – such as that endorsed through “house mark” and more business to business opportunity learning rather than one size fits all approach to meeting standards.

- § The Council wants, and is expected by residents, to play a role in ensuring that RPs manage to the highest possible standard in Tower Hamlets. However this expectation may need to be carefully managed as the local authority does not actually have any formal powers and its influence on RP's is limited and varies amongst the various providers.
- § There is a need for local monitoring of management performance and to drive up standards.
- § Improvements need to be tenant focused and RP / housing sector led rather than imposed from outside.
- § LBTH should publicly make clear this authority's support for the re-establishment of the TSA or similar body by a future government.

Report Recommendations

Tenant Scrutiny and involvement.

R1.LBTH should publish annually summary of resident engagement and scrutiny work within each RP and Tower Hamlets Homes.

R2.LBTH should publish a report annually detailing the number of complaints recorded by each RP, the number/percentage resolved at each stage of the organisation's internal complaints process.

R3.LBTH should build on the work undertaken in 2010 and 2011 to develop a standard "local offer" to tenants in the borough to embed a Local Quality Assured Scrutiny Framework of Standards agreed by all "partner" RPs.

R4.LBTH should be more pro-active in seeking to empower resident Board members and scrutiny panel members of local RPs to robustly hold those organisations to account, for example through independently-led seminars and good practice sessions.

R5.LBTH should be more pro-active in working with RP's in seeking to provide adequate training, information and support for tenants, staff and the governing body in order to make tenant scrutiny as effective as possible.

R6.The preferred option for dispute resolution advocated by the review group is to have an independent complaint panel to review the complaint with the tenant in attendance.

R7.LBTH should encourage THHF to establish a cross-RP Tenant Panel to consider complaints from residents of member organisations.

2.0 Background and Methodology

2.1 Over recent years successive governments have sought to encourage greater resident involvement and engagement in the delivery of housing services and the policies which relate to them. The abolition of the Tenant Service Authority (TSA) and the introduction of new national regulatory standards shift responsibility for monitoring of Registered Providers (RPs) from the national regulator to local tenants. The Regulatory Standard for Tenant Involvement and Empowerment forms one of the new 'Consumer Standards' within this regulatory framework.³

2.2 The Localism Act 2011 further promotes resident involvement in the scrutiny of landlords and the way housing services are developed and delivered. The Act also affects the handling of complaints by the Local Government Ombudsman and the Housing Ombudsman (the current Ombudsman service for private sector residents). From April 2013, all 'housing' complaints need to pass through local dispute resolution before it can be referred onto the Housing Ombudsman. Whether complaints are from the public or private sector they shall now be dealt with by the Housing Ombudsman and not the Local Government Ombudsman.⁴

2.3 In 2012 the regulation of social landlords moved from the Tenant Services Authority to a Regulatory Committee within the Homes and Community Agency, bringing some minor amendments to the standards, for example social landlords will now be required to produce an annual report for tenants. The report needs to contain a self-assessment of performance and tenant scrutiny should play a role in shaping this. There is no longer a requirement to send a copy of the annual report to the regulator. The emphasis now is on using the annual report as a key tool in allowing tenants to hold their landlord to account, therefore contributing to the scrutiny function.⁵

2.4 Whilst members of the Scrutiny Panel welcomed moves to give tenants a strong voice in the scrutiny of RPs, they were concerned about the abolition of the Tenant Services Authority (TSA) which has the risk of removing tenants voice and representation in this process and potentially leave them without adequate protection they need against poorly performing landlords.

³<http://www.homesandcommunities.co.uk/ourwork/standards>

⁴<http://www.housing-ombudsman.org.uk/>

⁵https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6260/1742903.pdf

3.0 The Context

THE FRAMEWORK FOR 'CO-REGULATION'

3.1 The foundations for a regulatory system that formally incorporates tenants' views and concerns were set out in the Housing and Regeneration Act 2008. The Act applied equally to local authorities and housing associations. The Act gave the then Tenant Services Authority (TSA) statutory objectives to empower tenants and to ensure they had the opportunity to shape services and standards. A regulatory system was created which worked on a 'co-regulatory' basis where landlords, the regulator, and the tenants would work together to set, monitor, and enforce standards. Co-regulation aims to move the focus of decision-making and performance management for housing services away from the regulator, and a one-size-fits-all approach, towards one focussed on service users and locally defined needs and priorities.⁶

3.2 This approach represented a shift towards self-regulation, with the relationship between landlords and tenants forming the primary relationship. It was also anticipated that there would be an increasing use of external challenge, accreditation schemes and peer reviews, as well as sharing good practice, research and advice.

3.3 Under the principle of 'co-regulation', the role of the regulator was to step in where this relationship was not working. Over time, it was expected that the tenant scrutiny role would become increasingly robust, enabling the regulator to withdraw from regulating service delivery (consumer regulation).

CONSUMER REGULATION IN HOUSING

3.4 In 2012, the Coalition Government effectively changed the role of the housing regulator so that it will continue to set national standards, but only intervene under its consumer regulation role where it can be demonstrated that failures against these standards are having, or are likely to have, a "serious detrimental impact" on tenants.⁷

3.5 The new regulatory standards, introduced in April 2012, retained the principle of co-regulation but stressed the following key elements as well:

- § Responsibility for service delivery lies with the landlord, not the regulatory system nor the regulator.
- § Landlords are accountable to their tenants (not to the regulator) for customer facing service delivery standards.
- § To hold their landlords to account and to shape service delivery, tenants need adequate information and effective influencing structures.
- § Landlords should make honest and robust self-assessments of their own performance: this can include drawing on external validation (e.g. peer review or benchmarking)

⁶https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6052/1829690.pdf

⁷<http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

- § While the regulator has a role in setting clear outcome focussed standards, these should be enhanced by more specific local offers agreed between landlords and their tenants.
- § There should be a clearer role for tenants in scrutinising performance.⁸

3.6 With regards to customer facing service delivery standards the regulator's intervention activities will be focused only where there is serious detriment (or a risk of such) to tenants.

3.7 In real terms, effective tenant scrutiny is of even greater importance now in order to ensure the success of the co-regulatory approach; the protection of consumer standards; and the drive for continuous service improvement.

3.8 The Localism Act 2011 and the new regulatory standard for Resident Involvement and Empowerment both anticipate an enhanced role for tenants in relation to scrutiny. These regulatory and statutory changes provide new challenges for the Council, as it seeks to have the right mechanisms, support, information and internal drivers in place for effective tenant scrutiny in the borough. The anticipated enhanced role for tenants requires substantial investment in skills and capacity building, matched with an increased focus on value for money. There is a general consensus that tenant involvement in scrutinising value for money should not just focus on financial efficiencies, but also on service delivery, investment, and quality.

COMPLAINTS HANDLING: LOCALISM ACT 2011

3.9 From April 2013, the Ombudsman service for housing will change. From that date, there will be a single Ombudsman sector covering the whole sector i.e. for both local authority and housing association tenants. The Government's intention is that more complaints will be resolved at a local level so that 'only complaints worthy of the Ombudsman will go to the Ombudsman'.⁹

3.10 The Localism Act amends the way in which a social tenant can make a complaint about the landlord and introduces the concept of a 'democratic filter'. This means that, in future, tenants who have exhausted their landlord's complaints procedure will have to go through a designated person (the filter) in order to escalate a complaint to the Housing Ombudsman. The designated person is stipulated as being either a member of the House of Commons, a local Councillor (from the borough in which the property concerned is located) or a local tenant panel. Under the changes, a tenant will still be able to approach the Ombudsman directly after 8 weeks have elapsed from the date of referral to the democratic filter. The democratic filter is intended to strengthen accountability; increase knowledge of local representatives in resolving complaints; and to speed up the resolution of disputes at the local level.

3.11 With the new legislation for 'democratic filters' coming into effect in April 2013, the Council, as a social landlord, needs to decide upon its future arrangements for processing resident complaints.

⁸ <http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

⁹ Ibid

4.0 The Reason For Enquiry

- 4.1 Given the significant regulatory changes in this area and the high proportion of social housing in the borough, this is a key issue.
- 4.2 The review sought to:
- § Understand how RPs are currently held to account and performance managed.
 - § Assess how well developed arrangements for co-regulation and new tenant scrutiny arrangements are in the borough.
 - § Explore the requirement in Localism Act for a local 'democratic filter' to resolve tenant complaints and options for implementing this for council managed housing stock as well as stock managed by Register Providers in the borough.

4.3 What has not be included

This scrutiny review was clear from the outset that it would not include:

- § Monitoring the compliance of Housing Providers with consumer standards
- § Specifying how local tenant scrutiny mechanisms should work
- § Tenant feedback or satisfaction with Council Decent Home Programme
- § Dealing with individual tenant complaints

4.4 Core Questions of the Scrutiny Review

1. How is co-regulation working across RP's and what are the current strengths, gaps, challenges and opportunities?
2. How can elected members work effectively with tenant scrutiny members in holding housing providers to account?
3. What is the appropriate role of councillors in the new co-regulation framework particularly in relations to dealing with tenant complaints as set out in the Localism Act?

4 The Work of the Review

- § The Review Panel was chaired by Cllr Sirajul Islam who is the scrutiny lead for (resources), Cllr Marc Francis, and Cllr John Pierce were the other members of the panel.
- § The Aim, Scope and Terms of Reference of the Review were agreed by the Council's Overview and Scrutiny Committee at its meeting on 30th October 2012.
- § We took detailed evidence about the way RP's put into the practice the new co-regulation framework and developed tenant scrutiny.

The overall aim of the Review was to get a *clearer understanding of how RPs are held to account and performance managed through co-regulation and how members can support this framework.*

In working towards achieving this aim, we held a series of evidence gathering meetings, both formal and informal, with a range of witnesses. These included:

- § We invited the RPs represented in the Tower Hamlets Housing Forum to contribute to the review
- § Senior officers from five of our partner RP's who generously responded to our invitation to participate.
- § We heard evidence from Tracey St Hill who is the principal RSL Partnerships Officer.
- § We took evidence from the Linda Collier from the Housing Ombudsman Services and Sam Goodwin from Tenant Participation Advice Service (TPAS).
- § To accompany this, the lead scrutiny officer went and observed a full tenant scrutiny panel meeting organised by Tower Hamlets Homes. **A full list of witnesses and sources appears in the appendices to this report.**
- § We were, of course, keen to hear evidence directly from tenants, with their opinions and experiences of RP's, however due to the lack of time and resources this was not possible and so had to take into account the views and concerns highlighted by the Tenants Federation that advocate on behalf of local tenants.

6.0 Local Approaches to Co-regulation of Housing

6.1 Background:

The Chartered Institute of Housing (CIH) defines co-regulation (commonly referred to as resident-led self-regulation) as:

*“An approach where housing organisations’ frameworks for directing, accounting for, monitoring, assessing and modifying their own behaviour and performance are based on residents’ priorities, views, and engagement with relevant processes.”*¹⁰

6.2 Although tenant involvement and scrutiny is a crucial element of the co-regulatory approach, it is one of many. Because it is an *‘approach rather than a rigid model, resident-led self-regulation can work in any kind of housing organisation – local authority, housing association or ALMO.’*¹¹ It can also be applied across all aspects of a housing business, not just service delivery, but also business, governance and constitutional issues.

6.3 The government wants to see the principle of co-regulation retained and enhanced and is seeking to ensure that providers recognise that:

- § Fundamental responsibility for effective service delivery lies with landlords, not the regulatory system;
- § Landlords are accountable to their tenants, not to the regulator;
- § Tenants must have the information and opportunities they need to hold landlords to account and to shape service delivery.¹²

6.4 According to the Regulatory Framework for Social Housing in England (published in April 2012)¹³ all registered providers and local authorities are subject to the regulatory framework and must all meet the applicable regulatory standards.

Standards are classified as either:

- § Standards relating to economic matters, or
- § Standards relating to consumer matters

6.5 Economic standards apply only to private registered providers. For profit-making providers, the economic standards apply to the management of their affairs only so far as they relate to the provision of social housing. The regulator has a proactive role on these standards, and will engage with providers to obtain assurance that these standards are being met.¹⁴

6.6 Consumer standards apply to all registered providers, including local authorities. Boards and councillors are responsible for ensuring the standards are met, and others, such as tenant panels, MPs and elected representatives have a role in scrutinising that this is delivered. The regulator sets the consumer standards so that tenants, landlords and stakeholders know the outcomes that are expected. In this way, co-regulation is supported by the standards. The regulator does not have a proactive role in monitoring compliance with these standards, and will only intervene in cases of serious detriment.¹⁵

¹⁰http://www.cih.co.uk/resources/PDF/Policy%20free%20download%20pdfs/How_to_prepare_for_regulatory_ref orm.pdf

¹¹[http://www.housemark.co.uk/hmresour.nsf/lookup/TenantScrutiny_lowres.pdf/\\$File/TenantScrutiny_lowres.pdf](http://www.housemark.co.uk/hmresour.nsf/lookup/TenantScrutiny_lowres.pdf/$File/TenantScrutiny_lowres.pdf)

¹² Ibid

¹³<http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

¹⁴ Ibid

¹⁵<http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

6.7 What characterises good co-regulation?

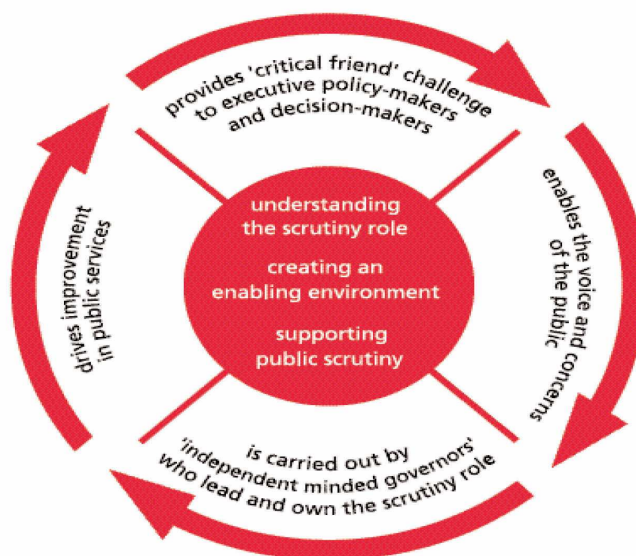
In order to understand how RPs are currently held to account and performance managed it is important to begin by exploring what characterises effective co-regulation. The Review Group considered standards against which the performance of local RPs can be assessed.

6.8 According to housing sector experts, tenant involvement and empowerment are regarded as two of the main characteristics of good co-regulation. Tenant scrutiny is more than just another tenant participation activity. It is a way of giving tenants greater influence and ability to hold their landlords to account, by exercising more power over the business decisions, governance and performance of their landlord.¹⁶

6.9 Tenant scrutiny gives tenants an active stake in the running of their landlord's business rather than being the passive recipient of services. It enables staff and tenants to work in partnership to achieve better performance and improved outcomes.¹⁷

Figure.1¹⁸

the good scrutiny
cycle



According national housing organisational experts and agencies, successful scrutiny panels have been found to include within their remit:

- § **Acting as a “critical friend”;**
- § **Acting as a voice for tenants;**
- § **Being tenant-led and independent;**
- § **Focusing on improving services.**¹⁹

¹⁶ http://www.tis.org.uk/content/files/tis_tenants_scrutiny_guide_june_20121.pdf

¹⁷ Ibid

¹⁸ Ibid

¹⁹ http://www.tis.org.uk/content/files/tis_tenants_scrutiny_guide_june_20121.pdf

- § Tenant scrutiny panel should have a clear purpose, remit and protocol that clearly state its powers and responsibilities.
- § The purpose and remit of tenant scrutiny panels must be to improve services. This will give all stakeholders a clear understanding of their responsibilities and value within the organisation. In order for this to succeed there should be clear procedural guidelines about how the panel will make recommendations for service improvements and also how senior officers and governing board members will consider and react to these recommendations.
- § Time should be allowed for staff and tenants to develop a positive working relationship within the new structures.
- § Feedback mechanisms are established between the scrutiny panels and the other tenant participation activities so that members of the panels can take account of the views of active tenants across the organisation.
- § There needs to be monitoring processes in place to track what happens following the recommended findings of the tenant scrutiny panel.

It is recommended that regular reviews of the tenant scrutiny panels should take place. There should be checks made on²⁰:

- § How effectively they are meeting their roles and responsibilities;
- § The effectiveness of recruitment procedures for new tenants;
- § The working relationships between tenants and staff if individuals in either group change;
- § The diversity of the tenants involved;
- § How the scrutiny panels are gaining feedback from other active tenants' organisations;
- § The relevance and impact of the recommendations they make.

6.5 Customer service, choice and complaints

According to guidance and good practice guide from national housing agencies registered providers are expected to provide tenants with accessible, relevant and timely information about.²¹

- How tenants can access services
- The standards of housing services their tenants can expect
- How they are performing against those standards
- The service choices available to tenants, including any additional costs that are relevant to specific choices
- Progress of any repairs work how tenants can communicate with them and provide feedback the responsibilities of the tenant and provider
- Arrangements for tenant involvement and scrutiny
- Have an approach to complaints that is clear, simple and accessible that ensures that complaints are resolved promptly, politely and fairly.
- Providers shall offer a range of ways for tenants to express a complaint and set out clear service standards for responding to complaints, including complaints about performance against the standards, and details of what to do if they are unhappy with the outcome of a complaint.

²⁰ http://www.tis.org.uk/content/files/tis_tenants_scrutiny_guide_june_20121.pdf

²¹ Ibid

- Providers shall inform tenants how they use complaints to improve their services.
- Registered providers shall publish information about complaints each year, including their number and nature, and the outcome of the complaints.
- Providers shall accept complaints made by advocates authorised to act on a tenant's/tenants' behalf.

6.6 Involvement and empowerment

It is considered good practice by housing experts for registered providers to ensure that tenants are given a wide range of opportunities to influence and be involved in:

- the formulation of their landlord's housing related policies and strategic priorities
- the making of decisions about how housing related services are delivered, including the setting of service standards
- the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved
- the management of their homes, where applicable
- the management of repair and maintenance services, such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made, and agreeing local offers for service delivery.²²

6.7 Understanding and responding to the diverse needs of tenants

According to national housing experts and agencies registered providers are expected to support their tenants to develop and implement opportunities for involvement and empowerment, including by²³:

- Treating all tenants with fairness and respect
- Demonstrate that they understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs.
- Supporting their tenants to exercise their Right to manage or otherwise exercise housing management functions, where appropriate
- Supporting the formation and activities of tenant panels or equivalent groups and responding in a constructive and timely manner to them
- The provision of timely and relevant performance information to support effective scrutiny by tenants of their landlord's performance in a form which registered providers seek to agree with their tenants. Such provision must include the publication of an annual report which should include information on repair and maintenance budgets, and
- Providing support to tenants to build their capacity to be more effectively involved
- Registered providers shall consult with tenants on the scope of local offers for service delivery. This shall include how performance will be monitored, reported to and scrutinised by tenants and arrangements for reviewing these on a periodic basis.
- Registered providers shall consult with tenants, setting out clearly the costs and benefits of relevant options, if they are proposing to change their landlord or when proposing a significant change in their management arrangements.
- Registered providers shall consult tenants at least once every three years on the best way of involving tenants in the governance and scrutiny of the organisation's housing management service.

²²<http://www.homesandcommunities.co.uk/ourwork/standards>

²³<http://www.homesandcommunities.co.uk/ourwork/standards>

6.8 'Good practice guide' for the recruitment of tenants to scrutiny activities:

It is considered good practice by the Homes and Communities Agency for registered providers to support the recruitment and involvement of tenants by: ²⁴

- § Using different kinds of publicity and marketing to attract newly active tenants into scrutiny activities;
- § Promoting the new skills that tenants will gain that could be transferred to new employment opportunities;
- § Emphasising that tenant scrutiny is a different opportunity – tenants will have real power and independence, and the ways of being involved will be different;
- § Introducing clear guidance and terms of reference for scrutiny panel members about their involvement in other participation activities to prevent conflicts of interest arising in future;
- § Using effective recruitment procedures focussing on skills and experience;
- § Using different ways to communicate e.g. email, texting, social networking;
- § Using tenant profile information to target underrepresented groups;
- § Tenants giving their time freely or if they should receive incentives in return for their time and contribution;
- § Holding “taster” days where experienced tenants can share their experiences with newly interested tenants;
- § Training more experienced tenants to mentor new tenants getting involved;
- § Promoting a ladder of opportunities to give people the confidence to start to get involved in activities like mystery shopping;
- § Publicising successes to demonstrate the impact tenants are having

²⁴<http://www.homesandcommunities.co.uk/ourwork/standards>

7.0 Assessing Local Performance

7.1 How is co-regulation working across RP's in Tower Hamlets and what are the current strengths, gaps, challenges and opportunities?

This section of the report sets out the findings of the Scrutiny Review Group on current practice of RPs' in Tower Hamlets.

7.2 Current strengths:

The submissions we received from the RPs who took part in the review and a desktop review of their current policies and practises suggests that these housing providers have tenant scrutiny representatives or panels in place, albeit with different levels of development and capacity.

7.3 The strength of the co-regulation framework is that it offers opportunities to tailor local services and performance to reflect local needs. The framework is seen as flexible and more scope is available to RPs to work openly and intuitively with residents to identify an appropriate model of working for them. Tenants and staff are able to negotiate and agree strategies, standards and performance measures rather than just being confined to a set of basic regulatory standards that was in place previously. RPs argue that this self-determining culture enables them to deliver more meaningfully and encourages them to take a more realistic and proactive approach to co-regulation rather than the regulator's reactive one.

7.4 The new co-regulation framework is said to treat residents as experts who have a real influence and a right to scrutinise, monitor, challenge and make recommendations on policy and specific areas of service provision. It offers partnership working with RP Boards, residents and external stakeholders. The Review Group acknowledged that when the new framework is adopted fully (both in practice and in spirit) it can provide a real asset to housing providers in terms of inbuilt checks and balances and enable greater accountability. It can build knowledge and capacity of both tenants and organisations which can in turn lead to real improvements that is clearly recognised and celebrated by tenants.

7.5 Gaps & challenges:

The main gap and inherent weakness of this approach highlighted by this review, and acknowledged by all the RPs, is that the new co-regulation framework is completely voluntary and not underpinned by the statutory regulations that were in place before. It is widely recognised that social housing customers generally have limited choice of landlord. With the removal of the Audit Commission's inspection framework and pro-active regulation by HCA, the clear onus is now on RPs to have an effective framework in place. However, there is little external scrutiny whether it happens in practice or is actually effective in championing tenants' voices. As the HCA will not intervene unless serious detriment can be evidenced, there is very little scope within the new arrangement to make RPs put things right if resident involvement and scrutiny is poor or known to be ineffective.

7.6 Another key challenge acknowledged by the RPs we spoke to is how the new framework is understood and practically implemented by both housing providers and tenants. With so many different bodies involved in governance and scrutiny of co-regulation, it could make it difficult to co-ordinate methodically, particularly for RP's that work in more than one borough and have a large housing stock to manage. The flexibility of approaches may also lead to confusion for residents and a post-code lottery style situation which offers no clear service standards or expectations for residents in the borough.

7.7 The Tenant Federation in Tower Hamlets (TFTH) also expressed concerns that co-regulation could further weaken tenant voice and view the new framework as a 'tokenistic model' with no real representations and links with wider members of the community. There were concerns about how tenant scrutiny panel members would report back to wider other residents. The Scrutiny Review Group recognises that this could prove a challenge for resident board members who are seeking to be accountable to other residents while playing a constructive role with the RP.

7.8 TFTH also highlighted some examples of poor communications and inadequate tenant scrutiny policies and practices. It noted a risk that residents' engagement and involvement operates in parallel to the running of the organisation making it potentially less effective. Even where there is good level of representation, it was noted that some tenant representatives receive little training and development to empower tenants to robustly challenge and effectively scrutinise an RP's performance. Furthermore there is currently no central place where residents can obtain independent benchmarking information on the performance of local RPs.

7.9 Some of the RPs mentioned that at a basic day to day level there is sometimes confusion amongst resident panel members about their role and expectations particularly around corporate strategic management and local operational engagement. Many of the RPs that we spoke to mentioned how they are constantly grappling with the challenge of bringing in new members from diverse backgrounds. Some mentioned that the selection of Board and resident scrutiny panel members can prove difficult and at times controversial.

7.10 According to the THTF, the expectation and demand on resident / tenant members time is often unrealistic and the language and level of discussion can be at times inaccessible. This 'committee speak' discourages a lot of residents, especially young people, from getting involved. Some RPs mentioned that the tenant scrutiny process takes a long time to develop and mature which can be challenging in an environment of limited resources or when senior management want quick fixes to deep-rooted negative perceptions among residents.

7.11 We believe that this scrutiny review has been helpful in taking the first steps towards bringing information about the resident involvement and scrutiny together in one place, but recognise that further work could enable residents of different RPs to compare their own landlord's offer with those of its competitors. It would also be helpful for data on complaints to be centrally compiled and made available to the public.

Recommendation 3

LBTH should publish annually summary of resident engagement and scrutiny work within each RP and Tower Hamlets Homes.

Recommendation 4

LBTH should publish a report annually detailing the number of complaints recorded by each Registered Provider, the number/percentage resolved at each stage of the organisation's internal complaints process.

8.0 Opportunities to Strengthen Co-regulation

8.1 How can elected members work effectively with tenant scrutiny members in holding housing providers to account?

In this section of the report we assesses the remit, challenges and opportunities of how elected members can work with RP's to strengthen the co-regulation process in Tower Hamlets.

8.2 Ensuring the independence of the scrutiny model

It is important that elected members work effectively with tenant scrutiny members and RPs in ensuring that that tenant scrutiny structures in Tower Hamlets are independent from other tenants' organisations operating within the landlord's structure. The Chartered Institute for Housing (CIH) states that there are three key characteristics of genuine Resident Lead Scrutiny Reviews (RLSR), which are:

- § Independence from other governance and management structures;
- § Formality in operation;
- § Power for residents to challenge and effect change.²⁵

8.3 Independence means that the people who control the scrutiny activities of RLSR are not the same people involved in managing or governing the organisation. Formality gives the residents confidence that they are entitled to ask for information and that their activities will be taken into account and fit into other business processes. Power makes RLSR an equal partnership between tenants and senior staff.

8.4 For the different roles undertaken, there should be clear guidelines and protocols drawn up for tenant's representatives to enable them to develop capacity in tenant scrutiny activities out with their normal tenant participation activities.

8.5 Local charter on standards

One of the ways of improving standards and driving up performance is to take into consideration the local charter on standards developed by the LBTH Tenants Federation. It is a charter of basic principles which Tower Hamlets Tenants and Residents have called on all Registered Providers of Social Housing to adopt.

²⁵<http://www.cih.co.uk/resources/PDF/Policy%20free%20download%20pdfs/Leading%20The%20Way.pdf>

Consultation:

- § Consult Tenants Federation (TF) before important decisions are made that affect their homes.
- § Explain how RP's have taken tenant views into account.

Accountability:

- § Make RP's structures and accounts transparent to all residents.
- § All Board and Estate Board meetings and their minutes should be open and accessible to the public (with the exception of confidential items only where necessary)

Recognition:

- § Recognise, encourage and support properly constituted, independent Tenant and Resident Associations.

Development:

- § Discuss strategic planning issues and the disposal of public assets with residents in public.
- § Take TF views into account before implementing new proposals.
- § Build to "Lifetime Home" standards into all tenancy agreements.

Standards:

- § Grant and retain secure and lifelong tenancies into all tenancy agreements so as to ensure equality and consistency of approach in Tower Hamlets.
- § Keeping rents low and genuinely affordable.
- § No "fast-track" evictions should take place under Ground 8 of the Housing Act 1988.
- § Work with residents to deliver high standards of repairs and maintenance

8.6 Develop a Local Quality Assured Scrutiny Framework of Standards

There are opportunities for LBTH to work with landlords to focus resources on services and outputs that residents want and design more meaningful quality assurance methods with tenants. There is also the possibility of incorporating self-assessment methodologies – such as that endorsed through House Mark and more business to business opportunity learning rather than one size fits all approach to meeting standards.

8.7 RPs argued that if the quality assurance framework is sector-led and mutually developed (and not imposed) it is more likely to be adopted and could make it more open & transparent and allow RPs to be innovative, more reflective and overall achieve better outcomes.

Recommendation 5

LBTH should build on the work undertaken in 2010 and 2011 to develop a standard "local offer" to tenants in the borough to embed a Local Quality Assured Scrutiny Framework of Standards agreed by all "partner" RPs.

8.8 Working with Tenant Participation Advisory Service (TPAS)

There is an opportunity to work with the Tenant Participation Advisory Service (TPAS) to develop a local Quality Assured Scrutiny framework of standards and new tenant scrutiny accreditation service from leading housing sector organisations championing co-regulation.

8.9 Grant funding of almost £1.2 million has been made available by the Government to the Tenant Participation Advisory Service to deliver a training and support programme. The

tenant empowerment programme is designed to inspire tenants to lead change in their communities by having the skills and confidence to scrutinise, influence and control local services through tenant panels and other scrutiny mechanisms.²⁶

8.10 The assessment framework for the Quality Assured Scrutiny accreditation can be developed with the expertise and experience TPAS and other organisations in consultation with a range of local tenants and landlords from across the sector.

8.11 A local approach to Quality Assured Scrutiny that is delivered by TPAS, HouseMark and CIH could prove very valuable because their approach is:

- § Independent and use tenant assessors as part of the assessment and moderation process;
- § They understand and take account of RPs resources and organisational capacity throughout the evidence gathering stages to minimise the requirement;
- § They have expertise and proven experience in working with a range of stakeholders, from elected members to hard-to-reach tenants and client groups.²⁷

8.12 Joint monitoring, mystery shopping and peer reviews

Despite the challenges, all of the RP's that we spoke to were positive about the real opportunities that are available through the new co-regulation process. They mentioned the opportunities to improve joint-working between LBTH and landlords, peer reviews, shared mystery shopping and area based scrutiny across landlords. Joint working can help pool resource together and provide much better value for money on initiatives that could see real choice and influence for residents.

8.13 There appeared to be a genuine desire and appetite amongst the RP's that we spoke to for developing local quality assurance standards and local partnership approaches to performance management which involve tenants, housing officer and councillors, to work together to improve services and empower residents in the borough.

8.14 What kind of governance support can LBTH provide to RP's through THHF?

Although there is no statutory obligation or expectations from RP's to receive support from local authorities, we felt it was nonetheless worth exploring the possibility of Tower Hamlets Council taking a more proactive and supportive approach in developing the governance and scrutiny process for local tenants. Listed below are some key examples of support that Tower Hamlets Council can provide to RP's through the Tower Hamlets Housing Forum:

- § Recruitment, retention and development of Board members
- § Offer training to strengthen risk management and internal control arrangements
- § Develop effective governance arrangements that are embedded across all levels of the organisation, improving working relations between the Board, the Executive, staff and tenants
- § Ensure the correct policies and procedures, systems and processes are in place
- § Develop capacity and address capability through training and mentoring, to increase the level and quality of involvement
- § Develop effective co-regulation structures and initiatives with residents, e.g. in setting up resident scrutiny panels arrangements that are open, transparent, accessible and effective

²⁶ <https://www.gov.uk/government/news/support-for-social-tenants-to-have-their-say-on-local-services>

²⁷ <http://www.tpas.org.uk/>

Recommendation 6

LBTH should be more pro-active in seeking to empower resident Board members and scrutiny panel members of local RPs to robustly hold those organisations to account, for example through independently-led seminars and good practice sessions.

Recommendation 7

LBTH should be more pro-active in working with RP's in seeking to provide adequate training, information and support for tenants, staff and the governing body in order to make tenant scrutiny as effective as possible.

There are many examples of good practice developed by RP's in the borough and this report includes some of these examples developed by Poplar HARCA. See *Appendix 1 for more details.*

9.0 Dispute Resolution

9.1 What is the appropriate role of councillors in the new co-regulation framework particularly in relations to dealing with tenant complaints as set out in the Localism Act?

9.2 In this section of the report, the review group considered the role and remit of councillors and challenges that need to be addressed in relation to local tenant dispute resolution.

9.3 From April 2013, there is now a single Housing Ombudsman service which covers the whole sector including local authority, Arm's Length Management Organisations and housing association tenants. Tenants of local housing authorities and Arm's Length Management Organisations previously had the right to refer complaints about housing to the Local Government Ombudsman. The Government's intention is that more complaints will now be resolved at a local level so that 'only complaints worthy of the Ombudsman will go to the Ombudsman'²⁸.

9.4 The Housing Ombudsman consider early and local resolution as the best possible outcome to a complaint. It encourages positive relationships between landlords and tenants and the designated persons to achieve this. It also provides information and advice to support designated persons in improving the methods and approaches they might use to resolve a dispute. Whilst the Housing Ombudsman will not comment on designated persons' decisions it will give feedback on referrals from designated persons to improve complaints handling at all levels²⁹.

9.5 The Housing Ombudsman can only consider complaints that have been referred by a 'designated person' (MP, councillor or recognised tenant panel), or by the tenant themselves if 8 weeks have passed from the completion of the landlords internal complaint process. This provision does not apply to complaints made to the Local Government Ombudsman. These complaints can still be referred directly.³⁰

9.6 From April 2013, when they receive a complaint they will always ask if it has been referred to a designated person and if not they will clarify the reasons for this. They will either then refer the matter to a designated person or if a tenant is clear that they do not want to make use of that opportunity for local resolution, (if it is more than eight weeks from the end of the landlords complaint process) they will consider the case.³¹

9.7 Although they can advise designated persons on good practice in complaint handling, the Ombudsman has no jurisdiction over designated persons and has no authority to regulate or produce guidance for their selection, activity or conduct.³²

9.8 The Ombudsman will be required to maintain a register of recognised Tenant Panels. However, they do not oversee the involvement of panels or any other designated person in the local resolution of complaints.³³

²⁸ <http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

²⁹ Ibid

³⁰ <http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

³¹ Ibid

³² Ibid

³³ Ibid

- § The Housing and Local Government Ombudsman services are able to conduct joint investigations and are putting in hand liaison arrangements to ensure that there is early discussion of cases which engage both jurisdictions.³⁴

9.9 What are the implications for the Council and elected members?

With the new legislation for 'democratic filters' that came into effect from April 2013, the Council, as a social landlord, needs to decide upon its future arrangements for processing resident complaints and to decide which tenant representative body is best placed to act as the democratic filter for complaints by Council tenants and leaseholders.

9.10 In exploring the options available for the Council the review group noted some key issues and concerns regarding the role of the 'democratic filter' in general and the role and responsibilities of Councillors in particular.

9.11 Issues concerning the role of the designated Member Panel:

The Review Group felt that there were significant questions about defining the role Councillors should have in relation to housing providers as there appears to be some confusion and lack of consistent approach and understanding. Throughout the Group's discussions there was a concern that members could not simultaneously champion residents and find solutions to their problems.

9.12 The Review Group felt that all councillors are advocates for their communities and individual constituents when advice or support is requested. A common role for all councillors however, irrespective of any formal position or membership of a committee is that of 'community leadership'. For the individual councillor, being a community leader can mean a number of things. Acting as an advocate for the best interests of one's ward; lobbying for local concerns; influencing partner organisations to work to a common vision; resolving conflict amongst community organisations; encouraging community organisations to develop solutions in their own communities; balancing competing demands for resources when making decisions in the best interests of the whole authority area.³⁵

9.13 The independence of Councillors with links to RP's

Further difficulties may arise when councillors are asked to deal with tenant complaint or championing a resident cause which may conflict with their role as a board member of that particular housing association. Members may also find it challenging to balance local concerns with the political demands of the group manifesto or position they hold. There is also a potential political risk in taking tenant complaint that is not resolved adequately to the tenant satisfaction which could result in some local fall out or damages the image of the local Councillors in very competitive and sensitive constituency areas. This is perhaps why there is a lot anxiety amongst some councillors as to their new expected role of being the designated person / democratic filter in tenant complaint / dispute resolutions.

9.14 Lack of authority and jurisdiction

³⁴ Ibid

³⁵ <http://www.jrf.org.uk/sites/files/jrf/2150.pdf>

This anxiety is further re-enforced by the fact the housing management landscape in Tower Hamlets has been radically altered over the last decade with large scale housing stock transfer where there is no longer the power, authority and influence that elected members previously used have to have over the management and governance arrangement of housing providers. Some Members may feel that in the current arrangement they have little or no say in how local landlords operated or performed so could perhaps be more reluctant to get too involved with housing management issues or complaints from their local constituents.

9.15 Another issue and challenge that would need to be addressed is the jurisdiction of tenant panels. For example, there needs to be clear understanding that any tenants / members complaints panel that is not recognised and supported by RPs will not have the jurisdiction to handle such work / responsibility. There may be more than one approved tenant's panel. This point is particularly relevant to the representative bodies such as the Tenants Federation who feel they ought to play a more leading role in championing tenant rights and safe guarding their interests. Regardless of the politics and personalities involved, there is a real need to have a good working relationship between RP's, Tenant Scrutiny Panels and the Tenant Federations,. This suggests THTF should be involved or have its views represented in the Tower Hamlets Housing Forum meetings and steering groups.

9.16 General and practical challenges

In addition to the key issues and challenges discussed above, there are some general day to day practical difficulties that need addressing such as:

- § Organisational capacity of RPs is also a major issue that would need to be addressed in finding an appropriate way of handling complaints. There needs to be recognition that level of tenant scrutiny and approach to complaint handling will be different and vary from one RP to another.
- § Lack of consistency in approach by the designated persons/panels could mean there are potentially different perspectives on complaint handling. Any councillor can be approached by our tenants to act as a designated person or alternatively any elected MP in Tower Hamlets and not just the ward member.
- § Addressing multiple complaints made to a number of designated persons/panels could be difficult to administer.
- § Conflict of interest may arise within the designated persons/panel.
- § Confidentiality – it will have to be clearly spelt out that tenants on the panels must not share personal details with third parties.
- § An approach to data protection and freedom of information requests regarding the operation of the designated persons/tenant panel may have to be considered.

9.17 What are the possible ways forward?

It is widely recognised that registration of interests is perhaps the only way of ensuring transparency and accountability of elected members. As it is well known and accepted that the public has a right to expect councillors to act in a transparent and open manner, particularly in respect of actual or potential conflicts. Councillors are expected to ensure that they follow the advice and guidance on doing so set out in the current code of local government conduct.³⁶

9.18 What are the other options available?

³⁶This was provided for by the Localism Act 2011: <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

9.20 Panel of Elected Members

The Panel of Elected Members may investigate the complaints from social housing tenants and recommend to the authority the way that the dispute should be settled. This could include the recommendation that compensation is paid. It will, however, be at the discretion of the local authority whether it agrees to accept the recommendations.

9.21 Tenants' Champions

Tower Hamlets Council could also consider the approach taken by Richmond Council which has created a new role of Tenants' Champion from its pool of elected members. The Tenants' Champion is one of the 'democratic filter' before a dispute / complaint is taken to the Housing Ombudsman Service. If tenants have been through the housing association's complaints procedure and are still not satisfied then they have the option to take their complaint to this service³⁷.

9.22 Tenants who experience problems with the RPs' / housing association are asked to get in touch with them and try to work out a solution. Initially this might be done informally, but might need to go through a more formal complaints process. If things don't get resolved to tenants satisfaction then the next step is for them to contact their Councillor. However, some issues may be more complex, or be something that keeps occurring, or may affect many people - and it is here that the Tenants' Champion can help.³⁸

³⁷ http://www.richmond.gov.uk/tenants_champion

³⁸ Ibid

9.23 How does it work in practice?

- § *If a complaint is more appropriate for a local ward councillor to handle the problem then they will be asked to select one Councillor to act for them. The Tenants' Champion will be sent a copy of all enquiries submitted via this process.*
- § *If it is more appropriate for the Tenants' Champion to support tenant, they will be contacted within 7 working days. Having contacted the housing association the champion expects to be back in touch with a response after a further 14 working days. Complex issues are likely to take more time to investigate. Response times after this will depend on the complexity of the issue raised. The same timescales apply where a Councillor is involved.*
- § *There may be times when timescales cannot be met, for example, if a Councillor is on holiday or is sick and unable to work. In asking a Councillor to investigate an issue on tenant's behalf, they will be acting as their representative and have the authority in law to discuss your situation without you needing to give them specific permission.*
- § *The TC role has been developed with political support from all parties and although the role is carried out by a Member, it is non-partisan and is performed in addition to other roles and duties. Once appointed as the TC held a series of briefings and engagement events with councillors across all parties to publicise, gain support to develop and refine the role. The role is both a channel to 'listen' to the concerns of tenants in rented accommodation and also as a 'voice' to ensure that these concerns are heard by the local authority and the RPs.*
- § *At the officer level, council officers engaged with RPs on the TC role to secure their participation and engagement. This involved writing to the Chief Executives of all the RPs operating in Richmond and then followed with a series of individual meetings with senior managers and local RP officers working in Richmond. These meetings focussed on the benefits to RPs of participating in the scheme, for example, shared learning.³⁹*

9.24 Complaint Panel Made Up of Independent People:

A third option is available for Tower Hamlets is to have an independent complaint panel to review the complaint with the tenant in attendance. The panel can be made up of members RP's Boards and Committees who are independent of staff including a resident representative and local Council representative / member. The review can be heard in writing or in person, with a friend or advocate. This is very commonly used complaint model and procedure by many of the leading RP's and ALMO's.

9.25 Enhanced role of the Tower Hamlets Housing Forum (THHF)

A fourth option could be enhancing the role of the Tower Hamlets Housing Forum to handle complaints from member RP's. Tower Hamlets Housing Forum (THHF) could use its partnership between housing associations (registered providers) and the council to develop a designated tenant complaint panel / forum. The housing associations and RPs are more likely to sign up to this and able to work collectively in the forum to help handle difficult and sensitive complaints. They can do this as a sub-group / forum that's feed into Local Area Partnerships through community plan development group.

9.26 Preferred option for dispute resolution

Having considered the various dispute resolution options and mechanisms available through the co-regulation framework, the review group felt that the most appropriate option

³⁹http://www.richmond.gov.uk/tenants_champion

was to have an independent tenant led complaint panel that required limited involvement of local elected councillors and one that is supported and resourced by RP's working in partnership. The review group were not in favour of involving MPs and councillors in the complaints process of RPs without giving them any resources to investigate such disputes or power to impose resolutions.

Recommendation 6

The preferred option for dispute resolution advocated by the review group is to have an independent complaint panel to review the complaint with the tenant in attendance.

Recommendation 7

LBTH should encourage THHF to establish a cross-RP Tenant Panel to consider complaints from residents of member organisations.

10.0 Conclusion

10.1 The principles of co-regulation and tenant scrutiny are here for the foreseeable future and so Tower Hamlets Council needs to respond positively to these important changes. That means developing an approach to service delivery which formally incorporates tenants' views and which is transparently accountable to tenants. This makes good business sense because it helps to ensure value for money for housing services. However, this kind of fundamental change in the model for resident engagement will no doubt provide a considerable challenge to the Council and Registered Providers, and our tenants. It is clear that a great deal of work will need to be undertaken to identify solutions that will be acceptable to all.

10.2 The new regulatory framework for tenant empowerment has been set, and tenants will need to be actively involved in setting priorities and evaluating performance for housing services, both for the Council and across the Borough as a whole. This will involve a shift from effective resident consultation to effective resident empowerment. In many situations, this will represent a significant culture change and may present challenges in

practice. However, the benefits to the Council of having an informed, involved and empowered residents' voice within the Borough include significantly increased accountability, and an improvement in the quality of housing services for all tenants and leaseholders.⁴⁰

10.3 Tenant involvement in scrutiny activities should be regarded as integral to the continuous improvement and development of landlord organisations and not regarded as simply another housing management function.

10.4 Tenant scrutiny may require a change of culture within organisations to recognise the right of tenant scrutiny members to request information, challenge information and to identify where services being delivered to tenants can be improved.

10.5 Tenant scrutiny improves the accountability of staff and members of governing bodies to tenants and provides a new independence to self-assessment and business improvement activities of the organisation.

10.6 Tenants Participation Advisory Service (TPAS) can provide services to tenants' representatives and landlord staff to develop tenant scrutiny activities in their organisations. This may include training and support to get started and understand what is required when developing the process of tenant scrutiny to meet the requirements of the housing co-regulation framework. TPAS can provide support throughout the process ensuring that tenants are developing their capacity to scrutinise particular housing services by ensuring they are developing their knowledge and skills about different aspects of the landlord. Staff can also benefit from TPAS advice about developing communication and enhanced working relationships with their tenants' representatives.

10.7 The new housing co-regulation framework sets out an exciting, challenging and revitalised agenda for the social housing sector in Tower Hamlets. It provides a new environment for tenants, tenants' organisations and local landlords to develop partnership working to meet the requirements of the new regulatory framework. The next few years will provide an opportunity for organisations to develop good practice and share experiences about how they are achieving its successful implementation and how it is influencing their business decisions.

⁴⁰[http://www.housemark.co.uk/hmresour.nsf/lookup/CoregulationBriefing.pdf/\\$File/CoregulationBriefing.pdf](http://www.housemark.co.uk/hmresour.nsf/lookup/CoregulationBriefing.pdf/$File/CoregulationBriefing.pdf)

10.0 Appendices

Appendix 1



Resident participation – A Good Practice Guide by Poplar Harca:

What they aim to:

- build an honest, trusting and respectful relationship with residents;
- get as many residents as possible involved in what they do;
- listen to resident views and comments to improve what they do;
- give residents any help they need to get involved;
- show residents that they are committed to getting them involved;
- show how they will involve residents in improving their services;
- work with the Government to find new ways to get residents involved; and
- give residents clear information that is easy to understand.

What they promise to do for residents:

- give clear information about how residents can get involved;
- make sure residents are involved in what they are interested in at a level that suits them;
- involve 12 of residents to help lead their organisation by joining their boards;
- make sure everyone is able to get involved equally;
- make sure decision-making groups meet at least four times a year;
- have a specialist team of officers who will give any support residents need and encourage them to get involved;
- involve more than 150 of residents in decision-making groups;
- provide at least 10 different ways for residents to get involved, such as estate inspections (where they go round and chat to residents informally), mystery shopping, or estate boards;
- provide transport, childcare, information and training to help them get involved;
- provide a resident involvement statement once a year which tells residents how they will involve them;
- produce a residents handbook that explains how residents can get involved, and review this with you every year;
- offer residents and their staff training and workshops to give them the skills to get them involved usefully;
- provide at least 20 training sessions a year to support them;
- use resident feedback to improve their services;
- hold a residents conference once a year, where residents can speak to senior managers and staff, raise issues and ask questions; and
- let residents know what their community has achieved in HARCA Life, their residentsnewsletter, at least once a year.



Resident participation – A Good Practice Guide by Poplar Harca:

How residents can get involved

Estate boards: Each estate has a board made up of local residents to deal with local issues. The boards meet four times a year and they also invite staff to help make decisions about housing conditions, services and the facilities in the community. They agree local estate plans with residents and concentrate on improving the area in line with overseeing neighbourhood plans.

Estate board subgroups: Estate boards set up subgroups to focus on a particular area of service. Service delivery subgroups concentrate on housing and estates and technical subgroups concentrate on improving buildings and any building work.

The Joint Estate Panel (JEP): The JEP is a group that represents tenants and leaseholders across Poplar. The JEP meets every three months. Three residents from each of the estate boards are chosen to be on the panel. They talk about issues that affect you such as the standards of our services, resources and how much rent you pay. The group also chooses people to be resident directors for the main board.

Policy advisory groups: Each of the estate boards puts forward a resident director to be on their main board, which meets four times a year to decide on policies, strategy and the direction of the organisation. Residents can become a resident director by being selected by their estate board and then by being tested by the JEP. As a resident director they will be part of the group that is responsible for supporting and running the organisation. As well as going to the board meetings they will also be expected to join the subgroups and go to planning days and events. If anyone becomes a resident director they will be involved in choosing applicants for the corporate management team and will be able to interview staff who will work with them.

Residents can also get involved more directly within their community through a range of community activities and training, including:

- volunteering at local neighbourhood centres;
- young advisors and leaders;
- sports programmes;
- outreach service for vulnerable residents;
- fun days and events;
- community safety;
- focus groups;
- surveys;
- yearly conferences;
- housing surgeries;
- estate inspections; and
- mystery shopping.

Appendix 2

The role of designated tenant panels in resolving complaints⁴¹

Why have designated persons?

Designated persons were introduced by the Government to improve the chances of complaints about housing being resolved locally. The democratic filter is intended to strengthen accountability; increase knowledge of local representatives in resolving complaints; and to speed up the resolution of disputes at the local level. The idea behind 'localism' is that local people know best how to decide on local issues. The introduction of designated persons is intended to involve local politicians and local people in resolving local housing issues. It follows from this that there is to be no central control or regulation of the development of local resolution mechanisms. It is important to note that the Housing Ombudsman is not a regulator and cannot define the expected role or processes for designated persons as that would be contrary to the purpose of localism.

Who can be a designated person?

The designated person can be either a member of the House of Commons (MP), a local Councillor (from the Borough in which the property concerned is located) or a local tenant panel. Landlords do not have to set up tenant panels but they are expected to support their formation and activities if their tenants want them. To be effective the tenant panel must be 'recognised' by the landlord. Under the changes, a tenant will still be able to approach the Ombudsman directly after 8 weeks have elapsed from the date of referral to the democratic filter.

What does the designated person do?

- A designated person will help resolve the complaint in one of two ways; they can try and resolve the complaint themselves or they can refer the complaint straight to the Ombudsman. If they refuse to do either the tenant can contact the Ombudsman directly.
- The designated person can try to put things right in whichever way they think may work best. If the problem is still not resolved following the intervention of the designated person either they or the tenant can refer the complaint to the Ombudsman.
- Complaints to the Ombudsman do not have to be referred by a designated person, but if they are not there must be at least 8 weeks from the end of the landlord's complaint process before the Ombudsman can consider the case.
- The law says that when the designated person refers a complaint to the Ombudsman, it must be in writing.

What is the impact of designated persons on complaints procedures?

Designated persons have no direct impact on a landlord's internal complaints procedure. MPs and local councillors have always been involved in complaints procedures as advocates for tenants. They will continue to have that role. Their specific role as designated persons is different as they play a more specific part in the procedure. The detail of that role is not spelt out in the Localism Act, but a part of it is to refer complaints to the Ombudsman.

In practice this means that if a complaint is not resolved at the end of the landlord's complaints procedure, the tenant can:

- refer the matter to a designated person OR
- wait 8 weeks and refer the matter directly to the Ombudsman.

A designated person has no legal authority over a landlord's policy or procedure.

⁴¹<http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

Appendix 3

The role of designated tenant panels in resolving complaints⁴²

What is a designated tenant panel?

As of 1st April 2013 tenants of housing associations, local authorities, and ALMO's can ask for their complaints to be considered by a 'designated person' when their landlord's internal complaints procedure is finished. One of these 'designated persons' is a group of tenants acting as a designated tenant panel.

How are they different from other tenant panels?

There are many different types of tenant panel involved in their landlord's decision making and accountability processes as well as monitoring and scrutinising their activity and performance. The designated tenant panel is a new type of body with a specific function in the complaint process. In order to be recognised as a 'designated tenant panel' it must be recognised by the landlord.

What does a designated tenant panel do?

The designated tenant panel can help to resolve the complaint in two ways; it can try to resolve the complaint itself or it can refer the complaint straight to the Ombudsman. The tenant panel can try to put things right in which ever it thinks will work best. This could be for example, by acting as an advocate for the complainant, by giving advice, providing a review of the way the complaint has been handled or being more proactive and suggesting a solution.

If the complaint is not resolved by the tenant panel, it can refer the complaint to the Housing Ombudsman. The law says that this referral has to be in writing.

Who is responsible for setting them up?

Landlords do not have to set up a designated tenant panel. They can work with their tenants to establish a panel, or tenants can form a panel themselves. For a designated tenant panel to be effective in the role it is essential that landlord and tenant work together to establish one that will work for them both. If the panel does not meet the needs of tenants, they will not take their complaints to it, if it does not meet the needs of the landlord it will not work with it to resolve complaints. Either way the panel will not play an effective role in helping to resolve complaints or improve service.

Is there any training or support available for tenant panels?

Landlords must find a balance between providing support to tenant panels and enabling them to consider matters independently. Unless a tenant panel is facilitated and encouraged to think independently it is unlikely to be able to make a useful contribution. Support to tenant panels needs to be provided in a way that enables them to take an independent view.

When agreeing how to set up tenant panels, landlords and tenants should discuss the support needs of the panel. It makes business sense for landlords to support tenant panels as that will help them to play a genuine and useful role in reviewing landlords' procedures and improving its service delivery.

What is registration?

The Localism Act requires the Housing Ombudsman to keep a register of tenant panels. It is a landlord's responsibility to register a panel with the Ombudsman once it has been recognised and to inform him of any subsequent changes. This will help the Ombudsman identify whether a complaint is referred by a designated tenant panel.

Only designated tenant panels acting in the capacity of designated persons (dealing with individual complaints) should be registered with the Ombudsman.

⁴²<http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

Appendix 2: Scrutiny Review Action Plan – Housing Co-regulation

Recommendation	Response / Comments / Action	Responsibility	Date
R1. LBTH should publish annually summary of resident engagement and scrutiny work within each RP and Tower Hamlets Homes.	This is already included in the Borough wide Resident Scrutiny Group Action Plan. The Council will publicise the outcome of their work.	Faisal Butt	31.3.2014
R2. LBTH should publish a report annually detailing the number of complaints recorded by each Registered Provider, the number/percentage resolved at each stage of the organisation's internal complaints process.	This information is not currently routinely collected from RPs. The possibility of publishing this from the end of the 2013/14 financial year will be investigated	Faisal Butt	30.9.2013
R3. LBTH should build on the work undertaken in 2010 and 2011 to develop a standard "local offer" to tenants in the borough to embed a Local Quality Assured Scrutiny Framework of Standards agreed by all "partner" RPs.	Extensive work has been carried out on local offers and it was eventually decided that each RP should monitor their own as their particular themes are chosen by their own residents. Commons themes of Repairs, ASB and VFM run across most local offers. This will be revisited as part of the 2013/14 work programme with RPs and the Borough wide Resident Scrutiny Group.	Faisal Butt	31.3.2014
R4. LBTH should be more pro-active in seeking to empower resident Board members and scrutiny panel members of local RPs to robustly hold those organisations to account, for example through independently-led seminars and good practice sessions.	Independently led seminars can be provided by a number of agencies and housing training providers as well as by housing 'trade bodies'. The feasibility of further support by the council will be investigated within available resources.	Alison Thomas	31.12.2013
R5. LBTH should be more pro-active in working with RP's in seeking to provide adequate training, information and support for tenants, staff and the governing body in order to make tenant scrutiny as effective as possible.	Independently led seminars can be provided by a number of agencies and housing training providers as well as by housing 'trade bodies'. The feasibility of further support by the council will be investigated within available resources.	Alison Thomas	31.12.2013

<p>R6.The preferred option for dispute resolution advocated by the review group is to have an independent complaint panel to review the complaint with the tenant in attendance.</p>	<p>To be considered further within available resources</p>	<p>Jackie Odunoye</p>	<p>31.12.2013</p>
<p>R7.LBTH should encourage THHF to establish a cross-RP Tenant Panel to consider complaints from residents of member organisations.</p>	<p>The feasibility of this approach to be considered within available resources</p>	<p>Alison Thomas/Faisal Butt</p>	<p>31.12.2013</p>

Agenda Item 10.2

Committee/ Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 30/134
Report of: Corporate Director: Aman Dalvi Originating officer(s) Paul Gresty, Corporate Strategy and Equalities		Title: Mental Health and Housing Scrutiny Challenge Session Wards Affected: All wards	

Lead Member	Cllr Abdul Asad
Community Plan Theme	A Great Place to Live A Safe and Cohesive Community A Healthy and Supportive Community One Tower Hamlets
Strategic Priority	Provide Effective Local Services and Priorities Foster Greater Community Cohesion Reduce Inequalities Keep Vulnerable Adults Safe Enable People to Live Independently

1. **SUMMARY**

- 1.1 Appropriate and suitable housing is critical in enabling people to work and to take part in society, particularly for those people with mental health conditions. Many people with mental health conditions live in mainstream social housing but housing providers are sometimes not confident about how to best support such tenants.
- 1.2 The aim of the challenge session was to investigate the issues that people with mental health issues face in accessing appropriate housing, particularly in relation to securing prioritisation on the housing waiting list on the grounds of health need.

2. **DECISIONS REQUIRED**

Consider this report of the scrutiny working group and agree the action plan in response to the review recommendations.

3. **REASONS FOR THE DECISIONS**

- 3.1 Disability (including mental health) is a protected characteristic under the Equality Act 2010 and Public Sector Equality Duty. As a public facing organisation, the council has a legal obligation to show 'due

regard' in all its functions, including housing and lettings policies and processes.

3.2 Many people with mental health conditions live in mainstream social housing but housing providers are sometimes not confident about how to best support such tenants. This can lead to people being allocated unsuitable accommodation. Furthermore, the lack of appropriate housing can impede a person's access to treatment, recovery and social inclusion as access to mental health services and employment is more difficult for people who do not have settled accommodation.

3.2 This had been identified as an issue by a number of members through their casework. They wanted to explore whether the current lettings process discriminates against people with mental health problems and to highlight and address what aspects of the lettings process, if any, have a disproportionate impact on people with mental health issues.

4. ALTERNATIVE OPTIONS

4.1 No action required. The proposed recommendations are strategic, measurable and attainable, and clearly address the council's need to better communicate its decision making with residents and Members. The action plan is outlined in appendix 1.

5. BACKGROUND

5.1 The aim of the challenge session was to investigate the issues that people with mental health issues face in accessing appropriate housing, particularly in relation to securing prioritisation on the housing waiting list on the grounds of health need.

5.2 Members wished to explore whether the current lettings process discriminates against people with mental health problems and to highlight and address what aspects of the lettings process, if any, have a disproportionate impact on people with mental health issues.

5.3 The objectives of the challenge session were to:

- Develop members' understanding and knowledge of the Housing Options and Mental Health Services
- Analyse the relationship between housing and mental health
- Understand on how the council's lettings policy and process impacts on the housing choices of people with mental health issues;
- Assess and compare how health prioritisation decisions are taken in regard to mental and physical health issues.
- Explore how the lettings policy and process could be improved or simplified in light of any identified impacts.

6. BODY OF REPORT

- 6.1 The report is attached as Appendix A. The review makes five recommendations to improve this area of council work:
1. That the Housing Options Service work with colleagues and partners who deliver support to people with mental health conditions to review the current medical priority award criteria
 2. That the medical priority application form is reviewed, eliminating the bias towards physical health and enabling people with mental health conditions to articulate their situation
 3. That Housing Options officers tasked with assessing medical priority applications receive regular mental health specific training
 4. That the Housing Options Service explores the possibility of a more robust and transparent decision and review process
 5. That the Housing Options service produce a guidance document for Members on the lettings process, including the application process and criteria for awarding medical priority

4.1 COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 4.1.1 This report describes the findings and recommendations of a scrutiny challenge session on mental health and housing by the Overview and Scrutiny Committee.
- 4.1.2 The report's recommendations have implications for the Development and Renewal Directorate as the Council's housing client with Tower Hamlets Homes, and also the Education, Social Care and Wellbeing Directorate with responsibilities for mental health, together with Health partners.
- 4.1.3 There are no specific financial implications emanating from this report but in the event that the Council agrees further action in response to this report's recommendations then officers will be obliged to seek the appropriate financial approval before further financial commitments are made.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 The Council is required to comply with the requirements of Part VI of the Housing Act 1996 when allocating housing accommodation. This section has been subject to a number of changes since it was first

passed, the latest being changes introduced by the Localism Act 2011 which returns the Council to the position before the Homelessness Act 2003 and allows the Council to exclude whole classes of people e.g. those in rent arrears or to prescribe whole classes of people who will qualify for social housing. It enables the Council to determine who will qualify based on particular circumstances in Tower Hamlets (subject to direction from the Secretary of State who retains overall control) Section 166A of the Housing Act requires the Council to have a scheme for determining priorities and the procedures to be followed in allocating housing accommodation. The Council is required to allocate housing in accordance with the allocation scheme. Until now the Council has called its allocation scheme the Lettings Policy.

- 8.2 Section 166A of the Housing Act 1996 specifies a number of matters that the Council's allocation scheme must contain. In particular, the scheme must secure that reasonable preference is given to the following categories of people with urgent housing needs –
- People who are homeless
 - People to whom the Council owes a homelessness duty under the Housing Act 1996
 - People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
 - People who need to move on medical or welfare grounds
 - People who would suffer hardship if they were prevented from moving to a particular locality in Tower Hamlets.
- 8.3 The scheme may also give additional preference to these categories of people.
- 8.4 Following the House of Lords decision in R (on the application of Ahmad) v Newham LBC [2009] UKHL 14, it is also clear that reasonable preference does not mean absolute priority over everyone else and that a scheme may provide for factors other than those in section 166A to be taken into account in determining which applicants are to be given preference. It is important, however, that such additional factors do not dominate the scheme and that the scheme continues to operate so as to give reasonable preference to the above categories of persons. The Council's existing allocation scheme was framed with these requirements in mind.
- 8.5 The Secretary of State has published statutory guidance under section 169 of the Housing Act 1996 which deals with the making of allocations schemes following the Localism Act amendments. The guidance is entitled "Allocation of accommodation: guidance for local housing authorities in England" and was published in June 2012. The Council is required to have due regard to the guidance when carrying out its functions under Part 6 of the Housing Act 1996.

- 8.6 Section 166(1)(b) of the Housing Act ensures that the most vulnerable applicants are not disadvantaged in gaining access to the accommodation available. A local housing authority shall ensure that advice and information is available free of charge to persons in their district about the right to make an application for an allocation of housing accommodation. Additionally, any necessary assistance in making such an application should be available free of charge to persons in their district who are likely to have difficulty in doing so without assistance.
- 8.7 The report makes a number of recommendations about the process and procedure by which individuals with mental health difficulties may be given priority on the common housing list on medical grounds. There is a duty to assess the needs and provide services for people with a range of health needs and including mental health needs under community care legislation. Health and social care also have a joint responsibility under section 117 of the Mental Health Act 1983 to provide after care services to persons who are discharged from certain of the compulsory detention provisions in the 1983 Act. Aftercare services are a form of community care service and can include accommodation. Any aftercare services must be provided free of charge.
- 8.8 The Equality Act 2010 imposes a public sector equality duty requiring local housing authority to have 'due regard' to the need to-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- 8.9 In bringing in a new scheme, there is a duty to consult with those affected. Any decisions regarding the classes of people to be excluded must not be unreasonable and the policy must be proportional to the stated goals. Failure to achieve this could result in judicial review challenges
- 8.10 By implementing the recommendations in the report the Council will be having regard to its obligations under the Equalities Act 2010, specifically the need to eliminate discrimination. Further, the Council will be fulfilling its obligation under Section 166A of the Housing Act 1996 with regard to who to move on medical or welfare grounds.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 The recommendations contained in the summary report will advance equality of opportunity for those people with a mental health condition that are accessing the Housing Service. In line with the Equality Act 2010 and Public Sector Equality Duty, embedding the

recommendations will also ensure that those with mental health ill health are shown due regard and their needs are considered in service design and delivery.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

10.1 There are no direct environmental implications arising from the report or recommendations.

11. RISK MANAGEMENT IMPLICATIONS

11.1 There are no direct risk management implications arising from the report or recommendations.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

12.1 There are direct crime or disorder implications arising from this report.

13. EFFICIENCY STATEMENT

13.1 There are no direct efficiency implications arising from this report or its recommendations.

14. APPENDICES

Appendix 1 – Mental Health and Housing Scrutiny Challenge Session Summary Report and Action Plan

**Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
List of “Background Papers” used in the preparation of this report**

To be completed by author

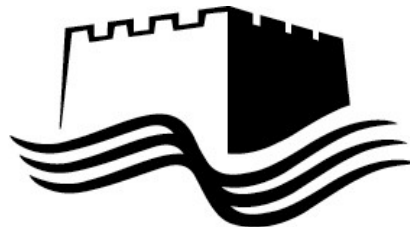
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None

APPENDIX ONE

SUMMARY REPORT

Mental Health and Housing Scrutiny Challenge Session Report



TOWER HAMLETS

**London Borough of Tower Hamlets
January 2013**

1. INTRODUCTION

- 1.1 Appropriate and suitable housing is critical in enabling people to work and to take part in society, particularly for those people with mental health conditions. Many people with mental health conditions live in mainstream social housing but housing providers are sometimes not confident about how to best support such tenants. This can lead to people being allocated unsuitable accommodation. Furthermore, the lack of appropriate housing can impede a person's access to treatment, recovery and social inclusion as access to mental health services and employment is more difficult for people who do not have settled accommodation. .
- 1.2 The aim of the challenge session was to investigate the issues that people with mental health issues face in accessing appropriate housing, particularly in relation to securing prioritisation on the housing waiting list on the grounds of health need. This had been identified as an issue by a number of members through their casework. They wanted to explore whether the current lettings process discriminates against people with mental health problems and to highlight and address what aspects of the lettings process, if any, have a disproportionate impact on people with mental health issues.
- 1.3 The objectives of the challenge session were therefore to:
- develop members' understanding and knowledge of the Housing Options and Mental Health Services
 - analyse the relationship between housing and mental health
 - understand on how the council's lettings policy and process impacts on the housing choices of people with mental health issues;
 - assess and compare how health prioritisation decisions are taken in regard to mental and physical health issues.
 - explore how the lettings policy and process could be improved or simplified in light of any identified impacts.
- 1.4 The session was facilitated by Paul Gresty from the One Tower Hamlets service on behalf of Cllr Rachael Saunders, Scrutiny Lead for Adults Health and Wellbeing and Cllr Sirajul Islam, Scrutiny Lead for Development and Renewal. It took place on Wednesday 12th December 2013.
- 1.5 The session was attended by:
- | | |
|-----------------------|-----------------------------------------------|
| Cllr Rachael Saunders | Scrutiny lead, Adults, Health and Wellbeing |
| Cllr Amy Whitelock | Scrutiny lead, Children, Schools and Families |
| Cllr Sirajul Islam | Scrutiny lead, Development and Renewal |
| James Caspell | Tower Hamlets Homes |
| Colin Cormack | Service Head, Housing Options |
| John Harkin | Assistant Lettings Manager, Housing Options |

David Amery	Housing Link
Deborah Cohen	Service Head, Commissioning and Strategy, Education Social Care and Wellbeing
Richard Fradgley	Mental Health Commissioning Lead
Carrie Kilpatrick	Commissioning Manager, Education Social Care and Wellbeing
Peter Airey	Look Ahead Housing
Sarah Barr	Senior Strategy Policy and Performance Officer, Corporate Strategy and Equality
Paul Gresty	Strategy, Policy and Performance Officer, Corporate Strategy and Equality

2. BACKGROUND

The Equality Act

- 2.1 Disability (including mental health) is a protected characteristic under the Equality Act 2010 and Public Sector Equality Duty. As a public facing organisation, the council has a legal obligation to show 'due regard' in all its functions, including housing and lettings policies and processes.

The housing list and the Housing Options Service

- 2.2 The council and its Registered Housing Provider partners have jointly created a Common Housing List to register everyone who applies for housing and is eligible to go on the list. All available housing is offered to people on the list. Tower Hamlets Housing Options Service is responsible for maintaining the list and ensuring vacancies are let in accordance with the Lettings Policy. The service also offers housing advice to families and single people, and works to identify and prevent homelessness. They also acquire and maintain a portfolio of temporary accommodation of around 2,000 units.

There are four bands in the lettings policy. Everyone is put in one of these bands based on the information given on application or following any change in circumstances. It is a statutory requirement to give 'reasonable preference' to people who are overcrowded, homeless, or need to move on medical, welfare or hardship grounds. The law also says that people can be given 'additional preference' because of serious medical, emergency or social and welfare problems.

In terms of those granted prioritisation on medical grounds, Band A includes people with a serious medical or safety factor in urgent need, and those who need a ground floor property for medical or disability reasons. Band B includes people with a serious health problem that is affected by their housing circumstances and those who need to move urgently on social, safety or welfare grounds.

Supporting People

- 2.3 Supporting People commission services which support vulnerable people to access and maintain settled accommodation. Currently, the budget for Supporting People is £14million per annum. The Supporting People team provides support services that improve the quality of life for vulnerable people, including those with mental health, by helping them to live more independently in the community. Nearly half (24,429) of all clients with disabilities accessing Supporting People housing related support in 2008/09 defined themselves as having a disability specifically in relation to their mental health.

Mental health in Tower Hamlets and services available

- 2.4 Tower Hamlets has a registered population of 267,293 of which 42,782 have a common mental health problem. There are 19,552 individuals on the depression register and 3,067 on the serious mental illness register with 1,247 people registered as having dementia. 90% of people with mental health problems are seen in primary care. During 2011/12, 3,503 people entered treatment in primary care. 3,472 adults of working age are accessing services at East London NHS Foundation Trust.
- 2.5 Mental health services for adults are commissioned jointly by the NHS and the council, through the mental health commissioning team. They have developed the Tower Hamlets Mental Health Strategy which will deliver improvements for service users in line with the “No health without Mental Health” national outcomes strategy.

3. KEY FINDINGS AND RECOMMENDATIONS

3.1 Common Housing List priority on medical grounds

- 3.1.1 The challenge session mostly focused on the process by which people with mental health conditions may be given priority on the Common Housing list on medication grounds. The feedback that members had from residents, and through their casework suggested that it was really difficult to gain priority status on the basis of a mental health condition, relative to a physical health condition, even where the household felt strongly that their housing circumstances were the cause of or exacerbating the problem. Members were also concerned that the process is not very clear to residents, and the decision-making process is not particularly transparent throughout.
- 3.1.2 In order to be prioritised on the housing wait list on medical grounds, households need a Priority Medical Award. This will be granted if someone in the household has, a long term, limiting illness, or a permanent and substantial disability and their health or quality of life is severely affected by the home they live in. Households who think they qualify for medical priority request and complete an application form. These are assessed by an external medical advice company who assess the form against the above criteria. The final decision is made

by the Housing Options service, based on the information provided in the form and the assessment of the external agency.

If the applicant disagrees with the decision, there are a further two stages of review available to them.

Initial assessment and award criteria

- 3.1.3 Health priority application forms are assessed against a series of criteria set by the council. An external group of medical professionals does the assessment and makes a recommendation; the final decision is made by Housing Options. Most of the external medical professionals are GPs, but they will refer to a consultant psychiatrist for cases requiring more in-depth knowledge of mental health conditions.
- 3.1.4 For medical priority to be awarded in cases where an individual has a mental health condition, the current criteria requires that there is evidence of on-going support or a recent psychiatric hospital admission for a non-drug related illness. Evidence of current psychosis or extensive past psychiatric illness is also considered. If the individual is taken anti-psychotic medication or depot injection therapy are likely to be awarded health priority.
- 3.1.5 Medical priority is not awarded when the condition is considered less serious, or there is insufficient evidence of the on-going support required. In terms of individuals with mental health conditions, priority status would be refused if the person has not been referred to a psychiatrist, or their hospital admissions were to Accident and Emergency with no psychiatric follow up. Depression isn't considered a serious enough condition to award medical priority and being on anti-depressant medication along would not score highly against the current criteria. Drug-induced mental health conditions are also unlikely to warrant medical priority status.
- 3.1.6 Members were concerned by the clinical focus of the criteria in relation to mental health conditions, and the emphasis on only the most serious conditions. Mental health is a complex issue and cases should be considered on a more individual basis. An individual may not have sort medical treatment for a variety of reasons, including the stigma still associated with mental ill health, and would not have the evidence base required by the current criteria. That does not mean that their condition isn't serious, or that their wellbeing couldn't be improved by moving house. Furthermore, Members heard that some people with serious mental health conditions are being treated in the primary care environment, rather than being referred to specialist psychiatric treatment. Again, this shouldn't preclude them from being awarded health priority if their case is otherwise strong.
- 3.1.7 Overall, particularly in relation to people with mental health conditions, decisions about medical priority should be based on a more flexible set of criteria, and, where possible, a broader range of information should be considered by the Housing Options service.

Recommendation 1: That the Housing Options service work with colleagues and partners who deliver support people with mental health conditions to review the current medical priority award criteria.

Application form

- 3.1.8 If households believe they qualify for housing list priority status on medical grounds they can ask for and complete an application form. Forms are requested in paper form from the Housing Options service. To limit the number of people applying for medical priority, the forms are not freely available but given out by staff on request. This in itself could be a barrier to people with mental health conditions as they may find it difficult to request a form and may then be refused, particularly given their medical condition is often not visible. People could be screened out by Housing Options staff, in a non-transparent way. No information was available from the service as to the extent of this i.e. number of people who request forms relative to the number completed, but there was anecdotal evidence that requests for forms are sometimes refused, particularly when a medical condition was felt to be temporary, a broken arm or leg for example.
- 3.1.9 Once they have received the form, households are asked to articulate the nature of their condition, the treatment they are receiving and the involvement of health professionals. Members felt that people with mental health conditions faced a number of challenges in articulating their needs and issues through the form.
- 3.1.10 Firstly, the application is 12 pages long and there are very few questions which relate to mental health and wellbeing. The focus of the questions is overwhelmingly physical health, making it difficult for someone with a mental health condition to convey their circumstances and how their current housing situation is impacting on their mental health. Furthermore, physical health and its link to where someone lives is a lot easier to describe compared with mental health – insufficient consideration is given to the impact that poor or inappropriate housing could have on a person’s mental wellbeing. It was also felt that the long, detailed nature of the report may be challenging for someone with a mental health condition to complete properly without support.
- 3.1.11 Support to complete the application form is available to households, but very few people take this up. Members felt this could be partly because people with poor mental health are reluctant to discuss their situation with someone they don’t have a trusting relationship with.
- 3.1.12 The lack of questions which relate to mental health on the form, and the challenges of someone with poor mental health explaining their condition and how it relates to their housing, mean it is very difficult to demonstrate medical priority on the basis of mental health using the current form. This in turn means there is little evidence for the Housing

Options service to base their decision on. People with mental health problems could 'fall through the system' and not get the support in terms of their accommodation that they need.

- 3.1.13 Members felt that many of these issues could be addressed by reviewing the application form to ensure it enables people with mental health conditions to better articulate their situation. People should be able to link their mental health to their housing needs, if this is an issue. This will ensure the Housing Options service have more information on which to base their decision.

Recommendation 2: That the medical priority application form is reviewed, eliminating the bias towards physical health and enabling people with mental health conditions to articulate their situation.

- 3.1.14 The Housing Options service doesn't rely solely on the assessment against the medical criteria when making decisions about medical priority. They use the 'Pereira Test' which asks "*if homeless, would this person be less able to fend for themselves than an ordinary homeless person so that injury or detriment will result when someone less vulnerable would be able to cope without harmful effects*". This is a general principle, used widely in homeless services, on which officers base their final decision.

- 3.1.15 In terms of officers being equipped to make informed judgements and decisions about people with mental health problems and whether they should be awarded medical priority, Members felt that officers had insufficient training specifically on mental health and were less confident in dealing appropriately with these cases. With additional training, officers' ability to gather appropriate evidence and understand the needs of people with mental health problems in relation to their housing could be improved.

Recommendation 3: That Housing Options officers tasked with assessing medical priority applications receive regular mental health specific training.

Reviewing decisions

- 3.1.16 If a household disagrees with a decision to refuse medical priority there is a two stage review process which they can request. The first review would be done by a GP and/or consultant psychiatrist as with the initial assessment. If it goes to a final review, this would involve a senior officer from the Primary Care NHS Trust (now the Clinical Commissioning Group). Support is available to guide households through this review process, although this was support was identified as an area for improvement in a recent review.

- 3.1.17 The table below shows the number of applications for health priority that were made in the last 5 years, in relation to both mental and physical health conditions. It also shows the number of households

which were awarded medical priority, the number of reviews undertaken and the number of decisions which were revised. It should be noted that these figures are not exact – some cases relate to both physical and mental health conditions. The primary condition is the one recorded.

Stage	Mental health	Physical health
Initial assessment	1176	3726
Awarded medical priority	141	815
First review requested	470	922
Decisions revised after first review	94	130
Final reviews undertaken	94	130
Decisions revised after final review	7	26

Table 1: Applications for health priority

3.1.18 Members were concerned that households were requesting reviews of their application because they didn't know why it had been refused. Overall there is a lack of transparency in relation to the criteria for awarding medical priority, the process as well as the review process. The Housing Options service indicated they were looking to reduce the number of review stages to one. If this happens, members stressed that the decision and the review process need to be robust and more transparent.

Recommendation 4: That the Housing Options service explore the possibility of a more robust and transparent decision and review process.

3.2 Supported housing

3.2.1 As well as households seeking to move, there are a number of single people with mental health conditions who have housing needs. This group are able to access supported housing through the Housing Options service, and are given priority in accessing this service. The Housing Options service work closely with the Housing Link service based at Mile End Hospital, and the Community Mental Health team to identify and support the people who are eligible for this service. Members felt that there was sufficient support and housing available to this group, and the housing needs of single people with mental health problems were being relatively well met.

3.3 Information for Members on lettings and housing

3.3.1 A significant amount of Members' casework is related to lettings and housing enquiries on behalf of constituents, issues around housing are regularly raised at members' surgeries, and they are the subject of a significant number of member enquiries. Members at the challenge session reported that many members feel ill-equipped to deal with

many of these cases, and have limited understanding of the medical priority award process in particular. Providing members with some guidance on these processes and common issues would increase their knowledge and understanding of the lettings process, enabling them to better support their residents directly and reduce the number of members enquiries sent to the Housing Options service.

Recommendation 5: That the Housing Options service produce a guidance document for Members on the lettings process, including the application process and criteria for awarding medical priority.

4. CONCLUSIONS

- 4.1 This challenge session involved an in-depth discussion on the barriers that people with mental health conditions face when trying to move through the lettings process, particularly in gaining medical priority. Overall, Members felt that the process was weighted too heavily towards people with physical health conditions – the questions on the application form were overwhelmingly about physical health, the form didn't allow people with mental health conditions to articulate how their housing situation was affecting their health, and Housing Options staff didn't have a sufficient understanding of mental health.
- 4.2 Furthermore, mental ill health and its impact on a person's wellbeing is very complex. Each application should be considered carefully, gathering as much information as possible, and thinking flexibly about the criteria use.

SCRUTINY CHALLENGE SESSION ACTION PLAN – Mental Health and Housing			
Recommendation	Response / Comments / Action	Responsibility	Date
R1. That the Housing Options service work with colleagues and partners who deliver support people with mental health conditions to review the current medical priority award criteria	<ol style="list-style-type: none"> 1. Identify partners to contribute to the exercise of reviewing the priority award criteria 2. Engage to progress that review 3. Communicate outputs to Assessment staff 	Colin Cormack Service Head – Housing Options	October 2013
R2. That the medical priority application form is reviewed, eliminating the bias towards physical health and enabling people with mental health conditions to articulate their situation	<ol style="list-style-type: none"> 1. Use R1 process to attend to information gathering mechanisms 	Colin Cormack Service Head – Housing Options	October 2013
R3. That Housing Options officers tasked with assessing medical priority applications receive regular mental health specific training	<ol style="list-style-type: none"> 1. Use R1 process to further explore methods to increase HO staff knowledge and understanding of Mental health needs 2. Rely on this to devise and deliver 	Colin Cormack Service Head – Housing Options	Commencing December 2013 but on-going

SCRUTINY CHALLENGE SESSION ACTION PLAN – Mental Health and Housing			
Recommendation	Response / Comments / Action	Responsibility	Date
	development programme		
R4. That the Housing Options service explore the possibility of a more robust and transparent decision and review process	<ol style="list-style-type: none"> 1. As it relates to both physical and mental ill health, the revision of the appeal process (already planned) will embrace this recommendation. 2. The process, at draft stage, will be consulted upon with partners including those referred to at R1 3. Users will be provided with information on the mechanisms to be adopted 	Colin Cormack Service Head – Housing Options	December 2013
R5. That the Housing Options service produce a guidance document for Members on the lettings process, including the application process and criteria for awarding medical priority	<ol style="list-style-type: none"> 1. To form part of the wider information programme associated with the New Allocations Scheme 	Colin Cormack Service Head – Housing Options	September 2013

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Agenda Item 10.3

Committee/ Meeting: Cabinet	Date: 11 September 2013	Classification: Unrestricted	Report No: CAB 31/134
Report of: Corporate Director: Aman Dalvi Originating officer(s) Vicky Allen		Title: Removing Barriers to youth Employment – report of the scrutiny working group Wards Affected: All wards	

Lead Member	Cllr Shafiqul Haque, Cabinet Member for Jobs and Skills Cllr Oliur Rahman, Cabinet Member for Children, Schools & Families
Community Plan Theme	A Great Place to Live
Strategic Priority	Support more people into work

1. **SUMMARY**

- 3.1 This report submits the report and action plan in response to the review recommendations of the Scrutiny Working Group on removing barriers to youth employment.

2. **DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 Consider this report of the scrutiny working group and agree the action plan in response to the review recommendations.

3. **REASONS FOR THE DECISIONS**

- 3.1 In recent years, the Overview and Scrutiny Committee has undertaken two reviews of youth unemployment: one on graduate unemployment in 2006/07 and another on reducing worklessness amongst young adults aged 18-24 in 2009/10. The Overview and Scrutiny Committee were keen to take a fresh look at this issue to explore what the council and its partners can do to reduce youth unemployment in the borough. The Committee felt that it was appropriate to revisit this issue as, since the last reviews, the continuing global recession has depressed employment further especially for young people.
- 3.2 Improving employment opportunities for residents in general, and for young people in particular, has been a local priority for a number of years. There are a wide range of organisations within the borough

which support young people in their post-16 options, including statutory and publically funded organisations. By working with businesses and providing employment training and job brokerage services, the council aims to secure economic benefits for local residents.

- 3.3 The council's contribution to the total borough spend on information, advice and guidance, capacity building and employment preparation work is approximately 5%. Given its limited financial resources, the council's role as an influencer and an enabler is crucial in helping young people to effectively access both pre-job support and job opportunities.

4. **ALTERNATIVE OPTIONS**

- 4.1 To take no action. This is not recommended as the proposed recommendations are strategic, measurable and attainable, and clearly address the council's need to better communicate its decision making with residents and Members. A timetable for delivering the recommendations has also been agreed by officers at the most senior levels of the organisation. The action plan is outlined in appendix 1.
- 4.2 To agree some, but not all recommendations. As outlined above all of the recommendations are achievable at little additional cost to the organisation. Although the scrutiny review group is confident all the recommendations will be addressed, there may be reasons for not accepting all of them.

5. **BACKGROUND**

- 3.2 The Working Group was established in November 2012 to look at removing barriers to youth employment.
- 3.3 The objective of the review was to investigate how the council and its partners could improve the support provided to young people to become work-ready, and helping to remove barriers to their employment.
- 3.4 As part of the review, a progress update was provided on the two recent scrutiny reviews on youth employment in order to maximize whether outstanding recommendations had been implemented and where learning from these could be used as a basis of recommendations going forward.
- 3.5 The progress review identified the importance of apprenticeships as a key route for young people into work. Initial analysis into the apprenticeship offer uncovered complexity within the system which could be confusing. The scrutiny working group therefore chose to focus on apprenticeships. The working group wanted to look at how the council could add value to maximize the apprenticeship agenda to

benefit young people within the borough. The review therefore investigated the following areas:

- Understanding the supply of good quality apprenticeships and how this can be stimulated;
- Understanding demand for apprenticeships by young people; and
- Supporting young people to access opportunities and be competitive in the labour market: how can the council add value to this agenda?

6. BODY OF REPORT

6.1 The report is attached as Appendix A. The review makes eight recommendations to improve this area of council work:

- R1. Increase access to independent information advice and guidance for young people.
- R2. Support the development of a universal mentoring scheme.
- R3. Work with the Educational Business Partnership and businesses to improve the work experience offer for young people at school.
- R4. Increase employment opportunities for young people through introductory work experience.
- R5. Improve online information about apprenticeships and other employment opportunities.
- R6. Raise awareness and improve the perception of apprenticeships in schools.
- R7. Support businesses to improve the quality of the opportunities they offer so they can become accredited apprenticeships.
- R8. Clarify the role of the council in the apprenticeship agenda and build on relationships with providers through the employment and enterprise task group.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report describes the review of removing barriers to youth employment that was considered by the Overview and Scrutiny Committee.
- 7.2 There are no specific financial implications emanating from this report except for recommendation R2 which would need to be contained within existing budget provision.

7.3 In the event that the Council agrees further action in response to this report's recommendations then officers will be obliged to seek the appropriate financial approval before further financial commitments are made in conjunction with Education, Social Care and Wellbeing Directorates as the lead Directorate for Youth Services and also the Council's external youth employment partners.

8. **CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

8.1 The Council is required by section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements that ensure the committee has specified powers. Consistent with this obligation, Article 6 of the Council's Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive in connection with the discharge of any functions. It is consistent with the Constitution and the statutory framework for the Executive to provide a response.

8.2 The Council does not have a specific employment power. It has, nevertheless, set out employment-related objectives in its sustainable community strategy for the purposes of section 4 of the Local Government Act 2000 (set out in the Tower Hamlets Community Plan). In order to have a prosperous community in Tower Hamlets, the Council seeks to tackle worklessness and to improve educational aspiration and attainment. The Council has adopted an employment strategy to further these objectives. The Council may take action to pursue these strategies, provided that in doing so it acts in accordance with its statutory functions.

8.3 Several of the recommendations in the report are concerned with the provision of information, advice and guidance to young people. This is something that the Council may support. The Council has power under section 1 of the Localism Act 2011 to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other statutes. It should be recognised that significant responsibility is given to schools in relation to career advice and guidance.

8.4 Section 42A of the Education Act 1997 makes it the responsibility of governing bodies of maintained, secondary schools (and the local authority in relation to pupil referral units which offer secondary education) to secure that pupils are provided with independent careers guidance during the relevant phase of their education. The guidance is required to –

- Be presented in an impartial manner;

- Include information on options available in respect of 16 to 18 education or training, including apprenticeships; and
 - Be such as the person giving it considers will promote the best of the pupils to whom it is given.
- 8.5 The relevant phase of a pupil's education for such advice begins with the year in which the majority of the pupil's class attain the age of 14 and ends with the year in which the majority of the pupil's class attain the age of 16.
- 8.6 When considering any action to remove barriers to youth employment, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 Around 271% of all JSA claimants in the borough are 16-4 years old, and the JSA unemployment rate for this age group is 8.5% which is around two percentage points higher than that of the working population (16-64). Around 5.4 of the London working age population are employed within the borough. The majority of people employed in Tower Hamlets are working in the financial and insurance industries, in business administration and support services, professional services, and information and communication. Apprenticeships, which mix working with training which leads to a recognised qualification, are a good way of enabling young people from the borough to be supported in their transition from school to work.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 There are no direct environmental implications arising from the reportor recommendations.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1. There are no direct risk management implications arising from the report or recommendations. Risks relating to the recommendations will be monitored through the council's corporate risk register and directorate risk registers. Risks are assessed for likelihood and impact, and will have responsible owners and programmes of mitigating actions.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

¹ December 2012

12.1 There are no direct implications of crime and disorder as a result of the recommendations of this review.

13. EFFICIENCY STATEMENT

13.1 The scrutiny review group met with council officers and partners to ask them what the council should concentrate on to add value to the apprenticeship agenda. The scrutiny review concluded that by taking a coordination role for the borough through the Employment Strategy, the apprenticeship system would become clearer for young people and more efficient in terms of reducing duplications of services across the borough.

14. APPENDICES

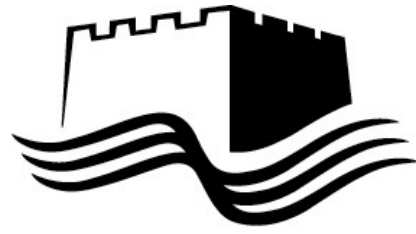
Appendix 1 Scrutiny review action plan

**Local Authorities (Executive Arrangements) (Meetings and Access to Information)
(England) Regulations 2012
List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
None	N/A

Removing barriers to youth employment

Scrutiny Working Group Report



TOWER HAMLETS

**London Borough of Tower Hamlets
June 2013**

Acknowledgements

The Working Group would like to thank all the officers and partners that supported this review. Most importantly we would like to thank all of the young adults who attended the focus groups and offered their input to the review. These views and perspectives have been fundamental in shaping the final recommendations of this report.

Working Group Chair:Councillor Ann Jackson

Working Group Members:

Councillor John Pearce
Councillor Helal Abbas
Nahimul Islam (Young Mayor) (Co-optee)

London Borough of Tower Hamlets:

Phil Long	Youth Involvement Manager, ESCW Directorate
Andy Scott	Service Head Employment and Enterprise, D&R Directorate
Naznin Chowdhury	Employment & Enterprise, D&R Directorate
Chris Holme	Interim Corporate Director, Resources Directorate
Di Warne	Head of Secondary, Learning and Achievement, ESCW Directorate
Caroline Newte Hardie	Schools Apprenticeship Liaison, ESCW
Alan Davidson	Careers Adviser, ESCW Directorate
Steve Grocott	Service Manager Careers, ESCW Directorate
Jenny Dutton	Workforce Development Manager, Resources Directorate
Louise Russell	Service Head Corporate Strategy and Equality
Daisy Beserve	Senior Strategy Policy and Performance Officer, Corporate Strategy and Equality
Vicky Allen	Strategy Policy and Performance Officer, Corporate Strategy and Equality

External:

Martin Reed	Director of Towerskills, Tower Hamlets College
Patrick Allen	Towerskills, Tower Hamlets College
Sammu Shummo	Business Development Adviser, Towerskills, Tower Hamlets College
Janice Swan	Careers Adviser, Stepney Green Maths, Computing & Science College

Young People Preparing for Adulthood Task Group

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Fiona Wyton, (Voluntary Sector Rep) Director, Headliners

Chair's Foreword

The Coalition Government's welfare reform changes currently being implemented has placed a greater need to be in employment as benefits are reduced and access to them tightened. At the same time, the continuing economic recession has made getting a job more difficult for everyone and especially for young people, who may need additional investment in terms of individual support and guidance, job specific training and 'employability' skills.

The Government has not intervened in the UK job market of late, and has instead relied on encouraging corporate and financial growth as the way to bring prosperity and employment. Furthermore, I believe that no serious attempts have been made to consider how we get young people ready for work. There have been some partially successful schemes over the years, but there has been nothing that changes things for the better permanently. If such a scheme was found it would have a lasting impact that would ensure that it naturally continued under its own steam and thus take away the need to intervene at all.

It is my belief that our young people are administered to. They live in a world that tells them what to do constantly; to not speak but listen; do as they're told. When it comes to choosing they are not ready. They find themselves in a position where they have to choose; where they have to monitor themselves and know best. They are invariably influenced by parents, peers and teachers. Even with the best will, the advice given is not always in the young persons' best interests. Many give up here as they do not get the support, and cannot navigate their own way.

However, improving employment opportunities for young people in the borough has been a council key priority for a number of years. The council and other partners in the borough have a strong track record of providing access to jobs for local people, be that by direct employment, or by supporting them gain the necessary skills and qualifications to successfully compete in the open market.

As there has been a recent revival of the use of apprenticeships as a mechanism to address the youth employment issue and significant resources have been invested in developing and promoting them., The review group therefore felt it should focus its investigation on whether the council was doing everything in its power to ensure that these opportunities were maximised for our youth, although I don't necessarily agree with the focus being completely on apprenticeships. I especially wanted to seek out and listen to young people's views about what they felt would help them in their preparedness for apprenticeship work and their employability. I also spoke to young people about their experiences so far and how useful they felt training providers had been in supporting them.

I have highlighted the widespread use of mentoring, the need for greater information, and the refreshing the council's role, as issues I feel are particularly important in tackling youth unemployment.

- **Mentoring:** In researching the issue, I believe that there is a real need to provide mentors for every young person. Young people need a resource that they can rely on that focuses on helping them to develop as a person in their own right. I would like to see this effected through a coordinated, universal mentoring resource that is available to young people through the course of their secondary school life. With mentor encouragement, young people can

consider their options, gain confidence and motivation. Without mentoring opportunities, young people will not always gain the insight needed to see what educational training and careers are available to them, they are also less able to weather problems and issues faced on their journey; something that often derails even the most able academic person.

- **Information:** I have found that there is a huge opportunity to improve the quality and accessibility of the information available for young people, helping them to understand what happens at the end of their school career. I would like to see detailed and easy to understand information made available to young people on what to expect if you are going to look for work. This should include how to look for work, what the DWP will do, how the council can support them, how Skillsmatch and other providers can support them in getting a job, and what happens with benefits (benefits, training, housing). This will all help to provide a more rounded picture to prepare young people for adulthood.
- **Council's role:** I would like to see the council adopt a more custodial approach with partners to ensure the best outcomes are obtained for the boroughs young people. The better and more coherent the council is in what the opportunities are, the better it knows what else might be needed. It will be then be better able to influence funding in the borough, draw providers together and be able to effect results for youngsters. The council should also champion the drive to make sure that all opportunities advanced to young people are scoped to ensure that they appeal to both boys and girls, and just as easily accessible by them both. This work should be progressed by, and reported to, the Apprenticeship Task Group.

In addition to 5.4 in the report, it occurred to me since the report was finalised, that the borough's apprentices should be promoted to national employers such as BT, British Gas, EDF, British Transport, London Transport, and I would like to see this effected through the work of the Apprenticeship Task Group and the Employment Strategy.

These issues and others are further explored within the report. Please read the following review with the above in mind. If the council can review current processes to see what steps could be achieved towards the ideal what would be a real boost to our young people's chances for ongoing success at work.

I am grateful to my colleagues on Overview and Scrutiny for agreeing to prioritise a scrutiny review which looked into reducing barriers to youth employment. The Working Group's evidence gathering involved speaking to many individuals and organisations to reflect the complexity of the issues we were dealing with. Our recommendations are based on the evidence given by young people, Council officers, Towerskills, and school representatives. I would like to thank my fellow Panel members, Cllr Helal Abbas and Cllr John Pierce, who contributed their time and ideas. I would also like to thank all the young people, organisations and individuals that contributed their time and effort to this Review.

Please read the following review with the above in mind. If the council can review current processes to see what steps could be achieved towards the ideal what would be a real boost to our young people's chances for ongoing success at work.

Councillor Ann Jackson

Chair of Working Group and Chair, Overview and Scrutiny Committee

Summary of recommendations

Recommendation 1

Increase access to independent information advice and guidance for young people

Recommendation 2

Support the development of a universal mentoring scheme

Recommendation 3

Work with the Education Business Partnership and businesses to improve the work experience offer for young people at school

Recommendation 4

Increase employment opportunities of young people through introductory work experience

Recommendation 5

Improve online information about apprenticeships and other employment opportunities

Recommendation 6

Raise awareness and improve the perception of apprenticeships in schools

Recommendation 7

Support businesses to improve the quality of the opportunities they offer so they can become accredited apprenticeships

Recommendation 8

Clarify the role of the council in the apprenticeship agenda and build on relationships with providers through the employment and enterprise task group

INTRODUCTION

- 1.1 In recent years, the Overview and Scrutiny Committee has undertaken two reviews of youth unemployment: one on graduate unemployment in 2006/07 and another on reducing worklessness amongst young adults aged 18-24 in 2009/10. The Overview and Scrutiny Committee were keen to take a fresh look at this issue to explore what the council and its partners can do to reduce youth unemployment in the borough. The Committee felt that it was appropriate to revisit this issue as, since the last reviews, the continuing global recession has depressed employment further especially for young people.
- 1.2 Improving employment opportunities for residents in general, and for young people in particular, has been a local priority for a number of years. The Mayor is delivering his pledge to create job opportunities to tackle youth unemployment. In addition, there are a number of multi-agency partnership groups which aim to tackle youth unemployment in the borough.
- 1.3 There are a plethora of organisations in Tower Hamlets which support young people in their options post 16. Statutory or publically funded organisations such as schools and the careers service provide support to young people throughout secondary school. Support for school leavers is provided through further or higher education institutes, the Council's Skillsmatch service, and Jobcentre Plus. Some information, advice and guidance is also available from the careers service for young adults outside of the school environment. The third sector plays a vital role in supporting young people in their transition from school to work especially for those who are furthest away from the jobs market. In addition, businesses play a central part in offering insight and exposure to the world of work as well as supplying job opportunities accessible for young people.

The role of the council

- 1.4 The council is a major employer, employing over 8,000 staff, and has an annual budget of over £1 billion. It is therefore well placed and committed to providing and facilitating employment opportunities for local people. This ambition is articulated in a number of key strategies, such as the Employment Strategy, the Children and Families Plan, and the Procurement Strategy. The council has a strong track record of providing local people with access to employment in the public sector. This involves work experience, apprenticeships, entry level posts and graduate jobs as well as career progression opportunities for targeted groups.
- 1.5 Furthermore, by working with businesses and providing employment training and job brokerage services, the council aims to secure economic benefits for local residents. Through its procurement policy, the council has inserted clauses into several major contracts to ensure employment and apprenticeship opportunities. There is a commitment to adopt this approach for all major contracts going forward.
- 1.6 The review group heard that the council's contribution to the total borough spend on information, advice and guidance, capacity building and employment preparation work is approximately 5%. Given its limited financial resources, the council's role as an influencer and an enabler is

crucial in helping young people to effectively access both pre job support and job opportunities.

- 1.7 A central tenet of national policy to tackle youth unemployment is the apprenticeship route. The Government promotes this agenda as being good both for business and for young people. Much of this review focuses on apprenticeship opportunities in Tower Hamlets.

Apprenticeships

- 1.8 Members identified the crucial role that businesses can play in supporting young people to become work-ready. This is done in a number of ways including mentoring, providing work experience, apprenticeships and direct employment. Given the national emphasis on apprenticeships, the working group chose to investigate the apprenticeship route in particular, focusing on what the council could do to facilitate appropriate support for young people to successfully compete in the job market.

- 1.9 Apprenticeships are time limited jobs with in-built education training and progression opportunities. They are promoted as an alternative to full time higher education. Apprenticeships have undergone a renaissance in the past few years. The huge growth in the number apprenticeship opportunities both nationally and regionally (figure 1) is a response to concerns about skills shortages which businesses have themselves identified as a barrier to young people accessing jobs. The training element of apprenticeships is designed to reflect the vocational and academic qualifications that businesses are asking for.

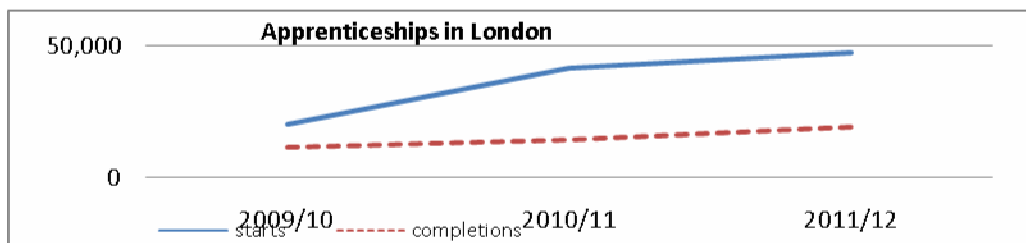


Figure 1: Apprenticeships in London

- 1.10 The National Apprenticeship Service promotes the benefits of apprenticeships for businesses as: increasing productivity, improving competitiveness, and creating a committed and competent workforce which suits business needs. In addition, they promote the cost benefit of hiring apprentices. The National Apprenticeship Service has responsibility for the delivery of apprenticeships throughout England. This includes services for employers, learners, and a web-based vacancy matching system. The service is also responsible for promoting apprenticeships and their value to employers, learners and the country as a whole.
- 1.11 There has been a sustained media campaign to raise awareness of apprenticeship opportunities. The Mayor of London, the Mayor of Tower Hamlets and many organisations and private businesses have been promoting the apprenticeship route into employment for young people. The Mayor of London has committed to increase the number of apprentices across

London to 250,000 by 2016, building on the 88,630 new apprenticeship starts over the last two years.¹

- 1.12 For National Apprenticeship week (March 2013), the council hosted an event ‘celebrating employment and opportunity’ at the Town Hall, celebrating the achievements of local people including apprentices, graduates, interns, jobseekers and trainees. Awareness raising events have also been held around the borough for young school leavers who are considering becoming an apprentice.

2 OBJECTIVES OF REVIEW

- 2.1 The objective of this review was to investigate how the council and its partners could improve the support provided to young people to become work-ready, and help remove barriers to employment.**

- 2.2 As part of the review, a progress report was provided on the two recent scrutiny reviews on youth unemployment to understand which recommendations had been successfully implemented and where learning from the previous reviews could be used as a basis of recommendations going forward.

- 2.3 The progress report identified the importance of apprenticeships as a key route for young people into work. Initial analysis into the apprenticeship offer found complexity within the system which could be confusing to young people. The scrutiny working group therefore chose to focus on apprenticeships. They wanted to ask how the council could add value and maximise the potential of the apprenticeship agenda for local young people.

- 2.4 The review set out to investigate the following areas:
- The demand for apprenticeships by young people.
 - The supply of good quality apprenticeships and how this can be stimulated.
 - Supporting young people to access opportunities and be competitive in the labour market: how can the council add value to this agenda?

3 METHODOLOGY

The following methodology for the review was agreed by the working group:

- 3.1 Introductory meeting
- The working group received a progress report on previous scrutiny reviews of youth unemployment.
 - The group also received a presentation on the local labour market and job opportunities for young people from the council’s economic development service.
 - This aided in setting the scene. The scope of the review was refined at this point to focus on apprenticeships because of both their high profile and their huge potential to reduce local youth unemployment.

¹<http://www.london.gov.uk/priorities/business-economy/apprenticeships>

- 3.2 Focus Group meetings
- Focus groups with young people of different ages, being supported by various institutions including schools, Skillsmatch and Towerskills (training provider).
 - The young people were consulted on their experience of navigating the post-16 options available to them. They were also asked about their perception of apprenticeships.
- 3.3 Meeting with the Young People Preparing for Adulthood Task Group
- The Chair attended this partnership group to seek their views on issues in the apprenticeship 'system' and any action the council and its partners could take to support the reduction of youth unemployment.
- 3.4 Visit to Tower Hamlets College (Towerskills)
- The Chair visited Towerskills to hear about their work in preparing young people to undertake successful apprenticeships.
 - This included a visit to an apprenticeship screening session where applicants are interviewed for apprenticeship positions by businesses.
- 3.5 Concluding meeting: adding value to the apprenticeship agenda
- Officers from Learning and Achievement, the careers service and those working on apprenticeships discussed how to raise awareness and improve the perception of apprenticeships within schools.

4 BACKGROUND

4.1 This section provides a brief profile of young unemployed people in Tower Hamlets. An analysis of recommendations arising from the previous scrutiny reviews and how they have been implemented is summarised, the full report is appended to this report.

4.2 Profile of young unemployed people and local employment opportunities

4.2.1 There has been a general downward trend in youth unemployment rates in Tower Hamlets, bucking the London trend. This could be attributed to the increase in job opportunities available in the borough, a return to education or a reaction to the recent changes in welfare benefits—more Tower Hamlets residents are affected by the benefit cap than in many other areas.

4.2.2

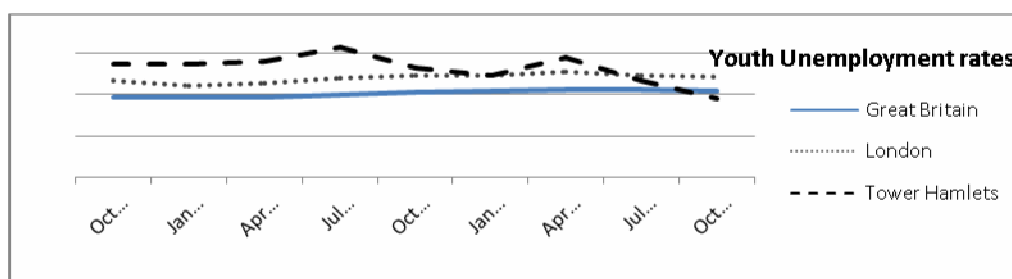


Figure 2: Youth Unemployment Rates

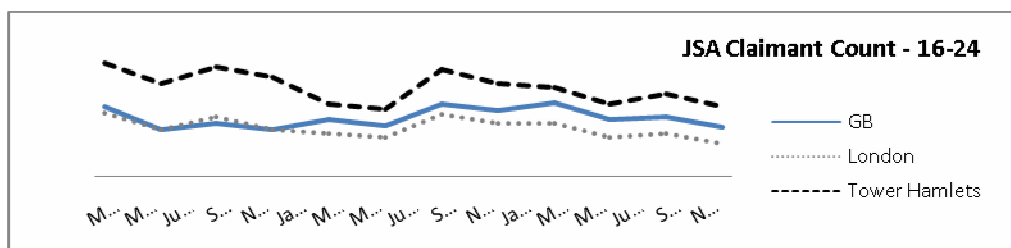


Figure 3: JSA Claimant Count 16-24

Data from the Office for National Statistics (September 2012) identified 4,100 young people in Tower Hamlets aged 16-24 as unemployed, representing 19.1% of the cohort. This is lower than the London and national average, although may reflect the high student population which is included in the figures.

4.2.3 However, the percentage of young unemployed residents claiming Job Seekers Allowance is higher than both the London and national average. Not all unemployed people can claim this benefit and it also excludes students who are not actively seeking work.

4.2.4 The borough's NEET rate is 5.6% which is below the London average, however many other London boroughs have a significantly worse NEET rate than Tower Hamlets. NEETs are young people in school years 12-14 equivalent (encompassing 16-19 year olds) who are not in employment, education or training. Since the beginning of 2012, between 250 and 400 young people have been identified as being NEET, out of a cohort of around 17,600². The majority of NEETs are in year 14 (46%) followed by year 13 (31%) both of which are currently outside of the statutory school age.

4.2.5 The majority of NEETs are so for three months or less. Where the reason why a young person is NEET is known, most said that they were seeking employment, education or training. The borough's NEET Reduction Strategy outlines the activities taken to reduce the number of NEETs, including support provided by the Careers Service and targeted youth support such as the Positive Activities for Young People (PAYP) programme.

Local employment opportunities

4.2.6 The Office for National Statistics estimates there are 328,000 people employed in the borough. This accounts for around 5.4% of all employment in London, with only Westminster, the City of London and Camden having more jobs.

4.2.7 The majority of people employed in Tower Hamlets are working in the financial and insurance industries (32%), in business administration and support activities (11.7%), professional services (9.7%), information and communication (9.7%), health (6.8%) and accommodation and food services (4.6%). However given the number of people who commute into Tower Hamlets for work, these statistics are not necessarily a reflection of the jobs undertaken by the borough's young residents.

²Data from 15 billion December 2012.

- 4.2.8 The economic development team presented the working group with information on the economic and job situation, both globally, London wide and specific to Tower Hamlets. The group heard that the borough has both a higher job density ratio compared to London (1.28 in Tower Hamlets compared to 0.88 in London), and a higher median gross weekly pay (£643 in Tower Hamlets compared to £610 in London). The higher gross weekly pay is attributed to the large number of well-paid jobs available in the Canary Wharf and City Fringe employment hubs.
- 4.2.11 The review group received analysis of Jobcentre Plus and Skillsmatch statistics relating to December 2012. They showed a disparity between the jobs sought and the jobs available to residents in the borough. Nearly half of the young people registered with Skillsmatch are seeking office work, and work in the service industries is the second most popular. However just under 10% were placed into office work. The majority were placed in the service industries (retail, hospitality and transport), followed by skilled trades such as security. Jobcentre Plus statistics show that the top job sought by workless people in the borough relates to sales and retail, with 2,930 people registering their interest in this, compared with just 45 vacancies in this sector advertised through Jobcentre Plus. 995 people sought general office assistant/clerk roles, yet there less than 25 vacancies of this nature. This would support the councils' offering more guidance to young people on what work was available and this is looked at in more depth in section 5.5.15.

4.3 Learning from the past: an analytical review of previous scrutiny recommendations

- 4.3.1 The Overview and Scrutiny Committee has previously undertaken two reviews of youth unemployment:
- Graduate Unemployment (2006/07) and
 - Reducing Worklessness Amongst Young Adults 18-24 (2009/10).
- 4.3.2 Analysis of progress arising from these two reviews was undertaken as a starting point for the current review. A progress report considered the key changes which have impacted on the implementation of recommendations, including changes in national policy, budget reductions, and council directorate restructures. The most recent scrutiny review was approved by Cabinet in February 2010, three months before the general election brought in a change of Government and a significant reduction in public sector funding. Furthermore, the double-dip recession has depressed the UK economy and the jobs market since 2008, the year after the first review.
- 4.3.3 Reducing Worklessness Amongst Young Adults (09/10) looked at how the council can support young adults in improving their chances of securing employment, focusing on the information and guidance available, the number of providers in the borough, and examining the role of the third sector in reducing worklessness. Graduate Unemployment (06/07) investigated graduate underemployment and employment in Tower Hamlets, exploring the perception that local graduates face more barriers in accessing appropriate employment opportunities than graduates in other areas. It also looked at the problems that arise when graduates attempt to make the transition from education to employment. The majority of recommendations were implemented either fully or partially, but the report identified a number of areas where further progress could be made.

Evaluation of recommendations

- 4.3.6 The previous reviews looked at both improving the quality of, and increasing the number of apprenticeships both within the council and with the council's partners. There has been good progress in achieving this objective and the council has significantly improved both the range of job training activities and the number of local young people accessing them. However, given the council's reduced resources, it was recognised that it is not feasible to increase the number of apprenticeship placements directly employed within the council.
- 4.3.7 Both reviews investigated improving communications with young adults and widening the reach of less traditional methods of employment-related training and advice. The progress report found that there is currently no specific communications strategy which publicises the third sector employment support available in the borough, although the council is working to address this. There are communication links between Skillsmatch, Job Centre Plus and some third sector organisations, but these are not comprehensive. Promotion by and of the third sector through council channels is ad-hoc, and on an individual basis rather than as a collective, which may impact on their visibility to young people.
- 4.3.8 The Tower Hamlets Council for Voluntary Service website promotes the third sector offer. However, its search facility is limited and it is not easy for people seeking employment to undertake independent job searching. Officers advised the working group that both the AMP (the council's website aimed at young people) and the Skillsmatch websites are due to be re-developed to improve their look, content and links to other sites. The intention is for the AMP website to show up to date training and apprenticeship opportunities.
- 4.3.9 The previous reviews looked at how to improve information, advice and guidance within schools so young people are better informed and reduce their risk of becoming unemployed in the future. As part of their curriculum, schools work with young people to develop their career management and employability skills. However, pressure on curriculum time means that employability skills development can be patchy and does not always lead to accreditation. The council continues to act as an influencer in shaping the careers and employability curriculum of schools through various partnership groups. It has been recognised that there is a need to provide more information to young people so they can make informed and realistic decisions on their progression routes, matching their skills, abilities and aspirations to the opportunities available.

5. KEY FINDINGS

- 5.1 There were three areas which the review sought to investigate, these are considered in turn in this section:
- The demand for apprenticeships by young people.
 - The supply of good quality apprenticeships and how this can be stimulated.
 - Supporting young people to access opportunities and be competitive in the labour market: how can the council add value to this agenda?

5.2 A summary of employment support provision for young people including contributors of post-16 support and a description of apprenticeships was mapped to support the review.

5.3 Understanding the demand for apprenticeships from young people

Perception of apprenticeships

- 5.3.1 The review group heard evidence from several contributors that many people had a low perception of apprenticeships. This needs to be raised to make them an attractive option to young people.
- 5.3.2 In the focus groups, young people of varying ages gave their impressions of apprenticeships as a way of accessing employment. A significant number held positive views about apprenticeships and were planning to take this route after completing their GCSEs. The young people in the focus groups who were already apprentices had a positive experience and they felt that their employers were supportive. However some young people were under the impression that apprenticeship work would be boring, these views were based on work experience they had completed in the past. Others felt that taking the apprenticeship route at a young age would be too narrowing career-wise.
- 5.3.3 A high proportion of the young people perceived apprenticeships as 'cheap labour' and they reported this was a view their parents held also. The difference between the apprenticeship minimum wage of £2.65 and the national minimum wage for 16-18 year olds of £3.68 for 16-17 year olds and £4.98 for 18-20 year olds is seen as evidence of this. The working group heard that many businesses request apprentices who are aged between 16-18 years old, because they often attract higher funding which means lower initial costs to the business.
- 5.3.4 Anecdotal evidence suggests that many teachers have a poor perception of apprenticeships and tend to encourage academically gifted pupils to continue onto A Levels and progress to higher education. With the raising of the participation age to 18, many secondary schools have increased and widely advertised their post-16 offer to compete with the other options open to young people.
- 5.3.5 The review group heard about the emerging apprenticeship opportunities in and around the borough. The construction industry, a growth area in terms of opportunities available, is often overlooked by young people who wrongly perceive it as temporary work, limited to manual labour, and therefore not a good career opportunity.
- 5.3.6 Section 5.5.14 looks at how the council could improve employment opportunities for young people in the borough by improving the perception of apprenticeships to ensure they are considered as a credible post-16 option.

5.4 Understanding the supply of good quality apprenticeships and how this can be stimulated and simplified.

Growth

5.4.1 There has been a huge growth in the number of apprenticeship opportunities available for young people in recent years. Statistics from london.gov show that the number of apprenticeship opportunities in London has more than doubled.

	2009/10		2010/11		2011/12	
	England	London	England	London	England	London
Number of apprenticeship starts	279,700	20,350	453,000	41,400	515,000	47,230
Number of apprenticeship completions	171,500	11,780	198,800	14,550	231,300	19,240

Table 1: Apprenticeships in London and England

5.4.2 However, the number of apprenticeship completions has not grown at the same rate. This may be explained by a time lag in reporting, by the lack of support, such as screening, to ensure suitability or the lack of in-post support available to some apprentices. It could also be because young people have not understood the structure of apprenticeships, under-estimating the training and education element of the placement.

5.4.3 The review group heard from the Careers Service that access to apprenticeships was increasing year on year locally. Data from the National Apprenticeship Service website shows that approximately 1,080 young people started an apprenticeship in 2011/12, and 1,750 young people who already were undertaking an apprenticeship. The local completion rate, at around 68%, is better than the national and regional average.

Age	Level	Apprenticeship starts			Apprenticeship participation		
		2009/10	2010/11	2011/12	2009/10	2010/11	2011/12
16-18	Intermediate	267	404	414	409	557	611
	Advanced	53	82	91	81	126	131
	Total	320	486	505	490	683	742
19-24	Intermediate	224	382	397	331	538	664
	Advanced	88	161	183	150	259	343
	Higher	<5	<5	<5	<5	<5	5
	Total	313	545	583	482	800	1,012

Table 2: Apprenticeships in Tower Hamlets

5.4.4 The review group heard about the various levels of apprenticeship opportunities. Intermediate is Level 2 (GCSE level), advanced is Level 3 (A Level level), and higher is Level 4 (Foundation Degree level). Apprenticeships are available to masters degree level (level 7) and these are geared towards older age groups. In Tower Hamlets there are around 560 apprenticeship starts and 1,000 participants aged 25+.

- 5.4.5 National Apprenticeship Service data shows the 25 different sectors that young people from the borough are employed in. A breakdown of apprenticeships by sector for 2011/12 shows that the majority work in³ lifelong learning, adult social care, hospitality, leisure, travel and tourism, construction, health care and building services and engineering.

Encouraging local businesses to offer more apprenticeship opportunities to local young people

- 5.4.6 Several contributors felt that there was scope to increase the number of apprenticeships offered by the businesses in Canary Wharf and the City Fringe, as well as in other business sector. The review group heard about the range of measures being put in place by the council to lessen the bureaucratic burden for businesses wishing to hire an apprentice, such as supporting their set up on the National Apprenticeship Service website. Both the council and Tower Skills encourage businesses to offer an apprenticeship on a trial basis to mitigate against mis-matching. The council also encourages businesses to ring-fence a percentage of their apprenticeship opportunities for young people from Tower Hamlets.
- 5.4.7 However, the economic development service stressed that the engagement, relationship building and influencing of businesses, necessary to develop these apprenticeship opportunities, is a time consuming and delicate process. This negotiation can be difficult given the current economic climate and businesses ability to afford to hire apprentices. The review group Chair felt that the service could initially focus negotiations in priority growth areas in the borough, such as construction as this could encourage better outcomes and job success for young people.
- 5.4.8 The role and responsibilities of local business, particularly in creating employment opportunities for Tower Hamlets residents is a key concern of the Tower Hamlets Fairness Commission. It is anticipated that their report and recommendations will also address this issue.

Skills and qualifications

- 5.4.9 Young people from Tower Hamlets need to be able to compete effectively with both national and international job seekers in the London job market. The review group heard that although many businesses are committed to local recruitment, their primary goal is to recruit people who will best support their business to grow and make a profit.
- 5.4.10 The Office for National Statistics Annual Population Survey 2011 shows that the number of young people in Tower Hamlets obtaining higher level qualifications has improved and there are less people with no qualifications. There are more young people resident in Tower Hamlets with a degree or equivalent than London on average; however this data does not identify whether those educated to degree level or higher grew up in the borough. The GCSE 5 A*-C including Maths and English rate is above the national average but below the average for London. At A Level however, the average

³These sector categories are self-selected by the apprenticeship provider and are not scientific; the majority of young people are doing an apprenticeship where the sector has not been disclosed.

point score per pupil in the borough is below both the national and London average. A concurrent scrutiny review of post-16 attainment is considering this issue in more detail.

5.5 Supporting young people to access opportunities and be competitive in the labour market: how can the council add value to this agenda?

Support in schools for young people preparing for work

- 5.5.1 The review group heard from the Young People Preparing for Adulthood (YPPA) task group who said they wanted to see access to careers, mentoring and work experience opportunities increased for young people. This would enable more young people to gain a better understanding of a wider variety of jobs and improve their knowledge of how to conduct themselves in the work place.
- 5.5.2 Since September 2012, although local authorities retain their duty to encourage, enable or assist young people's participation in education or training, schools have been allowed to provide or procure this service independently. A recent publication commissioned by the GLA and London Councils argued there was a role for local authorities to become careers services champions, encouraging schools to purchase or provide impartial careers guidance to all pupils. They also argued councils should share and encourage best practice between schools.
- 5.5.3 The review group heard that, depending on how and where young people accessed their post-16 options, there was a risk that they could be steered into a solution which was inappropriate to them. The careers service suggested that, through partnership agreements with providers of post-16 support, there should be a formal referral mechanism for any young person who was unsure of their next steps to the careers service for independent information, advice and guidance.

Recommendation 1: Increase access to independent information advice and guidance for young people.

- 5.5.4 The YPPA task group and the careers service spoke of the positive outcomes for young people who have a mentor. There are a wide range of mentoring programmes provided both through intermediary organisations and by individual businesses directly engaged with schools. These views were reinforced by Year 11 pupils from Stepney Green Maths, Computing and Science College who spoke positively about the business mentors they had been linked with, although some pupils expressed a desire to have a mentor who worked in the career of their interest.
- 5.5.5 The review group were supportive of the current initiative from the Mayor which provides an 1:1 careers interview and action plan for all young people in Year 11. Recognising that this funding was no longer available, the review group thought that providing universal access to mentors could support young people in working towards their career goals. Ideally every year 11 pupil should have an opportunity to work with a mentor. The review group therefore asked that the council explore the option of commissioning the voluntary organisations currently undertaking this role, the CVS, or a partnership of several organisations, to drive the recruitment of mentors and provide training

to them, with support from the council's careers service. This could be co-ordinated through the Apprenticeship Task Groups and should involve the development of some sort of portal which matches mentors and mentees, as well as a set of standards with clear expectations of both mentors and mentees.

- 5.5.6 The review group Chair further investigated how the mentoring offer could be realized by speaking to the Tower Hamlets Council for Voluntary Service (CVS) and looking into the work of the East London Business Alliance (ELBA). The Chair commented that she felt that an ideal situation would be that professionals volunteered to be mentors, chosen in the needed thriving job fields identified by the council and also wanted by young people. A professional mentoring plan is then drawn up and followed. This would then lead to the young person being able to join their mentors company for work experience. Drawing up job descriptions would ensure that the work experience was seen by both the young person and the company as credible and worthwhile. Besides better outcomes and enthusiasm for work experience than there is presently, it also could potentially open doors for the young person to apply for a job with that company at a later stage. The Chair felt that the Careers Service could be involved in the process by helping with mentoring supervision.

Recommendation 2: Support the development of a universal mentoring scheme

- 5.5.6 The review group heard from some young people whose negative impression of the work experience they had undertaken had led them to believe that apprenticeships would be the same. Furthermore, contributors to the review felt that many young people were too immature to successfully participate in an apprenticeship as they lack basic life skills such as punctuality, attendance, being well presented, being able to work in a team, and a positive attitude.
- 5.5.7 The Schools Apprenticeship Liaison Officer advised the review group of a new work experience model being piloted from September 2013 which aims to support less mature young people's transition into apprenticeship work. The pilot will provide the opportunity to spend one day per week, for a whole term, at Carillion. This would be available to 17 and 18 year olds and would contribute towards their BTEC coursework. The pilot will test whether this model makes it easier for employers to develop a programme of work activities for young people, which the young people would, in turn, find more stimulating. The review group expressed an interest in hearing more pilot about the pilot after its first year.

Recommendation 3: Work with the Education Business Partnership and businesses to improve the work experience offer for young people at school

- 5.5.8 Evidence was about the work experience available to young people who had left school and were unemployed. This is arranged by Skillsmatch through its 'routeway to work' initiative, and by Jobcentre Plus. All young people who are interested in working in construction undergo work experience prior to being applying for a position in the industry. The council has introduced work experience requirements of businesses as part of its contract procurement and

planning negotiations. The aim is that once introduced that young person, the business will be willing to offer them employment.

Recommendation 4: Increase employment opportunities for young people through introductory work experience.

Information

- 5.5.9 All apprenticeship positions are advertised online on the National Apprenticeship Service website. However, a mapping exercise found that there were a number of routes into them:
- Applying directly through the National Apprenticeship Service website where the majority of apprenticeship opportunities are advertised by private businesses.
 - Applying through a training provider who also advertise opportunities;
 - Being referred by Jobcentre Plus to a training provider, via the Department for Work and Pensions Youth Contract.
 - Through the council's Skillsmatch service. Small employers recruit directly from the service and apprenticeships opportunities arising from the Council's procurement obligations and Section 106 agreements are facilitated by this service.
 - Applying directly to a business or organisation offering apprenticeships such as the council. Some businesses and organisations recruit apprentices directly, managing the recruitment, selection and training themselves.
- 5.5.10 Amongst the YPPA task group there was a consensus that a comprehensive and easily accessible directory of apprenticeships and post-16 support should be produced. This echoed the findings of past scrutiny recommendations. The YPPA task group argued that the process of applying for an apprenticeship should be made much clearer, specifically that in order to apply for an apprenticeship position, young people should use the National Apprenticeship Service website.
- 5.5.11 The review group felt the most appropriate host of this information was the council's website. This would enable easy maintenance and ensure it reached a wide audience. Information on how to access local support to become 'apprenticeship ready' should be included as well providing links to the National Apprenticeship Service, Skillsmatch, the AMP website and other training providers. It should also include some broader information about the economic development work undertaken by the council.
- 5.5.12 The review group heard evidence from the youth service about the innovative ways in which they communicate with young people through social media, and felt that social media, such as Facebook and text alerts should complement the council website in promoting this information.
- 5.5.13 Mirroring the findings from previous scrutiny reviews into youth unemployment, the review group thought that the user-friendliness and functionality of the Skillsmatch and AMP websites should be improved. During focus group discussions with young people, the review group found that the AMP website was not well known or used. There is currently no information on the AMP website about apprenticeships and this should be addressed. The 2012/13 Young Mayor spoke about his project to refresh the

AMP website with the aim of developing it to include a searchable tool with live training and job information. The aim is to employ an apprentice (paid from the Young Mayor's budget) to update this information on a daily basis. It is not clear if this will be carried forward under the new Young Mayor.

Recommendation 5: Improve online information about apprenticeships and other employment opportunities

Awareness

- 5.5.14 A lack of awareness and poor perception of apprenticeships in schools, and amongst parents and young people was identified as an issue by a number of contributors to the review. The Learning and Achievement Service stressed the need to improve understanding of apprenticeships so they are seen in an equal light to the traditional university route. It should be emphasised that they are jobs with built in education and training, leading to recognised qualifications. The range of educational levels available within the apprenticeship offer should be highlighted, to discourage the view that they are inferior to the traditional higher education route. This could be achieved by providing training to staff, focusing on the opportunities available for more academically able young people, at levels 3, 4 and above.
- 5.5.15 The review group also thought more could be done to promote different sectors, for example the construction and catering industries. The group considered it vital to produce briefings for schools on the local labour market, broadening staff and young people's understanding of the future job opportunities available.
- 5.5.16 The Learning and Achievement service also highlighted the role of the parental engagement team in communicating to parents about the apprenticeship agenda. This information should also be communicated to anyone else who works with young people and are an influence, such as youth workers.

Recommendation 6: Raise awareness and improve the perception of apprenticeships in schools.

Improving the apprenticeship offer

- 5.5.17 Apprenticeships have to adhere to a set of minimum standards which cover hours, duration, English and maths requirements and new learning and skills expectations. These are set out by the National Apprenticeship Service. Work to further improve on these standards has been identified as a key issue in making them a more attractive option to young people.
- 5.5.18 The council and some training providers support businesses to raise the quality of their job opportunities to ensure education and training provided in-work was of a high standard and fully met the standards set out by the National Apprenticeship Service. Towerskills have a due diligence test they aim to undertake with all businesses they work with. The council are also developing an apprentice quality standard for businesses to adhere to. Towerskills welcomed the opportunity to work in partnership with the council to develop a borough-wide quality standard for apprenticeships for young people from the borough, regardless of who they were registered with.

Apprentices who drop out because of a poor experience are hard to replace, adversely affecting the experience of the business and the young person.

- 5.5.18 With regard to wages, the review group heard how the council and Towerskills encourage businesses to offer more than the statutory apprenticeship rate, although businesses are under no obligation to do this. Towerskills encourages businesses to offer at least £5.00 per hour but they are financially unable to top up wages for those who can't. The council are able to offer some financial incentives in the form of top ups for apprenticeships who are paid the statutory apprenticeship wage. The council has pledged that apprentices employed directly by the council or its contractors will be paid the London Living Wage of £8.55 per hour.

Recommendation 7: Support businesses to improve the quality of the opportunities they offer so they can become accredited apprenticeships.

Supporting apprentices to complete their apprenticeships

- 5.5.19 National Apprenticeship Service data indicates that young people from Tower Hamlets have a better apprenticeship completion rate than the London average. The review group heard evidence on the importance of providing pre-apprenticeship support, such as that provided by the council and its partners. It ensures young people find the right opportunity for them, and supported to prepare through short courses and training which will help them secure a position. There is strong competition for good apprenticeships; nationally around 20,000 young people per month are unsuccessful in their application.
- 5.5.20 The Director of Towerskills spoke about how they support young people into apprenticeship positions. Towerskills provides a brochure for both employers and employees outlining the process, role and responsibilities of each, setting out what each party can expect from Towerskills as a training provider. The brochure is tailored to specific job sectors or to organisations which are recruiting several positions. A rigorous selection procedure has been put in place to help ensure that only candidates with the appropriate skills and qualifications are put forward for interview. Candidates are asked to undertake a two week employability programme to help them to understand the structure and demands of an apprenticeship role. The programme also reinforces key competencies such as time management, teamwork and communication skills. At a Towerskills event the review group Chair spoke to young people who had successfully undertaken this two week programme and had been invited to be interviewed by businesses wishing to hire apprentices.
- 5.5.21 Towerskills also advised the review group of the job coaches they were offering to some apprentices who had been identified as being in need of in-work support. The job coach provides intensive business and life skills to support young people for a few weeks until they find their feet at work. They had supported many young people to continue their employment by providing practical support such as ensuring young people were able to prepare the route to work so that they could get to work on time, and how to manage working relationships with colleagues. Towerskills believe all apprentices would benefit from having a job coach, but they don't currently have the capacity to offer this.

The co-ordinating role of the council

- 5.5.22 The review group felt that the complexity within the apprenticeship 'system' had created some tensions between providers of post-16 support and the council. The number of providers in the borough offering pre-apprenticeship support; the different apprenticeship opportunities available through different providers; and the funding available to provide pre-apprenticeship support and in-apprenticeship training all helped to create an air of competition within the borough.
- 5.5.23 There is also a misconception by some partners of the council's role in the apprenticeship agenda. The previous target-driven approach to delivering job outputs has contributed to the perception that the Skillsmatch service is in competition with other providers of post-16 support in the borough. However, they now achieve their aims by supporting any local young people into work. Any vacancies for jobs 'hosted' by Skillsmatch, including apprenticeships or work experience, are advertised to a range of providers, including Jobcentre Plus, training providers funded by the council, registered social landlords and Towerskills.
- 5.5.24 The review group also found that, despite problems in the system, partners recognised the importance of working in a coordinated way to support young people into apprenticeship opportunities. A number of working groups have been established to bring together key partners to support this activity. These include the Apprenticeship Task Group, the Young People Preparing for Adulthood Task Group, and the Employment and Enterprise Task Group. However, these groups are in the early stages of development and work undertaken by these groups has not yet been fully embedded. The review group felt that because the issue of tackling youth unemployment was split over two service areas (Education, Social Care & Wellbeing, and Development & Renewal) and several working groups, this caused a fragmented approach to the issue. The review group felt that there should be an overarching group which had sole responsibility for youth unemployment.
- 5.5.25 Progress has been made by the council to develop its role as a strategic facilitator of apprenticeship opportunities, and the review group are keen that this be developed further. This has already begun through a number of activities:
- Liaising with businesses to promote apprenticeships.
 - Identifying young people who could benefit from being on an apprenticeship programme.
 - Ensuring support is in place for apprentices.
 - Tracking and monitoring apprentices and report progress to the Apprenticeship Task Group.
- 5.5.26 In its work liaising with training providers, the economic development service have found that there is still some reluctance to share information on apprenticeship opportunities as well as details of young people who have been placed or are receiving pre-apprenticeship support. Construction was highlighted as one area where there are tensions because of perceived competition. The review group heard about Operation Janus, a borough-wide approach to capitalising on construction as a growth industry, led by Towerskills. It brings together the economic development service, Jobcentre

Plus and construction employers. They are assessing the feasibility of creating a construction academy for local young people to enable them to upskill and access opportunities within the construction industry. The review group also heard about the construction desk managed by Skillsmatch which deals directly with a number of smaller contractors and in collaboration with partners for large projects, to broker job and apprenticeships opportunities for residents, providing training specific to the construction industry to facilitate access. The Skillsmatch construction desk is in the process of obtaining the National Skills Academy for Construction accreditation award. Towerskills indicated that they felt that the construction desk at Skillsmatch was undermining the Operation Janus partnership working described above.

- 5.5.27 The review group believe the council should prioritise providing clarity to its partners on its role as a coordinator and emphasise that the council encourages partnership working, cross-referral, advocating for opportunities, and supports the sharing of resources. This should be done in conjunction with a drive to push forward the Apprenticeship Task Group and the establishment of the Employment and Enterprise Task Group in order to further build relationships with all providers and maximise outcomes for young people.

Recommendation 8: Clarify the role of the council in the apprenticeship agenda and build on relationships with providers through the employment and enterprise task group.

6. CONCLUSION

- 6.1 Apprenticeships have been developed by the Coalition Government as a key route into employment for young people. The economy in Tower Hamlets' economic hubs such as Canary Wharf and the City Fringe has shown resilience over the recession period compared to many other areas in London. The council and its partners are well placed to play a key role in supporting young people to take advantage of these opportunities on their doorstep and elsewhere across London.
- 6.2 The way the apprenticeship framework has been established has not helped to make this route into employment either clear or attractive. Many schools, parents and young people themselves have misconceptions about apprenticeships. The council has a role to play in providing clear and accessible information which is widely available and publicised.
- 6.3 There is a need for businesses in the borough to further support young people's career choices and employability by increasing the opportunities for pupils and school leavers to gain access to mentors and by improving their work experience offer.
- 6.4 Apprenticeships have been presented as a solution to businesses concerns about skills shortages, both relating to industry qualifications and soft employability skills. The council and other key providers of post-16 support have been working to address the lack of employability skills that some young people possess, by offering pre-apprenticeship training. They are also providing some in-work support in order to help young people sustain their apprenticeship. The council should support this good work by establishing itself as a facilitator and coordinator of apprenticeships, spreading good

practice and coordinating the supply and demand in order to maximise benefits for the borough's young people.

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
R1. Increase access to independent information advice and guidance for young people.			
<p>Independent information advice and guidance is recognised to:</p> <ul style="list-style-type: none"> • Raise Aspirations; • Raise attainment and achievement and reduce dropout rates; leading to • Reduced Unemployment, reduced poverty and improved economy <p>The scrutiny committee report recognises the benefits reported by young people and schools that have arisen from the current Mayors initiative to provide 1-2-1 individual Careers Guidance interviews with an action plan for all year 11 students. The funding for this current project has come to an end. Moving forward schools are provided with a number of free days independent impartial Careers information advice and guidance support focused on young people with special needs and those most 'at risk of becoming NEET'. A costed service menu has been developed so that educational institutions can buy in additional days.</p>	<p>Tower Hamlets Careers Service to provide independent impartial Careers information advice and guidance.</p>	<p>Steve Grocott Service Manager Careers, Learning & Achievement</p>	<p>September 2013 (2013/14 academic year)</p>
	<p>Ensure that are links to external advisory services and independent information services are available on the re-designed web pages. Ensure that those services have access, via links, to information from the council on apprenticeships, skills and jobs.</p>	<p>Andy Scott, Interim Head of Service, Economic Development</p>	<p>July 2013 and ongoing</p>
	<p>Partnership agreements for delivery in schools and college outlining agreed delivery from institution and the Careers service.</p>	<p>Steve Grocott Service Manager Careers, Learning & Achievement</p>	<p>September 2013 (2013/14 academic year)</p>

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
R2. Support the development of a universal mentoring scheme			
Mentoring has been recognised as a useful way to help young people overcome barriers to progression, to develop their career management and employability skills and provide support to implement their Careers Guidance action plan	Tower Hamlets Careers Service will bid to access ESF funding to provide mentoring support for young people 'at risk of NEET ' and those young people already NEET – Tower Hamlets Careers Service	Steve Grocott Service Manager Careers, Learning & Achievement	July 2013 and ongoing
	Commission voluntary sector to provide mentoring support as part of the 'youth offer – Getting Young People working project'	Abzal Ali Targeted Support Manager - Youth Service Youth & Community Learning	September 2013 and ongoing
	Utilise Business mentors to support young people in developing their employability skills.	Education Business Partnership	March 2013 and ongoing

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
R3. Work with the Education Business Partnership and businesses to improve the work experience offer for young people at school			
<p>Work experience is recognised as a practical 'hands on' way for young people to develop their employability skills. Previous projects such as the NEET work experience project have proved successful in helping young people develop their skills and obtain sustained employment.</p>	<p>Work with the EBP to promote the benefits of work experience to schools</p>	<p>Education Business Partnership & School Apprenticeship liaison officer, Youth & Community Learning</p>	<p>July 2013 and ongoing</p>
	<p>Link work experience to transition into Apprenticeships/ Traineeships building on the Carillion pilot project.</p>	<p>Education Business Partnership & School Apprenticeship liaison officer, Secondary Learning & Achievement Team</p>	<p>July 2013 and ongoing</p>
	<p>To exploit relationships with local businesses from work on the council's enterprise strategy to maximise the work experience opportunities for local young people. This must however take a realistic view of the current economic climate and their commercial priorities.</p>	<p>Andy Scott, Interim Service Head Economic Development</p>	<p>March 2013 and ongoing</p>

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
R4. Increase employment opportunities of young people through introductory work experience			
This work has already begun through the activities within the Employment Strategy.	Commitments from employers to provide work experience opportunities will be introduced more comprehensively into the council’s planning and procurement processes (following legal advice) to ensure an increase in available opportunity for workless residents including young people.	Andy Scott, Interim Head of Service, Economic Development	August 2013 and ongoing
	Review contracts and liaise with employers of existing contracts to prepare them for offering opportunities when their contracts are renewed. Initial interventions will start from September 2013.	Andy Scott, Interim Head of Service, Economic Development	September 2013 and ongoing

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
R5. Improve online information about apprenticeships and other employment opportunities.			
As part of the employment strategy it is recognised that fast easy access to current opportunities is essential. This work has already begun through activities within the Apprenticeship Task Group as part of the wider Employment Strategy.	Redesign of the Council's web pages to include a more accessible set of information around employment, skills and training, which will include comprehensive information on apprenticeships for different audiences including pupils, teachers, parents, businesses, young people and training organisations.	Andy Scott, Interim Service Head Economic Development Steve Grocott Service Manager Careers, Learning & Achievement	July / August 2013 and ongoing
	Leaflets (on line and paper) on applying for and securing positions, the range of educational and training opportunities available and employment rights. There will be links available to the range of local support available from Skillsmatch, the Careers Service and youth service as well as links to national organisations that can support.	Andy Scott, Interim Service Head Economic Development Steve Grocott Service Manager Careers, Learning & Achievement	August 2013 and ongoing
	Develop an Apprenticeship bulletin which to go on schools intranet to inform young people, their parents / careers and teaching staff of the opportunities and support available. A url link will be sent by text/ e-mail to young people on the NEET register to highlight current opportunities to them.	Steve Grocott Service Manager Careers, Learning & Achievement	July 2013 and ongoing

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
R6. Raise awareness and improve the perception of apprenticeships in schools.			
<p>It is recognised that whilst there are a range of exciting opportunities being developed (including Higher Level Apprenticeships) apprenticeships are not always seen by all teaching staff, young people and their parents/ carers to be on a par with academic options and a good progression route for many young people. With the increase in tuition fees for Higher education it is important that all groups are aware of the apprenticeship route as another way in to higher learning and earning.</p> <p>This work has already begun through activities within the Apprenticeship Task Group as part of the wider Employment Strategy.</p>	<p>Work across the Apprenticeship Task Group to ensure access to information is maximised and that the profile and benefits of apprenticeships are promoted within the schools, particularly amongst education staff.</p> <p>Carry out a number of briefing / INSET sessions for school staff to raise their awareness of the Apprenticeship route and the opportunities available. There will also be inputs for parents/carers at parents evenings and sessions directly working with young people setting out the routes available, opportunities and how to secure these.</p>	<p>Di Warne, Service Head Learning and Achievement</p> <p>Schools Apprenticeship Liaison Officer, Youth & Community Learning Steve Grocott Service Manager Careers, Learning & Achievement</p>	<p>March 2013 and ongoing</p> <p>September 2013 and ongoing</p>

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
R7. Support businesses to improve the quality of the opportunities they offer so they can become accredited apprenticeships.			
The work has already begun to support businesses to improve the quality of the work placement opportunities they offer and that they develop more accredited apprenticeship opportunities. This is being done through activities within the Apprenticeship Task Group as part of the wider Employment Strategy.	Working across the Apprenticeship Task Group partners with particular influence from the National Apprenticeship Service as the government agency for this work, the apprenticeship agenda will be presented to Tower Hamlets businesses to engage with the agenda and promote the use of accredited apprenticeship opportunities.	Andy Scott Interim Service Head, Economic Development	March 2013 and ongoing
	To identify training route-ways for growth sectors in the borough and promote apprenticeships as part of the offer for those sectors.	Andy Scott Interim Service Head, Economic Development	March 2013 and ongoing
R8. Clarify the role of the council in the apprenticeship agenda and build on relationships with providers through the employment and enterprise task group.			
The local authority has a role in developing the number of Apprenticeships available working closely with businesses and the National Apprenticeship service; and ensuring the local community is aware of the opportunities available, progression routes to access these and support to secure Apprenticeships and long term work.	Embed the role of the council's Economic Development team as the facilitator of the Apprenticeship Task Group by working alongside the National Apprenticeship Service and other partners including Education Business Partnership and schools.	Andy Scott Interim Service Head, Economic Development	March 2013 and ongoing

SCRUTINY REVIEW ACTION PLAN – Removing Barriers to Youth Employment

Comment	Action	Responsibility	Date
<p>This work has already begun through activities within the Apprenticeship Task Group as part of the wider Employment Strategy.</p>	<p>Develop an Apprenticeship Action plan setting out:</p> <ol style="list-style-type: none"> 1. How young people are prepared for Apprenticeships 2. How young people are made aware of the opportunities available and supported to secure these 3. How we will increase the number of Apprenticeships available 4. How developments and actions will be monitored to measure success and how this links to the employment strategy <p>The plan will be monitored on a bi-monthly basis through the Apprenticeship Task Group.</p>	<p>Andy Scott, Interim Service Head Economic Development</p> <p>Steve Grocott Service Manager Careers, Learning & Achievement</p>	<p>July 2013 and ongoing</p>
	<p>The apprenticeship agenda as a whole is a key element of work activity within the youth employment objective of the Employment Strategy Action Plan. The Economic Taskforce Operational Group will be responsible for carrying out these activities. The inaugural meeting for this group is scheduled for September 2013.</p>	<p>Andy Scott, Interim Service Head Economic Development</p>	<p>September 2013 and ongoing</p>

Agenda Item 12.1

Committee: Cabinet	Date: 11 th September 2013	Classification: Unrestricted	Report No: CAB 34/134	Agenda Item: 12.1
Report of: Corporate Director Resources Originating officer(s) Oladapo Shonola Chief Financial Strategy Officer; Lisa Stone Finance Officer		Title: Exercise of Corporate Directors' Discretions Wards Affected: All		

1. SUMMARY

- 1.1. This report sets out the exercise of Corporate Directors' discretions under Financial Regulation B8 which stipulates that such actions be the subject of a noting report to Cabinet if they involve expenditure between £0.100 million and £0.250 million.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

- 2.1 Note the exercise of Corporate Directors' discretions as set out in Appendix 1.

3. REASONS FOR DECISIONS

- 3.1 Financial Regulations requires that regular reports be submitted to Council/Committee setting out financial decisions taken under Financial Regulation B8.
- 3.2 The regular reporting of Corporate Director's Discretions should assist in ensuring that Members are able to scrutinise officer decisions.

4. ALTERNATIVE OPTIONS

- 4.1 The Council is bound by its Financial Regulations (which have been approved by Council) to report to Council/Committee setting out financial decisions taken under Financial Regulation B8.

4.2 If the Council were to deviate from those requirements, there would need to be a good reason for doing so. It is not considered that there is any such reason, having regard to the need to ensure that Members are kept informed about decisions made under the delegated authority threshold and to ensure that these activities are in accordance with Financial Regulations.

5. BACKGROUND

5.1 Regulation B8 sets out the Cabinet Reporting Thresholds for specific financial transactions.

6. FINANCIAL REGULATION B8

6.1 Financial Regulation B8 sets out the reporting thresholds for the following financial transactions: -

Virements

Capital Estimates

Waiving Competition Requirements for Contracts and Orders (Subject to EUthreshold)

Capital Overspends

Settlement Of Uninsured Claims

6.2 Under Financial Regulation B8, if the transaction involves a sum between £0.100 million and £0.250 million it can be authorised by the Corporate Director under the scheme of delegation but must also be the subject of a noting report to the next available Cabinet.

6.3 Appendix 1 sets out the exercises of Corporate Directors' discretions, under the stipulations in 4.2 above, that have taken place since the previous Cabinet

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

7.1 The comments of the Chief Financial Officer have been incorporated into the report and Appendix.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1. The report sets out the individual exercises of Directors' Discretions as required by Financial Regulations.
- 8.2 The legal implications of each of the individual decisions would have been provided as part of the decision making process. These will be recorded on the "Record of Corporate Directors' Actions" maintained by Directorates
- 8.3 The procedure for recording and reporting Corporate Director's Actions has recently been revised and strengthened. All proposed actions where the value exceeds £100,000 are now required to be agreed with the Mayor prior to officer's sign off and approval. The revised procedure came into effect in December 2011.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 This report is concerned with the notification of officers' discretions under Standing Orders and has no direct One Tower Hamlets implications. To the extent that there are One Tower Hamlets Considerations arising from the individual actions, these would have been addressed in the records of each action.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 There are no Sustainable Action for A Greener Environment implications arising from this report.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 The risks associated with each of the Corporate Directors' discretions as set out in Appendix 1 would have been identified and evaluated as an integral part of the process, which lead to the decision.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 There are no Crime and Disorder Reduction Implications arising from this report.

13. EFFICIENCY STATEMENT

- 13.1 The works referred to in the report will be procured in line with established practices, taking account of best value.

14. APPENDICES

Appendix 1 –Exercise of Corporate Directors’ Discretions under Financial Regulation B8

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

List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
Record of Corporate Directors actions	Martin McGrath, Finance Manager, Resources Ext 4645
	Ekbal Hussain, Interim Head of Finance (AHWB), Education, Social Care and Wellbeing Ext 4737

Appendix 1: Exercise of Corporate Directors Discretions under Financial Regulation B8

Corporate Director	Amount	Description of Exercise of Discretion	Justification for Action	Contractor's Name and Address (including postcode)	Contact
ESCW Ref:396	£151,276	Waiver of financial regulations to award a two month contract for Learning Disabilities community based services. This approval is in excess of the noting threshold of £100k	Awarding the contract will allow time for the conclusion of the procurement exercise to award a contract for the Preferred Provider List for Learning disability Community Hub.	Provider –Redbridge Community Housing LTD	Shazia Ghani (x4825)
ESCW Ref:397	£224,000	Waiver of financial regulations to award a six month contract, with the option to extend for a further two months, to provide an Independent Living Service. This approval is in excess of the noting threshold of £100k	Awarding the contract will allow time for a competitive tender exercise to be completed and a new contract awarded for future provision of the service	Real -Independent Living service	Keith Burns (x1647)

ESCW Ref:399	£142,089	Waiver of financial regulations to award a two month contract for Learning Disabilities community based services. This approval is in excess of the noting threshold of £100k	Awarding the contract will allow time for the conclusion of the procurement exercise to award a contract for the Preferred Provider List for Learning disability Community Hub.	The Tower project – New Dawn	Shazia Ghani (x4825)
CHE Ref	£248,000	Waiver of financial regulations to award a two year contract to the Council for Mosques (CMTH). This approval is in excess of the noting threshold of £100k	Awarding the contract as a single source of supply because CMTH has a unique membership and representative role in the London Borough of Tower Hamlets to provide the capacity building and partnership development work the Council is seeking to support.	Council for Mosques (CMTH)	Louise Russell (x3267)