

# COMMISSIONERS' INDIVIDUAL DECISION MAKING

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Wednesday, 12 October 2016

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Commissioners' Decision Log No. 64


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1. **ACADEMY CONVERSIONS - MULBERRY SCHOOL FOR GIRLS AND IAN MIKARDO HIGH SCHOOL (Pages 1 - 36)**

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

<b>Individual Commissioner Decision</b> Decision Log No: 064	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>Academy Conversions: Mulberry School for Girls and Ian Mikardo High School</b>	

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

## EXECUTIVE SUMMARY

This report seeks Commissioners' approval to the Council's proposal to conclude leases of the sites known as the Mulberry School for Girls and Ian Mikardo High School with the respective academy trusts. The leases were considered by the Mayor in Cabinet on 4 October 2016.

The attached Cabinet report sets out the details of the proposal, including the implications of Mulberry School for Girls being subject to a single school PFI contract. The decision sheet from Cabinet is also attached.

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

## DECISION

The Commissioners are recommended to:

1. Provide their prior written agreement that the council may enter into a lease for the site known as the Mulberry School for Girls with the academy trust;

2. Note that, as per the Department for Education's guidance, the lease will be for a 125-year term at a peppercorn rent;
3. Note that, notwithstanding the above, the lease granted to the academy trust will be made subject to the rights of access granted to the PFI contract;
4. Note that the council, the Department for Education and the academy trust will enter into a set of agreements to retain the existing PFI arrangements until the end of the PFI term (2029);
5. Provide their prior written agreement that the council may enter into a lease for the site known as the Ian Mikardo High School with the academy trust; and
6. Note that, as per the Department for Education's guidance, the lease will be for a 125-year term at a peppercorn rent.

#### APPROVALS

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

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

Signed  ..... Date 12/10/16 .....

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

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

Signed  ..... Date 11/10/16 .....

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

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

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

~~I confirm that this decision:-~~

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

~~(b) is urgent and subject to the 'General Exception' or 'Special~~

~~Urgency' provision at paragraph 18 or 19 respectively of the Access to~~

~~Information Procedure Rules.~~

Signed *D. Hammond* Date 11/10/16

**4. Commissioner**

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

Name MAX CALLER Signed *MC*

Date 11/10/16

Name ..... Signed .....

Date .....


Name ..... Signed .....

Date .....

Name ..... Signed .....

Date .....

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<b>Cabinet</b>	 <b>TOWER HAMLETS</b>
Date 4th October 2016	
<b>Report of:</b> Debbie Jones, Corporate Director (Children's Services) and Melanie Clay, Corporate Director (Law, Probity and Governance).	<b>Classification:</b> Unrestricted
Academy Conversions: Mulberry School for Girls and Ian Mikardo High School	

<b>Lead Member</b>	<b>Cllr Rachael Saunders, Deputy Mayor and Cabinet Member for Education and Children's Services</b>
<b>Originating Officer(s)</b>	Kate Bingham, Service Head, Children's and Adults Resources Peter Stone, Academy Conversion Project Manager
<b>Wards affected</b>	All
<b>Key Decision?</b>	Yes
<b>Community Plan Theme</b>	A great place to live A fair and prosperous community A safe and cohesive community A healthy and supportive community

## Executive Summary

This report asks for Mayoral approval for completion of lease arrangements and commercial transfer, related to the academy conversions of Mulberry School for Girls and Ian Mikardo High School.

Both schools have indicated their wish to convert to academies on 1 November 2016.

## Recommendations:

The Mayor in Cabinet is recommended to:

1. Note that the land disposal for both schools is subject to the Commissioners' consent;
2. Approve that the appropriate lease arrangements should be entered into for both schools;
3. Approve the Council to enter into commercial and staffing transfers for both schools;
4. Approve the Council to enter into all other necessary documentation to ensure the liabilities under the PFI arrangements for Mulberry School for Girls are transferred to the Academy;
5. Authorise the Corporate Director Children's Services, in conjunction with both the Corporate Director Law, Probity and Governance and the

- Corporate Director, Resources to enter into and undertake any remaining issues associated with the conversion of the two schools;
6. Authorise the Corporate Director Law, Probity and Governance to execute all documentation required to implement those decisions at 2 to 5;
  7. Authorise the Corporate Director, Resources (the S151 Officer) to execute the Local Government (Contract) Act 1997 Certificate required to implement the decisions at 2 to 5.

## **1. REASONS FOR THE RECOMMENDATIONS**

- 1.1 Mulberry School for Girls is a maintained community school and received an academy order on 17 March 2016.
- 1.2 Ian Mikardo School is a maintained community special school and received an academy order on 14 July 2016.
- 1.3 Both schools have indicated their wish to convert to academies on 01 November 2016.

## **2. ALTERNATIVE OPTIONS**

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

## **3. ACADEMY CONVERSION**

### *Background*

- 3.1 Conversion usually involves two key transactions for the Council, these being the land transfer and commercial transfer. The commercial transfer deals with the transfer of existing contracts, staff and associated assets and is affected by a Commercial Transfer Agreement (“CTA”). The Council is the employer of staff at both schools in this case and staff consultation will be carried out with the support of the Council’s HR team. Execution of the CTA is the final severance between the school and the Council.
- 3.2 Both schools currently planning to convert are community schools and, as such, the land is owned by the Council. The expectation therefore is that the Council will transfer the land to the Academy Trusts. The Guidance from the Department of Education is that this transfer is to be by way of a 125 year lease for a peppercorn rent. Failure to transfer or to delay transferring can lead to intervention by the DfE under the Academies Act 2010. Each lease seeks to protect the Council’s interests in the following ways:
  - the stipulated use in the lease is for education purposes and community, fundraising and recreational purposes ancillary to the provision of educational services



- not to assign/transfer the lease to anybody other than a successor charitable or public body approved by the Secretary of State
- not to take out any charge or loan on the schools without prior approval by the Council
- not to underlet the whole of the school or underlet part for a term in excess of seven years
- the lease will automatically end upon termination of the funding agreement between the school and the Department for Education (DfE).

3.3 As these conversions will involve “disposal” of land, the Commissioners’ consent is required. The Commissioners have confirmed that they are minded to agree, subject to Cabinet approval of the recommendations detailed above on October 4<sup>th</sup> 2016.

*Conversion process – property implications*

3.4 Mulberry School for Girls is a maintained community school. As such, the Council is the employer of all staff employed by the school and owns the land and buildings from which the school operates.

3.5 Mulberry School for Girls is also subject to a single school PFI contract and benefits from ongoing life cycle investment through the contract. Therefore the lease granted to the academy must be made subject to the rights of access granted to the PFI contractor via a lease for the contract term. The Academy’s lease will be subject to the existing sub-lease to LBTH.

3.6 The Mulberry School PFI contract is a contract for Mulberry as a single school. The Council, the DfE and the school will enter into a set of agreements to retain the existing arrangements until the end of the PFI term (2029). The agreements require the school to continue to pay the agreed contributions to the Council for the contract payments to be made. A deed of variation in the contract between the Council and the PFI contractor will also be required. The contractor is D4E (Mulberry) Ltd. The agreement with the school will preserve the existing arrangements for review and adjustment of charges.

3.7 Mulberry School’s facilities are used outside of school hours largely managed as part of the PFI contract so these arrangements will continue.

3.8 The Council has leased a plot of land for 30 years to the Richard Street Education Trust to build the Mulberry & Bigland Green Centre which provides some school teaching accommodation (principally a theatre) as well as community use space. The land includes a small area of Mulberry School land and a larger area of Bigland Green School land. The school funded the cost of building the centre and the Council contributed to the build costs to provide a children’s centre space which is occupied by way of a sub-lease. No rent is paid by the school trust in recognition of the services provided. However, the children’s centre pays a service charge in respect of running costs. These leases will be unaffected by the academy conversion.

- 3.9 For Ian Mikardo High School, the Council is required to enter into a long (125 year) lease with the academy trust in the standard DfE form and at a peppercorn rent. There are no special property issues which need to be taken into account.

#### *Conversion process – commercial transfer*

- 3.10 In general, the Commercial Transfer Agreement (CTA) is intended to ensure that all information on the transferring staff is recorded and transferred to the academy trust so that the appropriate arrangements for payment of salaries, pension contributions, etc. can be made. The CTA also includes details of any assets, liabilities and contracts that will transfer to the academy trust and those that will remain with the Council.
- 3.11 Unlike the conversion of St. Paul's Way Trust School, in these cases there **will** be transfer of staff, as the Council is the employer. Staff are entitled to transfer under their existing employment terms and conditions, under the Transfer of Undertakings Protection of Employment (TUPE) regulations. The newly formed trusts must inform the current employer (the Council) in writing, of any measures it envisages taking in relation to staff after transfer. For Mulberry School for Girls, this may affect up to 216 Council employees and for Ian Mikardo School, up to 28 employees.
- 3.12 The consultation will be led by the Council HR Schools' team, in conjunction with the schools.
- 3.13 As regards pensions, when a maintained school becomes an academy, they must continue to provide access to the Teachers' Pension Scheme (TPS) for teaching staff and remit contributions to the TPS. Support staff who transfer will simply continue their membership of the Local Government Pension Scheme (LGPS), as an academy is a scheme employer in the LGPS. On conversion, the school becomes a separate employer in the LGPS and a separate employer contribution rate will need to be calculated by the relevant LGPS fund.
- 3.14 Specific advice has been sought in relation to pensions liabilities and the recommended approach is to follow the same route as that taken in previous conversions, i.e. to agree fourteen year recovery period for the amount of deficit attributable to active transferring members and that attributable to deferred and pensioner members of the LBTH Local Government Pension Scheme to Mulberry School for Girls and Ian Mikardo High School.
- 3.15 Ultimately, the Pensions Committee must approve the factors which influence the employer contribution rate and a report will be presented to the Pensions Committee on 22 September. The report will also cover any potential future issues, such as pooling arrangements.
- 3.16 Both schools have a number of SLAs with the Council. It is likely that the schools will confirm their intention to carry on with these arrangements until

the end of the 2016-17 financial year, at which point they will be able to enter into new contracts with the Council like any other school.

#### *Conversion Process - Assets (not including land and buildings)*

- 3.17 An asset register is being completed and all “other” assets will be transferred to the respective academies.

#### *Conversion Process - Contracts*

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

#### *PFI contract arrangements - Mulberry School for Girls School*

- 3.20 Mulberry School for Girls is subject to a PFI contract. The DfE has established arrangements for these circumstances whereby the school will remain part of the contract and new contractual arrangements between the school, the Council and the DfE are put in place to ensure that the existing PFI contract arrangements can continue. The PFI contract remains between the Council and the contractor. The new agreements for the academy school ensure that the Council will continue to receive the financial contributions from the school as it would have done without the conversion, and that there is no impact on the contractor or its funders.
- i. The School Agreement: this is between the Council and the Academy Trust. It sets out the school’s liability for the continuing financial contribution for the contract services and the school’s obligations relating to the contract.
  - ii. The Principal Agreement: this is between the DfE, the Council and the Academy Trust. It provides that the Council can call on the DfE should the academy fail in its obligations, including payments, in relation to the contract.
  - iii. Deed of Variation to the PFI contract: this is between the Council and the PFI contractor. It allows for the change of status of the school, requires the academy trust to be named on insurances and allows the contractor to retain access to the transferred land in order to provide the services. The Deed also includes (at Schedule 2) a Local Government (Contract) Act Certification, which certifies the vires (power) of the Council to enter into the contract.
- 3.21 These documents will remain in force until the expiry of the Mulberry School PFI contract in 2029.

## **4 CONTINUING RELATIONSHIP**

### *Admissions*

- 4.1 All academies are required to adopt clear and fair admission arrangements in line with admissions law and the School Admissions Code. When schools convert, they become admission authorities and therefore responsible for their own admission arrangements. This will involve periodic consultation, and regularly publishing their admission arrangements. Please see paragraph 4.3 below for separate arrangements regarding Special Schools.
- 4.2 The Council retains the responsibility for ensuring that all children and young people in the borough have a school place. Mulberry School has expressed their intention to adopt the admissions arrangements that the Council uses for its community schools, including the use of pupil ability banding at the point of entry in Year 7.
- 4.3 Ian Mikardo school is a Special School and therefore must convert “as is”. This means that they will not be able to alter their main characteristics during the course of the conversion process. In addition, the Council will continue to maintain its responsibility for admission processes and has published guidance which sets out the appropriate local protocols. Please see paragraph 4.4 below for more detail regarding special education needs.

### *Special Education Needs*

- 4.4 Local authorities retain responsibility for pupils with statements or Education, Health and Care (EHC) plans in academies on the same basis as for such pupils in maintained schools. The Council will continue to commission special places and they must:
- Ensure that academy pupils are appropriately assessed and have EHC plans as part of the entry criteria
  - Consider parents' representations for an academy to be named on an EHC plan and act reasonably in considering those representations
  - Fund any individually assigned SEN Top up resources
  - Monitor arrangements for SEN pupils in academies
  - Conduct reviews of the SEN statements or EHC plans of children in academies at least annually and each six months for children under five.
- 4.5 There is no specific guidance in respect of converting schools with special units and it is assumed that the guidance in relation to maintained special schools wishing to convert to academy status applies.

- 4.6 The guidance states that they will not be able to change their characteristics, including the number of places for which they are funded and the types of special educational needs they provide for, as part of the conversion process. The number of pupil places for which the academy will be funded will be based on the number of places for which the special school is funded currently. Likewise, the types of special educational needs the special academy will provide for will be based on the types of needs provided for currently by the special school.
- 4.7 Any future proposed change to their characteristics would have to be considered by the Education Funding Agency (EFA), with the final decision resting with the Secretary of State. Any special provision which is an academy wishing to change its designation must involve the Council in the consultation process that it leads.

### *Sixth Form*

- 4.8 Mulberry School has a very well established girls' sixth form and a strong tradition of progression to higher education and employment with training. The school has an inclusive curriculum for level 1, 2 and 3 student groups at 16-19 and with the planned University Technical College (UTC); this provision will become even stronger. Mulberry School has worked with a number of other schools in the borough in helping them develop their sixth forms. The school also takes a full part in borough events – such as conferences and professional development sessions – and is an active member of the head of sixths forum.

### *Exclusions*

- 4.9 The DfE statutory Guidance on Exclusion is equally applicable to Academies and Free Schools. Whilst Academies are not required to invite the Council Exclusions Officer to Governors' Pupil Discipline Committee hearings, parents can request the Council Exclusions Officer to attend the hearing. Schools often seek advice on the use of exclusions. Especially as much greater emphasis is now placed on avoiding indirect (or direct) discrimination against vulnerable groups of pupils. There can also be additional financial implications for the school, on top of any funding that would normally follow an excluded pupil.
- 4.10 All Tower Hamlets Secondary schools (together with the other partners) are part of the Behaviour and Attendance Partnership and have agreed on ten common principles that guide governing bodies in developing and reviewing the behaviour policies for their own schools. This is a statement of shared principles and promotes partnership working. Furthermore, the Tower Hamlets Secondary Schools Behaviour and Attendance Partnership involves secondary schools working collaboratively to address issues surrounding behaviour management, persistent truancy and alternative provision during exclusion. The Partnership operates a Fair Access Protocol (FAP) which seeks to ensure that all schools admit a fair share of pupils who have either been permanently excluded or are at risk of permanent exclusion through the

process of a managed move transfer. Schools seeking to arrange a managed move transfer for pupils at risk of exclusion do so in accordance with the locally agreed FAP arrangements.

### *Trading*

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

### *School Forum*

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

### *Governance*

- 4.13 The Governing Body of an academy must currently have two parent governors although the White Paper, "*Educational Excellence Everywhere*", proposes that academy trusts will no longer be required to reserve places for elected parents on GBs.

### *Insurance*

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

### *Landlord responsibilities*

- 4.15 Whilst there is a lease of the buildings and land for 125 years, the Council retains the responsibility for landlord functions under all academy leases. In general terms this is about ensuring the academy has adequate insurance, due regard to health and safety of staff and pupils, maintains the buildings in fit and proper state etc.

### *Policies*

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

Statutory policies required by education legislation:

- Charging and remissions policy
- School behaviour policy

- Sex education policy
- Special educational needs policy.

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

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

Documents referenced in statutory guidance:

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

## **5 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 5.1 The school as an academy will receive funding from the Education Funding Agency on the basis of School Funding Reform, with the vast majority of their funding based on the same formula as for maintained schools. [The only differences being for those services for which funding has been de-delegated for maintained schools, with the agreement of the School Forum. The academies will also receive Education Services Grant equating to the amount per pupil that the Authority receives for pupils in maintained schools]. Each academy school will also receive grant funding to meet the additional VAT that they incur and to meet their insurance costs. A government grant of up to £25,000 is made available to each school to assist with the cost of conversion; the Council will need to consider what proportion of the grant the schools will be asked to contribute to fund the costs of conversion incurred by the Council as these are not funded by government grant.

- 5.2 In order to protect the Council, the appropriate financial arrangements have been made for assets and ensuring financial liability transfers with those assets, as per the Commercial Transfer Agreement. There are particular issues regarding the transfer of Mulberry School For Girls because of the School's PFI contract, but the regulations are clear that the academy would continue to be part of the contract and would continue to make contributions on the same basis as maintained schools.

## **6 LEGAL COMMENTS**

- 6.1 The Academies Act 2010 (**'the 2010 Act'**) introduced a fast track procedure for maintained schools wishing to transfer to academy status. The Act provides a procedure for the transfer of assets, land and buildings to the newly established academy. Section 5B(1) of the 2010 Act provides that where an Academy order has effect in respect of a school, the governing body of the school and the Council must take all reasonable steps to facilitate the conversion of the school into an Academy. Section 5B(2) of the 2010 Act provides that where the Secretary of State notifies the governing body or Council that the Secretary of State is minded to enter into Academy arrangements with a specified person then they are under a duty to take all reasonable steps to facilitate the making of Academy arrangements with that person. This therefore imposes a statutory duty on the Council.
- 6.2 Ian Mikardo school is a special school and on conversion to academy status, a special school will become a 'special academy'. Certain characteristics of the special school that existed prior to conversion will remain the same once it becomes a special academy. For example, the funding agreement sets out that the academy is established to make special education provision for pupils with special educational needs ('SEN') and that it will make this provision in certain categories. These categories will be the same categories of SEN designated to the school prior to conversion. This also means that the number of pupil places for which the academy will be funded is based on the number of places for which the special school is currently funded.
- 6.3 The conversion process for special schools is very similar to the process for mainstream schools. However, the Department for Education ('DfE') has prepared a suite of model documents which are specific to special schools. There is a specific application form and pages 10 to 13 of that form sets out Supporting Notes for the purposes of completing the form. Paragraph 4 of those notes specifically states: "Schools wishing to convert to academy status must convert "as is". This means that they will not be able to alter their main characteristics during the course of the conversion process. Please note that we will corroborate this information with the Council. If there is a discrepancy between the views of the school and the Council, your project lead will seek to understand the reasons for this and will work with both parties to agree a position before the application can be considered further."
- 6.4 The 2010 Act requires Academies to follow the same statutory framework for SEN as Council schools. Schools will receive funding for children with



statements of SENs / Education Health Care Plans ('EHP') in the same way, whether they are Academies or local authority schools. If children have statements/ EHCPs with an enhanced package of support, both types of school will get additional funding directly from the Council, again, in the same way. Where children have special needs, but do not have a statement/ EHCP, once again, Academies are required to have regard to the Code of Practice for SEN in exactly the same way as Council schools. This means that in both types of school, children will be supported according to the level of need and involvement of external agencies.

- 6.5 Where the school land is Council public land (as is the case here) then the DfE's expectation is that all land and facilities used wholly or mainly for the purpose of the converting school will transfer and be made available to the academy in accordance with the mechanisms set out in the guidance titled "Land Transfer Advice 2013". In that regard, the Council is to lease the land to the academy trust on a 125 year lease for a peppercorn rent. Under the Education Acts, local authorities require the consent of the Secretary of State to dispose of any interest in land. This includes where a school converts to academy status. Consent would normally involve application to the Secretary of State through the Education Funding Agency, but in the case of conversions, this need for consent is taken forward as part of agreeing the conversion, and the Department of Education ('DfE') does not require a distinct application.
- 6.6 The requirement for a 125 year lease is not contained in statute, but is the expectation of the DfE and the DfE provides model leases on its website and which can be used. There are also model land clauses preventing the academy trust from disposing of its leasehold interest in the public land and which will need to be included in the relevant academy's Funding Agreement.
- 6.7 The DfE expects local authorities and schools to take timely steps to ensure that such transfers are completed in time for conversion. However, in circumstances where the parties concerned cannot reach agreement and/ or in the DfE's view there are unacceptable delays to the process then the Secretary of State can exercise powers under Schedule 1 of the 2010 Act to either make a scheme compulsorily transferring school land, or a scheme or direction transferring any existing interest, rights, or liabilities.
- 6.8 The Direction issued by the Minister on 17th December 2014 requires the Council, until 31<sup>st</sup> March 2017, to "..... *obtain the prior written agreement of the Commissioners **before** [emphasis added] entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation.*" Therefore, as this report involves the disposal of land by way of a 125 year lease, written consent will be required before any commitment to dispose takes place.
- 6.9 As to the transfer of assets (other than land), contracts and employees, this is done by way of a "commercial transfer agreement" and is based on the model transfer agreement as published by the DfE.

- 6.10 As set out in the report, it is considered that the Transfer of Undertakings (Protection of Employees) (“TUPE”) Regulations 2006 apply to this academy transfer and to the staff of the existing two primary schools.
- 6.11 The model transfer agreement deals with the transfer of things necessary for the operation of the Academy, namely:
- Transfer of Assets
  - Assignments/novation of contracts
  - Employee/TUPE issues
- 6.12 Typical terms of the model transfer agreement also cover issues such as:-
- Transfer and apportionment of assets
  - Transfer, novation/apportionment and termination of contracts which are either school specific or council wide contracts
  - transfer of employees in accordance with TUPE regulations e.g. staffing information and warranties, apportionments, information and consultation, indemnities and warranties, pensions
  - transfer of records e.g. documents on personnel, pupils
- 6.13 In preparing this documentation account is taken of any contracts that need to be novated or assigned to the Academy e.g. for existing equipment. Where the school is receiving services under Service Level Agreements from the Council and wishes to continue these arrangements, the Service level Agreements are converted into formal contracts.
- 6.14 As part of the work on this Academy conversion process officers have liaised closely with DfE to ensure the PFI liabilities are passed to the new Academy Trust and although the Council remains primarily liable under the PFI agreements there is provision for the financial liability to be discharged by the new Academy Trust.
- 6.15 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not. There are no direct equality implications arising from the proposed transactions as they are statutorily required to be made but relevant considerations have been made in the One Tower Hamlets Section of the report.

## **7 ONE TOWER HAMLETS CONSIDERATIONS**

- 7.1 Both schools work collaboratively to enable all children to experience the best possible educational opportunities, outcomes and life chances. Mulberry School is at the heart of the developing Tower Hamlets Education partnership. Ian Mikardo School provides outreach services to the Borough’s schools to support the management of pupils with challenging behaviour.

**8 BEST VALUE (BV) IMPLICATIONS**

8.1 None Identified.

**9 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

9.1 None identified.

**10 CRIME AND DISORDER REDUCTION IMPLICATIONS**

10.1 None identified.

**11 SAFEGUARDING IMPLICATIONS**

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

**Linked Report**

None.

**Appendices:**

None.

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

None.

**Officer contact details for documents:**

Kate Bingham  
Service Head: Children’s and Adults’ Resources  
Ext: 4811

## LONDON BOROUGH OF TOWER HAMLETS

## RECORD OF THE DECISIONS OF THE CABINET

HELD AT 2.04 P.M. ON TUESDAY, 4 OCTOBER 2016

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

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

**Other Councillors Present:**

Councillor John Pierce

**Officers Present:**

Zena Cooke	(Corporate Director, Resources)
Aman Dalvi	(Corporate Director, Development & Renewal)
Shazia Ghani	Head of Community Safety
Shazia Hussain	(Service Head Culture, Learning and Leisure, Communities Localities & Culture)
Christine McInnes	(Service Head, Education and Partnerships, Children's Services)
Denise Radley	(Director of Adults' Services)
Layla Richards	(Service Manager, Policy Programmes and Community Insight)
Dean RiddickMcGregor	(Political Adviser to the Labour Group)
Peter Robbins	Head of Mayor's office
Graham White	(Interim Service Head, Legal Services, Law, Probity and Governance)
Andreas Christophorou	(Service Head, Communications & Marketing)
Afazul Hoque	Interim Service Manager, Strategy, Policy & Performance
Kelly Powell	(Acting Deputy Service Head of Communications)
Matthew Mannion	(Committee Services Manager, Democratic Services, Law, Probity and Governance)

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of:

- Councillor Rachael Saunders, Deputy Mayor and Cabinet Member for Education and Children's Services
- Councillor Joshua Peck, Cabinet Member for Work and Economic Development
- Will Tuckley (Chief Executive)
- Debbie Jones (Corporate Director, Children's Services) for whom Christine McInnes (Service Head Education and Partnership) was deputising.
- Roy Ormsby (Service Head, Public Realm)

**2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

None were declared.

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

1. That the unrestricted minutes of the Cabinet meeting held on Tuesday 6 September 2016 be approved and signed by the Chair as a correct record of proceedings.

**4. OVERVIEW & SCRUTINY COMMITTEE****4.1 Chair's Advice of Key Issues or Questions**

Pre-Decision Scrutiny Questions were received in relation to agenda items 5.3 (Waste Management Services – Contract Extension) and 5.9 (Contracts Forward Plan – Quarter 3). These were responded to during consideration of the respective items.

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

Nil items.

**5. UNRESTRICTED REPORTS FOR CONSIDERATION****5.1 The Infrastructure Delivery Framework: Governance Proposals****DECISION**

1. To approve the proposed timetable for reporting CIL and S106 income, allocation and expenditure information. It is proposed that quarterly reports will be provided on to Cabinet. Reporting to the

- Overview and Scrutiny Committee will be undertaken on an annual basis.
2. To note the latest positions regarding the Council's CIL and S106 income and expenditure information.
  3. To agree that the Infrastructure Delivery Steering Group can recommend to the Corporate Director of Development and Renewal (or equivalent) the sign off of a 'Record of Corporate Director's Actions' form authorising the allocation of CIL and S106 as in I. and II. below:
    - I. The allocation of CIL and S106 funding of up to £250,000 to infrastructure projects ;
    - II. The allocation of S106 income where contributions are due to expire imminently;
  4. For all approvals granted in accordance with recommendation 3 above, to approve the implementation of a process to allow the Mayor to review the decision made.
  5. To approve the proposed approach to engaging with the Commissioners where decisions sought involve the provision of grants.
  6. To approve the proposal to integrate the process for completing 'Records of Corporate Director's Actions' forms into the IDF approval process.
  7. To approve the proposal to integrate the adoption of Capital budgets of up to £1 million by the Mayor in Cabinet into the IDF approval process.
  8. To approve the proposal to integrate the adoption of Capital budgets of over £1 million by Full Council into the IDF approval process. This does not apply in the case of the adoption of Capital budgets through the Council's annual budget-setting process.
  9. To note and approve the proposed approach to approving the funding and delivery of infrastructure projects through the IDF approval process.
  10. To approve the proposals for enabling the identification of new infrastructure projects by the Mayor and Councillors who attend the Infrastructure Delivery Board. Approve the process proposed that will enable officers to seek initial views on infrastructure projects from the Infrastructure Delivery Board.
  11. To approve the Terms of Reference, along with any proposed amendments, for the Infrastructure Delivery Steering Group; and the

Terms of reference for the Infrastructure Delivery Board. These documents will reflect the decisions made in respect of this report.

12. To note that proposals for the Local Infrastructure Fund are currently proposed to follow to the next Cabinet meeting. The Local infrastructure fund will enable localities to more directly inform spending decisions in respect of a proportion of CIL income collected.

**Action by:**

**CORPORATE DIRECTOR, DEVELOPMENT AND RENEWAL (A. DALVI)**

(Service Head Planning and Building Control (O. Whalley))

**Reasons for the decision**

There are several reasons for the decisions sought in this report:

1. To ensure that the IDF process is adopted in an effective manner, in compliance with the decision made by the Mayor in Cabinet in January 2016. This decision was to approve the implementation of the IDF to help secure the funding and delivery of infrastructure projects using CIL and S106.
2. To ensure that the process for approving the allocation of CIL and S106 funding is transparent and in compliance with the Mayor's Transparency protocol.
3. To ensure that relevant decisions are appropriately informed.
4. To ensure that the delivery of infrastructure in the borough accords with the Council's Best Value objectives as set out in the LBTH Best Value Strategy and Action Plan.

**Alternative options**

There are a number of alternative options to the recommendations set out in this report:

1. To approve the reporting of CIL and S106 income and expenditure information in a manner different to the approach proposed, such as by prescribing different reporting timescales and methodology.
2. To delegate authority to the IDSG through the Corporate Director of Development and Renewal (or equivalent) to be able to allocate a different levels of CIL and S106 funding to infrastructure projects, or to not delegate any authority to allocate or spend at all. In addition, the powers to grant delegated authority to the IDSG in terms of the allocation and expenditure of S106 amounts where these amounts are imminently expiring, could be removed or amended in some way.
3. To not approve the integration of the RCDA process into the IDF approval process.

4. To not approve the adoption of Capital budgets of up to £1m by the Mayor in Cabinet via the IDF approval process.
5. To not approve the proposed approach to approving the funding and delivery of infrastructure projects through the IDF.
6. To not approve the proposed processes for identifying new projects by the Mayor and Councillors who attend the IDB. To not approve the process proposed to enable officers to seek initial views of projects from the Mayor and Councillors.

It should be noted that Planning and Building Control consider that the approval of any of the alternative options will lead to a less robust IDF approval process.

## **5.2 Approval of the allocation of S106 Funding to projects including Pocket Parks: Cabinet Report**

### **DECISION**

1. To approve the capital allocation of £3,780,580.42 S106 and CIL funding to the projects set out in Table 1 of the report and profiled in the Project Initiation Documents attached at Appendices A to E and as set out below:
  - a) Idea Store Interactive Learning Project: **£232,342**
  - b) Mile End Pavilion Air Conditioning: **£30,000**
  - c) Idea Stores Technology Refresh: **£249,238.42**
  - d) Pocket Parks Programme: **£150,000**
  - e) Wellington Way Health Centre: **£3,119,000**
2. To approve the adoption of a capital budget in respect of the projects set out in four of the PIDs, equating to an amounts as follows:
  - a) Idea Store Interactive Learning Project: **£232,342**
  - b) Mile End Pavilion Air Conditioning: **£30,000**
  - c) Idea Stores Technology Refresh: **£249,238.42**
  - d) Pocket Parks Programme: **£150,000**
3. To approve the referral of a proposed grant allocation of £30,000 to Poplar HARCA for improvements to open space in the vicinity of the A12 Highway as part of the Pocket Parks Programme through the Commissioners' decision making process as required.
4. To approve the referral of a proposed grant allocation of £3,119,000 for the development of a new dedicated GP surgery facility at Wellington Way (including enabling works at Mile End Hospital to facilitate the relocation of the existing health facility at Wellington Way) to the Commissioners for formal confirmation whether Commissioners' approval is required and approve the allocation to



proceed through the Commissioners' decision making process if required.

**Action by:**

**CHIEF EXECUTIVE AND ACTING CORPORATE DIRECTOR,  
COMMUNITIES LOCALITIES AND CULTURE (W. TUCKLEY)**

**CORPORATE DIRECTOR, ADULTS SERVICES (D RADLEY)**

(Head of Idea Store (J. St John)

(Head of Arts and Events (S. Murray)

(Service Head, Culture, Learning and Leisure (S. Hussain)

(Director of Public Health (S. Banerjee)

(Service Head, Planning and Building Control (O. Whalley)

**Reasons for the decision**

Approval is sought to deliver these projects for the following reasons:

1. They help contribute to the delivery of positive improvements to people's lives that will underpin the Community Plan themes of:
  - A Great Place to Live;
  - A Safe and Cohesive Community;
  - A Healthy and Supportive Community
2. They will improve the health and wellbeing of residents and workers, as well as overall levels of public participation and interactive learning.

Please refer to the attached Project Initiation Documents (PIDs) for more information.

**Alternative options**

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

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

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

### 5.3 Waste Management Services - Contract Extension

The Pre-Decision Scrutiny Questions were noted.

#### DECISION

1. To approve the revised contracting timetable set out in Table 1 at paragraph 3.7 of the report.
2. To authorise the Corporate Director, Communities, Localities and Culture to complete negotiations with Veolia to extend the Refuse Collection, and Street Cleansing Contract through until 31<sup>st</sup> March 2020, and to agree and enter into (following consultation with Service Head, Legal Services) the necessary contract extension agreement.
3. To agree that the procurement of the Interim Recycling collection Contract, which will expire on 30 September 2018 (and which Cabinet approved in July 2015), be amended to allow for an optional 18 month extension period up to 31 March 2020 and authorise the Corporate Director, Communities, Localities and Culture to agree and enter into (following consultation with Service Head Legal Services) the necessary contract documentation to give effect to this.
4. To authorise the Corporate Director, Communities, Localities and Culture to complete negotiations with Veolia to extend the waste disposal contract until 30<sup>th</sup> September 2017, and to agree and enter into (following consultation with Service Head, Legal Services), the necessary contract documentation to give effect to this.
5. To agree that the Council continues with the procurement process for a new waste disposal contract for an initial period of 9 years and 6 months with a further extension of up to 8 years and authorise the Corporate Director of Communities Localities and Culture to award the contract following consultation with the Service Head, Legal Services.
6. To authorise the Corporate Director, Development and Renewal (following consultation with the Service Head, Legal Services) to agree the terms of and enter into a new short-term excluded lease or tenancy at will for Northumberland Wharf Waste Transfer Station so that it is co-terminus with the expiry of the waste disposal contract on 30<sup>th</sup> September 2017.
7. To agree that a number of workshops are held with Members, across all parties, to redesign a future service, ensuring the Council provides best value for our residents.

**Reasons for the decision**

As a Unitary Authority, Tower Hamlets is both a Waste Collection Authority and a Waste Disposal Authority. As such the Council has a statutory duty to collect and dispose of Municipal Waste within its area.

The Council has historically chosen to discharge these statutory duties through a number of externalised service contracts.

There are currently 4 waste management contracts in place that will be expiring between April and the end of May 2017. An initial proposal for delivering these contracts was reported to Cabinet in July 2015, however the service delivery option required further decision by Cabinet.

In addition, since that time a change of administration at the Greater London Authority and the Referendum on membership of the EU has resulted in a majority vote to leave the European Union which could have implications for the longer term waste services.

**Alternative options**

The report requires Members to agree the extension of the current contracts, which will enable Officers to develop a range of delivery options, and provide detailed information for Members to make an informed decision of how the Council delivers their waste and street cleansing services in the future.

**5.4 Community Safety Partnership Plan 2013-16 Year 4 (2016/17)**

Note – as a Budget and Policy Framework item, Paragraph 16.4.6 of the Overview and Scrutiny Procedure Rules exclude this item from the Call-In Process.

**DECISION**

1. To note the content of the Community Safety Partnership Plan 2013-16 Year 4 (2016/17) included as appendix 1 to the report
2. To note the content of this report and the decision made by the Partnership to:
  - 2.1. include Prevent as a standalone CSP Priority for 2016/17
  - 2.2. remove the duplication between current Priority Themes by absorbing the Serious Acquisitive (Property) Crime under the MOPAC 7 Cross-cutting Priority Theme for 2016/17
3. To agree this report and the CSP Plan 2013-16: Year 4 (2016/17) and recommend to Full Council that the Year 4 Plan be adopted.

**Action by:****CHIEF EXECUTIVE AND ACTING CORPORATE DIRECTOR,  
COMMUNITIES, LOCALITIES AND CULTURE (W. TUCKLEY)**

(Service Head, Safer Communities (A. Bamber)

(Head of Community Safety (S. Ghani)

**Reasons for the decision**

Full Council must adopt a Community Safety Partnership Plan in order to meet statutory requirements set by the Crime and Disorder Act (1998). Under the Article 4 of the Council Constitution, Council approval for the CSP Plan can only be granted at Full Council.

The priorities and governance structure outlined in the Plan are based on the statutory strategic assessment exercise that was carried out by statutory partners to consider data on safety in the Borough. They have been agreed by the Community Safety Partnership in July 2016 to be the best model to deliver a safer and more cohesive community in Tower Hamlets. The Cabinet are asked to consider the reviewed Plan, along with the CSP decision to update its priorities to include Prevent as a Standalone CSP Priority and remove Serious Acquisitive (Property) Crime as it is covered under Cross-cutting Priority MOPAC 7 and satisfy itself that it can proceed to Full Council.

The reviewed CSP Plan is attached as Appendix 1 to this report.

**Alternative options**

It is a statutory responsibility for Community Safety Partnerships to produce a Community Safety Plan and then annually review the contents. Full Council must adopt a Community Safety Partnership Plan in order to meet statutory requirements set by the Crime and Disorder Act (1998). There are therefore no alternative options to doing so without risking government censure, damaging key partner relationships and undermining community safety.

**5.5 Violence Against Women & Girls Strategy**

Note – as a Budget and Policy Framework item, Paragraph 16.4.6 of the Overview and Scrutiny Procedure Rules exclude this item from the Call-In Process.

**DECISION**

1. To note the content of the VAWG Strategy (appendix 1 to the report).
2. To agree that the VAWG Strategy is recommended to Full Council for approval.

**Action by:****CHIEF EXECUTIVE AND ACTING CORPORATE DIRECTOR,  
COMMUNITIES, LOCALITIES AND CULTURE (W. TUCKLEY)**

(Head of Community Safety (S. Ghani)

(DV and HC Manager (M. Ahmed)

**Reasons for the decision**

Full Council must adopt a VAWG Strategy in order to meet government requirements. The priorities and governance structure outlined in the CS Plan are based on the statutory strategic assessment exercise that was carried out by statutory partners to consider data priorities in the Borough. They have been agreed by the DV Forum and Community Safety Partnership in Tower Hamlets. The Cabinet is asked to consider the Strategy for recommendation to Full Council pursuant to the policy framework procedure.

**Alternative options**

It is a statutory responsibility for Community Safety Partnerships to produce a VAWG Strategy as it forms part of the Community Safety Plan within the Council's Crime and Disorder Reduction Strategy. There are therefore no alternative options to doing so.

**5.6 Gambling Policy 2016-19**

Note – as a Budget and Policy Framework item, Paragraph 16.4.6 of the Overview and Scrutiny Procedure Rules exclude this item from the Call-In Process.

**DECISION**

1. To recommend to Full Council the adoption of the revised Gambling Policy.

**Action by:**

**CHIEF EXECUTIVE AND ACTING CORPORATE DIRECTOR,  
COMMUNITIES, LOCALITIES AND CULTURE (W. TUCKLEY)**  
(Head of Environmental Health and Trading Standards (D. Tolley)

**Reasons for the decision**

All relevant local authorities are required under the Gambling Act to review their gambling policy.

The purpose of the policy is to define how the responsibilities under the Act are going to be exercised and administered.

A statutory consultation process must take place prior to the adoption of the revised Gambling Policy by full Council.

**Alternative options**

Pursuant to the Gambling Act 2005, the Council is a responsible authority for the licensing of premises used for gambling. If the Council did not have a policy it would be acting ultra vires with regards to any decisions it makes determining gambling premises licences.

The Gambling Commission has laid down guidance which the Council must have regard to in carrying out their functions under the Act, including setting their Gambling policy. Departure from the guidance without good reason could leave the council at risk of judicial challenge. The Gambling

Commission guidance has been followed in drafting the revised Gambling Policy. The policy focuses on the elements covered by the licensing objectives.

## **5.7 Food Law Enforcement Service Plan 2016/2017**

### **DECISION**

1. To approve the Tower Hamlets Food Law Enforcement Plan 2016/2017 and Food Sampling Policy attached at the Appendix of the report.

#### **Action by:**

**CHIEF EXECUTIVE AND ACTING CORPORATE DIRECTOR,  
COMMUNITIES, LOCALITIES AND CULTURE (W. TUCKLEY)**

(Head of Environmental Health and Trading Standards (D. Tolley))

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

Under the powers given to it by the Food Standards Act 1999 The Food Standards Agency (FSA) oversees and monitors how Local Authorities enforce food safety legislation. The FSA require all Local Authorities to produce and approve an annual plan that sets out how they are going to discharge their responsibilities. The annual plan is at Appendix One.

#### **Alternative options**

If the Council takes no action the FSA has the power to remove food safety responsibilities and engage another authority to deliver the service. The likely scenario would be for a neighbouring local authority to be seconded to provide this service. If this did happen the Council would still have to fund the service but would lose Member and management control of it.

## **5.8 Academy Conversions - Mulberry School for Girls and Ian Mikardo High School**

An updated report was tabled.

### **DECISION**

1. To note that the land disposal for both schools is subject to the Commissioners' consent;
2. To approve that the appropriate lease arrangements should be entered into for both schools;
3. To approve the Council to enter into commercial and staffing transfers for both schools;
4. To approve the Council to enter into all other necessary documentation to ensure the liabilities under the PFI arrangements for Mulberry School for Girls are transferred to the Academy;

5. To authorise the Corporate Director Children's Services, in conjunction with both the Corporate Director Law, Probity and Governance and the Corporate Director Resources to enter into and undertake any remaining issues associated with the conversion of the two schools;
6. To authorise the Corporate Director Law, Probity and Governance to execute all documentation required to implement those decisions at 2 to 5;
7. To authorise the Section 151 Officer to execute the Local Government (Contract) Act 1997 Certificate required to implement the decisions at 2 to 5.

**Reasons for the decision**

Mulberry School for Girls is a maintained community school and received an academy order on 17 March 2016.

Ian Mikardo School is a maintained community special school and received an academy order on 14 July 2016.

Both schools have indicated their wish to convert to academies on 01 November 2016.

**Alternative options**

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

**5.9 Contracts Forward Plan - Quarter 3 (2016-2017)**

The Pre-Decision Scrutiny Questions were noted. The recommendations were amended and then approved.

**DECISION**

1. To ensure that briefings on the high level specifications on contract (CS5124 Young people's substance misuse and sexual health service) be received by the Cabinet Members for Health & Adults Services, Education & Children's Services and Community Safety.
2. To ensure that briefings on the high level specifications on contract (AHS5111 Generic Floating Support) be received by the Cabinet Members for Health & Adults' Services and Housing Management & Performance.
3. That a briefing for Executive Members on contract CLC 5149 – Framework Agreement for Landscape & Play Installation Works be prepared before contract award.

4. That all other contracts be approved to proceed to contract award after tender.
5. To authorise the Service Head, Legal Services to execute all necessary contract documents in respect of the awards of contracts referred to at Recommendation 2 above.
6. To note the forward plan schedule detailed in Appendix 2.

**Action by:****CORPORATE DIRECTOR, RESOURCES**

(Head of Procurement (Z. Ahmed))

**Reasons for the decision**

The Council's Procurement Procedures require submission of a quarterly forward plan of contracts for Cabinet consideration, and it is a requirement of the Constitution that "The contracting strategy and/or award of any contract for goods or services with an estimated value exceeding £250,000, and any contract for capital works with an estimated value exceeding £5,000,000, shall be approved by the Cabinet in accordance with the Procurement Procedures". This report fulfils these requirements for contracts to be let during and after the 3rd quarter of the Financial Year.

**Alternative options**

Bringing a consolidated report on contracting activity is considered the most efficient way of meeting the requirement in the Constitution, whilst providing full visibility of contracting activity; therefore no alternative proposals are being made.

**5.10 Medium Term Financial Strategy 2017 - 2020****DECISION**

1. To note the changes to the draft budget position for 2017-8;
2. To note the early indications of the financial position 2018-19 onwards, subject to the Autumn Statement and Local Government Finance Settlement;
3. To note that the financial position is subject to volatility and that developments in Government policy and their implications on MTFs planning assumptions will be monitored closely and reported back at regular intervals;
4. To agree to accept the Government's 4 year funding Settlement Offer and delegate authority to the Director of Resources to submit a request for a Four Year guarantee for Tower Hamlets together with an Efficiency Plan;
5. To agree the consultation approach set out in section 3.20 and appendix 5 to the report;



6. To agree to commence formal budget consultation with residents, businesses and other key stakeholders and to receive feedback on the consultation at Cabinet in December.

**Action by:****CORPORATE DIRECTOR, RESOURCES (Z. COOKE)**

(Service Head, Finance and Procurement (N. Murton))

**Reasons for the decision**

The Council is under a duty to set a balanced and sustainable budget and maintain adequate reserves such that it can deliver its statutory responsibilities and priorities. The Council must also undertake meaningful budget consultation with key stakeholders.

The government's four year guaranteed financial settlement provides the Council with the opportunity to take a more strategic approach to its budget setting arrangements; building on the existing medium term financial planning approach that the Council has adopted for a number of years.

A Medium Term Financial Strategy (MTFS) covering the entirety of the resources available to the Council is considered to be the best way that resource prioritisation and allocation decisions can be considered and agreed in a way that provides a stable and considered approach to service delivery and takes into account relevant risks and uncertainty.

Through the adoption of an outcome based approach over the 3 year planning period the Council is afforded the opportunity to develop proposals which are more transformational in nature and allow sufficient time for needs led, outcome based service redesign.

**Alternative options**

Whilst the Council has identified a number of proposals for consideration aimed at delivering its MTFS there is no alternative other than to set a legal and balanced budget and agree its Council Tax before the statutory deadline.

The Council could continue with the current approach of agreeing proposals on an annual basis but this does not support a strategic approach which allows for proposals to be managed and implemented over a longer period of time leading to evidenced based policy decisions and better overall outcomes.

**5.11 Corporate Budget Monitoring - Month 4 (Q1 2016/17)****DECISION**

1. To note the Council's revenue and capital financial forecast outturn position as detailed in Sections 3 to 7 of the report.
2. To note the balance sheet information in section 8 of the report.

**Action by:****CORPORATE DIRECTOR, RESOURCES (Z. COOKE)**

(Chief Accountant (K. Miles))

**Reasons for the decision**

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

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

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

**Alternative options**

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

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

**5.12 Strategic Performance Monitoring - Q1 2016/17****DECISION**

1. To note progress in delivering the strategic measures at the quarter 1 stage (appendix 1 to the report) and final outturns and commentary for 2015/16 (appendix 2 to the report);

**Action by:**

**ACTING CORPORATE DIRECTOR, LAW, PROBITY AND GOVERNANCE  
(G. WHITE)**

(Interim Service Head, Corporate Strategy and Equalities (K. Kewin))

**Reasons for the decision**

The council uses a basket of performance measures to track whether it is delivering on its priorities and this is supported by key strategic activities as outlined in the Strategic Plan. This monitoring report details the council's performance at the quarter 1 (to June 2016) stage.

Cabinet is asked to:

- Review progress in delivering the strategic measures at the quarter 1 stage (appendix 1) and final outturns and commentary for 2015/16 (appendix 2);

**Alternative options**

The Council reports its strategic performance. Significant variations, trends and corrective action are reported in the body and appendix of the report. No alternative action is considered necessary beyond that included below and this report is produced to ensure that Members are kept informed about decisions made under the delegated authority.

**5.13 Transparency Commission Action Plan and Transparency Protocol****DECISION**

1. To note the progress in delivering the actions set out in the Mayor's Transparency Protocol (Appendix A to the report);
2. To approve the actions in response to the Transparency Commission's recommendations (Appendix B to the report).

**Action by:**

**ACTING CORPORATE DIRECTOR, LAW, PROBITY AND GOVERNANCE  
(G. WHITE)**

(Interim Service Head, Corporate Strategy and Equalities)

(Interim Service Manager, Strategy, Policy and Performance (A. Hoque))

**Reasons for the decision**

The Local Government Act 2000 and the Council's constitution require the Executive to respond to Overview and Scrutiny recommendations. The action plan in Appendix B represents the Council's response to the 18 recommendations of the Transparency Commission. For each recommendation, background information in the "comment/reason for approval" row is provided to inform the Mayor's decision.

This report also provides an update on the progress of implementing the actions in the Mayor's Transparency Protocol which was agreed by Cabinet on 3<sup>rd</sup> November 2015.

**Alternative options**

- 2.1 To take no action. This is not recommended as the recommendations from the Transparency Commission build on the work of the Mayor's Transparency Protocol and help develop the Council into a more open and transparent organisation.
- 2.2 To agree some, but not all recommendations. This is not recommended as actions identified help develop the Council into a more open and transparent organisation.

**5.14 Corporate Directors' Decisions****DECISION**

1. To note the Corporate Directors' decision set out in Appendix 1 to the report.

**Action by:**

**CORPORATE DIRECTOR, RESOURCES (Z. COOKE)**

(Accountant, Financial Planning (A. Kadir)

**Reasons for the decision**

Financial Regulations require that regular reports be submitted to Cabinet setting out financial decisions taken under Financial Regulation B10.

The regular reporting of Corporate Directors' Decisions should assist in ensuring that Members are able to scrutinise officer decisions.

**Alternative options**

The Council is bound by its Financial Regulations (which have been approved by Council) to report to Cabinet setting out financial decisions taken under Financial Regulation B10.

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.

**5.15 List of Executive Mayoral Decisions****DECISION**

1. To note the Individual Mayoral Decisions set out in Appendix 1 to the report.

**Action by:****COMMITTEE SERVICES MANAGER (M. MANNION)****Reasons for the decision**

This is a noting report to aid transparency.

The reasons each decision were taken are set out in their specific reports.

**Alternative options**

The alternative option would be to not produce this report, but that would not aid transparency of decision making.

**6. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT**

Nil Items.

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

Nil items.

**8. EXEMPT / CONFIDENTIAL MINUTES**

Nil items.

**9. OVERVIEW & SCRUTINY COMMITTEE****9.1 Chair's Advice of Key Issues or Questions in Relation to Exempt / Confidential Business**

Nil items.

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

Nil items.

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

Nil items.

The meeting ended at 3.41 p.m.

Mayor John Biggs

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