

<b>Cabinet</b> 5 March 2014	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Robert McCulloch-Graham, Corporate Director of Education, Social care and Wellbeing	<b>Classification:</b> Unrestricted
Mayor's Charter of Child Rights	

<b>Lead Member</b>	<b>Cllr Oliur Rahman, Lead Member for Children, Schools and Families</b>
<b>Originating Officer(s)</b>	Anthony Walters, Transformation Manager, Education, Social Care and Wellbeing  Ellie Kuper Thomas, Strategy, Policy and Performance Officer, Democratic Services
<b>Wards affected</b>	All wards
<b>Community Plan Theme</b>	One Tower Hamlets
<b>Key Decision?</b>	Yes

### Executive Summary

Cabinet members are asked to support the promotion of the Mayor's Charter of Child Rights, which is being developed to affirm Tower Hamlets' commitment to upholding the rights of children and young people, especially in the commissioning of services concerning children and young people and service delivery. The Charter is part of the Child Rights project in Tower Hamlets, aimed at a step-change in the way we deliver public services.

### Recommendations:

The Mayor in Cabinet is recommended to:

1. Consider and agree the wording of the Mayor's Charter of Child Rights and support the launch of the child rights commitment in Tower Hamlets.
2. Agree the Council will be a signatory of the Charter
3. Agree for the charter to be publicly launched, with partner organisations who are also signing the charter and agreeing to promote and embed child rights within their organisations.

## **1. REASONS FOR THE DECISIONS**

- 1.1 The Mayor's Charter of Child Rights, aimed at promoting children's rights across Tower Hamlets, has been developed in consultation with young people in order to promote child rights in Tower Hamlets. The Charter is being developed as a statement of the commitment of the Council and its partners to embedding a child rights based approach. Furthermore, through the Charter, children and young people will be educated about their rights. The ultimate goal is to make Tower Hamlets a child friendly borough.
- 1.2 A separate Charter has been created, in consultation with young people, for young people with a statement on the actions they can undertake to promote their rights.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The Mayor in Cabinet could decide not to support the creation of a Child Rights Charter for Tower Hamlets. However, although the Convention on the Rights of the Child (CRC) has not become part of UK's domestic law, the UK has signed the convention (on 19 April 1990) and ratified it (on 16 December 1991) and the government is committed to the CRC and to its implementation. As a public body, the Council is already a duty bearer of the Convention of the Rights of the Child.
- 2.2 Developing a local a charter is a public demonstration of our commitment, which will help embed best practice and will have benefits for our young people and the wider community.

## **3. DETAILS OF REPORT**

### **3.1 Background to the Project**

3.1.1 Tower Hamlets was approached by UNICEF in late 2011, with an offer to be one of the child rights partners in a project aiming to put children's rights at the heart of public services in the UK. The other participating partners are:

- Glasgow;
- Derry;
- Newcastle;
- Leeds; and
- Neath and Port Talbot.

3.1.2 After discussion at (then) Children, Schools and Families DMT, and the Children and Families Partnership Board, it was agreed to accept UNICEF's offer and to establish a cross- partnership steering group to progress the work. Although there are no funds for being involved in the project, the Partnership Board was of the opinion that participation in the project would

help to develop our focus on engagement and empowerment of children and young people, gaining the benefit of UNICEF's expertise as well as the ability to gain national profile for the excellent practice with the borough. The Executive Mayor is also strongly supportive of this work, having been a keynote speaker at the programme's national launch. The Mayor's Charter of Child Rights is designed to set out his support for child rights in the borough.

3.1.3 The child rights project is based on the Convention on the Rights of the Child (CRC) that sets out rights in 54 articles and two Optional Protocols. It spells out the basic human rights that children everywhere have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. The seven core principles of the Convention are the right to dignity, a right to life, survival and development, devotion to the best interests of a child, non-discrimination, interdependence and indivisibility, ensuring transparency and accountability and participation of children and young people. The Convention protects children's rights by setting standards in health care, education, and legal, civil and social services. Equalities is at the heart of the Convention and our adoption of a child rights approach will enhance our response to equalities issues and will contribute to our One Tower Hamlets vision.

3.1.4 Although the Convention has not become part of UK's domestic law, the UK has signed the convention (on 19 April 1990) and ratified it (on 16 December 1991) and the government is committed to the CRC and to its implementation. As state party, the Westminster Government is responsible for the overall co-ordination of the CRC across the UK. The Department for Education is the lead department with responsibility for implementing the CRC in England. Examples of policy initiatives embedding a child rights based approach include Every Child Matters, which set out the national framework for local change programmes to build services around the needs of children and young people to maximise opportunity and minimise risk. The Department for Education is also responsible for co-ordinating UK-wide reports on the CRC. The UK first reported to the United Nations Committee on the implementation of the CRC on 15 March 1994. Since then it has produced a further 3 periodic reports (more information is available at:

<http://www.education.gov.uk/childrenandyoungpeople/healthandwellbeing/b0074766/uncrc>

3.1.5 The Convention can be accessed via:

[http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC\\_PRESS200910web.pdf](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf)

## **3.2 Tower Hamlets Pilot Project**

3.2.1 UNICEF asked the child rights partner councils to identify a pilot project that would involve embedding a child rights approach to an area of practice.

3.2.2 With the approval of the Children and Families Partnership Board, Tower Hamlets put forward a pilot focused on developing a child rights based approach to commissioning, which was agreed by UNICEF. The pilot involves

adopting a child rights based approach to commissioning for our substance misuse treatment service, and depending on the outcomes, using the learning from this to inform the development of a child rights approach to all commissioning across the partnership. Alongside the development of the commissioning framework, the Mayor's Office is developing Mayor's Charter of Child Rights setting out the Mayor's commitment to realising child rights across the borough. A Project Board exists to deliver this project and the steering group is monitoring and evaluating the pilot.

### **3.3 Elements to Tower Hamlets Child Rights Project**

3.3.1 There are several components to the project:

3.3.2 **Recommissioning and procurement of the substance misuse treatment service-** providers that have submitted their bids for a substance misuse treatment service have had to demonstrate how the child rights principles of **participation, transparency/ accountability and holistic (interdependence and indivisibility)** would be embedded in their approach to delivery. The service specification was written on the basis of these principles. We appointed a group of Young Commissioners to take part in the service specification and tender evaluation processes to ensure that they are able to voice their opinions about the commissioning of a service and thus play a key part in the decision-making process.

3.3.3 **Joint commissioning framework-** this sets out the process of specifying, securing and monitoring services to meet people's needs, and securing value for money in the use of resources and has been developed to incorporate a child rights based approach to commissioning. As well as adopting a life course approach to the planning and commissioning of services for children, young people and families as set out in the Children and Families Plan (2012-2015), the framework aims to facilitate the development of a commitment to evidence based planning, using both a needs analysis and an analysis of rights as the foundation of this. The long-term vision is that the framework will apply to the development and delivery of services across the Children and Families Partnership. The developed framework is being used to inform the recommissioning process for the treatment service.

3.3.4 **Child rights based needs assessment-** the assessment is a child rights based analysis of the needs of children and young people in Tower Hamlets who misuse substances focusing on the three principles of **participation, transparency/ accountability and holistic** as embedded in the UN Convention on the Rights of the Child. The needs assessment is being used to inform the recommissioning process for the substance misuse treatment service.

3.3.5 **Development of the Mayor's Charter of Child Rights shaped by our Youth Council-** this is the public declaration of the commitment of the Council and other partner organisations who work with children and young people, to uphold child rights. It affirms that organisations respect the rights of children and young people during their service delivery and acknowledge that

all rights set out in the Convention on the Rights of the Child are of equal importance. It will help to ensure that any support offered to children and young people adopts a holistic approach considering the various needs of a child.

**3.3.6 Engagement and participation-** young people are key to the development of the child rights project. As well as taking part in the commissioning of the substance misuse treatment service and the development of the Mayor's Charter of Child Rights, young people are playing a role in raising the profile of child rights by training youth centres and schools on child rights. The work undertaken by the young people and Young Commissioners, coupled with the Mayor's Charter of Child Rights, will enable young people to be educated about their rights and the importance of respecting everyone's rights. This has the potential to strengthen community cohesion and community links.

### **3.4 The Development of the Mayor's Charter of Child Rights**

#### **3.4.1 Consultation**

3.4.1(a) In accordance with one of the Convention's key principles – participation- the Charter has been developed by the young people of Tower Hamlets.

3.4.1(b) Eight consultation sessions have been held with around 150 young people, including at schools, a nursery, the Youth Council, Youth Week Events, play centres and at the Kit Kat Club. The consultation has been with a range of ages from 2 – 18, genders and ethnicities, and with our looked after children.

3.4.1(c) The children and young people were asked to describe the rights they would like the Council and other organisations in Tower Hamlets to champion; this has informed the decision around which rights are given focus in the Charter.

3.4.1(d) The Tower Hamlets Pupil Attitude Survey results have also been included as part of the consultation.

3.4.1(e) A workshop was held with the Children and Families Partnership in July 2013, to aid the development of the commitments organisations could make to embedding the principles of the Convention on the Rights of the Child. On the 27<sup>th</sup> of January 2014 the Children and Families Partnership agreed the Charter.

3.4.1(f) A group of Young Commissioners have been involved throughout the process and are helping to create the wording, design of the Charter and the launch event.

### 3.5 Charter

3.5.1 The wording of the Charter incorporates:

- A statement of intent towards embedding all the rights.
- The rights chosen by the young people of Tower Hamlets.
- A statement of how organisations will promote and embed the rights in their organisations.

3.5.2 A separate Charter, for young people, will contain the first two segments and a statement on how young people will uphold the rights in the Charter.

3.5.3 The Charter has been drafted in consultation with the youth commissioners to ensure it is understandable by young people.

3.5.4 The following is the proposed wording of the Tower Hamlets Mayor's Charter of Child Rights:

#### **Tower Hamlets Mayor's Charter of Child Rights**

By signing this pledge, we agree to uphold all the United Nations Convention on the Rights of the Child and treat each right equally.

The rights in the Convention apply to everyone under eighteen regardless of their race, religion, gender, abilities, whatever their beliefs or thoughts, whatever type of family they come from.

We agree to ensure that young people's best interests are at the heart of any activity concerning a child or a young person and we seek to take into account their various needs and requirements.

We agree to ensure that every child has their dignity respected and is treated in all circumstances with understanding and compassion. We aim to promote the development and best standard of living possible for every child.

We agree that we will be inclusive, transparent and accountable to young people in the provision of our services and allow opportunities for young people to express their views and opinions through participation.

*By signing this pledge, we agree to uphold the full United Nations Convention on the Rights of the Child. The following rights have been highlighted by the young people of Tower Hamlets as being most important to them:*

#### Playing a part and freedoms

Children have the right to think and believe what they want and we respect the right and responsibility of families to direct and guide their children on these matters. Children have the right to voice their opinion and have it taken into account when adults are making decisions that affect them. (Articles 5, 14, 12)

Children have the right to privacy. We will protect them against any breaches of this privacy. (Article 16)

Children have the right to meet together and join groups and organisations, on the condition that it does not prevent others from enjoying their rights. (Article 15)

Children have the right to knowledge. They have the right to obtain and share information, whilst ensuring that the information is not damaging to them. (Article 13)

### Reaching potential

All children have the right to a decent quality of education. Children should be encouraged to reach the highest level of education they are capable of and offered the support they need in order to fulfil their potential. (Articles 28, 29)

Children with disability should have special care and support which provides them with the skills to lead full and independent lives. (Article 23)

### Living well

Children have the right to a standard of living that is reasonable enough to meet their physical and mental needs. This includes the right to good quality healthcare, nutritious food, decent clothing and a clean environment. We pledge to assist families who are unable to afford to provide this standard of living. (Articles 6, 24, 26, 27)

Children have the right to relax, play and join in on a wide range of activities (Article 31)

### Being free from harm

Children should be protected from danger that could harm their development and mental and physical state. (Articles 33, 34 and 25)

Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families. (Article 37)

*The undersigned organisations will promote and embed the rights through:*

- Integrating these rights in the services we deliver.
- Offering training to staff members to raise the profile of child rights.
- Allowing participation and involvement of young people
- Listening to young people and using their expertise.
- Communicating these rights in an open and clear manner.

*or (the below will feature in the Charter for young people)*

*Young people will uphold the rights through:*

- Learning and understanding the meaning and implications of these rights.
- Promoting the rights to other young people.
- Participating in the implementation of these rights.

### **3.6 Design**

3.6.1 The Charter will be designed, in consultation with the Young Commissioners, and will be produced into an A3 or A2 poster, which can be displayed in Council and partnership buildings to demonstrate their public commitment to the pledge.

### **3.7 Launch**

3.7.1 Following formal agreement at Cabinet, in March, it is proposed the Charter will be formally launched later in March, with a public signing of the Charter by the Mayor, and leaders of other organisations represented on the Children and Families Partnership and the Children's Charter to be signed by The Young Mayor. The launch will be attended by young people and representatives from UNICEF.

## **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1. There is no additional funding associated with participation in this UNICEF initiative. The initiative allows a refocussing of how existing resources are used.

## **5. LEGALCOMMENTS**

- 5.1. The Convention on the Rights of the Child ("the Convention") was adopted by the General Assembly of the United Nations on 20 November 1989. It came into force on 2 September 1990, after being ratified by more than the required twenty states. It has now been ratified by all but two countries in the world.
- 5.2. The United Kingdom ratified the Convention on 16 December 1991, committing itself to ensuring certain rights to children. The United Nations Convention goes further than the European Convention on Human Rights in relation to the rights of the child, but unlike the European Convention (which is given effect in the UK by the Human Rights Act 1998) the United Nations Convention has no direct effect in the United Kingdom.
- 5.3. The Convention contains 54 Articles and provides for a wide range of rights which it is impractical to outline in these comments. The following summation of the rights is taken from V Muntarhorn 'The Convention on the Rights of the Child: reaching the unreached?' (1992) 91 Bulletin of Human Rights 66 at 66–67, extracted in the *Stair Memorial Encyclopaedia* (LexisNexis) -



- General rights (the right to life, prohibition against torture, freedom of expression, thought and religion, the right to information and to privacy).
- Rights requiring protective measures (including measures to protect children from economic and sexual exploitation, to prevent drug abuse, and other forms of abuse and neglect).
- Rights concerning the civil status of children (including the right to acquire nationality, the right to preserve one's identity, the right to remain with parents, unless the best interests of the child dictate otherwise, and the right to be reunited with the family).
- Rights concerning government and welfare (including the child's right to a reasonable standard of living, the right to health and basic services, the right to social security, the right to education and the right to leisure).
- Rights concerning children in special circumstances or in 'especially difficult circumstances'. These extend to such children as handicapped children, refugee children and orphaned children. Included are special regulations on adoption, the cultural concerns of minority and indigenous children, and rehabilitative care for children suffering from deprivation, as well as a prohibition on the recruitment of soldiers under 15 years of age.
- Procedural considerations, particularly the establishment of an international committee of ten experts to monitor implementation of the Convention'.

- 5.4. Whilst the Convention doesn't have direct effect in the UK, it has been referenced in relation to the exercise of statutory functions. For example, the Convention has been considered by UK courts when determining whether to make, vary or discharge certain orders in relation to children under the Children Act 1989. Before making that decision, the court must consider the welfare checklist in section 1(1) of the Children Act 1989 and the provisions of the Convention have sometimes informed the consideration of items in the checklist.
- 5.5. There may be occasions where it is open to the Council to exercise its functions consistently with the Convention and adoption of the proposed charter may in this way be considered to be within the Council's powers. If additional power were necessary, it may be found within the Council's general power of competence (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).
- 5.6. The fact that the Convention doesn't have direct effect in the UK means that the Council has no freestanding power or duty to uphold the Convention and a

degree of caution must be exercised by the Council in its commitment to uphold it. The Council's primary obligation must be to act in accordance with its statutory obligations under UK law and pursuit of the proposed charter should not be permitted to lead the Council into error in this regard. The example given in paragraph 3.3.2 of the report appears to show that the Council was able to incorporate its charter objectives into a procurement process which met the requirements of the Public Contract Regulations 2006, but the Council will need to continue to be careful that pursuit of the charter is consistent with its legal obligations.

5.7. Specifically in relation to contracts, it will be preferable to –

- Draw up the specification for a particular service in a manner consistent with the charter, rather than including the charter itself, to avoid conflict with the other requirements of the specification or the Council's legal obligations in respect of the young person under domestic law.
- Avoid generalised statements to the effect that the Council will only contract with organisations who have signed up to the charter. The Council should express this as desirable only and have a process of allowing an organisation to explain why in their particular case they are not able to adhere to the charter to ensure that the implementation of the charter does not discriminate against any particular organisation.

5.8. It is often legitimate for the Council to take into account resource considerations in the manner in which it discharges its statutory functions. To the extent that the proposed commitment to the Convention does not recognise resource limitations, it may lead to additional pressure on the Council in relation to the discharge of its functions, threatened proceedings and the Council's resources.

5.9. Before adopting the proposed charter and its implementation, 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. There is material contained in the report relevant to these considerations.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

6.1. The Charter will help organisations realise and respect the rights of children and young people during their service delivery and acknowledge that all rights set out in the Convention on the Rights of the Child are of equal importance and thus any support offered to children and young people needs to adopt a holistic approach considering the various needs facing a child. The Charter is to endorse the practice of treating all children and young people equally without discrimination based on race, gender, disability, sexual orientation, religion/ belief and age and so this will contribute towards the vision of One Tower Hamlets by reducing inequalities.

- 6.2. The work undertaken by the young people and Young Commissioners in raising the profile of child rights, coupled with the Mayor's Charter of Child Rights, will enable young people to be educated about their rights and the importance of respecting everyone's rights. A rights- respecting focus has the potential to avoid conflicts or tensions between groups of children and young people from different backgrounds and thus ensuring community cohesion.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 There are no environmental implications of the Mayor's Charter of Child Rights.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1. A possible concern is that organisations may not embed a child rights based approach to the delivery, commissioning and procurement of services. This could be for a number of reasons, including lack of knowledge and expertise around child rights. To mitigate this, an Implementation Group has been set up, which is representative of the partnership that exists in Tower Hamlets. The Group will focus on raising the profile of child rights and generate interests in adopting a child-rights based approach in service delivery by:
- ensuring workforce development and communication around child rights with key stakeholders and using the Mayor's Charter of Child Rights to achieve this;
  - evaluating the child rights pilot in Tower Hamlets upon its completion and use the learning from it to develop a child rights based approach in all areas of commissioning concerning children and young people;
  - considering actions to be taken including seeking approval from DMT and the Children and Families Partnership Board to officially embed a child rights based approach to all areas of commissioning of services across the Children and Families Partnership;
  - developing and sharing local good practice and approaches between services and identify a hub for good practice; and
  - ensuring that the commissioning and delivery of services relating to children, young people and families adopt a child rights based approach.

## **9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 Adopting a child rights approach will help to ensure that children and young people are better engaged in the design and delivery of services, and that these services better meet their needs. This will enable the Council and its partners to deliver better outcomes, including reducing offending. In addition, adopting a more holistic approach to the design and delivery of services will enable us to ensure that prevention of offending is considered in the delivery of all of our services. This is in line with Article 19 of the CRC, which seeks to protect children from all forms of violence.

## 10. EFFICIENCY STATEMENT

- 10.1 As the Council enters a period of further significant budget reduction, the importance of aligning resources more effectively to achieve outcomes has never been greater. A child rights based approach supports this as services are co-designed with young people (participation), are held properly accountable for effective delivery and are delivered in a holistic way. It is expected that involving young people in the design and procurement of services will result in services which better meet their needs, resulting in improved outcomes and a reduced need for further services. Our experience in commissioning young people's substance misuse services is a good example of this, since there is a strong evidence base that the adoption of these principles results in better treatment outcomes at no additional cost.
- 

### Linked Reports, Appendices and Background Documents

#### Linked Report

- NONE

#### Appendices

- NONE

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

- Consultation Feedback

#### Originating Officers and Contact Details

Name	Title	Contact for information
Ellie Kuper Thomas	Ellie Kuper Thomas, Strategy, Policy and Performance Officer, Democratic Services	1st Floor, Mulberry Place, 5 Clove Crescent London, E14 2BG  Tel: 020 7364 0363 Email: ellie.kuperthomas@towerhamlets.gov.uk
Sheila Begum	Education, Strategy, Policy and Performance Officer Social Care and Wellbeing	5th Floor, Mulberry Place, 5 Clove Crescent London, E14 2BG  Tel: 020 7364 2160 Email: sheila.begum@towerhamlets.gov.uk