



Executive

Monday 22 April 2013 at 7.00 pm

Committee Rooms 1, 2 and 3, Brent Town Hall, Forty Lane, Wembley, HA9 9HD

Membership:

Lead Member Councillors:

Portfolio

Butt (Chair)	Leader/Lead Member for Corporate Strategy & Policy Co-ordination
R Moher (Vice-Chair)	Deputy Leader/Lead Member for Finance and Corporate Resources
Arnold	Lead Member for Children and Families
Beswick	Lead Member for Crime and Public Safety
Crane	Lead Member for Regeneration and Major Projects
Hirani	Lead Member for Adults and Health
Jones	Lead Member for Customers and Citizens
Long	Lead Member for Housing
J Moher	Lead Member for Highways and Transportation
Powney	Lead Member for Environment and Neighbourhoods

For further information contact: Anne Reid, Principal Democratic Services Officer
020 8937 1359, anne.reid@brent.gov.uk

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The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members.

Item **Page**

1 Declarations of pecuniary interests

Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

2 Minutes of the previous meeting 1 - 10

3 Matters arising (if any)

Adult and Social Care reports

4 Authority for procurement of community based mental health support 11 - 18

This report requests authority for officers to progress with the development of a competitive dialogue process for the re-provision of local mental health services subject to the outcome of community consultation and appropriate market research and testing.
Appendix also below.

Ward Affected:
All Wards

Lead Member: Councillor Hirani
Contact Officer: Phil Porter, Interim Director of Adult Social Services
Tel: 020 8937 5937 phil.porter@brent.gov.uk

Children and Families reports

5 Annual report on school standards and pupil attainment 19 - 32

This report summarises the current position regarding standards in Brent schools and the attainment of our children and young people.

Ward Affected:
All Wards

Lead Member: Councillor Arnold
Contact Officer: Krutika Pau, Director of Children and Families
Tel: 020 8937 3126 krutika.pau@brent.gov.uk

6 Travel Assistance Policy for young people 33 - 50

This report seeks approval for a West London Alliance Eligibility Policy which provides clear criteria for access to transport provision and promotes the adoption of alternatives, including the provision of independent travel training, which reflect the needs of the individual and help to promote greater independence.

Ward Affected:
All Wards

Lead Member: Councillor Arnold
Contact Officer: Krutika Pau, Director of
Children and Families
Tel: 020 8937 3126 krutika.pau@brent.gov.uk

7 Authority to tender a contract for information, advice, guidance and support for young people 51 - 70

This report concerns the procurement of information, advice, guidance and support for young people to make informed choices about learning and work options known as Connexions Services. This procurement is both for the Council and on behalf of schools and further education establishments from 1 April 2014 for a period of 3 years with an option to extend by up to 2 additional years. This report requests approval to invite tenders in respect of Connexions Services as required by Contract Standing Orders 88 and 89.

Ward Affected:
All Wards

Lead Member: Councillor Arnold
Contact Officer: Krutika Pau, Director of
Children and Families
Tel: 020 8937 3126 krutika.pau@brent.gov.uk

8 Authority to establish a Dynamic Purchasing System (DPS) for the provision of cleaning services to Brent schools 71 - 78

Following a report seeking authority to invite tenders for a Cleaning Framework Agreement at the August 2011 Executive, this report updates members and seeks necessary approvals for an alternative procurement approach.

Ward Affected:
All Wards

Lead Member: Councillor Arnold
Contact Officer: Krutika Pau, Director of
Children and Families
Tel: 020 8937 3126 krutika.pau@brent.gov.uk

Regeneration and Major Projects reports

9 South Kilburn Regeneration Phase 2 79 - 100

This report summarises the progress made on the regeneration of South Kilburn and sets out the approvals required by the Executive to further progress Phase 2 of the regeneration programme, comprising Site 11b,

Phase 2a and Phase 2b.
Appendices circulated separately and also referred to below.

Ward Affected: Kilburn
Lead Member: Councillor Crane
Contact Officer: Abigail Stratford, Regeneration Officer - Major Projects
Tel: 020 8937 1026
abigail.stratford@brent.gov.uk

10 Disposal of land adjoining 19 Elms Gardens, Elms Court, Sudbury and establishment of new a replacement allotment site at Gladstone Park Gardens, Dollis Hill 101 - 112

The subject land comprises a disused former allotment that has been neglected for a number of years. This report sets out proposals to bring the site back into use by splitting the site into two, recommending Executive approval to disposal proposals, comprising on one part a short-term lease arrangement in stages for allotment related use and on the other a longer-term freehold disposal for redevelopment. As proposals comprise a loss of allotment land, the paper asks the Executive to note previously approved replacement site proposals at Gladstone Park including provisions for forward funding of works the cost of which will be recovered from the capital receipt generated.

Ward Affected: Sudbury
Lead Member: Councillor Crane
Contact Officer: Sarah Chaudhry, Head of Strategic Property
Tel: 020 8937 1705
sarah.chaudhry@brent.gov.uk

11 Underoccupier Incentive Scheme 113 - 120

The Size Criteria, or 'Bedroom Tax' will be implemented for underoccupiers of social housing stock from the 1st April 2013, and tenants will receive a reduced amount of Housing Benefit to pay the rent with. Given the current demand on social housing, particularly from homeless households who will be affected by other Welfare Reform measures, transferring underoccupiers to right sized accommodation is favoured, and needs to be encouraged. The currently financial incentive offered to households to motivate the move is a flat rate of £1,000. The proposal is to increase this to £2,000 per bedroom released, per household (to a maximum amount of £6,000) to encourage underoccupiers to move to smaller homes. The cost of providing the increased incentive payments is offset against savings to both the Temporary Accommodation (TA) budget and the Housing Revenue Account (HRA).

Ward Affected: All Wards
Lead Member: Councillor Long
Contact Officer: Perry Singh, Housing

12 Knowles House, Longstone Avenue, NW10 - temporary use of vacant premises 121 - 134

The Council to appoint a suitably qualified and experienced organisation for the temporary provision of bed and breakfast accommodation at the premises known as Knowles House, Longstone Avenue, London NW10 3UN (“the scheme”). The accommodation will be provided to homeless and potentially homeless households. At the end of the scheme the site will be disposed of on the open market for a capital receipt.

Appendices also below.

Ward Affected:
All Wards

Lead Member: Councillor Crane
Contact Officer: Sarah Chaudhry, Head of Strategic Property
Tel: 020 8937 1705
sarah.chaudhry@brent.gov.uk

13 Revised Allocation Scheme 135 - 198

This report outlines proposed changes to the council’s Allocation Scheme that flow from the approach set out in the Tenancy Strategy, which was approved by the Executive in July 2012. While the strategy set out the high-level policy aims, the Allocation Scheme addresses the detail of implementation as far as it affects the allocation of social housing and the management of the Housing Register. As it is a statutory document, formal consultation on the changes was required and this report seeks approval for the key changes to the current scheme following completion of the consultation period on 8 March 2013.

Ward Affected:
All Wards

Lead Member: Councillor Long
Contact Officer: Tony Hirsch, Policy and Performance
Tel: 020 8937 2336 tony.hirsch@brent.gov.uk

Central Reports

14 Tackling Diabetes in Brent task group report 199 - 230

This report brings to the Executive the work, findings and recommendations of the Overview & Scrutiny Committee’s task group investigation into Tackling Diabetes in Brent. This task group was set up to look into the impact of diabetes in Brent. Recent statistics on the disease indicated that there is an increasing impact of this disease on the people of Brent and on the NHS to treat it. The group focussed their findings around what is being done in terms of education and prevention.

Ward Affected: All Wards
Lead Member: Councillor Hirani
Contact Officer: Phil Newby, Director of Strategy, Partnerships and Improvement
Tel: 020 8937 1032 phil.newby@brent.gov.uk

15 Community Right to Challenge 231 -

266

The Localism Act 2011 introduced legislation that enables community groups and other relevant bodies to submit an expression of interest in relation to providing Council services. This paper summarises the requirements of the legislation and makes proposals concerning the necessary processes and procedure that the Council should have in place to be compliant with the provisions of the Act with respect to the right to challenge. The community right to challenge does not automatically provide groups with the right to provide a service, it enables them to express an interest. However if the expression of interest meets the criteria set out within the act and the guidance it can trigger the requirement for the council to run an open competitive tendering process for these services.

Ward Affected: All Wards
Lead Member: Councillor Jones
Contact Officer: Cathy Tyson, Strategy, Partnerships and Improvement
Tel: 020 8937 1045 cathy.tyson@brent.gov.uk

16 Temporary staff contract award 267 -

274

This report requests authority to award a contract as required by Contract Standing Order No 88. This report summarises the process undertaken in selecting the supplier for this contract and recommends to whom the contract should be awarded.

Appendix also below.

Ward Affected: All Wards
Lead Member: Councillor R Moher
Contact Officer: Cara Davani, People and Development
Tel: 020 8937 1909 cara.davani@brent.gov.uk

17 West London Alliance Accord 275 -

282

This report sets out Brent Council's participation in and contribution to the West London Alliance programme of collaborative working and seeks authority to adopt the West London Alliance Accord as the basis for the continued development of collaborative approaches by the West London boroughs.

Appendices circulated separately

Ward Affected: All Wards
Lead Member: Councillor Butt
Contact Officer: Fiona Ledden, Director of Legal and Procurement

Environment and Neighbourhood Services reports - none

18 Reference of item considered by Call in Overview and Scrutiny Committee - none

19 Any Other Urgent Business

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.

20 Exclusion of Press and Public

The following items are not for publication as they relate to the following category of exempt information as specified in the Local Government Act 1972 namely:

“Information relating to the financial or business affairs of any particular person (including the authority holding that information)”:

APPENDICES:

- **Authority for procurement of community based mental health support**
- **South Kilburn Regeneration Phase 2**
- **Knowles House, Longstone Avenue , NW10 - temporary use of vacant premises**
- **Temporary staff contract award**

(Reports above refer)

Date of the next meeting: the date of the next meeting will be confirmed at the Annual meeting in May 2013.



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.
- Toilets are available on the second floor.
- Catering facilities can be found on the first floor near The Paul Daisley Hall.
- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

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LONDON BOROUGH OF BRENT

MINUTES OF THE EXECUTIVE Monday 11 March 2013 at 7.00 pm

PRESENT: Councillor Butt (Chair), Councillor R Moher (Vice-Chair) and Councillors Arnold, Beswick, Crane, Hirani, Jones, Long, J Moher and Powney

Also present: Councillors Chohan, Daly, Lorber, Mitchell Murray, HB Patel and Pavey

1. **Declarations of personal and prejudicial interests**

Councillor Long declared a personal interest in the item relating to the Wembley Plan having submitted comments during the consultation stage and indicated that she would abstain from voting on the matter. Councillor Hirani declared a personal interest in the item relating to Church End car park development as a member of the Brent Local Board at Catalyst Housing Association.

2. **Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 11 February 2013 be approved as an accurate record of the meeting.

3. **Matters arising**

None.

4. **Deputation - on street parking tariffs**

Mr P Raja (local business owner) addressed the Executive in relation to the report from the Director of Environment and Neighbourhood Services which proposed the reduction of on-street parking charges across the borough through the adoption of a new tariff priced at a consistent rate of £2.00 per hour and a flat rate, low cost charge of 20p for a stay not exceeding 15 minutes. Mr Raja referred to the significant impact parking charges have on local businesses. He stated that shoppers were willing to pay reasonable charges but were more likely to try to avoid charges that they saw to be unfair. He suggested that the free parking period be extended from 15 minutes to 30 or 45 minutes. In his experience, people frequently relied on shop keepers for small change and then did not take the opportunity to become customers. Penalties would be ineffective. On cashless parking, Mr Raja felt that the elderly and disabled would be disadvantaged and recommended that extended parking be made available. Mr Raja acknowledged that that the car park on Preston Road was well priced but not well used.

5. On-street parking tariffs

Councillor J Moher (Lead Member, Highways and Transportation) introduced the report from the Director of Environment and Neighbourhood Services) which proposed a reduction in on street parking charges and the adoption of a new tariff priced at £2.00 per hour and a flat rate, low cost charge of 20p for a stay not exceeding 15 minutes. He referred to the deputation earlier in the evening from local business owner Mr P Raja and thanked him for his balanced contribution. Councillor Moher advised that a number of options had been considered, account had been taken of the 2011 increases and charges in neighbouring boroughs. The was competition from supermarkets and the economy was flat-lining. The proposals now before members would result in all round percentage decreases which he hoped people would welcome from Autumn 2013.

Councillor HB Patel (Preston ward councillor) sought clarification on the cost implications and put forward the view that the priority should be to make safety improvements for road users, traders, residents and motorists and not to generate revenue for the council. Councillor Patel referred to the increased charges introduced in 2011, the proposal now to have cashless parking and the intention to monitor and review in six months' time and felt the series of changes would reduce residents' confidence. He referred to inconsistency in parking arrangements around the borough, especially over bank holiday parking, cheaper rates in neighbouring boroughs and urged the Executive to introduce 30 minutes free parking.

Councillor Lorber (Leader of the Opposition) stated that the decision to increase charges from September 2012 had already cost residents £100,000 and now, only a few months later, additional charges were being considered. He felt that the council was taking advantage of people, particularly those living in streets where only on street was feasible. Councillor Lorber drew attention to the adverse environmental impact of driveway parking as more and more residents destroyed pavements and gardens to create off street parking. Excessive parking charges also had an adverse effect on local businesses with there being found to be a 24% reduction in parking as a result of the increases. This resulted in a loss in business income and many businesses having to close, leaving the high streets to the bookmakers and fast food establishments. 15 minutes free parking was too short a time to be useful and he queried the level of charge that would apply thereafter.

Councillor J Moher responded to representations stating that the charges were a response to inflation charges and it had been some time since the last increase. Linear charging (where the same pence per minute/hour rate applied across the range of potential stays) had been introduced to alleviate the impact on businesses as it would help the issue of big increases in parking fees where customers stayed slightly longer than the lower tariff. He considered that the proposal to charge 20p for a stay of up to 15 minutes was a serious attempt to meet the demands of traders and achieve consensus.

Councillor J Moher thanked Mr Raja and members for their contributions.

RESOLVED:

- (i) that on-street parking charges be reduced through the adoption of a linear charging tariff set at £2.00 per hour as described in paragraph 3.6.3 and

3.6.4 in the report from the Director of Environment and Neighbourhood Services;

- (ii) that for stays of up to 15 minutes the linear charging tariff should not apply and that a fixed charge of 20p should instead be made as described in paragraph 3.6.9 of the Director's report;
- (iii) that the 20p charge for a stay of no more than 15 minutes should not be subject to the 50p supplement for cash payments already agreed;
- (iv) that the impact of these reductions be monitored and that a report on the impact be brought to the Executive within a year of implementation;
- (v) that authority be delegated to the Director of Environment and Neighbourhood Services to undertake appropriate consultation and advertising of Traffic Orders associated with these proposals;
- (vi) that authority be delegated to the Director of Environment and Neighbourhood Services after having considered all representations received and making any appropriate modifications, to make the proposed Traffic Orders to introduce the proposed regime and charges;
- (vii) that the changes be funded as described in paragraph 4.8-4.12 of the Director's report.

6. Approval to award contract for Parking Services – collaborative cross borough procurement of parking

The report from the Director of Environment and Neighbourhood Services sought approval to award a joint contract for the provision of parking services as required by Standing Order 88(c). The report summarised the results of the procurement process undertaken by officers from the WLA participating boroughs for the provision of parking enforcement and notice processing services. Following completion of the evaluation it recommended a contractor for award of the proposed contract. The report also set out the financial savings and other benefits associated with the contract.

The Executive also had before them appendices to the report which were not for publication as they contained the following category of exempt information as specified in Schedule 12 of the Local Government (Access to Information Act) 1972:

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Councillor J Moher in introducing the report referred to the complexity and importance of the contract. He stated that the council needed to make savings in order to make up for central government imposed budget reductions and the contract would make a significant contribution over its lifetime.

RESOLVED:

- (i) that approval be given to the award of the joint contract for parking services to Bidder 3 for an initial contract period of five years with the option to extend for a further period of five years;
- (ii) that it be noted that the value of the Brent specific elements of the contract for the provision of parking services was estimated to be circa £19.3 million over the five year duration of the contract;
- (iii) that it be noted that the new parking contract offered a saving of £3.5m over five years, compared to the existing contract;
- (iv) that authority be delegated to the Director of Environment and Neighbourhood Services, in consultation with the Director of Legal and Procurement, to conclude and sign on the Council's behalf the Inter Authority Agreement discussed in paragraph 3.2.3 and paragraphs 8.6 and 8.7 of the report from the Director of Environment and Neighbourhood Services;
- (v) that the risks identified in Section 5 of the report and the proposed approach to mitigation be noted.

7. Processing of Recyclable Material

Councillor Powney (Lead Member, Environment and Neighbourhoods) referred the Executive to the report which sought approval to award a contract for the processing and sale of recyclable materials collected through the council's dry recycling service (blue bin + bring banks) as required by Contract Standing Order 88. The report summarised the process undertaken in tendering this contract and, following completion of the evaluation of tenders, recommended to whom the contract should be awarded. He drew attention to the tendering process set out in the appendices to the report.

The Executive also had before them an appendix to the report which was not for publication as it contained the following category of exempt information as specified in Schedule 12 of the Local Government (Access to Information Act) 1972:

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

RESOLVED:

- (i) that the tendering and evaluation process that has been undertaken for the contract for the processing and sale of recyclable materials collected through the council's dry recycling service be noted;
- (ii) that approval be given to the award of the contract for the processing and sale of recyclable materials collected through the council's dry recycling service to Viridor Waste Management Limited.

8. Dynamic Purchasing System (DPS) for the Procurement and Management of Temporary Accommodation

The report from the Director of Regeneration and Major Projects detailed the competitive tendering process of the Dynamic Purchasing System (DPS) for the Procurement and Management of Temporary Accommodation (Private Sector Accommodation) and made a recommendation as to award pursuant to Contract Standing Orders 88(c). Councillor Long referred to the human impact of the proposals which would result in the relocation of homeless families due to the introduction of the housing benefit cap which made it harder for people to find temporary accommodation in the borough. Increasingly more people, many of whom were large families, were presenting themselves as homeless and regrettably accommodation had to be identified far afield, outside the borough.

The Executive also had before them an appendix to the report which was not for publication as it contained the following category of exempt information as specified in Schedule 12 of the Local Government (Access to Information Act) 1972:

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

RESOLVED:

- (i) that approval be given to the appointment of the contractors recommended and listed at paragraph 3.2.10 of the report from the Director of Regeneration and Major Projects onto the Dynamic Purchasing System (DPS) for the Procurement and Management of Temporary Accommodation. It is anticipated that the DPS would commence in April 2013 for a period of two years with an option to extend up to a further two (2) years;
- (ii) that during the operation of the Dynamic Purchasing System, approval be given to the addition of new suppliers at any time to the DPS provided they meet the set evaluation criteria;
- (iii) that authority be delegated to the Assistant Director of Housing to approve and appoint new suppliers onto the DPS subsequent to it first being established.

9. **Wembley Area Plan**

Councillor Crane (Lead Member, Regeneration and Major Projects) reminded the Executive that in September 2011 approval had been given to the first draft of the Wembley Area Plan, a subsequent report had been presented on preferred options. The report now before members provided a summary of the consultation responses and explained the main changes that were being proposed to the draft Plan and recommended that it be published on 25 March 2013 and made available for comment for six weeks. It is also recommended that it be submitted for examination subject to Full Council agreement. Councillor Crane advised that the Planning Committee had considered the plan in the preceding week and approved it.

RESOLVED:

- (i) that agreement be given to the revised draft Wembley Area Action Plan for publication and public consultation on 25 March 2013 for six weeks, and

recommend that Full Council agree the draft Plan be submitted to the Planning Inspectorate for Examination;

- (ii) that the proposed responses to individual representations, as set out in the schedule attached in the appendices, be agreed;
- (iii) that the Director, Regeneration and Major Projects be authorised to make further editorial changes to the document prior to finally issuing it for public consultation.

(Councillor Long declared a personal interest in the item relating to the Wembley Plan, left the room for the discussion and took no part in the voting thereon).

10. **Disposal Options for Elms Gardens, Elms Court, Sudbury**

RESOLVED:

that consideration of this report be deferred to next meeting.

11. **Church End car park**

Councillor Crane (Lead Member, Regeneration and Major Projects) advised that Catalyst Housing Association had hoped to bring forward proposals for a comprehensive redevelopment of the Church End car park area however this had not proved successful. Proposals were now for mixed used on owned land, with market space. A planning application would be submitted involving compulsory purchase, land swap with a development partner which would be the subject of further reports in the coming months.

Councillor Beswick (Lead Member, Crime and Public Safety) stated that residents would welcome the proposals which were long awaited. He looked forward to improvements being made to the area. Councillor Hirani (Lead Member, Adults and Health, ward councillor) also welcomed the initiative and stated that the residents and market traders would be delighted as the area was in much need of change. The current market was well used so he was pleased it had been incorporated. He pledged support for the development and would urge the council to make it happen.

RESOLVED:

- (i) that the background to the council's proposals to bring forward the redevelopment of the Council owned car-park in Church End be noted and agreement given to develop these proposals further, including the undertaking of public consultation and the submission of a full planning application;
- (ii) that officers seek agreement on and complete a land swap with Catalyst Housing Group involving the parcels of land indicated in Appendix 1;
- (iii) that approval be given to the making of a Compulsory Purchase Order (CPO) to acquire freehold interest and other relevant legal interests of the land and structure to the rear of 203 Church Road, which for identification purposes is shown edged in red on the plan attached to this report at

Appendix 2 (“the CPO Land”) under Section 226(1)(a) of the Town and Country Planning Act 1990, to facilitate the carrying out of the redevelopment scheme (“the Scheme”) and any new rights in the CPO Land which may be required under section 13 of the Local Government (Miscellaneous Provisions) Act 1976;

- (iv) that the CPO be submitted, once made, to the Secretary of State for confirmation, whilst the Council at the same time seek to acquire the land by private negotiated treaty, funded either through development proceeds or from S106 funds where appropriate;
- (v) that approval be given to the making of one or more general vesting declaration or service of Notice to Treat and Notice of Entry (as appropriate) pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 respectively, should the CPO be confirmed, if determined by the Director of Regeneration and Major Projects on the advice of the Director of Legal and Procurement Services, as necessary in order to implement the CPO;
- (vi) that authority be delegated to the Director of Regeneration and Major Projects to undertake the following:
 - (a) enter into agreements and make undertakings on behalf of the Council with the holders of interests in the CPO Land or parties otherwise affected by the Scheme setting out the terms for the withdrawal of their objections to the confirmation of the CPO, where such agreements are appropriate; and
 - (b) serve of all requisite notices on the holders of the CPO Land including rights in the CPO Land relating to the making and confirmation of the CPO; and
 - (c) remove from the CPO any plot (or interest therein) no longer required to be acquired compulsorily for the scheme to proceed and to amend the interests scheduled in the CPO (if so advised); and
 - (d) to acquire land and/or new rights by agreement either in advance of the confirmation of compulsory purchase powers, if so advised, or following the confirmation of compulsory powers by the Secretary of State
 - (e) to seek to acquire for the Council by agreement any interest in land wholly or partly within the limits of the CPO Land for which a blight notice has been validly served.
- (vii) that officers be authorised to undertake the process of ‘stopping-up’ of Eric Road which currently provides access to the existing car-park but which will be used to form part of the Market Square in the future;
- (viii) that subject to the approval of planning permission, to authorise the disposal of the Council owned Church End car-park to a developer partner;
- (ix) that approval be given to the invite of tenders for a developer partner for the site described in paragraph 2.8 of the report from the Director of Regeneration and Major Projects;

- (x) that authority be delegated to the Director of Regeneration and Major Projects, in consultation with the Director of Legal and Procurement, to set the pre-tender considerations and criteria to be used to evaluate tenders for a developer partner as set out in Contract Standing Order 89.

Councillor Hirani declared a personal interest in the item relating to Church End car park development as a member of the Brent Local Board at Catalyst Housing Association.

12. Final arrangements for the Public Health transfer

The joint report from the Director of Strategy, Partnerships and Improvement and the Director of Adult Social Care set out the final arrangements for the transfer of public health functions and staff from NHS Brent to the local authority. Members were reminded that they had previously considered two reports on the transfer; the first relating to the staffing structure; the second on the extension and transfer of public health contracts. Since those reports were considered, further work has taken place and the details of the final arrangements were released during the previous week. Councillor Hirani confirmed that formal transfer would commence on 1 April 2013 and progress was being made to match staff to posts.

RESOLVED:

- (i) that the update on the public health transfer be noted;
- (ii) that the arrangements relating to the public health staffing structure and appointment of the Director of Public Health be noted;
- (iii) that the final list of contracts transferring to the local authority from NHS Brent and arrangements for contracts where the council will be an associate commissioner be noted;
- (iv) that approval be given to the council's participation in a collaborative procurement exercise for the provision of Genitourinary Medicine (GUM) Services for 2013/14;
- (v) that approval be given to the collaborative procurement exercise detailed in paragraph (iv) above being exempt from the normal requirements of Brent's Contract Standing Orders in accordance with Contract Standing Order 85(c) and 84(a) on the basis that there are good operational reasons as set out in the report from the Director of Strategy, Partnerships and Improvement;
- (vi) that authority be delegated to the Interim Chief Executive to award contracts for the provision of GUM Services for 2013/14;
- (vii) that authority be delegated to the Interim Chief Executive to sign the Public Health Transfer Scheme following consultation with the Director of Legal and Procurement ahead of the formal transfer on 1 April 2013.

13. Performance report quarter 3, 2012/13

The purpose of this report was to provide members with a corporate overview of Finance and Performance information to support informed decision-making and manage performance effectively. The Deputy Director of Finance drew attention to the forecast for revenue, there was an underspend of approximately £700,000. Balances of 12M were still retained. Councillor Butt, Leader of the Council emphasised the need for work to continue and for the council to meet its financial targets, given the current financial constraints.

RESOLVED:

- (i) that the finance and performance information contained in the report from the Director of Strategy, Partnerships and Improvement and Deputy Director of Finance noted and remedial actions be taken as necessary;
- (ii) that the current and future strategic risks associated with the information provided be noted and remedial actions be taken as appropriate;
- (iii) that the budget virements contained within the Directors' report be approved.

14. **Any other urgent business**

Alison Elliott

The Leader announced that this was the last meeting to be attended by Alison Elliott, Director of Adult Social Services, due to leave the council's employ to take up the post of Director, People at Southampton City Council. On behalf of the Executive, he thanked her for all her work for the council and wished her every success in the future.


15. **Reference of item considered by Call in Overview and Scrutiny Committee**

None.

The meeting ended at 7.45 pm

M BUTT
Chair

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 <p>The logo of Brent Council, featuring a central coat of arms with a shield, a crown, and two lions, surrounded by the words 'BRENT COUNCIL' in a circular arrangement.</p>	<p>Executive 22 April 2013</p> <p>Report from the Director of Adult Social Services</p>
<p>Wards Affected: ALL</p>	
<p>Authority for procurement of community based mental health support</p>	

Appendix 1 NOT FOR PUBLICATION

1.0 Summary

- 1.1 This report requests authority for officers to progress with the development of a competitive dialogue process for the re-provision of local mental health services subject to the outcome of community consultation and appropriate market research and testing.

2.0 Recommendations

- 2.1 That the Executive notes the findings of the Brent Mental Health Services Review.
- 2.2. That the Executive authorises Officers to advance communication with the Clinical Commissioning Group (CCG) and other sub-regional partners as set out in paragraph 3.11 and 3.12.
- 2.3 That the Executive grants an exemption to the usual tendering requirements of Contract Standing Orders to allow the following of a competitive dialogue process for the good operational reasons set out in the report.
- 2.4 That the Executive authorises officers to place an advert asking for potential providers to express interest in participating in a competitive dialogue as set out in paragraph 3.16.

- 2.5. That the Executive authorises officers to carry out service user and community consultations, market research and determine the market readiness for the use of a tender in the form a competitive dialogue, as the first stage in the competitive dialogue process, as set out in paragraph 3.16
- 2.6. That the Executive agrees the timetable set out in paragraph 3.17.
- 2.7 That the Executive note that a further report will be presented in July 2013 for the purpose of approving the pre-tender considerations as required by Contract Standing Orders, including a final recommendation that a competitive dialogue route will proceed where a favourable response arises from the expression of interest.

3.0 Background

Adult Mental Health Services Review

- 3.1 The Council spent £6.989m in 2011/12 on adult mental health services provided by Central and North West London NHS Foundation Trust (CNWL). These services have not previously been subjected to a competitive tendering exercise. The service is complex and comprises of a number of different functions including assessment, brief treatment, care co-ordination, early intervention, assertive outreach, acute, community, and residential care for people with mental health conditions. These functions are further detailed in Section 4 of the Review. The service forms a critical element of the Council's approach to fulfilling its duties under the Community Care Act and the Mental Health Act.
- 3.2 In February 2011 a new national mental health strategy was launched 'No Health without Mental Health'. The strategy draws on the wider principles that the Government has laid down for its health and social care reforms, including patient-centred care, more integrated health and social care services, locally determined priorities and service delivery. At a national level, the strategy sets out Government's high level objectives for improving the mental health and well-being of the population (summarised in Section 1 of the Review).
- 3.4 The Director of Adult Social Services commissioned a review of the Brent Mental Health Service to explore the degree to which existing services are equipped to respond to national priorities, and to investigate a number of on-going concerns related to the quality of services provided and the extent to which the Council's investment in this service area is delivering value for money within a limited resource.

- 3.5 Through the process of conducting the review, it has become apparent to Council officers that there are a number of issues related to the way in which the service is modelled and delivered which need to be addressed, including the degree to which the service has become medicalised, process-oriented, and insufficiently focused on individual outcomes. There is also a need to improve the service's approach to covering the Approved Mental Health Professional (AMHP) function, which is responsible for determining whether or not an individual may be deprived of their liberty under the Mental Health Act. Detailed recommendations for service improvement are outlined in the executive summary of the review.
- 3.6 In line with national strategy and best practice guidance, Council officers wish to place recovery at the heart of local mental health services, increase the degree to which they are preventative and oriented towards the achievement of social outcomes, increase the extent to which service users and former service users are involved in the design, delivery, and evaluation of these services, and ensure that the Council's investment in these services is delivering value for money and good outcomes for users of the service within its resource envelope.
- 3.7 The review outlined a number of options for pursuing these changes. These options were considered by CMT on 28th February 2013, at which the option to open a process of competitive dialogue was favoured. This would involve procuring a new service model, whereby requirements could be clearly defined and expected high level outcomes clearly articulated. The Council would invite potential bidders to develop the service specification through a clear, open and transparent process using a competitive dialogue tendering process. The final specification would yield a more cost effective and improved service specification. The competitive dialogue process is detailed further in the Procurement section below.

Adult Mental Health Services provided by the Voluntary Sector

- 3.8 In addition to those services provided to adults with mental health conditions by CNWL, the Council also invests additional resources in services provided by the voluntary sector for this purpose (approximately £400k per annum). Council officers intend to use this procurement to re-tender for these services as well in order to maximise investment of available resources in preventative and recovery-oriented mental health services, and to ensure there is a seamless alignment and cohesive structure to this service area as a whole.

Children and Adolescent Mental Health Services

- 3.9 Current the Council spends £533,494 per annum on Children and Adolescent Mental Health Services (CAMHS), which includes both a

care planning and placements service and services for children and young people with learning disabilities.

- 3.10 The current arrangement for these services is due to expire on 31st March 2014 and Council officers from Children & Families have expressed a desire to participate in the development and utilisation of the proposed mechanism for re-procuring these services.

Clinical Commissioning Group Services

- 3.11 From the 1st April 2013 Brent CCG will be wholly responsible for local commissioning of clinically-oriented mental health services. The CCG has expressed a tentative interest in collaborating with the Council in this procurement exercise for the purpose of ensuring a more holistic and recovery-based approach to local mental health service provision in the future. Whilst they have not yet finalised the value and/or the elements of its commissioned mental health services to be procured, the CCG have given a strong indication of their intention to use this mechanism to re-tender for their Voluntary Sector spend (approx. £200k per annum). Officers will advance discussions with the CCG regarding the scope of services and contracts which it would wish to include in the process. The combined contract value of these collective services (as described in paragraphs 3.1 to 3.11 above) is likely to be in the region of £8m per annum.

Other Collaborative Opportunities

- 3.12 The problems associated with the delivery of local mental health services to which officers seek remedy are not unique to Brent, but are rather problems which are commonly experienced across localities. Because of this, it may be that once work to establish the competitive dialogue process formally commences, other neighbouring boroughs may express an interest in participating. Officers will ensure all participating partners are known prior to advertising this procurement.

Procurement

- 3.13 Officers have identified that there is a need to create a new landscape within which to meet the mental health needs of the local population. Furthermore the process for developing new services will have many complexities, both in terms of individual Directorate and Strategic Partner requirements, the difficulties that collaboration can create, and the high value of the service. Officers believe it is critical to involve the market in the process of developing new responses to the challenge of rising incidence of mental ill health and improving the quality of future mental health services whilst achieving value for money. Innovation and wider engagement with the market and the wider community will be critical to providing a better service. The structures within which mental health services have been delivered have for some time been fixed and unchallenged. This service area is therefore ideally placed to

benefit from the unique advantages which may be derived from a competitive dialogue, namely that it is an opportunity for the Council to attract a wide range of innovative solutions from across the market to the final service specifications.

- 3.14 In accordance with the Council’s Contract Standing Orders a one-stage or two-stage tendering process is normally required for the contracting of this service. In order for officers to engage with the market in a clear, open and transparent process it is the recommendation to carry out a procurement process via a competitive dialogue subject to further advice from Procurement and Legal colleagues.
- 3.15 The key advantage of the competitive dialogue process is that dialogue with providers is permissible up until the final submission of tenders. This will allow the Council(s) to develop the specification during the process, reducing unnecessary or expensive processes and giving the opportunity to incorporate innovation.
- 3.16 Officers seek approval to carry out service user and community consultation, market research and determine market readiness as set out in paragraph 3.13 as the initial step for this process, once providers have expressed their interest in being part of the competitive dialogue process.
- 3.17 Officers will return to Executive in July to outline and seek approval for pre-tender considerations, including the scope of services to be re-tendered and the structure of the remainder of the competitive dialogue. Outlined below is an indicative timetable for the process:

Task	Date
Place advert inviting expressions of interest and indicating that the first stage in the process will be market consultation	April 2013 following Executive approval and expiry of call-in
Service user and community consultation, Market research and determine market readiness	April to June 2013
Appointment of a Procurement and Project Manager on an interim basis	April 2013
Executive report seeking approval for pre-tender considerations	July 2013
Competitive Dialogue element of the process	August 2013 to January 2014
Invitation to Tender element of the process	January to April 2014
Executive report seeking approval to award	April/May 2014
Procurement awarded	June/July 2014
New services commenced	July 2014 onwards

4.0 Financial Implications

- 4.1. Currently the Mental Health Services being delivered via CNWL for Adults are overspending by £0.769m (11% of a net budget of £6,929) for 2012/13. This overspend has put severe pressure of the rest of the department and which cannot be subsumed going forward. The overspend, based on current performance data, is estimated to increase to £1.000m for 2013/14 if no action is taken which is a severe financial risk to both the department and council.
- 4.2. The indicative financial envelope included within this process is as follows (final envelope will be confirmed when Officers return to Executive in July 2013 with pre-tender considerations):

Description	2011/12 Spend £'000	2012/13 Projected Spend £'000	2013/14 Budget £'000
Adults – via CNWL	6,989	7,698	6,996
Adults – Vol Orgs	400	400	400
Children's – CAMHS	533	533	533
CCG	200	200	200
Other	TBC	TBC	TBC
Total	8,122	8,831	8,129

5.0 Legal Implications

- 5.1 The Director of Legal and Procurement supports the objectives of the Executive Report in striving to achieve a holistic and innovative solution to the provision of mental health services within London Borough of Brent including possible co-operation with other Boroughs and organisations.
- 5.2 Competitive dialogue is a process recognised within the EU public procurement regulations, and is a process that can only be adopted within the regulations for a particularly complex procurement. Here, the service is a part B service not required to be tendered in accordance with the EU regulations, and so the service department can structure a procurement more loosely based on the EU model. Competitive Dialogue would appear appropriate for this kind of procurement, if it does indeed offer significant challenges to the Council in identifying financial models and service-related solutions. However, it is recommended that consideration be given to using alternative procurement procedures if initial community consultation and market testing demonstrate the possibility or benefits of adopting a different procurement strategy.

5.3 This report is asking for approval for the use of a competitive dialogue, which requires a specific exemption from Contract Standing Orders, and also for the initial stages in the procurement. The proposed process is unusual because the first stage in the process after placing of adverts is to have a market dialogue with everyone expressing an interest, even though some of these organisations may not pass the pre-qualification stage. However it is only these initial stages that require approval, as a further report will be presented to the Executive in July for the approval of all other pre-tender considerations.

5.4 Members need to be satisfied that an exemption from the usual tendering requirements of Contract Standing Orders is justified, on the basis of good operational and / or financial reasons as set out in the report.

6.0 Diversity Implications

6.1 Where it is proposed to change any service then an Equalities Assessment will be carried out to identify the impact on any particular group and the mitigating steps that need to be taken before a final decision is made on implementation.

7.0 Staffing/Accommodation

7.1 The Brent Mental Health Service is primarily staffed by 100+ individuals on Council employment contracts that are being managed by CNWL under secondment.

7.2 Where the award is made under the proposed procurement solution to one or more new providers other than the incumbent; the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") may apply so as to transfer from the current providers to the new, those employees of the incumbent provider. TUPE considerations will be considered by Officers when awarding services.

Contact Officers

Phil Porter
Interim Director of Adult Social Services

Appendix 1 – Brent Mental Health Service Review Spring 2013

This appendix is not for publication because it contains information that is exempt from publication by virtue of Schedule 12A of the Local Government Act 1972, namely information concerning the business or financial affairs of any person (including the authority holding that information).

 The logo of Brent Council, featuring a central coat of arms with a shield, a crown, and two lions, surrounded by the words 'BRENT COUNCIL' in a circular arrangement.	<p style="text-align: center;">Executive 22 April 2013</p> <p style="text-align: center;">Report from the Director of Children and Families</p>
<p>For Information</p>	
<p style="text-align: center;">Annual report on school standards and pupil attainment</p>	

1.0 Summary

- 1.1 This report summarises the current position regarding standards in Brent schools and the attainment of our children and young people.

2.0 Recommendations

- 2.1 To note the report and the actions being taken to improve standards in schools.
- 2.2 To agree to the establishment of an Education Commission to review school provision in the borough with the remit as described in paragraph 13.4. Whilst, the Commission will report formally in November 2013, issues for action will be addressed as they emerge.

3.0 The national context for local authorities

- 3.1 As Members are aware, education provision across the country is changing dramatically with the rising number of Academies and Free Schools creating an autonomous schools sector. While this does continue a process since the 1980s of increasing school autonomy, it finally points to the end of the traditional role of the local authority in being a large scale provider of direct support to schools. Despite these changes, the Council retains an important

role in ensuring high standards of education for the borough's children and young people. While the government has not issued any detailed guidance on the duties of the local authority in relation to schools, the Statutory Guidance on the roles of the Director of Children's Services and the Lead Member for Children's Services issued in 2012 defines their role in relation to educational excellence as:

Working with headteachers, school governors and academy sponsors and principals, local authorities should promote educational excellence for all children and young people and be ambitious in tackling underperformance.

More specifically, the DCS and LMCS should in their respective roles:

- take rapid and decisive action in relation to poorly performing schools, including using their intervention powers with regard to maintained schools and considering alternative structural and operational solutions;
- develop robust school improvement strategies, including choosing whether to offer such services in a competitive and open school improvement market, working beyond local authority boundaries;
- promote high standards in education by supporting effective school to school collaboration and providing local leadership for tackling issues needing attention which cut across more than one school, such as poor performance in a particular subject area across a cluster of schools;
- support maintained schools in delivering an appropriate National Curriculum and early years providers in meeting the requirements of the Early Years Foundation Stage (as outlined in the EYFS Statutory Framework)

- 3.2 The spotlight is once more on local authorities and their support and challenge to schools following recent announcements by Her Majesty's Chief Inspector of Schools, Michael Wilshaw. At the beginning of February, the HMCI announced plans to introduce a new framework for inspecting the school improvement functions provided by under-performing local authorities. Under the proposed framework, Ofsted will evaluate how effectively local authorities discharge their school improvement functions, particularly in areas where schools are not yet good or are not improving quickly enough. This is in the context of the new Ofsted Inspection Framework whereby schools are expected to be 'Outstanding' or 'Good'. Schools are no longer rated as 'Satisfactory' instead the judgement below 'Good' is 'Requires Improvement' on the basis that all schools should be expected to be at least good. The inspection framework has

become more demanding in a number of aspects, including expecting progress in all school years.

4.0 Ofsted ratings of schools

4.1 Schools in Brent are categorised by Ofsted as follows as at November 2012. Tables 1 and 2 show that in Brent, four fifths of secondary schools are good or outstanding compared with just over half nationally. For primary schools 64% are good or outstanding compared with 68% nationally.

Table 1

Phase	No. Outstanding	No. Good	No. Satisfactory (old framework)/ Requiring Improvement (new framework)	No. Inadequate*
Primary and nursery (63 schools)	12	34	13	4 (3SW, 1SM)
Secondary (15 schools)	6	6	3**	0
Pupil Ref Units (3 schools)	1	2	0	0
Special (4 schools)	1	2	1	0

*Classified as having Serious Weaknesses or requiring Special Measures

** to be updated for final version of report

Table 2

Phase	Area	% Outstanding	% Good	% Satisfactory/ Requiring Improvement	% Inadequate (Ntl/SM)
Primary and nursery	Brent	19%	54%	21%	6%
	London	27%	49%	22%	2%
	England	21%	49%	28%	3%
Secondary	Brent	40%	40%	20%	0%
	London	39%	41%	19%	1%
	England	26%	40%	30%	3%

Brent figures are as at 14/02/13 [to be updated for final report], National figures are as at November 2012 from Ofsted Dataview.

- 4.2 This shows that Brent has a significantly smaller proportion of outstanding primary schools compared with London as a whole and more schools in the Inadequate categories. Outstanding schools are important for the borough, not just for the benefit of the pupils in those schools, but to provide models of excellent practice in the borough and potential for school to school support. In terms of performance over time, the proportion of primary schools good or better has risen from 59% in 2008 to 68% in 2013.
- 4.3 Those schools which are currently ‘satisfactory’ or with a fragile ‘good’ rating, especially those anticipating an Ofsted inspection, are being targeted for support. In addition to link adviser support, improvement planning and brokerage of targeted support on weaker areas of the curriculum, the support includes additional interim staffing in schools to boost management capacity, brokerage of support and secondments of staff from successful schools plus partnerships (including hard and soft federations) with successful schools. Guidance has been given to schools and governors on ‘getting to good’ with a new self-evaluation. It is the top priority for the Children and Families Department, working with schools via the recently-formed Brent Schools Partnership, to progress as quickly as possible towards all schools being good or outstanding.
- 4.4 Overall attainment in a school does not give a full picture and it is vital that schools ensure that all pupils make progress, especially pupils from disadvantaged or historically underachieving groups since they have further to travel to reach required levels. All schools now track their pupils and this enables them to analyse the progress by various factors to identify where specific groups are not making progress and to take action to address this.

5.0 Attainment in Brent Schools – Early Years Foundation Stage

5.1 There has been improvement in Early Years Foundation Stage outcomes against the two main performance indicators from a low base. The key national indicator, the percentage of children achieving at least 78 points across all areas of learning, including six or more points in personal, social and emotional development, rose from 57% in 2011 to 64% in 2012: a significant rise. Against this indicator, Brent’s performance is now in line with London and national averages.

Early Years Foundation Stage Profile	2009			2010			2011			2012			% Difference		
	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	Brent 2012 vs Brent 2011	Brent 2012 vs London 2012	Brent 2012 vs National 2012
% with total 78 points or more in all areas, including 6+ in Personal Social and Emotional Development and Communication, Language and Literacy (indicator 1)	45	50	52	43	55	56	57	60	59	64	64	64	↑ 7	0	0

5.2 In terms of performance by ethnicity, there has been significant improvement in outcomes for Black Caribbean, Somali and White Other pupils. However, the performance of all three groups remains below the Brent average.

Early Years Foundation Stage Profile - Brent	2009		2010		2011		2012		% Difference Brent 2012 vs Brent 2011
	% Brent	% National	% Brent	% National	% Brent	% National	% Brent	% National	
Black Caribbean 6+ PSED & CLL & 78+ pts	43	43	45	49	53	54	61	Not released	↑ 8
Somali 6+ PSED & CLL & 78+ pts	37	~	33	~	52	~	60	~	↑ 8
White Other 6+ PSED & CLL & 78+ pts	38	45	35	49	49	51	62	Not released	↑ 13
6+ PSED & CLL & 78+ pts	45	52	43	56	57	59	64	Not released	↑ 7

5.3 The gains that have been made in this area of work have been achieved through promoting more accurate self-evaluation by settings together with robust support and challenge through the Early Years Quality Team. This work is now being pursued in a more targeted way, focusing on those settings which need to move from 'satisfactory' to 'good' or 'outstanding' as well as those settings which are a cause for concern.

6.0 Performance at age 7: Key Stage 1

6.1 Attainment at Level 2+ (the key national benchmark) rose by 2 percentage points in writing to be in line with London and national averages. In reading and mathematics, attainment remained the same as in 2011 and was just below London and national averages.

At Level 2B+ attainment in reading remained the same as in the previous year and was below London and national averages. In writing and mathematics, attainment rose but was still below London and national averages.

KS1 - Level 2+ all pupils	2009			2010			2011			2012			% Difference		
	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	Brent 2012 vs Brent 2011	Brent 2012 vs London 2012	Brent 2012 vs National 2012
% of pupils achieving L2+ in reading	81	83	84	83	84	85	85	85	85	85	87	87	→ 0	-2	-2
% of pupils achieving L2+ in writing	77	79	81	78	80	81	81	81	81	83	83	83	↑ 2	0	0
% of pupils achieving L2+ in Ma	87	88	89	86	88	89	89	89	90	89	90	91	→ 0	-1	-2

KS1 - Level 2B+ all pupils	2009			2010			2011			2012			% Difference		
	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	Brent 2012 vs Brent 2011	Brent 2012 vs London 2012	Brent 2012 vs National 2012
% of pupils achieving L2B+ in reading	65	70	72	66	71	72	71	73	74	71	76	76	→ 0	-5	-5
% of pupils achieving L2B+ in writing	54	58	60	56	59	60	60	61	61	62	64	64	↑ 2	-2	-2
% of pupils achieving L2B+ in Ma	66	71	74	66	71	73	72	73	74	73	76	76	↑ 1	-3	-3

6.2 In terms of performance by ethnicity, the attainment of Black Caribbean, Somali and White Other pupils either improved or remained the same in all three areas; reading, writing and mathematics. For the first time, the performance of Somali pupils in mathematics was in line with the average for all Brent pupils. This data is being used on a school by school basis to identify good practice in

those schools where those underachieving groups are making the most progress so that that practice can be disseminated.

KS1 - Level 2+ by ethnicity - Reading	2009		2010		2011		2012		%Difference	
	% Brent	% Nat	% Brent	% Nat	% Brent	% Nat	% Brent	% Nat	Brent 2012 vs Brent 2011	Brent 2012 vs National 2012
% Black Caribbean pupils achieving L2+ in reading	81	80	83	81	81	82	83	84	↑ 2	-1
% Somali pupils achieving L2+ in reading	77	~	76	~	80	~	82	~	↑ 2	~
% White Other pupils achieving L2+ in reading	76	76	77	77	75	77	79	79	↑ 4	0
% of pupils achieving L2+ in reading	81	84	83	85	85	85	85	87	→ 0	-2

KS1 - Level 2+ by ethnicity - Writing	2009		2010		2011		2012		%Difference	
	% Brent	% Nat	% Brent	% Nat	% Brent	% Nat	% Brent	% Nat	Brent 2012 vs Brent 2011	Brent 2012 vs National 2012
% Black Caribbean pupils achieving L2+ in writing	76	75	77	75	77	77	78	79	↑ 1	-1
% Somali pupils achieving L2+ in writing	67	~	65	~	76	~	78	~	↑ 2	~
% White Other pupils achieving L2+ in writing	71	73	76	74	73	73	76	75	↑ 3	1
% of pupils achieving L2+ in writing	77	81	78	81	81	81	83	83	↑ 2	0

KS1 - Level 2+ by ethnicity - Mathematics	2009		2010		2011		2012		%Difference	
	% Brent	% Nat	% Brent	% Nat	% Brent	% Nat	% Brent	% Nat	Brent 2012 vs Brent 2011	Brent 2012 vs National 2012
% Black Caribbean pupils achieving L2+ in mathematics	82	84	82	84	85	85	85	86	→ 0	-1
% Somali pupils achieving L2+ in mathematics	80	~	80	~	86	~	89	~	↑ 3	~
% White Other pupils achieving L2+ in mathematics	88	86	84	86	85	86	85	87	→ 0	-2
% of pupils achieving L2+ in mathematics	87	89	86	89	89	90	89	91	→ 0	-2

7.0 Performance at Age 11: Key Stage 2

7.1 There was a significant increase in the percentage of pupils achieving Level 4+ in both English and mathematics so Brent's performance is again above London and national averages. The proportion of pupils making two levels of progress from the end of Key Stage 1 rose again in both English and mathematics and continued to be above London and national averages.

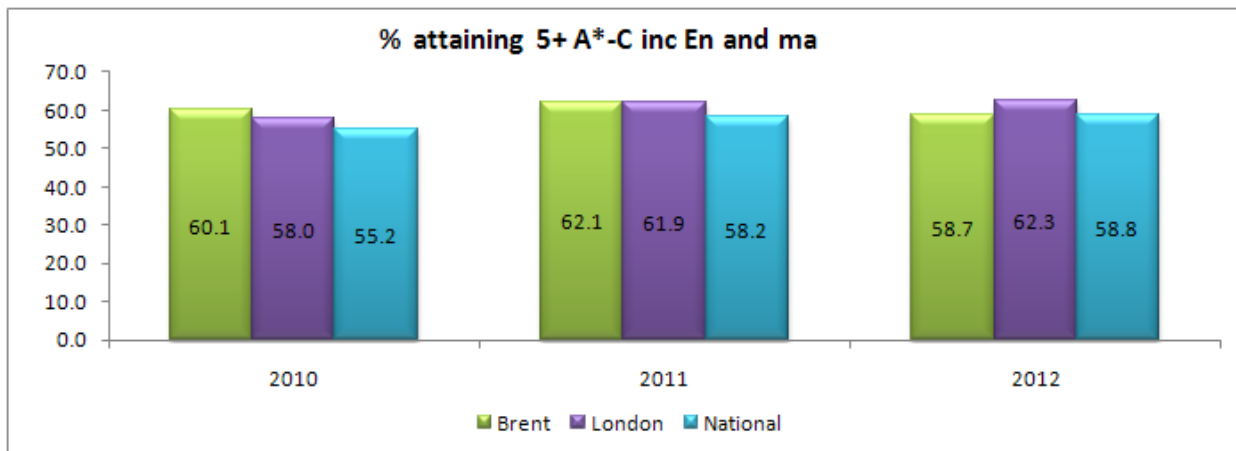
KS2 - % pupils achieving Level 4+	2009			2010			2011			2012			% Difference		
	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	Brent 2012 vs Brent 2011	Brent 2012 vs London 2012	Brent 2012 vs National 2012
English and mathematics	72	73	72	77	76	73	74	75	74	82	81	80	↑ 8	1	2

KS2 - % pupils making 2 or more levels of progress from KS1 to KS2	2009			2010			2011			2012			% Difference		
	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	% Brent	% London	% National	Brent 2012 vs Brent 2011	Brent 2012 vs London 2012	Brent 2012 vs National 2012
English	80	85	82	90	87	84	90	88	84	93	92	89	↑ 3	1	4
Mathematics	84	83	81	88	85	83	88	86	83	91	90	87	↑ 3	1	4

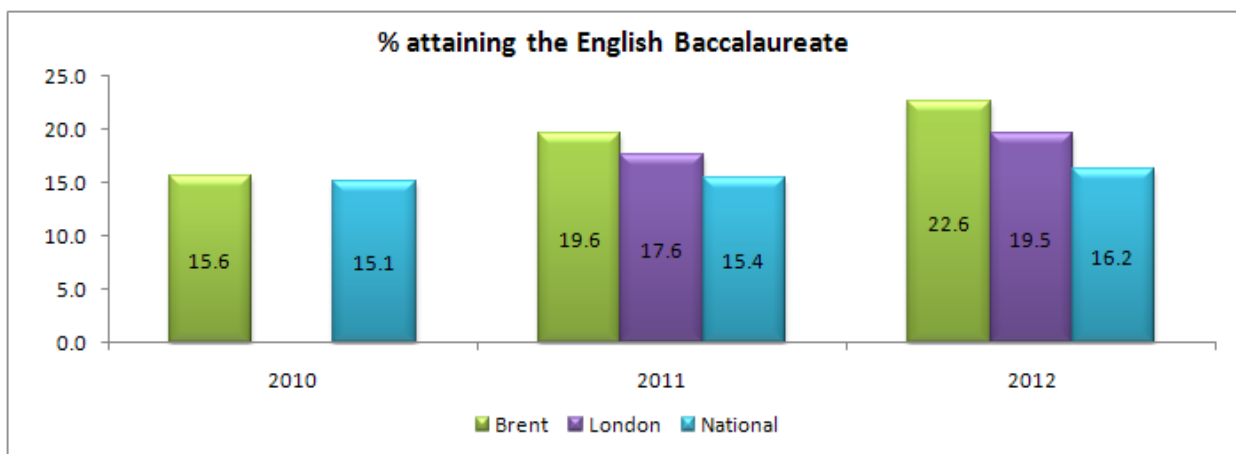
7.2 The performance of both Black Caribbean and Somali pupils showed continuing improvement; that of Somali pupils showed significant improvement. However, both groups continue to perform below Brent averages. White Other pupils' performance declined slightly.

8.0 Performance at age 16: Key Stage 4

8.1 The proportion of Brent pupils attaining five GCSEs A*-C including English and mathematics at the end of Key Stage 4 in 2012 was 58.7%. This is a fall of 3.4 percentage points compared to 2011. Brent performed in line with the national average but below the London average of 62.3%.

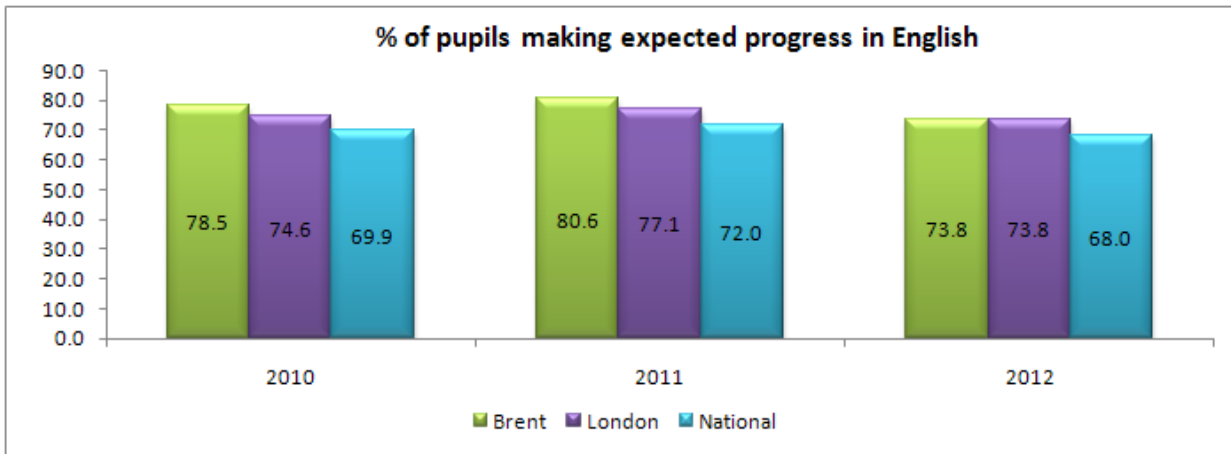


8.2 The government has introduced a new performance indicator for schools called the English Baccalaureate. This counts the percentage of students in a school who achieve grades A*-C in English, mathematics, two sciences, a foreign language and history or geography at GCSE level. The proportion of Brent pupils attaining the English Baccalaureate in 2012 was 22.6%. This is an increase of 3 percentage points compared to 2011. Brent remained above the London and national averages.

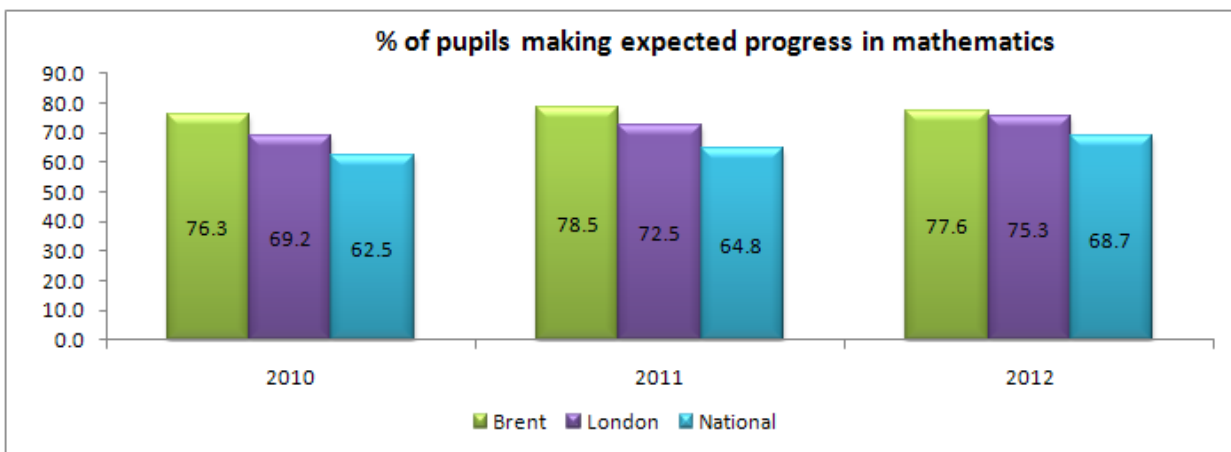


Please note: The London average for 2010 was not published.

8.3 The proportion of Brent pupils making the expected three levels of progress in English (Key Stage 2-Key Stage 4) in 2012 was 73.8%. This is a fall of 6.8 percentage points compared to 2011. Brent performed in line with the London average and above the national average of 68%. As Members are aware, approximately 100 16 year olds in Brent were affected by the controversial change to the grade boundaries in English GCSE.



8.4 The proportion of Brent pupils making the expected three levels of progress in mathematics (Key Stage 2-Key Stage 4) in 2012 was 77.6%. This is a fall of 0.9 percentage points compared to 2011. Brent remained above the London and national averages.



9.0 GCSE results at Brent Secondary Schools

9.1 The table below sets out the results school by school. There is very significant variation with a number of schools achieving results well above the national average. Two schools' results were below the national floor target, giving cause for concern and making them a target for possible DfE intervention. Officers are working closely with the Catholic Diocese to achieve improvements at Newman Catholic College exploring potential partnerships with other schools and changes which would halt both the decline in results and the decline in school roll. This school has a 'good' rating from Ofsted from its last inspection. Crest Boys' Academy is part of the EAct chain and that chain is accountable to the DfE rather than the local authority for the performance of the school. Brent Council, however, represents the interests of local children and local families. In this capacity, it is appropriate for the council to challenge EAct and this will

be done through meeting with the headteacher and EAct and formal communications as necessary. This is an area where local authorities are finding their way in the new context and where good practice from elsewhere will be continually sought and used.

Brent KS4 Final GCSEs - 3 Year Trend	%5 A*-C Including English and maths		
	2010	2011	2012
Alperton Community School	58	55	56
Capital City Academy	43	48	40
Claremont High School	76	73	77
Convent of Jesus and Mary Language College	61	63	64
Copland Community School	37	48	40
Crest Boys' Academy	44	46	33
Crest Girls' Academy	47	43	51
JFS	88	87	82
Kingsbury High School	66	67	60
Newman Catholic College	41	38	35
Preston Manor High School	60	64	56
Queens Park Community School	57	62	53
St Gregory's Catholic Science College	67	72	62
Wembley High Technology College	75	77	86
Brent	60	62	59
National	55	58	59

Data source: DfE performance tables Jan 2013

10.0 Performance at Age 18 – Key Stage 5

10.1 The results indicate that Brent's Level 3 (A Level and equivalent qualifications) average point score per student (APS) rose by 15 points to 752.8 points in 2012. This is equivalent to the average student achieving just over two B grades and one A grade at A Level. The five year trend is upwards. In 2011 Brent rose above the national average for the first time. The provisional data indicates a significant increase in the national APS this year, which if borne out in the finalised results, would put Brent below the national average by 24 points, equivalent to 0.8 of an A Level grade.

KS5 - APS by students achieving all Level 3 qualifications per candidate	2009			2010			2011			2012			Pts Difference	
	Brent	London	Nat	Brent	London	Nat	Brent	London	Nat	Brent	London	Nat	Brent 2012 vs Brent 2011	Brent 2012 vs National 2012
All pupils	675.0	691.3	721.1	706.3	698.8	726.5	738.0	712.8	728.2	752.8	752.9	776.8	↑ 15	-24

10.2 The provisional APS per entry (i.e. per A Level or equivalent qualification) for Brent remained above the national average but fell by 5 points (0.2 of an A Level grade) compared to 2011.

KS5 - APS by students achieving all Level 3 qualifications per entry	2009			2010			2011			2012			Pts Difference	
	Brent	London	Nat	Brent	London	Nat	Brent	London	Nat	Brent	London	Nat	Brent 2012 vs Brent 2011	Brent 2012 vs National 2012
All pupils	209.3	209.8	208.3	216.7	212.6	211.4	219.6	214.5	213.1	215.1	214.4	211.4	↓ -5	4

10.3 The 2012 provisional APS for Black Caribbean students shows a rise of 10.8 points (equivalent to 0.4 of an A Level grade). There has been a significant increase in the APS for Somali students of 53.8 points (equivalent to just under one and a half A Level grades). The performance for both of these groups in Brent is above the national average.

KS5 - APS by students achieving all Level 3 qualifications per candidate by ethnicity	2009		2010		2011		2012		Difference	
	No of pupils	APS	No of pupils	APS	No of pupils	APS	No of pupils	APS	Brent 2012 vs Brent 2011	Ethnic 2012 group vs Brent Avg 2012
Black Caribbean	47	608.4	56	658.1	79	662.4	65	673.2	↑ 10.8	-79.6
Somali	32	598.1	33	645.5	55	600.2	70	654.0	↑ 53.8	-98.8
White Other	47	676.9	76	695.5	64	740.6	83	700.7	↓ -39.9	-52.1
Brent Average		675.0		706.3		738.0		752.8		

10.4 There is a strong 16 to 19 partnership in the borough with good complementarity between what the schools provide and the offer at the College of North West London, although some sixth forms are small. It will be important to continue to develop this partnership as the funding rules change and as the participation age is raised to 17 in September 2013 and 18 in 2015.

11.0 Post-16 Participation

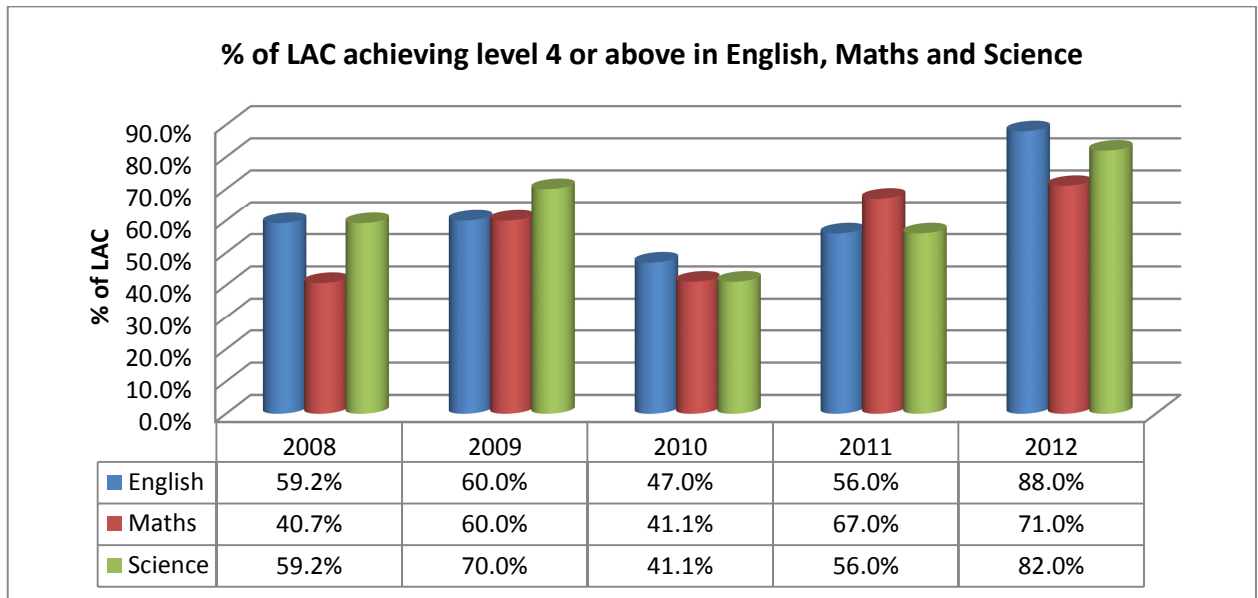
11.1 The Department for Education (DfE) published data on the proportion of young people aged 16 and 17 who were participating in education and training in June 2012. The data shows that 93.6% of Brent's 6,960 16 and 17 year old residents were participating in education and training. This put Brent 4th highest local authority of the 149 recorded in the data set. Brent's participation figure is well above the national average of 86.9% and above the London average of 89.6%.

11.2 In summer 2012, the DfE published school and college leaver information for the first time. The measures showed that 91% of the pupils who completed Key Stage 4 in Brent schools in 2009 went on to sustained education destinations compared to the national average of 85%. This put Brent joint first out of the 151 local authorities included in the tables.

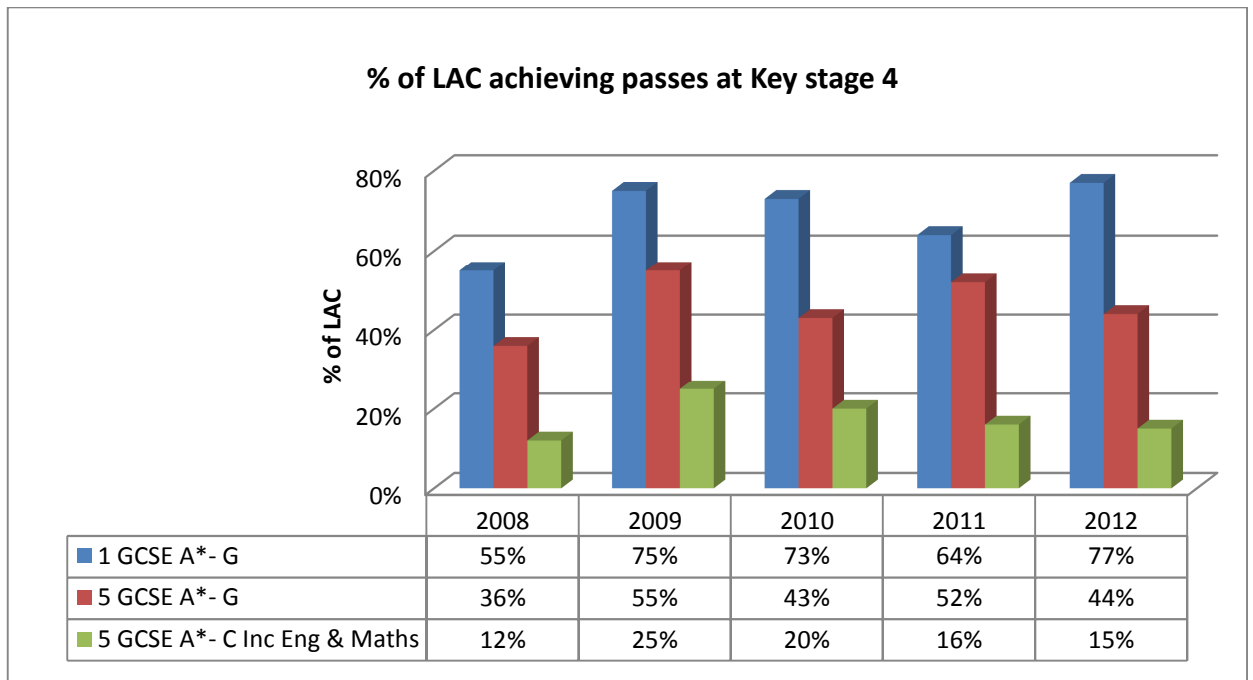
11.3 Of the pupils completing Key Stage 5, 71% went on to a sustained university destination compared to the national average of 52%, putting Brent 2nd out of the 149 LAs reported on the tables, and 15% went on to Russell Group universities compared to a national average of 9%.

12.0 Educational outcomes for Looked After Children

12.1 The Council has special responsibilities for Looked After Children, acting as 'corporate parent'. There is a specialist education team in place supporting the LAC cohorts at all stages of education, led by a Virtual Headteacher. At Key Stage 2, the chart below shows that results have improved, although the cohort numbers are very small, the results compare well with the overall borough average.



12.2 At Key Stage 4 (Age 16), the 2012 cohort consisted of 34 looked after children aged 16 years old. 28 had been looked after continuously for 12 months or more and 6 were looked after for less than one year. The graph below shows the performance at GCSE. The percentage achieving 5 GCSEs at A* to C including English and maths was 15% in 2012. This is at the national average but below the London average. The LAC Education Team's work programme reflects this as a priority.



12.3 At Key Stage 5 in 2012 there was a marked improvement in numbers of LAC remaining in Year 12, 13 and 14 to take their AS and A level exams (a total cohort of 14 students). This is a result of the decision taken in 2011 to re-structure the Virtual School (then the EDLAC Team) so that the five teachers could closely monitor and prioritise the entire range of LAC in education from Nursery through to age 25 / end of university. Since September 2011 the KS5 Advisory Teacher has been in regular contact with all LAC studying in FE / HE and the outcomes for 2012 highlight the value of the work and the in-depth support and advice offered at this crucial stage of their education. In 2012 this additional work resulted in positive outcomes, with 20 A level (A2) passes (8 at A-C grades) and 45 AS passes (19 at A-C grades).

13.0 The development of a new approach to school improvement in Brent and proposal for an Education Commission

13.1 Work has been going on over the last year to re-shape the Council's school improvement function in the light of the changing role of the local authority in relation to schools. This has involved reducing the staffing of the service to a core and aiming to specify, for next academic year, much more clearly what the schools and the local authority can expect from the service.

13.2 Across the country, the school improvement function in councils is being subsumed in a wider 'school-led partnership' arrangement. This approach acknowledges that much of the expertise in how to improve schools resides in schools and this also presents a stronger and more sustainable model going forward in the mixed economy of academies and maintained schools. In

particular it enables a more systematic approach to schools sharing expertise and supporting each other in times of need.

- 13.3 While our schools have a strong tradition of some schools working together in successful clusters and in addition to this, the headteachers of secondary, primary and special schools meet together regularly in their phases, there has not been an overarching borough wide partnership to support school improvement. From spring 2012, however, a steering group of headteachers has been working to develop a new 'Brent Schools Partnership' which was launched as a serious proposition to all schools in Brent in October 2012. There is now a positive working relationship with the local authority and path to an approach which joins up school mutual help with the statutory and leadership role of the local authority to jointly commission school improvement support. A jointly-owned School Improvement Strategy is being formulated which will underpin the Partnership.
- 13.4 While the work in partnership with schools needs to continue, given the magnitude of the changes happening in the school sector, it is an appropriate time to undertake a wider review of provision in Brent. It is proposed that this should be done by establishing an Education Commission with a level of independence from the Council. The commission would be tasked with identifying strengths as well as recommendations for development.
- 13.5 The commission would look in depth at the current context, taking account of a range of evidence both qualitative and quantitative. Commissioners would take evidence from a range of sources including:
- children and young people
 - parents
 - schools and colleges
 - representative groups of teachers, support staff, head teachers and principals
 - governors
 - chief executives of chains or groups of schools operating in the borough
 - key partners such as the voluntary and community sector, HEI, health and business
 - DfE and other national organisations
 - councillors
 - Officers.
- 13.6 The commission would look in detail at the changing role of the Local Authority and how that might translate into more innovative support for improvement. It would also examine the potential of governors as force for greater change.

13.7 Chaired by the Interim chief Executive, the commission would also seek to involve two external commissioners with national reputations in education. It would report formally in November 2013.

14.0 Financial Implications

14.1 The only direct financial implications from this report are the financial implications of the restructuring of the school improvement services and the establishment of a Schools Commission, both of which are within the Children and Families Department's current budget for 2013/14.

15.0 Legal Implications

15.1 The Authority has a statutory duty to promote high standards in both Primary and Secondary education to include children and young people who are below and above compulsory school age.

16.0 Diversity Implications

16.1 This report considers, alongside overall school performance, the performance of currently underachieving groups. It is important that monitoring of these groups' performance continues and is a focus of school improvement work going forward.

17.0 Staffing/Accommodation Implications (if appropriate)

17.1 There are no direct staffing implications from this report.

Background Papers

There are no background papers to this report.

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KRUTIKA PAU

DIRECTOR CHILDREN & FAMILIES DEPARTMENT



Executive
22 April 2013

Report from the Director of Children and Families

For Action

Wards Affected:
ALL

Travel Assistance Policy for young people

1.0 Summary

- 1.1 The Council currently provides transport to approximately 715 pupils with Special Educational Needs at an annual cost of £3.75m. Assisted transport is essential for the majority of special educational needs pupils accessing schools and colleges, but there is a need to strengthen the eligibility policy to guide the assessment of the need for transport provision by the Council.
- 1.2 The adoption of a policy for transport provision that promotes independence is beneficial to service users and to the Council. Moreover, the recent appointment of an Independent Travel Programme manager provides the necessary resource and expertise to help service users to make the transition to independent travel, wherever this would be appropriate.
- 1.3 The West London Alliance (comprising Brent, Hounslow, Ealing and Harrow) has formulated a new joint policy on children's eligibility for travel assistance. It has been jointly agreed to aim to have this new policy fully in place for implementation in summer 2013. The approach in this policy also accords with the Adult Social Care 'Promoting Independence' policy agreed in 2012.
- 1.4 This report seeks approval for a West London Alliance Eligibility Policy which provides clear criteria for access to transport provision and promotes the adoption of alternatives, including the provision of independent travel training, which reflect the needs of the individual and help to promote greater independence.

2.0 Recommendations

- 2.1 That the Council adopts the WLA Travel Assistance Policy for Young People Eligibility Policy for access to Council-funded transport for pupils in special schools and other learning centres
- 2.2 That each pupil receiving transport should have their eligibility reviewed annually.

3.0 Detail

Background

- 3.1 The Local Authority has a statutory duty to provide assistance with home to school transport for children where there is no suitable education provision within a reasonable distance from their home.
This distance is determined as:
- 2 miles for children aged under 8 years; and
 - 3 miles for pupils aged 8 and over.
- 3.2 In London, travel on buses is free for young people up to 18 years of age, and the council would expect all pupils to take advantage of this free provision, before agreeing to provide other transport assistance.
- 3.3 There is no automatic entitlement to assistance with transport for pupils with a Statement of Special Educational Needs.
- 3.4 Through its work to improve the supply of provision for pupils with special educational needs in the borough, the Council is reducing the number of pupils who have to travel outborough for provision and generally to reduce the time that pupils spend on transport as much as possible.
- 3.5 The council currently has an eligibility policy which has needed to be replaced with an up-to-date policy with a stronger emphasis on independence. Other west London boroughs have been in the same position so the London boroughs of Barnet, Brent, Ealing, Harrow and Hounslow within the West London Alliance (WLA) have joined together in formulating a new policy in order to produce a consistent approach to providing travel assistance for children and young people attending school/college. The aim of this collaborative approach is to ensure that regardless of where a child lives, within the WLA region, the level of service received is consistent, the service experience is the same and the most efficient, effective and suitable travel assistance is provided. There will also be a shared approach to monitoring implementation.
- 3.6 This policy (attached as an Appendix to this report) was agreed as a draft in November 2012 and has subsequently been the subject of consultation in each borough with a view to being adopted for implementation in summer 2013.

Consultation

- 3.7. The consultation period included two public meetings at Brent Town Hall, two meetings at Special Schools and a meeting with One Voice Community, the voluntary sector group representing parents of children with special needs. Attendance was low at the public meetings. This was partly due to poor weather conditions during late January, however, the meetings were advertised to all parents from late November and in the local press during January 2013.

- 3.8 There were 100 consultation questionnaires received, most from the original mail out to all parents and carers of service users. Some questionnaires were returned at public meetings, school meetings and 3 online returns from Brent Council's consultation portal.
- 3.9 In general, the written consultation feedback was positive. Most respondents agreed that Brent should annually review the need to provide travel assistance and supported the Council's policy of promoting independence for special educational needs children and young people.
- 3.10 Of the 100 returns 69% agreed that service user's need for travel assistance should be reviewed annually. 17% disagreed that this annual assessment should take place, with 14% neither agreeing or disagreeing. Those who disagreed commented that SEN children should only be assessed when the special educational need changes in some significant way. Other criticisms were that the annual reviews put pressure and stress on parents and wasted Council money.
- 3.11 Of the 100 returns 64% agreed that the Council should promote independence for young people with special educational needs. 16% disagreed that the Council promote independence for these young people, with 20% neither agreeing or disagreeing. Those disagreeing or neither agreed or disagreed, felt that the Council should assess children to ensure their readiness for independent travel training.
- 3.12 In response to the question of suggesting other ways the Council can support independent travel, respondents (52% responding) thought the Council should have more variety of ways to get pupils to SEN schools. This could take the form of carers paid by the Council, trained travel buddies and encouraging siblings to assist the SEN pupil. There was overwhelming support for the independent travel training scheme. There was also a commonly expressed concern that all pupils should only be travel trained once their abilities have been assessed and there is parental consent.
- 3.13 In response to highlighting areas of the proposed policy that consultees disagreed with, respondents (31% responding) confirmed that they thought there should be no fixed age where travel training should begin, for example 12 years of age. The general view was that each pupil should be taken on a case by case basis and assessed on their own abilities to travel independently. Concerns were raised that using a travel buddy scheme may end up more expensive than pupils continuing to use Brent Transport Service. One respondent suggested that transport assistance should be refused for parents not choosing the nearest suitable school.
- 3.14 In response to suggestions for improvements to the service, respondents (46% responding) broadly agreed that escorts and drivers of Brent Transport Service should receive enhanced training on special educational needs. There was also support for earlier warnings to parents of any changes in route times or staffing as these issues have an impact on autistic pupils' routine. The majority of comments were thankful for the reliable and professionally run Brent Transport Service. Others commented that they would like to see improved

communications between parents and BTS. Again support was expressed for the independent travel training scheme for 10 – 16 year olds that would improve their confidence whilst ensuring their safety.

4.0 Impact on Existing Service Users

4.1 If the proposed policy is agreed, the following timescales for implementation of the new policy are proposed:

- A. Assessment of all **new** SEN clients from May 2013.
- B. *Re-Assessment* of all SEN pupils from May 2013 but implemented from September 2013.

4.2 Upon the policy becoming active all new SEN service users with new SEN Statements or moving into the borough will have their assessment for travel assistance carried out under the new the policy. During the summer term all those currently in receipt of assisted transport will re-apply but the decisions will only take effect at the start of the next academic year in September 2013.

5.0 Financial Implications

5.1 Annual expenditure on transport for young people with special educational needs is in the region of £3.75m. The new Eligibility Policy will enable the council to control costs. The focus on independent travel training and assisted travel options other than Brent Transport Service will continue to assist in spending the Council's scarce resources wisely.

5.2 It is currently estimated that gross annual savings will be at least £100K through the implementation of this policy although this will be reviewed in the light of experience and as part of the work on opportunities for cost savings, including work with Adult Services.

6.0 Legal Implications

6.1 The Local Authority is statutorily tasked with ensuring that children with a statement of Special Educational Needs (SEN) receive an education that is appropriate and compliant with that set out in the child's statement in accordance with Sections 312-349 of the Education Act 1996 (as amended).

6.2 The Local Authority is obliged to have regard to parental preference for a child to be educated in either specialist or mainstream provision when supplying SEN provision – Special Educational Needs and Disability Act 2001.

6.3 The Local Authority when dealing with children with Special Educational Needs must have regard to the Secretary of State's published Code of Practice and must not promulgate transport policies that seek to limit parental choice.

- 6.4 Local authorities under Section 509(1) of the 1996 Act are required to make “such arrangements for the provision of transport and otherwise as they consider necessary, or as the Secretary of State may direct, for the purpose of facilitating the attendance of persons receiving education at schools”.
- 6.5 The Education Act 1996 (Section 508B) places a duty on Local Authorities to make travel arrangements for eligible children in their area.
- 6.6 Section 508A of the Act (inserted by the Education and Inspections Act 2006) places a general duty on local authorities to promote the use of sustainable travel and transport.
- 6.7 The Department for Education (DfE) SEN Code of Practice (Paragraph 8.87) also recommends that Local Authorities have a clear and transparent policy to address the transport needs of children with special educational needs and disabilities.

7.0 Diversity Implications

- 7.1 An equalities impact assessment has been carried out in respect of this policy. This assessment has not identified a negative impact on any groups with protected characteristics. The policy is positive in respect of the affected groups, children with special educational needs and their families, since it emphasises independence and quality of life. Clearly it is important that this policy forms part of a wider approach to inclusion of young people with disabilities, as reflected in the Council’s SEND Strategy. It will also be important to monitor the impact of this policy as it is implemented.

8.0 Staffing/Accommodation Implications (if appropriate)

- 8.1 There are no staffing or accommodation issues contained within this report.

Background Papers:

- i) WLA Policy for Travel Assistance for Children and Young People 2013
- ii) Consultation Report on WLA Policy for Travel Assistance for Children and Young People 2013
- iii) Equality Analysis for WLA Policy for Travel Assistance for Children and Young People 2013
- iv) WLA Independent Travel Strategy - November 2012

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DIRECTOR OF CHILDREN & FAMILIES
KRUTIKA PAU

WEST LONDON ALLIANCE

POLICY FOR TRAVEL ASSISTANCE FOR CHILDREN AND YOUNG PEOPLE

Policy for the provision of travel assistance for children and young people attending school/college.

1. INTRODUCTION

The Education Act 1996 as amended, requires local authorities to make suitable travel arrangements for eligible children as they consider necessary to facilitate attendance at school.

The London boroughs of Barnet, Brent, Ealing, Harrow and Hounslow within the West London Alliance (WLA) have joined together in forming this policy in order to produce a consistent approach to providing travel assistance for children and young people attending school/college. The aim of this collaborative approach is to ensure that regardless of where a child lives, within the WLA region, the level of service received is consistent, the service experience is the same and the most efficient, effective and suitable travel assistance is provided.

At the heart of this approach there are two key principles which underpin a culture of providing travel assistance; promoting independence and maintaining quality of life. By working in partnership with parents, children and young people, schools and the voluntary sector, we hope to secure the right option for each child so they are better prepared to enter adulthood confidently as active participants in society.

The WLA has considered the statutory legal framework and statutory guidance in formulating this policy.

2. GENERAL PRINCIPLES

Inclusion and independence

Councils are committed to the principles of inclusion and to promoting greater independence for children and young people with special educational needs so that their experiences can be similar to those of their peers. They recognise the importance of extending the range of travelling options available so that the most suitable arrangements can be made to support individual needs. It is recognised that travelling to school as independently as possible is a valuable experience for young people as they grow up. In order to do this, many young people with special needs may need extra training to help them to learn the skills required for greater independence. Opportunities currently available within some WLA councils include;

- a. Accredited travel training programmes to enable pupils to develop the skills needed for independent travel.
- b. Trained travel buddies where mainstream peers work as travelling partners for pupils with special educational needs.

The WLA councils are working to expand the access to this range of options in future to support the principles in this policy.

Safe and Sustainable Travel

The Education Act 1996 places a general duty on the Local Authority to assess the travel needs of all children and persons of 6th form age to promote the use of sustainable modes of travel to school to meet those travel needs. Sustainable modes of travel will be defined as those which improve either the physical well-being of those who use them or the environmental well-being of the area.

The WLA supports this principle and aims to promote safety and sustainability where it provides assistance with travel for pupils and young people with special educational needs.

Service Standards and the efficient use of public resources

In recognising the significant spend on transport across the WLA. The councils adopting this policy have agreed to work together and provide a coordinated travel service for children and young people with special educational needs that aims to deliver its services to clear and consistent standards of both quality and costs. Where travel assistance is provided, councils will work collaboratively and seek to use the most economically efficient and effective means available.

Safeguarding

In providing travel assistance to children and young people, councils will ensure that all decisions reflect their safeguarding duties.

3. LEGAL BACKGROUND

Parents/carers are responsible for ensuring that their children attend school regularly. However, under the Education Act 1996 and the Education and Inspections Act 2006, local authorities have a duty to provide assistance with travel to and from qualifying schools/college for children and young people aged 5-16 in certain circumstances.

In addition, local authorities also have a duty to facilitate access to full-time education for young people aged 16-19 and this may include assistance with travel in certain circumstances. Other post 16 learners with learning difficulties and disabilities aged 16-25 attending colleges and other places of learning may be eligible for assistance.

There is no mandatory entitlement to travel assistance for children under 5. Under s508A of the Education Act 1996, local authorities must produce annually a strategy on sustainable modes of travel for children and persons of sixth form age travelling to and from their places of education. The strategy is intended to improve the physical well-being of those who use the “sustainable modes of travel” and or the environmental well-being of the area.

Under s508B of the Education Act 1996, local authorities must provide such travel arrangements as they consider necessary to get every “eligible child” to his “relevant educational establishment”. Travel arrangements for an eligible child must under s508B be free of charge and may not require participants to incur extra costs. Local authorities may also choose to provide travel assistance to those who do not qualify as eligible children but these arrangements may include a requirement under s508C for the child or his parent to pay some or all of the costs.

The criteria by which an “eligible child” is defined is set out in Part 4 of this document, which sets out Entitlement.

The provision of travel assistance by WLA councils will be based on individual needs and circumstances and with regard to the efficient use of resources.

Each of the WLA councils will consult parents and carers on a draft of this policy and will take into account the feedback received from this consultation before finalising the policy. Each council will also carry out an equality impact assessment in respect of this policy before finalising it to determine the affect this policy may have upon all sections of the community.

4. ENTITLEMENT

This document explains the background relating to the provision of travel assistance by the council for children and young people living in WLA region and describes how the policy applies to:

- a. Children aged 5-16.
- b. Young people in full-time education from ages 16 - 19.
- c. Learners aged 19 or over, but under 25, who have or should have had a learning difficulty assessment under section 139A of the Learning and Skills Act 2000.
- d. Children and young people with medical needs.

An “eligible” child is defined as one to whom at least one of the following criteria applies;

- a. A child with special educational needs, a disability or mobility problem, who lives within the walking distance, but cannot be expected to walk;

- b. A child who cannot be expected to walk because of the nature of his/her route;
- c. A child beyond the walking distance (2 miles for pupils below the age of 8 and 3 miles for those aged 8 and over) who is without suitable alternative arrangements;
- d. A child between 8 years and 10 years in a low-income¹ family living more than 2 miles from their preferred suitable school; or
- e. A child in a low-income family living between 2 to 6 miles from his/her suitable secondary school; or

ELIGIBILITY AND PROVISION FOR TRAVEL ASSISTANCE FOR CHILDREN AGED 5-16

Eligibility for travel assistance will differ according to the age and needs of the pupil. Each individual case will be given careful consideration. In general, councils would expect parents and carers to take responsibility for the travel arrangements for younger pupils and for most older pupils either to walk to school or access to free travel on public buses, where available, and to develop their independent travel skills where appropriate.

The following factors or combinations of factors will be taken into consideration in determining whether travel assistance is needed and the nature of assistance required:

- a. If a child lives farther away from school than the statutory walking distances and for whom parents/carers have unsuccessfully tried to obtain a place at a suitable school within the statutory distance, and where no other school which is closer to home has places available. The statutory distances are:

- (1) Over 2 miles for children aged 5, 6 and 7
- (2) Over 3 miles for children aged 8-16

These distances are measured based on the shortest route along which a child may walk in reasonable safety. It may include footpaths as well as roads if these are well lit, are of reasonable width and are in good condition. Where these distance criteria are exceeded, it is expected that the provision of free bus and tube services by TFL will meet the need for travel assistance in almost all cases.

- b. If a child is from a low income family (defined as those whose children are entitled to free school meals or whose parents are in receipt of maximum level working tax credits), if they meet the following criteria:

¹ Children from low income groups are defined in the Education Act as those who are entitled to free school meals, or those whose families are in receipt of their maximum level of Working Tax Credit (WTC).

- (1) Children aged between 8 and 11 who live more than 3 miles from their nearest qualifying school.
- (2) Children aged 11 to 16 who attend one of the three qualifying schools nearest to their home, and live more than 3 miles but less than 6 miles away from that school, even if another of the three nearest schools has places available and is closer to the child's home.
- (3) Children aged 11-16 where the parents/carers have expressed a preference based on their religion or belief, where a young person lives more than 2 miles but less than 15 miles from the nearest suitable school.

The 3 mile limit is measured in the way described above. The 6 mile and 15 mile limits will be measured along road routes, and will not include footpaths. Where these distance criteria are exceeded, it is expected that the provision of free bus services by TfL will meet the need for travel assistance in almost all cases and travel assistance will be provided only where the child's needs require it.

- c. If a child is unable to walk in safety to school because of the nature of the route. Where a parent/carer believes that **a route is unsafe, the route** will be assessed by the council.

Where it is agreed that a walking route is unsafe, it is expected that the alternative provision of free bus services by TfL will meet the need for travel assistance in most cases and travel assistance will be provided only where the child's needs require it.

- d. Children who are unable to walk to school, or to travel to school by other means, by reason of their special educational needs, medical needs or disability.

PROVISION OF TRAVEL ASSISTANCE FOR YOUNG PEOPLE AGED 16-19

The object of this provision is to offer assistance to those students whose ability to attend or to complete a course may be affected by availability of transport or the ability to pay for the transport provision that is available. WLA London Boroughs have been working in partnership to produce a minimum standard for the WLA area and all participating councils are committed to meeting that standard. Young people continuing at the same school or education placement post 16 will be subject to a continuing eligibility assessment.

Eligibility for assistance will depend upon but not be limited to:

- a. Residency;
- b. Age;
- c. Distance travelled;
- d. Establishment and the course being attended;
- e. The availability of alternative resources;
- f. Family income;

- g. Students with disabilities or special educational needs;
- h. Attendance at a 6th Form based on the students religion or belief;
- i. Preference of school or college by virtue of the learners and/or parents' religion or belief.

PROVISION OF TRAVEL ASSISTANCE FOR CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITIES

This section explains what travel assistance may be provided for children and young people with a statement of Special Educational Needs (SEN) or disabilities, if they could not reasonably be expected to travel to school/college independently and even if the journey is within the 'statutory walking distance' described above. The entitlement to travel assistance for these children and young people varies according to their age group follows:

- a. Pre-school children - aged under 5.
- b. School children - aged 5-16.
- c. Young people in full-time education - aged 16-24.

Pre-School Children. Parent/Carers will normally be expected to transport their children to non-statutory provision. However, children of age 2 years or older placed in a nursery school or class or children's centre for the purpose of assessment of their special educational needs may be granted assistance with travel at the council's discretion in exceptional circumstances.

Children Aged 5-16. Travel assistance for children with a statement of Special Educational Needs (SEN), medical needs or disabilities will be determined primarily by the needs of the child and will only be provided for travel to a qualifying school. The issuing of a Statement of Special Educational Needs does not necessarily mean that the council will provide travel assistance.

The Authority does not have a duty to make travel arrangements when the parents have decided to send their child with a statement of SEN to a school that is farther away than the school that the Local Authority deemed suitable to meet the needs of the child. In this case it is likely that the council will name two schools on the Statement and indicate that the parent has opted to send the child to a school which is not the school deemed by the council to be suitable and therefore parents will be required to make and fund any travel arrangements.

Eligibility for the Provision of Travel Assistance.

When considering whether or not provision of travel assistance for a particular child is necessary, councils will take into account the following:

- a. The special educational needs and/or disabilities of the student; for example, where the child has severe learning difficulties or would have considerable difficulty in walking or using public transport due to disability;
- b. The need for specialist transport, including an assessment as to whether the student has a physical or medical disability that rules out the use of free public transport, or suitable public transport is not conveniently available (e.g. for users of wheelchairs, students who require specialist seating arrangements, specialist harness, specialist head restraint, other specialist facilities and the appropriate mode of transport required);
- c. The distance of the student's home from the school/educational establishment;
- d. Whether the student is deemed to be vulnerable and at risk of danger if they use public or other transport;
- e. The nature of the route to school including the safety of the route and alternative routes available;
- f. The potential capability of the student to travel independently to school/educational establishment with the provision of suitable travel training;

The weight to be given to each or any of the factors listed above will be a matter for the council in their discretion, according to the circumstances of each individual case.

With respect to independent travel training this policy should be read in conjunction with the WLA approach to Alternative Travel Training.

5. TRAVEL OPTIONS

It is important to offer a range of transport options which best address the individual needs of clients but which also utilise existing networks, which promote independence and which represent the most cost effective and sustainable mode of transport.

The different types of travel assistance available include the following:

- a. Transport for London provides free bus travel for all under 18 years and this is the expected entitlement for the majority of students within the West London Alliance area. However where this is not provided it may be possible to provide funding for the provision of Oyster/travel cards to enable access to free travel on London buses provided by Transport for London .

- b. *Funding for the provision of Oyster/travel cards for the parent/ carers to enable them to accompany their child where they have access to free travel on London Buses and where parents consent.*
- c. Funding for the provision of Oyster/travel cards or travel passes for tube or train travel to and from school.
- d. A travel training or mobility programme for the young person where available.
- e. Where available a travel buddy or passenger assistant to travel with a pupil on the journey from home or where appropriate and suitable in the context of the child's needs from a specified meeting point to school and return.
- f. Where parents consent payment of mileage allowances for parents/carers who use their own vehicles with the agreement of the council.
- g. Payment of public transport fares for travel arranged by parents/carers with the agreement of the council.
- h. A seat on a vehicle suitably adapted as necessary to transport the pupil to the appropriate education provision from home or where appropriate and suitable in the context of the child's needs an agreed meeting point.
- i. A range of more flexible options which explore more creative solutions and promote the independence of the client.

Other arrangements that could be used to travel to the place of learning may include the use of a freedom pass.

Travel Options for Young Adults

When determining eligibility for transport for young adults, including those Post 16 clients remaining in full time education, consideration will be given to a full range of travel options. These options reflect the core principle of promoting independence and could include where available the provision of a freedom pass, independent travel training support, travel buddying, motability, the London Taxicard Scheme and Capital Call, which is a complementary service to Taxicard.

6. EVIDENCE AND INFORMATION

All cases will be considered on their individual merits in line with this policy and in accordance with statutory guidance. The following may be considered as part of the assessment when determining eligibility.

- a. The Statement of SEN and Annual Review reports.

- b. Relevant Professional Reports.
- c. Information about the nature and reasonableness of the route i.e. journey times, changes, safety, nature of the pavements and roads, congestion, other passengers etc.
- d. Information from a social care initial or core assessment/CAF if appropriate.
- e. Information submitted during the application.
- f. Where travel training is available, an existing Travel Training Plan (or assessment being undertaken)
- g. Evidence from a consultant if parent/carer indicates that they are medically unfit to get their child to school.
- h. Other exceptional circumstances which prevent a parent/carer from taking their child to school.

Evidence must be submitted in support of any application for travel assistance. The weight to be given to each or any of the factors listed above will be a matter for the council in their discretion, according to the circumstances of each individual case.

7. PUPILS WITH TEMPORARY MEDICAL AND/OR MOBILITY DIFFICULTIES.

Children and young people, who have temporary mobility problems caused by medical conditions that prevent them from walking, may be eligible for travel support. An assessment will be made to determine the most appropriate method of travel assistance in each case.

(Supporting medical evidence from a consultant confirming the nature of the temporary medical condition and an estimate of the period for which the provision will be required). The assessment criteria appended to this policy describe eligibility and procedures in more detail.

Any assistance provided in accordance with this section may be time limited in accordance with the needs of any individual case.

8. EDUCATIONAL RESIDENTIAL PLACEMENTS

For those children attending educational residential placements, wherever possible and with their consent parents will be encouraged to make their own travel arrangements and supported through the provision of mileage allowance. The number of journeys that will be funded will normally be in line with the contract (with the school) of the individual placement (e.g. termly). The Authority does not have a duty to make travel arrangements when the parents have decided to send their child with SEN to a school that is farther away than the school that the Local Authority deemed suitable to meet the needs of the child. In this case it is likely that the council will name two schools on the Statement and indicate that the parent has opted to send the child to a school which is not the school deemed by the council to be suitable and therefore parents will be required to make and fund any travel arrangements.

9. APPLICATIONS AND DECISIONS

Each council will provide details of their application process to all parents, carers and young people and provide all appropriate forms. Where the council makes a decision to provide travel assistance, it is usually agreed for a limited period of time and reviewed each year. In exceptional circumstances where the pupil has severe and complex needs, travel may be agreed for longer periods of time.

Applications must be supported with evidence.

10. REVIEW / REAPPLICATION

- a. Travel arrangements will be reviewed at least annually or if the child's or parents circumstances change. The child's progress and any other relevant information needs to be recorded on the Annual Review form which may be used to help determine future travel options.
- b. Where a pupil/student changes school/college or moves home or there are other changes in the child's circumstances such as successful travel training, travel assistance will be reviewed accordingly.

11. APPEALS

If parents/carers disagree with the council assessment of the travel assistance that it deems is necessary for their child, including a decision that the child does not qualify for or need any help, they can appeal against that decision by writing to explain why they feel that the child's circumstances are exceptional or that the assessment carried out is wrong. Each case will be given careful consideration by an independent senior officer of the council (i.e. the reviewing officer will not be an officer involved in the original decision). In the first instance parents/carers should write to the relevant local authority in the case of an appeal.

Councils will establish an independent and impartial 2nd stage review process which will be published locally. Further information including what this will entail and the response times will be provided during and after the consultation period for this policy.

12. TRANSPORT ARRANGEMENTS

If provision of transport by the council is agreed, the council will arrange the most appropriate, sustainable and cost-effective transport provision. This will be provided in line with local operational policies and councils will make clear the responsibilities of councils and the responsibilities of parents and carers. These operational policies will also make clear the circumstances in which the service can be withdrawn.

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Executive
22 April 2013

Report from the Director of Children and Families

Wards affected:
ALL

Authority to tender a contract for information, advice, guidance and support for young people (Connexions)

1.0 Summary

- 1.1 This report concerns the procurement of information, advice, guidance and support for young people to make informed choices about learning and work options known as Connexions Services. This procurement is both for the Council and on behalf of schools and further education establishments from 1 April 2014 for a period of 3 years with an option to extend by up to 2 additional years. This report requests approval to invite tenders in respect of Connexions Services as required by Contract Standing Orders 88 and 89.

2.0 Recommendations

- 2.1 That the pre - tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 3.11 of the report be approved.
- 2.2 That officers be authorised to invite expressions of interest, agree shortlists, if relevant, and invite tenders in accordance with the procurement timetable and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.

3.0 Detail

Background

- 3.1 Currently, Brent Connexions, as part of Brent Youth Support Services, provides information, advice, guidance and support for young people to make informed choices about learning and work options and to make effective transitions to adult and working life. This includes providing additional support

to those vulnerable to becoming unemployed or at risk of disengaging from learning and supporting young people to access employment, education and training opportunities. The service is available to young people aged 13 to 19, (up to age 25 for young people with special needs/learning difficulties and disabilities). The Services key performance indicators are:

- % of 16-18 year olds not in Education, Employment or Training (NEET)
- Participation of 17 year-olds in education or training
- 16-18 year olds current activity status not known

In 2011/ 2012 Brent was the joint 10th best performing local authority nationally against the indicator of minimising the proportion of young people in the NEET (young people Not in Education or Training) group. The London average performance for 12/13 is not available currently but Brent's performance is ranked 2nd in West London.

3.2 The Service contributes to the Council's objectives as outlined in the Partnership Plan for Children and Families 2012-15, specifically under:

Strategic Priorities:

Priority 2: Narrowing the gap between those children who do well and those who need extra support to thrive, so the aspirations of every Brent child are realised. We must also ensure and there are sufficient school places to meet continuing increase in demand.

Outcomes:

Outcome 4: Children and young people enjoy their education and achieve the best results they can.

Outcome 5: Enable vulnerable children and young people (including looked after children, those with SEN or a disability) to thrive and realise their aspiration.

Outcome 6: Young people have the skills they need to achieve economic wellbeing in adulthood.

Outcome 7: Children and young people achieve their full potential

3.3 In recent years Brent has provided Connexions services through a contract with Prospects Services Ltd. This contract was let in 1st August 2009 for a total period of 2+2 years. The Contract has recently been extended using delegated powers as provided for in Contract Standing Order 112(d) and the provisions of paragraph 3(b) in the table at paragraph 2.5 of Part IV of the Constitution. This extension is for a further year from 1 April 2013 to 31 March 2014 at an annual cost of £973,147 (depending on school buy back for 2013/14).

3.4 During the term of the council's contract with Prospect Services Ltd. there have been changes in legislation requiring variations to the contract. The

Education Act 2011 sets out a range of changes to the duties of schools and local authorities in relation to careers advice.

- 3.5 From September 2012 the Education Act 2011 placed a duty on schools to secure and fund through the Dedicated Schools Grant access to independent, impartial careers guidance for their students in years 9-11. The Department for Education announced that from September 2013 it will extend the statutory duty on schools to deliver independent impartial careers guidance to Year 8 and to all 16-18 year olds in schools and further education institutions.
- 3.6 Local authorities retain their statutory duty to encourage, enable or assist young people's participation in education and training. The Early Intervention Grant (EIG) was originally passed to Local Authorities to fund expenditure of this nature as well as a number of other areas, although it was a non-ring fenced grant. From 2013/14 the EIG has been mainstreamed into the Council's overall grant funding from Government. This expenditure on supporting vulnerable young people to engage in education and training, including providing early support to young people at risk of disengagement, will continue to be subject to the Council's annual Budget setting process.
- 3.7 The main local authority responsibilities delivered through the current contractual arrangements with Prospects Services Ltd., comprise:
- Information, Advice and Guidance (IAG) for young people in the NEET group or at risk of becoming NEET.
 - Ensuring that all 16 and 17 year olds receive suitable offers to continue in education or training (previously known as the September Guarantee). Achieving the delivery of the September Guarantee involves extensive contact and follow-up of young people, and recording of their offer status on the Client Caseload Information System (CCIS) database.
 - Maintenance of the Integrated Youth Support database, including CCIS, maintained by Ealing Council on behalf of the West London Boroughs and the Pan-London database maintained by Central London Connexions.
 - Tracking and recording young people's participation post-16 on the CCIS database in order to ensure there is reliable data available centrally on young people at risk of being NEET. Currently, a substantial resource is allocated to contact and follow up work across the service. Whilst much information is provided by schools and colleges, at least 80% of the effort on keeping in contact with young people is in maintaining the contact and support for the 10% of the cohort that it is most challenging for us to reach.
 - Maintenance of close links with Job Centre Plus to ensure young people in the NEET group are given appropriate support.

- Supporting young people with learning difficulties and disabilities who are in special schools or out of borough education including completion of S139 assessments

3.8 The main impact on the current contracted arrangements for career advice of the change to Education legislation has been that individual schools can now determine how they procure a careers advice service. Amongst a number of options available to schools is buying into the Brent contract. This has required a variation to the existing contract whereby the council purchases a varying level of careers advice service on behalf of schools depending on the number of schools wishing to purchase such services through the council. Since the new arrangements in September 2012, schools have not been able to make a long term commitment because changes to the schools funding formulae. Of those schools that have expressed an interest in purchasing careers advice services through the council's contract, the majority have preferred to commit for no more than a year, this year expiring on 31 March 2014.

Tender Process

3.9 In line with the Council's Standing Orders, it is proposed to procure the new contract following the two-stage (restricted) tendering procedure.

3.10 The uncertainty regarding schools' buy-in has created challenges for the procurement process. Officers do however consider that it is important to be able to give schools and further education institutions the opportunity to obtain careers services through a council contract and the intention therefore is to procure a contract to meet not only the council's own statutory duties but also to provide careers advice services. Officers will need to ensure that the contract does allow the level of careers advice service to fluctuate depending on the level of uptake from the schools and further education institutions.

Pre-Tender Considerations

3.11 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	Provision of education, employment, training and careers Connexions services on behalf of London Borough of Brent and independent, impartial careers advice services for students in years 8 to 11 and to young people aged 16-18 on behalf of participating Brent secondary schools and further education institutions.

(ii)	The future estimated value of the contract	The future estimated value of the contract over the maximum 5 year term of the contract is £3,111,735 (£1,867,122 over the initial 3 year term). This consists of an estimated potential spend of up to £437,347 per annum for local authority responsibilities under Education Act 2011 (based on 2013/14 spend) with possible spend for schools and further education establishments of £185,000 per annum (based on all secondary schools buying in).	
(iii)	The contract/s term	3 years with an option to extend by up to 2 additional years.	
(iv)	The tender procedure to be adopted.	<p>There is a relatively developed market for these services, therefore, officers recommend the use of the restricted tender procedure in accordance with the Council's Standing Orders.</p> <p>As Social Care and education transactions are 'Part B Services', under the Public Contract Regulations 2006 ("the Regulations"); the Regulations apply only in part to the tender namely, (adoption of a technical specification and forwarding a Contract Award notice etc.)</p>	
(v)	The procurement timetable	<p>Indicative dates are:</p> <ul style="list-style-type: none"> • Adverts placed • Expressions of interest (Pre-Qualification Questionnaire) returned • Shortlist drawn up in accordance with pre-determined minimum standards as to financial standing and technical competence • Invite to tender • Deadline for tender submissions • Panel complete 	<p>11.06.13</p> <p>18.07.13</p> <p>31.07.13</p> <p>07.08.13</p> <p>20.09.13</p> <p>11.11.13</p>

		<p>evaluation</p> <ul style="list-style-type: none"> • Report recommending Contract award circulated internally for comment • Executive approval • Contract start date 	<p>01.12.13</p> <p>17.01.14 (pending meeting on this date)</p> <p>01.04.14</p>
(vi)	The evaluation criteria and process	<p>Shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines namely the pre qualification questionnaire and thereby meeting the Council's financial standing requirements, technical capacity and technical expertise. The panel will evaluate the tenders against the following criteria:</p> <p><u>Stage 1: pre-qualification stage</u> Shortlists are to be drawn up in accordance with the Council's Contract Management Guidelines by the use of a pre-qualification questionnaire (PQQ) to ensure bidders meet the council's requirements with regard to financial standing, technical capacity and technical expertise. The outcome of this stage will be a list of pre-qualified bidders for the Procurement and a short-list of bidders to be invited to tender.</p> <p><u>Stage 2: Invitation to Tender (ITT)</u> For those that are selected by Stage 1 there will follow an Invitation to Tender (ITT) stage.</p> <p>Tenders will be evaluated on the basis of the most economically advantageous tender in order to award providers onto the framework agreement using the following criteria.</p> <p>1. Quality Quality will consist of 40% of the evaluation weightings. The quality assessment will be evaluated using the following criteria:</p> <ul style="list-style-type: none"> • Proposed business models. 	

		<ul style="list-style-type: none"> Proposed plans for ensuring effective quality management of the Services and maintenance of the Contract Standard, including self-monitoring and evaluation. Proposals for ensuring that the requirements of Child Protection legislation are fully applied in the delivery of the service Proposed approach for working in partnership with the Council and its partners. Proposals with regard to information systems to be used by bidders to monitor service(s) required by the Specification. <p>2. Price Price will consist of 60% of the evaluation weightings</p>
(vii)	Any business risks associated with entering the contract	The conditions of contract will need to ensure that the service in respect of careers advice services can be varied depending on take up from schools and further education institutions.
(viii)	The Council's Best Value duties	This procurement process and on-going contractual requirement will ensure that the Council's Best Value obligations are met.
(ix)	Any staffing implications	See sections 8 below
(x)	The relevant financial, legal and other considerations	See sections 4, 5 and 6 below

3.12 The Executive is asked to approve these proposals as set out in the recommendations and in accordance with Standing Order 89.

3.13 There are no immediate collaboration opportunities due to the uncertainty of delivery models across the other boroughs. Brent's current model of delivery has been relatively successful in meeting the key performance indicators but we will continue to seek opportunities for collaboration if this can achieve cost savings and/or better outcomes.

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 90.
- 4.2 The estimated value of this contract is up to £437,347 per annum for local authority responsibilities under the Education Act 2011 based on 2013/14 spend. The potential total value over the proposed 3+2 years is £1,312,041 (£2,186,735 if the option to extend beyond the 3 year term to 5 years is taken). Subsequent buy-in from institutions wishing to be part of the Brent contract has an estimated value of £185,000 per annum. This element would be paid for by those schools or further education establishments with a potential total value over the proposed 3+2 years of £555,000 (£925,000 over 5 years') contract
- 4.3 Officers will ensure that the contract is structured in such a way that the council will only contract for careers advice services as and when it receives a commitment from schools or further education institutions for funding of this element.

5.0 Legal Implications

- 5.1 The estimated value of the contract over its lifetime is in excess of £500,000 and therefore the procurement and award of this contract is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value contracts.
- 5.2 The provision of education, employment, training and careers Connexions services to children are classified as Part B Services under the Public Contracts Regulations 2006 ("EU Procurement Regulations") and as such are not subject to the full application of the EU Procurement Regulations (save that there must be a technical specification contained in the contract documents and on award of contract the Council must issue a Contract Award Notice in the OJEU within 48 days of award). The services are however, subject to the overriding EU Treaty principles of equality of treatment, fairness and transparency in the award of contracts.
- 5.3 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 5.4 In the present case, if the contract is awarded to a new contractor the Transfer of Employment (Protection of Employment) Regulations 2006, ("TUPE") is likely to apply so as to transfer from the current to the new contractor those employees of the current contractor who spend all or most of their working time on the activities taken over by the new contractor. Further information regarding staffing is contained in Section 7.

5.5 The Council's duties in connection with the Public Services (Social Value) Act 2012 are contained in Section 7.

6.0 Diversity Implications

6.1 An Equalities Impact Assessment was undertaken in on 20th February 2012 in accordance with the Equality Act 2012. A copy is attached to this report.

7.0 Public Services (Social Value) Act 2012

7.1 Since 31st January 2013, the council, in common with all public authorities subject to the EU Regulations, has been under duty pursuant to the Public Services (Social Value) Act 2012 to consider how the services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement; and whether the council should undertake consultation. This duty applies to the procurement of the proposed contract as Part B Services over the threshold for application of the EU Regulations are subject to the requirements of the Public Services (Social Value) Act 2012

7.2 The Council has consulted with schools and Further Education colleges who are supportive of the approach being taken to the procurement of the future requirement Officers have reviewed the approach to procurement taken in neighbouring authorities and concluded that the approach proposed is the most appropriate for the council and service users. It should be noted that service users will be actively engaged in the evaluation and selection of the successful tenderer for the contract.

8.0 Staffing/Accommodation Implications (if appropriate)

8.1 Careers Services are currently being provided by an external provider and as such there are no implications for the Council staff arising from this tendering exercise.

8.2 Where the award of contract is made to a new provider other than the incumbent; the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") may apply so as to transfer from the current provider to the new, those employees of the incumbent provider. TUPE implications will be considered by Officers as part of the procurement exercise and TUPE information will be made available to bidders if appropriate to enable tender prices to be compiled.

Background Papers

Memorandum of Authority titled 'Authority to Extend the existing contract for the provision of Education, Employment, Training and Careers Connexions Services in Brent.' dated 6th September 2012.

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KRUTIKA PAU
DIRECTOR OF CHILDREN AND FAMILIES

Impact Needs/Requirement Assessment Completion Form

Department: Children and Families	Person Responsible:
Service Area: Achievement and Inclusion	Timescale for Equality Impact Assessment :
Date: 20 th Feb 2012	Completion date:
Name of service/policy/procedure/project etc.: Brent Youth and Connexions – Closure of Connexions Centre	Is the service/policy/procedure/project etc: New <input type="checkbox"/> Old x <input checked="" type="checkbox"/>
Predictive x <input type="checkbox"/> Retrospective <input type="checkbox"/>	Adverse impact <input type="checkbox"/> Not found <input type="checkbox"/> Found x <input checked="" type="checkbox"/> Service/policy/procedure/project etc, amended to stop or reduce adverse impact Yes x <input checked="" type="checkbox"/> No <input type="checkbox"/>
Is there likely to be a differential impact on any group? Yes x <input type="checkbox"/> No <input type="checkbox"/>	Please state below:
1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/ Asylum Seekers Yes x <input type="checkbox"/> No <input type="checkbox"/>	2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities Yes x <input type="checkbox"/> No <input type="checkbox"/>
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability Yes <input type="checkbox"/> No x <input checked="" type="checkbox"/>	4. Grounds of faith or belief: Religion/faith including people who do not have a religion Yes x <input checked="" type="checkbox"/> No <input type="checkbox"/>
5. Grounds of sexual orientation: Lesbian, Gay and bisexual Yes x <input checked="" type="checkbox"/> No <input type="checkbox"/>	6. Grounds of age: Older people, children and young People Yes x <input checked="" type="checkbox"/> No <input type="checkbox"/>
Consultation conducted Yes <input type="checkbox"/> No X no <input checked="" type="checkbox"/> required	
Person responsible for arranging the review: Tanuja Saujani	Person responsible for publishing results of Equality Impact Assessment: Tanuja Saujani

Impact Needs/Requirement Assessment Completion Form

Person responsible for monitoring: Tanuja Saujani	Date results due to be published and where:
Signed:	Date: 29 th March 2012

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

1. What is the service/policy/procedure/project etc to be assessed?

Brent Connexions provides information, advice and guidance and support for all young people aged 13 to 19, (up to age 25 for young people with special needs/learning difficulties and disabilities), including vulnerable young people requiring more substantial one-to-one support and preventative work to include, looked after, leaving care, teenage parents, supervised by Youth Offending Team, substance misuse, refugee/asylum seekers, special educational needs and those with learning difficulties and disabilities.

The Service has Advisers working in all the secondary schools including the Special Needs schools and alternative educational provisions in Brent. Advisers also operate from a number of other sites to include training providers, Colleges, Job Centres, libraries, Council office sites such as Chesterfield House one stop shop, and within Local Authority departments such as Youth Offending Service and Social Care. The Service has a Connexions Centre on Willesden high Road where young people can access further support on Careers paths, benefits, post 16 options after year 11 and beyond, the centre also acts as a signpost service to access other support services in the Borough for this age group. The centre is available to all young people in the stated age group and is a drop in service.

This assessment is outlining the proposals for the closure of the Connexions Centre based on Willesden High Road from 1st September 2012 was sent to executive and has been accepted as part of the savings for 2012/2013.

2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

Current duties 1st April 2011 to 31st March 2012

- Connexions provide all 13-19 year olds and 20-24 year olds with a learning difficulty with face-to-face access to a Personal Adviser to provide information, advice, guidance, advocacy and brokerage.
- Connexions services will also be provided at educational institutions that young people attend.
- In addition there are some specified levels of contact with, and support for, particular target groups of young people and relevant young adults. Connexions contact promptly all young people and relevant young adults (20-24 olds with a learning difficulty) who are:
 - known to have become Not in Education, Employment or Training (NEET)
 - Known to have left learning or who are expected to leave learning shortly.
- Connexions maintain regular contact with young people who are at risk of becoming NEET. This might include, for example working with young people with particular barriers to engagement, who have had previous spells of inactivity, or who are in temporary employment.
- Connexions offer tailored packages of support to all young people and relevant young adults who are NEET or at risk of becoming so, and maintain contact until re-engagement in work or learning is re-established.
- There are also robust client management system and arrangements to keep in contact with young people that

Impact Needs/Requirement Assessment Completion Form

meet the Client Caseload Information System (CCIS) specification.

- Local Authorities must have regard to the statutory requirements when carrying out duties relating to learning difficulties assessments conducted under Section 139A-C of the Learning and Skills Act 2000
To arrange assessments for young people with learning difficulties and/or disabilities as defined by the Act to assist their transition to post-16 education and training opportunities. This is currently being carried out by Prospects as part of their contracted activities.

Legislative changes

The Education Bill 2011 sets out a range of changes to the duties of schools and local authorities in relation to careers advice. On 14 June 2011 the Bill reached the Second reading stage in the House of Lords. This included a general debate on all aspects of the Bill.

Under the Education Bill, local authorities will retain their statutory duty to encourage, enable or assist young people's participation in education and training. In Brent a Service will be available to Young People who are NEET (Not in Education, Employment or Training) aged 16-19 and up to 25 for those with a Learning difficulty or disability. The Service will operate from a number of access points in the Borough Hillside Housing in Stonebridge and P3 KYC in Kilburn. A service will also be available for those in schools that are at risk of disengaging and risk of becoming NEET (Not in education, employment or training) aged 13 to 16. Lord Hill's letter of 17 February to Directors of Children's Services suggests that Local Authorities should continue the process of ensuring that all 16 and 17 year olds receive suitable offers to continue in education or training (previously known as the September Guarantee). In Brent this activity will continue to be reported on to Department of Education for all 16 and 17 years olds

Local authorities will additionally be expected to continue to track and record young people's Participation post-16 on the Client Caseload Information System database in order to ensure there is reliable data available centrally on young people at risk of being NEET in Brent we will continue to meet this requirement. We will also be required to maintain close links with Jobcentre Plus in Brent to ensure young people NEET (Not in education, employment or training) are given appropriate support.

There will be a national all-age careers service. This will provide a website and telephone helpline for both young people and adults and a face to face service (for adults). It does not seem likely at the moment that the all-age careers service will offer face to face services Information Advice Guidance for young people. Details of this Service will be available through websites such BmyVoice a Brent website for young people. Information on this service will also be available for those dropping into any of the Brent Access points and via other Council information points as appropriate and advertised in schools/college.

Under the new arrangements, from September 2012 schools will have a duty to secure access to independent, impartial careers guidance for their students in years 9-11, provided by a person who is not employed by the school¹. The Government is consulting on whether this should be extended down to Year 8 and up to Year 13. In Brent a Careers, Education, employment and training Service will be available in secondary schools for 2012/2013 through a buy in model (apart from Ark Academy who currently have year 8 only which is outside the age range and Convent of Jesus and Mary school who have decided to source their own independent provision for their pupils) for those aged 13-16. This will include the Special Needs schools in the Borough and Alternative Education provision. The College of North West London have a team of in house advisers offering Information Advice and guidance to those aged 16-19 and have the option to buy into the Local Authority proposed delivery models which the Local Authority no longer fund or provide.

From 2012 there will be no face-to-face universal careers advice for young people, except that which is bought in by schools.

In Brent the Local Authority will fund the development of s139a for those with statement of Special Needs as outlined in the statutory duties.

The delivery of Careers Information, Advice and Guidance to schools as listed above, tracking and follow up of NEET young People, the production of S139a, September guarantee and operating services via a number of

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access points will be through a Contract the Local authority has with Prospects for 2012/2013.

The In- House Team of 8 Intensive Personal Advisers will remain the same. The contract with P3 to provide intensive Services in the Kilburn/Willesden locality will be extended for 2012/2013. The Services largest contract with Prospects will be reduced to reflect the changes in legislation and the LA responsibilities which will see the closure of the Connexions Centre on Willesden High Road, to maintain front line services. The provider will continue to support those in the NEET (Not in Education employment or training) Group, tracking and follow will continue and will operate from a number of access points. The LA has agreed to fund the transitional period from April to 31st August 2012. From 1st Sept the LA on behalf of the secondary schools, alternative education provision and special needs schools have negotiated a contract with Prospects to delivery careers Information, advice and Guidance. The main college in the Borough College of North West London have an in house team of Advisers who offer Careers information, advice and guidance support for young people aged 16-19. The college also have been given the option to buy into the Local Authority's model as the LA no longer have a statutory responsibility to support this age group. The all age careers service will be available to those in this age group. The Service will be responsible for the MyPlace centre a £5m Big Lottery funded youth provision in the heart of Harlesden which will include an area for advisers to be located in both as an admin base and as a base from which Young People can access Information, advice and guidance on a range of issues affecting them to include access for those that are in the NEET group to careers support and progression in employment, education and training Young People outside this group will be sign posted to relevant services. Young People will also have access to a range of other provision such as dance, drama, music workshops, and leisure activities.

Brent's revised Service Provision

The service needed to identify significant savings in the coming financial year and have tried to achieve this with minimal disruption to front line delivery. The cost to run the Connexions centre is £118k as the LA no longer has a responsibility to provide such a centre under the new legislation this is an area identified under savings however the opening of the new My Place centre will support the referrals to the provision. The LA have agreed to fund the transitional period in schools from 1st April 2012 to 31st August 2012 thereafter the LA does not have this responsibility to fund this provision however schools in Brent have requested the LA to act on their behalf to jointly commission careers information, advice and guidance from 1st Sept 2012 – schools will fund the provision and the LA will support the commissioning function of the provision only. Majority of the schools have bought into this model as part of joint commissioning process for their students to access Careers information advice and guidance agreed 13-16 schools will also be able to use the resources to support 16-19 years in their institutions. College of North West London have been offered the option to buy into the LA model and have declined. The CNWL have their own in house team that delivery careers activities. The Service has identified most cost effective ways of delivering the Service through a range of access points in the borough.

3. Are the aims consistent with the council's Comprehensive Equality Policy?

This project is consistent with the Council's aim to ensure that the services provided are relevant to the needs of the community and met the statutory requirements.

The EIA is carried out to support good decision-making and to encourage the organisation to understand how different groups of young people will be affected by the closure of the Connexions Centre so that the proposed service offer is appropriate and accessible to all and meets the needs of different young people.

This EIA complies with the Equality Duty placed on public organisations to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equalities Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

The project is consistent with the aim of the council's Equality Policy to ensure that: "services must be relevant, responsive and sensitive and that the council must be perceived as fair and equitable in its provision of services".

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The project will ultimately aim to improve the quality of the service offer to our residents.

4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/faith/sexual orientation/health etc? What are the reasons for this adverse impact?

Services to vulnerable groups (listed below in the table) will not be impacted a service will continue through the in House Intensive team consisting of 1x Teenage parents adviser, 1x Refugee/asylum seekers and black minority ethnic groups adviser, 1x youth offending Adviser, 1x social care adviser, 1 x generic NEET adviser and 4x Pre-NEET advisers working in schools and pupil referral units there is no change to this resource. Careers IAG Services to those aged 13-16 will continue to be provided through the schools including special needs schools, pupil referral units and maintained schools for 2012/2013. Pupils at Convent of Jesus and Mary school will have access to Careers Information Advice Guidance as provided by the school under the new duties. Services to those aged 16-19 that are in the NEET group is unchanged they will continue to be followed up and tracked and will have access to the Service through the My Place centre which has access for those with disabilities and the various other access points as outlined above. Those that do not fall into the NEET group aged 16-19 will be impacted. The LA no longer has a statutory responsibility to provide a service to this group the all age Careers service will be launched on 5th April and support will be available through this service, some secondary schools in Brent through negotiations may utilise some of the resources they are purchasing to fulfil their statutory responsibilities under the new legislation to support those in their 6th forms. The college of North West London have Careers Information Advice Guidance provision in house for their students aged 16-19. Young People will be referred to the national All age Careers Service, college, Job centres.

All Advisers undergo quality observations of practice and quality checks are carried out on record keeping. Both contracts Prospects Ltd and P3 will continue to be rigorously monitoring for quality and output. In addition there are currently a number of externally funded projects in the Borough that we are working closely with one of the projects is targeting young people in the NEET group linked to Youth Offending and Care leavers another is supporting Teenage parents and those linked with Social Care

NB: Reference to EET in the table below means Education, Employment, Training and NEET means Not in Education, Employment or training. The figures above are based on Jan 2012 data

	Looked after / In care (No impact to group)	Caring for own child (no impact to group)	Refugee / Asylum seeker (no impact to group)	Carer not own child (no impact to group)	Substance misuse (no impact to group)	Care Leaver (no impact to group)	Supervised by YoT (no impact to group)	Pregnancy (no impact to group)	Parent not caring for own child (no impact to group)	Learning Difficulties and Disabilities (no impact to group)
Cohort Total	133	70	82	1	15	54	164	30	7	1064
EET Total	89	32	67	1	8	33	86	12	5	746
In education, post Year 11	84	27	65	0	7	29	71	11	4	720
NEET Group	14	12	4	0	3	8	35	4	2	44
Not available to labour market	1	8	0	0	1	1	0	3	0	4
Other (not EET or NEET)	2	0	1	0	0	0	18	0	0	5
Current situation not known	9	25	6	0	3	12	20	14	0	130

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5. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make you judgement separately (by race, gender and disability etc).

Legislative changes

Under the Education Bill, local authorities will retain their statutory duty to encourage, enable, assist and support vulnerable young people to engage in education and training, including providing early support to young people at risk of disengagement.

There will be a national all-age careers service from age 13 years.

Under the new arrangements, from September 2012 schools will have a duty to secure access to independent, impartial careers guidance for their students in years 9-11, provided by a person who is not employed by the school. The requirement for schools to provide careers education has been removed.

The delivery of some of these services will be through a Contract the Local authority has with Prospects. The service needed to identify significant savings in the coming financial year and have tried to achieve this with minimal disruption to front line delivery. The cost to run the centre is £118k. The Service has identified most cost effective ways of delivering the Service through a range of access points in the borough.

6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)

There will be no unmet needs for those that are identified as being in the NEET group aged 16-19 and up to 25 for those with Learning difficulties and disabilities, the service will continue to provide a pre-NEET package as it does at the moment. Supporting the production of Section 139a will continue as is currently. Those aged 16-19 outside the NEET group will be affected however referrals will be made to the National all age careers Service to be launched on 5th April 2012 This Service will provide a national telephone number and will provide information, advice and guidance for those aged 13 if appropriate referrals will also be made to the College of North West London or their schools provision if available.

7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?

No external consultation has been sought. The Service has been advised by legal that consultation is not required.

8. Have you published the results of the consultation, if so where?

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N/A

9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?

No

10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.

The imposed changes with the Education Bill 2011 places statutory responsibilities to LA to support those that are at risk of becoming NEET and those that are in the NEET group and those with special Needs up to the age of 25, schools will have the responsibility to provide independent impartial careers for those aged 13-16. The adverse impact will be to those aged 16-19 in education, employment and training however the launch of the National All age careers service on 5th April 2012 will be a referral point to support this group that which will have been adversely impacted.

The Service will continue to monitor access points for those young people that are not in Education, employment and training and ensure these are reflective of needs identified and signposting will be to be part of the services provided to this group from the age of 16-19 and up to 25 for those with LDD needs. In addition intensive support will be targeted to the most vulnerable groups in the borough.

A bespoke Service will be provided to all schools that have signed up to the new agreed model of delivery this includes all secondary schools (apart from Convent of Jesus and Mary who have advised will source their own provision), all Special educational establishments and alternative educational provision. The Government have set up an all age careers Service for young people from the age of 13 to access information, advice and guidance this is positive as it replaces the universal service in Brent. Those young people aged 16-19 outside the NEET group will be most affected however this group will have access to the all age careers service which will have a telephone number, online service and website from 5th April 2012.

11. If the impact cannot be justified, how do you intend to deal with it?

The impact is justified and other services are or will be in place to support young people.

This is being imposed on us as a Local Authority under the new requirements within the Education Bill 2011. All secondary schools have the option to buy in provision through the proposed model all except for Convent of Jesus and Mary college have done so, this institution is required under the legislation to source independent impartial careers information, advice and guidance for its pupils. Government will be launching the National All age Careers Service on 5th April 2012 which replaces Next Steps and will be available through a national telephone number and website support for young people from the age of 13. The LA will fulfil its statutory responsibilities under the new legislation and provide support to those at risk of becoming NEET and those that are in the NEET group.

12. What can be done to improve access to/take up of services?

The take up of services has always been consistently good. A range of measures are in place and will continue to be in place such as:

Analysis of callers by age, ethnicity, gender, disability, locality/postcode

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Rigorous Quality checks of services provided with an Action Plan
Rigorous contract monitoring with provider against requirement in the Service specification
Effective use of management information/ Performance measurement
Assessment of progression into positive outcomes
Carrying out a Needs analysis
Review of marketing strategy
Monitor use of access points and review any new and emerging issues in Brent for Young people in the age group
Further the links with Community, faith , voluntary sector groups
More outreach work
Publicising the All Age Careers Service in all our provisions keeping records of referrals made

13. What is the justification for taking these measures?

The justification is placed on the LAs and schools as outlined in The Education Bill 2011 which sets out a range of changes to the duties of schools and local authorities in relation to careers advice.

Under the Education Bill, local authorities will retain their statutory duty to encourage, enable or assist young people's participation in education and training. Brent LA will maintain services to fulfil its statutory requirements under this change imposed. The full comprehensive services provided will not be delivered in full from 1st April 2012 due to changes in legislation – Under the new arrangements, from September 2012 schools will have a duty to secure and fund through DSG access to independent, impartial careers guidance for their students in years 9-11, provided by a person who is not employed by the school -secondary schools in Brent (except Convent of Jesus and Mary) have all committed to buy into the Service as part of fulfilling their responsibilities under the Bill the LA have commissioned a Provider on behalf of the schools.

14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.

Analysis of callers by age, ethnicity, gender, disability, locality/postcode
Rigorous Quality checks of services provided with an Action Plan
Rigorous contract monitoring with provider against requirement in the Service specification
Effective use of management information/ Performance measurement
Assessment of progression into positive outcomes
Carrying out a Needs analysis
Review of marketing strategy
Monitor use of access points and review any new and emerging issues in Brent for Young people in the age group

Evidence will be through the quarterly contract reporting information and monthly management information and our annual production of the destination data and activity survey.

15. What are your recommendations based on the conclusions and comments of this assessment?

Recommend Closure of centre to protect front line delivery of Services and explore further access points to increase accessibility across the borough to a more diverse group of young people.

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Should you:

1. Take any immediate action?
2. Develop equality objectives and targets based on the conclusions?
3. Carry out further research?

16. If equality objectives and targets need to be developed, please list them here.

17. What will your resource allocation for action comprise of?

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment:

Full name (in capitals please): TANUJA SAUJANI

Date: 24th Feb 2012

Service Area and position in the council: Brent Youth and Connexions Service Manager

Details of others involved in the assessment - auditing team/peer review: Angela Chiswell – Head of Service

Once you have completed this form, please take a copy and send it to: **The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD**

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**Executive
22 April 2013**

**Report from the
Director of Children and Families**

Wards Affected:
ALL

**Authority to establish a Dynamic Purchasing System (DPS)
for the provision of cleaning services to Brent schools**

1.0 Summary

- 1.1 Following a Report seeking authority to invite tenders for a Cleaning Framework Agreement at the August 2011 Executive, this report updates members and seeks necessary approvals for an alternative procurement approach.

2.0 Recommendations

- 2.1 That the Executive gives approval to establish a Dynamic Purchasing System (DPS) for the provision of cleaning services to schools rather than a Framework Agreement (with multiple suppliers) recommended by the previous report.
- 2.2 That the Executive approve the Pre-Tender consideration set out in section 4 of the report, and authorise officers to invite providers to apply for admission onto the DPS.
- 2.3 That the Executive authorise the Head of Procurement to appoint new service providers onto the DPS subsequent to them meeting the selection criteria as stated by the Council in the tender documentation as and when required.

3.0 Detail

- 3.1 The report approved by the Executive in August 2011 is attached as Appendix 1 and requested that a Framework Agreement be tendered for the provision of cleaning services to all schools within Brent. At that time the report requested that a multiple suppliers be appointed to the framework, however following further discussions between Council Officers and Schools it was agreed that any contract / agreement to be put in place had to be suitable for small and local service provider to participate in and have the flexibility of adding service providers to the contract / agreement during its period of operation.

3.2 Whilst a framework agreement would be able to deliver the flexibility of including small and local service providers in the tender process, it would not offer the flexibility of adding service providers to the agreement once it has been set up. Therefore it was agreed to put in place a DPS as it would offer all the benefits of a framework agreement including the flexibility of adding service providers to the DPS during its period of operation (however any service provider to be admitted onto the DPS system would have to demonstrate that will meet the minimum criteria as specified in the tender documentation by the Council).

4.0 Pre Tender Considerations

4.1 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	A dynamic purchasing system for the provision of cleaning services to schools located within the Borough.
(ii)	The estimated value of services purchased by Brent	The current combined expenditure of the schools who have already indicated they wish to participate in any arrangement put in place by the Council is approximately £350k per annum giving a total value of £1.4m over a four year period. However this will be greatly increased as other schools use the DPS.
(iii)	The contract term	A dynamic Purchasing system for a 3 year period with the option to extend for up to one year
(iv)	The tender procedure to be adopted.	An open tender process which is mandatory under the EU Public Procurement Regulations.
(v)	The procurement timetable	<p>Adverts placed and documents made available to organisations by – 13th May 2013.</p> <p>As required by the EU Regulations, the Council will give any organisation the opportunity of joining the DPS by offering full access to the DPS documentation via the Council's e-tender system London Tender Portal System until the DPS ceases to operate. Organisations can upload their indicative tenders for evaluation at any time throughout the duration of the dynamic purchasing system.</p>
(vi)	The evaluation criteria and	Admittance to the dynamic purchasing

	process	<p>system will depend on organisations submitting an indicative tender and meeting the selection criteria as stated in the tender documentation by the Council.</p> <p>The selection criteria will be drawn up in accordance with the Council's Contract Management and Procurement Guidelines namely the prequalification questionnaire including meeting the Council's financial standing requirements, health, safety and environmental standards and technical expertise; Other selection criteria potential tenderers will be expected to meet with their indicative tender are:</p> <ul style="list-style-type: none"> ❖ Ability to meet the requirements of the service specification. ❖ Approach to service delivery and ensuring standards are achieved ❖ Approach to TUPE <p>. Price will not be one of the criteria assessed on admittance onto the DPS. This will be assessed by the schools at the point of calling off the DPS as this will enable potential tenderers to tailor the prices to the specific requirements of the school. However organisations will be asked to set out the basic elements of their pricing i.e. standard labour cost – setting out hourly rate for staff, overheads – what this is made up of and the expected percentage that this will take up of the pricing schedule.</p>
(vii)	Any business risks associated with entering the contract.	No specific business risks to the Council are considered to be associated with entering into the proposed contract
(viii)	The Council's Best Value duties	The Council has a duty under Best Value to secure cost-effective and efficient services that meet the needs of the Borough's customers.
(ix)	Any staffing implications, including TUPE and pensions.	See section 8 .2.
(x)	The relevant financial, legal and other considerations.	See sections 5 and 6

4.2 Establishing and Admitting Organisations onto the DPS

4.2.1 The DPS tender process will be based on an open procedure. Adverts for the opportunity will be placed in the Official Journal of European Union (OJEU), the Council's website and the appropriate local newspaper. DPS documentation will be made available by electronic means via the Councils e-tendering system - London Tenders Portal. The tender documentation will set out the selection criteria organisations will be required to achieve in order to be appointed onto the DPS.

4.2.2 Returned tender documentation consisting of a completed pre- qualification and method statement will be evaluated by a panel made up of representatives from the Council and the Schools after an invitation to submit tenders (usually 15 days of the the submission of tenders). The process for deciding which organisations go onto the DPS will consist of 2 stages (the assessment of the questionnaires and submitted method statement):

4.2.2.1 **Stage 1:** Included with the tender documentation will be a questionnaire. The questionnaire will be used to assess organisation’s financial viability, legal capability to trade, experience and their capacity.

4.2.2.2 **Stage 2:** Included with the tender documentation will be a method statement template. The Council will evaluate the submitted method statement to assess the organisation’s capability of providing the required services.

4.2.3 In order for organisations to be considered eligible for appointment on to the DPS organisations will be expected at-;

- stage one of the assessment to obtain a “pass” for each of the sections within the questionnaire where it will stated as being a pass or fail assessment and at least 3 marks out of the available 5 for each of the marked questions. Organisations that fail this initial assessment will be excluded from further consideration in the procurement process.
- stage of the assessment to score at least 3 marks out of the available 5 for each question in each section in the method statement.

4.2.4 The assignment of scores will be based on the table below.

Assessment	Score
No response to the question	0
Deficient – Response to the question (or an implicit requirement) significantly deficient.	1
Limited – Limited information provided, or a response that is inadequate or only partially addresses the question.	2
Acceptable – An acceptable response submitted in terms of the level of detail, accuracy and relevance.	3
Comprehensive – A comprehensive response submitted in terms of detail and relevance.	4
Superior – As Comprehensive, but to a significantly better degree.	5

4.2.5 The Council will offer unrestricted, direct and full access to the specification and to any additional documents by electronic means (via the London Tenders Portal) from the date of publication of the contract notice until 6 months to the date when the DPS ceases to be operated.

- 4.2.6 The Council will give any organisation throughout the entire duration of the dynamic purchasing the opportunity of joining the DPS this would involve-;
- (a) The organisation submitting a tender electronically (as documentation will be available throughout the duration of the DPS).
 - (b) The Council will evaluate tenders on receipt in accordance with the evaluation methodology within a stipulated period.
 - (c) If the organisation meets the stipulated criteria then they will be admitted onto the dynamic purchasing system.
 - (d) Where the organisation does not meet the criteria the Council will inform the organisation of this and they will not be admitted onto the system.
- 4.3 The number of organisations that can be admitted on to the DPS will not be limited, but it should be noted that only organisations who can demonstrate that they can meet the Council's set selection criteria will be admitted onto the DPS. The Council would also set out the circumstances upon which a service provider will be removed from the DPS this would include continued poor performance on contracts and non participation in the call off process.
- 4.4 As the Council will give any organisation the opportunity of joining the DPS until the DPS ceases to operate, Officers have recommended that the Head of Procurement been given authority to appoint Service providers onto the Dynamic Purchasing System as and when required to prevent officers from returning to the Executive to obtain approval each time a Service Provider is required to be appointed onto the DPS.
- 4.5 It is anticipated that the DPS will become operational in June / July 2013 (provided there are enough organisations on the DPS which would allow schools to carry out an effective competitive exercise). The schools would be able to use the DPS by carrying out a mini competition exercise between the service providers on the DPS at that point in time, as this will enable the service providers to price against specific requirements of the school which will ensure that the school's needs can be adequately met. An OJEU notice will be placed each time before a contract is awarded under the DPS. The evaluation criterion for such awards will be specified in the OJEU notice.

5.0 Financial Implications

- 5.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500,000 or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 90.
- 5.2 The estimated value of this services contract is £1.4 million over the maximum 4 year contract period.
- 5.3 The cost of this contract will be funded by the schools calling off the dynamic Purchasing System and therefore there is no financial impact on the Council.

6.0 Legal Implications

- 6.1 The estimated value of the Dynamic Purchasing System (DPS) for cleaning services over its lifetime is in excess of £500k and therefore the procurement and award of the DPS is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts.
- 6.2 The estimated value of the DPS over its lifetime is higher than the EU threshold for Services under the Public Contracts Regulations 2006 ("the EU Regulations"). Cleaning services are classed as Part A Services under the EU Regulations and therefore the DPS must be procured fully in accordance with the EU Regulations, to include advertising the DPS in the Official Journal of the European Union. The EU Regulations also require that the duration of a DPS is no more than 4 years save in exceptional circumstances.
- 6.3 The procedure for a dynamic purchasing system is set out in Article 33 of the Public Sector Directive and implemented by Regulation 20 of the Public Contracts Regulations 2006. The Council can legally establish a Dynamic Purchasing System that complies with the regulations and the Contract Standing Orders.
- 6.4 Once an award decision for Tenderers under the DPS is made, all remaining bidders must be advised of the proposed award decision and the mandatory standstill period observed as this is a Part A service requiring full compliance with EU procurement Regulations.
- 6.5 Public Authorities pursuant to the Public Services (Social Value) Act 2012 now have a duty to consider how the services being procured might improve the economic, social and environmental well-being of its area: how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. This duty in our view does not apply to the Dynamic Purchasing System proposed to be established which is likened in nature to call offs under a Framework Agreement. The application of the duty imposed by the Public Services (Social Value) Act will in reality be at the award stage and undertaken by the schools. The application of the duty imposed by the Public Services (Social Value) Act will be at the award stage under the DPS and this will be by the schools awarding contracts under the DPS as contracting authorities. The arrangement proposed under the DPS will encourage local business to participate and promote the social and economic well-being of the area. The environmental well-being will also be considered as the specification of service for contract award under the DPS will consider the effect of cleaning agents, chemicals and their effects on the Schools environment. The DPS is being established by the Council for use by Schools. The Council will not itself be awarding any contract under the DPS to be established.

7.0 Diversity Implications

- 7.1 Officers have screened the proposals set out in this Report and consider that there are no significant diversity implications.

8.0 Staffing/Accommodation Implications (if appropriate)

8.1 There are no accommodation implications

8.2 There are no staffing implications for the Council in establishing the DPS. There may be staffing implications for schools that would use the DPS. Any current contractor's staff and in house staff (as appropriate) will be entitled to transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 to a successful service provider following a mini competition carried out by schools between organisations on the DPS. There will be the provision within the call-off Protocol in the contract to ensure that providers on the DPS can price for the services against TUPE information supplied by the incumbent Contractor.

Background Papers

May and August 2011 Executive reports attached.

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KRUTIKA PAU
DIRECTOR OF CHILDREN AND FAMILIES

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	<p style="text-align: center;">Executive 22 April 2013</p> <p style="text-align: center;">Report from the Director of Regeneration and Major Projects</p>
<p style="text-align: right;">Wards Affected: Kilburn</p>	
<p>South Kilburn Regeneration Phase 2</p>	

APPENDICES 2, 3, 8, 13 & 18 ARE NOT FOR PUBLICATION

1. SUMMARY

1.1 General

This report summarises the progress made on the regeneration of South Kilburn and sets out the approvals required by the Executive to further progress Phase 2 of the regeneration programme, comprising Site 11b, Phase 2a and Phase 2b.

1.2 Site 11B

This report summarises the procurement process undertaken by the Council to procure a developer partner to redevelop the British Legion and Albert Road Day Care Centre (together defined as '**Site 11b**', shown on Plan A, Appendix 1) and requests delegation to the Director of Regeneration and Major Projects in consultation with the Director of Legal & Procurement to award and enter into a Development Agreement with the preferred developer partner.

Site 11b Approvals

1.2.1 Delegate authority to Director of Regeneration and Major Projects in consultation with the Director of Legal & Procurement to award and enter into a Development Agreement with the preferred developer partner for Site 11b.

1.2.2 Undertake all necessary steps to secure vacant possession of Site 11b and extinguish rights and interests in the land to enable development.

1.3 Phase 2a

This report summarises the procurement process undertaken by the Council to procure a developer partner to redevelop Bronte House and Fielding House (together defined as '**Phase 2a**', shown on Plan B, Appendix 1) and requests delegation to the Director of Regeneration and Major Projects in consultation with the Director of Legal & Procurement to award and enter into a Development Agreement with the preferred developer partner. This report also summarises the progress made on the Phase 2a CPO and requests the Council exercises its power to confirm the CPO.

Phase 2a Approvals

- 1.3.1 Delegate authority to Director of Regeneration and Major Projects in consultation with the Director of Legal & Procurement to award and enter into a Development Agreement with the preferred developer partner for Phase 2a.
 - 1.3.2 Undertake all necessary steps to secure vacant possession of Phase 2a and extinguish rights and interests in the land to enable development.
 - 1.3.3 Exercise the power, granted by the Secretary of State for Communities and Local Government under section 14A of the Acquisition of Land Act 1981 ("**the 1981 Act**"), to confirm The London Borough of Brent (South Kilburn Regeneration Phase 2a - Bronte House and Fielding House) Compulsory Purchase Order 2013 (referred to hereinafter as "**the Bronte & Fielding CPO**"), subject to the restrictions and requirements of section 14A of the 1981 Act; and
 - 1.3.4 To delegate authority to the Director of Regeneration and Major Projects to carry out all statutory requirements associated with the exercise by the Council of the power granted under section 14A of the 1981 Act in connection with the Bronte & Fielding CPO and, if such power is exercised by the Council, thereafter to take all necessary steps to implement the Bronte & Fielding CPO in furtherance of the delivery by the Council of the South Kilburn Regeneration Programme, including (but not limited to) the general vesting declaration process pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and/or the Notice to Treat and Notice of Entry procedure pursuant to the Compulsory Purchase Act 1965.
- 1.4 This report summarises the progress made on Phase 2b of the regeneration of South Kilburn. and seeks approval to:

Phase 2b Approvals

- 1.4.1 To note officers' intentions to procure a full architectural design team to develop detailed design and specification to RIBA Stage D+ for Gloucester House and Durham Court (being part of '**Phase 2b**') by calling off the Homes and Communities Agency's Multidisciplinary Panel and report back to the Executive following award of contract.
 - 1.4.2 To note officers are undertaking statutory consultation with secure tenants occupying properties in Phase 2b regarding (i) the Council's proposal to apply to the Secretary of State for use of Ground 10A of the Housing Act 1985; (ii) the Council's proposal to make a CPO on properties in Phase 2b that are currently occupied by secure tenants; and (iii) consultation in connection with a draft Allocation Policy for Phase 2b. Officers will report back to the Executive detailing the outcome of this statutory consultation; and may, depending on the outcome of the consultation and members views on that, seek Executive approval to a) authorise the Director of Regeneration and Major Projects to seek the Secretary of State's consent to the disposal and development of Phase 2b for the purpose of Ground 10A of Schedule 2 to the Housing Act 1985; and b) authorise the final Phase 2b Allocation Policy.
 - 1.4.3 To re-affirm in relation to Durham Court, Gloucester House, Masfield House and Wordsworth House (together defined as '**Phase 2b**') the compulsory purchase authorisation for the acquisition of third party interests (including secure tenancies) and rights and related authorisations as set out in this report.
- 1.5 In relation to all future phases of the regeneration of South Kilburn this report seeks approval to:

Phase 3 and 4 Approvals

- 1.5.1 To delegate authority to the Assistant Director of Property and Asset Management in conjunction with the Director of Finance to authorise the acquisition of third party interests and rights in South Kilburn as necessary to progress the regeneration programme.

2. RECOMMENDATIONS

2.1 General Recommendations

That the Executive notes the progress made on the South Kilburn Regeneration Project as set out in this report.

2.2 Site 11b Recommendations

2.2.1 That the Executive delegates authority to the Director of Regeneration & Major Projects in consultation with Director of Legal and Procurement to award and enter into a Development Agreement with the preferred developer partner in respect of Site 11b.

2.2.2 That the Executive agrees that the sum set out in Appendix 2 (restricted) from the proceeds of the sale of Site 11b be re-invested into the regeneration of South Kilburn, including for the purpose of bringing forward further development sites within the regeneration area.

2.2.3 That the Executive authorise the Director of Regeneration & Major Projects (where the Director of Regeneration & Major Projects in conjunction with the Director of Legal and Procurement consider applicable) to take the necessary steps to override or where requisite extinguish rights and interests in Site 11b which might otherwise act to constrain the development by:

(a) Appropriating the land Site 11b or any part or parts thereof for planning purposes under Section 122 of the Local Government Act 1972 when no longer required for the purpose for which it is currently held

(b) Taking any other legal steps as may be necessary to achieve this objective.

2.3 Phase 2a Recommendations

2.3.1 That the Executive delegates authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into a Development Agreement with the preferred developer partner in respect of Phase 2a subject to the Council obtaining vacant possession of the site and the Secretary of State's consent to the disposal under Section 32 of the Housing Act 1985.

2.3.2 That the Executive agrees that the sum set out in Appendix 3 (restricted) from the proceeds of the sale of Phase 2a be re-invested into the regeneration of South Kilburn, including for the purpose of bringing forward further development sites within the regeneration area.

2.3.3 That the Executive authorises the Director of Regeneration & Major Projects (where the Director of Regeneration & Major Projects in conjunction with the Director of Legal and Procurement consider applicable) to take the necessary steps to override or where requisite extinguish rights and interests in Phase 2a or any part or parts thereof which might otherwise act to constrain the development by:

(a) Appropriating the land Phase 2a or any part or parts thereof for planning purposes under Section 122 of the Local Government Act 1972 when no longer required for the purpose for which it is currently held

(b) Seeking the Secretary of State's consent under section 19 Housing Act 1985 in order to appropriate any part of the land consisting of a house or part of a house for planning purposes where applicable.

(c) Taking any other legal steps as may be necessary to achieve this objective.

- 2.3.4 That the Executive, in exercise of the power granted by the Secretary of State for Communities and Local Government under section 14A of the Acquisition of Land Act 1981, confirms the Bronte & Fielding CPO.
- 2.3.5 That the Executive delegates authority to the Director of Regeneration and Major Projects to carry out all statutory requirements associated with the exercise by the Council of the power granted under section 14A of the Acquisition of Land Act 1981 in connection with the Bronte & Fielding CPO and, thereafter to take all necessary steps to implement the Bronte & Fielding CPO in furtherance of the delivery by the Council of the South Kilburn Regeneration Programme, by acquiring all non-Council-owned interests in the area shown edged red (**the Bronte & Fielding CPO Land**) on Plan C attached at Appendix 1 being at and adjacent to Bronte House and Fielding House for the development of the Bronte & Fielding CPO Land, and the compulsory acquisition of such interests shall be effected through the use by the Council of the general vesting declaration ("**GVD**") process pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and/or through the use of the Notice to Treat and Notice of Entry procedure pursuant to the Compulsory Purchase Act 1965, as appropriate and securing possession of secure tenancies by possession proceedings pursuant to Ground 10A of Schedule 2 to the Housing Act 1985.

2.4 Phase 2b Recommendations

- 2.4.1 That the Executive notes officers' intentions, (subject to Director of Legal & Procurement Confirmation that participation in the HCA framework is legally permissible), to progress procurement of a full architectural design team to develop detailed design and specification to RIBA Stage D+ for Gloucester House and Durham Court as shown edged red on Plan D at Appendix 1, by calling off the Homes and Communities Agency's Multidisciplinary Panel and report back to the Executive following award of contract.
- 2.4.2 That the Executive notes statutory consultation is currently being undertaken with secure tenants occupying properties in Phase 2b on three proposals; (i) statutory consultation in connection with seeking approval of the Secretary of State for use of Ground 10A of the Housing Act 1985; (ii) consultation on the Council's proposal to make a CPO on properties in Phase 2b that are currently occupied by secure tenants; and (iii) consultation in connection with a draft Allocation Policy for Phase 2b. Officers will report back to the Executive detailing the outcome of this statutory consultation; and may, depending on the outcome of the consultation and members views on that, seek Executive approval to a) authorise the Director of Regeneration and Major Projects to seek the Secretary of State's consent to the disposal and development of Phase 2b for the purpose of Ground 10A of Schedule 2 to the Housing Act 1985; and b) authorise the final Phase 2b Allocation Policy.
- 2.4.3 That the Executive authorises the acquisition by agreement pursuant to section 227 of the Town and Country Planning Act 1990 and the making of a compulsory purchase order (CPO) pursuant to section 226 Town and Country Planning Act 1990 to acquire all non-Council interests in the area as shown edged red ('the Gloucester and Durham CPO Land') on Plan D and E attached at Appendix 1 being at and adjacent to Gloucester House, Durham Court, Masfield House and Wordsworth House together with any new rights which may be required for the development of the Gloucester and Durham CPO Land under section 13 Local Government (Miscellaneous) Provisions Act 1976.
- 2.4.4 That the Executive authorises the:
- (a) Making, publication and submission by the Council to the Secretary of State of the CPO, in respect of the Gloucester and Durham CPO Land for confirmation, whilst at the same time seeking to acquire the CPO Land by private negotiated treaty on such terms as may be agreed by the Director of Regeneration and Major Projects;
 - (b) Director Regeneration and Major Projects to enter into agreements and give undertakings on behalf of the Council with the holders of interests in the Gloucester and Durham CPO

Land or parties otherwise affected by the scheme setting out the terms for the withdrawal of their objections to the confirmation of the CPO and including the offering back of any part of the Gloucester and Durham CPO Land not required by the Council after the completion of the development or the acquisition of rights over the Gloucester and Durham CPO Land in place of freehold acquisition, where such agreements are appropriate;

- (c) Making of one or more one or more general vesting declarations or service of Notices to Treat and Notices of Entry (as appropriate) pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 respectively should the CPO be confirmed by the Secretary of State or (if the CPO is unopposed) should the CPO be confirmed by the Council in the event that the Council is authorised by the Secretary of State to exercise the power conferred by section 14A of the Acquisition of Land 1981;
 - (d) Serving on those who have or are reputed to have an interest in, and/or are in occupation of, the Gloucester and Durham CPO Land, all requisite notices relating to the making and confirmation of the CPO and any proceedings relating to the same;
 - (e) Director of Regeneration and Major Projects to remove, while the CPO is in draft form, and prior to its being made, from the CPO any plot (or interest therein) no longer required to be acquired compulsorily for the scheme to proceed and to amend the interests scheduled in the CPO (if so advised) and to alter the nature of the proposed acquisition from an acquisition of existing property interests to an acquisition of new rights (if so advised) or after the CPO has been made to submit modifications to the Secretary of State;
 - (f) Director of Regeneration and Major Projects within the defined boundary of the Gloucester and Durham CPO Land, to acquire land and/or new rights by agreement either in advance of the confirmation of compulsory purchase powers, if so advised, or following the confirmation of the CPO;
 - (g) Director of Regeneration and Major Projects, if so advised, to seek to acquire for the Council any interest in land wholly or partly within the limits of the Gloucester and Durham CPO Land for which a blight notice has been validly served.
- 2.4.5 That the Executive authorises the Assistant Director of Property and Asset Management (where the Assistant Director of Property and Asset Management in conjunction with the Director of Finance consider applicable) to acquire third party interests and rights within Phase 2b as necessary to progress the regeneration programme.
- 2.4.6 That the Executive authorise the Director of Regeneration & Major Projects (where the Director of Regeneration & Major Projects in conjunction with the Director of Legal and Procurement consider applicable) to take the necessary steps to override or where requisite extinguish rights and interests in Phase 2b or any part or parts thereof which might otherwise act to constrain the development by:
- (a) Appropriating Phase 2b or any part or parts thereof for planning purposes under Section 122 of the Local Government Act 1972 when no longer required for the purpose for which it is currently held
 - (b) Seeking the Secretary of State's consent under section 19 Housing Act 1985 in order to appropriate any part of the land consisting of a house or part of a house for planning purposes where applicable.
 - (c) Taking any other legal steps as may be necessary to achieve this objective.

2.5 Phase 3 and Phase 4 Approvals

- 2.5.1 That the Executive authorises the Assistant Director of Property and Asset Management (where the Assistant Director of Property and Asset Management in conjunction with the Director of Finance consider applicable) to acquire third party interests and rights within Phase 3 and Phase 4 of the South Kilburn Masterplan Area as necessary to progress the regeneration programme by way of negotiation.

3. PHASE 1 PROGRESS UPDATE

- 3.1 'Phase 1a' (being the Texaco Garage Site, Macdonald House, Marshall House, Albert Road, Zone 11a, and the Carlton Vale Roundabout Site Zone 3C) of the South Kilburn Regeneration Programme is now complete. 360 high quality new homes have been built, of which 256 are affordable and have been occupied by South Kilburn households.
- 3.2 Catalyst Housing Ltd (formally Catalyst Housing Group) took possession of Cambridge Court, Wells Court, Ely Court and Bond, Hicks Bolton and Wood House together 'Phase 1b' on 13th July 2012 to deliver 208 new homes by summer 2014. With demolition works complete, construction work is now underway across all three sites. 107 of these new homes developed will be affordable and made available to facilitate the remaining Phase 2 decant programme.

4. SITE 11B PROGRESS UPDATE

Site 11b Disposal

- 4.1 On 18th July 2011 the Executive noted the Director of Regeneration and Major Projects intention to secure Site 11b for disposal on the open market. On 22nd August outline planning permission was granted for a mixed used development comprising 144 new homes (28 of which are affordable) and 480m² of commercial floor space on the site. On 20th November 2012 the Council secured vacant possession of the entire site after agreeing terms with the Royal British Legion to surrender their lease and the relocation of the Albert Road Day Care Centre to the new John Billiam Centre in Kenton. On 15th October 2012 the Executive authorised officers to commence an Official Journal of the European Union (OJEU) procurement process to procure a developer partner to acquire and redevelop Site 11b in accordance with the outline planning permission.
- 4.2 The South Kilburn Masterplan provides for Site 11b to comprise predominately private residential development. The primary objective from the disposal of Site 11b, as set out in the South Kilburn Regeneration Programme, is to achieve a land receipt providing a cash injection to enable Phase 2b and Phase 3 of the programme to commence.
- 4.3 The Council are looking to select a development partner to deliver the residential-led, mixed used redevelopment of Site 11b. The selected development partner will be responsible for the demolition of existing structures on site and erection of a new mixed use development comprising of 144 residential units, 28 of which are affordable units, and 480m² of commercial floor space. An OJEU compliant procurement process was undertaken to procure a development partner through the restricted procedure. The development partner will be required to ensure the delivery of 28 affordable homes at Brent Council's Target Rents (as approved by the Executive on 15th October 2012), on the basis of South Kilburn Tenancies, and affording the Council 15 years' nomination rights.

Site 11b: Principle Offer

- 4.4 The principle structure of the standard offer set out in the procurement documents, in accordance with the Development Agreement is summarised at Appendix 4. No variant bids were invited.

Site 11b: OJEU Procurement Process

- 4.5 On 24th October 2012 the Council commenced the two stage process involved in procuring a development partner through the restricted procedure. A publication of Supplement to the OJEU

contract notice was made on 24th October 2012. An advert was also placed in the Estates Gazette. Potential development partners were invited to express an interest in the project. The Council received 91 expressions of interests. All 91 interested parties were sent a Memorandum of Information (MOI).

- 4.6 The MOI set out information about the site, additional details of the development opportunity and outlined the key principles of the project as set out above in Appendix 5. Bidders were asked to confirm their interest in the project by submitting a Pre-Qualification Questionnaire (PQQ) which incorporated four site specific questions designed to test the development partner's capabilities and experience in delivering similar mixed used developments.
- 4.7 A total of 13 developers responded to the MOI and submitted a PQQ in accordance with the deadline on 10th December 2012. The four site specific questions used to shortlist the developers are set out at Appendix 6.
- 4.8 The five developers who scored highest were Invited To Tender (ITT) in a competition to deliver the Site 11b project.
- 4.9 On 20th December 2012 a project specific ITT was issued to the five short listed developers in what was the final stage of the procurement process. The ITT incorporated an array of project specific information, including but not limited to the following; technical material in relation to the developments and associated outline planning permissions, a draft Development Agreement, title deeds, site investigation reports and a draft South Kilburn Tenancy Agreement.
- 4.10 On Friday 18th January 2013, four short listed developers, one having withdrawn from the competition of their own volition, were invited to attend a mid tender review meeting where they were provided with an opportunity to seek clarifications on the ITT. Two short listed developers then withdrew from the competition of their own volition. The remaining two shortlisted bidders were also invited to attend a pre-reserved matters application meeting on 4th February 2013 with representatives from Brent Council's Planning Department to seek clarifications on their proposed design intent.
- 4.11 The ITT stated that the evaluation will be determined and the contract award on the basis of the most economically advantageous tender (hereafter referred to as "MEAT") to the Council and in evaluation of the tenders, the Council would use the evaluation criteria set out in the Evaluation Matrix at Appendix 7 of this report. Overall 55% of the marks were awarded for price and 45% for quality.
- 4.12 Of the 55% of the marks awarded for price, the highest bid automatically received 100% of the marks for the financial element. Other submissions receive a percentage score based on how much lower their bid is in percentage terms than the highest.
- 4.13 Tenders from two organisations (Appendix 8) (restricted) were submitted on time and these were opened and logged in accordance with the Council's Contract Standing Orders 100.

Site 11b: Tender Evaluation Process

- 4.14 Both submissions received were of extremely high quality and both submissions clearly and confidently demonstrated that they could deliver the redevelopment of Site 11b in accordance with the terms and conditions set out in the ITT and Development Agreement.
- 4.15 Evaluation of all parts of the tender submission was carried out by a panel of officers, with the assistance of consultants, facilitated by an Officer from the Procurement Section. Technical advice was provided by the Council's Planning Department in respect of design. Deloitte Real Estate provided commercial and financial advice. Panel members met on Monday 25th February 2013 to score the quality section of the evaluation.
- 4.16 The financial evaluation (which carries a maximum percentage of 55 of the total available score) was carried out by the Council's cost consultant and agent Deloitte Real Estate in conjunction with officers from Finance and Corporate Services.
- 4.17 Both bidders attended a clarification meeting with the tender evaluation panel and technical advisors on Friday 8th March 2013. The clarifications provided by the bidders at the meeting informed the tender

evaluation panel when they met to confirm their scores on Friday 8th March 2013 and Friday 22nd March 2013.

4.18 Details of the price and quality evaluation results are set out in Appendix 9.

4.19 Following the evaluation of the tender submissions, the bid from bidder 2 has been identified as the top scoring tender bid and therefore is considered the most economically advantageous tender. As the development agreement is being prepared for signature officers recommend that the Executive delegate authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into the Development Agreement with the preferred bidder to redevelop Site 11b.

4.20 The restricted procedure undertaken to procure a developer partner for Site 11b means no material changes can be made to either the structure of the offer as set out in the ITT or the Preferred Bidder's submission. If for any reason the Council is unable to enter into the development agreement with the preferred bidder, officers recommend that the Executive delegates authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into the Development Agreement with the reserve bidder, (bidder 1) to redevelop Site 11b.

4.21 Instead of hoarding Site 11b prior to disposal, the Council in partnership with South Kilburn Neighbourhood Trust has delivered 'The Albert', a meanwhile use project. The site security budget funded the project which has delivered an exiting programme of events, activities and performances around the theme of health and well being. The project has been well received. The Council intend to use a small proportion of the non-refundable Site 11b commitment fee to continue the project until the site is handed over to the preferred bidder for development. The Council will endeavour to work with the preferred bidder to keep the project running as long as possible prior to demolition works commencing on site.

5. PHASE 2A PROGRESS UPDATE

5.1 On 20th June 2012 a planning application for Phase 2A ("Bronte House and Fielding House") was approved. On 15th October 2012 the Executive authorised the Director of Regeneration and Major Projects to undertake a mini-competition under the South Kilburn Developer Framework to redevelop Bronte House and Fielding House in accordance with the planning permission granted.

Bronte House and Fielding House Disposal

5.2 The Council are looking to select a development partner from the South Kilburn Developer Framework to deliver Phase 2a, the comprehensive redevelopment of Bronte House and Fielding House to deliver 229 new homes. The selected development partner will be responsible for and bear all costs associated with demolishing existing buildings on site, carrying out preparation and any enabling works required and subsequently build out and develop the scheme in accordance with the Stage D Design and Specification to the highest architectural quality and workmanship. 103 of the 229 new homes provided must be affordable. The development partner will be required to ensure the delivery of 103 affordable homes at Brent Council's Target Rents (as approved by the Executive on 15th October 2012), on the basis of South Kilburn Tenancies, and affording the Council 15 years' nomination rights.

The Bronte House and Fielding House Disposal: Principle Offer

5.3 The principle structure of the standard offer set out in the procurement documents, in accordance with the Development Agreement, is summarised at Appendix 10.

Bronte House and Fielding House Disposal: Variant Bids Options

5.4 To achieve the Council's objectives of; removing the existing structures from site by spring 2014 and developing an improved offer for existing leaseholders, the South Kilburn Developer Framework were also required to submit 3 variant bids options in response to this mini tender. Details of the 3 variant bid options, as set out in the procurement documents, in accordance with the Development Agreement are summarised at Appendix 11. The preferred bidder was chosen on the basis of their principle offer; the variant bid options did not form part of the evaluation. Instead, the options will be incorporated into the

Development Agreement as contractual options, which the Council may exercise in accordance with the terms contained therein.

Bronte House and Fielding House Disposal: Mini Tender

- 5.5 On 12th December 2012 a project specific Bronte House and Fielding House Mini Tender was issued to all 6 Members of the South Kilburn Developer Framework. The Mini Tender incorporated an array of project specific information, including but not limited to the following; technical material in relation to the developments and associated planning permissions, a draft Development Agreement, rent table and a South Kilburn Tenancy Agreement. The following six members were invited to bid in a mini competition for the Bronte House and Fielding House redevelopment project;
- Network Housing Group of Olympic Office Centre, 8 Fulton Road, Wembley, Middlesex, HA9 0NU;
 - London and Quadrant of Osborn House, Osborne Road, London, SE3 9DR;
 - Mulalley One Housing Group of Teresa Gavin House, Woodford Avenue, Woodford Green, Essex, IG8 8FA;
 - Catalyst Housing Group of Ealing Gateway, 26 – 30 Uxbridge Road, London W5 2AU;
 - Ardmore First Base Partnership, Byrne House, Jeffreys Road, Brimsdown, Enfield, Middlesex, EN3 7UB; and
 - Genesis Housing Group of Capital House, 25 Chapel Street, London, NW1 5DT
- 5.6 All six members of the South Kilburn Developer Framework were invited to attend a mid tender review meeting on Monday 14th January 2013. Three bidders attended the mid tender review meeting, three having withdrawn from the competition of their own volition. The mid tender review meeting provided bidders with an opportunity to seek clarifications on the Mini Tender.
- 5.7 The Mini Tender stated that the evaluation will be determined and the contract award on the basis of the MEAT to the Council and in evaluation of the tenders, the Council would use the evaluation criteria set out in the Evaluation Matrix at Appendix 12 of this report. Overall 40% of the marks were awarded for price and 60% for quality.
- 5.8 Of the 40% of the marks awarded for price, the highest bid automatically receive 100% of the marks for the financial element. Other submissions received a percentage score based on how much lower their bid is in percentage terms than the highest.
- 5.9 Of the 60% of the marks awarded to quality, the marks were aggregated across 8 categories encompassing:
- Vision for South Kilburn
 - Design quality
 - Delivery of housing development
 - Housing management
 - Public realm and neighbourhood management
 - Resident liaison

5.10 Tenders from three organisations (Appendix 13 Restricted) were submitted on time and these were opened and logged in accordance with the Council's Contract Standing Orders 100. All three submissions incorporated three variant bid options in accordance with the three variant bid options set out at Appendix 11.

Bronte House and Fielding House Disposal: Mini Tender Evaluation Process

5.11 All submissions received were of extremely high quality and all submissions clearly and confidently demonstrated that they could deliver the redevelopment of Bronte House and Fielding House in accordance with the terms and conditions set out in the Mini Tender and Development Agreement.

5.12 Evaluation of all parts of the tender submission was carried out by a panel of officers, with the assistance of consultants, facilitated by an Officer from the Procurement Section. Sherlock Consultancy provided commercial advice in addition, Sweett Ltd provided financial advice. Panel members met on Tuesday 12th March 2013 to score the quality section of the evaluation.

5.13 The financial evaluation (which carries a maximum percentage of 40 of the total available score) was carried out by the Council's cost consultant Sweett Ltd in conjunction with officers from Finance and Corporate Services.

5.14 All three bidders attended a clarification meeting with the tender evaluation panel and technical advisors on Wednesday 20th March 2013. The clarifications provided by the bidders at the clarification meeting informed the tender evaluation panel when they met to confirm their scores on Wednesday 20th March 2013.

5.15 At the clarification meeting bidder 1 confirmed their bid incorporated a material change to the Stage D Design and Specification thus their bid was deemed non compliant. Bidder 2 and Bidder 3 were then asked to resubmit their bids based on an alternative overage structure, which the Council considered offered a greater return than the structure set out in the draft Development Agreement. Therefore, on 3rd April 2013 the Council re-opened the Bronte House and Fielding House Mini Competition for a 24 hour period and invited the two remaining bidders to resubmit revised financial bids based on a revised overage clause.

5.16 On 4th April 2013 revised financial submissions were received from bidder 2 and bidder 3. The revised financial submissions were evaluated by the Council's cost consultant Sweett Ltd in conjunction with officers from Finance and Corporate Services. The revised financial evaluation informed the tender evaluation panel when they met to confirm their scores on Wednesday 10th April 2013. Details of the price and quality evaluation results are set out in Appendix 14.

5.17 Following the evaluation of the tender submissions, the Principle bid from bidder 3 has been identified as the top scoring tender bid and therefore is considered the most economically advantageous tender. As the Development Agreement is being prepared for signature officers recommend that the Executive delegate authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into the Development Agreement with the preferred bidder to redevelop Bronte House and Fielding House.

5.18 The Council may request the preferred bidder commence the Early Works package in accordance with the Early Works Variant Bid Option 1 (Appendix 11). The Council may also request the preferred bidder to provide 5 two-bedroom shared equity units in accordance with Shared Equity Variant Bid Option 2 (Appendix 11).

Bronte House and Fielding House: Compulsory Purchase Order (CPO) ("The Bronte & Fielding CPO")

5.19 The completion of Carlton Vale Roundabout Site Zone 3C will enable vacant possession of Bronte House and Fielding House to be achieved as the remaining secure council tenants (resident in Bronte House and Fielding House) have moved into new properties at Zone 3C.

5.20 There are however a number of other interests, most notably 7 leasehold interests and a T Mobile (UK) Ltd and Hutchinson 3G UK Limited telecommunication mast, which need to be acquired to enable the

entirety of the Bronte & Fielding CPO Land to be assembled into the Council's ownership. The Council needs to have acquired or have the ability to acquire all third party interests in the whole of the site to enable the Council to satisfy the site assembly condition under the terms and conditions set out in the Development Agreement, secure the capital land receipt and allow demolition works to proceed. In order to enable the Council to satisfy the site assembly condition the Council has made The London Borough of Brent (South Kilburn Regeneration Phase 2a – Bronte House and Fielding House) Compulsory Purchase Order 2013 ("**the Bronte & Fielding CPO**").

- 5.21 The Council has already acquired 9 leasehold interests via private treaty negotiations. The Council is continuing negotiations with the owners of the remaining 7 leasehold interests to acquire their interests by agreement; however, there a number of high risk cases where the Council considers it may be unable to reach agreement. The compulsory acquisition of these leasehold interests may therefore be unavoidable in order to secure site assembly within the requisite timescale.
- 5.22 T-Mobile (UK) Ltd and Hutchinson 3G UK Limited telecommunication mast is currently located on the roof of Fielding House. The Council has served a break notice in respect of the lease to T-Mobile and Hutchison 3G. The notice terminates the lease on 2 October 2013, being the first day "after the fifth anniversary of the Term Commencement Date" (which was 1 October 2008), in accordance with the lease but the lease will be subject to statutory telecoms protection. The Council is currently in negotiations with T Mobile (UK) Ltd and Hutchinson 3G UK Limited to secure the removal and relocation of the telecommunication mast and all associated equipment from site at the earliest opportunity. If an agreement cannot be reached for the early relocation of the mast the Council will look to secure the removal of the mast from site around October 2013 at the latest, either through a court order or the implementation of its powers of compulsory purchase pursuant to the Bronte & Fielding CPO if earlier.
- 5.23 On 15 January 2013 the Council made the London Borough of Brent (South Kilburn Regeneration Phase 2a – Bronte House and Fielding House) Compulsory Purchase Order 2013 ("**the Bronte & Fielding CPO**"). The Bronte & Fielding CPO was made under section 226(1)(a) of the Town and Country Planning Act 1990 pursuant to a resolution of the Council's Executive Committee made on 15th October 2012. The Council subsequently published notice of the making of the Bronte & Fielding CPO and submitted the Bronte & Fielding CPO to the Secretary of State for Communities and Local Government ("**the Secretary of State**") for confirmation.
- 5.24 The Bronte & Fielding CPO was made to ensure that the Council has the power to acquire all third party interests in the whole of the Bronte & Fielding site, compulsorily if necessary, to enable the South Kilburn Regeneration project to proceed. The purpose of the Bronte & Fielding CPO is to facilitate the carrying out of development to include the demolition of Bronte House and Fielding House and the comprehensive residential-led redevelopment of the Bronte & Fielding CPO Land, to deliver 229 new residential units, comprising dwellings to be sold on the open market and 'affordable' dwellings, comprising a range of 1 to 4 bedroom flats and 4 bedroom duplex family units, together with new public realm and improved pedestrian routes through the Bronte & Fielding CPO Land, as well as car parking spaces and new landscaped private and shared gardens ("**together, the Bronte & Fielding Scheme**"). On 20 November 2012 detailed planning permission was granted for the Bronte & Fielding Scheme (planning permission reference 12/0454).
- 5.25 The Council's reason for seeking to acquire the Bronte & Fielding CPO Land pursuant to the Bronte & Fielding CPO is to support and facilitate the delivery of the Bronte & Fielding Scheme.
- 5.26 The Bronte & Fielding CPO, which currently remains unconfirmed, has been returned for confirmation to the Council by the Secretary of State. On 7 March 2013, the Secretary of State served notice on the Council, granting the Council the power (under section 14A of the Acquisition of Land Act 1981, as amended by the Planning and Compulsory Purchase Act 2004 ("**the 1981 Act**") to confirm the Bronte & Fielding CPO, subject to the restrictions and requirements of section 14A of the 1981 Act.
- 5.27 The power in section 14A of the 1981 Act is granted on the basis that all the requirements of sections 11 and 12 of the 1981 Act in relation to the service of notices associated with the Bronte & Fielding CPO have been met; that the Bronte & Fielding CPO is unopposed (no objections to the Bronte & Fielding CPO having been received by the Secretary of State); and that it is capable of confirmation without modification and as a single order (i.e. without any changes and not in stages).

- 5.28 The requirements of section 14A of the 1981 Act as to the service of notices have been met: notice of the making of the Bronte & Fielding CPO was served on all those entitled by statute to receive such notice; no objections to the Bronte & Fielding CPO were received by the Secretary of State and so the Bronte & Fielding CPO is unopposed; and it is capable of confirmation without modification and as a single order.
- 5.29 The Executive Committee now needs to decide whether or not the Council should exercise the statutory power conferred on it by the Secretary of State to confirm the Bronte & Fielding CPO. The decision must be made within the timescale set by the Secretary of State, which requires that if the Bronte & Fielding CPO is to be confirmed, this must be done, and all associated matters (such as the publication of notice of confirmation of the Bronte & Fielding CPO) must be dealt with, and the Secretary of State must be notified that this is the case, within 6 weeks of its having issued the Section 14A notice (i.e. by 18 April 2013). If this timescale is not observed, the Secretary of State may revoke the Council's power to confirm the Bronte & Fielding CPO. Accordingly, the decision (as to whether or not to confirm the Bronte & Fielding CPO) needs to be made in the meeting of the Executive Committee on 22nd April 2013.
- 5.30 In making its decision, the Executive Committee is required to consider all the background information set out in this Report and to have regard to the government guidance set out in ODPM Circular 06/04 – Compulsory Purchase and the Crichel Down Rules ("**the Circular**") which advises, in paragraph 22, that before making a compulsory purchase order, the acquiring authority (i.e. the Council) should be satisfied, as far as is possible, that the proposed scheme to which the compulsory purchase order relates, would be unlikely to be blocked by any impediments to its implementation. In this regard, consideration should be given to any likely financial, physical or legal impediments, including the need for planning permission or other consents. Planning permission for the Bronte & Fielding Scheme has been granted (see paragraph 5.1 above). The financial mechanism for funding the delivery of the Bronte & Fielding Scheme is explained in paragraph 11 below.
- 5.31 If the Bronte & Fielding CPO is confirmed by the Council pursuant to a decision by the Executive Committee to exercise the power made available to the Council by the Secretary of State under section 14A of the 1981 Act, this will enable work to go ahead in relation to the on-going phased delivery of the South Kilburn Regeneration Programme (in this case, part of Phase 2a).
- 5.32 If on the other hand the Bronte & Fielding CPO is not confirmed, or is not confirmed within the timescale set by the Secretary of State (as explained above in paragraph 5.28) such that the power of confirmation granted by the Secretary of State lapses, then the work which the Council (and its consultant team) has carried out to date, in furtherance of the Bronte & Fielding CPO, would be abortive; the implementation of Phase 2a of the South Kilburn Regeneration Programme would be severely jeopardised, if not rendered impossible. The benefits which could be realised under the confirmed Bronte & Fielding CPO could potentially be lost. Such benefits include the power to acquire the outstanding interests in land (as detailed in paragraphs 5.20 and 5.21 above), which is required in order to enable the Bronte & Fielding Scheme to proceed, as well as to enable the delivery of the social, environmental and economic benefits associated with the South Kilburn Regeneration Programme as a whole.
- 5.33 In making the decision to confirm the Bronte & Fielding CPO, the Executive Committee must be satisfied that there is a compelling case in the public interest for confirmation of the Bronte & Fielding CPO and its subsequent implementation, by way of the compulsory acquisition of certain parcels of land (as indicated in paragraphs 5.20 and 5.21 above). Where the Council's powers of compulsory acquisition are exercised, there must be a balance between the aims of the Council as the acquiring authority, and the concerns of those persons whose land, or interest in land, is to be acquired.
- 5.34 If the Bronte & Fielding CPO is confirmed, pursuant to a decision of the Executive Committee, notice of its confirmation must be published and the Secretary of State notified of this. The date on which notice of the confirmation of the Bronte & Fielding CPO is first published will trigger the start of:
- (a) a six-week period during which the decision to confirm the Bronte & Fielding CPO will be open to potential legal challenge in the High Court (under section 23 of the Acquisition of Land Act 1981); and

(b) the three-year period during which the Bronte & Fielding CPO will be valid, operative and capable of implementation by the Council.

5.35 Confirmation of the Bronte & Fielding CPO by the Council (pursuant to a decision of the Executive) will not give rise to any legal obligation on the Council to implement the Bronte & Fielding CPO by carrying out any compulsory acquisitions. The implementation of the Bronte & Fielding CPO, through the compulsory acquisition of the interests in land which remain to be acquired, must be carried out within the three-year validity period (detailed in paragraph 5.16.2 above), either through the Notice to Treat and Notice of Entry procedure pursuant to the Compulsory Purchase Act 1965 or by the general vesting declaration ("GVD") process pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981.

6. PHASE 2B PROGRESS UPDATE

Gloucester House and Durham Court Progress Update

- 6.1 The tender processes undertaken to date have justified the approach of continuing to make significant investment in the South Kilburn Regeneration Programme. By effectively de-risking development sites e.g. from a planning and site assemble risks, they have become a far more attractive proposition to the market place and this has been reflected in the good land values to date.
- 6.2 On 15th October 2012 the Executive authorised the procurement of a design team to design a residential housing scheme for Gloucester House and Durham Court which will be submitted as a full planning application (RIBA Stage C or D). A pipeline of 'planning approved' development sites will significantly assist the delivery of the South Kilburn Regeneration Programme as well as fulfilling the regeneration's decant requirements.
- 6.3 Subject to advice being obtained from the Director of Legal & Procurement in accordance with Contract Standing Order 86(d)(ii) officers intend to procure a full architectural design team to develop detailed design and specification to RIBA Stage D+ for Gloucester House and Durham Court through calling off the Homes and Community Agency's Multidisciplinary Framework and report back to the Executive following award of contract.
- 6.4 The Gloucester House and Durham Court project aims to deliver a high quality residential led development of 214 new homes and an energy centre for the South Kilburn neighbourhood heating system. Westminster City Council Officers have confirmed their intension to redevelop Carlton Dene, located directly opposite the Gloucester House and Durham Court development site to the south east. Officers will ensure the Council's appointed design team work collaboratively with Westminster's appointed Carlton Dene design team, to ensure in so far as is practical and possible, a joint approach to urban design and place-making across the two development sites. Officers are keen to ensure the two development complement and respond positively to each other.

Masefield House and Wordsworth House Progress Update

- 6.5 Masefield House and Wordsworth House development site as identified on plan E at Appendix 1 has previously been earmarked for a new combined primary school. The Council has appointed Alison Brooks Architects Limited to undertake a review of the feasibility and deliverability of the proposals for the site alongside a review of the masterplan design proposals for the wider surrounding area as identified on plan F, Appendix 1. The review area includes Austen and Dickens House, Wordsworth and Masefield House, Blake Court, the Immaculate Heart of Mary RC Church and the attached Marian Community Centre, Kilburn Park, Carlton Vale Infant School and Kilburn Park Junior School and Site C. Officers will update the Executive on the outcome of the design review once complete. The review will test the option of a larger 4 form of entry primary school and generate an evidence base to inform Phase 3 of the school's expansion business case. The study will also inform the Masefield and Wordsworth vacant possession strategy, confirming the Council's development objectives for the site to inform and support a CPO.

Statutory Consultation with Secure Tenants Occupying Properties in Phase 2b in relation to Ground 10A, CPO & Draft Allocation Policy

- 6.6 A key principle of the phasing strategy for the South Kilburn Project is that the new homes developed will, where the relevant needs are met, be made available to residents living within sites earmarked for development in the next phase. On this basis the new homes which will be developed on the Phase 1b sites will primarily be for existing residents in Gloucester House, Durham Court, Masefield House and Wordsworth House (together defined as 'Phase 2b'). This in turn will ensure vacant possession of subsequent and significant development sites to enable further schemes to come forward and more secure tenants to be rehoused in new homes.
- 6.7 On 15th October 2012 the Executive authorised officers to review the strategy for securing vacant possession from secure tenants in Phase 2b. Presently the Phase 1 Allocation Strategy is based on using Ground 10A Housing Act 1985. Authority was granted to consider including the use of CPO powers and undertake all necessary consultation legally required to implement a change if recommended.
- 6.8 The rationale for changing the Allocation Policy in relation to Phase 2b and the Council's means of obtaining vacant possession from secure tenants is based upon the requirement to have absolute certainty that vacant possession can be achieved by an agreed date, providing the Council and its developer partners with confirmation of delivery of, not only the scheme on site, Phase 2b, but also the rolling decant and delivery programme across the regeneration programme as a whole. The use of Ground 10A alone does not give the Council the required certainty of vacant possession. Officers engaged Leading Counsel to consider and advise upon the Phase 2b Allocation Policy's structure, content and associated consultation strategy.
- 6.9 Leading Counsel considered the need for the decanting secure tenants to move from Council rents to Target Rents (as authorised by the Executive on 13th February 2012) when they decant and become a tenant of a registered provider. Leading Counsel also considered the impact of the Council's aspiration to create a truly sustainable mixed community, resulting in the replacement decant accommodation, providing a shortage of affordable 1 bedroom properties.
- 6.10 Leading Counsel advised the Council to obtain vacant possession of development areas on the South Kilburn Estate using two means, namely:
- (a) To seek to obtain possession of residential premises held under secure tenancies by relying upon section 84 and Ground 10A in schedule 2 of the Housing Act 1985; and
 - (b) To make a compulsory purchase order relying on section 226(1)(a) of the Town and Country Planning Act 1990 ("TCPA 1990").
- 6.11 In accordance with Leading Counsel's advice it is proposed that to provide certainty for the Council to deliver the South Kilburn Regeneration programme on time the Council will seek possession by Court proceedings under the Housing Act Schedule 2 Ground 10A, until the Council has a confirmed CPO in respect of the homes concerned. After which, the Council shall proceed to secure possession by agreement or using the compulsory purchase powers derived from the confirmed CPO.
- 6.12 The use of Ground 10A in isolation is not considered sufficient to obtain vacant possession of properties due for redevelopment, in accordance with the Programme for delivery. Whilst the Council may be able to obtain a possession order enabling some or all of the proceedings to be heard together, if a substantial number of secure tenants do not leave voluntarily and separate possession proceedings are required, there is scope for substantial delay under Ground 10A proceedings which may result in the Council incurring significant common costs; delay to the delivery of the site concerned and to the wider regeneration programme and a potential increase in health and safety risks on site.
- 6.13 Rehousing secure tenants using CPO will remove the perceived benefit of adjudication by the court of whether the new home is suitable alternative accommodation (in relation to each possession order). Secure tenants will however have the right to object to the CPO and to appear at an inquiry. In addition, the Phase 2b Allocation Policy incorporates an independent dispute resolution process allowing an independent body to review at a secure Tenant's request the suitability of the alternative accommodation offered.

6.14 The proposed process for allocating properties to secure tenants in Phase 2b is set out in the bespoke Allocation Policy set out at Appendix 15. Secure tenants will be made one offer of suitable alternative accommodation that meets the housing need of the secure tenant and their household in accordance with this policy.

6.15 Officers are undertaking consultation with secure tenants occupying properties in Phase 2b on three proposals: (i) statutory consultation in connection with seeking approval of the Secretary of State for use of Ground 10A of the Housing Act 1985; (ii) consultation on the Council's proposal to make a CPO on properties in Phase 2b that are currently occupied by secure tenants; and (iii) consultation in connection with a draft Allocation Policy for Phase 2b. The consultation is being undertaken in accordance with the consultation strategy set out at Appendix 16 and the statutory consultation required with secure tenants in order to rely on Ground 10A and statutory consultation required by Section 105 of the Housing Act 1985 on certain changes in practice and/or policy in relation to the proposal to make a CPO and the draft Allocation Policy for Phase 2b. Once completed, a consultation report will be produced for the Executive to consider. The consultation report will include a summary of the feedback received from secure tenants occupying properties in Phase 2b in response to the three consultation proposals and the Council's responses to the feedback received. Depending on the outcome of the consultation Executive approval may be sought to authorise the Director of Regeneration and Major Projects to seek the Secretary of State's consent to the disposal and development of Phase 2b for the purpose of Ground 10A of Schedule 2 to the Housing Act 1985 and authorise the final Phase 2b Allocation Policy.

7. THE POST OFFICE SITE AND 4-26 STUART ROAD PROGRESS UPDATE

7.1 On 18th July 2011 the Executive authorised incorporating the redevelopment of 4-26 Stuart Road within the current phase of the South Kilburn Redevelopment Programme, with the intention of bringing forward the comprehensive redevelopment of the site with the Argo Business Centre and former Post Office. The Council was unable to reach agreement with the owners of the Argo Business Centre and the Argo Business Centre landowners now intend to bring forward the redevelopment of their site in isolation. A planning application for the Argo Business Centre site has been approved. The associated Section 106 Agreement ensures that the development will provide additional affordable homes to support the South Kilburn Regeneration Decant Programme.

7.2 The owner of 5-9 Chippenham Gardens and the Post Office site is interested in working with the Council to bring forward the comprehensive redevelopment of the Post Office Plus Site as shown edged red on Plan G at Appendix 1. On 15th October 2012 the Executive noted Officers' intention to progress discussions with the landowner of 5-9 Chippenham Gardens and the Post Office site to ascertain if the Council could enter into a development agreement to comprehensively redevelop the Post Office Plus Site.

7.3 The Council has undertaken an initial design feasibility study of the potential development options for the site. External legal advisors and an agent have also been engaged to advise the Council in their negotiations with the landowner. Discussions will commence shortly. If an 'in principle' agreement can be reached, Executive approval would be sought prior to any contract award.

8. SITE 18 QUEENS PARK PROGRSS UPDATE

8.1 On 18th July 2011 it was reported to the Executive that there are proposals to locate a 130m² air shaft on the south-west corner of Site 18 to service the proposed High Speed 2 (HS2) tunnel that would be built under this site. Given the present uncertainty the HS2 proposals present, Officers do not intend to procure a developer partner at this stage to build out the planning permission secured. Officers responded to the HS2 safeguarding consultation and made representation to seek to remove or minimise the impact of the vent shaft on this site. Officers proposed an alternative location at Canterbury Works. Officers will continue to make representations to HS2.

9. PHASE 3 PROGRESS UPDATE

Peel Precinct, 97-112 Carlton House and 8-14 Neville Close ("Peel")

9.1 The Council is committed to delivering a new Healthy Living Centre (HLC) within South Kilburn to address prevalent health inequalities. It is intended the HLC should comprise space for existing GP

practices that would relocate into the space, and have potential for some additional space for complimentary health uses such as minor surgery. For a variety of reasons previous attempts to progress the development of HLC have been unsuccessful. Officers are however keen to explore if the delivery of a new HLC can be brought forward within the Peel development (shown on Plan H, Appendix 1) as part of Phase 3 of the regeneration programme.

9.2 The Executive should note officers intend to consider, in partnership with local residents and the Brent Clinical Commissioning Group, if the comprehensive redevelopment of Peel could deliver a mixed use scheme that would provide sufficient enabling residential development and other appropriate uses to make viable the development of the HLC.

9.3 Gort Scott Architects have been appointed to explore the viability and feasibility of progressing the comprehensive redevelopment of Peel to deliver a HLC. Consultation will be undertaken with key stakeholders in accordance with the consultation strategy attached at Appendix 17. If the feasibility study demonstrates the proposals are viable, officers will look to develop a robust business case to support the delivery of the Peel project and report back to the Executive.

10. **ACQUIRING PROPERTIES IN PHASE 3 AND 4 BY NEGOTIATION**

10.1 Members are referred to the recommendation set out in paragraph 2.5.1 above. The Council intends to seek to purchase leasehold properties by way of negotiation that are located in Phases 3 and 4 of the South Kilburn Master Plan Area. The Assistant Director of Property and Asset Management has authority under paragraph 4.3 of Part 4 of the Council's Constitution to acquire on behalf of the Council properties up to the value of £300k per unit (if acquired, disposed of or granted at a premium does not exceed £300k in value). The Council does not intend to apply for a CPO in respect of the properties at Phases 3 and 4 at this stage. However, in order to assist the delivery of the South Kilburn Regeneration scheme, paragraph 2.5.1 seeks the authorisation of the Executive to grant delegated authority to the Director of Property and Assets, in consultation with the Director of Finance where applicable, to acquire properties in Phases 3 and 4 of the South Kilburn Master Plan Area so that it will not be necessary for officers to seek the approval of the Executive every time officers propose to acquire a property in Phases 3 and 4.

10.2 Officers will seek legal advice as to whether a decision to acquire a property in Phases 3 and 4 of the South Kilburn Masterplan Area will amount to a "Key Decision" for the purposes of paragraphs 26 to 29 of the Access to Information Rules as set out in Part 6 of the Council's Constitution.

11. **LEGAL IMPLICATIONS**

Procurement of developer partners for Bronte House & Fielding House

11.1 As a result of recent rulings in the European Court of Justice, if the Council utilise a development agreement containing positive obligations on the part of the developer to undertake the development concerned and giving direct economic benefit to the Council in respect of any of the land, it will need to undertake an EU procurement process to find a partner to carry out the development. The Court of Justice has ruled that development agreements cannot be viewed as merely part of a land transfer, because they impose detailed requirements as to the development to be constructed and are therefore a form of procurement of works.

11.2 A developer partner has been identified using mini-competition under the South Kilburn Developer Framework for Phase 2a i.e. Bronte House and Fielding House. The South Kilburn Developer Framework is a framework established by the Council in accordance with the Public Contracts Regulations 2006 (the EU Regulations). Establishment of the South Kilburn Developer Framework was agreed by the Executive on 14 March 2011 and following expiry of the mandatory minimum standstill period, developers were appointed to it. The use of the South Kilburn Developer Framework to identify a developer partner is considered to satisfy the requirements of recent rulings in the Court of Justice as detailed in paragraph 4.3.

11.3 The EU Regulations not only regulate the establishment of the framework agreement, they also prescribe rules and controls for their use. Following the establishment of the South Kilburn Developer Framework, development agreements may be called off under it without the need for them to be

separately advertised and procured through a full EU process. There are, however, strict rules that apply to the call-off process to ensure fairness and transparency and these have been incorporated into the call-off procedure for the South Kilburn Developer Framework.

11.4 The award of the development agreement for the appointment of developer partners is also subject to the council's own Standing Orders and Financial Regulations in respect of High Value Contracts (the value of the Bronte and Fielding development agreement is likely to be such that it is classed as a High Value contract). As a result, once a developer has been identified following mini-competitions under the South Kilburn Developer Framework, Executive approval to the development agreement will be required. As the Development Agreement is being prepared for signature, Officers recommend that the Executive delegate authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into the Development Agreement with the preferred bidder to redevelop Bronte House and Fielding House.

Procurement of a developer partner for Site 11b (Legal)

11.5 To dispose of Site 11b a developer partner has been procured through an OJEU compliant procurement process. The procurement is for a works contract under the Public Contracts Regulations 2006 (the EU Regulations). Pinsent Masons solicitors have advised on the drafting of the OJEU and approved the form of tender and tender documentation to ensure EU Procurement Regulations were complied with.

11.6 The award of the development agreement for the appointment of developer partner is also subject to the Council's own Standing Orders and Financial Regulations in respect of High Value Contracts (the value of the contract with the developer partners such that it will be classed as High Value contracts). As a result, once a developer has been identified following the EU Procurement, Executive approval to award the development agreement is required. Officers recommend that the Executive delegate authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into the Development Agreement with the preferred bidder to redevelop Site 11b and if for any reason that cannot be achieved, to enter into the Development Agreement with the reserve bidder on the same terms as set out in Section 4 of this report.

Compulsory Purchase Order[s] (Legal)

11.7 The Council has power to make a compulsory purchase order under section 226(1)(a) of the Town and Country Planning Act 1990 if it thinks that the acquisition will "facilitate the carrying out of development, redevelopment or improvement on or in relation to the land". Under section 226(1A) the Council must not exercise the power under sub paragraph 226(1)(a) unless it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects –

- (a) the promotion or improvement of the economic wellbeing of their area;
- (b) the promotion or improvement of the social wellbeing of their area;
- (c) the promotion or improvement of the environmental wellbeing of their area.

11.8 Compulsory purchase orders must only be made if the Council is satisfied that there is a compelling case in the public interest to do so. Para. 17 of Part 1 of the Memorandum to ODPM Circular 06/04 states:

"A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention."

11.9 For the reasons set out in this report and the report to the Executive Committee meetings on 19th September 2011, 23rd June 2010, 15th November 2010 and 18th July 2011, it is considered that there is such a compelling case for properties within Phase 2 and Phase 3 of the proposed regeneration

programme and that the public interest requires that the CPO be made in order to carry through the necessary redevelopment of the CPO Land.

- 11.10 Further, in making the CPO there should be no impediments to its eventual implementation. Para's 22 and 23 of Part 1 of the Memorandum to ODPM Circular 06/04 advise (in part):

"In demonstrating that there is a reasonable prospect of the scheme going ahead, the acquiring authority will also need to be able to show that it is unlikely to be blocked by any impediments to implementation. In addition to potential financial impediments, physical and legal factors need to be taken into account. These include the programming of any infrastructure accommodation works or remedial work which may be required, and any need for planning permission or other consent or license. Where planning permission will be required for the scheme, and has not been granted, there should be no obvious reason why it might be withheld."

- 11.11 Executive will note that there will be sufficient funds available to meet the compensation costs for the acquisition of the land through funds secured from previous and future land receipts. Officers consider that there is a reasonable prospect of the scheme going ahead subject to continuation of the programme. Whilst planning permission has not been granted for the development, it is considered that there is no obvious reason why it might be withheld, taking into account that a Masterplan has already been approved albeit that it is now intended to revise this slightly. Accordingly, it is considered that there are unlikely to be any impediments to implementation for the CPOs for Phase 2 and Phase 3 sites.
- 11.12 It is necessary to consider the human rights implications of making CPOs. This information is covered in the 23rd June 2010 and the 15th November 2010 Reports to Committee and below.

Human Rights Act 1998 (Legal)

- 11.13 The Human Rights Act 1998 places direct obligations on public bodies such as the Council to demonstrate that the use of compulsory purchase powers is in the public interest, and the use of such powers is proportionate to the ends being pursued.
- 11.14 It is acknowledged that the compulsory acquisition of land will amount to an interference with the human rights of those with an interest in the affected land. These include rights under Article 1 of the First Protocol of the European Convention on Human Rights ("**ECHR**") (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the ECHR (which provides that everyone has the right to respect for his private and family life, his home and his correspondence).
- 11.15 In this instance, Officers are of the view that there is a compelling case in the public interest for the compulsory acquisition of the various interests referred to in this report and that the need case for the acquisition of such rights outweighs the interference with those rights, and that the use of compulsory purchase powers in these areas is therefore proportionate. Without the use of these powers, the much-needed regeneration and redevelopment of the South Kilburn area will not be achievable, as there is no possibility that all of the land necessary to deliver the phased South Kilburn Regeneration Programme will be made available to the Council within a reasonable and appropriate timescale.

Ground 10A of Schedule 2 to the Housing Act 1985 (Legal)

- 11.16 The Council is required to obtain the approval of the redevelopment scheme from the Secretary of State when seeking to re-house secure tenants who will not leave the properties that are due to be demolished in furtherance of the redevelopment scheme. Before seeking such approval, the Council is required to consult with affected tenants. Approval from the Secretary of State will enable to Council to use Ground 10A of Schedule 2 to the Housing Act 1985. The paragraph states that the landlord must first:
- (a) Serve a notice in writing on all secure tenants whose dwellings are affected by the scheme, stating: the main features of the scheme (or the scheme as it will be after a proposed variation to it); that the Secretary of State's approval is to be sought; and the effect of such approval in relation to proceedings for possession of the dwellings;

- (b) Inform the tenants that they have a specified period (which must be at least 28 days) in which to make representations to the landlord; and
- (c) Consider any representations received during that period.

11.17 Unlike a tenanted transfer, however, no formal ballot is required to be carried out. However, the Secretary of State, before giving his consent, will consider the following:

- (a) The effect of the scheme on the extent and character of housing accommodation in the neighbourhood;
- (b) Over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme;
- (c) To what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord.

11.18 The landlord, in this case, the Council, must not apply to the Secretary of State for approval of a scheme unless the statutory consultation procedure has been carried out.

Disposal of Sites – Secretary of State's consent (Legal)

11.19 At the appropriate time, Officers will seek the approval of the Executive to dispose of relevant sites that need to be disposed of pursuant to the South Kilburn regeneration scheme to relevant organisations/housing providers at relevant values and seek the approval of the Executive to apply to the Secretary of State to obtain his consent to dispose of such sites, either under the relevant General Consents that have been granted under the Housing Act 1985 or the Local Government Act 1972 or pursuant to specific applications to the Secretary of State. In respect of Housing Revenue Account land, consent is required under sections 32 to 34 and 42 to 43 of the Housing Act 1985. If the sites are disposed of for less than market value or financial assistance is provided by the Council consent is also required from the Secretary of State under section 25 of the Local Government Act 1988. In respect of Council owned land that is not Housing Revenue Account land, the Council must take into account the content of section 123 of the Local Government Act 1972 and either confirm that the General Consent under that section applies or apply to the Secretary of State to obtain his specific consent to the disposal of the necessary sites.

11.20 The Prudential Capital Finance System, which was introduced on 1st April 2004, under regulation 12(1) [of ...] imposes a pooling requirement (percentage of capital receipt to be payable to the Secretary of State) on receipts from sales of housing land which regulation 1(5) defines as any land, house or other building which was held within the Housing Revenue Account immediately before its disposal. The pooling rate for HRA assets (non RTB sales) is 50%. However, the regulations allow for certain types of capital receipts to be treated as reduced before calculating the pooling percentage by reference to the "capital allowance", which is the total of past or planned expenditure on affordable housing and regeneration projects as specified in regulations 17 and 18 of [...]. The overall effect of the capital allowance is to allow capital receipts to be recycled into the authority's own affordable housing and regeneration projects. Currently there are sufficient resources in the authority's Capital Allowance to provide that none of the forecast capital receipts earmarked to this scheme would need to be pooled.

Appropriation of Sites – Including Secretary of State's consent (Legal)

- 10.21 Under section 19 Housing Act 1985, a local authority shall not without the Secretary of State's consent, appropriate any part of the Sites which consist of a house or part of a house for any other purpose.
- 10.22 The Secretary of State's consent may be given either generally to all local housing authorities or to a particular authority or description of authority and either in relation to particular land or in relation to land of a particular description and it may be given subject to conditions.
- 10.23 Section 122 of the Local Government Act 1972 provides that a principal Council may appropriate for any purpose for which the Council are authorised to acquire by agreement land which belongs

to the Council and is no longer required for the purpose for which it is held immediately before the appropriation

- 10.24 Appropriation is subject to third party rights over the land and in respect of the parts of the Sites at South Kilburn which consist of a house or part of a house requires the prior consent of the Secretary of State under Section 19 of the Housing Act 1985
- 10.25 Section 237 of the Town and Country Planning Act 1990 provides where land has been acquired or appropriated for planning purposes interests or rights such as easements, private rights of way or restrictions against certain uses which may exist for the benefit of third parties are overridden on erection, construction or carrying out or maintenance of any building in accordance with planning permission, subject to payment of compensation. The practical effect is that in general interests or rights which may exist for the benefit of third parties do not delay or obstruct the development. This provides effective assurance to the developer that he will be able to undertake works in accordance with planning permission.
- 10.26 The land must no longer be required for the purpose for which it is held immediately before appropriation. This test will be satisfied by deferring the date of the appropriation to a time when it is clear that the scheme will proceed. Once the appropriation is effected, the appropriated land will be held for planning purposes.

12. FINANCIAL IMPLICATIONS

Financial implications for the South Kilburn Programme, financial year 2013/14

12.1 The table below summarises the current forecast position for the progression of the South Kilburn Regeneration Project in 2013/14.

South Kilburn Regeneration Programme	£
<u>Forecast Expenditure</u>	
General Development Costs	982,000
Phase 1a	0
Phase 1b	0
Phase 2a	3,569,890
Phase 2b	2,392,637
Land Acquisitions	0
Total Forecast Expenditure	6,944,527
<u>Forecast Resources</u>	
Surplus Resources	(1,742,700)
Forecast Capital Receipts to be utilised	(5,201,827)
Total Forecast Resources	(6,944,527)
Forecast (Surplus)/Deficit on Programme	0

- 12.2 As indicated in the table above, the resource envelope for taking forward the South Kilburn Regeneration Programme in 2014/15 and beyond is determined by the level of the capital receipts to be secured from the disposals of long leases of land.
- 12.3 Indicative project budgets for the Phase 2 sites; Gloucester House and Durham Court are summarised at Appendix 18 (restricted).
- 12.4 The financial model for South Kilburn is for the regeneration scheme to be self financing from this point forward. In other words, the Council should be able to progress the scheme on an ongoing basis within the cash envelope generated from ongoing disposals, provided it remains committed to ring fencing these receipts into South Kilburn. This delivery strategy has been agreed and endorsed by the Homes and Communities Agency.
- 12.5 The South Kilburn Financial Model was recently reviewed by Navigant Consulting based on the intelligence gathered through the deliver of Phase 1b. The model was revised based on the assumption that future phases of the regeneration programme would be delivered without grant subsidy.

12.6 Oversight of this project is provided by an officer board that regularly monitors progress and reviews updated costs plan information. In the event of any cost overruns on this project, the board will review all possible options in order to bring the cost plan back into budget. In the event that this is not possible, then any cost overrun will sought to be met from within existing Regeneration and Major Projects budgetary provision.

Financial implications for the Housing Revenue Account

12.7 In the event that HRA dwellings are held void pending demolition, or are demolished, then the HRA will no longer receive the rent income for those dwellings. This loss of rent income will need to be addressed as part of the annual HRA budget setting process so that HRA budgeted expenditure is reduced to reflect that reduction in income.

12.8 The estimated Rental Loss and net cost to the HRA are as below:

Phase 2a:	£1,234,000
Phase 2b:	£1,343,000
Peel:	£324,000

12.9 Following the implementation of the new Housing Self Financing system in April 2012, the Council HRA Account will no longer received any Housing subsidy, so the net loss to the HRA will be the estimated rental income loss.

13. DIVERSITY IMPLICATIONS

13.1 South Kilburn is identified as a priority for driving economic opportunity and regeneration within Brent – Our Future 2010-2014 (Brent Borough Plan). The Regeneration Strategy for Brent 2010-2030 identifies the transformational change of South Kilburn within strategic priority 1. The area was previously a New Deal for Communities area and as such, all interventions are specifically targeted at those people who suffer disadvantage in society. South Kilburn Neighbourhood Trust, through its widening participation seeks to find ways of involving and engaging with all local residents and particularly those who traditionally are 'hard to reach'. There has been and will continue to be widespread consultation and community engagement as proposals for the physical regeneration of the area are developed and delivered.

13.2 The new homes in South Kilburn are available to all tenants within the neighbourhood regardless of ethnicity, nationality or national origin; age, gender, sexuality, disability or faith. A proportion of new homes are designed to be wheelchair adaptable while the allocations process considers the housing needs of tenants in respect of issues that maybe derived from individuals' ethnicity, nationality or national origin; age, gender, sexuality, disability or faith. The potential impact of the recommendations relating to how the Council takes possession of properties occupied by secure tenants within blocks earmarked for redevelopment within Phase 2b is considered in the Equalities Analysis at Appendix 19.

14. STAFFING/ACCOMMODATION IMPLICATIONS

14.1 There are no specific staffing or accommodation implications associated with the proposals contained within this report.


Contact Officer

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South Kilburn Programme Manager

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	<p style="text-align: center;">Executive 22 April 2013</p> <p style="text-align: center;">Report from the Director of Regeneration and Major Projects</p>
For Action	Wards Affected: Sudbury
<p style="text-align: center;">Proposals comprising disposal of land adjoining 19 Elms Gardens, Elms Court, Sudbury HA0 2RT and establishment of new a replacement allotment site at Gladstone Park Gardens, Dollis Hill</p>	

1.0 SUMMARY

- 1.1 The subject land comprises a disused former allotment that has been neglected for a number of years.
- 1.2 This report sets out proposals to bring the site back into use by splitting the site into two, recommending Executive approval to disposal proposals, comprising on one part a short-term lease arrangement in stages for allotment related use and on the other a longer-term freehold disposal for redevelopment.
- 1.3 As proposals comprise a loss of allotment land, the paper asks the Executive to note previously approved replacement site proposals at Gladstone Park including provisions for forward funding of works the cost of which will be recovered from the capital receipt generated.

2.0 RECOMMENDATIONS

That Members approve:

- 2.1 That on the Northern half of the site detailed as stage 1 and 2 in the Appendix 1 plan. A short term lease is entered into for less than 7 years to be contracted out of the security of tenure provisions of the 1954 Act, with the land to be used as an allotment / food growing community garden by the local Association or Trustees as the Council's legal services may determine appropriate at peppercorn rent, allowing that the land be bought back into use. The initial lease will comprise only of the stage 1 site and subject to satisfactory performance the remaining stage 2 site will be added.

- 2.2 The freehold_disposal of the Southern half of the site edged in green on the Appendix 1 plan with access from Elms Court for re-development, the capital receipt estimate is between £900k-£1m.
- 2.3 That, as per the 15 November 2010 Executive report agree to the creation of a new replacement site at Gladstone Park, Dollis Hill subject to the appropriate legal procedure and forward funding of works up-to £250k, to create the new allotment, the cost of which will be recovered through the capital receipt generated under recommendation 2.2 above.

3.0 BACKGROUND

- 3.1 The subject land was originally acquired by Wembley Borough Council under the Allotments Act 1908. It was subsequently transferred to the London Borough of Brent under the Local Government Act 1963 as a successor authority.
- 3.2 The site is bordered on the southern edge by the Chiltern Railway line and on the west by the Sports Field belonging to the London Post Office Sports and Social Association.
- 3.3 A small area as shown on the Appendix 1 plan is subject to a 99 year lease between Eastern Electricity Board (now UK Power Networks) and Wembley Council (now Brent Council) for an electricity substation effective from 25th December 1959 at a rent of £5.
- 3.4 The site plan at Appendix 1 of this report details the land, which in 2009 was reported as being derelict for over ten years this position remains the same today, the site has a total area of about 0.411 ha.
- 3.5 The land has been the subject of various Executive reports, in 2009 the Executive approved proposals allowing the de-designation as allotment subject to appropriate consents, disposal and re-use as housing in order to provide decant accommodation for the Barham Park redevelopment. This proposal was further developed in the 15 November 2010 Executive report which provided provisions that should negotiations not conclude with a registered provider – which they subsequently did not, then a sale on the open market be allowed.
- 3.6 In accordance with the requirements set out in section 8 of the Allotments Act 1925, Brent Council in May 2009 obtained consent from the Secretary of State to dispose of the land, this was approved on 8 May 2009, subject to the condition that such disposal to be at a price no lower than current valuation and the provision of an alternative allotment and for that provision to be ready for use.

4.0 PROPOSAL

Short term lease

- 4.1 The proposal comprises disposal of the Northern half of the site as per Appendix 1, Stage 1 and 2 an area of about 0.1875 ha for allotment, food growing and wildlife purposes as contained in the appropriate Allotment Acts.
- 4.2 On the Stage 1 area edged and hatched red, the Council would enter into a lease on contracted out provisions under the 1954 Act for 7 years less 7 days – thus allowing us to enter a lease on the agreed terms exercising our Powers under the 2003 Act which provides that a local authority may disposal of land at less then best consideration where the local authority considers that the disposal will help it secure the promotion or improvement of the economic, social and environmental well-being of its area, the lease will be with the Sudbury and Elms Association or Trustees as the Council’s legal services may determine appropriate.
- 4.3 Sudbury and Elms Associations works will comprise site clearance, creation of an adequate boundary fence, create a compost site, lay out allotment plots and access footpaths. The land would then be cultivated to the Council’s satisfaction for food growing and community garden purposes over a rolling programme of 3 years of the lease commencement.
- 4.4 This proposal would provide that a previously difficult to manage and hard to let allotment site that has fallen into a poor state to gradually be restored and be bought back into use.
- 4.5 Subject to the criteria being met, the Council would incorporate into the lease the remaining Stage 2 area edged and hatched blue by way of a deed of variation.
- 4.6 The Sudbury and Elms Association consists of members who will be encouraged to engage in environmentally friendly cultivation of the site and harvest rainwater for watering their crops.
- 4.7 It is noteworthy the Association will require assistance from the Council to pay for skip hire by way of ward money for which the Association will be responsible for making the appropriate application. The Association is also expecting items such as water tanks to be donated from community sources. The Associations projected income and expenditure (April 2012/2013) is as follows:

Item	£
Income	1254.75
Expenditure	£1085.43
Balance	£258.32

- 4.8 The lease will be at a peppercorn rent as the area of land is in need of substantial works of clearance of vegetation and it is reasonable that a lease is granted at a peppercorn rent for a period of seven years.

Freehold disposal

- 4.9 It is proposed that the Southern half of the site edged in green and 0.224ha (0.55acres) on Appendix 1 with an entrance from Elms Court would form a disposal for development purposes.
- 4.10 The site would be brought to the open market through an informal tender process. It is likely a conditional exchange of contracts will be required subject to the developer:
- Submitting and obtaining planning consent for residential development.
 - The developer agrees to undertake all necessary site works at their own expense.
 - An access corridor will be reserved through to the phase 2 allotment area, should the phase 2 letting not proceed
- 4.11 The Secretary of State's consent dated 8th May 2009 states, that no development can take place until such time as the alternative allotment site at Gladstone Park is ready for use.
- 4.12 The Council's Core Strategy protects open space of local value from development (Policy CP18). Although the allotment site does not have a great value in its current state it is adjacent to an area of public open space deficiency and could potentially fulfil an open space role. The Core Strategy also seeks to meet Brent's significant housing needs and accepts that, while housing should not generally be built on green-field land, in a small number of cases this is acceptable where this can be justified.
- 4.13 In the report to Executive in Nov 2010 the justification for development of this green-field site was that it would provide decant space to assist with the Barham Estate regeneration. Justification was also based on the agreement that alternative allotment provision would be made at Gladstone Park. It was argued that the Elm Gardens site has limited open space value (being dis-used for some years) and that there is greater demand for allotment space at Gladstone Park.
- 4.14 In the end alternative arrangements were made and the regeneration of the Barham Estate is progressing without the Elm Gardens allotments as a decant site. Furthermore the alternative allotment provision at Gladstone Park was to be located on an area of existing open space and the previous proposal always resulted in a net loss of open space.
- 4.15 Without the exceptional circumstances of assisting in the regeneration of the Barham Estate and given that the Elm Gardens site is adjacent to an area of open space deficiency it would be contrary to policy to allow development of the former allotment site unless it secures sufficient improvement in local open space provision. This would be a matter for the council's Planning Committee to weigh in the balance if a planning application is submitted for this site.

4.16 If a reasonable planning consent could be achieved for a relatively low density development likely to be about 8-10 terraced houses the site could reasonably expected to have a value in the order of £900,000. If planning consent for a relatively low density development of 18 one bedroom flats were to be achieved the site could have a market value in the order of £1,000,000.

Replacement allotment

4.17 The 15 November 2010 report and recommendations asked the Executive to agree to the creation of a new replacement allotment at Gladstone Park, Dollis Hill subject to the appropriate legal procedures, see Appendix 2 for details of the site.

4.18 As per the previous report, it should be noted that as the proposed site is held as education land, the change of use to statutory allotment land will need appropriation.

4.19 It is also possible that the Council will need to forward fund works and effectively be reimbursed from the proceeds of sale.

4.20 Discussions with the Department of Communities and Local Government may need to be entered into to seek to see if a lower alternative provision could be made at Gladstone Park in view of the reduction of the residential disposal site by about 45% the remaining 55% will be reserved for relocating other strategically located allotments.

4.21 The use of existing Council land as allotments would not require planning permission. Ancillary development such as fencing, walls or other structures may in some cases require permission.

4.22 At the time of the November 2010 the estimated cost of the conversion into an access friendly, modern allotment site was for circa £250,000. This figure may need to be reviewed given the time lapse and also if a smaller replacement is acceptable.

Conclusion

4.23 The Executive report 2010 noted concerns by local residents, as this proposal comprises working with a local association this should no longer be an issue and concerns around development will be dealt with through the planning consultation process.

4.24 The Executive is therefore asked to give its approval to the disposal proposals. Any delay could lead to further deterioration in the sites condition, which may lead to an actual reduction in the potential capital receipt and an early disposal of both sites is therefore recommended.

5.0 FINANCIAL IMPLICATIONS

5.1 This site is not currently included within the Council's Capital Disposals Programme, and as such the additional receipt arising will contribute positively

to the funding of the Council's overall Capital Programme. The use of Capital Receipts in the funding of the Capital Programme restricts the level of unsupported borrowing required to fund capital schemes and accordingly the level of associated debt charges falling upon the revenue account. Movement against the forecast levels of capital receipts could require reduced/additional levels of unsupported borrowing or changes to the approved Capital Programme.

- 5.2 The capital receipt from the disposal is estimated to be £900k to £1m. Costs arising directly from the sale of the site will be met from the capital receipt generated in line with accounting guidelines. This will include costs associated with replicating an allotment provision at the new allotment site at Gladstone Park (estimated at £250k).
- 5.3 Approval for residential use on the southern half of the site would provide the council with additional resources from the New Homes Bonus over a period of six years. The level of funding would be determined by the council tax band and whether it related to affordable housing. The New Homes Bonus provides councils with additional resources to meet the costs of services arising from increased development in an area.
- 5.4 The Council will contribute towards the costs of skip hire for clearance works on the northern half of the site from existing Ward Working budgets.

6.0 LEGAL IMPLICATIONS

- 6.1 Under Section 123 of the Local Government Act 1972 the Council has a general power to dispose of properties including by way of the sale of the freehold or the grant of a lease. The essential condition is that the Council obtain (unless it is a lease for 7 years or less) the best consideration that is reasonably obtainable.
- 6.2 Disposals on the open market, either by way of auction or by way of appointing a marketing agent, will satisfy the best consideration requirement.
- 6.3 Where the Council intends to dispose of allotment land (other than for use for allotments) it requires the consent of the Secretary of State for Communities and Local Government.

7.0 DIVERSITY IMPLICATIONS

- 7.1 See attached Impact Needs Requirement Assessment (INRA) at Appendix 3.

8.0 STAFFING/ACCOMMODATION IMPLICATIONS

- 8.1 None – this is a redundant disused site.

BACKGROUND PAPERS

- Brent Executive, 15 November 2010 report titled: Disposal of former allotment site adjacent to 19 Elms Gardens, Sudbury and establishment of

new replacement allotment site at Gladstone Park Gardens, Dollis Hill (available online).

- Brent Executive, 26 May 2009 report titled: Barham Park Estate Proposed Estate Regeneration (available online).

APPENDIX

- Appendix 1: Site Plan and Proposals
- Appendix 2: Replacement Allotment land – Gladstone Park
- Appendix 3: INRA

Contact Officers

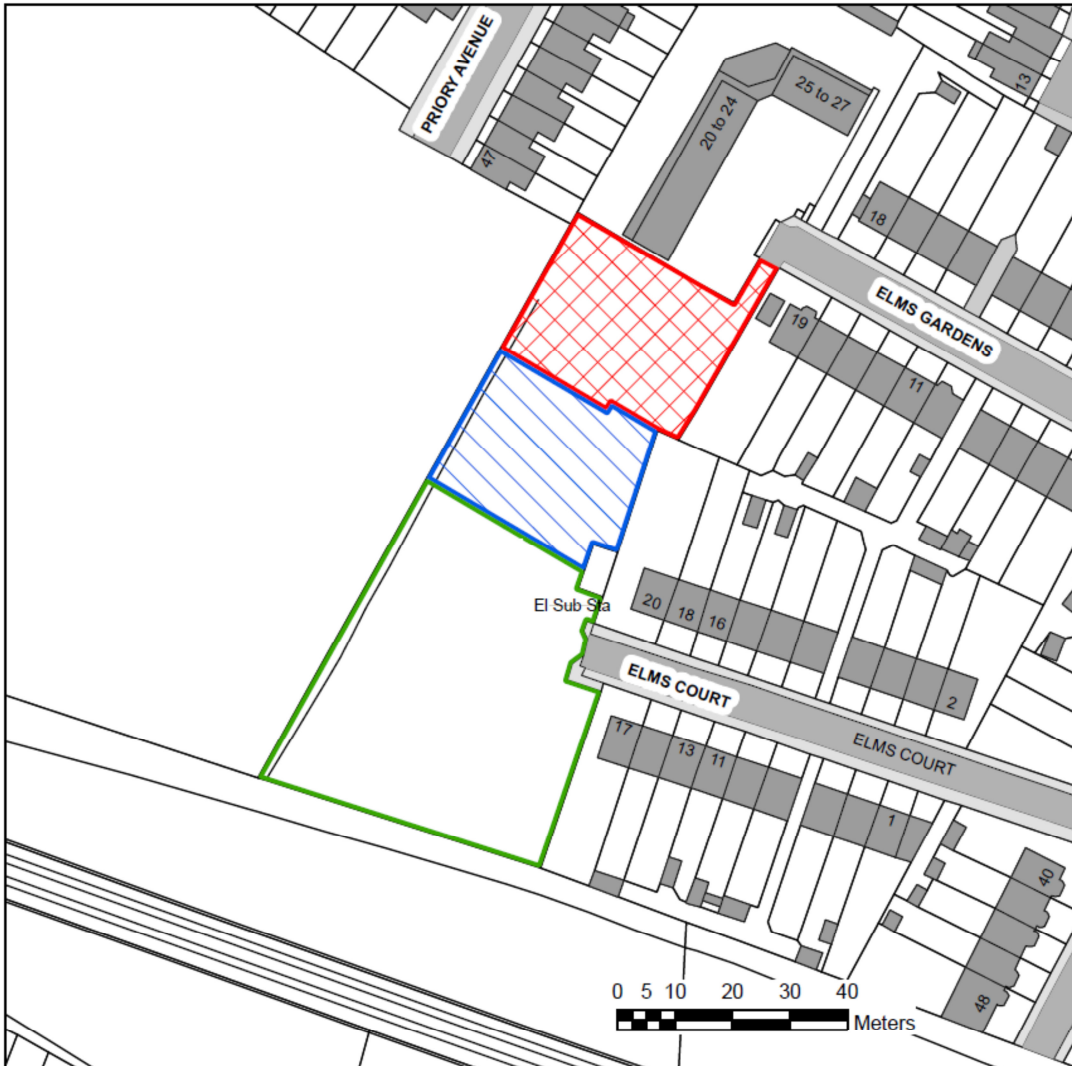
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Andrew Donald
[Director of Regeneration and Major Projects](#)

Appendix 1 The Subject Plan and Proposals

EXECUTIVE COMMITTEE
Land Adjoining 19 Elms Gardens
and Elms Court, Sudbury HA0



Plan for information purposes only.



Stage 1



Stage 2



Land for Disposal

NORTH



PSMA OS copyright statement
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OS Open data copyright statement:
Contains Ordnance Survey data © Crown copyright and database right 2013

Appendix 2 – Replacement allotment land: Gladstone Park
 Gladstone Park proposals as per 15 November 2010 Executive Report, the scale of which may need to be reduced to reflect equivalent provision to the current Elms Gardens redevelopment proposal possibly.

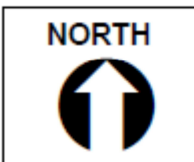
EXECUTIVE COMMITTEE

**Reprovision of Allotments at
 Gladstone Park Gardens, Dollis Hill.**



**Premises shown edged
 and cross hatched black.**

Plan for information purposes only.



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Appendix 3 – INRA

Impact Needs/Requirement Assessment Completion Form

Department: Regeneration and Major Projects.	Person Responsible: Sarah Chaudhry – Head of Strategic Property
Service Area: Property and Asset Management.	Timescale for Equality Impact Assessment :
Date: 19 February 2013	Completion date: 19 February 2013
Name of service/policy/procedure/project etc: This is a disposal transaction.	Is the service/policy/procedure/project etc: New <input checked="" type="checkbox"/> Y Old <input type="checkbox"/>
Predictive <input checked="" type="checkbox"/> Y Retrospective <input type="checkbox"/>	Adverse impact <input type="checkbox"/> Not found <input checked="" type="checkbox"/> Y Found <input type="checkbox"/> Service/policy/procedure/project etc, amended to stop or reduce adverse impact N/A Yes <input type="checkbox"/> No <input type="checkbox"/>
Is there likely to be a differential impact on any group? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N	Please state below: as no I haven't completed points 1 to 6.
1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/ Asylum Seekers Yes <input type="checkbox"/> No <input type="checkbox"/>	2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities Yes <input type="checkbox"/> No <input type="checkbox"/>
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability Yes <input type="checkbox"/> No <input type="checkbox"/>	4. Grounds of faith or belief: Religion/faith including people who do not have a religion Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Grounds of sexual orientation: Lesbian, Gay and bisexual Yes <input type="checkbox"/> No <input type="checkbox"/>	6. Grounds of age: Older people, children and young People Yes <input type="checkbox"/> No <input type="checkbox"/>
Consultation conducted Yes <input type="checkbox"/> No <input type="checkbox"/>	
Person responsible for arranging the review: Sarah Chaudhry	Person responsible for publishing results of Equality Impact Assessment: There will be no Equality Impact to society from this transaction.
Person responsible for monitoring: Sarah Chaudhry	Date results due to be published and where: No results will be published
Signed: Sarah Chaudhry	Date: 19/2/13

Impact Needs/Requirement Assessment Completion Form

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

1. What is the service/policy/procedure/project etc to be assessed?

The proposal comprises three elements:

1. Disposal on a short term basis to a local allotment group.
2. Disposal on a long term basis for redevelopment.
3. Redevelopment of park land for allotment use.

2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

This is a previously disused piece of land and a potential liability to the council, the aim is to reduce the risk and to generate a capital receipt for the council.

3. Are the aims consistent with the council's Comprehensive Equality Policy?

Yes - The allotment land has previously been reported as difficult to do anything with, subsequently a local group has come up with a local solution that helps bring the site back into use. On the freehold disposal anybody, regardless of age, creed, religion, sexuality, ethnicity and gender had an opportunity to bid for this property in an open and transparent way. In terms of the park land redevelopment, there is no disposal, our plans would aim to improve this space.

4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/faith/sexual orientation/health etc? What are the reasons for this adverse impact?

No.

5. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make you judgement separately (by race, gender and disability etc).

Previous Executive reports and experience of marketing and selling properties.

6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)

There are no unmet needs or requirements that can be identified that could affect specific groups.

7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?

I have not consulted externally as part of my assessment. Although through the planning process, consultation will take place.

8. Have you published the results of the consultation, if so where?

No, because none has been undertaken.

9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?

This is not a function or policy.

10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.

This is not a service or policy.

11. If the impact cannot be justified, how do you intend to deal with it?

N/A

12. What can be done to improve access to/take up of services?

N/A

Impact Needs/Requirement Assessment Completion Form

13. What is the justification for taking these measures?

N/A

14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.

I will be responsible for the monitoring progress of this proposal.

15. What are your recommendations based on the conclusions and comments of this assessment?

That the Council be able move forward with this sale transaction as per the recommendation in the report.

Should you:

1. Take any immediate action? No.
2. Develop equality objectives and targets based on the conclusions? No
3. Carry out further research? No

16. If equality objectives and targets need to be developed, please list them here.

N/A.

17. What will your resource allocation for action comprise of?

N/A

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment:

Full name (in capitals please): SARAH CHAUDHRY

Date: 19/02/13

Service Area and position in the council: Head of Strategic Property.

Details of others involved in the assessment - auditing team/peer review:

Once you have completed this form, please take a copy and send it to: The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD



Executive
22 April 2013

Report from the Director of Regeneration and Major Projects

Wards affected:
ALL

Underoccupation Incentive Scheme

1.0 Summary

- 1.1 The Size Criteria, or 'Bedroom Tax' will be implemented for underoccupiers of social housing stock from the 1st April 2013, and tenants will receive a reduced amount of Housing Benefit to pay the rent with. Given the current demand on social housing, particularly from homeless households who will be affected by other Welfare Reform measures, transferring underoccupiers to right sized accommodation is favoured, and needs to be encouraged.
- 1.2 The currently financial incentive offered to households to motivate the move is a flat rate of £1,000. The proposal is to increase this to £2,000 per bedroom released, per household (to a maximum amount of £6,000) to encourage underoccupiers to move to smaller homes.
- 1.3 The cost of providing the increased incentive payments is offset against savings to both the Temporary Accommodation (TA) budget and the Housing Revenue Account (HRA).

2.0 Recommendations

- 2.1 The Executive **agrees** to increase the financial incentive paid to tenants to move out of underoccupied Council housing stock to £2,000 per bedroom released but up to a maximum payment of £6,000 to any household, subject to the availability of Council funding for the scheme and within the parameters set out in paragraph 3.5 of this report.

3.0 Detail

3.1 Objectives of the underoccupier incentive programme

The main objective is to increase mobility in social stock by underoccupiers:

- help customers avoid the hardship of covering rent where Housing Benefit (HB) receipt is reduced due to welfare reform measures by moving to a smaller unit
- make best of stock by allocating large units vacated by underoccupiers to households waiting in TA, or currently severely overcrowded in social stock
- potential savings to TA budget by moving large households into vacated properties, where LB Brent is covering HB shortfall, or from expensive B&B accommodation

3.2 Background

The underoccupier incentive programme is already active in LB Brent, offering £1000 to each downsizing move. The present scheme was agreed in 1996, and the amount of incentive paid has fluctuated since then.

The Welfare Reform Act 2012 introduces a restriction to housing benefit received by social tenants who are currently under-occupying their home, reducing their receipt by 14% or 25% depending on the number of rooms they occupy in excess of requirement or need.

The 'bedroom tax' means the cost to the borough of allowing underoccupiers to remain in units of social stock will increase due to potential rent arrears, alongside the cost of being unable to allocate large units of social stock to households waiting in temporary accommodation. Therefore the cost providing an incentive programme is offset by the savings made to other budgets (finance section).

3.3 Targets

Target total moves for 2013/14 – 80 households releasing 112 bedrooms, (estimated split: 60 moves within the borough, and 20 moves out of borough).

3.4 Delivery

Working in partnership, BHP and LB Brent officers will:

- 1 Ring-fencing smaller units for allocation to households downsizing, either by Choice Based Letting or direct offer
- 2 Identifying vulnerable households (for whom a move is appropriate) in properties larger than their needs and facilitate a move to right-sized accommodation
- 3 Engage with local partners, particularly in the voluntary sector and provide information and support for the assistance provided to households affected by HB cuts

- 4 Work closely with households who are actively bidding for properties, using Discretionary Housing Payments to assist them until successful.

3.5 Proposed Incentive Programme

Approximately 634 tenants have been identified as working age and underoccupying Council housing stock managed by Brent Housing Partnership and will receive reduced benefit from April 2013.

The incentive programme will apply to all underoccupiers in Council housing stock managed by Brent Housing Partnership, and is proposed as follows:

1. incentive payment of £2,000 per room released, to a maximum of £6,000 to any single household
2. Rent arrears to be cleared by the incentive payment as priority, the remainder paid to the household
3. free handy-man service for 4 hours applicable only on the day of the move, for “in-borough” moves
4. in addition, a removal service will be provided for moves within the borough of Brent, or up to £500 paid towards cost of moving to any outside the borough of Brent upon receipt of a valid VAT invoice from the removal company.

Payment of the incentive is limited to and will only be made as long as the funding agreed is available. A review of the scheme will be carried out, and the option exists to propose to extend the scheme if appropriate.

For some households paying the full rent due after the application of the ‘Bedroom tax’ to their housing benefit will leave very little income to pay other household costs, and in such cases a Discretionary Housing Payment may be paid up until such time that they are able to transfer to a new property.

This incentive scheme does not apply to under-occupying households who down-size via a mutual exchange, because potential savings to the Council via use of a void property will not be realised. (However, increasing mutual exchanges for under-occupying social tenants needs to be facilitated, and providing a smaller incentive might be one way to increase the update of mutual exchange).

4.0 Financial Implications

Table 1: Cost of scheme

Staff	BHP officers and LB Brent officers already in post	£0.00
Incentives	£2,000 per room, 112 rooms released	£224,000
Handyman	4 hours per move, £20/hour, 50 moves	£4,000

Meeting
Date

Version no.
Date

Removal costs	In-borough: 60 @ £300 Out of borough: 20 @ £500	£28,000
Total		£256,000

- 4.1 The proposed scheme will cost a total of £256,000 for 2013-14.
- 4.2 A budget of £65,000 has already been allocated for this scheme in 2013-14, therefore an additional £191,000 is required.
- 4.3 The additional funding is sought on a shared basis from two streams:
- a a self-financing proposal for an allocation from the TA budget of £95,500; and
 - b a similar self-financing commitment of £95,500 from the HRA
- 4.4 Released properties will be ring-fenced for allocation to homeless households in temporary accommodation (in accordance with the Council's allocations scheme, either to large households affected by the Overall Benefit Cap, or to households accommodated in expensive B&B accommodation. The proposed growth in lettings to homeless households from temporary accommodation relies on an increase in void properties arising from growth in various schemes, including increased the number of under-occupiers who downsize.
- 4.5 At the same time, a budget to incentivise mobility by households affected by the size criteria could be offset by potential rent arrears accrued by the same households. Properties will be re-let to households who will fully occupy the properties. Resulting rent collection will therefore repay the HRA for the contribution towards the mobility.

5.0 Legal Implications

- 5.1 Paragraph 2 of Schedule 18 of the Housing Act 1996 gives local authorities the power to make payments to its tenants to move to other accommodation.
- 5.2 Paragraph 2 of Schedule 18 of the Housing Act 1996 states as follows: 'A local housing authority may make payments to or for the benefit of a tenant or licensee of a dwelling-house within its Housing Revenue Account with a view to assisting or encouraging that person to move to qualifying accommodation. ... 'qualifying accommodation' means a dwelling-house made available to the person concerned as a tenant or licensee by any of the following –
- (a) the local housing authority making the grant or any other local housing authority; or
 - (b) registered social landlord'.
- 5.3 The "bedroom tax", which is officially known in the legislation as the "Housing Benefit Size criteria restrictions for working age claimants in the social rented sector from April 2013" will come into effect from April 2013. This has been brought into effect by the Housing Benefit (Amendment) Regulations 2012, which have been approved by Parliament, pursuant to section 69 of the Welfare

Reform Act 2012 which adds section 130A to the Social Security Contributions and Benefits Act 1992 regarding the determination of an appropriate maximum of housing benefit.

6.0 Diversity Implications

6.1 The Equality Act 2010 S149 sets out the public sector equality duty which requires the Council, when exercising its functions (including those as an employer) to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic.

Agreeing to implement the increase in incentive will have a positive financial impact for protected groups who are underoccupiers. In June 2012, DWP published an updated Equalities Impact Assessment for the introduction of the Size Criteria. While the Size Criteria affect all working age tenants who are underoccupying their social homes, the tenants are more likely to be single female claimants. Overall stock, underoccupation is more likely to be experienced by pension-age households. These two groups of households may disproportionately benefit from the additional incentive made available. Failure to increase the incentive will result in a negative financial impact for underoccupiers who choose to give up their properties.

6.2 According to the DWP, 2/3rd of households affected by the Size Criteria will contain a disabled member. Early indications from the data provided by DWP and LB Brent care providers show that this impact may not hold true for Brent's population and that fewer affected households will contain someone with a disability.

6.3 Protected groups who are experiencing homelessness will also benefit as properties released by underoccupiers will be ring-fenced for allocation to households currently in temporary accommodation where possible. 64% of homeless households in Brent are Black Asian and Minority Ethnic families. Failure to increase the incentive is likely to result in longer waiting times for these households in temporary accommodation as some underoccupiers will be less likely to give up their properties.

Direct discrimination occurs if, because of a protected characteristic, a local authority treats a person less favourably than it treats or would treat others.

Indirect discrimination occurs if a local authority applies the same provision, criterion or practice to everyone, but it puts those in a certain protected group at a "particular disadvantage" when compared with persons who are not in that protected group. Even if a "particular disadvantage" arises, indirect discrimination does not arise if the provision, criterion or practice can be justified – i.e. if it is a proportionate means of achieving a legitimate aim.

The Council must pay due regard to any obvious risk of such discrimination arising in respect of the decision before them. At Brent, these matters are examined in the Equality Analysis.

A 'protected characteristic' is defined in the Act as:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;(including ethnic or national origins, colour or nationality)
- religion or belief;
- sex;
- sexual orientation.

Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.

Having due regard to the need to 'advance equality of opportunity' between those who share a protected characteristic and those who do not, includes having due regard to the need to remove or minimize disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and encourage those who have a protected characteristic to participate in public life.

The steps involved in meeting the needs of disabled persons include steps to take account of the person's disabilities.

Complying with the duty may involve treating some people better than others, as far as that is allowed by the discrimination law.

Due regard to the need to eliminate discrimination, advance equality, and foster good relations must form an integral part of the decision making process. The Council must consider the effect that implementing a particular policy will have in relation to equality before making a decision.

There is no prescribed manner in which the equality duty must be exercised. However, the council must have an adequate evidence base for its decision making. This can be achieved by gathering details and statistics on who uses the service. A careful consideration of this assessment is one of the key ways in which the Council can show "due regard" to the relevant matters. Where it is apparent from the analysis of the information that the proposals would have an adverse effect on equality then adjustments should be made to avoid that effect (mitigation).

The duty is not to achieve the objectives or take the steps set out in s.149. Rather, the duty on public authorities is to bring these important objectives relating to discrimination into consideration when carrying out its functions. "Due regard" means the regard that is appropriate in all the particular circumstances in which the authority is carrying out its functions.

There must be a proper regard for the goals set out in s.149. At the same time, the council must also pay regard to any countervailing factors, which it is proper and reasonable for them to consider. Budgetary pressures, economics

and practical factors will often be important, which are brought together in the Equality Analysis form. The weight of these countervailing factors in the decision making process is a matter for the Council in the first instance.

7.0 Staffing/Accommodation Implications

- 7.1 Officers delivering the actions for underoccupation are already in post in both LB Brent and BHP. Funding for the BHP posts has already being provided from the HRA from an earlier agreement to allocate £200,000 towards actions in response to Welfare Reform measures.

Background Papers


DWP, June 2012, 'Housing Benefit: Size Criteria for People Renting in the Social Rented Sector' <http://www.dwp.gov.uk/docs/eia-social-sector-housing-under-occupation-wr2011.pdf>

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Andy Donald
Director of Regeneration and Major Projects

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	<p>Executive 22 April 2013</p> <p>Report from the Director of Regeneration and Major Projects</p>
<p>For Action Wards affected: Kensal Green</p>	
<p>Knowles House – Temporary use of vacant premises for the provision of bed and breakfast accommodation to homeless households.</p>	

***Appendices 2 and 3 are not for publication**

1.0 Summary

1.1 The Council to appoint a suitably qualified and experienced organisation for the temporary provision of bed and breakfast accommodation at the premises known as Knowles House, Longstone Avenue, London NW10 3UN (“the scheme”). The accommodation will be provided to homeless and potentially homeless households. At the end of the scheme the site will be disposed of on the open market for a capital receipt.

2.0 Recommendations

2.1 That the Executive approve the use of Knowles House to provide temporary accommodation to persons in housing need arising under Part VII of the Housing Act 1996 for a period of 2 years, and possibly extending to 4 years.

2.2 The Executive to note that the scheme will not proceed if planning permission for change of use is not granted.

2.3 That the Executive delegates authority to the Assistant Director of Housing, Regeneration and Major Projects, to award the proposed call-off contract from the Council’s Private Managed Temporary Accommodation Framework Agreement to the successful tenderer for the scheme for an initial period of 2 years (with the option to extend the scheme for a further two years) pursuant

to the Council's Private Managed Temporary Accommodation Framework Agreement conditions of contract.

- 2.4 That the Executive approves the grant of a short term lease/licence at a peppercorn or nominal rent to the successful tenderer for the purpose of the performance of the contract, such lease to be ancillary to and run concurrently with the contract if considered expedient by the Assistant Director of Regeneration and Major Projects, Property and Asset Management, in consultation with the Director of Legal and Procurement on terms to be agreed by the officers. Rental income will be received from the non-secure tenancies placed within the scheme.
- 2.5 That the Executive approves the use of Housing capital funding to the value of £50k for the works required to refurbish the building and bring it into use for the scheme.
- 2.6 That the Executive approves the disposal of the Knowles House site at the end of the scheme for a capital receipt and provide delegated authority to the Assistant Director of Regeneration and Major Projects, Property and Asset Management, to agree the terms of the transaction in conjunction with the Director of Finance and Corporate Services.

3.0 Detail

Background

- 3.1 The Knowles House Site is situated at 51 Longstone Avenue, Harlesden, London NW10 3UN. The property was formerly used as a residential care home but was decommissioned in December 2011 following Executive decision because the building was not fit for purpose. The property is currently vacant and secured by guardians.
- 3.2 The Council owns the site freehold. The site is approximately 4,877 sq m (0.488 ha) and has three Council-owned buildings situated on it, the property known as Knowles House, which also incorporates a separate annexed section on the ground floor known as Anansi Nursery (which was decommissioned in 2007), and the Westbrook Community Day Centre provided to the rear of Knowles House.
- 3.3 The Knowles House building is a three-storey building constructed in the 1970's. Each floor has a disabled shower room with WC and the ground floor has a lounge/dining area, activity room, kitchen, large dining room and staff office. The site includes gardens and car parking spaces. The Knowles House building is shown in appendix 1.
- 3.4 The site is not currently included within the Council's Capital Disposals Programme and the Council's Major Projects Review Panel has approved a business case to retain the site and re-use the Knowles House building to provide bed and breakfast accommodation for a temporary duration to help the Council meet its statutory duties during a period of Welfare Reform which is giving rise to additional pressures to the Housing service. The business

case also identified revenue income from the scheme to the Council's Property and Asset Management budget.

- 3.5 The scheme refers only to the Knowles House building and excludes Anansi Nursery and Westbrook Community Day Centre buildings which, following board approval, are being market tested independently of the proposed scheme because they are uneconomical to bring into use for that purpose. They have also therefore been excluded from the financial appraisal of the scheme.
- 3.6 The Knowles House building is in good condition overall but will require a capital investment of circa £50k to bring the building into use, which will be met by Housing capital funding as confirmed by the Assistant Director of Housing, Regeneration and Major Projects. Any additional capital costs for the building's refurbishment are to be borne by the successful contractor.

Options appraisal

- 3.7 An options appraisal identified the following uses:

Table 1.0 – Summary of options

Option	Description
1	Temporary B&B scheme under option a, b or c followed by disposal at end of scheme: a) Contract management out; b) Leasing arrangement; c) Managed by Council.
2	Immediate disposal of the entire site for a capital receipt.
3	Do nothing – leave the building vacant.

Preferred option

- 3.8 The preferred option is option 1 (a) to use Knowles House for bed and breakfast accommodation for homeless households on a temporary basis for an initial period of 2 years (and possibly extending up to a maximum period of 4 years) followed by disposal of the entire site, which would include Anansi Nursery and Westbrook Community Day Centre buildings, for a capital receipt. This option brings benefits to the Housing service and is also more favourable in Net Present Value terms than if the building was sold immediately and over other options.
- 3.9 Under this option the Council would be required to enter into a management agreement with a contractor to run and manage the scheme on the Council's behalf. The contractor will be selected through a mini tendering exercise using the Council's Private Managed Temporary Accommodation Framework

Agreement. The tender will be for the daily fee per room for the management of the service payable by the Council to the Contractor. The successful contractor will receive a capital grant of £50k from the Council to carry out works to the building to bring it into use. The Council will require consent from the Secretary of State to delegate its housing management functions pursuant to section 27 of the Housing Act 1985 regarding the management of the accommodation at Knowles House under the housing management agreement to the contractor. However, it will not be necessary to apply to the Secretary of State for specific consent if the Council can rely on the grounds set out under the General Approval for Housing Management Agreements 2009, which covers general consents under section 27 of the Housing Act 1985.

- 3.10 The Council will have full and exclusive nomination rights to the scheme. In return, 95% occupancy is to be guaranteed by the Council to the Contractor.
- 3.11 The service provided by the contractor under the management agreement will include property management and maintenance services, provision of housing office and support to tenants. Under the contract, the Council will be responsible for rent collection from the non-secure tenants.
- 3.12 Under the contract the Council will pay a management fee to the contractor for which the Council will receive a 100% of the rental income generated by the scheme. The management fee will be offset by the rental income received and the balance (the net rental income) will accrue to the Property and Asset Management budget. The estimated rental income and management fees are shown in appendix 2. The extent of the potential rent arrears and bad debt has been estimated and incorporated into the financial appraisal.
- 3.13 The scheme is a cost-effective way of providing temporary accommodation because the management fees paid by the Council are covered by the rent. There will be minimum property standards and service standards specified by the Council, and the contractor will be expected to provide a high-quality housing management service. Performance will be monitored through performance indicators and regular monitoring meetings between the contractor and the Council's housing department.
- 3.14 At the end of the scheme (circa 2-4 years) the proposal is to dispose of the entire site for a capital receipt to facilitate redevelopment of the land. The estimated capital receipt is shown in appendix 2. The Council's cost of disposing of the site will be funded from the capital receipt and the balance will accrue to the funding of the Council's Capital Programme.
- 3.15 The scheme will be subject to planning permission for a change of use being approved.

Discounted options

- 3.16 Members to note that option 1 (b) of leasing the building to a housing provider would require the Council to undertake a new tender in respect of the contract because we would not be able to use the Council's Private Managed

Temporary Accommodation Framework which is solely a management agreement. A new tender exercise would give rise to a much longer lead in time to the start of the scheme which is not desirable considering the vulnerability of the building from vandalism and squatting and the interim loss of rental income that would result.

- 3.17 Option 1 (c) (management by the Council) is estimated to cost the Council more than the contracting out option because of the mobilisation costs involved and because the Council would not be able to meet the efficiencies deliverable by specialist housing providers who run this type of scheme as part of their core business.
- 3.18 The housing benefit subsidy impact for the Council is estimated to be the same for options 1 (a), 1 (b) and 1 (c).
- 3.19 Option 2 of selling the site immediately does not provide benefits to the Housing service or capture the revenue benefits of the scheme.
- 3.20 Option 3 of doing nothing has no strategic fit and is costing the Council hold costs and security costs. Currently the property is the focus of vandalism and fly-tipping which is blighting the wider area.
- 3.21 The Net Present Value of benefits of each option is shown in appendix 3.

The scheme

- 3.22 The scheme will accommodate interim placements of households made by the Council under Section 188 Housing Act 1996 (“HA96”), while homelessness enquiries are undertaken. If the Council decides it has a duty to house the household, they will be moved to longer-term accommodation as soon as a suitable property becomes available.
- 3.23 Wherever possible the Council will avoid placing families with dependent children, pregnant women, and young people aged 16/17 in bed and breakfast accommodation. Where no other suitable accommodation exists and such placements are necessary, the Council will move these households to more suitable self-contained accommodation within six weeks.
- 3.24 The Council’s temporary accommodation policy takes into account the statutory requirements on local authorities in respect of suitability of accommodation, including Suitability Orders, and the Homelessness Code of Guidance 2006.
- 3.25 The proposal is expected to accommodate forty-five 1, and possibly some 2, bedroom bed and breakfast units for the interim placements of households under Section 188 HA96. In addition, there will be two 1 bedroom and one 2 bedroom self-contained units. The occupiers will be non-secure licensees/tenants of the Council. The Council will rely on ground 4 of Schedule 1 of the Housing Act 1985 which means that the occupiers will be treated as non-secure tenants/licensees as the Council are housing these

occupiers pursuant to their homelessness functions under Part VII of the Housing Act 1996.

Demand

- 3.26 The extent of demand for temporary accommodation and its limited supply in Brent is likely to be exacerbated by the new Local Housing Allowance caps being implemented as part of the Welfare Reforms, which will render some private units as unaffordable to be used as temporary accommodation. The number of out of borough placements is also expected to rise as the Council seeks to procure properties in more affordable areas to minimise subsidy losses incurred.
- 3.27 There are approximately 350 households in nightly paid accommodation and demand is not expected to fall within the next two years. There is deemed to be sufficient demand from the relevant client groups to ensure approximately 95% occupancy rate throughout the duration of the initial period of the scheme (i.e. 2 years). A review of the level of demand will be assessed towards the end of the initial period of the scheme to establish if an extension of the scheme is required or whether the site can be brought forward for disposal.
- 3.28 In addition, the Council also currently uses other forms of temporary accommodation including other forms of bed and breakfast accommodation, private sector leasing (PSL), housing association leasing (HALs) and the utilisation of social housing stock which are likely to be under pressure from increased demand.

Procurement

- 3.29 The framework agreement used will be the Housing service's multi-provider Framework Agreement for the Private Management of Temporary Accommodation set up and established in July 2011 ("the Framework Agreement"). The Framework Agreement will govern the relationship between the Council and the appointed contractor in respect of the provision of services by the contractor to the Council and to other contracting bodies.
- 3.30 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k and works contracts exceeding £1,000,000 shall be referred to the Executive for approval.
- 3.31 Generally the question of whether the contract is one for services or goods will be determined by which component has the greater value. In this case, the initial refurbishment works are only incidental to the provision of services, and therefore the contract is a services contract.
- 3.32 The estimated value of the temporary accommodation contract over the initial two-year life of the contract is shown in appendix 2. In this case, under the Council's Standing Orders and Financial Regulations, a competitive tendering process is normally required. However, the proposed scheme and contract shall be procured under the Council's competitively procured Framework

Agreement via a mini competition exercise with the appointed framework contractors, therefore, negating the requirement to undertake a formal tendering exercise.

3.33 The contract will be awarded to the most economically advantageous tender and the submissions will be evaluated on price and on the extent to which they meet the qualitative evaluation criteria.

3.34 The mini competition tender exercise will include a provision that the scheme cannot commence before planning permission is granted.

Pre Tender Considerations, award criteria and weightings

3.35 The main pre-tender considerations have been set out below and detailed in the contract documentation:

Ref	Requirement	Response										
(i)	The nature of the service	To manage temporary accommodation scheme at Knowles House; such accommodation is to be let to homeless households nominated by the Council.										
(ii)	Estimated value	Shown in appendix 2.										
(iii)	The contract term	2 years with the option to extend the contract provision for a further maximum period of 2 years.										
(iv)	The tender procedure to be adopted	<p>Procurement via a Mini Competition exercise under the Council's Private Managed Accommodation Framework Agreement.</p> <p>Stage One: Under the terms of a "mini competition", admission to perform this contract will be restricted to one of the existing seventeen (17) providers on the Private Managed Accommodation (PMA) Framework who were previously selected under the Council's full tendering process and thus have already satisfied the initial assessment.</p> <p>Stage Two: The Council will evaluate the submitted method statement(s) based upon 30% quality and 70% price to appoint the successful contractor.</p>										
(v)	The procurement timetable – the dates shown are target dates	<table border="0"> <tr> <td>Executive decision</td> <td>April 2013</td> </tr> <tr> <td>Adverts placed</td> <td>TBC</td> </tr> <tr> <td>Invite tenders</td> <td>TBC</td> </tr> <tr> <td>Tender return</td> <td>TBC</td> </tr> <tr> <td>Tender evaluation</td> <td>TBC</td> </tr> </table>	Executive decision	April 2013	Adverts placed	TBC	Invite tenders	TBC	Tender return	TBC	Tender evaluation	TBC
Executive decision	April 2013											
Adverts placed	TBC											
Invite tenders	TBC											
Tender return	TBC											
Tender evaluation	TBC											

		Delegated authority TBC Contract award TBC Contract start July 2013
(vi)	The evaluation criteria and process	<p>Evaluation Criteria & Process</p> <p>Quality (30%)</p> <p><u>Hostel Refurbishment (15%)</u> In this method statement, tenderers are invited to outline their refurbishment proposals for Knowles House to bring the building up to the full availability standards.</p> <p><u>Repairs and maintenance (10%)</u> In this method statement, tenderers are invited to outline their approach to the borough's requirements with respect to the standard of the building, repairs and maintenance as detailed in the specification.</p> <p><u>Complaints Handling (3%)</u> In this method statement, tenderers are invited to outline their approach to dealing with complaints and hostel management issues.</p> <p><u>Anti-social behaviour (2%)</u> In this method statement, tenderers are invited to outline their approach to dealing with anti-social behaviour.</p> <p>Price Price will consist of 70% of the evaluation weightings.</p> <p>Tenders will be evaluated by a panel comprising officers from Housing and Property and Asset Management departments. The panel may also include a representative from Finance and Legal departments if required.</p>
(vii)	Any risks associated with entering the contract	<ul style="list-style-type: none"> • Rent arrears; • Bad debt; • Occupancy rate falls short of expected levels; • Performance of contractor fails to meet required standards; <p>Risks to be mitigated through effective</p>

		management of the contract.
(viii)	The Council's Best Value duties	The competition provided by the mini-tendering exercise will assist the Council in achieving best value for this service.
(ix)	Any staffing implications, including TUPE and pensions	None.
(x)	The relevant financial, legal and other considerations	As set out in the appropriate sections of this document.

Consultation and planning

- 3.36 The main policy relating to hostels is set out in CP21 of Brent's Core Strategy 2010. In the supporting text for this policy it states that the intention of the policy is to ensure that there is locally appropriate provision for all types of accommodation including non self-contained accommodation, such as hostels for households without children (including key workers and students).
- 3.37 Planning officers have advised that the proposed change of use would need to demonstrate that the scheme will meet a local need and that it would not result in an over-concentration of such facilities within the local area, and this is deemed to be the case.
- 3.38 The key risk identified is the failure to secure planning permission. Housing and Property and Asset Management departments will liaise with planning officers to ensure the proposed scheme is acceptable. It should be noted that the management agreement with the contractor would only be signed when a satisfactory planning permission is secured.

3.39 Timetable (estimate)

Executive Decision finalised	April 2013
Planning for change of use from residential care home to hostel	May - June 2013
Tender for Contractors to carry out work	May 2013
Start on site	June 2013
Completion of works and start of scheme	July 2013
Review of demand	July 2015
Extension/End of scheme	July 2015 - July 2017
Disposal	July - September 2017

4.0 Financial Implications

- 4.1 The financial model for the scheme is shown in appendix 2.

- 4.2 The Council will retain responsibility for major works and repairs to the building as the building will remain exclusively in the Council's legal ownership.
- 4.3 The revenue benefits (net rental income) will accrue to the Council's Property and Asset Management budget.
- 4.4 The property is not currently included in the Council's Capital Disposals Programme, and as such the proposal within this report will not impact on existing funding forecasts for the overall Capital Programme. At the point of disposal this will be an additional receipt to the funding of the Capital Programme and could reduce the requirement to undertake an equivalent level of unsupported borrowing for a balanced position.
- 4.5 The Council will pay £50k for the works required to refurbish the building and bring it into use for the scheme, and this will be funded from within existing Housing Capital Budgets.

5.0 Legal Implications

- 5.1 The requirement to provide temporary accommodation to persons in housing need arises under Part VII of the Housing Act 1996 ("the 1996 Act"). The Council is bound by statute under section 193 of the 1996 Act to provide temporary accommodation to homeless applicants who satisfy the following criteria: they are homeless or threatened with homelessness, they are eligible for assistance, they are in priority need of accommodation, they have a local connection with the Borough and they are not intentionally homeless. The circumstances in which the Council will cease to be subject to any such duty are set out in section 196(6)-(7B) of the 1996 Act, which include the applicant accepting an offer of accommodation under Part VI of the 1996 Act under the Council's allocation scheme and accepting an offer of an assured tenancy from a private landlord.
- 5.2 The Council also has an interim duty to accommodate homeless applicants in temporary accommodation under section 188(1) of the 1996 Housing Act pending a decision regarding their homelessness applications if the Council has reason to believe that such applicants may be homeless, eligible for assistance and have a priority need of accommodation. That duty ceases once a decision is made and if the decision is that the applicant does not qualify for assistance under Part VII of the 1996 Act, the homeless applicant has the right to request a review of such a decision and in those circumstances, the Council has a discretion (as opposed to a duty) under section 188(3) of the 1996 Act to house the homeless applicant in temporary accommodation pending a review by the Council of its decision. If the decision is that the homeless applicant qualifies for assistance under Part VII of the 1996 Act, the Council is under a duty to provide temporary accommodation under section 193 of the 1996 Act as set out in the previous paragraph.

- 5.3 When Councils are housing homeless persons in temporary accommodation and granting tenancies/licensees pursuant to its homelessness functions under Part VII of the Housing Act 1996, they will not be secure tenants/licensees on account of ground 4 of Schedule 1 of the Housing Act 1985.
- 5.4 Consent from the Secretary of State is required for the Council to delegate its housing management functions pursuant to section 27 of the Housing Act 1985 regarding the management of the accommodation at Knowles House under the housing management agreement to the contractor. However, it will not be necessary to apply to the Secretary of State for specific consent if the Council can rely on the grounds set out under the General Approval for Housing Management Agreements 2009 (“the General Consent”), which covers general consents under section 27 of the Housing Act 1985. It is likely that the housing management agreement for Knowles House will come under the General Consent mentioned above as it relates to less than ten houses. However, in order to rely on the General Consent, the housing management agreement must not be of a duration lasting more than five years and the process in selecting the organisation to enter into the housing management agreement with the Council must be carried out in a fair and open manner and in accordance with EU law. Legal advice will be obtained before making a final decision on whether to rely on the General Consent or to apply to the Secretary of State for specific consent under section 27 of the Housing Act 1985 for the Council to delegate its housing management functions relating to Knowles House.
- 5.5 It may be expedient to grant a short term contracted out lease/licence to the successful contractor ancillary to the contract at a peppercorn or nominal rent for the purpose of the performance of the contract as temporary accommodation.
- 5.6 Officers are proposing to procure the Contractor that will provide housing services at Knowles House on the Council’s behalf, off the EU compliant Private Managed Accommodation Framework Agreement via a mini competition. All 17 framework contractors will be invited to participate in the mini competition exercise in accordance with the Framework Agreement terms and conditions. The mini competition will be undertaken using the award criteria and weightings stated above at Para. 3.35 and will be evaluated by selected officers of the Council appointed as part of the evaluation panel.
- 5.7 Following conclusion of the mini competition and selection of a successful contractor, subject to delegated authority being granted by Members, the Council will enter into a call-off contract for the scheme on the conditions of contract set out in the Framework Agreement.
- 5.8 At the end of the scheme, disposal of the site on the open market will satisfy the best consideration requirement as set out in section 123 of the Local Government Act 1972.

6.0 Diversity Implications

6.1 The Housing Resource Centre's Equality Impact Assessment regarding homelessness and lettings identified that current policy is specifically designed to ensure that those who are less able to access their own housing solutions are assisted.

6.2 The refurbished service will provide improved quality of service for people in housing need. An Equalities Impact Assessment will be carried out in relation to this service. The contractor will be required to have in place equality policies and action plans and to provide fair access to the service to all members of Brent's diverse communities who meet the eligibility criteria.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 None

Background Papers

Appendices:

Appendix 1: Site plan

Appendix 2: Financial appraisal

Appendix 3: Net present value of options

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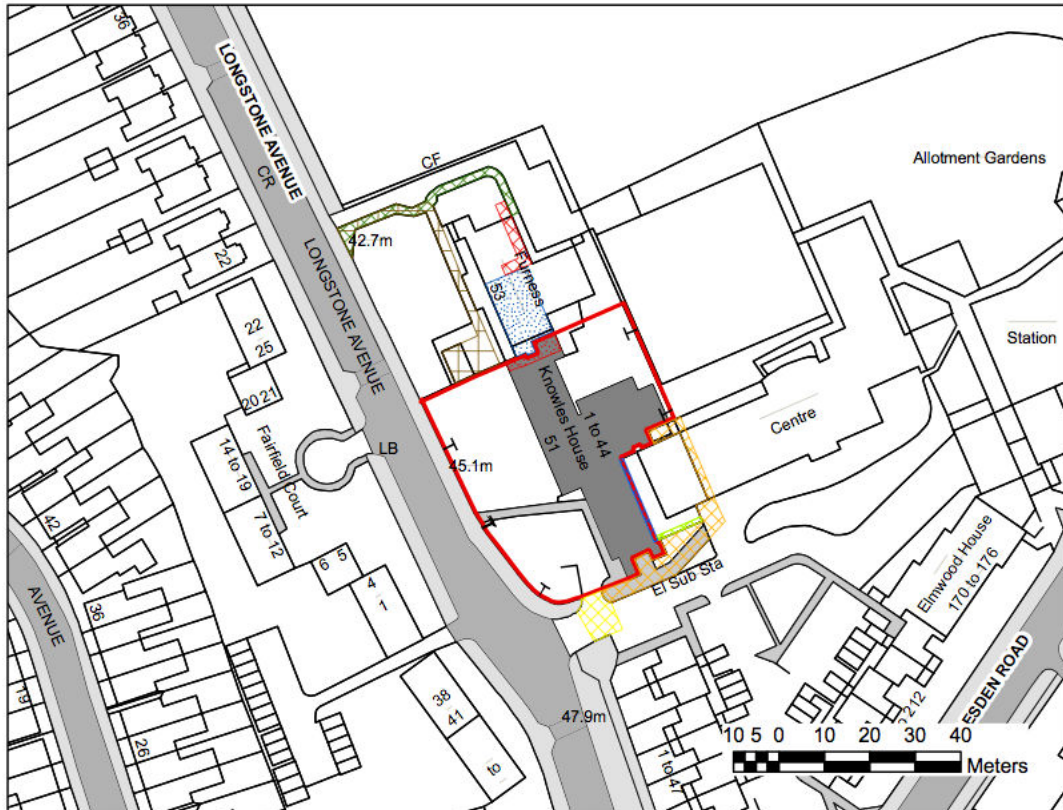
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Appendix 1: Site plan

51 Longstone Avenue, London, NW10 3UN



Leasehold Demise	Access to Meters
Boundaries to be maintained	Premises at 1st Floor Included in Demise
Leased Building Extent	Utilities Room (Right of Access for No 53)
Vehicular Access	Escape Route Across Rooftop & Stairs
Pedestrian Access Only	Escape Route Across Grounds
Access reserved for Westbrook Day Centre	Escape Route Across Westbrook

Brent 1:1,250 Plan to stated scale if printed at A4.
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NORTH

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Executive

22 April 2013

**Report from the Director of Strategy,
Partnerships and Improvement and the Director
of Regeneration and Major Projects**

Allocation Scheme

1. Summary

- 1.1 This report outlines proposed changes to the council's Allocation Scheme that flow from the approach set out in the Tenancy Strategy, which was approved by the Executive in July 2012. While the strategy set out the high-level policy aims, the Allocation Scheme addresses the detail of implementation as far as it affects the allocation of social housing and the management of the Housing Register. As it is a statutory document, formal consultation on the changes was required and this report seeks approval for the key changes to the current scheme following completion of the consultation period on 8th March 2013.

2. Recommendations

- 2.1 The Executive is asked to approve the revised Allocation Scheme.

- 2.2 In particular, the Executive is asked to:

- 2.2.1 Approve the proposals for the waiting list, including adoption of a residential qualification, and the revised banding system for the choice-based lettings scheme set out at paragraphs 4.1 – 4.7.

- 2.2.2 Note the proposals concerning tenure at paragraphs 5.1 – 5.3, which have already been approved through the Tenancy Strategy, and that tenants will be informed at the earliest possible point of the type of tenancy they can expect to be offered.

- 2.2.3 Approve the proposals on bidding, including the proposed limitations on the number and timing of bids, set out in paragraphs 6.1 – 6.2.
- 2.2.4 Approve the proposals relating to “community contribution” set out in paragraphs 7.1 – 7.4.
- 2.2.5 Approve the proposals for granting additional priority and local connection to households in employment and certain disabled households set out in paragraphs 8.1 – 8.7.
- 2.2.6 Approve the proposals for income and savings thresholds set out in paragraphs 9.1 -9.5.
- 2.2.7 Approve the proposed approach to the treatment of overcrowding within the scheme set out in paragraphs 10.1 – 10.3.
- 2.2.8 Approve the proposed banding scheme set out in paragraph 11.1 and Appendix 1.
- 2.2.9 Approve the proposed approach to the consideration of household composition and, in particular, the age at which children would be treated as non-dependent, set out in paragraphs 12.1 – 12.2.
- 2.3 Note the content of the Equality Impact Assessment regarding the revised Allocation Scheme which is set out in Appendix 2.

3. Background

- 3.1 The overall context in Brent, as in London as a whole, is challenging. The current waiting list stands at over 18,000, of which around 11,000 households have some priority under the current allocation scheme. There are over 3000 households in temporary accommodation to whom a homelessness duty is owed. A total of 968 lettings is anticipated during 2012/13, with the majority becoming available through re-lets within existing social housing stock. A total of 438 homes (including 122 affordable home ownership) were delivered through the new build programme in 2012/13 although a number of these are dedicated to regeneration programmes such as South Kilburn. Future lettings will depend mainly on continued supply through the Affordable Rent programme. Homeless applications have shown an increase following several years of decline and this trend is expected to continue, at least in the short term, as the impact of welfare reform, in particular the restrictions on Housing Benefit levels and the introduction of the overall benefit cap from summer 2013, begin to be felt.

- 3.2 Brent is a borough with relatively low incomes, effectively excluding many households on low or moderate incomes from home ownership and access to lower cost alternatives such as shared-ownership. Rising private rents and limits on Housing Benefit are also restricting access to that sector, even though it has grown significantly in recent years. The 2011 Census indicated that it represented 28.8% of the total housing stock in Brent at that time and it is probably around 30% now. It is worth noting that the majority of this growth has been due to properties that would have been purchased in the past going into the rental market, with a corresponding drop in owner occupation – a pattern that has been repeated across London. In particular, there is a severe shortage of larger homes at affordable rents with, for example, households needing four bedroom or larger property facing waits that can extend to over ten years.
- 3.3 One result of shortage is that access has been increasingly restricted and disproportionate numbers of lettings have gone to the most vulnerable and to homeless households. It has been argued that shortage coupled with allocation through a hierarchy of need has led to “residualisation” of social housing, making it part of the welfare safety net for the poorest and most vulnerable rather than one option among a range tailored to a household’s needs at any given time. In part, housing reforms are intended to challenge existing approaches and look back to a time when working households on low wages could reasonably expect to get access to social housing, while encouraging movement within and between tenures that will, it is hoped, free up access. This implies a reshaping of definitions of need and the direction of some households away from social housing. The fundamental barrier is supply.
- 3.4 The essential question for local authorities is how social housing should be used. Although it should and will remain a means to meet urgent need, it is also an asset that can be used to support other priorities, for example around social mobility and inclusion, economic growth and tackling poverty through encouraging employment and promoting social cohesion through the development of mixed and sustainable communities. To this end, an approach that links housing with employment will be important and welfare reform introduces an additional incentive, since finding employment will be the most effective way for households to mitigate the impact of change. What is clear is that social housing on its own is not able to meet all demand and its capacity to do so in the future is severely limited by constraints on new supply, both in terms of resources and capacity. With limited funds and limited land supply, the council cannot rely on new provision to meet all its housing need. The social housing stock in Brent should therefore be seen in the context of the wider housing supply, with movement between tenures facilitated and encouraged by policy. The Allocation Scheme will be a crucial part of the

mechanisms through which the council can deliver its overall regeneration priorities.

- 3.5 The Tenancy Strategy was agreed by the Executive in July 2012. Following this decision, the strategy was submitted to the Mayor's office for confirmation, which has been received, that it is in conformity with the Mayor's housing and planning policies, as required by the Localism Act, although the Mayor's office has made some comments on particular issues that are noted later in this report.
- 3.6 The Allocation Scheme, along with the Tenancy Strategy, is one strand of a range of strategies and policies that respond to the government's housing and welfare reforms. A revised Housing Strategy has been developed for consultation, along with an Asset Management Strategy that will consider future use of the council's stock in relation to changes to the Housing Revenue Account subsidy system and the introduction of self-financing. The approach in these areas will need to be consistent and it will be a key aim of the overall housing strategy to ensure that the relationships between a range of areas of activity and policy are recognised and that the council's priorities around poverty and social inclusion drive the policy direction in housing and related areas. Further reports to the Policy Coordination Group and the Executive will address these issues.
- 3.7 The Localism Act requires that local authorities continue to follow guidance concerning "reasonable preference" to be given to identified categories of housing need, for example those living in inadequate accommodation. The scheme has been framed to ensure continued adherence to this guidance, although it should be stressed that reasonable preference does not mean that all people falling into one of the defined categories must be offered social housing. In particular, the Executive agreed to the approach set out in the Tenancy Strategy that supports use of the private sector to discharge duty to homeless households, although it should be noted that this does not apply to households to whom a duty had already been accepted prior to the introduction of the changes set out in the Localism Act.
- 3.8 There are two other essential points to note concerning the shaping of a scheme in relation to reasonable preference. First, it is possible for the council to award *additional* preference to households who already meet the reasonable preference criteria, giving them greater priority within the scheme. The main proposal concerning this in the Tenancy Strategy related to the grant of additional preference to households in employment. Second, it is not required that all allocations within the scheme are made to households with reasonable preference. Although there is no absolute rule as to what proportion of available housing may be allocated to households who do not

have reasonable preference, it is generally accepted that it would be reasonable to make anything up to 20% of allocations in this way without breaching the regulations. Allocations outside the reasonable preference criteria are already made within the existing scheme, the most common example being households who are under-occupying. Such households will usually have no particular housing need but it is in the council's interest to give them priority in order to make best use of the stock and tackle overcrowding and, in future, to assist households to avoid the under-occupation penalty that will restrict Housing Benefit payments to households judged to have spare rooms.

- 3.9 Finally, it should also be noted that Brent's approach to reform needs to develop in relation to the approaches adopted elsewhere in London and in West London in particular. An approach that is significantly out of kilter with neighbouring boroughs could have a distorting effect on demand. Although there are significant differences of emphasis, the broad approach taken by west London boroughs in their tenancy strategies and emerging allocation schemes is similar.
- 3.10 The following sections set out the main changes proposed, while Appendix 1 sets out the revised scheme.

4. Waiting List

- 4.1 In summary, the Tenancy Strategy states that:
- Access will be restricted to those with some housing need who are resident in Brent, or working in Brent for a defined minimum period, or with other significant connections.
 - Band D of the current Locata system will be abolished.
- 4.2 The council will no longer operate an "open" waiting list, allowing anyone to apply irrespective of their location or housing need. Statutory guidance means that a residence qualification cannot apply to armed services personnel, who will be able to register with any local authority from any location and, in some circumstances, will also be entitled to additional priority within the scheme. Other applicants will need to establish a local connection, subject to other specific exclusions that are addressed below and in the detail of the scheme.
- 4.3 During consultation, it was proposed that a five year residence qualification should apply, as has been proposed or implemented in a number of other London boroughs. While there was support for the principle of a residential qualification, there were also compelling arguments that this should take account of the realities of the housing market. For those renting privately or

staying temporarily with friends or family, it is often difficult to sustain residence in one location for a lengthy period. Where households are obliged to move on a frequent basis, remaining within the borough boundary may not be a priority or an option. It is therefore proposed that the residence qualification should reflect this and that residence should be established through living in Brent for three out of the last five years and six out of the last twelve months before being able to apply through the Housing Register. This also reflects the approach to qualification for local connection through the homelessness legislation and guidance.

- 4.4 Applicants are currently placed in Band D of the Locata scheme if they are considered to have no housing need and the band therefore has no real value in assessing priority. The Tenancy Strategy proposed that the band should be abolished and consultation supported the principle that households with no housing need should not be given any priority within the allocation scheme. However, straightforward abolition of the band raises some issues that emerged during consultation.
- 4.5 First, there is the mainly administrative difficulty that might arise from dealing with complaints or appeals from households excluded on the basis that they have no housing need. While it is difficult to quantify, there is a risk that abolition of the band could lead to disproportionate demands on staff time. Second, it is possible that households in the lowest band may be able to bid where a property has not been bid for by any households in the higher priority groups. Although such cases are rare, there have been a very small number of successful bids from households in the current Band D over the last few years.
- 4.6 There is also an issue concerning transfer applicants who are tenants of other housing providers. While BHP tenants seeking a move are clearly treated outside the scheme – for example where there is under-occupation as noted above – the position for Registered Provider (RP) tenants in the same situation is more uncertain. An RP tenant who is under-occupying would have no housing need, but supporting a move would make best use of the stock. Such transfers should therefore be either treated outside the allocation scheme or awarded some priority within it and it is proposed that, where there is an existing nomination or reciprocal arrangement through which the council would be able to access any resulting vacancy, RP tenants should be treated in the same way as council tenants. Finally, there is a need to consider the future development of the scheme and options to give additional priority. This might include, for example, specific schemes aimed at people in certain types of employment that are important to the local economy, where it may be felt that households with no traditional housing need should nevertheless be given opportunities to apply. Finally, it has been argued that a scheme that

excludes those with no need will give a more accurate picture of housing *need* in Brent but will not give an accurate picture of housing *demand*.

- 4.7 For these reasons, the following approach is proposed. Four bands would be retained, with bands A-C reflecting some level of housing need, while band D would be re-designated as an “inactive” band. This would enable households with no apparent need to register, to have access to housing options information, to update their position if circumstances changed and might entitle them to a higher banding and, in limited circumstances, to bid where no successful bid is made by an applicant in a higher band.

5. Tenure

- 5.1 The Tenancy Strategy, which the Executive approved in July 2012, endorses the use of fixed terms and states that:
- The term will be five years normally, but with shorter and/or longer periods for specified groups/circumstances.
 - Introductory or starter tenancies of 12 months will be used for all new tenants, and in concert with fixed-term tenancies as relevant.
 - There will be a presumption that the tenancy will be renewed at the end of the term in the majority of cases.
- 5.2 Although the use of fixed terms has no bearing on whether a household would get any priority and does not form part of the allocation scheme, it is important that households are aware of the type of tenancy they are likely to be offered and the allocation scheme needs to make this clear. A five-year fixed-term will be the norm within the council stock, in line with the approach taken by all the significant registered providers in Brent and by the majority of other London authorities, with an assumption of renewal at the end of the term provided the tenancy has been conducted properly and there has been no significant change in circumstances. Exceptions to this approach have been considered and, at this stage, it is proposed that these will only be made where a shorter term might be appropriate. During consultation, there was strong support for the use of shorter terms for young people, particularly those either looking to move on from supported or other short-term housing or being provided with other support by the statutory or voluntary sector, including employment support, especially where a move would also assist in tackling overcrowding. Specific schemes to take this forward are in development.
- 5.3 The Tenancy Strategy also states that the fixed-term will be preceded by a one-year introductory tenancy, in line with the practice adopted by the vast majority of registered providers.

6. Choice

- 6.1 The Strategy states that a maximum of three successful bids within the Locata system will be the norm. There is an expectation from government that prospective tenants will continue to be able to exercise choice, mainly through the continuance of existing Choice Based Lettings (CBL) arrangements. In principle, the Allocation Scheme will support this approach but with some caveats, for which there was strong support during consultation. Unlimited choice is felt to be unhelpful in ensuring that allocations are made efficiently and that urgent needs are met speedily, since the ability to turn down an unlimited number of properties after a successful bid causes delay in the system. Although the current allocation scheme does make provision for cases where a large number of bids are not followed through by a particular household, it is felt that the approach is not sufficiently clear. There is a need to strike a balance between offering choice and meeting the council's statutory obligations and in this context it is proposed that applicants will be allowed three successful bids, following which their application would be suspended for a specified period if none were followed through. For homeless households, the presumption will be that duty will be discharged into the private sector, with limited exceptions. Similarly, failure to bid at all within a reasonable time, depending on the band, will lead to suspension of an application for one year. In such cases it is proposed that households in Band A should be expected to bid within 6 months and those in other bands within 12 months.
- 6.2 Direct offers will continue to be made where appropriate, in particular in relation to decants associated with regeneration schemes and for homeless households where private sector discharge is not appropriate.

7. Community Contribution

- 7.1 The Tenancy Strategy did not propose that any additional priority should be granted for "community contribution", over and above what is already required with regard to armed services personnel as noted above.
- 7.2 The comments received from the Mayor include the following: *We would like to underline the Mayor's commitment to prioritising people who make an active and positive contribution to their community – e.g. through employment or volunteering – and who may also face barriers to accessing suitable housing in other tenures. It might be appropriate to take this into account when determining whether a tenancy is renewed or not, as well as the factors already set out in the tenancy strategy.* Note that this suggestion relates to renewal, rather than initial grant, of tenancies.
- 7.3 The Tenancy Strategy does recognise employment but not specifically as a community contribution. Other authorities grant, or are planning to grant,

additional priority to households who are, for example, engaged in voluntary activity in their communities but it was considered that developing a system that gives additional priority for volunteering or other worthwhile community contributions would be administratively very difficult for a number of reasons; for example developing a system that could distinguish between different kinds of activity and give them appropriate weight, which would be very difficult to assess objectively and probably equally difficult to evidence clearly. More importantly, it was not felt that community contribution, however valuable, was a reliable or justifiable factor in considering the relative positions of households on the register.

7.4 Consideration could be given to recognising community contribution when a fixed-term comes up for renewal but many of the same complications would remain, although in such cases it would not be a question of choosing between the merits of different applicants but of recognising that a tenant is active in the local community. It is proposed that this should be considered as part of the first review of the Tenancy Strategy, especially since it will be some time before the first tenancies come up for renewal..

7.4 The only proposed exceptions at this stage relate to carers, where recognition will be given to the need for an additional room where the tenant receives overnight or 24 hour care in the home. The needs of foster carers are addressed in the current allocations scheme and this arrangement will continue.

8. Employment

8.1 Consultation indicated strong support for the principle that employment should be recognised within the allocation scheme, principally because of the contribution it can make to overall prosperity and community sustainability. The Tenancy Strategy states that:

- Employment status will be taken into account, both in terms of achieving additional priority and with regard to renewal of any fixed term tenancy, alongside the established criteria for assessing housing need. Income will be taken into consideration when providing advice and support on future housing options either to housing applicants or existing tenants.

8.2 In order to gain priority on grounds of employment the applicant must be in employment at the time of application and must have been in employment (including self-employment) for at least 9 out of the previous 12 months. If in temporary employment, the applicant or a member of the household should have been in that employment for a period of 2 years.

8.3 Consultation also focused on the way in which employment status should be recognised. Initially, officers had proposed that households in employment

would move into a higher band than they would otherwise have qualified for purely on the basis of housing need. For example, a household in Band C on the basis of need would move into Band B if they were also in employment. However, modelling of this approach demonstrated a serious difficulty, since the effect was to increase the numbers in the higher band to an extent that would distort the system significantly. It should be noted that other boroughs are pursuing this approach but it has not been possible to establish whether they have undertaken any modelling or testing.

- 8.4 In the present scheme, households are prioritised within a band by virtue of the date of their application, with those on the register the longest achieving the highest priority. It is therefore proposed that additional priority for employment will be recognised through promotion in terms of notional waiting time within the appropriate band, with an additional five years awarded.
- 8.5 The Equality Assessment has indicated that this proposal may have an adverse impact on disabled households, who are less likely to be in employment, face greater barriers in securing employment and, in some cases, may not be able to work. To mitigate the potential impact, it is proposed that disabled applicants under retirement age, who have a permanent disability which prevents them from working and who are eligible for the support element of the Employment Support Allowance, should be granted the notional five additional years given to households who are in employment.
- 8.6 Waiting list data indicates that around 10% of applicants have a disability, with most of these households requiring a smaller 1 or 2 bedroomed property. It should be stressed that not all of these households will be in sufficient housing need to warrant the award of Band A or B status. It is also worth noting that some of these households will already have been on the register for longer than five years and may be near the front of the date-order queue and that households with both a housing need and a disability serious enough to prevent them from working are likely to have high priority. The numbers affected by the proposed changes are therefore likely to be quite small.
- 8.7 Households meeting the employment criteria above will also be able to establish a local connection enabling them to register if the employment is located in Brent.

9. Income / Asset Threshold

- 9.1 The Tenancy Strategy did not include a proposed income threshold, although it did recognise that income would be a factor in considering the options available to applicants and tenants whose fixed term is up for renewal. Subsequent discussion and comparison with the approach adopted by other

London councils indicates that consideration should be given to this option. It is proposed that households with an income above a certain threshold would not be offered social housing but would be advised of alternative housing options such as low cost home ownership. The threshold should be set at a level where the household can access shared ownership and should take account of the property size required. The following limits are proposed:

- 1 bed - £35k
- 2 bed 45k
- 3 bed 55k
- 4 bed 70k

9.2 The Mayor's office has commented: *It is noted that Brent proposes that a household's income should be taken into account when determining whether to grant a further tenancy or not. While setting out a specific income threshold may be too inflexible an approach, we would like to see this measure linked more explicitly to the Mayor's FIRST STEPS income thresholds to ensure that options for a clear tenure progression are articulated to tenants whose tenancies are due to come to an end.* The current First Steps limits are a gross household income of £64,300 for one or two bedroom homes and £77,200 for three bedroom or larger homes, although lower limits may apply for some schemes. These limits are slightly more generous than those proposed for Brent.

9.3 It is important that the scheme should strike an appropriate balance between a desire to encourage employment and considerations of affordability that recognise the particular conditions in Brent. As noted above, Brent is a borough with low average incomes and an income threshold set too low would leave many households with limited alternatives in a high-cost private sector. Too high a limit will mean that some households who could afford alternatives will compete with households who could not for scarce social housing. Any scheme should also recognise that many households entering employment will usually be at the lower end of the wage spectrum and the scheme should encourage movement into better paid employment without fear that this might jeopardise the grant or renewal of a tenancy. Having said this, households on higher incomes should be encouraged to consider their alternatives at the point of renewal. Although there were arguments in favour of lower limits during consultation, it is proposed that those outlined above should be adopted, subject to review alongside other elements of the scheme as the impact of implementation becomes clearer.

9.4 The government has consulted on the introduction of an upper income limit beyond which tenants in social housing would be obliged to pay market rents. The council has responded to this consultation, expressing the view that such a measure would add little value, be difficult to implement both legally and

practically and, in most cases, would simply result in a Right to Buy application from the tenant. Recent announcements suggest that the government intends to go ahead with this proposal but unless future legislation requires, it is not proposed that any such measure should be applied in Brent at this stage

- 9.5 Alongside the proposal on incomes, it is also necessary to consider savings. The current scheme already excludes, subject to exceptional circumstances, households who own a property or have access to significant savings or other assets, since the expectation is that they would be in a position to meet their own needs. It is therefore proposed that the revised scheme should take a similar but more explicit approach that will take account of the current DWP savings limit of £16,000.

10. Overcrowding

- 10.1 There are currently two main standards that apply: statutory overcrowding and the bedroom standard. The former is set out in legislation and, while it is a lower standard, action must be taken to address it where it is found (although this does not extend to an automatic right to rehousing). The latter is a more “common sense” standard that is set out in guidance from the Secretary of State and generally adopted across all providers to recognise overcrowding in all tenures. Although it is not a statutory requirement, it is proposed that the council should continue to use the bedroom standard as its benchmark, in line with the majority of other local authorities and registered Providers. This is what is recommended in the Guidance from the Secretary of State regarding the allocation of accommodation.
- 10.2 Consultation centred on whether those overcrowded by one bedroom under the bedroom standard should be given significant additional priority, since this is a very common situation in Brent and across London and other boroughs have adopted or are proposing an approach that does not grant significant additional priority, or in some cases any priority, to such households.
- 10.3 Consultation indicated that while households lacking one bedroom have an identifiable housing need that should be recognised there was a need to both distinguish it from more severe overcrowding and to acknowledge that such overcrowding is so common that it should not attract significant priority within the scheme. It is therefore proposed that those lacking one bedroom should be able to apply on the register but that they will be placed in Band C unless there is another factor, such as medical need, that would justify a higher placing in line with the scheme’s approach to reasonable preference.

11. Banding

- 11.1 As noted above, the Tenancy strategy proposed abolition of Band D but further consideration suggests that an “inactive” lower band may be a more appropriate approach. The full banding scheme is included in the draft scheme set out in Annex 1 to Appendix 1.

12. Household Composition

- 12.1 In terms of household composition and who can be included when considering an application, the revised scheme does not differ significantly from the current scheme but there is one area in which members are asked to confirm the proposal. This concerns the age at which children living with a household should cease to be considered dependent and therefore not considered in terms of the size of home that might be made available. Different age limits may be applied in different areas of social policy, for example when making an assessment of benefit entitlement or for tax purposes. The age limit in the current scheme is 18 but the revised scheme proposes to increase this to 21, unless there are particular circumstances that warrant a different approach; for example a young person with physical or learning disabilities who is cared for by family. However, the government has raised the prospect that Housing Benefit could be further restricted for under 25s in addition to the existing rules that govern the single room rate. If implemented, further changes could mean that under-25s will not be able to claim HB at all, severely limiting the options for young people who are not in employment. More generally, during consultation the rising average age at which children leave home and are able to secure independent housing was raised.
- 12.2 It is proposed that the age limit of 21 should be retained but subject to review if further HB changes are introduced.

13 Financial Implications

- 13.1 There are no immediate financial implications arising from this report.

14. Legal Implications

Allocation Scheme

- 14.1 The requirements regarding allocations schemes are set out in section 166A of the Housing Act 1996 (“the 1996 Act”), which has been inserted by section 147 of the Localism Act 2011.
- 14.2 Under section 166A(1) of the 1996 Act, every local housing authority (which includes Brent Council) shall have a scheme for determining priorities and as to the procedure to be followed in allocating housing accommodation. The allocations scheme must also include the authority’s statement on offering choice of accommodation or how people are offered the opportunity to express their choice.

- 14.3 Under section 166A(14) of the 1996 Act, a local housing authority shall not allocate housing accommodation except in accordance with their allocation scheme. In other words, if a Council pursues allocation policies that are outside its scheme, then it will be deemed to be unlawful.
- 14.4 Under section 166A(12) of the 1996 Act, a local housing authority must, in preparing or modifying their allocation scheme, have regard to: (a) its current homelessness strategy under section 1 of the Homelessness Act 2002, (b) its current tenancy strategy under section 150 of the Localism Act 2011, and (c) as Brent Council is a London Borough, the London housing strategy prepared by the Mayor of London.
- 14.5 Section 166A(13) of the 1996 Act states that before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, the Council must -
- (a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and
 - (b) afford those persons a reasonable opportunity to comment on the proposals.
- These consultation requirements have been carried out.
- 14.6 Section 166A(3) outlines priorities to which the scheme must give reasonable preference. These categories are outlined in detail within the scheme, but in summary they are;
- Homeless households
 - Homeless households in temporary accommodation
 - People living in overcrowded or unsatisfactory housing
 - People who need to move on medical or welfare grounds (including any ground relating to a disability)
 - People who need to move to a particular locality within the district where to not move them would cause hardship (to themselves or others).
- Additional preference may be given to any particular category where there is urgent housing need.
- 14.7 Subject to the content of section 166A(3) of the 1996 Act as set out in the previous paragraph, the allocations scheme may contain provision about the allocation of particular housing accommodation: (a) to a person who makes a specific application for that accommodation; (b) to persons of a particular description (whether or not they are within the categories set out in the previous paragraph). The Secretary of State has the power to make regulations to specify factors which a local housing authority in England must not take into account in allocating housing accommodation.
- 14.8 The allocations scheme must be framed so as to secure that an applicant for an allocation of housing accommodation has the right to request such general information as will enable him to assess— (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be

regarded as a member of a group of people who are to be given a reasonable preference); and (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him.

- 14.9 The allocations scheme must also be framed so that an applicant for a housing allocation has the right to request the Council to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him and he also has the right to request a review of such a decision and to be informed of the decision on the review and the grounds for it. There is also the right to request a review against a decision of the Council by an applicant on grounds of being ineligible for an allocation and of not being a qualifying person to be allowed to be given an allocation of housing under section 160ZA(9) of the 1996 Act.

14.10 Section 160ZA of the 1996 Act sets out which classes of persons that local authorities shall not allocate housing accommodation under their allocations scheme and these are mainly on grounds of immigration status.

- 14.11 The Department for Communities and Local Government has issued statutory guidance in June 2012 and is entitled: Allocation of accommodation: guidance for local housing authorities in England. The Council has given regard to this statutory guidance when drafting its allocations scheme.

Council's Tenancy Strategy

- 14.12 Under section 150(1) of the Localism Act 2011, a local housing authority (which includes Brent Council) must prepare and publish a tenancy strategy setting out matters to which the registered providers of social housing are to have regard in formulating policies relating to the following:
- (i) the kinds of tenancies they grant;
 - (ii) the circumstances in which they will grant a tenancy of a particular kind;
 - (iii) where they grant tenancies for a term certain and the lengths of the terms; and
 - (iv) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

- 14.13 The Council's Executive approved the Council's Tenancy Strategy at its meeting of 16 July 2012 and the finalised Tenancy Strategy was published in January 2013.

Equalities – Public Sector Equality Duty

- 14.14 The public sector equality duty, as set out in section 149 of the 2010 Act, requires the Council, when exercising its functions, to have "due regard" to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and

foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic.

- 14.15 The “protected characteristics” are: age, disability, race (including ethnic or national origins, colour or nationality), religion or belief, sex, sexual orientation, pregnancy and maternity, and gender reassignment. Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.
- 14.16 Having “due regard” to the need to “advance equality of opportunity” between those who share a protected characteristic and those who do not includes having due regard to the need to remove or minimise disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and to encourage those who have a protected characteristic to participate in public life. The steps involved in meeting the needs of disabled persons include steps to take account of the persons’ disabilities. Having due regard to “fostering good relations” involves having due regard to the need to tackle prejudice and promote understanding.
- 14.17 The Council’s duty under section 149 of the Equality Act 2010 is to have “due regard” to the matters set out in relation to equalities when considering and making decisions on the provision of localised council tax support for the area of Brent. Due regard to the need to eliminate discrimination, advance equality and foster good relations must form an integral part of the decision making process. When the decision comes before the Executive, Members of the Executive must consider the effect that implementing a particular policy will have in relation to equality before making a decision. An Equality Impact Assessment will assist with this and an equality impact assessment is attached to this report.
- 14.18 There is no prescribed manner in which the equality duty must be exercised, though producing an Equality Impact Assessment is the most usual method. The Council must have an adequate evidence base for its decision making. This can be achieved by means including engagement with the public and interest groups and by gathering detail and statistics from the Council’s Housing Register.
- 14.19 Where it is apparent from the analysis of the information that the policy would have an adverse effect on equality, then adjustments should be made to avoid that effect and this is known as “mitigation”.
- 14.20 The public sector equality duty is not to achieve the objectives or take the steps set out in section 149 of the Equality Act 2010. The duty on the Council is bring these important objectives relating to discrimination into consideration when carrying out its public functions. The phrase “due regard” means the regard that is appropriate in all the particular circumstances in which the Council is carrying out its functions. There must be a proper regard for the goals set out in section 149 of the 2010 Act. At the same time, when the Members of the Executive make their decision on the content of its allocations

scheme to adopt, they must also pay regard to countervailing factors which it is proper and reasonable for them to consider. Budgetary pressures and economic and practical factors will often be important. The amount of weight to be placed on the countervailing factors in the decision making process will be for Members of the Executive to decide when it makes its final decision.

15. Diversity and Equalities Implications

An impact assessment is attached at Appendix 2 and members are asked to consider the content thereof. Some issues raised in the assessment and consequent changes to the proposed scheme are set out in the body of this report.

16. Staffing and Accommodation Implications

16.1 There are no immediate staffing and accommodation implications arising from this report.

Background Papers:

Tenancy Strategy – January 2013

Brent Allocation Scheme - 2009

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BRENT COUNCIL

ALLOCATION SCHEME

April 2013

1. Purpose

1.1 This Scheme implements the policies set out in the Council's Tenancy Strategy and the wider Housing Strategy by establishing a framework that aims to:

- Meet housing need through provision of appropriate housing and give reasonable preference to the groups identified in legislation and guidance.
- Make best use of the existing social stock across all providers.
- Make best use of the private rented sector, intermediate and sub-market renting and shared ownership.
- Promote economic and social regeneration and social mobility, particularly through employment.
- Meet housing need through its approach to prioritisation and letting and the use of additional priority and qualification criteria.
- Be transparent, fair and easy to understand.
- Promote a consistent approach to the letting and management of social housing in the borough
- Manage resources effectively.

2. Legislative Context

2.1 This Allocation Scheme is governed by the following legislation and guidance, subject to the issue of any further guidance by the Secretary of State:

- Housing Act 1996 (as amended by the Homelessness Act 2002);
- Housing Act 2004, s223 Allocation of housing accommodation by local authorities
- Localism Act 2011 (Parts 6 and 7)
- The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006
- The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2012
- Homelessness Code of Guidance for Councils (July 2006)
- The Homelessness (Suitability of Accommodation) (England) Order 2012
- Allocation of accommodation: guidance for local housing authorities in England, 2012
- The Allocation of Housing (Qualification Criteria for Armed Forces Personnel) (England) Regulations 2012
- The Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012

2.2 Section 166A of the Housing Act 1996 provides that local housing authorities must have an allocation scheme for determining priorities and the procedure

to be followed in allocating housing accommodation. The scheme must be framed so as to give reasonable preference to any applicant who falls within the statutory reasonable preference categories in section 166A (3). Local housing authorities may frame their scheme so as to give additional preference to particular descriptions of people who fall within the reasonable preference categories and who have urgent housing needs.

2.3 While the Localism Act grants local authorities more flexibility over some aspects of allocations, the reasonable preference criteria still apply. This scheme therefore aims to ensure that reasonable preference is given to people with housing needs who fall into one or more of the following groups:

- Homeless people as defined by Part VII of the 1996 Housing Act, including people who are intentionally homeless and those who are not in priority need
- People who are owed a duty under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under s192(3)
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- People who need to move on medical or welfare grounds, including grounds relating to disability
- People who need to move to a particular locality in the housing authority area, where failure to meet that need would cause hardship (to themselves or others)

2.4 Further detail on the interpretation of these criteria is set out later in this document.

2.5 S.166A (3) of the 1996 Housing Act (as amended), requires that housing authorities should have regard to the following points in framing an allocations scheme:

- The scheme must be framed so as to give reasonable preference to applicants who fall within the categories set out in s.166A(3) – that is, those who should be given reasonable preference - over those who do not

- Although there is no requirement to give equal weight to each of the reasonable preference categories, housing authorities will need to demonstrate that, overall, reasonable preference has been given to all the reasonable preference categories
- There is no requirement for housing authorities to frame their scheme to afford greater priority to applicants who fall within more than one reasonable preference category (cumulative preference) over those who have reasonable preference on a single non-urgent basis

2.6 This scheme aims to comply with these requirements and does not seek to give any additional priority to households falling into more than one of the reasonable preference categories.

3. Qualification

3.1 Subject to the requirement to give reasonable preference to the groups identified above, i.e. those with a housing need, and other exceptions noted below, the council will not operate an “open” waiting list. In addition to having a housing need, applicants must be resident in the borough and will normally need to establish a local connection through residence for three of the last five years and six of the last twelve months before being able to apply on the Register. Alternatively, a local connection may be established through working in the borough as set out in section 5 below.

3.2 Broadly, the following groups are able to join the Housing register:

- People over sixteen years of age who are resident in the borough
- People in hospital or prison whose last address was in the borough
- Members and former members of the armed services
- People who the council considers should be qualifying persons because of exceptional circumstances or special needs, on a case- by-case basis
- People referred by another local authority under homelessness rules where the council has a duty to assist
- Any other people who are entitled to qualify by law

3.3 The Allocation of Housing (Qualification Criteria for Armed Forces Personnel) (England) Regulations 2012 provide that local connection criteria must not be applied to a person who:

- is serving in the regular forces or who has served in the regular forces within five years of the date of their application for an allocation of housing under Part 6 of the 1996 Act;

- has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where—
 - (i) the spouse or civil partner has served in the regular forces; and
 - (ii) their death was attributable (wholly or partly) to that service; or
- is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service.

3.4 The Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012 amend section 166A(3) so that local housing authorities in England must frame their allocation scheme to give additional preference to persons who fall within the reasonable preference categories, have urgent housing needs and who meet one or more of the following criteria:

- the person is serving in the regular forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service;
- the person formerly served in the regular forces;
- the person has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service;
- or the person is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service.

3.5 The Allocations Guidance states: *When deciding what classes of people do not qualify for an allocation, authorities should consider the implications of excluding all members of such groups. For instance, when framing residency criteria, authorities may wish to consider the position of people who are moving into the district to take up work or to escape violence, or homeless applicants or children in care who are placed out of borough.*

3.6 It is important to note that the need to establish a local connection will not affect the ability of applicants or existing tenants to make use of mobility schemes. Similarly, it will not prevent households who would otherwise not have a local connection from securing housing in Brent where there are particular circumstances that warrant it: for example, households moving from

another area under the Multi-Agency Witness Mobility Scheme. Such cases will be considered by the Allocations Panel (see below).

- 3.7 Legislation means that some people are unable to qualify and the scheme must comply with this.
- 3.8 Persons subject to immigration control cannot qualify. In order to qualify, a person must fall into one of the following groups of people who do not require leave to enter or remain in the UK:
- I. British citizens
 - II. certain Commonwealth citizens with a right of abode in the UK
 - III. Irish citizens, who are not subject to immigration control in the UK because the Republic of Ireland forms part of the Common Travel Area with the UK which allows free movement
 - IV. EEA nationals, and their family members, who have a right to reside in the UK that derives from EU law. Whether an EEA national (or family member) has a particular right to reside in the UK (or another Member State) will depend on the circumstances, particularly their economic status (e.g. whether he or she is a worker, self-employed, a student, or economically inactive)
 - V. persons who are exempt from immigration control under the Immigration Acts, including diplomats and their family members based in the UK, and some military personnel.
- 3.9 Applicants should not be given reasonable preference under paragraph (a) or (b) of s.166A(3) of the 1996 Act if they would only qualify for reasonable preference by taking into account a 'restricted person' within the meaning of Part 7 (s.166A(4)). A restricted person is a person subject to immigration control who is not eligible for homelessness assistance because he or she does not have leave to enter or remain in the UK or has leave which is subject to a 'no recourse to public funds' condition (s.184(7) of the 1996 Act).
- 3.10 Full details of restrictions applying as a result of immigration status are set out in the guidance, with which this scheme is intended to comply.
- 3.11 The council also has to consider who would be considered to be part of the household of any applicant. In general, the scheme will take account of the Housing Benefit regulations on non-dependents and the homelessness legislation and guidance on who should normally be expected to reside with an applicant.
- 3.12 For the purposes of allocation of accommodation the Council will only consider the following as a household:
- A single person without dependents
 - A married couple

- An unmarried couple, who can prove that they have been resident together for at least 12 months at time of application and at time of offer.
- A lone parent and their dependent children
- A married or unmarried couple with dependent children
- A civil partnership with or without dependent children

A household's needs will be considered collectively when an application is assessed and when an allocation of accommodation is made.

3.13 The scheme distinguishes between Housing Register applicants and tenants as follows:

- Housing Register Applicants: persons who were part of the household at the date of registration, and are still in occupation. This also applies to customers who have been awarded a S193 duty under the Housing Act 1996 as amended under the Homelessness Act 2002
- Tenants: persons who were part of the household at the start of the tenancy, and are still in occupation.

3.14 The following would not usually be considered to be part of a household when considering qualification and priority for housing:

- Anyone subject to immigration control
- non-dependent adult children over the age of 21
- other adult relatives
- non-relatives and lodgers
- Extended family members such as cousins, nephews, aunts and uncles

Note that it is not mandatory to exclude a person subject to immigration control from a household, although a household cannot be regarded as having reasonable preference solely on the basis of the needs of a person subject to immigration control as noted above. This scheme will include such persons as part of a household other than where legislation or regulation prevents it.

3.15 For the purposes of allocation of accommodation the Council will consider the following:

- A child born since the registration date and children (under 21) within the household where it can be proved that the applicant is the sole legal guardian and that there is no other option for rehousing.
- If at the time of application the young person fell within the definition of child, in line with this scheme, then the council will consider them for allocation of accommodation as long as they continue to remain resident with the applicant.

- A child is not a member of a household while s/he is in local authority care and living away from home. If a child returns to the family under supervision, they are again part of the household.
- It may sometimes be unclear where a child normally lives (for example, children of separated parents). The council will consider such cases on a case-by-case basis but normally if a child spends equal amounts of time with both parents the council will consider the child to be resident with the parent who is in receipt of Child Benefit. If no one is in receipt of Child Benefit for the child, and it is not clear who has primary responsibility for them, it will be for the council to decide who is responsible.

3.16 This scheme excludes the following:

- A young person aged 21 or over and therefore not treated as a child would not normally be considered as part of a household and will usually be disregarded when considering applications for rehousing.
- If there are children aged 21 or over who are living at home, advice will be provided on housing options but they will not count towards any calculation of overcrowding. They will be able to apply for housing in their own right but may be disqualified if they do not fall within any of the priority groups defined in this scheme.
- Given the severe shortage of housing and in particular of larger homes, the council will consider whether people living in a household could move into smaller homes of their own, thereby creating a separate household. If a household member has already made a separate housing application they will not be included in any new or subsequent applications.

3.17 Legally adopted children are considered as part of a household in the usual way. Applications where a child is temporarily residing with a household under a fostering arrangement will be considered on a case-by-case basis, in liaison with the appropriate agencies.

3.18 This scheme recognises the role of carers as follows:

- Where a dependent relative has joined the household because they are unable to live on their own and there are no other available options for the family. For example, where the dependent relative has their own accommodation and where the adjoining household could reside at the address in a satisfactory way.
- The council will take advice from the District Medical Officer as to whether the relative needs to live with the family. Where this is not considered essential, other options, such as sheltered housing, will be discussed with the family before a decision is made by the appropriate senior officer. Normally, only adults in receipt of Disability Living Allowance, which includes the higher rate care component, or those receiving Attendance Allowance at the higher rate will be included (to be replaced by Personal Independence Payment as appropriate). The dependent relative must be eligible for an offer in order to be considered.

- Where an applicant can demonstrate that a live-in carer is required, has been identified and has moved in with the applicant or is ready to do so when accommodation is made available, and where the District Medical Officer agrees that a carer is essential.
- Where a carer, if agreed by the Allocations Panel, is required on social grounds.

3.19 The following groups will also not normally qualify:

- Anyone guilty of serious anti-social behaviour where a possession order is being sought or has been obtained
- Anyone who has assaulted a member of staff where an injunction has been sought or obtained
- Anyone who knowingly gives false or misleading information or withholds information that has been reasonably requested.
- Applicants with an income above the limits set out at 8.1 below

3.20 This scheme will take the following approach to households with rent arrears:

3.21 Transfers

- Tenants can apply for a transfer regardless of the length of their tenancy or the state of their rent account. Their applications are then processed normally. If they qualify for a transfer their rent account may be taken into account when an offer is made.
- Tenants with rent arrears of six weeks or more will be suspended from receiving the offer of accommodation. Consideration will be given to varying this rule in some circumstances including;
 - Tenants with urgent management or medical priority in band B or A may be transferred at the discretion of the Rehousing Manager.
 - Offers of accommodation may be made despite rent arrears to tenants who need to move because of statutory overcrowding or because of an overriding priority awarded by the Allocations Panel or where a permanent decant is essential
 - Tenants moving under the Incentive Scheme subject to the above guidelines may be made an offer with the incentive payment being set off against the arrears.

3.22 Households in temporary accommodation

- Homeless households in temporary accommodation may be advised that, if they fall into rent arrears, their housing register application may be suspended. Applications may be suspended when an applicant either
 - a) refuses to pay the rent

- b) fails to make a commitment to repay arrears or
 - c) fails to provide supporting information for a Housing Benefit claim.
 - d) accrues an excessive level of arrears
 - e) is in arrears such that the landlord is taking action to end the tenancy
- If an applicant falls into arrears, their application may be suspended. The application will remain suspended until the arrears are cleared or an agreement has been reached to clear the arrears and this agreement has been kept to for an agreed period. Depending on the amount of the arrears and the nature of the agreement, discretion may be exercised to review cases and lift suspensions. Exceptions may be agreed to this policy, in particular for those cases in bands A or B.

3.23 Applicants in the private sector

- Where an applicant is in the private sector, arrears will not be taken into account. However, where they have lost their previous accommodation through non-payment of rent or were previously council or housing association tenants and have been found to be intentionally homeless, they will be treated as ineligible for offers. An application for review of a decision on this point can be made on the anniversary of the decision.

3.24 The scheme recognises that recent and proposed reforms to the welfare system increase the risk that some households may not be able to cover their full rent and that, in such cases, a move may assist in tackling rent arrears. The impact of welfare reform will therefore be taken into account when considering individual cases.

3.25 Although homeowners are entitled to register, provided they meet the other conditions set out above, they will not normally be given any priority. The council would expect such households to use capital assets from a sale to resolve housing problems if necessary. Any exceptional circumstances will be considered by the Allocations Panel.

4. Transfer Applicants

4.1 In accordance with legislation and guidance, existing tenants applying for a transfer are not covered by this scheme unless:

- the allocation involves a transfer made at the tenant's request, and
- the council is satisfied that the tenant has reasonable preference.

4.2 A tenant can apply for a transfer on the basis of housing need – for example that the household is overcrowded – and the application will be treated in the same way as any other and assessed on the basis of reasonable preference.

However, the council is also able to set its own transfer policies in relation to tenants who have asked for a transfer but do not meet the reasonable preference criteria.

4.3 Although outside the remit of this scheme, the council's transfer policy will seek to give priority to existing tenants where a move would support the council's regeneration priorities and effective use of the housing stock. In particular, this will include moves that would:

- Reduce under-occupation
- Mitigate the impact of changes to Housing Benefit
- Promote mobility for employment purposes
- Tackle overcrowding

4.4 Other transfers outside the scope of this scheme include:

- Those initiated by the local authority for housing management purposes, for example to facilitate repairs and improvements or regeneration schemes
- Mutual exchanges between existing tenants, including exchanges between secure and assured tenants and those with flexible tenancies (under s.107A of the Housing Act 1985)

5. Priority

5.1 This scheme will award priority based on housing need in line with the reasonable preference criteria but will also grant additional priority in certain circumstances.

5.2 The scheme will give additional priority to households in employment on the following basis:

- The applicant must be in employment at the time of application and must have been in employment for at least 9 out of the previous 12 months.
- Self employment will also be given additional priority, subject to mechanisms to verify employment status.

5.3 Within the overall banding scheme, applicants are prioritised in date order. Additional priority for employment will be reflected by the award of an additional five years notional waiting time, effectively backdating the application by that period and moving applicants further ahead within the appropriate band, which will be awarded according to need as noted above and set out in the banding scheme.

5.4 In addition, a quota of lettings will be established outside the scheme to meet the needs of young people in employment or undertaking apprenticeships who would otherwise not have priority under the reasonable preference criteria.

6. Assessment of Applications

- 6.1 In this scheme, applications will be assessed and placed into one of four bands. Priority within each band will depend on the date of qualification for that band and employment status as noted above. Applicants who have no identifiable housing need will be inactive.
- 6.2 The proposed banding structure is set out in Annex 1.

7. Choice

- 7.1 The Allocation Scheme aims to maintain choice while balancing it against the very high demand for social housing and ensuring that unnecessary delay is avoided and that impact on other households bidding for homes is minimised.
- 7.2 Where a household does not take up the offer of a tenancy following three successful bids, their priority will be suspended for one year, after which they will be able to make further bids on the same conditions.
- 7.3 Households will be expected to bid within a reasonable period, depending on the urgency of their need as reflected in the band they are placed in. The proposed time limits are:
- Band A: within 6 months
 - Bands B-C: within 12 months
 - Band I: Since it will be very unusual for Band I applicants to be able to bid, no time limit will apply.
- 7.4 If a household does not bid within the required period, the application will be reviewed and may be suspended. Alternatively, a direct offer will be made where appropriate.
- 7.5 The council expects to make an increased proportion of lettings directly, outside the Locata system, particularly where this would support regeneration priorities and best use of stock and helps manage the council's resources.

8. Income / Asset Threshold

- 8.1 The council's strategic approach to housing aims to make the most effective use of all tenures in the borough. To this end, income thresholds will apply to ensure that households who could afford alternative options - private renting, or shared ownership for example - are directed towards those alternatives. The thresholds have been set at a level where a household could reasonably expect to access shared ownership, taking account of the Mayor's First Steps

scheme, and will be adjusted regularly in line with incomes, rents and house prices. The income thresholds are:

- 1bed - £35,000 a year
- 2bed - £45,000 a year
- 3 bed - £ 55, 000 a year
- 4 bed - £70,000 a year

9. Exceptions, Reviews and the Allocations Panel

- 9.1 While this document sets out the overall basis on which applications for housing will be considered, the council recognises that there may be exceptional circumstances in which an allocation needs to be made outside of the normal process. As each situation is likely to be different and will need to be assessed on its merits, the council does not propose to list the circumstances that might be considered in detail in this document beyond the definitions covering the reasonable preference categories set out below. Any exceptions to the policies set out above will be considered by the Allocations Panel.
- 9.2 Section 166A(9) of the Act includes a new requirement for an allocation scheme to give applicants a right to review a decision on qualification in s.160AZ(9), and to be informed of the decision on the review and the grounds for it. This is in addition to the existing right to review a decision on eligibility
- 9.3 By virtue of s.160ZA (9) and (10) housing authorities must notify an applicant in writing of any decision that he or she:
- is ineligible for an allocation of accommodation under s.160ZA (2) or (4), or
 - is not a qualifying person under s.160ZA (7).
- 9.4 The notification must give clear grounds for the decision based on the relevant facts of the case. Section 160ZA(10) provides that, where a notification is not received by an applicant, it can be treated as having been given to him or her, if it is made available at the housing authority's office for a reasonable period. Where an authority considers that an applicant may have difficulty in understanding the implications of a decision on ineligibility or disqualification, it would be good practice to make arrangements for the information to be explained verbally in addition to providing a written notice.
- 9.5 Applicants also have the right, on request, to be informed of any decision about the facts of their case which has been, or is likely to be, taken into account in considering whether to make an allocation to them (s.166A(9)(b)).

9.6 This scheme aims to follow the guidance outlined above. The following process will be adopted for reviews:

- Applicants must request a review within 21 days from the date that they are notified of the decision unless exceptional circumstances apply, in which case the Allocations Panel will consider extending the deadline.
- Requests for a review should be made in writing and submitted by the applicant or someone appointed by them to act on their behalf.
- Requests should indicate the reasons why a request for a review is being submitted and any points that the authority is requested to take into account and the details of any representative they have appointed. Where an applicant is unable to provide a written submission, verbal representations will also be accepted.
- Reviews will be carried out by the Allocations Panel. Where the original decision was made by an officer who is normally a member of the panel, that officer will not take part in the review.
- The review will take account of the allocation scheme, the relevant legislation and guidance, any information provided by the applicant or his/her representative and any other relevant circumstances.
- Reviews will be completed within eight weeks of the application.
- If for any reason it is not possible to reach a decision within that time, the applicant will be notified of any revised timescale and the reasons for it.
- Applicants will be notified in writing of the outcome of the review and the reasons for the decision.

9.7 The Allocations Panel will be chaired by the Assistant Director of Housing or, in his absence, by a senior officer nominated by him, and made up of officers from the Housing Needs division. Where appropriate, for example in cases where there is involvement from Social Services, other staff will join the panel to offer specialist advice.

9.8 The terms of reference for the Panel will be as follows:

- To consider and determine applications where it is considered that making an exception to normal policy and practice should be considered.

- To consider and determine management transfer applications and council tenants who are statutorily overcrowded.
- To consider and determine rehousing requests for individual cases which are not covered by the allocations demand groups.
- To consider urgent decant requests.
- To determine if an applicant should be in Band A including consideration of cumulative need
- Any other matters within the scope of this scheme

10. Local lettings policies

- 10.1 Section 166A(6)(b) of the 1996 Act enables housing authorities to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories, provided that overall the authority is able to demonstrate compliance with the requirements of s.166A(3). This is the statutory basis for so-called 'local lettings policies' which may be used to achieve a wide variety of housing management and policy objectives.
- 10.2 Some circumstances in which a local lettings approach will be employed – for example for younger people in apprenticeships or employment – have been addressed earlier. In addition, there are some properties where conditions will apply and these are listed in Annex 4. The council will keep this list under review and consider any additions or deletions within the overall context of this allocation scheme. In addition, the council will consider requests by partner organisations to implement lettings plans for particular new developments on a case-by-case basis.

ANNEX 1– DEMAND GROUPS

Demand Group	Band	Qualification Criteria
<p>Band A: Urgent need to move due to reasonable preference (S.167(2)(d) plus additional priority and a local connection</p>		
<p>Decants</p>	<p>A</p>	<p>Brent Council tenants where the property is imminently required (within 9 months) because of lease expiry or for essential work (e.g. Redevelopment scheme) as agreed by the Assistant Director of Housing.</p> <p>Brent Council tenants who need to be moved to allow major repairs or full scale rehabilitation/conversion work to be carried out.</p>
<p>Emergency Medical</p>	<p>A</p>	<p>Emergency banding granted only in exceptional circumstances as recommended by the Medical Officer, when the applicant/tenant or member of their household has a life threatening condition, which is seriously affected by their current housing.</p>
<p>Management Transfer</p>	<p>A</p>	<p>Agreed in exceptional circumstances by the Allocations Panel due to significant and insurmountable problems associated with a Brent tenant’s occupation of a dwelling and there is imminent risk to the tenant or their family if they remain in the dwelling.</p>
<p>Exceptional Social Grounds</p>	<p>A</p>	<p>Agreed in exceptional circumstances by the Allocations Panel due to significant and insurmountable problems</p>

		<p>associated with the applicant's occupation of a dwelling and other avenues to housing have been exhausted.</p> <p>This will include Homeless households who are owed a homeless duty by Brent under Housing Act 1996 Part VII section 193(2).</p>
Statutory Duty	A	<p>Private sector tenants where the Council's Private Housing Services has determined that the property poses a Category 1 Hazard and a Closing Order has been issued. Furthermore the Allocations Panel is satisfied that there is no alternative solution and that the problem cannot be resolved by the landlord within 9 months.</p>
Social Services (Children in need)	A	<p>To enable fostering or adoption by Brent residents where agreement has been reached to provide permanent accommodation on the recommendation of the Director of Brent's Children Services and agreed by the Assistant Director of Housing.</p>
Release Adapted Property	A	<p>Where a Brent Council or RP tenant is willing to transfer to a suitable non-adapted property and is releasing an adapted property and where the vacant property is given to Brent Council under a reciprocal agreement..</p>
Under occupation Incentive Scheme	A	<p>Where a Brent Council tenant is willing to move to an alternative property and is giving up one or more bedrooms.</p> <p>Where a RP tenant is resident in Brent under an assured tenancy and is willing to move to smaller accommodation and where the vacant property is given to Brent Council under a reciprocal agreement.</p>
Succession to	A	<p>Where succession has occurred and the succeeding</p>

tenancy		tenant is willing to move to alternative smaller accommodation in line with succession policy as agreed by the Allocations Panel.
Housing Register	A	Urgent need to move agreed by housing in liaison with social services/police/other welfare agency, to give or receive care or support for child protection reasons or other urgent social/welfare reasons as assessed and agreed by the Allocations Panel
Former Service Tenants	A	Council employees who have been a service tenant for at least five years prior to August 1 st 1990 and need to be moved from accommodation which goes in accordance with the job but who retire due to old age or medical reasons, or who are made redundant as part of a Council decision.
Band B: A need to move (residential qualification will apply)		
Urgent Medical	B	<p>An urgent medical need as recommended by the Medical Officer where the current housing of an applicant or a member of the applicant's household is having a major adverse effect on their medical condition.</p> <p>It will not apply where the effect of housing conditions on health is comparatively moderate, slight or variable.</p>
Management Transfer	B	Agreed in certain circumstances by the Allocations Panel due to fear of violence or reasonable fear of violence, and/or due to exceptional social, educational or economical circumstances associated with a Brent tenant's occupation of a dwelling and there is a serious risk to the tenant or their family if they remain in the

		dwelling.
Statutory Overcrowding	B	Where Brent Council tenants have been assessed as being statutorily overcrowded in accordance with Part X of the Housing Act 1985
Severe Overcrowding	B	Where an applicant is lacking 2 or more bedrooms
Stonebridge Regeneration	B	Tenants of the Stonebridge Regeneration Scheme nominated to the Council through the nominations agreement.
Sheltered Housing	B	Those who require sheltered housing or designated older person accommodation
Armed Forces	B	Ex-member of Armed Forces in accordance with regulations
Quota	B	As agreed under the Quota policy for the following services (employment exceptions may apply): Children Leaving Care - Young people referred by Brent Social Services who are unable to make alternative arrangements. Probation Service - Applicants nominated to Brent

		<p>Council by the Probation Service to avoid the risk of reoffending and where housing is a particular issue as judged by the Probation Service in Brent.</p> <p>Children Services - Existing tenants and non-tenants referred by Brent Social Services where accommodation is needed on grounds of children's welfare e.g. child protection cases.</p> <p>Adult Social Care - To release supported housing and approved for independent living by Brent Social Services and The Housing Department.</p> <p>Young People in employment or apprenticeships</p>
<p>Band C: Reduced Priority: Need to Move - Reasonable Preference but with reduced priority</p>		
Homeless	C	<p>Homeless households who are owed a homeless duty by Brent who are occupying long term temporary accommodation provided under Housing Act 1996 Part VII section 193(2).</p> <p>Other homeless households where the above duty applies but the customer is not in temporary accommodation.</p>
Overcrowding	C	<p>Where a Brent tenant/resident is lacking 1 bedroom in line with Brent's Allocations Policy.</p>

Poor conditions	C	Where a Brent resident is living in poor accommodation and this has been assessed and accepted by the Private Housing Services.
Band I - Inactive		
All other households	I	

ANNEX 2 - ALLOCATIONS DWELLING SIZE CRITERIA

In assessing the number of bedrooms required by a household, the following criteria apply:

- One double bedroom for a cohabiting couple
- One double bedroom for two additional persons/children of the same sex and generation.
- One double bedroom for two children of the opposite sex, where both children are under 10 years.
- One double bedroom for two children of the same sex unless one is over 10 years of age and there is an age gap of more than 5 years.
- One double bedroom for two dependents of the same sex over 18 years of age.
- One single bedroom for each person who the Council's Medical Officer considers should have their own bedroom on health grounds.
- One single bedroom for any other person included as part of the household.
- Single people will normally be considered for bedsit accommodation.
- A couple or single parent with a child under two years of age can be offered a one bedroom property.
- Where a child is expected and will affect the assessment of the number of bedrooms needed, an extra bedroom will only be allocated when the child is born. (Birth Certificate needed).

Under the Locata scheme applicants will have more choice regarding the size of accommodation that they wish to be offered. Properties will be advertised with a maximum size of household which will allow applicants to overcrowd themselves according to the Council's standard.

Double bedrooms are defined as being 110 square feet or more in area. Single bedrooms must be at least 50 square feet. Rooms smaller than this do not count as a bedroom.

In July 1998 the Housing Committee reintroduced the policy of offering a one bedroom property to couples or single people who are expecting a child or who have a child under two years of age at the time of the offer. This policy applies to all cases on the Housing Register Points Scheme (not to tenants). It applies to cases approved before and after the decision was taken.

ANNEX 3 - CRITERIA FOR REASONABLE OFFERS

A reasonable offer is one where the dwelling concerned is appropriate in terms of its size, floor level, special needs features, condition and location. The criteria used to assess appropriate size are set out in Annex 2. This Annex deals with the other four aspects.

1. Floor Level - for most applicants' floor level is not a factor in determining reasonableness.

2. Specific Needs - for offers to applicants with specific needs to be reasonable the rules set out below have to be complied with:

(a) The dwelling should have no physical characteristics which make it unsuitable for any member(s) of the applicant's household. Judgement of unsuitability is based on Occupational Therapist advice in the case of physical disability, on Medical Assessor advice in the case of medical factors and other specialist advice as appropriate.

(b) Accommodation adapted for people with disabilities should only be offered to appropriate applicants. Dwellings can be adapted to suit the particular needs of individual households.

(c) On the basis of Medical Assessor advice, certain types of dwellings can be regarded as unsuitable for particular applicants.

(d) For visually impaired people with guide dogs an exception is made to the tenancy condition which prohibits dogs in flats or maisonettes. This means that an offer of these dwelling types is reasonable. Restrictions in the Conditions of Tenancy on the keeping of pets are not acceptable as grounds for claims that offers are unreasonable.

3. Condition - The condition of an offered dwelling is considered to be reasonable if it either:

(a) matches the ready to let criteria specified in the voids procedure; or

(b) fails to match the ready to let criteria but the work necessary to achieve compliance has been specified and details of this are available to the applicant.

Where internal decoration is required, this would only be included in the works specification where applicants, due to age or disability, could not decorate for themselves or where the decorative condition is particularly bad. In all other cases the availability of vouchers under the 'Get You in Service' is considered to be sufficient to make an offer reasonable in terms of its internal decoration.

ANNEX 4 - DWELLINGS WITH ALLOCATIONS RESTRICTIONS

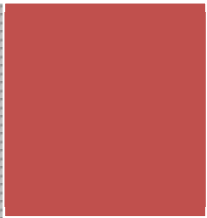
Over 50's Blocks - At Elms Gardens, Macmillan House, Midlothian House Bellamy House and John Perrin Place dwellings are only let to people who are 50 or older.

Sheltered accommodation and bungalows - let to those aged 60 years or older, although there is discretion to allocate flats to slightly younger applicants if necessary.

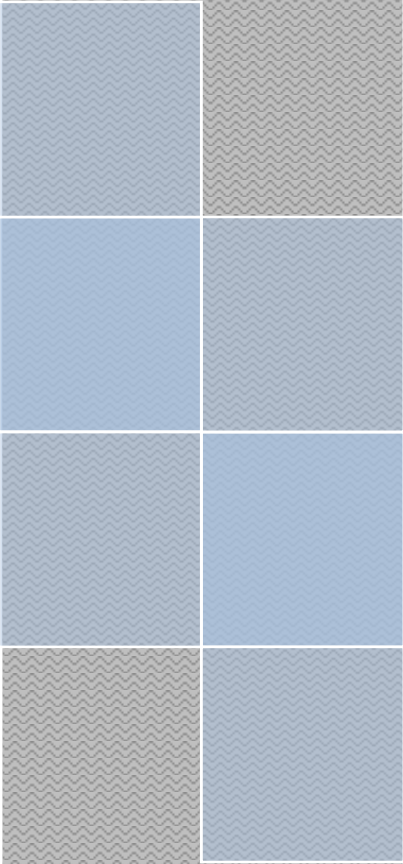
Lodge Court, Manor Court, Wembley Central - no children under 16 years old allowed. This restrictive covenant was included when the leasehold title was drawn up and overrides normal council policy.

Crispian Close, Neasden - no children under 16 years old allowed above the ground floor. A maximum of 10 children under 16 years are allowed in the ground floor properties. These restrictions were imposed at the planning stage because of the high level of traffic and the close proximity of the road which could be a danger to children.

Private Finance Initiative Properties The Executive agreed on 8th October 2007 to amend the Allocations Scheme to allow for the introduction of a temporary to permanent scheme within the Borough. The advantage of such a scheme is that it avoids some of the uncertainty that can occur for homeless households by having to move on a regular basis. The scheme allows for homeless households to remain in their temporary accommodation and for it to be converted into a permanent assured tenancy with a registered social landlord. Such lettings are therefore not advertised through Locata. All lettings will be made in accordance with the eligibility criteria which will ensure that the appropriate size and type of property will be offered to households where there is a full and continuing duty to house. `



Equality Analysis



Brent Council Equality Analysis Form

Please contact the Corporate Diversity team before completing this form. The form is to be used for both predictive Equality Analysis and any reviews of existing policies and practices that may be carried out.

Once you have completed this form, please forward to the Corporate Diversity Team for auditing. Make sure you allow sufficient time for this.

1. Roles and Responsibilities: please refer to stage 1 of the guidance	
Directorate: Regeneration and Major Projects Service Area: Housing	Person Responsible: Name: Tony Hirsch Title: Head of Policy and Performance Contact No: 020 8937 2336  Signed:
Name of policy: Brent Allocations Scheme	Date analysis started: March 2013 Completion date 5 th April 2013 Review date: April 2014
Is the policy: New <input checked="" type="checkbox"/> Old <input type="checkbox"/> Revision of existing policy with new policies added	Auditing Details: Name: Elizabeth Bryan Title: Principal Diversity Officer Date Contact No:0208 937 1190 Signed:
Signing Off Manager: responsible for review and monitoring Name: Perry Singh Title: Assistant Director of Housing Date Contact No:x 2332 Signed:	Decision Maker: Name: Executive Committee: Date: 22 nd April 2013

2. Brief description of the policy. Describe the aim and purpose of the policy, what needs or duties is it designed to meet? How does it differ from any existing policy or practice in this area?

This Equalities Analysis examines the impact of proposed changes to Brent's Allocation Scheme brought about by the introduction of the Localism Act 2011 and the adoption of the Tenancy Strategy.

Brent's Allocation Policy

Brent, along with every local housing authority in England, must have in place a scheme for allocating homes. The policy must be fair, logical and transparent and be a mechanism for managing access to the housing waiting list and determining which households will be prioritised. Brent must allocate housing in accordance with this scheme.

The Localism Act 2011

In November 2010 the government published *Local Decisions: a fairer future for social housing* which outlined significant reforms in key areas of housing policy. The reforms included proposals which gave local authorities more flexibility when managing waiting lists and allocation. Specifically

- Local authorities are given the power to decide who qualifies to go on the waiting list subject to reasonable preference categories¹. Previously, councils were required to keep open waiting lists, which in effect meant any household could apply for housing whether or not they were in need or resident in Brent.
- Local authorities will be able to establish separate policies and a waiting list for council and registered provider tenants who **wish** to move but do not fall into one of the reasonable preference categories. In effect these households do not need to compete for housing via the main waiting list unless they fall into a reasonable preference category. Where this is the case, e.g. severe overcrowding, they will be placed on the main waiting list and receive the appropriate level of priority.

Brent context

In July 2012 Executive approved the Tenancy Strategy which set out our response to the housing reforms enacted through the Localism Act, regulation and guidance. The strategy considered reforms to affordable rents, tenure and discharge of homelessness duty into the private sector and sets the context for Brent's approach to the waiting list and allocations.

The aim of Brent's Allocation Scheme is to:

- Meet housing need through provision of appropriate housing and give reasonable preference to the groups identified in legislation and guidance.
- Make best use of the existing social stock across all providers
- Make best use of the private rented sector, intermediate and sub-market renting and shared ownership.
- Promote economic and social regeneration and social mobility, particularly through employment
- Meet housing need through its approach to prioritisation and letting and the use of additional priority and qualification criteria
- Be transparent, fair and easy to understand

¹ Reasonable preference still applies with regard to the housing waiting list and allocations. Households that are considered to have a reasonable preference include homeless households, those who are overcrowded in insanitary conditions or need to move on welfare grounds where failure to do so would cause hardship

- Promote a consistent approach to the letting and management of social housing in the borough.

These aims provide a framework within which the following key changes are proposed to Brent's Allocation scheme.

Waiting List

- The council will no longer operate an open waiting list. Instead access will be restricted to those who have either a reasonable preference (as noted above) or some housing need
- Previously, any household could apply to join Brent's housing waiting list whether or not they had a local connection with the borough. The proposed policy requires that households now need to have a local connection through living / working in Brent for three out of the last five years and six out of the last twelve months before being able to apply. It is worth noting that the government has proposed that a 2-5 year residence test may be applied nationally. Any change in regulations will need to be taken into account in the scheme once it is introduced, if it affects the local approach.
- Band D of the current Locata choice-based lettings scheme, which predominantly includes households with little or no housing need, will be abolished and replaced with Band I (Inactive)
- A clear definition of who should be considered to be part of a household has been developed and therefore with regard to allocations policy the council will only consider the following as a household
 - A single person without dependents
 - A married couple / A civil partnership
 - An unmarried couple who can prove that they have been resident together for at least 12 months at the time of application and at time of offer
 - A lone parent and their dependent children
 - A civil partnership with or without dependent children
 - A married or unmarried couple with dependent children

Conversely the proposed scheme excludes

- Anyone subject to immigration control (as required by regulation)
- Non-dependent adult children over the age of 21 (NB the current scheme excludes non dependent children over the age of 18)
- Other adult relatives
- Non-relatives and lodgers
- Extended family members such as cousins, nephews, aunts and uncles.

Priority

The council has chosen to exercise the additional freedoms granted by the Localism Act by awarding additional priority to households in employment, some disabled people and setting aside

a quota of properties for young people in employment or undertaking apprenticeships. Households who are in employment must be in employment at the time of application and must have been in employment (including self-employment) for at least 9 out of the previous 12 months. If in temporary employment, the applicant or a member of the household should have been in that employment for a period of 2 years.

Once the household has met this criterion they will be granted promotion in terms of a notional waiting time within the appropriate band, with an additional five years awarded.

It should be noted that reasonable preference i.e. awarding priority based on need still applies

Revision of the banding scheme and recognition of employment status

Locata is the scheme which households use to identify and bid for available properties that suit their needs. Locata operates not only in Brent but throughout the west London area. The bands are ranked from A to C with A representing the highest need and C the lowest. There will be a further band – Band I (inactive) for cases with no need . Priority will be based on need, employment status and, within each band, the date of qualification.

Choice

Choice is an integral part of the allocation scheme and we wish to retain this .The mechanism used to bid for a property is Locata and households can currently bid for as many properties as they wish, subject to limited qualifications. There is no time limit within which they are required to make these bids. Furthermore, there are no sanctions when an applicant makes a successful bid then chooses not to accept the property. The revised proposals require that:-

- a) A maximum of three successful bids for a home via Locata will be the norm. Where an applicant fails to accept a home after 3 successful bids, sanctions, including a one year suspension of the application, will be applied.

- b) Households that fall into the following bands must, where an appropriately sized property is available, bid within the following time limits:
 - a. Band 1 within 6 months
 - b. Band 2 -4 within 12 months

Failure to bid within these limits will also lead to a suspension of the application.

Income/ Asset threshold

The current allocation scheme acknowledges that households with a 'high income' can find alternative housing options in other sectors such as shared ownership or the private rented sector but 'high income' is not defined. The revised allocation scheme aims to set clear income / asset limits. The limits take into account affordability criteria as set out within the Mayor's First Steps shared ownership scheme.

The income limits for households requiring:-

- 1 bed - £35,000
- 2 bed - £45,000
- 3 bed - £55,000
- 4 bed - £70,000.

An asset limit of 16K has also been set, in line with that set by Housing Benefit regulations.

3. Describe how the policy will impact on all of the protected groups:

See appendix 1

Please give details of the evidence you have used:

See appendix 1

4. Describe how the policy will impact on the Council's duty to have due regard to the need to:

(a) Eliminate discrimination (including indirect discrimination), harassment and victimisation;

The proposed scheme is needs based and aims to eliminate discrimination by ensuring that housing is allocated on the basis of clear criteria. It also aims to widen the scope of allocation to households outside of the reasonable preference categories by, for example, setting aside a quota of properties for young people in employment or apprenticeships, thus enabling a wider range of households to gain access to social housing.

(b) Advance equality of opportunity;

The proposed allocation scheme advances equality of opportunity by virtue of the fact that it is a fair and transparent means of allocating homes, recognising that some households require housing more urgently than others as their needs are greater. Furthermore, the scheme widens access - e.g. to young people - thus advancing equality of opportunity

(c) Foster good relations

The new scheme widens the distribution of properties available to a wider range of households on the basis of a transparent set of criteria. This will assist in ensuring that unfair perceptions about the way households are prioritised, among both users of the scheme and residents in general, are addressed.

5. What engagement activity did you carry out as part of your assessment? Please refer to stage 3 of the guidance.

Who was consulted on the plan, which protected characteristics were included in consultation?

i. Who did you engage with?

Extensive consultation was undertaken involving

- 18,000 households on the housing waiting lists.
- 200 Voluntary Organisations operating in Brent
- Brent's Registered Providers
- Local Authority tenants
- Brent Housing Partnership board
- Brent residents
- Brent managers in Adult Social Care , Children's Services and officers in the Housing Needs Unit
- Members of the following forums: Disabled Users and Private Sector
- Members briefing , Policy Co-Ordination Group (PCG), Corporate Management Team (CMT)

ii. What methods did you use?

- Housing waiting list applicants – Details together with a link to the consultation portal were placed on Brent's Locata home page and on the individual pages of all waiting list applicants
- Email together with details and a link to the consultation portal was sent to Voluntary Agencies and Brent's Registered Providers
- A consultation event for Voluntary Agencies and Brent's Registered Providers was held in March 2013
- Brent tenants - Information together with a link placed on Brent ALMO website , newsletter and poster campaign
- Information together with link placed on Brent's website, Facebook and Twitter. Article placed in Brent Magazine
- Presentations made to Members, PCG , CMT, Brent Housing Partnerships board, Managers in Adult Social Care, Children Service and to Disabled Users and Private Sector Housing Forum.

iii. What did you find out?

The following issues were raised

- Consultees raised concerns about disregarding under 21's as part of the household. 50% of respondents to the on line consultation favoured 25 as the age when a non dependent child should be disregarded with the remainder indicating either 18 (24%) or 21(26%). Many felt that these young people didn't have the resources to find their own housing and the age should be raised to 25. They were particularly concerned about the Government's proposal to remove under 25's from housing benefit.
- 53% of online consultees indicated that the period for establishing a local connection with the borough should be 5 years, just under 20% favoured 2 years; and 16% 7 years

- On the whole, consultees were in favour of Brent offering incentives to employed households on the waiting list but felt the original proposal to award a higher banding was too generous and would result in a longer wait for social housing for unemployed households
- Unemployment amongst certain sections of the community was raised. Consultees commented that e.g. Somali women faced particular difficulties in finding even entry level jobs due to discrimination in the employment market.
- Many felt that awarding homeless households the lowest band was unfair and gave them little chance of being rehoused
- Income limits as based on the Mayor's first steps shared ownership scheme were considered to be set too high. Many consultees felt that the levels should be lower, thereby ensuring that homes were allocated to those who could not afford alternative options.
- Elderly and Disabled people should not be adversely affected by the policy proposals, in particular when bidding for properties. The council should ensure that mechanisms are in place to ensure that they are adequately protected

iv. How have you used the information gathered?

The information gathered has been used to review our proposed policies; and consider how we strengthen and focus our approach in certain areas e.g. provision of advice and assistance

v. How has it affected your policy?

The following changes to the proposed policy were made as a result of consultation

- Disregarding under 21's as part of the household for allocation purposes will remain in place as it is more generous than the current scheme where the age is 18. Officers have undertaken to revisit this decision should the government remove Housing Benefit from under 25's.
- Officers are proposing that the period for establishing a local connection through either residence or employment should be 3 out of the last 5 years and 6 months out of the last 12, which is more generous than the criterion favoured by consultees.
- The option to grant additional years rather than moving households in employment up an additional band is now being presented to members for their consideration.
- A quota of properties will be made available to young people in employment or apprenticeship, who would not have priority under the reasonable preference criteria
- Officers have placed homeless households in Band C, which is no longer the lowest band, thus providing these households with a reasonable preference. Furthermore, for new

homeless households the council can now discharge its homelessness duty via finding appropriate private rented sector accommodation and will make additional use of direct offers to discharge duty to homeless households in temporary accommodation under the old regulations.

- Officers working with unemployed households will make full use of the Employment and Enterprise team to assist households into work. The 'Navigator Service' forms part of this team and their remit includes working with a minimum of 300 of the most socially excluded families in Brent with a view to empowering them to access services which will support them into work.
- Households who face difficulties in bidding for a home through Locata will continue to be offered additional support as required. Locata is available in a range of minority languages and as audio. Furthermore for Elderly and Disabled applicants, officers will make bids on their behalf where it is evident that they are unable to do so themselves.
- With regard to priority, Elderly and Disabled clients will not be disadvantaged. Elderly clients, particularly those requiring Sheltered Housing, will be granted Band B, the second highest priority on the waiting list.
- Disabled applicants under retirement age, who have a permanent disability which prevents them from working and who are eligible for the support element of the Employment Support Allowance, will be granted the notional five additional years which is allocated to households who are in employment.

6. Have you have identified a negative impact on any protected group, or identified any unmet needs/requirements that affect specific protected groups? If so, explain what actions you have undertaken, including consideration of any alternative proposals, to lessen or mitigate against this impact.

Please see appendix 1

Please give details of the evidence you have used:

Please see Appendix 1

7. Analysis summary

Please tick boxes to summarise the findings of your analysis.

Protected Group	Positive impact	Adverse impact	Neutral
Age			x
Disability			x
Gender re-assignment			X No data currently available
Marriage and civil partnership			X No data currently available
Pregnancy and maternity		x	
Race			x
Religion or belief			X No data currently available
Sex		x	
Sexual orientation			X No data currently available

8. The Findings of your Analysis

Please complete whichever of the following sections is appropriate (one only).
Please refer to stage 4 of the guidance.

No major change**Adjust the policy****Continue the policy*****Sex– Lone parents***

For most protected groups the proposals are largely positive with any adverse impacts mitigated by actions or a change in policy. The group of concern is that of unemployed lone parents, typically female-headed households, where lack of affordable childcare is a barrier to finding employment, especially where the children are under 2. These households may face a longer wait for housing as they will not gain the waiting list advantage of being in employment

The council recognises this but also acknowledges that at this time every effort, including incentives, must be made to encourage households into employment of at least 16 hours per week in order to avoid the impact of welfare benefit changes.

It is worth noting that the majority of lone parents are in employment and the council aims to increase these numbers through initiatives being progressed by the Employment and Enterprise team. We will also establish specific monitoring of this group in order to fully assess the impact of this policy

Pregnancy and Maternity

This group may be adversely affected by the employment advantage as it is unlikely that they would find employment at this stage. However, if in housing need they would fall into a reasonable preference category where they would be granted Band C priority. The council could therefore assist these households via finding suitable housing in the private rented sector.

Young People

The increase in youth unemployment has been well documented, although Brent data suggests that the numbers are now levelling off following a sharp increase last year. If the waiting list reflects local trends it suggests that young people are more likely than the general population to be economically inactive whether through unemployment or training / education.

These young people will not benefit from the employment incentive and in effect if accepted onto the waiting list will wait longer for housing. Nevertheless, officers wish to encourage and support employment through the allocation scheme even though economic conditions and the labour

market make this challenging.

This drive is further brought into sharp focus by forthcoming welfare reforms, which are designed to make work pay. In response the council has in place a number of initiatives that are designed to assist young people into work including an apprentice scheme and a specific quota of homes specifically for young people who do not have a reasonable preference.

Stop and remove the policy

If there are adverse effects that are not justified and cannot be mitigated, and if the policy is not justified by countervailing factors, you should consider stopping the policy altogether. If a policy shows unlawful discrimination it must be removed or changed.

Please document below the reasons for your conclusion and the information that you used to make this decision.

9. Monitoring and review

Please provide details of how you intend to monitor the policy in the future.
Please refer to stage 7 of the guidance.

All waiting list applicants will be required to re-register their applications. It is anticipated that this exercise will be completed by September 2013 and the information gained will be used to provide a full analysis of the outcomes of the Allocations Policy in April 2014

10. Action plan and outcomes

At Brent, we want to make sure that our equality monitoring and analysis results in positive outcomes for our colleagues and customers.

Use the table below to record any actions we plan to take to address inequality, barriers or opportunities identified in this analysis.

Action	By when	Lead officer	Desired outcome	Date completed	Actual outcome
Review data arising from the implementation of the new policy	April 2014	Perry Singh	Identify serious impacts on the protected characteristics Look at potential mitigation		

			Recommend changes where necessary		

Response to Questions 3&6

1. Age

1.2 Young People

The Census 2011 indicates that Brent has a relatively young population, however this distribution is not reflected in Brent's Housing waiting list, which shows that the majority of households are likely to be aged between 30-59 . (see chart 2)

1.3 Predicted Impacts – Young People

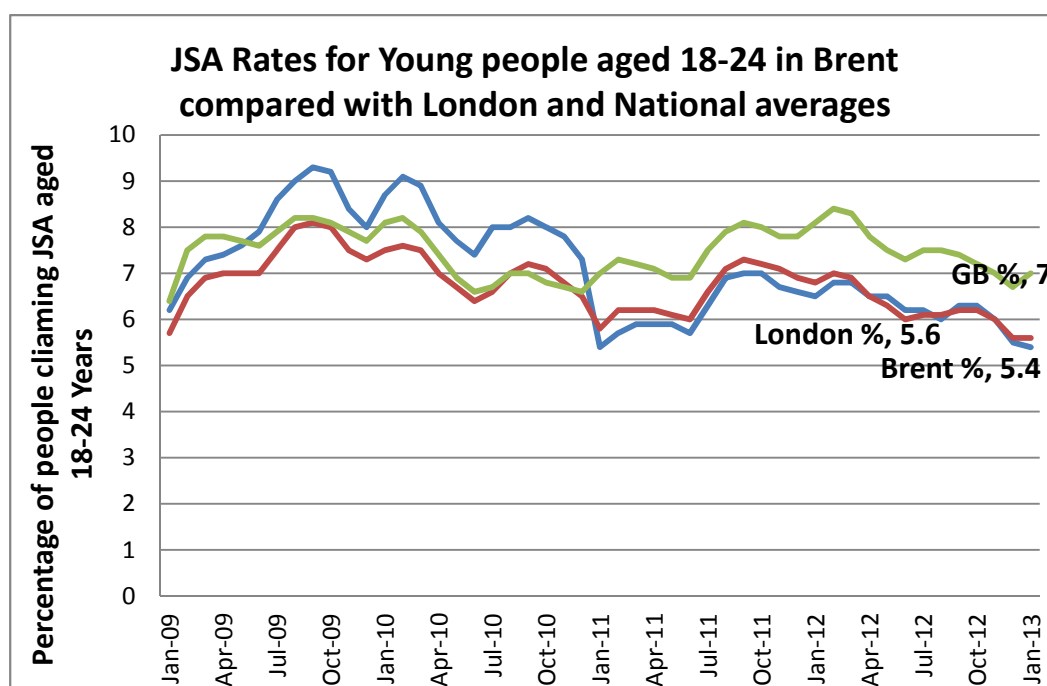
- **Local connection 3 out of 5 years & 6 months out of the last 12, gained through residence or employment**

Officers initially proposed a local connection of 5 years; however consultation responses suggested that it may be more difficult for young people to attain the years required due to increased mobility arising from the need to move around or out of the borough for education, training and employment. In response, the revised scheme proposes a residence qualification of three out of the last five years and 6 out of the last 12 months.

- **Households in employment will be given additional priority**

The increase in youth unemployment has been well documented although Brent data suggests that the numbers are now levelling off following a sharp increase last year.

Chart 1



Source: NOMIS – Office for National Statistics

Of note is the level of youth unemployment amongst BAME young people, which remains stubbornly high when compared to the general population. Media reports suggested that in October 2012 1 in 4 black young people were unemployed

1.4 At this stage officers do not have accurate waiting list data which shows the proportion of young people in employment. However, should the waiting list reflect local trends they suggest that young people are more likely than the general population to be economically inactive, whether through unemployment or via training / education. Consequently, these young people will not benefit from the employment incentive and in effect, if accepted, onto the waiting list, it is possible that they will wait longer for housing.

1.5 Nevertheless, officers wish to encourage and support employment through the allocation scheme even though economic conditions and the labour market make this challenging. This drive is further brought into sharp focus by forthcoming welfare reforms which are designed to make work pay.

1.6 In response the council has in place a number of initiatives that are designed to assist young people into work, including an apprenticeship scheme and a specific quota of homes specifically for young people in employment or undertaking apprenticeships, who do not have a reasonable preference.

Household definition – over 21 will no longer be recognised as part of the household for allocation purposes

1.7 Household members aged over 21 will not be counted as part of the household for allocation purposes. This age limit is more generous than the current scheme, where the limit is 18. In effect, household members aged over 21 will be required to make their own housing arrangements either in the private sector, which may be difficult to access, or via remaining in the family home, which in some cases could lead to overcrowding. This is particularly relevant to certain BAME communities where extended families residing in one home are more prevalent

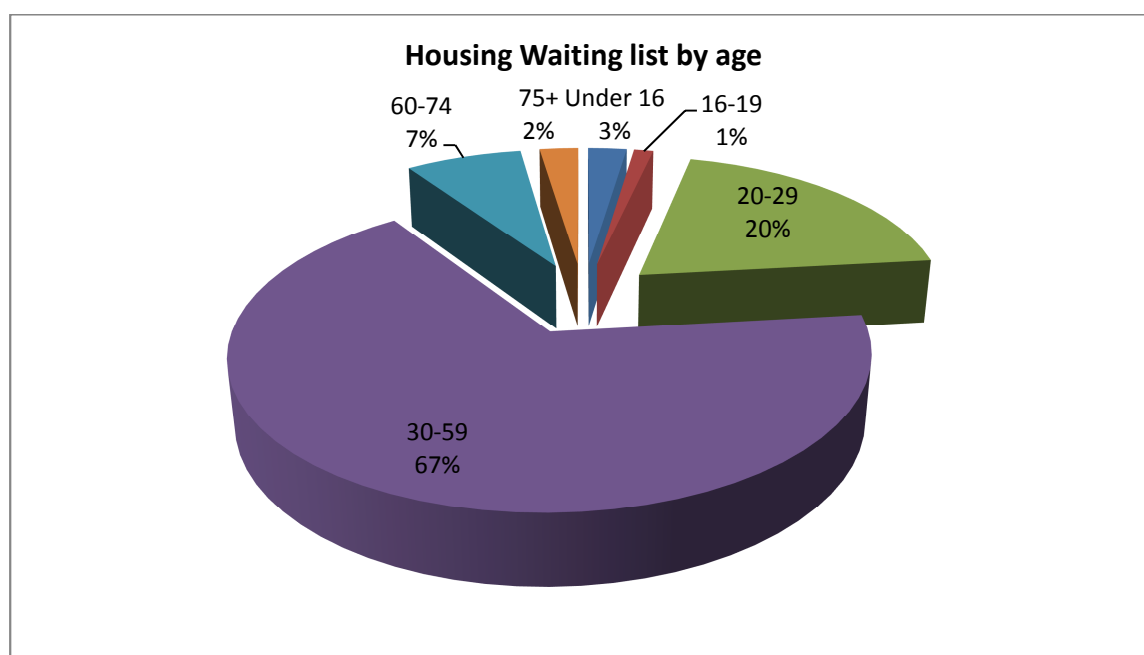
1.8 There could be further impacts if, as suggested by the government, Housing Benefit is withdrawn from the under 25's. Should the government implement this measure then officers will review this definition.

1.9 Members may wish to note the shortage of larger properties (3 bed+) which would be exacerbated by taking into account household members aged over 21. This could result in the main household waiting in excess of 5 years if

not significantly longer for an appropriately sized property. In response Brent is making available a quota of properties for young people who are undertaking apprenticeships or in employment. Furthermore, the council will continue to provide advice and assistance to help young people access the private rented sector

1.10 Older People

Chart 2
Housing waiting list by age



Source: Brent Council – Housing Options – Northgate April 2012

1.11 Waiting list data indicates that older people make up a small proportion of households on the list, largely as at this age most are settled in their homes and have little or no housing need. Those older households that are on the waiting list are more likely to have a housing need due to disability and will benefit from the council's move towards a needs based waiting list and the proposed banding scheme. Elders who have a disability / health concern will be granted Band A (highest banding) or B, with those requiring sheltered housing granted Band B

1.12 One area of concern is bidding under the choice based letting scheme. Older people may find it more difficult to meet the proposed time limits as many do not have access to the internet at home and are less likely to be computer literate. To meet this concern Brent will ensure that officers are available to make bids on behalf of households who are unable to do so. Applicants are also able to make bids via the telephone or post.

2.0 Disability

2.1 The move towards a needs based allocation scheme will, on the whole, benefit households with a disability as not only will they be granted access to the waiting list if they have a housing need, but are also likely to be granted a high priority. Waiting list data indicates that around 10% of applicants have a disability, normally requiring a smaller 1 or 2 bedroomed property. It is anticipated that most of the proposals detailed will have either a positive or neutral impact, but the following areas of concern remain.

- **Households in employment will be granted additional priority on the waiting list.**

2.2 It has been well documented that disabled people are more likely to be unemployed and in receipt of benefits when compared to the general population.

Chart 3

Working age client group – key benefit claimants – August 2012

	Brent numbers	Brent %age*
Total claimants	31,130	14.4
Job seekers	9840	4.5
Employment Support Allowance (ESA) and Incapacity benefits	12,580	5.8
Lone Parents	3840	1.8
carers	2020	0.9
Others on income related benefits	950	0.4
Disabled	1540	0.7
Bereaved	350	0.2

*% age is a proportion of the resident population of the area aged 16 -64

Source – NOMIS – Office for National Statistics

2.3 Not all claimants on ESA, Incapacity and Disability benefits require social housing but the table above serves to illustrate that disabled people find it more difficult to access the employment market and there is the potential for them not to benefit from the employment incentive as they will not be granted any additional advantage on the waiting list.

2.4 Conversely, employed disabled people will gain a greater advantage from being in work. Many will be awarded a high priority due to their disability and

will also receive extra years on the waiting list through employment. These households could be housed sooner under the proposed scheme.

2.5 Officers acknowledge that there are some disabled households who, due to the nature of their disability, will not be able to work. In recognition officers propose that disabled applicants under retirement age, who have a permanent disability which prevents them from working and who are eligible for the support element of the Employment Support Allowance are granted the notional five additional years which is allocated to waiting list households who are in employment.

2.6 The proposed allocations scheme also sets aside a number of properties to meet the needs of adults referred by Adult Social Care. Last year 20 properties were made available and the revised scheme will ensure that a quota of properties continues to be available.

3. Gender

3.1 Lone Parents – awarding additional priority to households in employment.

There are no accurate statistics detailing the number of working households on Brent’s housing waiting list. However, Census data indicates that a significant proportion of lone parent households, which are typically headed by women, are not in employment and this is likely to be reflected in the housing waiting list

Chart 4

All Lone Parent Households with Dependent Children where the lone parent is aged 16 – 74 (Households)

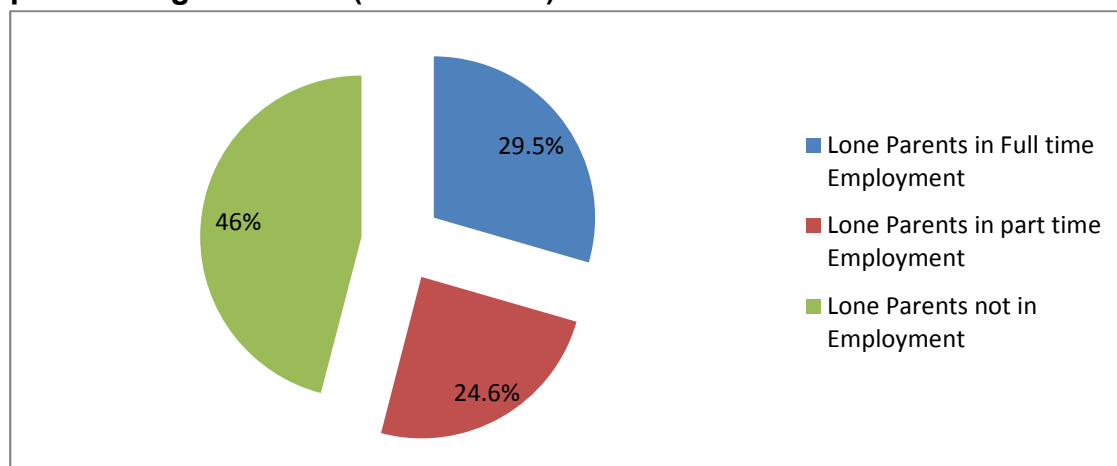


Chart 5

Household types accepted as homeless and in priority need Oct 1 to 31st Dec 12 –

Household Type	Number of households
Couple with dependent children	50
Lone parent - male	5
Lone parent - female	65
One person household - male	8
One person household - female	6
All other household groups	20

Source: P1E

3.2 The predominant reason for this high level of unemployment is lack of affordable childcare, particularly for those with responsibility for children under 2. However, the council's ability to address this is extremely limited. Incentivising employment through the allocations scheme will disadvantage unemployed lone parent households. However, welfare benefit reforms mean that it is crucial that these households work, even part time (16 hours per week), as the consequences of not being in employment are significant.

3.3 Brent is working hard to increase the level of employment in the borough and has recently established an Employment and Enterprise team designed to bring a variety of services together under one umbrella in order to assist households to find work. Furthermore, Brent Adult Education Services are providing courses which will enable households to develop skills which will enable them to find work. In some cases childcare is provided to enable households to participate. Both of these initiatives will go some way towards assisting lone parents back into work

3.4 Concerns have been raised during consultation regarding the impact of the residence criteria on women who are fleeing domestic violence. It is important to stress that the residence criteria will not apply in these cases.

4.0 Pregnancy and Maternity

4.1 Households within this group are likely to have accessed the housing waiting list via the homelessness route (Part 7) and the proposals regarding incentivising employment are likely to affect them adversely .

The new banding scheme places homeless households in band C which recognises that these households have a reasonable preference and therefore priority for housing

5.0 Marriage and Civil Partnership

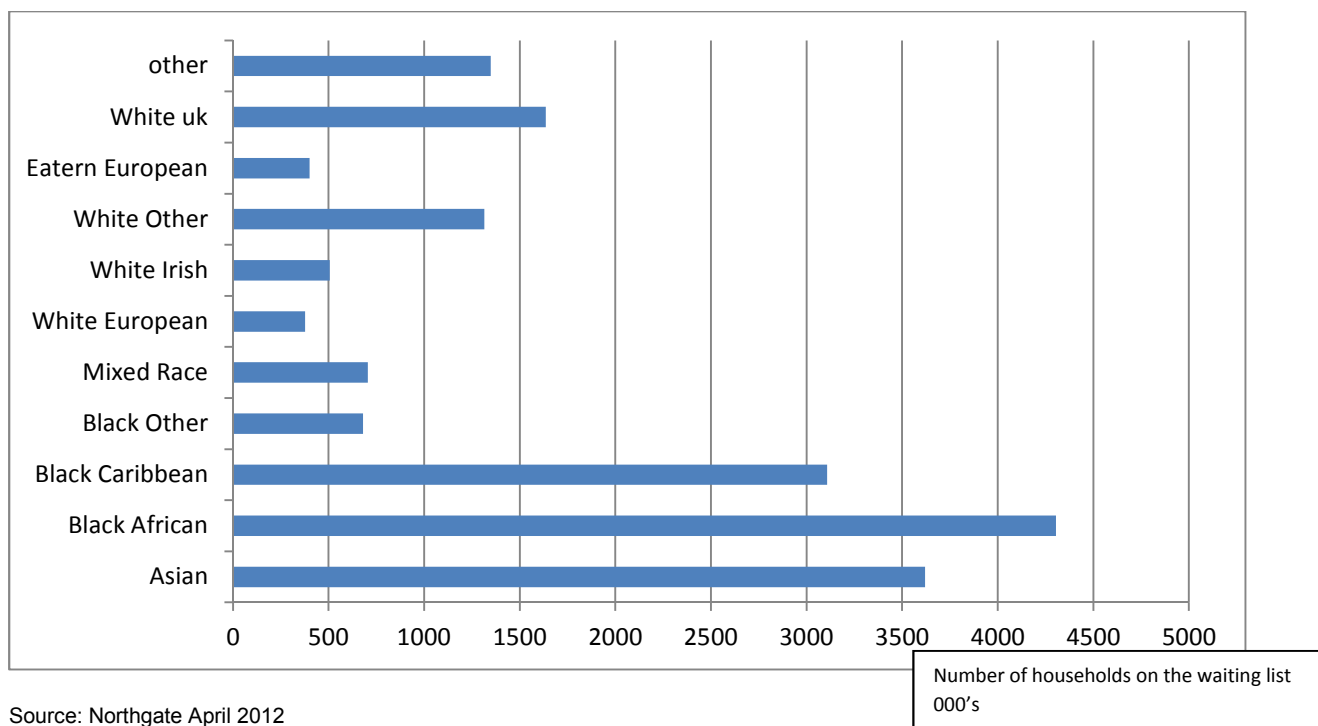
5.1 There is insufficient data to assess the impact of these changes on this group. The re-registration exercise underway should, on completion, provide data which will be analysed

6.0 Race

6.1 Data indicates that BAME communities are over represented on the housing waiting list when compared to the census and therefore any change in allocations policy will have an impact on these groups.

Chart 6

Racial Origin of households on the housing waiting list



Source: Northgate April 2012
NB Other includes households from Albania, Afghanistan, Kurdish

6.2 It is anticipated that the proposals will have both positive and adverse impacts which will, to an extent, balance each other out.

- Introducing an income limit for example will make available homes which may previously have been allocated to households with incomes above the proposed limits. This will increase the number of homes available to all groups.
- In addition, the scheme recognises the role of carers which will benefit certain BAME communities where traditionally older members of the household continue to reside with the family rather than be placed in sheltered housing / residential care. The proposed allocation policy will ensure that an additional bedroom is available for those undertaking caring responsibilities

6.3 On the other hand, the proposed household definition which excludes extended members of the family such as aunts uncles etc. may impact adversely on BAME communities who traditionally have lived together in this way. Brent recognises this but there is a scarcity of larger sized social housing in Brent which could accommodate these households. It is not unknown for larger households to be on the waiting list for many years due to this shortage. The council working together with Registered Providers is endeavouring to produce larger homes but the demand will always far outweigh supply. Officers will therefore continue to provide advice and assistance to enable extended family members to make their own arrangements

6.4 Changes to residence qualifications are likely to have an adverse impact on migrants who are often in low paid insecure employment. This kind of employment results in the need to move more frequently to find work, with households running the risk of not meeting the residence criteria not only in Brent but in London as a whole. At this stage it is worth noting that out of all the local authorities in England and Wales, Brent has the lowest proportion of residents born in the UK, 45%, demonstrating that the majority of Brent residents migrated to the borough at some time, although the number migrating in the very recent past is relatively low. The majority do not require social housing and Brent is fortunate insofar as there is a substantial private sector which provides a range of accommodation for differing household types. All west London authorities are implementing residence criteria and officers do not want to be out of step with our neighbouring boroughs. Therefore officers have recommended that the residence criteria remain in place

6.5 It should be stressed that some migrants will be unable to register for housing owing to immigration restrictions and restrictions on access to public funds as set by the government and it is anticipated that further restrictions may be applied by them in the future. For other recent migrants, there is an expectation that they will secure accommodation in the private rented sector, particularly where the reason for migration is employment related. The majority of those falling into this category are young and single and unlikely to fall into any of the reasonable preference groups. The council's preferred approach in assisting those who do experience housing problems will be to offer advice and assistance in securing private rented housing.

6.6 NOMIS data confirms that unemployment levels are higher amongst Brent's ethnic minorities and therefore the employment incentive will have an impact on those who are accepted onto the housing waiting list. As previously stated, given the raft of welfare benefit changes due, the council has little choice but to encourage households into employment. Officers will ensure close monitoring is undertaken in order to properly assess the outcomes for this group.

7. 0 Religion / belief

Chart 7

Religion	Number	%age
Christian	129,080	41.48
Buddhist	4,300	1.38
Hindu	55,449	17.82
Jewish	4,357	1.40
Muslim	58,036	18.65
Sikh	1,709	0.55
Any other religion	3,768	1.21
No religion	33,054	10.62
Religion not stated	21,462	6.90

Source: Census 2011

The census provides us with accurate data regarding religion in Brent but current waiting list data is insufficient. As previously stated, the re- registration exercise should generate religion information which can be assessed and analysed. Meanwhile, we do not expect any significant impacts resulting from these proposals

8.0 Sexual orientation

8.1 There is no accurate data regarding the sexual orientation of applicants on the waiting list. We do not however consider there will be any adverse impacts on this group.

9.0 Transgender / Gender reassignment

9.1 There is no accurate data available for this group, however the on-going re registration exercise will identify any household with these protected characteristics.

	<p style="text-align: center;">Executive 22 April 2013</p> <p style="text-align: center;">Report from the Director of Strategy Partnerships and Improvement</p>
<p>For Action</p>	<p style="text-align: right;">Wards Affected: ALL</p>
<p>Tackling Diabetes in Brent</p>	

1.0 Summary

- 1.1 This report bring to the Executive the work, findings and recommendations of the Overview & Scrutiny Committee’s task group investigation into Tackling Diabetes in Brent.
- 1.2 This task group was set up to look into the impact of diabetes in Brent. Recent statistics on the disease indicated that there is an increasing impact of this disease on the people of Brent and on the NHS to treat it. The group focussed their findings around what is being done in terms of education and prevention.

2.0 Recommendations

- 2.1 That the Executive agree that the task group’s recommendations are considered in the allocation of the Public Health budget and the work programme of the Healthy Lifestyles Team.
- 2.2 That members of the task group be thanked for their work.

3.0 Detail

- 3.1 Diabetes is a common health condition and over 2.2 million people in the UK have been diagnosed with diabetes. An estimated 850,000 people in England have diabetes but are unaware and have not been diagnosed. Diabetes also currently accounts for 10 per cent of the National Health Service budget and it is suggested that a 6th of the NHS budget will be on diabetes by 2035.

- 3.2 Not spending enough on prevention is having costly implications as the cost of treating diseases triggered by diabetes is currently £7.7 billion and is expected to double by 2035/36. Diabetes is the biggest single cause of kidney failure, nerve damage, stroke, blindness and amputation.
- 3.3 The prevalence of diabetes is far higher in people of South Asian descent and African and African-Caribbean origin. With 58 per cent of Brent's population originating from black and ethnic minority backgrounds, diabetes has become a growing problem for Brent. Diabetes is also more prevalent in deprived areas and with Brent being ranked amongst the top 15 per cent of most deprived areas in the country is a major contributing factor.
- 3.4 Obesity prevalence for the Brent children is 10.6 per cent which is above the England average of 9.6 per cent. The annual cost of obesity and related diseases for Brent PCT in 2010 was £46.7 million pounds. Obesity increases the risk of diabetes but is also preventable.
- 3.5 In order to make the improvements and changes identified in the scope and produce locally implementable recommendations that will help with the prevention of diabetes. The task group undertook the following research and gathered evidence from a number of sources. These were:
- ❖ Dr Imran Choudhury: Consultant Public Health Medicine (Health Improvement) Deputy Director Public Health, NHS Brent
 - ❖ Farhat Hamid: Head of Nutrition & Dietetics, Community Services, Brent
 - ❖ Dr Ajit Shah: Clinical Director Kingsbury Locality of Brent CCG and Diabetes Commissioning Lead
 - ❖ Nina Patel: Diabetes Nurse Consultant, Ealing Hospital NHS Trust, Monks Park Primary Care Centre
 - ❖ Brent Sports Service: Gerry Kiefer, Head of Sports & Parks Service, Jo Creary, Sports Development Officer
 - ❖ Gloria Travers: Diabetes Support Group, based at Chalkhill Community Centre
 - ❖ DESMOND programme
 - ❖ Tower Hamlets: Task group received information about 'Maslaha' an organisation that works with the Islamic Community in Tower Hamlets. Details of the website and how it supports this community offered to the task group as an example of Best Practice.

4.0 Response to the task group's recommendations

- 4.1 The task group's report has been discussed by the shadow Health and Wellbeing Board. The HWB Board's response was positive and they supported the task group's recommendations.
- 4.2 The Executive have agreed the allocation of budgets for existing public health contracts and statutory services. However the final work streams for the Healthy Lifestyles team based in Environment and Neighbourhood Services have not been decided. It has been agreed that the first quarter of next year will be spent reviewing existing projects before making decisions on future spend
- 4.3 The Executive are therefore asked to agree that the recommendations are considered in the allocation of the Public Health budgets and the work programme of the Healthy Lifestyles Team.

6.0 Financial Implications

- 6.1 A number of the recommendations request consideration of proposals that may require additional expenditure. As part of that consideration the costs will need to be clarified, along with the funding, before those proposals can be implemented.

7.0 Legal Implications

- 7.1 The National Health Service Act 2006 as amended by the Health and Social Care Act 2012 ('HSCA') places a duty on the Council to take such steps as it considers appropriate for improving the health of the people in its area. The Health and Wellbeing Board created under the HSCA is responsible for the strategic needs assessment and the resulting strategy to meet those needs which should address the main health and wellbeing issues of the borough. The Health and Social Care Act 2012 transferred a number specific duties and powers to the Local Authority including for example NHS health check assessments , health programmes for children and young people, and lifestyle programmes to tackle obesity.

8.0 Diversity Implications

- 8.1 Recommendations from the task groups are incorporated within service department's delivery or development plans and as such will be subject to the equalities impact assessments carried out by services as part of their work programme.

9.0 Staffing/Accommodation Implications

- 9.1 None

Background Papers

Tackling Diabetes in Brent task group report

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Tackling Diabetes in Brent Task Group Report

January 2013

**Councillor Reg Colwill: Chair
Councillor Sandra Kabir
Councillor Aslam Choudry
Councillor Javaid Ashraf
Councillor Shafique Choudhary**

Contents:	Page:
Chairs foreword by Councillor Reg Colwill	3
Executive Summary	4
Task Group Membership	4
Task Group Recommendations	5
Introduction - What is Diabetes?	9
<i>Context</i>	
Diabetes in the UK	11
Diabetes in Brent	13
Methodology	14
<i>Key findings</i>	
Joint Services	15
Education & Prevention	19
Healthier Lifestyles	24
References	27

Chair's Foreword



This task group was set up to look at how diabetes is being tackled in the borough of Brent. I would like to say it has been a great experience to work with an exciting group on such an important topic. Despite the huge amount of work that is still required in this area, I feel that the recommendations made in this report provide a strong foundation for some big improvements.

I must express my gratitude to my colleagues on the task group, Councillor Sandra Kabir, Councillor Aslam Choudry, Councillor Shafique Choudhary and Councillor Javaid Ashraf. I would also like to thank colleagues from the NHS who were willing to meet

with the group and make valuable contributions, Dr Ajit Shah, Dr Imran Choudhury, Farhat Hamid and Nina Patel. Also, thank you too Jo Creary from the Sports Service, Gloria Travers from the Diabetes Support Group and Priya Mistry for the quality and enthusiasm of her support for the project.

I have been diagnosed with diabetes and had the opportunity to share my personal experience with the group. Diabetes in the UK is getting out of control and I cannot stress enough how important it is that we have mechanisms in place to help control and prevent this disease. The recommendations made in this report have been made in the hope that we increase awareness and encourage people to help themselves and realise how damaging this disease can be if nothing is done.

Obesity is linked to diabetes and as a local authority we aim to provide affordable and accessible facilities for people to use. We must encourage the opportunity to reduce weight and reduce the risks of diabetes. We know of the associated dangers and must work with our partners to educate people, in particular to those who are at high risk. Diabetes often runs in families but is preventable and that is why we must encourage healthier lifestyles and self management.

Councillor Reg Colwill

Executive Summary

The task group was set up to look at the implications of diabetes in Brent. Diabetes is a common health condition and over 2.2million people in the UK have been diagnosed with diabetes. An estimated 850,000 people in England have diabetes but are unaware and have not been diagnosed. Diabetes also currently accounts for 10 per cent of the National Health Service budget and these costs are rising as the numbers of people being diagnosed with obesity and diabetes are increasing.

The prevalence of diabetes is far higher in people of South Asian descent and African and African-Caribbean origin. 58 per cent of the Brent population originate from black and ethnic minority backgrounds and therefore diabetes is a growing problem in this borough. Deprivation is linked to diabetes and Brent is ranked amongst the top 15 per cent of the most deprived areas in the country.

The task group decided that there is a lack of education about diabetes in the borough and set out to investigate what work is being done by the local authority and its partners in this area. Through education and self management you increase prevention and that is the key objective of this report.

The group met with medical professionals and colleagues within the council to discuss and gain an insight on the barriers they face and what changes they would like to see and why. It was evident that there is a lot of good work already being done but it is also very clear that the messages are not reaching the high risk groups. The group looked at evidence from various reports that have looked at the disease and its impacts, i.e. Joint Strategic Needs Assessment Report and State of the Nation 2012 report and used this information to influence their recommendations.

The group's findings led to recommendations in the following areas:

- Joint Services
- Education and Prevention
- Healthier Lifestyles

Task Group Membership:

Councillor Reg Colwill: Chair
Councillor Sandra Kabir
Councillor Aslam Choudry
Councillor Javaid Ashraf
Councillor Shafique Choudhary

Policy support was provided by Priya Mistry, Policy & Performance Officer

Task Group recommendations

Recommendation 1:

The task group recommend that an educational film should be made in partnership with the Brent Clinical Commissioning Group to educate residents and patients about diabetes. Voluntary support groups and patient expert groups should be invited to advise how to get the message across to the people that need it the most. Heart of Gold - Heart Disease patient expert group are a very active group and should be considered for this. Patients who were referred to the Intensive Lifestyle Intervention programme and who have successfully reversed their prediabetic condition should also be considered. The allocation for Public Health has not yet been confirmed but there is potential for funding from the allocation for health promotion and this should be explored once the allocation and programme has been confirmed.

The film can be used to address the following key areas:

- Engaging with high risk communities that do not understand the problems associated with the disease
- Explanation of what happens when nothing is done
- Support patients and show examples of how they can take care of themselves and how to address the changes in lifestyle and diet in order to live a healthier lifestyle
- Explain benefits of prevention of the condition
- Signposting patients and providing a better understanding of where and how to find support and advice
- Tools and advice on how to support someone who has been diagnosed with diabetes
- Engaging with children at school - Copies of the film should be provided to school governors and nurses so that it can be used as a source of discussion - Primary schools are an ideal forum for engaging with parents about healthy eating

Recommendation 2:

The task group recommends that the NHS Health Checks Programme be fully implemented equally across the borough as this will help enable early detection of diabetes. The creation of Clinical Commissioning Groups promises to create a unified and systematic approach by integrating services that are currently fragmented. The group support this approach to stream line services in order to create a more holistic approach. Commissioning for health checks from April 2013 will be a mandatory function under the council's Public Health responsibilities and the health checks will be included in the work programme, however the promise of quicker and more co-ordinated health care has to be followed through.

Recommendation 3:

The task group recommends that the pilot intensive lifestyle intervention for people with impaired glucose tolerance be developed into a local programme and rolled out across the borough. Brent Public Health are exploring further options with the current providers, Community Services, Brent Nutrition & Dietetics Service, for how intensive support can be provided in a more sustainable form.

Recommendation 4:

The task group recommends that the Desmond Programme should be rolled out across the borough so that all diagnosed patients can have access to education about diabetes. The programme is a key resource to raising awareness about diabetes and how to make the beneficial lifestyle changes. There is currently no funding structure in place which is a real concern. The Ealing Hospital Trust that services the community in Brent will review the programme and also consider alternative programmes that best meet the needs of the diverse community as this programme currently comes under the remit of NHS. There is also an opportunity to seek funding from the Public Health allocation once this has been confirmed to see if there is scope for the council to contribute.

Recommendation 5:

The task group recommends that there should be dedicated pages on the council's website to provide advice and information relating to health improvement and more specifically diabetes. 'Maslaha' is a dedicated website that was introduced by Tower Hamlets council and was delivered in conjunction with The Young Foundation. Although the Maslaha site is specifically targeted at Muslims due to the demographics of Tower Hamlets, the Brent pages should be targeted at all high risk communities. The group recommend that this work should be led by Brent Public Health in conjunction with the council's Communications Team and should link to nationally available information. The pages should be promoted at the various networking forums that take place in the borough to reinforce the message around how healthier lifestyles and healthy eating can help prevent diabetes.

Recommendation 6:

The task group recommends that more work should be done with schools to raise awareness about diabetes. Schools should be encouraged to provide children with more information about diabetes and maintaining a healthier lifestyle. Diabetes in children is on the increase and with so many fast food establishments opening up near to schools, highlighting the impacts of this disease is so important.

The group recommends that obesity management for the prevention of diabetes start in the early years and continues throughout the lifespan. One of the four strategic pillars in the Brent Obesity Strategy focuses on children, young people and infant feeding. There are currently two programmes in Brent which focus on children and young people (both are ending in March 2013). The Early Years Healthy Settings Programme involves nutrition training and one to one setting feedback for nursery staff and child minders. School age children are targeted through the Fit4Health programme, which offers those identified as above a healthy weight support in the form of a 1:1 or afterschool

programme. Both interventions are run by registered dietitians in the Brent Community Nutrition and Dietetics Department who specialise in paediatric health and behaviour change. They adopt an integrated approach to show a positive impact on health behaviours in both the family and the environment. This ensures sustainability and provides evidence-based outcomes to guide future programming. Both interventions require conservative funding. The work continues to target specific age groups and it is important to recognise the gaps in these services. There are currently no weight management services for those between the ages of 12 and 40. Eating well and staying active is a lifelong commitment and having access to services that support these positive behavioural changes is an initiative that all ages can benefit from.

The group recommend that the topic of Diabetes should be highlighted to secondary school students by including discussions about how to prepare healthy food in Food Technology lessons. Childhood obesity in Brent is higher than both the national and the London average – a major contributor to increasing the prevalence of diabetes. Therefore, we should tackle both obesity and diabetes as they are intrinsically linked.

The Healthy Lifestyles Team will be set up as a result of the Public Health responsibility coming to the council and there is scope for this to be included in the work programme as the Healthy Lifestyles Team would provide the ideal pathway to engage with the targeted audience.

Recommendation 7:

The task group recommends that as part of the council's commitment to staff in relation to their health and well being to include diabetes as part of their health and well being events. ¹With 61% of the current staff at Brent coming from a BME background and with statistics confirming that this is the group at the highest risk it makes perfect sense to address the issue about diabetes at these events.

Recommendation 8:

The task group recommends that a form of commitment to support the Diabetes Support Group be made to ensure the group can carry on the good work. This support should come in the form of information of how to contact GP surgeries and work with them to engage with diabetic patients and to seek out a source of funding. The group needs to be promoted and patients need to be made aware of what the aim of the group is and how it will benefit them. Through the work of the Healthy Lifestyles Team, information should be shared and support could be provided to such groups.

Recommendation 9:

The task group recommends that a group be set up to work in partnership with the NHS, to work with establishments in the borough which sell food, i.e. fast food outlets, ethnic food shops and restaurants to establish links and educate owners about how to change practices to improve food quality and offer their customers a choice and option to purchase healthier food. A possible award scheme should be considered whereby

¹ Dashboard monthly tracker, [http://intranet.brent.gov.uk./myemployment.nsf/Files/LBBA-594/\\$FILE/12%20Mar%20Monthly%20Tracker.pdf](http://intranet.brent.gov.uk./myemployment.nsf/Files/LBBA-594/$FILE/12%20Mar%20Monthly%20Tracker.pdf)

establishments that cooperate have an article written about them in the Brent magazine for example, to attract more customers. Also, having an endorsement by the local authority will boost their reputation. The Obesity Strategy group currently address this in their work and the council when reviewing such groups ahead of the public health transfer should consider retaining the group and extending their programme.

Recommendation 10:

The task group recommends that the outdoor gyms be introduced in all parks throughout the borough so that all residents can have easy access to one and everyone can benefit from them. This is something to consider once the Public Health allocation has been confirmed to scope out the possibility of funding, although it should be noted that previous funding for outdoor gyms has been non recurrent and at present they are not budgeted for in the public health allocation.

Introduction

What is Diabetes?

²Diabetes mellitus (just called diabetes from now on) occurs when the level of glucose (sugar) in the blood becomes higher than normal. There are two main types of diabetes - type 1 diabetes and type 2 diabetes.

³Diabetes UK explains that diabetes is a common life long health condition and develops where the amount of glucose in the body is too high and is not used properly. Insulin is the hormone produced by the pancreas that allows glucose to enter the body's cells, where it is used as fuel for energy so we can work, play and generally live our lives. It is vital for life.

Glucose comes from digesting carbohydrate and is also produced by the liver. Carbohydrate comes from many different kinds of foods and drink, including starchy foods such as bread, potatoes and chapattis; fruit; some dairy products; sugar and other sweet foods.

If you are diagnosed with diabetes, it means the body cannot make proper use of this glucose and therefore builds up in the blood and cannot be used as fuel. Therefore, a blood test is needed to make the diagnosis. The blood test detects the level of glucose in your blood. If the blood glucose level is high then it will confirm that you have diabetes.

There are two main types of diabetes, **Type 1 diabetes** and **Type 2 diabetes**.

Type 1

⁴Type 1 diabetes develops when the insulin-producing cells in the body have been destroyed and the body is unable to produce any insulin and so the glucose builds up in the blood.

Nobody knows for sure why these insulin-producing cells have been destroyed but the most likely cause is the body having an abnormal reaction to the cells. This may be triggered by a virus or other infection. Type 1 diabetes can develop at any age but usually appears before the age of 40, and especially in childhood.

Type 2

Type 2 diabetes develops when the body can still make some insulin, but not enough, or when the insulin that is produced does not work properly (known as insulin resistance). So, if there is not enough insulin, glucose builds up in the blood.

Type 2 diabetes usually appears in people over the age of 40, though in South Asian and black people, who are at greater risk, it often appears from the age of 25. It is also

² www.patient.co.uk/health/type-2-diabetes.

³ Diabetes UK, Jan 2009, www.diabetes.org.uk, http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/What_is_diabetes/

⁴ http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/What_is_diabetes/What-is-Type-2-diabetes/

increasingly becoming more common in children, adolescents and young people of all ethnicities.

Type 2 diabetes accounts for between 85 and 95 per cent of all people with diabetes and is treated with a healthy diet and increased physical activity. In addition to this, medication and/or insulin is often required

If diabetes is left untreated, it can lead to heart disease, stroke, blindness and kidney failure. Both types of diabetes are linked to a complication that involve the large blood vessels of the body and therefore increases the risk of cardiovascular diseases such as strokes and heart disease. This is also linked to complications in the tiny blood vessels in the kidneys and eyes and those that supply the nerves, hence the loss of feeling in the feet. In both types of diabetes, the poor control of blood glucose is the main association of increasing the risk of these complications.

The task group decided that they would use this report to address the following areas:

- Raising awareness of how to make early detections of diabetes to ensure early diagnosis.
- Raising awareness of the seriousness and effects of the disease, highlighting the possible complications caused by the disease.
- Learn from medical professionals in the borough what is being done to address the issue of obesity and diabetes in Brent by the NHS.
- Identify good practice already happening in Brent, such as Diabetes Support Group and see what can be done further to support any community organisations working with diabetes patients.
- Encourage changes in lifestyle through the promotion of what facilities and services are available in Brent through the services provided, i.e. sports and leisure facilities
- Identify further ways to raise awareness in particular to high risk communities in Brent.
- Identify ways to raise the awareness of the provisions that are available in Brent to ensure patients get the assistance and support they need.

Context

Diabetes in the UK

Diabetes is a common health condition and the chances of it developing in a person are dependant on a combination of genes, lifestyle and environmental factors.

⁵The number of people diagnosed with diabetes in England has increased by 25 per cent from 1.9 million to 2.5 million and is on the increase. It is estimated that by 2025 almost five million people in the UK will have diabetes. Majority of these cases will be Type 2 diabetes due to the ageing population and the number of overweight and obese people increasing.

It is estimated that 850,000 people in England have diabetes but are unaware of this and have not been diagnosed. Of those 2.2 million people diagnosed with diabetes in the UK, 1.3 million are aged over 65, with 344,000 of those from black and ethnic minority groups and 80 per cent of people with Type 2 diabetes are overweight or obese at diagnosis. The Department of Health has confirmed that ⁶diabetes is up to six times more common in people of South Asian descent and up to three times more common among people of African and African-Caribbean origin. A recent large population study carried out by Southall and Brent Revisited (SABRE) claims that half of all people of South Asian, African and African Caribbean descent will develop Type 2 diabetes by the age of 80.⁷ The study was carried out over 20 years and followed nearly 5,000 middle aged Londoners or Europeans, of South Asian, African and African Caribbean descent who did not have Type 2 diabetes at the start of the study in 1988.

Although Type 2 diabetes tends to affect the middle aged or older people, national statistics indicate that diabetes is now more frequently being diagnosed in younger overweight people and South Asians at a younger age. We know that people of South Asian, African, African-Caribbean descent have a higher than average risk of Type 2 diabetes, as well as less affluent people. The other risk factors associated with the increased risk of developing diabetes are:

- social exclusion, social deprivation
- lifestyle
- lack of physical activities
- Obesity
- family history of diabetes

The fact is that diabetes is on the increase and obesity and lifestyle are two of the main risk factors for Type 2 diabetes and this again links to deprivation. The disadvantaged communities are the ones less likely to access the appropriate care they need.

⁸Diabetes currently accounts for 10 per cent of the National Health Service budget and reports suggest a 6th of the NHS spending will be on Diabetes by 2035. An economic analysis study using various reports on the prevalence and the cost of diabetes from

⁵ State of the Nation Report 2012, England by Diabetes UK

⁶ Department of Health (2001). National service framework for diabetes <http://bit.ly/hse2004>

⁷ <http://www.sabrestudy.org.uk/>

⁸ <http://www.ncbi.nlm.nih.gov/pubmed/22537247>

organisations and UK national statistics reported that currently the NHS spend around £9.8 billion a year on the disease but over the next 25 years this could increase to £16.9 billion, meaning that this could potentially increase the current 10 per cent of the NHS's entire budget being spent on diabetes to 17 per cent. 80 per cent of the spending on diabetes then goes into managing avoidable complications. People with diabetes are twice as likely to be hospitalised and currently 19 per cent of hospital inpatients are diabetes sufferers and on average stay three days longer than people without diabetes.

Although speculation has been made, it is unlikely that diabetes will cause the NHS to go bankrupt; however it is not entirely unrealistic. Many parts of the world are facing the same challenges in addressing education, diagnosis and management of the disease. The NHS also highlight the concern about the fact that diabetes is the biggest single cause of kidney failure, nerve damage, stroke, blindness and amputation and the costs associated with this. Costs are predicted to almost double from currently costing £7.7billion to £13.5 billion by 2035/36.

Spending heavily on treating the complications caused by diabetes is a major issue in the UK and we are not spending enough on prevention or on how to manage the disease so that complications do not develop. It is evident that we need to identify the 7 million people who are at high risk of Type 2 diabetes so that they can receive the lifestyle advice and support they need to prevent it. Without this the numbers will continue to rise and current projections suggest it will reach 4 million by 2015.

Diabetes in Brent

Diabetes has become a major issue and is a growing problem for Brent and this is definitely linked to the ethnic makeup of the borough. ⁹Brent is a very diverse borough with 58 per cent of its population originating from black and ethnic minority backgrounds. The Quality and Outcomes Framework 2008/9 confirms that Brent's diabetes prevalence of 6.7% is significantly higher than the London prevalence of 5.3%. ¹⁰Age is a key factor in diabetes prevalence and Type 1 diabetes tends to be diagnosed in childhood but the prevalence of Type 2 diabetes increases steadily after the age of 45 years.

People from Asian and Black ethnic groups have the highest prevalence of diabetes within the Brent Community. The report 'Shaping a Healthier Future', by NHS NW London informs us that diabetes has become one of the biggest costs and challenges facing the NHS locally. Diabetes is found to be more prevalent in deprived areas and it is reported that people living in the 20% most deprived neighbourhoods in England are 56% more likely to be diagnosed with this disease. In Brent, this is possibly the result of the significant inequalities in health and wellbeing experienced by residents in the most deprived wards compared to the most affluent parts of Brent.

Brent is ranked amongst the top 15 per cent of most deprived areas of the country, and the ¹¹Brent Borough Plan highlights the fact that there is a nine year difference in life expectancy in the borough which is largely related to the disproportionate impact of conditions such as diabetes, heart disease, obesity and respiratory conditions on those who experience poor socio economic conditions. According to the NHS Brent Commissioning Strategy Plan 2009-2014, children are inheriting health problems that will leave a lasting adult legacy of chronic ill health. The report states that 10% of children over the age of 5 are obese. This figure rises to over 22% by the age of 12 and this is likely to increase in the future. With over half of the Brent population not doing any regular physical exercise or eating the recommended amounts of fruit and vegetables, the prevalence of diabetes is expected to increase to around 8.5% of the adult population by 2014.

Being overweight significantly increases the likelihood of a person developing diabetes and in Brent an estimated 21.6 per cent of adults are obese. Obesity prevalence for Brent children is 10.6 per cent which is above the England average of 9.6 per cent. By tackling obesity you tackle diabetes. ¹²The annual cost of obesity and related diseases for Brent PCT in 2010 was £46.7million pounds. It is estimated that these costs will reach £53.6million by 2015. Obesity increases the risk of heart disease, diabetes, stroke, depression, bone disease and joint problems. National statistics indicate that younger overweight/obese individuals are now more frequently diagnosed with Type 2 diabetes than before, which previously tended to affect the middle aged or older people.

⁹ GLA 2010 Round Ethnic Group Projections

¹⁰ Diabetes Community Health Profile – NHS Brent Teaching

¹¹ Brent our Future 2010-2014

¹² Healthy Weight, Healthy Lives Toolkit 2008, p. 99

¹³Whilst diabetes is common across all of Brent, the Harness, Kingsbury and Wembley GP consortia have particularly high prevalence rates.

GP Consortium	Number of patients registered with diabetes	Prevalence of diabetes
Harness	4676	5.7%
Kilburn	3525	4.2%
Kingsbury	4566	6.7%
Wembley	4279	6.4%
Willesden	2682	4.9%

Methodology

To address the issues identified in this report and to propose a set of recommendations, the task group gathered evidence from a number of sources. These were:

- Dr Imran Choudhury - Consultant Public Health Medicine (Health Improvement) Deputy Director Public Health, NHS Brent.
- Farhat Hamid - Head of Nutrition & Dietetics, Community Services, BRENT.
- Nina Patel - Diabetes Nurse Consultant, Ealing Hospital NHS Trust, Monks Park Primary Care Centre.
- DESMOND programme
- Dr Ajit Shah – Clinical Director Kingsbury Locality of Brent CCG and Diabetes Commissioning Lead
- Brent Sports Services, Jo Creary, Sports Development Officer
- Gloria Travers – Diabetes Support Group
- Tower Hamlets – Task group received information about 'Maslaha', an organisation that works with Islamic community in Tower Hamlets. Details of the website and how it supports this community offered to the task group as an example of Best Practice.
- NHS Brent, Commissioning Strategy Plan, 2009 to 2014.
- State of Nation 2012, England, Diabetes UK.
- 4 members of the task group are diabetic and were able to refer to personal experience.

¹³ Table taken from the JSNA Diabetes Brief 2012 quoted from the QMAS database 31st March 2011

Key Findings

The fact that diabetes is a huge problem for Brent has been established by the Joint Strategic Needs Assessment report, 2011 and the task group were keen to find out how the NHS are tackling this and to explore what the key barriers were to increasing awareness about diabetes in the borough. Diabetes is hereditary and is linked to lifestyle and at the present time there is no cure for this disease. It appears that the message about the awareness and the seriousness of the disease is not reaching our residents. Diabetes is a known disease and most people are familiar with the term but the difference it makes to one's life and the devastating linked complications are not widely known or possibly taken seriously enough.

The task group's findings have been broken down into sections, reflecting the key issues identified and opinions shared.

Joint Services

Currently diabetes services in Brent are to be re-commissioned by the CCG's when the existing Primary Care Trusts cease to exist. CCG's will be the successors to PCT's and their aim is to share resources and services. In total there will be eight CCG's in Brent. The council has a responsibility to ensure that the CCG's have in place clear pathways for patients and these are in a coordinated manner. Patients with diabetes need access to a variety of services and commissioning bodies need to take a holistic approach to service provision. The new model for diabetes will need to be integrated and networked so that practices can work together more closely and provide a seamless and effective service. Proposals for the new model indicate that the GP practices will provide a range of services and certain practices will provide services to those who suffer complex diabetes problems. However the services will be tiered and not all practices will provide the same range of services. Practices will be networked, so that if a GP doesn't provide the service needed, they will be linked to a local practice that does.

With the transfer of public health to local government in April 2013, there is an opportunity here to address these inequalities. Across a range of health conditions such as heart disease, obesity, cancers, diabetes and respiratory conditions, communities on lower incomes are disproportionately affected. Improving outcomes for people with diabetes is one of the specific objectives in the 'Improving prevention, management and outcomes for priority health conditions in Brent' work stream in the Health and Wellbeing Strategy for Brent and therefore provides an opportunity for review. It is about time that we look into the causes of diabetes and identify ways in which the local authority and Brent PCT should work together to break down the barriers to improving patient education and encouraging self-management.

Diabetes affects a person's quality of life and without the correct support through careful, continued management, life expectancy for a diabetes patient can be reduced between 6 to 20 years. With the rise of unnecessary complications stemming from this disease means the demands on our health services will keep increasing.

The current consultation, 'Shaping a healthier future, NHS North West London' produced on 2nd August 2012, explains the reasons for needing to change in order to provide the best healthcare possible for patients. More people are being diagnosed

with diabetes and this is putting pressure on the NHS. The consultation mentions diabetes as being an example of one area that is a problem because of the lack of specialised clinics in NW London. Reduced blood flow to the legs is a complication in diabetes and can lead to amputations. GP's with specialised clinics supported by a diabetic nurse can help reduce the number of patients affected and effectively cut down long term costs for the NHS. However, not everyone in NW London has access to such a service and there is a need for local specialist services to improve treatments. The consultation highlights the issue about the inequalities in health across NW London and how there is a difference on average of 17 years life expectancy across the different areas.

Localisation and integration has been the main driver for the model for care outside of the hospital, with the offer of a wider range of more high-quality services within the community to make sure people have easier and earlier access to care. The promise of quicker and more co-ordinated healthcare is what is needed to prevent further complications in diabetic patients as they will get the support and advice they need very early on.

A common theme that came out of the many conversations that took place is that integration is a key aim and there is a real need for a long term preventative strategy to address the problem. With so many people living with the disease without being diagnosed it is so important that the health checks programme is delivered to those who are at the highest risk of developing the disease. Dr Imran Chaudhury from Brent PCT explained that diet is a major contributing factor and the Health checks programme introduced in September 2011 has been very successful and has already identified 300 individuals with diabetes. Without the health checks programme these people may well have been overlooked and missed. The programme is a 5 year rolling programme that invites people between the ages of 40 and 75 who have not been diagnosed with heart disease, stroke, and diabetes or kidney disease for a health assessment. Based on the results patients are scored on their risk of developing one of these chronic illnesses. These people will be invited once every five years to assess their risk against these diseases and will be given support and advice on how to manage the risk. The programme is also helping to identify high risk patients that are categorised as pre diabetic patients. There is a suggestion that the age range for these health checks should be broadened to possibly 18 – 75 as many more young people are being diagnosed with obesity and diabetes. However, how this would be resourced is another question as central government funding will only cover the existing age range. The intervention programme is considered to be very beneficial to the patient and the economy. Catching diabetes for instance at the pre diabetes stage is critical to allow making life long changes through dietary control, as ¹⁴primary prevention interventions address lifestyle modifications (exercise, nutrition, weight loss and smoking cessation) with or without pharmacological interventions that could reduce the risk of diabetes in high risk populations. ¹⁵Many of the associated complications linked to diabetes are avoidable with good risk assessment and early diagnosis, patient education, support and good on going services. Estimates show that more than 100 amputations carried out each week from diabetes complications; up to 80 per cent are preventable.

¹⁴ Targeted Interventions for the prevention and management of Type 2 Diabetes Mellitus
http://www.eac.cpft.nhs.uk/Download/Public/18634/1/Type2DM%20%20Literature%20Review_1.pdf

¹⁵ State of the Nation 2012, England, Diabetes UK

Intensive Lifestyle Intervention is a scheme that evolved from the NHS Health Checks programme and is a good example of where Brent's Sports Service are working in partnership with the Public Health and Nutrition and Dietetics service on a programme called the ILI – Intensive Lifestyle Intervention. The aim of the initiative is to teach patients about leading a healthier lifestyle to delay the onset of Type 2 diabetes. The programme is available free of charge to patients who are referred by their GP's after undergoing a health check. If the patient is identified as being prediabetic, i.e. IGT – Impaired Glucose Tolerance, then they are considered as someone who will benefit from the programme.

Pre-diabetes is when glucose levels are higher than normal range over a prolonged period, but not high enough to be classified as diabetes. 'Like diabetes, pre-diabetes is characterised by insulin resistance and impaired insulin secretion,' (NICE 2010). Pre-diabetic patients have an increased risk of developing Type 2 diabetes due to impaired fasting glucose, impaired glucose tolerance or both. The risk increases to between 5 and 10% per year compared to 0.7% in those with normal blood glucose levels.

Brent Community Services were commissioned by NHS Brent to deliver the Intensive Lifestyle Intervention (ILI) and take lead responsibilities in managing the dietary and exercise components. The ILI is a 6 month programme of lifestyle intervention (diet and exercise) and uses an intensive behaviour change approach. The original design was modelled on evidence-based randomised controlled studies associated with a 40 – 60% reduction in incidence of diabetes (Gillies 2007).

The programme runs for a total of six months and patients have the opportunity to see a dietitian for 6 months. The programme also incorporates a 10 week exercise programme designed to suit each individual. Patients are initially referred to a dietitian and once the initial meeting has taken place, the patient's details are shared with Vale Farm Sports Centre or Bridge Park Sports Centre, depending on where in the borough the patient lives. Staff at the leisure centre will then work on devising a 10 week gym based plan at encouraging the patients to attend the centre for exercise at least twice a week. Once the 10 week exercise plan has been completed, patients are encouraged to sign up for further exercise on the exercise referral programme when they can continue their exercise plan under supervision. However, this comes at a cost to the patient. The purpose of supplying free advice and support on nutrition and exercise is to kick start people into actively tackling the possibility of being diagnosed with diabetes. Health Professionals as well as GP's can refer clients with type 2 diabetes directly into the exercise referral schemes at Bridge Park, Vale Farm and Willesden Sports Centre.

Whilst initiatives such as ILI are effective they require manpower and funding and so more creativity is required to ensure that these initiatives can continue. The Brent Sports Service have tried to instigate initiatives of their own in the past to try and tackle health issues within the borough but realised that without the NHS datasets it's pointless as we cannot reach or engage with the right people. Therefore working in partnership with the NHS is critical to success.

Dr Ajit Shah, is a member of the Kingsbury consortium and informed us that in his experience the recognition of diabetes as a serious disease is a major issue and barrier. Kingsbury has a large population of South Asian residents and Dr Shah explained that ensuring early intervention and increasing knowledge about the dangers of diabetes is crucial to this community. It is difficult to encourage patients to adopt a healthier lifestyle when they don't fully understand or appreciate the benefits and the change it can make to their lives. Cultural behaviour is the most difficult to adapt. The way forward is for the

local authority and the NHS to work in collaboration (Whole Systems Care) and agree a set of pathways to tackle obesity and diabetes together. Dr Shah would like to see the council offering more activity programmes designed to suit those who find exercise intimidating or the thought of joining a gym uncomfortable or unaffordable. Promoting exercise and a healthier lifestyle is the only prevention required and could also form part of a rehabilitation programme for many long term conditions. Brent has many open spaces and leisure facilities on offer. Making these accessible to all members of the community for the benefit of their health and well being should be a priority for a local authority. The other contributing factor to an unhealthy lifestyle for this community is the number of fast food restaurants and sweet marts. Ghee, oil and sugars are used excessively in the preparation of Indian sweets and Indian food. Raising awareness about consuming these types of food in moderation is very difficult, however absolutely necessary. Dr Shah also spoke about engaging with local food businesses and to encourage them to produce healthier foods for their customers. In his opinion this would be a huge step towards changing attitudes towards the preparation and consumption of some of the traditional foods that use a lot of ghee, sugar and oil.

Fast food outlets in close proximity to schools offer cheap, fatty foods high in trans fats (bad for health). New licencing needs to be reduced and existing outlets encouraged to offer healthier choices. Children and young people's health is adversely affected with the rise in childhood obesity and type 2 diabetes in children as young as 11 – 12 years of age.

Recommendation 2:

The task group recommends that the NHS health checks programme be fully implemented equally across the borough as this will enable early detection of diabetes. The creation of Clinical Commissioning Groups promises to create a unified and systematic approach by integrating services that are currently fragmented. The group support this approach to stream line services in order to create a more holistic approach. Commissioning for health checks from April 2013 will be a mandatory function under the council's Public Health responsibilities and the health checks will be included in the work programme, however the promise of quicker and more co-ordinated health care has to be followed through.

Recommendation 9:

The task group recommend that a group be set up to work in partnership with the NHS, to work with establishments in the borough which sell food, i.e. .fast food outlets, ethnic food shops and restaurants to establish links and educate owners about how to change practices to improve food quality and offer their customers a choice and option to purchase healthier food. A possible award scheme should be considered whereby establishments that cooperate have an article written about them in the Brent magazine for example, to attract more customers. Also, having an endorsement by the local authority will boost their reputation. The Obesity Strategy group currently address this in their work and the council when reviewing such groups ahead of the public health transfer should consider retaining the group and extending their programme.

Education and Prevention

The message about education and prevention is one that came up in every conversation the group had and in almost every report, research paper or study that was referred to in relation to diabetes in the UK. There is an urgent need to increase levels of awareness about the signs and symptoms of diabetes and its serious consequences. Effective education allows for effective management of diabetes.¹⁶ Without careful continued management of the condition, a person with diabetes faces a reduced life expectancy of between 6 to 20 years. Investment into interventions that help prevent or reduce obesity will help reduce the number of future cases of diabetes.

DESMOND programme

Desmond stands for Diabetes Education and self Management for On going and Newly Diagnosed. Desmond is a structured self management education programme that supports people to manage the changes that diabetes brings to their lives.

The Desmond programme is an NHS organisation that supports other health organisations to deliver first class education to patients with Type 2 diabetes. The programme is delivered in sessions to small groups of patients by a trained healthcare professional. Desmond is usually a one day course or it can be offered in two half day sessions. The programme has a number of modules designed for specific needs, such as a foundation module for newly diagnosed patients to a module specifically for those individuals who are at high risk. There are modules to support safer fasting during Ramadan and a module specifically designed for South Asian communities. The aim of the programme is to provide honest, up-to-date, evidence-based information about the causes, effects and options to managing diabetes. The idea being that the individual can then feel empowered to manage the disease and their lifestyle and improve their health. The programme provides a source of networking for individuals who may be feeling confused and quite lost when they have been diagnosed with the disease. In Brent the programme is available by referral from GP's and patients are then invited to attend a session at the Monks Park clinic. There is concern around not everyone who needs to attend the programme being referred and this could be linked to GP's not being completely aware of the benefits of the programme. Patients also experience difficulty in accessing their blood test results and results of their HbA1c, blood pressure and cholesterol results. Involving people in the management of their own care is essential to enabling them to successfully achieve control of their health.¹⁷ *"I would like to have copies of my test and examination results. This would really help me to control my diabetes". Person with diabetes.*

Nina Patel, who is the Diabetic Nurse Consultant and course facilitator at Monks Park, explained that the programme has not yet been rolled out across the borough and this means that not everyone who could benefit from the programme can have access to it. In order to support the need to change people's attitudes towards diet, exercise and lifestyle the programme needs to be available to all who need it. The other problem is that there are not enough trained facilitators to hold more sessions for those who cannot attend during the hours of Monday to Friday, 9am – 5pm. The service desperately

¹⁶ State of the Nation 2012, England, Diabetes UK

¹⁷ State of the Nation 2012, England, Diabetes UK

needs more trained staff so that it can reach out to all those who need the support. With the health checks programme resulting in more referrals staffing and funding are a major concern.

The task group were very impressed with the facilities at Monks Park and the Desmond programme. They witnessed the delivery of a training session with patients who have recently been diagnosed with diabetes and were able to speak to the patients about their feelings of being diabetic and the training session. The patients were impressed with the programme and appreciated the opportunity to meet other patients who were in a similar situation. The positive benefits of the programme were very clear to see and it was encouraging to see enthusiasm towards making healthier life changes. The visit to the Monks Park clinic highlighted the following:

- DESMOND accreditation is required for the programme to be run and comes at a cost; however this cost can be shared if a number of clinics are set up.
- It is not currently compulsory for GP's to commission the programme to their patients and more needs to be done to raise awareness amongst GP's about the benefits of the programme and how to support it.
- More needs to be done to support the outreach work that trained staff are struggling to do. Non health professionals can be trained to assist with classes and could also be used to support the administrative support required.
- Staff need more support to run the sessions and would like to see more done to explore the possibility of recruiting champions from patient expert groups to provide classroom support.

Farhat Hamid, who is the Head of nutrition and dietetics in Brent, explained to the group about how her service provides support to people diagnosed with diabetes in Brent. The service works with GP's and health professionals and aims to treat specific nutrition related diseases in adults and children. Promoting a healthy lifestyle is key to their work and providing a service that is easily accessible and sensitive to the needs of people from all ethnic, religious and low income is essential. With an appropriate diet a person can slow down the production of glucose within their body and therefore prevent further complications in the case of diabetes. Off course medication does this as well but if we can educate patients to control their glucose levels with diet, then the reliance on medication is greatly reduced. With 1 in 20 people in Brent suffering from diabetes it is huge in terms of cost for treatment. Farhat went on to say that we are not getting value for our money and the problem is beyond the remit of individual GP's. Joint working of the council, GP's and Community services is crucial to moving forward and reiterated that the key to success is prevention and education. The Brent nutrition and dietetic service currently only deals with referrals from GP's to provide treatment to people with diabetes, with no core services commissioned for prevention and management of obesity and prevention of diabetes. Brent Nutrition & Dietetic Services are the lead provider of the Intensive Lifestyle Intervention programme and are in negotiations with Public Health to deliver a cost effective model going forward.

Brent Sports Service in the past have worked with the Nutrition and Dietetics service (NHS) to develop weight management programmes for residents with type 2 diabetes. The programme consisted of a 6 week long course and involved residents receiving dietary advice once a week for an hour followed by a one hour physical activity session

with a trained professional, however this programme was initiated as a pilot scheme and is no longer being run in Brent.

The council in conjunction with schools supports the healthy eating programmes for tackling obesity to improve the lives of the borough's children. The local authority has a responsibility to provide guidance to schools on nutritional meals and support them to run campaigns on getting the message across about healthy eating. ¹⁸*Research has shown that food preferences are generally acquired during childhood and that eating habits acquired after adolescence are more resistant to change. The school environment plays an important role in nurturing and sustaining good eating habits.*

The group attended a session with the Diabetes Support Group that is held once a month at the Chalkhill Community Centre. The group is coordinated and led by Gloria Travers. The group attracts around 10-15 residents who have diabetes who come to get further information about the disease, advice and support. On the day the task group attended, guest speakers from Ealing ICO attended to give a presentation about diabetes retinopathy. Gloria makes efforts to invite guest speakers that the group can benefit from and topics can range from diet, exercise, podiatry, eye screening, and mental health to medication and health checks. This is the only support group in Brent and what the task group found was that there was not enough publicity about the group and there was no funding stream. The sessions provide information and support to those who sometimes are not sure about what to do or who to speak to. By sharing experiences the idea is that they interact and help each other in a social environment. Without proper support the group will no longer exist and yet another opportunity to engage with residents and raise awareness about diabetes will be lost.

Recommendation 1:

The task group recommend that an educational film should be made in partnership with the NHS to educate residents and patients about diabetes. Voluntary support groups and patient expert groups should be invited to advise how to get the message across to the people that need it the most. Heart of Gold – Heart Disease patient expert group are a very active group and should be considered for this. Patients who were referred to the Intensive Lifestyle Intervention programme and who have successfully reversed their prediabetic condition should also be considered. The allocation for Public Health has not yet been confirmed but there is potential for funding from the allocation for health promotion and this should be explored once the allocation and programme has been confirmed.

The film can be used to address the following key areas:

- Engaging with high risk communities that do not understand the problems associated with the disease.
- Explanation of what happens when nothing is done.
- Support patients and show examples of how they can take care of themselves and how to address the changes in lifestyle and diet in order to live a healthier lifestyle.
- Explain benefits of prevention of the condition.

¹⁸ Health Promotion Board <http://www.hpb.gov.sg/HOPPortal/health-article/2818>

- Signposting patients and providing a better understanding of where and how to find support and advise.
- Tools and advice on how to support someone who has been diagnosed with diabetes.
- Engaging with children at school. Copies of the film should be provided to school governors and nurses so that it can be used as a source of discussion. Primary schools are an ideal forum for engaging with parents about healthy eating.

Recommendation 4:

The task group recommends that the Desmond Programme should be rolled out across the borough so that all diagnosed patients can have access to education about diabetes. The programme is a key resource to raising awareness about diabetes and how to make the beneficial lifestyle changes. There is currently no funding structure in place which is a real concern. The Ealing Hospital Trust that services the community in Brent will review the programme and also consider alternative programmes that best meet the needs of the diverse community as this programme currently comes under the remit of NHS. There is also an opportunity to seek funding from the Public Health allocation once this has been confirmed to see if there is scope for the council to contribute.

Recommendation 6:

The task group recommends that more work should be done with schools to raise awareness about diabetes. Schools should be encouraged to provide children with more information about diabetes and maintaining a healthier lifestyle. Diabetes in children is on the increase and with so many fast food establishments opening up near to schools, highlighting the impacts of this disease is so important.

The group recommends that obesity management for the prevention of diabetes start in the early years and continues throughout the lifespan. One of the four strategic pillars in the Brent Obesity Strategy focuses on children, young people and infant feeding. There are currently two programmes in Brent which focus on children and young people (both are ending in March 2013). The Early Years Healthy Settings Programme involves nutrition training and one to one setting feedback for nursery staff and child minders. School age children are targeted through the Fit4Health programme, which offers those identified as above a healthy weight support in the form of a 1:1 or afterschool programme. Both interventions are run by registered dietitians in the Brent Community Nutrition and Dietetics Department who specialise in paediatric health and behaviour change. They adopt an integrated approach to show a positive impact on health behaviours in both the family and the environment. This ensures sustainability and provides evidence-based outcomes to guide future programming. Both interventions require conservative funding. The work continues to target specific age groups and it is important to recognise the gaps in these services. There are currently no weight management services for those between the ages of 12 and 40. Eating well and staying active is a lifelong commitment and having access to services that support these positive behavioural changes is an initiative that all ages can benefit from.

The group recommend that the topic of Diabetes should be highlighted to secondary school students by including discussions about how to prepare healthy food in Food Technology lessons. Childhood obesity in Brent is higher than both the national and the

London average – a major contributor to increasing the prevalence of diabetes. Therefore, we should tackle both obesity and diabetes as they are intrinsically linked.

The Healthy Lifestyles Team will be set up as a result of the Public Health responsibility coming to the council and there is scope for this to be included in the work programme as the Healthy Lifestyles Team would provide the ideal pathway to engage with the targeted audience.

Recommendation 7:

The task group recommend that as part of the council's commitment to staff in relation to their health and well being to include diabetes as part of their health and well being events. With 61% of the current staff at Brent coming from a BME background and with statistics confirming that this is the highest risk group it makes perfect sense to address the issue about diabetes at these events. Through the work of the health and well being events, staff should be encouraged to use the leisure facilities provided by the council. Staff from the leisure centres in the borough should be invited to promote the facilities and provide information about what's on offer. The new Civic Centre will provide gym facilities and the benefit of having this on site should be promoted, as should the availability of healthy foods at affordable prices on council premises.

Recommendation 8:

The task group recommend that a form of commitment to support the Diabetes Support Group be made to ensure the group can carry on the good work. This support should come in the form of information of how to contact GP surgeries and work with them to engage with diabetic patients and to seek out a source of funding. The group needs to be promoted and patients need to be made aware of what the aim of the group is and how it will benefit them. Through the work of The Healthy Lifestyles Team, information should be shared and support could be provided to such groups.

Healthier Lifestyles

A pilot intensive lifestyle programme for people with impaired glucose tolerance was carried out by NHS Brent in 2011. These individuals were people who had not yet developed diabetes but were at increased risk for developing the disease in the future. The pilot gave these people access to exercise provided by the council's leisure services twice a week and in addition advice on nutrition and behaviour change by the local dietetic service. The trials demonstrated that such intensive lifestyle interventions can reduce the incidence of diabetes in these individuals by up to 58% after three years. The successful development of a local programme could be key to reducing the number of individuals who will develop diabetes in the future.

Physical activity is essential to having a health balanced lifestyle but a survey carried out by Sport England Active People Survey Three 2009 indicates that levels of participation rates of sport and recreation in Brent have declined. The report also went on to confirm that:

- Brent went from being ranked 11th among London boroughs with a participation rate of 19.5% to the third lowest level of participation borough in London with 15.8%.
- In London, Brent was the only borough to experience a decline in participation rates for the national indicator of 3x30 minutes per week of exercise. All the other London boroughs remained the same or showed an improvement on their previous results.
- There was an increase in the number of people who accessed Brent owned sport and recreation facilities in 2009 and this resulted in an overall figure 794,844, representing an increase of 10,981 from the previous year¹⁹.
- Memberships to sporting facilities also remained consistent and indicated good representation from white British and ethnic groups.
- Residents in the southern wards of the borough don't have the same level of access to the parks and open spaces Brent compared to residents in the north of the borough.
- Cost of travel and low levels of car ownership in the borough are a contributory factor to participation numbers as majority of Brent residents need to travel to access the sport and recreation facilities provided.
- The risk of dying from coronary heart disease has also doubled due to overall numbers of inactive and unfit people in the Brent.

Outdoor gyms are a new concept in exercising and are becoming increasingly popular in the UK. Exercising outside has been known to help burn more calories than inside and is more likely to improve your mood and self esteem than exercising in a traditional indoor gym. They are also free to users and are often less crowded than indoor gyms. Brent Sports Service has successfully secured funding from the NHS to implement outdoor gyms at 5 parks within the borough. The locations were agreed by the NHS, GP Board, Brent Sports and Brent Parks services. It was agreed that the chosen park would be ones that attract a lot of users and the implementation of an outdoor gym would compliment the other facilities within the park.

¹⁹ Brent Sports Services

The following 5 parks will have outdoor gyms by Spring 2013:

- Gladstone Park – location chosen because of the existing sports provisions within the park and due to high footfall of visitors. Also a venue for the walks programme, it's close to local schools and people already use the park for exercising.
- King Edwards Park, Wembley – location chosen as the park is situated in an area of population growth with the regeneration of Wembley, existing sports facilities, is close to schools, has high footfall and is a venue for the walks programme.
- Roe Green Park – location has high footfall and is close to a high school and the need for a third pool with health and fitness facilities has been identified in this area. There are existing sports provisions and is a venue for the walks programme.
- Tiverton Green – Demand for an outdoor gym was identified following a consultation project for future facility provisions.
- Gibbons Recreation Ground – location has existing sports provisions and is close to three local schools. The area is used as a shortcut by parents taking children to school and is an area of health inequality.

The funding will cover maintenance and repairs for all the equipment for five years and will also be used for trainers to support people using the gyms. Obviously the funding will eventually run out and the plan is to train up local people so that eventually they can lead on training sessions. The usage, benefits and popularity of these gyms will be monitored as the sports service have no facility to fund extra gyms. Further avenues of funding will be explored if necessary.

'Maslaha' is a website that was introduced by Tower Hamlets Primary Care Trust and The Young Foundation working in partnership to provide medical and Islamic information on how to lead a healthier life if you have diabetes. The website is aimed at Muslims to help them deal with the everyday dilemmas of living in a western society and at the same time provides advice on how to maintain a healthy diet and information about community centres who offer free exercise sessions for men and women. The site provides information about diabetes and the importance of diet and exercise, especially for those people originating from India, Pakistan and Bangladesh are more likely to be diagnosed with diabetes due to the excess weight around the stomach area which increases the chances of diabetes. Currently we do not have such a resource of information in Brent and considering the demographics of the borough it is highly likely that a project like this would do well in Brent. It is worth considering incorporating the sports service into this as well as we want to educate people about the benefits of regular exercise too.

Recommendation 3:

The task group recommend that the pilot intensive lifestyle intervention for people with impaired glucose tolerance be developed into a local programme and rolled out across the borough. Public Health are exploring further options with the current providers, Community Services, Brent Nutrition & Dietetics Service, for how intensive support can be provided in a more sustainable form.

Recommendation 5:

The task group recommends that there should be dedicated pages on the council's website to provide advice and information relating to health improvement and more specifically diabetes.' Maslaha' is a dedicated website that was introduced by Tower Hamlets council and was delivered in conjunction with The Young Foundation. Although the Maslaha site is specifically targeted at Muslims due to the demographics of Tower Hamlets, the Brent pages should be targeted at all high risk communities. The group recommend that this work should be led by Public Health in conjunction with council's Communications Team. The pages should be promoted at the various networking forums that take place in the borough to reinforce the message around how healthier lifestyles and healthy eating can help prevent diabetes.

Recommendation 10:

The task group recommend that the outdoor gyms be introduced in all parks throughout the borough so that all residents can have access to one and everyone can benefit from them. This is something to consider once the Public Health allocation has been confirmed to scope out the possibility of funding, although it should be noted that previous funding for outdoor gyms has been non recurrent and at present they are not budgeted for in the Public Health allocation.

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	<p>Executive 22 April 2013</p> <p>Report from the Director of Legal and Procurement and Director of Strategy, Partnerships and Improvement</p>
<p>Wards affected: ALL</p>	
<p>Community Right to Challenge</p>	

1. Introduction

- 1.1 The Localism Act 2011 introduced legislation that enables community groups and other relevant bodies to submit an expression of interest in relation to providing Council services. The local authority must consider the expression of interest in accordance with sections 81, 83 and 84 of the Localism Act 2011 and a set of regulations set out in the Community Right to Challenge (expressions of interest and excluded services)(England) Regulations 2012 and Community Right to Challenge (fire and rescue authorities and rejection of expressions of interest)(England) Regulations 2012 and accompanying Guidance on the Community Right to Challenge from the Secretary of State.
- 1.2 This paper summarises the requirements of the legislation and makes proposals concerning the necessary processes and procedure that the Council should have in place to be compliant with the provisions of the Act with respect to the right to challenge. The community right to challenge does not automatically provide groups with the right to provide a service, it enables them to express an interest. However if the expression of interest meets the criteria set out within the act and the guidance it can trigger the requirement for the council to run an open competitive tendering process for these services.

2. Recommendations

The Executive is asked to agree to the following recommendations:-

- 2.1 To note the requirements of the Localism Act 2011 and the Statutory Guidance on the Community Right to challenge from the Secretary of State.

- 2.2 For the financial year 2013/14, to set a bidding window for the period between 1 May 2013 and 30 June 2013 for community groups to submit expressions of interest to the Council under the community right to challenge.
- 2.3 For subsequent financial years after 2013/14, to set an annual bidding window for the period between 1 April and 30 May for community groups to submit expressions of interest to the Council under the community right to challenge.
- 2.4 To authorise officers to produce and publish a list of services due to be the subject of contracting processes in the following financial year in conjunction with the annual bidding window, starting from May 2013 for the financial year 2013/14.
- 2.5 To delegate authority to Directors for the relevant service areas to be responsible for assessing the expressions of interest against the criteria within the statutory guidance relating to the community right to challenge and deciding whether to accept or reject the expressions of interest.
- 2.6 To note the decision of the Director of Regeneration and Major Projects to accept the expression of interest made by Brent Tenants Rights Group regarding the Council's Tenancy Relations Service as set out in paragraph 3.33 of this report.

3. Detailed Considerations

Relevant Bodies in the Localism Act 2011

- 3.1 Brent Council is covered by the community right to challenge provisions introduced by the Localism Act 2011. The relevant groups and bodies who can submit an expression of interest to provide council services are set out within the Act 2011. This states that only the following are "relevant bodies" which can make an expression of interest :
 - (a) A voluntary or community body
 - (b) A body of persons or a trust which is established for charitable purposes only;
 - (c) A parish council
 - (d) Two or more employees of the relevant authority
 - (e) Any other person or body specified by the Secretary of State in regulations
- 3.2 Further details of these "relevant bodies" are set out in the Secretary of State's Guidance on the Community Right to Challenge. The Guidance states that whilst only relevant bodies are eligible to submit expressions of interest, they may do so in partnership with other relevant bodies and/or non-relevant bodies but in such circumstances, certain information must be provided in the expression of interest in respect of all partners. These are detailed in the Expression of Interest Requirements section below.
- 3.3 In relation to expressions of interest from employees of the local authority, specific guidance covers these arrangements and employees are expected to form an employee-led structure to take on running services under the right. Employees using the Right are not expected to have finalised all of their arrangements before submitting an expression of interest but will probably

need to form a separate legal entity in order to bid in a procurement exercise so that management and contractual relationships are clear.

Relevant services

- 3.4 The community right to challenge only applies to the provision of services and applies to all “relevant services”, which are services provided by or on behalf of the authority in the exercise of its functions. Services which are excluded from the right to challenge in secondary legislation are as follows.
- (i) Until 1 April 2014, a relevant service commissioned in conjunction with one or more health services by a relevant authority or by a Primary Care Trust, NHS Trust or NHS foundation trust under a partnership arrangement or by a relevant authority and an NHS body or a Strategic Health Authority, acting jointly.
 - (ii) Until 1 April 2014, a relevant service commissioned by an NHS body on behalf of a relevant authority.
 - (iii) A relevant service commissioned or provided by a relevant authority in respect of a named person with complex individual health or social care needs.

Submitting expressions of interest and specified periods

- 3.5 Local authorities can consider expressions of interest on a case by case basis whereby expressions of interest can be submitted at any time during the year. However, they can also choose to specify periods during which expressions of interest can be submitted in relation to a particular service or collection of services. This can be a specified two or three month period during the year when expressions of interest can be received. The council can also specify those services, aligned to contracts expiring where these are in place, that will be the subject of future bidding processes. A number of other authorities have already indicated that they will be adopting this approach. Details of any specified periods and services must be published, including on the authority’s website. A relevant body may submit an expression of interest at any time if the local authority has not specified a window in which to submit an expression of interest.
- 3.6 In specifying periods for submissions of interest, local authorities should have regard to the following factors:
- (a) The need to provide relevant bodies with sufficient time to prepare and submit expressions of interest.
 - (b) The nature, scale and complexity of the relevant service for which a period is being specified.
 - (c) The timescale for any existing commissioning cycle relevant to the service for which a period is being specified, or any other relevant local authority processes (including Executive and budget setting processes).
- 3.7 The Secretary of State’s Guidance encourages local authorities, when opting to specify periods, to consider where such periods can be aligned to allow expressions of interest relating to two or more services to be submitted. The Guidance acknowledges that specifying periods will help local authorities to

manage the flow of expressions of interest and allow this to be synchronised with any existing commissioning cycles for services.

Expression of interest requirements

- 3.8 The following information is required from any group when submitting an expression of interest:
1. Where the relevant body proposes to deliver the service as part of a consortium or to use a sub-contractor for delivery of any part of the service, the information in paragraphs 2 and 3 below must be given in respect of each member of the consortium and each sub-contractor as appropriate.
 2. Information about the financial resources of the group submitting the expression of interest.
 3. Evidence that demonstrates that by the time of any procurement exercise the group submitting the expression of interest will be capable of providing or assisting in providing the relevant service.
 4. Information about the service that is the subject of the expression of interest sufficient to identify it and the geographical area to which the expression of interest relates.
 5. Information about the outcomes to be achieved by the relevant body or, where appropriate, the consortium of which it is part, in providing or assisting in the provision of the particular service, in particular:
 - (a) How the provision or assistance will promote or improve the social, economic or environmental well-being of the relevant authority's area; and
 - (b) How it will meet the needs of the users of the relevant service.
 6. Where the group making the expression of interest consists of employees of the relevant authority, details of how that group proposes to engage other employees of the relevant authority who are affected by the expression of interest.

Notifying decisions on expression of interest

- 3.9 The local authority must specify the maximum period that it will take to notify the group making the challenge of its decision on an expression of interest and publish details of the specification, including on its website. Different periods may be specified for different cases.
- 3.10 The local authority must also notify a relevant body that has submitted an expression of interest of the timescale within which the authority will notify the body of its decision. The local authority must make such a notification of its decision in writing. This must be done within 30 days after the close of any period specified by the authority for submitting expressions of interest or, if no such period has been specified, within 30 days of the relevant authority receiving the expression of interest.
- 3.11 In specifying periods for notifying relevant bodies of decisions on expressions of interest, local authorities should have regard to the following factors:

- (a) The need to notify relevant bodies of a decision within a reasonable period;
- (b) The nature, scale and complexity of the service to which expressions of interest relate (eg is the service shared with one or more other relevant authorities, or jointly commissioned with one or more other public bodies?);
- (c) The complexity of the expressions of interest received (eg do they propose radical change to the way a service is provided?);
- (d) The likely need to agree modifications to expressions of interest in order to accept them; and
- (e) The timescales for any existing commissioning cycle relevant to the service which an expression of interest relates to, or any other relevant authority processes, including Executive decision making and budget setting processes.

Grounds on which an expression of interest may be rejected

3.12 The grounds on which an expression of interest can be rejected are as follows:

1. The expression of interest does not comply with any of the requirements of the Localism Act 2011 or in regulations.
2. The relevant body provides information in the expression of interest which in the opinion of the council is in a material particular inadequate or inaccurate.
3. The relevant authority considers, based on the information in the expression of interest, that the relevant body or, where applicable-
 - (a) Any member of the consortium of which it is a part; or
 - (b) Any sub-contractor referred to in the expression of interest is not suitable to provide or assist in providing the relevant service.
4. The expression relates to a service where a decision, evidenced in writing, has been taken by the relevant authority to stop providing that service.
5. The expression of interest relates to a relevant service-
 - (a) Provided, in whole or in part, by or on behalf of the relevant authority to persons who are also in receipt of a service provided or arranged by an NHS body which integrated with the relevant service; and
 - (b) The continued integration of such services is, in the opinion of the local authority, critical to the well-being of those persons.
6. The relevant service is already the subject of a procurement exercise.
7. The local authority and a third party have entered into negotiations for provision of the service, which negotiations are at least in part conducted in writing.
8. The local authority has published its intention to consider the provision of the relevant service by a body that two or more specified employees of that authority propose to establish.
9. The local authority considers that the expression of interest is frivolous or vexatious.
10. The local authority considers that acceptance of the expression of interest is likely to lead to contravention of an enactment or other rule of law or a breach of statutory duty.

The expression of interest must be submitted to the local authority by the relevant body in writing.

Modifying an expression of interest

- 3.13 If a local authority believes it would otherwise reject an expression of interest, it may seek instead to agree to it being modified. Any modification must be agreed with the relevant body. If an agreement cannot be reached, the local authority may reject the expression of interest.

Period between an expression of interest being accepted and a procurement exercise starting.

- 3.14 Local authorities must specify periods between an expression of interest being accepted in a particular matter and a procurement exercise starting. Depending on local circumstances, this aims to allow relevant bodies the time they need to prepare to complete in the procurement exercise.

In specifying these periods, local authorities should have regard to:

- (a) The need to provide employees of the local authority, and other relevant bodies, with a fair, reasonable and realisable opportunity to bid in the procurement exercise for the service;
 - (b) The nature, scale and complexity of the service being procured (eg it may take relevant bodies longer to prepare to bid for larger, complex services than smaller more straightforward ones); and
 - (c) The timescales for any existing commissioning cycle relevant to the service being provided, or any other relevant authority processes, which may include Executive decision making and budget setting processes.
- 3.15 The Guidance of the Secretary of State states the following: “The relevant authority may well have a contract with a third party to provider that service. It is for the relevant authority to set the period between accepting an expression of interest and starting a procurement exercise”. The local authority will need to take into account its contractual obligations and commissioning cycle. The Guidance adds the following: “It would be undesirable if an expression of interest was accepted and there was a lengthy period before a procurement exercise could be started”.

The procurement exercise

- 3.16 When a local authority accepts one or more expressions of interest for a relevant service, it must carry out a procurement exercise for the service. The procurement exercise must be appropriate having regard to the value and nature of the contract that may be awarded as a result of the exercise. Local authorities will need to comply with procurement law, including the Public Procurement Regulations 2006. Where the Public Procurement Regulations do not apply, it is for the local authority to decide how to procure the service.
- 3.17 Local authorities must consider how both expressions of interest and procurement exercises triggered by one or more expressions of interest being accepted would promote or improve the economic, social or environmental well-being of the authority’s area. This must be consistent with the law

applying to the awarding of contracts. The Secretary of State's Guidance suggests that local authorities may include social clauses in contracts provided they comply with the relevant requirements, which are explained in the European Commission's publication "Buying Social: A Guide to Taking Account of Social Considerations in Public Procurement". The Guidance also states that local authorities should have regard to the DCLG's Code of Recommended Practice on publishing new contracts and tenders information as part of the government's transparency agenda.

Proposed Process for adoption in Brent

- 3.18 The Government's stated intention for the community right to bid legislation is to encourage the provision of public services by a diverse range of organisations and increase competition, innovation and value for money through the challenge process. The expectation is that expressions of interest from local community groups or employees will be forthcoming for services currently provided directly by the local authority hence triggering a competitive market testing process.
- 3.19 However discussions with the voluntary sector and CVS Brent have indicated concerns that the local voluntary sector will still find it difficult to compete with larger, national charities or private sector organisations in any such procurement process. Large, multi-authority or lengthy contracts already entered into will not be immediately affected and, as increasingly local authorities look to shared service options to deliver the necessary financial savings, the scope for local organisations to compete could be limited.
- 3.20 The Corporate Procurement Team and the Strategy, Partnerships & Improvement Department ("SP&I") of the Council have conducted a number of workshops with the voluntary sector outlining the council's procurement processes and requirements, including the provisions within the Localism Act 2011. The voluntary sector in Brent is keen to be an effective provider of local services and have identified a number of steps that would assist them. The most significant of these is adequate prior knowledge of the council's commissioning and procurement intentions. This would enable them to be better prepared, able to form consortium to bid where necessary and improve the quality of the bids submitted. The other main barrier experienced is in relation to financial assessments with many groups holding insufficient reserves to be considered viable as contractors.
- 3.21 SP&I are working with CVS Brent to develop capacity building and support programmes for the voluntary sector which will address these issues. The proposal within this report to define an annual two month bidding window for expressions of interest and a list of the council's future commissioning intentions will be beneficial in providing clarity and transparency for the local community and voluntary sector.
- 3.22 A number of local authorities have decided not to put in place a specific process for receiving or deciding on expression of interest under the community right to challenge. They have taken the view that depending on the level and complexity of expressions received, they will judge them on a case by case basis and not specify a period during the year. This is an option that is open to the council.
- 3.23 Brent has been participating in an officer group considering models for responding to the Localism Act which includes Ealing, Barnet, Harrow,

Waltham Forest, Haringey and Enfield. The legislation in relation to the Community Right to Challenge came into force in June 2012 and to date very few expressions of interest have been received by other London boroughs, some have had one or two, most have not received any. They have typically been for very small areas of activity and from local voluntary groups. Brent has so far received one expression of interest for a small function within housing relating to the Council's Tenancy Relations Service within the Council's Housing Needs Service. It may well be the case that the level of demand remains very low. However for reasons of transparency, consistency and effective use of officer time it is proposed that Brent adopts a bidding window for receiving expressions of interest under the community right to challenge. It is considered that this would be beneficial in providing clarity for potential bidders from the voluntary sector and enable service areas to publish details of those services which would be commissioned in the coming cycle. The legislation gives Councils the choice to set window periods for community groups to submit bids which can help them to manage the flow of expressions of interest.

- 3.24 The proposals set out below have been developed by an officer group composed of senior service commissioners and Assistant Directors, legal, procurement and Strategy, Partnerships and Improvement. There was a general consensus to adopt a specified period for receiving expressions of interest although there was a request for some flexibility for each service area to define the frequency.
- 3.25 There are essentially three stages to the proposed process for responding to the community right to challenge:-
1. Receiving expressions of interest.
 2. Deciding on expressions of interest
 3. The procurement exercise.

Receiving Expressions of interest.

- 3.26 It is proposed that expressions of interest will be received by the council during a specified window of two months during May 2013 and June 2013 for the 2013/14 financial year and during a specified annual bidding window of April and May for subsequent financial years. They will be received at a single point of contact (SP&I) via a dedicated email address. Officers are establishing a specific web page setting out the guidance for submitting an expression of interest, necessary documentation and any additional information required. Each bidding period will also have a list of the contracts and services that are due to be re-commissioned in the coming procurement cycle.
- 3.27 In order to apply the necessary time frames set out within the guidance and the appropriate procurement processes the two month bidding window, the Council would be seeking expressions of interest for services that would be procured to commence the following financial year. Each service department would be responsible, in collaboration with colleagues in the Procurement Team, for producing an annual list of the services due for re-commissioning. This would include services that are currently provided under contracts which are due to expire and any new services to be commissioned externally. Expressions of interest to provide services currently provided directly by the

authority would also be received during this window although there is not an expectation that these should be specified on the list, unless there is a specific intent to seek external provision of the function.

- 3.28 Departments initially requested some flexibility on the frequency with which their services are included within the annual bidding window but after careful consideration, officers are agreed that an annual two month bidding window would be the best way in administering and processing the receipt of expressions of interest under the community right to challenge.

Deciding on expressions of interest

- 3.29 Deciding on whether the expression of interest meets the criteria set out within the legislation and guidance will be undertaken by each relevant service area, with advice from Legal Services and the Corporate Procurement Team. SP&I will co-ordinate the process and ensure that the relevant deadlines are adhered to, but technical assessment of any expressions of interest will be with the relevant Director or Assistant Director for the service. The Directors, with assistance from officers in S&PI, will set up working groups to consider the expressions of interest that relate to their own service areas and make recommendations to the Directors who will make the final decision whether to accept or reject the relevant expression of interest. It is expected that such groups and the Directors will have access to advice from officers in the Legal and Procurement Department and the relevant Heads of Service. Accordingly, as set out in paragraph 2.5 above, Members are requested to delegate authority to Directors for the relevant service areas to be responsible for assessing the expressions of interest against the criteria within the statutory guidance relating to the community right to challenge and deciding whether to accept or reject the expressions of interest.
- 3.30 A report setting out the results of the assessments of the expressions of interest will be taken to the Corporate Management Team setting out the implications for future procurement activity where bids have triggered tendering processes. In some instances expressions of interest could have significant strategic or political implications. In these circumstances, decisions will be referred initially to the Council's Policy Co-ordination Group and subsequently to the Executive where authority to tender a specific service is required.

Procurement Exercise

- 3.31 Where an expression of interest meets all the relevant criteria and is accepted the council must, within an acceptable period of time, commence an open tendering exercise for provision of the service. The relevant body who made the expression of interest is required to compete in this process along side any other would be provider. The guidance suggests that the period between accepting the expression of interest and starting a procurement process should not be unduly long. One benefit of specifying a window and defining a list of services due for re-tendering is that it will more effectively manage expectations. It is likely that we will receive expressions of interest for services that are already the subject of contracts not due to expire for a number of years. Being clear on the commissioning cycle for services will support the voluntary sector to bid more effectively.

- 3.32 In other respects the procurement process would be conducted according to existing legal requirements and with due regard to cost, quality and social value.

Current Expression of Interest

- 3.33 As set out in paragraph 3.23 above, the Council has only received one expression of interest to date which was from Brent Tenants Rights Group in relation to the Council's Tenancy Relations Service, which is a small function within the Council's Housing Needs Service. After careful consideration of the expression's compliance with the statutory requirements of the Localism Act 2011 and relevant regulations, a letter was sent on 18 March 2013 notifying Brent Tenants Rights Group of the decision of the Director of Regeneration and Major Projects on behalf of the Council that their expression of interest has been accepted and that a procurement exercise in relation to the Council's Tenancy Relations Service will commence by no later than 30 September 2013.

4. Financial Implications

- 4.1 There are no financial implications arising directly from this report. The staff resources required to administer the community right to challenge process will be contained within existing resources.

5. Legal Implications

- 5.1 The statutory requirements of the Community Right to Challenge on Councils are set out in sections 81 to 86 of the Localism Act 2011 and two sets of regulations, namely - (1) Community Right to Challenge (expressions of interest and excluded services)(England) Regulations 2012 and (2) Community right to challenge (fire and rescue authorities and rejection of expressions of interest)(England) Regulations 2012. Furthermore, the Secretary of State for Communities and Local Government issued Statutory Guidance on the Community Right to Challenge in June 2012. The content of the legislation and Statutory Guidance and the Council's statutory duties in relation to the Community Right to Challenge have been summarised in section 3 of this report above. Failure to administer the Community Right to Challenge in accordance with the legislation will leave the Council open to challenge for being in breach of its statutory duties under the Localism Act 2011.

- 5.2 Officers will seek legal advice as and where appropriate to ensure that the Council does not breach the domestic and EU law in relation to procurement and employment when dealing with expressions of interest under the Community Right to Challenge and any subsequent procurement exercises that may take place following consideration and acceptance of expressions of interest.

6. Equalities Implications

- 6.1 Officers have carried out a partial predictive Equality Impact Assessment of the proposal to set a two month annual window for community groups to submit expressions under the community right to challenge. A copy of the partial Equalities Impact Assessment is set out in Appendix 1 to this report. At this stage, no adverse impacts are envisaged. However, where expressions of interest are accepted and procurement exercises are carried out, an

equality impact assessment would need to be carried out in any event on a case by case basis. At the end of the first two month annual window, the process will be reviewed and the equality impacts will be considered and the process will be reviewed on an annual basis.

- 6.2 As the Community Right to Challenge concerns functions to potentially be carried out on behalf of the council, all expressions of interest must also be considered in relation to the Public Sector Equality Duty and due regard given in line with Brent's Equality Analysis guidance.

Public Sector Equality Duty

- 6.3 The Equality Act 2010 S149 sets out the public sector equality duty which requires the Council, when exercising its functions (including those as an employer) to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic.
- 6.4 Direct discrimination occurs if, because of a protected characteristic, a local authority treats a person less favourably than it treats or would treat others. Indirect discrimination occurs if a local authority applies the same provision, criterion or practice to everyone, but it puts those in a certain protected group at a "particular disadvantage" when compared with persons who are not in that protected group. Even if a "particular disadvantage" arises, indirect discrimination does not arise if the provision, criterion or practice can be justified – i.e. if it is a proportionate means of achieving a legitimate aim.
- 6.5 The Council must pay due regard to any obvious risk of such discrimination arising in respect of the decision before them. At Brent, these matters are examined in the Equality Analysis.

A 'protected characteristic' is defined in the Act as:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;(including ethnic or national origins, colour or nationality)
- religion or belief;
- sex;
- sexual orientation.

Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.

- 6.6 Having due regard to the need to 'advance equality of opportunity' between those who share a protected characteristic and those who do not, includes having due regard to the need to remove or minimize disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and encourage those who have a protected characteristic to participate in public life. The steps involved in meeting the needs of disabled persons include steps to take account of the persons' disabilities. Complying with the duty may involve treating some people better than others, as far as that is allowed by the discrimination law.

- 6.7 Due regard to the need to eliminate discrimination, advance equality, and foster good relations must form an integral part of the decision making process. The Council must consider the effect that implementing a particular policy will have in relation to equality before making a decision.
- 6.8 There is no prescribed manner in which the equality duty must be exercised. However, the council must have an adequate evidence base for its decision making. This can be achieved by gathering details and statistics on who uses the service. A careful consideration of this assessment is one of the key ways in which the Council can show “due regard” to the relevant matters. Where it is apparent from the analysis of the information that the proposals would have an adverse effect on equality then adjustments should be made to avoid that effect (mitigation).
- 6.9 The duty is not to achieve the objectives or take the steps set out in s.149. Rather, the duty on public authorities is to bring these important objectives relating to discrimination into consideration when carrying out its functions. “Due regard” means the regard that is appropriate in all the particular circumstances in which the authority is carrying out its functions.
- 6.10 There must be a proper regard for the goals set out in s.149. At the same time, the council must also pay regard to any countervailing factors, which it is proper and reasonable for them to consider. Budgetary pressures, economics and practical factors will often be important, which are brought together in the Equality Analysis form. The weight of these countervailing factors in the decision making process is a matter for the Council in the first instance.

Appendix 1

Partial Equality Impact Assessment

Background Papers

Community Right to Challenge – Statutory Guidance
Department for Communities and Local Government – June 2012

Contact officers

Arnold Meagher
Principal Lawyer (Housing & Litigation)
Legal and Procurement

Cathy Tyson
Assistant Director of Policy
Strategy, Partnerships and Improvement

Fiona Ledden
Director of Legal and Procurement

Phil Newby
Director of Strategy, Partnership
and Improvement

Meeting
Date

Version no.
Date

2012

Equality Analysis Guidance and Form



Brent Council Equality Analysis Form

Please contact the Corporate Diversity team before completing this form. The form is to be used for both predictive Equality Analysis and any reviews of existing policies and practices that may be carried out.

Once you have completed this form, please forward to the Corporate Diversity Team for auditing. Make sure you allow sufficient time for this.

1. Roles and Responsibilities: please refer to stage 1 of the guidance	
Directorate: Strategy, Partnerships and Improvement Service Area: Corporate Policy	Person Responsible: Name: Cathy Tyson Title: Assistant Director - Policy Contact No: 0208 937 1045 Signed:
Name of policy: Community Right to Challenge	Date analysis started: February 2013 Completion date: Case by case Review date: Annual - March 2014
Is the policy: New <input checked="" type="checkbox"/> Old <input type="checkbox"/>	Auditing Details: Name: Title: Date: Contact No: Signed:
Signing Off Manager: responsible for review and monitoring Name: Cathy Tyson Title: Assistant Director – Policy Date: 28/03/13 Contact No: 0208 937 1045 Signed:	Decision Maker: Name committee: Executive The Executive report recommends delegated authority to Directors of relevant service areas for any challenges made Date: April 2013

2. Brief description of the policy. Describe the aim and purpose of the policy, what needs or duties is it designed to meet? How does it differ from any existing policy or practice in this area?

Please refer to stage 2 of the guidance.

The Localism Act 2011 introduced legislation that enables community groups and other relevant bodies to submit an expression of interest in relation to providing Council services. The local authority must consider the expression of interest in accordance with sections 81, 83 and 84 of the Localism Act 2011 and a set of regulations set out in the Community Right to Challenge (expressions of interest and excluded services)(England) Regulations 2012 and Community Right to Challenge (fire and rescue authorities and rejection of expressions of interest)(England) Regulations 2012 and accompanying Guidance on the Community Right to Challenge from the Secretary of State. The ability to challenge in this way was not set out in law prior to this.

3. Describe how the policy will impact on all of the protected groups:

This is a partial equality impact assessment as the impact can only be assessed on a case by case basis, because of the very broad range of services which are covered by the legislation.

The report to Executive summarises the requirements of the legislation and makes proposals concerning the necessary processes and procedure that the Council should have in place to be compliant with the provisions of the Act with respect to the right to challenge. The community right to challenge does not automatically provide groups with the right to provide a service, it enables them to express an interest. However if the expression of interest meets the criteria set out within the act and the guidance it can trigger the requirement for the council to run an open competitive tendering process for these services.

The process is set out in law and includes checking that potential providers can meet the needs of users of the relevant service and how the service will improve the social economic or environmental well being of the area.

Equality Impact would be assessed as part of any resultant procurement process in the usual way.

Analysis and assessment of equality impact of the policy would be available on a case by case basis.

Please give details of the evidence you have used:

The evidence will be collected as we receive challenges.

4. Describe how the policy will impact on the Council's duty to have due regard to the need to:

(a) Eliminate discrimination (including indirect discrimination), harassment and victimisation;

There is the possibility that this will be achieved through the policy, dependent on the challenges received

(b) Advance equality of opportunity;

The policy is able to advance equality of opportunity, by ensuring voluntary organisations can trigger an open procurement process where they feel that services could be improved for local communities through alternative delivery mechanisms. Where the criteria are met, an open competitive procurement process is then available to the market to respond.

(c) Foster good relations

There is the possibility that this will be achieved through the policy, dependent on the challenges received.

5. What engagement activity did you carry out as part of your assessment?

Engagement on the procurement process has been ongoing, with the equality aspects being reviewed responding to feedback from local organisations direct to commissioners, procurement, the Equalities Forum and Voluntary Sector Liaison Forum.

Engagement on the right to challenge process has included a session to provide an overview on all of the changes under the Localism Act and planned sessions with the voluntary sector once the proposed process is agreed by Executive.

i. Who did you engage with?

We will engage with individual challengers through the challenge process and more widely with the community and potential providers on procurement processes

ii. What methods did you use?

We will use the process set out in law and associated guidance for the challenge process and use the engagement forums and feedback from providers for the wider procurement processes of the council.

iii. What did you find out?

We will review what we find at the end of each year, following the window for challenges to be made

iv. How have you used the information gathered?

We will assess this at the stage we have information

v. How has it affected your policy?

We will assess this at the point we have information

6. Have you identified a negative impact on any protected group, or identified any unmet needs/requirements that affect specific protected groups? If so, explain what actions you have undertaken, including consideration of any alternative proposals, to lessen or mitigate against this impact.

Please refer to stage 2, 3 & 4 of the guidance.

Any impact identified when reviewed each year will be identified and responded to

Please give details of the evidence you have used:

This will be drawn from individual procurement processes and included in equality impact assessments by the appropriate service areas at that time.

7. Analysis summary

Please tick boxes to summarise the findings of your analysis.

Protected Group	Positive impact	Adverse impact	Neutral
Age			
Disability			
Gender re-assignment			
Marriage and civil partnership			
Pregnancy and maternity			
Race			
Religion or belief			
Sex			
Sexual orientation			

8. The Findings of your Analysis

Please complete whichever of the following sections is appropriate (one only). Please refer to stage 4 of the guidance.

The overall process be reviewed each year. Individual cases to be covered by the commissioning and procurement processes for any procurement triggered through right to challenge. This will inform any changes to our policy and processes for right to challenge and wider procurement processes.

No major change

Your analysis demonstrates that:

- *The policy is lawful*
- *The evidence shows no potential for direct or indirect discrimination*
- *You have taken all appropriate opportunities to advance equality and foster good relations between groups.*

Please document below the reasons for your conclusion and the information that you used to make this decision.

Adjust the policy

This may involve making changes to the policy to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential adverse effect on a particular protected group(s).

Remember that it is lawful under the Equality Act to treat people differently in some circumstances, where there is a need for it. It is both lawful and a requirement of the public sector equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary.

If you have identified mitigating measures that would remove a negative impact, please detail those measures below.

Please document below the reasons for your conclusion, the information that you used to make this decision and how you plan to adjust the policy.

Continue the policy

This means adopting your proposals, despite any adverse effect or missed opportunities to advance equality, provided you have satisfied yourself that it does not amount to unlawfully discrimination, either direct or indirect discrimination.

In cases where you believe discrimination is not unlawful because it is objectively justified, it is particularly important that you record what the objective justification is for continuing the policy, and how you reached this decision.

Explain the countervailing factors that outweigh any adverse effects on equality as set out above:

Please document below the reasons for your conclusion and the information that you used to make this decision:

Stop and remove the policy

If there are adverse effects that are not justified and cannot be mitigated, and if the policy is not justified by countervailing factors, you should consider stopping the policy altogether. If a policy shows unlawful discrimination it must be removed or changed.

Please document below the reasons for your conclusion and the information that you used to make this decision.

9. Monitoring and review

Please provide details of how you intend to monitor the policy in the future.
Please refer to stage 7 of the guidance.

We will review annually following the closure of the window for receiving challenges.

10. Action plan and outcomes

At Brent, we want to make sure that our equality monitoring and analysis results in positive outcomes for our colleagues and customers.

Use the table below to record any actions we plan to take to address inequality, barriers or opportunities identified in this analysis.

Action	By when	Lead officer	Desired outcome	Date completed	Actual outcome

Please forward to the Corporate Diversity Team for auditing.

Introduction

The aim of this guidance is to support the Equality Analysis (EA) process and to ensure that Brent Council meets its legal obligations under the Equality Act 2010. Before undertaking the analysis there are three key things to remember:

- It is very important to keep detailed records of every aspect of the process. In particular you must be able to show a clear link between all of your decisions and recommendations and the evidence you have gathered.
- There are other people in the council and in your own department who have done this before and can offer help and support.
- The Diversity and Consultation teams are there to advise you.

The Equality Act 2010

As a Public Authority, Brent Council is required to comply with the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. These duties require Brent Council to have 'due regard' to the need to

- Eliminate discrimination, be it direct or indirect discrimination
- Advance equality of opportunity between persons who share a relevant protected characteristic and others who do not share it; and
- Foster good relations between people who share a protected characteristic and those who do not share it

The equality duty covers:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Marriage and civil partnership (direct discrimination only)
- Race
- Religion or belief
- Sex (formally known as gender)
- Sexual orientation

What is equality analysis?

Equality Analysis is core to policy development and decision making and is an essential tool in providing good services. Its purpose is to allow the decision maker to answer two main questions.

- Could the policy have a negative impact on one or more protected groups and therefore create or increase existing inequalities?
- Could the policy have a positive impact on one or more protected groups by reducing or eliminating existing or anticipated inequalities?

What should be analysed?

Due consideration of the need for an Equality Analysis should be addressed in relation to all policies, practices, projects, activities and decisions, existing and new.

There will be some which have no equalities considerations, but many will. Where an EA is undertaken, some policies are considered a higher risk than others and will require more time and resources because of their significance. This would include:

- Policies affecting a vulnerable group such as young people, the elderly and people with a disability
- Policies related to elective services such as Sports Centres or Libraries
- High profile services
- Policies involving the withdrawal of services
- Policies involving significant reductions in funding or services
- Policies that affect large groups of people
- Policies that relate to politically sensitive issues

It can sometimes be difficult to identify which policies are more sensitive. If you are in doubt seek advice from a more senior officer or the Diversity Team.

When should equality analysis be done?

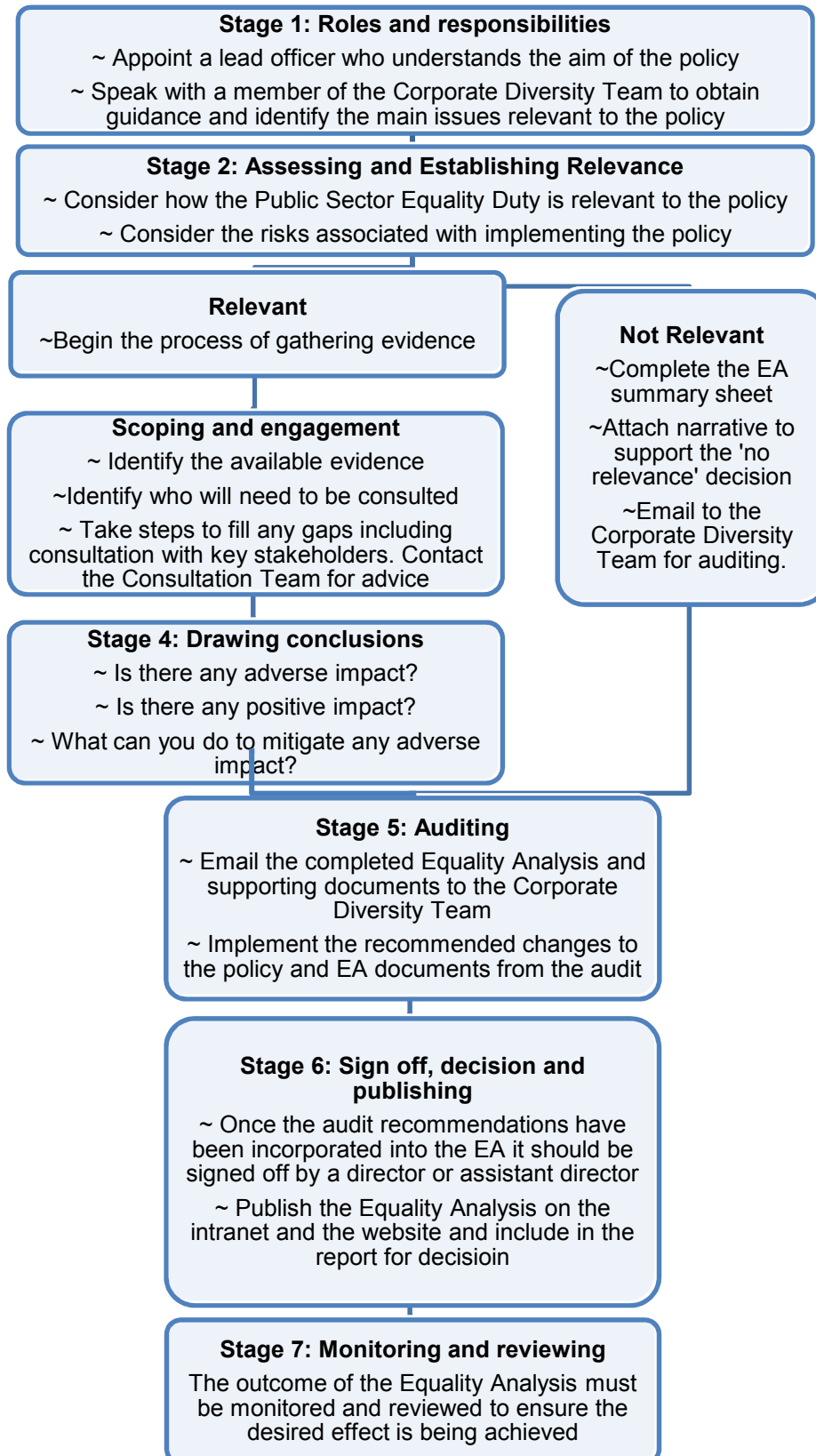
The EA must be completed before the policy is sent to the decision maker but should be carried out at the earliest possible stage. The advantage of starting early is that the equalities data informs and shapes the policy as it develops and progresses and this allows more time to address issues of inequality. You should also bear in mind that several changes may be happening at the same time. This would mean ensuring that there is sufficient relevant information to understand the cumulative effect of all of these decisions.

Positive action

Not all policies can be expected to benefit all groups equally, particularly if they are targeted at addressing particular problems affecting one protected group. (An example would be a policy to improve the access of learning disabled women to cancer screening services.) Policies like this, that are specifically designed to advance equality, will, however, also need to be analysed for their effect on equality across all the protected groups.

Brent Council's Equality Analysis Process

This flow chart sets out the process for carrying out an EA. Details on each stage of the process follow. Please note that it may be necessary to consult the Corporate Diversity team at each stage and that Legal may also need to be involved. This should be factored in to the time scale.



Stage 1: Roles and Responsibilities

The first stage in the process is to allocate the following roles.

Role	Responsibilities and tasks
Decision maker - the person or group making the policy decision (e.g. CMT/Executive/Chief Officer).	<ul style="list-style-type: none"> • Check that the analysis has been carried out thoroughly: • Read and be familiar with the EA and any issues arising from it and know, understand and apply the PSED. (The evidence on which recommendations are based must be available to this person.) • Take account of any countervailing factors e.g. budgetary and practical constraints
The officer undertaking the EA	<ul style="list-style-type: none"> • Contact the Corporate Diversity and Consultation teams for support and advice • Develop an action plan for the analysis • Carry out research, consultation and engagement if required • Develop recommendations based on the analysis • Submit the EA form to the Diversity team for audit with the evidence and any other relevant documents including the report the EA will be attached to • Incorporate the recommendations of the audit • Include the Equalities Analysis in papers for decision-makers
The Corporate Diversity Team. Usually an individual officer will be assigned at the start of the process	<ul style="list-style-type: none"> • Provide support and advice to the responsible officer • Carry out the audit of the EA to monitor quality standards and ensure it is sufficiently rigorous to meet the general and public sector duties. • Return the analysis to the responsible officer for further work if it fails to meet the necessary standard • Consult Legal if necessary (this stage of the process will take at least 5 days)
The council officer responsible for signing off the EA. Usually a senior manager within the relevant directorate	<p>Ensure:</p> <ul style="list-style-type: none"> • That the EA form is completed • That any issues raised as part of the auditing process have been fully dealt with • That the EA, the evidence used and any issues arising from the analysis are brought to the attention of the decision maker • Ensure that the findings are used to inform service planning and wider policy development.

Stage 2: Assessing and Establishing Relevance

We need to ensure that all of our policies and key decisions, both current and proposed, have given appropriate consideration to equality. Consideration of the need for an EA needs to be given to all new policies, all revised policies, all key decisions and changes to service delivery need an EA. Those that are more relevant will require more resources and data.

The following questions can help you to determine the degree of relevance, but this is not an exhaustive list:

Key Questions:

- Does the policy have a significant effect in terms of equality on service users, employees or the wider community? Remember that relevance of a policy will depend not only on the number of those affected but also by the significance of the effect on them.
- Is it a major policy, significantly affecting how functions are delivered in terms of equality?
- Will it have a significant effect on how other organisations operate in terms of equality?
- Does the policy relate to functions that previous engagement has identified as being important to particular protected groups?
- Does or could the policy affect different protected groups differently?
- Does it relate to an area with known inequalities (for example, access to public transport for disabled people, racist/homophobic bullying in schools)?
- Does it relate to an area where equality objectives have been set by Brent Council?

If the answer to any of the above is “yes”, you will need to carry out an Equalities Analysis.

“Not relevant”

If you decide that a policy does not impact on any of the equality needs contained in the public sector equality duty, you will need to:

- Document your decision, including the reasons and the information that you used to reach this conclusion. **A simple statement of no relevance to equality without any supporting information is not sufficient, nor is a statement that no information is available.** This could leave you vulnerable to legal challenge so obtaining early advice from the Corporate Diversity team would be helpful.
- Complete the EA Form and send it to the Corporate Diversity Team for auditing. If the Corporate Diversity Team advises that policy is relevant then you will need to continue the EA process (See flowchart). If the Corporate Diversity Team advises that the policy is not relevant then you will need to have it signed off, publish it and put in place monitoring arrangements for the policy.

Stage 3: Scoping

Scoping establishes the focus for the EA and involves carrying out the following steps:

- Identify how the aims of the policy relate to equality and which aspects have particular importance to equality.
- Identify which protected groups and which parts of the general equality duty the policy will, or is likely to, affect.
- Identify what evidence is available for the analysis, what the information gaps are, and establish which stakeholders can usefully be engaged to support the analysis.

Think about:

- The purpose of the policy, and any changes from any existing policy
- The reason for the policy
- The context
- The beneficiaries
- The intended results

At this early stage you should start to think about potential effects on protected groups. This could mean that you decide to change your overall policy aims or particular aspects of the policy in order to take better account of equality considerations. It is often easier to do this at an earlier stage rather than having to reconsider later on in the process.

Sources of information

It is important to have as much up-to-date and reliable information as possible about the different groups likely to be affected by the existing or proposed policy. The information needed will depend on the nature of the existing or proposed policy, but it will probably include many of the items listed below:

- The Brent Borough profile for demographic data and other statistics
- Census findings; the 2011 census data will be available during 2012
- Equality monitoring data for staff and/or service users
- Reports and recommendations from inspections or audits conducted on service areas
- Previous reports that have been produced either on a similar topic or relating to the same service user group
- Responses to public enquiries on similar topics e.g. Freedom of Information requests
- Comparisons with similar policies in other departments or authorities to help you identify relevant equality issues.
- Analysis of enquiries or complaints from the public to help you understand the needs or experiences of different groups.
- Recent research from a range of national, regional and local sources to help you identify relevant equality issues.
- Results of engagement activities or surveys to help you understand the needs or experiences of different groups.

- Local press and other media. This will tell you whether there is public concern about possible equalities implications and help you to highlight issues for engagement

Many of these sources will be consulted as a matter of course when reviewing or developing a policy. Equalities considerations are one part of the policy process, not an extra.

Service user information

The type of information you need will depend on the nature of the policy. However, information relating to service users is usually essential. Consider:

- The full range of information that you already have about the user group e.g. information contained within service reviews, audit reports, performance reviews, consultation reports
- Who actually uses the service?
- When do they use it?
- How do they use it and what are their experiences?
- Are there alternative sources of provision that could be accessed?
- Who will be using the service in the future?
- Information from groups or agencies who deliver similar services to your target group e.g. survey results from voluntary and community organisations.

Identify your information gaps

If you do not have equality information relating to a particular policy or about some protected groups, you will need to take steps to fill in your information gaps. This could mean doing further research, undertaking a short study, conducting a one off survey or consultation exercise, holding a focus group etc.

Engagement

The Consultation team are available to advise on all aspects of engagement. You may wish to carry out engagement, which can help you to:

- Gather the views, experiences and ideas of those who are, or will be, affected by your decisions.
- Base your policy on evidence rather than on assumptions
- Check out your ideas
- Find solutions to problems and develop ways to overcome barriers faced by particular groups.
- Design more appropriate services,
- Monitor and evaluate the success of your policies and understand where improvements may be necessary.
- Avoid the costs of remedying and adapting services after their implementation
- Pre-empt complaints, which can be costly and time-consuming.

But remember you don't always have to consult or embark upon engagement if you already have enough information to assess the likely impact of the policy change on the equality needs, and if there is no other legal duty to consult. This engagement

can form part of the broader consultation being carried out around service changes. You can also use recent engagement and research activities as a starting point, for example on a related policy or strategy and you can use documentation resulting from other equality analysis that Brent Council (or others) have undertaken.

For your engagement to be effective you will need to:

- Think carefully about who you should engage with. You will need to prioritise those who are most likely to be affected by the policy and those who will experience the greatest impact in terms of equality and good relations.
- In regard to people with a disability, as good practice it is recommended that they should be actively involved in engagement activity which directly affects them or the services that they receive.
- Make sure that the level of engagement is appropriate to the significance of the policy and its impact on equality
- Consider what questions you will need to ask, in order to understand the effect of the policy on equality. If you find it difficult to frame suitable questions you may take advice from the Corporate Diversity and Consultation teams
- Link into existing forums or community groups or to speak with representatives to help you reach less visible groups or those you have not engaged with before.
- Create opportunities for people to participate in supportive and safe environments where they feel their privacy will be protected, or via technology such as the internet
- Think of strategies that address barriers to engagement. Other people in the council have experience of this and can advise, as can the Corporate Diversity team and the Consultation team.

Stage 4: Drawing conclusions

You will need to review all of the information you have gathered in order to make a judgement about what the likely effect of the policy will be on equality, and whether you need to make any changes to the policy.

You may find it useful to ask yourself “What does the evidence (data, consultation outcomes etc.) tell me about the following questions”:

- Could the policy outcomes differ between protected groups? If so, is that consistent with the policy aims?
- Is there different take-up of services by different groups?
- Could the policy affect different groups disproportionately?
- Does the policy miss opportunities to advance equality and foster good relations, including, for example, participation in public life?
- Could the policy disadvantage people from a particular group?
- Could any part of the policy discriminate unlawfully?
- Are there other policies that need to change to support the effectiveness of the policy under consideration?

If the answer to any of the above is "yes", you should consider what you can do to mitigate any harmful effects. Advice from the Diversity team will be particularly helpful at this stage.

You will also want to identify positive aspects of the policy by asking yourself:

- Does the policy deliver practical benefits for protected groups?
- Does the policy enable positive action to take place?
- Does the policy help to foster good relations between groups

Having considered the potential or actual effect of your policy on equality, you should be in a position to make an informed judgement about what should be done with your policy.

There are four main steps that you can take:

- **No major change**
- **Adjust the policy**
- **Continue the policy**
- **Stop and remove the policy**

(please see EA form for detailed descriptions of each decision)

Decisions may involve careful balancing between different interests, based on your evidence and engagement. For example, if the analysis suggests the needs of two groups are in conflict, you will need to find an appropriate balance for these groups and for the policy in question. The key point is to make sure the conclusions you reach can be explained and justified. Speak to the Diversity team if you are unsure. As a result of your analysis you may need to develop new equality objectives and targets. These should be documented on the EA form.

Stage 5: Auditing

Once you have completed the EA you will need to complete the EA Form and send it to the Corporate Diversity Team for auditing. It is important to ensure that the EA Form is completed as fully as possible. Documenting all of your analysis is important to ensure that you can show how the general and specific duties are being met. This aspect of the analysis has been subject to legal challenge so you need to be able to show how you reached your conclusions. The audit process involves the Corporate Diversity Team reviewing the completed form, the information and evidence. Sometimes this may require advice from Legal. You need to bear in mind that this will take at least five days. The team will send you back a feedback form with comments and recommendations which you will need to action prior to the sign off of the form.

Stage 6: Sign Off, Decision and Publishing

Once the EA Form is completed, the document must be signed off and the completed document must be sent to the Corporate Diversity Team to be published on the council website.

Decision-making

In order to have due regard to the aims of the public sector equality duty, decision-making must be based on a clear understanding of the effects on equality. This means that Directors, CMT and others who ultimately decide on the policy are fully aware of the findings of the EA and have due regard to them in making decisions. They are also entitled to take into account countervailing factors such as budgetary and practical constraints.

Stage 7: Monitoring and Reviewing

Your EA, and any engagement associated with it, will have helped you to anticipate and address the policy's likely effects on different groups. However, the actual effect of the policy will only be known once it has been introduced. You may find that you need to revise the policy if, for instance:

- Negative effects do occur
- Area demographics change, leading to different needs,
- Alternative provision becomes available
- New options to reduce an adverse effect become apparent

You will need to identify a date when the policy will be reviewed to check whether or not it is having its intended effects. This does not mean repeating the EA, but using the experience gained through implementation to check the findings and to make any necessary adjustments. Consider:

- How you will measure the effects of the policy?
- When the policy will be reviewed (usually after a year) and what could trigger an early revision (see above)?
- Who will be responsible for monitoring and review?
- What type of information is needed for monitoring and how often it will be analysed?
- How to engage stakeholders in implementation, monitoring and review?

Section 3: Glossary

Civil partnership: Legal recognition of a same-sex couple's relationship. Civil partners must be treated the same as married couples on a range of legal matters.

Direct discrimination: This refers to less favourable treatment of one individual, if, because of that person's protected characteristic, that person is treated less favourably than another. Direct discrimination cannot be justified unless it is discrimination on the grounds of age.

Disability: A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Equality information: The information that you have (or that you will collect) about people with protected characteristics that will help you to show compliance with the equality duty. This may include the findings of engagement with protected groups and others and evidence about the effect of your policies on protected groups. It includes both qualitative and quantitative information, as well as evidence of analysis you have undertaken.

Gender reassignment: This is the process of transitioning from one sex to another. See also trans, transgender, transsexual.

Harassment: Unwanted conduct related to a protected characteristic that has the purpose or effect of violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. It may also involve unwanted conduct of a sexual nature or be related to gender reassignment or sex.

Indirect discrimination: This is when a neutral provision, criterion or practice is applied to everyone, but which is applied in a way that creates disproportionate disadvantage for persons with a protected characteristic as compared to those who do not share that characteristic, and cannot be shown as being a proportionate means of achieving a legitimate aim.

Mitigation: This is when measures are put in place that lessen the negative effects of a policy or policies on protected groups.

Objective justification: Your provision may indirectly discriminate against a particular group if:

- It is a proportionate means to achieve a legitimate end
- The discrimination is significantly outweighed by the benefits
- There is no reasonable alternative to achieve the legitimate end

For example, some employers have policies that link pay and benefits to an employee's length of service, such as additional holiday entitlement for long-serving employees. This may indirectly discriminate against younger people who are less likely to have been employed for that length of time, but in most circumstances it is seen as being a proportionate way of encouraging staff loyalty.

Direct discrimination on the grounds of age can also be objectively justified (no other direct discrimination can be).

Positive action: Lawful actions that seeks to overcome or minimise disadvantages that people who share a protected characteristic have experienced, or to meet their different needs (for example, providing mentoring to encourage staff from under-represented groups to apply for promotion).

Pregnancy and Maternity: Pregnancy is the condition of being pregnant. Maternity is the period after giving birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, including as a result of breastfeeding.

Proportionality: The weight given to equality should be proportionate to its relevance to a particular function. This may mean giving greater consideration and resources to functions or policies that have the most effect on the public or on employees.

Race: This refers to a group of people defined by their colour, nationality (including citizenship), ethnic or national origins.

Reasonable adjustment: Public authorities making adjustments to the way in which they carry out their functions so that disabled people are not disadvantaged by the way in which those functions are carried out. This is with regard to policies, practices or procedures, premises, and the provision of auxiliary aids or services.

Relevance: How far a function or policy affects people, as members of the public, and as employees of the authority. Some functions may be more relevant to some protected groups than to others, and to one or more of the three elements of the general equality duty. The function or policy may still be relevant if the numbers affected by it are very small.

Religion or belief: Religion means any religion, including a reference to a lack of religion. Belief includes religious and philosophical beliefs including lack of belief (for example, Atheism). Generally, a belief should affect your life choices or the way you live for it to be included.

Sexual orientation: This is whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

Trans: The terms 'trans people' and 'transgender people' are both often used as umbrella terms for people whose gender identity and/or gender expression differs from their birth sex, including transsexual people (those who propose to undergo, are undergoing or have undergone a process of gender reassignment to live permanently in their acquired gender), transvestite/cross-dressing people (those who wear clothing traditionally associated with the other gender either occasionally or more regularly), androgyne/polygender people (those who have non-binary gender identities and do not identify as male or female), and others who define as gender variant.

Transgender: An umbrella term for people whose gender identity and/or gender expression differs from their birth sex. They may or may not seek to undergo gender reassignment hormonal treatment/surgery. Often used interchangeably with trans.

Transsexual: A person who intends to undergo, is undergoing or has undergone gender reassignment (which may or may not involve hormone therapy or surgery). Transsexual people feel the deep conviction to present themselves in the appearance of the opposite sex. They may change their name and identity to live in the preferred gender. Some take hormones and have cosmetic treatments to alter their appearance and physical characteristics. Some undergo surgery to change their bodies to approximate more closely to their preferred gender. Transsexual people have the protected characteristic of gender reassignment under the Equality Act 2010. Under the Act, gender reassignment is a personal process rather than a medical one and it does not require someone to undergo medical treatment in order to be protected.

Victimisation: Subjecting a person to a detriment because they have made a complaint of discrimination, or are thought to have done so; or because they have supported someone else who has made a complaint of discrimination. Victimisation is unlawful under the Equality Act 2010.

A Summary of the Equality Act 2010

The Equality Act 2010 replaces the existing anti-discrimination laws with a single Act. The legislation covers:

- Employment and work
- Goods and services
- The exercise of public functions
- Premises
- Associations
- Transport
- Education

The act prohibits:

- Direct discrimination
- Indirect discrimination
- Discrimination by association
- Discrimination by perception
- Discrimination arising from disability
- Victimisation
- Harassment

The new legislation no longer refers to 'diversity strands' instead it introduces the concept of 'protected characteristics or groups, the protected characteristics are:

- Age
- Disability
- Gender reassignment
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and civil partnership
- Pregnancy and maternity

The Public Sector Equality Duty

The public sector equality duty requires that the council must, in the exercise of its functions, have due regard to the need to:


- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

These are generally referred to as the three arms of the duty. In relation to 'fostering' there is a duty to have due regard to the need to tackle prejudice and promote understanding.

Equality of opportunity is expanded by placing a duty on the Council to have due regard to the need to:

- Remove or minimize disadvantages connected to a characteristic of a protected group.
- Take steps to meet the needs of protected groups.
- Encourage participation of protected groups in public life where participation is proportionately low.

There is also a specific requirement that councils must take steps to take account of a person's disability and there is a duty to make reasonable adjustments to remove barriers for disabled people. The duty is 'anticipatory'. For example, Brent Council cannot wait until a disabled person wants to use its services, but must think in advance (and on an ongoing basis) about what people with a range of impairments might reasonably need.

	<p style="text-align: center;">Executive 22 April 2013</p> <p style="text-align: center;">Report from the Director of Legal and Procurement</p>
<p>For Action Wards Affected: ALL</p>	
<p style="text-align: center;">Authority to award contract for temporary agency staff</p>	

Appendix 2 of this report is Not for Publication

1.0 Summary

- 1.1. This report requests authority to award a contract as required by Contract Standing Order No 88. This report summarises the process undertaken in selecting the supplier for this contract and recommends to whom the contract should be awarded.

2.0 Recommendations

Members are requested to:

- 2.1 Approve the award of contract for Temporary Agency Staff to Reed Managed Services plc, for a period of three years from 1st August 2013 plus a possible extension of one further year on the basis of the rates outlined in section 4 of the report.
- 2.2 Approve an exemption from the usual tendering requirements of Contract Standing Orders and approve the direct award of an interim contract to Comensura Ltd for the period from 9th April 2013 to 31st July 2013 for the good financial and/or operational reasons set out in paragraph 3.15 of the report.

3.0 Detail

Background

- 3.1 The Council has a need for temporary staff, to fill vacant posts in the short term and on an interim basis, to manage fluctuations in workload and to obtain specialist skills quickly when the need arises.
- 3.2 The Council currently has a contract with Comensura for the management of temporary staff. The contract is a Vendor Neutral contract whereby the service provider does not provide staff directly employed by itself but through other agencies. The contract with Comensura expired in January 2013. The contract was called off a framework set up by the Royal Borough of Kensington & Chelsea and the framework was set up in such a way that the call-off contracts have to expire on the same date as the framework. Therefore the Council's contract with Comensura also expired in January 2013.
- 3.3 In December 2012 the Executive approved the award of a contract to Adecco Group UK and Ireland and also the direct award to Comensura of an interim contract for a period of 3 months from 9th January 2013 to cover the period leading up to the implementation of the Adecco service. Adecco have now stated that they are unable to accept the award due to a shortage of resources. They have stated that they will not be in a position to commence implementation of any new contracts until October 2013 at the earliest. As the Council wishes to have a new contract in place as soon as possible, an alternative procurement route has been followed, as described at 3.7 below.
- 3.4 The Council spent £10.7m on temporary staff through the Comensura contract in 2011/2012. This includes the gross amount paid to the agency worker, the fees paid to the employing agency and the fee paid to Comensura for their service.
- 3.5 Comensura has used technology to take costs out of the supply chain enabling the Council to control spend and centralise invoicing. Comensura's IT system provides a service at low cost but with limited interaction with Council managers and customer service. The award proposed in this report is for a service to be operated on a "Master Vendor" basis (as opposed to Vendor Neutral), whereby the supplier directly employs some categories of agency staff and contracts with other agencies for the remainder.
- 3.6 The advantages of the master vendor relationship over the current vendor neutral one are:
- reduced unit cost to reflect the vendor's share of the business
 - single invoice per month if required
 - increased robustness of management information
 - better candidate matching
 - reduced wastage/improved productivity
 - standardisation of fees

The selection process

- 3.7 It is proposed that a direct appointment is made of a supplier on a framework established by the Eastern Shires Purchasing Organisation.

The framework

- 3.8 The Eastern Shires Purchasing Organisation (ESPO) is a local authority purchasing consortium, jointly operated by the county councils of Cambridgeshire, Leicestershire, Lincolnshire, Norfolk and Warwickshire and the unitary authorities of Leicester and Peterborough City Councils.

The Local Government Professional Services Group (LGPSG) is a stakeholder group representing and supporting local authorities across England in delivering savings from the procurement of professional services, and in 2010 it commissioned ESPO to procure a framework for Managed Service Providers of Temporary Agency Resources (MSTAR).

The procurement process adopted by ESPO for the LGPSG was based upon the Open (one-stage) tendering procedure under the EU rules. Although the services are part B, an OJEU contract notice was placed. This indicated that the framework was a national one which would be open for use by all local authorities as well as some other public sector bodies. It was advertised as a 4-year framework agreement.

Six different sub-lots were tendered, and each sub-lot was evaluated separately. The evaluation involved two stages, qualifying and award; those offers that met the qualifying criteria were then scored against the award criteria.

The qualifying criteria included assessment of the following: compliance of bid, financial standing, insurance levels, experience and references, quality, environmental and health & safety procedures, business continuity plans, compliance with contract regulations and compliance with the terms and conditions.

The award criteria were divided into two areas; service delivery and price and the specific weightings used were as follows:

Service Delivery: 40% Price 60%

A position on the framework was awarded to the six highest scoring Suppliers in each of the sub-lots. An OJEU award notice was then placed confirming framework commencement on 11th April 2011 for 4 years.

- 3.9 The rules of the framework allow a direct award to be made to a supplier, on condition that the supplier selection is made based on price evaluation only. A detailed calculation of the projected costs with each of the suppliers had been undertaken, and the lowest priced supplier of the Brent requirement, based on 2011/12 usage, is Reed Managed Services plc.
- 3.10 The cost projections have taken into account the reduction in booking fees, which are not payable for those staff who are directly employed by a Master Vendor. This has been based on an assumption that 60% of temporary staff will be employed directly by Reed. This percentage is a model that is included in the framework terms.

- 3.11 The details of the price calculations for the Brent service are contained in Appendix 1. Only five of the six organisations on the framework are included, Adecco were not included in this exercise as they have stated that they do not have sufficient resources for implementation.
- 3.12 There will be a charge by ESPO to the Council of using the MSTAR framework contract. This charge is 2p per agency hour purchased, and is added to the supplier's hourly MSP fee. The total effect of this 2p charge is estimated at £7,718.00 per annum, based on historical agency staff usage.
- 3.13 There are opportunities for making savings during the term of the contract, and in particular during the first year. These are:
- Demand challenge: Only essential temporary staff are actually taken on. The supplier will work with the Council to test the actual need for each temporary assignment.
 - Tenure challenge: The supplier will conduct regular reviews of long term assignments to ensure that the staff are not overlooked and simply left in an assignment unchallenged.
 - Tenure discount challenge: The supplier will work closely with their supply chain to identify areas for further agency margin discounts once their overhead costs have been recovered, allowing lower margins to be earned for longer tenure workers.

The supplier is incentivised to make these savings by a mechanism in the contract, which allows them to keep 10% of any savings made during the first year of the contract. This "gainshare" arrangement is an option included in the framework.

- 3.14 The arrangement with Reed will enable improved service levels will be achieved through the provision of on-site recruitment support.
- 3.15 The current contract with Comensura expires on 8th April 2013, and this report is recommending they be awarded an interim contract until 31st July 2013 based on the same terms and conditions as the current arrangement. This is in order to allow sufficient time for Reed to carry out the implementation of the new service and migrate current temporary staff to the new contract, and in particular to give sufficient time for negotiations with existing temporary staff employing agencies, who will be required to agree terms with Reed.

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval of the award of the contract.
- 4.2 The estimated value of this contract is £11m per annum including the pay of the temporary staff, and will vary depending on the quantity of agency workers.
- 4.3 The fee element of the current contract was £735,282.56 in 2011/12. This

reflects the fee paid to the employing agency and the fee for the Comensura service. The projected costs for the Reed Service are £741,752.64 per annum, based on 2011/12 agency staff usage. The MSTAR usage fee referred to in 3.12 above is estimated at £7,718.00, giving a total projected cost of £749,470.64, representing an overall increase of £14,188.08 or 1.9% on the price currently paid.

- 4.4 There are opportunities to make savings during the term of the contract, as described in 3.13 above. Reed will be incentivised to identify savings by a mechanism in the contract which allows them a 10% share of those savings during the first contract year.
- 4.5 The cost of the contract will be funded from those service areas that use agency workers.
- 4.6 There are no other associated costs of the contract.

5.0 Legal Implications

- 5.1 For the purpose of Contract Standing Orders, the value of this contract is the estimated value that will be paid to Reed for its own fees and those of the other agencies it uses over the lifetime of the contract. It does not include the pay to the temporary workers which are under separate contracts and which are exempt from Contract Standing Orders by virtue of a specific exception in paragraph 83(a) of Contract Standing Orders.
- 5.2 The estimated value of this contract over its lifetime is higher than the EU threshold for Services. However these services are classified as part B services under the Regulations and so the award of the contract is not governed by the Public Procurement Regulations apart from general requirements to be fair, transparent and non-discriminatory. The award is subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.3 Where a contract proposed for award has been procured by calling off a framework set up by another body, there is no requirement under Contract Standing Orders for the submission of a pre-tender report to the Executive. Instead the proposal to use the particular framework has to be approved by the Chief Officer, including confirmation that a budget is available, together with confirmation from the Director of Legal and Procurement that use of the framework is legally permissible (SO 87(d)).

For the proposed use of this framework, Chief Officer approval had been given and the Director of Legal and Procurement has already confirmed informally that use of the framework is legally permissible.

- 5.4 There is no requirement for a standstill period so the contract can be awarded to Reed on expiry of the call-in period.
- 5.5 This report is also requesting approval for an exemption from the usual tendering requirements of Contract Standing Order 84f for Medium Value Contracts, in order to allow a direct award of an interim contract to the current provider of temporary staff management services. The Executive has the power to do this by virtue of Contract Standing Order 84a, provided that Members are satisfied that there are good operational and/or financial reasons for doing so. As the service is part B under the EU public procurement regime, then there is no breach of EU tendering requirements in relation to such a direct award, though the general duties of fairness, transparency and non-discrimination still apply.

6.0 Diversity Implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

7.0 Staffing Implications

- 7.1. There will always be a need for specialist skills and additional capacity at times of change and the council can provide for this need at the best rates using the approach outlined in this paper.
- 7.2. Improved contract management of non-permanent staffing arrangements will help to ensure that vacant posts are filled sooner so that the council has a reduced reliance on non-permanent staff.

Contact Officers

Fiona Ledden
Director of Legal and Procurement


Appendix 1 - Brent costs based on MSTAR framework rates

Total cost per annum. Costs include agency mark-ups and Master Vendor booking fee.

Lot 1B Pricing		
Supplier	Final Price	Price excluding 60% of booking fees
Reed	£762,590.70	£741,752.64
B	£821,452.60	£763,569.18
C	£846,678.00	£811,947.97
D	£912,311.30	£866,004.56
E	£1,185,161.04	£1,155,061.66

The key to the supplier names is not for publication and is included in Appendix 2.

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	<p style="text-align: center;">Executive 22 April 2013</p> <p style="text-align: center;">Report from Director of Legal and Procurement</p>
<p>West London Alliance Accord</p>	

1. Summary

This report sets out Brent Council's participation in and contribution to the West London Alliance programme of collaborative working and seeks authority to adopt the West London Alliance Accord as the basis for the continued development of collaborative approaches by the West London boroughs.

2 Recommendations:

- 2.1 The Executive adopt the new West London Alliance Accord at **Appendix 1** as the basis of on-going collaborative working amongst the boroughs of Barnet, Brent, Ealing, Harrow, Hillingdon and Hounslow, with authority being given to the Chief Executive in consultation with the Lead Member to agree any appropriate minor alterations to the Accord.
- 2.2 The Executive authorise the Chief Executive to agree Brent's annual financial contributions to the West London Alliance to be met from existing budget provision.
- 2.3 The Executive note the achievements of the WLA as set out in the West London Alliance Annual Report at **Appendix 2**.

3 Detail

- 3.1 The West London Alliance ("WLA") is one of a number of sub-regional local authority partnerships in London. It was established in the late 1990s to help deliver a number of economic, community, spatial planning and transport objectives across West London.

- 3.2 In recent years, there has been a significant increase in the depth and extent of the collaborative activity being undertaken by WLA councils (Barnet, Brent, Ealing, Harrow, Hillingdon and Hounslow). The emphasis has been on collaborative working to achieve service improvements and efficiencies among participating councils and there is now a substantial and growing programme of collaboration. The WLA is widely regarded as the most developed sub-regional local authority partnerships in London in terms of the robustness of the partnership, the scope of collaboration and the track record of delivery
- 3.3 The WLA is the council's principal strategic vehicle for progressing collaborative working, joint procurement and shared services between local authorities and is expected to realise annual savings.
- 3.4 The WLA has published an inaugural Annual Report detailing the collaborative programmes it is currently involved with. A copy of the report is at Appendix 2
- 3.5 The Annual Report details the six collaborative programmes which are the WLA's current focus, all of which Brent Council has either participated in or led on. These are:
- Adult Care Services Improvement and Efficiency
 - Children's Services Improvement and Efficiency
 - Passenger Transport Programme
 - Strategic Property Board
 - Procurement Board and Hub
 - Housing Partnership.
- 3.6 The Annual report details a number of notable successes across these programmes that have achieved considerable savings and cost avoidance. It also demonstrates the scale of current collaborative activity and the potential for savings across West London in future years. Overall the WLA councils are aiming to secure collective savings of at least £57m by 2016/17.
- 3.7 At the heart of all the programmes lies the aim to use the collective buying power of the participating councils to influence and control the cost of key services and the market within which they operate. To this end a number of WLA procurement frameworks have been negotiated and WLA councils are able to draw down services from these where it is advantageous for them to do so. Some of the more mature collaborative programmes, in particular adults' and children's services are now moving beyond making the most of tactical procurement opportunities to shared commissioning strategies which will provide further sources of service improvement and efficiencies in the future. In addition, the passenger transport programme has taken the step of creating a new shared transport bureau to co-ordinate and meet travel requirements in a more cost-effective way.

Governance, organisation and operation of the WLA

- 3.8 Overall governance within the WLA is provided by –

- Regular meetings of the six WLA council Leaders and Chief Executives. This group meets two or three times a year, provides overall strategic guidance and direction for WLA programmes and activities, and explores future opportunities and challenges. The current chair of the WLA Leaders and Chief Executive's Board is Councillor Julian Bell (Council Leader, London Borough of Ealing).
 - Monthly meetings of the six WLA council Chief Executives. These meetings review projects and programmes and provide managerial challenge and support to programme activity. They hold to account the Director and the programme managers, as well as colleagues in councils who are responsible for WLA programmes.
 - Individual programme activities are managed on a programme by programme basis; this reflects the differing participation by councils in the programmes and the way in which they are funded. However, the broad template is that each has a Programme Board comprising senior staff from the relevant service for each council, a lead Finance Director and a sponsor Chief Executive.
 - Individual approval by the Executive (or officer or member with the relevant delegated authority) of participant councils in relation to each new programme.
 - Regular reports to participating councils.
- 3.9 The WLA does not have a separate legal identity and has no decision making power in its own right. Participating councils must therefore obtain appropriate authority in order to participate in projects or provide financial or other support. This means that each project involving a contractual matter (collaborative procurement for instance) must have a 'lead' borough to enter into the contract and the contracting rules of that lead borough will be followed. Officers working in support of the WLA must be employed by one of the participating boroughs.
- 3.10 In 2010, the WLA moved to a more intensive phase when the six boroughs decided to set up the Adult Social Care Efficiencies Unit and to increase joint procurement activity generally. Ealing is the host borough and employs the largest number of officers engaged on WLA work. The salaries, on costs and operational expenses of the WLA staff and programmes are shared between the Councils participating on an equal basis, net of any grant income that has been secured by the WLA for the programme's work.
- 3.11 Ealing currently hosts or provides the following officers and facilities in support of WLA work:
- Employs the WLA director, senior programme manager, administrator, and 13 other officers. These officers are all Ealing employees and employed on Ealing Council terms and conditions.

- Provides accountancy, financial management, audit and related services and functions for the administration of WLA budgets.
 - Provides the WLA staff with office facilities, including desks and ICT.
- 3.12 The current arrangements for the WLA mean that it functions very flexibly. However, it is dependent upon the continuing voluntary participation of councils in relation to both its specific projects and its on-going viability. This carries risk for those participating councils that provide staffing resources, as the employing council will have continuing liabilities and responsibilities towards those officers regardless of whether or not there is any continuing need for their services for WLA work. That risk is unlikely to materialise to any significant degree, but given the expansion of WLA programmes more formal risk sharing protocols have been developed and are being applied.
- 3.13 In the context of the recent and potential future development of WLA activity, earlier this year the WLA Chief Executives decided to commission a review of the governance and management of the WLA, including an external peer challenge. This has resulted in a number of developments, notably:-
- the development of the proposed WLA Accord
 - the publication of an Annual Report
 - an enhanced business planning process
 - the establishment of a Benefits Realisation Board to enable robust identification and delivery of financial and non-financial benefits
 - the development of risk sharing arrangements for boroughs hosting and leading WLA activity.

The WLA Accord

- 3.14 The Accord has been developed following an internal review of WLA governance arrangements and an evaluation of current collaborative programmes. That work identified the need to strengthen aspects of WLA governance commensurate with the significant increase in scope of WLA activity in recent years and the potential for further growth as the collaborative and shared service agenda continues to develop.
- 3.15 The Accord is attached as Appendix 1. It highlights, among other items, the overall aims and objectives of the WLA, which are to:
- provide improved and more resilient services, focussed on and responding to the needs of residents and businesses
 - achieve better value for money and realise financial savings
 - enhance the social, economic and environmental position of West London through collaborative work in partnership with neighbouring boroughs within West London.
- 3.16 The objectives of the WLA as set out in the Accord are as follows:

- improve the prospects of achieving the participant Councils' strategic objectives by working together where that adds value over the option of councils acting individually;
- share investment, purchasing and resources where it will achieve improved services, better value for money and financial savings; and
- provide a unified voice for public sector interests in West London in order to have a greater impact on the regional and national policy and strategies affecting the interests of West London councils and its communities.

3.17 The Accord allows participating authorities to choose which of the collaborative programmes to participate in at any time. The Accord makes it clear that the WLA Alliance Board, Chief Executives Board and Programme Boards do not have delegated powers from their councils and when decisions are made, the Board member will need to ensure that they have obtained delegated authority from their relevant council to make such decision.

3.18 In summary, Brent Council has been an active member in the WLA. Brent has benefitted financially and in other ways from the WLA Programmes as detailed in the Annual Report. Officers would therefore recommend Brent's continued involvement with the WLA Programme and the continued financial contribution into the WLA required to ensure continued collaborative working and the achievement of financial and other benefits. Also, as the scope of collaborative working undertaken by the WLA increases, Officer recommend the adoption of the WLA Accord setting out the new governance arrangements for the WLA.

4. Financial Implications

4.1 The activities of the WLA are aimed at ensuring greater efficiency and effectiveness and therefore make a positive contribution to the council's performance. As detailed in the Annual Report, the benefits from engaging in the WLA Work Programme have exceeded Brent's contributions. Moving forward, funding is required for operating and supporting the WLA office and for programme funding.

WLA Office Funding

4.2 As detailed in paragraph 3.10, the WLA Office is funded by equal contributions from each of the six member boroughs. The 2012/13 contribution of £30,000 is provided for in the Council's current budget.

WLA Programme Funding

4.3 Individual WLA programmes have historically been funded by a combination of grant funding (such as from Capital Ambition) and further contributions from the boroughs participating in the programme. The principal criterion driving collective initiation and support and individual borough participation in a proposed programme is value for money, and in particular the potential of that programme to generate significant net financial savings.

- 4.4 As programmes normally run for longer than one financial year, any unspent funding remaining at the financial year-end is currently carried forward into the next financial year against each programme. The WLA Annual Report 2011/12 sets out in more detail the spending and funding for the WLA Office and for each of the WLA programmes for that year.

Support Costs

- 4.4 Ealing Council provides support in kind in terms of accommodation costs including IT and telephony and support costs such as HR, Payroll and Finance. Whilst such costs used to be insignificant, as the WLA has expanded in recent years the indicative cost of this support in kind has also grown and is estimated at £60,000 per annum. In recognition of this, it has been agreed that these costs will now be shared between boroughs participating in the WLA Office and Programmes.

5. Legal Implications

- 5.1 Brent has the power to participate in the WLA and its programmes. As indicated in paragraph 3.17, the Accord details that the various Boards established by the WLA do not have delegated powers and that decisions relating to the WLA programmes and governance must be taken by the Executive of individual councils or by officers or members to whom the relevant Executive has delegated authority to act.
- 5.2 All procurement activity undertaken by the WLA is subject to Public Contracts Regulations 2006.
- 5.3 As the scale of WLA activities increases there is a need for the lead borough for governance matters (London Borough of Ealing) to continue to apply formal and clear risk management and risk-sharing protocols agreed by the wider WLA members pursuant to Section 7.4 of the Accord.

6. Diversity Implications

- 6.1 The Council has to give due regard to its equalities duties, in particular with respect to its public sector duties arising pursuant to the Equality Act 2010, section 149, part 11 to:
- Eliminate discrimination, harassment, victimisation and eliminate any other conduct that is prohibited by or under the Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
 - Foster good relationships between equalities groups.
- 6.2 The Accord itself does not give rise to any equality considerations but the collaborative programme is likely to result in recommendations with equality impacts. Each time recommendations from a collaborative programme are submitted for consideration, they will need to be supported by an Equality

Impact Assessment so that the Council can demonstrate that Members have been provided with the information necessary to paying due regard to the Public Sector Equality Duty.

7. Staffing/Accommodation Implications

There are no staffing implications as a result of the Recommendations.

8. Background Information

None

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