



Executive

Monday 15 October 2012 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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www.brent.gov.uk/committees

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 personal and prejudicial 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)	
4 Deputations (if any)	

Adult and Social Care reports

5 Authority to award framework agreement for provision of carer related short break, home based support and respite services for adult social services and children and families - Addendum	11 - 18
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Further to the report dated 19 September 2012 approved by Executive, this addendum report brings to the attention of the Executive a number of anomalies in the original award detail and rankings and seeks authority for the following revised list of providers to replace the detail contained in the earlier report and be awarded onto the Framework Agreement as required by Contract Standing Order no 88. This addendum report reiterates in summary the process undertaken in tendering this contract outlined in detail in the original award report and provides explanation for the anomalies in the original award recommendation. It recommends the organisations that should be appointed onto the Framework Agreement now that data has been reassessed on officers are comfortable that this is a true reflection of the outcome of the tender process.

(Appendix also below)

Ward Affected:
All Wards

Lead Member: Councillors Arnold and Hirani
Contact Officer: Alison Elliott, Director of Adult Social Services, Krutika Pau, Director of Children and Families
Tel: 020 8937 4230, Tel: 020 8937 3126
alison.elliott@brent.gov.uk,
krutika.pau@brent.gov.uk

Children and Families reports

The purpose of this report is to provide general information about Brent's Adoption Service and to update the Executive following the Ofsted inspection in February 2012 and Department for Education (DfE) Diagnostic assessment in July 2012. The inspection and the DfE diagnostic assessment recognised the good work being undertaken by the Brent Adoption team, particularly the support to children and families, whilst at the same time acknowledging the historic concerns around timeliness of adoptive placements, which have now been robustly addressed.

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

Environment and Neighbourhood Services reports

7 **Managing Brent's Public Realm**

29 - 44

The current contract for waste, recycling and street cleaning ends on 31 March 2014. This report sets out the proposals for a new contract to manage 'Public Realm' services of waste, recycling, street cleaning and grounds maintenance and requests approval to invite tenders as required by Contract Standing Orders 88 and 89. The aim for the new contract is to improve resident satisfaction through greater joining up of services whilst delivering financial savings.

Ward Affected:
All Wards

Lead Member: Councillor Powney
Contact Officer: Jenny Isaac, Assistant
Director, Neighbourhood Services
Tel: 020 8937 5001 jenny.isaac@brent.gov.uk

Regeneration and Major Projects reports

8 **South Kilburn redevelopment**

45 - 90

This report summarises the progress made on the regeneration of South Kilburn and sets out the approvals required by the Executive to further progress Phases 2 and 3 of the regeneration programme
(*Appendix also below*)

Ward Affected:
All Wards

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

Central Reports

9 Outcomes of consultation and recommendations for a localised Council Tax Support (CTS) Scheme 91 - 144

This report sets out:

The findings and outcomes of the consultation arrangements for the proposed local Council Tax Support Scheme carried out over a nine week period between 11 June and 10th August 2012; a recommended scheme for a new local Council Tax Support (CTS) scheme based upon the outcomes from the consultation process and achieving, as far as reasonably practicable, a financially neutral position in 2013/14 (the first year of operation). The decision on making the Council Tax Support scheme will be made by Full Council; the financial and equality impacts of the recommended local Council Tax Support scheme for Brent residents.

Ward Affected: All Wards
Lead Member: Councillor R Moher
Contact Officer: David Oates, Revenues and Benefits
Tel: 020 8937 1931 david.oates@brent.gov.uk

10 Public Health Transfer - proposed structure and the role of the Director of Public Health 145 - 158

This paper sets out the business case for Brent and Hounslow's proposal to share a DPH as well as the proposed structure for public health and how staff will be integrated into the current officer structure once it transfers to Brent Council from NHS Brent takes place.

Ward Affected: All Wards
Lead Member: Councillor Hirani
Contact Officer: Andrew Davies, Policy and Performance
Tel: 020 8937 1609
andrew.davies@brent.gov.uk

11 Authority to invite tenders for the leaseholder property insurance services contracts 159 - 168

This report concerns the future provision of the Council's Leaseholder Property Insurance Service contract. This report requests approval to invite tenders in respect of the proposed Insurance Service contract to start 1 November 2013, as required by Contract Standing orders 88 and 89.

Ward Affected: All Wards
Lead Member: Councillor R Moher
Contact Officer: Mick Bowden, Deputy Director of Finance
Tel: 020 8937 1460 mick.bowden@brent.gov.uk

12 National non domestic rate relief

169 -
178

The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NNDR) liability in whole or in part on the grounds of hardship. This report includes applications received for discretionary rate relief since the Executive last considered such applications in July 2012. In addition one application for hardship relief has been received.

(Appendix also below)

Ward Affected:

All Wards

Lead Member: Councillor R Moher

Contact Officer: Richard Vallis, Revenue and Benefits

Tel: 020 8937 1503 richard.vallis@brent.gov.uk

13 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.

14 Reference of item considered by Call in Overview and Scrutiny Committee (if any)

15 Exclusion of Press and Public

The following item(s) is/are not for publication as it/they relate to the following category of exempt information as specified in the Local Government Act 1972 namely:

“information relating to the finances or business affairs of any particular person (including the authority holding that information)”.

APPENDICES:

Authority to award framework agreement for provision of carer related short break, home based support and respite services for adult social services and children and families - Addendum

South Kilburn redevelopment

National non domestic rate relief

(reports above relate)

Date of the next meeting: Monday 12 November 2012



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



LONDON BOROUGH OF BRENT

MINUTES OF THE EXECUTIVE Wednesday 19 September 2012 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 Al-Ebadi, Cheese, Chohan, S Choudhary, Hashmi, Mitchell Murray and RS Patel

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

None made.

2. **Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 20 August 2012 be approved as an accurate record of the meeting.

3. **Matters arising**

None.

4. **Deputations**

None received.

5. **Framework Agreement for Carers Service in Adult Social Services and Children and Families**

The joint report from the Directors of Adult Social Care and Children and Families summarised the process undertaken in tendering the contract for the provision of carer related short break, home based support and respite services for adult social services and children services. The Lead Member for Adults and Health, Councillor Hirani, reminded the Executive that in February 2012 agreement had been given to the selection criteria for the procurement of the framework agreement and that there were currently in excess of 23,000 unpaid carers in the borough whom the council had a responsibility to support and meet eligible needs. Councillor Hirani drew attention to the range of services for which contractors had been invited to tender and the list of suppliers recommended for appointment as set out in the report. He stated that the equalities implications had been assessed to be positive with services being provided to all.

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:-

that agreement be given to the appointment to the seven Lots of the Framework Agreement for the provision of carer related short break, home based support and respite services for Adult Social Services and Children and Families of those providers stated in paragraph 3.15, Table 2 of the report from the Directors of Adult Social Services and Children and Families for a period of four years.

6. Local Safeguarding Children's Board (LSCB) Annual report April 2012

Councillor Arnold (Lead Member, Children and Families) presented the Brent Local Children Safeguarding Board (LCSB) Annual Report which summarised safeguarding activities and priorities across the key agencies for the first year of the two year business plan. Actions yet to be completed would be included in the second year. The new chair of the LCSB had developed a new approach and themes to which all partners had agreed. It was confirmed that the business plan conformed to the necessary financial and legal obligations.

RESOLVED:-

that the contents of the LSCB Annual Report for 2011-12 be noted.

7. A Plan for Children and Families in Brent (PCFB) 2012-2015

The Executive received the report from the Director of Children and Families which set out a three year partnership plan for children and families in Brent which built on the achievements of the previous Children and Young People's Plan (2010-12) and brought together in one document the vision and key priorities for improving outcomes for children and families in Brent. Councillor Arnold (Lead Member, Children and Families) commended the Plan to members which she considered to be both ambitious and easily accessible. Notwithstanding central government's decision to remove the statutory requirement for the publication of a Children and Young People's Plan the council, along with some other local authorities, would continue to produce a single plan for children and young people which demonstrated commitment to improve outcomes for children driven by Brent Children's Partnership. Members' attention was drawn to the main priorities, action plan and performance management scheme. The Plan had been developed following wide consultation, Councillor Arnold reminded the Executive that everyone had a role to play its success and welcomed the report and the Plan.

RESOLVED:-

that agreement be given to the content of the PCFB and that it be noted that the priorities and outcomes would be fully integrated in service area plans and priorities.

8. **Recovering costs of events in Brent's parks and open spaces**

Councillor Powney (Lead Member, Environment and Neighbourhoods) introduced the report from the Director of Environment and Neighbourhood Services which sought to ensure that residents were able to enjoy self organised events in parks and open spaces with appropriate standards of public safety and in compliance with licensing legislation. Councillor Powney also sought agreement to the principle of partial cost recovery by introducing of a nominal charge to event organisers and drew attention to the scale of charges for events in categories set out in the report.

RESOLVED:-

- (i) that agreement be given to the principle of partial cost recovery charging to organisers that wish to hold events in Brent's parks and open spaces;
- (ii) that agreement be given to the partial cost recovery rates proposed in paragraphs 3.17, 3.18 3.19 of the report from the Director of Environment and Neighbourhood Services and that these charges be implemented from 1st December 2012;
- (iii) that the establishment and role of the Borough Safety Advisory Group as outlined in paragraphs 3.4 – 3.6 of the report be noted.

9. **Cashless Parking**

The report before members set out options for the adoption of different ways of payment for ad-hoc parking and sought member approval for the pace and extent of the move towards cashless parking and the introduction of price changes to better reflect the cost of processing different payment methods. Councillor J Moher (Lead Member, Highways and Transportation) stated that this was one of a number of initiatives and would increase efficiency and flexibility. Price changes had been introduced to incentivise payment.

RESOLVED:-

- (i) that approval be given to a flexible programme of replacement of coin payment machines for on-street and off-street locations with a cashless alternative and proposals for transition as set out in paragraphs 3.6 - 3.18 of the report from the Director of Environment and Neighbourhood Services;
- (ii) that approval be given to removal of built-in credit card readers in Brent car parks as set out in paragraphs 3.19 – 3.20 of the report;
- (iii) that approval be given to a new pricing scheme that incentivises cashless methods of payment for on-street and off-street locations as set out in paragraphs 3.22 – 3.24 of the report;
- (iv) that approval be given to the proposal that Brent adopt its own cashless parking identity, as part of the future procurement or renewal of the parking contract as set out in paragraph 3.25 – 3.26.

- (v) that approval be given to termination of the voucher payment contract and withdrawal of this payment method as set out in paragraphs 3.29 – 3.30 of the report.

10. **Parking service simplification and pricing**

Councillor J Moher (Lead Member, Highways and Transportation) introduced the report from the Director of Highways and Transportation which set out options to simplify the range of parking permits and the multiplicity of eligibility criteria. The proposed simplification would make it easier, quicker and more convenient for customers to obtain parking permits and pay to park. The cost of processing applications would reduce and several loop-holes which allowed drivers to park in unintended ways that undermine the Borough's parking objectives would be closed. Councillor Moher stated that the revised arrangements would be good news eliminating a number of inconsistencies and bringing in benefits to residents and visitors.

RESOLVED:

that approval be given to:

Simplification recommendations

Permit durations

- (i) the implementation of a 24 month permit as set out in paragraph 3.7 of the report from the Director of Environment and Neighbourhood Services;
- (ii) the withdrawal of temporary courtesy permits in favour a new one month permit as set out in paragraph 3.46;
- (iii) the implementation of rolling permits as soon as technology allows as set out in paragraphs 3.7;

Permit redesign

- (iv) the withdrawal of liveried and non-liveried business permits in favour of a new business permit scheme as set out in paragraphs 3.10 – 12;
- (v) the withdrawal of essential user permits in favour of a new online essential user day pass as set out in paragraph 3.14 – 3.15;
- (vi) the introduction of online four hour visitor passes as set out in paragraph 3.27, together with the corresponding withdrawal of visitor permits as set out in paragraphs 3.24 – 3.25 and 3.43, and biennial expiry for re-authentication of Temple Visitor permits as set out in paragraph 3.26, together with the introduction of a new cared-for permit as set out in paragraph 3.32 – 3.33;
- (vii) the withdrawal of Wembley Stadium Protective Parking Scheme permits and replacement with permits identical except for biennial expiry for re-authentication as set out in paragraphs 3.41 - 3.42;

- (viii) revised permit refund arrangements as set out in paragraph 3.51;

Permit withdrawal

- (ix) a phased withdrawal of special permits as set out in paragraph 3.18 – 3.19;
- (x) a withdrawal of replacement vehicle permits after virtual permits become universal, save that a maximum replacement period of one month is permitted where the vehicle is a higher emission than the original vehicle as set out in paragraph 3.47;

Suspensions

- (xi) the revised suspension arrangements as set out in paragraphs 3.53 - 3.54 and appendix C.

Pricing and payment recommendations

Principles

- (xii) the pricing principles as set out in paragraph 4.4;

Inflationary adjustments

- (xiii) an inflationary adjustment of residential permit prices for 2012 on 1st December 2012 as set out in paragraph 4.6;
- (xiv) automatic annual RPI increases as set out in paragraph 4.7 effective from April 2013;

December 2012 price adjustments

- (xv) pricing for special permits as set out in paragraph 4.25 - 4.26 effective from 1st December 2012;
- (xvi) pricing for temporary courtesy permits as set out in paragraph 4.33 effective from 1st December 2012;
- (xvii) pricing for replacement vehicle permits as set out in paragraph 4.35 effective from 1st December 2012;
- (xviii) pricing for existing business permits, pending replacement with a new business permitting scheme, as set out in paragraph 4.24 effective from 1st December 2012;
- (xix) pricing for essential user passes as set out in paragraph 4.26 and changes to existing permits as described in paragraph 4.28 with effective from 1st December 2012;

Pricing consistency adjustments

- (xx) revised pricing arrangements for residential permit duration pricing as set out in paragraph 4.10;
- (xxi) revised pricing arrangements for additional vehicle for residential permits as set out in paragraph 4.11;
- (xxii) pricing for dispensations as set out in paragraphs 4.38 – 4.40;
- (xxiii) pricing for suspensions as set out in paragraph 4.42;

New permit type prices

- (xxiv) pricing for cared-for permits as set out in paragraphs 4.16 – 4.17;
- (xxv) pricing for online visitor passes as set out in paragraph 4.15;
- (xxvi) pricing for new business permits as set out in paragraphs 4.19 – 4.23;

Biennial renewal administration charge

- (xxvii) a £15 administrative charge for biennial renewal of Wembley Event Day permits as set out in paragraph 4.29;
- (xxviii) a £15 administrative charge for biennial renewal of Temple zone visitor permits as set out in paragraph 4.31;

Payment method arrangements

- (xxix) new pricing arrangements to encourage use application routes and payment methods that incur least cost to the Council at paragraphs 4.12, 4.17, 4.23, 4.26, 4.30, 4.32, 4.34, 4.36, 4.39, 4.43 as explained in paragraph 4.12 – 4.13;
- (xxx) the cessation of cheques as a means of payment for parking services, with the exception of Penalty Charge Notices as set out in paragraph 3.55.

11. Update on the Cross Borough Parking collaboration

The report from the Director of Environment and Neighbourhood Services provided an update on key issues of the tender process for the Parking Services contract, a joint initiative with other West London Alliance members, such as highlights of the proposed specification, confirmation of the final scope of the contract, agreement of the evaluation criteria and details of the governance arrangements. The Director drew attention to the pre-tender considerations as set out in the report which were also before the Executive for approval.

RESOLVED:-

that approval be given to the pre-tender considerations for the proposed Parking Services contract as set out in section 4 of the report from the Director of

Environment and Neighbourhood Services as per requirement of Contract Standing Order 89 (Pre-tender Consideration).

12. Brent Civic Centre: Authority to Award Contract for Furniture Furnishings and Equipment (FFE)

Councillor Crane (Lead Member, Regeneration and Major Projects) introduced the report in the name of the Chief Executive which sought authority to award contracts as required by Contracts Standing Order 88. The report summarised the procurement process undertaken by the council to procure the Furniture, Furnishings and Equipment (FFE) for the new Civic Centre and recommended to whom contracts should be awarded. Councillor Crane was pleased to announce that the new Civic Centre had achieved a BREEAM outstanding rating as the greenest public office building in the country. Councillor Crane thanked Hopkins Architects, the developers SKANSKA and the Civic Centre Development Team for all their work. Arrangements would be made for members to visit the site in due course. On the contract for Furniture, Furnishings and Equipment, Councillor Crane reported that 11 organisations had tendered following the placement of the notice in the Official Journal of the European Union (OJEU) in April 2012 and reminded the Executive that once the decision was taken to award the contract there would be a mandatory 10 day standstill period before the appointment could be made.

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:

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RESOLVED:-

- (i) that the Furniture, Furnishings & Equipment contracts to the organisations named in Appendix 2 for the following Lots be awarded as follows:

Lot 1: Workstation Desks, Storage and Lockers

Lot 2: Loose Furniture for Administration Areas

Lot 3: Loose Furniture for Public and Democratic Areas

Lot 4: Specialist Furniture for Conference Rooms and Civic Hall

Lot 5: Workstation Chairs

- (ii) that the Assistant Director Major Projects and Civic Centre with the Director of Legal and Procurement be authorised to finalise the terms of appointment.

13. West Lodge, Paddington Cemetery 95 Willesden Lane London NW6 7SD

The report from the Director of Regeneration and Major Projects sought approval for the disposal by auction of the West Lodge, 95 Willesden Lane London NW6 7SD which was located in the Paddington Cemetery as the property had now

become surplus to requirements after the previous occupier, an employee of the Sports and Parks Service, vacated the property at the end of April 2012. Councillor Crane (Lead Member, Regeneration and Major Projects) advised that contractual payments to City of Westminster would have to be deducted from the profits from the sale.

RESOLVED:-

- (i) that the Assistant Director, Regeneration and Major Projects, (Property and Asset Management), be authorised to dispose of the property by way of auction, on such terms that he considers appropriate, after all due regard to planning and architectural considerations so as to ensure that the best price was received on sale and to instruct the council's Legal and Procurement Department in the matter of the disposal;
- (ii) that the Assistant Director, Regeneration and Major Projects, (Property and Asset Management) be authorised to commence and comply with the procedure, as set out in Section 123(2A) of the Local Government Act 1972 (LGA 1972), of the Council's intention to dispose of the public open space comprising the West Lodge and the land within its curtilage.

14. **Wembley School Site**

Councillor Crane (Lead Member, Regeneration and Major Projects) advised that the council had secured a possible site for a new primary school in the Wembley Stadium area as a consequence of a S106 planning obligation. The site was currently in industrial use but could be used in the medium term for a primary school. The owners of the site have offered either the site to be taken now or a cash sum to put towards new school provision. The report from the Director of Regeneration and Major Projects outlined the two options before the council to either receive two payments in 2013/14 and 2014/15 to be put towards education provision in the Wembley area or Option 2, to have year from signature of signing the S106 to enter into an option to 'purchase' the site and/or within three months. Option 1 would be the default position should Option 2 not be exercised. The land would effectively be transferred to the council at nil value ie no cost to the council. Councillor Crane indicated that Option 2 was being recommended for approval as there were limited sites available and he drew members' attention to the associated risks set out in the report. An outline agreement had been produced with Quintain Estates for the school land and Councillor Crane recommended its acquisition by the council on the terms set out in 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 approval be given to the acquisition of the Fulton Road site as a future school site subject to any necessary environmental investigation;

- (ii) that officers prepare legal documents for the transfer of the land based on the principles set out in paragraph 3.8 of the report from the Director of Regeneration and Major Projects;
- (iii) that the precise terms of that agreement be delegated to the Director of Regeneration Major Projects/Assistant Director, Property and Asset Management.

15. Complaints report 2011/12

Councillor Butt (Leader of the Council) introduced the report from the Director of Strategy, Partnerships and Improvement which provided an overview of complaints received and investigated by the council under the Corporate Complaints procedure and by the Local Government Ombudsman. He stated that generally the report was positive with the number of complaints falling. The Director of Strategy, Partnerships and Improvement added that progress was being made and pointed to the council now being among the best local authorities in dealing with complaints with in only nine cases (12%) did the Ombudsman ask for action to be taken to resolve a complaint compared to the London average of 27%. The Director also drew attention to a fall in the level of compensation awards due to complaints being dealt with more efficiently at the first stage. Councillor Butt thanked the Complaints Team and the Brent Housing Partnership for their efforts.

RESOLVED:

that the report be noted.

16. The Treasury Management Annual Report 2011/12

The Lead Member for Finance and Corporate Resources, Councillor R Moher, introduced the report from the Director of Finance and Corporate Resources which summarised borrowing and investment activity and performance compared to prudential indicators during 2011/12. The report needed to be referred to Full Council for approval in accordance with best practice. Councillor Moher drew attention to the interest rates charged during the year which were relatively low due reflecting the low demand for credit and desire for security. On loans and investments, Councillor Moher referred to the repayment of £198m of PWLB (Public Works Loans Board) debt relating to the Housing Revenue Account which would allow the HRA to be self-financing in the long term while accruing interest. The council had also borrowed from the PWLB in 2011/12 at a low interest rate. Councillor Moher, summarised lending activity and made specific reference to the recovery of loans to Icelandic banks where almost the whole sum had been repaid, referred to developments in financial markets since the end of the year, efforts being made to identify low cost funding and the investment strategy and indicators.

RESOLVED:-

that Full Council be recommended to

- (i) approve the Treasury Management Annual Report and Annual Investment Strategy Report;

- (ii) note the outturn for prudential indicators;
- (iii) note the updated position since 2011/12 .

17. Performance and Finance review - quarter one

The joint report from the Directors of Strategy, Partnerships and Improvement and the Director of Finance and Corporate Services provided members with a corporate overview of finance and performance information to support informed decision-making and manage performance effectively. It was noted that Quarter 1 reflected improvements in indicators and reporting but that Quarter 2 would be a better indicator of trends. The Deputy Director of Finance and Corporate Services drew attention to the importance of departmental project monitoring and pressures appearing early in the year which, it was anticipated, would be kept within budget.

RESOLVED:-

- (i) that the Finance and Performance information contained in the report from the Directors of Finance and Corporate Services and Strategy, Improvement and Partnerships be noted and agreement given to remedial actions as necessary;
- (ii) that the current and future strategic risks associated with the information provided be noted and agreement given to remedial actions as appropriate;
- (iii) that approval be given to the budget virements contained within the report.

18. Any Other Urgent Business


None.

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

None.

The meeting ended at 7.30 pm

M BUTT
Chair

 <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 15 October 2012</p> <p>Addendum to Report from the Directors of Children and Families and Adult Social Services approved by Executive on 19 September 2012</p>
For Action	Wards Affected: ALL
<p>Authority to award framework agreement for provision of carer related short break, home based support and respite services for adult social services and children and families - Addendum</p>	

Appendices 1 and 2 of this addendum report are “Not for Publication”.

1.0 Summary

- 1.1 Further to the report dated 19 September 2012 approved by Executive, this addendum report brings to the attention of the Executive a number of anomalies in the original award detail and rankings and seeks authority for the following revised list of providers to replace the detail contained in the earlier report and be awarded onto the Framework Agreement as required by Contract Standing Order no 88.
- 1.2 This addendum report reiterates in summary the process undertaken in tendering this contract outlined in detail in the original award report and provides explanation for the anomalies in the original award recommendation. It recommends the organisations that should be appointed onto the Framework Agreement now that data has been reassessed on officers are comfortable that this is a true reflection of the outcome of the tender process.

2.0 Recommendations

- 2.1 That the Executive agrees to the appointment to the seven Lots of the

Framework Agreement for four (4) years, for the provision of carer related short break, home based support and respite services for Adult Social Services and Children and Families of those providers stated in paragraph 4.1, Table 1 which now replaces Table 2 at 3.15 in the report dated 19 September 2012.

- 2.2 That the Executive notes that officers anticipate putting back the date that the Framework Agreement goes live by approximately four (4) weeks from 22 October to 19 November 2012 to allow sufficient time for award letters to be dispatched and for observation of the 10 day 'standstill' period which will apply to the award of this contract.

3.0 Detail

Background

- 3.1 On 17 October 2011 the Executive approved a report recommending that Adult Social Services, Children and Families and NHS Brent/ GP Clinical Commissioning Group collaborated for the procurement of services to carers. This procurement would be in the form of a joint framework agreement for the provision of respite and support services to carers ("the Framework Agreement"). The report also proposed a waiver to the competitive requirements of Standing Orders to allow extension of contractual arrangements with existing providers to give sufficient time for a tender process to be completed.
- 3.2 On 13 February 2012, officers sought and obtained approval from the Executive for pre-tender considerations and the criteria to be used to evaluate tenders. Approval was also given to officers to invite expressions of interest, agree shortlists and invite tenders in accordance with the procurement timetable and evaluate them in accordance with the approved evaluation criteria. It was also agreed that the contracted service would be structured into seven (7) Lots as follows:

Lot 1 > Personal care and short break support for disabled children and young people in their family home or in the community

Lot 2 > Short break support in the family home and/ or in the community for children and young people with behaviour challenges and/ or autistic spectrum disorders

Lot 3 > Short break support in the family home and/ or in the community for children and young people with complex health needs, including technology dependent children and young people

- Lot 4 >** Services for carers of older people
- Lot 5 >** Services for carers of adults with learning disabilities
- Lot 6 >** Services for carers of adults with mental health needs
- Lot 7 >** Services for carers of adults with physical disabilities

- 3.3 Following a consultation process with existing service users and providers a two stage process utilising a pre-qualification questionnaire to short-list providers subsequent to expressions of interest, and then a tender stage with short-listed providers was undertaken. It was agreed that providers would bid against all or some of the seven available Lots and be evaluated on the basis of a price/ quality evaluation in the ratio of 60/40 in favour of price. Upon completion of the evaluation, up to but no more than eight (8) providers would be recommended for award onto the Framework.
- 3.4 Full details of the procurement exercise are provided in the Framework Award report dated 19 September. Despite a rigorous process incorporating the use of a spreadsheet evaluation tool and a team of officers scoring and cross-checking, following the approval of the original report officers subsequently discovered a number of errors in the selection of providers for award and their ranking within the individual Lots. Following a thorough check of data involving the correction of the spreadsheet evaluation model within which was a formula anomaly that affected the selection of providers in Lot 4, and subsequent manual data incorrectly ranked which impacted upon Lots 1, 6 and 7 this addendum report now provides the correct and definitive award selection and rankings which supersedes those in the earlier report and seeks Executive authority to proceed on this basis.
- 3.5 This report confirms that the inaccuracy has not required tenderers method statements to be reassessed in any way by the evaluation panel. Scores against submitted proposals have remained constant throughout the process and remain unchanged. It is the electronic and manual recording of allocated scores for method statements and prices that have required investigation and where found to be inaccurate have been corrected.

Operational Implications

- 3.6 Officers sought advice from the Council's Democratic Services on how to approach a resolution to the problem in terms of the original award report considered by Executive on 19 September. Further to this specialist advice was sought from the Council's Contracts legal team.

- 3.7 Further to 3.4 the issue was raised at the next available Leaders Briefing on 26 September and it was recommended that this report form an addendum to the original award report with key information listed replacing that from the earlier report.
- 3.8 In light of the fact that this report will be considered by Executive meeting in October and the Framework is due to go 'live' on 22 October officers have recommended that the anticipated start-date be put back by 4 weeks to 19 November to give sufficient time for tenderer notification letters to be dispatched and for a 10 day 'standstill' period to be observed.
- 3.9 Officers will communicate with all participating providers at the first opportunity in light of the change to award time-line and amendment of other pursuant detail relating to the award.

4.0 Revised and Final Award Recommendation

- 4.1 Having completed the investigation of the data recording the final interpretation of the providers to be awarded onto the seven (7) Lots on the Framework are listed at Table 1 below. A further breakdown of provider details including scores and rankings of all providers who submitted tenders along with details of providers that were unsuccessful are provided at Appendix 1 and 2 below.

Table 1.

No	LOT 1 – Provider List	No	LOT 2 – Provider List
1.	Standard Nursing Agency and Care Services Ltd.	1.	Standard Nursing Agency and Care Services Ltd
2.	K.T.'s Care Angels Ltd. (Carewatch Brent)	2.	K.T.'s Care Angels Ltd. (Carewatch Brent)
3.	Supreme Company & Sons Ltd	3.	Servicescale Ltd trading as Personnel Care Bank (PCB)
4.	Servicescale Ltd trading as Personnel Care Bank (PCB)	4.	Supreme Company and Sons Ltd
5.	Oasis Care and Training Agency	5.	Oasis Care and Training Agency
6.	Hillingdon Crossroads Caring for Carers	6.	Hillingdon Crossroads Caring for Carers
7.	Harrow Mencap	7.	Harrow Mencap
No	LOT 3 – Provider List	No	LOT 4 – Provider List
1.	Servicescale Ltd trading as Personnel Care Bank (PCB)	1.	Standard Nursing Agency and Care Services Ltd.
2.	Supreme Company & Sons Ltd	2.	Oasis Care and Training Agency
3.	K.T.'s Care Angels Ltd. (Carewatch Brent)	3.	Servicescale Ltd trading as Personnel Care Bank (PCB)
4.	Hillingdon Crossroads Caring for Carers	4.	Supreme Company & Sons Ltd
		5.	K.T.'s Care Angels Ltd.
		6.	Enterprise Care & Support Ltd

		7.	Priory Nursing Agency & Homecare Ltd
		8.	Mears Care Ltd
No	LOT 5 – Provider List	No	LOT 6 – Provider List
1.	Standard Nursing Agency and Care Services Ltd	1.	Standard Nursing Agency and Care Services Ltd
2.	Oasis Care and Training Agency	2.	K.T.'s Care Angels Ltd. (Carewatch Brent)
3.	Supreme Company & Sons Ltd.	3.	Servicescale Ltd trading as Personnel Care Bank (PCB)
4.	Servicescale Ltd trading as Personnel Care Bank (PCB)	4.	Mears Care Ltd.
5.	K.T.'s Care Angels Ltd. (Carewatch Brent)	5.	Supreme Company & Sons Ltd.
6.	Enterprise Care & Support Ltd	6.	Plan Care (Taylor Gordon & Co.)
7.	Priory Nursing Agency & Homecare Ltd.	7.	Harrow Mencap
8.	Mears Care Ltd	8.	Hillingdon Crossroads Caring for Carers
No	LOT 7 – Provider List		
1.	Standard Nursing Agency and Care Services Ltd		
2.	Oasis Care and Training Agency		
3.	Servicescale Ltd trading as Personnel Care Bank (PCB)		
4.	Supreme Company & Sons Ltd.		
5.	K.T.'s Care Angels Ltd. (Carewatch Brent)		
6.	Enterprise Care & Support Ltd		
7.	Priory Nursing Agency & Care Services Ltd.		
8.	Mears Care Ltd		

4.0 Financial Implications

- 4.1 Although the Financial Implications relating to the award of this contract remain unchanged from those in the original report, and the recommendations of this report do not impact, the implications of the earlier report are repeated here for clarity.
- 4.2 The Council's Contract Standing Orders state that Framework Agreement for supplies and services exceeding £500k or works Framework Agreement exceeding £1million shall be referred to the Executive for approval of the award of the contract.
- 4.3 The estimated value of contracts to be procured through this Framework Agreement is £747,000 pa for Adult Social Services and £500,000 for Children and Families with a possible spend of £5,000,000 on behalf of London borough of Brent only over the 4 year

term of the framework.

- 4.4 A representative of Brent Financial Services assessed all financial accounts submitted as part of the pre-qualification process.
- 4.5 There is an Adult Social Services pooled budget arrangement in place until 31 March 2013 with NHS Brent, subject to finances being available. Details of the budget for this final year are listed below:

Adults Social Care

Financial year	LA contribution £	NHS Brent Contribution £	Pooled Budget £
2012/2013	£547,000	£200,000	£747,000

- 4.6 The estimated Children and Families annual budget provision for the new Short Break Services framework contract has been identified in section 4.2 above as £500,000. This will be met from existing budgets, but will be subject to change over the 4 year term of the contract. This may be as a result of reallocation of funds as a result of Direct Payments allowing service users to purchase their care provision direct, or funding reduction in order to achieve programmed savings.
- 4.7 Costs incurred in the contract process for professional advice, in particular legal. These will be funded from existing resources.

5.0 Legal Implications

- 5.1 The Legal implications relating to the award of this framework remain unchanged from those outlined in the original September report. Officers are submitting this report to Members seeking approval to appoint the service providers listed in Table 1 at 4.1 above, as an error occurred in Lots 1,4,6 and 7 in part arising from the evaluation tool used for the purpose of ranking the service providers; thereby requiring those lots to be re-ranked. Officers assure that the evaluation panel have not re-assessed any part(s) of the tender submissions and to ensure transparency, fairness and non-discrimination of the bidders, Officers thought it prudent to seek Member approval of the revised appointment recommendations. See the 19 September Executive report for the full legal implications on this tender.

6.0 Diversity Implications

- 6.1 An Equalities Impact Assessment (EIA) has been undertaken in accordance with the Equality Act 2012. A copy of the EIA was attached to the earlier report at Appendix 3.

7.0 Staffing/Accommodation Implications

7.1 This service is currently provided by a number of external providers and there are no implications for Council staff arising from retendering the contract. TUPE may apply to services being undertaken by existing providers that have been unsuccessful in being awarded onto the Framework Agreement. In these circumstances there will be a requirement for work to be transferred to a provider/s on the Framework Agreement. There is provision within the call-off protocol in the contract to ensure that providers on the framework can price for the service against TUPE information supplied by the incumbent.

8.0 Other Implications

8.1 There are no other known implications that may impact upon the award of this contract.

9.0 Background Papers

9.1 Report to Executive dated 19 September 2012 'Authority to Award Contract for the Provision of Carer Related Short Break, Home-based Support and Respite Services for Adult Social Services and Children and Families.'

9.2 Report to Executive dated 13 February 2012 'Approval of the selection criteria for the procurement of a framework agreement for carers services (short break and respite) for the Adult Social Services and Children and Families departments'


9.3 ITT Evaluation Matrix for Quality and Price.

Contact Officers

ALISON ELLIOTT
Director of Adult Social Services

KRUTIKA PAU
Director of Children and Families

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	<p style="text-align: center;">Executive 15 October 2012</p> <p style="text-align: center;">Report from the Director of Children and Families</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p>Adoption Service Report, 2011/ 2012</p>	

1.0 Summary

- 1.1 The purpose of this report is to provide general information about Brent's Adoption Service and to update the Executive following the Ofsted inspection in February 2012 and Department for Education (DfE) Diagnostic assessment in July 2012. The inspection and the DfE diagnostic assessment recognised the good work being undertaken by the Brent Adoption team, particularly the support to children and families, whilst at the same time acknowledging the historic concerns around timeliness of adoptive placements, which have now been robustly addressed.

2.0 Recommendations

- 2.1 Members are asked to note the contents of the report and of the Action Plan contained in Appendix A.

3.0 Detail

- 3.1 The key task of the adoption service is to provide adoptive families to those children who require permanency through adoption. In discharging that responsibility, the emphasis is on ensuring that children are matched with the "right" family which is best able to meet their needs in a safe and loving environment, and that this is done in a timely manner.
- 3.2 This report provides general background information on the service and an update following the Ofsted inspection (February 2012) and the Department for Education Diagnostic which took place in July 2012.
- 3.3 In 2010 concerns were identified in the functioning of the service and following an independent assessment, an Interim Head of Service was appointed in

July 2010. An Improvement Plan was put into place with a primary focus on addressing drift in the placement of children largely through better data collection, more robust performance management systems and an increased focus on quality of planning.

- 3.4 Weekly case tracking meetings and fortnightly Adoption team meetings were introduced which proactively review all children with either a 'should be placed for adoption' recommendation or who are awaiting an adoption match. These children are examined alongside all prospective and approved adopters awaiting a placement with a view to identifying potential early links. All recruitment activities in relation to prospective adopters (including initial visits and assessments) are tracked on a weekly basis to ensure that there is no drift.
- 3.5 The service has developed innovative recruitment strategies by exploring new ways to reach prospective adopters such as: attending The National Fertility Show, attending a National Islamic Event at the Excel Centre in London, facilitating an Information Morning at a Brent Somalian Community Centre and launching a mobile recruitment campaign using an open top double decker bus which tours Brent and neighbouring boroughs. We have also advertised by Life Screen in all G.P. surgeries and health centres.
- 3.6 A key priority is ensuring that children are matched with the right prospective family as quickly as possible. This means examining our own approved adopters in the first instance, but if none are suitable, we move quickly to seek external adopters via the Adoption Register, the West London Consortium and by circulating profiles of the children waiting on a monthly basis to other local authority and independent and voluntary adoption agencies throughout the United Kingdom. We also routinely advertise for specific children in the publications 'Children Who Wait' and 'Parents for Children', as well as using their online web facilities.
- 3.7 Over the period of the last year, the service has significantly increased its recruitment activity which has resulted in 183 enquiries for adoption, against 118 in the previous year. The Adoption and Permanency Panel approved 13 adopters in 2011/12 against 8 in the previous year. Most significantly, 9 children were adopted in 2011/12, whilst the same number was achieved within the first 6 months of this year, with a projected figure of 14 children by the end of the year.
- 3.8 There were also changes to improve the Adoption panel and to make sure it worked in an efficient and effective way. Additional adoption panels were introduced to improve timeliness of approval and matching and a robust monitoring system was put in place to ensure children's plans routinely return to Panel for monitoring purposes, which alerts us to any potential delay and provides the opportunity to counteract it. Monitoring sheets are completed for each case presented at panel and the panel provides feedback to the agency decision maker in respect of the quality of care planning in every case

- 3.9 Finally, the adoption service was reconfigured, with one team being responsible for the recruitment of prospective adopters, whilst the other supported children when they were placed with prospective adopters. This has allowed a greater focus on the two separate areas and led to a more proactive approach to the case tracking of children through the system. This will, in due course, lead to decreased costs as children are moved through to adoption more rapidly.
- 3.10 Ofsted inspected the Adoption service in February 2012. There were four judgement areas, two were judged good and two adequate. The overall judgement was adequate. There were only four recommendations made and all of those have now been actioned. The inspection noted a range of real strengths in the way the service worked. These included the good outcomes for children and the positive work being done with birth parents and adopters. It made particular comment on the level of support being offered to birth parents and was impressed with the support that was offered to them. The improvement in the numbers of prospective adopters being assessed and approved was also noted. It recognised the historical concerns but noted that these had been identified and that an improvement plan was in place. *'Recruitment of adopters has increased and all sections of the community are represented ... Adopters are often linked with children at an early part of the assessment process. This means that once the decision has been made for children to be adopted, they can move quickly to their adoptive placements.'* Ofsted report Feb 2012
- 3.11 The Government introduced an "adoption scorecard" in October 2011 and this highlighted that Brent's performance in placing children for adoption in a timely manner was poor and significantly below the national average. The scorecard drew on figures over a three year period, meaning that the performance was depressed by poor timeliness figures dating back to 2008. This performance combined with the Government's new focus on adoption is what led to the DfE Diagnostic Assessment which took place in July 2012. This assessment was very positive, acknowledging that the Council had recognised the issues and put into place a robust action plan to address these. It acknowledged the significant strengths of the service but recognised that the improvements will take some time to work their way through the system. The adoption figures for 2012 are beginning to evidence these improvements with timeliness of children through the system (from point of coming into care to being adopted) having vastly improved from the previous period. The national average is 625 days with Brent's previous average being 827. This year, 9 children have been adopted, in an average of 417 days. This is almost half the time previously taken.
- 3.12 The other area that the scorecard highlighted was the relatively low number of children placed for adoption in Brent. Adoption however is not the only route into permanency for children: many are placed permanently with families (often extended members of their family) through Special Guardianship Orders (SGO's). This is a relatively new legal option that has been made available to families. It is very similar to adoption, in so far as it makes a permanent arrangement for children and gives the new carer legal authority over the child. One of the major differences however, is that it does not

completely remove the rights of the birth parent. Special Guardianship Orders are used widely across the country but more so in London than elsewhere. The suggestion being that they are more acceptable to the more diverse communities in London because they do not completely remove parents' rights, and allow for placement with extended family members. When numbers of children placed for adoption are combined with those placed through SGO's, Brent's performance in this area is above the national average and in the top 25% nationally.

- 3.13 Placing children quickly is not the only measure of a high performing adoption service. Children must also be placed with the appropriate families which have the skills to care for them. The quality of our matching of adoptive children to prospective adopters is very good. The adoption service has worked very hard to ensure that the match between the two is appropriate to ensure that the placements have the best prospects for success and to support these placements robustly and this is one of the reasons that we have only had 1 adoption breakdown in 5 years.
- 3.14 Transracial placements are made on a regular basis in Brent. Brent has never accepted the argument that children should wait for the perfect ethnic match and whilst we will search for an appropriate match, adjustments are made very rapidly if no appropriate families are forthcoming. This issue is more acute in a borough like Brent because of both the high percentage of children from BME communities, but equally, the fact that the BME communities themselves are so heterogeneous.
- 3.15 Finally, the Government's focus on adoption and the drive to improve timeliness will continue with further improvements planned. Changes to the Adoption Panel are planned for September 2012 and the Council will soon be legally obliged to consider placing children with approved Adopters who will foster children before the adoption process is complete (Concurrent Planning). The 'foster to adopt' programme was initially launched earlier in the year but the government is now to legislate to make fostering by potential adopters standard practice.
- 3.16 The implications for Brent will mean that babies and younger children will be placed with approved adopters who will foster them first, whilst awaiting for the court orders to enable them to be adopted. This will significantly speed the process up for children but will introduce a level of uncertainty for adopters, who are accepting children where the final plan has not been approved by the Court.
- 3.17 The Family Justice Review, which is intended to speed the Court process up for all children, not just those being placed for adoption, will further impact on timeliness of planning in this area. There are a number of implications arising from this review and these are currently being addressed by the Department alongside other West London Boroughs.

4.0 Legal Implications

4.1 To comply with the Care Standards Act 2000 and the National Minimum Standards for Local Authority Adoption Services 2003 the Adoption Agency has a statutory responsibility to report on the work of the adoption service on a six monthly basis.

Standard 25.6 of the National Minimum Standards 2011 requires the Adoption Agency to produce a six monthly report on adoption activity to the Executive function in order for the Executive function to

(a) receive written reports on the management, outcomes and financial state of the agency;

(b) monitor the management and outcomes of the services in order to satisfy themselves that the agency is effective and is achieving good outcomes for children and/or service users; and

(c) satisfy themselves that the agency is complying with the conditions of registration.

In Brent, the executive function is discharged by the Lead Member for Children and Families, who receives and reviews all reports on a regular basis.

5.0 Financial Implications

5.1 There are no financial implications identified in this report and any changes have been met from within existing resources.

6.0 Diversity Implications

6.1 There are no diversity implications contained within this report.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 There are no staffing issues contained within this report.

Background Papers (essential)

i) Adoption Improvement and Action Plan

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Krutika Pau

Director of Children & Families


London Borough of Brent Placements: Adoption Service action and Improvement Plan

Action	Due date	Person Responsible	Progress
Leadership and Strategy			
The Team Manager to register for the required management qualification NMS 19.2.	31/03/12	Gill Kilbane	Registration now completed managers to start course October 12.
All staff and managers need supervision training which is service specific and highlights the performance management element.	30/06/12	Hilary Brooks	Managers completed training, staff who supervise to attend. Audits undertaken to ensure implementation into practice.
A process to be established for regular supervision audits by managers / senior managers to ensure QA of practice. NMS 24.5.	31/10/12	Hilary Brooks	Process established. Audits completed in July 12. Further audits in October 12.
Recruitment of a consistent Panel Advisor.	31/07/12	Hilary Brooks	Post to be advertised October 12.
Recruitment and assessment			
Review all enquiries in Adoption Team Meeting to ensure all enquiries are followed up with information pack within 5 working days NMS 10.3.	16/03/12	Gill Kilbane / Marilyn St Ange	Completed and added to enquiries sheet. Ongoing monitoring by Team Manager.
Scrutiny of Initial Visits needs to be undertaken weekly to ensure all suitable prospective adopters are followed up within 2 months of enquiry. NMS 10.4	16/03/2012	Gill Kilbane / Marilyn St Ange	Completed and ongoing monitoring by Team Manager, monthly monitoring by HoS.
Complete a report to evaluate the recruitment strategy for 2011-2012 and prepare a new strategy for 2012 - 2013 including what worked and what did not work and what the targets will be for the coming year. This needs to be completed in conjunction with the Adoption Manager and Marketing Manager.	30/05/12	Daniel Thomas	Completed but needs to be regularly reviewed at weekly Management Information meeting to inform recruitment process.
64% (9) of prospective adopters whose case is presented to A & P panel within 8 months of their application being accepted. NMS 17.7.	31/05/12	Gill Kilbane / Marilyn St Ange	Improvements recorded, however still needs monitoring of reason for delay and then further evaluation to be undertaken in December 2012.
Increase available number of approved prospective adopters by 5 to 19.	30/11/12	Gill Kilbane / Marilyn St Ange	Additional targeted recruitment currently been undertaken to ensure approval of

			adopters to meet the needs of Brent LAC. We have currently met this target and are assessing further adopters.
Timeliness of matching and placement			
Development of concurrent planning policy and strategy.	31/12/12	Marilyn St Ange / Gill Kilbane	Developing as an incremental strategy – to encompass all age ranges. Targeting in-house carers and implementing government's latest strategy of approving adopters as foster carers.
Support and Guidance			
The Children's Guide to Adoption Support to be prepared for printing and then distributed as part of the adoption process. NMS 18.6.	16/03/12	Eldica Noel	Completed.
Completed Life story books and Later Life Letters to be given to Adopters and children within required timescales (within 10 working days of adoption ceremony being held).	Ongoing	Marilyn St Ange / Gill Kilbane	New carers within timeframe. Historical/prioritising and working on backlog now monitored by Team Manager.
Monitoring and Review			
6 monthly reports need to be completed including from A and P panel which give an evaluation of compliance with required timescales, for scrutiny by the executive of the council.	31/03/12	Gill Kilbane	Completed.
Management Information used for case tracking on a weekly basis by management (Team Manager / Head of Service and Panel Advisor) to ensure that everyone is informed by the same data.	31/03/12	Hilary Brooks	Completed. Weekly meetings still taking place to track all cases.
Regular fortnightly meetings of internal Permanency Panel which includes adoption managers and care planning managers to highlight children coming through system who are likely to require adoption and to enable forward planning/targeted recruitment of adopters who can meet their needs.	December 12	Hilary Brooks / Elzanne Smit	Completed. Meetings taking place on a 6 weekly basis to track all LAC children through their journey in care.
A process to be established for regular file audits by management to ensure QA and management overview.	Ongoing	Hilary Brooks	File audits completed, programme of audits implemented, analysis undertaken.

To ensure Family Group Conferences take place in all relevant cases and all members are involved.	30/03/12	Kelli Eboji / Hilary Brooks / Marilyn St Ange / Gill Kilbane	Completed.
To continue to monitor and support placements to prevent breakdown and increase placement stability.	01/07/12	Hilary Brooks / Goitom Mebrahtu / Kelli Eboji / Gill Kilbane / Marilyn St Ange	Measures in place to monitor and improve our practice to ensure stability of placement.
To undertake regular meetings with IRO and Care Planning to discuss and monitor progress around cases.	01/10/12	IRO. Ros Morris, Elzanne Smit, Hilary Brooks, Gill Kilbane.	Remit and frequency of meetings to be established by H Brooks in conjunction with other Heads of Service.
Training on Family Justice Review.	28/06/12	Legal	Training completed for 28/06/12.
To work with Legal, Panel Advisor and AD on changes to panel in respect of FJR.	18/07/12	Legal, Hilary Brooks, Graham Genoni, Panel Advisor.	Meeting took place July 12, procedures agreed to be implemented September 12.
Implement safe base training.	01/05/12	Consortium	Completed.
Ensure overall scrutiny of service from members, via discussion, update and bi-annual reports.	Bi-annual	Members	Meetings and report sent on a regular basis to members and executive..
All issues relating to recording need to be addressed <ul style="list-style-type: none"> ○ through further training on Frameworki ○ through quality assurance in supervision ○ through file audits and associated action plans. 	Ongoing	Hilary Brooks	Identified as key issue from file audits. Training on Frameworki undertaken, supervision training currently ongoing for Managers. Further file audits ongoing.
Allegation, Complaints and Compliments logs to be created and stored centrally.	30/06/12	Marilyn St Ange	Completed.
To create adoption activity days alongside Consortium and BAAF.	30/08/12	Marilyn St Ange / Gill Kilbane	Discussed with Justin Simon in Consortium. Training day November 2012.
To work towards changes regarding adoption assessments and this is to include looking at creative way to recruit adopters for children with disabilities.	Ongoing	Gill Kilbane / Marilyn St Ange	To work alongside Children with Disabilities Team. Discussion with both teams on different ways to enhance recruitment and provide placements for Children with Disabilities.

To work alongside Children with Disabilities team and ensure the team joins the LAC Panel.	31/07/12	Hilary Brooks / Gill Kilbane / Marilyn St Ange / Elzanne Smit / Sharon Stockman	Completed.
To continue to develop a one system approach to performance information and for the Council to incorporate adoption in their scorecard.	1/10/12	Hilary Brooks / Gill Kilbane / Marilyn St Ange / Ronnie Ferguson	To work alongside Policy and Performance Team to ensure clarity of data.
Contact			
Letterbox contact files need to be audited and cleared of anything that is not needed.	23/01/12	Eldica Noel / Lyndy Cole	Audit completed. Issues high lighted poor systems for managing letterbox. New system and change of worker implemented.
To look around joint working and commissioning with Consortium.	30/10/12	Hilary Brooks / Gill Kilbane / Marilyn St Ange / Justin Simon	To drive through new innovative initiatives. Working alongside Consortium.
Legal			
To work with Social Care to build professional confidence whilst undertaking care proceedings.	Ongoing	Fiona Alderman	Completed.

	<p style="text-align: center;">Executive 15 October 2012</p> <p style="text-align: center;">Report from the Director of Environment and Neighbourhood Services</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p>Managing the Public Realm</p>	

1.0 Summary

- 1.1 The current contract for waste, recycling and street cleaning ends on 31 March 2014. This report sets out the proposals for a new contract to manage 'Public Realm' services of waste, recycling, street cleaning and grounds maintenance and requests approval to invite tenders as required by Contract Standing Orders 88 and 89. The aim for the new contract is to improve resident satisfaction through greater joining up of services whilst delivering financial savings.
- 1.2 Soft market testing with a wide range of providers showed a strong interest because of the scale and innovative approach being demonstrated by the four boroughs (Brent, Barnet, Richmond and Hounslow). It also gave useful guidance on how best to bring the proposals to market to maximise the quality and minimise the costs.
- 1.3 Three options for the new contract have been evaluated:
 - Option 1 Brent Council and Brent Housing Partnership (BHP) public realm contract only;
 - Option 2 a collaborative procurement and on-going management across the boroughs of Brent, Barnet, Richmond and Hounslow and BHP;
 - Option 3 a joint procurement across the four boroughs.

- 1.4 A detailed analysis of the risks, benefits and potential savings has highlighted Option 2 - a collaborative procurement as the way forward that would deliver the most benefits and financial savings.
- 1.5 Paragraph 3.6 also sets out proposals for Brent to secure a depot site, as without a site we are limiting the potential providers and hence we are unlikely to achieve the best possible price from the contract.

2.0 Recommendations

- 2.1 The Executive to give approval to the Council participating in a collaborative procurement and service delivery exercise known as 'Managing the Public Realm' for the provision of waste, recycling, street cleaning and grounds maintenance services.
- 2.2 The Executive to note that Brent will act as the Lead Authority for the procurement exercise.
- 2.3 The Executive to give approval to officers to invite tenders for the Managing the Public Realm Services contract in accordance with paragraphs 2.4 and 2.5.
- 2.4 The Executive to give approval to an exemption from Contract Standing Order 88 to allow an advert to be placed and a pre-qualification process to be run without the approval of evaluation criteria and certain other pre-tender considerations, subject to approval of such matters at a future Executive.
- 2.5 That the Executive give approval to certain pre-tender considerations for the proposed Managing the Public Realm Services contract as set out in paragraph 3.8.5 of the report.
- 2.6 The Executive to note the proposed interim governance arrangements set out in paragraph 3.7.1 and ask that Officers report back to the Executive for approval to final governance arrangements once developed further.
- 2.7 That the Executive agree to an amendment of £6.2m to the Council's capital budget for 2012/13 to procure a new depot as set out in section 3.6 of the report. If a suitable site is identified, due to the reasons set out in paragraph 3.6.6, that the final terms of any acquisition including the purchase price be delegated to the Director of Regeneration and Major Projects and the Director of Finance and Corporate Services in consultation with their respective Lead Members. Such purchase price to be contained within the amendment to the Council's capital budget as set out within this report

3. Detail

3.1 Background

- 3.1.1 Overall the Council spends just over £16M per annum on waste and recycling, street cleaning, grounds maintenance and winter gritting. The budgets for 2012/13 are set out below. The One Council Programme saving target for this project is £1.35M pa from 2014/15.

2012/13 budgets	
Grounds Maintenance	£2.35M
Street cleansing	£7.0M
Refuse collection	£2.7M
Recycling and organics collection -	£4.2M
Winter Maintenance	£0.2M
Total	£16.45M

- 3.1.2 'Public Realm' incorporates all areas to which the public has open access. Public Realm operations normally include street cleansing, grass cutting, horticulture, graffiti clearance and toilet cleaning. The purpose of such operations is to improve the way Brent "looks and feels", helping people feel better about their surroundings by making Brent a cleaner and tidier place.
- 3.1.3 Councillors have also highlighted the problems caused for residents when boundary issues affect the quality of service e.g. different people litter pick on street and in parks; different teams of people mow the grass in Brent's parks and on Brent Housing Partnership (BHP) estates; and at borough boundaries these issues are even more pronounced. This project will address some of these issues.

3.2 Soft market testing

- 3.2.1 The London Boroughs of Brent, Barnet, Hounslow and Richmond have been working together to explore options for collaborative procurement and sharing key environmental services. As part of this early thinking, the four boroughs held a soft market testing exercise to understand the potential savings from a collaborative approach. The key findings were:

- This would be a ground breaking, innovative approach to delivering public realm services. It would be the largest contract of its type in the UK.
- The level of savings from the collaborative option would be greater than a single borough procurement process.
- To get the best possible price it was essential that Brent and Barnet had a depot site available when the contract documents are published.
- The creation of one single client and one fully integrated contract bring the most savings.
- The benefits of full integration will be realised if the contract is of adequate length.
- To maximise savings, in the short term, the four boroughs should be considered as a group of two plus two (Brent and Barnet, and Hounslow and Richmond). Where possible, during the early part of the contract the specifications would be aligned on a 2+2 basis. Again, where possible full alignment of specifications and services across the four boroughs

should be sought over the life of the contract, delivering further efficiencies and savings.

- In Brent and Barnet there are many similarities in the specification for grounds maintenance and the development of common specifications is possible.
- Different standards of service could be negotiated by one local authority as part of the same contract, for example to maintain Brent's green flag parks.

3.3 Scope

3.3.1 The following activities are within the overall scope of the contract:

- Household waste collections and recycling
- Street Cleansing operations
- Graffiti clearance
- Winter maintenance
- Cleansing of public conveniences
- Grounds maintenance to parks and open spaces (including BHP estates)
- Grounds maintenance to cemeteries and grave digging
- Highway verges and shrub beds
- Playground inspection and maintenance
- Warden service
- Commercial waste

3.3.2 Richmond and Hounslow are only buying waste and recycling services due to other contractual commitments.

3.3.3 Communications, behaviour change and customer contact could be included within the scope of contract. The decision will be made before the procurement process and in discussion with neighbouring authorities.

3.4 OPTIONS APPRAISAL

3.4.1 Three options have been identified and appraised:

- Option one – Brent Council and Brent Housing Partnership (BHP) public realm contract.
- Option two – Full collaborative approach (full alignment of services and specifications, one client structure).
- Option three – Joint procurement only.

3.4.2. The following paragraphs set out the overall analysis of the options and the financial impact is set out in section 4.

Option one – Brent Council only public realm contract

3.4.3 This option assumes that Brent Council procures waste, recycling, street cleansing and ground maintenance services with BHP. The benefits of this are:

- Waste, street cleansing and grounds maintenance become harmonised and managed as part of the same public realm contract leading to increased customer satisfaction and journey.
- Common data systems, processes and procedures are developed for all public realm functions within Brent.
- The public realm contract leads to the development and retention of a multi skilled workforce.
- Increased local identity as a range of services are managed under one single contract.

3.4.4 The key risks associated with this option can be summarised as follows:

- The size of the contract means that the One Council savings target cannot be achieved without service reductions which would be visible to the public and damage the reputation of Brent Council.
- The client arrangements for the new public realm contract result in significant reductions in headcount and that staff responsible for managing the delivery of the project activities are at risk of redundancy during the key stages of the project life cycle.
- The project organisation structure is not adequately resourced to manage a project of this scale, as staff will need to manage day to day activities.
- Brent is unable to identify suitable land for depot development for the next contract leading to reduced competition and lower efficiency savings.
- Residents continue to see differences in services across borough boundaries.

Option two – Collaborative approach with alignment of services, specifications and one client structure

3.4.5 In this option, the four local authorities and BHP would work together on the procurement of the next public realm contract. A joint procurement process, contract management and service delivery could deliver a number of savings which will be quantified in detail during the procurement process and include:

- Staffing and overhead costs if the supplier managed the services for the four boroughs as one contract.
- Procurement and legal costs through going to procurement once rather than four separate times.
- Redesigning waste and recycling routes across borough boundaries, meaning that fewer vehicles and fewer teams are required.
- The opportunities to purchase and maintain one fleet across four boroughs.
- Multi-skilled staff able to carry out a range of local tasks in a neighbourhood including street sweeping, litter picking and mowing.

3.4.6 Contractors attending the soft market testing sessions indicated that the maximum level of savings would be achieved from this option. In general the estimated savings were approximately 10-20%; with some projecting savings in excess of 25%.

3.4.7 In the short term the specifications would be designed around a two plus two arrangement (Brent and Barnet; Richmond and Hounslow). Where possible, full alignment of specifications and services will take place over the life of the contract. The specification will be drafted so borough specific requirements are fully taken into account.

3.4.8 The other benefits are:

- The integration of services and local authorities will improve the customer journey as similar services and standards would apply in a significant area of London.
- One client and one contractor delivering the next public realm contract will result in significant cultural harmonisation by shared processes and procedures; one single IT platform; and the same contract monitoring systems.
- The integration of services across the four local authorities would result in new and innovative ways of service delivery.

3.4.9 The key risks associated with this option can be summarised as follows:

- The project does not lead to the projected level of savings suggested by providers during the soft market testing.
- The group of authorities are unable to reach alignment of specifications and harmonisation of services resulting in lower economies of scale and higher pricing from contractors.
- The timetable is tight for a collaborative procurement process and the project is being sufficiently resourced. If any of the partners were to withdraw, Brent will continue and deliver for the 1 April 2014 contract commencement.
- That other local authorities withdraw their commitment to work together on the procurement of their environmental services.
- Due to the financial pressures, the contractor is unable to resource to meet and be responsive to local needs which would affect the quality of the service.
- Not enough consideration is given to the process and time needed to form the new client organisation, agree its structure, legal support and funding provision in relation to Brent's strict procurement timetable.
- Brent and Barnet are not able to identify a depot for the next contract with reduced competition and lower efficiency savings; or that the location of depots and tipping points for the collection and disposal functions are not optimised leading to reduced efficiency savings.
- The West London Waste Authority and the North London Waste Authority are not able to reach agreement on allocation of waste to their respective waste collection authorities and so Brent and Barnet are unable to share fleet or waste collection routes.

Option three – Joint procurement

3.4.10 This option assumes that the four local authorities and Brent Housing Partnership work together on the procurement process of the next public realm contract only. Most of the contractors indicated that the level of savings would be very marginal. The benefits of this approach are:

- Reducing the cost of procurement by sharing it across four boroughs.
- Some knowledge pooling and sharing of good practice could be achieved as a result of this option.

3.4.11 The key risks associated with this option can be summarised as follows:

- The project does not lead to significant level of savings in the contract cost, leading to service reductions to achieve the savings targets.
- Other local authorities withdraw their commitment to work together on the procurement process given the reduced level of savings projected.
- Residents continue to see boundary issues with different levels of service.

3.5 Recommended Option

3.5.1 Considering the risks, the benefits and disbenefits and the financial savings shown in section 4, the recommended way forward is option 2 – the full collaboration project. This means that the London Borough of Brent would procure a contract on behalf of itself and the London Boroughs of Barnet, Richmond and Hounslow for the provision of waste and recycling, and additionally for street cleansing and grounds maintenance services for Brent, Barnet and Brent Housing Partnership together.

3.6 Depot

3.6.1 The soft market testing clearly demonstrated that it was essential for Brent to obtain a depot if it were to get a competitive price from the procurement. A depot would accommodate various public realm operations including refuse vehicle parking, bin storage, a salt barn and a maintenance facility, depending on the site area acquired. Based on the overall future model for delivery of the public realm contract, the size of the site required is up to 5.6 acres. A site is being sought primarily in strategic industrial locations and the Council's desired site search criterion is a six miles radius around Central Wembley in all directions.

3.6.2 During the procurement of the current waste contract, the lack of a Council depot led to the withdrawal of a number of competitors. This lack of competition is estimated to cost the Council circa £270k per annum on the contract price. The Council also currently incurs service associated site leasing costs of circa £286k per annum. A Council depot will therefore give rise to savings of up to £556k per annum and also provide for flexibility around service delivery and joint working arrangements with partner boroughs. The

estimated net annual operational savings being derived from this work stream are included in the financial model.

- 3.6.3 A site is being sought that will accommodate all or some of the public realm operations specified in paragraph 3.3.1, as the search is being determined by the size and configuration of sites available in the market. A cost/benefit analysis will therefore be carried out on each potential site on a case by case basis to support the acquisition.
- 3.6.4 There is no suitable vacant Council owned or leased land that can be made available for use as a depot. Based on sites available in the market and the search criteria, the estimated freehold purchase cost of a site is up to £6.2m. The desired timescale for acquiring the site is prior to March 2013. An amendment of £6.2m to the Council's capital budget for 2012/13 is therefore required.
- 3.6.5 Collaboration with a partner borough on joint depot use is also desirable. The Council is currently in discussions with Barnet on reciprocal site arrangements that could involve two sites that complement each other so that opportunities for co-location of facilities and efficiency savings resulting therefrom can be secured. Each borough has a separate responsibility for the collection of waste. The depot proposal therefore does not compromise Brent's obligations with respect to waste transfer to the West London Waste Authority.
- 3.6.6 Several suitable sites within the search criterion have been identified and negotiations with the land owners are currently underway. However it is known that there are a number of other local authorities and private operators seeking similar sites. So if current negotiations prove fruitful the Council will need to be able to respond swiftly to any opportunity. It is therefore recommended that, if Members approve the principle of the Council acquiring a site, by authorising an amendment to the 2012/13 capital budget, that the conduct and conclusion of the land transaction, including the main terms and conditions be delegated to the Director of Regeneration & Major Projects and the Director of Finance and Corporate Services in conjunction with their respective Lead members. However leasing arrangements will also be considered in the event a site cannot be acquired under freehold purchase.

3.7 Project management arrangements

- 3.7.1 A interim collaborative governance structure for the project management has been put in place with Brent as the lead authority. The management of the project will be based on Prince 2 principles. The sponsor will lead a Project Board supported by a Working Group of service specialists and lead support services. Subject to Executive approval of procurement Option 2, further work will be undertaken to produce a robust final governance structure for the procurement and subsequent operation of the service.
- 3.7.2 The six work streams are:
- Work stream one – Strategy and technical development:

- Public realm strategy development: support the procurement process and establish the vision for the public realm from 2014 onwards
- Specifications: to support the preparation and the on-going delivery of the procurement process
- Waste disposal functions: develop service level agreements with the waste disposal authorities
- Work stream two – Depot. This work stream will identify and secure suitable land to build a depot facility for the next public realm contract
- Work stream three – Procurement. This work stream will manage the whole procurement process until the start of mobilisation
- Work stream four – HR matters:
 - Staff consultation and engagement
 - Transfer of staff currently providing services delivered in house (grounds maintenance and officers from the highways operations team) pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”).
 - Establishment of a small client structure in preparation for the next contract
- Work stream five – Governance and client arrangements. This work stream will account for activities needed to set up the new client structure and how the contract will be managed.
- Work stream six – Mobilisation and service delivery. This work stream represents the activities necessary to successfully mobilise the new contract and introduce medium to long term changes to the services during the life of the next contract. A plan will be developed to minimise the risk of any service failure between contract award and contract start date in the case of a change of contractor. More detailed plans will be developed as the project progresses.

3.8 Procurement

- 3.8.1 It is the intention to seek approval to tender for the contract in this report. However as there are a number of outstanding issues in relation to TUPE, the specification and the final scope of the contract, it is envisaged that a secondary report addressing these issues will be prepared for a future Executive. As Contract Standing Orders 89 requires the approval of certain pre-tender consideration before the tender process starts, and the evaluation criteria are not yet finalised, an exemption is being sought in relation to this provision of Standing Orders.
- 3.8.2 Waste Services are defined as Part A services under the Public Contract Regulations 2006 (the “EU Regulations”) . Grounds Maintenance, which accounts for a smaller percentage of the total estimated cost, is Part B. Where the value of the part A element outweighs the value attributable to the Part B element, then the contract must be treated as a Part A service under the EU Regulations on the basis of aggregation. The procurement process will therefore adhere to the EU Regulations in their entirety.

- 3.8.3 Given the complexities of developing the scope of services, both in terms of individual Borough requirements and the difficulties that collaboration can create, plus the very high value and long term nature of the contract, officers are seeking to let this contract via Competitive Dialogue. The key advantage of the Competitive Dialogue process is that dialogue with suppliers is permissible up until the final submission of tenders. This will allow the Boroughs to develop the specification during the process, reducing unnecessary or expensive processes and giving the opportunity to incorporate innovation. It is anticipated that there will be an initial two stage approach of Pre Qualification followed by an Invitation To Tender (ITT) for selected bidders. The highest three scoring tenders at this stage will be subject to an Invitation to Participate in Dialogue (ITPD) prior to a final specification being agreed and despatched for final return. The exact methodology and numbers of ITT and ITPD have yet to be agreed and a detailed outline will be provided at a future Executive.
- 3.8.4 The soft market testing of nine leading suppliers indicated contract lengths of anywhere from an initial 5 years with an option for 5 years up to a first term of 10 years with extension to 20 years. The majority of responses were around the 7 to 8 years mark with a similar extension term to allow reinvestment at the start of any extended period. Previous discussions with the incumbent supplier identified vehicle write off times as 7 to 8 years and as this is the highest asset in terms of capital investment, it is proposed to have an 7-9 year initial term with an option for another 8 years to allow write off of capital expenditure.
- 3.8.5 In accordance with Brent's Contract Standing Orders 88 and 89, pre-tender considerations have been set out below:

Ref	Requirement	Response
(i)	The nature of the service	Waste, recycling, street cleaning and ground maintenance.
(ii)	The estimated value	Based on current budgets the contract value would be over £16M per annum for Brent and £30M for Brent, Barnet, Richmond, Hounslow and Brent Housing Partnership. Based on the current budgets, over the 16 year life of the contract the value is over £700M for all four participating boroughs and BHP.
(iii)	The contract term	Up to a maximum period of 16 years with an initial term of 7-9 years and a subsequent term of a further 8 years on condition of satisfactory performance. The cross-borough contract(s) will start from 1 April 2014 and the Brent specific aspect will commence on 1 April 2014 for waste, street cleaning and recycling and 1 September 2014 for grounds maintenance.
(iv)	The tender procedure to be adopted	Competitive Dialogue

Ref	Requirement	Response
(v)	The procurement timetable	<p>Indicative dates are:</p> <ul style="list-style-type: none"> • Preparing for the procurement process (August 2012 – October 2012) • Procurement process (November 2012 – September 2013) • Mobilisation (October 2013 – March 2014) • Service Delivery (April 2014 – onwards) • Full Alignment (during the life of the contract) <p>Officers will report back to the Executive at a later date with full details of the timetable for procurement process.</p>
(vi)	The evaluation criteria and process	<p>Prequalification documentation and shortlists are to be drawn up in accordance with Brent's Standing Orders and Management Guidelines namely the pre-qualification questionnaire and thereby meeting the Council's financial standing requirements, health, safety and environmental standards, technical capacity and technical expertise.</p> <p>The panel will evaluate the tenders to establish the Most Economic Advantageous Offer. Officers will report back to the Executive seeking approval to the tender evaluation criteria.</p>
(vii)	Any business risks associated with entering the contract	See paragraphs 3.4.4, 3.4.9, 3.4.11.
(viii)	The Council's Best Value Duty	This procurement process and on-going contractual requirement will ensure that the Council's Best Value obligations are met.
(ix)	Any staffing implications, including TUPE and pensions	See Sections 5 and 7
(x)	The relevant financial, legal and other considerations	See Sections 4 and 5

4.0 Financial Implications

4.4.1 It is important to highlight that costs and savings used in the financial analysis are to be considered a best assumption of potential future scenarios. The procurement process may highlight issues and complexities which cannot be predicted at this stage. The project costs and forecast savings may change as

a result of the collaborative project (e.g. the costs required to align services across the four organisations over the life of the contract are unknown).

4.4.2 The table below sets out the operating costs assumed for option 2 over the life of the contract. These will be covered from the savings arising from the collaborative project. The estimates will be updated as the project develops.

	£'000
Strategy Development and development of service level agreements	50
Procurement	250
Redundancy	300
Establishing contract governance, partnership arrangements and programme management	270
Service delivery- changes to current service delivery model and aligning future services	1780
TOTAL	2,650

4.4.3 The following table sets out the indicative financial analysis. An estimate of potential redundancy costs and repayment of the Depot's borrowing costs are factored in the net operational savings figures.

4.4.4 Options 1 and 3 both fall short of the £1.31m savings target set by the One Council Programme Board even when the maximum saving per annum is achieved, in 2019/20. The shortfall is even greater in the earlier years with these options. If the council chose to go with Options 1 or 3 it is likely that the quality and/or frequency of service would need to be reduced to address the shortfall.

4.4.5 This shows that Option 2 - full collaborative procurement and service alignment over time would deliver the maximum level of savings over the life of the contract and is likely to be able to deliver a good standard of service. However, in 2014/15 there is a shortfall of £0.3m against the One Council targets and this will be offset against greater savings that follow in later years.

INDICATIVE NET OPERATIONAL SAVINGS			
	OPTION ONE BRENT ONLY	OPTION TWO COLLABORATIVE PROJECT	OPTION THREE JOINT PROCUREMENT
2012/13	(50)	(150)	(110)
2013/14	(227)	(397)	(337)
2014/15	719	997	629
2015/16	999	1,577	949
2016/17	894	1,542	894
2017/18	1,080	1,728	1,080
2018/19	1,080	1,728	1,080
2019/20	1,199	2,184	1,199
2020/21	1,199	2,084	1,199
2021/22	1,199	2,084	1,199
2022/23	1,199	2,084	1,199
2023/24	1,199	2,084	1,199
2024/25	1,199	2,084	1,199
2025/26	1,199	2,084	1,199
2026/27	1,199	2,084	1,199
2027/28	1,199	2,084	1,199
2028/29	1,199	2,084	1,199
2029/30	1,199	2,084	1,199
Total	17,684	30,049	17,374

4.4.6 There would be further savings for BHP. These have not yet been quantified as they would arise for the Housing Revenue Account budget and so cannot be counted as a saving for Brent Council.

5.0 Legal Implications

5.1 The estimated value of the proposed contract over its lifetime is in excess of £500,000 and therefore the procurement and award of the contract is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts. This is the case irrespective of whether or not the option to procure jointly with other councils is selected as the estimated value of Brent Council's element alone is in excess of £500,000.

5.2 As detailed in sections 3.1-3.4 of the report, the proposal is to procure a contract for a number of services, namely waste, street cleansing, recycling and grounds maintenance. These services consist of both Part A and Part B Services under the Public Contracts Regulations 2006 (the "EU Regulations"). When such services are purchased together as part of the same procurement, it is necessary to establish whether the Part A or Part B elements have the greater financial value as that determines the classification. Part A services are by far the largest element of the proposed contract and therefore the procurement will be classed as a procurement of Part A Services. The result of this is that the procurement, given it is over the relevant financial threshold under the EU Regulations, will be subject to the

full application of the EU Regulations. It will therefore be necessary for the Council to observe all relevant procedural rules, time limits etc. required by the EU Regulations.

- 5.3 Under the Council's Standing Orders, as the contract is classed as a High Value Contract, approval of the Executive is required for authority to tender and for authority to award of such contract once the tendering process is undertaken. For High Value Contracts Contract Standing Order 88 states that a report seeking authority to tender should set out the pre-tender considerations detailed in Contract Standing Order 89. This report seeks and exemption from Contract Standing Order 88 to enable an advert to be placed and a pre-qualification process to be run without full consideration of all pre-tender considerations. The intention is however to report back to the Executive with full details of pre-tender considerations prior to inviting tenders. Following evaluation of tenders, Officers will need to report back explaining the procurement process undertaken in tendering the contract and recommending award.
- 5.4 As detailed at paragraph 3.5, Officers are recommending a collaborative procurement. Contracts Standing Order 85 details that any collaborative procurement should comply with the Council's Standing Orders and Financial Regulations. As it is intended that Brent Council should lead on any collaborative procurement, Brent's own Standing Orders and Financial Regulations would be used for the procurement of the contract. In procuring the contract, Brent Council will act as a central purchasing body under the EU Regulations. In advertising the contract, Brent Council will need to be specific as to the description of public bodies or categories of public bodies able to access the contract.
- 5.5 Officer wish to procure the contract in accordance with the competitive dialogue procedure. The EU Regulations provide that the competitive dialogue procedure may only be used in for the procurement of particularly complex contracts where the authority considers the use of the open or restricted procedure will not allow the award of the contract. It is considered that if all 4 authorities are collaborating in the procurement, the contract will satisfy the description of a particularly complex contract in that the council is not able to properly define the technical means capable of satisfying its needs or objectives. In reaching this conclusion Officers have had regard to, inter alia, the requirement of the contract to achieve service alignments between all 4 councils with the complications of staggered start dates and the involvement of different waste authorities.
- 5.6 In any collaborative procurement, it is essential that clear and effective inter-borough arrangements are put in place, not only in connection with the procurement process but also in relation to the subsequent operation of the contract. An interim collaborative governance structure has been agreed as detailed at paragraph 3.7.1 pending Executive approval of procurement options but Officers will need to establish more detailed governance arrangements. Officers will need to ensure appropriate legal, financial and other relevant advice is obtained in establishing suitable governance

arrangements for the project and ensure that under such arrangements there is clear accountability and liability as between the councils. This will be particularly important if Brent Council is to act as lead authority.

- 5.7 The procurement will involve transfers of staff pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”). Currently elements of the service to be procured are outsourced not only by Brent but also by other councils. Staff employed by current contractors would therefore TUPE transfer to any new contractor that may be appointed. In addition to staff transferring pursuant to TUPE from one contractor to another, the intention is also to include within the procurement services that are currently provided in-house. In Brent Council’s case, Officers within the Sports and Parks Service provide grounds maintenance services and some staff in Highways Operations provide cleansing services. These Officers together with those detailed in Section 7 below would be liable to TUPE to a successful contractor on their current terms and conditions. The Council would need to impose contractual requirements on the successful contractor to ensure such staff continue to have access to the local government pension scheme or a broadly comparable pension scheme. Given the numbers of Council staff involved in the proposed outsourcing, Executive approval is required to such proposal. Further information regarding staff is detailed in Section 7.
- 5.8 The proposed contract will impact on staff currently providing services covered by the proposed procurement. Officers will therefore need to undertake a full equalities impact assessment.
- 5.9 Section 149 of the Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to eliminate discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Those functions include the functions as an employer and as the provider of waste, recycling, street cleaning and ground maintenance services. Decisions as to how operations are provided and managed, including a decision as to whether to outsource the arrangements for grounds maintenance, are subject to the equalities duty. Consequently Officers will complete an Equality Analysis as an integral part of the decision making process.
- 5.10 The intention is that BHP will be part of the collaborative procurement in respect of the grounds maintenance element. Detailed regulations have been produced under Section 20 of the Landlord and Tenant Act 1985 (‘the 1985 Act’) which sets out the precise procedure landlords must follow when letting qualifying long term agreement , such as that proposed for grounds maintenance, if the landlord is to be able to recover from any contributing tenant (i.e. leaseholders who have purchased from the Council the leasehold interest of their homes under the Right to Buy) more than £100 in any accounting period (usually 12 months) towards the costs under the agreement. These regulations are the Service Charges (Consultation Requirements) (England) Regulations 2003. As the procurement is subject to

the full application of the EU Regulations, including advertising in the Official Journal of the European Union (“OJEU”), there is a need to consult tenants prior to the issue of the OJEU Notice. There is a 30 day consultation period at this pre-tender stage. There is a similar 30 day consultation period following selection of a preferred contractor and prior to award of contract. The landlord must have regard to any observations made as a result of the consultation. Following the second phase of consultation prior to the award of the contract, the landlord must respond directly in writing to the tenant within 21 days of receipt setting out their response to the observations.

6.0 Diversity Implications

- 6.1 Officers carried out a Predictive Equality Impact Assessment. The preliminary findings are that there is a risk of a differential impact on the grounds of: race, disability and age, if we were to stop providing assisted collections for example. The project will take these potential impacts into account during the procurement process and ensure that any potential adverse impact is mitigated so far as is possible.
- 6.2 In addition, as the proposals for the new client arrangements develop, officers will carry out a separate Equality Analysis to understand the impact on Brent Council’s employees.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 For Brent, whilst the majority of staffing implications are for staff currently employed by the current contractor, there are implications for existing Brent staff in Sports and Parks and Highway Operations. The proposal is that in excess of 50 council staff providing grounds maintenance and a number of staff in other services are transferred to the successful provider. In addition, if the decision is to create a single client arrangement a small number of staff in waste and recycling would be affected.
- 7.2 Council policy concerning the protection of accrued and future pension rights of ex-council employees (if any) and current council employees transferring to a private sector employer will need to be followed in the tendering process
- 7.3 The need for a depot is set out in section 3.6.


Background Papers

None

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	<p style="text-align: center;">Executive 15 October 2012</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 style="text-align: center;">South Kilburn Regeneration Progress Update</p>	

APPENDIX 4 IS NOT FOR PUBLICATION

1.0 Summary

1.1 This report summarises the progress made on the regeneration of South Kilburn and sets out the approvals required by the Executive to further progress Phases 2 and 3 of the regeneration programme. It seeks approval to:

Phase 2 Approvals

- (a) Progress the procurement of a developer partner via a mini competition under the South Kilburn Developer Framework for Bronte House and Fielding House and agree rent levels for the purpose of the tender.
- (b) Progress the procurement of a developer partner using the European Procurement Regulations by placing a notice in the Official Journal of the European Union (OJEU) to dispose of the British Legion and Albert Road Day Care Centre (together defined as '**Site 11b**').
- (c) Progress with appointing architects for the detailed design of redevelopment proposals for Gloucester House and Durham House and 4-26 Stuart Road, 5-9 Chippenham Gardens and the Post Office.
- (d) Progress discussions with the landowner of 5-9 Chippenham Gardens and the Post Office site to ascertain if the Council could enter into a joint agreement with such landowner to bring forward a comprehensive redevelopment of 5-9 Chippenham Gardens and the Post Office site with the Council's adjoining land at 4 -26 Stuart Road (together defined as the '**Post Office Plus Site**').

- (e) Progress, in relation to Bronte House and Fielding House, with acquisitions of third party interests and rights and to re-affirm the compulsory purchase authorisation for the acquisition of third party interests (excluding secure tenancies) and rights and related authorisations as set out in this report.
- (f) Progress, in relation to Durham Court, Gloucester House, Masefield House and Wordsworth House (together defined as '**Phase 2b**') with acquisitions of third party interests and rights and to re-affirm the compulsory purchase authorisation for the acquisition of third party interests (excluding secure tenancies) and rights for and related authorisations as set out in this report.

Phase 3 Approvals

- (g) Progress with acquisitions of third party interests and rights in 113 -136 and 97 -112 Carlton House, Peel Precinct , Hereford House and Exeter Court (together defined as '**Phase 3**') to ensure the continued progress of the South Kilburn Regeneration Programme.
- (h) Progress with appointing architects for the detailed design of redevelopment proposals for 113- 136 and 97 -112 Carlton House and Peel Precinct (together defined as '**Peel**'). It is intended that the redevelopment of Peel will incorporate a Healthy Living Centre (HLC).
- (i) Progress with measures to cease permanent lettings in blocks scheduled for demolition within 113 -136 and 97 -112 Carlton House, Peel Precinct, Hereford House and Exeter Court (ie Phase 3), to ensure the continued progress of the South Kilburn Regeneration Programme.

2.0 Recommendations

General Recommendations

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

Phase 2 Recommendations

- 2.2 That the Executive approve the Director of Regeneration and Major Projects undertaking a mini-competition under the South Kilburn Developer Framework to identify a developer partner for the disposal of Bronte House and Fielding House.
- 2.3 That the Executive agree to set rent levels for the affordable units at Bronte House and Fielding House once completed, at a rent equivalent to Homes and Community Agency's Target Rent Levels ('HCA Target Rent Levels').
- 2.4 That the Executive authorise Officers to begin an OJEU Procurement process for a developer partner for the disposal of Site 11b.
- 2.5 That the Executive note Officers' intentions to procure a design team to take proposals through to full planning application (RIBA Stage C or D) for Gloucester House and Durham

Court as shown edged red on Plan A at Appendix 1 and report back to the Executive following award of contract.

- 2.6 That the Executive note Officers' intentions to enter into discussions with the landowner of 5-9 Chippenham Gardens and the Post Office site to ascertain if it is possible to bring forward the comprehensive redevelopment of the Post Office Plus Site as shown edged red on Plan B at Appendix 1.
- 2.7 That the Executive note Officers' intentions to procure a design team (if applicable) to take proposals through to full planning application (RIBA Stage C or D) for the Post Office Plus Site.
- 2.8 That the Executive agrees to proceed with securing vacant possession of the properties within Phase 2b through negotiation and private treaty and then, if necessary, via possession proceedings based on Ground 10A in relation to the secure tenants and then CPO for all other interests.
- 2.9 That the Executive authorise 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 (excluding secure tenancies) in the area as shown edged red ('the CPO Land') on Plan C attached at Appendix 1 being at and adjacent to Bronte House and Fielding House together with any new rights which may be required for the development of the CPO Land under section 13 Local Government (Miscellaneous) Provisions Act 1976.
- 2.10 That the Executive authorise the:
 - 2.10.1 Submissions of the CPO, once made in respect of the CPO Land to the Secretary of State 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;
 - 2.10.2 Director of Regeneration and Major Projects to 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 and including the offering back of any part of the CPO Land not required by the Council after the completion of the development or the acquisition of rights over the CPO Land in place of freehold acquisition, where such agreements are appropriate;
 - 2.10.3 Making of 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 otherwise;
 - 2.10.4 Serving of all requisite notices on the holders of the CPO Land relating to the making and confirmation of the CPO;

- 2.10.5 Director of Regeneration and Major Projects to remove from the CPO in respect of any plot (or interest therein) no longer required to be acquired compulsorily for the scheme to proceed and to amend the interest 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);
- 2.10.6 Director of Regeneration and Major Projects within the defined boundary of the 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 compulsory powers by the Secretary of State;
- 2.10.7 Director of Regeneration and Major Projects, if so advised, 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.
- 2.11 That the Executive authorise the Director of Regeneration and Major Projects, where necessary, to seek the Secretary of State's consent to the appropriation for planning purposes under section 19 Housing Act 1985 of all Council interests in Site 11b, Bronte House, Fielding House and Phase 2b and to the disposal and redevelopment of Site 11b, Bronte House, Fielding House and Phase 2b, and securing possession of such land and property using whatever powers are available.
- 2.12 That the Executive authorise the Director of Regeneration and Major Project to review the strategy for securing vacant possession from secure tenants on Phase 2b and all subsequent phases (which is presently based on using Ground 10A Housing Act 1985), including considering the use of CPO powers, and to undertake any consultation legally required in the event that the Director of Regeneration and Major Project is considering recommending a change in strategy to the Executive.
- 2.13 In the event that, after having reviewed the strategy for securing vacant possession from secure tenants on Phase 2b and all subsequent phases, the Director of Regeneration and Major Project does not wish to recommend a change in strategy to the Executive, that the Executive agree to commence any statutory consultation required with secure tenants residing in blocks earmarked for redevelopment within Phase 2b in order to rely on Ground 10A Housing Act 1985;
- 2.14 That the Executive authorise the Director of Regeneration and Major Projects to develop a draft allocation policy for allocating homes to residents living within Phase 2b and to undertake any consultation legally required in relation to this draft policy.

Phase 3 Recommendations

- 2.15 That the Executive agrees to proceed with securing vacant possession of the properties within 113 -136 and 97 -112 Carlton House, Peel Precinct (together defined as '**Peel**') as identified edged red on Plan D at Appendix 1 and Hereford House and Exeter Court as identified edged red on Plan E at Appendix 1 (together with Peel defined as '**Phase 3**')

through negotiation and private treaty and then, if necessary, via possession proceedings based on Ground 10A in relation to the secure tenants and then CPO for all other interests.

- 2.16 In the event that, after having reviewed the strategy for securing vacant possession from secure tenants on Phase 2b and all subsequent phases, the Director of Regeneration and Major Project does not wish to recommend a change in strategy to the Executive, that the Executive agrees to commence any statutory consultation required with secure tenants residing in blocks earmarked for redevelopment within Phase 3 in order to rely on Ground 10A Housing Act 1985.
- 2.17 That the Executive authorise the Director of Regeneration and Major Projects, where necessary, to seek the Secretary of State's consent to the appropriation for planning purposes under section 19 Housing Act 1985 of all Council interests in Phase 3 and to the disposal and redevelopment of Phase 3, and securing possession of such land and property using whatever powers are available.
- 2.18 That the Executive authorise the Director of Regeneration and Major Projects to cease long term lettings on Phase 3 and continues to prioritise all new development site lettings in South Kilburn to tenants within sites on the next phase of development.
- 2.19 That the Executive authorise the serving of demolition notices and the suspension of tenants' Rights to Buy in relation to secure tenancies on Phase 3 which are all on the South Kilburn estate, and authorise the Director of Regeneration and Major Projects to issue all and any notices required to be issued in connection with such demolition.
- 2.20 That the Executive notes Officers intention to procure a design team to take proposals through to full planning application (RIBA Stage C or D) for the redevelopment of Peel to include the provision of a Healthy Living Centre and report back to the Executive following award of contract.

3.0 Detail

Phase 1 Progress Update

- 3.1 To date 229 new homes have been completed as part of '**Phase 1a**' (defined as *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. 181 of these new homes are affordable and have been occupied by South Kilburn households.
- 3.2 A further 131 new homes will be completed at the Carlton Vale Roundabout Site Zone 3C in December 2012. Between January 2013 and March 2013 75 South Kilburn households, mainly from Bronte House and Fielding House, will move into the new affordable homes, thereby facilitating vacant possession of Bronte House and Fielding House for redevelopment.
- 3.3 On 13th February 2012 the Executive authorised the disposal of the land at Cambridge Court, Wells Court and Ely Court and Bond Hicks Bolton and Wood House together defined as '**Phase 1b**' to Catalyst Housing Group. On 13th July 2012 the Phase 1b sites were handed over to Catalyst Housing Ltd (formally Catalyst Housing Group) and a capital land receipt was obtained. Demolition works are now underway on site. This development will

deliver 208 new homes in summer 2014, 107 of these new homes will be affordable and made available to facilitate the remaining Phase 2 decant programme.

- 3.4 The capital receipts from the disposal of the Phase 1b sites are being recycled back into the delivery of future phases of the South Kilburn Regeneration Project to ensure the momentum of the regeneration programme is maintained. In particular, the Phase 1b land receipt will be used to acquire outstanding leasehold interests on Phase 2 and to take the remainder of the phase 2 sites through the planning process.

Phase 2 Progress Update

- 3.5 On 20th June 2012 planning applications for Bronte House and Fielding House and Site 18 Queens Park were approved at planning committee. These developments will deliver 194 new homes for market sale and 142 affordable homes. It is currently anticipated that the affordable homes will be made available to South Kilburn residents living in Phase 2 or Phase 3.

Bronte House and Fielding House Progress Update

- 3.6 With planning permission secured for the redevelopment of Bronte House and Fielding House Officers now intend to progress the procurement of a developer partner through a mini competition for the qualifying developer partners under the existing South Kilburn Developer Framework. The tender documents are scheduled to be sent out at the end of October 2012. Executive approval will be sought before the contract is awarded. Officers intend to have a preferred developer partner in place to commence works on this site once vacant possession has been achieved. It is currently anticipated vacant possession will be achieved in spring 2013.

Target Rent Requirements Progress Update

- 3.7 On 18th July 2011 the Executive agreed to adopt a rent equivalent to the HCA Target Rent Levels for affordable developments in South Kilburn until Borough wide rent levels were reviewed. The 18th July 2011 Executive Report set out the background to the rent level change and concluded that setting HCA Target Rent Levels on Phase 2, Phase 3 and subsequent Phases is the only realistic way of affording the whole Project and avoiding the requirement for large amounts of grant that would not in themselves be certain of being awarded and, if awarded, would require rents to be increased to the new 'affordable rent' levels.
- 3.8 On 13th February 2012 the Executive were advised that the higher level of inflation in 2010/11 (5%+) had increased the capital values in the South Kilburn area and the effect of the rent caps meant that, the increase in rents was much steeper than the forecasted increase of £15 per week. It had a particular impact on the rent levels for two and three bedroom homes. It was noted that accepting the overall rent rise will potentially make decanting tenants more difficult. However, the overall rise nevertheless provides good value for money as tenants are moving into brand new modern homes. As the Phase 2 decant allocations have not yet commenced, Officers are unclear if the change in rent levels will impact on the decant process.
- 3.9 The Executive should note Council rents are set to converge with the HCA Target Rent in the next few years, although inflation rates are likely to determine the pace of this convergence, it is predicted to take place between 2014 -2016.
- 3.10 In line with the Council's commitment to maintaining current HCA Target Rent levels in regeneration areas it is recommended that the Executive agree to set the rent levels for the affordable units at Bronte House and Fielding House once complete, at a rent equivalent to the HCA Target Rent Levels.

Site 18 Queens Park Progress Update

- 3.11 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. Instead Officers will continue to make representations to seek to remove or minimise the impact of the vent shaft on this site. However it is now clear HS2 proposals will delay the Council's long held proposal to redevelop this site in accordance with the South Kilburn Regeneration Programme.

Site 11b British Legion and Albert Road Day Care Centre Progress Update

- 3.12 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. The Executive should note terms were agreed with the British Legion to surrender their lease which comprises part of Site 11b. The surrender of this Lease completed on 10th September 2012. The British Legion have temporarily moved into the Sir Robert Peel public house in Peel Precinct. Vacant Possession of this entire site will be achieved by 31st October 2012 when the Albert Road Day Care Centre who occupy the remainder of this site move into the new John Billiam Centre in Kenton.

- 3.13 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. This land receipt is required to provide a cash injection to enable Phase 2 of the programme, which incorporates some particularly challenging sites, to come forward. A secondary objective is to provide 28 affordable homes on Site 11 b to provide decant accommodation for South Kilburn residents.
- 3.14 To ensure the site specific programme objectives are achieved, Site 11b will be disposed of on the open market via the OJEU procedure with the benefit of outline planning permission. The existence of the outline planning permission will give the market certainty on the amount and type of development available on Site 11b. The permission was approved by committee on 22nd August 2012 and consents to a new mixed used development comprising 144 new homes (28 of which will be affordable) and 480m2 of commercial floor space.
- 3.15 Instead of hoarding Site 11b prior to its disposal, the Council in partnership with South Kilburn Neighbourhood Trust, will deliver a meanwhile use project from the site. The site security budget for Site11b will be used to fund the project which was competitively tendered. The project will deliver an exciting program of events, activities and performances that explore the theme of health and well-being which will support the aim of the South Kilburn Regeneration Programme to deliver wider social and economic benefits to the residents of South Kilburn.

Phase 2b Progress Update

- 3.16 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.
- 3.17 With planning permission now secured for Bronte House and Fielding House as set out in paragraph 3.5, Officers intend to procure 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.
- 3.18 Masefield House and Wordsworth House development site has previously been earmarked for a new primary school. The Council will shortly appoint architects 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. Officers will update the Executive on the outcome of the design review once complete.

Phase 2b Decant Allocation Policy Progress Update

- 3.19 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. This in turn will ensure vacant possession of subsequent and significant development sites.

- 3.20 The process of allocating tenants will be set out in a bespoke Allocation Policy that will be developed for Phase 2b. It is anticipated that this will be similar to the bespoke existing South Kilburn Phase 1 Allocation Policy (copy attached at Appendix 2) and which, in places, is different to the Council's Allocation Policy.
- 3.21 When developing the bespoke South Kilburn Phase 1 Allocation Policy, the Council engaged with the South Kilburn Tenants Steering Group. Officers wish to adopt a similar approach in developing the bespoke South Kilburn Phase 2b Allocation Policy because, if we are to maintain residents' support to the regeneration process, it is important that we listen to their views and take on board their legitimate concerns. Once a draft policy is developed, Officers will return to the Executive seeking approval to it.

Argo Business Centre, the Post Office site and 4 -26 Stuart Road Progress Update

- 3.22 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.
- 3.23 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 B at Appendix 1. If this opportunity were to be realised existing affordable housing on the site could be replaced and it would also provide additional affordable housing to support the South Kilburn Regeneration Decant Programme.
- 3.24 The Executive should note Officers' intention to progress discussions with the landowner of the 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 Site Plus. Executive approval would be sought prior to any contract award.
- 3.25 If an 'in principle' agreement with the landowner can be reached it may be necessary for the Council to appoint a design team to progress drawings to go into the legal agreement which is to be signed. This will ensure that the quality and type of development is agreed with the landowner at the outset and that the Council's aspirations for South Kilburn schemes will be met. It may be that this will require detailed design to full planning application stage.

Phase 3 Progress Update

- 3.26 With Phase 1 and 2 of the South Kilburn Regeneration Programme well underway Officers need to progress enabling and feasibility work on Phase 3 to ensure that the Council has a future pipeline of development sites so that the momentum established over the last three years is maintained.
- 3.27 The Council is committed to delivering a new HLC within South Kilburn to address prevalent health inequalities. The HLC will comprise space for existing GP practices, who would relocate into the space, and with 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 as part of Phase 3 of the regeneration programme.
- 3.28 The Executive should note Officers intend to consider, in partnership with local residents and the Primary Care Trust, if the comprehensive redevelopment of Peel could deliver a mixed use scheme, that would provide sufficient enabling residential development for market sale and other appropriate uses to make viable the development of the HLC.
- 3.29 A design team will be procured to explore the viability and feasibility of progressing the comprehensive redevelopment of Peel to deliver a HLC. If the proposals are viable a design team will be appointed to take proposals through to a full planning application (RIBA Stage C or D).

Community Participation Update

- 3.30 Community participation, engagement and consultation is at the heart of the Council's approach to regenerating South Kilburn. The Council will, in so far as is legally required, engage and consult affected residents and tenants on the South Kilburn Regeneration Programme in a meaningful and appropriate manner.
- 3.31 When consulting on the design for new homes, resident design groups will be set up to inform the design development process. Prospective future tenants along with residents from nearby adjoining blocks will be targeted and encouraged to join the group. As set out at paragraph 3.21 above, the Council will, in so far as is legally required consult on the development of the bespoke South Kilburn Phase 2b Allocation Policy.

4.0 Legal Implications

Procurement of developer partners for Bronte House & Fielding House

- 4.1 As a result of recent rulings in the European Court of Justice, if the Council utilise a development agreement 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.
- 4.2 The intention is to identify developer partners using mini-competitions under the South Kilburn Developer Framework for both 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 developer partners is considered to satisfy the requirements of recent rulings in the Court of Justice as detailed in paragraph 4.3.

- 4.3 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.
- 4.4 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 have been identified following mini-competitions under the South Kilburn Developer Framework, Executive approval to the development agreement will be required.

Procurement of a developer partner for Site 11b

- 4.5 In order to dispose of Site 11b a developer partner will be procured through an OJEU compliant procurement process. The developer would be procured as a works contract under the Public Contracts Regulations 2006 (the EU Regulations). Pinsent Masons solicitors are advising on the drafting of the OJEU and will approve the form of tender and tender documentation to ensure EU Procurement Regulations are complied with.
- 4.6 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/works.	To procure a developer partner to redevelop Site 11b in accordance with the outline planning permission obtained.
(ii)	The estimated value.	The value of this contract will be determined through the competitive tender process but it is anticipated this will be over the OJEU procurement threshold.
(iii)	The contract term.	The contract period will be determined through the competitive tender process. At a minimum the contract will last until 12months after the development works have been completed.
(iv)	The tender procedure to be adopted including whether any part of the procedure will be conducted by	OJEU compliant restricted procedure procurement route, parts of the procedure may be conducted by electronic means but there will not be an e-auction.

	electronic means and whether there will be an e-auction.		
v)	The procurement timetable.	<p>Indicative dates are:</p> <p>Adverts placed</p> <p>Expressions of interest returned</p> <p>Shortlist drawn up in accordance with the Council's approved criteria</p> <p>Invite to tender</p> <p>Deadline for tender submissions</p> <p>Panel evaluation and interviews</p> <p>Panel decision</p> <p>Report recommending Contract award circulated internally for comment</p> <p>Executive approval</p> <p>Mandatory minimum 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers (contracts covered by the full EU Regulations only)</p> <p>Contract start date</p>	<p>October 2012</p> <p>November 2012</p> <p>December 2012</p> <p>January 2013</p> <p>March 2013</p> <p>April 2013</p> <p>April 2013</p> <p>May 2013</p> <p>May 2013</p> <p>May/June 2013</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.</p> <p>The plan will evaluate the tenders from the shortlisted bidders on the basis of "most economically advantageous tender criteria" (MEAT)</p>	

		<p>on the basis of % quality and % price. The quality considerations will include (but not necessarily be limited to) the following criteria:</p> <ul style="list-style-type: none"> • Design Quality • Project Delivery • Community and Stakeholder Engagement • Housing Management • Sales and Marketing • Retail
(vii)	Any business risks associated with entering the contract.	The Council will ensure the associated development agreement is structured to minimise all business risks.
(viii)	The Council's Best Value duties.	The procurement process will seek to ensure best value is achieved.
(ix)	Any staffing implications, including TUPE and pensions.	No staffing implications relating to TUPE or pensions
(x)	The relevant financial, legal and other considerations.	This procurement process is in line with the Council Standing Orders and EU Procurement Regulations. Pinsent Masons are currently retained to give specialist legal advice.

4.7 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

4.8 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 is likely to be such that it will be classed as High Value contracts). As a result, once the developer has been identified following the EU Procurement, Executive approval to award the development agreement will be required.

Compulsory Purchase Order[s]

4.9 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 or in relation to the land". Under section 226(1) (A) the Council must not exercise the power under sub paragraph (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 –

4.10 (a) the promotion or improvement of the economic wellbeing of their area;

4.11 (b) the promotion or improvement of the social wellbeing of their area;

4.12 (c) the promotion or improvement of the environmental wellbeing of their area.

4.13 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.”

4.14 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 order be made in order to carry through the necessary redevelopment of the CPO Land.

4.15 Further, in making the order 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.”

4.16 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 CPO for Phase 2 and Phase 3 sites, as listed in Appendix 3.

4.17 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

4.18 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.

4.19 It is acknowledged that the compulsory acquisition of the Order Land will amount to an interference with the human rights of those with an interest in the 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).

4.20 In this instance, Officers are of the view that there is a compelling case in the public interest for compulsory acquisition of the various interests referred to in this report which outweigh such rights, and therefore the use of compulsory purchase powers in these areas is proportionate. Without the use of these powers, the much-needed regeneration and redevelopment of this area will not be achievable, as there is no possibility that all of the land necessary to deliver the redevelopment will be made available within a reasonable timescale.

Withdrawal of Right to Buy / Demolition Notices

4.21 Initial Demolition Notices need to be served on secure tenants in accordance with the provisions of Section 138A and Schedule 5A of the Housing Act 1985 as amended by the Housing Act 2004 to prevent the Council from having to complete Right to Buy sales. Schedule 5A sets out what must be included in the Initial Demolition Notice, including the intention to demolish, the reasons for demolition and identifying the period within which the landlord intends to demolish. The period set out in the notice to carry out the demolition works must be not more than reasonable to carry out the proposed demolition of the relevant properties or in any case not expire more than seven years after the date of service of the notice.

4.22 There are no statutory provisions regarding a local authority ceasing permanent lettings. This is a decision which the Council's Executive has the power to make. This may have implications in relation to the Housing Revenue Account (HRA) and the subsidy provided to the Council in respect of the HRA.

Ground 10A of Schedule 2 to the Housing Act 1985

4.23 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. Before seeking approval, the Council is required to consult with 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.

4.24 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.

4.25 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

4.26 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.

4.27 The Prudential Capital Finance System, which was introduced in 1st April 2004, under regulation 12(1) 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. 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.

5.0 Financial Implications

Financial implications for the South Kilburn Programme, financial year 2012/13

5.1 The table below summarises the current forecast position for the progression of the South Kilburn Regeneration Project in 2012/13.

South Kilburn Regeneration Programme	£
Forecast Expenditure	
General Development Costs	882,500
Phase 1a	480,000
Phase 1b	5,829,600
Phase 2a	6,674,381
Phase 2b	758,500
Land Acquisitions	1,000,000
Total Forecast Expenditure	£15,624,981
Forecast Resources	
Surplus Resources	8,341,722
Forecast Capital Receipts for 2012/13	12,225,677
Total Forecast Resources	£20,567,400
Forecast Surplus Resources to Carry Forward to 2013/14	£4,942,419

5.2 As indicated in the table above, the resource envelope for taking forward the South Kilburn Regeneration Programme in 2012/13 and beyond is determined by the level of the capital receipts to be secured from the disposals of long leases of land.

5.3 Indicative project budgets for the Phase 2 sites; Site 11b and Bronte House and Fielding House are summarised at Appendix 4.

5.4 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.

5.5 The South Kilburn Financial Model was recently reviewed by Navigant Consulting based on the intelligence gathered through the deliver of Phase 1a and Phase 1b. The model was revised based on the assumption that future phases of the regeneration programme would be delivered without grant subsidy.

5.6 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

5.7 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.

5.8 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

5.9 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.

6.0 Diversity Implications

6.1 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.

6.2 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. A full Environmental Impact Assessment is at Appendix 5.

7.0 Staffing/Accommodation Implications

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

Contact Officer

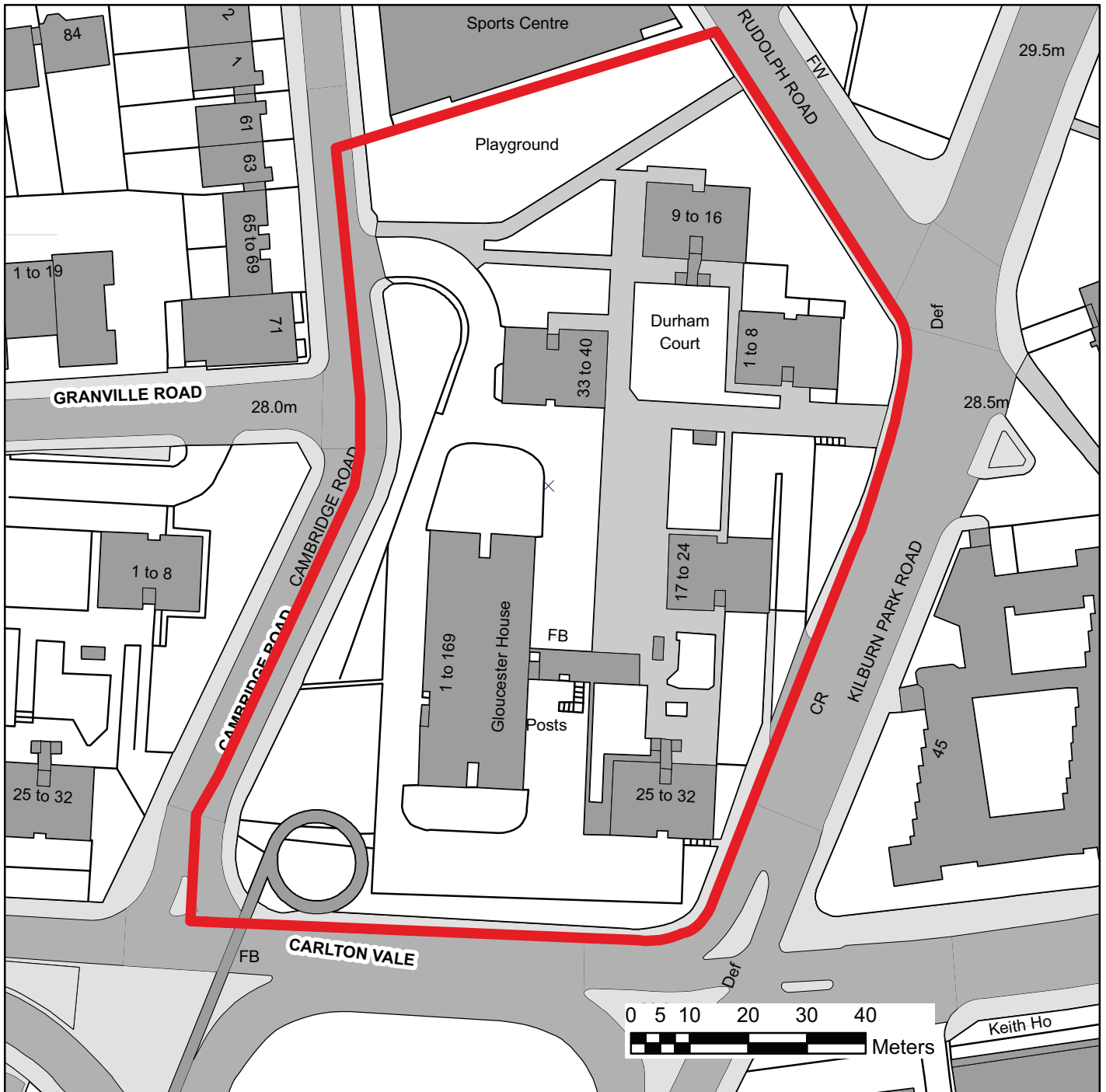
Abigail Stratford
South Kilburn Programme Manager

Tel: 0208 937 1026

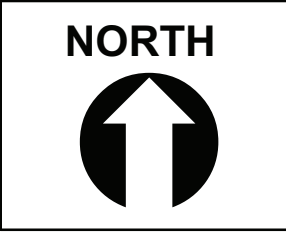
Email abigail.stratford@brent.gov.uk

ANDREW DONALD
Regeneration and Major Projects

EXECUTIVE COMMITTEE
15th October 2012
PLAN A - Gloucester and Durham.



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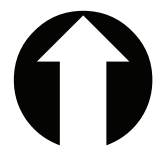
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EXECUTIVE COMMITTEE
15th October 2012
PLAN B - Chippenham Gardens.



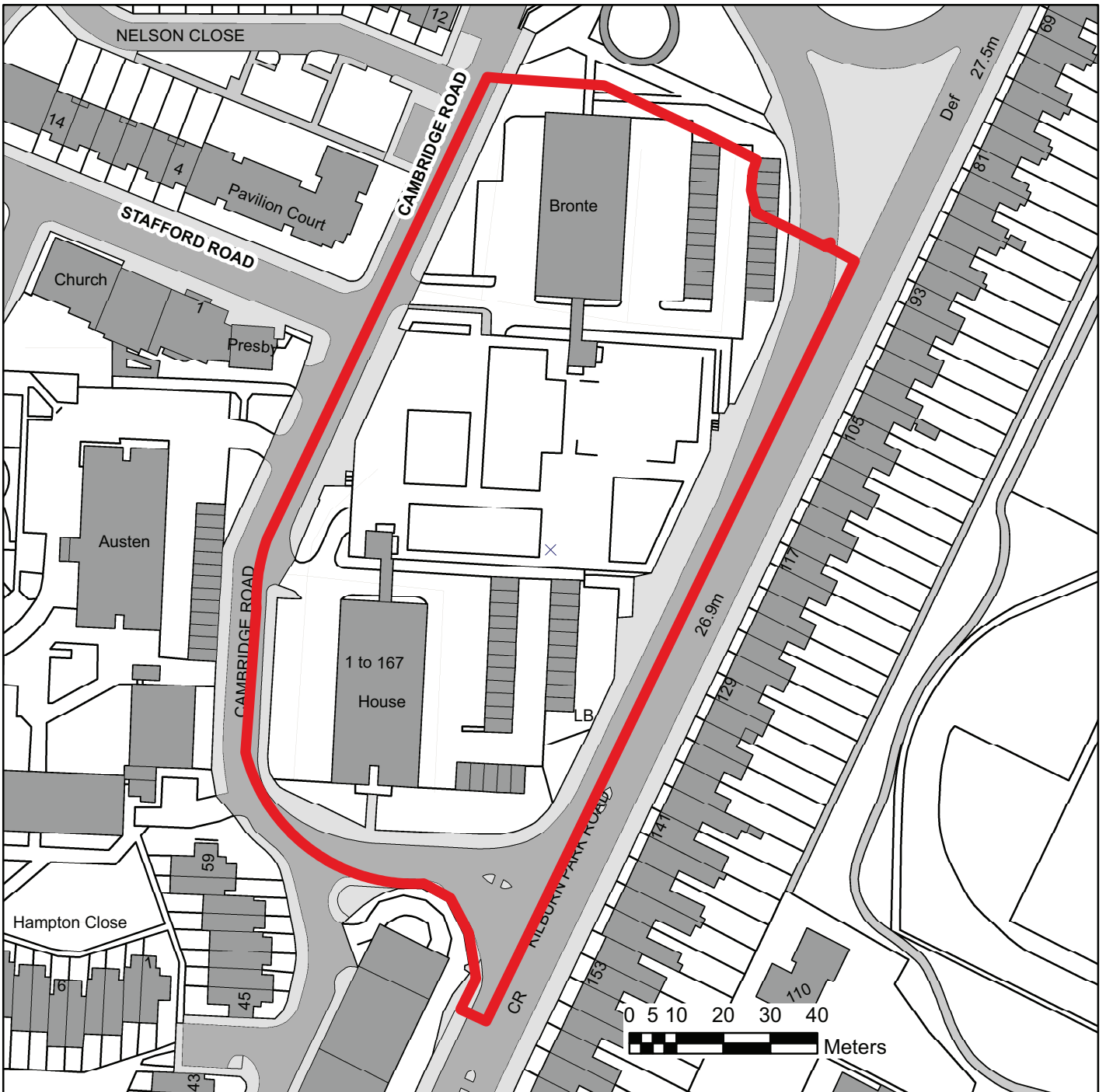
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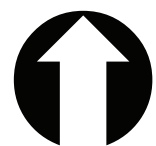
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EXECUTIVE COMMITTEE
15th October 2012
PLAN C - Bronte & Fielding.



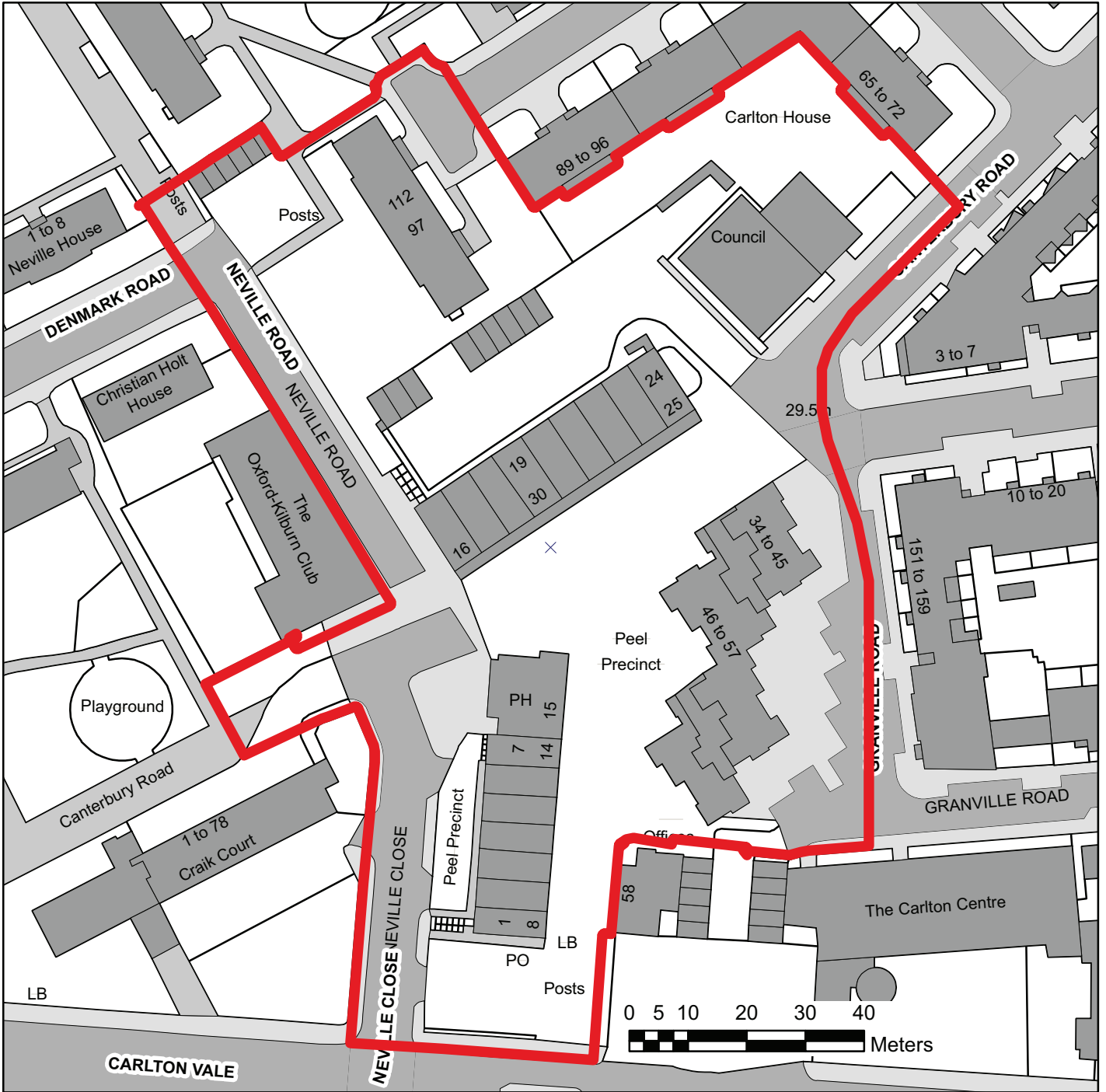
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EXECUTIVE COMMITTEE
15th October 2012
PLAN D - Peel.



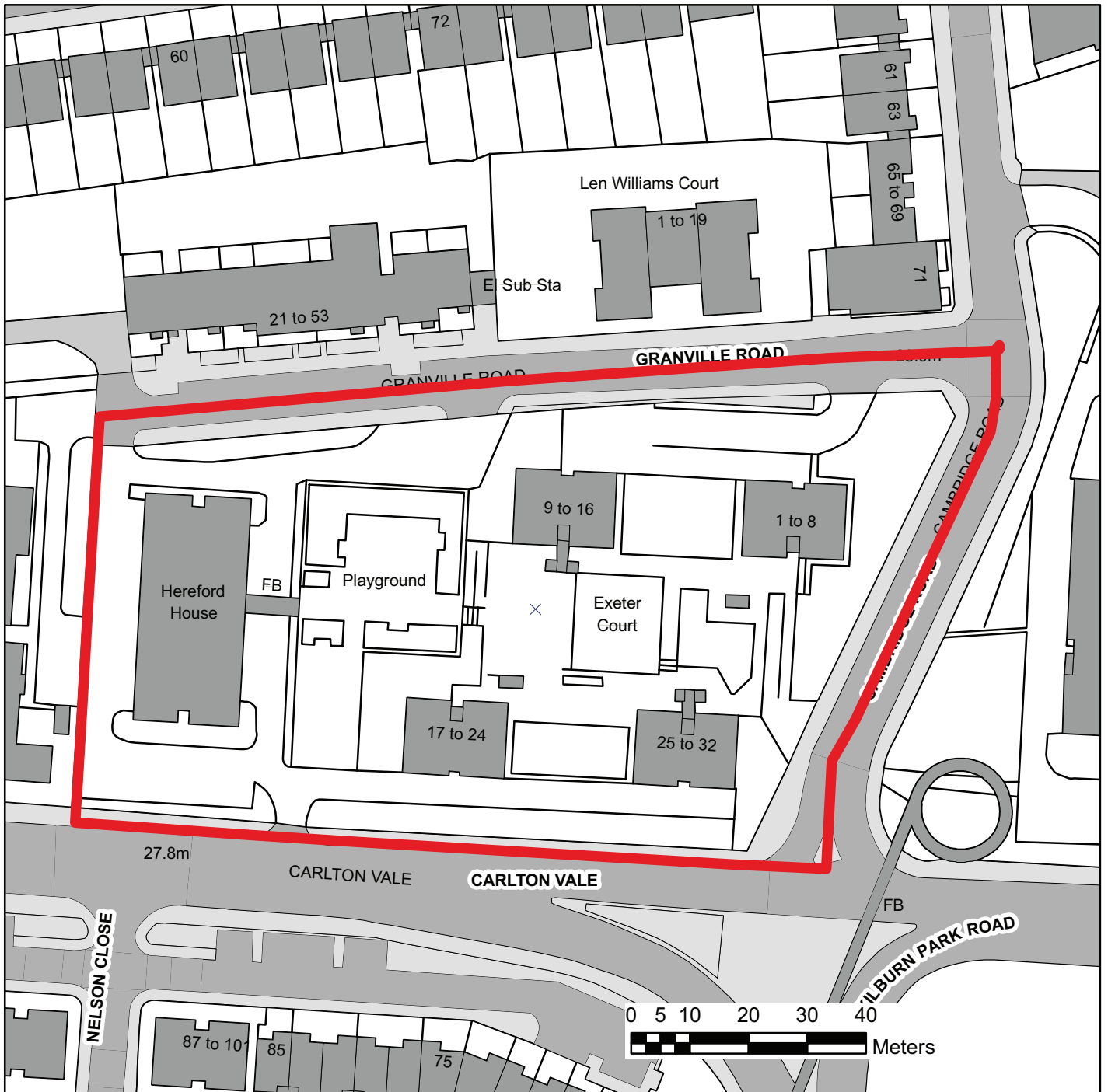
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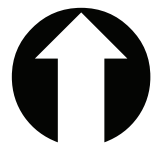
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EXECUTIVE COMMITTEE
15th October 2012
PLAN E - Hereford House.



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15th October 2012



**DRAFT ALLOCATION POLICY FOR PHASE 2
SOUTH KILBURN**

Contents

1. Introduction
2. Definition of a Decant
3. Homes affected
4. Mandatory Grounds for Moving tenants
5. Options for re-housing – including the new build sites.
6. Priority Blocks
7. Housing Needs Assessment
8. Needs Plus
9. Change of Circumstances
10. Re-housing Process
11. Double Decanting
12. Number of Offers
13. Tenants Choice
14. Splitting Households
15. Compensation for decanting tenants
16. Rent Arrears
17. Leaseholder Process
18. Appeals Procedure

1. Introduction

This document covers the decanting of secure tenants on the South Kilburn estate. This document sets out good practice and rights that tenants can expect to be delivered.

2. Definition of a Decant

The definition of a **decanting tenant** is defined as one who is eligible for home loss and disturbance payments because the **Council requires them to move** from their property in order for the Council to redevelop South Kilburn. The tenant could be moved to the designated new build sites, move permanently either within South Kilburn or elsewhere and those who move temporarily will have a 'right to return' to a designated new build sites within South Kilburn (**double decants**).

3. HOMES AFFECTED

1. Masefield House
2. Wordsworth House
3. Gloucester House
4. Durham Court
5. Peel Precinct
6. Carlton House (numbers 113-136 and 97-112)

4. Mandatory moves

The Council will apply the mandatory process in order to move tenants
The Council will make use of ground 10A of the Housing Act 1985.

Grounds 10A

Under Ground 10A and Part V of Schedule 2 to the Housing Act 1985, the Council may (1) serve consultation notices on the secure tenants explaining the proposed scheme (i.e. redevelopment, disposal) for the land of which the premises forms part (allowing 28 days to consider representations from tenants) and considering and dealing with any objections raised, (2) apply to the Secretary of State for approval of the scheme (for the purposes of Ground 10A) and (3) serve notices of seeking possession on all affected residents making offers of suitable alternative accommodation – and (4) apply to the Court for repossession of the premises if tenants fail to accept the “suitable alternative” property. The prescribed procedure for applying to the Secretary of State for approval is set out in Part V of Schedule 2 of the Housing Act 1985.

5. Options for Re-housing

All households living in the homes affected listed above of the South Kilburn proposed redevelopment program will be offered one “suitable alternative” property.

The South Kilburn development sites are:-

1. Cambridge Court
2. Ely Court
3. Wells Court
4. Bond House
5. Hicks Bolton House

Phase 1b of the South Kilburn Regeneration Programme will deliver 208 new homes of which 107 new homes are affordable. The remainder of the units will be a mix of outright sale and shared ownerships units which will be sold within five years.

6. PRIORITY BLOCKS

Priority for the first lettings of the new South Kilburn Homes will be ring-fenced to existing tenants living in the following blocks listed below:-

1. Masfield House
2. Wordsworth House
3. Gloucester House
4. Durham Court
5. Peel Precinct
6. Carlton House (numbers 113-136 and 97-112)

7. HOUSING NEEDS ASSESSMENT

The allocation process will be made on the basis of housing need with priority in relation to choice of the different blocks being determined by length of tenancy.

All eligible tenants will be required to fill out the transfer form so that they are entered on the Locata bidding systems. This system will be used as an audit trail to ensure that a clear record is kept of those requiring rehousing. All offers will be logged through this mechanism.

The size and type of property offered will depend on household composition.

BASIC FRAMEWORK FOR ASSESSMENT

▪ Single person	1 bedroom
▪ Couple	1 bedroom
▪ 2 adults not living together as a couple	2 bedroom
▪ 1 or 2 adults + 1 child	2 bedroom
▪ 1 or 2 adults + 2 children	2 bedroom/3 bedroom
▪ 1 or 2 adults + 3 children	3 bedroom
▪ 1 or 2 adults + 4 children	3 bedroom/4 bedroom
▪ 1 or 2 adults + 5 children or more	4 bedroom/5 bedroom

Children

- Children under the age of 18 will be expected to share with siblings of the same sex, unless there is a five year difference between them- in which case they will be allocated a separate bedroom.
- Children of different sex will be expected to share a bedroom up to the age of 7. Where children of different sexes are above 7 years of age, they will then be allocated separate bedrooms.

9. NEEDS PLUS

This will be targeted to tenants living in 3 bed+ accommodation for example a single person living in a 3 bedroom accommodation, will be offered a two bedroom property. The offer converts to current need plus an additional bedroom (Needs Plus) as an incentive for the loss of a larger accommodation. Tenants currently living in a two bedroom who only qualify for a one bedroom property will not be offered the same size accommodation unless there are medical reasons to allocate a larger size. Those who move from a family size accommodation to a smaller home will not be eligible for the current housing incentive scheme which offers £4,000 to those moving to a one bedroom – as they will be eligible for the statutory homelessness payment – currently £4700.

9. CHANGE IN CIRCUMSTANCES

Once an assessment of the housing needs are carried out, this information will be included in the detail planning of the allocation of properties available in the new development sites at South Kilburn. The Council will require all changes of circumstances to be documented by filling in the change of circumstances form and forward all relevant confirmatory documentation. The Council reserves the right to refuse to accept any changes to the family composition which may require us to provide larger accommodation to that which we had been previously agreed. However such consideration would only be considered in exceptional circumstances.

10. REHOUSING PROCESS

The rationale of the South Kilburn Regeneration programme is to contain the decanting programme within South Kilburn. If it is necessary, Brent will seek alternative opportunities to re-house those tenants who wish to move elsewhere within the Borough but no guarantees can be given that accommodation matching tenants' needs can be found within an appropriate timescale.

The Council will be reliant upon our partners to source alternative accommodation for those who wish to move outside of South Kilburn or Brent. In this regard, our partners will be required to offer an annual quota to assist the decanting process for the South Kilburn Regeneration programme. The Council will not be able to guarantee any move that is **not** within the area of development, as we will be wholly dependent on our partners or opportunities given by other Boroughs.

Tenants who wish to move to specialist housing such as sheltered housing will be assisted by way of contact and help to complete the appropriate applications. Tenants who may wish to move to the private sector will also be assisted and given a relocation incentive which is likely to be equivalent to the full value of the home loss and disturbance payment. These tenants will be required to sign a declaration form giving an undertaking not to approach the Council for Housing in the future and will be removed from the Council's Housing register.

11. DOUBLE DECANTING PROCEDURE

Those tenants living within the phase one development area, whose only option is to be temporarily rehoused (either within or outside South Kilburn) will be given the option to return to a new property within South Kilburn. They will be targeted for a new home in

one of the later phases of the development programme. This is termed as “double decanting”. Where a tenant occupies a temporary property in excess of twelve months then they will be entitled to another set of home loss payment once they move to their new home within the development.

Some improvements works may be carried out to temporary accommodation, to assist tenants to settle in. In some cases some fixture and fittings may be offered as a gift, and in such cases the Council will not be liable to maintain or repair those items.

12. NUMBER OF OFFERS

- (a) One offer for the new homes that matches the needs of the tenant on South Kilburn **or**
- (b) One offer of an existing property which matches the tenants needs elsewhere **or**
- (c) A temporary move that matches the needs of the tenant within South Kilburn until a new property becomes available.

Definition of Reasonable

The offer policy is dependent on the test of reasonableness. The definition of reasonableness, for the purpose of South Kilburn regeneration, is that:-

- A) It is considered reasonable to make alternative offers within the estate that meets the housing need of the tenant and their household or
- B) It is considered reasonable to make alternative offers outside South Kilburn that meets the housing need of the tenant and their household.

Offers which do not fully meet the tenants needs (i.e. on medical grounds or the recommended household composition table) will **not** be deemed as a reasonable offer.

13. TENANTS CHOICE

Those tenants, who choose to move to a new home in South Kilburn, will be invited to select from a range of tenants choice items available such as kitchen and bathroom units, colours / tiling, and floor coverings. Each landlord will have a different range of choices for their specific developments.

14. SPLITTING HOUSEHOLDS

We could consider **households which are willing to be split** in return for ‘downtrading’ in size where there is a shortage of larger units. For example, a four or five bedroom household could be considered for a smaller unit if one adult member is rehoused separately. This would only be considered if it facilitates the availability of a family size unit for another household and if there are available units of the required size. Homeloss and disturbance payment would be paid to the existing tenant only.

15. COMPENSATION FOR DECANTING TENANTS

Secure Tenants moving from South Kilburn will be entitled to homeloss and disturbance payments in accordance with the Land Compensation Act 1973. Secure tenants who move out of their homes, provided that they have lived there for at least 12 months and

it is their only or principal home will be eligible for £4,700 home loss payment (or whatever is the approved rate at the time of implementation). Reasonable disturbance payments are also payable; however tenants who wish to claim for these items will be required to produce evidence of the costs incurred.

The following are examples of disturbance payments that we have a legal duty to meet:-

- Removal van to move furniture
- Redirection of mail
- Dismantling and re-assembly of residents owned furniture such as wardrobes
- Telephone disconnection and reconnection

Home loss payments will be processed after tenant moves to the new accommodation and within 28 working days of receipt of a claim form.

16. RENT ARREARS

Tenants with rent arrears will be expected to clear the full sum of monies owed to the Council. The Council will diligently pursue all rent arrears in line with its arrears procedure. Where the tenant is keeping to the terms of the court order, then the Council will off-set any remaining arrears against the compensation of £4,700.

Where the level of arrears exceeds the home loss payment of £4700, the Council reserves the right not to include the tenant in the new development.

17 LEASEHOLDER PROCESS

Leaseholder options will be made available for each phase. Either the new Landlord or the Council will seek to purchase all leasehold properties within the development phase and offer each leaseholder the following options:

- a) To buyout the leaseholder at market value with all applicable compensation.
- b) To buyout the leaseholder and they purchase back into the scheme

There may be other options available from each landlord which will be made clear for development site.

The Council will also use its Compulsory Purchase powers for each phase as part of the overall process.

18.APPEALS PROCEDURE

If a tenant appeals on the grounds that an offer of alternative accommodation made is unreasonable there will be a time limit of ten working days in order to lodge an appeal. Appeals should be made in the first instance by writing to:

South Kilburn Programme Manager
Community Resource Centre,
William Dunbar House,
Albert Road,
Kilburn,
NW6 5DE

The programme manager will respond within ten working days.

Tenants can also seek the advice from a Citizens Advice Bureau/ Law Centre Solicitor or the independent Resident and Tenants Advisor who can be contacted on Freephone

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SOUTH KILBURN REGENERATION DECANT PROGRAMME

Phase 1a

Site 11A Marshall House
3C Roundabout site
Texaco Garage site/ Merle Court. Carlton Vale
Gordon House/ McDonald House

Phase 1b

Wells Court
Cambridge Court
Ely Court
Bond House
Hicks Bolton House
Wood House

Phase 2a

Bronte House
Fielding House
The Queen's Park Station Area site (including the Falcon PH, Premier House, Keniston Press, London Transport Offices, Cullen House and the Queen's Park Car Park).

Phase 2b

Site11B Albert Road Daycare Centre/ British Legion
Masefield House
Wordsworth House
Durham Court
Gloucester House

Phase 3a

Carlton House (numbers 113-136 and 97-112)
Peel Precinct
Hereford House
Exeter Court
Kilburn Park Junior School
Carlton Vale Infant School

Phase 4a

Austen House
The Marian Community Centre
Neville House
Winterleys
Craik Court

Phase 4b

John Ratcliffe House

Dickens House

Blake Court

Crone Court

Zangwill House

Other sites earmarked for regeneration

4-26 Stuart Road

Argo House (private development)

Post Office and 5-9 Chippenham Gardens (private development)

Impact Needs/Requirement Assessment Completion Form

Department: Regeneration and Major Projects	Person Responsible: Abigail Stratford
Service Area: South Kilburn	Timescale for Equality Impact Assessment : 15 th October 2012 Executive
Date: 10 th June 2011	Completion date: 10 th June 2011
Name of service/policy/procedure/project etc: South Kilburn Regeneration Programme	Is the service/policy/procedure/project etc: New <input type="checkbox"/> Old <input checked="" type="checkbox"/>
Predictive <input type="checkbox"/> Retrospective <input checked="" type="checkbox"/>	Adverse impact Not found <input checked="" type="checkbox"/> Found <input type="checkbox"/> Service/policy/procedure/project etc, amended to stop or reduce adverse impact 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"/>	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 <input type="checkbox"/> No <input checked="" type="checkbox"/>	2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	4. Grounds of faith or belief: Religion/faith including people who do not have a religion Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5. Grounds of sexual orientation: Lesbian, Gay and bisexual Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	6. Grounds of age: Older people, children and young People Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Consultation conducted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Person responsible for arranging the review:	Person responsible for publishing results of Equality Impact Assessment:
Person responsible for monitoring:	Date results due to be published and where:
Signed:	Date:

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?

South Kilburn Regeneration Programme:

The South Kilburn Regeneration Programme drives and delivers the regeneration of the South Kilburn Estate. The programme will deliver 1,243 new replacement affordable homes and 1,134 new market homes for South Kilburn, alongside the social infrastructure needed to support this development. The programme focuses on the delivery of housing led physical regeneration and the requirements for housing allocations and decant property acquisition, design and planning and public consultation. Additionally, in partnership with South Kilburn Neighbourhood Trust it seeks to identify potential projects that sit around the housing delivery, such as exploring ways to improve socio-economic conditions for local people through the use of vacant or underused property assets.

The current approach is to deliver a mixed tenure neighbourhood through the phased de-risking of development opportunities. Planning permissions are sold with a lease to a delivery partner and the land receipt is reinvested into the programme to bring forward subsequent opportunities.

The SK programme comprises of four phases. Phase 1 is already being delivered on site. The Executive Report of 15th October 2012 seeks approvals to further progress Phase 2 and Phase 3 of the regeneration programme.

Phase 2

Phase 2 of the South Kilburn Regeneration Programme aims to redevelop some of the worst housing on estate into high quality, well designed homes. Phase 2 comprises of the following existing housing sites: Bronte House, Fielding House, Masfield House, Wordsworth House, Gloucester House, Durham Court and Site 11b which comprises of the former Albert Road Day Care Centre and the British Legion.

Authority is sought to dispose of developments at Site 11b and Bronte House and Fielding House with planning permissions and all associated other legal approvals. An EU compliant tender process will be undertaken for the disposals.

Phase 3

Phase 3 of the South Kilburn Regeneration Programme aims to facilitate the redevelopment of Peel Precinct, Carlton House to deliver a new healthy living centre and high quality housing alongside the redevelopment of Hereford House and Exeter House.

Authority is sought to obtain the necessary legal approvals to secure all relevant acquisitions of land and all relevant legal procedures to commence preliminary work to secure vacant possession and bring the sites forward for redevelopment.

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

As set out above, the aim of the South Kilburn regeneration Programme is to deliver 1,243 new replacement affordable homes and 1,134 new market homes for South Kilburn, alongside the social infrastructure needed to support this development.

The programme originated from the efforts to regenerate the estate through the government led New Deal for Communities initiative. In 1999, the Estate was awarded New Deal for Communities status and a grant of £50m, a proportion of which was identified for building new homes. New community facilities were also provided while some homes have been improved under the Decent Homes programme. There remains however, recognition that the poor quality general layout and design of the estate is conducive to and exacerbates socio-economic conditions on the estate.

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. South Kilburn has been identified as a growth area within the Local Development Framework Core Strategy, proposing that the area can accommodate up to 2500 new homes, including the re-provision of homes for existing tenants.

Impact Needs/Requirement Assessment Completion Form

Phase 2:

The approvals sought will enable the next phase of the regeneration programme. Existing South Kilburn tenants living in some of the worst physical conditions in London will be offered new homes as part of the phased programme. Any land receipt from the disposals will be reinvested to ensure the delivery of subsequent phases.

Phase 2 will deliver approximately 587 new homes of which roughly 207 will be made available to South Kilburn Households

Phase 3:

Phase 3 aims to deliver a new health living centre and approximately 421 new homes of which 218 will be made available to South Kilburn Households

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

We aim to ensure that the service provided meet the varied individual needs and expectations of South Kilburn residents and that everyone has equal access to services, regardless of their protected characteristics i.e: race, , sex, religious or belief, age, disability or sexual orientation, marriage or civil partnership, pregnancy or maternity status or gender reassignment . We recognise the service provided to South Kilburn Residents must be relevant, responsive and sensitive, and that the Council must be seen to be as fair and equitable in its provision of services by our service users, by our partners and the wider community. We aim to ensure that our contractors and others who deliver our services also share our vision and values.

The new homes in South Kilburn are made available to secure tenants within blocks earmarked for redevelopment within the next phase. 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' protected characteristic

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?

There is no evidence that the regeneration programme would adversely impact on certain groups of people.

The graph below (Figure 1) provides a summary of the South Kilburn population's ethnicity. Currently we do not have data on all the protected characteristics but we will aim to gather this information moving forward.

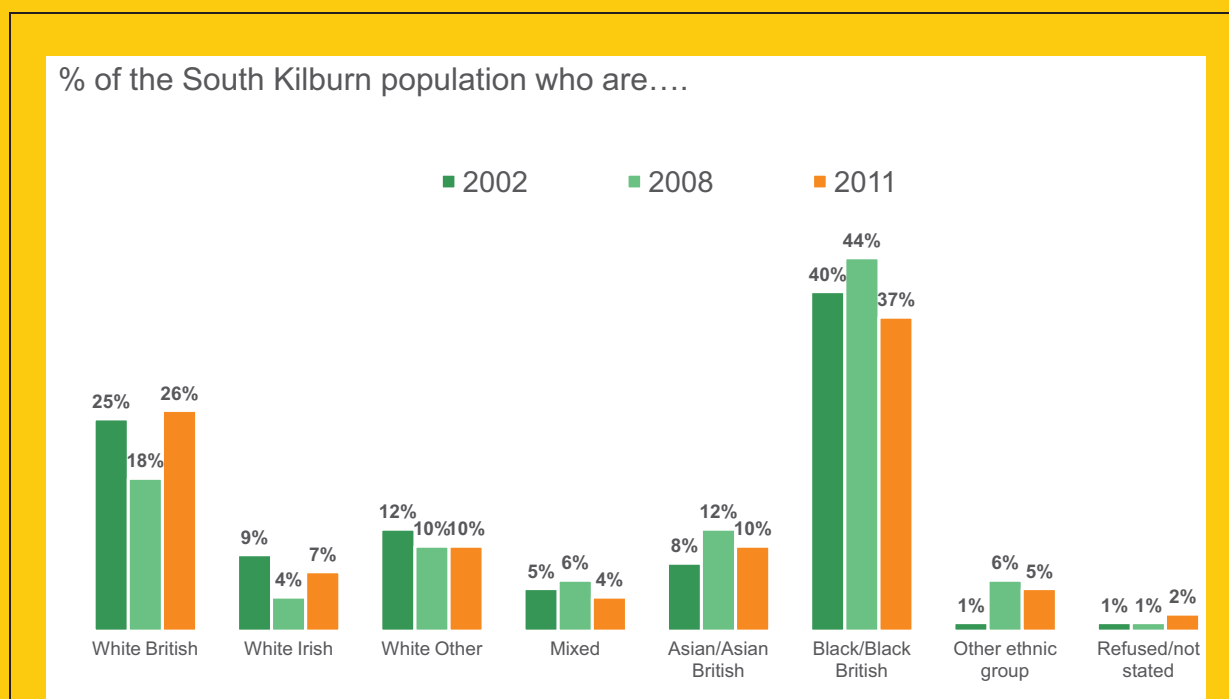


Figure 1: The Changing Ethnicity of South Kilburn's Resident Population

NR a change of 8% or more equals a statistically significant change

Impact Needs/Requirement Assessment Completion Form

LSOA	OVERALL	INCOME	EMPLOYMENT	HEALTH	EDUCATION	HOUSING	CRIME	LIVING
Brent 034A	6.4%	2.9%	9.3%	24.0%	56.1%	4.4%	20.5%	2.8%
Brent 034B	3.4%	3.4%	4.4%	7.9%	62.0%	9.1%	9.5%	0.8%
Brent 034C	2.2%	0.7%	2.4%	13.0%	51.0%	2.5%	20.5%	6.7%
Brent 034D	5.8%	3.2%	7.4%	17.5%	43.5%	5.9%	37.5%	1.8%

Figure 1: IMD 2010 Ranks for South Kilburn

The Index of Multiple Deprivation (figure 2) shows that income, housing quality, employment and living environment are the areas in which South Kilburn residents experience the highest levels of deprivation. The regeneration programme will have a positive impact on all of the above areas its 6,000 residents through the provision of employment and training opportunities to up-skill residents and improving the quality of the physical environment. The regeneration programme will also directly improve the housing quality of 1,243 South Kilburn Households

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).

No specific empirical evidence.

South Kilburn Regeneration Programme:

The requirement for housing and community facilities in South Kilburn is universal and will provide for every aspect of both the existing and new community. Housing need surveys are undertaken with residents about 18months prior to moving and are household specific. All South Kilburn residents who currently live in South Kilburn with long life tenancies are guaranteed to stay in South Kilburn if they choose to.

Phase 2 & 3:

All the new developments will be designed, in so far as practically possible to meet a range of South Kilburn Residents housing needs, including a range of tenures and dwelling sizes. Homes are designed to Lifetime Homes standards and the London Housing Design Guide.

Neither the Council nor Brent Housing Partnership will be landlord to South Kilburn tenants. The landlord will be a council partner Registered Provider of housing and will have an up to date equalities statement. This will be reviewed upon appointment.

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)

No identified unmet needs.

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?

Impact Needs/Requirement Assessment Completion Form

South Kilburn Regeneration Programme:

A large number of consultation events have been undertaken since 2003, at the original inception of the programme. Consultation was required to be carried out for a minimum of six weeks before the South Kilburn Masterplan (2005) could be adopted.

Since 2009, a number of consultation events have been held including:

- Revisions to the Masterplan – four consultation events and drop in sessions for residents. The consultation shaped the outcomes of the Masterplan, i.e. a reduction in overall heights of buildings.
- Designs for phase 1 developments – twelve consultation events were held for phase 1 developments which fed into the designs of the developments which informed residents of design progress and the main processes involved in the overall process.

Phase 2:

As part of the design and planning process for the two sites which have planning permission, a community engagement strategy was delivered. This involved a series of public events and design workshops which were held during 2011/12. A summary of the consultation and results are contained within Statements of Community Involvement attached to the planning application available at https://forms.brent.gov.uk/servlet/ep_ext?extId=101150&reference=107127&st=PL. A similar process will be repeated for the next phase of development.

As the remainder of the Phase 2 development sites come forward for development a meaningful and robust community consultation strategy will be employed. Households who are due to move into the new homes will be targeted alongside residents in surrounding blocks. Working with the architects and design teams through a series of design workshops, residents will be asked to inform the detailed design of the new developments.

Phase 3:

A similar consultation process will be repeated for the next phase of development. A targeted consultation for the local GP's will also be developed in partnership with the Primary Care Trust to inform the detailed design of the proposed Health Living Centre.

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

South Kilburn Regeneration Programme:

The results of many of the consultations since 2009 have been fed back to the community in the local magazine for the area, Connect SK, and details of the events and feedback have been kept in council databases.

Phase 2:

The results of the consultation for Bronte House and Fielding House and Site 11b were recorded in the Statements of Community Involvement submitted as part of the planning application. The Statement of Community Involvement is available at https://forms.brent.gov.uk/servlet/ep_ext?extId=101150&reference=108244&st=PL.

Phase 3:

The results from all future consultation will be published in the Statements of Community Involvement submitted as part of the planning application.

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

No concern identified.

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.

n/a

Impact Needs/Requirement Assessment Completion Form

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

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.

Environmental Impact Assessments will be completed alongside Business Cases in advance of projects commencing. The Environmental Impact Assessments will be reviewed, approved and monitored by the South Kilburn Programme Board.

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

The South Kilburn Programme is positively delivering new high quality homes and community facilities for new and existing residents of South Kilburn.

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): *ABIGAIL STRATFORD*

Date: *30th August 2012*

Service Area and position in the council: *South Kilburn Programme Manager*

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

Impact Needs/Requirement Assessment Completion Form

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**

An online version of this form is available on the Corporate Diversity Team website.

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Executive
15 October 2012

Report from Director of Finance and Corporate Services

Outcomes from Consultation and Recommendations for a Local Council Tax Support Scheme

1. Summary

1.1 This report sets out:

1.1.1 The findings and outcomes of the consultation arrangements for the proposed local Council Tax Support Scheme carried out over a nine week period between 11th June and 10th August 2012.

1.1.2 A recommended scheme for a new local Council Tax Support (CTS) scheme based upon the outcomes from the consultation process and achieving, as far as reasonably practicable, a financially neutral position in 2013/14 (the first year of operation). The decision on making the Council Tax Support scheme will be made by Full Council.

1.1.3 The financial and equality impacts of the recommended local Council Tax Support scheme for Brent residents.

1.2 A summary of the background and government proposals are set out in this report.

2. Recommendations

2.1 The following recommendations are submitted for consideration and noting;

2.1.1 To note the likely financial implications arising from the recommended scheme for the Council's local Council Tax Support (CTS) scheme with effect from 1 April 2013 and the

risks and assumptions attached to these as set out in section 12 of this report.

- 2.1.2 To note the findings and outcomes from the CTS consultation carried out with residents and other stakeholders as set out in sections 6 and 7 of this report and the Consultation Report attached as Appendix A to this document.
- 2.1.3 To note the findings on equalities and other impacts arising from the proposed CTS scheme as set out in section 5 of this report,
- 2.1.4 To note the intention to submit a report to Full Council in November 2012 or at subsequent ordinary or extraordinary Full Council meeting to approve the local Council Tax Support Scheme as proposed within this report subject to the timely passing of relevant statutory provisions.

3. Executive summary

- 3.1 Under Government welfare reforms, the existing national Council Tax Benefit scheme is to be replaced by localised Council Tax Support schemes from 1st April 2013.
- 3.2 The changes will see the existing demand-led Benefit subsidy scheme replaced by a fixed grant that is at least 10% lower in value than the current 100% subsidised scheme. Depending upon final regulations and the funding settlement from the government, this is anticipated to require financial savings in the region of £3.9M to £5.1M for 2013/14 dependent upon growth and Council Tax levels and based upon the Council's proportionate share of the reduced funding. (i.e. excluding the GLA element). The funding due to the GLA will be concurrently affected by similarly proportionate reductions.
- 3.3 Under the reforms, any Local Authority that has not formally approved its local scheme by 31st January 2013 will have a default scheme imposed upon it. In general terms, the default scheme will be similar to the existing national Council Tax Benefit scheme and thus will not achieve the level of savings required to meet the reduced funding levels.
- 3.4 Additionally, there are some aspects of the default scheme in its current drafting that are more onerous in terms of administrative processing and may therefore have consequential resource implications. This relates to the treatment of Universal Credit for CTS purposes, following its introduction in October 2013.
- 3.5 It is therefore incumbent upon Full Council to formally set its local Council Tax Support scheme by 31st January 2013 to avoid the potential implications arising from this scenario although an earlier date

is preferred in order to enact necessary operational, publicity and contingency plans.

- 3.6 The Council commenced consultation with the GLA concerning its proposed draft scheme on 25th May 2012. The draft scheme was published on the Brent Council website on 8th June 2012 and made available for customers to access at Customer Services Offices and Public Libraries within the Borough with effect from 11th June 2012.
- 3.7 The consultation was carried out using a range of approaches and publicity. These included online and paper consultation questionnaires and face to face meetings with stakeholders and customers.
- 3.8 The government proposes to fully protect pensioners from the effects of any changes made at a local level. This means that the minimum 10% savings referred to in section 3.2 above will, subject to the decision taken by the Council, need to be funded from the benefit entitlement of 24,604 working-age claimants.
- 3.9 The Council has the following options available for meeting the 10% savings level required:
 - 3.9.1 Subsidise the recommended scheme via savings elsewhere in the General Fund;
 - 3.9.2 Make changes to Council Tax exemptions and discounts to generate more Council Tax revenue to offset the deficit;
 - 3.9.3 Devise a new Council Tax Support scheme to reduce projected expenditure levels;
 - 3.9.4 A combination of the above.
- 3.10 On the basis of the above, options and associated issues arising have been developed and modelled and a proposed scheme (as well as rejected alternatives), are identified within this report and its appendices for reference and information. The proposed scheme principles are contained in section 5 of this report.

Background

4. Government proposals and main principles

- 4.1 The government has made provision within the Local Government Finance Bill to replace the current national Council Tax Benefit (CTB) scheme from 1st April 2013 with localised schemes for Council Tax Support (CTS) devised by individual (or groups of) local authorities (LA's).

- 4.2 Responsibility within central government for Council Tax Support has passed from the Department of Work and Pensions (DWP) (responsible for the existing national scheme) to the Department for Communities and Local Government (DCLG) (responsible for the localised provision from April 2013).
- 4.3 Local CTS schemes will be funded by a fixed grant unlike the current Council Tax Benefit scheme which has demand-led funding. The fixed grant will result in an immediate reduction to funding when compared to current levels of subsidised expenditure. The headline reduction is 10% but draft figures issued by DCLG indicate that the reduction for the Council is closer to 13.7%.
- 4.4 Local Authorities have a duty to run a local Council Tax Support Scheme within their area that must contain the following:
- Pensioner claimants will generally be protected from changes to their existing CTB award through the provision of a statutory scheme. (However, a small number of claimants in receipt of war widows or war disablement pensions currently have their income from these pensions ignored when calculating their entitlement to Council Tax Benefit under a Brent Council local scheme. With the cessation of Council Tax Benefit and the provision of national rules for claims and eligibility for persons of pensionable age, this will cease and only £10 of their weekly income from such pensions may be ignored). The protection for pensioner claimants will result in the 10% financial saving referred to in section 4.3 above falling disproportionately on working-age claimants unless it can be met through other arrangements.
 - Schemes must support work incentives. The CLG Policy Statement of Intent does not give a recommended approach to be taken but indicates the considerations of the scheme design that may impact upon work decisions and which local authorities may want to consider.
 - LA's must ensure that appropriate consideration has been given to support for other vulnerable groups, including those which may require protection under other statutory provisions including the Child Poverty Act 2010, the Disabled Persons Act 1986 and the Equality Act 2010, amongst others.
- 4.5 The DCLG has issued Policy Statements of Intent that address a range of issues including the following:
- Vulnerable People and Key Local Authority Duties,
 - Taking work incentives into account,
 - Information Sharing and Powers to Tackle Fraud.

The Local Government Finance Bill as drafted states that a Billing Authority must have regard to any guidance issued by the Secretary of State. The recommended scheme has sought to address these requirements and is outlined within this report and associated appendices.

- 4.6 Under the Local Government Finance Bill, the Council must, in the following order, consult with major precepting authorities (i.e. the GLA), publish a draft scheme in such manner as it thinks fit and consult such other persons as it considers are likely to have an interest in the operation of the scheme.
- 4.7 The Council must make its scheme and publish it in such manner as it thinks fit. The decision to make the scheme is reserved for Full Council and cannot be delegated.
- 4.8 Once a local Council Tax Support scheme has been made by the Council, it cannot be revised for at least one financial year. A Billing Authority must however *consider* whether to revise or replace its scheme with another one on an annual basis. In practice, this would require any proposals to amend the scheme to be drafted in the summer months to enable consultation and decision making processes to be concluded in time for Council Tax annual billing preparations.
- 4.9 Any revision to a scheme must be made by the Council by the 31st January immediately preceding the financial year in which it is to take effect and will require consultation arrangements to be applied. Additionally, in future, consideration must be given to providing transitional protection where the support is to be reduced or removed.
- 4.10 Existing CTB claimants on 31st March 2013 including those that have applied for Benefit but not had their entitlement determined at that time, will not need to reapply for CTS as their application will be treated as though it were made for Council Tax Support. This was outlined within the CLG'S Policy Statement of Intent dated 17th May 2012.
- 4.11 The implementation of the local Council Tax Support scheme coincides with other major reforms to the Welfare system including Universal Credit; the overall Benefit income cap; Housing Benefit restrictions for under-occupation in the social sector; and the devolvement of certain Social Fund functions from central to local government. This is likely to result in some claimants being affected by multiple changes arising from the reforms.

5. The Council's Proposed CTS scheme

- 5.1 The Council undertook consultation concerning its proposed draft scheme which comprised the key principles and features set out below for working age claimants:

Principle 1: “Everyone should pay something”

All working age claimants (unless defined as protected) shall be required to pay a minimum contribution towards their Council Tax – set in the draft scheme at 20%.

Principle 2: “The most vulnerable claimants should be protected” (from the minimum contribution)

Claimants shall be protected from the 20% minimum contribution if they or a dependant in their household are entitled to a disability premium, enhanced disability premium, disabled earnings disregard, Disability Living Allowance or Personal Independence Payment, Disabled Persons Reduction for Council Tax purposes, War Disablement Pension and War Widow’s Pension.

Principle 3: “The scheme should incentivise work”

Incentives to work are achieved by letting claimants who are working keep more of what they earn (before means-testing) – the recommended scheme proposes an increase of £10 per week in the earnings disregards for Single Person, Couple and Lone Parent earnings (currently set at £5, £10 and £25 respectively). In this context, a disregard means the amount of weekly earnings that may be ignored when calculating entitlement to Benefit.

Principle 4: “Everyone in the household should contribute”

Other adults in the claimant’s household (“non-dependants”) should contribute more proportionately to their income – the recommended scheme proposes doubling the existing rates of non-dependant deductions from those in place in 2012/13 and replacing the current nil deduction for other adults in the claimant’s household receiving Job Seekers Allowance (Income Based) with a deduction of £6.60.

Principle 5: “Better off claimants should pay relatively more so that the least well off receive greater protection.”

The recommended scheme proposes that the taper used in the Benefit calculation for those above the means-test (i.e. where the claimant’s income exceeds their needs) should be increased to 30% from the current 20%. This is the rate at which Council Tax Support reduces where weekly income exceeds basic living needs and will be 30 pence in the pound rather than the 20 pence currently applied for CTB.

Principle 6: “Benefit should not be paid to those with relatively large capital or savings”

The recommended scheme proposes reducing the current savings cut-off limit applied for CTS claims from £16,000 at present for the purposes of CTB to £6,000.

5.2 Other general features of the proposed scheme were as follows:

5.2.1 The current second adult rebate scheme (whereby claimants whose own income is too high to receive CTB, but have other

adult(s) in the household whose income is low, can receive a Council Tax discount of up to 25%) to be abolished for working age claimants. This is due to its inconsistency with the above principles given that these claimants by definition are not eligible via the normal Benefit means-test.

- 5.2.2 Premiums and personal allowances used to determine basic living needs for a claimant and their family when calculating entitlement to CTS to be held at the rates applied for CTB in 2012/13. This will have the effect of contributing to the required savings by counteracting any inflationary growth in expenditure.
- 5.2.3 Where new working age benefits are introduced by the government (in particular Personal Independence Payments and Universal Credit, both of which are being introduced during the first year of the CTS scheme), treatment of these benefits to be broadly equivalent to treatment of the corresponding current working age benefits within the CTS scheme.

For example, claimants in receipt of Universal Credit shall be treated as being liable to pay a minimum 20% contribution towards their Council Tax unless they are protected.

(Personal Independence Payments will replace Disability Living Allowance; Universal Credit will combine Income Support, Job Seekers Allowance (Income Based), Employment Support Allowance (Income Related), Working and Child Tax Credits and Housing Benefit, and will be rolled out over four years from October 2013).

- 5.3 Additional proposals were received from the consultation undertaken in relation to protecting claimants and groups of claimants from payment of the minimum 20% Council Tax contribution that included for example the following:

- Job Seekers Allowance and Universal Credit
- Carers
- People not working
- Vulnerable persons
- Disabled
- Terminally ill
- Persons of pensionable age
- Persons resettled from a hostel
- Persons on a low income (including on minimum wage)
- Medical grounds (including Employment Support Allowance Care Component)
- Severe learning disorders
- Other Social Issues (e.g. debt)
- Persons recently unemployed
- Joint Tenants (where the other tenant does not contribute)
- In receipt of Benefits Looking for work

- No savings
- Young adults aged 16 to 30 in full time education or learning and living with parents
- Persons attending courses for education to improve employment prospects
- Young Adults
- Single Parents
- Families
- Care leavers
- Foster carers
- Special Guardian Carers

Each of the proposed options has been considered with regard to their suitability and feasibility. In some cases suggestions have not been progressed as the proposed scheme already provides for protection (e.g. disabled and pensionable age) or because they would be administratively complex to apply, financially unviable, or cannot be achieved due to software constraints. Other suggestions have however been considered and it is proposed that these be included within the proposed scheme as is the case for example in the following two cases:

- Claimants that are carers in receipt of a Carers Allowance and providing care to another person.
- Persons receiving a guaranteed income payment or survivors guaranteed income payment under the Armed Forces Compensation Scheme where they have received an injury or illness from service in the Armed Forces after 6th April 2005.

5.4 Other proposals have also been submitted by organisations concerning for example the CTS claims process and alternative minimum contribution levels for claimants (e.g. 10%) but with no protection for vulnerable groups. Each option proposed has been financially evaluated where practicable and considered and reviewed accordingly. The details concerning these cases are set out in the Consultation Report attached at Appendix A to this document.

5.5 The Council's proposed scheme has been established with due regard to the Council's statutory obligations, consultation responses and in order to attempt to distribute the reduced funding available amongst those claimants most in need of financial assistance, while still achieving the necessary financial savings to meet the funding deficit. The detailed legal implications concerning these including the public sector equality duty are set out later in this report.

5.6 The permutations of options and variations for a localised Council Tax Support scheme are almost infinite and a variety of options and variations were considered prior to the consultation process by officers and through discussions with a Member Working Group. These were used to arrive at the proposed draft scheme which formed the basis of

public consultation. The options considered and discounted including those raised during the consultation have been set out in Appendix B together with reasons for their rejection.

- 5.7 The proposed local scheme for consideration by Full Council will consist of both statutorily prescribed requirements as defined for claimants of pensionable age and persons from abroad who are to be excluded from entitlement if they are subject to immigration control and/or not otherwise treated as being in Great Britain. Further changes to the prescribed provisions will be made in the final regulations and will also be included in the Council's local scheme for non-EEA nationals to reflect final Universal Credit regulations. There will also be local requirements for working age claimants which have been developed based upon the Council's set of key principles and accompanying technical mechanisms. These represent variations from the existing CTB scheme for working age claimants.
- 5.8 The local Council Tax Support scheme complies with the Government's key principles of protecting Pensioner claimants from changes in their existing CTB award, supports work incentives and gives appropriate consideration to support other vulnerable groups, including those which may require protection under other statutory provisions including the Child Poverty Act 2010, the Disabled Persons Act 1986 and the Equality Act 2010, amongst others.
- 5.9 The manner in which this is achieved in relation to CLG Policy Statements of Intent is set out below and further referenced within section 4.4 of this report.

5.9.1 Armed Forces Covenant

The Covenant sets out the relationship between the Nation, the State and the Armed Forces and recognises that the whole nation has a moral obligation to members of the Armed Forces and their families, and it establishes how they should expect to be treated.

It exists to redress the disadvantages that the Armed Forces community faces in comparison to other citizens, and to recognise sacrifices made. In some cases this will require special consideration, especially for those who have given the most such as the injured and the bereaved.

In consideration of the above and following comments during the consultation the recommended scheme now proposes that in addition to war widow's, war widower's and war disablement pensions, guaranteed income payments (including survivor's guaranteed income payments under the Armed Forces Compensation Scheme) be disregarded in full for working age claimants thus ensuring that receipt of these incomes does not impact upon their Council Tax Support entitlement.

Additionally, the recommended scheme proposes that claimants be protected from the requirement to pay a minimum contribution of 20% towards their Council Tax where they or a dependant in their household is in receipt of one of these income types.

It is also important to note that under Government regulations for pensionable age claimants that will apply to all Local Authorities, only £10 per week can be disregarded from the receipt of the above pensions. Currently, Brent Council operates a local scheme whereby these pensions are disregarded in full but this will cease under the new prescribed statutory provisions for pensionable age claimants. Whilst there are only currently 12 customers affected by this change and of these, half are in receipt of 100% Council Tax Benefit and will thus continue to be entitled to this amount of Benefit next year, this change will be of importance to all of them.

The Council may consider exercising the provisions of Section 13A Local Government Finance Act 1992 as set out in the financial implications section of this report to address this potential scenario whereby such persons of pensionable age are financially affected.

5.9.2 Child Poverty Act 2010

The principles enshrined within the recommended Council Tax Support Scheme support the objectives of reducing and mitigating the effects of child poverty through the following means:

Child Benefit shall be completely disregarded as a claimant's income thus ensuring that their entitlement to Council Tax Support is unaffected by the receipt of this income.

Premiums and allowances shall be used to determine a claimant's basic living needs with amounts being determined for each child and young person that is resident in the claimant's household.

The disregard of an additional £10 per week from a claimant's weekly earned income (i.e. through employment) is also likely to contribute towards the achievement of this objective by permitting a claimant to earn an additional £10 per week without it affecting their Benefit entitlement.

The provision of disregards for child care costs will be applied within the scheme up to a maximum prescribed level of £175 per week for one child and £300 for two or more children for example where the claimant is a single parent that works 16 or

more hours per week, or a couple where both partners work 16 hours or more per week or where one partner is incapacitated, in hospital, in prison or aged 80 or over and the other partner works 16 hours or more per week and relevant child care costs are paid for a child normally up to the first Monday in September after their 15th birthday.

5.9.3 Incentivising Work

The disregard of an additional £10 per week from a claimant's weekly earned income (i.e. through employment) for single claimants, couples and single parents shall permit a claimant to earn an additional £10 per week without it affecting their Benefit entitlement. This will mean that the following weekly earned income amounts shall be disregarded under the recommended scheme:

Single Person - £15

Couple £20

Single Parent £35

The provision of extended payments for the first four weeks after a claimant commences work where they meet certain prescribed requirements will also be applied within the recommended scheme.

The provision of a non-dependent deduction for another adult resident in the claimant's home that is in receipt of Job Seeker's Allowance (Income Based) is also included within the proposed scheme as a work incentive.

5.9.4 Equalities Implications

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.

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. These matters are examined in the Equalities Impact Assessment.

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 persons' 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 use the facilities. 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.

The proposed scheme will impact on 24,604 existing working age claimants.

A detailed equalities impact assessment has been undertaken and is attached at Appendix D to this report.

In general terms, as the proposed changes will impact across the working age caseload, the effects of the reductions in entitlement will affect all claimants and the risk of a disproportionate impact on a protected group has thus been minimized.

There has not been any adverse impact currently identified for 7 of the 9 protected groups. However, in terms of “race” and “age” some specific issues have been identified and these are outlined below.

The majority of working age customers (52%) will incur a difference of £3 to £5 per week less in entitlement under the proposed scheme that will have to be paid in their Council Tax.

The ‘black’ ethnic group (60%) in proportionate terms has a greater incidence of a reduction in entitlement of £3 to £5 per week compared to any other ethnic group. However, claimants in this group are less affected by a decrease in entitlement of more than £5.00 per week than other groups. This is because this group has more claimants in receipt of passported benefits (i.e. 55%) compared to the average for the working age

caseload (i.e. 46%). Consequently, they would not see a reduction in their benefit under Principle 5 (the effects of the taper) but, like all other groups, would still be affected by Principle 1 - the proposed requirement to make a minimum contribution of 20%.

The 'Asian' ethnic group is more affected in proportionate terms by a reduction in entitlement of £5.00 or more per week under the proposed scheme than other groups. One reason for this is that they are more likely to be in the 'working age other' group and therefore more likely to be affected by Principle 5 under the proposed scheme and the impact of the taper on income above their basic living needs.

Additionally, there are some other significant factors that contribute towards the variance in the percentage of caseload affected by a reduction in entitlement of more than £5 per week which are as follows:

- 'Asian' families have a greater proportion of dependents (i.e. 22% have 3-4 children per household compared to 10% of the 'white' group). Consequently, they have larger homes represented by a higher Council Tax Valuation Band and hence more Council Tax to pay for the Valuation Band allocated. For example, 16% of the 'Asian' group resides in Band E properties compared to just 9% 'Black or 10% 'White' ethnic groups.
- The 'Asian' group also has significantly more adults other than the claimant and partner residing as part of the household (e.g. 6% 'Asian' households have 2 other adults living as part of the family compared to 3% of any other ethnic group)

The policy intention of the proposed scheme is that a claimant should have a reduction in their proposed entitlement if they have other adults resident in their home that could contribute towards the Council Tax and other household bills. Consequently, the more non-dependants that are resident in a claimant's home who are working for example, the greater the non-dependant deduction that would be made from the claimant's entitlement. There is no deduction made however, where a non-dependant is in receipt of Income Support or where the claimant or partner is receiving the care component of a disability living allowance.

Those most affected by a reduction in entitlement of between £3 and £5 are in the 18 - 24 age group (i.e. 76%). This is because this age group is less likely to receive protection under the proposed scheme towards the minimum 20% contribution as

they are less likely to be in receipt of Disability Living Allowance for example and more likely to be in receipt of a passported benefit such as Job Seekers Allowance (Income Based).

As a claimant's age increases, the likelihood of a reduction in entitlement of £3 to £5 per week decreases (with just 37% of 55 - 60 year olds affected by this reduction amount). This variance can be explained by younger claimants being less affected by Principle 4 of the proposed scheme as they are less likely to have non-dependants living with them than older claimants who may have adult sons and daughters still residing with them.

It is also the case that the 55 - 60 year old age group comprises 32% of the £0 to £3 reduction in entitlement to support category. This can be explained by the fact that 30% of 55 - 60 year olds are protected from Principle 1 (i.e making the minimum 20% contribution towards their Council Tax).

Claimants aged 55 to 60 are proportionately more likely to have a difference in their entitlement of £8.00 to £30.00 per week than the younger age groups. For example, in the £8 - £15 category they are represented by 11% rather than the 6% average.

One factor for this variance is because claimants aged 55 to 60 are more likely to live in larger properties. For example, 15% live in Band E properties compared to 3% aged 18 - 24 and 6% aged 25 - 34 than the younger age groups. They are also in proportionate terms more likely to have more non-dependants living in their home.

Given that one of the key scheme objectives is to incentivise work, the provisions in the proposed scheme to protect the most vulnerable, as well as the strong financial pressure to introduce the scheme and the need to bridge the anticipated funding gap, officers consider that the adverse effects on some groups is justifiable in the circumstances.

6. Consultation Arrangements

- 6.1 The consultation period of 11th June to 10th August (i.e. 9 weeks) was shorter than the 12 weeks recommended in the Government's Code of Practice on consultation. However, the CLG advised that authorities should consider the length of consultation depending upon the impact of the proposals and their ability for example to complete the consultation exercise within budgetary timetables.
- 6.2 Additionally, it was indicated within the CLG Policy Statement of Intent dated 17th May 2012 that if a shortened period was to be applied, that the reasons for this should be given in consultation documentation.

- 6.3 To this extent, the Council included reference to this in its Council Tax Support consultation document that a shortened period had been used to permit sufficient time to evaluate the responses received and to meet the Council's budget setting timetable. The timescale also reflected the need to provide sufficient duration to receive and test software, and prepare for annual billing and year end arrangements. Full detail of the consultation and analysis of results is included in the Consultation report attached as Appendix A to this report.
- 6.4 In compliance with the Council's consultation obligations, a range of approaches were used to obtain views and comments for the proposals of the Council's Local Council Tax Support Scheme as set out below:
- All consultation documentation including the questionnaire was available on Brent Council's Consultation Tracker website - www.brent.gov.uk/consultation,
 - A specific email address was provided and included on consultation documentation to deal with any requests for information or to log supplementary comments. All correspondence has been logged and has served to inform this report,
 - A text message was sent on two occasions to 2694 existing Benefit customers outlining the nature of the consultation and providing details of how to access the consultation documentation,
 - An email was sent on two occasions to approximately 1770 existing Benefit claimants outlining the nature of the consultation and providing details of how to access the consultation documentation,
 - A leaflet was issued with 13,000 Council Tax bills to Council Tax Payers in the Borough outlining the nature of the changes and providing details of how to access the consultation documentation,
 - Meetings and presentations were held with organisations, including the voluntary sector service user forum comprising representatives (and in some instances members) of Mencap, Citizens Advice Bureau, Help Somalia Foundation, Advocacy Project, Private Tenant Rights User Group, Older Persons Partnership Board, Brent Housing Partnership, Brent Mental Health User Group and representatives from Lynton Close Travellers Site. Proposals were outlined and comments and options were submitted as appropriate and confirmed by Council representatives in writing. Consultation questionnaires were also provided to attendees of meetings held with the Brent Mental Health User Group, Older Persons Partnership Board, Help Somalia Foundation and Lynton Close Travellers Site.
 - An email was sent to 600 Area Consultative Forum members and 640 Citizens Panel members on two occasions outlining the nature

of the consultation and providing details of how to access consultation documentation,

- Paper copies of the documentation were distributed upon request and were available at each of the Brent Council Libraries (excluding Kilburn that was closed for refurbishment during the consultation period), and Customer Services Local Offices at the Town Hall, Willesden Green and Brent House,
- Alternative formats of consultation documentation were available on request,
- A feature on the consultation was published in both the May and July edition of the Brent Magazine and the consultation was publicised in the local media including the Harrow Times and the Brent and Kilburn Times at the commencement of the consultation,
- Two public meetings were arranged and held at Willesden Mosque and Brent Town Hall respectively for which there were 16 attendees,
- Council proposals were outlined at each of the 5 Area Consultative Forums for which there were 267 attendees,
- A pop up screen outlining the nature of the consultation and how to access the online consultation documentation was activated each time one of the Brent public library PC's was accessed by a customer. During the consultation period, there were 5,607 customer sessions where this message was displayed,
- Letters outlining the consultation arrangements were sent by post / email to 30 organisations including Housing Associations with a property interest in the Borough, welfare organisations and interest groups to inform them of the nature of the consultation and how they may access the consultation documentation,
- Letters outlining the consultation arrangements were sent by email to 136 voluntary organisation representatives on 11th June 2012 informing them of the nature of the consultation and how they may access the consultation documentation,
- Letters outlining the consultation arrangements and how to access the consultation documentation were also sent to the three Brent MP's and Chamber of Commerce,
- The Voluntary Sector Service Users Forum meeting on 21st June was attended by 20 people representing 18 voluntary organisations where the consultation arrangements were outlined. A briefing note was given to the attendees informing them of how they may access

the consultation documentation and attendees were advised to meet with officers as appropriate if they wished to obtain further details about the scheme.

- Posters advertising the consultation and how to access documentation were displayed on 80 advertising hoardings around the Borough for a period of two weeks from 24st July 2012.
- A focus group meeting was arranged for 3rd August 2012 with 9 Council Tax Benefit claimants although only one attended the meeting.

6.5 Correspondence with Council officers and records of Question and Answer sessions at public meetings and forums have been logged and have helped to inform the analysis of the consultation feedback and the findings of this report.

7.0 Consultation Responses – Analysis

7.1 The questionnaire used for the consultation was made available on the Council's Consultation Tracker throughout the consultation period and printed copies of the document were distributed at all meetings and forums attended. Printed copies were also available upon request and were available at Brent Council libraries (excluding Kilburn which was closed for refurbishment during the consultation period) and Customer Services Local Offices.

7.2 Respondents were asked the following questions:

- To rank in order of importance their preferences for each of the proposed changes,
- To state whether they agreed or disagreed that each of the proposed changes was fair
- To give details of any other groups that the Council should protect from the proposed changes and reasons
- To add any additional comments to support responses given to the ranking of importance and fairness questions or alternative options that the Council should consider
- To comment on whether the proposed changes are likely to affect particular individuals or groups more than others and if so, how these may be addressed
- To provide any other additional comments concerning the proposals

7.3 There were 184 consultation questionnaire responses received, comprising 97 online responses (52.7%) and 87 paper responses (47.3%).

7.4 Additionally however, there were comments and submissions received from organisations including CAB, Mencap, Capita, GLA, Network Housing and Catalyst Housing and the Council's Children and Families Service and Strategy, Partnerships and Improvement.

- 7.5 The size of the consultation questionnaire response represents 0.5 per cent of the total Benefits caseload. It should also be noted that some respondents only answered part of a question or in the case of free text answers, gave more than one response for consideration. In other cases, no responses were given to a question. Consequently, the weight attached to the results obtained from the responses received should be considered accordingly.
- 7.6 A number of the proposals submitted for consideration were proposed by only one respondent, cannot be achieved due to software constraints or are administratively complex to operate. Others proposed have already been included within the draft scheme such as those for pensioners and the disabled.
- 7.7 The top six categories recommended for protection from the minimum 20% Council tax contribution submitted by respondents to the questionnaire were families with children, single parents, pensioners, disabled, persons in receipt of Job Seekers Allowance and persons on low income.
- 7.8 There were also submissions made from organisations proposing for example a flat 10% contribution towards Council Tax with no protection for any groups, protection for care leavers and carers, persons leaving the armed forces and persons subject to domestic violence.
- 7.9 Each proposal received has been evaluated based upon technical feasibility and suitability in terms of administering the scheme, the potential financial position arising from the funding deficit and the Council's obligations and duties under statutory provisions including the Equalities Act 2010.
- 7.10 Details of the consultation findings in general may be summarised as follows:

Of the 184 respondents:

121 (i.e. 85.82% of those that responded to the question) indicated that they paid Council Tax to Brent Council and 20 (i.e. 14.18% of those that responded to question) did not.

87 (i.e. 60.84% of those that responded to the question) were currently in receipt of Council Tax Benefit and 56 (i.e. 39.16% of those that responded to the question) were not. There were 41 respondents that did not give an answer to this question.

17 (i.e. 27.87% of those that responded to the question) indicated that they had previously received Council Tax Benefit and 44 (i.e. 72.13% of those that responded to question) had not.

Table 1 below sets out the relevant findings from the analysis conducted.

Table 1

Ethnic Group	Proportion of Borough Population	Proportion of Benefits Caseload	Number of Consultation Responses	Proportion of Responses Received (%)
Asian:Bangladeshi	0.5	0.6	1	0.70
Asian: British	0	0	4	2.82
Asian: Chinese	1.1	0.4	1	0.70
Asian: Indian	18.5	8.0	12	8.45
Asian: Pakistani	4.0	3.6	6	4.23
Asian: Other	4.8	11.3	6	4.23
Black: African	7.8	18.8	12	8.45
Black: Caribbean	10.5	15.2	14	9.86
Black:Somali	0	0	19	13.38
Black: Other	1.6	1.5	3	2.11
Mixed: White and Black Caribbean	1.0	1.1	2	1.41
Mixed: White and Black African	0.7	1.0	0	0
Mixed: White and Asian	1.0	0.7	0	0
Mixed: Other	1.1	1.0	1	0.70
White:British	29.2	15.7	35	24.65
White:Irish	7.0	5.0	1	0.70
White: Other	9.1	11.7	12	8.45
Other	2.3	4.4	8	5.63
Prefer not to say	0	0	5	3.52
Total	100	100	184	100

Notes:

1. The above totals do not equate to 100% in all cases due to rounding differences.
2. There were 42 respondents that did not answer this question.
3. Black:British has been included within the group Black:Other in the table above.
4. Black:Somali has been shown as a separate group for the purposes of the consultation responses although in the census and for the Benefits caseload generally, this group is likely to have been incorporated within Black:African.

7.11 Table 2 below shows how the proportions of each group as represented by the Borough population and Benefits caseload compare to that obtained from the consultation responses received. This indicates that Asian: Pakistani, Black: African, Black: Caribbean, and White: Other have the closest representation from the consultation responses to the 2001 census data and that Asian: Indian has the closest representation from the consultation responses to the Benefits caseload allowing for a 10% variance.

Table 2

Ethnic Group	Proportion of Borough Population (A)	Proportion of Benefits Caseload (B)	Proportion of Responses Received (C)	% Difference between Population and Responses	% Difference between Benefits Caseload and Responses
Asian:Bangladeshi	0.5	0.6	0.7	40	17
Asian: British	0	0	2.82	#DIV/0!	#DIV/0!
Asian: Chinese	1.1	0.4	0.7	-36	75
Asian: Indian	18.5	8	8.45	-54	6
Asian: Pakistani	4	3.6	4.23	6	18
Asian: Other	4.8	11.3	4.23	-12	-63
Black: African	7.8	18.8	8.45	8	-55
Black: Caribbean	10.5	15.2	9.86	-6	-35
Black:Somali	0	0	13.38	#DIV/0!	#DIV/0!
Black: Other	1.6	1.5	2.11	32	41
Mixed: White and Black Caribbean	1	1.1	1.41	41	28
Mixed: White and Black African	0.7	1	0	-100	-100
Mixed: White and Asian	1	0.7	0	-100	-100
Mixed: Other	1.1	1	0.7	-36	-30
White:British	29.2	15.7	24.65	-16	57
White:Irish	7	5	0.7	-90	-86
White: Other	9.1	11.7	8.45	-7	-28
Other	2.3	4.4	5.63	145	28
Not declared	0	0	3.52	#DIV/0!	#DIV/0!

Note: In Table 2 above, the reference to #DIV/0! In some instances applies where the denominator used for the purposes of the comparison is zero.

7.12 The tables below set out the composition of respondents that completed the consultation questionnaire:

Table 3

Status of Respondent	Total number of Responses	Responses as Proportion of Total (%)
Pensioner	23	16.67
Student	3	2.17
Employed	37	26.81
Employed Part Time	15	10.87
Unemployed	54	39.13
Disabled	6	4.35
Totals	138	100

The overall response rate to this question was 75% of the total of 184 respondents. There were 46 respondents that did not give an answer to this question representing 25% of the total of 184 respondents.

Table 4

Status of Respondent	Total number of Responses	Responses as Proportion of Total (%)
Living as a Couple	14	16.67
Married	44	52.38
Civil Partnership	1	1.19
Prefer not to say	25	30
Totals	84	100

The overall response rate to this question was 45.65% of the total of 184 respondents.

There were 100 respondents that did not give an answer to this question representing 54.35% of the total of 184 respondents.

- 7.13 An analysis of the age composition of the Borough in comparison to the Benefits caseload is shown in Tables 4 and 5 below:

Table 5 – Borough Census and Benefit Caseload

Age Range	Borough average from Census	Council Tax Benefit Cases
15-24	18.2%	3.24%
25-34	24.2%	14.42%
35-44	19.4%	21.98%
45-54	13.5%	21.11%
55-59	5.5%	7.99%
60+	19.3%	31.26%

Table 6 – Consultation Responses

Age Status of Respondent	Total of Responses	Responses as Proportion of Total (%)
Under 18	0	0
18 to 24	6	4
25 to 34	20	14
35 to 44	48	34
45 to 54	34	24
55 to 60	10	7
61+	20	14
Prefer not to say	4	3
Totals	142	100

The overall response rate to this question was 77.17% of the total of 184 respondents.

There were 42 respondents that did not give an answer to this question representing 22.83% of the total of 184 respondents.

- 7.14 It is not possible to draw any specific conclusions from the above age data as not all of the respondents answered this question.
- 7.15 It is also important to note that as Council Tax is not payable by residents aged under 18 years old, there will not be any data for this age range in respect of Council Tax Benefit. It is also likely that as persons of pensionable age will be protected from the proposed changes to Council Tax Benefit, they were less likely to respond to the consultation proposals.
- 7.16 There does appear however to be a close correlation between the age analysis of consultation respondents and Council Tax Benefit data that may be partially explained by the fact that 60% of respondents were in receipt of Council Tax Benefit and consequently the age data for these persons should be consistent with Benefit data held.

7.17 Table 7 - Gender Status

Gender	Borough Average from Census	Council Tax Benefit Data
Male	48.6%	45.8%
Female	51.4%	54.2%

The profile of gender within the Borough and the existing Benefits caseload is shown in Table 6 above and appears to be broadly comparable. It is important to note that a claimant for Council Tax Benefit can be either partner in the case of a couple.

Table 8 - Consultation Responses

Gender of Respondent	Total of Responses	Responses as Proportion of Total (%)
Male	58	41.43
Female	78	55.71
Prefer not to say	4	2.86
Totals	140	100

The overall response rate to this question was 76.09% of the total of 184 respondents.

There were 44 respondents that did not give an answer to this question representing 23.91% of the total of 184 respondents.

7.18 It is not possible to draw any specific conclusions from the above results of the consultation as not all respondents answered this question and some that did, preferred not to state their gender. However, of those that did, there was a 4.3% variance for male responses and a 2.7% variance for female responses in comparison to the existing Benefits caseload data.

7.19 Table 9 – Gender Assignment

Status of Respondent	Total of Responses	Responses as Proportion of Total (%)
Yes	116	91.34
No	4	3.15
Prefer not to say	7	5.51
Totals	127	100

The overall response rate to this question was 69.02% of the total of 184 respondents.

There were 57 respondents that did not give an answer to this question representing 30.98% of the total of 184 respondents.

It is not possible to compare the data from the consultation responses with the Borough average as this information was not previously collated from the 2001 census.

7.20 Table 10 – Parenting Responsibilities

Status of Respondent	Total of Responses	Responses as Proportion of Total (%)
Yes	62	45.93
No	67	49.63
Prefer not to say	6	4.44
Totals	135	100

The overall response rate to this question was 73.37% of the total of 184 respondents.

There were 49 respondents that did not give an answer to this question representing 26.63% of the total of 184 respondents.

7.21 Table 11 – Sexual Orientation

Status of Respondent	Total of Responses	Responses as Proportion of Total (%)
Heterosexual	99	77.95
Gay Woman / Lesbian	1	0.79
Bisexual	4	3.15
Gay Man	3	2.36
Other	1	0.79
Prefer not to say	19	14.96
Totals	127	100

The overall response rate to this question was 69.02% of the total of 184 respondents.

There were 57 respondents that did not give an answer to this question representing 30.98% of the total of 184 respondents.

It is not possible to compare the data from the consultation responses with the Borough average as this information was not previously collated from the 2001 census.

7.22 Table 12 – Religion

Religion	Borough Average
Christianity	47.7%
Buddhism	1.0%
Hinduism	17.2%
Judaism	2.5%
Islam	12.3%
Sikhism	0.7%
Any other religion	1.1%
No religion	10.0%
Religion not stated	7.7%

Table 13 - Consultation Response

Religion of Respondent	Total of Responses	Responses as Proportion of Total (%)
Baha'i	1	0.75
Buddhism	0	0.00
Christianity	41	30.83
Hinduism	10	7.52
Jainism	0	0.00
Judaism	3	2.26
Islam	45	33.83
Sikhism	1	0.75

Taoism	0	0.00
Agnostic	2	1.50
Humanist	1	0.75
No Religious belief	18	13.53
Other	4	3.01
Prefer not to say	7	5.26
Totals	133	100

The overall response rate to this question was 72.28% of the total of 184 respondents.

There were 51 respondents that did not give an answer to this question representing 27.72% of the total of 184 respondents.

It is not possible to compare the consultation response with the existing Benefits caseload as this data is not currently held.

- 7.23 It is not possible to draw any specific conclusions regarding respondents' religion from the consultation response as not all respondents answered this question. However, from the responses received, there appears to be an over representation in comparison with census data from respondents whose religion was Islam and an under representation of responses from respondents whose religion was Christianity. There also appears to be an under representation of Hindu respondents.
- 7.24 Respondents were asked to indicate how important each of the Council's six key principles were to them with 1 being the most important and 6 the least important.

The results shown below indicate the number of respondents that ranked each of the 6 key principles. The final column "Ranking Average" shows the average ranking of importance for each of the 6 key principles concerned based upon responses received and indicates based upon the proportions of responses that principle 2 was most important to respondents (i.e. protecting vulnerable claimants). The principle that "everyone should contribute" was least important to respondents.

It should be noted that whilst there were 161 responses to principle 2, there were only 151 for principle 4 and differing numbers of responses for the other principles. This prevents a direct comparison of results for each principle although the variance between the responses to each principle is no more than 10.

Rank	1	2	3	4	5	6	Total	Ranking Average
Principle 1: Everyone should pay something	51	24	12	13	19	39	158	3.27
Principle 2: The most vulnerable claimants should be protected (from the minimum contribution)	72	32	24	12	7	14	161	2.33
Principle 3: The scheme should incentivise work	19	24	36	30	26	18	153	3.48
Principle 4: Everyone in the household should contribute	13	17	20	40	32	29	151	3.98
Principle 5: Better off claimants should pay relatively more so that the least well off receive greater protection	26	30	28	22	34	14	154	3.32
Principle 6: Benefit should not be paid to those with relatively large capital or savings	32	26	30	19	17	31	155	3.36

Note: The lower the average ranking means the higher the average preference as shown in the overall order of priority below.

Key Principle	Overall Priority
Principle 1: Everyone should pay something:	Second
Principle 2: The most vulnerable claimants should be protected (from the minimum contribution):	First
Principle 3: The scheme should incentivise work:	Fifth
Principle 4: Everyone in the household should contribute:	Sixth
Principle 5: Better off claimants should pay relatively more so that the least well off receive greater protection:	Third
Principle 6: Benefit should not be paid to those with relatively large capital or savings:	Fourth

Total that responded to question:	167
Total that skipped this question:	17
Total:	184

- 7.25 Respondents were asked to indicate the extent to which they agreed or disagreed that the Council's principles were fair and the results of these are summarised below.

Principle 1 – Every claimant of working age should pay 20% Council Tax

41.07% agreed that principle 1 was fair, 13.69% neither agreed nor disagreed and 45.24% considered the principle to be unfair. Each of the 168 respondents to this question answered this part. The results for this principle indicate that slightly more respondents disagreed that the minimum contribution of 20% was fair compared with those that considered it to be fair.

Principle 2 – Protect disabled claimants from the 20% minimum contribution

75% agreed that the principle was fair, 10.12% neither agreed nor disagreed and 11.9% considered the principle to be unfair. There were five respondents that answered the question for principle 1 but did not answer this part of the question and which account for 2.98%. The results for this principle indicate a majority of respondents considered the protection for disabled persons to be fair although not all of the respondents to principle 1 answered this part of the question.

Principle 3 – Increase earnings disregards by £10 per week

60.12% agreed that the principle was fair, 22.02% neither agreed nor disagreed and 13.69% considered the principle to be unfair. There were seven respondents that answered the question for principle 1 but did not answer this part of the question and which account for 4.17%. The results for this principle indicate a majority of respondents considered the increase in earnings disregards to be fair although not all of the respondents to principle 1 answered this part of the question.

Principle 4 – Double non-dependant deductions and introduce charge for job seekers

38.09% agreed that the principle was fair, 23.21% neither agreed nor disagreed and 34.52% considered the principle to be unfair. There were seven respondents that answered the question for principle 1 but did not answer this part of the question and which account for 4.17%. The results for this principle suggest a small majority of the respondents considered this principle to be fair although not all of the respondents to principle 1 answered this part of the question.

Principle 5 – Increase taper to 30%

27.98% agreed that the principle was fair, 32.14% neither agreed nor disagreed and 31.55% considered the principle to be unfair. There were fourteen respondents that answered the question for principle 1 but did not answer this part of the question and which account for 8.33%. The results for this principle suggest a small majority of the respondents considered this principle to be unfair although not all of the respondents to principle 1 answered this part of the question.

Principle 6 – Reduce savings limit

42.26% agreed that the principle was fair, 17.86% neither agreed nor disagreed and 37.5% considered the principle to be unfair. There were four respondents that answered the question for principle 1 but did not answer this part of the question and which account for 2.38%. The results for this principle suggest a small majority of the respondents considered this principle to be fair although not all of the respondents to principle 1 answered this part of the question.

Feature 1 – Abolish second adult rebate

33.34% agreed that the principle was fair, 25.6% neither agreed nor disagreed and 32.15% considered the principle to be unfair. There were fifteen respondents that answered the question for principle 1 but did not answer this part of the question and which account for 8.92%. The results for this feature suggest a small majority of the respondents considered this feature to be unfair although not all of the respondents to principle 1 answered this part of the question.

Feature 2 – Freeze premiums and allowances

37.5% agreed that the principle was fair, 25% neither agreed nor disagreed and 29.17% considered the principle to be unfair. There were fourteen respondents that answered the question for principle 1 but did not answer this part of the question and which account for 8.33%. The results for this principle suggest a small majority of the respondents considered this principle to be fair although not all of the respondents to principle 1 answered this part of the question.

- 7.26 It can therefore be seen from the views expressed in the consultation that there was a polarisation of views for principle 1, strong agreement for principles 2 and 3, mixed views on principles 4, 5 and 6 possibly stemming in the case of principles 4 and 5 to an absence of understanding concerning the technical details of the proposal concerned
- 7.27 A sub-analysis has also been undertaken of responses to this question to determine how the results obtained may be affected by a respondent being in receipt of Council Tax Benefit and this is set out in detail in the Consultation Report attached at Appendix A.
- 7.28 In summary, this appears to indicate a clear distinction as to whether principle 1 is fair based upon whether the respondent is in receipt of Council Tax Benefit or not, principle 2 was agreed as being fair by the majority of both sets of respondents, principle 3 was agreed as being fair by the greater majority of both sets of respondents, principle 4 was agreed as being fair by the greater majority of non Benefit respondents than in the case of Benefit respondents, principle 5 was not agreed as fair by Benefit respondents but had an equal split of non Benefit respondents considering it unfair and principle 6 was considered unfair by a greater majority of Benefit respondents than non Benefit respondents.

- 7.29 Features 1 and 2 were agreed as being fair by the greater majority of non Benefit respondents compared to Benefit respondents although in the latter case, there was also a significant proportion of respondents that considered the proposals to be neither fair nor unfair.
- 7.30 From the above results, it would appear that the circumstances of a respondent particularly in terms of entitlement to Council Tax Benefit, influences their perception particularly as to whether the minimum 20% contribution towards Council Tax is fair. The protection proposed for certain claimants such as disabled persons was considered to be fair by the majority of all respondents as was the work incentive of an additional £10 per week earnings disregard. There were generally differing degrees of opinion expressed by Benefit and non Benefit respondents in relation to the other principles and features.

8. Financial Implications

- 8.1 A consultation paper on technical funding arrangements, with indicative allocations, was issued by DCLG on 17th May 2012. The consultation exercise for this ended on 12th July 2012 and the final allocation will be made later this year.
- 8.2 In brief, it is proposed that funding will be allocated using the government's forecasts of subsidised CTB expenditure in 2013/14, apportioned using the percentage of the overall spend made by individual authorities in 2011/12 (when audited). No allowance will be made for the proportion of pensioners to working age claimants within each authority. Indicative allocations based on the apportionment of expenditure in 2010/11 have been issued giving Brent £23.725m.
- 8.3 Taking account of the above methodology and using the indicative allocations based on the 2010/11 expenditure, Brent is likely to see a reduction of 13.7% rather than the headline 10%. The funding will be fixed and rolled into the Business Rates reform and will not take account of any growth in caseload or expenditure during 2013/14 or beyond, which will also now have to be fully met by Brent.
- 8.4 It should be noted that the Council will share the financial risk associated with the new arrangements with its major precepting authority (i.e. Greater London Authority – GLA). This is because CTS will be treated as a Council Tax discount, thus reducing the Council Tax base, rather than a rebate coming off a much higher tax base as is the current position. Thus where demand for CTB support increases (or decreases) compared to the forecast, the GLA would share the surplus of deficit arising on the collection fund at the end of the year as a consequence with the Council.
- 8.5 The GLA proportionate share for 2012/13 is 22.46%. On this basis, for every £1M in Council Tax Support costs in 2013/14 due to increases in caseload, the amount that the Council would be required to pay to the GLA would fall by £224,600 (i.e. the 22.46%) and hence the net cost to

the Council would be £775,400. Consequently, the risk to the Council in this respect is mitigated to some degree. The relative proportionate share applicable to the Council (and hence the GLA) may vary year to year dependent upon the relative changes in Council Tax levels and this has been factored into the exemplifications contained in this report and shown in Appendix C.

- 8.6 The CTB caseload has grown by 3.3% in the 12 month period ending 31st March 2012 and this has resulted in growth equivalent to a 1.95% expenditure increase of £493,254. Current forecasts for 2012/13 indicate growth of approximately £0.5M which will need to be funded by the Council. A similar increase is currently anticipated for 2013/14 and has been modelled within the funding deficit exemplifications for the scheme shown in Appendix C. Changes in the general economic climate during 2012/13 and beyond will also impact upon the overall caseload trend.
- 8.7 Table 14 on page 30 below exemplifies the potential financial deficit to the Council in 2013/14 and 2014/15 applying a range of potential Council Tax level increases for the Council's share of the Council Tax only ranging from zero to 3.5% for 2013/14, assuming case load growth in expenditure of £0.25M and £0.5M for 2013/14 and assuming a 2% increase in Council Tax levels for 2014/15 in all cases.
- 8.8 It excludes the effects of the GLA precept which has been removed from both the initial 10% funding reduction and from any subsequent caseload / expenditure increases and assumes that the 90% grant will remain unchanged in cash terms and does not allow for any reductions in the levels of CTS granted as a result of the new scheme.
- 8.9 The tables in Appendix C to this report indicate that dependent upon caseload growth and Council Tax levels set by the Council and applying the assumptions as set out above, the potential deficit to be met will range between £3.9M to £5.1M in 2013/14 and £4.5M to £5.7M in 2014/15. This would represent an average of £4.5M in 2013/14 and £5.1M in 2014/15. (i.e. A further £0.6M in 2014/15).
- 8.10 It is important to note that whilst Council Tax increases clearly generate more revenue for the Council, they will also produce a proportionate increase in CTS expenditure. This proportion is broadly 25% for Brent. Thus any additional revenue generated by a Council Tax increase would be offset by additional CTS expenditure broadly equivalent to 25% of the increase.
- 8.11 There are anticipated to be further consequential costs arising from the implementation of the local CTS scheme. These are expected to include the following which will need to be more specifically quantified when the Council's local Council Tax Support scheme has been determined by the Council.

- Impact on cash flow arising from delays in collecting Council Tax and the payment of the precept to the GLA,
 - Increased levels of Council Tax non collection and hence an increase in the bad debt provision
 - Increased costs of Council Tax collection arising from the need for additional personnel, increased volumes of notices impacting upon paper, enveloping, postage and printing costs, bailiff costs etc
 - Increased local CTS scheme administration costs
 - Additional software costs
 - Legal Service costs for compiling the legal provisions of the local CTS Scheme.
- 8.12 Officers are currently discussing the potential impact of the recommended scheme with Capita (i.e. the Council's Contractor for Revenue collection) and how this may be incorporated within contractual provisions together with localised Business Rates collection arrangements.
- 8.13 Potential resource requirements arising from increased workloads and actions to mitigate customer demand arising from welfare changes overall are also being developed with Capita to ensure that enquiries concerning reductions to Council Tax Support and discussions about payments and arrangements for payment are addressed in a "single-touch".
- 8.14 These potential resource requirements will be considered as part of a broader budget requirement for 2013/14 but the outcomes and decisions will have a direct impact upon Capita's ability to maximise collection.
- 8.15 Additional challenges are anticipated in collection arising from the implementation of Council Tax Support and difficulties in achieving full collection on the accounts affected may result in an overall collection rate that is less than the 97.5% currently built into the Council Tax Base. The assumed collection rate used in the Council Tax Base setting for 2013/14 will need to be given careful consideration as any anticipated reduction in future Council Tax collection rates would have the effect of increasing the Band D Council Tax unless a corresponding reduction in Council expenditure were to be provided. An overly optimistic collection assumption could lead to a need to declare a deficit on the Collection Fund in later years. Consideration will also need to be given to the other potential financial effects of the proposed scheme on the Collection Fund to prevent a deficit position from occurring (i.e. the scheme would need to raise sufficient additional Council Tax revenue).
- 8.16 The Government has provided set-up funding of £84K for Brent with a further £27K being provided to the GLA in its capacity as a major precepting authority. It is anticipated that software costs are likely to account for a significant proportion of these funds although the precise

amount is currently unknown. The Government is currently evaluating administrative funding as a new burden.

- 8.17 Other financial implications may arise from applications made under existing powers contained within Section 13A of the Local Government Finance Act 1992. In general terms, these permit a Billing Authority to grant a discount where a person is liable to pay Council Tax in respect of a dwelling and to reduce the amount they have to pay to such extent as it thinks fit.
- 8.18 This power includes a provision to reduce the amount payable to nil and can be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.
- 8.19 This provision has not been widely used in the past but as a consequence of the changes to Council Tax Benefit, the cessation of Discretionary Housing Payments and the wider welfare reforms, is anticipated to lead to an increase in the number and hence value of such requests.
- 8.20 Any discount that may be granted under this provision will need to be met from the General Fund although this provision has been assumed within the overall collection rates modeled. With reference to section 5.9.1, the Council could consider the application of this section to existing Council Tax Benefit claims for persons of pensionable age where a war widow's pension, war widower's pension or war disablement pension are received and which cannot be disregarded (i.e. ignored) as income under the new national rules for persons of pensionable age.

Table 14

	0% CTAX increase and £0.25M growth in caseload	0% CTAX increase and £0.5M growth in caseload	1% CTAX increase and £0.25M growth in caseload	1% CTAX increase and £0.5M growth in caseload	2% CTAX increase and £0.25M growth in caseload	2% CTAX increase and £0.5M growth in caseload	3.5% CTAX increase and £0.25M growth in caseload	3.5% CTAX increase and £0.5M growth in caseload
Yr 1	£3,995,550	£4,189,400	£4,269,590	£4,463,860	£4,545,266	£4,739,962	£4,958,768	£5,154,091
Yr 2	£4,548,285	£4,746,370	£4,829,482	£5,027,638	£5,110,671	£5,309,261	£5,532,444	£5,731,672

9. Meeting the funding deficit

9.1 There are potentially four permutations available for meeting the potential deficit projected from the implementation of the local CTS scheme and they are as follows:

9.1.1 Subsidisation of the current scheme by the Council via savings elsewhere in the General Fund;

9.1.2 Reductions in Council Tax exemptions and discounts to generate more Council Tax revenue to offset the deficit;

9.1.3 To devise a new Council Tax Support scheme to reduce projected expenditure levels;

9.1.4 A combination of the above.

9.2 CTS Scheme options have been modelled on the assumption that a potential funding deficit would be financed from a combination of the options shown in 9.1.2 and 9.1.3 above thus minimising the potential cost falling on the general Council Tax payer. Thus, any proposed variations to reduce the impact on affected claimants would potentially require compensating reductions or changes elsewhere to meet the deficit from the General Fund or from other claimant groups.

10. Council Tax discounts and exemptions

10.1 Following separate consultations, DCLG are proposing to allow Local Authorities discretion concerning some of the currently nationally-set Council Tax discounts and exemptions. Broadly, these are as follows:

- Class A exemptions (i.e. properties requiring major repair works or structural alterations to bring them back into a habitable condition) currently attract up to a 12 month exemption period. The proposal will permit LA's to award a discount within a range of 0% to 100% for the 12 month period.
- Class C exemptions (i.e. unoccupied and unfurnished properties) currently entitle their owners to up to a six month exemption period. The proposal will permit LA's discretion to award a discount or discounts within the range of 0% to 100% for specified periods of time within the 6 month period.
- Second homes discount (empty furnished properties, including both genuine second homes and rented properties vacant between tenancies) currently entitles owners of the property concerned to a 10% discount. The proposals permit removal of this discount.

- Long-term empty properties currently require their owners to make full payment of Council Tax. The proposals permit LA's to apply a multiplier or premium after the property has been empty for over two years of up to 150% of the Council Tax liability to encourage their owners to bring them back into use.

10.2 Table 15 below shows the effects of the changes (subject to Full Council approval) proposed for Council Tax exemptions and discounts. Subject to approval, and based upon the achievement of a 90% collection rate for the additional Council Tax debit raised where appropriate, the deficit arising from the CTS funding gap may be mitigated by £1.26M. Table 16 shows the effect of the proposals on the potential CTS scheme funding shortfall.

10.3 In submitting these proposals for consideration, the following information is provided in support of the changes concerned:

- There should be a differentiating factor applied to any discount awarded for properties that would otherwise qualify for a Class A or Class C exemption to reflect the physical state of Class A properties and the efforts being made by their owner(s) to bring them back into a reasonable state of repair;
- A 0% discount for properties that would otherwise qualify for a Class C exemption will encourage their owners to have them promptly reoccupied and thus contribute towards reducing homelessness objectives;
- Landlords will have to pay full Council Tax on their empty properties in between lettings regardless of whether they are furnished or not. Currently, owners of furnished properties pay 90% as the property is treated as being a second home and owners of unfurnished property receive a six month exemption. This proposal will assist in providing an incentive to minimise any "occupation gap" between tenancies;
- It will no longer be necessary to inspect properties that would otherwise qualify for a Class C exemption as such an occurrence will render the owner of the property to payment of full Council Tax.

Table 15

Type of discount / exemption and number of existing cases	Current position	Proposed change	Additional charges based on 50% discount for Class A and 0% discount for Class C
Class A uninhabitable (403)	12 month exemption	50% discount	£390,000
Class C Unoccupied and unfurnished (529)	6 month exemption	0% discount	£938,000
Total Class A & C			£1,328,000
Less 10% bad debt*			-£133,000
Sub Total			£1,195,000
Second Homes (640)	10% discount	0% discount	£80,000
Long Term Empties (460)	100% Council Tax payable	150% Council Tax payable	£360,000
Total (2027)			£1,635,000
Less GLA share 22.46%			£367,221
Brent total share			£1,267,779

Notes

*Bad Debt provision – A provision for non-collection of 10% has been included within the financial model representing the fact that taxpayers may no longer be resident inside the Borough following the vacation of their home together with a potential increase in the number of relatively small Council Tax debts arising for short periods of time when the property was unoccupied.

11. Proposed Council Tax Support Scheme

- 11.1 The CTS scheme proposed following the consultation process and as outlined within this report is projected to deliver savings of £4,142,488. See section 5 of this report for scheme details and section 12 of this report for risks associated with the projected savings.
- 11.2 It should be noted that without the inclusion of Principle 1 within the Council's proposed scheme (the minimum Council Tax payment of 20%), it will not be feasible to achieve the required financial savings solely by making the other amendments to the CTB scheme. Consequently, removing the recommended minimum contribution of 20% could potentially result in approximately £3M of the funding gap falling on the General Fund with such a cost needing to be met from compensating financial reductions elsewhere within the Council or by the general Council Tax Payer. Additionally, in the latter instant, if the proposed Council Tax level to be set for a year (including any provision

to meet Council Tax Support costs) is more than 3.5% above an existing Council Tax level, a referendum shall be required.

- 11.3 A collection rate of 80% has been estimated for the purposes of the proposed financial model for the additional Council Tax requiring collection from claimants who may never have had to pay Council tax previously, or who are the least able to pay. This cannot be predicted with more precise certainty at this stage due to the uncertainty of future claimant behaviour. However, the financial impact of the proposals prior to the consultation process and subsequently adjusted based upon the responses received can be represented as shown in Table 16 below:

Table 16

	Scheme Proposals Consulted On	Scheme Proposals Recommended
1. Minimum contribution	20%	20%
2. Protection for disabled and recipients of war pensions	Yes	Yes
3. Protection for carers receiving carers allowance and recipients of guaranteed income payments under the Armed Forces Compensation Scheme	No	Yes
4. Increase earnings disregards	Yes	Yes
5. Increase charges for non-dependants	Yes	Yes
6. Increase taper to 30%	Yes	Yes
7. Reduce savings limit to £6,000	Yes	Yes
Estimated Council Tax collection rate	80%	80%
Net saving*	£4,247,909*	£4,142,488*

NB1 * Note should be taken of the financial risks and assumptions in Section 12 below.

NB2 * Projected savings should be viewed in the context of the potential net deficit figure that could range from £2.7M to £3.8M based upon the assumptions given in this report. Based upon the consultation proposals, an additional contingency of between £0.36M and £1.5M could be achieved respectively. Based upon the

recommended scheme proposals, the revised contingency would be between £0.3M and £1.4M.

Table 17

	Col.1 Funding deficit based on nil increase in CTAX and £0.25M growth in cases for 2013/14	Col.2 Funding deficit based on 3.5% increase in CTAX and £0.5M growth in cases for 2013/14	Funding deficit based on Average of Columns 1 and 2
Brent share of CTS funding shortfall	£3,995,550	£5,154,091	£4,574,821
Brent share of increased revenue from Council Tax discount / exemption changes	(£1,267,779)	(£1,267,779)	(£1,267,779)
Net potential funding shortfall for Year 1 (2013/14)	£2,727,771	£3,886,312	£3,307,042
Recommended CTS Scheme Savings	(£4,142,488)	(£4,142,488)	(£4,142,488)
Overall Position 2013/14	£1,414,717	£256,176	£835,446

- 11.4 There are of course other variants to these potential changes, each with differing financial impacts. The intention is to submit a report to Full Council during the current financial year recommending these changes with effect from 1st April 2013 and with the inclusion of a full Equalities Impact Assessment.
- 11.5 The financial savings shown in Table 17 above would appear to achieve the levels of savings identified as required for 2013/14 and indeed show a projected surplus based upon the deficit projections outlined in that table. This provides some contingency in the event of lower than expected Council Tax collection and to meet the additional savings potentially required for year 2 and beyond. Currently, the number of future variances and unknowns – in particular claimants’ behaviour in the light of the welfare changes and caps to Housing Benefit, and the introduction of Universal Credit and other welfare reforms in 2013, make it impossible to adequately model a scheme for 2014/15 or beyond.
- 11.6 The potential contingency outlined above would also assist in meeting the anticipated extra costs for the scheme in 2014/15 arising from caseload growth and any increase in Council Tax levels and will help to reduce the need for revising the scheme in year 2 to make provision for the increased deficit in that year. This will also assist in ensuring that

as far as reasonably practicable, there is a degree of stability for claimants in terms of their eligibility for support and entitlement.

- 11.7 In accordance with statute, the Council will need to determine whether to revise its Council Tax Support scheme for 2014/15 based upon experience during 2013/14. It is considered desirable that if possible the proposed scheme should run for two years, allowing scope for a more radical change in scheme – aligning it more to the Council Tax discount system than the current Benefit system – in Year 3 (2015/16). This should coincide with a point where at least half of the working age benefits caseload will have been migrated to Universal Credit. It is worth noting that any proposals to amend the scheme in year 2 (i.e. 2014/15) would have to be developed by the summer of 2012/13 in order to accommodate consultation and decision making requirements.
- 11.8 Other financial unknowns which may affect the projections stated previously are given in section 12 below. Given the above, it is difficult to quantify with precision the overall financial and business risks or variance to the proposed scheme financial model. Whilst this does incorporate some mitigation for these risks through the removal of the annual uprating of financial amounts to be used in the scheme, it does not eliminate all risks.

12. Risks and assumptions of the recommended scheme

- 12.1 The following risks and assumptions have been identified:
- 12.1.1 The level of deficit cannot be determined with precise accuracy as the government will not be issuing final funding allocations until the autumn. Additionally, certain data will need to be obtained from existing Council Tax Benefit claimants in preparation for the implementation of Council Tax Support. This includes for example whether they are in receipt of Disability Living Allowance.
- 12.1.2 The amendments to Council Tax exemptions and discounts outlined within this report have been modelled to mitigate £1.26M of the funding deficit, but clearly collection of this amount cannot be predicted with precise accuracy.
- 12.1.3 It is intended that changes to the Council Tax exemptions and discounts may have a social benefit in bringing more empty properties into use in the borough. While this would reduce the savings quoted in the model, each house brought into occupation would attract a New Homes Bonus equivalent to the Council Tax Band D level for each property. Although the extent of this is difficult to predict as it relies on owners' and landlords' behaviour, there would be a net gain to the Council for each of the properties affected.

- 12.1.4 Actual future caseload and expenditure growth cannot be determined with precise accuracy although estimates based on the profiles of current expenditure and caseload has been applied to the financial modelling.
- 12.1.5 The actual Council Tax collection rate for the claimants affected by the changes cannot be predicated with precise accuracy as many have not been required to pay Council Tax previously, and are also on low incomes. To this extent, estimates have been used based on an analysis of current collection rates for the different groups of customers affected and as set out in Appendix C to this report.
- 12.1.6 There will be a significant number of disabled claimants whose entitlement to a Disability Premium may be “hidden” within their DWP Benefit entitlement and therefore not currently visible to Brent’s Benefit Section. An administrative exercise will be required to establish the full extent of this but the additional “protected” cases are estimated to reduce the savings figure shown above from the proposed scheme by approximately £250K based upon a sampling exercise undertaken.
- 12.1.7 The impact of the DWP’s change from Disability Living Allowance to Personal Independence Payments in 2013/14 is likely to have the effect of reducing the number of protected claimants under the CTS scheme.
- 12.1.8. It is also not currently known how many “passport” claimants (in receipt of a DWP Benefit such as Income Support or Job Seekers Allowance (Income Based) etc), have capital or savings between £6000 and £16000. It is anticipated that the effects of this provision will increase the amount of financial savings produced by the scheme although based upon data from the existing non-passported caseload the numbers and hence savings are anticipated to be relatively small. (There are 336 out of 24,604 non-passported cases (i.e. 1.4%) affected by this recommended change).
- 12.1.9 Financial modelling has been undertaken using a tool provided by the Benefits software suppliers. There are some “bugs” within the tool whereby for example, there is an undercounting of the savings generated from changes to non-dependant charges. Manual work has been undertaken to examine this shortfall and has established that savings are being undercounted by approximately £250K (which would counteract the potential undercounting of disabled protected claims referred to in 11.1.6 above thus achieving a broadly neutral position).

- 12.1.10 Assurances have been sought from our software supplier that they can deliver the changes proposed in our scheme. Whilst they will not commit to definite development work until a final product specification is agreed, (anticipated to be after statute has been passed), they have stated that the provisions allowed for within their modelling tool and included within the Council's draft scheme proposal will generally be available within their software with potentially one minor exception (i.e. automatic protection for persons in receipt of Disabled Persons Reduction for Council Tax purposes cannot be achieved and will therefore require manual application). Whilst this does provide a degree of assurance concerning the Council's proposed scheme, it does mean that in the event of a failure to deliver the required software, implementation of the scheme could be compromised and the financial savings anticipated may not be realised.
- 12.1.11 As the IT software will not be available from the supplier until after statute has been passed, it is anticipated that this will not be available for testing purposes until later than normally required to carry out annual billing and year-end testing. There is therefore a risk that testing and application of the software will need to be conducted in a much constrained timescale and that any issues identified as a consequence may not be resolved within the required timescale thus affecting Council Tax bills issued.
- 12.1.12 The impact and effects of Universal Credit (UC) are unclear, especially for Year 2 and beyond. The scheme proposes that claimants in receipt of Universal Credit will be liable to pay a minimum of 20% towards their Council Tax bill unless they are protected within the terms of the scheme.
- 12.1.13 The impact of the recommended scheme on costs of Council Tax collection have not been included within the deficit modelling as they are subject to contract negotiations with Capita, the Council's contractor for Council Tax collection. These discussions will be finalised once a decision on the final scheme has been made by the Council.
- 12.1.14 Diminution of anticipated Council Tax receipts could result in a Collection Fund deficit position at the end of a financial year particularly as precept payments at present have to be paid to the GLA at an agreed monthly rate irrespective of Council Tax sums collected. The potential for entering into risk share arrangements with the GLA has been raised to evaluate whether this option may provide a means of mitigation should such a situation occur. It is currently unclear as to whether this will be regulated by statute or by local agreement although in either case, it is considered likely to have defined

percentage trigger points in place to give flexibility to vary in-year precept payments. If a local agreement was required, the GLA would wish to adopt a London wide policy.

- 12.1.15 A potential risk arising from the recommended changes is in terms of Council Tax collection and hence bad debt provision. Any change to the existing bad debt provision will require a review of the provision allocated for that purpose. Reductions to budgeted collection rates also potentially affect the Council Tax base set which is used to determine the Band D Council Tax level for the Borough.
- 12.1.16 The combined effects of the wider welfare reforms and the recommended Council Tax Support scheme may result in demographic changes to the Brent population and influence customer decisions concerning where they live and work. This could potentially impact upon demand for other services such as schools admissions and housing although any impact may not be apparent until the scheme has been in operation for some time.
- 12.1.17 If the Council is unable to agree its scheme before 31st January 2013, the “default” scheme will have to be applied with the effect that the level of financial savings required to meet the funding gap will not be achieved. This would require the shortfall to be found either by making savings elsewhere or increasing Council Tax levels. Budget planning for 2013/14 will be at an advanced stage at this point and there will be limited time to implement plans that would enable full year savings to be achieved from other initiatives.
- 12.1.18 The use of Section 13A discounts under the Local Government Finance Act 1992 may increase as a consequence of the recommended changes and the wider welfare reforms and will need to be met by the General Fund.
- 12.1.19 The statutory provisions for the CTS scheme are not anticipated to be passed until at least early November. Dependent upon the timings of these and associated regulations pertaining to CTS, it may be necessary to schedule an extraordinary Full Council meeting for December to enable the scheme to be considered.
- 12.1.20 There is a risk that the Equalities Impact Assessment to be carried out for the Council Tax exemption and discount changes for Classes A and C may indicate a potential adverse impact that affects the proposals for these and financial mitigation outlined within this report.

13. Legal Implications

13.1 Local Government Finance Bill

13.1.1 The Local Government Finance Bill (“LGF Bill”) is not yet in force. It is still going through its stages in Parliament. The Bill has passed the Committee Stage of the House of Lords and the Report Stage of the House of Lords is expected to take place on 10 October 2012. Thereafter, the Bill will return to the House of Commons which will consider the amendments made by the House of Lords. Once the House of Commons and the House of Lords are in agreement with the amendments made to the Bill, the Bill will receive its Royal Assent. At this stage, it is expected that the Bill receive its Royal Assent in November this year and before the date of the Full Council meeting on 19 November 2012. It is expected that regulations and secondary legislation will be issued by the Government and to date, draft regulations have yet to be published and this may affect the timing in which the Council’s proposed Council Tax Support scheme is presented to Full Council for approval. However, as set out in paragraph 4.5 above, DCLG has published Policy Statements of Intent regarding a range of issues in relation to the LGF Bill so that local authorities could prepare draft Council Tax Support schemes and consult on them before the Local Government Finance Bill becomes law.

13.1.2 Details are as to what is set out in the current LGF Bill in relation to local authorities setting up Council Tax Support / Reduction schemes are set out below.

Requirements of Council Tax reduction scheme

13.1.3 In relation to the content that must be set out in a Council tax reduction scheme, that is currently set out in section 9 of the Local Government Finance Bill and in clause 1 of Schedule 4 which inserts Schedule 1A to the Local Government Finance Act 1992 (“LGFA 1992”) and clause 2 of that proposed Schedule 1A. Under these provisions, a Council Tax reduction scheme must state the following:

- (1) A scheme must state the classes of persons who are to be entitled to a reduction under the scheme;
- (2) A scheme must set out the reduction to which persons in each class are to be entitled (and different reductions may be set out for different classes);
- (3) A scheme must state the procedure by which a person may apply for a reduction under a scheme;
- (4) A scheme must state the procedure by which a person can make an appeal under section 16 of the LGFA 1992 against any decision of the authority which affects (a) the person’s entitle to a reduction under the scheme, or (b) the amount of any reduction to which the person is entitled;

- (5) A scheme must state the procedure by which a person can apply to the authority for a reduction under section 13A(1)(b) of the LGFA 1992.

13.1.4 As for stating the classes of people who are to be entitled to a reduction under a scheme, classes may be determined by reference to the following:

- (i) The income of any person liable to pay council tax on the authority in respect of a dwelling;
- (ii) The capital of any such person;
- (iii) The income and capital of any other person who is a resident of the dwelling;
- (iv) The number of dependants of any person within paragraph (i) or (iii) above;
- (v) Whether the person has made an application for the reduction.

13.1.5 As for stating the reduction to which persons in each class are to be entitled and if different reductions are set out for different classes, a reduction may include the following detail:

- (a) A discount calculated as a percentage of the amount which would be payable apart from the scheme;
- (b) A discount of an amount set out in the scheme or to be calculated in accordance with the scheme;
- (c) Expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it; or
- (d) The whole amount of council tax (so that the amount payable is nil).

13.1.6 The LGF Bill states that for each financial year, Councils must consider whether to revise its Council Tax Support scheme or replace it with another scheme and that such decisions need to be made by 31 January in the financial year preceding that for which the revision or replacement scheme is to take effect. If the Council does not make a Council Tax scheme by 31 January 2013, a default scheme will be imposed on the Council which will be effective from April 2013, the effect of which has been set out above in this report. Regulations on the working of the default scheme have yet to be published.

Consultation

13.1.7 The LGF Bill states that the Council must consult with the GLA, which is a precepting authority, when preparing a Council tax reduction scheme and that thereafter, the Council must publish a draft Council Tax reduction scheme and then consult with other such persons who are likely to have an interest in the operation of such a scheme. Thereafter, the Council (i.e. Full Council) has to make the Council Tax Support scheme by 31 January 2013 and publish that scheme failing which a default scheme will be imposed on the Council.

13.1.8 Although there is much case law regarding consultation, the four basic requirements of consultation are set out in the case of *R v Brent LBC ex parte Gunning (1986) 84 LGR 168*, which has been approved by the Court of Appeal in a number of subsequent cases, and they are as follows: (i) consultation must be at a time when proposals are at a formative stage; (ii) that the proposer must give sufficient reasons for any proposal to permit intelligent consideration and response; (iii) adequate time must be given for consideration and response (iv) the product of consultation must be taken conscientiously taken into account in finalising any proposals.

13.1.9 Although the Government's code of practice on consultation states that normally a period of 12 weeks of consultation is appropriate, DCLG has stated in its Statement of Intent that local authorities may wish to consider the appropriate length of consultation depending on the impact of their proposals and the ability to complete the consultation exercise within their budgetary timetables. As set out in this report, the consultation period regarding the Council's Council Tax Support scheme proposals was set for just under nine weeks. This was in order to allow sufficient time for the consultation to be considered and analysed for the Council to go through its internal decision making processes including Executive and then to November's Full Council. The other reason for the shorter consultation period is so that a decision by November's Full Council will fit in with the Council's budget cycle as decisions regarding the Council's budget for 2013-14 will be at an advanced stage by December 2012. The deadline for the Council Tax reduction scheme to be approved by Full Council is 31 January 2013. If this deadline is not met, a default scheme will be imposed on the Council, as has been explained in paragraph 3.3 above in this report, and will be effective from April 2013. DCLG is expected to publish and bring into law regulations in due course regarding the details of the default scheme, which are expected in general terms to be similar to the existing national Council Tax Benefit scheme but on the basis of reduced funding levels from central Government.

13.2 Public Sector Equality Duty

13.2.1 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.

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

- 13.2.3 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.
- 13.2.4 The Council must pay due regard to any obvious risk of such discrimination arising in respect of the decision before them. These matters are examined in the EIA.
- 13.2.5 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.
- 13.2.6 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 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.
- 13.2.7 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.
- 13.2.8 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 on who claims Council tax benefit and who benefits from certain discounts and exemptions which may be under consideration for changing.

13.2.9 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”.

13.2.10 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 (in this case, designing a localised scheme for Council tax support within Brent). 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 what scheme to adopt for localised council tax support, 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.

13.2.11 The detailed Equality Impact Assessment for the proposed Council Tax Support Scheme is set out in Appendix D to this report.

13.3 Other duties

In addition to the Public Sector Equality Duty, the Department for Communities and Local Government advises that the following should also be taken into account when setting up a Council Tax Reduction Scheme:

- Child Poverty Duty under the Child Poverty Act 2010;
- Homelessness Act 2002;
- Armed Forces Covenant;
- Chronically Sick and Disabled Persons Act 1970,
- Disabled Persons (Services, Consultation and Representation) Act 1986,
- and the Children Acts 1989 and 2004.

These are set out in more detail below.

13.4 Child Poverty Duty

13.4.1 Under section 21 of the Child Poverty Act 2010 (“the 2010 Act”), the Council must make arrangements to promote co-operation with each of its partner authorities (which include the Metropolitan Police, Transport for London, a strategic health authority, primary care trust and a youth offending team established under section 39 of the Crime and Disorder Act 1998) and other persons as it sees fit with a view to reducing, and

mitigating the effects of, child poverty, in the Council's area. In doing this, the Council must have regard to any guidance given to them by the Secretary of State in exercising their functions under this section.

13.4.2 Under section 22 of the 2010 Act, it states that the arrangements which the Council makes under section 21 of the Act (as set out in the previous paragraph) must include arrangements to prepare and publish an assessment of the needs of children living in poverty in its area, which is known as a "local child poverty needs assessment". The Council must also have regard to any guidance given to it by the Secretary of State when exercising these functions.

13.4.3 Under section 23 of the 2010 Act, it states that the arrangements which the Council makes under section 21 of the Act (as set out in two paragraphs above) must include arrangements to prepare a joint child poverty strategy in relation to its area. Section 23(2) of the Act states that the joint child poverty strategy must set out measures that it proposes to take for the purpose of reducing, and mitigating the effects of, child poverty in its area. The Council must have regard to any guidance given to it for this purpose by the Secretary of State and the Council must have regard to its joint child poverty strategy when exercising its functions.

13.4.4 Under section 24 of the 2010 Act, it states that the Council's sustainable community strategy (which is prepared pursuant to section 4 of the Local Government Act 2000 under its "well-being" power) must include the following: (i) any arrangements made under section 21 of the Act to co-operate to reduce child poverty in the Council's area; (ii) any local child poverty needs assessment prepared under section 22 of the Act (local child poverty needs assessment) and (iii) any joint child poverty strategy prepared under section 23 of the Act (joint child poverty strategy for the area).

13.4.5 Officers consulted with colleagues in the Council department for Children and Families and Strategy, Partnerships and Improvement to ensure that their views and input, especially regarding the duty to mitigate the effects of child poverty, are taken into account.

13.4.6 The responses received from these services in relation to the proposed scheme and the consideration applied to these is contained in Appendix A to this report.

13.5 Homelessness Act 2002

13.5.1 Under section 1(1) and 3(1) of the Homelessness Act 2002, local housing authorities have a duty to formulate a homelessness strategy in order to enable them to prevent homelessness and secure sufficient accommodation for those who are or may become homeless within their district and secure the satisfactory provision support for those persons in their district who are or may become homeless, or have

been homeless and need support to prevent them from becoming homeless again.

13.5.2 DCLG has provided the following guidance to local authorities in its May 2012 document entitled: “Localising Support for Council Tax: Vulnerable people – key local authority duties”:

“In considering how to promote their local reduction schemes, local authorities will want to consider how information about council tax reductions is made available to these households once they are secured accommodation;

Taking into account the Equality Duty, local authorities will want to have regard to vulnerable individuals for whom the local authority secures accommodation, or who are at risk of becoming homeless – for example, young people or individuals suffering from mental illness.”

13.5.3 Officers consulted with colleagues in the Housing Service for their views and input and the response received and consideration applied to this is contained in Appendix A to this report.

13.6 Armed Forces Covenant

13.6.1 DCLG has also given guidance to local authorities regarding the Armed Forces Covenant.

13.6.2 Under the existing Council Tax Benefit Regulations 2006, local authorities have been required to disregard the first £10 per week of War Pension Scheme and Armed Forces Compensation Scheme payments when assessing entitlement to Council Tax Benefit. In addition, local authorities currently have discretion to top-up the disregard to the full amount and they have encouraged by DCLG to do so in line with Armed Forces Covenant Principles and this option is still open to local authorities in designing a new system.

13.6.3 The Council proposes to provide protection to claimants where they or their dependants are in receipt of a war widow’s pension, war widower’s pension, war disablement pension or a guaranteed income payment or survivor’s guaranteed income payable under the Armed Forces Compensation Scheme.

13.7 Chronically Sick and Disabled Persons Act 1970

13.7.1 The duties relating to disabled persons come under the adult social care functions of the Community Care department of the Council under the National Assistance Act 1948 and the related legislation under this 1970 Act. Section 1 of the 1970 Act states that it is the duties of Councils (including Brent) that have functions under section 29 of the National Assistance Act 1948 to inform themselves of the number of persons to whom that section applies within their areas and of the need

for the making by the Councils of arrangements under that section for such persons. Under section 29 of the National Assistance Act 1948, a local authority may make arrangements for promoting the welfare of persons to aged eighteen or over who are blind, deaf or dumb, or who suffer from mental disorder of any description and other persons who are substantially and permanently handicapped by illness, injury, or congenital deformity or such other disabilities as may be prescribed by Parliament.

13.7.2 Under section 2 of the 1970 Act, where a local authority has functions under section 29 of the National Assistance Act 1948 is satisfied that in the case of any person to whom that section applies who is ordinarily resident in their area that it is necessary to meet the needs of that person for that authority to make arrangements for a number of matters which are listed in that section. These include practical assistance for the person in their home, providing or assisting in obtaining recreational facilities (including wireless and TV) and provision of meals where the person would need assistance from the Council because they are sick and/or chronically disabled.

13.8 Disabled Persons (Services, Consultation and Representation) Act 1986

13.8.1 Under section 2 of this 1986 Act, a Council must permit an authorised representative of a disabled person, if so requested by the disabled person: (a) to act as the representative of the disabled person in connection with the provision by the Council of any services for him in the exercise of any of their functions under the welfare enactments; and (b) to accompany the disabled person (otherwise than as a representative) to any meeting or interview held by or on behalf of the Council in connection with the provision by them of any such services. The remainder of section 2 of the 1986 Act sets out further details.

13.8.2 Under section 3 of the 1986 Act, on any assessment carried out by the Council under the 1986 Act or any other occasion, where it falls on the Council to decide whether the needs of a disabled person call for the provision by the Council (in accordance with its welfare enactments) of any statutory services for that person, the Council shall afford an opportunity to the disabled person or his authorised representative to make (within a reasonable period as the Council may allow for the purpose) representations to an officer of the Council as to any needs of the disabled person calling for the provision by the Council of any statutory services for him (in accordance with any of the welfare enactments).

13.8.3 Under section 4 of the 1986 Act, when requested to do so by a disabled person, his authorised representative or his carer, a Council must decide whether the needs of the disabled person call for the provision by the Council of any services under section 2(1) of the Chronically Sick and Disabled Persons Act 1970, which have been set out above.

13.8.4 Section 5 of the 1986 Act deals with disabled persons leaving special education and section 7 deals with persons discharged from hospital.

13.8.5 These adult social care functions are carried out by the Adult Social Care department of the Council.

13.9 Children Acts 1989 and 2004

13.9.1 The basic child care functions of the Council are set out in section 17 of the Children Act 1989 which places a general duty on every Council: (a) to safeguard and promote the welfare of children within their area who are in need; and (b) as far as is consistent with that duty, to promote the upbringing of such children by their families by providing a range and level of services appropriate to those children's needs.

13.9.2 Under section 10 of the Children Act 2004, the Council is under a duty to have arrangements in place to co-operate with relevant partners with a view to improving the well-being of children in the Council's area. Section 11 of the Children Act 2004 states that the Council must make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children.

13.10 Full Council and Scrutiny

13.10.1 Under the Local Government Finance Bill, once it is in force, it will prescribe that the decision to make a Council Tax Reduction Scheme must be made by Full Council by 31st January 2013. It is proposed that this report is submitted to the October 2012 Executive to seek its approval to submit the Council's proposed Council Tax Support scheme to Full Council for a decision in November 2012. It is proposed that if there are concerns for scrutiny purposes regarding the recommendations by the Executive made in relation to this report, they can be discussed and scrutinised by Council Members at the next Full Council meeting in November 2012 or at any subsequent ordinary or extraordinary Full Council meeting as it is Full Council which will make the decision in making the Council's Council Tax Support scheme.

13.10.2 Depending on when draft regulations are published and when the Local Government Finance Bill becomes law, it may be difficult and possibly not practicable for a proposed Council Tax Support scheme to be presented to Full Council by 19 November 2012. In that scenario, officers recommend that an extraordinary Full Council is called for December 2012 to make a decision of the Council's Council Tax Support scheme. It is possible for a decision to be made at the ordinary Full Council meeting in January 2013 before the deadline of 31 January 2013 but this leaves the Council having less time to receive and test software, and prepare for annual billing and year end

arrangements and publicise the new arrangements to customers affected.

13.10.3 The procedure for applying for an extraordinary Full Council meeting is set out in Standing Order 36 of Part 3 of Brent Council's Constitution. The Mayor or Deputy Mayor can call an Extraordinary Full Council meeting. In the alternative, five members of the Council can requisition the Mayor to seek an Extraordinary Full Council meeting and if the Mayor does not set a date and call for an extraordinary meeting of Full Council within seven days of receiving the requisition, any five members can call an extraordinary meeting of Full Council.

14. Timetable of Events

14.1 The timescales for approval and implementation of the localised Council Tax scheme are extremely tight. The Local Government Finance Bill was laid on 19th December 2011 and little information had been provided to authorities until May 2012. Indeed, the regulations concerning the pensioner claim protection and other requirements of local schemes are not currently anticipated until November 2012 with the Full Council meeting to make the scheme scheduled for 19th November 2012. As set out above, it may be necessary in such circumstances to call an extraordinary meeting of Full Council for December 2012 to make a decision on the Council's proposed Council Tax Support scheme.

14.2 As previously set out in this report, if the Council is unable to agree its scheme before 31st January 2013, the "default" scheme will have to be applied with the effect that the level of financial savings required to meet the funding gap will not be achieved. This would require the shortfall to be found either by making savings elsewhere or increasing Council Tax levels.

14.3 A full timetable of key dates leading to full implementation of the scheme based upon current information available is provided as Appendix E to this report.

Background information

The Local Government Finance Bill laid on 19th December 2011

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**Executive
15 October 2012**

**Report from the Director of
Strategy, Partnerships and Improvement
and the Director of Adult Social Care**

Wards Affected:
ALL

**Sharing a Director of Public Health and proposed structure for
the Brent Public Health Service**

1. Summary

- 1.1 The passing of the Health and Social Care Act has confirmed that from 1st April 2013 local government will take on responsibility for health improvement and with it many of the services currently delivered by public health teams based in PCTs. Already local government fulfils its new duty of health improvement in a number of ways, such as through the provision of leisure services, through the planning system, and in providing services such as housing. Ensuring the health needs of disadvantaged communities are addressed will be central to the new responsibilities.
- 1.2 Rather than a wholesale transfer of public health to local government, the public health system is to be split into four separate parts. Local government will be responsible for a range of new services including:
- The National Child Measurement Programme
 - NHS Health Check assessments
 - Comprehensive sexual health services (including testing and treatment for sexually transmitted infections, contraception outside of the GP contract and sexual health promotion and disease prevention)
 - The local authority role in dealing with health protection incidents, outbreaks and emergencies – council's will be mandated to ensure plans are in place to protect the local population. CCG will have a duty of cooperation with local government on health protection
 - Provide population level healthcare advice to CCGs and the NHS
 - Tobacco control and smoking cessation services
 - Alcohol and drug misuse services
 - Public health services for children and young people aged 5-19 (including Healthy Child Programme 5-19) (and in the longer term all public health services for children and young people)
 - Interventions to tackle obesity such as community lifestyle and weight management services
 - Local initiatives that reduce public health impacts of environmental risks.

- 1.3 Those services in bold will be mandatory – the council will have to provide them. It should also be noted that this is not a complete list of responsibilities.
- 1.4 There are three other elements of the new public health system. A number of public health services are to remain an NHS responsibility. The NHS Commissioning Board will be responsible for some public health services such as HIV treatment services, screening services and immunisation services. A new, national public health body, Public Health England, is to be established which will take on the responsibilities of a number of agencies that are to close, such as the Health Protection Agency and Drug Treatment Agency and will provide specialist health protection services including, coordination of outbreak control, and access to national expert infrastructure as and when necessary and provide national public health leadership. The Department of Health will also retain a budget for and manage national public health “campaigns”.
- 1.5 The total budget for the public health system is likely to be around £5.2bn, but local government as a whole will receive £2.2bn, less than 50% of the total public health budget. Despite being publicised as a transfer to local government, the reality is that this is only a partial transfer of public health to councils.
- 1.6 That said the transfer of services that are coming to local government gives Brent an opportunity to mainstream health improvement work across the council and make health improvement the authority’s core business. Brent intends to embrace this vision by integrating public health within existing council teams and not “lifting and shifting” the current public health team. This will help reinforce the message that health improvement is the responsibility of the whole council and its partners, not just public health staff.
- 1.7 As part of taking on health improvement duties and the responsibility for public health services, the legislation is clear that councils should appoint a Director of Public Health who will be added to the list of statutory chief officers in the Local Government and Housing Act 1989. The DPH has to be a trained specialist in public health (although not necessarily from a medical background) and will be appointed jointly with the Secretary of State for Health (in reality, with Public Health England acting on the SoS’s behalf).
- 1.8 Whilst each council has to have a DPH, the post can be shared with other councils where it makes sense to do so. Brent Council has been open to sharing a DPH since the proposals in the NHS White Paper, *Healthy Lives, Healthy People* made it clear that local government would be taking on public health responsibilities. Brent is keen to share a DPH with a council that shares its vision for public health and intends to integrate public health services within its council. Initially the council was engaged in discussions with Harrow, Barnet and Hounslow Councils about the possibility of sharing a DPH, but it quickly became clear that Harrow and Barnet had very different ideas for public health and how they would implement the new functions in their borough. As a result, Harrow and Barnet have agreed to share a DPH and Brent and Hounslow have continued to work together on developing their plans for a shared DPH.
- 1.9 Guidance from the Department of Health and Local Government Association suggests that council’s could share a DPH where they already have a shared management team or shared boundaries. Brent and Hounslow don’t share a

boundary, but the two councils do share a vision for public health. This is far more important if a shared DPH is to be successful in helping to deliver health improvement in each borough than the need to share a boundary.

- 1.10 Brent and Hounslow think that it makes sense on a number of levels to share a DPH and take advantage of the opportunities that it will bring. A shared DPH will give the borough a greater outlook and interflow of ideas to tackle health inequalities, learning as they will from the best in Brent and Hounslow (and London) and applying those ideas in our borough. A shared DPH will have more influence across West London, working for two boroughs, to drive through opportunities for collaboration and integration with partners to improve services and outcomes for residents. They will also be able to foster a common response to the big issues affecting our boroughs, such as a population that's living longer, with multiple long term conditions that require better management, and working in two areas with sizable BME communities facing significant health related challenges.
- 1.11 This paper sets out the business case for Brent and Hounslow's proposal to share a DPH as well as the proposed structure for public health and how staff will be integrated into the current officer structure once it transfers to Brent Council from NHS Brent takes place.

2. Recommendations

- 2.1 The Executive is recommended to:
- (i). Approve the proposal for Brent to share a Director of Public Health with Hounslow Council
 - (ii). Approve the proposed integrated structure for the public health service in Brent as set out in this report.

3. Report

3.1 A vision for Public Health services in Brent and Hounslow

- 3.2 Local authorities will take on a number of mandatory public health requirements from the 1st April 2013, which have been addressed in developing a model for public health in Brent and Hounslow. Local authorities will have statutory responsibilities for the following key domains of public health

- Health improvement
- Health protection
- Healthcare public health
- Improving the wider determinates of health

- 3.3 Council's will also have to commission (or provide) the following mandatory services:

- The National Child Measurement Programme
- NHS Health Check assessments
- Comprehensive sexual health services, including testing and treatment for sexually transmitted infections
- Plans to protect the local population in the case of a health related emergency

- Population level healthcare advice to CCGs and the NHS
- 3.4 A new National Public Health Outcomes Framework has been developed with the intention of refocusing the whole system around the achievement of positive health outcomes for the population and reducing health inequalities. The framework is focused on the following two overarching health outcomes to be achieved across the public health system:
- Increased healthy life expectancy
 - Reduced differences in life expectancy and healthy life expectancy between communities
- 3.5 The supporting public health indicators are grouped into four domains:
- Domain 1 – Improving the wider determinates of health
 - Domain 2 – Health improvement
 - Domain 3 – Health protection
 - Domain 4 – Healthcare public health and preventing premature mortality
- 3.6 Brent and Hounslow Councils have developed a shared vision for public health and identified the areas where the two boroughs are closely aligned on their thinking concerning structures and expected outcomes from the public health service.
- 3.7 Both Brent and Hounslow Councils agree:
- There is logic in bringing the key elements of public health back into local government. The function can be reconnected with the core health improvement work carried out by local authorities and there will be greater co-ordination of health improvement activity once services are transferred to local government.
 - That public health is not just the responsibility of a Public Health Team or the DPH, but that it is a council wide responsibility and that all service areas should contribute to improving the health and wellbeing of local people.
 - That in order to mainstream public health, officers from the existing Public Health Teams should be integrated in existing council teams and departments to make best use of the additional resources and expertise available to local authorities.
 - That public health spending should be realigned to focus more on the wider determinants of health, tackling health inequalities and preventing ill health rather than treating ill health. Resources will be re-orientated away from the treatment of ill health to preventative services.
 - That every contact with customers should count, and that all frontline officers (not just those in public health) should be deliverers of health improvement services or advice, either directly or through sign posting to the right service.
 - That both council's should work with communities to help them to make healthy choices to prevent the onset of ill health.
- 3.8 In order to deliver the vision for public health it is important that the structure and support around the DPH is in place. Brent and Hounslow's ideas around the role, the integrated public health service and the resources available to support the DPH are set out below.
- 3.9 The Director of Public Health – A new role for new times**

- 3.10 Brent and Hounslow have the same ambition for the Director of Public Health role. The DPH's key function will be to understand and enhance the health of people in Brent and Hounslow. They will be clear on the link between economic success and good health and develop a clear, targeted, long term strategy that ensures health and social care, education, housing, employment and economic policies and infrastructure are shaped in ways which deliver maximum improvements in health and wellbeing.
- 3.11 The DPH will be central to the promotion of health improvement, tackling health inequalities and focussing council and health services on ill health prevention activities. The DPH will be the borough's advocate for health and wellbeing, using their influence to persuade service providers to contribute to the health improvement agenda. The public health budget in Brent will be around £16m, a significant amount of money. But this is dwarfed when compared to the council's overall budget and the NHS budget in Brent – combined this is close to £1bn. A successful Director of Public Health will work with decision makers in the health service and the council to use this resource on health improvement and ill health prevention activities. This will have a far greater impact than the use of public health resources alone. The DPH's ability to influence other organisations to deliver health improvement services will be central to the success of the person appointed to the role.
- 3.12 The Director of Public Health's role will be one of influence and strategic leadership rather than the traditional line management and budget responsibility. We want to ensure the DPH is freed up to work with key decision makers to push the council's health improvement agenda. The status that the DPH will have, as the borough's health improvement champion will mean that they are well placed to assert their professional views to a variety of organisations such as healthcare providers, voluntary sector groups and community groups to secure health improvement in Brent. The fact that the council is at the centre of local partnership working extends the remit and opportunity for the Director of Public Health.
- 3.13 There will be a number of ways in which they will be able to effectively carry out their influencing role:
- 3.14 **Advice to Brent CCG and Brent Council** - The Director of Public Health will provide advice and guidance to the Brent and Hounslow Clinical Commissioning Groups and the councils' service directors on health improvement and tackling health inequalities. They will be supported to do this work by the council's public health intelligence team – in Brent we plan to have two public health consultants and two public health analysts to support the DPH deliver their advice and guidance role. A memorandum of understanding has been developed between the council and CCG setting out how the relationship between the two will work and what each organisation can expect from the other. It has been proposed that:
- 3.15 Brent Council will:
- Provide specialist public health advice to the CCG
 - Make public health intelligence resources available in support of clinical commissioning activities.

- Assess the health needs of the local population, and how they can best be met using evidence-based interventions (via the production and updating of the JSNA)
 - Ensure the reduction of health inequalities are prioritised in the commissioning of services
 - Provide specialist public health advice to the emerging Joint Health and Social Care Commissioning Vehicle.
- 3.16 Brent CCG will:
- Consider how to incorporate specialist public health advice into decision making processes, in order that public health skills and expertise can inform key commissioning decisions.
 - Utilise specialist public health skills to target services at greatest population need and towards a reduction of health inequalities
 - Contribute intelligence and capacity to updating the JSNA
- 3.17 The Director of Public Health will be responsible for this element of the MOU and working with the CCG to embed public health advice and guidance in commissioning decisions. The council will require an individual who is able to bring their professional authority and influencing skills to the fore in order to work with the CCG effectively.
- 3.18 **Statutory member of the Brent Health and Wellbeing Board** - The NHS Operating Framework for 2012/13 says that Health and Wellbeing Boards should provide local system-wide leadership across health, social care and public health. The Director of Public Health will be a statutory member of the Health and Wellbeing Board, working with Executive councillors, council directors and Clinical Commissioning Group colleagues to set the strategic direction for health and wellbeing in Brent. As a public health specialist the DPH's advice will be particularly important as links are made between the council and NHS's efforts to tackle health inequalities. The DPH will have an overview of services in Brent and be well placed to advise on changes that can be made to improve the borough's health.
- 3.19 **Voting Board Member of the Health and Social Care Commissioning Joint Venture** – Brent Council with Brent Clinical Commissioning Group has ambitions to set up a joint commissioning vehicle, to lead the commissioning of health, adult social care, children's social care and public health commissioning in Brent. Whilst this organisation won't be established by the time public health transfers to the council, we are already preparing for this by realigning commissioning functions. Public health commissioning will transfer into adult social care, as commissioning activity is concentrated in one place within the council.
- 3.20 The Director of Public Health will be based in our Adult Social Care Department, reporting to Brent's Director of Adult Social Services. In time, as plans for the joint commissioning vehicle are realised, the DPH will become a voting board member of the joint venture board. It is possible that in time the head of the joint venture could be the statutory Director of Public Health. By putting the DPH at the heart of commissioning activity they will be well placed to ensure that public health aims and objectives are delivered across the range of health and social care services in Brent

and that every opportunity is taken to design in health improvement to service specifications.

- 3.21 **Director of Public Health's Annual Report** - The Health and Social Care Act makes it a statutory requirement for the Director of Public Health to produce an annual report on the health of the local population, and for the local authority to publish it. The DPH's annual report will give them an opportunity to promote the public health agenda and highlight issues of concern if they feel that the council, CCG or any other healthcare provider is not fulfilling their health improvement responsibilities. The annual report should become an important milestone, highlighting as it will areas where health improvement work is succeeding and areas where it is not. Brent wants this report to become required reading for members and officers working on the health improvement agenda. The independence of the DPH to be able to criticise or praise is crucial, and one of the reasons that the DPH will not be directly responsible for service management.
- 3.22 **Influence beyond the council and Clinical Commissioning Group** - The DPH, through the Health and Wellbeing Board and joint commissioning vehicle, will be well placed to influence the actions of the council and Clinical Commissioning Group to ensure that they are delivering the borough's health and wellbeing priorities and addressing identified health needs. However, it is just as important that the DPH is able to use their authority and professional skills to influence the work of health service providers (such as North West London Hospitals NHS Trust), voluntary sector organisations and community groups. The final membership of the Health and Wellbeing Board is not yet settled but it is likely that the voluntary sector and health service providers will be represented, which will open up channels for the DPH. But, again, the DPH's ability to network and influence others will be crucial.
- 3.23 The DPH will need to be able to build effective relationships with organisations, both formal and informal, in order to convince them of the need to deliver health improvement services. For example, greater integration of public health interventions such as referral to smoking cessation teams from North West London Hospitals would help to deliver health improvement benefits and lessen the burden on acute trusts in the longer term. Brent is aiming to deliver an integrated health and social care service – the DPH will be crucial in persuading other organisations to sign up to this and deliver services which contribute to tackling health inequalities.
- 3.24 Brent already has an officer level governance structure to implement the borough's health and wellbeing strategy - the Health and Wellbeing Steering Group, which has representation from acute service providers and the voluntary sector. Whilst officers will need to work to improve the added value of the group, relationships are already there. But, the onus will be on the DPH to build relationships to promote the benefits to organisations of tackling health inequalities, using their abilities to influence informally as well as ensure health improvement activity is part of the normal commissioning cycle so that services are tailored to help tackle Brent and Hounslow's health inequalities. The DPH's professional standing will help them "in" to organisations with the backing of the Health and Wellbeing Board, but the DPH will have to ensure organisations sign up to our ambitions for health improvement.

3.25 Arguments in favour of retaining a Director of Public Health for Brent

- 3.26 Whilst sharing a Director of Public Health is the preferred option, there are arguments in favour of appointing a DPH for Brent only and retaining the status quo. A DPH for Brent would be able to focus solely on matters concerning the borough and help consolidate public health services within the council following the transfer from NHS Brent. A single DPH would have the same responsibilities to the council, CCG and Health and Wellbeing Board and will be central to the promotion of health improvement and tackling health inequalities – the core roles and responsibilities will not change and it is understandable why other boroughs want to have a person in post focussed only on their area. But a single DPH is unlikely to have influence and reach of a joint appointment. A joint DPH will have influence across two boroughs and speak on behalf of two boroughs when working with others in North West London. Nor will a single DPH be able draw on the best practice and support of two public health functions as the DPH in Brent and Hounslow will be able to do.
- 3.27 A DPH covering one borough is going to appeal to seasoned public health professionals who will be used to focussing their efforts in one area. Sharing a DPH is becoming more common (Harrow and Barnet and Camden and Islington for example) but it is not the norm. However, it is also true to say that few Director of Public Health jobs will be like the one envisaged for Brent and Hounslow, where the focus is as much about relationship building, the ability to influence others and working in partnership as the technical and specialist public health requirements needed to carry out the role. By recruiting a shared DPH Brent and Hounslow are demonstrating their commitment to bringing a fresh approach to the discipline that will appeal to those ambitious to work in areas where there is huge potential to make real differences to peoples lives.

3.28 Practical arrangements for a shared Director of Public Health

- 3.29 The practical arrangements around the shared DPH post need to be agreed, but Brent and Hounslow have begun discussions on how they might work. The post will be shared, 50/50 between the two organisations, despite the differences in population size and budget. Both councils expect the DPH to be present in their borough for part of the working week, but won't be too ridged on the number of days that they have to be physically present in each borough. This is in line with Brent's approach to flexible working, where staff will be expected to manage their own time effectively, but also to take opportunities to work from home given the staff to desk ratio that will be in place in the new Civic Centre. Informally, Brent and Hounslow have agreed that Brent will be the employer of the shared DPH and Brent will also lead the recruitment process.
- 3.30 Of more importance is the work that the DPH will be doing, to make sure their time is balanced between working for Brent and working for Hounslow. Objectives will be set for the DPH by their line manager, based on priorities in the borough's Health and Wellbeing Strategy. They will take strategic leadership for health improvement in each borough, and like other senior officers, will be responsible for co-ordinating a portfolio of work to ensure the borough meets its health and wellbeing objectives. Brent and Hounslow will have to jointly manage the DPH's workload to ensure it is

balanced and that both boroughs have the public health leadership they require. It is likely that the DPH and their line managers will need to meet collectively to agree a work programme and to manage the DPH's performance.

- 3.31 By sharing a DPH, clearly there is a financial saving to Brent and Hounslow (although it should be noted that the current DPH in Hounslow works part time). Given that the funding allocation for public health is currently unknown, but that there is a real possibility that funding will reduce if the Government's proposed formula for public health funding is introduced, the council has to look at opportunities to reduce costs where it can.

3.32 Future of Public Health Services – the new Public Health Structure

- 3.33 Beyond sharing a DPH, Brent and Hounslow have considered the statutory requirements that will be placed on councils and feel that the best way to improve the public health offer is to integrate public health functions within existing teams in the local authorities – neither council intends to “lift and drop” the existing public health team and create a “Department of Public Health”. In order to deliver improvements to health inequalities and deliver the Government's vision for health improvement, removing the silos between public health and local government are key. Integrating functions and activity in the most appropriate teams within the local authority should help to mainstream public health activity and deliver health improvement.

- 3.34 Brent's model for public health splits the service into three main areas – Health Intelligence, Public Health Commissioning and Health Improvement. The structure in the council is smaller than that which has been in place in NHS Brent. This is partly to do with concerns about future funding. But it is primarily a reflection of the fact that the council already has a number of staff in post working on health improvement activity. Integrating public health staff means that the council can take the opportunity to reduce duplication of roles and reduce management posts, as public health will be line managed within existing teams.

- 3.35 Services currently delivered by public health staff will be reviewed and possibly re-commissioned. The council is also taking the opportunity to look again at commissioning intentions, and redesign services. A report on contracts and commissioning will be presented to the Executive in November 2012.

- 3.36 The three public health areas will focus on the following activity –

- **Health intelligence** – A small team working on health intelligence will be integrated in the council's Corporate Policy Team. The main responsibilities of this team will be to support the DPH to provide population level healthcare advice to the CCG and council commissioners, lead on the council's JSNA and Health and Wellbeing Strategy and any other health needs assessments. The team will complement the council's existing data and intelligence functions.
- **Public Health Commissioning** – Public Health Commissioning will be integrated into the council's Adult Social Care Department. This will be a temporary measure, as the council in partnership with NHS Brent and the Brent CCG is working towards the establishment of a Brent Commissioning Joint Venture, which will be responsible for commissioning health, social care and children's

services in the borough. Public health commissioning will be included in the joint venture as commissioning expertise is pooled in one place to help secure integrated services where possible. Public health officers in the council's Adult Social Care Department will commission services such as drug and alcohol treatment services, sexual health and smoking cessation services. The Director of Public Health will be included in this part of the structure, reporting to the Director of Adult Social Care. In time, as plans for the joint venture are realised the DPH will be a voting member of the JV board.

- **Health Improvement** – Health Improvement will be integrated into the council's Environment and Neighbourhood Services Department where staff will work with services such as our Sports Service, Trading Standards and Environmental Health on programmes to address health and wellbeing issues such as obesity, improving uptake of physical activity, and tobacco control. The public health staff will bring with them expertise that complements our existing service offer.

- 3.37 Hounslow's ambition to integrate public health staff within its departments mirrors Brent's and they are taking a similar approach to integration within their teams. A shared DPH complements the structure of the teams in the two organisations.
- 3.38 Line management of public health staff in Brent will be carried out by service managers in the departments where staff are located and not by the DPH. We want the DPH to focus on their influencing role and retain their independence from service management. However work plans and priorities will be set in collaboration with the DPH to ensure staff are working on priority areas as defined by the borough's Health and Wellbeing Strategy. By jointly setting public health staff objectives with service managers the DPH will be able to ensure health improvement is mainstreamed within council teams.
- 3.39 Neither Brent nor Hounslow Council is ruling out the possibility of sharing services and further posts in the future. This will be considered in more detail once both authorities have embedded their arrangements for public health. Brent and Hounslow will look to the joint DPH to lead this work, and bring forward ideas for further integration. We see the shared DPH as the start of a process of integration and closer working arrangements.

3.40 Governance of public health

- 3.41 It is important that public health activity within the council is joined up and co-ordinated, and that the public health outcomes framework and priorities in the Health and Wellbeing Strategy taken forward. The Director of Public Health will have a strategic leadership role and will be expected to ensure that the three arms of public health – Health Intelligence, Health Improvement and Public Health Commissioning – are working together effectively. They will also need to reinforce health messages across the council.
- 3.42 A governance structure will need to be set up so that the DPH is able to carry out this role properly, building on the existing Health and Wellbeing Steering Group and reporting to the Health and Wellbeing Board. Additional working groups may be required, based around the priority areas in the Health and Wellbeing Strategy, or the

domain areas in the Public Health Outcomes Framework. Building an effective governance structure for public health is one of the activities in the public health transition plan. Arrangements will be put in place before the transfer on 1st April 2013 to enable the DPH to take forward the health improvement agenda.

3.43 Conclusion

3.44 Brent and Hounslow Councils are committed to sharing a Director of Public Health. Our shared vision for the post and the similarities between our structures for public health make this a viable proposition. Issues around borough boundaries should be ignored. What's more important is that both councils are determined to make this arrangement work and that it should be seen as the beginning of a fruitful partnership based around our health improvement responsibilities and tackling health inequalities in both boroughs.

3.45 This arrangement will give new focus to the role of Director of Public Health and moves it from a peripheral position in the machine of the NHS to front and centre of a partnership model which aims to fundamentally improve the health and wellbeing of Brent and Hounslow's communities. We strongly believe that sharing as DPH will give each borough opportunities that would not exist if we had a single DPH, such as a greater outlook and interflow of ideas to tackle health inequalities, more influence across west London to push for integrated services and joint commissioning and greater co-ordination in the commissioning of services between health and social care within Brent and Hounslow. If Brent and Hounslow get this right, the model of council's working in partnership and sharing posts and services, even where they don't share boundaries, could become a model that becomes common throughout local government.

4. Legal Implications

4.1 Pursuant to s30 of the Health and Social Care Act 2012 each Local Authority must appoint, jointly with Secretary of State, a Director of Public Health who will have responsibility for the exercise by the authority of its functions relating to public health. The Director of Public Health will be required to prepare an annual report on the health of the people in the area of the Local Authority and the Local Authority will be required to publish that report. Section 300 and Schedules 22 and 23 of the Health and Social Care Act 2012 make provision for rights and liabilities with regard to property and staff respectively to be transferred between the relevant bodies. Regulations as to the exercise by Local Authorities of certain Public Health functions are yet to be issued by the Government.

4.2 The current proposal is for the Council to directly employ the DPH to undertake work for both ourselves and Hounslow. The Council has the power to employ the DPH directly and then enter into an arrangement with Hounslow that provides for them to undertake to accept liability for half of the costs involved in the appointment and employment of the DPH as well accepting half of the liabilities that are inherently present when staff are employed directly. The Council's position as direct employer

would therefore be protected by indemnities that would be entered into to ensure an equitable risk share in the joint arrangements.

- 4.3 The staff who would form the main body of the function will be employed directly by Brent and Hounslow respectively. There is no proposal at this stage for any staff sharing arrangement to be entered into for anyone other than the DPH. The staff that will comprise the public health functions will become employees of the Council. Currently they are employees of the NHS and the mechanism for those staff to change employer will be through either a traditional TUPE transfer or a Transfer Order made by the Secretary of State which has a similar effect to a TUPE transfer.
- 4.4 In any event transferring staff would have the right to retain their contractual terms and conditions and the Council would also have to make appropriate pension provision, the precise nature of which has yet to be decided. The costs involved in the transfer will be met by the transfer of the public health budget from the NHS to the Council.

5. Finance Implications

- 5.1 The budget transfer as at 1st April 2013 remains uncertain but is projected to be in line with the PCT return to the Government in February 2012 suggesting spending of around £16m based on 2010/11 baseline estimates.
- 5.2 NHS Brent's public health allocation for 2012/13 is £17.3m, which leaves a gap of around £1.3m in funding. In planning for 2013/14, this degree of uncertainty and lack of clarity is unhelpful and will introduce ambiguity in the budgets.
- 5.3 To further complicate matters, the government has set up an advisory committee to look at the resource allocation (ACRA) and they have developed a formula for calculating allocations which, if implemented, could lead to a further reduction in funding for Brent of around 16% to around £13.5m
- 5.4 ACRA's formula for allocating public health resources is based on the standardised mortality ratio for those under 75 years of age. Analysis work has shown that the proposed formula is fundamentally flawed, as it will reduce spending in the country's most deprived areas and increase it in the least deprived areas.
- 5.5 Historic levels of spending on public health are higher in more deprived areas because the level of need is greater, a flaw that has been recognised by PCTs and which has been advised to Government. Authorities in those areas, which includes Brent, consider that they should not be penalised due to previous spending patterns in preventative services in the past.
- 5.6 The population figure used in calculating the ACRA formula is 252,105, where as the first results from the 2011 census have been published and they show that Brent's population has increased to 311,200, a difference of 59,000. This would suggest underfunding of approximately £3.2m.
- 5.7 Taking all the above into account, budgets are currently being developed, together with staffing structures based on the £16m allocation figure but mindful that should the ACRA view prevail, the service will need to be managed within the lower sum.

Confirmation of funding is due from Government in October 2012 and proposal will be presented to Executive in November 2012 for ratification.

- 5.8 It should also be noted that within this £16m total, two services (sexual health and health checks) are entirely demand-led and account for 41% of the total budget. This introduces a significant risk factor which is being managed through the establishment of a reserve of £500,000 per annum set aside from the £16m.
- 5.9 Negotiations are ongoing regarding the transfer of staff and any associated redundancy costs. Whilst Brent's position remains that these should be picked up by the NHS prior to the transfer of functions, a risk remains that some may need to be met by the Council post-transfer and a proposed reserve of £250,000 will be set aside by the Department to cover this eventuality.
- 5.10 There are not expected to be any capital requirements arising from this transfer

6. Diversity Implications

None

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	<p style="text-align: center;">Executive 15 October 2012</p> <p style="text-align: center;">Report from the Director of Finance and Corporate Services</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p>Authority to invite tenders for the leaseholder property insurance services contracts</p>	

1.0 Summary

- 1.1.1 This report concerns the future provision of the Council's Leaseholder Property Insurance Service contract. This report requests approval to invite tenders in respect of the proposed Insurance Service contract to start 1 November 2013, as required by Contract Standing orders 88 and 89.

2.0 Recommendations

- 2.1 The Executive to give approval to the pre - tender considerations and the criteria to be used to evaluate tenders for the Council's Leaseholder Property Insurance Services as set out in paragraph 3.10 of this report.
- 2.2 The Executive to give approval to officers to invite expressions of interests, agree shortlists, invite tenders in respect of the Council's Leaseholder Property Insurance Services contract and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.

3.0 Detail

- 3.1 The Leaseholder Property Insurance contract provides for a comprehensive Insurance cover for the Council (see Appendix 1 for full

details). The contract was tendered in 2010 when Acumis was awarded the contract for a 3 year term. The current contract is due to expire on 31 October 2013. The cost of the insurance is fully recharged to leaseholders.

- 3.2 Officers consider that the most appropriate procurement procedure under the Public Contract Regulations 2006 is the use of the Restricted (two-stage) procedure.
- 3.3 Officers propose to utilise Brent Housing Partnership's officers to assist with the procurement and evaluation process on behalf of Brent Council. The renewal of insurance policies can be complex and the involvement of Brent Housing Partnership is required to ensure Leaseholders issues are addressed and full statutory consultation is undertaken with stakeholders.
- 3.4 Upon undertaking some market research and advice from insurance brokers, officers have learned that the current market climate is competitive in favour of the client. On this basis, officers intend to request tenderers to submit bids for an initial period of 3 years plus an option to extend (at the council's discretion) for a further 2 year period.
- 3.5 An outcome from the soft market testing revealed that Insurance providers are restricted in the length of the policy (contract) that they are able to offer. To take advantage of the current premium levels, and gain cost savings, Officers intend to request a Long Term Agreement (LTA) by entering into a multi-year commitment,. The LTA will agree the basis by which premium levels are calculated for subsequent years. Any premium increase should be pegged against policy performance (the level of losses sustained.)
- 3.6 Insurance companies and other financial service providers are required to operate within highly regulated parameters and would be unlikely to depart significantly from their usual terms of business. This means that it may be necessary for there to be clarifications with potential tenderers regarding some of their policy terms and conditions.
- 3.7 A period of pre-tender clarifications will take place and will be built into the procurement timetable. This will enable the Council to refine any aspect of its specification requirements; where applicable Potential tenderers may during the period of clarification suggest revisions to the Council's proposed cover so as to bring them in line with commercial practice and following full consideration, the Council may decide to adopt or reject the suggested revisions. Prior to close of tenders, but allowing sufficient time for detailed consideration, the Council may issue revised specification requirements reflecting accepted amendments.

- 3.8 Legal Services and BHP's procurement team will assist with the tender process and identify any other associated areas where further savings and improvements can be made. Consultation will take place with Finance & Corporate Services senior management, Brent Housing Partnership and Stakeholders (Leaseholders) who are the ultimate beneficiaries of the insurance contract to identify additional services or changes required in preparation of the service specification for the re-tender.
- 3.9 In accordance with the Statutory requirements set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 leaseholders must be consulted if the Council proposes to enter into a Qualifying Long Term Agreement (i.e.12 months or more) or if their individual contribution will be in excess of £100 per annum. The consultation will be undertaken by Brent Housing Partnership's Leasehold Management team.
- 3.10 Following evaluation of tenders, Officers shall submit an award report to Members for approval, in July 2013 with recommendations as to award of the Leaseholder's Property Insurance.
- 3.11 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	See Appendix 1
(ii)	The estimated value.	£4.144M for the 5 year period Year 1 £ 750,000.00 Year 2 £ 787,500.00 Year 3 £ 826,875.00 Year 4 £ 868,218.75 Year 5 £ 911,629.69 £ 4,144,223.44
(iii)	The contract term.	Property insurance – 3 years with an option to extend for 2 years.
(iv)	The tender procedure to be adopted including whether any part of the procedure will be conducted by electronic means and whether there will be an e-auction.	European Public Procurement Restricted Procedure for Services Contracts. This means that there will be a separate pre-qualification stage. This information will be considered before tenderers are invited to submit a tender. Further, the tender shall be undertaken via the use of an Electronic Tender Facility (Delta eSourcing) ran and managed by Brent Housing Partnership's Procurement Department. The use

		of the Electronic Tendering Facility shall be in accordance with Contract Standing Orders 101.	
v)	The procurement timetable.	Indicative dates are:	
		Notice of Intention to Leaseholders	Mid November
		OJEU Advert placed seeking expressions of interest and tenders	19 th November 2012
		Deadline for return of PQQ	7 th January 2013
		Panel evaluation and shortlisting	Mid-January 2013
		Issue Invitation to Tender	4 th February 2013
		Clarification period	5 th February to 9 th March 2013
		Deadline for return of tender submissions	18 th March 2013
		Panel evaluation and interviews	28 th March to 9 th April 2013
		Panel decision	12 th April 2013
		Notice of proposal to Leaseholders	May 2013
		Report recommending Contract award circulated internally	End of May 2013

		for comment	
		Executive approval	July 2013
		Mandatory minimum 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers	August 2013
		Contract start date	1 November 2013
(vi)	The evaluation criteria and process.	<p>Tenderers will be asked to complete the Council's pre-qualification questionnaire to ensure they meet the Council's financial standing requirements, technical capacity and technical expertise. The panel will then evaluate the tenders against the following criteria:</p> <p>(1) Price 60% (including demonstrated sustainability of price over contract period).</p> <p>(2) Quality 40%, consisting of</p> <p>Technical merit of proposal:</p> <ul style="list-style-type: none"> • Conditions and extent of cover. • Resourcing and management arrangements <p>Quality of proposal:</p> <ul style="list-style-type: none"> • Service standards offered • Systems and working methods, including Efficiency and Continuous Improvement proposals • Proposals relating to customer and client care 	
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed contract, apart from the risk of having no Insurance Cover should the procurement fail.	

		Financial Services, Legal Services and Brent Housing Partnership have been consulted concerning this proposed contract.
(viii)	The Council's Best Value duties.	The Corporate Best Value Strategy is to provide best value services and to serve our community. The competitive tender for Leaseholder Property Insurance Cover will ensure value for money.
(ix)	Any staffing implications, including TUPE and pensions.	None
(x)	The relevant financial, legal and other considerations.	See sections 4 and 5 below.

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

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 these services contracts in total for 5 years is £4.144M (including 2 years option to extend). See 3.13 (ii) for breakdown.

4.3 The estimated value of future contracts has assumed that;

- The premium charged by the insurance provider may increase by a maximum of 5% each year
- Claims experience remains at the same level. Any deterioration in claims experience could lead to an increase in premiums during the contract period.
- Our estimates assume that the number of properties will remain static but given the government's recent announcements about encouraging further Right To Buys it is possible that the number of properties we would need to insure on this policy may increase and this could have an effect on the overall price.

4.4 Efficiency savings may be achieved ;

- By working with the provider to identify risk and loss prevention and management activities

- Greater communication between Insurance providers, Leaseholders and Brent Housing Partnership

4.5 The cost of this contract will be met by recharging leaseholders for the insurance.

4.6 Legal assistance, advertising costs and any disbursements to Brent Housing Partnership are expected to be £7K for which a budget has been allowed by Finance & Corporate Services.

5.0 Legal Implications

5.1 It is noted that the proposal is to re-let the Leaseholder (Buildings insurance) Property insurance contract via the Restricted procedure using an approved Electronic Tender Facility managed by Brent Housing Partnership.

5.2 The estimated sum total of the proposed Insurance contract is higher than the EU threshold for Services and the nature of these services being insurance contracts means that it falls within Part A of Schedule 3 of the Public Contracts Regulations 2006 (as amended) (“the EU Regulations”). Being a Part A service, the insurance services tender is subject to the full application of the EU Regulations. As the estimated value of insurance contract over its lifetime is likely to be in excess of £500k, the procurement and award of the contract is also subject to the Council’s own Standing Orders in respect of High Value Contracts and Financial Regulations.

5.3 As detailed in paragraph 3.3, Officers have identified the Restricted procedure as the most appropriate procedure. 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 contract and recommending award.

5.4.1 Detailed regulations have been produced under Section 20 of the Landlord and Tenant Act 1985 (‘the 1985 Act’) which sets out the precise procedure landlords must follow; these are the Service Charges (Consultation Requirements) (England) Regulations 2003 (‘the 2003 Service Charge Regulations’). The requirements include the need for the landlord to state why they consider the agreement necessary and for further statements setting out their response to observations received and their reasons for selection of the successfully contractor. The procedures also provide for two separate 30-day periods for tenants to make observations. It would be prudent to allow a minimum of three or four months for the whole process. One effect of the procedure is to limit the landlord’s ability to recover costs if they do not comply with the requirements.

5.4.2 The landlord must consult where the amount payable by any one contributing tenant under the agreement in any accounting period

exceeds £100. If consultation is not undertaken, the landlord may not be able to recover more than £100 from any tenant in any accounting period towards the costs under the agreement.

- 5.4.3 The landlord will have to justify that the correct consultation procedure has been adhered to and that the charges proposed to be recharged to Leaseholders, is reasonable. If they fail to convince the LVT in a particular case, there is a risk that the consultation procedure could be adjudicated as invalid. However, any matters regarding the procurement process and evaluation fall under the EU Regulations.
- 5.4.4 The agreement is a qualifying long term agreement (QLTA) and is subject to the EU procurement rules. Because a public notice is required, tenants are not consulted about the choice of contractor in this case, although the opinions and views of tenants must be invited and considered. There are two stages of consultation: pre-tender stage – notice of intention pursuant to section 20 of the 1985 Act where there is a 30 day consultation period; and at tender stage – notification of landlord’s proposal pursuant to section 20 of the 1985 Act which provides for a further 30 day consultation period. The landlord must have regard to any observations made by the due date and respond directly in writing to the tenant within 21 days of receipt, stating their response to the observations.
- 5.5 As this procurement is subject to the full application of the EU Regulations, the Council must observe the requirements of a mandatory minimum standstill period imposed by the EU Regulations before the contract can be awarded. The 10 day standstill period will provide unsuccessful tenderers with an opportunity to challenge the Council’s award decision if such challenge is justifiable, and greater remedies are available to tenderers in some circumstances. However if no challenge or no successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the contract may commence.
- 5.6 Due to the nature of these contracts, tenderers are unlikely to be willing to depart significantly from their standard policy terms and conditions. As detailed in paragraph 3.6 and 3.7, an attempt to overcome these difficulties whilst ensuring that the tender process is compliant with EU Regulations is proposed whereby any amendments that tenderers wish to suggest will be considered prior to the deadline of submission of tenders. Revised specification requirements may then be issued to all tenderers invited to tender and it is on those revised terms that tenderers will tender.

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/Accommodation Implications (if appropriate)

7.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

8.0 Background Papers

8.1 Insurance Services Procurement File excluding confidential information.

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Appendix 1

Nature of the Service

Property Insurance Cover

The London Borough of Brent requires Insurance cover to ensure all risks to Leaseholder properties, leaseholders and visitors to these properties have adequate recourse in the event of a claim being made by or against the Council.

The Council has Insurance cover needs for Leaseholder property for which a schedule of cover is written and premia calculated according to risk and amount of cover required.


The Insurance Services contract will require the service provider to provide comprehensive cover for the following areas:

Leaseholder Property

- The property portfolio extends to:
 - Leaseholder Property managed on the Council's behalf by Brent Housing Partnership including the structure of the individual dwellings

The contract will require the service provider to:-

- Improve efficiency, accessibility and adhere to the principles of the E-Government strategy via provision of Web based systems and user access via a secure Internet link with appropriate security protocols to ensure confidentiality and adherence of the Data Protection Act.
- Work in Partnership with the Council to produce a structured programme to facilitate risk surveys, a loss prevention programme, and training and education material for council staff and Brent Housing Partnership
- Apply changes in legislation and/or as a result of case law with prior consultation and adequate notice.
- Be able and willing to work with the Council when changes to service specification requirements are needed as a result of any future re-organisation.

	<p style="text-align: center;">Executive 15 October 2012</p> <p style="text-align: center;">Report from the Director of Finance and Corporate Resources</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p>National Non-Domestic Rate Relief</p>	

Appendix 3 is not for publication as it contains the following category of exempt information as specified in paragraph 3 of Schedule 12A of the Local Government Act 1972: "information relating to the finances or business affairs of any particular person (including the authority holding the information

1.0 Summary

- 1.1 The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NNDR) liability in whole or in part on the grounds of hardship.
- 1.2 This report includes applications received for discretionary rate relief since the Executive Committee last considered such applications in July 2012. In addition 1 application for hardship relief has been received.

2.0 Recommendations

- 2.1 Members are requested to agree the discretionary rate relief applications in Appendix 2 and to reject the hardship application in Appendix 3.

3.0 Details

- 3.1 Details of the Council's discretion to grant rate relief to charities, registered community amateur sports clubs and non-profit making organisations are contained in the financial and legal implications sections (4 and 6).

- 3.2 Appendix 1 sets out the criteria and factors to consider for applications for NNDR relief from Charities and non-profit making organisations. This was agreed by the Executive in February 2008.
- 3.3 Appendix 2 lists new applications from local charities that meet the criteria. It also shows the cost to the Council if 100% discretionary relief is awarded, which is the Council's normal policy.
- 3.4 Appendix 3 details applications for hardship relief.
- 3.5 The criteria for awarding discretionary rate relief focuses on ensuring that the arrangements are consistent with corporate policies and relief is directed to those organisations providing a recognised valued service to the residents of Brent. Further detail is set out in Appendix 1. Any relief granted in 2012/13 will be for a three-year period which follows the policy previously agreed by the Executive.
- 3.6 Charities and registered community amateur sports clubs are entitled to 80% mandatory rate relief and the council has discretion to grant additional relief up to the 100% maximum.
- 3.7 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum.

Hardship Relief

- 3.8 When considering applications under section 49 of the Local Government Finance Act 1988 for relief on the grounds of hardship, members need to consider whether hardship will be caused if the payments due are not reduced or remitted and, if so, whether it would be reasonable to reduce or remit liability having regard to the interests of its Council Tax payers, as they will be funding 25% of any relief granted.
- 3.9 Local authorities tend to use this power very sparingly. If relief under this section was readily granted this could place an unreasonable burden on council tax payers.
- 3.10 There is no definition of the meaning of hardship in this context. Guidance indicates that all circumstances, not just financial circumstances, should be taken into account in considering whether payment would cause hardship. So, for example, illness, injury or old age may be relevant in determining whether hardship will be suffered by a ratepayer who is a private individual.
- 3.11 Members may wish to consider a policy of only granting hardship relief in exceptional circumstances, for example severe illness, injury, old age, or other personal circumstances, rather than on financial circumstances only

4.0 Financial Implications

4.1 Discretionary Rate Relief

- 4.1.1 Charities and registered community amateur sports clubs receive 80% mandatory rate relief, for which there is no cost to the Council. The Council has the discretion to grant additional relief up to the 100% maximum, but has to bear 75% of the cost of this from the Discretionary Relief Budget.
- 4.1.2 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. The Council has to bear 25% of the cost of any relief granted.
- 4.1.3 The Council, where it has decided to grant relief, has followed a general guideline of granting 100% of the discretionary element to local charities and 25% of the discretionary element to non-local charities.
- 4.1.4 It has also granted 25% of the whole amount requested (which is entirely discretionary) to non-profit making organisations. This general policy was endorsed for continuation by the Executive in February 2008.
- 4.1.5 The total 2012/13 budget available for discretionary spending is £91,000 (same as for 2011/12). £104,250 has already been committed in respect of applications approved for 2012/13 this increase in expenditure being largely due to the increase in Business Rates for 2012/13. If Members agree relief as set out in Appendix 2, it would result in a further spend of £1,095.95 for 2012/13, this would bring the total spend for 2012/13 to £105,346. Whilst this is an overspend of £14,346 the final figure for 2012/13 may well be further adjusted to reflect new applications received during the financial year as well as any adjustments to liability, e.g., vacations, reductions in rateable value. Relief cannot be refused on the grounds of the budget being exhausted.

4.2 Financial Implications – Hardship Rate Relief

- 4.2.1 The Council bears 25% of the cost of any hardship relief granted. The remaining 75% is offset against the National Pool.
- 4.2.2 There is no specific budget for hardship relief. The cost of any relief granted would have to be met by local Council Tax payers and from the budget for discretionary charity relief.

5.0 Staffing Implications

- 5.1 None

6.0 Legal Implications - Discretionary Rate Relief

- 6.1.1 Under the Local Government Finance Act 1988, charities are only liable to pay 20% of the NNDR that would otherwise be payable where a property is used wholly or mainly for charitable purposes. This award amounts to 80% mandatory relief of the full amount due. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not

it is registered with the Charity Commission. Under the Local Government Act 2003, registered Community Amateur Sports Clubs also now qualify for 80% mandatory relief.

- 6.1.2 The Council has discretion to grant relief of up to 100% of the amount otherwise due to charities, Community Amateur Sports Clubs, and non-profit making organisations meeting criteria set out in the legislation. These criteria cover those whose objects are concerned with philanthropy, religion, education, social welfare, science, literature, the fine arts, or recreation.

Guidance has been issued in respect of the exercise of this discretion and authorities are advised to have readily understood policies for deciding whether or not to grant relief and for determining the amount of relief. Further details of the Brent policy are shown in Appendix 1.

- 6.1.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 allow Brent to grant the relief for a fixed period. One year's notice is required of any decision to revoke or vary the amount of relief granted, if in the case of a variation, it would result in the amount of rates increasing. The notice must take effect at the end of the financial year.

- 6.1.4 The legal advice is that the operation of blanket decisions to refuse discretionary relief across the board would be susceptible to legal challenge on grounds that the Council would be fettering its discretion. The legal advice provided to officers and Members is that each case should be considered on its merits.

6.2 Legal Implications - Hardship Rate Relief

- 6.2.1 Under Section 49 of the Local Government Finance Act 1988, the Council can reduce or remit any amount a person is liable to pay by way of NNDR, if it is satisfied that the ratepayer would otherwise sustain hardship and if it is reasonable to do so having regard to the interests of Council Tax payers. Council Tax payers are affected by decisions under this section because 25% of the cost of exercising this power has to be funded by the Council.

- 6.2.2 Case law relating to similar provision in earlier legislation indicates that this discretion should be exercised on the basis of adequate financial information from applicants for relief to enable the Council to assess the capacity of the ratepayer to pay the amounts due.

- 6.2.3 Government guidance indicates that exercise of discretion in favour of a ratepayer should be exceptional and identifies a number of factors to be taken into consideration in exercising this discretion. The guidance also states that while it would not be proper for the authority to have a blanket policy, as all applicants should be considered on their merits, however, rules may be adopted for the consideration of hardship issues.

7.0 Diversity Implications

7.1 Applications have been received from a wide variety of diverse charities and organisations, and an Impact Needs Analysis Requirement Assessment (INRA) has been carried out on the eligibility criteria. All ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief. Ratepayers who have previously applied for relief are sent annual discretionary application forms. Details of all the applicants are shown in the Appendices.

8.0 Background Information

8.1 Report to Executive 11th February 2008 – National Non-Domestic Relief and Hardship Relief

9.0 Contact Officers

9.1 Paula Buckley, Head of Service Improvement - Brent House, Tel. 020 8937 1532

9.2 Richard Vallis, Revenues & IT Client Manager – Brent House, Tel 020 8937 1503

MICK BOWDEN
Acting Director of Finance and Corporate Resources

ELIGIBILITY CRITERIA FOR APPLICATIONS FOR NNDR DISCRETIONARY RELIEF FOR CHARITIES & FROM NON PROFIT MAKING ORGANISATIONS

Introduction

The following details the criteria against which the Local Authority will consider applications from non profit making organisations. In each case the individual merits of the case will be considered.

- (a) Eligibility criteria**
- (b) Factors to be taken into account**
- (c) Parts of the process.**

(a) Eligibility Criteria

- The applicant must be a charity or exempt from registration as a charity, a non-profit making organisation or registered community amateur sports club (CASC).
- All or part of the property must be occupied for the purpose of one or more institutions or other organisations which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- The property must be wholly or mainly used for the purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

(b) Factors to be taken into account

The London Borough of Brent is keen to ensure that any relief awarded is justified and directed to those organisations making a valuable contribution to the well-being of local residents. The following factors will therefore be considered:

- a. The organisation should provide facilities that indirectly relieve the authority of the need to do so, or enhance or supplement those that it does provide
- b. The organisation should provide training or education for its members, with schemes for particular groups to develop skills
- c. It should have facilities provided by self-help or grant aid. Use of self-help and / or grant aid is an indicator that the club is more deserving of relief
- d. The organisation should be able to demonstrate a major local contribution.
- e. The organisation should have a clear policy on equal opportunity.
- f. There should be policies on freedom of access and membership.

- g. It should be clear as to which members of the community benefit from the work of the organisation.
- h. Membership should be open to all sections of the community and the majority of members should be Brent residents
- i. If there is a licensed bar as part of the premises, this must not be the principle activity undertaken and should be a minor function in relation to the services provided by the organisation.
- j. The organisation must be properly run and be able to produce a copy of their constitution and fully audited accounts.
- k. The organisation must not have any unauthorised indebtedness to the London Borough of Brent, including rate arrears. Rates are due and payable until a claim for discretionary rate relief is heard

(c) Parts of the process

No Right of Appeal

Once the application has been processed, the ratepayer will be notified in writing of the decision. As this is a discretionary power there is no formal appeal process against the Council's decision. However, we will re-consider our decision in the light of any additional points made. If the application is successful and the organisation is awarded discretionary rate relief, it will be applied to the account and an amended bill will be issued.

Notification of Change of Circumstances

Rate payers are required to notify any change of circumstances which may have an impact on the award of discretionary rate relief.

Duration of award

The current policy awards relief for one year only and the applicant has to reapply on an annual basis.

The new policy will award relief for a period of two years if the application is made in 2008/09 and for three years if made in 2009/10. However, a confirmation will be required from the successful applicants that the conditions on which relief was previously awarded still apply to their organisation. This will help ensure that the Council's rate records remain accurate.

Withdrawal of relief

One years notice has to be given by the Council for the withdrawal of relief

Unlawful activities

Should an applicant in receipt of discretionary rate relief be found guilty of unlawful activities for whatever reason, entitlement will be forfeited from the date of conviction.

	Type of Charitable/Non-Profit Making Organisation	Current Policy
		Discretionary Relief Limited to
1	Local charities meeting required conditions (80% mandatory relief will apply)	20% (100% of remaining liability)
2	Local Non-profit-making organisations (not entitled to mandatory relief)	25%
3	Premises occupied by a Community Amateur Sports Club registered with HM Revenue & Customs. (80% mandatory relief will apply)	20% (100% of remaining liability)
4	Non-Local charities (80% mandatory relief will apply)	25% (of remaining liability)
5	Voluntary Aided Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
6	Foundation Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
7	All empty properties	NIL
8	Offices and Shops	NIL
9	An organisation which is considered by officers to be improperly run, for what ever reason, including unauthorised indebtedness.	NIL
10	The organisation or facility does not primarily benefit residents of Brent.	NIL
11	Registered Social Landlords (as defined and registered by the Housing Corporation). This includes Abbeyfield, Almshouse, Co-operative, Co-ownership, Hostel, Letting / Hostel, or YMCA.	Nil
12	Organisations in receipt of 80% mandatory relief where local exceptional circumstances are deemed to apply.	Up to 20% (100% of remaining liability)

LOCAL CHARITIES

Financial year: 2012-13

	100% Relief to be awarded	2012-13 Charge	Bill net of statutory relief	Cost to Brent at 75%
	<u>New Applications</u>			
32959311	South Kilburn Neighbourhood Trust (1 Albert Road, NW6 from 10/9/2012)	£3884.53	£776.91	£582.68
32954780	Friends of Barham Park Library (428 High Road, Wembley from 28/7/2012)	£3421.78	£684.36	£513.27
Total		£7306.31	£1461.27	£1095.95

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