

# Public Document Pack



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## THE CABINET

**Wednesday, 20th January, 2016 at 8.15 pm in the Conference  
Room, Civic Centre, Silver Street, Enfield, EN1 3XA**

### **Membership:**

Councillors : Doug Taylor (Leader of the Council), Achilleas Georgiou (Deputy Leader of the Council), Daniel Anderson (Cabinet Member for Environment), Alev Cazimoglu (Cabinet Member for Health & Social Care), Nneka Keazor (Cabinet Member for Public Health & Sport), Ayfer Orhan (Cabinet Member for Education, Children's Services and Protection), Ahmet Oykenar (Cabinet Member for Housing and Housing Regeneration), Alan Sitkin (Cabinet Member for Economic Regeneration & Business Development), Andrew Stafford (Cabinet Member for Finance & Efficiency) and Yasemin Brett (Cabinet Member for Community Organisations & Culture)

### **Associate Cabinet Members**

Note: The Associate Cabinet Member posts are non-executive, with no voting rights at Cabinet. Associate Cabinet Members are accountable to Cabinet and are invited to attend Cabinet meetings.

Bambos Charalambous (Associate Cabinet Member – Non Voting), George Savva MBE (Associate Cabinet Member – Non Voting) and Vicki Pite (Associate Cabinet Member – Non Voting)

### **NOTE: CONDUCT AT MEETINGS OF THE CABINET**

Members of the public and representatives of the press are entitled to attend meetings of the Cabinet and to remain and hear discussions on matters within Part 1 of the agenda which is the public part of the meeting. They are not however, entitled to participate in any discussions.

## **AGENDA – PART 1**

### **1. APOLOGIES FOR ABSENCE**

### **2. DECLARATION OF INTERESTS**

Members of the Cabinet are invited to identify any disclosable pecuniary, other pecuniary or non pecuniary interests relevant to items on the agenda.

## **DECISION ITEMS**

### **3. URGENT ITEMS**

The Chairman will consider the admission of any reports (listed on the agenda but circulated late) which have not been circulated in accordance with the requirements of the Council's Constitution and the Local Authorities (Executive Arrangements) (Access to Information and Meetings) (England) Regulations 2012.

Note: The above requirements state that agendas and reports should be circulated at least 5 clear working days in advance of meetings.

### **4. DEPUTATIONS**

To note that no requests for deputations have been received for presentation to this Cabinet meeting.

### **5. ITEMS TO BE REFERRED TO THE COUNCIL**

To agree that the following item be referred to full Council:

1. Report Nos.154 and 156 – Upper Secondary Autism Provision

### **6. SECTION 75 AGREEMENT - INTEGRATED MENTAL HEALTH SERVICE (Pages 1 - 26)**

A report from the Director of Health, Housing and Adult Social Care is attached. This seeks agreement for a revised Section 75 Agreement between Enfield Council and Barnet, Enfield and Haringey Mental Health Trust, to formalise arrangements for the Integrated Mental Health Service. **(Key decision – reference number 4128)**

(Report No.150)  
(8.20 – 8.25 pm)

### **7. APPROVAL OF THE ENFIELD ENFORCEMENT POLICY (Pages 27 - 70)**

A report from the Director of Regeneration and Environment is attached. This seeks approval to the Enfield Enforcement Policy. **(Key decision – reference number 4040)**

(Report No.151)

(8.25 – 8.30 pm)

**8. ASSET MANAGEMENT - POTENTIAL DISPOSAL OF COUNCIL OWNED PROPERTIES - TRANCHE 6** (Pages 71 - 76)

A report from the Director of Finance, Resources and Customer Services is attached. This seeks approval in principle to the sale of various Council properties, as listed in the report. **(Key decision – reference number 3989)**

(Report No.152)

(8.30 – 8.35 pm)

**9. FLEXIBLE HOUSING** (Pages 77 - 90)

A report from the Director of Health, Housing and Adult Social Care and Director of Finance, Resources and Customer Services is attached. This sets out proposals for the provision of flexible housing in the Borough. **(Key decision – reference number 4238)**

(Report No.153)

(8.35 – 8.40 pm)

**10. UPPER SECONDARY AUTISM PROVISION** (Pages 91 - 116)

A report from the Director of Finance, Resources and Customer Services and the Chief Education Officer is attached. This provides a strategy and solution to the rising need in school places for the Autistic Spectrum Disorder cohort of pupils within the Borough. (Report No.156, agenda part two also refers) **(Key decision – reference number 4209)**

(Report No.154)

(8.40 – 8.45 pm)

**11. APPROVAL OF NON-MINOR AMENDMENTS TO THE INTER AUTHORITY AGREEMENT AND REPLACEMENT OF LEVY SYSTEM WITH MENU PRICING ARRANGEMENTS FOR WASTE DISPOSAL**

A report from the Director of Regeneration and Environment and Director of Finance, Resources and Customer Services **will be circulated as soon as possible**. This seeks approval of the revised Inter Authority Agreement. **(Key decision – reference number 4032)**

(Report No.155)

(8.45 – 8.50 pm)

**TO FOLLOW**

**12. ISSUES ARISING FROM THE OVERVIEW AND SCRUTINY COMMITTEE**

No issues have been submitted for consideration at this meeting.

**13. CABINET AGENDA PLANNING - FUTURE ITEMS** (Pages 117 - 120)

Attached for information is a provisional list of items scheduled for future Cabinet meetings.

**14. MINUTES (Pages 121 - 136)**

To confirm the minutes of the previous meeting of the Cabinet held on 16 December 2015.

**15. MINUTES OF LOCAL PLAN CABINET SUB-COMMITTEE (Pages 137 - 142)**

To receive, for information, the minutes of a meeting of the Local Plan Cabinet Sub-Committee held on 14 December 2015.

**16. MINUTES OF ENFIELD COMMUNITY SUPPORT FUND CABINET SUB-COMMITTEE (Pages 143 - 146)**

To receive, for information, the minutes of a meeting of the Enfield Community Support Fund Cabinet Sub-Committee held on 16 December 2015.

**INFORMATION ITEMS**

**17. ENFIELD STRATEGIC PARTNERSHIP UPDATE**

To note that there are no written updates to be received at this meeting.

**18. DATE OF NEXT MEETING**

To note that the next meeting of the Cabinet is scheduled to take place on Wednesday 10 February 2016.

**CONFIDENTIAL ITEMS**

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

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for the items of business listed on part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).  
(Members are asked to refer to the part two agenda)

## MUNICIPAL YEAR 2015/2016 REPORT NO. **150**

**MEETING TITLE AND DATE:**Cabinet – 20<sup>th</sup> January 2016**REPORT OF:**Director of Health,  
Housing and Adult Social Care**Agenda – Part: 1****Item: 6****Subject: Section 75 Agreement –  
Integrated Mental Health Service****Wards: All****Key Decision No: 4128****Cabinet Member consulted:****Cllr A Cazimoglu**

Contact officer and telephone number:

Jemma Gumble – 020 8379 2380

E mail: Jemma.Gumble@enfield.gov.uk

**1. EXECUTIVE SUMMARY**

- 1.1 This report seeks agreement for a revised Partnership Agreement between Enfield Council and Barnet, Enfield and Haringey Mental Health Trust, in accordance with Section 75 of the National Health Service Act (2006). This agreement is designed to formalise the Integrated Mental Health Service joint working arrangements, facilitating effective and efficient partnership working between the two parties.
- 1.2 Enfield Council and BEH Mental Health Trust have a history of joint working which was formalised in a Section 75 Agreement in 2008. The creation of a new Section 75 Agreement seeks to build on work to date while also providing a robust framework within which the service can be provided. The 2008 Section 75 agreement will be formally terminated and replaced by the revised Section 75 agreement.
- 1.2 It is proposed that the Section 75 Agreement is put in place from January 2016 up until 31 March 2017 to formalise the current partnership arrangements through a period of transition which is currently being experienced by both organisations.
- 1.3 Within the period of the extension, the council and the BEH Mental Health trust will work together with the Enfield 2017 programme to identify areas of business process and IT systems that can be redesigned and reengineered to improve outcomes at lower cost.

**2. RECOMMENDATIONS****2.1 The Cabinet are asked to:**

- I. Endorse the formal termination of the 2008 Section 75 Agreement and that it be replaced by the revised Section 75 Agreement between Enfield Council and Barnet, Enfield and Haringey Mental Health Trust to formalise arrangements for the Integrated Mental Health Service.
- II. Delegate to the Assistant Director of Strategy and Resources in conjunction with the Clinical Director for Barnet, Enfield and Haringey Mental Health Trust responsibility for varying the schedules in line with joint working arrangements between Enfield Council and the Trust.

## 2. RECOMMENDATIONS Cont.

- III. Delegate to the Assistant Director of Strategy and Resources in conjunction with the Clinical Director for Barnet, Enfield and Haringey Mental Health Trust responsibility for working with the E2017 programme to identify and implement efficiencies within the service that improve outcomes and increase value for money.

## 3. BACKGROUND

- 3.1 The Section 75 partnership arrangements in the National Health Service Act 2006 (formerly Section 31 of the Health Act 1999 – Health Act Flexibilities) have been developed to give local authorities and NHS bodies the ability to respond effectively to improve services, either by joining up existing services or developing new, co-ordinated services. Section 75 agreements can be agreed for one or more of the following:

**Pooled funds** - the ability for partners each to contribute agreed funds to a single pot, to be spent on agreed projects for designated services

**Lead commissioning** - the partners can agree to delegate commissioning of a service to one lead organisation

**Integrated provision** - the partners can join together their staff, resources, and management structures to integrate the provision of a service from managerial level to the front line.

- 3.2 Enfield Council and Barnet, Enfield and Haringey Mental Health Trust have a history of joint working which was formalised in a Section 75 Agreement in 2008. This partnership agreement enables the Trust and the Council to establish and maintain integrated provision for delivery of services to adults with mental health difficulties for whom the Trust and Council have a responsibility to provide health and social care. Council and Trust managers ensure that their respective community mental health staff, work together to meet the assessed needs of Enfield residents, whose lives are affected by severe mental illness including dementia.
- 3.3 In practice, this means our doctors, nurses, social workers, managers and other key staff continue to work jointly in integrated community mental health teams for adults of working age and older people. This ensures that delivery of mental health and social care services across the borough, including services to people in their own homes, is thorough and to a high standard.
- 3.4 The creation of a new Section 75 Agreement will allow the two partners to build on work to date, providing an updated framework within which the service can be provided as well as promoting opportunities for efficiencies for both organisations. The partnership arrangement will continue to delegate responsibility for management to the lead organisation, Barnet, Enfield and

Haringey Mental Health Trust. The 2008 Section 75 agreement will be formally terminated and replaced by the revised Section 75 agreement.

- 3.5 In achieving this top level of service integration, the Council and Mental Health Trust wish to revise the formal section 75 agreement – an agreement that seeks to ensure skilled delivery and good governance in their jointly operated services.
- 3.6 During the period of the current agreement, the council has successfully implemented the Enfield 2017 programme and this is delivering improved IT systems and outcomes across the council. The extension of the agreement offers the opportunity to extend this support to the Integrated Mental Health Service, ensuring that value for money for both the council and BEH is maximised.

#### **4. AIMS AND OBJECTIVES**

- 4.1 The overarching aim of the section 75 agreement is to continue the operation of the Integrated Mental Health Service. The partners will work collaboratively to deliver the aims set out below:
- To promote co-ordinated services at all levels in both the Authority and the Trust.
  - To further integrate health and social care to promote the independence, social inclusion and well-being of people with mental health needs in the London Borough of Enfield.
  - To harmonise assessment and care management practices in both the Authority and the Trust.
  - To provide care on a continuum through community and hospital settings.
  - To continue to provide Service User focused community based services.
  - To commission Services in a more co-ordinated way by identifying the benefits and options of service commissioning and support services between the Partners as set out in the White paper 'Our Health, Our Care, Our Say'/'Strong and Prosperous Communities', the Joint Commissioning Framework, Putting People First, NHS operating framework and Best Value.
  - To explore and promote opportunities for efficiencies for both organisations via the use of the tools and approaches already used by the council within the Enfield 2017 programme.
  - To raise standards by improving the quality and responsiveness of Services.

- To shift resources where appropriate to focus on promotion of well-being and the extension of universal services rather than specialists at high cost.
- To seek to deliver more seamless service provision to Service Users ensuring the Services provided meet the needs of Service Users as a whole and individuals can more easily access the services required.

## 5. OVERVIEW OF SCHEDULES

- 5.1 Draft schedules outlining contributions to the agreement can be found in appendix 1.

## 6. GOVERNANCE ARRANGEMENTS

- 6.1 Both parties shall nominate Authorised Officers, who shall be the main point of contact and be responsible for representing their respective organisations in connection with the Partnership Arrangements.
- 6.2 The Authorised Officers shall be responsible for taking decisions concerning the Partnership Arrangements, unless they indicate that the decision is one that must be referred to their respective boards.
- 6.3 The Partners shall each appoint officers to the Mental Health Section 75 Board. The terms of reference of the Mental Health Section 75 Board are set out in Schedule 4 of the agreement.

## 7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 A number of alternative options were considered and these included:
- 7.2 **Do nothing** – this was viewed as unviable as the 2008 Section 75 agreement is outdated and no longer represents the partnership arrangements which are currently in place. By implementing a new agreement both parties can maintain integrated provision for delivery of services to people with mental health difficulties for whom the Trust and Council have a responsibility to provide health and social care.
- 7.3 **Terminate the 2008 Section 75 agreement and end partnership arrangements** – this was viewed as unviable as both parties wish to continue to deliver the integrated service provision and it is therefore necessary to formalise the arrangements to safeguard service delivery.

## 8. REASONS FOR RECOMMENDATIONS

- 8.1 Enfield Council and the Trust have a history of joint working to deliver an Integrated Mental Health Service. The current Section 75 Agreement was produced in 2008 and is therefore not representative of the arrangements currently in place. Through the implementation of a revised Section 75 agreement, both parties are committed to ensuring the continued delivery of



the service, while recognising that efficiencies and improvements can be made.

## **9. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **9.1 Financial Implications**

- 9.1.1 This section 75 agreement between the Council and Barnet, Enfield and Haringey Mental Health Trust will formalise arrangements for the Integrated Mental Health Service. There are no additional budget or spend implications as a result of this agreement.

### **9.2 Legal Implications**

- 9.2.2 The Council has power under section 111 of the Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions.
- 9.2.3 Section 1 of the Localism Act 2011 further empowers the Council to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles.
- 9.2.4 Section 75 of the National Health Service Act 2006 contains powers enabling NHS bodies (as defined in section 275 of the NHS Act 2006) to exercise certain local authority functions and for local authorities to exercise various NHS functions. The Agreement is made pursuant to section 75 of National Health Service Act 2006 and in accordance with Section 1 of the Localism Act 2011.
- 9.2.5 Throughout the duration of the Agreement, the Council must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999.

### **9.3 Property Implications**

None.

## **10. KEY RISKS**

### **10.1 Additional statutory or legislative changes are made throughout the duration of the Agreement.**

This risk has been mitigated by seeking approval to delegate variations during the term of the Agreement to the Assistant Director of Strategy and Resources as appropriate through the Councils scheme of delegation.

**10.2 The available resources at both organisations are reviewed and existing capacity levels cannot be maintained.**

This has been mitigated by specifying the contributions to the integrated mental health service as agreed as part of the budget setting processes at both organisations.

**11. IMPACT ON COUNCIL PRIORITIES**

**11.1 Fairness for All**

The section 75 partnership agreement will contribute to delivering access to high quality health and social care services for local people through the facilitation of further integrated working, improving outcomes for health and social care.

**11.2 Growth and Sustainability**

Enfield Council and Barnet, Enfield and Haringey Mental Health Trust will be able to continue to develop an Integrated Mental Health Service, to ensure sufficient, high quality services are available to meet local demand.

**11.3 Strong Communities**

The section 75 agreement will further strengthen the partnership between Enfield Council and Barnet, Enfield and Haringey Mental Health Trust and support integration across health and social care and the co-ordination of resources to provide more efficient and effective services.

**12. EQUALITIES IMPACT IMPLICATIONS**

- 12.1 The implementation of the revised section 75 agreement will have no direct impact on the services delivered to Enfield residents.

**13. PERFORMANCE MANAGEMENT IMPLICATIONS**

- 13.1 The performance reporting arrangements are specified within the agreement and set out the frequency of monitoring and what information will be collected. The section 75 agreement will build on work already undertaken to integrate Mental Health services and evidence the Council's ongoing commitment to a partnership with Barnet, Enfield and Haringey Mental Health Trust to improve outcomes for local residents. The section 75 agreement will provide the mechanism through which seamless health and social care provision can be delivered thus improving the outcomes for local people.

**14. HEALTH AND SAFETY IMPLICATIONS**

Not applicable.

## **15. HR IMPLICATIONS**

- 15.1 Staff currently employed by Enfield Council and working under services falling within the remit of the Section 75 Agreement have signed secondment agreements transferring their day to day management and supervision to the Barnet, Enfield and Haringey Mental Health Trust. New staff are issued with a secondment agreement at the point of joining the Council. These staff remain Enfield Council employees and will automatically transfer back to the Council in the event that the section 75 agreement is terminated.
- 15.2 All managers within the Trust who are responsible for Enfield Council staff or Enfield Council managers responsible for managing an NHS member of staff will need to be aware of the HR policies and practices relevant to each organisation. This has been clarified under the Agreement.

## **16. PUBLIC HEALTH IMPLICATIONS**

- 16.1 The section 75 agreement will facilitate better integration and joint working arrangements across health and social care, which will contribute to a more strategic approach to the delivery of services and therefore offer the opportunity to improve public health as a result.

## **Background Papers**

None.

## **APPENDIX 1 – SECTION 75 AGREEMENT DRAFT SCHEDULES**

### **SCHEDULE 1: OPERATIONAL, GOVERNANCE AND QUALITY**

#### **1. AIMS AND OBJECTIVES**

The overarching aim of this Agreement is to continue the operation of the Integrated Mental Health Service established by the partners as set out in this agreement. The partners will work collaboratively, through the governance arrangements described in this agreement, to meet the objectives set out below:

- To promote co-ordinated services at all levels in both the Authority and the Trust.
- To further integrate health and social care to promote the independence, social inclusion and well-being of people with mental health needs in the London Borough of Enfield.
- To harmonise assessment and care management practices in both the Authority and the Trust.
- To provide care on a continuum through community and hospital settings.
- To continue to provide Service User focused community based services.
- To commission Services in a more co-ordinated way by identifying the benefits and options of service commissioning and support services between the Partners as set out in the White paper 'Our Health, Our Care, Our Say'/'Strong and Prosperous Communities', the Joint Commissioning Framework, Putting People First, NHS operating framework and Best Value.
- To raise standards by improving the quality and responsiveness of Services.
- To ensure operational and governance issues are in accordance with this Agreement as set out in Schedules 1 and 4.
- To shift resources where appropriate to focus on promotion of well-being and the extension of universal services rather than specialists at high cost.
- To seek to deliver more seamless service provision to Service Users ensuring the Services provided meet the needs of Service Users as a whole and individuals can more easily access the services required.

#### **2. STANDARDS OF CONDUCT**

The Parties will comply with, and will ensure the Arrangements comply with, all statutory requirements, national and local and other guidance on conduct and probity.

##### **2.1 STANDARDS OF SERVICE**

#### *2.1.1 Best Value*

The Council is subject to the duty of Best Value under the Local Government Act 1999. The Arrangements will therefore be subject to the Council's obligations for Best Value and Barnet, Enfield and Haringey Mental Health Trust will co-operate with all reasonable requests from the Council which the Council considers necessary in order to fulfil its Best Value obligations.

#### *2.1.2 Clinical Governance*

Barnet, Enfield and Haringey Mental Health Trust is subject to a duty of Clinical Governance obligations (a framework through which the NHS is accountable for continuously improving the quality of its services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish). The Arrangements will be subject to such Clinical Governance obligations.

#### *2.1.3 Corporate Governance*

Barnet, Enfield and Haringey Mental Health Trust and Enfield Council must comply with the principles and standards of corporate governance relevant to the NHS National Commissioning Board and to Local Authorities.

#### *2.1.4 Risk Management and Internal Control*

The Parties shall ensure that each Party shall establish and maintain effective processes for managing risk to include:

- 2.1.4.1 awareness and understanding of key issues and the promotion of discussion on the identification and management of strategic and operational risks; and
- 2.1.4.2 controls and plans designed to mitigate and manage the risks specified in Clause 2.4.1.1 (such controls and plans shall include the use of a risk register).

The Parties shall make available to each other all necessary information including the management of all risks associated with the Arrangements so as to enable each of them to effectively manage such risks.

## 2.2 QUALITY

- 2.2.1 The Parties shall ensure that all services are reviewed against key safety criteria. This will include a review against safeguarding and SUI processes; recruitment processes of both organisations including DBS checks and checks in respect of registration with professional bodies; and compliance with regulatory standards such as Care Quality Commission and Clinical Governance processes. Where it is identified that services are not operating at the desired standard, action plans will be produced and implemented to address the shortfalls.
- 2.2.2 The Parties shall support the implementation of the Adults Safeguarding Strategy, Serious Untoward Incident (SUI) process and the Multi-Agency Safeguarding Hub. Barnet, Enfield and Haringey Mental Health Trust will also provide key support to the multi-agency hub(s), to respond to concerns, advise and support staff, provide expertise and knowledge, share information and contribute towards the protection of vulnerable children and adults.
- 2.2.3 The Parties shall ensure that staff are trained to undertake risk assessments, respond to safeguarding concerns and undertake Sec 42 Enquiries as appropriate, ensuring knowledge of all relevant processes and procedures for safeguarding and SUIs is developed among the workforce.
- 2.2.4 Feedback from Service Users and patients regarding the quality of services received shall be obtained by both Parties as appropriate to inform improvements in services.

## 2.6 EMERGENCY PLANNING

The Parties shall co-operate with each other in the discharge of each Party's responsibilities in respect of emergency planning.

## 2.7 GENERAL SERVICE STANDARDS

General Service Standards for the Arrangements will be set by the Parties in accordance with the National Service Framework, other legislation and guidance produced by the Department of Health and as may be agreed by the Parties.

The Parties may review the operation of the arrangements and all or any procedures or requirements of this Agreement as a result of any relevant statutory or other legislation or guidance affecting the arrangements, in accordance with Clause 15 of this Agreement.

## 2.8 WORKFORCE STRATEGY

The Parties shall agree on a performance management and supervisory framework for all their employees involved with the Arrangements.

## 2.9 EQUALITY AND EQUAL OPPORTUNITIES

The Parties are committed to an approach to equality and equal opportunities as represented in their respective policies. The Parties will maintain and develop these policies as applied to service provision, with the aim of developing a joint strategy for all elements of the service.

## 2.10 DEVELOPMENT OF NEW POLICIES

The Parties will:

2.8.1 develop policies which build on the best practice of each Party; and

2.8.2 develop a quality assurance system which builds on the best practice of each Party.

## 2.11 USE OF EXISTING POLICIES

Until new policies and procedures are established the Parties will use the pre-existing policies as applied to the Services prior to the Commencement Date. Where conflicting procedures are identified the Councils procedures shall take precedence.

## 3. PERFORMANCE MANAGEMENT AND INSPECTION

The Parties will be subject to performance management by the Commission for Social Care and by the Health Care Commission or any other replacement bodies so determined by the Department of Health. The Arrangements will be subject to the scrutiny of the Parties internal and external auditors and must also satisfy the other Party's external auditors in relation to the other Party's accountability.

Performance reporting will take place on a quarterly basis to the Mental Health Section 75 Board. In addition the service will be responsible for monthly performance monitoring and will alert the Mental Health Section 75 Board to any areas of concern as necessary.

## 4. CONFLICTS OF INTEREST

The Parties shall develop policies for identifying and managing conflicts of interest.

## 5. REVIEW AND REPORTING

5.1 During the term of this Agreement and on a six monthly basis, the Assistant Director of Strategy and Resources will submit to the Mental Health Section 75 Board detailed information regarding:

5.1.1 Performance & Quality

5.1.2 Financial Information

5.1.3 Risks

5.1.4 Human Resources issues

5.1.5 Governance

The information provided under this clause will appraise the progress of the Agreement.

5.2 Monitoring and Review of the Integrated Mental Health Services shall be carried out as specified in this agreement and will be in line with agreed performance frameworks.

5.3 Representatives from the Authority and the Trust will meet quarterly to review the performance and delivery of the Services.

5.4 Either Party may require that a review be carried out at any time outside the scheduled quarterly review, by providing the other party with one (1) month written notice.

5.5 In the event that either Party shall have any concerns about the operation, the Service, this Agreement or any provision there under or where either Party is in material breach, it may convene a review meeting with the other Partner with a view to agreeing a course of action to resolve such concerns or breach. If such cannot be resolved then either Party may refer for dispute resolution in accordance with Clause 28 Dispute Resolution of this Agreement.

5.6 The Parties may review the operation and all or any procedures or requirements of this Agreement, on the coming into force of any relevant statutory or other legislation or guidance affecting the Arrangements, so as to ensure that the Arrangements comply with such legislation.

## 6. ANNUAL REVIEW

6.1 The Partners agree to carry out a review of the Partnership Arrangements within two months of the end of each Financial Year (**Annual Review**), including:



- a. the performance of the Partnership Arrangements against the Aims and Objectives;
- b. actual expenditure compared with agreed budgets, and reasons for and plans to address any actual or potential underspends or overspends;
- c. review of plans and performance levels for the following year; and
- d. plans to respond to any changes in policy or legislation applicable to the Services or the Partnership Arrangements.

6.2 The Parties agree that a joint report outlining the progress of the Agreement will be produced and submitted by the Assistant Director of Adult Social Care, to the Partners' respective boards and Cabinet member for Health, Housing and Adult Social Care, no later than 30<sup>th</sup> June each year. Such review shall contain but not limited to:

6.2.1 shared learning and opportunities for joint training;

6.2.2 a collation and evaluation of any statistics or information required to be kept by the Department of Health from time to time;

6.2.3 the statutory functions of each of the Parties pursuant to Section 75 of the Act.

## **7. COMPLAINTS**

7.1 The Partners shall work within the partners agreed complaints procedures.

7.2 The Partners shall each fully comply with any investigation by the Ombudsman, including providing access to Information and making staff available for interview.

## **8. OMBUDSMAN**

8.1 If either Party is investigated by the Ombudsman, the other Party will co-operate with such investigation.

8.2 The Parties are required to act in accordance with any requirements of the Ombudsmen (such as the implementation and the payment of compensation).

## **9. INFORMATION SHARING**

9.1 The Parties shall maintain the principles and standards of information governance protocols previously agreed by both Parties.

9.2 The Parties will establish and keep operational (and ensure that they are kept operational):-

9.2.1 an information sharing protocol which shall include  
procedures (including forms) for handling user access and consent;

9.2.2 documentation which explains rights of access, the  
relevance of their consent, rules and limits on confidentiality, and how information about them is treated;

9.2.3 such additional policies procedures and documentation as shall be necessary in order to meet the purposes, guidance and requirements of Government and all relevant data protection legislation as they apply to the Parties and the Arrangements.

## **10. GOVERNANCE**

10.1 The Parties will ensure that the appropriate Boards and Committees are informed of the performance of the Partnership Agreement, including the Mental Health Section 75 Board. This will include notification of any planned extensions to the end date. The Parties will provide an annual review report to the Mental Health Section 75 Board.

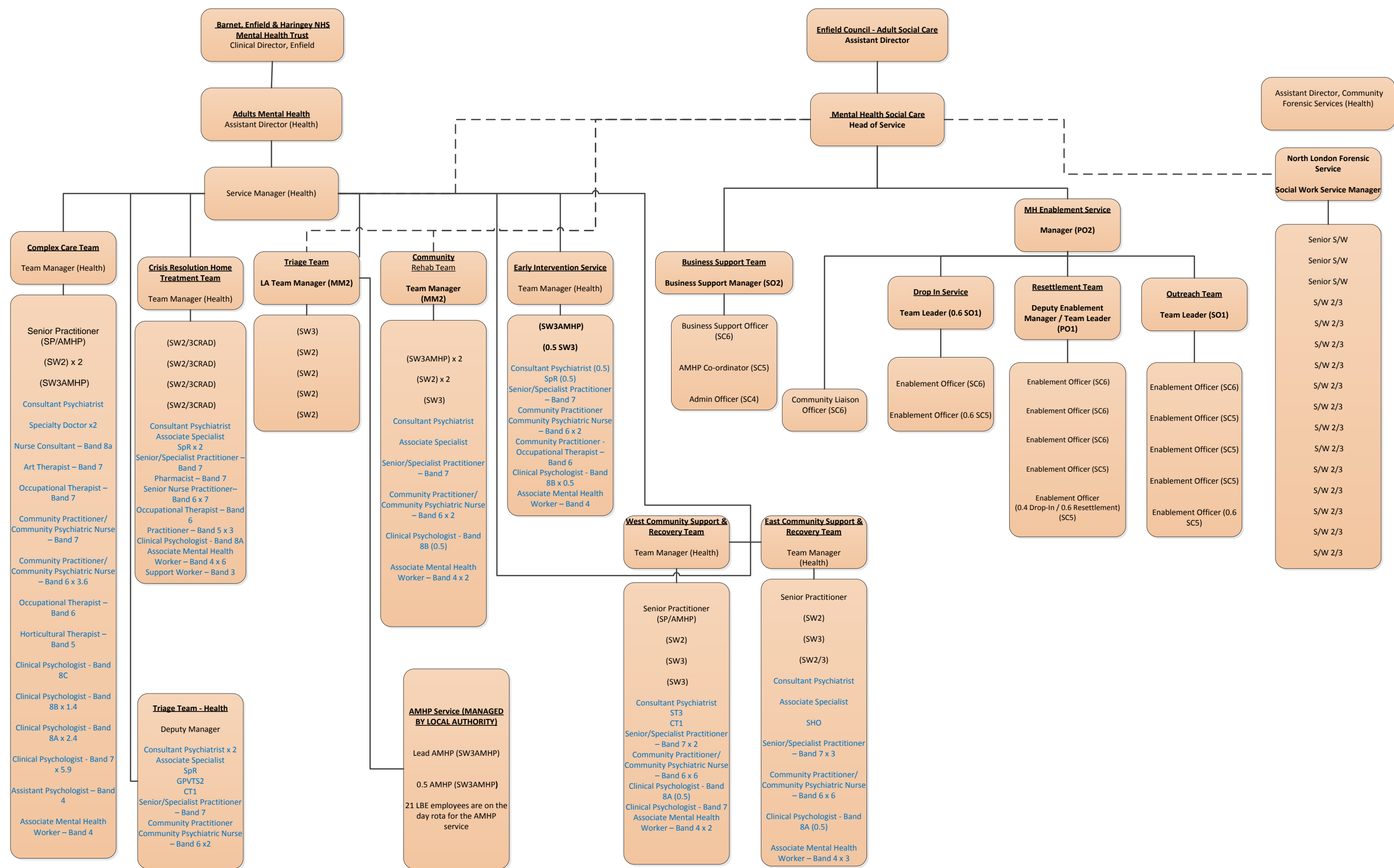
10.2 The Assistant Director Strategy and Resources will hold the responsibility for monitoring and reviewing the Partnership Agreement on behalf of the Parties.

**SCHEDULE 2: SUMMARY OF CONTRIBUTIONS**

**1. Integrated Mental Health Services Staff**

See attached structure chart.

Mental Health Services



## **2. PREMISES**

### **2.1 Local Authority:**

- 58- 60 Silver Street, Enfield,
- Park Avenue Disability Resource Centre, 65C Park Avenue, Enfield, EN1 2HL

### **2.2 Barnet, Enfield and Haringey Mental Health Trust:**

- Lucas House, 305-309 Fore Street, Enfield, N9 0PD
- Ivy House, Chase Farm Hospital, The Ridgeway, Enfield, EN2 8JL
- Chase Building, Chase Farm Hospital, The Ridgeway, Enfield, EN2 8JL
- Crown Lane Clinic, 25 Crown Lane, Southgate, N14 5SH

2.3 Both parties agree that the premises above may not be exclusively used by the Integrated Mental Health Service.

2.4 Both parties agree that no rental payments will be charged for the space that the Integrated Mental Health Service occupies. Service charges will be calculated and agreed by both parties at the commencement of this agreement.

## **3. ASSETS**

3.1 The Trust is responsible for providing, servicing, upgrading and replacement of any assets, equipment and IT database systems currently provided by it which are used for Trust staff and seconded Local Authority staff (unless this is otherwise agreed between the Parties from time to time)

3.2 The Local Authority is responsible for providing, servicing, upgrading and replacement of any assets, equipment and IT database systems currently provided by it which are used for Local Authority staff (unless this is otherwise agreed between the Parties from time to time).

## **4. SUPPORT SERVICES**

4.1 The Trust will be provide reasonable financial, human resources, information technology support, training and other central resources to support the arrangements on the basis that the Local Authority will be making a similar contribution.

4.2 The Local Authority will be provide reasonable financial, human resources, information technology support, training and other central resources to

support the arrangements on the basis that the Trust will be making a similar contribution.

**5. IT**

- 5.1 Staff seconded from Enfield Council to Barnet, Enfield and Haringey Mental Health Trust will be provided with the Trust IT equipment that is necessary in order for staff to fully undertake their role.
- 5.2 Staff will be provided with access to the relevant systems to allow staff to fully undertake their role i.e. RIO and/or CareFirst.
- 5.3 Staff seconded from Enfield Council to Barnet, Enfield and Haringey Mental Health Trust will be provided with access to Enfield Council Intranet including MI Portal.
- 5.4 Enfield Council and Barnet, Enfield and Haringey Mental Health Trust will ensure any ongoing IT/ system development will meet the business and statutory requirements of both parties efficiently.
- 5.5 Enfield Council will ensure that relevant IT developments will be inclusive of Barnet, Enfield and Haringey Mental Health Trust.

**6. TRAINING AND DEVELOPMENT**

- 6.1 On appointment the employee will be required to complete all compulsory computer based training modules in line with Council requirements. The employee will be required to attend a Council induction programme as well as any induction programme required by Enfield, Barnet and Haringey Mental Health Trust.
- 6.2 Where a training need is identified for staff covered by this agreement, to deliver services relevant to Enfield Council, the Council will ensure that training and development needs are considered and met.
- 6.3 However, Barnet, Enfield and Haringey Mental Health Trust will retain overall responsibility of ensuring staff seconded meet statutory requirements.

## **SCHEDULE 3 – GOVERNANCE**

### **Terms of Reference: Mental Health Section 75 Board**

#### **Introduction**

The purpose of the Mental Health S75 Board is to provide strategic leadership and oversight for the Integrated Mental Health Service. The group will manage the development and implementation of the Section 75 agreement between Barnet, Enfield and Haringey Mental Health Trust and Enfield Council. The Board will provide a key forum for the two partners to discuss issues, risks and ongoing development within the Service.

#### **Key Responsibilities of the Board**

- Oversee the joint management and staffing arrangements agreed through the Section 75 agreement
- Contribute to the delivery of outcomes of the Integrated Mental Health Service
- Monitor the partnership arrangements on an ongoing basis through quarterly updates as well as the annual review.
- Further develop partnership between Enfield Council and Enfield, Barnet and Haringey Mental Health Trust

#### **Frequency of meetings**

Meetings will be held on a quarterly basis and will be chaired by Assistant Director of Adult Social Care at Enfield Council. Additional meetings will be scheduled as and when required.

#### **Membership**

- Assistant Director of Adult Social Care – Enfield Council (Chair)
- Assistant Director of Strategy and Resources – Enfield Council
- Executive Director of Patient Services - Barnet, Enfield and Haringey Mental Health Trust
- Clinical Director, Enfield – Barnet, Enfield and Haringey Mental Health Trust
- Assistant Director of Adults Mental Health - Barnet, Enfield and Haringey Mental Health Trust
- Head of Mental Health Service, Enfield Council

A member shall be entitled to appoint a representative in their place when they are able to attend.

The board may invite other persons to attend a meeting when required.

**Quoracy**

The meeting shall be quorate if there is one senior representative present from Enfield Council and Barnet, Enfield and Haringey Mental Health Trust.



**SCHEDULE 4 – PERFORMANCE MANAGEMENT FRAMEWORK**

- 1.1 The Parties will be subject to performance management by the Commission for Social Care and by the Health Care Commission or any other replacement bodies so determined by the Department of Health. The arrangements will be subject to the scrutiny of the Parties internal and external auditors and must also satisfy the other Party's external auditors in relation to the other Party's accountability.
- 1.2 Performance reporting will take place on a quarterly basis to the Mental Health Section 75 Board as well as Health, Housing and Adult Social Care Departmental Management Team and updates will be provided to other boards as required. In addition the service will be responsible for monthly performance monitoring and will alert the Mental Health Section 75 Board to any areas of concern as necessary.
- 1.3 The following performance measures will be monitored and the Enfield Integrated Performance Report will be presented to the Partnership Management Group:

PERFORMANCE MEASURE DETAIL	INFORMATION SOURCE	REPORTING
<b>OUTCOME 1 - Ensuring people have a positive experience of care and support</b>		
% of social care service users that are satisfied ( <b>Adult Social Care Service User Annual Survey Q1</b> )	ASC User Survey	Annual - May
% of social care service users who report they have found it easy to find information and advice about support, services or benefits ( <b>Adult Social Care Service User Annual Survey Q14</b> )	ASC User Survey	Annual - May
% of carers who report they are satisfied with the support or services they and the person they care for have received from Adult Social Services in the last 12 months? ( <b>ASCH Annual Carers Survey Q7</b> )	ASC Carers Survey	Annual - May
% of carers who report that they have been always or usually involved in discussions about the support or services provided to the person they care for ( <b>ASCH Annual Carers Survey Q38</b> )	ASC Carers Survey	Annual - May
Information Provided. Each team monitors patient experience of using services using questions (grouped under main themes) from the national patient survey.	BEH - Meridian	Monthly
Involved in decision	BEH - Meridian	Monthly
Treated with dignity	BEH - Meridian	Monthly
Overall Patient Satisfaction	BEH - Meridian	Monthly

Over Carer Satisfaction	BEH - Meridian	Monthly
<b>OUTCOME 2 - Enhancing quality of life for people with care and support needs by recovery, social inclusion and focusing on paid employment</b>		
Proportion of people known to MH services in paid employment ( <b>by age, gender &amp; ethnicity</b> ) - NI150	BEH - RiO	Monthly
<b>OUTCOME 3 - Efficient Use of Resources</b>		
Total number of new supported placements in residential and nursing care homes.	LBE-Carefirst	Monthly
Proportion of adults in contact with secondary MH services in settled Accommodation ( <b>Mental Health Minimum Dataset</b> ) NI149	BEH - RiO	Monthly
DTOC: Proportion of patients on DTOC listed attributed to LA (Adults)	BEH	Monthly
DTOC: Proportion of patients on DTOC listed attributed to LA (Older Adults)	BEH	Monthly
Average Length of Inpatient Stay (Adults) - Trimmed 21 days	BEH - RiO	Monthly
Average Length of Inpatient Stay (Older Adults)	BEH - RiO	Monthly
<b>OUTCOME 4 - Delaying and reducing the need for care and support through early intervention, enablement, rehabilitation &amp; prevention</b>		
Re-admission Rate: No. of emergency admissions occurring within 28 days of the last discharge from hospital ( <b>ADULT</b> )	BEH - RiO	Monthly
Re-admission Rate: No. of emergency admissions occurring within 28 days of the last discharge from hospital ( <b>OLDER ADULT</b> )	BEH - RiO	Monthly
Proportion of older adults discharged from hospital to rehabilitation or intermediate care who are living at home 91 days after discharge		
Proportion of people discharged back to primary care ( <b>No. of referral discharges a month - Adults</b> )	BEH - RiO	Monthly
Proportion of people discharged back to primary care ( <b>No. of referral discharges a month - Older Adults</b> )	BEH - RiO	Monthly
Proportion of closed cases re-referred by GP within 12 months	BEH - RiO	Quarterly
Proportion of people with an Annual Health Check over the past 12 months	BEH - Meridian	Monthly
Carers Assessment & Services	MH-Manual data collection	Monthly

Proportion of people who following enablement reduce requirement for social services after 1 month	LBE-Carefirst	Quarterly
<b>OUTCOME 5 - Delaying and reducing the need for care and support by increase in self-directed support and implement "Payment by Result"</b>		
Proportion of people with support or care plan ( <b>Adults</b> )	BEH - RiO	Quarterly
Proportion of people with support or care plan ( <b>Older Adults</b> )	BEH - RiO	Quarterly
Proportion of people discharged back to primary care who have a social services funded care package		Monthly
Proportion of people using social care who receive self directed support (RAP)	LBE-Carefirst	Monthly
<b>OUTCOME 6 -Safeguarding adults whose circumstances make them vulnerable and protecting them from avoidable harm by ensuring high quality and safe and effective services</b>		
% of Adult at Risk informed of outcome of strategy discussion on same day	LBE	
% of Alerter informed of outcome of strategy discussion on same day	LBE	Monthly
%age of investigations completed within 7 weeks	LBE	
% of adult social care users reporting they feel as safe as they want ( <b>Adult Social Care Service User Survey Q7</b> )	LBE	Annual - May
Suicide Rate - Numbers & audit Report - <a href="#">TRUST WIDE - BEH &amp; Barnet</a>	BEH	Quarterly
No. of MHA Assessments (cumulative)	LBE	Monthly
No. of people under MHA Section (CTO & INPATIENT)	BEH	Monthly
Complaints - responded to within 25 working days - <a href="#">TRUSTWIDE (BEH)</a>	BEH	Monthly
Assessment (contact to end of assessment)		Monthly

## **SCHEDULE 5 – STAFFING**

### **1. SECONDMENT ARRANGEMENTS**

- 1.1 Staff will be seconded from Enfield Council to Barnet, Enfield and Haringey Mental Health Trust to the post of Social Worker. At the end of the secondment period, the Secondee will return to Enfield Council to their substantive post of Social Worker subject to the outcome of any restructure or reorganisation which the Council is undergoing during the period of the secondment. In these circumstances, the secondee will be fully consulted by their manager in Enfield Council during the process.
- 1.2 The Secondment may be terminated for any reason by Enfield Council or the Barnet, Enfield & Haringey Mental Health Trust by giving 6 months notice in writing.
- 1.3 Notice of termination will normally result in discussion between the parties to resolve the issue and/or to make alternative arrangements.
- 1.4 During the term of the Secondment, the Secondee will remain an employee of Enfield Council.
- 1.5 The Secondee's contractual hours of work for Enfield Council will continue at Barnet, Enfield & Haringey Mental Health Trust.
- 1.6 Enfield Council, as the employer of the Secondee, will continue to pay the Secondee during the Secondment in accordance with this and any other relevant agreements including where appropriate under the relevant pension scheme.
- 1.7 The Secondee's annual leave entitlement under his/her contract of employment with Enfield Council will remain unchanged. He/She will agree the taking of leave with Barnet, Enfield & Haringey Mental Health Trust as it relates to the time worked with them. As far as is reasonably possible the leave to be taken by the Secondee during the Secondment should amount to the Secondee's pro rata leave entitlement for the period of the Secondment.

### **2. RECRUITMENT OF STAFF**

- 2.1 All recruitment activity will be in line with Council processes.
- 2.2 On appointment the successful applicant will be issued with the relevant Council Contract of Employment. The contract will be supported by a Secondment Agreement signed by the employee, representative on behalf of the Council and the nominated representative on behalf of the Enfield, Barnet & Haringey Mental Health Trust.
- 2.3 On appointment the employee will be required to complete all compulsory computer based training modules in line with Council requirements. The employee will be required to attend a Council Induction programme as well as

any induction programme required by the Enfield, Barnet & Haringey Mental Health Trust.

- 2.4 Both parties will make every effort to maintain and review the staffing levels established at the beginning of this agreement, but recognise that each party will be subject to budget pressures from time to time, which may affect the ability to do so.

### **3. MANAGERIAL AND PROFESSIONAL SUPERVISION**

- 3.1 The Seconded will work under the day to day supervision of their nominated manager within the Barnet, Enfield & Haringey Mental Health Trust. However, if there are any concerns about the Seconded's conduct, performance or attendance during the term of the Secondment, Barnet, Enfield & Haringey Mental Health Trust shall immediately notify Enfield Council.
- 3.2 Performance appraisals (PARs) will be conducted at 6-month intervals, with supervision sessions held at least quarterly, by Barnet, Enfield & Haringey Mental Health Trust designated contact officer in accordance with Enfield Council guidelines. Such meetings may be held jointly with Enfield Council and Barnet, Enfield & Haringey Mental Health Trust.
- 3.3 Professionally qualified staff will have access to clinical supervision from an identified professional supervisor. This will be the team manager where the manager has the appropriate professional background. Where the team manager does not have such a background, access to clinical and professional supervision will be made available from another team manager or for an appropriately qualified manager in the host organisation. Arrangements will be put in place so that regular professional supervision takes place and, in addition, there is access in the following circumstances:
- as and when required with regard to making professional judgments on a case. (The line manager can be involved if this is seen as beneficial).
  - when the performance appraisal is undertaken by the line manager, the professional manager should join the line manager and staff member. If all parties to the supervision process agree in writing the line manager is able to fulfil the role of professional supervisor, then there will be no need for the professional manager to be involved.

### **4. WORKLOAD MANAGEMENT**

- 4.1 During the Secondment period the Seconded shall devote the whole of his/her time, attention and skill to his/her duties for unless otherwise stipulated as below. The Seconded will be expected to spend his/her whole week working at Barnet, Enfield & Haringey Mental Health Trust during the

period of the Secondment.

- 4.2 The Secondee accepts that during the period of Secondment he/she may receive confidential information concerning Barnet, Enfield & Haringey Mental Health Trust and its clients. The Secondee agrees to treat such information as secret and confidential and not to disclose such information without the express permission of Barnet, Enfield & Haringey Mental Health Trust
- 4.3 Upon termination of this Agreement the Secondee shall deliver all documents and other property of Barnet, Enfield & Haringey Mental Health Trust to its designated officer.

## **5. GRIEVANCE AND DISCIPLINARY PROCEDURES**

- 5.1 Staff employed in the Integrated Mental Health Service shall be entitled to raise grievances in accordance with the grievance procedure applied to them under their contractual relationship with their employer.
- 5.2 Staff in the Integrated Mental Health Service shall be subject to the disciplinary policy of their employer.
- 5.3 The Council and the Trust will each co-operate with the other, including, so far as reasonably possible, making staff available and seeking to adopt compatible policies, in the conduct of disciplinary and grievance matters arising out of the conduct of this Agreement.

## MUNICIPAL YEAR 2015/2016 REPORT NO. **151**

**MEETING TITLE AND DATE:**

**Cabinet – 20 January  
2016**

**REPORT OF:**

Director - Regeneration  
and Environment

<b>Agenda – Part: 1</b>	<b>Item: 7</b>
<b>Subject: Approval of the Enfield Enforcement Policy</b>	
<b>Wards: ALL Key Decision No: KD 4040</b>	
<b>Cabinet Member consulted: Cllr Daniel Anderson</b>	

Contact officer and telephone number:

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### **1. EXECUTIVE SUMMARY**

- 1.1 It is good practice, and for specified enforcement services like Environmental Health, Licensing and Trading Standards it is a statutory requirement, to have an enforcement policy which is endorsed by members and the Council. The purpose of an Enforcement Policy is to explain how we respond to non-compliance.
- 1.2 The Policy encompasses the following services:- Environmental Health (Food Safety, Health and Safety, Private Sector Housing, Infectious diseases, animal welfare and animal disease control, nuisance, air quality, contaminated land), Licensing, Trading Standards, Environmental Crime (street scene and waste), Blue Badge Fraud and Highways Enforcement.
- 1.3 The Enforcement Policy sets out Enfield Council's approach to deal with non-compliance robustly and swiftly. Enforcement is a key tool for the council in protecting the quality of life of its residents. Robust enforcement is essential for public confidence in upholding the integrity of the regulatory regimes that we administer to protect residents, the public, businesses and workers. However, the Council also recognises that good regulation is supportive to the economic vitality and growth of the economy and local businesses.
- 1.4 The Council will not hesitate to take all necessary enforcement action against those who commit serious offences, flout the law, fail to follow advice or warnings to achieve compliance, or breach matters that are of key priority to the Council. If there is a serious or imminent risk of harm, danger, nuisance or injury we will take formal enforcement action immediately as required.

**RE15.35**

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- 1.5 The Council is likely to offer advice or a warning in the first instance if the breach is not so serious as to require immediate enforcement action to address high risk or very harmful situations, if it is not a persistent or continuing breach, if there has been a history of good compliance or we are confident there will be compliance, and is the most appropriate use of resources. There are however, breaches which the Council considers necessary to adopt a zero tolerance approach towards (see 4.1.4 of the policy) for the protection of the quality of life of its residents, and these will be enforced without giving a warning.
- 1.6 Investigations and formal action (e.g. notice service and prosecution) are undertaken in accordance with the requirements of the legislation offences occur under and legislation and Codes of Practice concerning the collection and use of evidence. They also give a range of protections to citizens and potential defendants.
- 1.7 When deciding on the enforcement action to be taken, we will consider the risk and seriousness posed by the offending breach. Appendix B in the Enforcement Policy, and paragraph 3.5.4 below, details the enforcement actions available to us and when they will be used.
- 1.8 We recognise that publicising our activities, including prosecution cases, will help to inform others, improve awareness and increase compliance (deterrent factor). Research (see background papers) has shown that publicising enforcement action increases public confidence and also acts as a deterrent to other criminals if they think that the consequence of committing crime is likely to result in publicity.
- 1.9 The Enforcement Policy was placed on consultation on 10 March 2015 for a period of 16 weeks until 30 June 2015. The Policy was consulted on via the Council's website. The consultation was also sent to the North London Chamber of Commerce, Enfield Racial Equality Council (EREC), Enfield Business Retailers Association (EBRA) and the Over 50's Forum. We also gave presentations to, and undertook face to face consultation, with EREC and EBRA.
- 1.10 The feedback is detailed in Appendix 1 to this report, and amendments made to the Enforcement Policy as needed in the light of the public consultation. Paragraph 3.7.3 summarises the feedback received.

**RE15.35**



## **2. RECOMMENDATIONS**

That, the Enfield Enforcement Policy at Appendix 2 is approved.

## **3. BACKGROUND**

### **3.1 Purpose of the Enforcement Policy**

- 3.1.1 It is good practice, and in some cases a statutory requirement, that public sector enforcement bodies work in accordance with an approved Enforcement Policy.
- 3.1.2 For Environmental Health, Licensing and Trading Standards Services there is statutory guidance to which the Council will have to have regard known as the Regulators' Code. This was published by Better Regulation Delivery Office (BRDO) on 6 April 2014. Prior to this there was other statutory guidance such as the Enforcement Concordat. The Council must have regard to the Regulators' Code in developing (enforcement) policies and operational procedures that guide our regulatory activities.
- 3.1.3 Environmental Health, Licensing, Trading Standards Services and the other Environment Division services encompassed by the Enforcement Policy regulate and enforce the protection of the vulnerable, together with fulfilling environment, social and other objectives. The Regulators' Code builds on these core purposes and seeks to promote proportionate, consistent and targeted regulatory activity.
- 3.1.4 There are six guiding principles in the Regulators' Code the Council must abide by in its enforcement activities as follows:
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
  - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
  - Regulators should base their regulatory activities on risk
  - Regulators should share information about compliance and risk
  - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
  - Regulators should ensure that their approach to their regulatory activities is transparent

- 3.1.5 The purpose of an Enforcement Policy is to explain the approach towards non-compliance. This is an important policy document for the Council as a regulator in meeting its responsibility under the statutory principles of good regulation and to show its transparency in its enforcement activity and to strive towards greater accountability.
- 3.1.6 The proposed Enfield Enforcement policy is at Appendix 2 for consideration and approval. It has been written in accordance with the requirements of the Regulators' Code.
- 3.1.7 The Enforcement Policy emphasises that Council's enforcement services recognise that robust enforcement is essential for public confidence in upholding the integrity of the regulatory regimes that it administers, and in addition that good, proportionate regulation is supportive of the economic vitality and growth of the economy and local businesses.
- 3.1.8 The Council will not hesitate to take all necessary enforcement against those who commit serious offences, flout the law, fail to follow advice or warnings to achieve compliance, or breach matters that are of key priority to the Council. If there is a serious or imminent risk of harm, danger, nuisance or injury then we will take formal enforcement action immediately as required.
- 3.1.9 Where appropriate; the Council is likely to offer advice or a warning in the first instance if the breach is not so serious as to require immediate enforcement action to address high risk or very harmful situations, if it is not a persistent or continuing breach, if there has been a history of good compliance or we are confident there will be compliance, and is the most appropriate use of resources. If this approach is unsuccessful enforcement action will be taken. There are however, breaches which the Council considers necessary to adopt a zero tolerance approach towards for the protection of the quality of life of its residents, and these will be enforced without giving a warning.
- 3.1.10 This Policy will be reviewed 3 years after issue, or sooner if required

## **3.2 Scope and content of the Enforcement Policy**

- 3.2.1 The following services are covered by the Enforcement Policy:-
- Environmental Health (Food Safety, Health and Safety, Private Sector Housing, Infectious diseases, animal welfare and animal disease control, nuisance, air quality, contaminated land)
  - Licensing Enforcement
  - Trading Standards
  - Enviro-Crime enforcement (enforcement of street scene issues and waste enforcement)
  - Blue Badge Enforcement
  - Highways Enforcement

- Additional and Selective Licensing (if/when implemented)

3.2.2 There are separate and more specific enforcement policies for:

- Planning enforcement;
- Enforcement of vehicle crossovers;
- Enforcement of streetworks
- Parking enforcement.

3.2.3 For the service areas covered by this Enforcement Policy we receive over 35,000 complaints/service requests per year. The typical types of breaches that require enforcement action are:

- Rogue trading, doorstep crime, scams and fraudulent business practices
- The sale and supply of counterfeit goods and unsafe goods and products
- Littering, dog fouling and spitting
- Flytipping and improper waste storage and disposal
- Untidy land and front gardens
- Poor hygiene and unsafe practices at food businesses
- Blue Badge Misuse
- Illicit tobacco and alcohol
- Breaches of licenses and conditions and unlicensed trading
- Illegal Street trading
- Car sales on the street
- Sales to minors of age restricted products (eg alcohol, knives, tobacco)
- Nuisance (noise, odours, drainage)
- Private rented sector housing conditions (eg disrepair, health and safety issues and overcrowding)

For some of these offences, the penalties are very serious and result in prison sentences and the use of the Proceeds of Crime Act to recover assets and money that has arisen from the criminality.

### **3.3 Targeting of Enforcement Approach**

3.3.1 Enfield Council will not hesitate to take all necessary enforcement action against those who commit serious offences, flout the law, fail to follow advice or warnings to achieve compliance, or breach matters that are of key priority to the Council. If there is a serious or imminent risk of harm, danger, nuisance or injury then we will take formal enforcement action as needed (by the service of an immediate notice such as Stop, Seizure, Prohibition, Suspension or Abatement Notices).

3.3.2 We are more likely to offer advice or a warning in the first instance if the breach is not so serious as to require immediate enforcement action to address high risk or very harmful situations, if it is not a persistent or continuing breach, if there has been a history of good compliance or we are confident there will be compliance and is the

most appropriate use of resources. There are however, breaches which the Council considers necessary to adopt a zero tolerance approach towards (see 4.1.4) for the protection of the quality of life of its residents, and these will be enforced without giving a warning such as, for example, as littering, flytipping and other waste offences, dog fouling, spitting and Blue Badge misuse.

3.3.3 In giving advice, warning and taking formal enforcement action, the Council will seek to provide individuals and businesses with clear explanations of what the breach is, what action is needed and the reasons for this. The Council will provide the individual/ business with an opportunity to discuss with the Council the advice given, actions required or decisions taken in relation to non-compliance. The Council recognises the importance of regulated individuals and businesses being able to seek advice from the Council to help them ensure that they are compliant. In usual circumstances this request for advice would not trigger enforcement action from the Council. However, the exception is if the Council assesses that there is a need to take immediate enforcement action to respond to or prevent serious or imminent risk.

3.3.4 However, the Council is also committed to dealing firmly with those that deliberately or persistently fail to comply, and less likely to take enforcement action against those who demonstrate an active willingness to resolve the non-compliance.

3.3.5 In some teams the Council makes an assessment of all incoming complaints about alleged non-compliance to determine whether they will be investigated. This is to ensure that the Council targets resources to the areas of highest risk and concern, in accordance with good enforcement practice. In deciding whether to investigate, the Council takes into account factors such as:

- the seriousness of the allegations,
- whether the complainant has provided their contact details (i.e. not anonymous),
- the previous history of the individual or business being complained about,
- whether a programmed inspection is due (if applicable)
- the impact on the community

### 3.4 **Investigations**

3.4.1 All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to the London Borough of Enfield:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000

- Criminal Justice and Police Act 2001
- Human Rights Act 1998
- Equalities Act 2010

3.4.2 These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

3.4.3 The Council's authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

3.4.4 In the vast majority of cases that the Council investigates with a view to prosecution where there is a statutory defence in particular the Council will invite those suspected of being involved in offences to a formal interview conducted in accordance with the Code of Practice under the Police and Criminal Evidence Act 1984 (known as 'PACE Interviews'). This presents an opportunity for the suspect to detail any statutory defence they believe they have and offer explanations. The Council will then evaluate the evidence gathered to arrive at a decision whether to proceed to prosecution or alternatively if another approach should be taken. A record of interview will be admissible evidence in any potential proceedings if the formal procedure for interviews laid down in PACE has been adhered to.

3.4.5 There are also provisions available to Enforcement Officers investigating offences under the Health and Safety at Work Act to formally interview individuals and companies under Section 20 of the Act who can assist with providing information

### **3.5 Enforcement Powers and Enforcement Actions**

3.5.1 The Council's enforcement officers have delegated powers to carry out the Council's duties as identified in the relevant legislation. Such powers include:

- Powers of entry to gain access to land and premises, with a warrant if required
- Powers to inspect premises, equipment and documents
- Powers to seize equipment and documents if needed
- Powers to take samples
- Powers to seek assistance and information from individuals

3.5.2 For the vast majority of legislation that the Council enforces, there are usually provisions where a person commits an offence of obstruction if they do not allow Enforcement officers to exercise their powers. If the Council's Enforcement Officers are obstructed in the course of their duties, the Council views this very seriously. Obstruction offences are taken seriously by the Council and if a perpetrator persists despite receiving a warning the Council will ordinarily proceed to prosecution.

3.5.3 The Council's enforcement powers do not have the power of arrest. However officers often work closely with bodies which do have the necessary powers of arrest such as the Police, UK Border Agency and other agencies.

3.5.4 Appendix B of the Enforcement Policy details the enforcement actions available to the Council and when they can be used. The range of enforcement actions are listed below:

- Compliance Advice, Guidance and Support;
- Voluntary Undertakings;
- Statutory (Legal) Notices;
- Financial penalties (e.g. Fixed Penalty Notice & Penalty Charge Notices);
- Injunctive Actions/ Enforcement Orders;
- Simple Caution;
- Prosecution; and
- Refusal/ Suspension/ Revocation of Licences

3.5.5 When determining whether enforcement action is appropriate the Council will seek to evaluate the consequences of a particular breach in terms of risk and severity. In making decisions about the most appropriate enforcement action to take, the Council will be mindful of the principles set out in the Macrory Review of Regulatory Penalties 2006 concerning sanctions and penalties. These principles:

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- aim to be responsive and to consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that is associated with criminal convictions;
- aim to be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by regulatory non-compliance, where appropriate; and,
- aim to deter future non-compliance.

## **3.6 Publicising Enforcement Action**

3.6.1 The Council recognises that publicising its activities, including prosecution cases, will help to inform others, improve awareness and increase compliance (deterrent factor). Research<sup>1</sup> has shown that publicising enforcement action increases public confidence and also acts as a deterrent to other criminals if they think that the consequence of committing crime is likely to result in publicity. The Council will issue

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<sup>1</sup> Publicising Criminal Convictions (Criminal Justice System publication – December 2009)  
[http://www.openeyecommunications.com/wp-content/uploads/2010/03/Publicising\\_Criminal\\_Convictions.pdf](http://www.openeyecommunications.com/wp-content/uploads/2010/03/Publicising_Criminal_Convictions.pdf)

press releases on its successful prosecutions, other issues of public interest and will 'name and praise' and 'name and shame' when it is legally possible and appropriate to do so.

### 3.7 Public Consultation

3.7.1 The Enforcement Policy was placed on consultation on 10 March 2015 for a period of 16 weeks until 30 June 2015. The following activities were undertaken during the consultation period to invite feedback on the draft policy:

- It was published on the Council's website inviting comments from businesses, residents and the general public
- It was presented for comment to the Cabinet Member for Environment on 17 September 2014 (prior to public consultation) and on 13 July 2015 and 26 October 2015 (after public consultation ended)
- It was sent to, and then presented for discussion and feedback at a Enfield Racial Equality Council focus group on 30 June 2015
- It was sent to the Enfield Business Retailers Association (EBRA) and the North London Chamber of Commerce, and then presented for discussion and feedback at a meeting on 10 June 2015 attended by the Enfield Business Retailers Association (EBRA)
- It was sent to the Over 50's Forum on 13 August 2015 to capture their feedback as part of the consultation

3.7.2 There were comments received from the Enfield Business Retailers Association (EBRA), the Enfield Racial Equality Council and one member of the public.

3.7.3 The feedback is detailed in Appendix 1 and amendments made to the Enforcement Policy and approaches in the light of the public consultation. In summary, the feedback was:

- The enforcement policy was clear and understandable
- The enforcement policy was reasonable, firm and fair
- Agree that if offences are serious we should take robust action.
- Be explicit that failure to engage and comply with (a) non formal approach and (b) formal steps will result in further enforcement action
- Residents commented that they wanted a 'zero tolerance' approach towards flytipping, and rubbish, lighted cigarettes and food waste/packaging being thrown or discarded from vehicles
- It is important that there is open communication between businesses and enforcement officers
- Enforcement Officers need to have a flexible risk-based approach and understanding of the resources and abilities of small businesses
- It was suggested that food safety officers take a more lenient approach to the risk rating scoring if the food safety is under control

but the food safety documentation and documented checks were absent or not complete

- Matters such as language and cultural differences in businesses were raised as potential 'barriers' to compliance
- Specific issues were raised about flytipping, littering, trade waste and tables and chairs licensing
- Some concern was raised about growing residential problems and multiple occupation and overcrowding and what action the council can take
- Greater explanation was requested about taking a 'proportionate' response to enforcement and how officers decide what enforcement to take
- New businesses need advice and guidance
- Explanation as to how we decide what food premises to inspect
- Asked how the Council consulted with disability groups
- Concerns were raised about the apparent proliferation of fast food takeaways and what action the council can/do take
- Concerns raised about dangerous moped and bicycle riders and the need for enforcement
- Wanted to ensure that Equality Impact Assessments had been undertaken for enforcement services

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

There are no appropriate alternative options.

#### **5. REASONS FOR RECOMMENDATIONS**

5.1 Services such as Environmental Health, Licensing and Trading Standards are required by the Legislative and Regulatory Reform Act 2006 to have regard to the Regulators' code (published by the Better Regulation Delivery Office) which specifies we should have an enforcement policy and have regard to the principles set out in the Regulators' Code in undertaking enforcement activities.

5.2 In addition, other statutory guidance also requires that the council has an enforcement policy such as the Food Standards Agency's 'Framework Agreement on Official Feed and Food Controls by Local Authorities', made under the Food Standards Act 1999.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

6.1.1 The proposed policy reflects enforcement best practice. The policy will also support the Annual Governance Statement, which forms part of the Council's Annual Statement of Accounts. It will be included in the Council's governance framework as it demonstrates how the Council puts in place proper arrangements for the governance of its affairs and



facilitates the effective exercise of its functions. As such, it will also contribute to the better management of risks the Council faces, which in turn helps to provide external auditors and other commentators with assurance that the Council ensure good value for money in its financial management.

- 6.1.2 The responsibilities outlined in the policy will be managed within the existing resources and monitored and reported through the department's financial monitoring processes.

## **6.2 Legal Implications**

Section 21 of the Legislative and Regulatory Reform Act 2006 puts a duty on regulatory bodies to exercise their regulatory functions in a way that is transparent, accountable, proportionate and consistent with a view to targeting activities with action only where it is needed.

The Regulators' Code (April 2014) was issued under section 22 of the Act to give guidance to regulators on how to comply with their duties under the Act. The Act assisted by the Code seeks to advise regulators on how to regulate whilst succeeding in reducing regulatory burdens and supporting compliant business growth through the development of open and constructive relations between regulators and those regulated.

The Code urges regulators to provide information, guidance and advice to those they regulate so that they can better meet their responsibilities. The Policy described in this Report complies with this requirement.

## **6.3 Property Implications**

There are no property implications.

## **7. KEY RISKS**

The key risks associated with this Enforcement Policy would be regulatory and reputational risks:-

- Not to have an Enforcement Policy that is prepared with regards to the Regulators' Code – this policy has been prepared in accordance with the Code and has been consulted on with stakeholders and the public, and/or
- Not to have an approved Enforcement Policy in place – the existing policy was prepared before the Regulators' Code was introduced hence why it has been redrafted and presented for endorsement.
- To not take enforcement action in accordance with the Enforcement Policy – the Policy is clear in paragraph 3.2 that where it is considered necessary to deviate from the approach in the Policy,

this will only be done where it is justifiable and the reasons are recorded.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The approach to enforcement in the Policy promotes the priority of fairness for all. The intention of the Policy is to ensure that the community (residents, workers, visitors and businesses) are supported and protected and the whole community is treated fairly, transparently and with equity. In particular we aim to protect the most vulnerable from exploitation.

### **8.2 Growth and Sustainability**

- 8.2.1 Good proportionate regulation is well recognised as being important to public confidence and also to support the maintenance and growth of the local economy.

### **8.3 Strong Communities**

This Policy has been consulted on with stakeholders in the community. Their views have been considered and the policy amended as needed as a result of the consultation with them. The Policy aims to target enforcement to the areas of greatest risk to health, safety, nuisance and the environment, thus promoting strong communities.

## **9. EQUALITIES IMPACT IMPLICATIONS**

- 9.1 The Council fully recognises the need and value in ensuring that the Council's enforcement services support protect and do not disadvantage any community groups.
- 9.2 In addition, all services and teams undertaking enforcement have completed retrospective Equalities Impact Assessments of their enforcement activities on the community and in particular on the protected characteristic. The Council also undertakes predictive Equalities Impact Assessments for any new enforcement activities.
- 9.3 All Environment Staff undertaking also attended equalities and diversity training in 2013/14.
- 9.4 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report to approve the Enfield Enforcement Policy

**10. PERFORMANCE MANAGEMENT IMPLICATIONS**

There is an existing framework of performance measures used by the Services encompassed by this Enforcement Policy that monitors and measures outputs and outcomes. These performances measures will continue under the new Policy.

**11. HEALTH AND SAFETY IMPLICATIONS**

There are existing risk assessments and safe systems of work in place which are regularly reviewed. These are to ensure that the risks to the health and safety of enforcement officers in conducting their duties have been identified, assessed and control measures put in place.

**12. HR IMPLICATIONS**

There are no HR implications. The Enforcement Policy will be used by existing enforcement staff.

**13. PUBLIC HEALTH IMPLICATIONS**

The approach to enforcement in the Policy positively contributes towards the health and wellbeing of the public either immediately from prevention of harm and longer-term through ensuring compliance with the regulatory framework. Immediate enforcement action is taken when there is a serious or imminent risk posed of injury or ill health or a risk to people or their food, water, workplace, home surrounding living environment or as a consumer of services and goods. When the risk is not imminent, a staged approach is taken to ensure compliance and to reduce or eliminate the harm. However, robust enforcement action is taken when there is a failure to take advice and comply, offences are serious or deliberate flouting of the law.

**Background Papers**

None



**Appendix 1: Summary of the feedback on the Enfield Enforcement Policy from the public consultation**

<b>QU. No.</b>	<b>Questions</b>	<b>Enfield Business Retailers Association response<sup>2</sup></b>	<b>Public response<sup>3</sup></b>	<b>Enfield Racial Equality Council response<sup>4</sup> (EREC)</b>	<b>Response to consultation feedback received</b>
1.	Is the policy clearly laid - out?	Very clear, reasonable and fair	To some extent	Methodical and logical policy. Well laid out to a 'great' extent.	No response required
2.	Is the policy easy to understand?	Yes – especially as there was the presentation at the meeting as well as just having it to read in advance	To some extent	Easy to understand and not too cumbersome. All felt it was easy to understand to a 'great' or 'some' extent.	No response required
3.	If not, what would make it clearer or easier to understand?	N/A	To some extent	Those saying to 'some extent' asked how we define 'proportionate' enforcement response (example given was tables and chairs licensing). Felt this assessment by officers is too subjective and needs	Some examples given at EREC consultation meeting. Policy amended to explain more clearly the need for ensuring that the most appropriate means of enforcement is chosen depending on the level of risk and the seriousness of

<sup>2</sup> Meeting held with 3 Town Centre Managers

<sup>3</sup> One response received from the public via the Council website

<sup>4</sup> Meeting held with focus group of over 25 persons from across the community and sent to over 250 of the EREC membership

				to be a more objective 'standard'.	the offence.
4.	Do you agree with our enforcement approach set out in section 4?	<p>Yes – firm but fair approach. Agree that if offences are serious should take robust action.</p> <p>Enforcement officers also need to take flexible approach (see comments below)</p> <p>Discussion about the need for good and open communications between enforcement officers and businesses/individuals being regulated so that advice can be sought and any concerns about inspections, risk rating and enforcement actions can be raised by businesses and discussed with enforcers.</p>	To some extent	Agreed. Structured and policy makes sense.	The recognition of the need for those regulated to seek advice is covered in the Enforcement Policy (section 4) or to make a complaint about officers (section 8). However, we will ensure that it is emphasised in written communications particularly at any concerns about action taken should be raised with the officer or their line manager in the first instance.
5.	If you answered 'No'	N/A	N/A	Comments received that residents wanted fly	The enforcement regime for rubbish thrown from

	to the above, what else would you like to see included?			tipping, rubbish and lighted cigarettes being thrown from vehicles or food waste/packaging dumped by side of road when parked up to eat to have a zero tolerance approach.	vehicles is being examined during 2015/16. Increased enforcement and more robust strategy is being implemented for flytipping.
6.	Do you think there should be any amendments to the policy?	No – except see comments below about taking a flexible approach.	Yes	No – except specific suggestions made above	No response required
7.	If you answered to yes above, please provide any comments		Be explicit that failure to engage and comply with (a) non formal approach and (b) formal steps will result in further enforcement action.	No – except specific suggestions made above	Sections 4.2 and 4.8 of the policy were amended to give this greater emphasis.
8.	Are you a? ▪ Business ▪ Trade or Business Association ▪ Other	Business Association	Business	Residents	N/A
9.	Any other	The need to take a flexible		Question raised by	<b>Flexible approach:</b>

	comments?	<p>approach was raised and discussed. Example given was that Enforcement Officers need to consider the ability and resources of some food business owners to complete food safety documentation. Many food businesses are very small and the owners run all aspects of the businesses themselves. The owner may be a brilliant chef – but not so good at admin and paperwork.</p>		<p>Enfield Stroke Action regarding how the Council consults with other disability groups.</p>	<p>This is covered in section 4.9.1 of the policy. The Food Safety team and officers are mindful of the ability and resources of small businesses – of which the majority of food businesses in Enfield are small.</p> <p><b>Disability groups:</b> Consultation with Disability groups: We have contacted Enfield Stroke action and also Enfield Disability Action (an umbrella organisation for local disability groups) for their feedback on the policy</p>
		<p>It was suggested that a more lenient/pragmatic approach should be taken if food safety is under control but the documented checks of the controls were not sufficiently meeting requirements. Some businesses have felt</p>			<p>Officers assess and rate food businesses in accordance with the relevant Food Standards Agency Code of Practice and guidance on the National Food Hazard Rating scheme ('Brand standard'). Account is taken where food businesses have</p>



		officers have judged their food safety management too harshly because of this.			food risks under control but the controls or checks are not recorded. A recent review by another London Borough and a meeting with the Food Standards Agency confirmed that our rating of premises and enforcement approach was appropriate and in accordance with the FSA Code of Practice.
		It was raised that there are language and cultural differences within businesses. Some cultures are fearful and distrust public officials due to enforcement regimes in their country of origin.			Noted – Officers are aware of some of these issues.
		<p>Some specific enforcement issues were raised about:</p> <ul style="list-style-type: none"> <li>▪ Tables and chair licences- would be better to allow barriers or demarcation of the licensed area</li> <li>▪ Flytipping – issues with rubbish dumped in rear</li> </ul>			<p>Tables and Chairs – very helpful comments which will be fed into review of street trading enforcement.</p> <p>Comments on trade waste bins and flytipping have</p>

		<p>alleys and not cleared/collected</p> <ul style="list-style-type: none"> <li>▪ Trade waste bins – rubbish being dumped in them by other businesses</li> <li>▪ Litter enforcement - would welcome warning signage and more cigarette butt lamp-post bins</li> </ul>			<p>been fed into review of waste enforcement strategy.</p> <p>Comments on Litter enforcement:- Butt bins - Public Realm have reviewed the location of butt bins and are satisfied but will always consider requests for additional bins.</p> <p>Warning signs – has been considered but not necessary to erect warning signage and citizens should be aware it is an offence to litter.</p>
				Some comments asking what the council is doing about the apparent proliferation of fast food takeaways	<p>This has already been addressed in new Planning Policy (DMD) – there is a presumption against grant of planning permission for new takeaways within 400m of secondary schools unless they can evidence it will not be detrimental in terms of the offer of some healthy food alternatives</p>
				Some comments	This is a police matter for

				suggested robust enforcement of bad/dangerous cyclists or persons riding bikes or mopeds on the pavement	enforcement.
				How does the council decide what food premises to inspect?	It was explained that officers risk assess the premises according to the criteria in the FSA Code of Practice which includes matters such the hygiene and structural compliance, type of food prepared/sold and confidence in the management to maintain the controls. This determines the risk and so how often they are inspected ranging from 6 months (high risk) to every 3 years (lowest risk)
				Would be useful for new businesses (especially small businesses) to give advice about consumer rights and date coding of food. For example, join up with banks who give 'start up' packs to new businesses	New food businesses are sent information via an email or letter of the web-based sources of food safety information available and provided signposting to other organisations offering new business support (e.g. Enterprise Enfield)

				Some individuals felt there was a growing residential problems and wanted more information on multiple occupations/ overcrowded dwellings and what could be done to address this	There are existing powers we use to investigate and tackle poor housing conditions and overcrowding. However, the Council is considering more effective additional licensing powers.
				Equality Impact Assessments should be carried out when reviewing the policy. It would also be useful to see predictive impact assessments.	These had already been undertaken.

## London Borough of Enfield Enforcement Policy

### The status and scope of the policy:

Local authorities are required by the Regulators' Code for specified services to publish a clear set of service standards, including their enforcement policy<sup>1</sup>, explaining how they respond to non-compliance. This is an important document for regulators in meeting their responsibility under the statutory principles of good regulation<sup>2</sup> to be accountable and transparent about their activities.

This Policy was approved by Cabinet on 20 January 2016 and was issued and came into effect on 1 March 2016. This Policy supersedes the previous 2005 Enforcement Policy for the Environmental Health and Regulation Division for new investigations commenced from 1 March 2016.

The London Borough of Enfield will not hesitate to take all necessary enforcement action against those who commit serious offences, flout the law, fail to follow advice or warnings to achieve compliance, or breach matters that are of key priority to the Council. If there is a serious or imminent risk of harm, danger, nuisance or injury then we will take formal enforcement action immediately as required.

The London Borough of Enfield aims to have clear service standards in how we deal with our customers (which includes those that are affected by enforcement actions), and we have published these as a customer service standards.

This policy covers the enforcement activities undertaken by the London Borough of Enfield in the following service areas:

- Environmental Health (Food Safety, Health and Safety, Private Sector Housing, Infectious diseases, animal welfare and animal disease control, nuisance, air quality, contaminated land)
- Additional and Selective Licensing
- Licensing Enforcement
- Trading Standards
- Enviro-Crime enforcement (enforcement of street scene issues and waste enforcement)
- Blue Badge Enforcement
- Highways Enforcement

There are separate and more specific enforcement policies for: planning enforcement; the enforcement of vehicle crossovers; enforcement of streetworks and parking enforcement.

For the service areas covered by this Enforcement Policy we receive over 35,000 complaints/service requests per year. The typical types of breaches that require enforcement action are:

- Rogue trading, doorstep crime, scams and fraudulent business practices
- The sale and supply of counterfeit goods and unsafe goods and products
- Littering, dog fouling and spitting

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<sup>1</sup> Section 6.2d, [Regulators' Code](#) (BRDO, 2013)

<sup>2</sup> Section 21, Legislative and Regulatory Reform Act 2006, available at [www.legislation.gov.uk](http://www.legislation.gov.uk)

- Flytipping and improper waste storage and disposal
- Untidy land and front gardens
- Poor hygiene and unsafe practices at food businesses
- Blue Badge Misuse
- Illicit tobacco and alcohol
- Breaches of licenses and conditions and unlicensed trading
- Illegal Street trading
- Car sales on the street
- Sales to minors of age restricted products (eg alcohol, knives, tobacco)
- Nuisance (noise, odours, drainage)
- Private rented sector housing conditions (eg disrepair, health and safety issues and overcrowding)

For some of these offences, the penalties are very serious and result in prison sentences and the use of the Proceeds of Crime Act to recover assets and money that has arisen from the criminality.

### **Content of this Enforcement Policy:**

1. [Introduction](#)
2. [What is this policy for?](#)
3. [When does this policy apply?](#)
4. [Our approach to dealing with non-compliance](#)
5. [Conduct of investigations](#)
6. [Decisions on enforcement action](#)
7. [Review of this policy](#)
8. [Comments and complaints](#)

### **Appendices**

[Appendix A](#) Consideration of factors for and against prosecution and enforcement actions

[Appendix B](#) Enforcement Actions available in Respect of Criminal and Civil breaches

## **1.0 Introduction:**

### **1.1 Explanation that the policy sets out the local authority's approach to dealing with non-compliance**

#### **1.1.1 Development of this Policy**

This policy was developed in consultation with stakeholders (Councillors, residents and general public and also with businesses and business organisations). The draft policy was placed on consultation on 9 March 2015 for a period of 16 weeks until 30 June 2015. The following activities were undertaken during the consultation period to invite feedback on the draft policy:

- It was published on the Council's website inviting comments from businesses, residents and the general public
- It was presented for comment to the Cabinet Member for Regeneration and Environment
- It was presented for discussion and feedback at the Enfield Racial Equality Council 30 June 2015 and sent to over 250 of their membership
- It was sent to the North London Chamber of Commerce and presented for discussion and feedback to the Enfield Business Retailers Association (EBRA) on 10 June 2015
- It was sent to the Over 50's Forum on 13 August 2015 to capture their feedback as part of the consultation

#### **1.1.2 Good Enforcement Practice**

The London Borough of Enfield is committed to following good enforcement practice. We recognise that robust enforcement is essential for public confidence in upholding the integrity of the regulatory regimes that we administer, but also that good, proportionate regulation is supportive to the economic vitality and growth of the economy and local businesses.

The London Borough of Enfield will not hesitate to take all necessary enforcement action against those who commit serious offences, flout the law, fail to follow advice or warnings to achieve compliance, or breach matters that are of key priority to the Council. If there is a serious or imminent risk of harm, danger, nuisance or injury then we will take immediate formal enforcement action as required.

We are more likely to offer advice or a warning in the first instance if the breach is not so serious as to require immediate enforcement action to address high risk or very harmful situations, if it is not a persistent or continuing breach, if there has been a history of good compliance or we are confident there will be compliance and is the most appropriate use of resources. There are however, breaches which the Council considers necessary to adopt a zero tolerance approach towards for the protection of the quality of life of its residents, and these will be enforced without giving a warning.

## Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires local authorities such as the London Borough of Enfield to have regard to the Principles of Good Regulation when exercising a specified regulatory function<sup>3</sup>. For local authorities, the specified functions include those carried out by our environmental health, trading standards and licensing services, but we have also extended these principles to other areas of enforcement as listed under the scope of the Policy.

We will exercise our regulatory activities in a way which is:

- (i) Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities,
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities. Targeted would also include activities based on intelligence lead work.

## Regulators' Code (BRDO, 2014)

The London Borough of Enfield has had regard to the [Regulators' Code](#) in the preparation of this policy. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

## Human Rights Act 1998

London Borough of Enfield is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

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<sup>3</sup> Specified by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, available at [www.legislation.gov.uk](http://www.legislation.gov.uk)



### **Data Protection Act 1998**

Where there is a need for the London Borough of Enfield to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1988.

### **The Code for Crown Prosecutors**

When deciding whether to prosecute the London Borough of Enfield has regard to the provisions of [The Code for Crown Prosecutors](#) as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test'.

1) Evidential Test - is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, the London Borough of Enfield will consider what evidence can be used in court and is reliable. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

2) Public Interest Test – is it in the public interest for the case to be brought to the court?

The London Borough of Enfield will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest factors and other relevant consideration that we take into account are listed in [Appendix A](#)

The enforcement options available to us and the public interest and other factors that we will take into account are detailed under the enforcement options available to us in [Appendix B](#)

### **Regulatory Enforcement and Sanctions Act 2008 ('the RES Act')**

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

#### **1.1.3 Regulatory Burdens**

The London Borough of Enfield is committed to avoiding unnecessary regulatory burdens and will seek to improve compliance:

- Legal requirements will be promptly communicated or otherwise made available upon request

- General information, advice and guidance will be provided in clear, concise and accessible language using a range of formats and media ensuring efficient use of resources.
- In responding to non-compliance the primary approach can be the offering of advice and guidance to help ensure compliance, without triggering further enforcement action.
- Advice will distinguish statutory requirements from guidance aimed at improvements above minimum statutory standards.

#### **1.1.4 Copies of this Policy**

This document is available electronically from the London Borough of Enfield website at [www.enfield.gov.uk](http://www.enfield.gov.uk).

Hard copies are available if required. Please send an email to [environmental.health@enfield.gov.uk](mailto:environmental.health@enfield.gov.uk) or by writing to:

London Borough of Enfield  
Regeneration & Environment Department  
Regulatory Services  
Civic Centre  
Silver Street  
Enfield  
Middx  
EN1 3XH

#### **1.1.5 Clear Accessible Advice and Guidance**

We will provide information and advice on the legislation that we enforce. It will be disseminated as widely as possible, through external web sites if appropriate, training courses and on the Council website at [www.enfield.gov.uk](http://www.enfield.gov.uk)

We will be open about the way we carry out our work, including any charges which we make within the services. We will discuss general issues, specific compliance failures or problems with those experiencing difficulties. We will provide an explanation unless any legal restrictions prevent us from discussing specific issues with you.

We believe that it is in the interests both of regulated businesses and the wider public to get things 'right first time', and that therefore our enforcement should involve actively working with all those subject to regulation, especially small and medium sized businesses, to guide and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name and carry proof of their identity.

## **2.0 What is this policy for?**

**2.1** This document communicates the local authority's policy in respect of its approach to dealing with non-compliance to:

- a) those affected by its activities; and
- b) officers of the local authority

Officers that undertake enforcement covered by this policy are trained and authorised to discharge enforcement powers on behalf of the local authority under our Scheme of Delegation, and authorised officers will act in accordance with this policy<sup>4</sup>.

## **3.0 When does this policy apply?**

### **3.1 Scope of the Policy**

**3.1.1** This policy covers the enforcement activities undertaken by the London Borough of Enfield in the following service areas:

- Environmental Health (Food Safety, Health and Safety, Private Sector Housing, Infectious diseases, animal welfare and animal disease control, nuisance, air quality, contaminated land)
- Additional and Selective Licensing
- Licensing Enforcement
- Trading Standards
- Enviro-Crime enforcement (enforcement of street scene issues and waste enforcement)
- Blue Badge Enforcement
- Highways Enforcement

**3.1.2** There are separate enforcement policies for:

- Planning Enforcement
- Management of vehicles crossing footways and verges without a properly constructed footway crossover and the enforcement of vehicles projecting onto the public footway from a forecourt
- Street-works Enforcement and Prosecution Policy
- Parking Enforcement [Parking and Traffic Policy - Draft - Enfield Council](#)  
[Parking and Traffic Policy - Downloads - Enfield Council](#)

### **3.2 Deviation from the Policy**

The Enforcement Policy will be followed for all the above listed areas of enforcement. The policy cannot be absolutely prescriptive because the circumstances of each individual case and the evidence available are likely to

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<sup>4</sup> Section 6.4, [Regulators' Code](#) (BRDO, 2013) requires regulators to have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.

vary substantially. This policy indicates what to expect by way of enforcement. If there is a need to deviate from the policy this will only be done where it is justifiable and the reasons are recorded.

#### **4.0 Our approach to dealing with non-compliance**

##### **4.1 Explanation of our approach to dealing with non-compliance**

- 4.1.1 We are more likely to offer advice or a warning in the first instance if the breach is not so serious as to require immediate enforcement action to address high risk or very harmful situations, if it is not a persistent or continuing breach, if there has been a history of good compliance or we are confident there will be compliance and is the most appropriate use of resources. There are however, breaches which the Council considers necessary to adopt a zero tolerance approach towards (see 4.1.4) for the protection of the quality of life of its residents, and these will be enforced without giving a warning.
- 4.1.2 Further to the above paragraph, when we give advice or warnings it will usually be verbally and/or written and give a reasonable period of time for the breaches to be rectified. If the breach has not been rectified after that time and the breach warrants further action we will usually serve a formal enforcement notice. This details what the breach is, what needs to be done to remedy it, gives a reasonable period of time for compliance and will provide details of appeal provisions (if applicable) if the recipient disagrees with the notice. If the notice has not been complied with once the period for compliance in the notice has expired, we will usually prosecute for the offence.
- 4.1.3 However, Enfield Council will not hesitate to take all necessary enforcement action against those who commit serious offences, flout the law, fail to follow advice or warnings to achieve compliance, or breach matters that are of key priority to the Council. Also, if the breach presents a serious or imminent risk of harm, nuisance, danger or injury then we will respond by taking immediate formal enforcement action as needed (by the service of an immediate notice such as Stop, Seizure, Prohibition, Suspension or Abatement Notices).
- 4.1.4 There are some areas of work where the Council has a zero-tolerance approach and will enforce the breach when it first comes to our attention. This is for matters such as, for example, littering, flytipping and other waste offences, dog fouling, spitting and Blue Badge misuse.

##### **4.2 Clear Explanations of non-compliance and dialogue**

- 4.2.1 In taking informal and formal enforcement action, we seek to provide individuals and businesses with clear explanations of what the breach is, what action is needed and the reasons for this. We will also offer advice but differentiate between those matters that are legal requirements and those matters that are advice and good practice.
- 4.2.2 We will provide the individual/ business with an opportunity to discuss with us the advice given, actions required or decisions taken in relation to non-

compliance<sup>5</sup>, except where we need to take immediate enforcement action to respond to or prevent serious or imminent risk.

- 4.2.3 [Customer Service Standards](#) outline our approach and commitment to communicating with businesses and regulated persons.

### **4.3 Investigations and making enforcement decisions**

- 4.3.1 Our Scheme of Delegation details the arrangements for the authorisation of Council Officers to discharge the enforcement powers on behalf of the London Borough of Enfield.
- 4.3.2 Enforcement Officers will be authorised to undertake enforcement action once their line manager and the delegated authorising officer (usually a Director, Assistant Director or Head of Service) is satisfied that they are competent to do so. Assessment of their competency is based on a number of factors and can include a period of assessment, qualifications, experience and specific training.
- 4.3.3 Enforcement officers undertake investigations which are supervised by their line manager. Where formal notices are required this will usually be discussed with and agreed by a line manager; unless immediate action is needed, in which case it is reviewed after service of the notice.
- 4.3.4 Also, for those offences for which the Council has a zero-tolerance approach and are enforced by Fixed Penalty Notice (FPN) and Penalty Charge Notice (PCN), the Enforcement Officer will usually issue the FPN or PCN.
- 4.3.5 Enforcement Officers recommending instigation of a prosecution or offering of a simple caution will complete an investigation file and pass to their line manager who reviews the file against the policy and makes their recommendation. The file is then passed to the Head of Service to decide on whether to instigate a prosecution or offer a simple caution. If the Head of Service agrees with the decision to prosecute/ offer a caution s/he completes a decision sheet with their reasoning, having had regard to this Enforcement Policy and pass the file to the Council's Legal Services.

### **4.4 Liaison with other Regulators**

- 4.4.1 Where we have a shared or complementary role with other agencies (such as the Environment Agency, Health & Safety Executive, Transport for London, the Police and other boroughs in enforcing breaches, we will usually liaise with the other agencies to discuss the non-compliance and before we take any enforcement action. This may not be possible in cases where immediate enforcement action is required, in which case we will take the immediate enforcement action and inform the other agency afterwards.

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<sup>5</sup> Section 2.2, [Regulators' Code](#) (BRDO, 2013). The requirement to provide an opportunity for dialogue does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach, or where providing an opportunity for dialogue would be likely to defeat the purpose of the proposed enforcement action.

#### **4.5 Enforcement in relation to Council establishments and activities**

- 4.5.1 As explained previously, our approach to enforcement is a staged approach and will usually initially commence with informal action (oral and/or written advice) where appropriate. This is the same approach that we take in relation to premises, establishments and activities undertaken by the Council.
- 4.5.2 If informal action is not successful we would normally then progress to formal action. We have an agreed protocol to raise the non-compliance to be addressed with the relevant Council department. This is because legislation does not permit Enforcement Officers to take enforcement action against its own council (we cannot enforce against ourselves). However, this does not preclude other enforcement authorities from taking action and imposing penalties against the council. Such authorities include the Health and Safety Executive and the Environment Agency.

#### **4.6 Commitment to Equality and Diversity**

- 4.6.1 The London Borough of Enfield fully recognises the need and value in ensuring that we provide services that support, protect and do not disadvantage any community groups. The Council's [Equality and Diversity Policy](#) details our commitment.
- 4.6.2 In addition, all services and teams undertaking enforcement have completed retrospective Equalities Impact Assessments of their enforcement activities on the community and in particular on the protected characteristics, and we undertake predictive Equalities Impact Assessments for new enforcement activities.

#### **4.7 Publicising Enforcement Action**

- 4.7.1 We recognise that publicising our activities, including prosecution cases, will help to inform others and improve awareness and compliance. Research<sup>6</sup> has shown that publicising enforcement action increases public confidence and also acts as a deterrent to other criminals if they think that the consequence of committing crime is likely to result in publicity. We will issue press releases on our successful prosecutions, other issues of public interest and will 'name and praise' and 'name and shame' when it is legally possible and appropriate to do so. Issued press releases can be found on our website.

#### **4.8 Targeting of Enforcement**

- 4.8.1 The action that we choose to take depends upon the level of risk, seriousness of the breach, the particular circumstances and the approach of the business or person to dealing with the breach.

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<sup>6</sup> Publicising Criminal Convictions (Criminal Justice System publication – December 2009)  
[http://www.openeyecommunications.com/wp-content/uploads/2010/03/Publicising\\_Criminal\\_Convictions.pdf](http://www.openeyecommunications.com/wp-content/uploads/2010/03/Publicising_Criminal_Convictions.pdf)

- 4.8.2 Subject to the caveats in 4.1 above, we take a staged approach to enforcement where appropriate. However, will not hesitate to take all necessary enforcement action against those who commit serious offences, flout the law, fail to follow advice or warnings to achieve compliance, or breach matters that are of key priority to the Council. Also, if the breach presents a serious or imminent risk of harm, nuisance, danger or injury then we will respond by taking immediate formal enforcement action as required.
- 4.8.3 We recognise the importance of regulated individuals and businesses being able to seek advice from us to help them ensure that they are compliant. We wish to support businesses and individuals to achieve compliance, especially those that show willingness to do so. So in usual circumstances this request for advice would not trigger enforcement action from us. The only caveat to this would be if the non-compliance was so serious or presented an imminent risk of harm, danger or injury and we were not confident that the risk would be addressed, then we would take immediate enforcement action.

#### **4.9 Factors that influence our response to breaches**

- 4.9.1 We are committed to choosing the most proportionate approaches to breaches based on relevant factors such as business size and capacity<sup>7</sup>. We will take account of the size if appropriate, expertise and resources available to the business or individual in deciding the most appropriate advice to achieving compliance.
- 4.9.2 If the business is regulated by the Primary Authority Scheme we will follow any advice given to the business by the Primary Authority. If we need any clarification, have any concerns about the advice given or are proposing enforcement action we will discuss our concerns with the Primary Authority before taking any action unless there is an imminent risk of harm, danger or injury.
- 4.9.3 If we have provided businesses or regulated individuals with advice or guidance (informal action) and the breach is not serious we may either contact the business/individual to confirm that the breach has been rectified and make a record of this declaration or we may not visit again until the next programmed inspection/intervention/visit (if that is applicable). If the breach is more serious it is more likely that we will revisit to check that it has been rectified.
- 4.9.4 If another enforcement agency or body refers an issue to us, we will usually discuss this matter with the regulated individual or business to determine if any action is needed. Similarly, if we identified any issues that need to be referred to another enforcement agency we will usually discuss this with the business or individual and refer the enforcement matter to that agency.

#### **4.10 Assessment of incoming complaints of non-compliance**

- 4.10.1 In some teams we make an assessment of all incoming complaints about alleged non-compliance to determine whether they will be investigated. In deciding whether to investigate, we take into account factors such as:

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<sup>7</sup> Section 1.1, [Regulators' Code](#) (BRDO, 2014)

- the seriousness of the allegations,
- whether the complainant has provided their contact details (i.e. not anonymous),
- the previous history of the individual or business being complained about,
- whether a programmed inspection is due (if applicable)
- the impact on the community

## **5. Conduct of investigations**

### **5.1 Explanation of the processes for investigating alleged breaches**

5.1.1 All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to the London Borough of Enfield:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

### **5.2 Enforcement Powers**

5.2.1 For the vast majority of legislation that we enforce, we authorise Enforcement officers with powers set out in that legislation that assists them in their inspections and investigations. Such powers include powers of entry to gain access to land and premises, by force, with a warrant if required, powers to inspect premises, equipment and documents and seize equipment and documents if needed, powers to take samples, and powers to seek assistance and information from individuals. This is not an exhaustive list.

5.2.2 For the vast majority of legislation that we enforce, there are usually provisions where a person commits an offence of obstruction if they do not allow Enforcement officers to exercise their powers. If individuals or businesses obstruct Enforcement Officers in the course of their duties, the London Borough of Enfield views this very seriously. We are likely to instigate prosecution for obstruction offences if these persist once the person has been advised (orally or in writing) that they are committing the offence.

5.2.3 If Enforcement Officers need to seize items during the course of an investigation, they will ensure that the business/ individual is provided with a notice/letter detailing what items they have seized, under what legislation,



what the arrangements are for return of the items (if applicable) and the Officer's contact details. This will usually be provided at the time of seizing items, but in exceptional circumstances will be provided the next working day or as soon as practicable thereafter.

- 5.2.4 Our Enforcement Powers do not extend to the power of arrest. However, we work closely with the Police, UK Border Agency and other agencies that do have powers of arrest. If in the course of joint working with these agencies, if they discover offences that have a power of arrest, they make exercise those powers. Also, in circumstances where individuals refuse to give their name and address details or are suspected of causing fraud offences, we may call upon the Police to exercise their powers of arrest to assist us in these investigations.

### **5.3 Formal Interviews**

- 5.3.1 In the vast majority of cases that we investigate with a view to prosecution, where there is a statutory defence we will invite those suspected of causing offences to a formal interview conducted in accordance with the Code of Practice under the Police and Criminal Evidence Act 1984 (known as 'PACE Interviews'). This presents an opportunity for the suspect to detail any statutory defence they believe they have and offer explanations. PACE interviews are conducted under caution and are usually recorded (but may be handwritten), and suspects have the opportunity to have legal representation present. The record of interview is admissible as evidence in any subsequent prosecution. Copies of the recorded interview are provided to the suspect at the end of the interview or as soon as practicable afterwards. We will use the information provided by suspects in the PACE interview to help us consider if we pursue prosecution.
- 5.3.2 There are also provisions available to Enforcement Officers investigating offences under the Health and Safety at Work Act to formally interview individuals and companies under Section 20 of the Act who can assist with providing information. Such persons are required to answer such questions. The record of such interviews is admissible in evidence unless legal exceptions apply.

### **5.4 Statutory Time Limits for instigating prosecutions**

- 5.4.1 For the majority of the legislation that we enforce, there are time limits specified in the legislation within which we must commence prosecution proceedings by the laying of information before the court (details of the offence[s]).
- 5.4.2 For summary only cases, there is usually a 6 month time limit, although this can be varied by statute.
- 5.4.3 For either way or on indictment only offences (e.g. Fraud Act 2006, Health and Safety at Work etc. Act 1974 and Trade Marks Act 1994) there is usually no time limit imposed for bringing prosecution proceedings, but again this can be varied by statute. However, where there is no time limit we will endeavour not to delay bringing such proceedings.

## **5.5 Case Review**

- 5.5.1 In accordance with our legal duty we will continue to keep prosecution cases under review. Review is a continuing process and as prosecutors we will take account of any change in circumstances that occur as the case develops, including what becomes known of the defence case. If circumstances change during the course of the prosecution, we will review our decision as to whether to continue with the prosecution. The decision and the reasons for continuing or not will be recorded.

## **5.6 Case Progress**

- 5.6.1 We will endeavour to ensure that alleged offenders and witnesses are kept informed of the progress of investigations and prosecutions.

## **6. Decisions on enforcement action**

### **6.1 Range of Enforcement Actions available**

- 6.1.1 [Appendix B](#) details the enforcement actions available to us and when they will be used:
- a) Compliance Advice, Guidance and Support;
  - b) Voluntary Undertakings;
  - c) Statutory (Legal) Notices;
  - d) Financial penalties (e.g. Fixed Penalty Notice and Penalty Charge Notices);
  - e) Injunctive Actions/ Enforcement Orders;
  - f) Simple Caution;
  - g) Prosecution; and
  - h) Refusal/ Suspension/ Revocation of Licences

### **6.2 Explanation of how decisions are made on enforcement action**

- 6.2.1 In making decisions about the most appropriate enforcement action to take, we are mindful of the principles set out in the Macrory Review of Regulatory Penalties 2006 concerning sanctions and penalties. These principles are:
- a) aim to change the behaviour of the offender;
  - b) aim to eliminate any financial gain or benefit from non-compliance;
  - c) be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
  - d) be proportionate to the nature of the offence and the harm caused;
  - e) aim to restore the harm caused by regulatory non-compliance, where appropriate; and,
  - f) aim to deter future non-compliance.

6.2.2 When deciding on the enforcement action to be taken, we will consider the risk and seriousness posed by the offending, failure to take advice or warnings, deliberate non-compliance and flouting of the law.

6.2.3 In making enforcement decisions about offences under Health and Safety legislation, we will have regard to the HSE's Enforcement Management Model.

### **6.3.0 Explanation of how enforcement decisions are communicated to those affected**

6.3.1 We will provide a timely explanation in writing of any rights to representation or rights to appeal, and practical information on the process involved.

## **7. Review of this policy**

### **7.1 Details of when and how the policy will be reviewed**

7.1.1 This Policy will be reviewed 3 years after issue, or sooner if required. We will review the Policy by consulting with stakeholders such as outlined in paragraph 1.1.1 above.

## **8. Comments and Complaints**

### **8.1 Details of processes for complaints and appeals**

8.1.1 If persons wish to complain about a regulatory decision or feel that there has been a failure to act in accordance with the Regulators Code, in the first instance they are asked to discuss this with the Enforcement Officer or the Enforcement Officer's line manager. If they remain dissatisfied, then they can make a Corporate Complaint to our Complaints Manager:

Correspondence & Complaints Manager  
Environment Department  
PO Box 52  
Civic Centre  
Silver Street  
Enfield EN1 3XE  
020 8379 3540  
Email: [esgcomplaints@enfield.gov.uk](mailto:esgcomplaints@enfield.gov.uk)

8.1.2 If persons wish to complain about the conduct of an Enforcement Officer in the first instance they are asked to discuss this with the Enforcement Officer or the Enforcement Officer's line manager. If they remain dissatisfied, then they can make a Corporate Complaint to our Complaints Manager (whose details are above).

- 8.1.3 Feedback on this Enforcement Policy is welcomed, and if you wish to make any comments please email: [environmental.health@enfield.gov.uk](mailto:environmental.health@enfield.gov.uk).

## **Appendix A.            Consideration of factors for and against prosecution and enforcement actions**

The Code for Crown Prosecutors lists relevant considerations in the Public Interest Test such as:-

### **a) How serious is the offence committed?**

- The more serious the offence, the more likely it is that a prosecution is required
- Consideration should also be given to the culpability of the suspect and the harm posed

### **b) What is the level of culpability of the suspect?**

- The greater the suspect's level of culpability, the more likely it is that a prosecution is required
- The extent of involvement of the suspect
- Whether the offending was planned or pre-meditated
- The likelihood of continued offending, repeated or escalation of offending
- Whether other offences were committed during the investigation or prosecution process
- Previous criminal record or out of court disposals
- Suspects age (maturity or under 18 years old)
- The suspects mental or physical ill health now or at the time of offending making prosecution less likely – considered against the seriousness of the offence, whether it is likely to be repeated and the need to safeguard the public

### **c) What are the circumstances of and the harm caused to the victim?**

- The circumstances of the victim are highly relevant. The greater the vulnerability of the victim, the more likely it is that a prosecution is required
- This includes where a position of trust or authority exists between the suspect and victim
- A prosecution is also more likely if the offence has been committed against a victim who was at the time a person serving the public
- Prosecutors must also have regard to whether the offence was motivated by any form of discrimination
- Take account of the view of (any) victims and their family

- Take account of any adverse effect a prosecution would have on the victim's physical or mental health against the seriousness of the offence

**d) Was the suspect under the age of 18 at the time of the offence?**

- The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18.
- We will consider the best interests and welfare of the child or young person including whether a prosecution is likely to have an adverse impact on his or her future prospects that is disproportionate to the seriousness of the offending.
- We will have regard to the principal aim of the youth justice system which is to prevent offending by children and young people. Prosecutors must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child.
- As a starting point, the younger the suspect, the less likely it is that a prosecution is required. However, there may be circumstances which mean that notwithstanding the fact that the suspect is under 18, a prosecution is in the public interest. These include where the offence committed is serious, where the suspect's past record suggests that there are no suitable alternatives to prosecution, or where the absence of an admission means that out-of-court disposals which might have addressed the offending behaviour are not available.

**e) What is the impact on the community?**

- The greater the impact of the offending on the community, the more likely it is that a prosecution is required

**f) Is prosecution a proportionate response?**

- The cost to the local authority and wider criminal justice system compared to the likely penalty
- Consideration given to effective case management by just prosecuting the main suspects

**g) Do sources of information require protecting?**

- Special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information

The London Borough of Enfield will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest

factors that we will take into account are detailed under the enforcement options available to us in [Appendix B](#).

In addition, there are other factors we will consider in deciding on enforcement action. These are:-

- The consequences of non-compliance
- The effectiveness of various enforcement options, and the availability of other options (i.e. product recall)
- Whether there has been gross negligence and the ease with which the offence may have been avoided
- Obstruction of an Officer
- Targeting of vulnerable groups
- Where there is evidence that the offender was informed about the offence, advised in writing how to comply with the law and has failed to do so. These previous occasions may include any level of enforcement action.
- Failure to comply with formal notices served by the Council.
- Where Government or other public body guidance requires strict enforcement. Where there has been a serious risk of danger to life or limb.
- Where there has been a damage or risk of damage to the environment or to public health
- Where there has been a fatality or serious injury
- Where a particular contravention has caused serious public concern or is in contravention of the Council's key enforcement priorities (e.g. age restricted products, Littering, Blue Badge misuse and Fraud, spitting, dog fouling)
- Where there has been substantial financial gain

## **Appendix B. Enforcement Actions available in Respect of Criminal and Civil breaches**

### **A. Compliance Advice, Guidance and Support**

The London Borough of Enfield uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence.

The London Borough of Enfield recognises that where a business has entered into a partnership with a primary authority, the primary authority will provide compliance advice and support, and the London Borough of Enfield will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the primary authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, the London Borough of Enfield recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

### **B. Voluntary Undertakings**

The London Borough of Enfield may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The London Borough of Enfield will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

### **C. Statutory (Legal) Notices**

In respect of many breaches, the London Borough of Enfield has powers to issue statutory notices. These include: 'Suspension Notices', 'Seizure Notices', 'Prohibition Notices', 'Emergency Prohibition Notices', 'Abatement Notices' and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation any relevant appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.



#### **D. Financial penalties**

The London Borough of Enfield has powers to issue fixed penalty notices (FPN) and penalty charge notices (PCN) in respect of some breaches. A FPN or PCN is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty is not paid, we may commence criminal proceedings or take other enforcement action in respect of the breach. If a PCN is not paid we may take other enforcement action in respect of the breach.

If a fixed penalty or penalty charge notice is paid in respect of a breach, the London Borough of Enfield will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

The London Borough of Enfield is only able to issue fixed penalty notices and penalty charge notices where it has specific powers to do so. If fixed penalty notices or penalty charge notices are available, their issue is at the London Borough of Enfield's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

#### **E. Injunctive Actions, Enforcement Orders etc.**

In some circumstances the London Borough of Enfield may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

The London Borough of Enfield is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, the London Borough of Enfield will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

#### **F. Simple Caution**

The London Borough of Enfield has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, the London Borough of Enfield is likely to consider prosecution.

A simple caution will appear on the offender's criminal record. It is likely to influence how we and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a company) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with the Ministry of Justice Guidance on Simple Cautions for Adult Offenders

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/416068/cautions-guidance-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416068/cautions-guidance-2015.pdf) and other relevant guidance.

## **G. Prosecution**

The London Borough of Enfield may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute the London Borough of Enfield has regard to the provisions of [The Code for Crown Prosecutors](#) as issued by the Director of Public Prosecutions.

Prosecution will only be considered where the London Borough of Enfield is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

Before deciding that prosecution is appropriate, the London Borough of Enfield will consider all relevant circumstances carefully and will have regard to the public interest and other criteria as set out in [Appendix A](#).

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors or the Prohibition of persons running a Food Business.

## **H. Refusal/Suspension/Revocation of Licences**

The London Borough of Enfield issues a number of licences and permits. We also have a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment.

When considering future licence applications, the London Borough of Enfield may take previous breaches and enforcement action into account.

**MUNICIPAL YEAR 2015/2016 REPORT NO. 152****MEETING TITLE AND DATE:**

**Cabinet**  
**20 January 2016**

**Report of:**

Director of Finance, Resources  
and Customer Services

**Contact officer:**

Doug Ashworth      Tel: 020 8379 3184  
e-mail: [doug.ashworth@enfield.gov.uk](mailto:doug.ashworth@enfield.gov.uk)

<b>Agenda Part: 1</b>	<b>Item 8</b>
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<b>ASSET MANAGEMENT – POTENTIAL DISPOSAL OF COUNCIL OWNED PROPERTIES</b>
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<b>TRANCHE 6</b>
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<b>WARDS:</b> Various see Appendix <b>KD 3989</b>
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<b>Cabinet Member consulted:</b> Cllr. Stafford
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**1. EXECUTIVE SUMMARY**

This report seeks approval in principle to the sale of various Council properties listed in the Appendix, which are considered in the Council's overall best interests to sell, subject to satisfactory further evaluation and consultation, in order to assist in funding future capital spending.

**2. RECOMMENDATION**

- 2.1 That approval is given in principle to the disposal of those properties listed in the Appendix.
- 2.2 To delegate the method of sale and the approval of provisionally agreed terms of sale to the Cabinet Member for Finance and Efficiency in consultation with the Director of Finance, Resources and Customer Services.

### **3. BACKGROUND**

This is the sixth in a series of reports to Cabinet since December 2010. The general principles for consideration of retention, re-use or disposal of property have been set out in previous reports. The consideration of the properties put forward in this report has been approved by relevant Cabinet Members, Service Directors and the Corporate Asset Management Group.

More specific criteria to reach a final decision to sell now include;

- Consultation with Ward Members
- Consultation with affected users if appropriate
- Cash flow analysis of the worth of current or proposed rental income compared to a potential capital receipt.

### **4. PROPOSAL**

Properties recommended for potential disposal are listed in the Appendix.

### **5. ALTERNATIVE OPTIONS CONSIDERED**

Retention of property without regular review is clearly not in the Council's business interests. If property is not disposed of, it would cause a reduction in capital spending or increased borrowing. However evaluation of individual cases may result in retention being the better option.

### **6. REASONS FOR RECOMMENDATIONS**

Potential disposal of the properties is recommended as being in the Council's best financial interests balanced against service and community needs.

### **7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

#### **7.1 Financial Implications**

7.1.1 Appendix 1 of the report contains a list of potential disposals. Each disposal will be evaluated to determine whether the disposal offers value for money.

7.1.2 The proceeds from disposals will be one off and used to fund the existing capital programme. The alternative method for funding the programme would be to borrow and the current cost of borrowing is estimated at 7.5% p.a including interest and MRP.

7.1.3 Eligible costs associated with disposals can be offset against the receipt up to a maximum of 4% of the sale price for each disposal. The expenditure will be closely monitored to ensure that all appropriate costs are offset against the capital receipts.

## **7.2 Legal Implications**

- 7.2.1 By Section 123 of the Local Government Act 1972 ("S.123 LGA") and/or Section 1 of the Localism Act 2011 the Council has the power to dispose of land in any manner it wishes, subject to certain provisions.
- 7.2.2 The Council has a statutory duty to obtain the best price reasonably obtainable, subject to certain exemptions.
- 7.2.3 In accordance with the Council's Property Procedure Rules the inclusion of property on the disposals programme requires approval either by the appropriate Cabinet member or by Cabinet itself.
- 7.2.4. All disposals should be made on a competitive basis, unless justified and approved otherwise, as required by the Property Procedure Rules.
- 7.2.5 In respect of properties held within the Housing Revenue Account, a specific consent to disposal will be required from the Department for Communities and Local Government (DCLG) unless the properties fall within one of the categories of disposal permitted by the General Housing Consents 2013. Before giving a specific consent (if one is required) it is likely the DCLG will require to be satisfied as to the arrangements for future provision of accommodation for any remaining occupiers and will require details of the proposed purchaser and the nature of the disposal.
- 7.2.6 Some disposals may be subject to conditions such as the grant of planning permission which will be a pre-requisite to the completion of the disposal and the receipt of the sale proceeds.
- 7.2.7 Contracts for sale will be in a form approved by the Assistant Director (Legal and Governance Services).

## **7.3 Property Implications**

The Assistant Director of Finance, Resources and Customer Services (Property Services) will confirm that the proposed terms of individual sales comply with statutory duties and the Council's Property Procedure Rules.

## **8. KEY RISKS**

The risk of property disposals not providing the necessary proceeds to fund the approved Capital Programme will be mitigated as far as possible by prudent budget setting and processes for review and monitoring of progress and assessment of market conditions.

**9. IMPACT ON COUNCIL PRIORITIES**

**9.1 Fairness for All**

The sale of property generates capital receipts, which are used to fund spending priorities within the Council, helping protect services essential to those most disadvantaged in the borough.

**9.2 Growth and Sustainability**

Residential redevelopment will be appropriate for some for some of the property to be sold, which increases the housing stock, producing more sustainable and carbon efficient homes. The disposal of property for development attracts inward investment and funding and boosts local economic activity.

**9.3 Strong Communities**

Capital receipts help fund capital projects that assist the Council in building strong communities.

**10. EQUALITIES IMPACT ASSESSMENT**

Equality Impact Assessments will be conducted on individual properties where appropriate and considered in the Delegated Authority Reports that authorise the terms of disposal.

**11. PERFORMANCE MANAGEMENT IMPLICATIONS**

Rationalisation and more efficient use of property will contribute to improving service delivery to assist in meeting the Council's objectives.

**12. PUBLIC HEALTH IMPLICATIONS**

Public Health Implications will be considered in the Delegated Authority Reports that authorise the terms of disposal of individual properties.

**13. HEALTH AND SAFETY IMPLICATIONS**

Health and Safety Implications are considered in the evaluation of properties and will be reported in the Delegated Authority Reports that authorise the terms of disposal of individual property.

**Background Papers**

None.

## APPENDIX

### Tranche 6 Listing

1. Former caretakers house, Nightingale Road, Edmonton
2. 1 & 2 North Lodge Cottages, The Ridgeway
3. Land @ Barnet Road, Hertsmere
4. Land @ 9 Park Avenue
5. Whitefields Road, Cheshunt , Infill plots
6. 245/247 Chase Road, Southgate
7. 29 Folkestone Road
8. St Stephens Road, Enfield Highway

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## MUNICIPAL YEAR 2015/2016 REPORT NO. **153**

**MEETING TITLE AND DATE:**Cabinet 20<sup>th</sup> January 2016**REPORT OF:**

Director of Health,  
Housing and Adult Social  
Care and Director of  
Finance, Resources and  
Customer Services

**Agenda – Part: 1****Item: 9****Subject: Flexible Housing****Wards: All****Key Decision No: KD 4238****Cabinet Member consulted: Cllr Oykenner,  
Cllr Stafford**

Contact officer and telephone number: Bindi Nagra (020 8379 5298)

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**1. EXECUTIVE SUMMARY**

- 1.1 There are increasing pressures on housing supply in Enfield; in particular, pressure on temporary accommodation has increased significantly after a period of declining numbers and relative stability. At the end of September 2015 Enfield was ranked 5<sup>th</sup> highest nationally for the number of families in temporary accommodation, equating to 2930 families, most of which are housed in the Private Rented Sector.
- 1.2 The demand for temporary accommodation is forecast to continue to increase which poses significant budget pressures for the Council and will increase the number of expensive emergency units required, unless urgent action is taken to provide a more cost effective alternative.
- 1.3 The increasing prevalence of new, modern types of construction offers an exciting opportunity for the Council to secure quick build, flexible, energy efficient and environmentally friendly accommodation built off site at a faster rate than standard methods of construction would allow.
- 1.4 It is proposed that the Council progresses plans for “flexible, quick build housing” to secure short term, cost effective accommodation to help meet the rising demand for accommodation. Flexible housing can take a number of forms including temporary, relocatable modular accommodation. This will also enable the Council to make use of under-utilised sites.
- 1.5 Two options are being considered: the Council could lease units to use as temporary accommodation or Housing Gateway could lease or purchase units that the Council could then use to discharge its statutory homeless duties or enter into a lease arrangement with Housing Gateway to use the units as temporary accommodation. The approach will be determined by the financial viability and an assessment of the risk profile of each option; however, initial financial modelling indicates that purchase of the units by Housing Gateway would be most financially viable. The Council would be required to provide a suitable site for the units on a temporary basis.

- 1.6 The development of flexible housing will complement existing initiatives to respond to housing pressures, including the purchase and renovation of properties by Housing Gateway, development of new build units by Enfield Innovations and borough wide negotiations on the cost of Nightly Paid Accommodation (NPA).
- 1.7 The Council has worked with Social Finance to undertake some initial financial analysis to guide discussions. This has been based on a number of assumptions and is not attributable to any particular site at this stage. A robust financial model will be required for individual sites to take account of specific site set up costs, unit costs, scheme lengths and the specification, which are all variables which will impact on the financial model and may differ between schemes.
- 1.8 The initial financial analysis indicates that a flexible housing scheme has the potential to be financially viable for the Council and additionally reduce temporary accommodation budget pressures. Financial viability is likely to improve as the scheme length increases but the extent of which will vary based on individual sites. Plans are in the early stages, however, approval of the concept and the key principles for the units and the site is sought to inform more detailed work and enable the Council to progress a competitive procurement process, to confirm unit costs and then develop robust financial models for specific sites as they are identified.

## **2. RECOMMENDATIONS**

Cabinet is invited to:

- 2.1 Agree the principle of providing flexible accommodation in response to increasing budget pressures and housing demand, subject to individual schemes being financially viable and providing a cost effective alternative to Nightly Paid Accommodation.
- 2.2 Agree the principles for the units and site requirements to inform the procurement specification and site search, as outlined in section 3.21.
- 2.3 Note that subsequent award of a contract for the provision of units and the allocation of funding will be subject to Cabinet approval.
- 2.4 Note that initial financial analysis indicates that a flexible housing scheme has the potential to be financially viable; however, viability is influenced by a number of variables so a robust financial model will be produced for each scheme based on accurate costs.
- 2.5 Delegate authority to the Director of Finance, Resources and Customer Services and the Cabinet Member for Finance and Efficiency [and where the sites relate to HRA land in addition Cabinet Member for Housing and Housing

Regeneration and Director of Regeneration and Environment], to approve the site selections for flexible housing, subject to obtaining necessary planning consents.

- 2.6 Approve a variation in the remit of Housing Gateway to permit the purchase of flexible accommodation and delegate to the shareholder representative, the Assistant Director of Legal and Governance, to notify the company of this decision.

### 3. BACKGROUND

#### Housing Context

- 3.1 There are increasing pressures on housing supply in Enfield; in particular, pressure on temporary accommodation has increased significantly after a period of declining numbers and relative stability. At the end of September 2015 Enfield was ranked 5<sup>th</sup> highest nationally for the number of families in temporary accommodation, equating to 2930 families, most of which are housed in the Private Rented Sector.

Measure	Total Q2 (30/09/15)
Number of families in temporary accommodation	2930
Number of people in temporary accommodation	10,137
Number of families in Nightly Paid Accommodation	1414

- 3.2 As shown by the breakdown of existing placements, demand is highest for 2 and 3 bedroom units, equating to 66% of the total.

Number of bedrooms	No	%
0	187	6.3%
1	470	16%
2	969	33%
3	972	33%
4	218	7.4%
5	14	0.4%
6	1	0.5%

Self-contained/shared facilities	99	3.4%
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- 3.3 Nightly Paid Accommodation (NPA) continues to be the most expensive form of temporary accommodation, with costs increasing with bedroom size.
- 3.4 Furthermore, the demand for temporary accommodation is forecast to continue to increase, which will result in an increase in the number of emergency units required unless action is taken to provide a more cost effective alternative. Whilst the number of homeless applications received in 15/16 is expected to be similar to 14/15, the number of homeless acceptances is expected to be much greater (639 in 14/15 and 1324 expected in 15/16).

Measure	14/15	15/16 Forecast
Total no. Homeless Applications received	1501	1427 <i>Actual April – September 2015: 714</i>
Total no. homeless acceptances	639	1324 <i>Actual April – September 2015: 536</i>
Total no. leased properties (PSL leased, hostels or privately leased annexes)	April 2014 – 1461 March 2015 – 1375 Average: 1432	1556 <i>September 2015: 1324</i>
Total no. emergency accommodation	April 2014 – 569 March 2015 – 1228 Average: 916	1639 <i>September 2015: 1512</i>

- 3.5 In response to the increasing pressures on local housing supply, Enfield Council has launched a number of initiatives seeking to secure more value for money accommodation for local residents. This has included the creation of a local authority housing company – Housing Gateway – which is acquiring existing properties, renovating them to an appropriate standard and then enabling the Council to discharge its statutory homeless duties into this private rented sector accommodation. In addition, borough wide negotiations are taking place regarding the cost of placements in an attempt to reduce the cost of Nightly Paid Accommodation.
- 3.6 However, as the number of families requiring temporary accommodation is increasing at a faster rate than anticipated resulting in an estimated budget pressure of £5.3m in 16/17 rising to £13.2m in

17/18, additional urgent action is required to respond to these pressures.

### Flexible Housing

- 3.7 The increasing prevalence of new, modern types of construction offers an exciting opportunity for the Council to secure quick build, flexible, energy efficient and environmentally friendly accommodation built off site at a faster rate than standard methods of construction would allow. 'Flexible housing' can be used to help Enfield meet the rising demand for accommodation and provide greater value for money from temporary accommodation. Flexible housing can take a number of forms from temporary, relocatable volumetric accommodation to mobile homes.
- 3.8 Essentially flexible accommodation refers to temporary structures that can be transported between sites if required and can make use of under-utilised space and limited resources. As they are built off site in a factory environment they can be delivered more rapidly and generally require less capital investment than new build units, making them a cost effective short term solution.
- 3.9 Flexible housing is a relatively new concept in the UK, though has been used to provide student and event accommodation for many years in other parts of the world. There are a range of products available, with a variety of designs, some including cladding and green roofs to ensure the units are more aesthetically pleasing, whereas others are prefabricated steel modules. The units can be designed so that they complement the characteristics of the local area and comply with planning requirements.
- 3.10 Existing providers offer the option of leasing or purchasing the units and take responsibility for delivery and set up on site. However, the Council would be required to provide the land.

### Benefits

- 3.11 Flexible housing offers a number of benefits, particularly in the context of Enfield's increasing demand for housing.
- 3.12 **Flexibility** – the units can be moved around the borough as housing needs or site requirements change. Additional elements can also be added or removed if the bedroom size requirements change.
- 3.13 **Pace** – as the units are temporary structures developed off site, they can be constructed and delivered more rapidly than traditional methods of construction.

- 3.14 **Off-site construction** – as the units are developed off-site in factory environments, the construction is less likely to be affected by adverse weather conditions therefore mitigating against delays.
- 3.15 **Site utilisation** – the units can be designed to meet the site and stacked to optimise the use of the site. As the units are flexible they can also enable the Council to utilise a site for a temporary period, for example, if there are regeneration plans for a site in the medium term.

### Constraints

- 3.16 Whilst flexible housing offers a number of benefits, as outlined above, there are some constraints that will need to be considered as part of the individual site appraisal.
- 3.17 **Room size** – the room sizes are typically smaller in temporary structures, so a minimum size requirement will need to be agreed and then consideration given to effective space utilisation.
- 3.18 **Transportation** – the units will be built off site and delivered to site, so the site will require appropriate access routes for large delivery vehicles.
- 3.19 **Site conditions** – utilities will be required on each site, so if these are not available time and funding will need to be allowed for installation.
- 3.20 **Local amenities** – as a number of units will be co-located on a single site resulting in the development of a temporary community, the sites will need to be close to local amenities and good transport links.

### Principles

- 3.21 To guide the exploration of potential sites and the procurement specification a set of guiding principles for flexible housing are proposed:

#### ***Units:***

- Unit size must meet minimum planning standards for temporary structures
- Each unit must have at least one bathroom
- Accommodation must meet minimum safety standards for housing
- Requires efficient heating and effective insulation
- All units must be in a reasonable state of repair with reasonably modern facilities and services
- All units must be durable, re-locatable and adaptable if housing needs change
- Initially, priority to be given to 2 and 3 bedroom units to reflect the greatest demand and cost.

**Site:**

- Sites in Enfield or within the surrounding area at a commutable distance
- Preferable for the site to be flat covered in concrete to reduce set up costs, however, sites with a slight slope, undulating concrete, hardcore or soil will be considered where there is a reasonable footing
- Each site must be accessed safely
- Water, drainage and electricity is required on the site or the site offers the potential to add this
- Access to the site is possible by large vehicles/cranes to deliver the units
- Accessible public transport and local amenities
- Able to accommodate the number of units required to deliver financial viability. This will be determined by the cost of site set up work and the units
- Available for a minimum of 2 years.
- To provide a business case where the site has other potential for development'.

**Factors for Consideration**

- 3.22 A number of sites have been considered to date; however, further work is required to explore the sites deemed to be potentially viable and to expand the search to ensure there are sufficient suitable sites available for flexible housing.
- 3.23 Despite the units being temporary structures and flexible in nature, planning permission will be required as the units will be stationary and therefore need to complement the surroundings and comply with planning policy. Detailed planning advice will need to be sought for all potential sites and a planning application will be required for each, so the approval process will need to be factored into plans (approximately 4-5 months per site).
- 3.24 The Council will be required to undertake an OJEU tender (Official Journal of the European Union) to appoint a provider to supply the units, either via sale or lease option. This process will take approximately 3 months.
- 3.25 Two options are being considered: the Council could lease units to use as temporary accommodation or Housing Gateway could lease or purchase units that the Council could then use to discharge its statutory homeless duties or enter into a lease arrangement with Housing Gateway to use the units as temporary accommodation. Legal advice has been obtained which confirms that both are viable options, providing that the accommodation is suitable. The Council is able to discharge statutory housing duties into a temporary unit if affordability, location and accommodation standards are appropriate. If the tenancy

was with Housing Gateway both a lease or purchase option would apply. It is proposed that the model of lease/purchase will be determined by the financial model based on the most financially advantageous option for the Council and the consideration of the priorities for the Council (e.g. reduction in temporary accommodation numbers v more affordable provision, type of units selected).

- 3.26 The Council has worked with Social Finance to undertake some initial financial analysis based on a number of assumptions, to assess whether flexible housing has the potential to be financially viable and to determine whether schemes of this nature should be explored further.
- 3.27 The initial financial analysis, based on assumptions from comparative schemes and estimated costs shared from potential providers, indicates that flexible housing does have the potential to be financially viable so is worthy of further exploration. However, a robust financial model will be required for individual sites as viability is influenced by a number of variables including: site set up costs; unit size; number of units; length of scheme; unit cost and; unit specification.
- 3.28 The initial financial analysis has also demonstrated that viability is influenced by whether the units are leased or purchased based on the particular scheme variables. Consideration will therefore need to be given to the most appropriate model following a competitive procurement process and the development of a site specific financial model.
- 3.29 In addition to the potential for the scheme to be self-financing or in some cases generating a surplus, the Council will reduce temporary accommodation budget pressures, by moving families out of expensive Nightly Paid Accommodation.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could decide not to take any further management action. This is not considered a viable option as it would not address the significant budget pressures facing temporary accommodation and the demand for housing.
- 4.2 A number of other initiatives have been developed to respond to the increasing demand for housing and the budget pressures this results in. This has included the creation of a local authority company – Housing Gateway – to purchase and renovate existing properties that the Council can then use to discharge its statutory duties. In addition, information and advice is available to those affected by the Government's welfare reforms and borough wide negotiations have been undertaken regarding the cost of Nightly Paid Accommodation.
- 4.3 The Council could consider charging market rent, rather than rent equivalent to Local Housing Allowance to enhance financial viability.



However, this is not a viable option as market rent would not be affordable to the target group and would therefore be unsustainable.

- 4.4 The Council could invest in further development schemes either directly via its local authority companies (Housing Gateway or Enfield Innovations), however, a number of new build developments are already underway and due to the demand for housing urgent action is required to supplement schemes already underway or planned.

## **5. REASONS FOR RECOMMENDATIONS**

- 5.1 There is a shortage of cost effective, value for money temporary accommodation in the borough, so rents are increasing, placing significant budgetary pressure on the Council.
- 5.2 Despite a number of interventions by the Council, the number of households requiring temporary accommodation or at risk of homelessness in Enfield is expected to increase over the coming years. At the end of September 2015 Enfield had 2930 families in temporary accommodation which is the 5<sup>th</sup> highest nationally. The Council therefore needs to identify additional cost effective housing stock to meet local needs.
- 5.3 The proposed principles provide the parameters for the site search and procurement specification to enable the concept of flexible housing to be progressed.
- 5.4 Independent legal and financial advice is being sought in the production of the business case, to ensure compliance and the production of a robust financial model that can form the basis of site appraisals.
- 5.5 Whilst the Council has an urgent and pressing need for additional cost effective accommodation at present, housing needs may change in the future. The development of a flexible housing scheme will therefore enable the Council to respond to any changes in demand more easily than if permanent structures were used.
- 5.6 A phased approach to the development of flexible housing schemes will be undertaken to manage risk and help to prevent unintended consequences on the local housing market.
- 5.7 An individual business case will be produced for each site, to consider financial viability, planning implications and the impact on local amenities. However, based on assumptions informed by comparative schemes and indicative costs from providers, the initial financial analysis indicates that a flexible housing scheme has the potential to be financially viable and reduce temporary accommodation budget pressures, so is worthy of further exploration.

**6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

**6.1 Financial Implications**

- 6.1.1 An analysis of whether flexible housing has the potential to be financially viable has begun but is based on many assumptions. In addition a Financial Model will be required to analyse factors such as the cost of investment, financing costs, land availability and the duration of the land usage.
- 6.1.2 It is recognised that procuring a scheme can generate potential savings and lead to cost avoidance, however each scheme must be reviewed on an individual basis and judged on its own merits.

**6.2 Legal Implications**

- 6.2.1 Legal advice has been obtained to inform the development of an outline model for flexible housing. Further legal advice will be obtained if the development of flexible housing progresses.
- 6.2.2 The Council is considering two options: the Council directly leasing/purchasing the units and using these as temporary accommodation or Housing Gateway leasing/purchasing the units enabling the Council to discharge its statutory homeless duties into the units. The chosen model will be informed by legal advice and consideration of the financial viability of each option and which is most advantageous to the Council.
- 6.2.3 In principle the Council can discharge its statutory housing duties into a temporary unit, subject to the unit being compliant with the required conditions for housing. As per Section 206 Housing Act 1996 and paragraph 17.2 Homelessness Code, the accommodation secured by the Council must be suitable for the applicant and all members of their household who reside with them or might reasonably be expected to reside with them. This will include consideration of affordability, the standard of the accommodation and location and a non-statutory consideration of personal circumstances. The conditions required for a suitable housing offer to enable the Council to fulfil its duties do not exclude flexible housing but the design and size of the units will need to be considered to ensure that they are suitable.

- 6.2.4 The most relevant legal implication to consider when assessing whether units should be leased or purchased is Right to Buy. Right to Buy will not apply to the flexible units if the units are leased by the Council or if they are purchased/leased by Housing Gateway. However, the Council should not base any decision that the units should be purchased/leased by Housing Gateway on the grounds that Right to Buy will not apply. Any decision should be on the basis of a business justification for using Housing Gateway.
- 6.2.5 If the Council decides to use Housing Gateway to lease/purchase the units, a formal decision at Cabinet to change the company's remit would be recommended.

### **6.3 Property Implications**

- 6.3.1 The principle of using vacant and underused sites for flexible homes for a temporary period to relieve the revenue pressures of the Council is in line with best practice and good asset management where a meanwhile use can be put in place on a site whilst in the interim a final solution for the site is worked up. This is, however, dependent on gaining planning permission.
- 6.3.2 Title conditions should be investigated for each site. This should reveal any title discrepancies, charges, covenants and rights of way. However, it may be prudent for the Council to invest in title indemnity cover to guard itself against any unforeseen onerous title conditions that may have been overlooked.
- 6.3.3 Various surveys and site due diligence will be required on each site to assess ground conditions and services running through that may require diversions and alternative routing for the development.
- 6.3.4 It is essential that throughout the procurement process of these surveys that the Invitation to Tender (ITT) documents has clauses inserted within them that allow the novation of contracts and works to third parties and the Council obtains collateral warranties from all suppliers.
- 6.3.5 Assessments of ground conditions will be undertaken on a site by site basis and costed in accordance to the specifications required from the flexible housing development partner.
- 6.3.6 The remit of the Council is to provide a flat workable site with services running to the perimeter. In some instances because of the temporary nature of the units, it may be prudent to design in solutions such as a cesspit for example, for foul water and drainage if the cost of connecting to a main sewer system proves unviable both financially or logistically.

- 6.3.7 Bilfinger GVA property consultancy can be brought in at agreed Co Sourced competitive rates to assist in the planning process so that all documents and the planning interface with the Local Planning Authority can be streamlined to provide an effective single point of contact.
- 6.3.8 Several of the shortlisted sites are difficult in terms of planning restrictions/hurdles to overcome before a temporary planning application can be submitted for flexible homes, which includes changes of use applications.
- 6.3.9 It may be necessary to undertake acquisitions of land where sites come to the market. In these instances the acquisition will follow the Property procedure Rules.
- 6.3.10 All the units procured from the flexible homes supplier should meet the London Housing Design guide, which sets out design standards and room sizes.
- 6.3.11 Flexible housing presents a different maintenance and monitoring regime and this will need to be undertaken in accordance with BRE Digest 374 1992.

## 7. KEY RISKS

A comprehensive risk register has been developed and is reviewed on a monthly basis by the Project Board. However, the key risks associated with the development of flexible housing are outlined below.

- 7.1 **Housing needs change and demand for temporary housing reduces.** This is mitigated by the pursuit of temporary structures that can be relocated or removed as required. A review has also been undertaken on past trends to inform discussions.
- 7.2 **Purchase/leasing of temporary units is not cost effective for the Council.** This will be addressed by developing a robust financial model that captures all expected income and expenditure to inform the decision on a site by site basis.
- 7.3 **Planning permission is not granted which prevents the delivery of flexible accommodation.** This will be mitigated by early engagement with planners regarding potential sites and an extensive site options appraisal.
- 7.4 **The Council and communities become reliant on the temporary units and cannot respond to the demand for housing in the future when the units are removed.** This will be addressed by continuing to address the demand for housing in a number of ways (e.g. purchase of existing units, borough wide price negotiations etc) and considering

what is an appropriate number of units on each site, taking into consideration existing local infrastructure.

**7.5 There prevalence of anti-social behaviour on the flexible housing sites.** This will be mitigated by the design of each site and the density pursued.

**7.6 The provision of flexible housing has an adverse impact on the local housing market.** This will be addressed by engaging with Property Services to monitor the impact on the local market and also paying careful consideration to the number of flexible units pursued.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

This project will enable the Council to increase the supply of value for money accommodation to respond to the increased demand for housing. By providing temporary units that comply with necessary planning and design standards, the Council will be able to prevent homelessness and increase access to accommodation for some of the most vulnerable residents in the borough.

### **8.2 Growth and Sustainability**

Access to housing is a key aspect of a person's health and wellbeing. By providing residents with a fixed address and well maintained accommodation for a temporary period, it will improve health and wellbeing and prospects of securing employment.

### **8.3 Strong Communities**

By increasing the supply of homes that the Council can access within the borough and the surrounding area, this will increase opportunities for local residents to access employment and training and thus reduce the likelihood of them requiring additional services from the Council.

## **9. EQUALITIES IMPACT IMPLICATIONS**

An overarching Equalities Impact Assessment will be produced when the outcome of the tender is known, to inform decisions regarding financial investment. Allocations to individual units will be made in line with Council policies, which have also been equality impact assessed.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

Through this project the Council has the opportunity to reduce the number of households in temporary accommodation and provide suitable accommodation for some of the most vulnerable residents. This in turn, provides the opportunity for the Council to make a positive impact for wider objectives, such as reducing employment and improving health and wellbeing.

## **11. HEALTH AND SAFETY IMPLICATIONS**

All units will comply with housing safety standards, in line with the proposed principles.

## **13. PUBLIC HEALTH IMPLICATIONS**

The costs of poor housing are complex and difficult to quantify precisely; the life-expectancy of those who are homeless is approximately 30 years less than the wider population but for those in poorer or temporary accommodation the impact will depend on the quality of accommodation and the security of temporary accommodation. Poor quality accommodation is associated with a number of conditions for both adults and children including respiratory conditions and depression. Education in children has also been shown to be adversely affected.

The provision of further accommodation where there is a shortage of housing will be useful though the effect will be difficult to quantify and will depend on the quality of accommodation provided and the security of tenure. However, assuming that the accommodation meets modern housing standards it can be assumed that for those provided the accommodation will have a positive effect on their health.

## **Further Background Information**

The following are links to potential providers, to provide an indication of the variations of flexible housing available on the market. However, it should be noted that this is not an extensive list of providers and a competitive process will be undertake if approval to proceed is received.

<http://www.ymcalsw.org/ycube/>

<http://www.digs2go.co.uk/>

<http://www.qedproperty.com/>

<http://admodular.com/>

## **Background Papers**

None.

# MUNICIPAL YEAR 2015/2016 REPORT NO. 154

## MEETING TITLE AND DATE:

**CABINET – 20<sup>th</sup> January 2016**

## JOINT REPORT OF:

### Director of:

Finance, Resources and  
Customer Services and  
The Chief Education Officer

**Agenda - Part: 1**

**Item 10**

**Upper Secondary Autism Provision  
(USAP)**

**KD 4209**

**WARD: All**

### **Cabinet Members consulted:**

Cllrs Orhan & Stafford

### **Contact officers:**

Mohammed Lais Tel: 0208-379-4004 email: [mohammed.lais@enfield.gov.uk](mailto:mohammed.lais@enfield.gov.uk)

Gary Barnes Tel: 0208-379 4250 email: [gary.barnes@enfield.gov.uk](mailto:gary.barnes@enfield.gov.uk)

## **1. EXECUTIVE SUMMARY**

- 1.1 This report is part of the Council's wider strategy to meet the needs of the increasing numbers of pupils with Autism in the borough. It proposes an innovative partnership approach to the provision for older secondary aged pupils with complex needs as they make the transfer to adulthood.
- 1.2 The key aim of this report is that Cabinet agree to the strategy contained herein that will allow additional school places for children and young people and give them the opportunity to stay within the Borough and be educated as well as preparing the Council for the implications of the Children and Families Act 2014.
- 1.3 Authority was sought and granted (Key Decision 3960) on the 11<sup>th</sup> September 2014 to enter into a short term year lease with Barnet and Southgate College for the Farbey Building at the former Minchenden School ('The Property').
- 1.4 This report now seeks the Authority of the Cabinet and Council for the freehold acquisition of the former Minchenden School site to fulfil the requirements of rising ASD places that are needed in the Borough.
- 1.5 A high level internal feasibility has been carried out for the use of the Farbey Building at Minchenden as a Special School and to adapt it so that pupils of the ASD can fully benefit The Property and surrounding infrastructure.
- 1.6 The availability of this site within the Borough represents a unique opportunity for the Council to address an identified need for additional

pupil places and it is anticipated that this site will make a strong contribution to reducing the demand for costly out-of-borough placements and generate cost reductions of placements.

- 1.7 The need for additional Special School places in the Borough was identified within the July 2015 Cabinet report on school places (KD4141) and recognises that the Minchenden School site is ideal for this provision. It is recommended within that Report that Officers are authorised to conduct any necessary land transactions, including acquisitions by way of freehold or leasehold, as individual schemes are developed to enable the delivery of the Council's Statutory Duty to provide school places.
- 1.8 Development options of Council assets in the wider Southgate Circus area are outlined in brief within this report with a further report to Cabinet and Council in late Summer outlining the detailed business case to support the delivery of the USAP at Minchenden Special School.
- 1.9 The purchase of this site will ensure the Council can continue to meet the statutory duty to provide sufficient places to meet anticipated demand for school places.
- 1.10 It is proposed to acquire the site to add to the Council's Corporate Property portfolio.
- 1.11 Approval is required to add these projects (Minchenden and Southgate Circus Library Project) to the Capital Programme and fund the acquisition. A further report to Cabinet in late Summer 2016 will present the detailed business case for the overall development model.

## 2. RECOMMENDATION

It is recommended that Cabinet:

- 2.1 Notes the rise and demand for places at the higher end of the Autistic Disorder Spectrum and associated costs.
- 2.2 approves the Council's acquisition of the freehold interest in the land and buildings that form all of Minchenden School (plan edged red as shown at appendix 1) which are owned by the Barnet and Southgate College on the terms detailed within the Part 2 report and further approves the total acquisition budget also detailed within the Part 2 report and;
  - i) Recommends that Council approves the addition of funds to the Capital Programme as detailed within the Part 2 report for the acquisition of land and;
  - ii) Recommends that Council approves the addition of funds to the Capital Programme as detailed within the Part 2 report for the additional feasibility work to the Farbey Building, the Mews Building and part of



Leigh Hunt Drive Car Park for the Minchenden ASD Provision.

- iii) Delegates Authority to the Cabinet Members for Finance and Efficiency, Education, Children's Services and Protection in conjunction with the Director of Finance, Resources and Customer Services and the Chief Education Officer to approve the final terms and structure of the transaction in accordance with the Council's Property Procedure Rules.

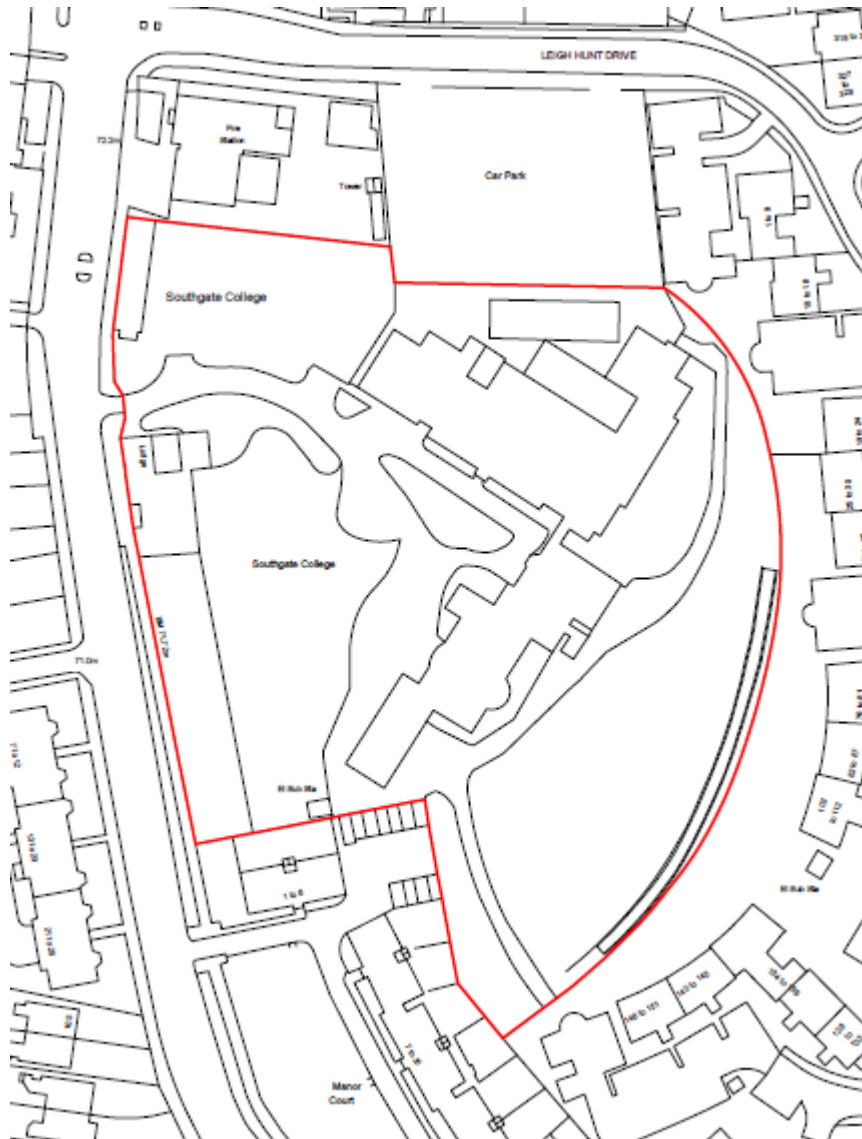
2.3 approves in principal (subject to feasibility and further report to Cabinet) the Council's redevelopment options of Southgate Circus Library and approves the option on Southgate House as detailed within Part 2 of this report, and:

- i. Recommends that Council approves the addition of funds to the Capital Programme as detailed within the Part 2 report to carry out the detailed feasibility of associated Council assets as shown at Appendix 2
- ii. Approves the grant of a 125 year lease to Barnet and Southgate College for accommodation of 1,000sqm on the Southgate Circus Library site at a premium noted in Part 2.
- iii. Approves the Public Library function to relocate to Barnet and Southgate College's Learning Resource Unit at Southgate College with Delegated Authority to the Cabinet Members for Education, Children's Services and Protection conjunction with the Director of Finance, Resources and Customer Services to approve the final structure of the partnership.

### 3. BACKGROUND

- 3.1 Barnet and Southgate College are freehold owners of the Former Minchenden School site on the High Street, Southgate, N14 6LA. shown here edged red and it is proposed to acquire this under the agreed terms detailed within Part 2 of this report.

Fig 1: **Minchenden Site**



- 3.2 The Property is located just south of the Southgate shopping centre and tube station, being approached off the A1004 High Street. The Site is situated south of the fire station and Leigh Hunt Drive car Park, a Council owned public car park.
- 3.3 There are six buildings on the site namely Southgate Mansion House which is a Grade II\* listed building; the adjacent Art and Nursery blocks, which are integral to

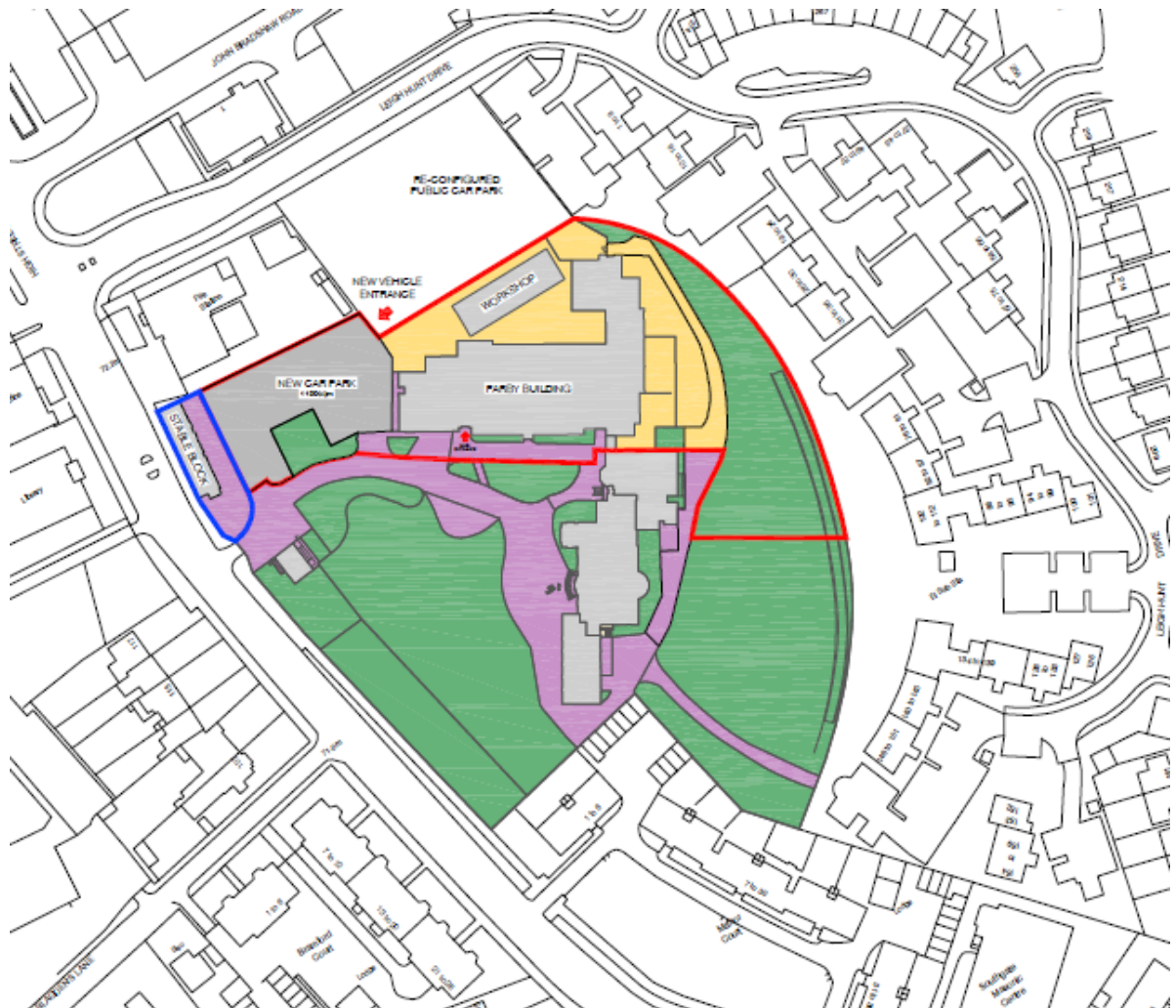
the Mansion House; an independent Gate house (a three bedroom detached house) located at the entrance to the site from the High Street, the Mews Building; and the Farbey Building and an adjacent open sided workshop structure.

- 3.4 The total area of the Minchenden site is 4.4 acres (1.62ha).
- 3.5 The age of the buildings range from the Mansion House being built in 1780 to the last construction in the 1960's of the gatehouse which was used by the College to assist Special Educational Needs students to cope with living in the community.
- 3.6 These buildings over the past three to four years have received very little or no upgrade to the fabric or services within. The college have only undertaken reactive maintenance. There is water ingress to several buildings from the rainwater goods and roof, most of the electrical systems will need complete renewal and the buildings contain asbestos. Financial maintenance liabilities of each of the properties are detailed in Part 2 of this report, however as there will be a wholesale remodelling of the Farbey, Mews building and Car park the cost of these will be absorbed into the feasibility.
- 3.7 The Council will have a vacant site liability once acquired as the site is quite vulnerable. The Property will require security, CCTV and other measures to prevent unauthorised occupation in the short term only until the main works start.
- 3.8 The Council have in place a short term lease over roughly half of the site. In the interim the Council has made this site available in the short term as an overflow space for Durant's School should the strain on their current site become too much. The lease also allowed the required repeated access for consultants to undertake a feasibility studies that will inform the future report to Cabinet for the new provision.
- 3.9 The proposed development will provide modern fit for purpose education facilities for the Upper Secondary Autistic Provision.
- 3.10 The valuation approach, methodology and financial justification for recommending the acquisition of the Minchenden School Site is detailed within the Part 2 Report.
- 3.11 The Council's appointed Valuers, Bilfinger GVA have carried out initial site appraisals with valuations and reported the outcomes back to Strategic Property Services and are detailed within Part 2 Report.

## Minchenden Special School Proposal:

3.12 The plan titled the School Site shows the new layout of the site

Fig 2: **The School Site**



3.13 It is proposed to purchase the site and for it to be divided into two; one section containing the Mansion House and land and buildings to the south of the current entrance driveway and a site to the north consisting of the Farbey building, open sided work shop, Mews building, and adjacent 50 space car park.

3.14 The current lease boundary of the site is shown on Fig 2 and delineated in red and the proposed boundary for the Mews building is shown in blue. The proposal is to reconfigure the adjacent public car park at Leigh Hunt Drive to provide the main vehicle and pedestrian access into the new school site. As a mitigation of the loss of parking spaces, further on street bays will be provided in the vicinity as well a detailed parking study that will submitted with any planning application to support the new school.

- 3.15 The adjacent Grade II\* listed Mansion House and associated ancillary buildings will continue to be accessed by vehicles and pedestrians from the existing Southgate High Road entrance. The proposal is to fence the site boundary for the new school to provide a safe and secure environment for staff, pupils and visitors to the School. This will have to be aesthetically constructed and will require planning permission as well as Historic England approval.
- 3.16 The site will be kept within the Council's corporate property portfolio and will provide the additional accommodation required for 120 pupils at the upper spectrum of the secondary provision for Autism within the Borough which will address the forecasted increases the Council is faced with as shown in Fig. 4.
- 3.17 At this stage, it is proposed to retain the existing car park on the Minchenden site, for use by the new school and to provide a number of hard play (yellow on the above plan) and soft landscaped (green on the above plan) external areas around the site, with direct access from some of the ground floor classrooms. An external area directly in front of (to the east) of the Mews Building is proposed to be used as external social space by 6th Form pupils.
- 3.18 This proposal seeks to maximise space within the solid structure of the Farbey Building and secure school spaces for future children with ASD in a modern fit for purpose school, to this end various surveys and design work will now be carried out to ascertain a cost to inform the detailed business plan.

### **Strategic Need**

- 3.19 Further to previous reports to Cabinet, pupil numbers are rising throughout the Borough in line with the projections provided by the Office for National Statistics with information on new housing and trends in national and international migration. The projections are reviewed annually following the January Schools Census. One of the priorities of Schools and Children's Services (SCS) and the Council as a whole has always been to meet the needs of pupils with Autism and Emotional Behavioural Difficulties and understand the duty to support the provision of suitable and sufficient accommodation for the increasing numbers and complexity of need.
- 3.20 The demand continues to rise particularly within the Autistic spectrum which is of particular concern. The Council has increased the amount and quality of provision and expertise in both mainstream and special settings. However it continues to face growing numbers of young people with complex needs and their families who need this additional support above and beyond a mainstream placement. The numbers are further increased by an increasing number of referrals for support for secondary aged pupils with Autism who are exhibiting mental health difficulties as they go through puberty and make the transition into adulthood.
- 3.21 The numbers/ percentage of pupils with a diagnosis of Autism continue to rise particularly at primary schools. In our 2011 Strategy we identified that Autism was an area of increasing need as the proportion of statemented pupils on the Autism Spectrum at the time was 10.4% in primary and 4.4% in secondary. The SEN/Inclusion strategy is currently being reviewed and has identified that meeting the needs of pupils with Autism and Emotional Behavioural Difficulties are the main

priorities required to support the increasing number with complex behavioural needs. It is clear that this position remains the same in 2014 and that demand continues to rise.

- 3.22 Autism is of particular concern and even though Schools and Children's Services have increased the amount and quality of provision and expertise in both mainstream and special settings, the Council is faced with a growing number of young people with complex needs and their families who need more than just a mainstream placement. To date the increased demand has been met by providing additional capacity on a temporary basis at a combination of Russet House and Durant's special schools. However, it is not possible to increase that capacity further and the current capacity is not sustainable over the long-term without a permanent solution.
- 3.23 As the need for specialist places continues to increase Enfield SEN services have had to place children in special schools outside the borough at a high cost both in terms of provision and transport. Parents of children with Autism have been closely involved in the development of the SEN strategy and have been actively requesting an increase in in-borough provision over a number of years. The proposal to expand the provision in partnership with our existing Special schools is strongly supported by the parent representatives on the SEND strategy group and also the representative from the National Autistic Society.
- 3.24 A recent assessment of the likely demand for support for children with the ASD and the highest support needs produced the following picture of future demand, which is shown in the table overleaf.

**Fig 3: Table showing increase in the number of school places in special schools**

	2015	2016	2017	2018	2019
<b>Target capacity requirements for ASD special school places</b>	269	284	300	317	335
<b>Current total capacity</b>	267	267	267	267	267
<b>Current ideal delivery capacity</b>	204	204	204	204	204
<b>Capacity gap against ideal situation</b>	65	80	96	113	131
<b>Capacity gap against current situation</b>	2	17	33	50	68

- 3.25 With current total capacity already increased to the maximum possible within available buildings any additional demand can only be met through the increased use of out-of-borough placements. If current trends continue we expect an average of 17 children a year requiring high level support, across all year groups, at specialist provision for their ASD related needs.
- 3.26 In the initial years of the increased capacity there is expected to be spare capacity as the year group's work through each school's provision. This is because an additional 113 places will be provided at all ages and there is expected to be an

average increase of 17 pupils per year with the expectation that all new provision would be fully utilised six years after expanding.

- 3.27 This six year period present two opportunities to subsidise cost. The first is through offering places to other local authorities where their capacity has been fully utilised in that year group as a way of generating income. The second is to achieve cost savings by encouraging the parents with children placed in out-of-borough provision to accept an in-borough placement. However, practitioners advise that this is only realistically achievable at school transition points of the existing placement, namely Year 6 to Year 7.
- 3.28 These options require further work by practitioners to establish acceptable market rates for the care packages offered and the potential number of current out-of-borough placements that could be brought back into the borough. However, with the difference between in and out-borough borough ASD support at over £34,000 per individual per year achieving 10 per year for five years could either save or generate income of up to £1.7 million.
- 3.29 The costs of out-of-borough provision, especially for children with high support needs are considerable. The cost for each child will depend on their particular level of need and support package but using individual cost records an average high support cost of £65,814 for a child with ASD has been generated (no transportation costs are included in this figure).
- 3.30 For the purpose of this exercise the average cost, an average increase of 17 children per year and annual inflation of 2% have been used to model the likely increase in revenue costs of reliance of out-of-borough placements to meet demand for children with ASD requiring high support as these would be the children provided for at the planning expansion utilising the Farbey building at Minchenden.
- 3.31 The out-of-borough costs have been compared with the equivalent in-borough costs to generate the difference over time of increasing and using in-borough capacity. Transportation costs are an issue but have been discounted from this exercise as these costs are subject to a separate piece of work to gain efficiencies.
- 3.32 The table overleaf shows that a capital investment in Minchenden would be offset longer term by the cumulative budgeted cost avoidance position from not having to rely on out-of-borough provision within six years.
- 3.33 In addition, the DfE have stated that it recognises the increasing demand for special school places and intends to make funding available to LA's to increase capacity in early 2016. It is not yet known whether the additional funding will be an allocation or a bidding round but the recent successful STC Targeted Basic Need bid attracted £1.6 million grant to provide fifty places in a pupil referral unit. Local authorities have commented that the amount per pupil was not sufficient for the higher level needs of pupils with high support needs such as Autistic Spectrum Disorder where class groups are never more than 7 pupils. The DfE have stated that they will consider this as part of the wider issue.
- 3.34 Using the £1.6 million for 50 places, or an equivalent of £32,600 a place, as a low end estimate of what should be made available from a DfE grant round we would

expect to achieve grant income of £3.59 million for the proposed additional capacity of 110 places achieved through delivering Minchenden

- 3.35 In order to accomplish/achieve this it is proposed that the council utilises part of the former Minchenden Site. This has the potential to be used to assist in providing the additional form of entry required for autistic provision. It is proposed that the Minchenden building is refurbished to provide accommodation for, the upper spectrum of the required secondary provision and a short stay overnight provision (should the required approvals be received) and a daytime Life skills centre.



	Avg cost per pupil	Annual Inflation	Assumed annual net increase in pupils	Yr 1 (2016)	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6 (2021)
<b>Out of borough high support provision for ASD</b>	£65,814	2%	17	£1,141,220	£2,328,088	£3,561,975	£4,844,286	£6,176,465	£7,559,993
<b>In borough high support provision for ASD</b>	£31,094	2%	17	£539,174	£1,099,916	£1,682,871	£2,288,704	£2,918,098	£3,571,752
<b>Annual difference</b>				£602,045	£1,228,173	£1,879,104	£2,555,582	£3,258,367	£3,988,241
<b>Accumulated difference</b>				<b>£602,045</b>	<b>£1,830,218</b>	<b>£3,709,322</b>	<b>£6,264,904</b>	<b>£9,523,271</b>	<b>£13,511,511</b>

**Fig 4 & 5 - Cumulative Cost Avoidance over the course of a 6 year period**

## Cost Avoidance: In Borough Vs Out of Borough ASD Provision



- 3.36 The revenue funding for this area is derived largely from the Dedicated Schools Grant (DSG). It is the Local Authority's responsibility to allocate this budget to those eligible for high needs block (HNB) funding. This includes funding for children and young people with a statement of educational need, or in the future the education element of an Education, Health and Care Plan (EHCP). The centrally retained element (CRI) of this funding is subject to high demand. It is therefore important to mitigate existing budgetary pressure risk and take preventative action to control further demand.
- 3.37 Minchenden is a strategic piece of real estate within the overall strategy as the acquisition and long term investment and planning into the ASD will alleviate demand on the CRI.
- 3.38 To enable the Council to deliver the additional permanent pupil places, it is necessary to start the design and feasibility phases for the delivery of the school and undertake the requisite survey work to consult with the various stakeholders in order to submit a planning application.

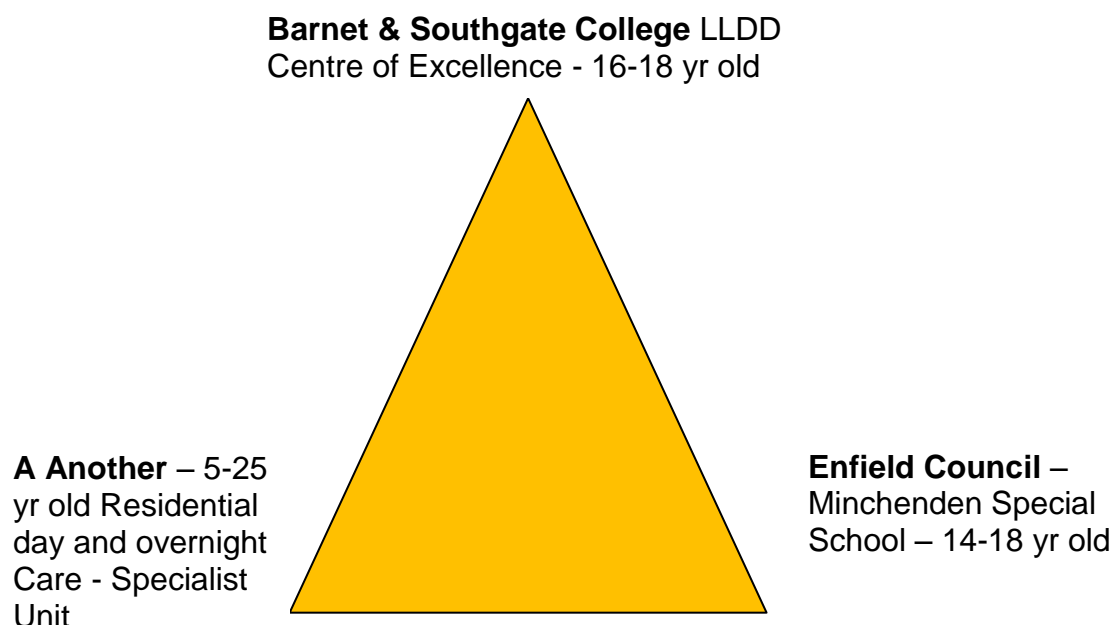
#### **4. PROPOSAL**

- 4.1 The proposal in this report is part of a major strategic development of Autism provision and support across Enfield. It has involved partners across schools, colleges, health services, parents, young people themselves and council teams in working together to meet the needs of and support young people across the autistic spectrum.
- 4.2 This report supports the development of an innovative approach that would make Enfield a leader and a centre of excellence in supporting some of our most complex young people as they move through secondary school into adulthood and the next steps in their learning journey.
- 4.3 The proposal is to purchase the freehold interest in the land and buildings that form all of Minchenden School (plan edged red as shown at appendix 1) which are owned by the Barnet and Southgate College at a price not exceeding the maximum price as detailed in Part 2 of this report.
- 4.4 To undertake a high level feasibility to refurbish and redevelop the Farbey Building to create a modern educational establishment for the Upper Secondary Autistic Provision for the London Borough of Enfield School.
- 4.5 This proposal looks to increase the specialist Autism provision across all age groups by providing additional capacity for older children on the additional site in the Farbey building at Minchenden. The aim is to establish provision for 120 pupils for Year 9-11 and post-16 pupils (aged 14-18) at the additional site which will allow increased numbers at both the Durants site and the Russet House Site as the young people are spread across 3 sites.
- 4.6 The two special schools will continue work together to ensure that the existing excellent provision and expertise of Russet House and Durant are expanded to continue to meet the needs of pupils in the borough.

- 4.7 The Farbey Building and surrounding grounds will need refurbishment and minor redevelopment to create a modern, fit for purpose, educational establishment. This will add to the current excellent Ofsted rated autistic provision already offered in the borough to help reduce future reliance on costly out-of-borough provision to meet future demand.
- 4.8 An outline project budget is required for the feasibility work for the Farbey building which is requested in Part 2 of this report.
- 4.9 To support the acquisition of Minchenden Special School it is envisaged that the build costs and reconfiguration of the school and associated works may be offset by redeveloping wider Council assets in the Southgate Circus area, see Part 2 of this report for a proposal for the delivery of the provision.
- 4.10 The Council's public library function will be remodelled and set within Barnet and Southgate College's Learning Resource Unit sited within the college. This partnership of public purposes aligns with the Library Development Plan 2015-2018.
- 4.11 Ensuring a library service fit for the future means that change is needed to reinvigorate our libraries so they are better used within their communities and meet the demands of a new generation of library users and in line with the Council's Asset Management Strategy, the Library Service is committed to developing new models of provision based on partnership working to ensure that our resources are used as efficiently and effectively as possible.
- 4.12 Working in partnership with Barnet and Southgate College will bring increased access for the local community to the library stocks and other resources of the partners. The college will benefit from a wider range of people coming onto campus and a well-resourced public library for its students, which caters to both their study and leisure needs. A key priority for libraries will be to raise their profile so that they are able to work with other partners to improve local democracy, health and wellbeing, learning and public access to services.
- 4.13 Barnet and Southgate College's new Learning Disabilities building (LLDD) based at the Southgate Campus in Enfield provides a new and improved learning environment for disabled students and those with learning difficulties. It is the first purpose built centre to provide specialist education facilities which are totally dedicated to the specific needs of the students with learning disabilities and the provision includes an element of support for young adults with autism. This facility is across the road from the Minchenden Complex and will enable partnership working and sharing of good practice to help further enhance provision.
- 4.14 To this end the Council in partnership with Barnet & Southgate College and another provider will seek to bring forward an ambitious plan to underpin a full lifecycle proposal for autism within Southgate. The Council as provider will educate students with autistic need from the ages of 14-18, the College's provision is then an option to support the subsequent age range with lifecycle skills, progression to independent living, and potentially higher education. Finally, a dedicated unit with highly specialised support infrastructure including day care units and overnight stay provide support to those requiring highly specialist therapeutic support and greater pathways

to independent living from early adulthood, which will enable students to progress to employment, supported employment, further or higher education, or independent living.

**Fig6 – Southgate Autistic Proposal (Tri- Party Provision Model)**



## **5. ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 Not trying to acquire the Minchenden Complex is considered a lost opportunity to add flexibility to the education portfolio and reduce the long term revenue liability burden of the Council.
- 5.2 Officers have considered using other education facilities owned by the Council for expansion to try and increase the number of forms of entry. Many of these are too small and on difficult sites and some sites were earmarked for other types of development. Several sites not in the Council's ownership were also considered, but many of these were too costly given their residential potential or the land owner was unwilling to enter into formal discussions with the Council.
- 5.3 Officers have considered the use of this site to assist in the delivery of primary pupil places; however when considered the site itself is not suitable for primary school nor are the properties located within. The outdoor play space is not adequate and the use of only the ground floor of the Farbey building could be considered – however the space is limited as there is no DDA compliance within the building with varying levels and floor heights.
- 5.4 Keep the status quo and secure costly out of borough places for approximately 120 pupils over the next six years.

## 6. REASONS FOR RECOMMENDATIONS

- 6.1 This is a rare opportunity in the Enfield property market. The acquisition will mean that there will be a sufficient supply of pupil places to match the anticipated demand within the Borough for several years to come.
- 6.2 This is the only viable site now available and possibly in the future that could support this type of need.
- 6.3 The acquisition of the Minchenden site will satisfy the requirements for space standards as set out within the guidance set by the Department for Education (BB103).
- 6.4 The outline Business Case set out within Part 2 of this report demonstrates that the funding arrangements for this project are achievable and the Council should explore further with higher level feasibility for each project.

## 7. KEY RISKS

- 7.1 **Failure to provide statutory places** resulting in possible legal action by 120 Enfield families resulting in a damaged reputation and failure to meet the needs of these residents,- Mitigated by scheme.
- 7.2 **Failure of DfE to allocate funding** for the SEN program or this specific scheme – Mitigated by scheme offering disposal options as additional ways to decrease the draw down on the councils capital program.
- 7.3 **Risk of current staff** objecting to change of location, which could result in an issue with staff retention – Mitigated by early consultation with staff during feasibility study
- 7.4 **Risk of costs rising** and value of disposal values falling.- Mitigated by monitoring and early identification at Capital Board of any possible issues
- 7.5 **Risk of delays** and additional costs as a result of demands of Historic England. Mitigated by consultation with body at feasibility stage to continue during design.
- 7.6 **Risk of issues with planning** application due to Heritage or other issues. To be mitigated by early consultation with planners plus a pre planning application.

See Part 2 for additional key risks

## 8. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

### 8.1 Financial Implications

See Part 2 Report

## 8.2 Legal Implications

- 8.2.1 The Children and Families Act 2014 places a duty on local authorities to keep education and care provision under review. A local authority must consider the extent to which the educational, training and social care provision it makes for children and young persons who have special educational needs or a disability is sufficient to meet the needs of those persons. A local authority is also required to make arrangements to secure any special educational provision specified for an individual child or young person.
- 8.2.2 Section 120 of the Local Government Act 1972 gives the Council a specific power to acquire property for the purpose of exercising its general functions as a local authority.
- 8.2.3 Section 1 of the Localism Act 2011 provides the Council with a general power of competence to do anything which an individual generally may do.
- 8.2.4 The contract for the acquisition of the site will need to be in a form agreed by the Assistant Director (Legal Services and Governance) and due diligence carried out on the seller's title.

## 8.3 Property Implications

- 8.3.1 As embedded in this report.
- 8.3.2 External consultants (Bilfinger GVA) have undertaken valuations that estimate the market value of the land and buildings at the Minchenden Complex. These valuations state the maximum that should be paid for the freehold interest in the land.
- 8.3.3 The Council is of the opinion that the acquisition is in line with the Council Property Procedure Rules and the Council have obtained best value under s20 of the LGA (1972); thus the valuation received confirms the price offered for the land.
- 8.3.4 Once acquired the site will need to be made secure with enhanced security provision which will include the provision of a rapid response 24hr on call team, CCTV and the Council may look to employ a 'Guardian Company' to secure the Mansion House until a time when appropriate when wider plans come to the forefront.
- 8.3.5 A full condition survey has been carried out by the Corporate Maintenance and Construction Team and suggests that there is a repairing liability if the buildings were to be used in the current state, however as the Farbey building will be reused and stripped out to a new specification all the liabilities will be absorbed into the cost of transforming the Farbey building.

- 8.3.6 The Mansion House also known as Southgate House will require immediate repairs to make it air and watertight for the interim as this is one of the historic buildings within Enfield dating from about 1780. The plaque near the front door records its occupation by Baron Lawrence (who relieved the siege of Delhi) from 1861 until his appointment as the first Governor-General of India in 1864.
- 8.3.7 As part of the refurbishment and remodelling of the Farbey Building, any services serving both buildings will have to be separated and a full asbestos survey will have to be undertaken.
- 8.3.8 The transaction is exempt from VAT, but will have Stamp Duty Land Tax implications.
- 8.3.9 A full handover of the site together with instructions and operating manuals for the site on completion must take place with the responsible Property Officer to ensure a smooth transition.
- 8.3.10 The Minchenden Complex will also have to be put onto the Council's Corporate Insurance register and a full rebuilding cost will have to be divulged to the Council Insurance section.

## **9. PERFORMANCE MANAGEMENT IMPLICATIONS**

The purchase of The School Site will assist in the delivery of the Council's education policy and improvement action being taken for this provision. There will be the provision of the projected and current requirements for school places within the Autistic spectrum, for young people across the Borough

## **10. EQUALITIES IMPACT ASSESSMENT**

The proposed purchase will not cause a change to policy or service delivery and therefore an equalities impact assessment is not considered necessary.

## **11. PUBLIC HEALTH IMPLICATIONS**

In the short term after acquisition, the school site will need to be made secure including any buildings. All health and safety precautions should be undertaken by the contractor, including eventual disposal.

In the longer term the School will deliver through efficiencies and secure by design, a safe and secure environment to educate the young persons of Enfield.

## **12. IMPACT ON COUNCIL PRIORITIES**

### **12.1 Fairness for All**



The purchase of the land and additional parcels will increase flexibility in the education portfolio and will provide additional special provision school places which serve the entire Borough

## **12.2 Growth and Sustainability**

The purchase of the land will lead to increased flexibility of the education portfolio and service demand for pupil places for years to come. This proposal will also provide additional school places in a sector of the community of high demand. The places will increase the numbers of pupils and parents being assisted

## **12.3 Strong Communities**

Improving educational outcomes assists in the creation of a stronger community,

The school places will be offered to the young people of Enfield who need them from all wards.

The accommodation will incorporate, where possible the potential to be used outside the normal school day by the community

The new facility will relieve the pressure across the Borough's community schools where some of these pupils are currently accommodated.

## **13. HR IMPLICATIONS**

**13.1** Delivering this school development scheme within the tight time constraints together with various other complex projects and schemes in the pipeline will require additional resources, initially will be met from within existing sources, however specialist areas where delivery is concerned may need to be met from external sources.

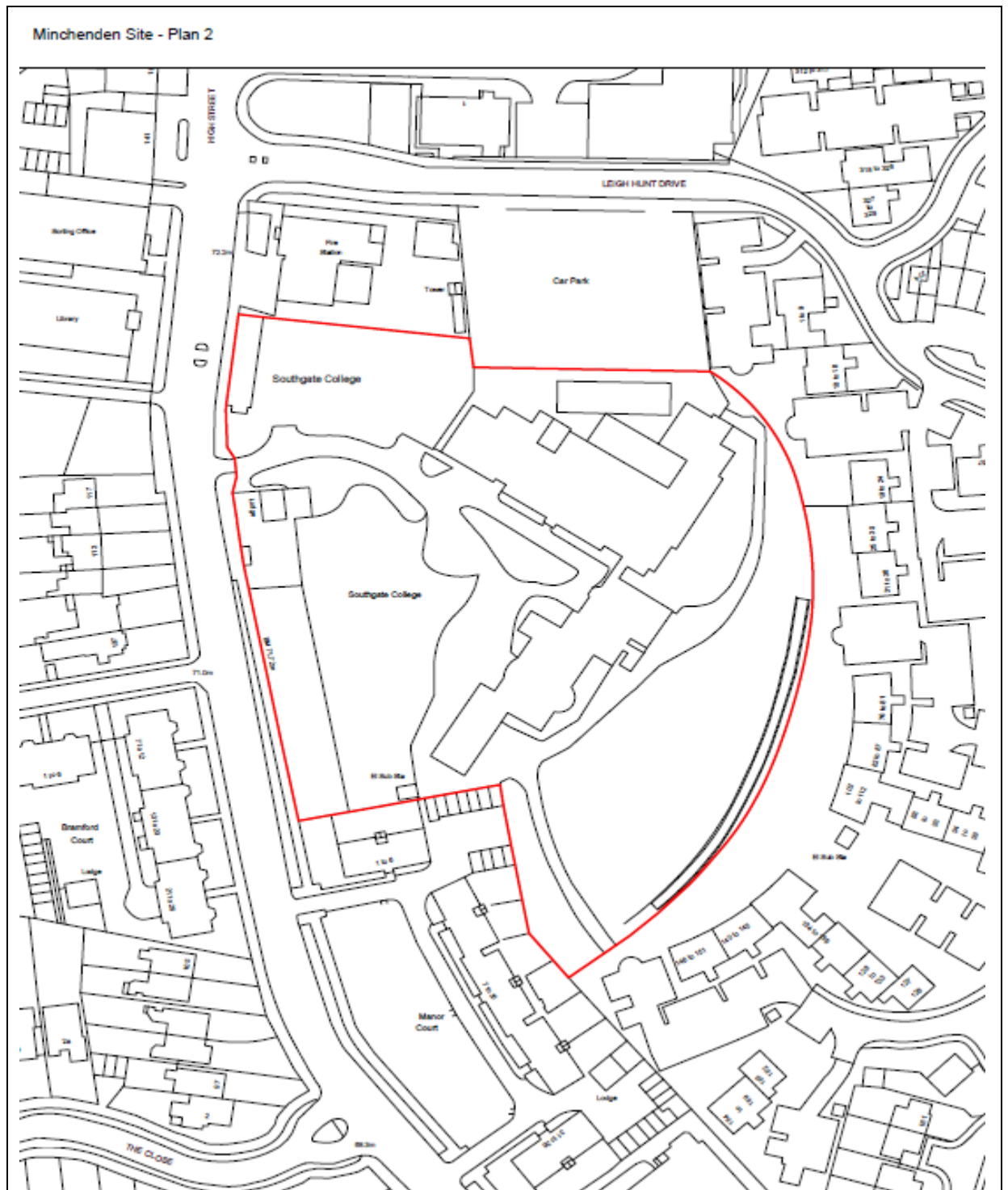
**13.2** As the projects(s) evolve there will be a requirement at different stages for further skill sets to complete various tasks, this could be achieved either through the Strategic Partnership Co-Sourcing agreement or through another short term agreement.

## **BACKGROUND PAPERS**

None.

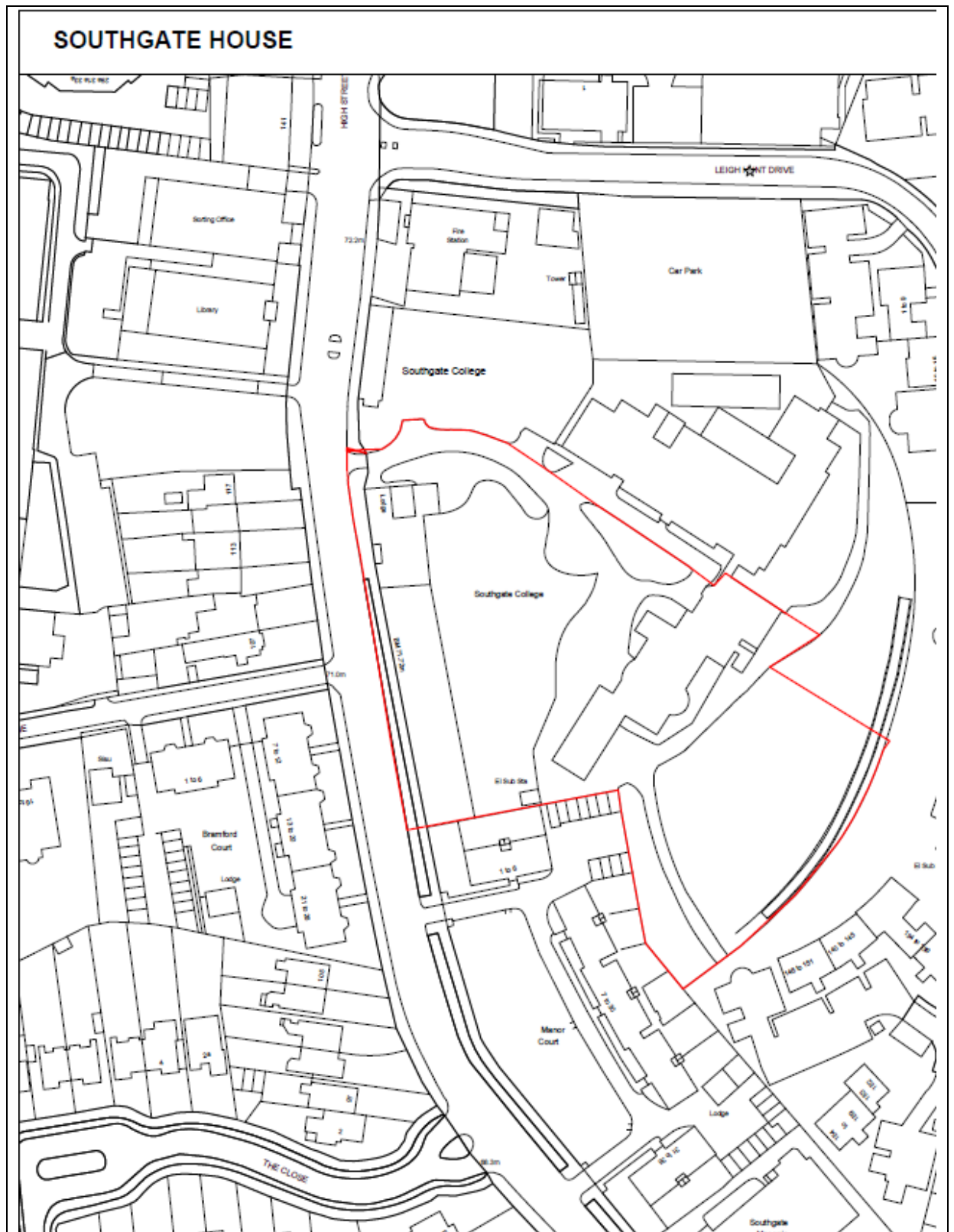
**Appendix 1- SITE PLAN**





**Appendix 2 – Draft Agreement for Lease (Confidential) – refer to Part 2 report.**

### **Appendix 3 – Southgate House**







## THE CABINET

### List of Items for Future Cabinet Meetings (NOTE: The items listed below are subject to change.)

#### MUNICIPAL YEAR 2015/2016

#### FEBRUARY 2016

1.

**Budget Report 2016-17 and Medium Term Financial Plan**

James Rolfe

This will recommend for approval by full Council, the Council tax level for 2016-2017 and the Medium Term Financial Plan 2016-2020. **(Key decision – reference number 4175)**
2.

**Housing Revenue Account (HRA) Rent setting 2016/2017**

James Rolfe

This will recommend for approval by full Council, the level of HRA rents for 2016-2017. **(Key decision – reference number 4174)**
3.

**Adult Social Care Transport Policy**

Ray James

This will outline the proposed changes to the way in which Enfield Council assesses for and provides transport services within Adult Social Care. **(Key decision – reference number 4086)**
4.

**Custom and Self-Build Programme on Small Sites**

Ian Davis

This will seek approval of a strategy and process to enable self and custom build projects on small sites in Enfield. **(Key decision – reference number 4200)**
5.

**Neighbourhood Regeneration Programme**

Ian Davis

This will recommend an increase to the Neighbourhood Regeneration Capital Programme to fund the next stages of development for a number of regeneration programmes within the Borough. **(Key decision – reference number 4229)**
6.

**Approval of Cycle Enfield Proposals for the A105**

Ian Davis

This will seek approval of Cycle Enfield Proposals for the A105 for implementation. **(Key decision – reference number 4111)**

**7. Draft Meridian Water Regeneration Strategy and Action Plan** Ian Davis

This draft strategy and action plan will form the interim strategic approach to achieving sustainable development and long term growth for Meridian Water. **(Key decision – reference number 4252)**

**MARCH 2016**

**1. Revenue Monitoring Report: January 2016** James Rolfe

This will provide an update on the Council's revenue position as at 31 January 2016. **(Key decision – reference number 4176)**

**2. Capital Monitoring Report: December 2015** James Rolfe

This will summarise the capital monitoring position of the Council as at 31 December 2015. **(Key decision – reference number 4155)**

**3. Housing Supply and Delivery** Ian Davis

This will set out how the Council will increase housing supply in the short and medium terms. **(Key decision – reference number 4165)**

**4. Review of Conservation Area Appraisals and Management Proposals: Phase 3** Ian Davis

This will seek approval of revised and updated Conservation Area Appraisal and Management Proposals. **(Key decision – reference number 4222)**

**5. Small Housing Sites Phase 2: Group A** Ian Davis

This will seek Cabinet authority to redevelop a number of sites for new housing, including approval of an outline scheme budget, and fees to progress detailed design and submission of planning applications. **(Key decision – reference number 4161)**

**6. Quarterly Corporate Performance Report** Rob Leak

This will outline progress made towards delivering the identified key priority indicators for Enfield. **(Key decision – reference number 4242)**

**7. Development of Edmonton Cemetery** Ian Davis

This will seek to extend Edmonton Cemetery to provide new provisions for burials within the borough given the limited capacity in existing cemeteries for future years. **(Key decision – reference number 4234)**

8. **PCSO Contract** Ian Davis
- This will seek approval to a decision relating to the current PCSO contract. **(Key decision – reference number 4248)**
9. **Parking Enforcement Policy** Ian Davis
- This policy will set out the Council's approach to dealing with parking enforcement. **(Key decision – reference number 4058)**
10. **Contracting with Lee Valley Heat Network for the Provision of Heat on Enfield's Housing Estates** Ian Davis
- This will seek authority to contract with the Lee Valley Heat Network energy services company for the provision of heat on Enfield Council's new redeveloped housing estates. (Parts 1 and 2) **(Key decision – reference number 3988)**
11. **Banking Services Tender** James Rolfe
- Enfield Council is tendering for a supplier of banking services. **(Key decision – reference number 4213)**
12. **Merchant Acquiring Tender** James Rolfe
- Enfield Council is tendering for a provider of merchant acquiring services. **(Key decision – reference number 4253)**

<b>APRIL 2016</b>
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1. **Revenue Monitoring Report: February 2016** James Rolfe
- This will provide the latest revenue monitoring position as at the end of February 2016 for the Council as a whole. **(Key decision – reference number 4152)**
2. **North East Enfield Area Action Plan** Ian Davis
- This will see approval of the North East Enfield Area Action Plan, adoption stage area based development plan document, which will form part of the Enfield Local Plan. **(Key decision – reference number 4218)**
3. **Appointment of the Meridian Water Developers** Ian Davis
- This will seek authority to the appointment of the Meridian Water developers who will be working with the Council for the next 20 years. (Parts 1 and 2) **(Key decision – reference number 4241)**

<b>TO BE ALLOCATED</b>
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1. **Unecol House Project** James Rolfe

This will seek approval to progress the Unecol House project. **(Key decision – reference number 4237)**

2. **Northern Gateway Access Package** Ian Davis

This will outline the feasibility assessment stage of the potential link road element of the Northern Gateway Access Package. **(Key decision – reference number 4046)**

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**MINUTES OF THE MEETING OF THE CABINET  
HELD ON WEDNESDAY, 16 DECEMBER 2015**

**COUNCILLORS****PRESENT**

Councillor Doug Taylor (Leader of the Council), Daniel Anderson (Cabinet Member for Environment), Yasemin Brett (Cabinet Member for Community Organisations and Culture), Councillor Alev Cazimoglu (Cabinet Member for Health and Social Care), Councillor Nneka Keazor (Cabinet Member for Public Health and Sport), Councillor Ayfer Orhan (Cabinet Member for Education, Children's Services and Protection), Ahmet Oykenar (Cabinet Member for Housing and Housing Regeneration), Alan Sitkin (Cabinet Member for Economic Regeneration and Business Development) and Andrew Stafford (Cabinet Member for Finance and Efficiency)

**Associate Cabinet Members (Non-Executive and Non-Voting):** Vicki Pite (Enfield North) and George Savva MBE (Enfield South East)

**ABSENT**

Achilleas Georgiou (Deputy Leader) and Bambos Charalambous (Associate Cabinet Member – Enfield West)

**OFFICERS:**

Rob Leak (Chief Executive), Ian Davis (Director of Regeneration & Environment), James Rolfe (Director of Finance, Resources and Customer Services), Ray James (Director of Health, Housing and Adult Social Care), Asmat Hussain (Assistant Director Legal & Governance Services), Jayne Middleton-Albooye (Head of Legal Services), Jenny Tosh (Interim Chief Education Officer), Nick Fletcher (Housing Development and Renewal - Project Manager), Claire Johnson (Corporate Scrutiny Services), Detlev Munster (Head of Property Programmes), Karen Maguire (Strategic Property Services), Marc Gadsby (Head of Independence and Well-Being Services) and David Greely (Corporate Communications Manager) Jacqui Hurst (Secretary)

**Also Attending:** Councillor Derek Levy (Chair of the Overview and Scrutiny Committee)

**1****APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Achilleas Georgiou (Deputy Leader), Councillor Bambos Charalambous (Associate Cabinet Member – Enfield West) and Tony Theodoulou (Interim Director of Children's Services).

**2**

**DECLARATION OF INTERESTS**

Councillor Ahmet Oykenner (Cabinet Member for Housing and Housing Regeneration) declared a disclosable pecuniary interest in Report Nos. 136 and 142 – Setting Up the Council's Trading Company due to a possible future impact on his area of personal employment. Councillor Oykenner left the meeting for the discussion of both reports, Minute Nos. 10 and 21 below refer.

**3**

**URGENT ITEMS**

NOTED, that the reports listed on the agenda had been circulated in accordance with the requirements of the Council's Constitution and the Local Authorities (Executive Arrangements) (Access to Information and Meetings) (England) Regulations 2012. These requirements state that agendas and reports should be circulated at least 5 clear days in advance of meetings.

**4**

**DEPUTATIONS**

Councillor Doug Taylor (Leader of the Council) welcomed Councillor Erin Celebi (Bush Hill Park Ward Councillor) to the meeting and invited her to present her deputation to the Cabinet.

Councillor Erin Celebi presented a deputation and submitted a paper petition signed by parents, grandparents and local residents who were deeply concerned about the dangerous crossing problems following the retirement of the School Crossing Patrol person serving Raglan Schools. The petition had collected 401 signatures.

Councillor Celebi outlined to the Cabinet the concerns which had been expressed regarding the traffic and pedestrian crossing issues experienced in Wellington Road. A number of specific examples were highlighted and a request made for the expressed concerns to be seriously considered and urgent measures taken such as a replacement school crossing patrol person, a pelican crossing and or parking/road management. A number of photographs were submitted with the petition. Councillor Celebi emphasised the need to take appropriate measures in order to avoid fatalities and injuries to pedestrians. It was noted that there was also a current on-line petition on the same issue. The significant number of pupils attending Raglan Schools was noted.

In response, Councillor Anderson (Cabinet Member for Environment) noted the petition and concerns raised in the deputation. Members were advised that the Council had been successful in reducing the number of injuries and fatalities on the Borough's roads through a range of measures. Efforts were made to use the Council's resources as effectively as possible at a time of financial constraint. It was noted that Schools and parents also had a role to play in ensuring the safety of pedestrians close to schools through the

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observance of parking and traffic restrictions in place. Councillor Anderson would ask officers to investigate the situation in the vicinity of Raglan Schools and the safety measures that could be implemented to mitigate the concerns which had been expressed.

Councillor Taylor thanked Councillor Celebi for her deputation and noted the submission of the petition to the Council. As detailed by Councillor Anderson, officers would be asked to investigate the concerns which had been raised.

**5**

**ITEMS TO BE REFERRED TO THE COUNCIL**

NOTED, that there were no reports to be referred to full Council.

**6**

**ISSUES ARISING FROM THE OVERVIEW AND SCRUTINY COMMITTEE**

**Scrutiny Workstreams Final Reports and Recommendations**

Councillor Derek Levy (Chair of the Overview and Scrutiny Committee) introduced the report of the Overview and Scrutiny Committee (No.132) providing a summary of the final scrutiny workstream reports from 2014/15, and the comments of the respective Cabinet Members.

NOTED

1. The Scrutiny workstream reports and the Cabinet Members' and Directors' responses to the recommendations.
2. Councillor Levy explained the new processes which had been followed for the end of the first year of the new scrutiny system. In future years it was anticipated that the process would be condensed and a report would be presented to the Cabinet at an earlier stage at the conclusion of the 2015/16 scrutiny process. Councillor Levy expressed his thanks to the Cabinet Members and Directors for their involvement and feedback.
3. The changes in the scrutiny process were highlighted with greater involvement of the Cabinet Members in reviews taking place. It was noted that a meeting was scheduled in March 2016 on Enfield 2017 to which Councillors Georgiou and Stafford had been invited. The invitation was extended to all Cabinet Members who wished to attend. The scrutiny process would be more probing and intense and focus on task and finish groups.
4. Councillor Levy expressed his appreciation to the Scrutiny Officers supporting Members in the reviews being undertaken.

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5. In conclusion Cabinet Members made a number of observations including the following:
- Councillor Orhan (Cabinet Member for Education, Children's Services and Protection) expressed her thanks to the Overview and Scrutiny Committee for its work with regard to childhood obesity, as set out in the report. Councillor Orhan highlighted a number of issues in moving forward. A comprehensive report had been produced to inform future policy development.
  - Councillor Oykenner (Cabinet Member for Housing and Housing Regeneration) outlined his views with regard to the review on Temporary Accommodation and the concerns which he had expressed to the Chair of the Working Group for politicising the issues highlighted which he felt had been counter-productive.
  - Councillor Sitkin (Cabinet Member for Economic Regeneration and Business Development) highlighted the review on High Streets and Town Centres as set out in the report. He expressed the need for relevant officers and Cabinet Members to be consulted through the review processes. He noted that 6 out of the 7 recommendations had already been implemented. It was important to ensure that scrutiny did not undertake information research in isolation.
6. In response Councillor Levy outlined the intended involvement of appropriate officers and Cabinet Members in the scrutiny process. It was also the intention of scrutiny to be non-political as far as possible and to take a collaborative approach to all scrutiny reviews undertaken.

**Alternative Options Considered:** No other options had been considered as the Overview and Scrutiny Committee was required, under the Council's Constitution, to submit the scrutiny reports to Cabinet.

**Reason:** To comply with the requirements of the Council's Constitution.  
(Non key)

**7**

**REVENUE MONITORING REPORT 2015/16: OCTOBER 2015 AND 2016/17 BUDGET UPDATE**

Councillor Andrew Stafford (Cabinet Member for Finance and Efficiency) introduced the report of the Director of Finance, Resources and Customer Services (No.133) setting out the Council's revenue budget monitoring position based on information to the end of October 2015.

**NOTED**

1. An amendment was sought to the report with regard to the value of the working capital loan for Enfield Innovations Ltd. following a sensitivity analysis of potential variations to the financial model.



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Recommendations 2.3 and 2.4 to be amended to read as follows (decisions 3 and 4 below reflect the amendments):

“2.3 Authorise a working capital loan to the value of **£3m** to Enfield Innovations Ltd. to be accessed over the life of the company to be funded either from reserves or by external borrowing depending on the financial instrument used as detailed in section 7.3 of the report.”

“2.4 Authorise the ability for the Council to pay the **£3m** loan in instalments as required by the company and delegate authority to the Director of Finance, Resources and Customer Services to formalise this via a second Facility Letter as per the terms agreed via the Portfolio non-key decision in July 2015 (section 7.3 of the report referred).”

In addition an amendment was required to section 7.3 of the report, paragraphs 2 and 4. The text to be amended to:

“...Due to the phasing of the loan repayments, a requirement for initial working capital to the value of **£3m** has been identified, to ensure that company can make the outstanding payments to the developer without resulting in a cash deficit in the early years.”

“...Cabinet is asked to authorise a working capital loan to the value of **£3m** to Enfield Innovations Ltd. to be accessed over the life of the company to be funded either from revenue reserves or by external borrowing depending on the financial instrument used.”

2. That, the report forecast an outturn position of £1.6m overspend for 2015/16. Work was continuing to identify in-year savings to manage this departmental overspend.
3. That there were no “red” risk ratings remaining, as detailed in table 1 of the report.
4. The continued pressures on demand led services as set out in the report.
5. The key risks as identified in section 13 of the report.
6. The Treasury Management position as set out in Appendix B of the report.
7. That the Council continued to maintain a sound financial position within the financial pressures being experienced.

**Alternative Options Considered:** Not applicable to this report.

**DECISION:** The Cabinet agreed

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1. To note the £1.6m departmental overspend revenue outturn projection.
2. That departments reporting pressures should formulate and implement action plans to ensure that all possible actions were undertaken to remain within budget in 2015/16.
3. To authorise a loan to the value of **£3m** to Enfield Innovations Ltd. to be accessed over the life of the company to be funded either from reserves or by external borrowing depending on the financial instrument used (as detailed in section 7.3 of the report).
4. To authorise the ability for the Council to pay the **£3m** loan in instalments as required by the company and delegate authority to the Director of Finance, Resources and Customer Services to formalise this via a second Facility Letter, as per the terms agreed via the portfolio non-key decision in July 2015 (section 7.3 of the report referred).
5. To note the 2016/17 budget update as detailed in section 5 of the report.

**Reason:** To ensure that Members were aware of the projected budgetary position for the Authority, including all major budget pressures and underspends which had contributed to the present monthly position and that were likely to affect the final outturn. To update Members on the latest position in relation to the 2016/17 Financial Settlement and Spending Review information as it affects the London Borough of Enfield.

**(Key decision – reference number 4151)**

**8**

**CAPITAL PROGRAMME MONITOR SECOND QUARTER SEPTEMBER 2015 BUDGET YEAR 2015-16**

Councillor Andrew Stafford (Cabinet Member for Finance and Efficiency) introduced the report of the Director of Finance, Resources and Customer Services (No.134) informing Members of the current position up to the end of September 2015 regarding the Council's Capital Programme (2015-19).

**NOTED**

1. That the overall approved expenditure was projected to be £193.6m for the General Fund and £55.8m for the HRA for 2015/16.
2. The updates to the proposed 2015/16 capital budget, as set out in section 4 of the report, covering additions to the programme, updated project expenditure profiles and scheme reductions.
3. Councillor Stafford highlighted the key projects programmed for 2015/16 as set out in the report and the work which had been completed to date. The funding elements of the capital programme

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including through disposals and borrowing was outlined. The Capital programme was under continuous review and would deliver on major projects in the Borough to the benefit of local residents and the local economy.

**Alternative Options Considered:** Not applicable to this report.

**DECISION:** The Cabinet agreed

1. The additions to the General Fund Capital Programme totalling £0.5m in 2015/16 (table 1 of the report referred) to be primarily funded from grants, contributions and general resources and noted that this would not materially increase capital financing costs.
2. The updated four year programme including proposed reductions subject to indicative estimates included in later years (section 5 of the report referred).

**Reason:** To inform Members of the current position regarding the Council's Capital Programme.

**(Key decision – reference number 4154)**

**9**

**QUARTERLY CORPORATE PERFORMANCE REPORT**

Councillor Doug Taylor (Leader of the Council) introduced the report of the Chief Executive (No.135) providing the latest available performance data at the end of quarter two 2015/16.

NOTED the progress made towards delivering the identified key priority indicators for Enfield as detailed in the report.

**Alternative Options Considered:** Not to report regularly on the Council's performance. This would make it difficult to assess progress made on achieving the Council's main priorities and to demonstrate the value for money being provided by Council services.

**Reason:** To update Cabinet on the progress made against all key priority performance indicators for the Council.

**(Key decision – reference number 4144)**

**10**

**SETTING UP THE COUNCIL'S TRADING COMPANY**

Councillor Ahmet Oykenner (Cabinet Member for Housing and Housing Regeneration) left the meeting for the discussion of this item (Minute No.2 above refers).

Councillor Alev Cazimoglu (Cabinet Member for Health and Social Care) introduced the report of the Director of Health, Housing and Adult Social Care

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(No.136) proposing the establishment of a Local Authority Trading company, wholly owned by the London Borough of Enfield, to commence trading in April 2016.

**NOTED**

1. That Report No.142 also referred as detailed in Minute No.21 below.
2. That a tabled note was provided to Members at the meeting setting out the Local Authority Trading Company Pension implications (containing exempt information to be considered as part of Report No.142, Minute No.21 below refers), which would be subject to recommendations 2.3 and 2.5 of the report and ensuring that the pension information did not have any impact on the business case.
3. That the proposals set out in the report would provide greater choice and control whilst maximising the commercial options available. A working group had been established to consider all of the proposed options. Thanks were expressed to the members of the working group for their input in the process.
4. The recommended way forward was felt to be the best opportunity available to the Council at this time. Members supported the recommendations detailed in the decisions below together with the tabled information.

**Alternative Options Considered:** NOTED that there were many options open to Councils to sell their services, develop staff and raise income. Thus, the trading company was one of a number of options explored as part of the Council's changing needs and priorities. Other considerations had included:

- shared service opportunities with other Councils and wider organisations
- development of staff owned mutual
- establishing a charity from in house provision
- trading via social enterprise
- external tender – contracting out council provision
- retaining in house provision

(Section 4 of the report referred)

**DECISION:** The Cabinet agreed

1. Subject to consultation, to establish a Local Authority Trading Company formed from Independence and Well Being Services.
2. That the Trading Company be registered under the name Independence and Well Being Services Ltd.
3. That the transfer of services to the Trading Company be agreed by the Cabinet Member for Health and Social Care and other involved Members, in consultation with the Trading Company's Board of

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Directors, in accordance with the Council's Scheme of Delegation, with a report coming back to Cabinet after six months.

4. That the governance and legal structures of the Trading Company – including the day to day management of performance and budgets and the structure and membership of the Board of Directors – be established as outlined in the body of the report with a further progress report in six months' time.
5. That the Trading Company undergoes a comprehensive review of performance following three years in operation.

**Reason:** That the trading company be established under the name Independence and Well Being Services Ltd. and, that the transfer of services to the Trading Company be agreed by the Trading Company's board of directors and the relevant Cabinet Members in accordance with the Council's Scheme of Delegation.

**(Key decision – reference number 4194)**

**11**

**UPTON ROAD AND RAYNHAM ROAD REDEVELOPMENT SCHEME**

Councillor Ahmet Oykenner (Cabinet Member for Housing and Housing Regeneration) introduced the report of the Director of Regeneration and Environment (No.138) setting out an indicative scheme proposal and preferred option.

**NOTED**

1. That Report No.140 also referred as detailed in Minute No.19 below.
2. A tabled amendment to recommendation 2.1 of the report with the addition of: "The final details of the scheme including the investment decision, will be brought back to Cabinet for a decision at a later date." Decision 1 below reflects this amendment.
3. That the Council was committed to the provision of new homes; the proposed redevelopment scheme could deliver over 100 new homes, community space, replacement retail space and public realm improvements.
4. The proposed approach to the engagement of local stakeholders as set out in the report.
5. The traffic and parking constraints as detailed in the report which were being considered as part of the scheme development. Members and Officers were mindful of the issues and concerns in this regard.

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6. That compulsory purchase powers would only be used as a last resort should the Council fail to acquire property interests by negotiation, as detailed in the report.
7. The authorisation sought for serving initial Demolition Notices, as set out in decision 3 below, and the implications of this. It was anticipated that a planning application would be made in the summer of 2016.
8. In response to concerns raised regarding traffic flows in the area, Ian Davis (Director of Regeneration and Environment) confirmed that studies were already being undertaken on traffic issues in the area.
9. Councillor Orhan (Cabinet Member for Education, Children's Services and Protection) highlighted the need for Children's Services to be fully consulted on the educational aspects of the development prior to any decisions being made. It was important for the Departments to work together in moving the proposals forward.

**Alternative Options Considered:** NOTED the alternative options which had been considered as set out in full in section 4 of the report, including: Do Nothing; Redevelopment of 1-12a Beck House in isolation; and, scheme without Raynham Road Car Park.

**DECISION:** The Cabinet agreed to

1. Authorise the initiation of a comprehensive housing led redevelopment scheme within the plan set out in appendix 1 of the report. The final details of the scheme including the investment decision, would be brought back to Cabinet for a decision at a later date.
2. Note the approach to engage stakeholders, including affected residents, set out in paragraph 3.33 of the report.
3. Authorise the serving of initial Demolition Notices in accordance with Schedule 5A of the Housing Act 1985 with immediate effect (subject to call-in).
4. Resolve to use Compulsory Purchase powers under section 226 1 (a) of the Town and Country Planning Act 1990 (as amended) should the Council fail to acquire property interests by negotiation within the boundary of the proposed development land, on the assumption that a Compulsory Purchase Order be confirmed.
5. Delegate authority to the Director – Regeneration and Environment, acting in consultation with the Director of Finance, Resources and Customer Services, to make a Compulsory Purchase Order if required in respect of the land shown on the plan set out in Appendix 2 of the report, to effect acquisition of property interests within the areas on each site described in the report and shown on the Plans "The Order Land".

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6. Delegate authority to the Director – Regeneration and Environment, acting in consultation with the Director of Finance, Resources and Customer Services, to finalise the Statement of Reasons, and take all the necessary steps consequent to the making of any Compulsory Purchase Order:
  - (a) To publish any Compulsory Purchase Order, referred to within this report, to seek confirmation of the Secretary of State and if confirmed, implement the Order.
  - (b) To continue negotiations with owners of property interests within the Order Land and acquire such property interests by agreement.

**Reason:** There was a strong case for progressing with a comprehensive regeneration scheme for the land on Upton Road and Raynham Road, based on a number of economic, social and environmental factors which were contained within the report.

**(Key decision – reference number 4119)**

**12**

**RESIDENTIAL PROPERTIES IN PARKS PORTFOLIO**

Councillor Andrew Stafford (Cabinet Member for Finance and Efficiency) introduced the report of the Director – Regeneration and Environment and Director of Finance, Resources and Customer Services (No.139) setting out the current position in respect of 39 residential properties within parks and street properties owned by Enfield Council.

**NOTED**

1. That Report No.141 also referred as detailed in Minute No.20 below.
2. The proposals for the future management of the properties as set out in the report, and the strategy in moving forward. It was noted that the potential of disposal for particular individual properties was a possible future option.
3. Councillor Cazimoglu (Cabinet Member for Health and Social Care) highlighted the need for full consideration of the potential future use of individual properties prior to any decision being made to dispose of a property. All options should be considered to ensure that maximum benefit was provided to the Council and local communities.
4. It was confirmed that a range of future options would be considered.

**Alternative Options Considered:** NOTED the alternative options which had been considered for the future strategic management of the Parks Residential Property Portfolio as set out in section 4 of the report.

**DECISION:** The Cabinet agreed to

### **Portfolio Management and Ownership**

1. Authorise the budget (as set out in the part two report) for the ongoing management, repair and maintenance (including comprehensive surveys) of the properties identified in Appendix 1 (part two report) – Schedule for Parks Properties (Minute No.20 below refers).
2. Authorise Strategic Property Services to manage the properties until the refurbishment programme had been completed.
3. Continue to consult and negotiate with the tenants, where appropriate, new rents and tenancies.
4. Delegate authority to the Director of Finance, Resources and Customer Services, to prepare a comprehensive strategy for the future management and holding of the “park” properties in an appropriate fund.

### **Retention of Properties**

5. Authorise the retention of the vacant parks properties listed in Appendix 1 (part two report) – Schedule for Parks Properties, to use as decant properties where appropriate.

### **Disposals**

6. Authorise Strategic Property Services to investigate and undertake the disposal and/or redevelopment of vacant parks dwellings listed in Appendix 2 – Schedule for Parks Properties (attached to the part two report) (Minute No.20 below refers).
7. Authorise that the capital receipts from the disposal of the properties be utilised to reimburse the repairs and maintenance expenditure incurred to date for urgent repairs and to fund future necessary repairs to the remaining properties.

**Reason:** To agree a clear programme for immediate maintenance of the residential properties; including the regularisation of the basis of occupation, and rents. To provide funds for the required works. To consider the long term management options for these properties and prepare a comprehensive long term strategy.

**(Key decision – reference number 4084)**

**13**

### **CABINET AGENDA PLANNING - FUTURE ITEMS**

NOTED the provisional list of items scheduled for future Cabinet meetings.

**14**



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## **MINUTES**

**AGREED**, that the minutes of the previous meeting of the Cabinet held on 18 November 2015 be confirmed and signed by the Chair as a correct record.

Councillor Oykenor reminded Members that he had asked officers to commission a report into the risk surrounding the unique nature of the HRA rental income (Minute No.9 – Enfield 2017 Transformation Programme – a Year On). The review was ongoing and once concluded a report would be made to the Cabinet with further proposals if appropriate.

### **15**

#### **MINUTES OF LOCAL PLAN CABINET SUB-COMMITTEE**

NOTED, for information, the minutes of meetings of the Local Plan Cabinet Sub-Committee held on 22 October and 5 November 2015.

### **16**

#### **ENFIELD STRATEGIC PARTNERSHIP UPDATE**

NOTED, that there were no written updates to be received at this meeting.

### **17**

#### **DATE OF NEXT MEETING**

NOTED, that the next meeting of the Cabinet was scheduled to take place on Wednesday 20 January 2016 at 8.15pm.

### **18**

#### **EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED** in accordance with Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for the items listed on part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 (information relating to the financial or business affairs of any particular person (including the authority holding that information) of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

### **19**

#### **UPTON ROAD AND RAYNHAM ROAD REDEVELOPMENT SCHEME**

Councillor Ahmet Oykenor (Cabinet Member for Housing and Housing Regeneration) introduced the report of the Director – Regeneration and Environment (No.140).

NOTED

1. That Report No.138 also referred as detailed in Minute No.11 above.

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2. That a number of amendments were tabled to the report, as reflected in the decisions below. The amendments were as follows:
  - Paragraph 2.1 - After “planning costs” add “of £870,000”, and after “vacant possession costs” add “of £703,000”
  - Paragraph 2.2 - Delete “appraisal summary” and add “information from paragraphs 3.22 to 3.28”, and delete “set out in Table 2”. After “Cabinet in November”, add a new sentence; “Further financial modelling work will be undertaken and presented to Cabinet at a later date”.
  - Delete Paragraph 2.5 which starts with “Delegate” (Note this was the first of a duplicated paragraph 2.5)
  - Paragraph 2.5 – Delete “the above recommendation” and add “paragraph 2.1 of the Part 1 report”.
  - Paragraph 2.6 – after “**Appendix 2** and” add “delegate authority to the Director – Regeneration & Environment and the Director of Finance, Resources & Customer Services” and delete “authorise the Council”
  - Delete Paragraph 2.7 which starts with “Authorise the Council”.
3. As detailed in the discussion of the part one report, to ensure that Children’s Services were included in the decision making processes on the educational aspects of the scheme proposals. Councillor Orhan emphasised the importance of this consultation and, the need to consider the demand for school places in the area as part of the scheme development.
4. The financial viability of the proposals as outlined in the report. The detailed proposals and options were discussed and noted.

**Alternative Options Considered:** NOTED the alternative options that had been considered as set out in section 4 of the report.

**DECISION:** The Cabinet agreed to

1. Note the outline development budget in table 1 of the report, and authorise expenditure of “professional fees, technical surveys and planning costs of £870,000” to achieve planning consent, and “vacant possession costs of £703,000” to enable the development of the scheme.
2. Note the financial information from paragraphs 3.22 to 3.28 of the report, and the preferred financial model for this scheme proposal with reference to the Cabinet report: “Setting up a Registered Provider and procuring an investment partner for the registered provider (Key decision 4205)” which had been approved by Cabinet in November. Further financial modelling work would be undertaken and presented to Cabinet at a later date.

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3. Delegate authority to the Cabinet Member for Finance and Efficiency and the Director of Finance, Resources and Customer Services, in consultation with the Cabinet Member for Education, Children's Services and Protection and the Interim Director of Children's Services, to consider an options paper for the Angel Community Centre and authorise a decision on whether full redevelopment and re-provision, or comprehensive refurbishment be undertaken.
4. Authorise the commencement of a procurement process to appoint a building contractor through an OJEU compliant process or framework, on confirmation that the final scheme budget had been approved as per paragraph 2.1 of the part one report.
5. Note the draft Heads of Terms detailed in appendix 2 of the report and delegate authority to the Director – Regeneration and Environment and the Director of Finance, Resources and Customer Services to enter into a commercial agreement on this basis with Riverside ECHG, to ensure that comprehensive redevelopment of the site could be delivered.

**Reason:** NOTED the reason for the recommendations as set out in full in section 5 of the report.

**(Key decision – reference number 4119)**

**20**

**RESIDENTIAL PROPERTIES IN PARKS PORTFOLIO**

Councillor Andrew Stafford (Cabinet Member for Finance and Efficiency) introduced the report of the Director – Regeneration and Environment and Director of Finance, Resources and Customer Services (No.141).

**NOTED**

1. That Report No.139 also referred as detailed in Minute No.12 above.
2. The commercially sensitive information in respect of the 39 properties as set out in the report. A range of options would be considered in moving forward, as discussed in Minute No.12 above. The need for the properties to be well-maintained and of benefit to the local communities was highlighted.

**Alternative Options Considered:** As detailed in Report No.139, Minute No.12 above refers.

**DECISION:** The Cabinet agreed

1. To authorise the budget as set out in the report for the ongoing management, repair and maintenance (including comprehensive surveys) of the properties identified in appendix 1 of the report – Schedule for Parks Properties.

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2. To authorise Strategic Property Services to investigate and undertake the disposal and/or redevelopment of vacant parks dwellings listed in appendix 2 of the report – Schedule for Parks Properties.

**Reason:** As detailed in Report No.139, Minute No.12 above refers.

**(Key decision – reference number 4084)**

**21**

**SETTING UP THE COUNCIL'S TRADING COMPANY**

Councillor Ahmet Oykenner (Cabinet Member for Housing and Housing Regeneration) left the meeting for the discussion of this item (Minute No.2 above refers).

Councillor Alev Cazimoglu (Cabinet Member for Health and Social Care) introduced the report of the Director of Health, Housing and Adult Social Care (No.142).

**NOTED**

1. That Report No.136 also referred as detailed in Minute No.10 above.
2. The information contained within the report including a business options summary; resource and capability audit; analysis of risk; and, 5 year income and expenditure statement.
3. The tabled information in respect of the Local Authority Trading Company Pension implications, which would be subject to recommendations 2.3 and 2.5 of Report No.136, Minute No. 10 above referred, and ensuring that the pension information did not have any impact on the business case. Further advice would be sought. If the information received had a material adverse impact on the business case then a further report would be brought before Cabinet for consideration.

**Alternative Options Considered:** As detailed in Report No.136, Minute No.10 above referred.

**DECISION:** The Cabinet agreed that the data contained within the report be used in support of the decision regarding the setting up of a Local Authority Trading company.

**Reason:** As detailed in Report No.136, Minute No.10 above referred.

**(Key decision – reference number 4194)**

## LOCAL PLAN CABINET SUB-COMMITTEE - 14.12.2015

**MINUTES OF THE MEETING OF THE LOCAL PLAN CABINET SUB-COMMITTEE  
HELD ON MONDAY, 14 DECEMBER 2015****COUNCILLORS**

**PRESENT** Ayfer Orhan, Alan Sitkin and Daniel Anderson

**ABSENT** Ahmet Oykenner

**OFFICERS:** Ian Davis (Director Regeneration & Environment), Joanne Woodward (Head of Strategic Planning and Design), Gerry Ansell (Planning Policy Team Leader), Neeru Kareer (Principal Planning Officer), Isha Ahmed (Principal Planning Officer), Koulla Panaretou (Committee Secretary)

**ALSO**

**ATTENDING:** Councillor Vicki Pite – (Associate Cabinet Member)

**1****WELCOME AND APOLOGIES FOR ABSENCE**

The Chair welcomed everyone to the meeting and apologies for absence were received from Cllr Ahmet Oykenner (Cabinet Member for Housing and Housing Regeneration), Cllr Bambos Charalambous (Associate Cabinet Member), Cllr George Savva (Associate Cabinet Member).

**2****DECLARATIONS OF INTEREST**

There were no declarations of interest registered in respect of any items on the agenda.

**3****URGENT ITEMS**

NOTED that the reports listed on the agenda had been circulated in accordance with the requirements of the Council's Constitution and the Local Authorities (Executive Arrangements) (Access to Information and Meetings) (England) Regulations 2012. These requirements state that agendas and reports should be circulated at least five clear days in advance of meetings.

**4****MINUTES OF THE MEETING HELD ON 5TH NOVEMBER 2015**

**AGREED**, that the minutes of the Local Plan Cabinet Sub-Committee held on the 5<sup>th</sup> November 2015 be approved.

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5

**DRAFT SECTION 106 SUPPLEMENTARY PLANNING DOCUMENT**

RECEIVED the report of the Director of Regeneration and Environment (Report No. 148) requesting agreement to approve the Revised Draft S106 Supplementary Planning Document (detailed in Appendix 2) for public consultation.

NOTED that

1. The report seeks agreement to consult on a further revision of the draft S106 Supplementary Planning Document (SPD). At its meeting on the 15<sup>th</sup> January 2015, the Local Plan Cabinet Sub Committee approved a draft revised S106 SPD for public consultation.
2. The consultation period lasted for six weeks and ended on the 23<sup>rd</sup> April 2015. A total of 9 responses were received and these are summarised in Appendix 1 together with how they have been taken into account in redrafting the document.
3. The S106 SPD sets out the Council's approach for securing planning contributions from new developments that require planning permission. The draft S106 SPD has been redrafted to take account of representations received and other changes; including changes to the government's affordable housing policy, and matters raised by the CIL Inspector (relating to education contributions) at the recent CIL examination held on the 4<sup>th</sup> November. A copy is attached in Appendix 2 of the agenda pack.

IN RESPONSE the following comments were received:

1. Concern was raised that historically S106 funding has been used to help finance school expansions; this will not be available at current levels going forward due to government restrictions regarding the pooling of S106 receipts and the intended introduction of the Community Infrastructure Levy. The Council will need to borrow more to make up the difference.
2. The cost of this consultation was questioned with only 9 responses received to the previous consultation. It was confirmed that mostly officer time was accountable for the completion of the consultation.

**Alternative Options Considered:**

None. It is necessary to make further revisions to the S106 SPD to coincide with the adoption of CIL.

**DECISION:** The Local Plan Cabinet Sub Committee agreed to approve the Revised Draft S106 SPD detailed in Appendix 2 for public consultation.

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**Reason:**

Further consultation is required on the Revised Draft S106 SPD to take account of the recent policy changes following the High Court challenge outcome and to reflect progress towards adopting Enfield's CIL. The Revised Draft S106 SPD (detailed in Appendix 2) provides clear, transparent and up-to-date guidance on the type of S106 obligations required for new development.

**6****ADOPTION OF THE DECENTRALISED ENERGY NETWORK TECHNICAL SPECIFICATION SUPPLEMENTARY PLANNING DOCUMENT KD4219**

RECEIVED the report of the Director of Regeneration and Environment (Report No. 126) requesting agreement to the adoption of the Decentralised Energy Network Technical Specification as supplementary guidance for Enfield's Local Plan.

NOTED that

1. Enfield's Local Plan policies support proposals for decentralised energy networks. Specifically, they require all major new developments to connect to, or contribute towards, existing or planned networks supplied by low or zero carbon energy.
2. Supplementary guidance has been prepared to support the implementation of these policies. This guidance aims to set out the technical design specification that commercial and residential developments need to meet in order to connect to, or contribute towards, decentralised networks.
3. A draft Decentralised Energy Network Technical Specification Supplementary Planning Document (SPD), was published for public consultation this summer. The consultation responses have been considered and minor changes have been made to the SPD. This report now seeks approval to formally adopt the Decentralised Energy network Technical Specification Supplementary Planning Document (SPD) (Appendix 1).

IN RESPONSE the following comments were received:

1. Verification of the technical information contained in the Decentralised Energy Network Technical Specification Supplementary Planning Document was requested to confirm its accuracy.
2. In response the LVHN specialist consultancy team were used to complete this and they are very experienced in this field. It lies within the parameters of the planning process and is an acceptable planning document.

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3. It was noted that the SPD provides further guidance to the adopted Development Management Document which contains planning policies requiring the provision of decentralised heat networks in the borough.
4. It was noted that the Technical Guidance is correct at the time of completion but this will need to be kept under review as technical advances are made in the industry.

**Alternative Options Considered:**

The alternative option is to not have a Supplementary Planning Document. This option would not help deliver decentralised energy networks which are high quality, efficient, have longevity, deliver the intended carbon emission reductions, and reduce the costs of energy to the consumer.

**DECISION:** The Local Plan Cabinet Sub Committee agreed to adopt the Decentralised Energy Technical Specification as supplementary guidance for Enfield's Local Plan.

**Reason:**

Enfield's Local Plan specifies that all major new developments should connect to or contribute towards existing or planned networks supplied by low or zero carbon energy. The Supplementary Planning Document will provide more detailed information for developers related to this policy requirement.

**7**

**DRAFT RITZ PARADE DEVELOPMENT BRIEF FOR PUBLICATION CONSULTATION - KD4072**

RECEIVED a report from the Director of Regeneration and Environment (report number 127) requesting the approval of the Draft Ritz Parade Development Brief (Appendix 1) for public consultation.

NOTED that

1. The report sought the agreement of the Draft Ritz Parade Development Brief, so that it could be published for public consultation.
2. Ritz Parade is an opportunity site identified as Site 12: Ritz Parade in the Adopted North Circular Area Action Plan (NCAAP). Bringing forward a Development Brief for Ritz Parade was a commitment in the NCAAP, NC Policy 23.
3. The objective of the development brief is to provide planning, design and development advice for the Ritz Parade site to help guide future redevelopment proposals as they come forward.



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4. The Brief will be published with a Foreword by Cllr Sitkin to confirm that the Council will set the parameters by which development proposals will be considered.
5. Concern was raised with regard to the under-usage of community halls, with particular concern about the Assembly Hall's future usage.
6. It was noted that the current occupiers of the Assembly Hall have a favourable long term lease with the freeholder and this consultation will provide the opportunity to engage with both freehold and leasehold interests to understand their relationship for the future.
7. Within the consultation document there is no mention of Health Centres. There is concern that GP's now have an average of 4,000 patients each on their book, increased from 1,900. These increases are largely due to an increase in people moving into the Borough.
8. In response, the consultation draft establishes the principle to both retain the existing 2,000 sq.m community space or the provision of new community spaces as part of a more comprehensive option. The consultation process is intended to draw out the needs of people.
9. There are different options regarding whether or not the Assembly Hall should be retained, It is not a listed building. Moreover, its retention would have cost implications likely to affect in turn the project scale that developers would demand. On the other hand, some residents might feel that the Hall has at least some local historical value. There is currently a borough-wide local heritage review being undertaken of local structures of local interest. The Assembly Hall is being considered as part of this process to be considered as suitable for inclusion on the Local List of heritage assets. The review is still on-going and will be completed in Spring 2016.
10. Other social infrastructures such as education provision have already been addressed through the adopted North Circular Area Action Plan, which takes account of the residential capacity potential of Ritz Parade. Ritz Parade is designated a Large Local Centre, and therefore it is a highly appropriate site to promote both community and retail uses.

**Alternative Options Considered:**

The requirement to bring forward a development brief for Ritz Parade is a commitment as set out in the Council's adopted North Circular Area Action Plan and once adopted, it will form part of Enfield's Local Plan as supplementary guidance. Several development scenarios have been considered upon arriving at the two preferred options, all other options have been discounted on account of development viability.

**DECISION:** The Local Plan Cabinet Sub Committee approved the Draft Ritz Parade Development Brief (Appendix 1) for public consultation.

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**Reason:**

The production of a detailed development brief for this site is a commitment set out under NC Policy 23: Ritz Parade in the North Circular Area Action Plan; it will serve to aid the delivery and implementation of this key site in consultation with the wider community.

**8**

**DATES OF FUTURE MEETINGS**

**NOTED** the following future meeting dates:

Tuesday 9<sup>th</sup> February 2016 – Room 3, 7pm to be re-arranged. Alternative dates to be circulated under separate cover.

Wednesday 20<sup>th</sup> April 2016 – Room 3, 7pm

Please note: Briefing Sessions for all the above meetings will be held at 6:30pm in the Democratic Services Meeting Room, A Block, 1<sup>st</sup> Floor, Cellular Office.

## **MINUTES OF THE MEETING OF THE ENFIELD COMMUNITY SUPPORT FUND CABINET SUB-COMMITTEE HELD ON WEDNESDAY, 16TH DECEMBER, 2015**

**MEMBERS:** Councillors Yasemin Brett (Cabinet Member for Community Organisations and Culture) and Ahmet Oykenner (Cabinet Member for Housing and Housing Regeneration)

**Officers:**

Shaun Rogan (Head of Communities, Partnerships and External Relations), Niki Nicolaou (Voluntary Sector Manager), Jayne Middleton-Albooye (Head of Legal Services), Koulla Panaretou (Committee Secretary)

### **1. APOLOGIES FOR ABSENCE**

The Chair welcomed everyone to the meeting. Apologies for absence were received from Cllr Achilleas Georgiou.

### **2. DECLARATIONS OF INTEREST**

There were no declarations of interest registered in respect of any items on the agenda.

### **3. URGENT ITEMS**

NOTED that the reports listed on the agenda had been circulated in accordance with the requirements of the Council's Constitution and the Local Authorities (Executive Arrangements) (Access to Information and Meetings) (England) Regulations 2012. These requirements state that agendas and reports should be circulated at least five clear days in advance of meetings.

### **4. ENFIELD COMMUNITY SUPPORT FUND DEFERRED APPLICATION FROM 9 JULY 2015 MEETING**

Councillor Yasemin Brett (Cabinet Member for Community Organisations and Culture) introduced the report of the Chief Executive (No. 144) presenting the application that was deferred by the Enfield Community Support Fund Cabinet Sub-Committee held on the 9<sup>th</sup> July 2015.

Shaun Rogan, Head of Policy, Partnerships, Engagement and Consultation and, Niki Nicolaou, Third Sector Development Team Manager, presented the report to Members.

NOTED that

**ENFIELD COMMUNITY SUPPORT FUND CABINET SUB-COMMITTEE - 16.12.2015**

1. In relation to the joint bid by Enfield Citizens Advice Bureau and Enfield Turkish Cypriot Association, further discussions with the applicants and further details were requested in relation to their application.
2. A joint bid of £10,000 was submitted requesting funding for advice and information running costs, volunteers and scanners.
3. Additional background information on the application had been provided to Members of the Sub-Committee.
  - i. Volunteers will be able to contribute further with the programme.
  - ii. An increased element of sustainability will be seen.
  - iii. The sessional worker will be able to pass on his knowledge to the volunteers involved.
  - iv. Third Sector Development Team will be monitoring progress on a regular basis.
  - v. £2800 of the funds to cover the first quarter of the project will be released straight away. Subsequent funding against the agreed profile will be made quarterly. Evidence of spend and out puts will need to be provided subsequently on a quarterly bases before any further funding is released.
  - vi. The Enfield Citizens Advice Bureau have agreed to provide support to the Enfield Turkish Cypriot Association if needed.
  - vii. The bid now makes reference to accepting referrals from the Council.

**Alternative Options Considered:** That the project is not considered and the funding is not allocated. This would not be recommended as this will not support the stated aim of building greater capacity and resilience within our communities.

**DECISION:**

1. That the Cabinet Sub-Committee following detailed re-consideration of the applications and the criteria, agreed that the following application is suitable for funding from the Enfield Community Support Fund:

<p>Bid agreed by the Cabinet Sub-Committee (previously deferred by the Cabinet Sub-Committee at its meeting on the 9<sup>th</sup> July 2015)</p>
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**ENFIELD COMMUNITY SUPPORT FUND CABINET SUB-COMMITTEE - 16.12.2015**

Bid Ref	Organisation	Funding Requested	Project Summary
ECSF006	Enfield Citizens Advice Bureau	£10,000	A joint bid submitted requesting funding for advice and information running costs and volunteers
ECSF019	Enfield Turkish Cypriot Association		

**Reason for Recommendations:** The joint project submitted has been proposed and developed by the voluntary and community sector organisations and community groups of Enfield, to help provide greater support to our communities and so improve the social, economic or environmental wellbeing by tackling local need and deprivation. The project deferred supports the Council's vision of making Enfield a better place to live and work, delivering fairness for all, growth and sustainability and strong communities. It has been assessed by an officer team to determine their eligibility for consideration by the Cabinet Sub-Committee.

#### **5. MINUTES FROM PREVIOUS MEETING - 9 JULY 2015**

AGREED, that the minutes of the previous meeting of the Enfield Community Support Fund Cabinet Sub-Committee held on the 9<sup>th</sup> July 2015 be approved and signed by the Chair, as a correct record.

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