

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
A1	£2.68m	Comm	Cost effective care packages	<p>Although there is an absolute duty on local authorities to assess individuals for possible care and support needs, local authorities do have a high level of discretion as to how to meet eligible needs, both in the application of approved eligible needs criteria and in terms of the reasonable application of resources. However on an individual basis, no service user may have their care package altered without a further assessment of need.</p> <p>An EAA will not be required as the actions taken to implement these savings are not at the strategic level; all service users will be assessed and re-assessed on an individual basis, and to attempt to analyse the impact of these proposals across the client group is not meaningful, nor a relevant consideration here as each care package will have separate reassessment and consideration within existing lawful eligibility criteria, with service decisions being made exercising a lawful degree of discretion as to how to meet eligible need.</p>
A2	£1.5 m	Comm	Negotiated reduction in 24 hr individual prices for care; pathway redesign; charging where historical funding streams have put people outside Council charging	<p>Although there is an absolute duty on local authorities to assess individuals for possible care and support needs, local authorities do have a high level of discretion as to how to meet eligible needs, both in the application of approved eligible needs criteria and in terms of the reasonable application of resources. They</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				<p>can charge for social care services. However on an individual basis, no service user may have their care package altered without a further assessment of need.</p> <p>Statutory consultation will be required for the second and third proposal and in respect of negotiated changes to contractual prices, this may only be done by agreement unless provided for within the contractual terms.</p> <p>A further report will be brought back, following consultation which will deal with all relevant matters.</p>
A3	£150k	Comm	Review adult social care sensory services	<p>Direct payments were introduced by the <i>Community Care (Direct Payments) Act 1996</i>. The initial power to provide DPs has been extended to a duty to provide DPs to all those who consented to and were able to manage them, (2003 Regulations pursuant to the Health and Social Care Act 2001), and over all user groups including those with learning difficulty and mental health issues by 2009.</p> <p>The aim of Direct Payments is to increase individuals' independence and choice by giving them control over the way services they receive are delivered. Direct payments are cash payments made in lieu, either fully or partly, of</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				<p>services from local authority social services. The payment must be sufficient to enable users to purchase services to meet their needs, and must be spent on services that users need.</p> <p>Personal budgets are an allocation of funding given to users after a social services assessment of their needs. Users can either take their personal budget as a direct payment, or - while still choosing how their care needs are met and by whom - leave councils with the responsibility to commission the services. Alternatively, they can have a combination of the two.</p>
A4	£1.3 m	Comm	Remodelling building based day services and associated travelling costs	To meet the statutory requirements to increase the use of personal budgets, a review is necessary as Council services cannot generally be purchased via direct payments. There will need to be consultation if there is any proposal to lose building based services and in relation to any transport changes. On an individual basis, no service user may have their care package altered without a further assessment of need.
A5	£275k	Comm	Charging for adult social care services	Section 17 Health and Social Services and Social Security Adjudications Act (HASSASSA) 1983 gives Councils a discretionary power to

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				charge adult recipients of non-residential services, provided that such charges are reasonable and they have regard to the Government's "Fair Access to Care Service" national guidance. From April 2015 the relevant statutory provision will be the Care Act 2014. Formal consultation will be required including consultation with self funders over the introduction of a charge for administration of the Care Account which is a new requirement of the Care Act 2014. A full report will be needed.
A6	£1.5 m	Comm/Public Health	Efficiencies , decommissioning certain services and review of current contracts	Statutory duties for areas of public health were conferred on the Council by the Health and Social Care Act 2012. Specifically Section 12 introduced a new duty to take appropriate steps to improve the health of people living in the area. Regulations require the Council to provide particular services for the weighing and measuring of children, provision of health checks for eligible people, open access sexual health services, public health advisor services and information and advice about local health issues. The Council must be satisfied that it is still able to fulfil these statutory duties despite any change of service provision. Some specific proposals will require consultation and a full report should be submitted. Public health expenditure is ring fenced for public health outcomes until the end of 2015/16. This does not mean that public health expenditure cannot

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				be put to different public health uses than is the case currently. Where expenditure is made under contract is may only be reduced in accordance with the terms of that contract.
A7	£250k	Comm	Renegotiate contracts for accommodation based services for people with mental health and use new models to achieve savings	For existing contracts, price reductions may only be achieved by agreement during their currency by agreement unless the contract provides otherwise. Re-commissioning may offer opportunities for new contracts at better rates. An EAA and full report will be required. On an individual basis, no service user may have their care package altered without a further assessment of need.
A8	£250k	Comm/Public Health	Review public health programmes	A number of the public health contracts have a six month notice period. Consultation and an EAA will be required as will a full report.
A9	£250k	Comm	Staffing restructure to realign early intervention services	The general employment legal implications apply. It is not proposed that the proposals if agreed would impact on service delivery.
A10	£600k	Comm	Recoupment of the cost of health related elements of care packages and placements	NHS bodies are responsible for the cost of primary health need, whilst the Council is responsible for the costs of social care. DOH guidelines provide that the CCG and the Council should seek to agree a funding arrangement which reflects their respective contributions to the elements of care for which

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				they are responsible, where a service user has both health and social care needs.
B1	£2523 over 2 years (£1349 2015/15)	Comm	Supporting People – service reductions, closures, efficiencies, review of mental health services	These proposals will need a full report following consultation, including an equalities impact assessment. Contracts may only be terminated on notice as provided in their terms.
E1	£600k	R & R - RH	Proposal is a staffing reorganisation	General legal implications apply.
E2	£1.165m (over 3 years) £190k in 2015/16	R & R - RH	A range of asset optimisation measures and enhanced asset management arrangements	Reduction in FM or other contracts may only be done by negotiation unless the contract provides otherwise.
E3	£200k	R & R - RH	Income generation 2017/18	Legal advice on particular proposals will be provided at the appropriate time, depending upon the schemes brought forward.
E4	£595k (over 3 years (£50k in 2015/16)	R & R - RH	Increased income based on market rates and better use of properties	The Council's estate must comply with statutory provisions such as the Health and Safety Act, and arrangements with tenants formalised through appropriate leases. The circumstances in which commercial and garage properties may be transferred from the HRA to General Fund is dealt in respect of proposal M1 below.
E5	£134k (£109K in 2015/16)	R & R - RH	£109K relates to the reduction of the Council's carbon emissions and its carbon footprint giving a (tax)	The dimming of street lights is permitted within the street lighting PFI contract and is subject to consultation with residents and relevant

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
			reduction for this sum in 2015-2016. £25k relates to the dimming of street lighting due to be realised in 2016-2017.	stakeholders e.g. those responsible for crime and disorder including the police. The Council shall have to draft a policy covering its consultation procedure. A full report will be required in due course.
F1	£1.9 m (£ in 2015/16 - 900k	Cust	Establish a centralised corporate business support unit	General legal implications apply.
G1	£974k	R & R - ST	Range of income generation measures e.g. fees and charges, reviewing schools SLAs, improving debt collection and reviewing the Council's investment strategy	Proposals to charge for Blue Badges will need consultation and a report.
H1	£800k	Comm	Staff restructure to create community protection hub	General legal implications apply.
I1	£2,090m	Resources	Efficiencies in Council's professional services	These largely relate to staffing reductions and general legal implications apply.
J1	£751k	CYP	Increase the cost to be paid by schools from DSG under SLA – Ed Psychology and SLD	Section 14 of the Education Act 1996 requires local authorities to secure the provision of sufficient schools for providing primary and secondary education for its area. Such schools have to be sufficient in number, character and equipment to provide pupils the opportunity of an appropriate education. Appropriate

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				<p>education means education which offers such variety of instruction and training, as may be desirable in view of pupil's different ages, abilities and aptitudes, and the different periods for which they may be expected to remain at school.</p> <p>In exercising their functions under section 14(a) local authorities must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.</p> <p>Local authorities are also required in particular to have regard to -</p> <ul style="list-style-type: none"> <li>(i) the need for securing that primary and secondary education are provided in separate schools;</li> <li>(ii) the need for securing that special educational provision is made for pupils who have special educational needs; and</li> <li>(iii) the expediency of securing the provision of boarding accommodation (in boarding schools or otherwise) for pupils for whom education as boarders is considered by their parents and the authority to be desirable.</li> </ul> <p>Under the relevant provision of the Education Act 1996 and the recently enacted Children &amp;</p>



## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				<p>Families Act 2014 local authorities have a range of statutory responsibilities in relation to their arrangements for special educational needs. Local authorities are required to identify, assess, determine and make the special educational provision which any learning difficulty calls for and to prepare and maintain an Education Health and Care Plan (EHCP) where necessary.</p> <p>In conducting an assessment of the education, health and care needs of a pupil or young person a local authority must gather advice and information from a range of relevant individuals and professionals. A local authority is required to obtain psychological advice and information from an educational psychologist, who should normally be employed or commissioned by the local authority. All Education, Health and Care Plans are required to include “psychological advice”. The view of an educational psychologist is crucial in a local authorities fulfilment of its statutory responsibilities relating to SEN; there is however no statutory requirement or restriction which imposes that educational psychologists are employed by the local authority.</p> <p>The Childcare Act 2006 imposes a general duty on local authorities to improve the well being of children under 5 and to reduce inequalities.</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				Local authorities are required to make arrangements in an integrated manner with a view, broadly, to securing maximum benefit for users of early childhood services, and making their availability widely known. The arrangements made under S3(2) of the Childcare Act 2006 must include arrangements for sufficient provision of children's centres to meet local need.
K1	£604k (574 in 2015/16)	Comm	<p>Tender some drug and alcohol services</p> <p>Proposed savings in the Drug and Alcohol Prevention and Inclusion service within LB Lewisham</p> <ol style="list-style-type: none"> <li>1. Revitalising and improving the shared care arrangements (GP services) including a new approach to alcohol services - £250k</li> <li>2. Refocusing our work with young people to more efficiently meet their needs – redesign to realise savings elsewhere</li> <li>3. Contract efficiencies - £100k</li> </ol>	<p>EAA assessments will be required to be worked in to the proposals in more depth.</p> <p>In relation to the restructure of the team, the general employment legal implications will apply and the Council's Management of Change Guidelines.</p> <p>Report to Mayor and Cabinet will be required</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
			<p>4. Targeting of tier 4 residential services - £150K</p> <p>5. Reduction of service user involvement funding - £40K</p> <p>6. Restructure of the team - £64K (split over 15/16 &amp; 16/17)</p>	
K2	£200k	Comm	Deletion of one post in the Youth Offending Team; cessation of certain programmes externally funded, overhead reduction	An EAA assessment will be required. Any variation to existing contracts can only be by agreement between the parties although there is a right of voluntary termination if the parties cannot agree to necessary changes.
K3	£200k	Comms	Cease case management of integrated offender management service	<p>There is no statutory requirement to have an integrated offender management service. It is part of the Home Office and MOJ strategy to prevent crime and reduce offending. Proposals in relation to this service are being put forward at a national level to provide support through other agencies to be set up as part of the Transforming Justice agenda.</p> <p>The Crime and Disorder Act 1998 still applies to the Council when it exercises its various functions. It places a duty upon local authorities to seek to prevent crime and disorder in its area in carrying out its duties.</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				Specifically, Section 17 of the Act imposes a duty upon each authority to “ ...exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”
L1	£1.5 m	Comms	To reduce the VCS grants programme, new grants to commence on 1 July 2015, to achieve £1.5 million savings over 2015/16 and 2016/ 17. New criteria to obtain grants are proposed.	The giving of grants to voluntary organisations is discretionary. The Council must act reasonably in relation to funding decisions taking into account only relevant considerations and disregarding irrelevancies. The Council is bound to consult on its proposals and regard has to be had to the outcome of the consultation upon the new proposed criteria for eligibility for grant funding. EAA assessments will be required to be worked in to the proposals in more depth. A full report will be necessary.
L2	£280k	Comms	To restructure the staff in the Library Service to achieve £280,000 savings - 2015/2016.	The general employment legal implications will apply and the Council's Management of Change Guidelines. It is not intended that the proposals should have an impact on the Council's ability to fulfil its statutory duty in relation to libraries
M1	£1.0m	Cust	Transfer of commercial premises and	The Council has power under the Local

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
			garages from HRA to GF	Government Act 1972 to appropriate land which is no longer used for the purpose for which it was acquired to use for any other purpose for which it has power to acquire land. In the case of land held for housing purposes that power is subject to Section 19 Housing Act 1985 which requires the consent of the Secretary of State to appropriation of dwellings from the HRA. As the proposal does not relate to dwellings, Section 19 consent would not be required. Any decision to appropriate will be subject to the Council being satisfied that the land in question is no longer required for housing purposes. If a property is transferred between the HRA and any other revenue account within the General Fund, this will involve adjustments to the HRA and subsidy credit ceilings in accordance with relevant determinations under Part VI of the Local Government and Housing Act 1989. The full financial implications of any transfer would need to be considered as part of any decision to appropriate. A full report will be required.
N1	£340k	Cust	To increase voluntary participation in parks and reduce management and management support posts (3 posts).	General legal implications apply to any staffing changes. There would need to be an assessment of the implications of any such proposal on the parks contract to ensure that it is consistent with its terms, or else seek agreement with the contractor. The Council would need to define the status of the volunteers when engaged on park activity.

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				Legal implications on the parochial churches issue will be available at the meeting.
N2	£400k	Cust		<p>Under Section 89(1) of the Environmental Protection Act 1990, the Council is under a statutory duty to ensure that open land under its direct control and to which the public have access is, so far as practicable, kept clear of litter and refuse. Under Section 89(2), the Council is also under a statutory duty, so far as is practicable, to ensure that public highways within its area are kept clean. In deciding what standard is required, the Council must have regard to the character and use of the land or highway, as well as the measures which are practicable in the circumstances. Under Section 89(10), the Council is also required to have regard to the code of practice published by the Secretary of State from time to time. In particular, the code requires the Council to allocate its land into different types or "zones" which must be publicised. The code then sets out cleanliness standards for the different types of land and maximum response times for cleaning an area which has been littered. The duty applies seven days a week. Members of the public may complain to the Magistrates Court where they consider that there is a breach of Section 89. The code of practice is admissible in evidence and the court may take into account any relevant provision in the code</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				<p>of practice. If the complaint is successful, a litter abatement order will be made, failure to comply with which is an offence. The court may also award costs if it is satisfied that there were reasonable grounds for bring the complaint, even if by the time the complaint is heard, the litter has been cleared away or the lack of cleanliness rectified. In considering any savings proposals in relation to these matters, the Mayor must therefore be satisfied that the Council will still be able to comply with its duties under Section 89 and the requirements contained in the code of practice.</p>
O1	£200k	Cust - RW	<p>The proposal is to withdraw the discretionary FP with effect from 1.1.2015. the impact will be negated by the existing JC + travel discount card and the 60+ London Oyster card. This will however still leave approximately 32% of existing discretionary FP holders unable to have a FP if this proposal is given effect</p>	<p>Currently, discretionary Freedom Passes are issued by local authorities to persons who do not meet either the statutory “retirement” age requirement (60+) or the eligibility criteria set out within s. 151(4) of the Transport Act 2000 for disabled persons (any one of seven criteria of disability).</p> <p>The local discretionary criteria have been applying to those persons who have evidence of either a mobility disability or an enduring mental health condition. Consultation will be required and given the likely impact upon persons of protected characteristics, a full EAA will be required all of which must be the subject of a full report before a decision is made.</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
O2	£50k	Cust - RW	To reduce the Parking Contract Client Team by one post.	The general employment legal implications will apply and the Council's Management of Change Guidelines
O3	£600k	Cust - RW	Parking Control Notices (PCN's) are issued and Business Rates debt currently collected by outside agencies. Proposal is to extend the current internal bailiff service also to cover those types of debts.	<p>There is no requirement to use only Court employed or other external certified enforcement agents (bailiffs). However they must be certificated by a local County Court.</p> <p>In the event that Council enforcement agents act in a manner which is challenged or complained about, if the enforcement agents were employed by the Council, those complaints could be investigated by the Local Authority Ombudsman. Currently, Court enforcement officers or other external enforcement agents, have such complaints resolved through the Court.</p> <p>Since April 2014, there are new procedures for enforcement agents to follow and revised fees have been introduced. The level of fees payable is set nationally and reviewed annually.</p>
P1	£229k	R & R	Restructure Planning Service and remove funding for lawyer to deal with Section 106 agreements	The general employment legal implications will apply and the Council's Management of Change Guidelines.



## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
Q1	CYP	£5.515 m	Reduce child care costs by a number of measures including integration of Early Intervention and Referral and Assessment Teams, fewer assessments, alternative delivery models “resetting of CSC placements budget”	<p>There is a general duty upon local authorities to provide support, in kind, cash or services, to enable children in need to remain with their families and be cared for by them ( s17 CA1989). Accommodation can be provided to children in need ( S20) and has implications for resources in fulfilling the Council’s statutory duties to Looked After Children. The Childcare Act 2006 ( as amended) places a duty on local authorities to improve the well-being of young children under 5 in their area, to reduce inequalities and ensure an integrated approach to services. Specifically, Local Authorities have a duty to provide sufficient designated Childrens’ Centres to meet local need.</p> <p>The Council is also the lead safeguarding agency for child protection, in assessing risk and managing it and alleviating it either through the Child Protection procedures or by way of application to the Court. Successful early intervention services divert families from entering safeguarding levels of concern.</p> <p>The Council has a duty to ensure that there are adequate numbers of Social Workers to provide the necessary services.</p> <p>Consultation is required for closure of Childrens’ Centres, although the provision of integrated early years services does not have</p>

## APPENDIX 1C: Summary of Specific Legal Implications

Reference	Savings	Directorate	Summary	Specific legals
				to be premises – based. Employment issues arising will be dealt with by the Councils HR Procedures. A full report has already been prepared.
Q1 (sic)	CYP	£3.208 m		Please see above
Q2	CYP	£1,406m or £3.16m	Either reduce Youth Service provision to a statutory minimum (option 2) or create a mutual and award a contract to it for at least 3 years.	