



AGENDA

OVERVIEW AND SCRUTINY BUSINESS PANEL

Date: TUESDAY, 13 FEBRUARY 2018 at 7.05 pm

Committee Rooms 1 & 2
Civic Suite
Lewisham Town Hall
London SE6 4RU

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MEMBERS

Councillor Alan Hall	Chair of the Overview and Scrutiny Committee	L
Councillor Gareth Siddorn	Vice Chair of the Overview and Scrutiny Committee	L
Councillor Liam Curran	Chair of Sustainable Development Select Committee	L
Councillor Carl Handley	Chair of Housing Select Committee	L
Councillor John Muldoon	Chair of Healthier Communities Select Committee	L
Councillor Maja Hilton	Chair of Public Accounts Select Committee	L
Councillor Jim Mallory	Labour Group Representative	L
Councillor Liz Johnston-Franklin	Labour Group Representative	L
Councillor Pauline Morrison	Chair of Safer Stronger Communities Select Committee	L
Councillor Luke Sorba	Chair of Children and Young People Select Committee	L

This meeting is an open meeting and all items on the open agenda may be audio Recorded and /or filmed

Members are summoned to attend this meeting

Janet Senior
Acting Chief Executive
Lewisham Town Hall
Catford
London SE6 4RU
Date: Thursday 1 February 2018



INVESTOR IN PEOPLE

The public are welcome to attend our committee meetings, however occasionally committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

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Lewisham



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Agenda Item 1

OVERVIEW & SCRUTINY BUSINESS PANEL		
Report Title	Minutes	
Key Decision		Item No. 1
Ward	All	
Contributors	Chief Executive	
Class	Part 1	Date: 13 February 2018

Recommendation

It is recommended that the minutes of that part of the meeting of the Overview and Scrutiny Business Panel which was open to the press and public, held on 23 January 2018 be confirmed and signed.

MINUTES OF THE OVERVIEW AND SCRUTINY BUSINESS PANEL

Tuesday, 23 January 2018 at 7.05 pm

PRESENT: Councillors Alan Hall (Chair), Liam Curran, Carl Handley, John Muldoon, Jim Mallory and Luke Sorba

Apologies for absence were received from Councillor Gareth Siddorn, Councillor Maja Hilton, Councillor Liz Johnston-Franklin and Councillor Pauline Morrison

62. Minutes

The meeting was adjourned and reconvened at 7:20pm

Beckenham Place Park Regeneration Update

The Chair informed Panel Members that the findings for the review of the Council's Lettings and Contract Procedures Policy would be reported to the next Business Panel meeting.

REOLVED that the minutes of the open meeting held on 19 December 2017 be confirmed as a correct record.

63. Declarations of Interests

None received.

64. Outstanding Scrutiny Items

Report noted.

65. Notification of Late and Urgent Items

Report noted.

66. Decisions made by Mayor and Cabinet on 10 January 2018

Working in the Private Rented Sector

The Housing Needs Manager introduced the report.

The Chair said it was good to note that the Council was actively regulating the Private Rented Sector. He asked whether more could be done, and was told the government might tighten the regulation. The Chair said Bellingham had 2 storey houses in Multiple Occupation, but were just under the threshold. He said there was a very high volume of Anti-Social Behaviour in the area and something needed to be done to address this.

The Chair commented that borough-wide or constituency licensing might be better as it would cover larger areas. The Housing Needs Manager explained that it was

possible to do borough-wide licensing, as Newham had done so, but the Council would need the approval of the Secretary of State, and for that would have to submit sufficient evidence to make a good case. She said officers were aware of the issues in Bellingham and it would be investigated. Meanwhile they were working with their planning colleagues to gather the necessary information to see if Article 4 Direction would be relevant to support an application.

Councillor Sorba asked what was preventing the application and was told that Lewisham was trying to build a data platform then assess the quality of the data. She said Newham had a lot of Private Sector Renting accommodation in comparison to Lewisham, and they also have a higher level of Anti-Social Behaviour offences.

Councillor Handley asked if the penalty was sufficient to serve as a deterrent and was told that the maximum under Civil Penalty was £30k. Councillor Handley asked whether the Council was still within the 5year timeframe for the scheme, and was told this was the case, but it could be extended if need be, as Newham had theirs extended.

Councillor Muldoon asked if there were sufficient enforcement resources to make the scheme work and was told that although it was a small team the resources were deployed effectively and new funding would help provide support from police officers and a lawyer. Panel Members were informed that over the last few years the team had 2 prosecutions a year on average.

The Chair said Business Panel welcomed the work of the team and their intention to collect important data, but saw the need for the collected information to be kept under review to ensure the Council has robust data if it wished to extend the scheme. The Chair thanked officers for the report.

RESOLVED that:

- i. the decision of the Mayor be noted.
- ii. the Mayor be requested to instruct officers to keep the data collection under review to ensure the availability of robust data that could be used if the Council wished to extend the scheme.

67. Overview & Scrutiny Select Committees Work Programmes 2017-18 - verbal update

The Scrutiny Manager informed Panel members that all the Select Committees have concluded their in-depth reviews and have either forwarded their recommendations to Mayor & Cabinet or are about to do so.

Panel members were also informed that the London Scrutiny Network would be having a high profile meeting on 29 January, 2.30 – 4.30 at the GLA. Clive Betts MP, Chair of the Communities and Local Government Select Committee will be attending, alongside Jennette Arnold, Chair of London Assembly, and Professor Tony Travers Journalist and Academic at London School of Economics, plus representatives from the LGA and CfPS. Panel Members were told that there might be one or two spaces left and if they would like to attend they should book their place as soon as possible.

The Chair said it was necessary to do a report highlighting the good work scrutiny had done over the last four years as the Council was coming to the end of the current Administration. Councillor Muldoon endorsed this request and stated that it would help to demonstrate that scrutiny deserves parity of esteem with the executive.

Action >>>>> Scrutiny Manager

The Chair stated that Clive Bett's report highlighted key issues and recommendations, and access to independent legal advice which is available to Audit Committees should also be included within these recommendations. The Chair said new Council Members needed to be made aware of these issues, and Chairs of Scrutiny should be independent and not be influenced by officers or the executive. The Chair said he hoped this would be covered by Council Members induction.

The Chair thanked scrutiny officers for their good work in assisting scrutiny members during this difficult period.

RESOLVED that:

- i. the report be noted.
- ii. a report highlighting the good work scrutiny had done over the last four years be prepared by officers as soon as possible before the new Administration.

68. Exclusion of the Press and Public

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3, 4 and 5 of Part 1 of Schedule 12(A) of the Act, as amended by the Local Authorities (Executive Arrangements) (Access to information) (Amendments) (England) Regulations 2006 and the public interest in maintaining the exemption outweighs the public interest in disclosing the information:

The following is a summary of the items considered in the closed part of the meeting:

69. Decision made by Mayor and Cabinet on 10 January 2018

This item was not identified for further discussion.

70. Decisions made by Mayor and Cabinet (Contracts) on 10 January 2018

Grove Park Streetscape Works

RESOLVED that the decision of the Mayor be noted.

Violence Against Women and Girls Contract Extension

RESOLVED that the decision of the Mayor be noted.

71. Decision made by an Executive Director Under Delegated Authority - Carers Information Advice and Support Service - Extension of Contract 2018

This item was not identified for further discussion.

Meeting ended 8:05pm

Chair

Agenda Item 2

OVERVIEW AND SCRUTINY BUSINESS PANEL		
Report Title	DECLARATIONS OF INTEREST	
Key Decision		Item No. 2
Ward		
Contributors	Chief Executive	
Class	Part 1	Date: 13 February 2018

Members are asked to declare any personal interest they have in any item on the agenda.

1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member's knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a

partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.

- (g) Beneficial interest in securities of a body where:-
- (a) that body to the member's knowledge has a place of business or land in the borough; and
 - (b) either
 - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

(3) Other registerable interests

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

(4) Non registerable interests

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members' Interests (for example a matter concerning the closure of a school at which a Member's child attends).

(5) Declaration and Impact of interest on members' participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any

event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**

- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.
- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

(6) Sensitive information

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

(7) Exempt categories

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

Agenda Item 3

OVERVIEW AND SCRUTINY BUSINESS PANEL		
Report Title	Outstanding Scrutiny Items	
Key Decision	No	Item No. 3
Ward	n/a	
Contributors	Head of Business and Committee	
Class	Part 1	Date: 13 February 2018

1. Purpose of Report

There are no items previously reported to the Mayor for response by directorates.

Overview & Scrutiny Business Panel		
Report Title	Notification of Late and Urgent Items	
Key Decision	No	Item No. 4
Ward		
Contributors	Head of Business and Committee	
Class	Part 1	Date: 13 February 2018

1. Purpose of Report

Report Title	Author	Reasons Stated for Urgency	Responsible Committee and Date
2018/19 budget report	ED Resources and Regeneration	<p>Lateness: This report was not available for the original dispatch to ensure that the information necessary to formulate the budget could be appropriately considered within this report.</p> <p>Urgency: It is essential that the Committee is provided with the most up to date information available to formulate the budget, as provided to Mayor and Cabinet.</p>	<p>Public Accounts Select Committee – Tuesday 6 February 2018.</p> <p>Mayor and Cabinet Wednesday 7 February</p>

Agenda Item 5

OVERVIEW & SCRUTINY BUSINESS PANEL		
Report Title	Decisions made by Mayor and Cabinet at the on 7 February 2018	
Key Decision		Item No. 5
Ward	All	
Contributors	Chief Executive/Head of Business and Committee	
Class	Part 1	Date: 13 February 2018

1. Recommendation

To consider key decisions made by the Mayor and Cabinet on 7 February 2018 which will come in to force on 14 February 2018.

2. Background

2.1 The Mayor and Cabinet considered the following key decisions on 7 February 2018.

2.2 The notice of the decision made in respect of the report is attached as an Appendix. Under the provisions of Standing Orders Part IV E 14, members may call in an executive decision within 7 days. If this report is not called in they will come into force on 14 February 2018

- i. Annual Budget 2018-19
- ii. Pay Statement 2018-19
- iii. Green Capital Grants – Permission to Bid



NOTICE OF DECISIONS MADE AT THE MAYOR & CABINET

The Mayor made the following decisions 7 February 2018. These decisions will become effective on 14 February 2018 unless called in by the Overview & Scrutiny Business Panel on 13 February 2018.

1. Annual Budget 2018-19

Having considered an officer report and a presentation by the Cabinet Member for Resources, Councillor Kevin Bonavia, the Mayor agreed that:

(1) the comments of the Public Accounts Select Committee of 6 February 2018 be received;

(2) having considered the views of those consulted on the budget, and subject to consideration of the outcome of consultation with business ratepayers and subject to proper process, as required, the Mayor:

Capital Programme

(3) the 2017/18 Quarter 3 Capital Programme monitoring position and the Capital Programme potential future schemes and resources as set out in section 5 be noted;

(4) Council be recommended to approve the 2018/19 to 2020/21 Capital Programme of £271.5m, as set out in section 5 and attached at Appendices W1 and W2;

Housing Revenue Account

(5) the consultation report on service charges to tenants' and leaseholders in the Brockley area, presented to area panel members on 12 December 2017, be noted as attached at Appendix X2;

(6) the consultation report on service charges to tenants' and leaseholders and the Lewisham Homes budget strategy presented to area panel members on 14 December 2017, be noted as attached at Appendix X3;

(7) a decrease in dwelling rents be set of 1.0% (an average of £0.97 per week) – as per the requirements from government as presented in section 6;

(8) a decrease in the hostels accommodation charge be set by 1.0% (or £0.35 per week), in accordance with Government requirements;

(9) the following average weekly increases/decreases be approved for dwellings for:

(10) service charges to non-Lewisham Homes managed dwellings (Brockley);

- caretaking 4.90% (£0.24)
- grounds 4.90% (£0.12)
- communal lighting 4.90% (£0.06)
- bulk waste collection 4.90% (£0.02)
- window cleaning 4.90% (£0.01)
- tenants' levy 30.0% (£0.03)

(11) service charges to Lewisham Homes managed dwellings:

- caretaking -1.17% (-£0.12)
- grounds 16.27% (£0.27)
- window cleaning 51.41% (£0.03)
- communal lighting 0.38% (£0.01)
- block pest control 1.87% (£0.03)
- waste collection 1.93% (£0.01)
- heating & hot water no change
- tenants' levy 30.0% (£0.03)
- bulk waste disposal 2.96% (£0.02)
- sheltered housing 1.00% (£0.24)

(12) the following average weekly percentage changes be approved for hostels and shared temporary units for;

- service charges (hostels) – caretaking etc.; no change
- energy cost increases for heat, light & power; no change
- water charges increase; no change

(13) an increase in garage rents be approved by Retail Price Inflation (RPI) of 3.9% (£0.46 per week) for Brockley residents and 3.9% (£0.46 per week) for Lewisham Homes residents;

(14) the budgeted expenditure for the Housing Revenue Account (HRA) for 2018/19 be £156.8m, split £84.1m revenue and £72.7m capital, which includes the decent homes and new build programmes;

(15) the HRA budget strategy savings proposals be approved in order to achieve a balanced budget in 2018/19, as attached at Appendix X1;

Dedicated Schools Grant and Pupil Premium

(16) recommends Council be recommended to agree, subject to final confirmation of the allocation, that the provisional Dedicated Schools Grant allocation of £292.3m be the Schools' Budget for 2018/19;

(17) Council be asked to note the implementation of the national funding formula schools block for schools;

(18) Council be asked to agree that Lewisham uses the national funding formula schools block to allocate funds to schools from April 2018;

(19) Council be asked to agree that Minimum Funding Guarantee for the schools block be set at 0.25% for 2018/19;

(20) Council be asked to agree the change to the PFI factor in the formula to base it on estimates for the schools block;

(21) Council be asked to agree to implement the new banding systems in resource bases at a cost to the High Needs block of £251k;

(22) Council be asked to agree to implement the new banding system for ECHP's in mainstream schools at a cost to the High Needs block of £47k;

(23) Council be asked to note the latest financial position in schools;

(24) Council be asked to note the likely future cost pressures on schools;

(25) Council be asked to note the estimated pupil premium of £17.0m;

(26) Council be asked to note the changes to the way the High Needs block is calculated;

(28) Council be asked to note the Loan Scheme consultation for the schools block;

(29) Council be asked to note the position of the consultation on eligibility for free school meals and the early years pupil premium under Universal Credit;

General Fund Revenue Budget

(29) Council be asked to note the projected overall variance against the agreed 2017/18 revenue budget of £12.9m as set out in section 8 and that any year-end overspend will have to be met from reserves;

(30) Council be asked to endorse the previously approved revenue budget savings of £0.58m for 2018/19 and budget savings proposals of

£4.28m as per the Mayor and Cabinet meeting of the 6 December 2017, as set out in section 8 and summarised in Appendix Y1 and Y2;

(31) Council be asked to agree the transfer of £5.0m in 2018/19 from the New Homes Bonus reserve to the General Fund for one year to meet funding shortfalls and that the position be reviewed again for 2019/20;

(32) Council be asked to agree the use of £3.570m reserves to meet the budget gap in 2018/19;

(33) Council be asked to agree the allocation of £6.500m in 2018/19 be set aside for corporate risks and pressures, added to the £2.130m set aside for unidentified risks in 2017/18;

(34) Council be asked to agree the allocation of £6.915m in 2018/19 to fund quantified budget pressures from the £8.630m set aside for corporate risks and pressures;

(35) Council be asked to agree to create a fund in respect of the identified but as yet un-quantified revenue budget risks in the sum of £1.715m in 2018/19 (the balance of budget for corporate risks and pressures), allowing the Executive Director for Resources & Regeneration to hold these resources corporately in case these pressures emerge during the year, and authorises the Executive Director for Resources and Regeneration to allocate these funds to meet such pressures when satisfied that those pressures cannot be contained within the Directorates' cash limits;

(36) the Executive Director for Resources and Regeneration identify up to £5m of earmarked reserves to fund service transformation costs to facilitate services change and develop further savings proposals;

(37) Council be recommended to agree that a General Fund Budget Requirement of £241.281m for 2018/19 be approved.

(38) Council be asked to agree to a 3.99% increase in Lewisham's Council Tax element, resulting in a Band D equivalent Council Tax level of £1,203.87 for Lewisham's services and £1,498.10 overall. This represents an overall increase in Council Tax for 2018/19 of 4.2% and is subject to the GLA precept for 2018/19 being increased by £14.21 (i.e. 5.1%) from £280.02 to £294.23, in line with the GLA's draft budget proposal;

(39) Council be asked to note the Council Tax Ready Reckoner which for illustrative purposes sets out the Band D equivalent Council Tax at various levels of increase, as explained in section 8 and is set out in more detail in Appendix Y3;

(40) Council be asked to note the exemption from Council Tax for Care Leavers up to the age of 25 in the Borough, agreed by Council in January 2018 when setting the 2018/19 Council Tax base, and the review underway to assess other possible exemptions;

(41) the Executive Director for Resources & Regeneration issues cash limits to all Directorates once the 2018/19 Revenue Budget is agreed;

(42) the Chief Financial Officer's Section 25 Statement be presented in the Budget Update Report on the 14 February 2018 for approval;

(43) Council be asked to agree the draft statutory calculations for 2018/19 as set out at Appendix Y5;

(44) Council be asked to note the prospects for the revenue budget for 2019/20 and future years as set out in section 9;

(45) officers continue to develop firm proposals and bring them forward as soon as possible as part of the Lewisham Future Programme to help meet the future forecast budget shortfalls;

In relation to proposed changes to the Linkline Community Alarm Service:

(46) having considered the outcome of the consultation exercise and the documents appended at Appendix 6, 6a, 6b and 6c the following recommendations be approved;

(47) Linkline change the service offer to a Full Visiting Service for all new customers.

(48) Linkline charges be increased in line with costs and inflation where it is provided to customers who are private rented tenants, home owners, living with family and for social housing tenants who arrange Linkline independently. The proposed charge is £5.81 for Full Visiting Support and £3.88 for the Telephone On service;

(49) In schemes provided by Social Housing Landlords, a phased increase in charges be implemented to achieve parity with other housing tenures.

(50) In future charges be increased in line with inflation across all sectors annually;

(51) Lewisham CCG jointly with Council officers will review the way the financial contribution from Lewisham CCG is utilised to support people with dementia and the intention to conduct further consultation and assessment for Linkline customers who have a diagnosis of dementia;

Other Grants (within the General Fund)

(52) Council be asked to note the adjustments to and impact of various specific grants for 2018/19 on the General Fund as set out in section 8;

Treasury Management Strategy

(53) Council be recommended to approve the prudential indicators and treasury indicators, as set out in section 10;

(54) Council be recommended to approve the Annual Investment Strategy and Credit Worthiness Policy, set out in further detail at Appendix Z3;

(55) Council be recommended to approve the Minimum Revenue Provision (MRP) policy as set out in section 10;

(56) Council be recommended to delegate to the Executive Director for Resources & Regeneration authority during 2018/19 to make amendments to borrowing and investment limits provided they are consistent with the strategy and there is no change to the Council's authorised limit for borrowing;

(57) Council be recommended to approve the credit and counterparty risk management criteria, as set out at Appendix Z3, the proposed countries for investment at Appendix Z4, and that it formally delegates responsibility for managing transactions with those institutions which meet the criteria to the Executive Director for Resources & Regeneration; and

(58) Council be recommended to approve a minimum sovereign rating of AA-.

2. Pay Policy Statement

Having considered an officer report and a presentation by the Cabinet Member for Resources, Councillor Kevin Bonavia, the Mayor agreed that the Pay Policy Statement be received and reported to Council.

3. Green Capital Grants – permission to bid

Having considered an officer report and a presentation by the Cabinet Member for the Public Realm, Councillor Rachel Onikosi, the Mayor agreed that:

(1) the submission of a funding bid of up to £500k to the Green Capital Grants fund be approved; and

(2) if the funding bid is successful, authority be delegated to the Executive Director for Resources & Regeneration, in consultation with

the Head of Law, to agree the terms of the funding agreement and to enter into it.

**Janet Senior
Acting Chief Executive,
Lewisham Town Hall,
Catford SE6 4RU
8 February 2018**

Agenda Item 6

OVERVIEW AND SCRUTINY BUSINESS PANEL			
Report Title	Review of the Council's Lettings and Disposal Procedure	Item No	6
Contributors	Executive Director for Resources & Regeneration		
Class	Part 1	Date	13 February 2018

1. Purpose of paper

- 1.1. The Chair of the Overview and Scrutiny Business Panel requested a review of the Council's lettings and disposal procedures.
- 1.2. This paper sets out the responses from the referral.

2. **Recommendations:**

- 2.1 It is recommended that the Overview and Scrutiny Business Panel note the findings of the review.

3. Introduction

- 3.1 The past 10 years have seen significant change for the Council in respect of its estate. As a result of estate rationalisation, in line with the Strategic Asset Management Plan, the Council has seen its Corporate or Operational Estate half in numbers.
- 3.2 Some of these assets have been sold, any capital receipts generally being used to fund the Council's capital programme. However many of these assets have been incorporated into the Council's Commercial Estate which, following the recent addition of the HRA non-housing estate, now stands at 240 properties. These generate a total annual income for the Council of £3.3m, used to fund Council services across the Borough. This does not include the Housing Estate Garages Portfolio of approximately 1,700 properties which generates a further £950,000 per annum.
- 3.3 Recent years have seen a conscious change in approach to ownership and use of Council non-operational assets, moving from disposals to long term retention of assets and a focus on lettings to generate income rather than capital receipts.
- 3.4 Coupled with this has been an increase in "meanwhile" short term uses for land and assets that form part of wider regeneration schemes and programmes. These have taken different forms, recent examples including Place Ladywell, the DEKS in the Old Town Hall in Catford, and most recently

the short term letting of Beckenham Place Park Mansion. These meanwhile uses can save the Council money on running and security costs, bring vacant buildings and land back into use and help contribute to the early stages of a regeneration programme while their long term use is being developed.

- 3.5 As a result of this focus on lettings and income generation more generally, but particularly the rise in short term “meanwhile” leases, and in line with the Chair of Overview and Scrutiny Business Panel request, officers have initiated a review of the Council’s Lettings and Disposal Procedures to ensure that is fit for purpose and provides for a process which reflects best practice.
- 3.6 Currently the Council does not have a formal, adopted lettings and disposal procedure or policy in place.

4. Teams & Responsibilities

- 4.1 Currently all disposals, property lettings and landlord and tenant work are carried out within the Property, Asset Strategy & Estates Service Group in the Regeneration & Place division. All land and building disposals are carried out by the Planning & Development team, whilst all landlord and tenant work, including property lettings, are carried out by the Estates Team, which manages the Council’s commercial estate. All of this work is overseen by the Property, Asset Strategy & Estates Service Group Manager, with relevant authorities obtained in line with the Council’s Scheme of Delegation (the Mayoral Scheme of Delegation and the Directorate for Resources and Regeneration Scheme of Delegation).

Role	Function
Head of Regeneration & Place	Responsible for providing overall direction and approvals where relevant, the Head of Service has the ultimate responsibility and accountability to ensure the Council’s disposals and lettings are carried out correctly.
Service Group Manager for Property, Asset Strategy & Estates	The Service Group Manager is responsible for providing direction for the relevant teams and has responsibility for ensuring the correct processes are followed.
Estates Manager/Senior Development Surveyor	Responsible for the day to day management of disposals and lettings as appropriate and for managing surveyors effectively, including allocating jobs as appropriate. This role is also responsible for managing any contracts with agents or consultants in relation to lettings.
Estates Surveyors / Planning & Development Surveyors	Responsible for day to day activities in relation to lettings and disposals

4.2 There are a small number of temporary lettings related to properties and assets which form part of wider regeneration programmes, such as Beckenham Place Park and Catford Town Centre, that are managed by officers in the Capital Programme (Regeneration) team within the Regeneration & Place Division. Where this is the case, all lettings are overseen and signed off by relevant managers in the Property, Asset Strategy & Estates team, again with relevant authorities granted in line with the Council's Scheme of Delegation. The table below sets out the key roles and functions of the officers involved in the disposal/lettings process in the Regeneration & Place Division.

5. Types of Disposals

5.1 For the purposes of this review, the types of disposals are split into four general categories:

- Land and asset disposals – these could be freehold or long leasehold disposals, or those leases over seven years granted in return for a capital receipt/premium; for the purposes of this review it will include all leases granted over 25 years and all freehold disposals.
- Standard commercial lettings – those properties which form part of the Council's existing commercial estate and used to generate income to support service delivery;
- Community building lettings – those properties which are either existing or former community buildings leased on commercial or semi-commercial terms;
- Meanwhile/temporary lettings – those properties which form part of wider regeneration plans and used on a temporary basis whilst long term plans for the buildings are realised. These properties in many cases if left empty, present security, maintenance and compliance issues and costs for the Council and so are often let for short term uses on terms which reflect their condition and investment required, the short term nature of the use and the resulting saving to the Council on security costs which would otherwise be incurred if the buildings were left empty. One of the main drivers for letting these units in this way is ensure they are kept safe and secure while longer term plans are developed for their use.

5.2 There are a small number of more irregular lettings which do not fall into any of these categories, however this review focusses on those listed above.

6. Scheme of Delegation

6.1 The Council's Constitution currently sets out how, where and on what basis decisions can be made in relation to disposals and lettings; the Council's

Scheme of Delegation contains the details of this and forms the basis of decision making in relation to land and property.

- 6.2 Key decisions on disposals, and to declare properties/land surplus are made by the Executive (Mayor and or Mayor and Cabinet). In some cases such decisions are delegated to the Executive Director (ED) for Resources and Regeneration where the value of the disposal or asset is less than £500K.
- 6.3 The Scheme of Delegation provides that decisions related to leases, licences and tenancies (including those considered temporary, short term or at market/best consideration) are delegated to the ED for Resources and Regeneration, sub-delegated further to the Head of Service for Regeneration & Place. Accordingly, decisions on the grant of leases, licences and tenancies are not taken by Members unless the Scheme of Delegation does not apply.

7. Best Consideration

- 7.1 Under Section 123 of the Local Government Act 1972, the Council is under a statutory obligation to achieve “Best Consideration” when dealing with any disposal (sale or letting) of its assets. Essentially this is the best value or financial return that can reasonably be obtained, and for disposals will usually reflect Market Value, for lettings it will usually reflect market rental value.
- 7.2 This statutory obligation does not apply to leases granted for less than seven years. Leases for less than seven years are also not disposals for the purposes of the Scheme of Delegation and the requirement to obtain best consideration does not apply to them. However, the Scheme of Delegation requires all lettings to be at Market Value..
- 7.3 For any disposal or letting for less than Best Consideration/Market Value, approval needs to be granted by Mayor and Cabinet.
- 7.4 Market Value or Market Rental Value is usually determined following a full marketing process, however where this has not taken place then it is based on the advice either provided by suitably qualified Officers (either the Service Group Manager for Property, Asset Strategy and Estates or the Estates Manager) or by external professional surveyors.
- 7.5 Whether or not the Council has achieved Best Consideration in relation to a disposal or letting is determined on the same basis. Decisions (delegated or Mayor and Cabinet) are taken on the basis of advice provided either by Officers or external professional surveyors.
- 7.6 It should be noted that there will be occasions, particularly with short term lettings or where buildings require significant investment, where Best Consideration/Market Value may still be achieved without a rental payment being received by the Council. For buildings which require significant investment (such investment being borne by the prospective tenant), longer term leases will usually attract a significant rent free period and for short term leases it may not be financially viable for the tenant to both invest in a building and pay a rent to the Council.

8. Existing Disposal/Letting Procedures

Land/Building Disposals

- 8.1 For the purposes of this report, a disposal is defined as any freehold sale of Council assets or the grant of a leasehold in excess of 25 years.
- 8.2 A property or site is identified as being surplus to the Council's requirements through a process of ongoing property review in which it has been identified by Regeneration & Place and, if applicable, the occupying Service as being unused, under used or not offering value for money (because, for example, as a result of individual property review, the costs of maintenance may be prohibitive such that it is no longer cost effective to retain them).
- 8.3 An options appraisal is carried out which considers the following:
- Existing use and condition;
 - Site/property context – site constraints, planning constraints etc;
 - Legal/title status;
 - Potential alternative uses (including potential for redevelopment and constraints/opportunities associated with that);
 - Valuation – including existing use and alternative use/redevelopment value;
 - If redevelopment – delivery options e.g. Council led, RSL led, private sector led, potential for joint venture or other delivery vehicle;
 - If disposal – consideration and recommendation on the most suitable disposal route.
- 8.4 Based upon the findings and recommendations of the options appraisal, and following consultation with appropriate Members and Executive Directors, a Mayor and Cabinet or Delegated Authority report will seek approval to dispose without further referral and, in the case of a Mayor and Cabinet report, will seek delegation for the Executive Director for Resources and Regeneration to accept an offer and to negotiate further if necessary and to enter into the legal documentation necessary to complete the disposal.
- 8.5 The Cabinet report will recommend whether the sale should be leasehold or freehold and will include an assessment of the value and the impact on value, if any, of the respective methods of sale. It will also advise on the timing of the disposal and when the property should be brought forward.

Methods of Disposal

- 8.6 The methods of disposal that may be used are:
- Informal Tender;
 - Formal Tender;
 - Auction;
 - Sale by negotiation

- 8.7 Sales by Formal Tender and Auction are largely regulated by the process that needs to be followed to achieve a legally binding contract, they are not used on a regular basis by the Council and so are not described or covered in this report.
- 8.8 Sales by negotiation usually involve a “Special Purchaser”, examples being:
- i. Sale to a sitting tenant
 - ii. Sale of an access which would enable a purchaser to release development value locked up in another property;
 - iii. Sale to an adjoining owner or sale of a part-interest in a property where amalgamation of interests could enable “marriage value” to be realised;
 - iv. Sale to an organisation or public body (eg a RSL) at less than market value where other benefits are offered to the Council.
- 8.9 In the case of example iii, this has been a relatively common occurrence over the past two to five years, where Officers have negotiated a disposal to an adjoining land owner to realise marriage value. In particular sale by negotiation is a more common occurrence where the Council is seeking to negotiate a disposal generating an income stream rather than a capital receipt. Recent examples include disposals at 1 Creekside and the former Copperas St Depot.
- 8.10 In these circumstances, if a site is has not been declared surplus already by Mayor and Cabinet, then that decision will be taken as part of the same report seeking authority to dispose, once negotiations have completed. The same process is followed in terms of an options appraisal considering different forms of development delivery.

Standard Commercial Lettings

- 8.11 There are two types of assets which come under this definition:
- Sites/buildings which already form part of the Commercial Estate and are being re-let;
 - Operational sites/buildings which have been declared surplus and moved into the Commercial Estate.
- 8.12 For the latter, the same process as for disposal sites/properties is followed. Sites are identified through a process of ongoing property review in which it has been identified by Regeneration & Place and, if applicable, the occupying Service as being unused, under used or not offering value for money. Properties are declared surplus either by Mayor and Cabinet or the ED for Resources and Regeneration where the value of the disposal or asset is less than £500K, and in each case following agreement between relevant service areas, and following notification of the relevant Ward Members. However it is important to note that this does not happen for lettings or lease renewals for properties which are already part of the Commercial Estate.

Pre-marketing Activities

- 8.13 Prior to marketing, a surveyor from the Estates Team will carry out a site inspection to assess:
- General repair and any works required;
 - Site/property safety and security (and make any arrangement to protect against squatters or unauthorised entry);
 - Potential fire hazards.
- 8.14 The surveyor will notify relevant Council departments the property is vacant and arrange/instruct as necessary any statutory assessments, for example Energy Performance Certificates.
- 8.15 The surveyor will also make an assessment of the potential rental value prior to passing the property on to instructed letting agents.

Marketing Activities

- 8.16 The Council has a contract with local agents to carry out all marketing and leasing activities on its behalf. The Agent will prepare marketing particulars, including the following details:
- Photographs;
 - The address, floor plan and a location plan of the property;
 - A brief description of the property and the area;
 - Rental required;
 - Length of lease being offered;
 - Energy Performance Certificate
 - Viewing and contact details
- 8.17 As well as letting boards on site, properties are listed both on the Agent's website and the Council's. All offers received by Agents are passed on to the Estates Team for review. Offers are assessed on the basis of (but not limited to):
- Level of rent;
 - Proposed use;
 - Track record and experience;
 - Due diligence – company records etc;
 - References (if requested).
- 8.18 Upon selection of an applicant, the Agent will agree Heads of Terms for approval by the Council's surveyor. Once agreed, these are signed off by the Estates Manager and Property, Asset Strategy and Estates Service Group Manager. The Estates Team then instruct the Council's Legal Department to draw up and complete legal documentation.

Community Building Lettings

- 8.19 For community buildings which are transferred into the Commercial Estate, the same process outlined in the previous section is followed.

- 8.20 However there are community buildings which still form part of the Operational Estate but which are not occupied directly by Council employees, but instead by organisations from the voluntary sector. The management of these buildings and organisations is overseen by colleagues in Community Services; a number of organisations occupy under premises management agreements, however some occupy under leases, negotiated by the surveyors in the Estates Team.
- 8.21 Generally speaking, the organisations occupying these buildings have historically done so for some time, and leases or premises management agreements have been put in place to regularise occupation. In these circumstances, there has not usually been a marketing process.
- 8.22 In April 2015 Mayor and Cabinet agreed a framework for the use of Council assets to support the Voluntary Sector and this forms the basis of the grant of any leases to organisations in Council community buildings.
- 8.23 To summarise, there are four categories described as follows:
- **Sole occupancy of a building (not at full market rate)** – This would be a building, wholly or predominantly utilised by one Voluntary and Community Sector (VCS) organisation. In order for an organisation to have sole occupancy of a building it would need to demonstrate a need for specialist facilities that could not be provided elsewhere and/or within a shared facility. The organisation would need to demonstrate that it can't afford full market rate. The organisation would also need to be delivering services that meet Council priorities.
 - **Voluntary and Community Sector Hub** – This would be a shared building with all inclusive affordable rents. This would be the preferred category for organisations that are providing services that meet our priorities (and cannot demonstrate the need for specialist facilities above). The Hubs will provide office and meeting space. Activity space where appropriate and possible may also be provided, otherwise this would need to be hired elsewhere.
 - **Community Centre** – This would be a neighbourhood based facility with activity space that is predominantly geared towards providing services at a neighbourhood level. Community Centres currently have a range of different terms and conditions, some are on full repairing leases, some directly provided and others managed by Premises Management Organisations (PMOs) but with Repairs & Maintenance provided by the Council.
 - **Sole occupancy of a building at full market rate** – This would be for larger Voluntary and Community Sector organisations that can afford to pay full market rates, for those that are not delivering services that meet our priorities or for organisations that are delivering services that meet our priorities but that do not wish to be housed within one of the VCS hubs. These organisations would still be able to access buildings (where available) on the Council's standard letting terms and conditions.

- 8.24 Any new lettings of community premises to a VCS organisation will follow general lettings procedures set out in the previous section, however are carried together with colleagues from Community Services.
- 8.25 Authority for lettings to organisations who occupy Council buildings to deliver commissioned services is granted by Mayor & Cabinet. General terms are set out to bidders as part of the tender exercise, and authority to agree the final terms is delegated to the ED for Resources & Regeneration.

Temporary/Meanwhile Use Lettings

- 8.26 This category includes Council (or Catford Regeneration Partnership Limited) owned buildings or sites which are vacant, but which sit within an area for which long term regeneration or redevelopment proposals are either planned or in place. Whichever team is leading on meanwhile/temporary lettings, oversight is provided by surveyors in the Estates Team and/or other officers in the Property, Asset Strategy and Estates service group as appropriate or required.
- 8.27 Recent examples include the buildings on Beckenham Place Park, Catford Town Centre, former Ladywell Leisure Centre site. In most cases the buildings are in a poor state of repair and require significant capital investment in order to bring them into a safe and statutory compliant state of repairs; they also tend to incur the Council significant security and other costs in order to keep the buildings/sites safe and secure.
- 8.28 Historically, smaller buildings have been occupied by Property Guardians in order to minimise the Council's revenue expenditure, whilst longer term plans for the buildings are realised. Other larger properties where this is not possible have remained vacant and the Council continues to incur revenue costs. However, there is a recognition that bringing these buildings into active use for short term (generally under three years) use, even for no or little rent, can help contribute to the early stages of regeneration plans.
- 8.29 It is important to note that best consideration or the achievement of a market rent for a property may not always result in receiving income, depending on other factors involved in a letting. As stated earlier in this report, these buildings are often in a poor state of repair and require significant investment in order to bring them into an occupiable condition. These costs can either be borne by the Council as landlord or by a prospective tenant. In standard, longer term lettings, an ingoing tenant would be granted a significant rent free period to recognise their upfront capital investment; however for short term leases the investment required may exceed the annual market rent the Council could expect to achieve over the course of the proposed lease term if the property were in better condition.
- 8.30 In addition to the Capital investment required, the Council can benefit from a reduction in holding costs associated with security and other items, which in

some cases can be significant. As a result, in some cases the rent that the Council negotiates will reflect these tangible benefits.

- 8.31 In terms of procedures, the majority of lettings have followed standard procedures followed during the course of a normal commercial letting. The same criteria described in that section when assessing tenant applications are used, however more weight is given to the proposed use, in particular how it helps meet wider regeneration objectives specific to the plans for the area the property is in.
- 8.32 In a small number of cases, lettings have been undertaken directly with tenants by negotiation. Beckenham Place Park Mansion is a recent example of this, with the imminent closure of the golf course resulting in closure of publicly available facilities in the building, a decision was required its short term use in order to ensure the ongoing security of the building from squatting and damage, make the building safe for occupation and, if possible, ensure the availability of the building for use by the public.
- 8.33 In terms of a process followed, an options appraisal was carried out considering the various ways the building could be secured, together with the minimum capital investment required to enable that. This included the Council securing through a security company, property guardians or the grant of a meanwhile/temporary letting. It was concluded that the meanwhile use lease approach offered the best option for safeguarding the mansion. It offered the lowest cost solution to provide the necessary building security and transfers many of the ongoing running costs to the occupier. The introduction of active uses to the park would also help to introduce new users to the space and more widely to the Park.
- 8.34 No formal marketing process was undertaken, although Officers did engage with other potential meanwhile use operators, before negotiating a short term letting with RJK Properties. In the time between the closure of the golf course and occupation by RJK Properties the building was squatted, with RJK Properties assisting the Council in obtaining possession by agreement. Given the investment required by any tenant, together with set up and ongoing management costs, together with the short term nature of the lease, Officers were and are satisfied that the terms agreed were in line with what could have been expected had the property been marketed. Authority for the letting was provide by the ED for Resources & Regeneration and in line with the Council's Scheme of Delegation.
- 8.35 Having reviewed the circumstances of this letting, whilst the terms agreed were in line with market expectations, the Council's fiduciary requirements were met and the Scheme of Delegation followed correctly, it would have been more appropriate to follow the procedures of a standard commercial letting and market the opportunity more widely through Agents. However, it is accepted that in this case there were particular time pressures associated with the building becoming vacant, and the significant cost implications if the Council were to secure the building; therefore a wider marketing exercise was

not feasible in these circumstances. In terms of lessons learnt, in the future the planning of any similar vacant possession proposals should allow time for a marketing exercise in order to ensure the opportunity is more widely advertised.

9. Best Practice and Review Findings

- 9.1 Having carried out an initial review of other London Boroughs, there are few which have published, formal procedures of policy for lettings and disposals. Those which do include London Borough of Tower Hamlets, whilst other Boroughs seem also to be reviewing their procedures in this area. Officers have also liaised with key contacts in property teams at other London Boroughs to understand general approaches in this area.
- 9.2 Whilst there are differences between how local authorities approach disposals and lettings, these are generally limited to the method of disposal, with authorities generally following one or two favoured methods, and how opportunities (disposals or lettings) are marketed, that is through agents or directly through in-house teams.
- 9.3 In comparison to Lewisham, there are Councils whose procedures are broadly similar, and those with some significant difference. Where all Councils align, is that they seek to use practices which result in an open, transparent and consistent process of disposal or letting, and that they result in outcomes which meet both statutory requirements and the individual Council's own constitution and fiduciary requirements.
- 9.4 The key questions therefore for this review are:
- Are the Council's lettings and disposal procedures consistent, clear and transparent;
 - Do those procedures result in outcomes which meet statutory requirements and the Council's own fiduciary requirements.
- 9.5 In respect of the first, Officers are satisfied that this is the case. Generally, the same standard procedures are followed for all lettings, however where they are not there have been demonstrable reasons for doing so and these cases tend to be the exception rather than the norm. The criteria for tenant selection is clear and followed equally for all standard commercial lettings. The increase in meanwhile or temporary lettings within regeneration areas has resulted in a slight change to the standard set of criteria used in these circumstances however there are clear reasons for this being the case.
- 9.6 That said, an even great level of transparency and consistency of approach could be achieved if a more formal lettings and disposal policy were adopted. It is the recommendation of this review that such a policy be formally adopted by Members.
- 9.7 In respect of the second question, both statutory legislation and the Council's own Scheme of Delegation are clear as to the requirements for the Council to

meet in respect of any letting or disposal. Authorities for any disposal type are obtained in accordance with the Council's Scheme of Delegation. In relation to requirements to achieve best consideration, the majority of lettings are carried out following a marketing process. For those which are not, suitably qualified Officers are required to be satisfied that the "best" or market terms have been achieved. For asset disposals, the issue of best consideration is dealt with as part of the reporting for the approval/authority process. In respect of this question Officers are satisfied the Council's procedures are fit for purpose.

10. Recommendations

- 10.1 This report recommends that a recommendation is made to Mayor and Cabinet seeking to adopt a formal lettings and disposal policy. If this recommendation is agreed, Officers propose that a draft Policy is brought back to this Committee before going to Mayor and Cabinet for adoption.

Agenda Item 8

OVERVIEW & SCRUTINY BUSINESS PANEL		
Report Title	Exclusion of the Press and Public	
Key Decision		Item No. 8
Ward		
Contributors	Chief Executive	
Class	Part 1	Date: 13 February 2018

Recommendation

It is recommended that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3, 4 and 5 of Part 1 of Schedule 12(A) of the Act, as amended by the Local Authorities (Executive Arrangements) (Access to Information) (Amendments) (England) Regulations 2006:-

9. Decision made by Mayor and Cabinet (Contract) on 7 February 2018.
10. Decision made by an Executive Director Under Delegated Authority – CYP Personalised Care & Support – Contract Extension

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

Agenda Item 10

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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