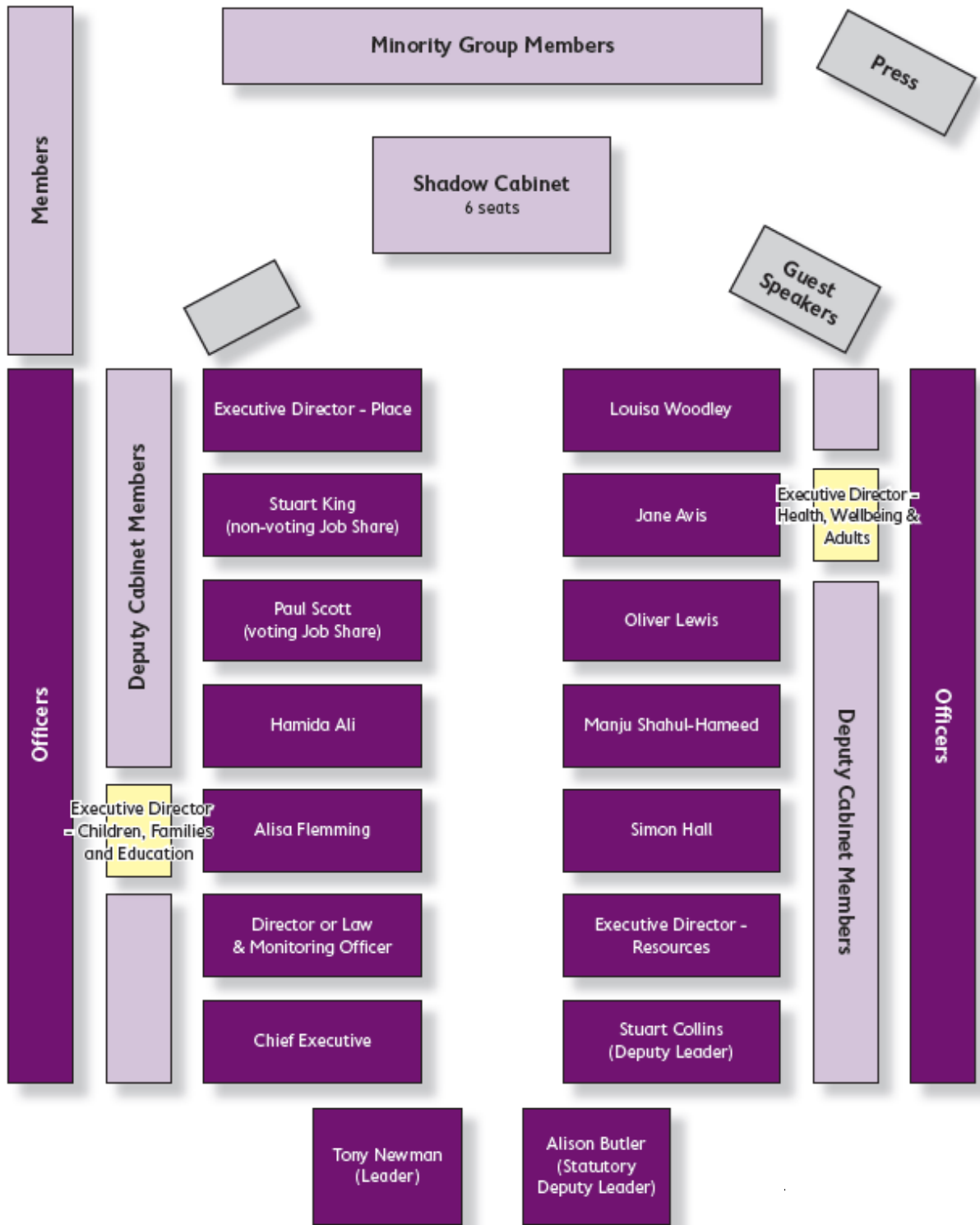




**CABINET
AGENDA**
for the meeting
on
10 December 2018
at
6.30 pm

Cabinet Seating Plan



To: Croydon Cabinet Members:

Councillor Tony Newman, Leader of the Council - Budget and Strategic Policy

Councillor Alison Butler, Deputy Leader (Statutory) and Cabinet Member for Homes & Gateway Services

Councillor Stuart Collins, Deputy Leader and Cabinet Member for Clean Green Croydon

Councillor Hamida Ali, Cabinet Member for Safer Croydon & Communities

Councillor Jane Avis, Cabinet Member for Families, Health & Social Care

Councillor Alisa Flemming, Cabinet Member for Children, Young People & Learning

Councillor Simon Hall, Cabinet Member for Finance & Resources

Councillor Stuart King, Cabinet Member for Environment, Transport & Regeneration (Non-voting - Job Share)

Councillor Oliver Lewis, Cabinet Member for Culture, Leisure & Sport

Councillor Paul Scott, Cabinet Member for Environment, Transport & Regeneration (Voting - Job Share)

Councillor Manju Shahul-Hameed, Cabinet Member for Economy and Jobs

Invited participants:

Councillor Louisa Woodley, Chair of the Health & Wellbeing Board

All other Members of the Council

A meeting of the **CABINET** which you are hereby summoned to attend, will be held on **Monday, 10 December 2018** at **6.30 pm** in **Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX**

JACQUELINE HARRIS BAKER
Director of Law and Governance
London Borough of Croydon
Bernard Weatherill House
8 Mint Walk, Croydon CR0 1EA

Victoria Lower
020 8726 6000 x14773
victoria.lower@croydon.gov.uk
www.croydon.gov.uk/meetings
30 November 2018

Members of the public are welcome to attend this meeting. If you require any assistance, please contact officer as detailed above.

The meeting webcast can be viewed here: <http://webcasting.croydon.gov.uk>

The agenda papers are available on the Council website

www.croydon.gov.uk/meetings

AGENDA – PART A

1. Apologies for Absence

2. Minutes of the previous meeting (Pages 7 - 20)

To approve the minutes of the meeting held on 19 November 2018 as an accurate record.

3. Disclosure of Interests

In accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, Members and co-opted Members of the Council are reminded that it is a requirement to register disclosable pecuniary interests (DPIs) and gifts and hospitality to the value of which exceeds £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period. In addition, Members and co-opted Members are reminded that unless their disclosable pecuniary interest is registered on the register of interests or is the subject of a pending notification to the Monitoring Officer, they are required to disclose those disclosable pecuniary interests at the meeting. This should be done by completing the Disclosure of Interest form and handing it to the Democratic Services representative at the start of the meeting. The Chair will then invite Members to make their disclosure orally at the commencement of Agenda item 3. Completed disclosure forms will be provided to the Monitoring Officer for inclusion on the Register of Members' Interests.

4. Urgent Business (If any)

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

Cabinet Member: Leader of the Council

5. Brexit Preparations in Croydon (Pages 21 - 42)

Officer: John Montes

Key decision: no

Cabinet Member: Cabinet Member for Economy & Jobs

6. Economic Growth Strategy (Pages 43 - 52)

Officer: Emma Lindsell

Key decision: no

Cabinet Member: Cabinet Member for Homes & Gateway Services

7. **Proposal to Join Pan-London Homelessness Prevention Procurement Hub ("Capital Letters")** (Pages 53 - 236)
Officer: Leonard Asamoah
Key decision: yes

Cabinet Member: Cabinet Member for Finance & Resources

8. **Financial Q2 Performance 2018/19** (Pages 237 - 264)
Officer: Richard Simpson
Key decision: no

Lead Member: Chair of Overview & Scrutiny Committee

9. **Scrutiny Stage 1: Recommendation arising from Scrutiny & Overview Committee and Streets, Environment & Homes Scrutiny Sub-Committee** (Pages 265 - 268)
Officer: Richard Simpson
Key decision: no

Cabinet Member: All Cabinet Members

10. **Scrutiny Stage 2: Response to recommendations arising from Children & Young People Scrutiny Sub-Committee** (Pages 269 - 274)
Officer: Richard Simpson
Key decision: no

Cabinet Member: Cabinet Member for Finance & Resources

11. **Investing in our Borough** (Pages 275 - 282)
Officer: Sarah Warman
Key decision: no

Cabinet Member: Cabinet Member for Children, Young People & Learning

- 11a. **Children's Social Care Assessments Procurement Strategy** (Pages 283 - 296)
Officer: Robert Henderson
Key decision: no

12. Exclusion of the Press and Public

The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

“That, under Section 100A(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 it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended.”

Cabinet

Meeting held on Monday, 19 November 2018 at 6.30 pm in Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX

MINUTES

Present: Councillor Tony Newman (Chair);

Councillor Alison Butler, Stuart Collins, Hamida Ali, Jane Avis, Alisa Flemming, Simon Hall, Stuart King (voting - Job Share), Oliver Lewis, Paul Scott (non-voting - Job Share) and Manju Shahul-Hameed

Also Present: Councillors Margaret Bird, Simon Brew, Sherwan Chowdhury, Patsy Cummings, Sean Fitzsimons, Maria Gatland, Lynne Hale, Patricia Hay-Justice, Simon Hoar, Bernadette Khan, Shafi Khan, Vidhi Mohan, Jason Perry, Helen Pollard, Tim Pollard, Joy Prince, Badsha Quadir, Scott Roche, Robert Ward, David Wood and Louisa Woodley

Apologies: Councillor Steve O'Connell

PART A

90/18 **Minutes of the previous meeting**

The part A minutes of the Cabinet meeting held on 15 October 2018 were received. The Leader of the Council signed the minutes as an accurate record.

91/18 **Disclosure of Interests**

There were none.

92/18 **Urgent Business (If any)**

There were no items of urgent business.

93/18 **Annual Report of the Director of Public Health 2018**

The Leader proposed to change the order of the items taken at the meeting and it was agreed by Cabinet. The items were taken in the following order:

1. 94/18 – Community Safety Review - First Findings and Next Steps
2. 93/18 – Annual Report of the Director of Public Health 2018

3. 98/18 – Croydon Tram Incident - Summary of Croydon Council's response and learning
4. 95/18 - Children's Improvement Plan
5. 96/18 – Regional Adoption Agency
6. 97/18 – Croydon's Year of Business
7. 99/18 – Stage 1: Recommendations arising from Health & Social Care Scrutiny Sub-Committee and Streets, Environment & Homes Scrutiny Sub-Committee
8. 100/18 – Stage 2 Response to Recommendations arising from Scrutiny & Overview Committee 10 July 2018 and 4 September 2018
9. 101/18 – Investing in our Borough
10. 102/18 – Electricity and Gas Supplies Contracts

The Director of Public Health informed Members that an updated version of the report was available on the council's website which included the foreword by the Leader. The report focussed on the first 1,000 days of a child's life as it had been found that the early experiences of a person laid the foundation for the rest of their lives. It had been found that positive stimulating environments were important, and that while a small amount of stress had a positive effect; high levels were toxic.

As such, it had been found that if a person experienced more than four traumatic experiences before the age of four it had a serious impact upon that person and their future. In Croydon it had been found that 500 of the 6,000 children born each year would experience four or more adverse childhood experiences, 1,000 would be born into poverty, 2,000 would have been unplanned, 1,700 would have tooth decay by the age of five.

It was noted that there was good work taking place in Croydon with Gateway and Welfare services helping families to achieve financial stability and improved housing. It was further noted that Early Help would help vulnerable families; and that work to improve parks and recreation spaces would facilitate health improvements.

The Director of Public Health stated there were 34 recommendations within the report with the key messages being that issues such as housing, education and mothers' health in the first 1,000 days impact the child's experience and had a lifelong effect. Members were requested to ensure that health was considered in all policies and work continued to break the inequalities cycle.

Recommendations from the Director of Public Health included reviewing, revising and joining up maternal mental health pathways, 100% of midwives to be trained on recognising and supporting families at risk of multiple adverse childhood experiences, frontline staff to be trained on adverse childhood experiences, and an increased awareness about pre-pregnancy health. The Director of Public Health stated that the way forward was to ensure there was a whole system approach in ensuring

that children's first 1,000 days did not have a negative impact upon the rest of their life.

The Cabinet Member for Families, Health & Social Care noted that the recommendations covered all Cabinet Member portfolios and requested that health impact was considered within all policies. The UN report into child poverty levels in the UK was raised; and it was stated that Public Health were battling against the tide of government budget cuts and it was necessary that all councillors worked together to combat the issue. The Leader further stated that the Director of Public Health's report could not be considered in isolation as child poverty was a serious issue which needed tackling.

It was stated that it was shocking that child hunger was an issue in the UK; and the Cabinet Member for Homes & Gateway Services suggested that the impact of Universal Credit was affecting this and children's education. It was further noted by the Cabinet Member that there was a large number of children in emergency accommodation which needed to change, and as such the council supported new homes to tackle the issue.

The early experiences of people were noted to last a lifetime by the Chair of the Health & Wellbeing Board, as it had been seen when reviewing case studies of those who had experienced adverse childhood experiences and those who had not received early intervention support. The Chair of the Board informed Members that the recommendations would be considered at a conference later that week and work would begin on engaging partner agencies to assist in implementing the recommendations.

In response to Member questions the Director of Public Health stated the challenges of ensuring children had their MMR vaccinations were similar to encouraging people to have the annual flu jab, and that there were a number of challenges to overcome. An Action Plan to deliver the recommendations would be developed by the Board; however, the Director stated that she would welcome ward councillor involvement as everyone had a role to play in the first 1,000 days of a child's life.

Whilst it was noted that the recommendations were made by the independent Director of Public Health, Cabinet were welcomed to endorse the recommendations as it was important that everyone owned and worked towards the implementation of the recommendations.

In response to Member questions the Cabinet Member for Safer Croydon & Communities stated that a quote picked up by Women's Hour on Radio 4 was from the London Assembly Police & Crime Committee and was in relation to safeguarding rather than the Director of Public Health's report. It was stated there were emerging themes of ensuring there were trusted relationships and stable families; furthermore, parents were often known

to the council before the child was born and so it was important to work with the parents to ensure they had support.

The Cabinet Member for Finance & Resources stated that he had seen close up the effect of the first 1,000 days on a child's life through his experience of adoption and fostering; and supported the focus on this important aspect. It was suggested that it would be helpful if there were not cuts to the Public Health budget, social care and policing; however the council was committed to working toward early help and intervention and as such it had been built into the council's Medium Term Financial Plan.

The Leader proposed and Cabinet agreed that the council would work to implement the recommendations within the Director of Public Health's Annual Report.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below.

RESOLVED to:

1. Note the information, the evidence provided and to agree and action all of the recommendations; and
2. Implement all the recommendations within the Director of Public Health's Annual Report 2018.

94/18

Community Safety Review - First Findings and Next Steps

The item was taken as the first substantive item of the meeting.

The Leader noted that the borough was in a relatively strong position; however it was felt that it was an opportunity to review how community safety was delivered.

The Cabinet Member for Safer Croydon & Communities informed Members that the review was in line with the manifesto commitment to take a public health approach to community safety. As part of the internal review representatives had visited Glasgow to review how they delivered community safety and what approaches could be implemented in Croydon.

The internal review had found that there were a number of strengths to the council's response, the community safety strategy was considered sound with good governance, and a good staffing level. It had also been that the partnership mechanisms were working well.

In response to the review findings the Cabinet Member proposed that a public health approach which sought to tackle the root cause and take a preventative approach; being led by evidence and working with the community would see further improvements in community safety. A multi-

agency approach was recommended with a Violence Reduction Unit incorporating a number of agencies being proposed.

The Cabinet Member recognised that there were a number of community groups involved in tackling serious youth violence and noted that coordinating the activities of the groups would be a challenge. A further challenge was recognised as being ensuring that work within the council did not take place in silos and that there was a managed response.

The Cabinet Member informed Members that in Croydon there had been a 20% reduction in knife crime with injury, which had reduced further by 26% in October 2018. Whilst there had been reductions in Croydon, the Cabinet Member did not want to ignore the issue that there had been a number of horrific incidents in London in recent months. As such, the Mayor of London had announced £1.2m for the Mayor's Young Londoner's Fund to tackle serious youth violence which many groups would be able to apply to.

The Cabinet Member stressed that further work would be undertaken and that she would be happy to discuss the review and proposals during her next session at the Scrutiny & Overview Committee in March 2019.

The Borough Commander welcomed the direction of travel and stated that the review and proposals built upon the work that had been undertaken by the Local Strategic Partnership which sought to put young people at the heart of the work.

Whilst improvements had been made the Borough Commander stated that all those involved in community safety were far from being complacent and the Police had been speaking with colleagues nationally and from the USA so as to benefit from best practice. It was felt that a multi-agency approach would achieve the ambition of a safer Croydon; and whilst it was recognised it would be challenging to achieve, it was felt to be the right approach.

The Leader thanked the Borough Commander and all Police Officers for their work.

In response to Member questions the Cabinet Member recognised that knife crime was a huge concern for the community; however hoped that the work being undertaken would support local communities. Furthermore, by working with the community it was recognised that it was enabling the council to have a strong response to community safety and it was envisioned that the new Unit would have a strong role for the community.

The Borough Commander stated that locations for dedicated neighbourhood officers would be reviewed and that the Gateway centres or fire stations were being considered; however it was noted that it was

important that the locations were free to use as the Police did not have the budget for additional venues.

In response to Member questions the Cabinet Member confirmed the paper was an early look at reviewing community safety and that it was intended a further report would be taken to Cabinet which looked at how to implement the public health approach and to maximise the good work that had already taken place. It was confirmed that work would continue with schools and those children who were felt to be at most at risk as it was recognised there were a connection between staying at school and staying safe.

The Leader noted there would be an update paper taken to a Cabinet meeting in the new year and that the Deputy Mayor for Policing and Crime had been invited to attend the meeting.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below

RESOLVED to

1. Agree the adoption of a public health approach to tackling serious violent crime as described at 3.6 and 3.7 of the report in accordance with the commitment in the Corporate Plan;
2. Note improvements in violent crime figures set out at 3.2 of the report;
3. Note the proposal for a work stream to create a Violence Reduction Unit as described in paragraph 3.5 of the report;
4. Note the revised approach to the Safer Croydon Partnership and the positive results arising from this;
5. Note the initial findings of an interim review into community safety appended at appendix 1 of the report and agree the proposed principles for community safety services as set out in 3.5 of the report and in 4.0 and 5.0 of appendix 1;
6. Note that detailed proposals arising from the review be further taken forward in accordance with the work-streams proposed at 2.7 of the report; and
7. The Cabinet Member for Safer Croydon and Communities in conjunction with the Executive Director of Place to lead all these work-streams and manage the newly configured Violence Reduction Unit initially comprising the services set out a 3.5 of the report during this ongoing review period.

Children's Improvement Plan

The item was taken as the fourth substantive item of the meeting.

The Cabinet Member for Children, Young People & Learning stated the report gave Members an update on the Improvement Plan following the Ofsted visit in October 2018. Work had taken place to streamline the Plan to further improve the outcomes for young people and families and the Cabinet Member thanked Edwina Grant, Chair of the Improvement Board, for her work in delivering the Plan.

The Chair of the Improvement Board stated that the streamlined Plan would assist in focussing on what was needed to be done and the challenge would be ensuring work continued to progress further improvements.

In response to Member questions the Cabinet Member stated the fourth visit by Ofsted had found that most children were in good and secure placements and that thresholds were being applied effectively; however, concerns remained regarding the pace of formal matching of children. The seven priorities in the Plan would be the focus of improvements and it was recognised that it was important to ensure that work happened at pace.

The Chair of the Improvement Board further noted that Ofsted visits to other authorities at the same point in the improvement journey often raised concerns in regard to pace and consistency, and that this was an area that would be focussed on.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below

RESOLVED to

1. Note that the Children's Improvement Plan has been revised for 2018/19 with a sharpened focus on key areas of priority for improvement;
2. Endorse the Children's Improvement Plan 2018/19, as approved by the Children's Improvement Board; and
3. Note the feedback from the fourth Ofsted

Regional Adoption Agency

The Cabinet Member for Children, Young People & Learning noted that the overarching theme of a number of papers at the meeting had been on improving the outcomes for young people. It was stated that there was a real opportunity to make a difference to the young people in the borough.

Members were informed that all local authorities had been instructed to enter a regional adoption agency with the ambition that the number of children adopted and achieving permanency would increase. The report sought approval to join with neighbouring authorities to create a south London regional adoption agency with Southwark being the host borough for the agency.

In response to Member questions the Cabinet Member stated that the most important element to her was that children were in safe and secure provision as early as possible, as it was noted from the Director of Public Health's presentation that the first 1,000 days of a child's life were the most important for their long-term health. However, it was stated that it was important to ensure the model worked to achieve the goal and would be monitored. Members were assured that staff were being consulted on the proposals for the regional adoption agency.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below

RESOLVED to agree

1. That Croydon enter into regional adoption arrangements as part of Adopt London South;
2. That staff and funding (estimated at 8.5 FTE and a budget of £559k) are transferred to Southwark who will be hosting Adopt London South on behalf of ten South London boroughs;
3. That the statutory and legal functions relating to adoption services set out in Section 15(3) of the Education and Adoption Act 2016 be delegated to Southwark as host of the Regional Adoption Agency Adopt London South; and
4. That authority is given to the Director of Early Help and Children's Social Care to finalise and agree the arrangements including signing off the Inter-Authority Agreement between Croydon and Southwark and any other legal and financial agreements in consultation with the Cabinet Member for Children, Families & Learning, Cabinet member for Finance and Resources, the Section 151 Officer and the Monitoring Officer.

97/18

Croydon's Year of Business

The Cabinet Member for Economy & Jobs informed Members that a number of activities had taken place during Croydon's Year of Business which had sought to support businesses to access business opportunities. 158 events and workshops had been organised and a further 30 events were due to take place before the end of the year, with the Economic Summit due to take place on 22 November 2018.

The Cabinet Member highlighted a number of initiatives which had been successful including; Croydon Work which had placed more than 350 people into work, the Business Rate relief scheme which had created over 370 local jobs, and almost 50 businesses being recognised as Good Employers. The Cabinet was also provided with a number of testimonials from those who had experienced the Year of Business and the ongoing initiatives.

Looking to the future, the Cabinet Member stated that every year was a year of business and that Croydon would continue to engage with businesses and promote 'Croydon is Open for Business'. Work would continue to support the BIDs, creating jobs, and ensuring the business community worked for all and not just the centre of Croydon.

In response to Member questions the Cabinet Member stated that the campaign for a Business Rate relief scheme had begun with the Small Business Commission as Business Rates were the main area of concerns for SMEs. The Cabinet Member welcomed that the government had listened to the campaign and that a relief scheme had been introduced.

With regard to measuring the success of the initiatives, the Cabinet Member noted that almost 50 employers were a part of the Good Employer scheme with a number more having been invited to participate. The Cabinet Member requested the support of all councillors for the scheme as it sought to support the local district centres and local communities. Furthermore, the Cabinet Member highlighted the work of Croydon Works which supported people into work and worked with the local economy to ensure people were trained in areas where there were skill shortages such as in social care and the hospitality sector. It was noted that Croydon was one of the first boroughs to have a campaign that sought to support the local economy in this way.

In response to questions the Cabinet Member confirmed she would share the up-to-date figures relating to the number of children living in families affected by income deprivation with the Cabinet Member for Children, Young People & Learning. The Cabinet Member further confirmed that a priority for the council was to support care leavers into employment; as well as those who were homeless and those with disabilities; by ensuring they had the right skills.

The Leader noted that the amount of investment in the borough and companies joining Croydon showed that progress had been made, and that Croydon's Year of Business had been a success. The Cabinet Member further welcomed Member attendance to the events; including the Economic Summit; to support the local economy.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below

RESOLVED to note the contents of the report.

Croydon Tram Incident - Summary of Croydon Council's response and learning

The item was taken as the third substantive item of the meeting.

The Leader noted that it had been only ten days since the two year anniversary of the Tram incident, and that many Members had attended the commemoration events in New Addington.

The Leader stated that the work of the blue light services in responding to the horrendous incident had been amazing. In addition the work of the Resilience team was noted as having been incredibly important and the Leader thanked officers for their work.

The Cabinet Member for Safer Croydon & Communities noted there had been over 100 members of staff from the council who took part in the response and thanked all those who had been involved in the response. It was stated that the report was a matter of course to review the work undertaken during the response and it was good practice to undertake a review following a major incident. The council sought to work toward continuous improvement to ensure the council was able to respond if there was an incident in future.

The Cabinet Member informed Cabinet that a report on the wider working of the resilience team would be taken to Cabinet in the new year.

The Resilience Manager reiterated that it was good practice to review the work undertaken during an emergency and was normal practice by all emergency response teams. The report identified areas of improvement and reviewed areas of good practice.

Members stated it had been a horrendous incident, but thanked those involved for their hard work in response and expressed hope that nothing like the Tram incident happened again.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below

RESOLVED to

1. Note the Croydon Tram Incident - Croydon Council Summary of Response & Learning report and agree to the progression of the recommendations within it; and
2. Request a further Cabinet report in early 2019 which provides a comprehensive overview of the resilience team, their work to date, and projects being implemented throughout 2019.

99/18

Stage 1: Recommendations arising from Health & Social Care Scrutiny Sub-Committee and Streets, Environment & Homes Scrutiny Sub-Committee

The Chair of Overview & Scrutiny Sub-Committee stated the scrutiny work programme would be reviewed to assess whether the Community Safety review could be considered before March 2019.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below.

RESOLVED to receive the recommendations arising from the Health & Social Care Scrutiny Sub-Committee (25 September 2018) and from the Streets, Environment & Homes Scrutiny Sub-Committee (9 October 2018) to provide a substantive response within two months (i.e. at the next available Cabinet meeting on 21 January 2019).

100/18

Stage 2 Response to Recommendations arising from Scrutiny & Overview Committee 10 July 2018 and 4 September 2018

The Chair of Scrutiny & Overview Committee informed Cabinet that there would be a change to scrutiny reports as it was intended that the implementation of accepted recommendations and responses would be more closely tracked.

Members of the Opposition suggested there had not been sufficient notice of the intention to purchase the Colonnades and challenged the transparency of the decision. The Leader stated the Opposition Member had been given more than 24 hours notice and the asset strategy had been formed to protect frontline services by supporting the revenue budget.

The Chair of Overview & Scrutiny stated that there had been a full discussion of the Asset Management Strategy at scrutiny with cross party examination with cross party support of the strategy and the called-in decision as it was considered a sensible use of taxpayer's money. It was further noted that the meeting had taken place in public, and had been webcasted, and so had been transparent. The Cabinet Member for Finance & Resources further stated the Strategy, under which the Colonnades acquisition had been made, had been amended following scrutiny recommendations and had been agreed by Council in October 2018.

The Leader of the Council delegated to the Cabinet the power to make the decisions set out below.

RESOLVED to approve the response and action plans attached to this report at Appendix A and that these be reported to the Scrutiny and Overview Committee or relevant Sub-Committees.

101/18

Investing in our Borough

Details of decision:

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out below

RESOLVED to approve:

The procurement strategy which will result in a contract award for the supply of Gas and Electricity for the Council and Schools & Academies for a period of eighteen months as set out at agenda items 13a.

RESOLVED to recommend:

To the Leader of the Council that the Cabinet Member for Finance and Resources in consultation with the Leader, continues to be authorised to agree the award of contracts related to the Good to Great ICT transformation programme for reasons set out in paragraph 4.2.3 and 4.2.4. These awards will be in line with the strategy approved by Cabinet on 20th November 2017 (reference: 91/17 Investing in our Borough. ICT sourcing strategy) and any awards made under this delegation will be notified in the standard contracts report at future Cabinet meeting

RESOLVED to note:

1. The list of delegated award decisions made by the Director of Commissioning and Procurement, between 14/09/2018 – 12/10/2018.
2. Property acquisitions and disposals agreed by the Cabinet Member for Finance and Resources in consultation with the Leader since the last meeting of Cabinet.
3. The list of delegated award decisions made by the Nominated Cabinet Member for Finance and Resources for the Good to Great ICT transformation programme.

102/18

Electricity and Gas Supplies Contracts

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out below

RESOLVED to

1. approve the strategy identified within this report to procure suppliers to be appointed to provide Electricity and Gas Supplies for a term of 18 months from 1st April 2019 to the Council and to such schools and academies as shall elect to access the

arrangements for a total estimated contract value of £10,500,000;
and

2. note that it is proposed to depart from the standard evaluation split of 60:40 (cost/quality) required under Regulation 21 to allow a weighting of 80:20 (cost/quality); and
3. authorise the use of the Council's energy broker 'Kinect Energy' to run an OJEU compliant procurement exercise on the Council's behalf using their own e-tendering system to select suppliers for recommendation to the Council for appointment to the Council's new energy suppliers

103/18

Exclusion of the Press and Public

The item was not required.

The meeting ended at 8.41 pm

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REPORT TO:	CABINET 10 DECEMBER 2018
SUBJECT:	BREXIT PREPARATIONS FOR CROYDON
LEAD OFFICER:	JO NEGRINI, CHIEF EXECUTIVE
CABINET MEMBER:	CLLR TONY NEWMAN,
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT	
<p>The United Kingdom's exit from the European Union on 29 March 2019 has major implications for local authorities in terms of their budgets, local economies, regulatory framework and community cohesion. A 'no-deal Brexit' remains a distinct possibility as the date for leaving the European Union approaches and would exacerbate the impact on the borough. Amid this uncertainty this report sets out some of the issues and Croydon's approach to mitigate the impact and safeguard the Council's ability to deliver its plans for growth, opportunity, enabling people to live health and independent lives and to drive fairness for all communities, people and places.</p>	
FINANCIAL IMPACT:	
<p>Leaving the European Union brings with it financial uncertainty for the Council, as well as the Country as a whole. Whilst the exact impact cannot be estimated at this point, sound financial management requires consideration and preparation for a range of consequences.</p>	
KEY DECISION REFERENCE NO.: N/A	
<p>The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below</p>	
1. RECOMMENDATIONS	
<p>The Cabinet is recommended to:</p>	
1.1	Note the potential impact and responses to Brexit in Croydon, as set out in the report
1.2	Endorse the statement that 'Croydon is open' for business and that everyone in our diverse communities is welcome
1.3	Authorise officers to make arrangements to keep EU citizens in Croydon aware of the EU Settlement Scheme and work with our partners to ensure those who need it have access to support to apply for settled status
1.4	Note that the Council will pay the application fee for Council employees earning less than £35,000 and their partners and children seeking settled status and encourage contractors to do the same
1.5	Ensure businesses are aware of the EU citizens' rights to residency and employment as they are confirmed

- | | |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------|
| 1.6 | Agree that regular updates be provided to all councillors and relevant stakeholders for each of the key categories outlined in the report |
| 1.7 | Support the Mayor of London's #LondonIsOpen campaign |

2. EXECUTIVE SUMMARY

- 2.1 The United Kingdom's exit from the European Union on 29 March 2019 has major implications for local authorities in terms of their budgets, local economies, regulatory framework and community cohesion.
- 2.2 A 'no-deal Brexit' remains a distinct possibility as the date for leaving the European Union approaches and would exacerbate the impact on the borough. Amid this uncertainty this report sets out some of the issues.
- 2.3 The implications of Brexit are grouped into the following categories within the report:
- Local Economy
 - Workforce and Employment
 - Finance and Procurement
 - Community Safety and Cohesion
- 2.4 The report takes each category in turn and summarise the potential impact, the actions being taken by the Council, further plans, and options for further action.
- 2.5 In many cases it is difficult to provide financial analysis due to the uncertainty. Therefore a key action across all activities is to continue monitoring the progress of negotiations and work with the Local Government Association and London Councils to ensure our concerns are shared effectively with Government and lobby for effective responses.
- 2.6 The Council will only be able to respond effectively to the challenges posed by Brexit through working closely with its partners in the Local Strategic Partnership, its providers, businesses and Voluntary and Community Sector (VCS) and faith organisations.

3. BACKGROUND

- 3.1 Whatever view is taken towards Brexit, it is likely to have significant implications for Croydon in terms of the local economy, workforce and skills, community cohesion, demand for public services, the Council's finances and regulatory framework. There is great uncertainty over the scale and timing of these implications, not least because there are a range of different scenarios that could occur.

EU Exit process and negotiations

- 3.2 The UK is due to leave the EU at 11pm UK time on 29 March 2019. Three possible scenarios on the manner of the withdrawal are:

- a deal is reached on both the Withdrawal Agreement and a future relationship between the UK and EU.
 - the terms of withdrawal are agreed but it proves impossible to agree on a future relationship
 - the UK leaves the EU without a Withdrawal Agreement in March 2019.
- 3.3 A Withdrawal Agreement has been agreed by the UK Government and European Council. If it is approved by the UK and EU parliaments and the Withdrawal Treaty is ratified by March 2019, it will provide for an implementation period. The period would last until December 2020, with the possibility of a time-limited extension for up to one or two years. This would give more time for the future relationship between the UK and EU to be defined, and for national and local government, business and others to put arrangements in place. The Political Declaration endorsed at the European Council on 25 November sets out the framework for the future relationship with the EU on matters such as trade, migration, cooperation on security and data-exchange, and participation in programmes in areas such as science, youth, culture and education and civil protection. However, the declaration is not a legally binding agreement and the terms may change.
- 3.4 If the Withdrawal Treaty was ratified, but there was no agreement on a future relationship with the EU, there would be a transition period until December 2020 (unless it was extended) and reciprocal rights of EU and UK citizens would be confirmed. After the transition period ended, and without any other agreement, World Trade Organisation rules would apply.
- 3.5 However, it is uncertain whether the UK parliament will approve the agreement. 'No-deal' would mean that the proposed implementation period would not happen. Preparations would, in that case, need to be ready for 29 March 2019.
- 3.6 The Withdrawal Act 2018 transfers existing EU legislation and regulations underpinning key services into UK law. They will continue to apply, unless changes are made subsequently. The Act applies even under 'no-deal', but the Withdrawal Agreement, which contains important provisions including reciprocal rights of EU and UK citizens, would fall. It has been estimated that some 800 items of secondary legislation would need to be passed by March 2019 to ensure that UK law was operable on 'Brexit day'.
- 3.7 For the purposes of this report we have assumed a 'no-deal' scenario, recognising that this would present the most change, and therefore greater uncertainty and risk. Any scenario where the Withdrawal Agreement is approved and / or the future relationship is agreed would result in less uncertainty and risk.

Risk Management

- 3.8 The Council maintains and regularly reviews a risk register. This ensures that we are monitoring and planning for potential issues that may impact on the Council's ability to deliver services, financial position or reputation.
- 3.9 The decision to leave the European Union has been included in the risk register since 2017, following the UK Government's triggering of Article 50 of the Lisbon

Treaty, which formalised the process for exit negotiations and set the timetable for March 2019.

- 3.10 The risk register provides a useful summary of the issues that the Council needs to consider. Whilst it recognises that the results of the Brexit negotiations are outside of our control, the Council will need to react to the issues that arise and the following potential impacts are identified:
- Uncertainties about the residency rights of current EU citizens in Croydon could cause community tensions.
 - Wider uncertainties about the UK's economy and trade arrangements could potentially impact development plans and inward investment that are vital for the borough's regeneration.
 - The Council has received funding for a number of initiatives from the EU with some of these part way through delivery. There is uncertainty about future funding and the availability of funds for projects.
 - The UK Economic performance will impact local authority budgets and grants. Currently there are unknowns about whether further grant cuts will be imposed and how Croydon's budget may be affected.
 - Croydon's business rates income could be impacted by any loss of confidence in investment in the UK economy.
- 3.11 The Council's Scrutiny and Overview Committee has considered the risks posed by Brexit at alternate meetings. The Committee will review the impact of Brexit at its meeting on 30 April 2019.
- 3.12 Whilst the risk register recognises that the results of the Brexit negotiations and terms of any deal are outside of the Council's control, we are taking action to protect Croydon from any negative impact, and maximise any benefits. The remainder of this report will outline these actions and consider further actions that could be taken.
- 3.13 The following sections summarise the potential impact of a 'no deal' Brexit on Croydon, outlines the actions being taken and identifies further actions that could be considered.

4. POTENTIAL IMPACT ON THE LOCAL ECONOMY

- 4.1 The GLA's 'Preparing for Brexit' report cites the Cambridge Econometrics model which suggests that the more abrupt the UK's exit from the EU, the greater the negative impact on the London Economy, ranging from a loss of between 0.8% and 2.1% in Gross Value added by 2030. The impact in terms of growth, employment and productivity in Croydon would appear to be less than the London average. Comparing the impact on growth to 2030 in the South London Partnership area which includes Croydon, against 'no Brexit', it suggests:
- a loss of 0.8% in Gross Value Added (GVA) by 2030 and 0.5% reduction in employment under a 2 year transition followed by Single Market (SM) without a Customs Union (CU)
 - a loss of 1.0% in GVA by 2030 and 0.9% reduction in employment under a 2 year transition with a CU, but no membership of the SM.

- a loss of 1.6% in GVA and 1.3% reduction in employment if the Brexit outcome is a 2 year transition followed by no membership of the SM or CU and falling back to World Trade Organisation (WTO) rules.
 - a loss of 1.8% in GVA and 1.3% reduction in employment where there is no transition, no membership of the SM or CU and no preferential EU/UK trade agreement.
- 4.2 Croydon's Small Business Commission reported that Brexit was a factor in reducing confidence and slowing investment. Businesses in Croydon may be impacted by higher interest rates, inflation and banking delays (set out more fully at Section 8 below), as well as higher tariffs on imports from the European Union on food, clothing, construction materials, car and transport equipment and paper. Additional customs and border controls may cause delays, which may affect 'just-in-time' deliveries and perishables.
- 4.3 Any reduction in economic growth is likely to impact on household budgets, which could subsequently cause a reduction in spending in the retail and hospitality sectors.
- 4.4 Many of the potential challenges faced by property developers are consistent with those in the wider economy, mainly concerning labour supply in the construction sector and cost inflation within the supply chain (driven by currency fluctuations and restrictions on the supply of materials). For Brick by Brick (BxB), the Council's development company, challenges also include the impact on the UK property market, in terms of property values and housing demand. The impact of each Brexit scenario on the property market is unclear. Any hint of reduced confidence in the wider UK economy is likely to create a more challenging environment for property developers. Uncertainty about Brexit has already affected the property market: the Royal Institute of Chartered Surveyors reported that new surveying instructions fell in each of the first seven months of 2018, indicating falling demand. Growth in property values in Outer London was around 0.3% in mid-2018, better than Inner London (which has seen a contraction in values). The impact in Croydon has been downward pressure on the annual growth rate in property values over the last two years, although this was from a high peak in July 2016. The average value of new-build residential units in Croydon has remained relatively flat over the last 18 months. Brexit uncertainty is one of a number of market factors contributing to this.
- 4.5 A positive impact of the uncertainty has been investors' reduced appetite for committing to buy land, which has reduced land values. This presents an opportunity for BxB to secure new sites for development (within an appropriate risk profile) and ensure that sites which would have otherwise been bought by private developers can release greater affordable housing provision.
- 4.6 On 29 October, the Future Place Board considered the local impact of Brexit. The Board is part of Croydon's Local Strategic Partnership and considers skills, employment and inclusive growth. Its membership comprises Council members and officers, and representatives of organisations from the public, private and voluntary sectors. Board members expressed concern about Brexit and the effect on confidence, community spend and workforce, in particular in the construction, hospitality, health and social care sectors which could suffer skills

gaps and rising wage bills. They indicated that social care and hospitality had slim profit margins.

- 4.7 Board members felt that, while Brexit could not be ignored, participants and businesses did not know what to expect, particularly given the lack of communication about it. It was reported that the Council already asked businesses what their future skills needs were, but that some firms did not have the ability to look ahead to 'future-proof themselves' from Brexit. While it was noted that the Partnership was already making connections between education and training organisations and business, Board members felt that there was more work to be done to enable young people to visualise what new career opportunities in trades, not just roles needing academic qualifications, might mean for them in real terms, and also to raise awareness of career progressions that might be possible for people already in work. Concern was also expressed over the loss of EU funding for training and learning.

5. LOCAL ECONOMY: OUR RESPONSE

- 5.1 The Council is committed to supporting our local economy. The Corporate Plan includes the following priorities:
- Everybody has the opportunity to work and build their career
 - More residents develop their skills and benefit from regeneration and investment in Croydon and more businesses pay the London Living Wage and employ and buy local
 - Business moves here and invests, our existing businesses grow
 - Local communities and high streets benefit from economic growth and flourish, small and medium enterprises (SMEs) and entrepreneurs thrive
 - Infrastructure supports economic growth.
- 5.2 The Council is therefore already taking a number of actions to support the local economy:
- Marketing 'Croydon is open' to attract more investment to the borough
 - Working with the Government and the GLA to improve the infrastructure for growth: better roads and public transport, and excellent broadband
 - Supporting the Growth Zone to develop new retail space, creating 24,000 jobs and 10,000 new homes for local people
 - Through our Value Croydon approach, increasing the number of local suppliers that are benefiting from our £400m annual commissioning – directly and through our existing providers, offering local SMEs access to supply chain opportunities and making it easier for them to bid for Council contracts, for example by breaking down large lots, ensuring that Croydon Businesses are aware of the ability to bid for low value contracts which are available with the Council
 - Encouraging and incentivising business to do the same through the Croydon Good Employer Charter: to pay the London Living Wage, recruit Croydon residents, use Croydon businesses for goods and services and have good policy and practice around equalities, workforce development and environmental sustainability.
 - Helping business to locate space in Croydon, creating work spaces through planning policy, reactivating empty properties and submitting a Creative Enterprise Zone bid to enable us to do more

- Supporting business and enterprise financially, through Croydon Enterprise Loan Fund and the Council's discretionary business rates relief
- Facilitating access to advice, information, mentoring and networking through the Croydon Business Network, Social Enterprise Network, a new small business hub and tech partnerships
- Supporting the development of new Business Improvement Districts and local economic development plans.

5.3 BxB's business plan includes measures to mitigate the potential Brexit impacts of falling property values and rising costs, as decisions to progress with developments are based on financial viability appraisals which make assumptions about property values and construction costs within each scheme:

- Cautious assumptions about property values have been made in appraisals for existing schemes and no inflation in values has been planned for in line with current trends. A recent valuation exercise for 26 schemes undertaken by qualified independent surveyors demonstrated that valuation estimates were higher than those currently used in BXB's business plan. This provides a contingency for any potential negative impact on the UK property market.
- BxB reserves the option to convert some of its existing private sale schemes into private rental schemes (PRS) in the event that capital values for property significantly decrease. Whilst this has an impact on cash flow in terms of how quickly debt can be repaid, it allows the company to hold assets in the expectation that they could be released at a higher value in future, whilst still making a return.
- BxB has been exploring options to procure elements of the construction process in more innovative ways that will allow it to control the cost items which are currently seeing the biggest increase across its programme.

5.4 Recognising the additional challenge that Brexit may create, the following actions will also be taken forward:

- Signposting to advice from Government and other sources to ensure that our businesses base is compliant with emerging legislation, policy and practice. This will include promotion of the Mayor of London's [Brexit Business resource hub](#).
- Supporting opportunities for international trade including attracting new investment, investors and developing new partnerships e.g. building on relationships with Henan Province China.
- With Croydon Business Network, deliver and enable a package of support to help existing businesses access new markets.
- Provide support to our existing business base to help create policies and procedures that enable them to become fit to supply major international companies.
- Joining with the Mayor of London to echo his message that #LondonisOpen - showcasing that Croydon is and will remain open for business, talent and ideas from across Europe and around the world - enhancing the borough's good reputation for being an easy place to invest and develop in, finessing the Council's offer and approaching developers to bring them to Croydon.
- Conduct an annual business survey which will add to our understanding of business confidence, concerns about Brexit, views on the Council's openness

- Encourage anchor organisations in Croydon (like NHS trusts, colleges, the Police) to support the local economy by paying the London Living Wage, buying local and employing local
- As part of its regulatory and enforcement role, the Council will notify retailers and food businesses of changes in regulations,
- Work with the Sussex Innovation Centre and TMRW tech hub and C2C to strengthen growth sectors.
- Once it is announced, respond to Government consultation on the new UK Shared Prosperity Fund to ensure it meets Croydon’s needs, and support bids to fund skills training, innovation and export growth.

6. POTENTIAL IMPACT ON WORKFORCE AND EMPLOYMENT

- 6.1 The Council values the important contribution EU citizens make to the work of the Council, its partners and providers and key sectors of Croydon’s economy.
- 6.2 Although no local data is available, London-wide data shows that the percentage of EU citizens in the construction industry, retail, healthcare and social work, education, accommodation & food and technology is high. All of these are important for the local economy in Croydon (Table A). This suggests that these key sectors all face significant risks of skills shortages.

Table A: Percentage of jobs filled by non-UK EEA nationals

Sector	Number of jobs in Croydon by sector	% of all Croydon jobs by sector	% of all London jobs filled by non-UK EEA nationals
Retail	20,000	16.9%	11%
Human health and social work	15,000	12.7%	11%
Education	12,000	10.2%	12%
Professional, Scientific, Technical	12,000	10.2%	12%
Accommodation and food	8,000	6.8%	32%
Construction	7,000	5.9%	32%

Source: NOMIS employee jobs 2016 and GLA.

- 6.3 Table A demonstrates that these six sectors account for 74,000 jobs in Croydon. If the proportion of employees is similar to the whole of London, there are circa 11,500 non-UK EEA nationals employed in these sectors alone across Croydon.
- 6.4 Feedback from construction companies demonstrates concerns about the skills gaps through loss of the EU workforce and increased costs and delays in supplying building materials. This would impact on regeneration projects in Croydon including the infrastructure, retail and housing development plans, repair and improvement works on council homes and the schools expansion programme.
- 6.5 Around 50 Council employees (1.5% of the workforce) are listed as EU nationals including 14 social workers. In addition, according to a preliminary estimate, 15% (110) of some 750 locums and agency staff employed across the Council are recorded as EU nationals. As disclosure of such information by existing employees is voluntary, these figures are likely to be underestimates.

The Council is in the process of assessing the reliance on EU nationals by the many contractors and providers that deliver council services. Many roles could be filled again; however social care workers would be more challenging to replace: 13% of posts filled by the largest agency are held by EU nationals.

Health & Social Care Implications

- 6.6 The impact on the health and social care sector if unmitigated has the potential to cause severe disruption. The NHS is currently facing shortages, particularly in nursing, midwifery and health; therefore, any negative impact from Brexit will exacerbate this issue. A Department of Health and Social Care report has outlined the potential impact of not enabling EU workers to work in the UK Social Care sector post-Brexit. The report warns that in a worst case scenario, there could be a shortage of 6,000 doctors, 12,000 nurses and 28,000 care staff. The Government has announced that doctors and nurses are to be exempt from the cap on skilled workers, but this does not address the shortage of care staff.
- 6.7 The social care sector nationally has an estimated vacancy rate of 6.6% and a turnover rate of 27.8%. In Croydon the size of the social care market is significant, with 140 care homes accommodating over 3,500 beds, and 50 domiciliary care providers. The local sector is already under strain due to cost and staffing; there have been eight market failures. An estimated 11% of workers in the sector are EEA nationals. The figures in Table A suggest that over 1,600 health and social care roles in Croydon are held by EEA nationals. Brexit has the potential to significantly worsen this staff shortage as, given the turnover, recruitment is essential. 30% of Croydon's adult social care providers report that they are currently affected by Brexit, mostly due to recruitment issues.
- 6.8 Our response must therefore be two-fold:
- retention of existing EU employees through providing reassurance, directly and through their employers, and enabling them to retain their residence and employment rights through the EU Settlement Scheme (see paragraph 6.9), and
 - skilling up of the local workforce to replace those EU workers who leave.

Retention of existing EU employees

- 6.9 In June 2018, the Government announced an EU Settlement Scheme to enable EU citizens to acquire settled status (indefinite leave to remain) or pre-settled status (limited leave to remain) and continue their lives in the UK with the same entitlements as now to work, study and access public services and benefits, according to current rules. The Withdrawal Agreement states that workers and self-employed persons will be guaranteed broadly the same rights as they currently enjoy.
- 6.10 A pilot of the EU Settlement Scheme, for people working in health and social care and certain educational institutions, will run from 29 November to 21 December 2018. The Scheme will be fully rolled out by 30 March 2019. Application is online. Government grant funding of up to £9 million is available for VCS organisations to support EU citizens who might need additional help when applying for their immigration status through the Scheme.

- 6.11 However, in the event of 'no-deal', the Withdrawal Agreement, including these provisions, would fall and emergency legislation would have to be passed to establish the ongoing status and rights of EU citizens currently living in the UK. The uncertainty of 'no-deal' could accelerate the departure of EU nationals, potentially posing a significant risk of skills shortages in key sectors in Croydon's economy.
- 6.12 In this situation, the status and rights of UK citizens living in EU countries would also be uncertain. It may lead to some UK citizens returning to the UK, but this is not anticipated to be at a level that will improve the workforce implications.

Recruitment

- 6.13 With regard to recruitment, there has already been a fall in job applications from other EU countries. The proposed strict controls on unskilled migrants (EU and non-EU) entering the UK from March 2019, if they earn less than £30,000 a year, would directly affect the important local sectors of construction, hospitality, catering, health, social care and retail.
- 5.14 It is therefore vital to upskill the existing UK workforce and enable young people about to enter the workforce to access job opportunities in these sectors.

7. WORKFORCE AND EMPLOYMENT: OUR RESPONSE

- 7.1 As set out in the section on local economy, the Corporate Plan includes a priority to ensure everybody has the opportunity to work and build their career.
- 7.2 In addition to the local economy actions, there are a number of actions already underway specifically focused on workforce and employment:
- The Council and social care providers are actively recruiting social care staff through various initiatives
 - To improve local skills we are working with schools, colleges, trainers and businesses to support vocational routes for the local workforce into growth sectors of care, culture, retail, tech and construction, through Croydon Works, the job brokerage service. A new construction skills academy in New Addington supports this work.
 - We support business in developing training programmes for current and new employees and in creating new apprenticeships.
 - We also work with schools to engage with business and develop traineeships and entry-level routes into employment.
- 7.3 Whilst not in place, work is already underway to undertake the following actions to support the retention of the local EU workforce. These formed the basis of a commitment announced by the Leader of the Council in October:
- Actively seek a full disclosure from all existing Council staff who are EU citizens and capture status as part of right to work for all new employees, reminding them that they are valued by the Council, which is committed to their ongoing employment.
 - Communicate with the Council workforce in autumn 2018 about the EU Settlement Scheme using information released by the Government.

- Arrange 'drop in' sessions/surgeries for any employee, locum or employee of our contractors engaged in delivering the Council's services, who are worried about their status, assist with applications and offer other welfare support and advice.
- Reassure the Council's employees that the Government's policy is that until 31 December 2020 EU citizens will still work freely in the UK. The application for settlement or pre-settlement status will need to be made before 1st July 2021.
- Pay the application fee for Council employees earning less than £35,000 and their partners and children seeking settled status and encourage contractors to do the same
- Ensure the Council's partners and providers are aware of the EU Settlement Scheme and its employer toolkit and are able to support their employees.
- Engage with the business community to raise awareness of the EU Settlement Scheme and employment law in respect to EU nationals' status, particularly during the Brexit transition period.

7.4 The following outlines further potential actions that the Council will take in support of workforce and employment:

- Speak to key partners i.e. agency providers, partner organisations, regarding the impact of workforce attrition on the whole health and social care system
- Assess the impact on supply and access to agency/locum workers
- Develop specific training into work and recruitment packages for those industries likely to be hardest hit by Brexit, for example working with employers and sector skills agencies to create training and recruitment solutions for health and social care, construction, retail and hospitality and developing stronger career pathways.
- Increase promotion of the study of STEM (science, technology, engineering and maths) subjects among young people.
- Support businesses and training providers to seek funding to improve training provision
- Work with the Voluntary & Community sector, faith groups and other places of community focus to ensure EU citizens are aware of the EU Settlement Scheme and get support if required to apply for settled status. Initially the Council will work with law centres, the Citizens' Advice Bureau and other advice agencies to develop a network of support and access to pro-bono advice. The Government has announced up to £9m in funding to VCS organisations to ensure EU citizens needing additional support get help in obtaining their settled status.
- Develop a web portal on Brexit on the Council's website:
 - for EU citizens with links to updated information on the EU Settlement Scheme including the Mayor of London's [guidance hub](#), and local sources of assistance
 - Information, once confirmed, on EU citizens' rights of residence, employment and access to benefits (to inform current and prospective employers and landlords) including a link to [EU Settlement Scheme Employer toolkit](#).

8. POTENTIAL IMPACT ON COUNCIL FINANCE AND PROCUREMENT

- 8.1 No deal Brexit poses a number of fundamental, wide-ranging and complex challenges for the Council's finances. However, it is difficult to predict the long-term impacts.
- 8.2 Inflation is likely to increase due to a fall in the value of Sterling, the impact of tariffs, supply chain concerns and labour shortages. This would increase costs for the council wage bill, supplies and services. Payments to providers rise in line with the Consumer Price Index (CPI). As the Council Pension is pegged to CPI, employer pension contributions would increase in the medium term.
- 8.3 Current levels of long-term borrowing for capital projects supporting regeneration in Croydon's Growth Zone and developing housing through Brick by Brick are insulated from increases in interest rates, but a sustained increase in the cost of debt could have a severe impact on affordability if further loans were required. This could delay or reduce the scale of such projects.
- 8.4 The Council has a loan facility from the European Investment Bank for £102m for the schools expansion programme. At 31 March 2018 it had drawn down £44.745m. The commercial arrangements are expected to continue unaffected.
- 8.5 The Pension Fund investment portfolio is currently valued at over £1 billion and invested in markets both inside and outside the EU. Latterly it has benefited from market volatility but in the longer term the impact of falling exchange rates could be damaging to the economy and cause adverse movements in interest rates and gilt yields.
- 8.6 Two-fifths of high street banks are based in the EU. There could be delays in clearing payments to them, increasing costs.
- 8.7 A decline in the rate of economic growth would impact on the Council's finances in three ways which are impossible to predict:
- by reducing income from Business Rates, Council Tax and charges, such as planning fees. As the Government's revenue support continues to decrease, local authorities are increasingly reliant on the health of the local economy at a time when service demand is increasing
 - by reducing the value of Council assets, such as its housing stock, against which borrowing can be raised
 - by increasing service demand from people whose budgets are squeezed and increasingly at risk of debt and homelessness.
- 8.8 Additional cost pressures are difficult to define at present, but would include increases in procurement costs and demand for services.

Procurement and delivery of public services

- 8.9 After Brexit day, all contract opportunities that would currently be posted on OJEU/TED platforms would be advertised on a new UK-specific e-notification service instead. Contracts in the process of being negotiated could be affected as the rules that frame the process change or disappear overnight. Delays and costs may increase during major procurement exercises if access is lost to EU systems.

- 8.10 Suppliers based in the EU, transporting goods across the continent, or relying on EU based firms (not extensive) may see their costs increase. This could lead to many suppliers asking for more money to deliver the same services. Construction, vehicle leasing and IT contracts are particularly exposed to this risk.
- 8.11 Certain sectors tend to request annual price increases due to fluctuations in market conditions. The uncertainty around Brexit could lead to a larger proportion requesting a price variation to their contracts.
- 8.12 Increase in cost of construction materials and lead-in times (as 64% are imported from EU) and labour costs (due to a worsening skills shortage) impacts on homes and schools capital delivery programme, housing repair, maintenance and improvement programmes.
- 8.13 There may be an increase in the cost of care, driven by staff shortages and food prices on top of existing rate of increase in social care costs. Some social care providers are already indicating that costs are increasing above the CPI rate that is budgeted for.

Demand for services

- 8.14 Brexit has the potential to change the nature and level of demand for services in a number of areas. However, it is not possible to predict the scale of demand, given the uncertainty.
- 8.15 If, following a 'no-deal Brexit', EU citizens lost their rights to residency, employment and eligibility for public services, such as housing and social care, some would be at increased risk of unemployment and homelessness, requiring a different service response, as offered to other people with no recourse to public funds. Those in emergency or temporary accommodation could have their eligibility reviewed. There would be higher risk of rent arrears owed by EU nationals who are council tenants if they ceased to be eligible for benefits or became unemployed.
- 8.16 As nationality is often not recorded and ethnicity data is a poor proxy measure, it is difficult to estimate the number of EU nationals receiving key services:
- Where nationality has been recorded, an average of 1.9% of children and young people across the children in need, looked after children, child protection and care leavers categories were EU nationals, equating to 125 individuals.
 - There is no nationality data for open adult social care users: 389 (7.0%) of those with open provision were 'white other', but this could underestimate the number of EU nationals by half.
 - 27 (4.2%) of approaches for assistance under the Homelessness Reduction Act in April to June 2018 (the first quarter of implementation) were non-Irish EEA nationals. Half (56%) of these were private tenants. 59% were employed but almost all of them were claiming benefits. 85% had dependent children. This indicates the potential vulnerability of this cohort to homelessness and that the Council might be faced with demand for assistance if prevention action were not taken.

- 8.17 The Withdrawal Agreement states that all UK nationals lawfully residing in an EU Member State at the end of the Implementation Period will be able to stay permanently in that Member State. They will have broadly the same entitlements to work, study and access public services and benefits as now where these entitlements have derived from UK membership of the EU. However, in the event of a 'no-deal Brexit', these entitlements would not be protected, and older vulnerable British Citizens returning to UK from other EU countries could require social care and housing. This demand is impossible to quantify, but they would have to meet the habitual residence test (HRT) which requires two years' residence in UK prior to housing application. The trend should be monitored with social care partners and advice agencies, and the policy for applying the HRT consistently in these cases agreed with the Department for Work & Pensions.
- 8.18 Poverty, already set to increase, could be exacerbated by Brexit. According to a JRF report, 'How could Brexit affect poverty in the UK?', the cost of living for the average UK household has increased by over £400 a year since the EU referendum (through the fall in sterling and rise in interest rates). Real wages would fall by 1.0% in the event of 'no-deal', increasing vulnerability to debt and homelessness. This could increase the need for homelessness prevention, budgeting support, discretionary housing payments, as well as temporary accommodation. It could also increase the amount rent and council tax arrears.
- 8.19 4,609 (5.8%) of 0-15 year olds in Croydon had EU passports in 2011. In 2016/17 there was an 8.4% decline in National Insurance Number registrations for work by foreign nationals in Croydon. The Cambridge Econometrics model suggests a reduction in the overall population in the South London Partnership area of between 1.0% and 3.2% by 2030, depending on the Brexit scenario. There could therefore be a decline in demand for school places in areas/wards in north and central Croydon where a larger proportion of EU citizens with children of statutory school age reside - an assumption as there is no precedent. This could reduce grant paid to the schools affected if those places were not taken up by others.
- 8.20 In the longer term, depending on the degree of reduction in household budgets, some residents may have less liquid assets to pay for domiciliary care.

EU Funding

- 8.21 The Government has announced that it would 'underwrite' European Structural and Investment Funding (ESIF) until the end of 2020 in the event of 'no deal'. This means that organisations that successfully bid into EU-funded programmes before December 2020 will continue to receive funding over the project's lifetime.
- 8.22 ESIF includes
- European Social Fund (ESF) which focuses on improving the employment opportunities, promoting social inclusion and investing in skills by providing help people need to fulfil their potential
 - European Regional Development Fund (ERDF) supports research and innovation, small to medium sized enterprises and creation of a low carbon economy.

- 8.23 After nearly five years of the 2014-20 programme, only 48% of ESIF funding has been allocated by Government.
- 8.24 The Government has stated that it will consult this year on the UK Shared Prosperity Fund (UKSPF) that will replace ESF and be designed to reduce inequality between communities across the UK and to deliver sustainable, inclusive growth. There is the potential for a funding scheme that is less bureaucratic to apply for and administer, that is more responsive to local needs with devolved decision-making. However, to date no information is available on the criteria, or the overall amount of funding, which could be less than that currently available. The final details will only be known after the next Spending Review. This leaves little time to design and deliver new programmes by January 2021, when councils will be relying on this funding to mitigate the effects of Brexit on their local economies.
- 8.25 Given the variety of timespans and geography of projects funded by the EU that benefit Croydon, it is difficult to give an overall figure. These projects include:
- Croydon is the main delivery partner of a Work and Health Programme for the South London Partnership for which the Council will receive a potential £6.7m of ESF funding over 2017/23 (match-funded by Department for Work & Pensions) for an education/ training programme to get long-term unemployed people back into the work place.
 - £9m ESIF funding was provided across 7 boroughs in 2016-18 for programmes to support NEET young people (Not in education, employment or training), with Croydon benefitting from 20-25% of the funding (£900k - £1.125m per annum). Some contracts have been extended for one year. Failure to replace ESIF funding fully would put at risk the Council's ability to identify young people not in education, employment and training (NEETs) and offer them appropriate support.
 - £105,000 ERDF funding has been allocated for business start-up advice and support in Croydon over three years and a bid for to retrofit properties to be zero carbon rated would provide £135,000 for Croydon if successful. Croydon has also submitted a progression in the Workplace bid under C2C LEP for around £2m in ERDF.
 - Octavo, Croydon's educational support mutual, will bid for funding under Erasmus + programme for Croydon teachers and other school staff to observe/undergo training in countries within Europe.
- 8.26 A number of local organisations, not all of which we are aware of, benefit directly from EU funding to provide skills training and employment support for long term unemployed, homeless people and people with particular support needs.

9. COUNCIL FINANCE AND PROCUREMENT: OUR RESPONSE

- 9.1 The Council manages its finances and resources well. Our Medium Term Financial Strategy has recognised the uncertainty that Brexit has created, although as stated previously it is not possible at this stage to estimate the financial impact with any certainty.
- 9.2 The following actions are already planned or being implemented:

- Plan to update pre-Brexit policies, procedures and other documents to reflect new tender, contract and other regulations for implementation from Brexit day
- Agree an approach for tenders and contracts that are due to end around March 2019. Nine contracts worth £13.3m a year are due to expire around this time
- Collaborate and share information further with neighbouring London councils to resolve issues and create joint-solutions where possible
- Complete the identification of suppliers based in the EU or with prominent EU connections so that the Council can anticipate, engage with relevant suppliers and plan to deal with emerging issues
- Plans to work with existing contractors to identify the impact on workforce and ensure contractors have plans in place to mitigate the impact on the services being delivered to our residents
- Developing a scenarios model with KPMG for the cost of care in Croydon, which will assist with demand budgeting
- Review risks and mitigations with housing contractors and increase time and cost contingencies in budgets for complex capital projects
- Ensure no significant transactions in March and April 2019 to avoid potential turbulence
- Monitor impacts, most of which will become clearer in the medium term.
- Work with the VCS sector, faith groups and others to ensure all our EU citizens will be aware of the EU Settlement Scheme as set out at 7.5 above will serve to mitigate the risk of them facing unemployment and homelessness as the result of being unregistered at the end of the transition period.

9.3 Further actions regarding finance and procurement have been identified, as set out below:

- Given the difficulty in modelling a rise in demand for services, make arrangements to monitor the effects of Brexit with partners across sectors and share monitoring data and information to capture issues as they arise and get an idea of changes in demand. The locality approach of the Council's operating model will enable targeted work with schools, the health service, VCS and other partners as emerging issues and changes in demand are identified.
- Review all council business continuity plans to consider supply chain and people impacts, identify critical suppliers and ensure strategies are in place for the partial/whole loss of these
- Reviewing the Housing Revenue Account 30 year business plan to take account of the decline in asset values and the potential risk of rising rent arrears
- Monitor staffing shortages across the health and social care system and its impact on the infrastructure.
- Lobby Government for clarity on eligibility rules for services in the event of a 'no-deal Brexit', given the potential impact on housing and social care and develop a policy response with DWP and other partners on services for EU citizens with no recourse to public funds.
- Ask partners, VCS infrastructure organisations and other local organisations the amount and purpose of EU funding that they receive and the impact of losing it
- If required, arrange access/facilitate access to Government's provision to underwrite EU funding programmes allocated by the end of 2020

- Once it is announced, respond to consultation on UK Shared Prosperity Fund (UKSPF) that will replace the ESIF and call for it to be a more responsive, less bureaucratic scheme led by local areas and not central government
- Make arrangements to access the UKSPF bidding process. Design and deliver new UKSPF funded schemes by 1 January 2021
- Identify what other sources of funding may be available to replace EU funding streams
- Taking into account the impact of Brexit in the design of the next Community Fund programme, e.g. so advice agencies have capacity.

10. POTENTIAL IMPACT ON COMMUNITY SAFETY AND COHESION

- 10.1 Racist hate crimes rose by 16% in Croydon in the year after the Brexit referendum, but have been decreasing toward pre-referendum levels. The future impact of Brexit on hate crime may depend on how the potential outcomes of 'no-deal' or a deal where freedom of movement was retained to some degree was portrayed in the press and social media.
- 10.2 It is understood that the National Police Coordination Centre has drawn up contingency plans for a no-deal exit, including for general public unrest. Unrest and an increase in acquisitive crime could occur in the event of interruptions in the supply chain leading to a shortage of vital items such as food and medicines. The prioritisation of resources to deal with these issues could lead to significant disruption to local Policing for a prolonged period of time.
- 10.3 Depending on the nature of the exit the Police could lose access to European intelligence system and the European Arrest Warrant which allows EU members to request the arrest and detention of criminals in other countries without extradition talks between them. This could impact on the Police's ability to identify and extradite criminals who were foreign nationals, particularly for transnational serious organised crime.
- 10.4 Restricting the freedom of movement, especially for 'low-skilled EU nationals', would create a market place for organised criminals and modern slavery in the informal economy.
- 10.5 The National Police Chiefs Council is setting up a national unit to enable Police forces to access other tools for information sharing via Interpol, alongside ongoing reviews around the potential for disorder following Brexit and the Police response.
- 10.6 The risk assessment of food and food traders will be more difficult and less targeted following loss of access to EU databases and testing. There is risk that following food price increases, cheaper unregulated products could enter the food chain. If Brexit results in a skills shortage in the catering industry, understaffed businesses will be less able to comply with food and safety legislation, risking an increase in food poisoning and complaints.
- 10.7 Irrespective of Brexit, EU citizens resident in the UK will remain entitled to vote and stand in local government elections until s.2 of the Representation of the People Act 1983 is amended. No amendment has been announced.

11. COMMUNITY SAFETY AND COHESION: OUR RESPONSE

- 11.1 The Council's Corporate Plan includes the priority that everyone feels safer in their street, neighbourhood and home, working in partnership to reduce crime, anti-social behaviour and ensure public protection.
- 11.2 The Council is therefore already taking a number of actions to support this area:
- We promote Croydon as a welcoming and open place
 - With our partners we are monitoring the level of community tension through existing projects and will respond to any emerging issues and negative messages arising from a Brexit deal on movement. This work is supported by the Counter Extremism Community Connector who is working with faith and VCS groups to build local networks to promote cohesion, respect and tolerance and monitor community tensions. A protocol on coordinated responses to tensions and cohesion related issues is being agreed. A faith responders group supports responses to community tensions
 - The Safer Croydon Partnership is working jointly to improve support and reduce vulnerability for all victims of crime, focusing on hate crime. This work includes funding community-led activities to overcome hate crime and support victims.
 - Croydon's plans for responding to emergencies align to national and regional protocols and procedures. Discussions are under way with the London Resilience Forum to undertake risk assessments and planning. Planning for any civil disturbance is led by the Police and will be shared with the Croydon Resilience Forum – the local multi-agency emergency planning partnership. They meet to assess risk and implement agreed action.
 - The Council is working with partners and providers to increase awareness of modern day slavery, identify and act to protect victims. Commissioning staff in the Council are being trained to provide assurance that supply chains do not involve enslaved or forced labour.
- 11.3 The following outlines further actions that the Council is intending to take to support community safety and cohesion:
- Improve processes for gathering and assessing information to improve our understanding of our local communities
 - Extend training and awareness raising on modern slavery to more groups including the Council's housing service, recycling and refuse contractor Veolia and Faiths Together. Brexit will be a standing item of the Modern Day Slavery committee to monitor the implications of whatever deal is reached.
 - We will step up food safety checks. However, amending documentation and notices to reflect legislative changes may cause delays in other parts of the service. We will notify retailers and food businesses of changes in the legislation and lobby the Food Standards Authority to provide a suitable replacement for the risk assessment and management function currently performed by EU institutions.
 - We will await guidance from the Association of Electoral Administrators, Cabinet Office and Electoral Commission. If the law changed to remove EU citizens' voting rights Electoral Services would contact each individual

EU citizen registered to advise them of the change. The Council would link up with national communications regarding this.

12. CONSULTATION

- 12.1 The Council will conduct surveys and engage with businesses, its partners and local VCS organisations through the Local Strategic Partnership Boards, networks and other forums and events to understand how Brexit impacts on them. It began this process with local business and employment organisations at the Future Place Board on 29 October. It will take account of these findings and concerns and develop plans with partners to mitigate those negative effects.
- 12.2 As specific measures are proposed, further consultation will be conducted as appropriate at that time.

13 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 13.1 At the time of writing this report it is not possible to identify the financial impact for Croydon Council of leaving the European Union. The financial implications will be explored and reported as national plans become clearer.
- 13.2 A key area of concern is the impact on our residents, staff and contractors. It is known that the cost to apply for settled status is £65 for over 16s and £32.50 for under-16s. Under certain circumstances it is free. A family of 4 would have to pay £195. Providing drop-in advice for Council employees, locums or employees of contractors engaged in delivering the Council's services will require extra staffing. Initially the Council could bring in expert help for initial sessions and work with local law centres and the CAB to develop a resource of pro-bono advice, before the VCS is able to access government funding for this work. These options will be assessed during the pilot phase from 29 November.
- 13.3 Risks
The reports sets out a full range of financial risks that face the authority as a result of leaving the European Union, as well as suggested mitigations.
- 13.4 Options
There are no options presented in this report.
- 13.5 Future savings/efficiencies
There are no future savings or efficiencies proposed in this report, although any opportunities that do arise will be incorporated into the Council's existing financial planning mechanism.

Approved by: Ian Geary, Head of Finance, Resources & Accountancy

14. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 14.1 The Solicitor to the Council comments that in offering incentives and assistance

as suggested within the body of the report, the Council will need to be mindful of the State Aid rules which currently remain in force and which are proposed to remain in force during any transitional arrangements. Furthermore the UK Government have stated that in the event of a no-deal Brexit, it is the government's intention to transpose EU State Aid rules into UK domestic legislation so that they will remain applicable post Brexit.

- 14.2 State aid rules apply as a matter of course to any assistance or advantage given on a selective basis by a public authority (such as the Council) to any organisations that could potentially distort competition and trade in the EU. The definition of state aid is deliberately very broad because 'an advantage' can take many forms. It is anything which an undertaking (an organisation engaged in economic activity) could not get on the open market. It specifically includes such things as grants, loans, tax breaks, rate relief, the use or sale of a state (or Council) asset for free or at less than market price etc. Not all State Aid is unlawful as there are certain defined exemptions. The De Minimis Regulation allows small amounts of aid – less than €200,000 over 3 rolling years – to be given to an undertaking for a wide range of purposes. In calculating whether any assistance or advantage falls within the exemption, it is worth bearing in mind that the €200,000 sum encompasses *any* assistance or advantage from *any* public body during the 3 rolling years, not just monies that the undertaking may have received solely from the Council. Records of aid granted must be kept and all the rules of the De Minimis Regulation must be followed in order for it to be claimed. If the EU Commission determines that assistance or advantage amounts to State Aid not falling within the exemptions, it can impose a range of sanctions, including a requirement that the state recover the aid in question, with interest. Any proposed indemnity to the recipient of aid will not only be unlawful and invalid, but also itself constitute aid. However a recipient of aid may themselves be able, on appropriate facts, to recover damages from the state on the basis of the recipient's legitimate expectation that the state would act lawfully.
- 14.3 Beyond what is set out above, there are no additional legal considerations arising from the recommendations within the report; however, as more clarity is obtained around the direction of travel, specific departmental advice may need to be sought in relation to the legal implications for their services.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law for and on behalf of Jacqueline Harris-Baker, the Director of Law and Monitoring Officer.

15. HUMAN RESOURCES IMPACT

- 15.1 There are no additional human resources implications arising from the recommendations within the report. However, as more clarity emerges, the impact on workforce planning and recruitment will continue to be assessed. Any changes that are required to Human Resources policies will be consulted on as necessary in line with our current practice.

Approved by: Sue Moorman on behalf of the Director of Human Resources

16. EQUALITIES IMPACT

- 16.1 Data from the 2011 census showed that 19,882, 5.5% of Croydon residents, held EU passports (excluding Ireland). This is an understatement as 22,975 EU electors are currently on Croydon's electoral register (8.5% of total electors). This is the most recent reliable data available.
- 16.2 Under the Equality Act 2010 the Council along with other public bodies has a statutory duty to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
- 16.3 An equality analysis has been conducted of the potential impact of Brexit on Croydon residents. The main negative impacts identified were as follows:
- Depending on the perception of the Brexit deal agreed in terms of the freedom of movement and its portrayal in the press and social media, there may be an increase in community tension and race hate crimes.
 - Unless EU citizens gain settled or pre-settled status through the EU Settlement Scheme by 1 July 2021, they will lose their rights of residency, employment and recourse to public funds. The scheme will be fully operational by March 2019 but its online application system has implications for EU citizens who are digitally excluded. Those who are ill, isolated or hard to reach, have a learning disability or a physical disability such as impaired sight, or lack language skills may find it difficult to apply through the online system and are likely to require support.
 - Poverty could be exacerbated, particularly among low income families and people of working age, irrespective of nationality, due to rising interest rates, inflation and unemployment, increasing vulnerability to debt and homelessness.
- 16.4 The Council has identified the following actions to mitigate these negative impacts:
- One of the Council's equality objectives, adopted under s.5 of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, is to improve the proportion of people from different backgrounds who get on well together. The Council will continue to promote Croydon as a welcoming and inclusive place and work in partnership with all sections of the community to monitor the level of community tension, responding to any emerging issues and negative messages arising from Brexit. It will work with faith and VCS groups promote cohesion, respect and tolerance and take appropriate action with its partners to secure the safety and wellbeing of people from all communities and cultures.
 - The Council will work with the VCS, faith groups and other places of community focus to ensure EU citizens are aware of the EU Settlement Scheme and get support if required to apply for settled status.
 - The Council will monitor changing levels of poverty and debt and, where required, respond through its Gateway Service with its partners to prevent

homelessness, provide budgeting support, and link people employment and training opportunities through Croydon Works, the job brokerage service.

Approved by: Yvonne Okiyo, Equalities Manager

17. ENVIRONMENTAL IMPACT

17.1 There is no immediate environmental impact. The EU Withdrawal Act 2018 will ensure all existing EU environmental law continues to operate in UK law, providing businesses and stakeholders with certainty as we leave the EU. The UK's Climate Change Act is domestic legislation and will be unaffected by exiting the EU. The Council will consider the consequences of any subsequent amendment of EU environmental regulations by new UK legislation as these changes arise.

18. CRIME AND DISORDER REDUCTION IMPACT

18.1 There was a 16% rise in hate crimes over the year after the June 2016 referendum, which has since reduced towards the level prior to the referendum. Depending on the perception of the Brexit deal agreed in terms of the freedom of movement, there may be another increase. In the event of 'no-deal', there is also a risk of civil disorder and acquisitive crime in the wake of any rise in food prices, delays in the supply of medication and disruption in the delivery of health and social care services.

18.2 The Council will continue working with its partners as set out in this report to strengthen community cohesion, monitor community tension and tackle hate crime. Implementation of the Equality Policy and statutory equality objectives and working proactively with partners including the police, voluntary, faith and community organisations to raise awareness and develop coordinated responses is critical to tackling hate crime. The Council will work closely with the Police and other partners to monitor and respond to any threat of disorder.

19. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

19.1 To set out the Council's actions to mitigate the impacts of the UK's departure from the European Union, in particular a 'no-deal Brexit', declare that Croydon remains open for business and reassure EU citizens that their contribution to the working, civic and cultural life of Croydon is valued.

20. OPTIONS CONSIDERED AND REJECTED

20.1 None.

CONTACT OFFICER: John Montes, Senior Corporate Strategy Officer, Ext 61613
APPENDICES: None
BACKGROUND DOCUMENTS: None

For General Release

REPORT TO:	CABINET 10 December 2018
SUBJECT:	Economic Growth Strategy
LEAD OFFICER:	Shifa Mustafa - Executive Director, Place Emma Lindsell – Director, Economic Growth
CABINET MEMBER:	Cllr Manju Shahul-Hameed – Economy & Jobs
WARDS:	All

PRIORITY/POLICY CONTEXT

The Economic Growth Strategy will support achievement of outcomes under the following themes in the 2018-22 Corporate Plan:

- Businesses move here and invest, our existing businesses grow
The aim of this Strategy is to support sustainable economic growth across the borough that increases economic prosperity. It will increase the number of thriving businesses thereby increasing the number of “good” jobs in the borough available to our residents.
- Everybody has the opportunity to work and build their career
The Strategy will ensure that our people have the skills that businesses want and that will enable them to access work and be financial independent.

FINANCIAL IMPACT

There are no direct financial implications arising from this report. Supporting our local businesses and our residents into employment by securing jobs and opportunities has positive impacts on the Council’s finances in the longer term.

FORWARD PLAN KEY DECISION REFERENCE NO.: not a key decision

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to

- 1.1 Endorse the themes and priorities of the Economic Growth Strategy for Croydon as set out below.
- 1.2 Agree the themes and priorities be used as the basis of consultation with stakeholders and partners following which the final strategy will be prepared and submitted to Cabinet for agreement.

2. EXECUTIVE SUMMARY

- 2.1 Croydon is London's Growth Borough – our extensive and ambitious programme of regeneration and investment in the metropolitan centre and across our town centres is well established and continues to be delivered. We are investing in infrastructure, leisure, schools, culture and homes to make Croydon a place where residents and businesses want to be.
- 2.2 Creating great places to live, work and play is an important part of encouraging businesses to come, grow and remain in Croydon thereby generating economic growth, but without other measures this will not create growth that maximises benefits for our borough. This paper outlines the themes and priorities of Croydon's emerging Economic Growth Strategy which will drive sustainable economic growth that delivers real benefit for our existing businesses and residents.
- 2.3 The themes of the emerging strategy are simple and mirror those of regional Local Industrial Strategies:
- I. To create places where businesses, investors and residents want to be and invest in infrastructure for growth;
 - II. To create the business environment for growth - positioning Croydon and promoting sustainable economic growth that creates “good jobs”;
 - III. To invest in ideas that can deliver real change for Croydon – to be innovative and grow our knowledge, science, technical, digital and creative economies;
 - IV. To invest in our people ensuring they have access to quality skills provision and can access jobs that ensure financial independence.
- 2.4 Subject to Cabinet decision, it is proposed to consult partners and stakeholders on the themes and priorities of the emerging Strategy between December 2018 and March 2019. A full Strategy will be produced for discussion and agreement at Cabinet in April 2019.
- 2.5 It is recognised that Brexit will have a significant impact on the UK economy as outlined in the previous paper - the final strategy may be delayed or subject to early revision in light of emerging information and changing national context.

3 Detail

3.1 Current Context

Croydon has been enjoying a period of sustained economic growth over the past 5 years based on data from Office for National Statistics (NOMIS). There are more jobs in the borough and more businesses registered here than in 2013.

Our main employment sectors are retail & hospitality, business & administration and health & care. Our largest single employer is Croydon University Hospital and public sector jobs account for 20% of all jobs.

There continues to be disparity between the earnings of residents living in Croydon and working outside of the borough, and the pay rate of jobs in the

borough. Those working outside of the borough are likely to earn more than residents living and working in the borough.

There remain a number of large scale employment sectors such as retail & hospitality, and health & care that pay low wages. However the number of high wage roles is increasing with the arrival of the Government Regional Hub and growth in the information and communications (tech) sector.

The unemployment rate in Croydon is the third highest in London at 7.2% (Annual Population Survey). Many of those who are workless have multiple and complex barriers to work and have significant challenges to accessing and sustaining work.

An additional issue for Croydon is the level of in-work poverty as families work hard and still struggle to pay their bills - 25% of those in work are being paid below the living wage. Women are more likely to be paid less than the living wage than men 27% of jobs held by women are paid below the living wage (Annual survey of Hours and Earnings). In addition prior to Universal Credit, Job Centre Plus data showed that 16,600 families were in work and claiming tax credits.

Borough-wide data masks the extreme differences between various parts of the borough and sometimes between neighbouring wards. For example the three wards with the highest number of claimants share a border with wards with the lowest.

At the time of writing, the impact of Brexit is yet to be fully felt on the economy in Croydon. The impact on trade is yet to be fully understood but our businesses are reporting a slowdown in investment due to Brexit uncertainty. Brexit is likely to have disproportionate impact on sectors where EU nationals fill high volume vacancies including construction, retail and hospitality and health & care. As outlined in the previous agenda item, our response will involve providing reassurance to existing EU nationals with the aim of retaining their skills in the workforce through promoting the EU Settlement Scheme. We will also work with partners to ensure our resident workforce is able to fill skills gaps in the most affected sectors.

3.2 Progress and achievements to date

- 3.2.1 It is important to recognise and build upon what has been happening over the last four years when developing our future strategy. As above we have more businesses and more jobs in Croydon than we did in 2013 and we can also see real day-to-day changes as a result of regeneration, particularly around East Croydon Station, where the swift progress on the Tide project at 101 George Street is particularly noticeable. Other developments are also in delivery mode and on site including, Taberner House, Fairfield and College Green, the Nestle Tower and St. Georges Walk.
- 3.2.2 Since May 2014 the council and partners have delivered a number of flagship projects and achievements, some of which are detailed below. We have:

- Signed the Growth Zone agreement (approved 1/4/18) with central government which enables the council to borrow against income from future business rates uplift. The Growth Zone will invest £309.9m (plus an additional £210m being met by other sources including TfL, the GLA and Section 106 planning obligations) in infrastructure in metropolitan centre and along key transport corridors (Brighton Road / A23) to enable economic growth. The Growth Zone will deliver improvements to transport, public realm and open spaces walking and cycling, digital and social infrastructure such as health, culture and energy.
- Created and implemented a Discretionary Business Rates Relief Policy which encourages inward investment and business growth. Over the past 4 years several significant employers have relocated to Croydon including Superdrug, Green Energy Network, Body Shop and the Regional Government Hub, these relocations together with rate relief applications granted have created or safeguarded 4498 jobs in Croydon.
- Protected commercial space in the metropolitan centre thereby protecting the number of jobs by securing an Article 4 Direction; this restricts uncontrolled Permitted Development and conversion of commercial space to residential.
- Brought forward several meanwhile projects, including Boxpark which has transformed the approach to East Croydon. Boxpark social media reach extends to 16 million people per year, it has raised the profile of Croydon as a great place to visit. Boxpark has delivered hundreds of events including a 'homecoming gig' for Stormzy and their hugely successful World Cup screenings that gained national TV and press coverage.
- Supported the creation of 5,790m2 of flexible new business space by providing business rates relief and other support to Sussex Innovation Centre, TMRW and The Business Xchange Hub.
- Given planning consent to the revised Whitgift application and completed Compulsory Purchase Order arrangements bringing the redevelopment project several steps closer to delivery.
- With Croydon College, secured a university offer in the borough, supporting residents to gain higher level skills in health & social care, construction, law and HR management.
- Established new pathways to work for residents by creating employment services; we have supported over 700 residents into work through flagship Croydon Works and Gateway employment schemes.
- Listened to our small business base through the independent Small Business Commission which delivered its final report in 2017. A subsequent action plan and Year for Business have been delivered in 2018 supporting 4500 businesses through 160+ events.
- Secured devolved powers and £7.7m funding from the Department of Work & Pensions (DWP) and £6.7m funding from the European Social Fund (ESF) to support residents furthest from the labour market and with complex disability and health conditions to become closer to work. The Work & Health Programme started delivery in March 2018 and has so far supported 85 residents into work. The programme will run until at least 2023 and will support a further 2500 residents across the South London Partnership area into sustainable employment. The council hopes to build on this success securing greater powers from central government to deliver localised approaches targeted to the needs of our residents.

- Secured £14.25m from Coast to Capital for the Fairfield and College Green site to accelerate housing delivery and the redevelopment of the Fairfield Halls, our cultural flagship. This funding will help deliver 996 new homes; create 2811 new jobs (1300 directly as a result of investment and further 1511 indirectly); create 58,000m² new commercial floorspace and improve 16,000m² existing commercial floor space.
- Supported Business Improvement Districts (BIDs) and Business Associations. Purley BID was created in 2015, New Addington BID was renewed at ballot in 2017 and Croydon BID was renewed at ballot in 2016. We are committed to working with all of our BIDs and business associations to help our metropolitan and town centres be the best places they can be.
- Invested in town centres, for example in New Addington through the Leisure Centre redevelopment. This project has also ensured local benefit and employment outcomes by working with Wilmott Dixon to create a construction training hub delivered in partnership with Croydon Works. The project has so far delivered 49 construction training outcomes and secured jobs for 22 residents. There has also been £2.7m investment in Thornton Heath delivering combined public realm improvements and business support and engagement.
- Started along a path of community devolution in our town centres working with grassroots organisations to develop local community economic development solutions. The first Community Economic Development plan was developed by and with We Love SE25 (South Norwood) and plans are in train to develop more plans for specific areas.
- Established the Good Employer Charter which encourages and incentivises employers across the borough to pay the London Living Wage, recruit Croydon residents, use Croydon businesses for goods and services and be responsible by having good policy and practice around equalities, workforce development and environmental sustainability. To date 50 businesses have been accredited as Good Employers; a further 18 have pledged to do so over the coming months.

Draft Economic Growth Strategy Themes & Priorities

3.3 Theme I - To create places where businesses, investors and residents want to be and investing in infrastructure for growth

Under this theme the council is committed to the following priorities:

- 3.3.1 Delivering and enabling several key public spaces that transform the look and feel of the borough around major employment sites to lever investment and growth, this includes Queen’s Square, College Green and North End.
- 3.3.2 Investing in infrastructure to unlock growth and working with partners to do so – this includes delivering key transport and digital infrastructure measures, for example, improvements to the A23, Fiveways, and Brighton Mainline.
- 3.3.3 Supporting a vibrant and diverse leisure and cultural offer, and evening & night time offer by developing an evening and night time economy steering group and action plan and embedding culture at the heart of regeneration. This priority also includes ensuring there is a strong “meanwhile” offer during the

redevelopment cycle in the metropolitan centre and at other key sites in our town centres.

3.4 Theme II - To create the business environment for growth

Under this theme the council is committed to the following priorities that will position the whole borough for sustainable economic growth that creates “good” jobs:

- 3.4.1 Maintaining robust planning policy that incentivises balanced economic growth across the whole borough and delivering a responsive Development Management and Building Control offer that drives commercial and industrial development in key locations.
- 3.4.2 Lobbying central government for meaningful review of business taxation to minimise impact on small businesses and high streets, and place balanced burden on big businesses and online retailers.
- 3.4.3 Positioning Croydon as a place open to and for business and with the capacity to deliver sustainable growth. Engaging in meaningful consultation and policy development at a national, regional or local level - we will actively engage in the development and delivery of Local Industrial Strategies with Coast to Capital (C2C) and the London Economic Action Partnership (LEAP) Local Enterprise Partnerships (LEPs) ensuring that Croydon is positioned within the Capital and south east to ensure maximum positive impact on our residents and businesses. At an international level we will continue to engage with trade delegations including those from India and China.

We will support delivery of Gatwick 360 the C2C Local Industrial Strategy – we will maintain our role as a key partner and delivery agent for this Local Enterprise Partnership (LEP) and are committed to working with C2C to realise our shared ambitions for balanced sustainable growth. The council has strong representation at C2C board level and has benefited from funding for key developments including Fairfield Halls and College Green.

- 3.4.4 Supporting balanced growth across the borough including our town centres, by creating Community Economic Development plans with our communities in specific recognisable economic areas. We will also support the creation of new business spaces to accelerate local business growth, and encourage local business and community groups to lead on and inform local developments such as markets and Business Improvement Districts (BIDs).
- 3.4.5 Helping our businesses navigate Brexit by delivering a comprehensive package of support which includes joining with the Mayor of London to echo his message that #LondonisOpen. Further we will develop specific training into work and recruitment packages for those industries likely to be hardest hit by Brexit e.g. working with employers and sector skills agencies to create training and recruitment solutions for health & care, construction and retail & hospitality.
- 3.4.6 Recognising and celebrating that 99% of our businesses are small or medium sized enterprises (SMEs) – we will support businesses with fewer than 250 employees that are the backbone of our economy by delivering a simplified and

improved business support offer, and by brokering new opportunities to trade for local business by opening up procurement and supply chain opportunities with the council and partners. We will also take action to create and protect commercial space in the metropolitan and town centres.

3.5 Theme III - To invest in ideas that can deliver real change for Croydon

Under this theme the council is committed to the following priorities making space for big ideas and growing our knowledge economy – science and technical, digital and creative sectors:

- 3.5.1 Making commercial investments that deliver both a financial return and deliver wider social and economic benefit building on our success in investing in homes, Boxpark and TMRW Tech Hub.
- 3.5.2 Working with universities, colleges, developers, investors and businesses to develop our ideas economy. We will use our buying, regulatory, investment and influencing powers to support creation of high value jobs in the knowledge economy.
- 3.5.3 Exploring and supporting alternative commercial models including social enterprises and co-operatives that have a solid business base but that also materially benefit residents and their communities.

3.6 Theme IV – To Invest in our people

Under this theme the council is committed to the following priorities to help our residents realise their full potential and live financially independent lives:

- 3.6.1 Achieving a world-renowned Higher Education offer in the metropolitan centre ensuring that residents have the skills needed in our new knowledge economy.
- 3.6.2 Raising the aspiration of young people by working with our schools and colleges to support the provision of independent Information, Advice and Guidance (IAG), and focusing on employment opportunities in our emerging economy e.g. in knowledge and STEM (Science, Technology, Engineering & Manufacturing) industries.
- 3.6.3 Ensuring the borough's skills offer meets the needs of employers and our economy. We will work with partners to create employment and skills pathways to work in key sectors including construction, health & care, STEM and digital and will support creation and take-up of apprenticeships.
- 3.6.4 Ensuring residents have access to preferential pathways to jobs in the borough by continuing to invest in and improve Croydon Works job brokerage. We will focus particularly on those with multiple and complex barriers to work who are furthest from the labour market e.g. Looked After Children, disabled people, homeless people.
- 3.6.5 Supporting further roll out of the Good Employer Charter to increase the number of employers in Croydon that, amongst other things, pay the London Living Wage and enable residents to live financially independent lives.

3.7 Proposed next steps

Subject to Cabinet agreement of the draft themes and priorities, it is proposed that:

- The themes and priorities are consulted on with stakeholders and partners;
- The Cabinet Member for Economy & Jobs oversees the consultation process and drafting of a full strategy;
- Clear success measures are included in the strategy that are aligned to the Corporate Plan;
- The full Economic Growth Strategy be presented to Cabinet for discussion and agreement in April 2019 - this date may be subject to change as Brexit discussions unfold and implications are more fully understood.

4. CONSULTATION

4.1 The themes and priorities in this paper have been subject to initial consultation with Future Place Board (a subgroup of the Local Strategic Partnership); membership includes partners such as Jobcentre Plus, Colleges, BIDs, Croydon Partnership, employers and third sector providers. The group has been supportive of the ideas contained in the developing strategy.

4.2 Further consultation is proposed with the wider stakeholders including BIDs and Business Associations, Greater London Authority (GLA), Coast to Capital and London Enterprise Action Partnership, our businesses via Federation of Small Business, Chamber of Commerce etc. This consultation will take place between December 2018 and March 2019 to inform the final strategy to come to Cabinet in April 2019.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 There are no direct financial implications arising from this report.

5.2 Supporting the local economy including the sustainability of our local business base and enabling our residents to access employment alongside attracting new business investment into Croydon has positive impacts on the Council's finances in the longer term by:

- increasing business rates income to the Council.
- supporting our residents to be financially independent through entrepreneurship or employment, enabling a reduced reliance on public funds.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 The Solicitor to the Council comments that there are no direct legal implications arising from the recommendations within this report.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law for and on behalf of Jacqueline Harris-Baker, Director of Law and Governance & Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 There are no specific HR issues arising from the contents of this report, if any arise these will be managed under the council's policies and procedures.

Approved on behalf of Sue Moorman Director of Human Resources by Jennifer Sankar, Head of HR Place.

8. EQUALITIES IMPACT

- 8.1 Implementation of the Economic Growth Strategy will have a positive impact on social and economic inequality by increasing the supply of good jobs and promoting routes into them thereby enabling residents to move out of poverty and into financial independence. We will ensure this process is inclusive and accessible to all residents including groups that share protected characteristics. Specific projects, programmes and work streams will be subject to equality analysis to assess the possible impact of proposed changes on customer/community groups who share a "protected characteristic" and mitigate adverse risk to customer/community groups who share a "protected characteristic".
- 8.2 The emerging Strategy will help the council to achieve its equality objectives namely; to increase the rate of employment for disabled people, young people, over 50s and lone parents who are furthest away from the labour market. Also to reduce the rate of child poverty especially in the six most deprived wards through paying the living wage. It will also support council priorities such as modern slavery.

Approved by: Yvonne Okiyo, Equalities Manager

9. ENVIRONMENTAL IMPACT

- 9.1 There are no specific environmental impacts arising from the contents of this report, however specific initiatives forming part of the strategy are designed to promote environmental sustainability and minimise negative environmental impact and air pollution. Examples of this might be around investing in public transport infrastructure including walking and cycling to divert residents and commuters from using private cars, or investment in sustainable energy projects.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no specific crime and disorder issues arising from the contents of this report, however there is a positive correlation between increased or improved economic activity and a reduction in crime and disorder.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 The proposed decision is endorsement of the themes and priorities of the draft Economic Growth Strategy ahead of consultation with stakeholders. The reason for the recommendation is to ensure that a robust Economic Growth Strategy is developed for Croydon which will pave the way for sustainable economic growth across the borough.
- 11.2 It is believed that the proposed themes and priorities outlined here will deliver marked benefit to residents and businesses in the borough, creating sustainable economic growth from which our residents will receive direct benefit. The consultation proposed tests the themes and priorities with stakeholders and partners and will secure wider buy-in to the final Strategy.

12. OPTIONS CONSIDERED AND REJECTED

Several options have been considered for inclusion in the strategy and it will continue to develop and evolve throughout the consultation process.

CONTACT OFFICER: Emma Lindsell - Director of Economic Growth 07776992031
Kate Ambrosi – Head of Economic Development

APPENDICES TO THIS REPORT

None

BACKGROUND PAPERS

Cabinet 15th October 2018 –Delivering the Croydon Growth Zone Third Local Implementation Plan (LIP3) & Liveable Neighbourhood Bid reports

Coast to Capital Gatwick 360

Cabinet 24th September 2018 – Corporate Plan 2018 – 2022

Labour's Plan for Croydon #Ambitious for Croydon 2018

Skills for Londoners Strategy

REPORT TO:	CABINET 10 December 2018
SUBJECT:	Proposal to Join Pan-London Homelessness Prevention Procurement Hub (“Capital Letters”)
LEAD OFFICER:	Shifa Mustafa, Executive Director of Place Leonard Asamoah, Head of Housing Solutions
CABINET MEMBER:	Councillor Alison Butler, Deputy Leader and Cabinet Member for Homes and Gateway Services
WARDS:	All wards

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

The recommendations in this report will support the Corporate Plan objectives of **Good, decent homes, affordable to all**, whereby we will work on partnership with local landlords and agents to provide good quality and affordable temporary accommodation in the Private Rented Sector. The recommendations will also support aspirations **Our children and young people thrive and reach their full potential** encourage by providing long terms and sustainable accommodation enabling families with young children to plan their lives .

FINANCIAL IMPACT

The financial impact of joining this procurement hub will generate savings for the temporary accommodation budget. The costs to the Council of tackling homelessness is currently £28.2m (gross budget) and £3.2m (net costs).

The proposal is anticipated to procure 220 properties per year from the joined-up pan London initiative. The proposed potential savings for 220 units is estimated at £0.300m in the first year 2019/20.

FORWARD PLAN KEY DECISION REFERENCE NO.: 1718CAB

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below.

1. RECOMMENDATIONS

The Cabinet is recommended to.

- 1.1 Note the £38 million over three years potentially being made available by MHCLG specifically for pan-London collaboration on the procurement of accommodation for homeless households
- 1.2 Approve the decision to join a Company Limited by Guarantee (provisionally, “Capital Letters London Ltd”(Capital Letters) that will be established by the London boroughs to support the aforementioned aims, as an ‘A’ member

- 1.3 Approve the appointment of the Head of Housing Assessment and Solutions as the Council's Member Representative of Capital Letters.
- 1.4 Delegate authority to the Director of Housing Assessment and Solutions in consultation with the Deputy Leader and Cabinet Member for Homes and Gateway services and the Director of Law and Monitoring to approve operational staffing and arrangements, the final form of agreement and documents and all other matters pertaining to the Council's membership of and participation in Capital Letters

2. EXECUTIVE SUMMARY

- 2.1 Capital Letters is a proposed joint endeavour between a group of London boroughs to reduce the costs of temporary accommodation and deliver improved outcomes for homeless families, by jointly procuring and managing accommodation across London. London Housing Directors and the officer team at London Councils have been working on a model which will enable better outcomes for homeless and at risk households as well as for councils. The proposal is to establish a not for profit company, limited by guarantee called "Capital Letters". This report outlines the proposal and recommends that the London Borough of Croydon should join the company. Capital Letters will collaboratively procure new properties on behalf of London boroughs supported by the MHCLG top-slice and on a pan-London basis. In addition to the top-slice, the pan-London procurement is intended to have a deflationary effect on procurement and allow a more rational allocation of supply across London, allowing households to be housed closer to placing boroughs. Member boroughs will also be able to transfer existing leased properties into Capital Letters. Boroughs will also be able to convert often expensive nightly paid accommodation where appropriate.
- 2.2 Capital Letters will grow in phases, with an initial number of boroughs joining in the first year, followed by phase two a year later, and eventually including, if not all, then the clear majority of London boroughs. There are also two types of company membership, A and B. The distinction is noted in the Articles of Association appended to this report.
- 2.3 Properties are expected to be a mixture of Private Rented Sector properties let by the property owner to households nominated by the boroughs, and properties leased directly from landlords or from managing agents.
- 2.4 By the end of the third year of operation it is envisaged that Capital Letters will have a staff complement of around 270 officers and an annual income of £238m. By this stage it will have secured almost 20,000 additional properties to help prevent and tackle homelessness, and will have an estimated 13,000 properties either fully or partially under its management.
- 2.5 Capital Letters will be established as a not-for-profit Company Limited by Guarantee, wholly owned by the member boroughs. Boroughs must become members of the company in order to participate in and benefit from its activities and access the additional MHCLG funding. The benefits expected are to:

- support the Council in reducing the use of nightly paid accommodation so tenants can be offered more security and better property standards.
- access the grant offer from MHCLG of £38m (top sliced from FHSG) designed to contribute to the management fee; incentive support for direct lettings in the PRS; as well as costs associated with setting up the CL business including a new property listing IT system.
- Potentially access 100% of current LHA (Boroughs can only access 90% of 2011 LHA) reducing the financial pressure on the Borough
- reduce nightly paid costs to the Boroughs
- increase opportunity to procure accommodation in or closer to the host Boroughs – as there will be an independent mechanism to allocating properties procured.
- maximise economies of scale and provide better grant rates for providers and therefore increase procurement numbers as providers will be more attracted by the competitive rates; and
- reduce both numbers in nightly paid as well as overall numbers of homeless as Boroughs can discharge duty into any leased accommodation.

2.6 This report asks the Cabinet to approve the recommendation that Croydon becomes a member of the proposed company, Capital Letters London Ltd. Detailed operational decisions about seconding staff and procuring through the company will be approved by the Head of Housing solutions in consultation with the Deputy Leader and Cabinet Member for Homes and Gateway under delegated authority. The overall benefits to local residents in Croydon include access to additional units of accommodation which will increase choice .

3. Background

3.1 The immediate background to this work is the increasing level of homelessness and the resulting provision of Temporary accommodation (TA) and prevention placements. In March 2017 there were 77,240 households in TA nationally, an increase of 60 per cent since March 2011. Seven out of ten of these households are placed by London boroughs. The cost of providing TA in 2015/16 (£845 million) accounted for more than three quarters of the total cost of providing homelessness services nationally (£1.15 billion). This taken alongside the devastating affect homelessness has on individuals, families and children is simply unsustainable, particularly given the draconian cuts to Local Government funding.

3.2 Homelessness responds to a combination of structural economic and housing market factors. Government policy, particularly in relation to housing and welfare, also has an impact on levels of homelessness. There are serious concerns that access to market housing will be affected by the rate at which house prices and private rents are likely to rise in comparison to household incomes. Affordability is an increasingly significant issue for households in Croydon, despite the fact that house prices and private sector rents are lower than particularly inner London. Median House prices in Croydon are over 10 times median salaries. Competition for market rented housing is pushing up rents, and local landlords are sadly reluctant to let their homes to people on benefits. The most common reason for homelessness continues to be the loss of a private rented tenancy. This is exacerbated by the Government's decision to freeze the Local Housing Allowance (LHA), even though the council had

previously demonstrated to Government that Croydon had the biggest mismatch between LHA and actual rent levels of any English local authority.

- 3.3 In Croydon, the Council has been tackling homelessness in recent years through a wide range of Initiatives which includes acquiring properties in the Private Rented Sector to place homeless households and a great emphasis on prevention, stopping families actually becoming homeless. Because of these actions the number of decisions the council had to make in response to households applying as homeless in 2017/18 was 1336, the fewest in 11 years; and a strong indication of the impact Croydon's 'Gateway & Welfare' approach is having. The number of people in temporary accommodation also fell from 2,449 in March 2017, to 2005 in March 2018, the lowest level in 6 years. The number of households placed in emergency accommodation has fallen from 801 at the beginning of the financial year to 667 at the end of 2017/18. These figures show how the council has shifted its focus and activity, through its Gateway and Welfare Service, to intervening early, and preventing homelessness before it reaches a crisis point wherever it can. In 2017/18, the council managed to prevent or relieve homelessness for 2,155 households, the highest number since 2010/11.
- 3.4 In recognition of this, MHCLG have provisionally allocated £38 million over three years to the scheme, which has been top sliced from the Flexible Homeless Support Grant (FHSG). Whilst it is hoped that MHCLG will fund the project in full, allocation of some of these funds may take place in the next national spending review and therefore the Ministry have now confirmed the funding for three years which reduces the risk for the Council.
- 3.5 MHCLG funding is expected to be used in the following three ways:
- Contribution to Private Sector Leases (PSL),
 - Private rented placement incentive payments,
 - Central cost contribution, e.g. for additional procurement staff, tenancy sustainment staff, IT and premises for the company.
- 3.6 Participating boroughs who become full members of Capital Letters will initially second staff from their procurement and management teams performing this function to Capital Letters¹. This will allow the existing skills, expertise, local knowledge and client relationships held by those officers to be absorbed into Capital Letters.
- 3.7 The activity of seconded staff continuing with the procurement activities they were previously undertaking for their borough will be supplemented by approximately 20 additional staff employed directly by Capital Letters. It is anticipated that this will lead to 4,300 additional properties within Greater London being procured in the first three years.
- 3.8 Boroughs will be allocated at least as many properties over the first year as were procured by the staff it seconded in the previous year. Any additional properties would be allocated to the participant boroughs in proportion to the

¹ Boroughs do not have to second staff, although most are likely to as this is considered an effective means of supporting the requirement of placing a minimum of 50% of their relevant procurement through Capital Letters as referred to in paragraph 3.14

staff resources they have contributed through secondment or funding of staff recruited directly by Capital Letters. Subject to meeting borough minimum allocations, and fair distribution of additional properties, all properties should be allocated as close to host boroughs as possible, also taking into account the provisions of the homelessness suitability order as they apply to individual households. This should mean that a smaller number of households have to move a long distance from their home borough than is currently the case. Proposed allocation policy principles are set out in the model Service Level Agreement appended to this report.

- 3.9 The company will be funded by a combination of MHCLG grant, rents from tenants and top up payments from member local authorities. These are the payments that are already made by local authorities, for example through Discretionary Housing Payments (DHP) or other existing budgets when Local Housing Allowance (LHA) rates do not cover full rent. They will be made lower for local authorities as a result of the MHCLG subsidy, so the net impact for Croydon should be a real reduction in expenditure per property.
- 3.10 The company will be established as a private company limited by guarantee, owned and managed by the boroughs who constitute limited liability members of the company. The liability is limited to £1. It will also be Teckal compliant in relation to public procurement regulations, which means that as a company member Croydon will be able to use the company's services without undertaking a competitive procurement process.
- 3.11 The activity of the company will be supported by a digital Property Listing Platform (PLP). A specification for this IT system has been developed by London Ventures, in consultation with the Capital Letters working group. Soft market testing has identified a number of providers who would be able to develop a product which meets the specification requirements. Initially, one borough will lead on the procurement of this PLP on behalf of the company.
- 3.12 The timescale for programme delivery assumes the new company is established and trading by April 2019, with a first wave of boroughs joining by then and a second wave of boroughs joining in April 2020.
- 3.13 Therefore, the Cabinet is asked to approve the recommendations that Croydon joins the company as an A member so that the borough may benefit from the services provided by the collaborative enterprise.
- 3.14 A minimum condition of being an A member of Capital Letters is that at least 50% of the annual supply of new non-emergency accommodation for homeless households for that borough is provided by Capital Letters in the first year. This is a minimum requirement, many boroughs will put through a higher percentage of their supply.
- 3.15 The work that Capital Letters undertakes will support and enhance the procurement/Housing Initiatives work being undertaken in Croydon as it will enable the Council to gain access to properties on a wider geographical area across London which will increase choice and opportunities for our residents where they wish to relocate to other parts of London.

3.16 It is also envisaged that being part of larger procurement framework, the Council will benefit from economies of scale and drive down costs and improve quality which will benefit homeless households where Croydon has a statutory duty. In this way, the decision to join a pan London Procurement Hub will mean that not only will this complement existing local activity but it will be an additional tool/ remedy to help the Council meet its statutory obligations under homelessness legislation which have increased with the implementation of the Homeless Reduction Act in April 2018.

4. CONSULTATION

4.1 At this stage, no consultation is needed as the proposed procurement hub will support existing mechanisms of temporary accommodation procurement already established in the borough.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 MHCLG has provisionally allocated £38m of funding top-sliced from the Flexible Homelessness Support Grant (FHSG) over a three year period to fund the Capital Letters project detailed in this report.

5.2 The gross budget of the Homelessness Service in Croydon for 2018/19 is £28.2m (net cost £3.2m), with the major cost element being £24.1m for the rent payable to landlords for the supply of temporary and emergency accommodation. The main source of income derives from the rents and charges that are levied to occupants.

5.3 Although the Council has a statutory duty to pay benefits, the level of subsidy that is recouped from the DWP is capped. The high rent levels charged by suppliers of temporary accommodation are leading to budgetary pressures within the Housing Benefits budget due to this variance between the statutory benefits paid out and the Government subsidy received.

5.4 The budgetary pressure on TA has further increased as a result of the requirements of the Homelessness Reduction Act which came into effect in April 2018. To alleviate these pressures, the Council has recently introduced various initiatives to increase supply, including the approval of significant capital investment to purchase street properties to be let as temporary accommodation.

5.5 Joining the pan London initiative will provide a further supply of units for use as temporary accommodation, to be procured at a lower cost to the Council than is currently the case. There will be robust governance and monitoring arrangements in place to monitor the financial impact of Croydon's membership.

5.6 The amount and type of temporary accommodation procured each year will vary depending on demand. Acquiring leased accommodation on a longer term basis via 'Capital Letters' should reduce the need to repeatedly procure the more expensive nightly paid accommodation on an ad hoc basis.

- 5.7 In addition, leasing via 'Capital Letters' will be cheaper on a net cost basis because: (a) the MHCLG top sliced funds will be used to cover part of the incentive payment to the landlord; and (b) as a private company 'Capital Letters' can benefit from Government subsidy at the full 2018 Local Housing Allowance (LHA) level whereas leases directly procured by the Council are only eligible for subsidy at a rate of 90% of the January 2011 LHA.
- 5.8 It is anticipated that a financial benefit of £116m will accrue across London boroughs over the first three years of the initiative, however at this stage it is not possible to quantify exact levels of savings that will be realised within the Council's General Fund. It is forecast that a potential saving of at least £0.300m will be delivered in the first year (2019/20), increasing in future years as the project expands. Once more detailed savings projections are available these should be incorporated into the Council's Medium Term Financial Strategy as appropriate.

RISKS

- 5.9 There is a risk that MHCLG funding will only be provided for the first year.
- 5.10 As this is a new scheme, the benefits from membership will continue to be closely measured and reported to ensure that membership for Croydon remains beneficial.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council comments that:

The Council owes a statutory duty to provide temporary accommodation and / or assistance to applicants who are assessed as homeless or threatened with homelessness^{6.3} Under S1 of the Localism Act 2011 the Council has the power (subject to certain restrictions) to do anything that individuals may generally do.

- 6.2 The report describes Capital Letters as a Teckal company. Under Regulation 12 (4) of the Public Procurement Regulations 2015, a contracting authority may award a contract to any person without undertaking a competitive process where:

- (a) the contracting authority exercises jointly with other contracting authorities a control over that legal person which is similar to that which they exercise over their own departments;
- (b) more than 80% of the activities of that legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authorities or by other legal persons controlled by the same contracting authorities; and
- (c) there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital

participation required by national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.

- 6.3 It is understood that the officer team of the London Councils have commissioned legal support from Law firm Trowers and Hamblins in developing the model described in (and template documents appended to) this report. In addition the Council's own legal advisors have also reviewed the model described in this report and have not raised concerns that would be a prevention to implementation. Legal advice will continue to be taken as required.

Approved by: Sean Murphy, Head of Commercial and Property Law and Deputy Monitoring Officer on behalf of the Director of Law and Governance and Monitoring Officer.

7. HUMAN RESOURCES IMPACT

- 7.1 This paragraph should include any considerations in relation to staffing levels, restructuring/regrading, recruitment, employee relations, the Council's personnel policies or other human resources matter Member councils will be required to second staff to the company. Temporary accommodation is currently procured within the Council's Housing Service and it is anticipated that two staff members will be seconded to the company. The report proposes that all arrangements for these secondments are delegated to the Head of Housing Solutions.
- 7.2 There is no requirement for additional staff as the staff to be seconded will be from existing resources.

8. EQUALITIES IMPACT

- 8.1 The proposal to join the Pan London Hub will enhance and support our current work to increase supply in the Private Rented Sector (PRS) and will be an additional tool to enable the Council to meet its statutory obligations under Homelessness legislation. The key benefits for service users will be in relation to the quality and location of accommodation, as well as the provision of tenancy sustainment support.
- 8.2 A comprehensive review of homelessness was undertaken that provided equality information of existing homeless applicants. In relation to gender, 6 out of 10 homeless households applying in Croydon is headed by a single female applicant and 68% are made by households headed by a female applicant. In relation to age, homeless households tend to be younger than the general population, and Croydon has a slightly younger population structure than the rest of London. Over half of homeless households accepted are aged between 25 and 44. In relation to race, black households tend to be overrepresented among homeless households. In Croydon, 46% of homeless households are of Black ethnic background (compared to 20.2% of the general population on census day 2011), and 24% from a White ethnic background. In relation to disability the numbers of people accepted as homeless with physical

or learning disabilities is very small compared to other groups. Only 5 homeless applicants were assessed as vulnerable due to a physical disability in 2017/18 (less than 1% of the total).

- 8.3 Joining the Pan-London Homelessness Prevention Procurement Hub will help the council meet its equality objective to increase the support offered to people who find themselves in a position where they are accepted as homeless especially those from BME backgrounds and women.
- 8.4 An equality analysis was undertaken to ascertain if there will be any positive or negative impacts on groups that share protected characteristics, this found that the proposed actions will have a positive impact on all protected groups as pan London procurement will mean good quality accommodation in a wider area of choice as well as the ability to cater the needs of applicants with disabilities and those who need adapted accommodation. A London wide procurement hub will also support specific needs of victims of domestic abuse, women, and the elderly as well a wider area of choice for applicants from diverse background. The analysis further demonstrated that the policy is robust. The evidence shows no potential for discrimination and we have taken all opportunities to advance equality and foster good relations, subject to continuing monitoring and review.

9. ENVIRONMENTAL IMPACT

- 9.1 No specific adverse environmental impacts have been identified resulting from the proposals contained in this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 No specific adverse crime and disorder impacts have been identified resulting from the proposals contained in this report and implement a strategy for the reduction of crime and disorder in the area.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1. The decisions recommended are required to join the company and participate in the collaborative procurement approach and to access the MHCLG funding.
- 11.2. The estimated aggregate financial benefit of the proposal to London boroughs collectively is up to £116m, plus potential savings on changing how placements are made and reduced repeat homelessness through tenancy sustainment. The company will build on the Inter Borough Accommodation Agreement (IBAA) which has led to reduced spending through rate-sharing and the application of a cap on rates paid for certain accommodation. The company will work within this system, and provide further opportunities to rationalise and secure efficiencies in the procurement of accommodation for homeless households.
- 11.3. Capital Letters will be set up in a number of phases (see proposed timescale in Appendix B). There are a number of reasons why it would be advantageous for

Croydon to be part of the first wave of boroughs which are anticipated to start operations in April 2019.

- 11.4. The MHCLG subsidy per borough will be greater in the first year. This is important in terms of the proportion of centrally funded staff compared to borough funded staff, which should provide a greater uplift to procurement numbers for the boroughs in the first wave. The MHCLG subsidy per property will also be greater in the first year and boroughs joining in the first year will receive an additional year's subsidy from MHCLG compared with boroughs joining later.
- 11.5. The boroughs involved in the set-up of the company will have much more control over the way it is set up and shaped than boroughs who join later after the organisation has been established.
- 11.6. Boroughs who do not join Capital Letters will still have properties procured by Capital Letters in their area. Although Capital Letters will abide by the agreed IBAA rates, there is nevertheless a significant risk that landlords and agents will prefer to work with Capital Letters than within individual boroughs because of the profile it will have when launched, and because of the more streamlined ability to let properties across London with one organisation than with a number of different boroughs, all with slightly different terms and conditions and different personnel.
- 11.7. If Capital Letters is successful then it will be possible for Croydon to secure more private rented and leased properties in London within or close to the borough, thus reducing the need to place families in B&B and hotel annexes, in more distant parts of London or outside London altogether. It would be better to secure these benefits sooner rather than later.
- 11.8. The decisions recommended are required to join the company and participate in the collaborative procurement approach and to access the MHCLG funding.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 There is the option not to join the company in the first phase. This would result in a lost opportunity to access MHCLG grant funding, alleviate the costs of providing temporary and prevention accommodation, increase the procurement of leased temporary accommodation, reduce the use of expensive nightly paid accommodation and enable the placement of many households closer to home.
 - 12.2 Rather than A membership in the first phase, the Council could alternatively join the company as a B member. This would still enable the Council to receive services from Capital Letters but would mean that the Council has less influence over the strategic direction of the company. It would also mean Croydon would not have access to additional MHCLG subsidy for newly procured properties. The distinction between A and B membership is noted in the appended Articles of Association.
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CONTACT OFFICER:

Zulfiqar Mulak, Operations Manager
Email: Zulfiqar.mulak@croydon.gov.uk
Tel. No.: 0208 726 6000 ext 18380

APPENDICES TO THIS REPORT:

Appendix 1 – Articles of Association
Appendix 2 – Members Agreement
Appendix 3 – Service Level Agreement including schedules on procurement, nominations and management
Appendix 4 – Management Agreement
Appendix 5 – Lease
Appendix 6 – Assured Shorthold Tenancy Agreement

BACKGROUND DOCUMENTS:

None

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dated

2018

[CAPITAL LETTERS] LIMITED

Articles of Association

Company number: [TBC]

trowers & hamlins

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The Companies Act 2006

Company limited by guarantee and not having a share capital

Articles of Association

of

[CAPITAL LETTERS] LIMITED

1 Interpretation and definitions

In these Articles unless the context otherwise requires:

the Act means the Companies Act 2006 and any statutory modification or re-enactment thereof for the time being in force;

Articles means these Articles of Association;

Board means the board of Directors of the Company from time to time;

Chair means the chair of the Board appointed pursuant to Article 21.10.1 or in his absence any vice or deputy chair appointed pursuant to Article 21.10.3;

Clear Days means in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

Committee means any committee constituted under the provisions of these Articles;

Conflict of interest has the meaning given in Articles 21.9.1 and 21.9.2;

"A" Director means a Director appointed by an "A" Member in accordance with article 21.1.2 from time to time;

"B" Director means a Director nominated by a "B" Member in accordance with article 21.1.3 and appointed in accordance with article 21.1.4 from time to time;

"C" Director means a Director appointed in accordance with article 21.1.5 from time to time;

Director means a director of the Company, and includes any person occupying the position of director, by whatever name called;

electronic form and **electronic** means have the meaning given in section 1168 of the Companies Act 2006;

financial year means the year commencing 1 April and expiring on the subsequent 31 March;

"A" Members means the Members of the Company designated as "A" Members in accordance with Article 12 from time to time;

"B" Members means the Members of the Company designated as "B" Members in accordance with Article 12 from time to time;

Local Authority means a local authority in England or Wales as defined in section 270 of the Local Government Act 1972;

Member means a person whose name is entered in the Register of Members of the Company and including both "A" Members and "B" Members and **Members** and **Membership** shall be construed accordingly;

Members Agreement means the agreement entered into between the Members to regulate their relationship as Members of the Company;

Ordinary Resolution has the meaning given in section 282 of the Companies Act 2006;

Public Body means a body governed by public law as defined in the Public Contracts Regulations and **Public Bodies** and **Non-Public Bodies** shall be construed accordingly;

Public Contracts Regulations means Public Contracts Regulations 2015 and any statutory modification or re-enactment thereof for the time being in force;

Special Resolution has the meaning given in section 283 of the Companies Act 2006;

Subsidiary has the meaning given by section 1159 of the Act;

the United Kingdom means Great Britain and Northern Ireland; and

Voting Representative means the individual appointed by each Member to attend, speak and vote at general meetings on its behalf in accordance with Article 12.8.

2 **Interpretation**

2.1 Unless the context otherwise requires words or expressions contained in these Articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force on the date of incorporation of the Company.

2.2 In these Articles words importing individuals shall unless the context otherwise requires include corporations and words importing the singular number shall include the plural and vice versa and words importing the masculine gender shall include the feminine gender.

3 **Model Articles**

These Articles shall apply to the Company in place of the Model Articles (attached in Schedule 2 to the Companies (Model Articles) Regulations 2008).

4 **Name**

The name of the company is [Capital Letters] Limited (the **Company**).

5 **Registered office**

The Company's registered office is to be located in England and Wales.

6 **Objects**

6.1 The objects of the Company shall be:

6.1.1 to procure accommodation for homeless households and those at risk of homelessness by providing services in connection therewith to:

(a) the "A" Members; and

(b) to any other customers (including "B" Members) as considered appropriate by the Members from time to time provided that any services to non-Members shall always remain incidental to the primary aim of providing services to the Members and do not account for more than 20% of the turnover of the Company in any financial year (or such other percentage of turnover as may be permitted by law from time to time) at all times as set out in Regulation 12 of the Public Contract Regulations;

6.1.2 to undertake the management of accommodation for homeless households and those at risk of homelessness; and

6.1.3 to provide such other services and undertake such other functions as are agreed by the Members from time to time.

7 **Powers**

7.1 The Company shall have power to do anything that a natural or corporate person can lawfully do which is necessary or expedient in furtherance of its objects unless prohibited by these Articles.

7.2 The Members may, by Special Resolution, direct the Directors to take, or refrain from taking, specified action provided that no such Special Resolution invalidates anything which the Directors have done before the passing of Special Resolution.

7.3 Without limiting the powers described in Article 7.1 the Company shall have the power:

7.3.1 to purchase and maintain insurance for the benefit of any persons who are or were at any time Directors, officers or employees of the Company or any other company which is a Subsidiary or Subsidiary undertaking of the Company or in which the Company has any interest, whether direct or indirect, or who are or were at any time trustees of any pension fund in which any employee of the Company or of any other such company or Subsidiary undertaking are or have been interested, indemnifying such persons against liability for negligence, default, breach of duty or breach of trust or any other liabilities which may be lawfully insured against;

7.3.2 to invest and deal with the monies of the Company not immediately required in such manner as may from time-to-time be determined and to hold or otherwise deal with any investments made, provided that the Company shall not have

power to invest in any organisation which is a Member of the Company at the time the investment is made;

- 7.3.3 to promote any other company for the purpose of acquiring the whole or any part of the business or property or undertaking or any of the liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company;
- 7.3.4 to pay all or any expenses incurred in connection with the formation and promotion and incorporation of the Company, the running costs and administration of the Company, the employment of consultants and the reimbursement of Directors' expenses;
- 7.3.5 to employ and pay any employees, officers, and professional or other advisers and to pay its Directors;
- 7.3.6 to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of the employees of the Company or of any Subsidiary, holding or fellow Subsidiary of the Company and of their spouses, widows or widowers, children and other relatives and dependants to lend money to any such employees or to trustees on their behalf or enable any such schemes to be established or maintained;
- 7.3.7 to borrow or raise money in such manner as the Company shall think fit and in particular by the issue (whether at par or at a premium or discount and for such consideration as the Company may think fit) of bonds, debentures or debenture stock (payable to bearer or otherwise), mortgages or charges, perpetual or otherwise, and, if the Company thinks fit, charged on all or any of the Company's property (both present and future) and undertaking, and collaterally or further to secure any obligations of the Company by a trust deed or other assurance;
- 7.3.8 to do anything that a natural or corporate person can lawfully do which is necessary and expedient in furtherance of its objects unless prohibited in these Articles.

8 Application of income and property

- 8.1 The income and property of the Company shall be applied solely in promoting the Company's objects.
- 8.2 No distribution shall be paid or capital otherwise returned to the Members in cash or otherwise other than
 - 8.2.1 the payment in good faith:
 - (a) of reasonable and proper remuneration (including pensions, contributory pension payments, payment of premiums to pension policies and terminal grants and gratuities) to any officer or employee of the Company in return for any services rendered to the Company;
 - (b) of fees, remuneration or other benefit in money or money's worth to a company or other body corporate of which a Director may be a Member

holding not more than 2% of the share capital and controlling not more than 2% of the voting rights at general meetings of such company or body corporate;

- (c) to any Director of reasonable out-of-pocket expenses;
- (d) of reasonable and proper remuneration to any Director who is not an employee of the Company in return for any services rendered to the Company;
- (e) of reasonable and proper rent for premises demised or let by any Member;
- (f) of reasonable and proper interest on money lent by any Member;
- (g) of any indemnities to Directors or other officers of the Company under Article 24.1 and any premium in relation to insurance in respect of liabilities of Directors and other officers of the Company in accordance with Article 24.2; or
- (h) subject to prior approval of all Members, to Members (and any former Member(s) which contributed to a distributable surplus within the preceding five years) of any surplus of the Company.

9 **Limited liability**

The liability of the Members is limited.

10 **Members' guarantee**

Each Member undertakes to contribute to the assets of the Company in the event of the Company being wound up while they are a Member of the Company or within one year after they cease to be a Member of the Company for payment of the debts and liabilities of the Company contracted before they cease to be a Member of the Company and of the costs charges and expenses of winding up such amount as may be required not exceeding one pound.

11 **Winding up**

If upon the winding up or dissolution of the Company there remains after the satisfaction of all its debts and liabilities any property whatsoever such property shall be divided between the Members (whose names appear in the register of Members at the date of winding up or dissolution) and any former Member(s) which contributed to the surplus within the five years preceding such winding up or dissolution. The division shall be proportionate to the total contribution to such surplus by each Member or former Member (based on a reasonable relationship between the former Member(s) contribution and the distributable surplus) prior to the date of winding up or dissolution. For the purposes of this Article a certificate in writing

signed by the duly appointed auditors for the time being of the Company as to the proportions in which any property is to be divided will be sufficient.

12 **Admission of Members and cessation of Membership**

12.1 The Members of the Company shall be divided into "A" Members and "B" Members. "A" Members and "B" Members will have the rights as specified in these Articles.

12.2 The subscribers shall be the first Members of the Company and shall be designated as "A" Members.

12.3 The Members may admit any other Public Body to Membership on receiving:

12.3.1 a written application confirming that it agrees to be bound by the provisions of the Articles; and

12.3.2 where a Members' Agreement has been entered into, a signed deed of adherence to the Members' Agreement

from any such body.

12.4 A Member admitted under article 12.3 above shall be designated as an "A" Member or a "B" Member by the "A" Members upon admission.

12.5 A Public Body shall only be admitted as an "A" Member if they agree to ensure that at least 50% of the total procurement for that body of dwellings to support the discharge of that body's statutory responsibilities for homeless households (or those at risk of homelessness) is to be procured by the Company.

12.6 A Public Body admitted to Membership who does not agree as per article 12.5 but will receive services from the Company will be admitted as a "B" Member.

12.7 The rights powers and obligations of each Member under these Articles shall take effect on the admission of that organisation to Membership.

12.8 Each Member shall nominate a person to act as its representative in the manner provided in Section 323 of the Act. Such representative shall have the right on behalf of the Member to attend meetings of the Company and vote thereat and to exercise all rights of Membership on behalf of the Member. The relevant Member may by written notice to the Company revoke the nomination of such representative and may nominate another representative in his place.

12.9 The rights of each Member shall be personal and shall not be transferable and shall be exercisable only by the Member or its Voting Representative.

12.10 Membership shall not be transferrable.

12.11 An "A" Member shall cease to be a Member of the Company if (i) it serves no less than six months' written notice to do so or (ii) is removed or expelled for any reason by ordinary resolution of the Members passed at a General Meeting or under any agreement entered into between the Members from time to time and (iii) if at any time the Member ceases to be a Public Body or (iv) otherwise in connection with these Articles and the noting of the

cessation of Membership in the Company's register of Members shall be conclusive in this regard

- 12.12 A "B" Member shall cease to be a Member of the Company if (i) it serves no less than six months' written notice to do so or (ii) is removed or expelled for any reason by ordinary resolution of the Members passed at a General Meeting or under any agreement entered into between the Members from time to time and (iii) if at any time the Member ceases to be a Public Body or (iv) otherwise in connection with these Articles and the noting of the cessation of Membership in the Company's register of Members shall be conclusive in this regard.
- 12.13 At the end of each financial year, the "A" Members shall each confirm to the Company (in a form that shall be agreed by the "A" Members from time to time) the percentage of its total procurement for that "A" Member of dwellings to support the discharge of its statutory responsibilities for homeless households (or those at risk of homelessness) that was undertaken via the Company that financial year. In the event that this percentage is less than 50% the "A" Members have, at their discretion, the ability to terminate the "A" Member's Membership in accordance with article 12.14.
- 12.14 The decision to terminate an "A" Member's Membership in accordance with article 12.13 shall be taken at a meeting of the "A" Members (i) called on no less than 7 clear days' notice; (ii) attended in person or by proxy by at least 50% of the "A" Members (excluding the "A" Member whose Membership is being considered for termination); and (iii) made by no less than 50% of the total "A" Members excluding the "A" Member whose membership is being considered for termination.
- 12.15 In the event that an "A" Member's Membership is terminated pursuant to article 12.14 the Membership shall terminate immediately upon the decision having been taken.
- 12.16 In the event that an "A" Member's Membership is terminated in accordance with article 12.12 that Member may be re-admitted to the Membership of the Company as a "B" Member, subject to compliance with article 12.3 and 12.6.

13 **General meetings and resolutions**

- 13.1 The Company shall once in every calendar year hold a general meeting which for the purposes of these Articles shall be called the annual general meeting. The Directors may call general meetings and on the requisition of any two or more "A" Members shall forthwith proceed to convene a general meeting as required pursuant to the provisions of Section 304 of the Act.
- 13.2 Any general meeting not called on the requisition of a Member pursuant to Article 13 shall be called by at least twenty-one Clear Days' notice or by shorter notice if it is so agreed by not less than 75% of the "A" Members. The notice shall specify the time and place of the meeting, the general nature of the business to be transacted and if it is anticipated that Members participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting. The notice shall be given to all Members and to the Directors and to the Company's auditors.
- 13.3 The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.

- 13.4 A Director shall be entitled to attend and speak at any general meeting.
- 13.5 The Chair of the meeting may permit other persons who are not Members of the Company to attend and speak at a general meeting.
- 13.6 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- 13.7 A person is able to exercise the right to vote at a general meeting when:
- 13.7.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
- 13.7.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all other persons attending the meeting.
- 13.8 The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 13.9 In determining attendance at a general meeting, it is immaterial whether any two or more Members attending it are in the same place as each other.
- 13.10 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.
- 13.11 No business shall be transacted at any general meeting unless a quorum is present. 50% of all Members present by their Voting Representative or by proxy including no less than two "A" Members shall be a quorum.
- 13.12 If a quorum is not present within half an hour from the time appointed for a general meeting it shall stand adjourned to the same day in the next week at the same time and place or to such later day and time and/or other place as the "A" Members present decide.
- 13.13 If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present shall constitute a quorum.
- 13.14 An entry in the minutes of any general meeting stating that a resolution has been passed or not passed shall be conclusive evidence of the fact.
- 14 **Chair at General Meetings**
- 14.1 The Chair or in his absence some other Director who is present and nominated by the Members shall Chair the meeting. If neither the Chair or such Director is present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act, the Members present shall elect another Director who is present to be the Chair and, if there is only one Director present and willing to act, he shall be the Chair. If no Director is present within fifteen minutes after the time appointed for holding the meeting or is willing to act as Chair the Members present shall elect one of their number to be the Chair.

15 **Adjournments**

- 15.1 The Chair may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the original meeting. It shall not be necessary to give notice of the adjourned meeting unless it is adjourned for fourteen days or more when at least seven Clear Days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted.
- 15.2 The Chair may also, without the consent of the meeting, adjourn the meeting (whether or not it has commenced or is quorate) either to a time and place to be determined pursuant to Article 15.3 or to such other time and place as he may decide if the unruly conduct of persons attending the meeting is preventing the orderly holding or continuance of the meeting.
- 15.3 When a meeting is adjourned pursuant to Article 15.2 without a decision to a new time and place, the time and place for the adjourned meeting shall be fixed by the Board. It shall not be necessary to give any notice of the adjourned meeting unless it is adjourned for fourteen days or more when at least seven Clear Days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted.

16 **Votes of Members**

- 16.1 A resolution put to the vote of a meeting shall be decided on a show of hands unless a poll is demanded either before the meeting or on the declaration of the result of the show of hands. Subject to the provisions of the Act, a poll may be demanded:-
- 16.1.1 by the Chair; or
- 16.1.2 by any Member having the right to vote at the meeting;
- 16.1.3 and a demand by a person as proxy for a Member shall be the same as a demand by a Member.
- 16.2 On a show of hands every Member present by its Voting Representative shall have one vote. On a poll every Member present by its Voting Representative or by proxy shall have one vote.
- 16.3 In the case of an equality of votes, whether on a show of hands or on a poll, the Chair shall not have a casting vote.
- 16.4 Unless a poll is demanded, a declaration by the Chair that a resolution has been passed or not passed unanimously, or by a particular majority, or passed, or not passed by a particular majority shall be final and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 16.5 A demand for a poll may be withdrawn before the poll is taken but only with the consent of the Chair. A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made. If a poll is demanded before the declaration of the result of

a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

16.6 A poll shall be taken immediately. The results of the poll shall be the resolution of the meeting at which the poll was demanded.

16.7 No objection shall be raised to the qualification of any vote except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the Chair whose decision shall be final.

17 **Written Resolutions**

A written resolution may be passed in accordance with the Act.

18 **Reserved Matters**

Notwithstanding the provisions of Articles 16 to 17 inclusive, all resolutions that relate to a matter described in the Members' Agreement as a reserved matter or equivalent shall be passed by no less than 75% of the "A" Members. "B" Members shall not have a right to vote in a resolution that relates to a matter described in the Members' Agreement as a reserved matter or equivalent.

19 **Appointment of Proxies**

19.1 An appointment of a proxy shall be in writing, signed by or on behalf of the appointor and shall be in the following form (or in any other form which the Board may approve):-

[Name of the Company]

I/We,

being a ["A"] ["B"] Member/Members of the above-named Company, hereby appoint

of

or, failing him,

of _____, as my/our proxy to vote in my/our name(s) and on my/our behalf at the annual/extraordinary general meeting of the Company to be

held on _____, and at any adjournment thereof.

Signed

Date

19.2 Where it is desired to afford Members an opportunity of instructing the proxy how he shall act the document appointing a proxy shall be in the following form (or any other form which the Board may approve):

[Name of the Company]

I/We

being a ["A"] ["B"] Member/Members of the above-named Company, hereby appoint

of

or, failing him,

of _____, as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Company

to be held on _____, and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:-

Resolution Number 1 *for *against Resolution Number 2 *for *against

*strike out whichever is not desired

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed.....

Date

19.3 The document appointing a proxy and any authority under which it is signed or a copy of such authority certified notarially or in some other way approved by the Board shall be deposited at the Company's registered office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than 24 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote. An instrument of proxy which is not deposited or delivered in this manner shall be invalid.

19.4 A vote given or poll demanded by proxy or by the Voting Representative of a Member shall be valid unless termination of the proxy or representative's authority is received by the Company at its registered office or the place at which the meeting is due to be held before the meeting begins.

20 **Amendments to resolutions**

20.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if –

20.1.1 notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chair of the meeting may determine), and

20.1.2 the proposed amendment in the reasonable opinion of the Chair of the meeting:

- (a) does not, materially alter the scope of the resolution
- (b) is no more onerous on the company and
- (c) does not have the effect of negating the substantive resolution.

- 20.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution if –
- 20.2.1 the Chair of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
- 20.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 20.3 If the Chair of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the Chair's error does not invalidate the vote on that resolution.

21 **Directors**

21.1 **Methods of appointing Directors**

- 21.1.1 The number of Directors at any time shall be no less than three and no more than twelve.
- 21.1.2 Subject to Article 21.1.6 each "A" Member shall be entitled to appoint one Director each (the "**A**" **Directors**).
- 21.1.3 Subject to Article 21.1.6 each "B" Member shall not be entitled to appoint a Director but may nominate to the "A" Members for consideration in accordance with article 21.1.3.
- 21.1.4 The "A" Members shall be entitled to jointly appoint one or more Directors who may be nominated by a "B" Member (the "**B**" **Directors**) in accordance with a policy set by the A Members from time to time. Any appointment under this Article shall be made by giving notice signed by all of the "A" Members in question to the Company.
- 21.1.5 The "A" Members shall be entitled to jointly appoint one or more Directors who may be independent of all Members (the "**C**" **Directors**) in accordance with a policy set by the A Members from time to time. Any appointment under this Article shall be made by giving notice signed by all of the "A" Members in question to the Company.
- 21.1.6 If at any time the number of Members exceeds twelve the Members together will by Ordinary Resolution agree (and send notice of the same to the Company) who will be the Directors so that there shall be no more than twelve Directors including any C Directors appointed under Article 21.2.5. The method for agreeing the Directors in these circumstances shall be in accordance with such Director's appointment policy as may be agreed by Members from time to time.

21.2 **Disqualification of and cessation of office for Directors**

- 21.2.1 A person shall be ineligible for appointment to the Board and if already appointed shall immediately cease to be a Director if the relevant individual:
- (a) ceases to be a Director by virtue of any provision of the Act or becomes prohibited by law from being a company director; or

- (b) is or becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (c) a registered medical practitioner who is treating the Director gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months; or
- (d) resigns his office by written notice to the Company; or
- (e) is removed from office by the Member that appointed him by giving notice signed by the relevant Member to Company; or
- (f) Other than a Director appointed in accordance with Article 21.1.1 above, is removed from office by a resolution of or written notice signed by not less than three quarters of all the other Members from time to time; or
- (g) Other than a Director appointed in accordance with Article 21.1.1 above, has been absent without permission of the Board from three consecutive meetings of the Board (including meetings of any Committee of which that Director is a member) and the Board resolves that his office be vacated; or
- (h) is an "A" Director and the "A" Member ceases to be an "A" Member of the Company;
- (i) is "B" Director and the "B" Member ceases to be a "B" Member of the Company
- (j) an "A" Member that appointed any Director notifies the Company that the individual is to be removed as a Director;
- (k) is an employee of the Company or of a Member of the Company, or of a Subsidiary or associate of the Company or of a Member, and at any time ceases to be so employed;
- (l) is not included in the list notified pursuant to Article 21.1.6.

21.2.2 It is agreed that in the case of a Director appointed in accordance with Article 21.1.1 above, the Members shall in respect of the circumstances set out in Article 21.2.1(f) and the Board in respect of Article 21.2.1(g) be entitled to notify the Member which appointed the Director in question of the reasons and/or circumstance which they consider sufficient for that Director to be removed from office.

21.3 Powers of the Board

21.3.1 Subject to:

- (a) the provisions of the Act;
- (b) any resolution from time to time of the Members in accordance with these Articles; and

(c) these Articles;

the business of the Company shall be managed by the Board who may exercise all the powers of the Company. No alteration of these Articles and no resolution of the Members shall invalidate any prior act of the Board which would have been valid if that alteration or resolution had not been made. The powers given by this Article 21.3.1 shall not be limited by any special power given to the Board by these Articles and a meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.

21.4 Delegation of Directors' powers

21.4.1 The Board may delegate in writing any of its powers to any Committee consisting of two or more Directors together with such other persons as the Board sees fit.

21.4.2 The Board may delegate in writing to a Director or to any officer such of their powers as they consider desirable to be exercised by such person. Any such delegation may be made subject to any conditions the Board may impose and either collaterally with or to the exclusion of its own powers and may be revoked or altered. Subject to any such conditions the proceedings of any Committee shall be governed by the provision of these Articles insofar as they apply to proceedings of the Board.

21.5 Alternate Directors

No Director shall be entitled to appoint any person as an alternate Director.

21.6 Directors' expenses

21.6.1 Directors may be paid all expenses reasonably and properly incurred by them in connection with their attendance at meetings of the Board or committees of the Board or general meetings of the Company or otherwise in connection with the discharge of their duties and such other sums as may be determined by the Members of the Company.

21.6.2 Where any Director is an elected member of a local authority that is a Member then such a Director may only be paid such fees and/or expenses as are permitted by the Local Authorities (Companies) Order 1995.

21.6.3 Where any Director is an officer of a local authority that is a Member then they may only claim expenses from their local authority and not from the Company and shall not be entitled to any fee from the Company.

21.7 Directors' appointments and interests

A Director may not have any financial interest personally or as a Member of a firm or as a director or senior employee (being an employee with managerial status) or in any contract or other transaction of the Company unless it is permitted by these Articles.

21.8 Proceedings of Directors

21.8.1 Subject to these Articles the Board may regulate their proceedings as they think fit.

- 21.8.2 Subject to the articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when:
- (a) The meeting has been called and takes place in accordance with the articles, and
 - (b) They can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 21.8.3 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.
- 21.8.4 If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.
- 21.8.5 The Board shall hold at least four meetings a year. Meetings called under this Article shall be convened on not less than fourteen Clear Days' notice.
- 21.8.6 Any Directors may, by notice in writing given to the Company, requisition a meeting of the Board. In such circumstances it shall be the duty of the Company to convene such a meeting as soon as is reasonably practicable.
- 21.8.7 The quorum for the transaction of business of the directors shall no less than 50% of the total number of Directors and shall include no less than two Directors appointed by an "A" Member.
- 21.8.8 If the total number of Directors for the time being is less than the quorum required, the directors must not take any decision other than a decision:
- (a) to appoint such number of further directors as are required to make up the quorum required; or
 - (b) to call a general meeting so as to enable the members to appoint further directors. If a quorum is not present within half an hour from the time appointed for a Board meeting the Board meeting shall if requested by a majority of those Directors present be adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors present may determine.
- 21.8.9 If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the adjourned meeting then the adjourned meetings shall if requested by a majority of those Directors present be adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors present may determine.
- 21.8.10 If at the meeting adjourned pursuant to Article 21.8.9 a quorum is not present within half an hour from the time appointed for the adjourned meeting then notwithstanding Article 21.8.6 at least two "A" Directors present shall constitute a quorum.
- 21.8.11 Save as expressly provided in these Articles questions arising at a Board meeting shall be decided by a majority of votes and each Director present in person shall

be entitled to one vote. In the case of an equality of votes at any Board meeting the Chair shall not have a second or casting vote.

- 21.8.12 The Board may invite such person as it deems appropriate to attend and (if appropriate) speak at Board meetings. Any such invitation may be made on such terms as the Board may determine and may be revoked at any time. Provided that such attendees shall not be Directors and may not vote on any matter discussed by the Board.

21.9 Conflicts of interest

- 21.9.1 Any Director having an interest in any arrangement between the Company and another person or body shall before the matter is discussed by the Board or any Committee of which they are a Member disclose that interest to the meeting

- 21.9.2 Unless the interest is of the type specified in Articles 21.9.3 or 21.9.4 the Director concerned shall not remain present during the discussion of that item unless requested to do so by the remaining Members of the Board or Committee of the Board. Unless permitted by Articles 21.9.3 or 21.9.4 the Director concerned may not vote on the matter in question but no decision of the Board or any Committee of the Board shall be invalidated by the subsequent discovery of an interest which should have been declared.

- 21.9.3 A Director may remain present during the discussion and may vote on the matter under discussion where the interest arises only by virtue of the fact that:

- (a) the Director is a director or other officer of a company or body which is a Subsidiary undertaking of the Company as such term is defined in Section 1162 of the 2006 Act; or
- (b) the Director is a director or other officer of a company or body which is a Member of the Company.

- 21.9.4 A Director shall not be treated as having an interest:

- (a) of which the Director has no knowledge and of which it is unreasonable to expect him to have knowledge;
- (b) in the establishment of a policy in respect of Director expenses or in any resolution relating to the remuneration of Directors.

- 21.9.5 For the purposes of section 175 of the Act, the Directors shall have the power to authorise any matter which would or might otherwise constitute or give rise to a breach by a director of the duty to avoid conflicts of interest set out in that section of the Act. Any reference in these Articles to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

- 21.9.6 Authorisation of a matter under Article 21.9.5 shall be effective only if:

- (a) the matter in question shall have been proposed in writing for consideration by the Directors, or in such other manner as the Directors may determine;

- (b) any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question and any other interested Directors (together the Interested Directors); and
 - (c) the matter was agreed to without the Interested Directors voting or would have been agreed to if the votes of the Interested Directors had not been counted.
- 21.9.7 Unless otherwise determined by the Directors (excluding the Interested Directors), any authorisation of a matter under Article 21.9.5 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.
- 21.9.8 Any authorisation of a matter under Article 21.9.5 shall be on such terms and/or conditions as the Directors (excluding the Interested Directors) may determine, whether at the time such authorisation is given or subsequently and may be varied or terminated by the Directors (excluding the Interested Directors) at any time. Such terms or conditions may include (without limitation) terms and conditions as to the duration, renewal and/or revocation of the authorisation, and/or the exclusion of the Interested Directors from all information and discussion of the matter in question. A Director shall comply with any obligations imposed on him by the Directors (excluding the Interested Directors) pursuant to any such authorisation.
- 21.9.9 If a Director receives or has received any information otherwise than by virtue of his position as a Director and in respect of which he owes a duty of confidentiality to another person, the Director is under no obligation to:
 - (a) disclose any such information to the Company, the Directors or any other Director or employee of the Company; or
 - (b) use or apply any such information in connection with the performance of his duties as a Director;
 - (c) provided that to the extent that such duty of confidentiality arises out of a situation or relationship which would or might otherwise constitute or give rise to a breach by the Director of the duty to avoid conflicts of interest set out in section 175 of the Act, this Article shall apply only if such situation or relationship has been authorised by the Directors under Article 21.9.5.
- 21.9.10 A Director shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he (or a person connected with him) derives from any matter authorised by the directors under Article 21.9.5 and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.
- 21.9.11 All acts done by the Board or by a Committee of the Board or by a person acting as a Director shall notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any Director was disqualified from holding office or had vacated office or was not entitled to vote be as valid as

if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

- 21.9.12 If a question arises at a meeting of the Board as to the right of a Director to vote the question may before the conclusion of the meeting be referred to the Chair or in his absence the Chair of the meeting and his ruling shall be final and conclusive.

21.10 **Appointment of Chair of the Board**

21.10.1 As soon as practicable after incorporation, and thereafter immediately prior to the conclusion of each annual general meeting the "A" Members shall by ordinary resolution appoint one of the Board to be the Chair of the Board (who shall not be a "B" Director) to hold office until he is either reappointed or until another Chair of the Board is appointed or removed by ordinary resolution of the "A" Members.

21.10.2 The Director so appointed as Chair shall preside at every meeting of the Board at which he is present. If there is no Director holding that office or if the Director holding it is not present within five minutes after the time appointed for the meeting the Directors present may appoint one of their number to be Chair of the meeting.

21.10.3 The Board may appoint a vice or deputy Chair to act in the absence of the Chair on such terms as the Board shall think fit.

21.11 **Written resolutions of the Board**

21.11.1 A decision of the Directors is taken in accordance with this Article when all eligible Directors indicate to each other by any means that they share a common view on a matter.

21.11.2 Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible Director or to which each eligible Director has otherwise indicated agreement in writing.

21.11.3 References in this Article to eligible Directors are to Directors who would have been entitled to vote on the matter had it been proposed as a resolution at a Directors' meeting.

21.11.4 A decision may not be taken in accordance with this Article if the eligible Directors would not have formed a quorum at such a meeting.

21.12 **Records of decisions to be kept**

The Directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors and of all proceedings at meetings of the Company

22 **Means of communication to be used**

22.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for

documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.

22.2 Subject to the articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.

22.3 A Director may agree with the company that notices or documents sent to that Director in a particular way are deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

23 **Notices**

23.1 Any notice to be given to or by any person pursuant to these Articles shall be in writing.

23.2 The Company may give any notice to the Members either personally, or by sending it by post in a prepaid envelope addressed to the Members at their registered address, or by leaving it at that address, or by suitable electronic means in accordance with the provisions of the Act.

23.3 The Members present by their Voting Representative at any meeting of the Company shall be deemed to have received notice of the meeting and where requisite of the purposes for which it was called.

23.4 Proof that an envelope containing a notice was properly addressed prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted, or 24 hours after being sent by electronic means or delivered by hand to the relevant address, or on being handed to a Member's Voting Representative or Director personally, or as soon as the Member or Director acknowledges actual receipt.

24 **Indemnity**

24.1 Every Director or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto including any liability incurred by him in defending any proceedings whether civil or criminal in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 1157 of the Act in which relief is granted to him and no Director or other officer shall be liable for any loss damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto provided that this Article 24.1 shall only have effect in so far as its provisions are not avoided by Section 232 of the Act.

24.2 The Board shall have power to purchase and maintain for any Director or officer of the Company insurance against any such liability as is referred to in Section 232 of the Act.

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dated

2018

(1) []

and

(2) []

and

(3) []

and

(4) []

Members' Agreement for [Capital Letters] Limited

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Members' Agreement

dated 2018

Parties

- (1) [] of (1) [] (**Member 1**);
- (2) [] of (1) [] (**Member 2**);
- (3) [] of (1) [] (**Member 3**);
- (4) [] of (1) [] (**Member 4**);

and

- (5) **[Capital Letters] Limited** (registered number [] whose registered office is at [] (**the Company**))

Introduction

- (A) The Company was incorporated in England and Wales as a private company limited by guarantee on [] under the Companies Act 2006.
- (B) The Company is a *Teckal* company fulfilling the conditions set out in Regulation 12(4) of the Public Contracts Regulations 2015. The Company is subject to management supervision by the Members in the terms set out in this Deed. As such, the Company is a body governed by public law as defined in the Public Contracts Regulations 2015.
- (C) The Members have established the Company as a vehicle through which services are delivered to the "A" Members; and to any other customers (including "B" Members) as considered appropriate by the Members from time to time provided that any services to non-Members shall always remain incidental to the primary aim of providing services to the Members and shall not exceed the threshold as set out in Regulation 12 of the Public Contract Regulations at all times.
- (D) The Members are local authorities exercising their powers under section 1 Localism Act 2011 when establishing the Company.
- (E) The Members wish to participate as Members in the Company and have agreed to enter into this Deed for the purpose of regulating their relationship with each other and the Company as provided herein.
- (F) The Company has agreed with the Members that it will comply with the terms and conditions of this Deed insofar as they relate to the Company.
- (G) Critical management decisions are reserved to the Members and these are set out in Schedule 1 to this Deed.

Agreed terms

1 Definitions and Interpretation

In this Deed:

1.1 the following expressions have the following meanings unless inconsistent with the context:

Act means the Companies Act 2006;

Annual Business Plan means a business plan in a form to be approved by the Members setting out the implementation, over a particular Financial Year, of the strategic objectives of the Company in relation to the Business as described in the Service Plans, to include budgets, expenses (including any administrative expenses) and projected financial results for such Financial Year;

Application for Membership and Deed of Adherence means an application for membership of the Company and deed of adherence to this Deed in the form set out at Schedule 2;

Articles means the articles of association of the Company as adopted (as may be amended from time to time);

Board means the Directors of the Company, or such of those Directors present at a duly convened meeting of the Directors at which a quorum is present in accordance with the Articles;

Business means the business of the Company (including any Subsidiaries) as described in clause 4 and/or such other business as the Members may unanimously agree from time to time in writing should be carried on by the Company;

Business Day means any day (other than a Saturday or Sunday) or a bank or public holiday in England and Wales;

Completion means the performance by the parties of their respective obligations under clause 5;

Confidential Information means any financial or other information in respect of the Company or the Business or the Members (in the case of the Company) or any other Member (in the case of a Member) or any matter subject to or in connection with this Deed;

Deed of Adherence means a deed of adherence to this Deed in the form set out at Schedule 2 or such other form as the Members may prescribe;

"A" Director means a Director appointed by an "A" Member in accordance with article 21.1.2 from time to time;

"B" Director means a Director nominated by a "B" Member in accordance with article 21.1.3 and appointed in accordance with article 21.1.4 from time to time;

"C" Director means a Director appointed in accordance with article 21.1.5 from time to time;

Director means any duly appointed director of the Company from time to time;

Encumbrance means any mortgage, charge, pledge, lien, assignment by way of security, option, refusal, other preferential arrangement, third party right or interest, security interest of any kind or other arrangement having similar effect;

Financial Year means the year commencing 1 April and expiring on the subsequent 31 March;

FOIA means the Freedom of Information Act 2000;

Information has the meaning given under section 84 of the FOIA;

Lease Assignment Documents means the assignment documents assigning leases held by a Member to the Company.

London Councils means the cross-party organisation that represents that represents London's 32 local authorities;

"A" Members means the Members of the Company designated as "A" Members in accordance with the Articles from time to time;

"B" Members means the Members of the Company designated as "B" Members in accordance with the Articles from time to time;

Member(s) means the "A" Members and the "B" Members and any other body or person admitted to Membership by consent of the Members and designated as an "A" Member or a "B" Member from time to time in accordance with the Articles and this Deed;

Members' Representative Board means a board comprising the Voting Representatives as described in clause 3;

Nominated Director means a Director appointed pursuant to Clause **Error! Reference source not found.** of this Agreement;

Normal Trade Credit means the credit which arises when a supplier of goods and/or services allows the Company to pay for those goods and/or services at a date which is later than the date upon which they are supplied to the Company;

Operational Date means the date upon which the Company commences the provision of the Services;

Ordinary Resolution has the meaning given to it by section 282 of the Act;

Project Documents means the documents agreed between the Members relating to the operation and funding of the Company including (as applicable) the Service Contracts, [the Secondment Agreement] [and the Lease Assignment Documents];

Public Body means a body governed by public law as defined in the Public Contracts Regulations and **Public Bodies** and **Non-Public Bodies** shall be construed accordingly

Public Contracts Regulations means Public Contracts Regulations 2015 and any statutory modification or re-enactment thereof for the time being in force;

Request for Information shall have the meaning set out in FOIA or any apparent request for information under the FOIA or the Environmental Information Regulations 2004;

Reserved Matter means any of the individual management decisions reserved to the Members and requiring the percentage approval listed in Schedule 1;

[Secondment Agreement means the agreement between the Member and the Company for the secondment of employees from the Member to the Company]

Services means the services that make up the Business of the Company to be delivered by the Company under any Service Contract;

Service Contract means a services contract made between any Member and the Company for the delivery of Services;

[Service Plan means the plan agreed on a rolling three year basis between the Company and each Member detailing the Services]; and

Subsidiary has the meaning given to it by section 1159 of the Act.

- 1.2 references to any statute or statutory provisions will, unless the context otherwise requires, be construed as including references to any earlier statute or the corresponding provisions of any earlier statute, whether repealed or not, directly or indirectly amended, consolidated, extended or replaced by such statute or provisions, or re-enacted in such statute or provisions, and to any subsequent statute or the corresponding provisions of any subsequent statute in force at any time prior to the date of this Deed directly or indirectly amending, consolidating, extending, replacing or re-enacting the same, and will include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provisions which are in force prior to the date of this Deed;
- 1.3 references to persons will be construed so as to include bodies corporate, unincorporated associations and partnerships;
- 1.4 references to clauses, Schedules and Annexures are to clauses of and the Schedules and Annexures to this Deed;
- 1.5 the Schedules form part of this Deed and will have the same force and effect as if expressly set out in the body of this Deed;
- 1.6 the headings to the clauses of this Deed and to the paragraphs of the Schedules will not affect its construction;
- 1.7 any phrase in this Deed introduced by the term **include, including, in particular** or any similar expressions which will be construed as illustrative and will not limit the sense of the words preceding that term.

2 **Consideration**

In consideration of the mutual agreements and undertakings set out in this Deed the parties have granted the rights and accepted the obligations in this Deed.

3 **Delegated Authority**

- 3.1 Each Member shall nominate one individual (**Voting Representative** as defined in the Articles) to represent that Member at general meetings of the Members, to cast the membership vote and to sign any resolution in writing on behalf of that Member (acting at all times within the bounds of the delegated authority and in accordance with the instructions of the appointing Member in respect of any such resolution).
- 3.2 Delegated authority shall be in writing in agreed form and served upon the Company.
- 3.3 A Member may change its Voting Representative from time to time provided that any change shall not take effect until notice has been duly served in writing on the Company.
- 3.4 The other Members, the Directors and the Company shall have the right to rely on any action taken by a notified Voting Representative acting within his delegated authority.
- 3.5 The following persons shall be the initial Voting Representatives for each Member on and from Completion:
- 3.5.1 [Member 1]: [];
- 3.5.2 [Member 2]: [];
- 3.5.3 [Member 3]: []; and
- 3.5.4 [Member 4]: [].

4 **Business Of The Company**

- 4.1 The Business of the Company is:
- 4.1.1 to procure accommodation for homeless households and those at risk of homelessness by providing services in connection therewith to:
- (a) the "A" Members; and
- (b) to any other customers (including "B" Members) as considered appropriate by the Members from time to time provided that any services to non-Members shall always remain incidental to the primary aim of providing services to the Members and do not account for more than 20% of the turnover of the Company in any financial year (or such other percentage of turnover as may be permitted by law from time to time) at all times as set out in Regulation 12 of the Public Contract Regulations;
- 4.1.2 to undertake the management of accommodation for homeless households and those at risk of homelessness; and
- 4.1.3 to provide such other services and undertake such other functions as are agreed by the Members from time to time.

5 Completion

5.1 Completion shall take place immediately after the execution of this Deed when the parties shall take, or procure to be taken at Board and Members' meetings of the Company the following steps, to the extent not already taken:

5.1.1 the appointment or designation of the following persons as Directors as appropriate:

Name	Appointment or designation
[]
[]
[]
[]

5.1.2 the adoption of the agreed form articles of association as the Company's Articles.

5.2 Not later than the Operational Date the relevant Members and the Company shall enter into such of the Project Documents as each relevant Member considers necessary.

6 Conduct Of The Company's Affairs

6.1 Each Member covenants with the other Members that so long as this Deed remains in force and effect it will so far as it is reasonable for it to do so:

6.1.1 be just and true to the other Members and act in good faith;

6.1.2 as soon as practicable notify the Company of any matters of which it becomes aware which may affect the Company or the Business;

6.1.3 generally do all things necessary to give effect to the terms of this Deed;

6.1.4 take all steps available to it to ensure that it is represented at meetings of the Board or any committee of the Board or general meetings has the necessary quorum throughout;

6.1.5 consider the Company as a potential supplier for all activities that form part of the Business;

6.1.6 for each "A" Member, provide the Company [by no later than [30] days following the end of each financial year] with a report in writing on the percentage of that "A" Member's total procurement of dwellings to support the discharge of their statutory responsibilities for homeless households (or those at risk of homelessness) that has been undertaken for it via the Company in that preceding financial year; and

- 6.1.7 keep the Company fully informed of its activities that are relevant to the Business and of any plans it may have to enter into a material contract with a third party for services that are similar to the Services or any of part of them.
- 6.2 Subject to clause 12 the Board shall be responsible for the day to day management of the Company in accordance with the Annual Business Plan and without prejudice to the generality of the foregoing shall:
- 6.2.1 transact all its business on arm's length terms;
- 6.2.2 maintain, with a well-established and reputable insurer, adequate insurance against all risks usually insured against by companies carrying on the same or a similar business and (without prejudice to the generality of the foregoing) for the full replacement or reinstatement value of all its assets of an insurable nature;
- 6.2.3 keep proper books of account and therein make true and complete entries of all its dealings and transactions of and in relation to the Business;
- 6.2.4 prepare its accounts in accordance with the Act and in accordance with all applicable accounting standards and principles and practices generally acceptable in the United Kingdom;
- 6.2.5 prepare such accounts in respect of each accounting reference period as are required by statute and procure that such accounts are audited (where required) as soon as practicable and in any event not later than four months after the end of the relevant accounting reference period; and
- 6.2.6 within 6 weeks after the end of each quarter (the first quarter starting on the date of this Deed), prepare quarterly management accounts (including once the first six months have elapsed budget forecasts by comparison to their respective business plans).
- 6.3 Any surpluses generated from providing Services to both Members and any third parties shall be applied solely in promoting the Company's objects.
- 6.4 Nothing in this Deed shall prevent the Company from providing services to non-members, provided that:
- 6.4.1 this does not impact on the Company's ability to provide the Services to any Member; and
- 6.4.2 the services to non-members do not account for more than 20% of the turnover of the Company in any financial year (or such other percentage of turnover as may be permitted by law from time to time) so as to ensure the Company remains classified as a jointly controlled Teckal company pursuant to Regulation 12 of the Public Contract Regulations 2015.
- 6.5 In the event that the Company is dissolved any capital and assets available for distribution shall be divided between the Members and any former Member(s) in accordance with the provisions of the Articles.

6.6 The Company shall permit any Director to discuss the affairs, finances and accounts of the Company with any members, officers and executives at any time. All books, records, accounts and documents relating to the business and the affairs of the Company shall be open to the inspection of any such person, who shall be entitled to make any copies thereof as he or she deems appropriate to keep the relevant Member properly informed about the business and affairs of the Company or to protect its interests as a Member. Any confidential information secured as a consequence of such discussions and examinations shall be kept confidential by the requesting Member and its designated officers and executives in accordance with the terms of clause 17.

7 **Member Rights**

Each Member shall have the right to cast one vote on any Member resolution (at a general meeting or in writing).

8 **Funding**

8.1 The Company will be funded through a combination of payment from tenants in respect of delivery of Services, payment from Members contracting with the Company for delivery of Services, payment from Government through grant payment.

8.2 [Individual costs associated with delivery of Services in accordance with any contractual arrangements with the Members will be borne by the relevant Members.

8.3 Any additional operating costs (including applicable profit margin) will be attributed to the relevant Member where possible. Any such costs which cannot be directly allocated to a relevant Member will be apportioned according to the economic/service benefit derived by the relevant Members.

8.4 Any operational savings will be attributed to the relevant Member where possible. Any savings which cannot be directly allocated to a relevant Member will be apportioned according to the economic/service benefit derived by the relevant Members except for an amount which will be retained by the company for future development or asset replacement as agreed by the Board.

8.5 For the avoidance of doubt, the reference to costs in clauses 8.2 to 8.4 includes any applicable profit margin of the Company from time to time and the parties confirm that the charging arrangements are not intended to amount to an exact reimbursement of costs overall.]

8.6 Without prejudice to the provisions of clauses 8.1 to 8.5 above, the Company and the Business shall be financed by such sources as specified in the Annual Business Plan.

8.7 In the event that the Company requires additional finance from time to time, no Member shall be required to provide any such funding or to guarantee or provide any security or accept any other liability with respect to any borrowings by, or loan facilities made available to, the Company. Any requests for additional funding shall be considered in good faith by the Board and the Members on a case by case basis.

9 Annual Business Plan

- 9.1 The first Annual Business Plan shall be agreed between the "A" Members and the Company not later than the Operational Date.
- 9.2 For each subsequent Financial Year:
- 9.2.1 the Company will (not less than 90 days prior to the beginning of such Financial Year) provide each "A" Member with a draft Service Plan for consideration and the Company will (not less than 30 days prior to the beginning of such Financial Year) agree a Service Plan with each "A" Member; and
- 9.2.2 the Board will (not less than 60 days prior to the beginning of such Financial Year) cause to be prepared a draft Annual Business Plan for such Financial Year for Board approval.
- 9.3 Where approval is required from the "A" Members in accordance with clause 9.2, the "A" Members will, not later than 30 days before the beginning of each Financial Year, consider and seek to unanimously reaffirm the draft Annual Business Plan. If the "A" Members cannot agree the draft Annual Business Plan then, notwithstanding that this matter is a Deadlock for the purposes of clause 13, the last approved version of the Annual Business Plan shall remain in full force and effect until such time that a plan is agreed by no less than 76% of the "A" Members or the matter is resolved pursuant to the provisions of clause 13 and the last approved version of the Annual Business Plan shall continue to apply to the Business and the Company for the next Financial Year.
- 9.4 The "A" Members may consult with the "B" Members and London Councils (in any way that may be determined by the "A" Members from time to time) on the content of the Annual Business Plan to seek their views and comments. For the avoidance of doubt "B" Members and London Councils do not have the ability to approve or reject any aspect of the Annual Business Plan and their role shall be advisory only.

10 Organisation of the Board

- 10.1 If any "A" Member ceases to be a Member then that "A" Member shall be deemed to have served notice to remove from office any "A" Director appointed by it and shall not be entitled to appoint any "A" Director in their place.
- 10.2 If any "B" Member ceases to be a Member then that "B" Member shall be deemed to have served notice to remove from office any "B" Director appointed by the "A" Members following nomination by the "B" Member and shall not be entitled to nominate a "B" Director in their place.
- 10.3 Upon such removal or resignation from the office of Director or termination of employment the said Member will use its best endeavours to procure that any such Director shall deliver to the Company a letter signed as a deed and/or the required statutory form of compromise agreement (at the Company's option) acknowledging that he or she has no claim outstanding for compensation for wrongful dismissal or unfair dismissal or entitlement to any payment for redundancy or in respect of any other moneys or benefits due to him or her from the Company arising out of his or her employment and/or its termination. In any event, the said Member shall be responsible for and shall indemnify the other Members and the Company against any claim (save for unpaid salary and benefits) by such Director for unfair

or wrongful dismissal or any other claim whatsoever arising out of such Director's removal from office as a Director and/or the termination of his or her employment.

- 10.4 Any Member exercising its right under the Company's Articles to remove a Director shall be responsible for and shall indemnify the other Members and the Company against any claim (save for unpaid salary and benefits due up to the date of their removal) by such Director for unfair or wrongful dismissal or any other claim whatsoever arising out of such removal from office as a Director and/or the termination of his or her employment.
- 10.5 The Board may in its absolute discretion create sub-committees and delegate such responsibilities as it sees fit provided always that the provisions of clause 13 shall always apply.
- 10.6 Subject to clause 10.7, the Board shall have a Chairman, who shall be appointed in accordance with article 21.9, article 21.10 and Schedule 1.
- 10.7 If a Chairman is unable to attend any meeting of the Board, the alternate appointed by the Board shall act in his place.
- 10.8 This clause 10 shall also apply to any Director who is also a director of any Subsidiary.

11 **Board and Meetings**

- 11.1 The Board shall be composed as set out in the Articles and shall comprise directors appointed in accordance with the provisions set out below in this clause 11.

11.2 **Appointment and Removal of Directors**

11.2.1 Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed to be a Director.

11.2.2 Directors shall be designated as "A" Directors, "B" Directors or "C" Directors in accordance with article 21.1 of the Articles.

- 11.3 All Board meetings shall be held at a venue reasonably convenient for all the Directors (including, for the avoidance of doubt, by video-conference or other virtual means).

- 11.4 A Board meeting will be held at least four times in each calendar year, with no more than four months between each meeting.

- 11.5 The Company shall ensure that:

11.5.1 each Director is sent papers (which may be sent by electronic means if agreed) for Board meetings (including but not limited to an agenda and details of any specific resolutions to be put to the meeting) no less than five Business Days before the date of such meeting.

- 11.6.3 Any Member which requests the Company to do so:

(a) is sent papers (which may be sent by electronic means if agreed) for all Board and all general meetings of the Company (including but not limited to an agenda and details of any specific resolutions to be put to the meeting) no less than five Business Days before the date of such meeting;

- (b) is sent all draft minutes within fourteen Business Days of the Board or general meeting; and
- (c) is permitted to send a representative (who may be a councillor) to speak on a matter of business at Board meetings subject to seeking the prior written permission of the Chair of the Board.

12 **Reserved Matters**

12.1 The Company will not, and the Members shall exercise their powers in relation to the Company to procure that (save as otherwise provided or contemplated in this Deed) the Company will not, undertake those matters set out in Schedule 1 without the consent of the requisite percentage of "A" Members set out in Schedule 1.

12.2 Clause 12.1 shall also apply to any Subsidiary of the Company.

12.3 Notwithstanding any other provision of this Deed or the Articles, no new member (irrespective of whether they are admitted as an "A" Member or a "B" Member) shall be admitted to the Company without such member entering into a Deed of Adherence whereby such new member agrees to be bound by the terms of this Deed.

12.4 **Unanimous Decision Making**

12.4.1 The Members agree that no changes will be made that would be detrimental to one or more of the Members even if of benefit to others and that the Members shall work collaboratively to seek the agreement of all of the Members and the Members further agree their respective Voting Representatives will informally meet with representatives of the Board or the Directors as necessary to consider and discuss strategic areas of Company Business at a Members' Representative Board.

12.4.2 Where a potential Reserved Matter decision or any item for discussion has the potential to be detrimental to one or more of the Members the matter shall first be considered by the informal meeting of the Voting Representatives at a Members' Representative Board.

12.4.3 If having considered the proposed resolution or the item for discussion the Voting Representatives or any of them are of the opinion that it is unlikely to be passed unanimously at a general meeting (or in writing) they may notify the person or body which has proposed the resolution or item of their concerns, and the reasons for them, and require them, within such time as is reasonable in the circumstances, to formulate an alternative proposal or proposals which address the concerns and submit them to a meeting of the Members' Representative Board to be held within such time as is reasonable in the circumstances following receipt of the alternative proposals (or such later meeting of the Members' Representative Board as shall be agreed) for further consideration.

12.4.4 The Members' Representative Board shall consider the alternative proposal or proposals submitted to them and notify the person or body proposing the Resolution of any further concerns, and the reasons for them, which they have.

- 12.4.5 The person or body requiring the resolution shall then finalise the wording of the resolution on the Reserved Matter or item for decision to be put to the vote at a general meeting of the company (or in writing) having due regard to the comments made by the Members' Representative Board.

13 **Deadlock**

13.1 **Meaning of Deadlock**

For the purposes of this clause 13 there shall be a Deadlock if:

- 13.1.1 a matter constituting a Reserved Matter has been considered by the Members; and
- 13.1.2 no resolution has been carried by the Members in relation to the matter because of a failure of any Member to consent to such resolution; and
- 13.1.3 the matter is not resolved within ten (10) Business Days from the date of the relevant general meeting or the end of the period for approval of a written resolution circulated to the Members for consent (as appropriate).

13.2 **Members' obligations**

In any case of Deadlock each of the Members shall (at the request of any Member) within fifteen (15) Business Days of Deadlock having arisen or become apparent, cause the Chairman of the Board, to prepare and circulate to the Members and the other Directors a memorandum or other form of statement setting out its position on the matter in respect of which the Deadlock has arisen and its reasons for adopting that position, but on the basis that such memorandum or statement shall always be prepared and delivered on a "without prejudice" basis. Each Member shall then refer the Deadlock to its Head of Paid Service and such persons shall use all reasonable efforts in the 20 Business Days following such reference to resolve the Deadlock.

13.3 **Failure to resolve Deadlock**

If a resolution of a Deadlock referred pursuant to clause 13.2 is not resolved or is not agreed in accordance with that clause (or such longer period as the Members may agree in writing) the status quo shall prevail unless the Directors resolve that to do so would be detrimental to the proper conduct of the Business in which instance the provisions of clauses 13.4 to 13.7 shall apply.

- 13.4 The Board shall serve written notice on the Members requiring them to attempt to settle the dispute by mediation (such notice to be served within seven Business Days of the Board meeting at which the decision was passed). On receipt of such notice from the Board the Members will attempt to settle the dispute by mediation in accordance with the model mediation procedures (the **Procedures**) published by the Centre for Effective Dispute Resolution, CEDR Solve (**CEDR**). To initiate mediation, a Member must give notice in writing (**Mediation Notice**) to the other Members.

- 13.5 The Members will seek to agree the appointment of a mediator but, failing agreement within 28 days of the service of the Mediation Notice, any Member may ask CEDR to appoint a mediator.

- 13.6 In the event that there are no Procedures available and CEDR is unable or unwilling to appoint a mediator, any Member may ask the President of the Law Society of England & Wales (or its successor body) to appoint a mediator and to recommend a mediation procedure which the Members shall adopt.
- 13.7 If the matter in dispute is not resolved within 40 Business Days of the service of the Mediation Notice then any Member may (but shall not be obliged to) within fifteen (15) Business Days after expiry of such period serve notice in writing upon the other Members and the Board that the Board shall, at the earliest practicable date:
- 13.7.1 make or concur in the making of a statutory declaration in the terms mentioned in section 89 of the Insolvency Act 1986 (if the state of the Company's affairs permits the making of such a declaration); and
- 13.7.2 convene an extraordinary general meeting of the Company to consider:
- (a) the matter from which the Deadlock arose; and
- (b) the passing of a special or extraordinary resolution to place the Company in members' voluntary winding-up (if such a declaration has been made in accordance with clause 13.7.1) or (in any other case) in creditors' voluntary winding-up;
- such meeting or meetings to be held within five weeks after either the making of any declaration made in pursuance of clause 13.7.1 or (where the state of the Company's affairs does not admit to the making of such a declaration as is mentioned in clause 13.7.1) convene a meeting of the Company's creditors in accordance with section 98 of the Insolvency Act 1986.
- 14 **Intellectual property**
- 14.1 The Members and the Company acknowledge that:
- 14.1.1 any and all Intellectual Property Rights created wholly by the Company in connection with the Business (the **Business IPRs**) shall automatically belong to the Company.
- 14.1.2 any and all Intellectual Property Rights created by the Members in connection with the Business (the **Member IPRs**) shall belong to the Member who created them.
- 14.2 The Company hereby grants to each Member for the time being and for the duration of their Membership of the Company a non-transferable royalty-free licence to use the Business IPRs (as they may be constituted from time to time) to the extent necessary for the purposes of the Business. The Members hereby grant to the Company a non-transferable royalty-free licence (without the right to grant sub-licences) to use the Member IPRs (as they may be constituted from time to time) solely to the extent necessary for the purposes of the Business.
- 14.3 All use of the Business IPRs by the Members pursuant to this Deed, including all goodwill arising from such use, shall accrue solely to the benefit of the Company. All use of Member

IPRs by the Company pursuant to this Deed, including all goodwill arising from such use, shall accrue solely to the benefit of the respective Member.

14.4 The Company and each Member agree that they shall not, without the prior written consent of the other parties to this Deed, assign, transfer, mortgage, charge or deal in any other manner with any of their rights under this clause 14.

14.5 For the purposes of this clause 14, **Intellectual Property Rights** means patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

15 **Withdrawal and Removal of Members**

15.1 An "A" Member may cease to be a party to this Deed and cease to be a member of the Company upon giving not less than six months' notice in writing to the Company and the other Members.

15.2 A "B" Member may cease to be a party to this Deed and cease to be a member of the Company upon giving not less than three months' notice in writing to the Company and the other Members.

15.3 In accordance with clause 6.1.6, at the end of each financial year, the "A" Members shall confirm to the Company the percentage of its total procurement for that "A" Member of dwellings to support the discharge of its statutory responsibilities for homeless households (or those at risk of homelessness) that was undertaken via the Company that financial year. In the event that this percentage is less than 50% the "A" Members have the discretion to terminate the "A" Member's Membership in accordance with the procedure set out in article 12.14.

15.4 For the purposes of the calculation of the percentage referenced in clause 15.3 above, this will be calculated from the date of entry as an "A" Member to the end of that financial year for the initial year of membership, and subsequently shall be calculated every full financial year.

15.5 Subject to compliance with the provisions of articles 12.3 and 12.6 of the Articles, in the event that an "A" Member's Membership is terminated in accordance with clause 15.3, the "A" Member may be re-admitted to the Membership of the Company as a "B" Member.

15.6 Any Member may cease to be a party to this Deed and cease to be a member of the Company upon giving not less than twelve months' notice in writing to the Company and the other Members.

15.7 With the exception of any money reimbursed to a Member under clause 6.5, a Member shall not be entitled to any refund of any amount paid to the Company as a consequence of ceasing to be a party to this Deed or ceasing to be a member of the Company.

15.8 On the withdrawal of a Member, their Service Contract will, unless otherwise agreed, be deemed to have been terminated on the date of withdrawal except as otherwise agreed by the withdrawing Member and the Company.

15.9 Notwithstanding that a Member shall cease to be a party to this Deed, it shall not be released from any liabilities or rights of action accrued against it under or in connection with this Deed up to the date of its ceasing to be a party and that Member shall continue to be bound by those provisions of this Deed which are expressed to continue following termination of this Deed. The Deed shall continue in force in relation to the remaining parties including any party having entered into a Deed of Adherence.

15.10 A Member (the Defaulting Member) shall cease to be a Member in the event that:

15.10.1 it commits a serious breach of this Deed; or

15.10.2 it persistently breaches this Deed; and

the breach (if capable of remedy) is not rectified within 20 Business Days of written notice having been given to the Defaulting Member requiring it to rectify such breach or breaches and the remaining Members agree by majority vote at a duly convened general meeting or in writing that the Defaulting Member's membership shall cease.

16 Termination Of This Deed

16.1 This Deed shall continue in full force and effect from the date hereof until:

16.1.1 all the Members or their successors in title agree in writing to its termination;

16.1.2 there is only one Member of the Company; or

16.1.3 the Company goes into liquidation whether voluntary or compulsory (other than for the purpose of an amalgamation or reconstruction approved by all the Members).

16.2 Without prejudice to any accrued rights and liabilities of any of the Members, the ongoing rights and liabilities of any Member pursuant to this Deed shall cease automatically upon the cessation of his or its membership of the Company.

16.3 Termination of this Deed pursuant to this clause 16 shall be without prejudice to any accrued rights and liabilities of any of the Members.

17 Confidentiality

Each of the parties hereto shall hold in confidence and shall not and shall procure (where applicable) that its employees, agents and contractors shall not without the written consent of the other parties (such consent not to be unreasonably withheld) or as required by any other provision of law divulge to any third party any Confidential Information or use any such information other than for the purposes anticipated by this Deed provided that the provisions of this clause 17 shall not apply to information which may properly come into the public domain through no fault of the party so restricted.

18 Freedom Of Information

- 18.1 Clause 17 shall not apply where a party has obtained the written consent of the other parties (such consent not to be unreasonably withheld) to divulge or use any Confidential Information or where Confidential Information is required to be disclosed by any law or statutory or regulatory obligation including without limitation the FOIA and the Environmental Information Regulations 2004 (but only to the extent of such law or statutory or regulatory obligation).
- 18.2 Each party acknowledges that it and the other parties are subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and each party shall assist and cooperate with the others (at their own expense) to enable the other parties to comply with these Information disclosure obligations.
- 18.3 Where a party receives a Request for Information in relation to Information which it is holding on behalf of another party, it shall:
- 18.3.1 transfer the Request for Information to the other party as soon as practicable after receipt and in any event within five Business Days of receiving a Request for Information;
 - 18.3.2 provide the other party with a copy of all Information in its possession or power in the form that the other party requires within five Business Days (or such other period as the other party may specify) of a request from the other party; and
 - 18.3.3 provide all necessary assistance as reasonably requested by the other party to enable that party to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004.
- 18.4 Where a party receives a Request for Information which relates to Confidential Information, it shall inform the other parties of the Request for Information as soon as practicable after receipt and in any event within five Business Days of receiving a Request for Information.
- 18.5 If any party determines that Information (including Confidential Information) must be disclosed under the FOIA, it shall notify the other parties of that decision at least five Business Days before disclosure.
- 18.6 Each party shall be responsible for determining at its absolute discretion whether the Confidential Information and/or any other Information:
- 18.6.1 is exempt from disclosure under the FOIA or the Environmental Information Regulations 2004;
 - 18.6.2 is to be disclosed in response to a Request for Information.
- 18.7 Each party acknowledges that any other party may, acting in accordance with the Department for Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000, be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose Information:
- 18.7.1 without consulting with the other parties, or

18.7.2 following consultation with the other parties and having taken their views into account.

18.8 Notwithstanding the provisions of clause 17 each Nominated Director (whilst he holds that office) will be entitled to make full disclosure to the Member appointing him of any information relating to the Company which that Member may reasonably require.

19 **No Partnership or Agency**

Nothing in this Deed shall constitute a partnership between the parties hereto or constitute one the agent of another and none of the parties shall do or suffer anything to be done whereby it shall or may be represented that it is the partner or agent of a party hereto (save as aforesaid) unless such party is appointed partner or agent of that other party with the consent in writing of that party.

20 **Waiver**

The waiver by any party of any default by any other party in the performance of any obligation of such other party under this Deed shall not affect such party's rights in respect of any other default nor any subsequent default of the same or of a different kind nor shall any delay or omission of any party to exercise any right arising from any default, affect or prejudice that party's rights as to the same or any future default.

21 **Variation**

Any variation of any term of this Deed shall be in writing duly signed by the Members and the Company.

22 **Conflict with Articles**

Where the provisions of the Articles conflict with the provisions of this Deed, the Members agree that the provisions of this Deed shall prevail, to the intent that they shall if necessary in any case procure the amendment of the Articles to the extent required to enable the Company and its affairs to be administered as provided herein.

23 **Notices**

23.1 Any demand, notice or other communication given or made under or in connection with this Deed will be in writing.

23.2 Any such demand, notice or other communication will, if given or made in accordance with this clause 23, be deemed to have been duly given or made as follows:

23.2.1 if sent by prepaid first class post, on the second Business Day after the date of posting; or

23.2.2 if delivered by hand, upon delivery at the address provided for in this clause 23,

provided however that, if it is delivered by hand on a day which is not a Business Day or after 4.00 pm on a Business Day, it will instead be deemed to have been given or made on the next Business Day.

23.3 Any such demand, notice or other communication will, in the case of service by post or delivery by hand, be addressed to the recipient at the recipient's address stated in this Deed or his Deed of Adherence or at such other address as may from time to time be notified in writing by the recipient to the sender as being the recipient's address for service.

23.4 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.

24 **Costs**

Each of the parties hereto will pay its own legal costs and expenses incurred in connection with the preparation of this Deed.

25 **Severability**

The illegality, invalidity or unenforceability of any clause or part of this Deed will not affect the legality, validity or enforceability of the remainder. If any such clause or part is found by any competent court or authority to be illegal, invalid or unenforceable the parties agree that they will substitute provisions in a form as similar to the offending provisions as is possible without thereby rendering them illegal, invalid or unenforceable.

26 **Exercise of powers**

26.1 Words denoting an obligation on a party to do any act, matter or thing include, except as otherwise specified, an obligation to procure that it be done and words placing a party under a restriction include an obligation not to permit or allow infringement of that restriction.

26.2 Where a Member is required under this Deed to exercise its powers in relation to the Company to procure a particular matter or thing, such obligation shall be deemed to be satisfied by such Member exercising its voting and other rights as a member and ensuring that any Nominated Director appointed by it shall procure such matter or thing, subject to the Director acting in accordance with his fiduciary duty to the Company.

27 **Entire Agreement**

This Deed and the documents referred to in it, the Annexures to this Deed and the Articles constitute the entire contractual relationship between the parties in relation thereto and there are no representations, promises, terms, conditions or obligations between the parties, implied or otherwise, other than those contained or expressly referred to therein. This clause does not restrict liability of either party for fraudulent misrepresentations.

28 **Assignment**

The Members shall not assign nor transfer nor purport to assign nor transfer any of their rights or obligations hereunder (other than to a successor body).

29 **Contract (Rights of Third Parties) Act**

The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

30 **Law and Jurisdiction**

This Deed shall be governed by and construed in accordance with the laws of England and Wales and each of the parties hereto submits to the exclusive jurisdiction of the English and Welsh Courts.

This document is executed as a deed and delivered and takes effect on the date stated at the beginning of this Deed.

Schedule 1

Reserved Matters

Matters that require seventy-five percent (75%) approval by the "A" Members at a duly convened general meeting or in writing:

1	Permitting the admission of any additional Members of the Company.
2	Adopting or amending the Annual Business Plan in respect of each Financial Year.
3	Forming any Subsidiary or acquiring membership or shares in any other company or participating in any partnership or joint venture (incorporated or not).
4	Amalgamating or merging with any other company or business undertaking.
5	Entering into any arrangement, contract or transaction with either a capital or revenue value over [£500,000] which is not included in the current approved Business Plan.
6	Agreeing the appointment and the appointment terms (including any remuneration terms) of all Directors of the Company Directors.
7	Agreeing any remuneration terms for Directors.
8	Appointing or removing the chair of the Company.
9	Making any petition or resolution to wind up the Company or any Subsidiary.
10	Making any amendment to the Articles or any Subsidiary articles of association, including (without limitation) any rights of the Members.
11	Giving any guarantee to secure the liabilities of any person.
12	Creating any Encumbrance over the whole or any part of the Company or assets of any Subsidiary company.
13	Giving or taking any loans, borrowing or credit (other than Normal Trade Credit in the ordinary course of business) save as specifically provided for in the Annual Business Plan.
14	Any acquisitions, assimilations or asset transfers by or to the Company other than those approved in the Annual Business Plan.
15	The approval of any redundancy of any employees or the approval of any redundancy policy under which the Board will be authorised to make employees of the Company redundant.

16	Establishing any pension scheme in respect of Company employees or the alteration of any pension scheme or arrangements operated by the Company.
17	Any decisions relating to the strategic objectives of the Company (to the extent that these are not in any case reflected by the Company's Annual Business Plan).
18	Creating or granting any encumbrance over the whole or any part of the Company or its business, undertaking or assets other than liens arising in the normal course of business.

Schedule 2

Deed of Adherence

Application for Membership and Deed of Adherence

dated

Parties

- (6) [] of (1) [] (**Member 1**);
- (7) [] of (1) [] (**Member 2**);
- (8) [] of (1) [] (**Member 3**);
- (9) [] of (1) [] (**Member 4**)

Together the **Continuing Members**

and

- (10) **[Capital Letters] Limited** (registered number [] whose registered office is at [] (**the Company**))
- (11) [*name of new member*] of [*address*] (**New Member**).

Introduction

- (A) The Continuing Members and the Company are party to an agreement dated 2018 (**Members Agreement**) which regulates their membership of the Company and sets out their respective rights and obligations as Members.
- (B) The New Member wishes to become a Member in accordance with the Company's Articles and the Members Agreement.

Agreed terms

- 1 Words and expressions used in this Deed shall, unless the context expressly requires otherwise, have the meaning given to them in the Members Agreement. The **Effective Date** means the date of this Deed.
- 2 The New Member hereby applies to be a Member of the Company in accordance with the Articles and the Members Agreement.
- 3 The New Member confirms that he/she has been supplied with a copy of the Members Agreement and Articles.
- 4 The New Member confirms that he/she has been designated as an ["A" Member / a "B" Member] in accordance with the Members Agreement and the Articles.
- 5 The Company, the New Member and each of the Continuing Members undertake with each other that, from the Effective Date, the New Member shall be admitted to the Company as

a Member and shall assume all of the rights under the Members Agreement granted to the Members and shall observe, perform and be bound by the provisions of the Members Agreement and Articles as though the New Member was an original party to the Members Agreement.

6 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

7 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

This Deed of Adherence has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

INSERT MEMBER EXECUTION CLAUSES

THE COMMON SEAL of)
[])
was hereunto affixed)
in the presence of:)

Authorised Signatory

executed as a deed by the)
New Member (acting)
)
)
in the presence of:) Signature

witness signature:

name:

address:

occupation:

executed as a deed by **[Capital Letters]**)

Limited acting by [*name of director*], a director)

in the presence of:) Director

witness signature:

name:

address:

occupation:

This Deed has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

INSERT MEMBER EXECUTION CLAUSES

THE COMMON SEAL of)

[])

was hereunto affixed)

in the presence of:)

Authorised Signatory

executed as a deed by [**Capital Letters**])

Limited acting by [*name of director*], a director)

in the presence of:) Director

witness signature:

name:

address:

occupation:

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dated **2018**

[**]** **Council**
and
[Capital Letters] Limited

Service Level Agreement

Trowers & Hamlins LLP
3 Bunhill Row
London
EC1Y 8YZ
t +44 (0)20 7423 8000
f +44 (0)20 7423 8001
www.trowers.com

trowers & hamlins

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Service Level Agreement

dated []

Parties

- (1) [] of [] (the **Council**); and
- (2) **[Capital Letters] Limited** (Company number []) whose registered office is at [] (the **Provider**).

Introduction

- (A) The Council owes a statutory duty under Part VII of the Housing Act 1996 (as amended by The Homelessness Act 2002 and the Localism Act 2011) and the Homelessness Reduction Act 2017 (the **Statutory Duty**) to provide temporary accommodation and / or assistance to applicants who are assessed as homeless or threatened with homelessness and may do so by the provision of assured shorthold tenancies of privately owned dwellings as hereinafter appears.
- (B) The Council has agreed to appoint the Provider to carry out services which may consist of procurement and / or management and / or nominations services for the Council to assist the Council in satisfying its Statutory Duty.
- (C) The Parties have agreed the terms and conditions for the provision of the Services by the Provider to the Council and these are set out in this Contract.

Part A – Operative Provision

1 Definitions

1.1 The terms and expressions used in this Contract shall have the meanings set out below:

Accommodation means Leased Accommodation or Non-leased Accommodation;

Agreed IT System means [the system procured];

Allocations Policy means the allocations policy [];

Assured Shorthold Tenancy means the template assured shorthold tenancy agreement set out in Schedule [5];

Branding means any trademarks, logos and other forms of branding pertaining to the Provider;

Business Day means between Monday to Friday inclusive, but does not include any days which are bank holidays or public holidays;

[Business Transfer Agreement means the agreed form agreement for the transfer by the relevant Member(s) to the Company of the relevant Member(s) business and assets for the delivery of the Services;]

Change in Law means the coming into effect after the date of this Contract of:

- (a) legislation, other than any Legislation which on the date of this Contract has been published;
 - i in a draft Bill as part of a Government Departmental Consultation Paper;
 - ii in a Bill;
 - iii in a draft statutory instrument;
 - iv as a proposal in the Official Journal of the European Union;
- (b) any Guidance; or
- (c) any applicable judgment of a relevant court of law which changes a binding precedent;

Commencement Date means [2018];

Confidential Information means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel and suppliers of either Party, all personal data and sensitive personal data within the meaning of the Data Protection Legislation;

Consents means all permissions, consents, approvals, certificates, permits, licences and authorisations required for the performance of any of the Provider's obligations under this Contract including any required registration with any Regulatory Body;

Contract means the main body of this agreement between the Parties including any attached schedules (whether or not referred to in the main body of the agreement) and any subsequent variations made from time to time by agreement between the Parties in accordance with its terms;

Contract Documents mean this Contract [the Business Transfer Agreement / the Assured Shorthold Tenancy];

Contract Manager means specified in schedule 1 as being authorised to administer the Contract on behalf of the Council or such person as may be nominated by the Contract Manager to act on his behalf;

Contract Period means (subject to the provisions for early termination) the period of duration of this Contract (including any extension) in accordance with clause 4;

Contract Standard means those standards set out in this Contract including the Schedules;

Cost shall mean the sum payable by the Council for the Services as referred to in Schedule [7];

Data Protection Legislation means the General Data Protection Regulation (EU) 2016/679 (the **GDPR**) or such other domestic legislation that supplements and / or implements the GDPR, along with any associated guidance and Codes of Practice;

Data Subject's Rights means any request exercising or purporting to exercise rights under Chapter III of the GDPR;

Default means any failure by the Provider to carry out its obligations under this Contract;

Discriminatory Change in Law means a Change in Law, the terms of which apply expressly to:

- (a) the Services; and/or
- (b) the Provider and not to other persons;

Dispute Resolution Procedure means the procedure set out in clause 60;

Employee Transfer Agreement means an agreed form agreement for the transfer of employees from the relevant Member(s) to the Company under the Transfer of Undertakings (Protection of Employment) Regulations 2006 in connection with the delivery of the Services;]

Equalities Legislation means all Legislation which makes unlawful discrimination on grounds of sex, sexual orientation, gender reassignment, age, disability, colour, race, ethnic or national origin or religion, marital status, part-time or temporary status in employment or otherwise under the Equality Act 2010 or statutory instruments or codes of practice issued pursuant to it as amended from time to time;

Fee shall mean the sum payable by the Council for the Services as set out in the Schedules;

Force Majeure means and includes the occurrence after the Commencement Date of:

- (a) war, civil war, riot, civil unrest, civil emergency, terrorist attack or threat of terrorist attack, industrial action by non-employees of the Provider on a national scale or industrial action by employees of the Council;
- (b) nuclear, chemical or biological contamination;
- (c) an act of God; or
- (d) flood, drought, tempest or other event beyond the reasonable control of either Party;

Good Industry Practice means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking and/or activity as the Provider under the same or similar circumstances;

Guidance means any applicable guidance or directions with which the Provider is bound to comply;

Intellectual Property Rights means patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;

Key Performance Indicator (KPI) means any or all of the key performance indicators set out in schedule 3 as the same may be revised by agreement of the Parties;

Leased Accommodation means a [[self-contained] flat or house] forming part of the Premises over which Capital Letters owns a leasehold interest;

Legislation means any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable EU right within the meaning of Section 2 of the European Communities Act 1972 (as amended), in each case in the United Kingdom;

LGPS Employee means [];

Management Standards means the standards as set out in [Schedule 3 Part A];

"A" Members means the Members of the Provider designated as "A" Members in accordance with Articles 12.2 and 12.3 of the Articles of Association of the Provider from time to time;

"B" Members means the Members of the Provider designated as "B" Members in accordance with Article 12.3 of the Articles of Association of the Provider from time to time;

Material Breach means any or all of the following:

- (a) any Default which is not capable of remedy;
- (b) failure to comply with a Final Warning Notice under clause 32.4;
- (c) [KPI trigger *eg. in any [●●] month period [(save during the first [●●] months following the Commencement Date)] failure to meet x KPIs*];
- (d) breach of the requirements of clause 13 (Fraud) or clause 40 (Prevention of bribery & corruption);
- (e) [failure to have in place the insurance cover required under clause 53;]
- (f) [non-compliance with the equal opportunity requirements of clause 41;]
- (g) [any action by the Provider and/or its Staff which in the reasonable opinion of the Council has or may cause significant harm to the reputation of the Council;]

New Provider means a contractor selected to provide services, similar to the Services or part thereof, whether upon appointment by the Provider or upon termination in part or in whole or expiry of this Contract and for the avoidance of doubt can include the Council;

Nominee means an individual who the Council has nominated to the Provider as a prospective Tenant of Accommodation being an individual to whom the Council owes a duty to House under Part VII of the Housing Act 1996 or any other future enactment or subsequent legislation (or within such other categories as may be agreed);

Non-leased Accommodation means a [[self-contained] flat or house] forming part of the Premises which Capital Letters has procured for the Council but does not own a leasehold interest;

Notice means any formal communication between the Parties as required by the Contract;

Party and **Parties** means a party to this Contract and **Parties** shall be construed accordingly;

Premises means such properties acquired or to be acquired by the Provider under the terms of this Agreement;

Provider's Representative means the person for the time being appointed by the Provider and specified in schedule 1 as being authorised to administer the Contract on behalf of the Provider or such person as may be nominated by the Provider's Representative to act on his behalf;

Public Body means a body governed by public law as defined in the Public Contracts Regulations and **Public Bodies** and **Non-Public Bodies** shall be construed accordingly;

Public Sector Reorganisation means any transfer of powers, functions, funding and/or areas between bodies constituted by statute or statutory instrument and any associated transfer of staff, property, rights and/or obligations;

Qualifying Change in Law means:

- (a) a Discriminatory Change in Law; and/or
- (b) a Specific Change in Law,

which was not foreseen at the date of this Contract;

Quarter means a consecutive period of three months ending on 31 March, 30 June, 30 September or 31 December;

Records means the Contract and all documents, data or other information relating to, produced, or received as part of or in connection with the Services and stored on whatever medium;

Regulatory Bodies means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Provider and **Regulatory Body** shall be construed accordingly;

Relevant Employees means all those employees subject to a Relevant Transfer on a Relevant Transfer Date;

Relevant Transfer means a transfer to which TUPE applies;

Relevant Transfer Date means a date on which the provision of the Services changes;

Schedule means a schedule attached to this Contract;

Services means the services to be provided as specified in schedules [2 – 6];

Service Specifications means the documents comprising schedule 2 containing details of the services to be provided;

Shared Personal Data means the Personal Data shared by the Council with the Provider for the purposes of the Provider discharging its obligations under this Agreement, which shall include but shall not be limited to names, addresses and contact details of the Council's tenants;

Specific Change in Law means any Change in Law which specifically refers to the provision of services the same as or similar to the Service or to the holding of shares in companies whose main business is providing services the same as or similar to the Services;

Staff means all persons employed or engaged by the Provider to perform the Contract together with any of the Provider's consultants, workers, agents and sub-contractors used in the performance of the Contract;

Sub-Contractor means a person to whom the Provider sub-contracts any of its obligations under this Contract;

Tenant means a Nominee who has accepted a Tenancy granted by the Provider;

Transferring Employees means all those employees whose employment transfers to the Provider [or a Sub-Contractor] by operation of TUPE on the Commencement Date;

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended from time to time);

TUPE Information means all information in respect of the employees assigned to the provision of the Services under this Contract whether employed by the Provider or otherwise which the Council and/or a prospective tenderer and/or a New Provider may reasonably require including but not limited to:

- (a) salaries, bonuses, overtime pay, holiday pay, sick pay and other benefits;
- (b) dates of birth;
- (c) details of continuous service;
- (d) hours of work;
- (e) individual terms and conditions of employment;

- (f) details of collective arrangements or other arrangements or understandings with any trade union, staff body or other representative body of such employees;
- (g) disciplinary records;
- (h) details of on-going disciplinary or grievance matters;
- (i) policies or other agreements or arrangements or understandings in respect of each of them and any variations agreed thereto;
- (j) details of any enhanced or contractual redundancy entitlements; and
- (k) any other materially relevant information (including without limitation details of the hardware, software and other equipment required to perform) relating to the provision of the Services;

Value Added Tax means Value Added Tax or any similar tax replacing it or performing a similar fiscal function;

Variation means a change to this Contract or to the Services, made in accordance with clause 5;

Void means any period of un-occupation of the Premises by a Tenant for any of the following reasons:

- (a) determination of the Tenancy by the Tenant;
- (b) death of a Tenant;
- (c) eviction or abandonment of Premises by the Tenant; and

Whistleblowing means raising concerns about misconduct within an organisation or within an independent structure associated with it.

2 Interpretation

2.1 Except as otherwise expressly provided, the documents comprising this Contract are to be mutually explanatory of one another. Should the Provider become aware of any ambiguities or discrepancies in or between any of the documents comprising the Contract, the Provider shall immediately inform the Contract Manager giving full details. Any such notified ambiguities or discrepancies or any ambiguities or discrepancies otherwise coming to the notice of the Contract Manager shall be resolved by the Contract Manager who shall issue to the Provider any appropriate instructions in writing.

2.2 In this Contract except where the context otherwise requires:

2.2.1 references to any statute or statutory provision shall be deemed to include any amendment, replacement or re-enactment of the same for the time being in force, and to include any EU Directives, by-laws, licences, statutory instruments, rules, regulations, orders, notices, directions, guidance, consents or permissions made under it, and any condition attaching to it;

- 2.2.2 any obligation on either Party not to do any act or thing shall be deemed to include an obligation not to permit or allow the doing of that act or thing;
- 2.2.3 clause and schedule headings are for ease of reference only and shall not be taken into account in the construction or interpretation of any provision to which they refer;
- 2.2.4 the expression **person** shall include any natural person, individual partnership, local authority or corporate or unincorporated body;
- 2.2.5 words importing gender include any other gender; words importing the singular include the plural and vice versa;
- 2.2.6 references to government departments or other organisations or bodies are deemed to include their successors;
- 2.2.7 references to clauses or schedules shall be to clauses and schedules of this Contract;
- 2.2.8 any reference to obtaining approval in this Contract shall be deemed to include a requirement that every such approval shall be in writing;
- 2.2.9 references to this Contract or to any other document shall include any permitted variation, amendment or supplement to such document;
- 2.2.10 words preceding **include, includes, including** and **included** shall be construed without limitation by the words which follow those words.
- 2.3 No review, comment or approval by the Council under the provisions of this Contract shall operate to exclude or limit the Provider's obligations and/or liabilities under this Contract and/or the Council's rights under this Contract.

3 **Entirety of Contract**

The Contract Documents represent the entire understanding between the Parties with regard to the supply of the Services and supersedes all representations, understandings and agreements, whether oral or written, made by the Council and/or the Provider.

Part B – General Provision

4 **Contract Period**

- 4.1 The Contract shall commence on the Commencement Date and shall continue for a period of [] years (subject to the provisions for early termination) (the **Initial Contract Period**).
- 4.2 The Provider shall be under no liability in respect of the provision of the Services prior to the Commencement Date.
- 4.3 Prior to the expiry of the Contract Period (whether the Initial Contract Period or any Contract Period further extended pursuant to this clause 4.3) the parties may agree in writing to extend the Contract Period for a further period of [] years.

4.4 Either the Council or the Provider shall submit a written notification to the other Party of any request to extend the Contract Period pursuant to clause 4.3 not less than [] year prior to the expiry of the Contract Period.

4.5 The clauses in the Contract will apply throughout any such extended period including without limitation this clause 4.

5 **Contract Variation**

5.1 This Contract may only be varied or modified if such Variation is in the form set out in schedule 5 (**Variation Notice**) and signed by the Contract Manager and the Provider's Representative.

5.2 If either Party wishes to vary this Contract then it shall serve on the other a Variation Notice which shall set out the nature of the Variation sought and the reasons for it.

5.3 Within 15 Business Days of having served or received (as appropriate) a Variation Notice the Provider shall deliver to the Council an analysis of the proposed Variation (a **Change Analysis**) setting out:

5.3.1 any impact on the provision of the Services;

5.3.2 any amendment required to this Contract;

5.3.3 whether and to what extent the Variation would increase or decrease the cost of delivering the Services;

5.3.4 the steps that the Provider has taken to mitigate any additional costs to the Council;

5.3.5 any regulatory approvals which are required.

5.4 The Provider shall provide such information as may be reasonably required by the Council to consider the Change Analysis.

5.5 The Council shall within 28 Business Days of receipt of the Change Analysis notify the Provider whether or not it wishes to proceed with the Variation.

5.6 Where the Council requires formal approval of the Variation, this timescale in Clause 5.5 shall be extended to accommodate any approval process and the Council shall notify the Provider of any extended timescale required.

5.7 Any dispute in relation to a proposed Variation shall be determined in accordance with the provisions of clause 60 (Dispute).

6 **Notices**

6.1 Any Notice required by this Contract to be given by either Party to the other shall be:

6.1.1 in writing; and

6.1.2 issued by the Provider's Representative or the Contract Manager (as appropriate); and

6.1.3 served personally, or by sending it by registered post or recorded delivery to the Provider's Representative or the Contract Manager (as appropriate) at the address set out in schedule 1 (or such other address as may be notified pursuant to clause 16.3 or 17.3 (as appropriate)).

6.2 Any Notice served personally will be deemed to have been served on the day of delivery, any Notice sent by post will be deemed to have been served 48 hours after it was posted, save where the deemed date of service falls on a day other than a Business Day in which case the date of service will be the following Business Day.

6.3 The Provider shall promptly inform the Council of any significant or substantial occurrence that adversely affects the Provider's performance of this Contract or the Council and the Council's ability to meet its statutory obligations. If the Provider is in any doubt as to whether the occurrence is such that this clause applies the Provider shall inform the Council of the occurrence.

7 **Severance**

7.1 If any provision of this Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable the remaining provisions of this Contract shall continue in full force and effect and the Parties shall amend that provision in such reasonable manner as achieves the intention of the Parties without illegality provided that either Party may seek the consent of the other to the termination of this Contract on such terms as may in all the circumstances be reasonable if the effect of the foregoing provision would be to defeat the original intention of the Parties.

8 **Waiver**

8.1 The failure of either Party to insist upon strict performance of any provision of this Contract or the failure of either Party to exercise any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by this Contract.

8.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of clause 6.

8.3 A waiver of any right or remedy arising from a breach of this Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Contract.

9 **Assignment and sub-contracting**

9.1 The Provider shall not without the prior written consent of the Council:

9.1.1 assign all or any benefit, right or interest under this Contract; or

9.1.2 sub-contract the supply of the Services.

9.2 The Council shall be entitled to:

9.2.1 with the prior written consent of the Provider, such consent not to be unreasonably withheld or delayed, assign, novate or dispose of its rights and obligations under this Contract either in whole or part to another Public Body; or

9.2.2 transfer, assign or novate its rights and obligations where required by law.

9.3 In the event of a Public Sector Reorganisation, the Provider shall enter into all such assignments and/or novations as the Council shall specify as necessary.

10 **Parties' obligations**

10.1 The Provider shall deliver the Services for the Contract Period to the Contract Standard in accordance with the terms and conditions of this Contract.

10.2 Save as otherwise expressly provided, the obligations of the Council under this Contract are obligations of the Council in its capacity as a contracting counter party and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Council in any of its other capacities, nor shall the exercise by the Council of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Council to the Provider.

11 **Force Majeure**

11.1 If a Party (the **Affected Party**) is materially prevented, hindered or delayed from performing any of its obligations under this Contract by reason of a Force Majeure event, such obligations of the Affected Party and any corresponding or related obligations of the other Party shall remain in effect but shall be suspended without liability for a period equal to the duration of the Force Majeure event, provided that:

11.1.1 within seven (7) Business Days after the start of the Force Majeure event the Affected Party notifies the other Party in writing of the act, event or circumstance relied on, the date on which such act, event or circumstance commenced and the effect of the Force Majeure event on the Affected Party's ability to perform its obligations under the Contract;

11.1.2 within five (5) Business Days after notice of the Force Majeure event is given pursuant to clause 11.1.1 the Parties shall discuss alternative service delivery options to mitigate the effects of the Force Majeure event;

11.1.3 The Affected Party shall use all reasonable endeavours to resolve the effects of the Force Majeure event as quickly as possible or if this is not possible to provide the other Party with a written solution and timescales for implementing the solution within three (3) Business Days of the Force Majeure Event taking place;

11.1.4 the Affected Party makes all reasonable efforts to mitigate the effects of the Force Majeure event on the performance of its obligations under this Contract; and

11.1.5 the Affected Party provides written reports every five(5) Business Days to the other Party on its progress in providing the solution in accordance with Clause 11.1.3 and any mitigation action taken in accordance with Clause 11.1.4, and provides any information that the other Party may reasonably request relating to the Force Majeure event and its effects.

- 11.2 Immediately after the end of the Force Majeure event the Affected Party shall notify the other Party in writing that the Force Majeure event has ended and shall resume performance of its obligations under this Contract.
- 11.3 Subject to clause 11.5, neither Party shall be released from any of its obligations under this Contract as a result of a Force Majeure event, and this Contract shall remain in effect for the duration of a Force Majeure event.
- 11.4 Any industrial action occurring within the Provider's organisation, the inability of the Provider to recruit staff, or failure by any sub-contractor to provide services shall not be Force Majeure.
- 11.5 Either Party may terminate this Contract in its entirety or in part by written notice to take effect immediately if the event of Force Majeure persists for more than three months and the Parties have not agreed in writing that the Contract will continue, whether or not subject to alternative arrangements in respect of the event of Force Majeure.
- 12 **Conflicts of interest**
- 12.1 The Provider shall use all reasonable endeavours to ensure that neither the Provider nor any employee, agent, supplier or sub-contractor is placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider or such person and the duties owed to the Council under the provisions of this Contract. The Provider will promptly disclose to the Council full particulars of any such conflict of interest which may arise.
- 13 **Fraud**
- 13.1 The Provider shall safeguard the Council's funding of this Contract against fraud generally and, in particular, fraud on the part of the Staff, or the Provider's directors and suppliers.
- 13.2 The Provider shall notify the Council immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- 13.3 The Council reserves the right to take whatever action it deems necessary in the event of either notification of, or a suspected fraud.
- 14 **Collaborative working**
- 14.1 The Provider will act collaboratively with a spirit of cooperation and openness in its dealings with the Council and with the other "A" Members and "B" Members to whom it is providing similar services including contributing to projects, policy development, member and community forum engagement and consultation with regard to the Council's duties and responsibilities.
- 14.2 The Parties will work collaboratively and co-operatively with each other to assist in the management of the Council's services within allocated budgets.
- 14.3 The Provider will actively seek to work closely together in formal or other arrangements with other agencies, organisations and stakeholders working with the Council, or otherwise contributing to, involved in or affected by, the provision the Services.

15 No Agency

15.1 Nothing in this Contract shall be construed as creating a partnership or as a contract of employment between the Council and the Provider.

15.2 Save as expressly provided otherwise in this Contract, the Provider shall not be, and shall not be deemed to be, an agent of the Council and the Provider shall not hold itself out as having authority or power to bind the Council in any way.

Part C – Provision of Services**16 Contract Manager**

16.1 The Council shall appoint a Contract Manager to act on behalf of the Council for all purposes connected with this Contract. Details of the person are set out in schedule 1.

16.2 The Council shall throughout the Contract Period ensure that the Contract Manager (or duly appointed deputy) is available for consultation with the Provider at all reasonable times.

16.3 The Council shall promptly give notice in writing to the Provider of any change in the identity, address, email and telephone numbers of the Contract Manager. The Council shall give as much notice as reasonably possible to the Provider before changing its Contract Manager.

17 Provider's Representative

17.1 The Provider shall appoint a senior and competent person with sufficient and relevant experience and qualifications as the Provider's Representative to act on behalf of the Provider for all purposes connected with this Contract. Details of the person are set out in schedule 1.

17.2 The Provider shall throughout the Contract Period ensure that the Provider's Representative (or duly appointed deputy) is available to be contacted by the Council at all reasonable times including the provision of an out of office hours telephone number.

17.3 The Provider shall promptly give notice in writing to the Council of any change in the identity, address, email and telephone numbers of the Provider's Representative. The Provider shall give as much notice as reasonably possible to the Council before changing its Provider's Representative.

18 The Services

18.1 The Provider shall provide the Services to the Contract Standard during the Contract Period in accordance with the Contract and Good Industry Practice.

18.2 In providing the Services, the Provider shall comply with and take into account all applicable Legislation, the requirements of any court with relevant jurisdiction and any local, national or supranational agency, inspectorate, minister, ministry, official or public or statutory person of the government of the United Kingdom or (while the United Kingdom remains a Member State) of the European Union.

18.3 The Provider shall as necessary from time to time at its own cost obtain, maintain and comply with any Consents and shall supply to the Council upon request a copy of any such Consent.

18.4 From time to time the Council may request the provision by the Provider of additional ad hoc services at cost which are related to or connected to the Services and which are not Services under this Contract, and the Provider shall where reasonably practicable comply with any such request.

19 **Procurement Services**

Where it has been agreed between the parties the Provider shall provide to the Council the Services as set out at Schedule [2].

20 **Management Services**

Where it has been agreed between the parties the Provider shall manage the Leased Accommodation in accordance with the Management Standards as contained at Schedule [3 Part 1] **OR** Where it has been agreed between the parties the Provider shall arrange for the management services to be provided by a third party and shall enter into a management agreement for these services in a form set out in Schedule [3 Part 2].

21 **Nomination Services**

21.1 Where it has been agreed between the Provider grants to the Council the right to nominate persons to the Accommodation in accordance with the Nomination Procedure at Schedule [4] to the Specification.

21.2 The Council agrees and undertakes with the Provider that all nominated persons shall be persons in respect of which the Council owes a statutory duty under Part VII of the Housing Act 1996 (as amended by The Homelessness Act 2002 and the Localism Act 2011 and as may be amended from time to time).

22 **Property Standards**

Set out at Schedule 9 are the minimum property standards that Accommodation shall meet (the Minimum Property Standards). If the Provider is unsure about whether the Accommodation is suitable for the purposes of the Services, they shall consult the Contract Manager before taking the Accommodation on.

23 **Standards and continuous improvement**

23.1 The Provider shall at all times ensure that the Services comply with all applicable Legislation.

23.2 The Provider shall assist the Council in complying with its duty to secure continuous improvement in respect of the Services whether under the best value duty in the Local Government Act 1999 or under any performance improvement regime applicable to local government from time to time during the Contract Period, including the provision of information or data, cooperation (including access to documents) in any inspections and attendance at any relevant meetings. As part of this requirement the Council may from time to time commission service reviews by external organisations. The Provider will work

with the Council to develop the specifications for these reviews and undertake to respond to the recommendations where it can be reasonably expected to do so. Where there may be a significant cost implication, the Provider and the Council will work together to seek ways of funding the implementation of the recommendation.

24 **Safeguarding Children and Vulnerable Adults**

- 24.1 The Provider shall adopt safeguarding policies and such policies shall comply with the Council's safeguarding policy for children and vulnerable adults (available on request) as amended from time to time.
- 24.2 The Provider shall ensure that they do not employ or deploy for the provision of the Services under this Agreement any member of staff be it an employee, volunteer or locum who is on the Adults and/or Children's Barred List created pursuant to the Safeguarding of Vulnerable Groups Act 2006.
- 24.3 For the avoidance doubt, where it is likely that the Provider and its staff will come into direct contact and liaison with children/young people and/or vulnerable adults; the Provider shall be required to ensure its staff have undergone an Enhanced Disclosure and Barring Service check in order to provide the Services to Nominees and/or their Families.
- 24.4 At the reasonable written request of the Council and by no later than [10 Working Days] following receipt of such request, the Provider must provide evidence to the Council that it is addressing any safeguarding concerns.
- 24.5 If requested by the Council, the Provider shall participate in the development of any local multi-agency safeguarding quality indicators and/or plan as they relate to the provision of the Service.

25 **Quality assurance**

- 25.1 The Provider shall satisfy the service outcomes and quality standards set out in the Service Specifications.
- 25.2 The Provider shall throughout the Contract Period demonstrate and maintain a properly documented system of outcomes focussed quality assurance which will be agreed with the Council as appropriate for the Services under consideration.

26 **TUPE**

26.1 **Relevant transfers**

- 26.1.1 With effect from the Commencement Date the Transferring Employees shall be transferred from the Council to the Provider in accordance with the provisions of TUPE, and such transfer shall constitute and have the effect of a Relevant Transfer.
- 26.1.2 Where the provider of the Services or any of them (save on termination or expiry of this Contract) changes pursuant to an act of the Provider, the change in the identity of such provider shall constitute and have the effect of a Relevant Transfer. The Provider shall and shall procure that the new provider of the

relevant Services or any of them shall comply with all of its obligations under TUPE in respect of the Relevant Employees.

26.1.3 Where there is a change in the nature or scope of the Term Programme Services, such change may constitute and have the effect of a Relevant Transfer, in which event the Provider shall comply with all of its obligations under TUPE in respect of the Relevant Employees.

26.1.4 The termination of the Provider's employment whether in whole or in part or expiry of this Contract whether in whole or in part may have the effect of a Relevant Transfer, and in such circumstances the Provider shall comply with its obligations under clause 26.6 below.

26.2 Responsibilities on commencement

26.2.1 [The Council shall discharge all obligations and liabilities in respect of the Transferring Employees which were in its employment at the relevant time up to but not including the Commencement Date].

26.2.2 The Provider shall with effect from and including the Commencement Date assume and discharge all obligations and liabilities in respect of the Transferring Employees.

26.3 Indemnities

26.3.1 [The Council will indemnify the Provider and keep the Provider indemnified in full from and against all costs, claims, liabilities, expenses or demands (including all legal costs) whether direct, indirect or consequential arising from or related to the Council's acts or omissions in relation to the Transferring Employees prior to the Commencement Date.]

26.3.2 The Provider will indemnify the Council and keep the Council indemnified in full from and against all costs, claims, liabilities, expenses or demands (including all legal costs) whether direct, indirect or consequential awarded against or incurred or paid by the Council as a result of or in connection with any claims arising from:

- (a) any act, fault or omission of the Provider in connection with the Transferring Employees or any representative thereof; or
- (b) any step or measure that the Provider envisages in relation to employees affected by this Contract.

26.4 Employee records

26.4.1 Subject to the requirements of the Data Protection Legislation the Provider shall maintain current, accurate and adequate records of:

- (a) all employees or other persons who are or who are to be engaged in connection with the provision of the Services. These records shall be kept at the appropriate location and shall include attendance records, records of grievances or other complaints made by or about employees

or other persons engaged in connection with the provision of Services and records of all internal investigations, consultations, disciplinary proceedings and disciplinary sanctions and shall differentiate between those engaged as operatives and those exercising supervision. These records shall be open for inspection by the Council at all reasonable times and a copy of these records shall be provided if so required,

- (b) all work carried out in the provision of the Services. These records shall be open for inspection by the Council at all reasonable times.

26.5 Termination

26.5.1 During the period of 12 months preceding the expiry of this Contract or immediately after the Council or the Provider has given notice to terminate the appointment of the Provider (whether in whole or part) the Provider shall:

- (a) promptly, at the request of the Council, fully and accurately disclose to the Council the TUPE Information and permit the Council to use the TUPE Information to inform any prospective tenderer and/or New Provider about the anticipated Relevant Employees;
- (b) if during the period between supplying the TUPE Information and the Relevant Transfer there is any material change in the information supplied or new information is discovered, promptly disclose to the Council the updated information; and
- (c) use all reasonable endeavours to co-operate with any other reasonable request made by the Council or any prospective tenderer concerning the TUPE Information.

26.5.2 During the period of 12 months prior to expiry of this Contract or following receipt of notice of termination of this Contract the Provider shall not

- (a) terminate the employment of any of the employees assigned to the provision of the Services for any reason whatsoever save where termination is lawful;
- (b) alter or change in any way any terms and conditions of employment of any of the employees assigned to the provision of the Services (whether with or without consent of the employees) other than changes agreed in the normal course of the employer's business and in good faith or wage or salary awards which are in line with those offered generally for similar status individuals within the workforce of the employer or as required by law; and
- (c) recruit (except as a replacement for any employee whose employment is terminated and where the replacement is being recruited on terms which are not materially different from the terms of the employee being replaced) or assign any employee to provide the Services except with the Council's prior written consent; and

- (d) relocate or assign new duties to any of the employees providing the Services without the prior written consent of the Council.

26.6 Obligations on Termination

- 26.6.1 The Provider shall discharge all obligations and liabilities in respect of the Relevant Employees up to and including the Relevant Transfer Date.
- 26.6.2 The Provider warrants that reasonable care will be used in the preparation of the TUPE Information and that reasonable efforts will be taken to ensure that it will be complete (insofar as it is reasonable for the Council to require such information to be provided) and accurate in all respects as at the date the information is provided. The Provider shall indemnify and keep indemnified the Council and any New Provider against any loss caused to the Council or any New Provider by any inaccuracy or incompleteness in such information or by any changes in the information which have not been communicated to the Council (whether relating to the number, identity or details of the Relevant Employees or otherwise) which occur prior to the Relevant Transfer Date.
- 26.6.3 The Provider shall indemnify and keep indemnified the Council and the New Provider in full from and against all costs, claims, liabilities, expenses or demands (including legal costs) whether direct, indirect or consequential which the Council and/or any New Provider incurs arising from:
 - (a) any act or omission of the Provider or any Sub-Contractor in relation to the Relevant Employees or any representative thereof,
 - (b) any claim by an employee or former employee of the Provider or any Sub-Contractor who is not a Relevant Employee, and
 - (c) any representations made by the Provider or any Sub-Contractor in relation to employment by the Council and/or any New Provider.
- 26.6.4 The Council shall indemnify the Provider in full from and against all costs, claims, liabilities, expenses or demands (including legal costs) whether direct, indirect or consequential which the Provider incurs arising from any act or omission of the Council in relation to the Relevant Employees.
- 26.6.5 In the event that the Provider enters into any sub-contract in connection with the Services, it shall impose obligations on its Sub-Contractors in the same terms as those imposed on it pursuant to clauses 26.6.1 to 26.6.5 inclusive and shall procure that each Sub-Contractor complies with such terms. the Provider shall indemnify the Council and keep the Council indemnified in full from and against all direct, indirect or consequential liability, loss, damages, injury, claims, costs and expenses (including legal expenses) awarded against or incurred or paid by the Council as a result of or in connection with any failure on the part of the Sub-Contractors to comply with such terms.]

27 Staff

- 27.1 The Provider shall ensure the Staff are sufficient trained, suitably qualified and experienced so that the Services throughout the Contract Period are provided in all respects to the Contract Standard.
- 27.2 The Provider shall ensure that the Staff providing the Services in accordance with the Contract shall at all times exercise due care and diligence in the execution of their duties and the Provider shall ensure that such persons are properly and sufficiently instructed and supervised with regard to the provision of the Services.
- 27.3 The Contract Manager acting reasonably shall be entitled to require the Provider to remove immediately from the provision of the Services a named member of the Staff. The Provider shall have the right to make representations to the Contract Manager concerning such person. After taking any representations into account, the Contract Manager shall be entitled to confirm, revoke or vary his decision.
- 27.4 The Provider shall bear the cost of or costs arising from any Notice, instruction or decision of the Council under this clause 27.
- 27.5 The Provider shall deliver to the Council no later than ten (10) Business Days following the end of each Quarter a written report for that Quarter in respect of its Staff monitoring absenteeism, Staff turnover, Staff vacancies, agency usage and mandatory training compliance.

Part D - Contracts, assets and property**28 Not used****29 Rights of access and inspection**

- 29.1 The Provider shall allow officers and members of the Council to have reasonable access to the Provider's premises, Records and Staff (including providing such information and assistance as the Council may reasonably request) to enable the Council to inspect and review the Services generally, to meet its statutory duties and/or in the event that the Council has any concerns regarding the compliance with the Contract and any relevant statutory provisions.
- 29.2 Any information made available to the Council under this clause shall be treated as Confidential Information.

30 Performance monitoring

- 30.1 The Provider shall comply with the performance monitoring arrangements set out in schedules 2 and 3.

31 Contract review

- 31.1 The Council may undertake contract reviews on an annual basis to review performance against the Contract as a whole. The Council will review the individual Services as set out in each Schedule.

31.2 The Provider shall afford all reasonable resources and facilities to allow the Council to carry out its contract reviews and provide all reasonable information required. Whenever an annual review is undertaken, the Provider and the Council shall meet following such annual contract review to discuss the outcomes of the review.

32 Failure to perform

32.1 If the Provider fails to supply any of the Services in accordance with the provisions of the Contract and such Default is capable of remedy, then the Council shall acting reasonably instruct the Provider to remedy the Default and the Provider shall at its own cost and expense remedy such Default within such reasonable period of time as the Council may direct.

32.2 Where a Default is capable of remedy, the Provider shall send the Council a remedy plan (**Remedy Plan**) within [2] Business Days of the Default taking place setting out the steps for remedying the Default and the timescales for doing so.

32.3 If a particular Default has continued for more than [●●] days or occurred more than [●●] times in any [six (6)] month period or has not been remedied in accordance with the timescales in the Remedy Plan then the Council may serve a notice on the Provider:

32.3.1 specifying that it is a formal warning notice;

32.3.2 giving reasonable details of the Default, and

32.3.3 stating that the Default is a Default which, if it recurs frequently or continues, may result in termination of this Contract.

32.4 If, following service of a warning notice under clause 32.3 the Default specified has continued beyond [●●] days or recurred more than [●●] times within the [six (6)] month period after the date of service, then the Council may serve another notice (a **Final Warning Notice**) on the Provider:

32.4.1 specifying that it is a Final Warning Notice;

32.4.2 stating that the Default specified has been the subject of a warning notice served within the [six (6)] month period prior to the date of service of the Final Warning Notice, and

32.4.3 stating that if the Default continues for more than fourteen (14) days or recurs in three (3) or more months within the six (6) month period after the date of service of the Final Warning Notice, this Contract may be terminated by the Council.

32.5 In the event that the Council is of the reasonable opinion that it needs to take action in connection with the Services:

32.5.1 following a Material Breach by the Provider; and/or

32.5.2 because a serious risk exists to the health or safety of persons or property or to the environment; and/or

32.5.3 to discharge a statutory duty,

then the Council may, without prejudice to its rights under clauses 54 and 55, without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Provider shall have demonstrated to the reasonable satisfaction of the Council that the Provider will once more be able to supply all or such part of the Services in accordance with the Contract and the Provider shall give all reasonable assistance to the Council as it may require including granting or obtaining licences or permissions for systems and data required to deliver the Services and providing access to the Provider's Staff.

32.6 The Council may charge the Provider for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Council or a third party pursuant to this clause 32.

33 **Complaints**

33.1 The Provider must have a process in place to log any complaints or any complimentary feedback received with regard to the Services (the **Provider's Log**).

33.2 The Provider's Log shall be in line with the Council's policy and procedures in place and as updated.

33.3 The Provider will report the data obtained by the Provider's Log to the Council by means of [a quarterly] report (to be provided no later than ten (10) Business Days following the end of each [Quarter]) or more frequently if requested by the Council.

33.4 [All complaints should be dealt with and resolved appropriately by the Provider and any serious complaint that cannot be resolved shall be notified to the Council as soon as reasonably practicable so that the Parties can co-operate and endeavour to satisfy the complainant.]

34 **Whistleblowing**

34.1 The Provider shall ensure that it has a Whistleblowing procedure which shall specify a named senior manager responsible for ensuring the independence and probity of the whistleblowing process.

34.2 The Provider confirms that the Council is authorised as a person to whom the Staff may make a qualifying disclosure under the Public Interest Disclosure Act 1998 (as amended) and declares that any Staff making a protected disclosure (as defined by the said Act) shall not be subjected to any detriment and its Staff will be made aware of this provision. The Provider further declares that any provision in any contract (including any contract of employment) purporting to preclude a member of its Staff from making a protected disclosure is void.

35 **Business continuity**

The Provider shall use its best endeavours to assist the Council in meeting its statutory obligations and to support the Council in the emergency provision of services to its community in the case of a disaster.

36 Inquiries, investigations and inspections

- 36.1 The Provider shall at all times during the Contract Period and for a period of six (6) years (or such longer period as required by Legislation) afterwards fully co-operate with any inquiry, investigation or inspection (whether routine or specific) which in any way concerns, affects or relates to the Services, or this Contract. Such inquiry, investigation or inspection may include, inter alia:
- 36.1.1 the Council's Cabinet and Overview and Scrutiny Committee and sub-committees undertaking their respective functions;
 - 36.1.2 an investigation by the Council into a complaint about the acts or omissions of the Provider and/or its Staff made under the Equalities Legislation;
 - 36.1.3 any Regulatory Body;
 - 36.1.4 the Authority's auditors (whether internal or external);
 - 36.1.5 the Local Government Ombudsman;
 - 36.1.6 an investigation by the Council into an accident or incident or complaint about health and safety failures; and/or
 - 36.1.7 an investigation by the Council into alleged fraud.
- 36.2 Such co-operation shall include the following:
- 36.2.1 providing access to or copies of such files, documents, letters, emails, notes, minutes, records, accounts or any other information (whether held or stored electronically, in hard copy format or otherwise) which relate to the subject or service under investigation;
 - 36.2.2 providing access to the premises, vehicles, plant, equipment (including IT hardware and software) or other assets used by the Provider in the performance of this Contract;
 - 36.2.3 providing access to the Staff (of whatever seniority) involved in this Contract (including managerial or supervisory staff) or who may be the subject of, or be named in, any inquiry or investigation by the auditors or the ombudsman (including providing suitable facilities for interviewing such staff);
 - 36.2.4 maintaining the confidentiality of the inquiry or investigation when requested to do so;
 - 36.2.5 making such explanations (whether written or oral) as may be necessary for the inquiry or investigation to be satisfied that the terms and conditions of this Contract, the Council's standing orders and financial regulations and statutory provisions relating to this Contract are being complied with;
 - 36.2.6 at all times and without notice allow access to the Local Government Ombudsman, Regulatory Body or to any investigating officer appointed by the Local Government Ombudsman or Regulatory Body, in connection with any complaint, investigation or inspection relating to this Contract or the Services.

This shall extend to the Provider's premises, its Staff and to all documentation and information relating to this Contract to which the Provider and its Staff have access.

- 36.3 The Provider shall, if requested by the Council, co-operate with the Council, at its own expense, in connection with any legal proceedings, enforcing authority investigations, arbitration, court proceedings or ombudsman inquiries in which the Council may become involved, arising from breaches of the Council's duties due to the alleged acts or omissions of the Provider and/or its Staff.

Part E – Financial provisions

37 Payment

- 37.1 The Council shall be responsible for payment to the Provider in relation to the Services in accordance as set out in Schedule 6.
- 37.2 In setting the Cost the Provider shall only recover an amount equal to the actual cost incurred by it in providing the Services together with the Fee.
- 37.3 At the end of each financial period, being the period for which accounts are produced for the Council, the operation of this Agreement will be reviewed by the Council's finance staff to ensure that all amounts due have been correctly calculated in accordance with this Agreement.

38 Value Added Tax

- 38.1 Value Added Tax (**VAT**), where applicable, shall be shown separately on all invoices at the appropriate rate in force at the time of the relevant supply.
- 38.2 The Council and the Provider agree to pay to the other any VAT properly chargeable.

39 Recovery of sums due

- 39.1 Wherever under this Contract any sum of money is recoverable from or payable by the Provider (including any sum which the Provider is liable to pay to the Council in respect of any breach of this Contract), the Council may deduct that sum from any sum then due to the Provider under the Contract or under any other agreement or contract between the Provider and the Council. Where the Council withholds any disputed monies which subsequently turn out to be rightfully due to the Provider, the Council shall pay interest to the Provider at the rate of [8]% above base rate from the date the payment was due to the date upon which the payment was made.
- 39.2 Any overpayment by the Council to the Provider shall be recoverable by the Council and vice versa.
- 39.3 The Provider shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Provider has obtained the prior approval of the Council to such deduction.

Part F – Statutory Obligations and Regulations**40 Prevention of bribery & corruption**

- 40.1 The Provider, whether acting by any person engaged by the Provider or acting on its behalf (whether with or without the knowledge of the Provider), shall:
- 40.1.1 not offer or give, or agree to give, to any person any gift or consideration of any kind as inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to this Contract or any other contract with the Council or any other public body and comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and under Section 117 of the Local Government Act 1972 (the **Relevant Requirements**);
 - 40.1.2 not engage in any activity, practice or conduct which would constitute an offence under Sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 40.1.3 comply with the Council's anti-bribery and anti-corruption policies in force from time to time and if none then to comply with the relevant industry body latest guidance applicable from time to time (the **Relevant Policies**).
 - 40.1.4 maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 40.1.1 and will enforce them where appropriate;
 - 40.1.5 promptly report to the Council any request or demand for any undue financial or other advantage of any kind received by the Provider in connection with the performance of this Contract;
 - 40.1.6 within 12 months of the date of this Contract, and annually thereafter, certify to the Council in writing signed by an officer of the Provider, compliance with this clause 40 by the Provider and all persons associated with it. The Provider shall provide such supporting evidence of compliance as the Council may reasonably request.
- 40.2 The Provider shall ensure that any person associated with the Provider who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Provider in this clause 40 (the **Relevant Terms**). The Provider shall be responsible for the observance and performance by such persons of the Relevant Terms.
- 40.3 For the purpose of this clause 40, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with Section 7(2) of the Bribery Act 2010 (and any guidance issued under Section 9 of that Act) and Section 8 of that Act respectively. For the purposes of this clause 40 a person associated with the Provider includes but is not limited to any subcontractor of the Provider.

- 40.4 The Provider warrants that it has not paid commission or agreed to pay commission to the Council or any other public body or any person employed by or on behalf of the Council or any other public body in connection with the Contract.
- 40.5 If the Provider, its Staff or anyone acting on the Provider's behalf (whether or not with the knowledge of the Provider), engages in conduct prohibited by clauses 40.1 or 40.2, the Council may:
- 40.5.1 terminate the Contract and recover from the Provider the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Contract Period; and
 - 40.5.2 recover in full from the Provider any other loss sustained by the Council in consequence of any breach of those clauses.
- 40.6 In exercising its rights or remedies under this clause, the Council shall:
- 40.6.1 act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing the prohibited act;
 - 40.6.2 give all due consideration, where appropriate, to action other than termination of the Contract.
- 41 **Equalities and diversity**
- 41.1 The Provider shall have and maintain an equality and diversity policy that complies with all applicable Legislation, is in line with best industry practice, consistent with the Council's values and promotes an inclusive society, opposing all forms of intolerance and prejudicial discrimination, whether intentional, institutional or unintentional.
- 41.2 In the performance of its obligations under this Contract (including but not limited to those in relation to the provision of the Services), the Provider shall (and shall procure that its Staff shall):
- 41.2.1 not unlawfully discriminate within the meaning and scope of any Legislation relating to discrimination in employment in relation to any protected characteristic as defined in the Equality Act 2010;
 - 41.2.2 comply with all applicable Equalities Legislation and the Council's equality and diversity policy as provided to the Provider from time to time;
 - 41.2.3 comply with the equality and diversity policy maintained pursuant to clause 41.1.
- 41.3 The Provider shall provide such information as the Council may reasonably require for the purpose of assessing the Provider's continued compliance with this clause 41.
- 41.4 The Provider acknowledges that the Council has duties under section 149 of the Equality Act 2006 and any regulations issued pursuant to section 153 of that Act (the **Public Sector Equality Duty**) and the Provider:

- 41.4.1 shall not and shall procure that its Staff shall not through their conduct or practices cause the Council to be in breach of its Public Sector Equality Duty, and
- 41.4.2 shall comply and shall procure the compliance of its Staff with any request or instruction from the Council to enable it to comply with its Public Sector Equality Duty.
- 41.5 Insofar as the delivery of the Services constitutes the exercise of a public function, the Provider shall in the exercise of that function comply with the Public Sector Equality Duty and shall have due regard to the need to:
- 41.5.1 eliminate discrimination (whether direct or indirect), harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- 41.5.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 41.5.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 41.6 The Provider shall, and shall procure that its Staff shall, notify the Contract Manager in writing as soon as it becomes aware of any investigation of or proceedings brought against the Provider or any Staff under any Equalities Legislation.

42 **The Contracts (Rights Of Third Parties) Act**

No person who is not a Party to the Contract shall have any right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

43 **Health and Safety**

- 43.1 In relation to the Staff, the Provider shall at all times comply with the requirements of the Health and Safety at Work etc Act 1974 and any other acts, orders, regulations and codes of practice pertaining to the health and safety of employees and others who may be affected by the Provider's acts or omissions in providing the Services under this Contract and shall require that any sub-contractors likewise comply.
- 43.2 The Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work Act etc 1974) is made available to the Council on request.
- 43.3 The Provider shall take full responsibility for the adequacy and safety of all operations and methods adopted in the performance of the Services and the acts of its Staff. The Provider shall notify the Council in writing if any method or practice set out in the Service Specifications shall be or shall become an unsafe method of practice.
- 43.4 The Council reserves the right to suspend the provision of the Services in whole or in part (to the extent reasonable) without paying compensation if and whenever the Provider is, in the reasonable opinion of the Council, in contravention of the Health and Safety at Work

etc Act 1974 or any other health and safety Legislation and/or the provisions of this clause 43.

43.5 The Provider shall inform the Contract Manager immediately of any fatality and, within twenty four (24) hours, of any major injury or reportable dangerous occurrence that occurs in the performance of its obligations under this Contract.

44 **Human rights**

44.1 The Provider shall comply with the European Convention on Human Rights and the Human Rights Act 1998 (**HRA**) as if it were a "Public Authority" within the meaning of the legislation.

44.2 The Provider shall indemnify the Council against any liability, loss, claim or proceedings arising out of any violation of the HRA by the Provider in the course of the provision of the Services under this Contract.

Part G – Information

45 **Data Protection**

45.1 For the purposes of this clause 40, defined terms have the meaning prescribed under this Agreement or pursuant to the Data Protection Legislation.

45.2 The Parties shall at all times during the Contract Period comply with the provisions and obligations imposed by the Data Protection Legislation and shall indemnify each other and keep each other indemnified against all actions, claims, demands, proceedings, damages, costs, charges and expenses (including reasonable legal expenses) whatsoever in respect of any breach of this clause 40 by one Party which causes the other Party to be in receipt of any action, claims, demands, proceedings, damages, costs, charges and expenses including reasonable legal expenses.

45.3 Each of the parties shall ensure that, to the extent that it stores and processes Personal Data in connection with this Agreement, it shall comply with the provisions and obligations imposed on it by the Data Protection Legislation.

45.4 The Council will:

45.4.1 Act in the capacity of Data Controller of any Shared Personal Data processed by the Provider in the performance of the Services; and

45.4.2 Be responsible to third parties for such Shared Personal Data, including the individuals to whom the data relates.

45.5 As Data Processor the Provider shall at all times in respect of Shared Personal Data for which the Council is Data Controller:

45.5.1 implement appropriate technical and organisational measures to protect the Shared Personal Data against unauthorised or unlawful Processing, against a Personal Data Breach and to assist the Council to comply with any obligations in respect of the Data Subject's Rights;

- 45.5.2 Process the Shared Personal Data only in connection with this Agreement and only to the extent and in such a manner as is necessary for discharging the Provider's obligations under this Agreement, as otherwise permitted by the Council in writing; or required by law
- 45.5.3 Ensure that in the event that the Provider is required to Process the Shared Personal Data outside of the terms of this Agreement by law, it shall inform the Council of that legal requirement before Processing, unless the law prohibits the same on important ground of public interest;
- 45.5.4 ensure that the Shared Personal Data is not transferred outside of the European Union without the prior written consent of the Council, ensuring compliance with any conditions attached to that consent;
- 45.5.5 ensure that it does not engage another Data Processor without prior written authorisation from the Council and ensuring compliance with any conditions attached to that consent nor disclose the Shared Personal Data to any third parties other than to the extent required under a court order.
- 45.6 The Provider shall be entitled to disclose the Shared Personal Data to its employees agents or officers as reasonably necessary in order to perform its obligations under this Agreement only to the extent that the Provider ensures the reliability of such persons, being under an obligation of confidentiality, having undertaken training in Data Protection Legislation and understanding the obligations upon the Provider in relation to the Shared Personal Data.
- 45.7 The Provider shall notify the Council within two (2) business days if it receives:
- 45.7.1 a request to exercise the Data Subject's Rights; or
- 45.7.2 a complaint or request relating to the Council's obligations under the Data Protection Legislation
- and shall take no further steps in relation to the same until such time that it receives written instruction to do so from the Council.
- 45.8 The Provider will provide all data in its possession as requested by the Council from time to time in accordance with the timescale specified by the Council in the event of the Council receiving a request to exercise the Data Subject's Rights or a complaint or request relating to the Council's obligations under the Data Protection Legislation. Where the Council requests data for the purpose of complying with such a request, the Provider will retrieve the relevant data and provide a full copy of such to the Council as soon as is possible but in any event within 4 Working Days of such a request being made.
- 45.9 In the event that the Provider becomes aware of any unlawful Processing or a Personal Data Breach in relation to the Shared Personal Data the Provider shall:
- 45.9.1 record the details of the suspected incident in a security incident log and immediately undertake an initial investigation into the suspected incident;
- 45.9.2 promptly, and within no later than 24 hours of becoming aware of the event, give written notice to the Council with full details of such contravention; and

- 45.9.3 take no further steps in relation to the same until such time that it receives written instructions to do so from the Council.
- 45.10 The Provider will co-operate and provide reasonable assistance with any proceedings, investigation or inquiry by the Council and any subsequent actions arising therefrom, including but not limited to any report to and investigation by the Information Commissioner's Office and/or notification to any affected individuals, and implement any measure necessary to restore the security and integrity of any compromised Shared Personal Data.
- 45.11 The Provider will on the determination or expiry of this Agreement or at such time that the Provider no longer requires access to the Shared Personal Data for the purposes of performing its obligations under the same and at the request of the Council either return to the Council or securely destroy the Shared Personal Data (and all copies of such data) in the Provider's possession.
- 45.12 The Council shall on giving reasonable notice to the Provider be entitled to request that the Provider provide evidence, and/or the Council audit the procedures of the Provider (which shall include the right to enter the Provider's premises and/or view the Provider's systems) for the purposes of ensuring compliance with this clause 40 and to take any reasonable steps to satisfy itself that Provider is so complying

46 **Confidentiality**

46.1 Each Party:

46.1.1 shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly; and

46.1.2 shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Contract or except where disclosure is otherwise expressly permitted by the provisions of the Contract.

46.2 Each Party shall take all necessary precautions to ensure that all Confidential Information obtained from the other under or in connection with the Contract:

46.2.1 is given only to such of the Staff or the staff of the Council and professional advisors or consultants engaged to advise it in connection with the Contract as is strictly necessary for the performance of the Contract and only to the extent necessary for the performance of the Contract; and

46.2.2 is treated as confidential and not disclosed (without prior approval) or used by any Staff or staff of the Council or such professional advisors or consultants otherwise than for the purposes of the Contract.

46.3 Each Party shall refrain from using any Confidential Information it receives from the other otherwise than for the purposes of the Contract.

46.4 The provisions of clauses 46.1 to 46.3 shall not apply to any Confidential Information received by one Party from the other:

- 46.4.1 which is or becomes public knowledge (otherwise than by breach of this clause);
 - 46.4.2 which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
 - 46.4.3 which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - 46.4.4 which is independently developed without access to the Confidential Information; or
 - 46.4.5 which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 pursuant to clause 51.
- 46.5 Nothing in this clause shall prevent the Council disclosing any Confidential Information:
- 46.5.1 for the purpose of the examination and certification of the Council's accounts; or
 - 46.5.2 any examination pursuant to Section 6 (1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Council has used its resources; or
 - 46.5.3 to any government department or any other contracting authority. All government departments or contracting authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any contracting authority; or
 - 46.5.4 to any person engaged in providing any services to the Council for any purpose relating to or ancillary to this Contract provided that in disclosing information the Council discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- 46.6 Nothing in this clause shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

47 **Audit**

The Provider shall keep and maintain until six years after the Contract has been completed, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services provided under it, all expenditure reimbursed by the Council, and all payments made by the Council. The Provider shall on request afford the Council or the Council's representatives such access to those records and its premises as may be required by the Council in connection with the Contract.

48 Publicity

48.1 Except with the approval of the Council, such approval not to be unreasonably withheld or delayed the Provider shall not make any press announcement or publicise this Contract or any part thereof in any way. The Provider may refer to this Contract in its general marketing and in submission and presentations for contracts.

48.2 The Provider shall take reasonable steps to ensure the observance of the provision of clause 48.1 by all of its Staff.

48.3 The provision of this clause shall apply during the continuance of this Contract and indefinitely after its expiry or termination.

49 Branding principles

Any Branding shall be in accordance with principles agreed between the Council and the Provider.

50 Records

50.1 The Provider shall maintain current and accurate Records of all work carried out in the provision of the Services and shall ensure that these Records shall be available for inspection by an authorised representative of the Council at all reasonable times.

50.2 The Provider shall maintain security safeguards against the destruction or loss or unauthorised use or alteration of Records irrespective of the storage media which are under the Provider's control as part of the Services. Such safeguards shall include an obligation on the Provider to ensure that access to Records is only obtained by such Council staff as may be specifically designated by the Contract Manager.

50.3 If any Records are:

50.3.1 accidentally or wilfully destroyed, otherwise than by the Council or on the authorisation of the Council, or;

50.3.2 altered without authorisation,

in the event that the Provider does not put in hand a method for reinstatement or replacement of such Records within seven days of receipt of a Notice from the Council then without prejudice to the Council's other rights at law, the Provider shall reimburse the Council's reasonable costs in restoring such Records.

50.4 Immediately upon expiry or termination of this Contract for any reason whatsoever the Provider shall at the sole option of the Council either return to the Council all Records in an agreed form, timescale and location or destroy all copies thereof.

51 Freedom of Information

51.1 The Provider acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 and must assist and cooperate with the Council (at the Provider's expense) to enable the Council to comply with these information disclosure requirements.

- 51.2 The Provider shall upon receipt of any request for information in relation to this Contract received by the Provider or any sub-contractors:
- 51.2.1 transfer the request for information to the Council as soon as practicable after receipt and in any event within five Business Days of receiving a request for information;
 - 51.2.2 provide the Council with a copy of all information in its possession or power in the form that the Council requires within five Business Days (or such other period as the Council may specify) of the Council requesting that information; and
 - 51.2.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a request for information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations 2004.
- 51.3 The Council will be responsible for determining at its absolute discretion whether any information:
- 51.3.1 is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004; and
 - 51.3.2 is to be disclosed in response to a request for information, and in no event will the Provider respond directly to a request for information unless expressly authorised to do so by the Council.
- 51.4 The Provider acknowledges that the Council may, acting in accordance with the Ministry of Justice Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under Section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose information in relation to this Contract.
- 51.5 The Provider must ensure that all information produced in the course of this Contract or relating to this Contract is retained for disclosure and must permit the Council to inspect such records as requested from time to time.
- 51.6 The Provider acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with clause 51.4.
- 51.7 The Council shall to the extent practicable seek the views of the Provider where information is requested under FOIA or the Environmental Information Regulations 2004 which is reasonably likely to affect the commercial interest of the Provider and shall take into account the representations of the Provider in deciding on release or withholding of the information but this clause shall not fetter the discretion of the Council or its obligation to have regard to the public interest.

52 Public contracts

- 52.1 The Provider shall on [each anniversary of the Commencement Date] provide to the Council the following information:

- 52.1.1 details of any services provided by the Provider to any other third parties other than the "A" Members or "B" Members (**Third Party Services**);
 - 52.1.2 the average total turnover of the Provider since its incorporation or (where it is more than 3 years since the Provider's incorporation) for the previous 3 years;
 - 52.1.3 the proportion of that turnover attributable to Third Party Services;
 - 52.1.4 the anticipated turnover of the Provider for the forthcoming year and the proportion of that turnover anticipated to be attributable to Third Party Services.
- 52.2 The Provider shall promptly notify the Council in the event that it becomes aware that its actual turnover is likely to differ from any information provided pursuant to clauses 52.1.3 and 52.1.4.
- 52.3 In the event that the proportion of the Provider's turnover attributable to or anticipated to be attributable to Third Party Services is 20% or more the Council shall be entitled to serve Notice on the Provider terminating this Contract.

Part H – Liability and Insurance

53 Liability and Insurance

- 53.1 The Provider shall be liable for and shall indemnify the Council, its agents, servants and employees against all and any loss, damage, cost, expense, liability, claims and proceedings whatsoever in respect of any personal injury to or death of any person whomsoever and any loss or damage whatsoever arising out of or in the course of the performance of the Services (and the Provider taking access in relation to any of the Properties to carry out the same) and due to any neglect, error, act or omission of the Provider and/or any of its employees, agents or representatives.
- 53.2 Subject to the provisions of clause 53.4 the Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all potential liabilities pursuant to this Contract which may be incurred by the Provider or the Council arising out of the Provider's performance of the Contract, including but not limited to the following:
- 53.2.1 public liability insurance cover for an amount of not less than £[●] million (or such other sum as may be reasonably required by the Council from time to time) in respect of any one claim or series of claims arising from any one cause in a single calendar year;
 - 53.2.2 professional indemnity insurance cover for an amount of not less than £[●] million (or such other sum as may be reasonably required by the Council from time to time) in respect of any one claim or series of claims arising from any one cause in a single calendar year, such insurance shall be maintained for a minimum of 12 (twelve) years following the expiration or earlier termination of this Contract; and
 - 53.2.3 employer's liability insurance cover for an amount of not less than £[●] million (or such other sum as may be reasonably required by the Council from time to

time) for claims arising from any one claim or series of claims arising from any one cause in a single calendar year.

- 53.3 The Provider shall supply to the Council forthwith and upon each renewal date of any relevant policy referred to in clause 53.2 a certificate from its insurers or brokers demonstrating that appropriate cover is in place.
- 53.4 If the Provider fails to take out and maintain the insurances required by this Contract or the Parties agree that the Council shall effect any of the insurances required by the terms of this Contract whether or not in joint names then the Council may itself insure against any risk and to a level which in its reasonable opinion is required by the terms of this Contract and a sum or sums equivalent to the amount paid or payable by the Council in respect of premiums therefore may be deducted by the Council from any monies due or to become due to the Provider under this Contract or such amount may be recoverable by the Council from the Provider as a debt.

Part I – Dispute, Disruption and Termination

54 Termination

- 54.1 [The Contract consists of a number of separable activities and the Parties acknowledge that, if termination of the Contract is permitted in consequence of Default by the Provider in respect of any particular activity, the Council may in its absolute discretion terminate the Contract in relation only to a specified activity or group of activities.]
- 54.2 Subject to the provisions of clause 11 the Council may terminate the Contract by Notice in writing with immediate effect if (other than by the act or omission of the Council):
- 54.2.1 the Provider ceases or threatens to cease to carry on the whole or a substantial part of its business or disposes of the whole or a substantial part of its assets that in the reasonable opinion of the Council would adversely affect the delivery of the Services; or
 - 54.2.2 the Provider fails to obtain or retain any consent, licence or permission (or such consent, licence or permission is varied, restricted or suspended) and the Council reasonably considers that the effect thereof will or may be to have a material adverse effect on the provision of the Services; or
 - 54.2.3 the Provider passes a resolution for winding up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or an application is made for, or any meeting of its directors or members resolves to make an application for an administration order in relation to it or any party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed, or the court makes a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver, manager or supervisor is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge; or
 - 54.2.4 where the Provider is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or

54.2.5 any similar event occurs under the law of any other jurisdiction within the United Kingdom.

54.3 The Provider shall notify the Council immediately if any of the events listed in clause 54.2 occur.

55 **Termination on Default**

55.1 The Council may terminate the Contract[, or terminate the provision of any part of the Services,] by written Notice to the Provider with immediate effect if the Provider commits a Material Breach and if:

55.1.1 the Provider has not remedied the Material Breach to the satisfaction of the Council within the timeframe specified by the Council in a written Notice specifying the Material Breach and requesting it to be remedied (which timeframe shall be determined by the Council acting reasonably); or

55.1.2 the Material Breach is not capable of remedy.

56 **Consequences of termination**

56.1 If the Council terminates this Contract or terminates the provision of any part of this Contract under clause 52.3 or clause 54 or clause 55, the Council shall:

56.1.1 be entitled to employ and pay a New Provider to provide and complete the provision of the Services or any part thereof; and

56.1.2 be entitled to recover from the Provider the costs incurred in making those other arrangements including any additional expenditure incurred by the Council.

56.2 Where this Contract is terminated, no further payments shall be payable by the Council to the Provider until the Council has established the final cost of making alternative arrangements.

56.3 Termination of this Contract for any reason (including expiry) shall not affect any rights or liabilities of either Party that have accrued prior to the date of termination.

56.4 The clauses of this Contract which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

57 **Suspension**

If the Secretary of State exercises his functions under sections 15(6) and/or 15(5) of the Local Government Act 1999 (to the extent either of these affects the Council's rights under this Agreement) then until such time as the Secretary of State (or his nominee) ceases to exercise the relevant statutory function of the Council or withdraws any direction made to it (as the case may be)(the Suspension Period) neither Party shall seek to vary or terminate this Contract.

58 **Handover**

- 58.1 The Provider shall not charge the Council or any New Provider for any expenditure incurred howsoever in carrying out the handover arrangements as set out in this clause 58.
- 58.2 At the end of the Contract Period (and howsoever arising) the Provider shall forthwith deliver to the Council upon request all the Council's property (including but not limited to materials, documents, information) relating to the Contract.
- 58.3 The Provider shall use all reasonable endeavours to transfer all data relating to the Services (including requests for Services to be undertaken which have not been completed) in accordance with any format reasonably specified by the Council or a New Provider.
- 58.4 The Provider shall secure pension protection for each LGPS Employee in accordance with the provisions of the Best Value Authorities Staff Transfers (Pensions) Direction 2007. Save on expiry or termination of this Contract, if the employment of any LGPS Employee transfers to another employer (by way of a transfer under TUPE) the Provider shall consult with and inform those LGPS Employees of the pension provisions relating to that transfer.]
- 58.5 At the end of the Contract Period (howsoever arising) and for a period of six months after the Contract Period the Provider shall co-operate free of charge with the Council and any New Provider appointed by the Council to continue or take over the performance of the Contract in order to ensure an effective handover of all work then in progress.

59 **Disruption**

- 59.1 The Provider shall give the maximum possible advance warning of prospective industrial action by the Staff or other industrial disputes likely to adversely affect the performance of this Contract.
- 59.2 In the event that:
- 59.2.1 industrial action is taken by any Staff such as that the provision of the Services are, in the reasonable opinion of the Council, materially disrupted; or
- 59.2.2 action is taken by the Provider so as to prevent its Staff from providing the Services,
- the Council reserves the right to make alternative arrangements for the provision of the Services and to charge the Provider for any difference in resultant cost or terminate this Contract by Notice in writing to the Provider.
- 59.3 In the event that industrial action is taken by Staff of the Council the Provider shall make every attempt to ensure that its Staff continue to provide the Services.

60 **Dispute**

- 60.1 If there is a dispute between either Party concerning the interpretation or operation of this Contract then either Party may notify the other that it wishes the dispute to be referred to a meeting of the Contract Manager and the Provider's Representative to resolve, negotiating on the basis of good faith.

- 60.2 If after 20 Business Days (or such longer period as both of the Parties may agree) of the date of the Notice referred to in clause 60.1 the dispute has not been resolved then either Party may notify the other that it wishes the dispute to be referred to a meeting of a Strategic Director of the Council and the Managing Director of the Provider, to resolve, negotiating on the basis of good faith.
- 60.3 If after 20 Business Days (or such longer period as both parties may agree) of the date of the Notice referred to in clause 60.2 the dispute has not been resolved then either Party may notify the other that it wishes to attempt to settle the dispute by mediation, in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure 2014 (the **Model Procedure**) or such later edition as may be in force from time to time.
- 60.4 If both Parties to this Contract do not agree on the identity of the mediator then either one of the Parties may request CEDR to appoint one.
- 60.5 The procedure in the Model Procedure will be amended to take account of:
- 60.5.1 any relevant provisions in this Contract; or
 - 60.5.2 any other agreement, which both Parties may enter into in relation to the conduct of the mediation (**Mediation Agreement**).
- 60.6 Both of the Parties shall:
- 60.6.1 use their best endeavours to ensure that the mediation starts within 20 Business Days of the date on which the Notice referred to in clause 60.3 was served; and
 - 60.6.2 pay the mediator's fee in equal shares.
- 60.7 Any agreement the Council reaches with the Provider as a result of mediation shall be binding on both of the Parties, as set out in the Model Procedure. However, if the dispute has not been settled by mediation within ten Business Days of the commencement of mediation (by which is meant the commencement of the formal hearings by the mediator of each side's statements), then either Party may commence litigation proceedings (but not before then).
- 60.8 Neither Party shall be precluded by clause 60.7 from taking such steps in relation to court proceedings or otherwise as the Council or the Provider (as the case may be) may deem necessary or desirable to protect their respective positions. This shall include:
- 60.8.1 issuing or otherwise pursuing proceedings to prevent limitation periods from expiring; or
 - 60.8.2 applying for interim relief; and
 - 60.8.3 issuing or otherwise pursuing proceedings that are necessary to protect their employees or their agents.
- 60.9 The use of the dispute resolution procedures set out in this clause 60 shall not delay or take precedence over the provisions for termination set out in clauses 54 and/or 55.

61 Law and jurisdiction

Subject to clause 60 the parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Contract and the legal relationship established by this Contract (including non-contractual disputes and claims).

62 Change in law

The Provider shall take all steps necessary to ensure that the Services are performed in accordance with the terms of this Contract following any Change in Law.

62.1 Qualifying Change in Law

If a Qualifying Change in Law occurs or is shortly to occur, then either Party may write to the other to express an opinion on its likely effects, giving details of its opinion of:

- 62.1.1 any necessary change in the Services;
- 62.1.2 whether any changes are required to the terms of this Contract to deal with the Qualifying Change in Law;
- 62.1.3 [any estimated change in costs of delivering the Services that results directly from the Qualifying Change in Law,]

in each case giving in full detail the procedure for implementing the change in the Services.

62.2 Parties to Discuss

As soon as practicable after receipt of any notice from either Party under clause 62.1 , the Parties shall discuss and agree the issues referred to in clause 62.1 and any ways in which the Provider can mitigate the effect of the Qualifying Change in Law, including:

- 62.2.1 providing evidence that the Provider has used reasonable endeavours (including (where practicable) the use of competitive quotes) to minimise any increase in costs and maximise any reduction in costs;
- 62.2.2 demonstrating how any expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred or would have been incurred, foreseeable Changes in Law at that time have been taken into account by the Provider;
- 62.2.3 demonstrating that any expenditure that has been avoided, which was anticipated to be incurred to replace or maintain assets that have been affected by the Qualifying Change in Law concerned, has been taken into account.

Schedule 1

Contract Manager and Provider's Representative

Schedule [2]**Procurement Services**

- 1 The Provider will source suitable Accommodation [and, for Leased Accommodation, enter into head leases with the property owners, for a maximum of [months/years] with the Council having rights to nominate households to the Accommodation made available by the Provider.
- 2 [The Council shall procure that the Tenant will enter into an assured shorthold tenancy with the Provider and pay the agreed rent in accordance with the assured shorthold tenancy as set out in Schedule [5].]
- 3 All Accommodation acquired shall meet the standards set out in Schedule 9, [and shall normally contain all of the White Goods contained in Schedule 10 Part 1] [and normally be furnished in accordance with the Furniture Specification (Schedule 10 Part 2)], although there may be a requirement for some unfurnished Accommodation per annum. The Council shall notify the Provider of such requirements from time to time.
- 4 The Provider shall acquire Accommodation of different sizes to meet the needs of the Council. The general requirement is for family sized Accommodation with 2-3 bedrooms. No studio Accommodation should be acquired unless requested by the Council. The Provider shall contact the Council before acquiring 4+ bedroom Accommodation to confirm the need for this Accommodation.
- 5 The Provider shall provide full details of all Accommodation acquired with such details as required in accordance with the Agreed IT System.
- 6 The Provider shall make available photographs of all Accommodation acquired.
- 7 The Council shall review the demand for temporary accommodation regularly, and notify the Provider if an increase or decrease in demand is anticipated, such review being in accordance with the Allocations Policy.
- 8 The following areas of types of property shall not be acceptable:
 - 8.1 [properties in high rise tower blocks]
 - 8.2 [studio flats]
 - 8.3 [properties above food shops/restaurants]
 - 8.4 The Council shall notify the Provider of any additional areas or types of property that will not be acceptable.

Schedule [3]

Part 1 – Management Standards for Leased Accommodation

- 1 In respect of the Leased Accommodation [the Provider] will be responsible for setting the rents charged to residents and reviewing the same in accordance with the terms of the Tenancy [and collecting all rents due under the Tenancy Agreements] [and shall commence court proceedings against the Tenant in arrears of Rent or in breach of other terms of his Tenancy Agreement]]
- 2 **The Provider shall:**
 - 2.1 Visit the Accommodation on a regular basis at least once a month to ensure the Accommodation are occupied by the Tenant and to establish Tenant is complying with his obligation under his Tenancy Agreement and for the avoidance of doubt the Landlord and his employees and contractors shall carry proper identification and shall produce such identification if requested by the Tenant.
 - 2.2 Set up appropriate systems as necessary for the effective performance of the management services including a 24 hour telephone access and to give such details to the Tenant.
 - 2.3 Use its reasonable endeavours to ensure that a Tenant understands his/her rights and obligations under the Tenancy Agreement and to provide advice and assistance where necessary on matters relating to his tenancy, housing benefit entitlement and claims, welfare claims and to deal with neighbourly disputes
 - 2.4 Arrange if required for the Tenant to pay the gas electricity and other bills that are his responsibility under his Tenancy Agreement
 - 2.5 Take all reasonable steps to enforce the terms of the Tenancy and to report in writing to the Council promptly any matters of concern
 - 2.6 Not make any charge or demand payment from the Tenant for services provided under this Schedule but nothing in this paragraph shall prevent the Landlord from claiming or recovering damages against any such Tenant in respect of any loss or damage caused by the Tenant
 - 2.7 To keep records as necessary including an events diary for the effective carrying out of the maintenance management duties and provide reports to the Council on request and to attend any management meetings at the reasonable request of the Council and on reasonable notice to provide access to the Council to its records, tenancy agreements and lease agreements and to keep such records in good order.
 - 2.8 Not to permit itself or anyone acting in his service including any subcontractor to act in such manner as may infringe the provisions of Human Rights Act 1998 or constitute an act of discrimination against any person

- 2.9 To notify the Council in writing forthwith on becoming aware of any change in a Tenant's circumstances, as may be relevant to the Council's obligations under Part III of the Housing Act 1985 or Part VI and VII of the Housing Act 1996 (as amended).
- 2.10 To notify the Council in writing forthwith on becoming aware that a Tenant is no longer residing in Accommodation and to take all prompt action to recover possession of such Accommodation including all such action as is necessary to evict unauthorised occupants.
- 2.11 At the Provider's own cost to take such action to recover possession of the Accommodation as the Council shall reasonably require.
- 2.12 Indemnify the Council against any liability which it might or does incur to any person, by reason of the fact that any Accommodation suffers from a Category 1 Hazard as defined by the Housing Health and Safety Rating System made under the Housing Act 2004.
- 2.13 Pay and discharge all water rates sewer charges Council Tax and any other charges in respect of gas electricity telephone and other services and outgoings in respect of any Accommodation except where these are the responsibility of the Tenant.
- 2.14 Inform the Tenants that their personal belongings are not insured by the Council or the Provider and to encourage Tenants to take out individual contents insurance.
- 2.15 Comply with all statutory provisions relating to the Accommodation including without limitation all fire regulations;
- 2.16 Supply evidence of insurance held and the last premium receipts or certificates of insurance the Council on request.
- 2.17 On receipt of a Tenant reasonable repair request inspect the Accommodation and promptly undertake necessary repairs and maintenance work diligently within reasonable period of time except emergency work which shall be attended to immediately
- 2.18 Carry out an annual inspection and servicing and repairs to any gas appliances with the Accommodation and to meet the full requirements of the gas and electricity installation and use regulations.
- 2.19 Enter into and keep in force throughout the Term a service contract with a Gas Contractor previously approved by the Council in writing (such approval not to be unreasonably withheld) which contract shall require the Contractor to repair and maintain installations for space heating central heating and water heating at the Accommodation in safe working order and provide to the Council a copy of each contract entered into.
- 2.20 Ensure that the electricity and gas supply circuits and installations at the Accommodation and in particular any heating apparatus and cooking apparatus have been serviced by a properly qualified person and for the avoidance of doubt the gas contractor must be registered with Gas Safe and electricity contractor NICEIC approved or such other regulatory body which replaces them within the last 3 months from the date of this Contract and that the gas and electricity supply and installations will be serviced by such a qualified person at least once in each year during the Term and that the Landlord will provide to the Council a valid annual Gas Safety Certificate and annual Electricity Safety Certificate for each year of the Term

- 2.21 Repair, renew or replace any of the Furniture or furnishing which has become unusable due to fair wear and tear, defect or bad workmanship at any time during the Term and ensure that that soft furnishings such as mattresses and three piece suite etc are clearly labelled and conform to the Furniture and Furnishings (Fire) (Safety) Regulations 1993 and the furniture is in reasonably good condition.
- 2.22 To keep any gardens forming part of the building or the Accommodation tidy and hedges and grass regularly trimmed and cut
- 2.23 To remedy any outbreak of dry or wet rot any rising or penetrating damp whether arising from leaks penetration or failure of damp proofing membrane

3 **Vacancies and Voids**

- 3.1.1 To notify the Council promptly in writing if any of the Accommodation is vacant or likely to become vacant
- 3.1.2 To notify the Council in writing forthwith on becoming aware that a Tenant is no longer residing in any of the Accommodation or any of the Accommodation is being sublet or being overcrowded or any of the Accommodation is being shared with unauthorised occupants or any change in Tenant s circumstances as may be relevant to the Council's obligations under Part III of the Housing Act 1985 or Parts VI and VII of the Housing Act 1996
- 3.1.3 To control and arrange the security of all of the Accommodation from the date of this Contract until tenanted and whenever during the Term any of the Accommodation is unoccupied/vacant undertaking necessary cleaning clearance and repairs as quickly as is reasonably practicable after vacation in any event within two weeks of vacation and to notify the Council forthwith that the Accommodation is ready for occupation. If such Accommodation requires extensive repair such repairs to be carried out within six weeks of vacation and any delay beyond six weeks must be agreed in writing with the Council
- 3.1.4 On each and every re-let following a Void to undertake necessary repair and maintenance work to ensure that Accommodation, including Furniture, furnishing, carpet and fixtures, meets the standards as required at the initial let which for the avoidance of doubt shall include newly certified gas and electricity certificate
- 3.1.5 To pay and discharge all water rates, sewerage charges, Council Tax and other charges in respect of gas, electricity, telephone and other services and outgoings of the respective Void Accommodation during any Void period where such Void periods results from vacation by Tenant and that Void Accommodation not being made available for a new Tenancy.
- 3.1.6 To secure all Accommodation during a Void period and undertake all necessary cleaning clearance and repairs as quickly as is reasonably practicable after a Void and in any event within two weeks of such Void save where the Accommodation requires extensive repairs in which case such repairs are to be carried out within six weeks of such Void and to notify the Council forthwith of the progress being made and when that Accommodation is ready for occupation

Schedule [3]

Part 2 - Management Agreement between the Provider and a third party

[Management/Agency Agreement to be included]

Schedule [4]**Nominations Services****1 Nominations Procedure for Non-leased Accommodation**

1.1 [In accordance with the Allocation Policy and as soon as practicable after the Provider becomes aware that Non-leased Accommodation will be available for letting it shall notify the Council in writing of this [via the Agreed IT System], [identifying the Accommodation, its size and nature and the date from which it will become available for letting. For the purposes of this clause notification may be by e-mail addressed to [•] officer or address as may from time to time be notified by the Council in writing.]]

1.2 Within 48 hours of the date of receipt of the notification [via the Agreed IT System] the Council shall nominate an individual for a Tenancy of the Accommodation. For the purposes of this clause notification shall again be in writing and may be by email.

2 Nominations Procedure for Leased Accommodation

2.1 [In accordance with the Allocation Policy and As soon as practicable after the Provider becomes aware that Leased Accommodation will be available for letting it shall notify the Council in writing of this [via the Agreed IT System], [identifying the Accommodation, its size and nature and the date from which it will become available for letting. For the purposes of this clause notification may be by e-mail addressed to [•] officer or address as may from time to time be notified by the Council in writing.]]

2.2 Within 48 hours of the date of receipt of the notification [via the Agreed IT System] the Council shall nominate an individual for a Tenancy of the Accommodation. For the purposes of this clause notification shall again be in writing and may be by email.

2.3 The Provider shall ensure that the Nominee is invited to view the Accommodation as soon as reasonably practicable and in any event within three Working Days from receipt of the date of nomination within Clause 3.2. It shall ensure that an officer of the Provider is present to conduct the viewing of the Accommodation.

2.4 The Provider shall offer a tenancy either at the viewing as referred at paragraph 2.3 above or as soon as practicable after the viewing of [6 / 12 / 24] months' fixed term to the Nominee in the form of Assured Shorthold Tenancy Agreement as set out in Schedule [4] Part 2 of this Contract.

2.5 As soon as, and no more than 1 Working Day after, an offer of a Tenancy has been either accepted or refused the Provider will notify the Council in writing by email of the full details of the offer of Tenancy made and whether it has been accepted or refused.

2.6 Upon a Nominee refusing an offer of Tenancy of the Accommodation offered, the provisions of paragraphs 1.2 – 1.4 shall again have effect and shall continue to do so until a Nominee accepts a Tenancy of that particular Accommodation.

2.7 During this period specified in paragraph 1.6 the Council shall be responsible for the payment of the rent.

3 Right to Reject Nominations

3.1 The Provider may only reject Nominees in the following specific circumstances acting reasonably:

- 3.1.1 if the circumstances of the Nominee's household have changed since they were last assessed by the Council,
- 3.1.2 if inaccurate information about the Nominee or the Nominee's household has been provided by the Council,
- 3.1.3 if new information about the circumstances of the Nominee's household (of which the Council was unaware) comes to light,
- 3.1.4 if the Provider reasonably considers that the Nominee has no means to meet the rental commitments,
- 3.1.5 if the Provider reasonably considers that the Accommodation in question is unsuitable for the Nominee's household. Accommodation will be defined as unsuitable where the Provider (acting reasonably) considers that:
 - (a) the Nominee's household is too large for the Accommodation,
 - (b) the Nominees household does not require a home as large as the Accommodation,
 - (c) the Accommodation is not suitably adapted for the Nominee's household, or
 - (d) the area is unsuitable for reasons of the Nominee's household potentially suffering harassment or violence.
 - (e) if the Provider [or the landlord of the Accommodation] has previously been the landlord of the Nominee and
 - i the Nominee has subsequently been evicted, or
 - ii the Nominee has abandoned the previous property following an issue of a Notice of Seeking Possession for the following reasons:
 - A rent arrears,
 - B nuisance,
 - C harassment,
 - D violence towards staff/neighbours, or
 - E damage to the property.

3.2 In exceptional circumstances the Provider may reject a Nominee on grounds other than those specified above. However the rejection of a Nominee must be for specific reasons and will require the approval of the Council.

- 3.3 In the event of rejection of any Nominee proposed by the Council hereunder the Provider shall notify the Council within one (1) Working Day of such decision and/or property viewing date giving the reasons therefore.
- 4 **Termination of nomination**
- 4.1 In the event of the Council determining that it does not owe or no longer owes a duty to a Tenant under Part VII of the Housing Act 1996 (as amended by The Homelessness Act 2002 and the Localism Act 2011) or the Homelessness Reduction Act 2017 or that such duty has been discharged whether by a refusal or another offer of accommodation or otherwise then the Council shall notify the Provider of this determination. Upon receipt of written notification from the Council the Provider shall consider serving such notices as are required upon the Tenant as soon as permitted under the terms of the Tenancy.
- 4.2 Without prejudice to Clause 4.1 the Provider may seek an order for possession of any Accommodation in the following cases:
- 4.2.1 where in the reasonable opinion of the Provider it is necessary to ensure that the Provider is able to comply with its own obligations under its lease of the Accommodation; or
- 4.2.2 where in the reasonable opinion of the Provider it is necessary in order to prevent the Tenant acquiring any different or additional security of tenure.
- 4.3 In those cases where the Provider does decide to commence proceedings for possession as set out in paragraph 4.2 above it shall notify the Council in writing within 7 Working Days of the decision giving full reasons and if appropriate providing information for taking the decision.
- 4.4 Should the Provider subsequently withdraw or discontinue or should the proceedings be struck out or an out of court settlement reached or the proceedings suspended or adjourned for whatever reason then the Provider shall further notify the Council in writing within 7 Working Days of the reasons why or circumstances surrounding the aforementioned delay or resolution of those proceedings. Further and in cases where the Provider obtains an order for possession which it intends to enforce it shall provide the Council with written details as to why enforcement is being sought prior to enforcement of the order.
- 4.5 Where possession proceedings are commenced in accordance with paragraph 4.2 above the Council will at all times and in any event be responsible for and will duly pay any costs, legal or otherwise, which may arise as a result of those proceedings. Whether proceedings are commenced the Council will provide such documentation and assistance as the Provider may reasonably require.

Schedule [5]
Assured Shorthold Tenancy Template

Schedule [6]
KPIs

Schedule [7]
Variation Notice

Schedule [8]

Payment Provisions

[This will require separate provisions for each Service and a mechanism to adjust fees to account for services coming in and out or being expanded]

Schedule [9]**Minimum Property Standards****1 Introduction**

- 1.1 Set out below are the minimum property standards that all Accommodation shall meet.
- 1.2 The Accommodation is likely to be the main residence for the Tenant so the following standards must be met.
- 1.3 Accommodation accepted for the Scheme shall not contain any Category 1 hazards under the Housing Health and Safety Rating System as set out in the Housing Act 2004 and associated guidance. Where the Accommodation is a flat, all flats in the building of which it is part shall also conform to the appropriate fire protection standard.
- 1.4 Conversions of houses or other buildings into flats require both planning permission and building control approval. Loft and other conversions require building control approval. Proof of any required permissions and/or approvals shall be provided before Accommodation can be accepted for the Scheme.
- 1.5 Accommodation above restaurants, fast food outlets or commercial premises where hazardous substances are kept shall not be acceptable for the Scheme. Neither are flats above noisy, late night opening premises such as minicab offices, clubs or pubs acceptable for the Scheme.
- 1.6 Where a standard of repair etc. is specified the Accommodation shall be expected, in normal use, to maintain this standard throughout the period of the Lease.
- 1.7 The Energy Act 2011 contains powers so that from 2016 landlords should not be able to refuse reasonable requests for consent to install Green Deal measures from their tenants. The Provider should ensure their properties meet a minimum energy efficiency standard of 'D' or that they have installed the maximum package of measures under the Green Deal.
- 1.8 All property standards are subject to changes in legislation from time to time. Where legislation changes to impose a new or higher standard than what is expressly provided for within this Schedule 9 the relevant standard within that legislation shall apply as if it were incorporated within this Schedule. If legislation changes these standards to a lesser standard, these standards set out in this Schedule 9 shall continue to apply despite the reduction in legislative requirements.

2 External Property Standards**2.1 Access**

2.1.1 All Accommodation shall have:

- (a) Safe, well-lit and easy access with no obstructions,
- (b) Paths and yards (if present) which are reasonably surfaced so as not to present a tripping hazard and which shall be adequately drained so as not to retain standing water,

- (c) Access stairways (if present) which are secure and not unreasonably steep, any stairway or step shall not vary from current building regulation requirements in such a way as to present an unreasonable level of hazard to users,
- (d) Access stairways (if present) which have an adequate and securely fixed handrail.
- (e) Access covers over manholes and service ducts to be flush with pavement and of no danger to pedestrians.
- (f) Three sets of keys per flat including three keys to shared main entrance door in blocks of flats.

2.2 Communal Areas (where applicable)

2.2.1 All communal areas shall be:

- (a) Clean, tidy, well lit and well maintained,
- (b) Maintained by a responsible landlord or managing agent who shall be identified.
- (c) In multi-occupied properties all escape routes should be clearly marked. Extinguishers, hose reels and risers etc. should show complete records of servicing.

2.3 Roof (where applicable)

2.3.1 All Accommodation shall have:

- (a) A roof or roofs which are well insulated (a minimum of 200 mm of rockwool insulation or equivalent where possible), watertight, free from all defects, loose or missing tiles/slates, etc.

2.4 Guttering (where applicable)

2.4.1 All Accommodation shall have:

- (a) Adequate drainage from roofs,
- (b) Downpipes secured to walls, gutters and downpipes which are free from blockages and in good repair.

2.5 Garden (where applicable)

2.5.1 All gardens shall:

- (a) Be cleared of rubbish and have all vegetation, shrubs and trees cut back,
- (b) Have their walls and fences in good order,

- (c) Have gates (if present) that operate well with gate posts/pillars that are secure,
- (d) Have sheds or ancillary buildings (if present) which are empty, in good repair and safe.

2.6 Rubbish Disposal

2.6.1 All Accommodation shall have:

- (a) Sufficient bins provided for a normal household's use, depending on the size of the Home, in a clearly defined and easily cleaned bin storage area or adequate refuse storage and disposal facilities.

3 Internal Property Standards

3.1 Doors

3.1.1 Doors shall meet the following standards:

- (a) All external front (main entrance) doors and frames shall be of exterior grade quality and should be reasonably secure from access by burglars. They shall have a 5 lever mortise dead lock with an additional "Yale type" latch, or where purpose made UPVC door has integral door locking mechanism and an internal chain,
- (b) All other external doors shall have a five lever mortise dead lock with internal bolts,

3.1.2 All external front doors shall open freely, have a bell or adequate knocker fitted and be clearly numbered,

3.1.3 All internal doors shall open, close and fasten properly and have their keys removed, bathrooms and toilets should be provided with a courtesy latch that could be forced open by an adult if a child accidentally locks themselves in.

3.1.4 All doors with large glass panels shall be fitted with safety glass or safety film.

3.1.5 Balcony and store doors used other than as a means of escape route are to be fitted with a keyed level deadlock, and are to be locked shut.

3.2 Staircases (where applicable)

3.2.1 All staircases shall have:

- (a) Gaps between their spindles and gaps between their balustrades which are no more than 100mm,
- (b) All gaps between treads and risers filled in,
- (c) A two way light switch provided in all stairwells/hallways with more than one floor so that the light can be switched off/on from either floor or floors,
- (d) Be free from obstruction and not unreasonably steep,

(e) A suitable handrail.

3.2.2 All staircases should where possible conform to current building regulations. Any stairway or step should not vary from current building regulation requirements in such a way as to present an unreasonable level of hazard to users.

3.3 Walls and Ceilings

3.3.1 Walls and ceilings shall meet the following standards:

3.3.2 All Accommodation shall be free from damp, mould, condensation, peeling paper, etc.

3.3.3 Condensation occurs sometimes in all homes. Condensation problems due to structural features shall not be so pervasive as to constitute a health hazard or be a statutory nuisance,

3.3.4 If Accommodation has been accepted, and subsequently found to suffer from significant condensation problems, then the Council in his absolute discretion shall have the right to require the Provider to provide and fit suitable heat recovery/ventilation systems.

3.3.5 Polystyrene tiles to be removed from all ceilings and walls, and the walls and ceilings adequately repaired or replaced with durable material.

3.3.6 Wall or floor stops shall be provided for all doors to protect wall decoration.

3.4 Plaster

3.4.1 All plaster shall be sound and show no movement when examined.

3.5 Decoration

3.5.1 All surfaces shall be painted/papered/or tiled,

3.5.2 All paint shall be cleaned and free from obvious marking, dirt, etc.,

3.5.3 All wallpapers shall be in good condition and free from defects,

3.5.4 All woodwork shall be free from rot of any description and painted to a reasonable standard with gloss paint suitable stain or varnish.

3.6 Windows/Glazing

3.6.1 The following requirements shall apply to windows and glazing:

(a) Louvre windows and centre hung "swing" windows shall be accepted in the absolute discretion of the Contract Manager. All "swing" windows shall have a restraining bar,

- (b) Any windows above ground floor level which open shall be fitted with a restrictor mechanism. This mechanism shall limit the windows opening to no more than 150 mm,
- (c) Overlook windows in bathrooms and toilets shall be glazed with obscure glass or treated with plastic film to provide privacy,
- (d) New or replacement glazing installed after April 2002 shall consist of energy saving sealed double-glazing and comply with Building Regulations. To prove compliance it shall have:
 - i A certificate showing that the work has been carried out by an installer registered with the FENSA scheme, and
 - ii A certificate from the local authority confirming that the installation has been approved under the current Building Regulations.

3.6.2 All glazing which is under 800mm/2.8 feet from the floor (and greater than 25cm in any direction) shall be re-glazed with toughened glass or have safety film properly applied to prevent shattering if it is broken.

3.6.3 All main habitable rooms (living rooms and bedrooms) shall have a reasonable glazed window area allowing reasonable levels of natural light. Bedrooms and living rooms should not have borrowed light or ventilation, e.g. from a glazed panel above a door.

3.6.4 All windows shall be reasonably secure from entry by intruders.

3.6.5 Joints around windows and doors to be sealed and flashed to form a watertight junction, window and door sills, thresholds, joints and heads to be in good condition and allow easy operation of window sash. Glazing to be secured and not cracked or broken.

3.6.6 Casement stays or similar childproof restrain devices appropriate to the type of window to be fitted on the windows.

3.7 Ventilation

3.7.1 The following standards shall apply:

- (a) All main habitable rooms (i.e. living rooms and bedrooms) shall have at least one twentieth of the floor area available as windows that open,
- (b) This requirement also applies to kitchens, bathrooms and WC cubicles if they rely on natural ventilation (openable parts of windows should easy to operate),
- (c) If a kitchen, bathroom or a WC is an internal room it shall have mechanical extract ventilation,
- (d) If mechanical ventilation is require in a kitchen it shall be capable of three air changes per hour,

- (e) If mechanical ventilation is required in a bathroom and/or WC it shall be capable of three air changes per hour,
- (f) A light switch shall activate any mechanical ventilation and the fan shall have a twenty minute overrun when the light is switched off.

3.7.2 Non-mechanical ventilation system e.g. airbricks, gutters or permavents to be provided for the removal of foul air and condensation build-up in auxiliary or habitable rooms (living rooms or bedrooms with external walls).

3.7.3 Ventilate all permanently closed fireplaces with a fibrous plaster louvre or a fixed grill over the chimney breast.

3.8 Insulation

3.8.1 The following standards shall be met:

- (a) All accessible loft spaces shall have a minimum of 200mm Rockwool insulation (or equivalent) properly laid,
- (b) All hot water tanks should be foam lagged or have a good quality insulating cylinder jacket, which has been properly fitted,
- (c) All water tanks and pipes which may be liable to damage by frost shall be adequately protected with lagging.

3.9 Heating and Hot Water Systems

3.9.1 Heating and hot water shall be provided and shall meet the following standards:

- (a) There shall be either a full gas central heating and hot water system which is preferred, or Electric Economy Seven night storage heating which is less than 5 years old, older Accommodation to be agreed at the absolute discretion of the Council.
- (b) If water heating is by electricity it shall be of reasonable capacity and have an on and off peak tariff.
- (c) The heating shall be sufficient to maintain an internal room temperature of 21 degrees Celsius in the living room and 18 degrees Celsius in the bedrooms, bathroom, kitchen and hallway when the outside temperature is minus 1 degree Celsius,
- (d) Boilers shall be less than 10 years old, older Accommodation to be agreed at the absolute discretion of the Contract Manager.
- (e) All pipework to the boiler should be boxed in appropriate to its location.
- (f) All gas heating systems shall have a 3 star British Gas Service Agreement or equivalent,
- (g) All heating systems shall have a timer and thermostat,

- (h) All hot water systems shall be able to operate independently from the heating system,
- (i) Details for the location of the on/off switch shall be noted and provided to Service Users,
- (j) Landlords shall provide a gas safety certificate and copy of the annual Gas Safe service agreement every year. A copy of the safety certificate shall be given to the Service User; The report should not have any items requiring attention.
- (k) Accommodation with boilers fitted in bedrooms shall not normally be accepted. The Contract Manager may consent in his absolute discretion to a boiler being located in a bedroom, such consent shall be sought in advance of the Accommodation being offered to the Council for letting
- (l) Operating instructions for heating/hot water system shall be provided to Tenants.
- (m) External and internal cold water storage cisterns, tanks etc to be properly housed, insulated and protected.
- (n) Plumbing must comply with the current water authority Bye-Laws. Stop valves must be clearly labelled especially when situated in common areas.

3.10 Electrical Items

- 3.10.1 All Accommodation shall meet the following standards:
- 3.10.2 All Accommodation shall have a current NICEIC or NAPIT electrical safety report. This report must have no items marked as requiring urgent attention or investigation,
- 3.10.3 All electrical wiring shall be covered,
- 3.10.4 All surface mounted wiring shall be enclosed in suitable plastic conduit,
- 3.10.5 All RCD consumer unit shall be housed in a cupboard, with a childproof latch on the door to prevent access and ensure that cables under the meter are covered,
- 3.10.6 Boiler and cooker. Fused spurs shall be provided,
- 3.10.7 Portable Appliance Testing (PAT) is required annually for all electrical appliance supplied (e.g. electric cookers).
- 3.10.8 An adequate number of sockets shall be required and the following shall be appropriately spaced:
- 3.10.9 Living room. 2 double sockets as a minimum
- 3.10.10 Double bedrooms. 2 double sockets as a minimum

- 3.10.11 Single bedrooms. 1 double socket as a minimum
- 3.10.12 Kitchen. 2 double sockets at worktop height as a minimum, 1 socket for a fridge and one socket for a washing machine,
- 3.10.13 Landing. 1 socket as a minimum.
- 3.10.14 Electric lighting in each room is to be of sufficient intensity.

3.11 Furniture

- 3.11.1 The following items shall be provided:
 - (a) Carpets or other suitable flooring, curtains, net curtains, light shades, cooker and fridge/freezer or a separate fridge and freezer. In the case of the latter items, size shall be dependent on the size of the Accommodation concerned, i.e. a larger cubic volume is required for a four bedroom house than a one bedroom flat,
 - (b) At the discretion of the Contract Manager beds may be requested.
 - (c) Any other furniture left in the Accommodation shall be left at the landlord's own risk, for which no further payment will be made and no repairing responsibility accepted,
 - (d) Any furniture shall comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended).

3.12 Fire Safety

- 3.12.1 The following standards shall apply
- 3.12.2 All Accommodation shall have adequate fire separation between separate units of Accommodation
- 3.12.3 All front doors to flats which lead off a communal hallway shall be half hour fire resistant doors, designed to meet BS476 and Part 22,
- 3.12.4 If the kitchen adjoins a fire escape route, a half hour fire door complying with BS476, Part 22 shall be provided. If for any reason the Contract Manager agrees, in his absolute discretion, that this requirement is impracticable, then a mains powered electricity heat rise detector shall be installed in the kitchen and wired to a suitable alarm,
- 3.12.5 All glazed kitchen doors shall have clear Georgian wire cast glass, or other suitable safety glass,
- 3.12.6 A fire blanket shall be provided,
- 3.12.7 The preferred standard for smoke alarms shall be electrically operated interlinked smoke alarms installed to each floor complying with BS5839, Part 6 and conforming to Grade D, Type LD2,

- 3.12.8 As a minimum standard, and only at the absolute discretion of the Contract Manager, plug-in smoke alarms (such as that recommended by the Fire Brigade with a built in 10 year battery) shall be installed on each floor,
- 3.12.9 Smoke alarms with removable batteries shall not be acceptable under any circumstances.
- 3.12.10 All properties that use fuel-fired heaters or appliances or fireplaces or attached garage to be equipped with a CO detector.

4 Room Standards

4.1 Kitchens

4.1.1 Kitchens shall meet the following minimum standards:

- (a) Cooker
 - i All rings shall operate,
 - ii If free standing, the cooker shall be chained to the wall,
 - iii The oven shall be clean and provided with shelves,
 - iv Anti-tilt brackets or chains to be fitted to all cookers.
 - v Half-hour fire check doors to be fitted to all cookers.
 - vi All oven doors should be “cool doors” so they should not be hot to the touch.
- (b) Sink
 - i Splash backs shall be tiled to a minimum of 300mm (two tiles high),
- (c) Sinks and worktops shall be sealed around edges with silicone sealant,
- (d) Kitchen sink units, water and gas service pipes should be cross-bonded and earthed to current electrical regulations.
- (e) All waste pipes and traps shall be free of defects with no leaks or drips.
- (f) Any holes around waste pipes and traps shall be sealed so as to prevent the ingress of vermin,
- (g) Taps shall be in good condition (i.e. no dripping) and easy to operate by children or people with finger mobility problems,
- (h) Kitchen Accommodation - All units shall be less than 10 years old and free from defects,
- (i) There must be adequate work surface space for the size of the Home.

- (j) An adequate number of units shall be provided, below is the suggested guidance.
 - i There shall be a minimum of two fitted floor unit (excluding the sink unit),
 - ii There shall be a minimum of two drawers,
 - iii There shall be a minimum of two fitted wall units,
- (k) Fridge/freezer or fridge and freezer
 - i The fridge/freezer or fridge and freezer shall be clean and in good working order,
 - ii They shall have a capacity of at least 131 litres (fridge) and 61 litres (freezer).
- (l) Washing machine
 - i Washing machines are not required but there shall be:
 - A Sufficient space for a washing machine to be installed under a work surface in the kitchen or equivalent position,
 - B Appropriate fittings to allow such installation to take place, and
 - C A non-return valve fitted to the waste pipe.

4.1.2 Floor covering

- (a) Floor covering shall be of the vinyl type or tiled and shall be free from all defects.

4.1.3 Stopcock

- (a) Location of stopcock should be identified.

4.2 Bathrooms

4.2.1 The following standards shall be provided:

- (a) Floor covering
 - i Floor covering shall be vinyl type or tile and shall be free from defects.
 - ii Floors shall be sealed around their edges with silicone sealant.
- (b) Bath
 - i The bath shall be fitted securely and there shall be no leaks,

- ii Bathrooms shall be tiled to a height of 300mm around bath and well sealed at the joints,
 - iii All bath panels shall be free of defects,
 - iv Generally the standard to be reached in a bathroom is one where normal usage will not lead to any water ingress into the structure of the Accommodation over the period of the lease.
- (c) Showers
- i Showers are not essential but where provided the landlord shall ensure that their normal use will not damage the Home, through water ingress or otherwise,
 - ii Separate shower cubicles shall be tiled to a height of 1.8 metres,
 - iii All shower bases shall be adequately sealed and a curtain/door provided.
 - iv Generally the standard to be reached in a shower room is one where normal usage will not lead to any water ingress into the structure of the Accommodation over the period of the lease.
- (d) Showers fitted above baths
- i Tiling shall be of a sufficient height to protect the decoration of the wall (1.8 metres +),
 - ii A shower door or curtain shall be provided and shall be of a sufficient standard to prevent water damage to the floor,
 - iii A wall bracket shall be provided for shower attachments,
 - iv The provision of a bath rather than a shower shall be strongly preferred. Accommodation with showers only shall be considered but only in exceptional circumstances, and shall be accepted in the absolute discretion of the Contract Manager.

4.2.2 Washbasin

- i The splash back shall be tiled to a minimum of 300mm (two tiles high),
- ii Washbasins shall be sealed around the edges with bathroom grade silicone sealant,
- iii Waste pipes and taps shall be free of defects with no leaks or drips,
- iv Taps to be easy to operate
- v Taps shall be in good condition (i.e. no dripping) and easy to operate by children or people with finger mobility problems.

- (b) A mirror and towel rail shall be provided.
- (c) Light fittings shall be of a sealed type appropriate for bathrooms.

4.2.3 Toilet

- (a) The toilet shall be clean, secure, free of defects, with a secure seat and the cistern shall fill at a reasonable rate,
- (b) The floor covering in separate WC closets shall be free of all defects. Vinyl flooring or tiles shall be preferred with sealing at the edges with silicone. Carpet shall not be acceptable.
- (c) A toilet roll holder shall be provided,
- (d) In large Accommodation of 4 bedrooms or more, a second toilet is preferable.

4.3 Living Room and Bedrooms

4.3.1 Size/layout

- (a) Living rooms shall be at least 80 square feet in area and large enough to comfortably contain a sofa 2 armchairs and a television,
- (b) Double bedrooms shall be at least 80 square feet in area,
- (c) Single bedrooms shall be at least 50 square feet in area,
- (d) Bedrooms accessed off another bedroom shall not count as a separate room,
- (e) Rooms of less than 50 square feet cannot be used as living rooms or bedrooms,
- (f) All Accommodation shall have a minimum of one double bedroom,
- (g) Accommodation with unusual room layouts or shapes shall be accepted in the absolute discretion of the Contract Manager.

4.3.2 Carpets

- (a) Carpets (or other suitable flooring) shall be provided. It shall have a good quality underlay, be clean, of reasonable quality and free from all defects such as excessive wear, loose seams, tainting, bare patches and so on,
- (b) Laminate or other wooden flooring shall not be acceptable, in flats above ground floor level unless the floor is of a solid concrete construction, because of potential noise disturbance.

4.3.3 Curtains

- (a) Curtain rails shall be securely fitted above all windows.
- (b) Curtains shall be clean, free from defects and when drawn at night prevent external viewers seeing into the room concerned, Net curtains shall be fitted to all windows.
- (c) Blinds shall be accepted in the absolute discretion of the Contract Manager.

5 **Pest Control Standards**

- 5.1.1 The property should be free from pest infestations throughout. Where an infestation is present the provider should assess it having regard to the extent of the infestation and the effectiveness of any treatment in progress. Where treatment is absent or inadequate, they must engage the services of a reputable pest control operator to eradicate the problem at source and undertake periodic routine inspections. The manager should then keep a log book of periodic pest control treatments and keep it available for inspection by the Council.

Schedule [10] [Part 1]

White Goods

- 1 **Freezer Fridge**
- 2 **Cooker or oven and hob**

Schedule [10] Part 2**Furniture Specification****1 Furnished Properties**

1.1 The requirements for furnished properties are:

- 1.1.1 Cooker, fridge, freezer and appropriate number of units in the kitchen
- 1.1.2 Dining table and chairs
- 1.1.3 2 or 3-piece suite as appropriate
- 1.1.4 Beds (one double, two singles or one single dependent upon size of room)
- 1.1.5 Wardrobe and chest of drawers in all bedrooms
- 1.1.6 Curtains and/or nets on all windows
- 1.1.7 Appropriate flooring to all floors
- 1.1.8 Lampshades
- 1.1.9 Bulbs (at the commencement of each sub tenancy and not otherwise)

2 Part Furnished Properties

2.1 The requirements for part furnished properties are:

- 2.1.1 Cooker, fridge, freezer and appropriate number of units in the kitchen
- 2.1.2 Curtains and/or nets on all windows
- 2.1.3 Appropriate flooring to all floors
- 2.1.4 Lampshades
- 2.1.5 Bulbs (at the commencement of each sub tenancy and not otherwise)

IN WITNESS of which this Contract has been duly executed by the Parties.

[Note: please provide the appropriate execution clauses]

On behalf of the Council

executed as a deed by affixing **THE COMMON**

SEAL of [])

) *[Common seal of the Council]*

in the presence of)

[Authorised signatory]

[Authorised signatory]

On behalf of the Provider:

executed as a deed by **CAPITAL LETTERS**)

acting by *[name of director]*, a director)

and *[name of director or secretary]*,) Director

a director *OR* its secretary)

Director/Secretary

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dated

2018

Capital Letters

and

[Management Agency]

Management/Agency Agreement of Accommodation for Homeless Persons

Trowers & Hamlin LLP
3 Bunhill Row
London
EC1Y 8YZ
T +44 (0)20 7423 8000
F +44 (0)20 7423 8001
Www.Trowers.Com

Draft () Dated []

Management Agreement

dated []

Parties

- (1) **[Capital Letters] Limited** (Company number []) whose registered office is at [] (the **Capital Letters**).
- (2) [] of [] (the **Managing Agent**);

Introduction

The Managing Agent has agreed to [lease certain residential premises to Capital Letters for use as temporary housing accommodation and to] manage Accommodation [by way of rent collection only] on behalf of Capital Letters.

1 Interpretation

- 1.1 Words importing the masculine gender only shall include the feminine and neuter gender where appropriate;
- 1.2 Words importing the singular number only shall include the plural number and vice versa;
- 1.3 Where a party comprises more than one person, the covenants and obligations entered into by that party are to be construed as having been made by all such persons jointly and severally;
- 1.4 Any reference to any statute shall (unless otherwise stated) include any re-enactment, consolidation and/or renewal thereof for the time being in force and any references to any statute or statutes in general shall include any order, instrument, plan, regulation, permission or direction made or issued thereunder or deriving validity therefrom.
- 1.5 The headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement and references to a clause, sub-clause, schedule or paragraph are (unless otherwise stated) to a clause or sub-clause in and a schedule to this Agreement and to a paragraph of the relevant schedule.
- 1.6 The following expressions shall have the following meanings:

Accommodation means a Leased Accommodation or Non-leased Accommodation;

Agreed IT System means [the system procured by Capital Letters]

[Capital Letters Lease] means the Lease [entered into / to be entered] into between the Managing Agent and Capital Letters in respect of the Accommodation.]

Council(s) means the Councils that have nominated Tenants to the Accommodation as listed at Schedule 3

Cost shall mean the sum payable by Capital Letters for the Services as

	referred to in Schedule 1
Data Protection Legislation	means the General Data Protection Regulation (EU) 2016/679 (the GDPR) or such other domestic legislation that supplements and / or implements the GDPR, along with any associated guidance and Codes of Practice
Data Subject's Rights	means any request exercising or purporting to exercise rights under Chapter III of the GDPR
[Furniture	means furniture provided by the Managing Agent as set out in Schedule 2]
[Landlord	means the person entitled to grant a lease of the Accommodation to the Managing Agent
Leased Accommodation Lease Commencement Date]	means a [self-contained] [flat or house] forming part of the Premises of which Capital Letters owns a leasehold interest means the date of the Capital Letters Lease
Nominee	means an individual who the Council has nominated to Capital Letters as a prospective Tenant of Accommodation being an individual to whom the Council owes a duty to House under Part VII of the Housing Act 1996 or any other future enactment or subsequent legislation (or within such other categories as may be agreed).
Non-leased Accommodation	means a [self-contained] [flat or house] forming part of the Premises which Capital Letters has procured for the Council but does not own a leasehold interest.
Premises	means such properties acquired or to be acquired by the Provider under the terms of this Agreement
Relevant Council	means the Council who has nominated the particular Tenant to which the clause refers;
Shared Personal Data	means the Personal Data shared by Capital Letters with the Managing Agent for the purposes of the Managing Agent discharging its obligations under this Agreement, which shall include but shall not be limited to names, addresses and contact details of the Client's tenants
Tenancy	means a tenancy in the form in Schedule 2 granted in accordance with Clause 4.
Tenant	means a Nominee who has accepted a Tenancy granted by Capital Letters in accordance with Clause 4.
The Term	the Term of years specified in Clause 2 (saving those provisions as to Clause 8).
Working days	means any day Monday to Friday (inclusive other than bank and

public holidays

Void Means any period of un-occupation of the Premises by a Tenant for any of the following reasons:-

- Determination of the Tenancy by the Tenant
- Death of a Tenant
- Eviction of or abandonment of Premises by the Tenant

White Goods Freezer Fridge, cooker or oven and hob

2 **Duration of Agreement**

This agreement will be for a period of [three/Five/Seven] years from the date of this agreement [or the termination date of Capital Letters' Lease, whichever is the later,] subject to clauses 8.1 and 8.2

3 **[Accommodation**

3.1 The Managing Agent shall provide Accommodation which Capital Letters and the Managing Agent have agreed is suitable for the purposes of this Agreement.

3.2 If the Managing Agent wishes to terminate the leasehold interest in respect of any Accommodation on the grounds that the Landlord is not performing its obligations then it shall not do so without the consent of Capital Letters such consent not to be unreasonably withheld or delayed.]

4 **[Nomination**

4.1 [As soon as practicable after the Managing Agent becomes aware that Accommodation will be available for letting it shall notify Capital Letters in writing of this [via the Agreed IT System], [identifying the Accommodation, its size and nature and the date from which it will become available for letting. Capital Letters will put forward a Nominee for the Accommodation. For the purposes of this clause notification may be by e-mail addressed to [•] officer or address as may from time to time be notified by Capital Letters in writing.]]

4.2 The Managing Agent shall ensure that the Nominee is invited to view the Accommodation as soon as reasonably practicable and in any event within three Working Days from receipt of the date of nomination within Clause 3.2. It shall ensure that an officer of the Managing Agent is present to conduct the viewing of the Accommodation.

4.3 As soon as practicable after the viewing referred to in Clause 3.3 Capital Letters will offer a Tenancy to the Nominee.

4.4 As soon as, and no more than 1 Working Day after, an offer of a Tenancy has been either accepted or refused Capital Letters shall notify the Managing Agent in writing by email of the following details:

4.4.1 full details of the offer of Tenancy made and whether it has been accepted or refused.

4.5 Upon the Managing Agent being notified in accordance with Clause 3.5 of a Nominee refusing an offer of Tenancy of Accommodation, the provisions of clauses 3.3 to 3.5 shall again have effect and shall continue to do so until a Nominee accepts a Tenancy of that particular Accommodation.

5 **Management and Maintenance**

5.1 Capital Letters will be responsible for setting the rents charged to residents and reviewing the same in accordance with the terms of the Tenancy [and collecting all rents due under the Tenancy Agreements] **OR** [and the [Managing Agent shall collect the rent] **OR** [the Council shall collect the rent] [and the [Managing Agent / the Council] shall commence court proceedings in the name of Capital Letters against the Tenant in arrears of Rent or in breach of other terms of his Tenancy Agreement and to offer all support and assistance to Capital Letters in the conduct of such proceedings by Capital Letters]]

5.2 [In respect of the Accommodation the Managing Agent agrees and is bound as follows:-

5.2.1 to comply with or procure the compliance by the landlord all of those duties covenants and responsibilities as set out in Section 11 of the Landlord and Tenant Act 1985. This includes (but is not limited to) putting and keeping in repair the structure and exterior of the Accommodation and/or the buildings in which the Accommodation is situated and putting and keeping repair and proper working order the installations within the Accommodation (and buildings) for the supply of water, gas, electricity and for sanitation.

5.2.2 to maintain the non-structural internal parts of the Accommodation's White Goods furnishings fixtures and fittings in good repair and proper working condition.

5.2.3 to put and keep the interior of the Accommodation in good decorative order to the reasonable satisfaction of Capital Letters.

5.2.4 to allow Capital Letters by its officers agents or contractors access to the Accommodation for the purposes of inspection such access to be granted upon 7 days' notice save in the case of emergency when no prior notice is required.

5.3 The Managing Agent covenants with Capital Letters:

5.3.1 To visit the Accommodation on a regular basis at least once a month to ensure the Accommodation is occupied by the Tenant and to establish Tenant is complying with his obligation under his Tenancy Agreement and for the avoidance of doubt the Landlord and his employees and contractors shall carry proper identification and shall produce such identification if requested by the Tenant.

5.3.2 To set up appropriate systems as necessary for the effective performance of the obligations in clause 5.2 including a 24 hour telephone access and to give such details to the Tenant.

5.3.3 To use all reasonable endeavours to ensure that a Tenant understands his/her rights and obligations under the Tenancy Agreement and to provide advice and

assistance where necessary on matters relating to his tenancy, housing benefit entitlement and claims, welfare claims and to deal with neighbourly disputes

- 5.3.4 To arrange if required for the Tenant to pay the gas electricity and other bills that are his responsibility under his Tenancy Agreement
- 5.3.5 On receipt of Tenant reasonable repair requests to inspect the Accommodation promptly undertaking necessary repairs and maintenance work in accordance with the provisions of this Agreement diligently within reasonable period of time except emergency work which shall be attended to immediately
- 5.3.6 To take all reasonable steps to enforce the terms of the Tenancy Agreement and to report in writing to Capital Letters promptly any matters of concern
- 5.3.7 Not to make any charge or demand payment from the Tenant for services provided under this Schedule but nothing in this paragraph shall prevent the Landlord from claiming or recovering damages against any such Tenant in respect of any loss or damage caused by the Tenant
- 5.3.8 To serve notice in the name of Capital Letters to determine the Tenancy upon request to do so by Capital Letters
- 5.3.9 To keep records as necessary including an events diary for the effective carrying out of the maintenance management duties and provide reports to Capital Letters on request and to attend any management meetings at the reasonable request of Capital Letters and on reasonable notice to provide access Capital Letters to its records, tenancy agreements and lease agreements and to keep such records in good order.
- 5.3.10 Not to permit itself or anyone acting in his service including any subcontractor to act in such manner as may infringe the provisions of Human Rights Act 1998 or constitute an act of discrimination against any person
- 5.3.11 To notify Capital Letters in writing forthwith on becoming aware of any change in a Tenant's circumstances, as may be relevant to the Council's obligations under Part VII of the Housing Act 1996 (as amended).
- 5.3.12 To notify Capital Letters in writing forthwith on becoming aware that a Tenant is no longer residing in Accommodation and to take all prompt action to recover possession of such Accommodation including all such action as is necessary to evict unauthorised occupants.
- 5.3.13 At the Managing Agent's cost to take such action to recover possession of the Accommodation as Capital Letters shall reasonably require.
- 5.3.14 To indemnify Capital Letters against any liability which it might or does incur to any person, by reason of the fact that any Accommodation suffers from a Category 1 Hazard as defined by the Housing Health and Safety Rating System made under the Housing Act 2004.
- 5.3.15 To pay and discharge all water rates sewer charges Council Tax and any other charges in respect of gas electricity telephone and other services and outgoings

in respect of the Accommodation except where these are the responsibility of the Tenant.

- 5.3.16 To inform the Tenants that their personal belongings are not insured by Capital Letters or the Managing Agent and to encourage residents to take out individual contents insurance.
- 5.3.17 To comply with all statutory provisions relating to the Accommodation including without limitation all fire regulations;
- 5.3.18 To supply evidence of insurance held and the last premium receipts or certificates of insurance to Capital Letters on request.
- 5.3.19 On receipt of a Tenant reasonable repair request inspect the Accommodation and promptly undertake necessary repairs and maintenance work diligently within reasonable period of time except emergency work which shall be attended to immediately
- 5.3.20 To carry out an annual inspection and servicing and repairs to any gas appliances with the Accommodation and to meet the full requirements of the gas and electricity installation and use regulations.
- 5.3.21 To enter into and keep in force throughout the Term a service contract with a Gas Contractor previously approved by Capital Letters in writing (such approval not to be unreasonably withheld) which contract shall require the Contractor to repair and maintain installations for space heating central heating and water heating at the Accommodation in safe working order and provide to Capital Letters a copy of each contract entered into.
- 5.3.22 To ensure that the electricity and gas supply circuits and installations at the Accommodation and in particular any heating apparatus and cooking apparatus have been serviced by a properly qualified person and for the avoidance of doubt the gas contractor must be registered with Gas Safe and electricity contractor NICEIC approved or such other regulatory body which replaces them within the last 3 months from the commencement of this Agreement and that the gas and electricity supply and installations will be serviced by such a qualified person at least once in each year during the Term and that the Landlord will provide to Capital Letters a valid annual Gas Safety Certificate and annual Electricity Safety Certificate for each year of the Term
- 5.3.23 To repair, renew or replace any of the Furniture or furnishing which has become unusable due to fair wear and tear, defect or bad workmanship at any time during the Term and ensure that that soft furnishings such as mattresses and three piece suite etc are clearly labelled and conform to the Furniture and Furnishings (Fire) (Safety) Regulations 1993 and the furniture is in reasonably good condition.
- 5.3.24 To keep any gardens forming part of the Building or the Accommodation tidy and hedges and grass regularly trimmed and cut
- 5.3.25 To remedy any outbreak of dry or wet rot any rising or penetrating damp whether arising from leaks penetration or failure of damp proofing membrane

5.4 The Managing Agent further agrees to take reasonable steps to facilitate such communication as may be necessary between Tenants and Capital Letters and to offer such support and advice as may be practicable to assist Tenants to settle into Accommodation and take up offers of rehousing.]

6 **Vacancies and Voids**

6.1 The Managing Agent covenants with Capital Letters:

6.1.1 To notify Capital Letters promptly in writing if the Accommodation is vacant or likely to become vacant

6.1.2 To notify Capital Letters in writing forthwith on becoming aware that a Tenant is no longer residing in the Accommodation or the Accommodation being sublet or being overcrowded or the Accommodation being shared with unauthorised occupants or any change in Tenant s circumstances as may be relevant to the Council's obligations under Parts VI and VII of the Housing Act 1996

6.1.3 To control and arrange the security of the Accommodation from the commencement of this Agreement until tenanted and whenever during the Term the Accommodation is unoccupied/vacant undertaking necessary cleaning clearance and repairs as quickly as is reasonably practicable after vacation in any event within two weeks of vacation and to notify Capital Letters forthwith that the Accommodation is being ready for occupation. If the Accommodation require extensive repair such repairs to be carried out within six weeks of vacation and any delay beyond six weeks must be agreed in writing with Capital Letters

6.1.4 On each and every re-let following a Void to undertake necessary repair and maintenance work to ensure the Accommodation including [Furniture,] furnishing, carpet and fixtures meet the standards as required at the initial let which for the avoidance of doubt shall include newly certified gas and electricity certificate

6.1.5 To pay and discharge all water rates, sewerage charges, Council Tax and other charges in respect of gas, electricity, telephone and other services and outgoings of the Accommodation during any Void period where such Void periods results from vacation by a Tenant and the Accommodation not being made available for a new Tenancy.

6.1.6 To secure the Accommodation during a Void and undertake all necessary cleaning clearance and repairs as quickly as is reasonably practicable after a Void and in any event within two weeks of such Void save where the Accommodation require extensive repairs in which case such repairs are to be carried out within six weeks of such Void and to notify Capital Letters forthwith of the progress being made and when the Accommodation are ready for occupation

7 **[Termination of Tenancies**

7.1 When Capital Letters is notified by the Relevant Council that it has made any determination, decision, offer or other nomination to a registered social landlord under the

Housing Act 1996 in respect of a Tenant which it is material for the Managing Agent to know Capital Letters shall inform the Managing Agent of the determination decision offer or nomination as soon as is reasonably practicable.

7.2 In the event of the Relevant Council determining that it does not owe or no longer owes a duty to a Tenant under Part VII of the Housing Act 1996 (as amended by The Homelessness Act 2002 and the Localism Act 2011) or the Homelessness Reduction Act 2017 or that such duty has been discharged whether by a refusal or another offer of accommodation or otherwise, then, once notified by the Council, Capital Letters shall notify the Managing Agent of this determination Upon receipt of written notification from Capital Letters the Managing Agent shall consider serving such notices as are required upon the Tenant as soon as permitted under the terms of the Tenancy

7.3 [Without prejudice to Clause 7.2 the Managing Agent may seek an order for possession of any Accommodation in the following cases:

7.3.1 [where in the reasonable opinion of the Managing Agent it is necessary to ensure that the Managing Agent is able to comply with its own obligations under the Capital Letters Lease of the Accommodation]; or

7.3.2 where in the reasonable opinion of the Managing Agent it is necessary in order to prevent the Tenant acquiring any different or additional security of tenure.]

7.4 In those cases where the Managing Agent does decide to commence proceedings for possession as set out in Clause 7.3 above it shall notify Capital Letters in writing within 7 Working Days of the decision giving full reasons and if appropriate providing information for taking the decision. Should the Managing Agent subsequently withdraw discontinue or should the proceedings be struck out or an out of court settlement reached or the proceedings suspended or adjourned for whatever reason then the Managing Agent shall further notify Capital Letters in writing within 7 Working Days of the reasons why or circumstances surrounding the aforementioned delay or resolution of those proceedings. Further and in cases where the Managing Agent obtains an order for possession which it intends to enforce it shall provide Capital Letters with written details as to why enforcement is being sought with Capital Letters prior to enforcement of the order.

7.5 Where possession proceedings are commenced by the Managing Agent pursuant to Clause 7.3 the Managing Agent will at all times and in any event be responsible for and will duly pay any costs legal or otherwise which may arise as a result of an incidental to the Managing Agent commencing those proceedings. However where possession proceedings are commenced pursuant to Clause 7.2 Capital Letters will at all times and in any event be responsible for and will duly pay any costs, legal or otherwise, which may arise as a result of those proceedings. Whether proceedings are commenced pursuant to Clause 7.2 or Clause 7.3 Capital Letters will provide such documentation and assistance as the Managing Agent may reasonably require.]

8 **Determination and extension**

8.1 [This agreement will be terminated upon the termination of Capital Letters' Lease, howsoever occurring by agreement of the parties **OR** this Agreement will terminate at the end of the Term unless the parties agree in writing and save as provided in the following clauses 8.2 to 8.4].

- 8.2 Prior to the expiry of the Term the parties may agree in writing to extend the Term for a further period of [] years.
- 8.3 Either the Managing Agent or Capital Letters shall submit a written notification to the other Party of any request to extend the Term pursuant to clause 8.3 not less than [] months prior to the expiry of the Term.
- 8.4 The clauses in this Agreement will apply throughout any such extended period including without limitation this clause 8.

9 **Waiver**

Any failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not amount to a variation of them or constitute a waiver of the right at any time to enforce all terms and conditions of this Agreement except where expressly agreed in writing between the parties.

10 **Confidentiality**

- 10.1 Capital Letters will disclose to the Managing Agent all information that the parties agree is necessary for the proper performance of the Managing Agent's obligations under this Agreement. Capital Letters shall promptly notify the Managing Agent of any material change to the information provided.
- 10.2 Both parties will keep confidential any information which is obtained during the course of performing the obligations relating to the other party's business and will not during the course of this Agreement or at any other time thereafter, disclose such information to any other person, without the prior written consent of the other party, save to the extent that the disclosure of the same is required by law.
- 10.3 All information, advice, written, or oral, made available by either party to this Agreement to the other shall be provided for the sole purpose of this Agreement and shall not be disclosed to a third party without the prior written consent of the other party.
- 10.4 Neither party shall be held in breach of the foregoing provisions of this Clause if, prior to receipt from the other party, it is in possession of information which has already entered the public domain or has been obtained from a third party who is lawfully authorised to disclose the same.
- 10.5 On termination of this Agreement, the Managing Agent will immediately return to Capital Letters, any reports, documents or data in whatever form which he may have been supplied by Capital Letters and copies of the same which he may have made during the course of performing its obligations.
- 10.6 The parties agree to comply with the provisions of Data Protection Legislation and any amendment thereof.
- 10.7 Both parties shall ensure that its officers and employees comply with the provisions of this Clause.
- 10.8 This Clause shall remain in full force and effect notwithstanding any termination of this Agreement.

11 **Data Protection**

11.1 For the purposes of this clause 12, defined terms have the meaning prescribed under this Agreement or pursuant to the Data Protection Legislation.

11.1 The Parties shall at all times during the Contract Period comply with the provisions and obligations imposed by the Data Protection Legislation and shall indemnify each other and keep each other indemnified against all actions, claims, demands, proceedings, damages, costs, charges and expenses (including reasonable legal expenses) whatsoever in respect of any breach of this clause 12 by one Party which causes the other Party to be in receipt of any action, claims, demands, proceedings, damages, costs, charges and expenses including reasonable legal expenses.

11.2 Each of the parties shall ensure that, to the extent that it stores and processes Personal Data in connection with this Agreement, it shall comply with the provisions and obligations imposed on it by the Data Protection Legislation.

11.3 Capital Letters will:

11.3.1 Act in the capacity of Data Controller of any Shared Personal Data processed by the Provider in the performance of the Services; and

11.3.2 Be responsible to third parties for such Shared Personal Data, including the individuals to whom the data relates.

11.4 As Data Processor the Managing Agent shall at all times in respect of Shared Personal Data for which the Capital Letters is Data Controller:

11.4.1 implement appropriate technical and organisational measures to protect the Shared Personal Data against unauthorised or unlawful Processing, against a Personal Data Breach and to assist the Managing Agent to comply with any obligations in respect of the Data Subject's Rights;

11.4.2 Process the Shared Personal Data only in connection with this Agreement and only to the extent and in such a manner as is necessary for discharging Capital Letters' obligations under this Agreement, as otherwise permitted by Capital Letters in writing; or required by law

11.4.3 Ensure that in the event that Managing Agent is required to Process the Shared Personal Data outside of the terms of this Agreement by law, it shall inform Capital Letters of that legal requirement before Processing, unless the law prohibits the same on important ground of public interest;

11.4.4 ensure that the Shared Personal Data is not transferred outside of the European Union without the prior written consent of Capital Letters, ensuring compliance with any conditions attached to that consent;

11.4.5 ensure that it does not engage another Data Processor without prior written authorisation from Capital Letters and ensuring compliance with any conditions attached to that consent nor disclose the Shared Personal Data to any third parties other than to the extent required under a court order.

- 11.5 The Managing Agent shall be entitled to disclose the Shared Personal Data to its employees agents or officers as reasonably necessary in order to perform its obligations under this Agreement only to the extent that Capital Letters ensures the reliability of such persons, being under an obligation of confidentiality, having undertaken training in Data Protection Legislation and understanding the obligations upon the Provider in relation to the Shared Personal Data.
- 11.6 The Managing Agent shall notify Capital Letters within two (2) business days if it receives:
- 11.6.1 a request to exercise the Data Subject's Rights; or
 - 11.6.2 a complaint or request relating to Capital Letters' obligations under the Data Protection Legislation
- and shall take no further steps in relation to the same until such time that it receives written instruction to do so from Capital Letters.
- 11.7 The Managing Agent will provide all data in its possession as requested by Capital Letters from time to time in accordance with the timescale specified by Capital Letters in the event of Capital Letters receiving a request to exercise the Data Subject's Rights or a complaint or request relating to the Capital Letters' obligations under the Data Protection Legislation. Where Capital Letters requests data for the purpose of complying with such a request, the Managing Agent will retrieve the relevant data and provide a full copy of such to Capital Letters as soon as is possible but in any event within 4 Working Days of such a request being made.
- 11.8 In the event that the Managing Agent becomes aware of any unlawful Processing or a Personal Data Breach in relation to the Shared Personal Data the Managing Agent shall:
- 11.8.1 record the details of the suspected incident in a security incident log and immediately undertake an initial investigation into the suspected incident;
 - 11.8.2 promptly, and within no later than 24 hours of becoming aware of the event, give written notice to Capital Letters with full details of such contravention; and
 - 11.8.3 take no further steps in relation to the same until such time that it receives written instructions to do so from Capital Letters.
- 11.9 The Provider will co-operate and provide reasonable assistance with any proceedings, investigation or inquiry by the Council and any subsequent actions arising therefrom, including but not limited to any report to and investigation by the Information Commissioner's Office and/or notification to any affected individuals, and implement any measure necessary to restore the security and integrity of any compromised Shared Personal Data.
- 11.10 The Managing Agent will on the determination or expiry of this Agreement or at such time that the Managing Agent no longer requires access to the Shared Personal Data for the purposes of performing its obligations under the same and at the request of Capital Letters either return to Capital Letters or securely destroy the Shared Personal Data (and all copies of such data) in the Managing Agent's possession.

11.11 Capital Letters shall on giving reasonable notice to the Managing Agent be entitled to request that the Provider provide evidence, and/or Capital Letters audit the procedures of the Managing Agent (which shall include the right to enter the Managing Agent's premises and/or view the Managing Agent's systems) for the purposes of ensuring compliance with this clause 11 and to take any reasonable steps to satisfy itself that the Managing Agent is so complying.

12 **Health And Safety**

12.1 The Managing Agent agrees to observe the provisions of the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999, all other regulations and approved Codes of Practice relevant to the obligations in this Agreement and amendments thereto and shall ensure that all persons engaged in the provision of the obligations and visiting any location comply.

12.2 Capital Letters shall be entitled to inspect the Managing Agent's premises on reasonable notice (but in any event not more than 24 hours) at any time during the Term and shall if deemed necessary or appropriate call for independent assessment via recognised professional agencies.

12.3 The Managing Agent must ensure that proper safeguards are in place to prevent accidents when carrying out its obligations under this Agreement.

12.4 The Managing Agent shall prior to the Start Date of the Agreement nominate a person to be responsible for health and safety matters and advise Capital Letters in writing of the appointment.

12.5 While at any establishment owned or occupied by Capital Letters, the Managing Agent shall at all times have regard to, and shall ensure that its employees comply with Capital Letters' general statement of safety policy and with the lawful requirements of Capital Letters' Safety Officer.

12.6 The Managing Agent shall ensure that its employees engaged in the carrying out of the Obligations are competent to perform their specific tasks and have received on site induction training on health and safety requirements.

12.7 The Authorised Officer shall be entitled immediately to suspend the carrying out of the Service or part thereof in the event of non-compliance by the Managing Agent with its statutory duties in respect of health and safety matters and its obligations under this Contract. The Managing Agent shall not resume the carrying out of the obligations or part thereof until the Authorised Officer is satisfied that the non-compliance has been rectified. In respect of any such period of suspension Capital Letters' rights under this Agreement with regard to employing and paying other persons to carry out the obligations or part hereof shall apply.

13 **Prevention Of Corruption**

13.1 Capital Letters shall be entitled to terminate this Agreement forthwith if the Managing Agent, its servants or agents with or without its knowledge has:

13.1.1 offered given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or not doing anything in relation to the

obtaining or carrying out of this Agreement or any other agreement with Capital Letters or for showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with Capital Letters; or

- 13.1.2 committed any offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010 or given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

14 **Freedom Of Information**

14.1 The Managing Agent acknowledges that the Council and Capital Letters are subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council and / or Capital Letters (at the Managing Agent's expense) to enable the Council and / or Capital Letters to comply with these information disclosure requirements if requested by Capital Letters to do so.

14.2 The Managing Agent shall and shall procure that its sub-contractors shall

- 14.2.1 transfer the Request for information to Capital Letters as soon as practicable after receipt and in any event within 2 Working Days of receiving a Request for Information.

- 14.2.2 provide Capital Letters with a copy of all information in its possession or power in the form in the form that Capital Letters requires within 5 Working Days (or such other period as Capital Letters may specify) of Capital Letters requesting the information; and

- 14.2.3 provide all necessary assistance as reasonably requested by Capital Letters to enable Capital Letters to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA (or Regulation 5 of the Environmental Information Regulations.

14.3 Capital Letters shall be responsible in determining at its absolute discretion whether the commercially sensitive information and/or any other information:

- 14.3.1 exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations;

- 14.3.2 is to be disclosed in response to a Request for Information and in no event shall the Managing Agent respond directly to a Request for information unless expressly authorised to do so by Capital Letters.

14.4 The Managing Agent acknowledges that the Council and / or Capital Letters may acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the discharge of public authorities functions under Part 1 of the FOIA (issued under section 45 of the FOIA November 2004) be obliged under the FOIA or the Environmental Information Regulations to disclose information:

- 14.4.1 with consulting with the Managing Agent; or

- 14.4.2 following consultation with the Managing Agent and having taken its views into account.

14.5 The Managing Agent shall ensure that all information produced in the course of the Managing Agent relating to the Agreement is retained for disclosure and shall permit Capital Letters to inspect such records as requested from time to time.

15 **Equal Opportunities**

15.1 The Managing Agent will not discriminate directly or indirectly against any person on the grounds of gender, marriage, sexuality, religion, belief, age, colour, race, nationality, national or ethnic origin, contrary to the Equal Pay Act 1970, the Sex Discrimination Act 1975 (as amended), the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003, The Equality Age Discrimination Regulations 2006, the Equality Act 2010 or any other legal requirement applicable during this Contract.

15.2 The Managing Agent will not treat a person less favourably for a reason relating to that person's disability (as defined by the Disability Discrimination Act 1995 nor fail to comply with the duty under the Act in relation to the disabled person.

15.3 The Managing Agent shall as so far as practicable and to the satisfaction of Capital Letters follow practical guidance, recommendations and advice contained in the Commission for Racial Equality's Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality in Employment, the Equal Opportunity Commission's Codes of Practice for the elimination of discrimination against the disabled persons in the field of employment.

15.4 Where the Managing Agent carries out work on Capital Letters' premises alongside the Capital Letters' staff or has contact with the public under this Agreement, the Managing Agent will comply with Capital Letters' relevant policies and codes of practice in relation to employment and equal opportunity.

15.5 The Managing Agent will notify Capital Letters as soon as it becomes aware of any complaint or proceedings (whether civil or criminal) brought or likely to be brought against the Managing Agent alleging unlawful discrimination or any investigation of the Managing Agent's performance of this Agreement, by a body referred to in clause 13.2 in the event of any such complaint, proceedings or investigation the Managing Agent will cooperate fully and promptly with the body undertaking the investigation or bringing the proceedings.

15.6 The Managing Agent will indemnify Capital Letters against all costs, charges and expenses (including legal and administrative expenses and any compensation that Capital Letters is required to pay) arising out of any such investigation or proceedings as described in clause 14.5.

15.7 The Managing Agent will provide Capital Letters such information as Capital Letters may reasonably request in respect of the impact of equality issues on the operation of the contract and vice versa.

15.8 In the event that the Managing Agent enters into any sub-contractor in connection with this Agreement, it shall impose obligations on the sub-contractors substantially similar to those imposed pursuant to this clause.

16 **Payment**

16.1 Capital Letters shall be responsible for payment to the Managing Agent as set out in Schedule 1.

16.2 In setting the Cost the Provider shall only recover an amount equal to the actual cost incurred by it in providing the management services as set out in this Agreement.

16.3 At the end of each financial period, being the period for which accounts are produced for Capital Letters, the operation of this Agreement will be reviewed by Capital Letters to ensure that all amounts due have been correctly calculated in accordance with this Agreement.

17 **Value Added Tax**

17.1 Value Added Tax (**VAT**), where applicable, shall be shown separately on all invoices at the appropriate rate in force at the time of the relevant supply.

17.2 The Managing Agent and Capital Letters agree to pay to the other any VAT properly chargeable.

18 **Recovery of Sums Due**

18.1 Wherever under the Agreement any sum of money is recoverable from or payable by the Managing Agent (including any sum which the Managing Agent is liable to pay to Capital Letters in respect of any breach of this Agreement), Capital Letters may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Managing Agent under the Agreement or under any other agreement or contract with Capital Letters or with any department, agency or authority of the Crown.

18.2 Any overpayment by Capital Letters to the Managing Agent, whether of the Contract Price or of Tax, shall be a sum of money recoverable by Capital Letters from the Managing Agent.

18.3 The Managing Agent shall make any payments due to Capital Letters without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Managing Agent has a valid court order requiring an amount equal to such deduction to be paid by Capital Letters to the Managing Agent.

19 **Liabilities**

19.1 Neither Party excludes or limits liability to the other Party for death or personal injury caused by its negligence or for any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

19.2 The Managing Agent shall indemnify and keep indemnified Capital Letters fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with the Agreement in respect of any death or personal injury, or loss of or damage to property which is caused directly or indirectly by any act or omission of the Managing Agent. This clause shall not apply to the extent that the Managing Agent is able to demonstrate that such death or personal injury, or loss or damage was not caused or contributed to by its negligence or default, or the

negligence or default of its staff or subcontractors, or by any circumstances within its or their control.

20 **Severance**

20.1 In the event of any provision of the Agreement being or becoming legally ineffective or unenforceable either in its entirety or in part this shall be without prejudice to the validity of and shall not invalidate the remaining provisions of this Agreement which shall remain in full force and effect.

21 **Notices**

21.1 Any notice served on either of the parties except where expressly provided for under the terms of this Agreement to be served by facsimile shall be sent by prepaid first class recorded delivery post and shall be deemed to have been received by the addressee within 48 hours of posting if sent in the case of Capital Letters to the Authorised Officer or in the case of the Managing Agent their named representative or such other officer or address as so notified from time to time by either party in writing.

22 **Disputes**

Any disputes or differences arising between the parties as to their expected rights, duties or obligations in connection with the subject matter of this Agreement shall be referred to the determination of an independent expert to be agreed upon by the parties or failing agreement to a person nominated for the time being by the President of the Chartered Institute of Housing. The decision of the said expert shall be final and binding on the parties and the expert's fees and expenses shall be payable as the expert directs.

23 **The Contracts (Rights of Third Parties) Act 1999**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person or persons other than the parties to this Agreement shall have any right under it nor shall it be enforceable by any person other than the parties to it under that Act.

24 **General**

24.1 The parties expressly agree that nothing in this Agreement shall in any way create a partnership between them.

24.2 The parties agree to abide to operate this Agreement in accordance with the respective confidentiality policy.

24.3 This Agreement is subject to variation necessitated by changes in legislation and any such change will only be implemented after consultation between the parties.

Schedule 1
Payment Provisions
[to be included]

Schedule 2

Furniture Specification

1 **Furnished Properties**

The requirements for furnished properties are:

- Cooker, fridge, freezer and appropriate number of units in the kitchen
- Dining table and chairs
- 2 or 3-piece suite as appropriate
- Beds (one double, two singles or one single dependent upon size of room)
- Wardrobe and chest of drawers in all bedrooms
- Curtains and/or nets on all windows
- Appropriate flooring to all floors
- Lampshades
- Bulbs (at the commencement of each tenancy and not otherwise)

2 **Part Furnished Properties**

The requirements for part furnished properties are:

- Cooker, fridge, freezer and appropriate number of units in the kitchen
- Curtains and/or nets on all windows
- Appropriate flooring to all floors
- Lampshades
- Bulbs (at the commencement of each tenancy and not otherwise)

**Schedule 3
List of Councils**

[Include the Councils nominating to the Accommodation]

Signed by or on behalf of the Managing Agent

Name of Organisation

Print Name and title

Signature

Date

Signed on behalf of Capital Letters.

Print name and title



dated **2018**

[]

and

[Capital Letters] Limited

Lease

Trowers & Hamblins LLP
3 Bunhill Row
London
EC1Y 8YZ
t +44 (0)20 7423 8000
f +44 (0)20 7423 8001
www.trowers.com

draft () dated []

trowers & hamblins

dated []

Parties

- (1) [] of [] (the **Landlord**); and
- (2) **[Capital Letters] Limited** (Company number []) whose registered office is at [] (**Capital Letters**); and
- (3) [] of [] (the **Guarantor**)

Introduction

1 The Landlord lets and the Capital Letters takes the Premises together with the Rights and Easements for the Term in consideration of the Rent and of the covenants herein contained.

2 Interpretation

- 2.1 Words importing the masculine gender only shall include the feminine and neuter gender where appropriate;
- 2.2 Words importing the singular number only shall include the plural number and vice versa;
- 2.3 Where a party comprises more than one person, the covenants and obligations entered into by that party are to be construed as having been made by all such persons jointly and severally;
- 2.4 Any reference to any statute shall (unless otherwise stated) include any re-enactment, consolidation and/or renewal thereof for the time being in force and any references to any statute or statutes in general shall include any order, instrument, plan, regulation, permission or direction made or issued thereunder or deriving validity therefrom.
- 2.5 The headings are inserted for convenience only and shall not affect the construction or interpretation of this Lease and references to a clause, sub-clause, schedule or paragraph are (unless otherwise stated) to a clause or sub-clause in and a schedule to this Lease and to a paragraph of the relevant schedule.
- 2.6 The following expressions shall have the following meanings:

Building means the building of which the Premises forms part

Incentive Payment means the sum of £ []

Installations mean the gas and electrical installation and any cooking apparatus within the Premises

Insured Risks means fire, lightning, explosion, damage or impact caused by aircraft (including articles dropped therefrom) subsidence, land slip, heave, riot, civil commotion, malicious persons, earthquake, storm, tempest, flood, escape of water from bursting or overflowing water pipes, tanks, sprinkler systems or other apparatus, the breakage or

collapse of communication aerials, falling trees, the escape of oil from a heating system or other apparatus and accidental damage together with such other risks as the Landlord shall from time to time reasonably deem it prudent to insure against or that Capital Letters shall reasonably require.

Landlord's Works means any matter required to be observed or performed by the Landlord under this Lease

Premises all those [freehold/leasehold] [first/second etc] floor premises known as [address of property] which said premises is for identification purpose only delineated on the Plan and shown edged in bold red/coloured blue etc thereon together also with the fixtures and fittings in or about the said premises

Plan means the Land Registry file plan of the Premises attached at the Appendix

Rights & means the following:

Easements

The right of shelter and support from other part of any Building of which the Premises forms part

The right in common with the Landlord and other tenants and occupiers of the Building to use its entrance passageways and staircases for the purpose of access to and egress from the Premises; and

The free passage and running of air water soil gas or other piped fuel sewage smoke fumes electricity and telecommunications signals and impulses through the ventilators pipes sewers drains wires cables and conduits and other conducting media serving the Premises which are now or may at any time during the term be in under or upon any part of the Building or the adjoining or adjacent land of the Landlord

Sub Tenancy means the tenancy granted by Capital Letters to the Sub Tenant

Sub Tenant means the person or persons occupying the Premises under a Tenancy Agreement

Tenancy Agreement: means the tenancy agreement for the Sub Tenancy to be entered into between the Capital Letters and the Sub Tenant

Term means [Three (3) / five (5) / [] years] commencing on [].

Rent means []

Rent Commencement means the date of this Lease

Date

Rent Date **Payment** means the [first Working Day / last Working Day of each month]

Use means the provision of temporary housing accommodation in accordance with the provisions of paragraph 6 of Schedule 1 of the Housing Act 1985 or any statutory amendments of the same.

Void Means any period of un-occupation of the Premises by a Sub Tenant for any of the following reasons:-

- Determination of the Tenancy by the Sub Tenant
- Death of a Sub Tenant
- Eviction or abandonment of Premises by the Sub Tenant

Working Day means any day Monday to Friday (inclusive other than bank and public holidays)

3 Demise and Rents

3.1 The Landlord lets and Capital Letters takes the Premises together with the Rights and Easements for the Term and peaceably holds and enjoys the Premises during the Term without any interruption by the Landlord or any person rightfully claiming under or in trust for him or by title paramount in consideration of the Rent which shall be payable as follows:-

3.1.1 Capital Letters will use its reasonable endeavours to make the first Rent payment within [fifteen Working Days] of the first Rent Payment Date following the commencement of the Lease.

3.1.2 The second and each subsequent payment shall be made [weekly/monthly/annually] in [advance/arrears] on each Rent Payment Date.

3.1.3 If there is any excess payment of Rent for any period or periods the Landlord shall pay the excess to Capital Letters within 5 Working Days of demand or (if the Landlord wishes or no payment is received) Capital Letters shall deduct the excess against the next monthly rental payment or payments due to the Landlord.

3.2 The Landlord warrants that he has full power and authority to grant this Lease and that all necessary consents and for the avoidance of doubt including mortgagees and superior landlords (if appropriate) and permissions have been obtained

3.3 [The Landlord hereby confirms and acknowledges that it has on or prior to the date hereof received from Capital Letters the Incentive Payment.]

4 Capital Letters' covenants

4.1 Capital Letters covenants with the Landlord as follows:-

- 4.1.1 To use the Premises only for the purpose of providing temporary housing accommodation in accordance with the provisions of Part VII of the Housing Act 1996 [and/or the provision of a tenancy as a private rental sector offer under sections 193 (7AA – 7AC) Housing Act 1996 in discharge of a local authority's main homelessness duty] or paragraph 6 of Schedule 1 of the Housing Act 1985 (as amended) or the Homelessness Reduction Act 2017 to provide temporary accommodation and / or assistance to applicants who are assessed as homeless or threatened with homelessness as appropriate by granting a Sub Tenancy under a Tenancy Agreement and for the avoidance of doubt the Capital Letters shall not at any time occupy the Premises itself.
- 4.1.2 Not to underlet the Premises other than to a Sub Tenant by way of Tenancy Agreement.
- 4.1.3 To impose a condition in the Tenancy Agreement that Sub Tenant keeps the Premises clean and tidy (fair wear and tear excepted) throughout the term of the Tenancy Agreement.
- 4.1.4 [Not to assign this Lease without the written consent of the Landlord (such consent not to be unreasonably withheld or delayed) **OR** Capital Letters shall not at any time be entitled to assign this Lease except in the following circumstances:
- (a) to any other local authority with the prior written consent of the Landlord not to be unreasonably withheld or delayed
 - (b) To any Registered Provider (“RP”) if by operation of legislation Capital Letters shall be required to transfer, devolve or assign its obligations for the provision of temporary housing accommodation to any such RP provided that in the event of such an assignment the assignee shall agree to be bound by all the terms of the Lease and if the assignee shall not so agree then Capital Letters shall be entitled at any time thereafter to determine this lease by giving to the Landlord two months' notice in writing]
- 4.1.5 To permit the Landlord to enter the Premises on [prior written reasonable] notice (except in case of emergency) to inspect the condition of the Premises and or to execute the Landlord’s Works
- 4.1.6 Not to make any alterations or additions to the Premises without the Landlord’s prior written consent (such consent not to be unreasonably withheld or delayed).
- 4.1.7 To pay the Rent as set out in Clause 4 above.
- 4.1.8 Upon expiry of the Term or earlier determination peacefully to yield up the Premises with vacant possession

5 **Landlord's general covenants**

- 5.1 The Landlord covenants with Capital Letters as follows:-

- 5.1.1 At the commencement of the Lease to provide a surveyor's report in confirmation that the Premises meets the standards required by Capital Letters setting out the state of repair and condition of the Premises including Installations.
- 5.1.2 To pay all existing and future tax assessments and outgoings imposed or charged upon the Premises other than those to be borne by the Tenant under the Tenancy Agreement
- 5.1.3 To comply with all statutory provisions and obligations imposed by law in regard to the use and occupation of the Premises (for the avoidance of doubt all aspects of Health and Safety requirements) and to indemnify Capital Letters against all actions claims demands and expenses which may be brought made or incurred against or by Capital Letters in consequence of such non-compliance
- 5.1.4 Not to do or permit anyone in his service including any subcontractor to act in any manner as may infringe the provisions of Human Rights Act 1998 or constitute an act of discrimination against any person
- 5.1.5 Not at any time during or after the Term without the agreement in writing of the Capital Letters divulge any details of any Sub Tenant to any person other than to persons approved in writing by Capital Letters
- 5.1.6 To comply with every duty policy and guidance notified to the Landlord by Capital Letters relating to Capital Letters' obligations to the Sub Tenant in respect of the Premises
- 5.1.7 To fit and maintain smoke detectors to the living room, hall and such other areas as may be required during the Term
- 5.1.8 To deliver to Capital Letters two full sets of keys to the Premises
- 5.1.9 To notify Capital Letters in writing of any conveyance transfer dealing with disposition of or grant of any interest out of the Landlord's interest in the Premises and send to Capital Letters a certified copy of any relevant instrument effecting such a transaction Provided that the Landlord shall not dispose of his interest to a person or body who is not capable of complying with the Landlord's Covenants herein contained without the written consent of Capital Letters
- 5.1.10 To observe and perform the covenants and conditions of any head lease and superior lease in respect of the Premises

6 **Landlord's insurance covenants**

- 6.1 To indemnify Capital Letters against all actions claims demands and expenses which may be brought made or incurred against or by Capital Letters in consequence of Landlord's failure to comply with the Terms of the Lease.

- 6.2 To indemnify and keep indemnified Capital Letters against any liability which it might or does incur to any person by reason of the fact that the Premises is unfit for use as residential accommodation within the meaning of Part VI of the Housing Act 1985
- 6.3 At all times to keep the Premises insured to the full cost of reinstatement and replacement under a policy complying with the terms of this Clause and to produce to Capital Letters on demand the insurance policy effected pursuant to this Clause and the receipt for the last premium paid or (at the option of the Landlord) evidence from the insurers of the full terms of the policy and that the same is still in force and to produce to Capital Letters as soon as received any endorsement varying the terms of the insurance policy or a copy of it
- 6.4 An insurance policy complies with the terms of Clause 7.3 if:-
- (a) It is effected in the name of the Landlord [or superior landlord] and in the names of such other persons interested in the Premises as the Landlord shall from time to time reasonably require;
 - (b) It provides cover against loss or damage by any Insured Risk to the extent that such cover is for the time being available for property of the type of the Building and the Premises together with such other risks against which the Landlord shall from time to time reasonably deem it prudent to insure or Capital Letters may reasonably require but excluding terrorism and war risks;
 - (c) The sum insured includes an appropriate percentage of the rebuilding costs for professional fees incurred in rebuilding or reinstating any building destroyed or damaged by an Insured Risk and for one year's loss of rent; and
 - (d) It is effected at an insurance office of repute which is a member of the Association of British Insurers.
- 6.5 Whenever any part or parts of the Premises are damaged by an Insured Risk forthwith after the insured loss or damage has come to the Landlord's attention to submit a claim for payment under the insurance policy or policies effected pursuant to the terms of this Lease and to make all reasonable efforts to obtain prompt payment of insurance monies from the insurers
- 6.6 [Subject to the requirements and authority of any superior landlord (acting reasonably) or the terms of any superior lease promptly to apply the proceeds of every insurance policy covering the Premises and all additions or fixtures in their rebuilding reinstatement or replacement]
- 7 Landlord's repair and maintenance covenants**
- 7.1 To put and keep the Premises in good and decorative repair order and condition and for the avoidance of doubt the obligation includes complying with all the obligations imposed upon the Landlord by Section 11 of the Landlord and Tenant Act 1985 in respect of :-
- 7.1.1 The structure (including any integral fixture or fitting), roof, windows (including the glass therein), doors and exterior of the Building/Premises including its boundary walls (whether interior or exterior) any load bearing compartmental

or separating walls within the Building/Premises and the supporting structures of the roof, ceiling and floors and interior of the Building/Premises

- 7.1.2 Whether inside or outside the Building/Premises all Installations for space heating central heating, water heating and sanitation and for the supply and use of water, gas and electricity to or in the Building/Premises and to renew, modernise and replace the same whenever necessary; and
 - 7.1.3 All other parts of the Premises including any sheds, gardens, outbuilding and garage
 - 7.1.4 Where relevant to keep or use his best endeavours to procure the common entrances halls stairways lifts passageways rubbish chutes and any other common parts serving the Premises including electric lighting and entryphone systems are in a good state of repair and fit for the use of the Sub Tenant
- 7.2 To remedy any outbreak of dry or wet rot any rising or penetrating damp whether arising from leaks penetration or failure of damp proofing membrane within a reasonable period of time or at the option of Capital Letters within the period stipulated by Capital Letters in writing
- 7.3 On receipt of any written request by Capital Letters or the Sub Tenant to inspect the Premises promptly and to undertake all necessary repairs and maintenance work to the Premises diligently within a reasonable period of time or at the option of Capital Letters within the period stipulated by Capital Letters in writing except emergency work which shall be attended to immediately
- 7.4 In the event that upon service of written notice by Capital Letters on the Landlord requiring the Landlord to carry out the Landlords Works or any want of repair to the Premises by the Landlord the Landlord fails to carry out the Landlord's Works or comply with its repairing obligations to the reasonable satisfaction of Capital Letters within a period of [28 days] from service of the said notice or within such shorter period as may be appropriate having regard to the seriousness of the breach and as shall be specified in the said notice the provisions of Clause 7.5 shall apply
- 7.5 In any such case as is mentioned in Clause 7.4 (or without notice in the case of emergency) Capital Letters shall be entitled to carry out the Landlord's Works and to recover the full cost of the same together with an administration charge which shall be:
- 7.5.1 [£25.00; plus
 - 7.5.2 10% of the cost of the works where such cost is in excess of £100.00; plus
 - 7.5.3 any Value Added Tax payable upon such cost]
- 7.6 Sums to be recovered pursuant to Clause 7.5 may be recovered either by deduction from the Rent due or at Capital Letters' option by requiring payment from the Landlord in which case payment shall be made within fourteen days of demand by Capital Letters
- 7.7 That the electricity and gas supply circuits and installations at the Premises and in particular any heating apparatus and cooking apparatus have been serviced by a properly qualified person and for the avoidance of doubt the gas contractor must be registered with

Gas Safe and electricity contractor NICEIC approved or such other regulatory body which replaces them within the last 3 months from the Lease Commencement Date and that the gas and electricity supply and installations will be serviced by such a qualified person at least once in each year during the Term and that the Landlord will provide to Capital Letters a valid annual Gas Safety Certificate and annual Electricity Safety Certificate for each year of the Term

7.8 To enter into and maintain throughout the Term a service contract with either [] or other organisation previously approved by Capital Letters in writing (such approval not to be unreasonably withheld) which service contract shall require [] or such other contractor to keep and maintain the Installations for space heating central heating and water heating at the Premises in good and proper working order and to provide to the Capital Letters on demand and at his own cost a copy of such service contract

8 **Rent Review**

8.1 [The parties acknowledge that the Rent for the Premises is set within the guidelines of Local Housing Allowance (LHA) and Department of Works and Pensions (DWP) subsidy levels.

8.2 Rent shall be reviewed on 1 April each year in line with LHA rate for January of that year and DWP subsidy levels and shall be adjusted accordingly ("New Rent"). The New Rent shall apply from 1 April each year.

8.3 If LHA is replaced by another form of allowance then the Rent shall be calculated on the basis of the new system that replaces LHA from the effective date.]

9 **Suspension of Rent**

9.1 In the event of the Premises or any part of them being rendered unsuitable for any authorised use to which Capital Letters normally puts them or are unsuitable for any use by the Sub Tenant by reason of damage to or destruction of the Building or the Premises or any part of them or the means of access to them or any essential services or any of their contents caused by any Insured Risk of being rendered unfit for human habitation as set out in Section 10 of the Landlord & Tenant Act 1985 the Rent or an appropriate proportion of the Rent shall cease to be payable by Capital Letters (depending on the period during which the Premises are unavailable for use by Capital Letters or the Sub Tenant)

9.2 For any period the Premises are unoccupied by the Sub Tenant by reasons of the Landlord's failure to carry out the Landlord's Works or vacant in order to enable the Landlord Works to be carried out the Rent or an appropriate proportion of the Rent shall cease to be payable by Capital Letters (depending on the period during which the Premises are or will be unoccupied by Capital Letters via the Sub Tenant). Rent not to be paid by Capital Letters pursuant to this Clause may be deducted from the Rent due or at Capital Letters' option by requiring payment from the Landlord in which case payment shall be made within fourteen days of demand by Capital Letters.

9.3 Capital Letters shall be entitled to stop the Rent for the Premises after expiry of two weeks if the Premises are not available or not fit for subletting following a Void or due to the necessity to carry out works of maintenance and repairs and no Rent shall be paid until

Capital Letters is satisfied the Premises are fit and ready for occupation and a tenancy agreement has been signed with the Sub Tenant

10 **Interest**

All sums due under this Lease to be paid by the Landlord to Capital Letters and not paid within twenty eight days of written demand shall bear interest on the outstanding amount from the date they were due until the date they were paid at [4%] above the base rate of [] from time to time in force

11 **Capital Letters' Right to Extend Lease**

11.1 If Capital Letters gives the Landlord written notice at any time before the last month of the expiry of the Term Capital Letters is entitled to a new Lease of the Premises for up to [six / twelve] months (i.e. any period [between one and six / six and twelve] months) starting on the day after the end of the Term such Lease being on the same terms as this Lease.

12 **Termination**

12.1 If at any time after the expiration of the First year of the Term the Landlord shall desire to determine this Lease and shall give Capital Letters not less than three months prior written notice of such desire (the "Landlord's Determination Notice") pursuant to this sub-clause then on the expiration of the said Determination Notice, the Term shall absolutely cease and determine but without prejudice to the rights and remedies of either party to this Lease in respect of any antecedent claim or breach of covenant relating to this Lease.

12.2 If at any time after the expiration of the First Six Months of the Term Capital Letters shall desire to determine this Lease and shall give the Landlord not less than four weeks prior written notice of such desire (the "Tenant's Determination Notice") pursuant to this sub-clause then on the expiration of the said Determination Notice, the Term shall absolutely cease and determine but without prejudice to the rights and remedies of either party to this Lease in respect of any antecedent claim or breach of covenant relating to this Lease.

12.3 If and whenever during the Term there is a substantial breach or non-observance by the Landlord of a material covenant of this Lease or any document expressed to be supplemental to this Lease which is not remedied within a reasonable period of time then Capital Letters may immediately terminate this Lease by giving written notice to the Landlord and the Lease shall immediately end without prejudice to any right or remedy of Capital Letters in respect of any breach of the terms of this Lease by the Landlord prior to such time [and the Landlord shall within seven days from and including the date of termination repay to Capital Letters such proportion of the Incentive Payment attributable to the period from and including the date of termination to and including the end of the Contractual Term calculated on a pro rata basis].

12.4 In the event of the Landlord being wound up or subject to receivership (including administrative receiver) appointed [or incapacity or the death of the Guarantor] Capital Letters at its discretion either shall be entitled to terminate the Lease with [3 months written notice].

13 **It is agreed by both parties as follows:-**

- 13.1 Notwithstanding the provisions of clause 12 above, if the Rent or any part of it shall remain unpaid for twenty-eight days after becoming payable (whether formally demanded or not) or if any of Capital Letters' obligations in this Lease shall not be performed or observed the Landlord may re-enter the Premises and this Lease shall end.
- 13.2 All sums due under this Lease not paid within twenty eight days of written demand shall bear interest on the outstanding amount from the date they were due until the date they were paid [at the base rate of [Bank Plc] from time to time in force
- 13.3 The ending of this Lease pursuant to any of its provisions shall be without prejudice to any right of action either party may have against the other in respect of any previous breach of covenant including any breach giving rise to such determination
- 13.4 In the event of the Premises or any part of them being rendered unsuitable for the use permitted by Clause 4.1.1 by reason of damage to or destruction of the Building or the Premises or any part of them the means of access to them any essential services or any of their contents caused by any Insured Risk of being rendered unfit for human habitation as set out in Section 10 of the Landlord & Tenant Act 1985 for any period the Premises are vacant in order to enable the Landlord's to carry out repair works:
- 13.4.1 The Rent or an appropriate proportion of the Rent shall cease to be payable and
- 13.4.2 Any dispute as to the application of this Clause shall be determined in accordance with Clause 13.5
- 13.5 If any dispute arises between the parties as to the application or interpretation of the provisions of this Lease during the Term then if either party so requires the matter may be referred in accordance with the Arbitration Act 1996 to an independent surveyor acting as an expert appointed by agreement between the parties or if no such agreement can be reached to an expert appointed for that purpose on the application of either party by the President for the time being of Royal Institution of Chartered Surveyors and whose decision shall be final and binding on both parties.
- 13.6 That there is no agreement to which this Lease gives effect within the meaning of Section 240 of the Finance Act 1994
- 13.7 That the Contracts (Rights of Third Parties) Act 1999 shall not apply and no persons other than the parties shall be entitled to enforce any of the provisions of this Lease
- 14 **Notice**
- 14.1 Any notice or other document to be served on either of the parties by the other shall be in writing and shall be sent by pre-paid first class or recorded delivery post or delivered in person to the addressee
- 14.2 Any notice so served shall be deemed to have been received by the addressee within [48 hours] of posting if sent in the case of the Landlord at [] or in the case of Capital Letters to [*Insert registered address*]
- 14.3 Any change in the postal address of either party shall be notified forthwith to the other in accordance with this Clause 16.

15 **[The Guarantors' Covenants**

15.1 The Landlord appoints [] to act as its Guarantor and the Guarantor Covenants with Capital Letters to observe and perform the requirement of this clause

15.1.1 The Landlord must observe and perform the Covenants and other terms of the Lease, and if at any time during the term the Landlord defaults in observing or performing any of the covenants or other terms of this Lease, then the Guarantor must observe and perform the covenants or terms in respect of which the Landlord is in default and make good to Capital Letters on demand, and indemnify Capital Letters against all losses resulting from such non-performance or non-observance

15.1.2 If at any time during the term any trustee in bankruptcy or liquidation of the Landlord disclaims this Lease, the Guarantor must, if so required by notice served by Capital Letters within 60 days of Capital Letters becoming aware of the disclaimer, the Guarantor will (provided that he has sufficient title or interest to do so) grant a lease of the Premises for the residue of the contractual Term as at the date of the disclaimer, at the Rent then payable under the Lease and subject to the same covenants and terms as this Lease]

IN WITNESS whereof this Lease has been executed as a Deed the day and year first above written by the Landlord, [the Guarantor] and Capital Letters.

Signed as a Deed by authorised)
Signatory/s of the Landlord)
in the presence of)

Witness signature:

Full Name:

Occupation:

Address:

[Signed as a Deed by the Guarantor)
in the presence of)

Witness signature

Full Name:

Occupation:

Address:]

Signed as a Deed by a Deed by the authorised)
Signatory/s of Capital Letters)
in the presence of

Witness signature:

Full Name:

Occupation:

Address:

Appendix

Plan



dated

2018

Capital Letters

and

[]

Assured Shorthold Tenancy

Trowers & Hamlin LLP
3 Bunhill Row
London
EC1Y 8YZ
t +44 (0)20 7423 8000
f +44 (0)20 7423 8001
www.trowers.com

draft () dated []

trowers & hamlin

Assured shorthold tenancy agreement

This tenancy agreement is made between:

Us: [] of []

This is the address which we must provide under section 48(1) Landlord and Tenant Act 1987 where you should send us notices, including notices of legal proceedings.

You:
.....

If this is a joint tenancy, the term 'you' applies to each of you and the names of all joint tenants should be written above. Each of you has the full responsibilities and rights set out in this agreement.

Address: in respect of.....(your **home**)

Description of your home: which comprises.....
.....

Tenancy: The tenancy is granted for a fixed term of [] months (the **Term**) commencing on.....

It is a fixed term assured shorthold tenancy, within the meaning of Section 19A of the Housing Act 1988 (as inserted by the Housing Act 1996), the terms of which are set out in this tenancy agreement.

Payments for your home: The monthly payments for your home at the start of this tenancy are:
(i) rent of £.....
(ii) rent arrears of £..... payable at £..... per month
(ii) service charge of £.....

The total monthly payment is £, payable on the first day of each calendar month

Initial payment: If this tenancy starts on a day other than the first day of the calendar month, the initial payment due from you will include an additional sum in respect of the portion of the total monthly payment from the start of this tenancy up to and including the last day of that first month. The total initial payment is: £.....

Managing agent (if applicable) Your home is managed by [] on our behalf (the **managing agent**). We will notify you in writing of any change to the managing agent. This arrangement does not alter our status as the landlord.

The managing agent can be contacted in a number of ways:

- In person or by letter at: []
- By telephone on: []
- By email on: []

Either we, or the managing agent will notify you in writing of any change to these contact details.

Where the terms of this tenancy require you to notify us of any information, you may send the information to the managing agent. Where the tenancy terms require us to notify you of information, this notification may either come from the managing agent, or us.

Number of permitted occupiers

.....

You (or anyone acting for you) must not have knowingly made a false statement to us, [] Council, or our Agent in order to get this tenancy.

A reference in this document to any Act of Parliament, or to any order, regulation, statutory instrument or the like, shall be deemed to include a reference to any amendment, re-enactment, consolidation, variation, replacement or extension of the same respectively from time to time and for the time being in force.

We will comply with data protection legislation, and act in accordance with our policies on disclosure of information and confidentiality.

I have read and understood the terms and conditions of this tenancy agreement, including the tenancy conditions attached, and I accept them.

If this agreement is for a joint tenancy, all tenants must sign below.

Your signature(s): Date:.....

..... Date:.....

Our signature: Date:.....

(On behalf of [])

1 **General conditions**

1.1 **Payments for your home**

1.1.1 The monthly rent and service charges at the date of this agreement are set out on page 1 of this agreement.

1.1.2 You must pay the monthly rent and service charges on the first day of each calendar month for the month ahead.

1.2 **Payment of arrears (where applicable)**

If you have any arrears of rent and other charges due when this tenancy is granted you agree to pay off those arrears by weekly instalments shown on page 1. If you do not make the payments, we may start court proceedings to end this tenancy.

1.3 **Services**

1.3.1 We shall provide the services set out at [page 1/the attached schedule] for which you shall pay a service charge. These charges only apply to your home if an amount has been entered against a service on [page 1/the attached schedule] of this agreement.

1.3.2 We may, after consulting the tenants affected, increase, add to, remove, reduce, or vary the services provided or charges to the services, or introduce new services for which a charge may be payable.

1.4 **[Rent increases**

We may increase the rent on the [first Monday in April] after this tenancy is granted by giving you not less than one calendar month's notice in writing. The revised rent shall be the amount set out in a rent increase notice given to you by us.]

1.5 **Service charge increases**

1.5.1 We may increase your service charge (if it applies) at any time if we give you at least one month's notice in writing, but not more than once a year unless there is a change in the services provided.

1.5.2 Each year, we will estimate the sum we are likely to spend in providing services to you over the coming year. That will be the service charge we will ask you to pay for the year.

1.5.3 At the same time, we will work out how much we have actually spent on providing services for you in the previous year. If we have overcharged you, we will reduce your service charge for the coming year. If we have undercharged you, we will increase your new service charge.

1.5.4 We will give you a certificate showing what is included in your service charge. When you receive your certificate you have the right, within six months of receiving it, to examine the service charge accounts, receipts and other documents relating to them and to take copies or extracts from them. We may make a small charge to cover the cost of any copying.

1.5.5 We can only make reasonable service charges and the services or work we do must be of a reasonable standard. If you believe that your service charge is unreasonable (in terms of the amount charged or standard of work) you may be able to apply to the First Tier Tribunal (Property Chamber) for a decision as to what is reasonable.

1.6 **Serving notices**

1.6.1 If you have to give us any notice or communication relating to this tenancy you must send it by first class post or hand deliver it to our address as shown on the front of this agreement.

1.6.2 If we have to give you notice under this agreement we will post or hand deliver it to your home or your last known address.

1.7 **Altering the tenancy agreement**

Except for changes to the rent and service charge, and to services, or where permitted under future legislation, this agreement can only be altered if you and we agree to the change in writing.

1.8 **Complaints**

1.8.1 We have set up a procedure for dealing with complaints you raise about this tenancy. Details of our complaints procedure are available on our website.

1.8.2 If you are still not satisfied after following our complaints procedure you can refer the matter to the Housing Ombudsman Service through the appropriate channels.

2 **What you can expect from us**

2.1 **Granting your tenancy**

2.1.1 We must allow you to move into your home at the start of your tenancy.

2.1.2 We must not interrupt or interfere with your right to peacefully live in your home during the Term of this tenancy (other than where access is needed in accordance with the terms of this agreement) and you keep to all of the terms and conditions of this agreement.

2.2 **Repairs and maintenance**

2.2.1 We must keep the structure and exterior of your home in repair, and repair any damage that has not been caused by you or someone living with or visiting you. We will keep the exterior of your home and any shared areas decorated.

Structure and exterior of your home includes (but is not limited to): drains and gutters on the outside of your home, chimneys and flues (but not including sweeping), front paths, steps or other access routes and built-on garages and stores.

2.2.2 We must maintain any installations we provide for heating rooms, water heating and sanitation, and for supplying water, gas and electricity. We will also arrange for the gas appliances we provide to be serviced once a year.

2.2.3 We must take reasonable care to keep any shared entrance halls, stairways, lifts, passageways, rubbish chutes and any other shared parts (including electric lighting) in reasonable repair.

2.3 **Insurance**

We are responsible for insuring your home and any of its fixtures and fittings which belong to us. We will not be responsible for insuring the contents of your home.

3 **What you agree to:**

3.1 **Possession and absence from your home**

3.1.1 You must occupy the property as your only or main home, and not to part with possession of your home or sublet the whole or part of it.

3.1.2 You must tell us if you expect to be away from your home for four weeks or more.

3.2 **Rent and other payments**

3.2.1 You must pay the rent and service charges each month in advance, by standing order or direct debit or as otherwise agreed with us. If you are a joint tenant, you are each responsible for the rent and any other charges and for any overdue amounts. This means we can collect the full amount from all or any of you.

3.2.2 You must pay us all reasonable costs and expenses incurred by us:

- (a) in the recovery from you of any rent or other money which is in arrears;
- (b) in the enforcement of any of the provisions of this agreement;
- (c) in the service of any notice relating to the breach by you of any of your obligations under this agreement whether or not the same shall result in court proceedings;
- (d) in respect of any bank or other charges levied on us or our agent if any cheque written by you is dishonoured or if any standing order is withdrawn by your bank;
- (e) at the end of the tenancy, in repairing, decorating or cleaning the property or its contents so they are to the same standard as at the start of the tenancy, (reasonable wear and tear excepted) as detailed in the Inventory (see clause 6); or
- (f) in compensation for the breach of any terms of this agreement.

3.2.3 You must pay interest at the rate of 4% above the base lending rate of [] upon any rent or other monies due under this agreement which is more than 14 days in arrears in respect of the date from when it became due to the date of payment (both dates inclusive).

3.3 Access

3.3.1 We have the right to enter your home at reasonable times and subject to reasonable notice to inspect it or any installations (including gas installations) or to carry out work to your home or a neighbouring property. We will normally give you at least [one/three] days' notice of any inspection or repairs but more immediate access may be required in an emergency.

3.3.2 By law we must carry out gas safety checks on any gas appliances and pipes we provide at your home at least once every 12 months. We will make all reasonable attempts to gain access to your home at a mutually convenient date and time, however, if you do not respond to requests to gain access we will take the appropriate legal action which may include seeking a Court Order permitting us to gain entry to carry out the gas safety checks. You will be liable for the reasonable costs incurred in gaining entry and the reasonable costs incurred in repairing any damage caused.

3.4 Running a business

You must use your home for residential purposes and not run (or permit to be run) a business from your home without first getting our written permission. We will not unreasonably refuse permission. You must not use your home to run a business that might cause a nuisance to or annoy any other person in the local area. You must also get our prior written permission before displaying any business signboard or advertisement.

3.5 Household expenses

You must pay all bills you receive in relation to your home, including charges for council tax, water, gas and electricity, tv licence, telephone and broadband and other costs, whether metered or billed.

3.6 Nuisance and anti-social behaviour

3.6.1 You and any person living in or visiting your home must not do any of the following:

- (a) Cause a nuisance or annoy anyone in the local area, for example by playing loud music or by making too much noise.
- (b) Harass anyone in the local area on any ground, including race, colour, nationality, religion, sex, sexuality, age or disability, which harassment or threat of harassment could interfere with the peace and comfort of, or cause offence to, other people in the neighbourhood or to any of our tenants, employees, agents or contractors.

(c) Harass, threaten or use violence towards anyone in the local area; or our tenants, employees, contractors or agents; or anyone living in or visiting your home.

(d) Use your home for any criminal, immoral or illegal purpose.

3.6.2 If you or any other person living in or visiting your home causes a nuisance, annoys anyone or behaves in an anti-social way, we may take legal action to evict you.

3.6.3 You and any other person living in or visiting your home must not do anything that could cause a danger to anyone in your home or in the local area.

3.7 **Animals**

3.7.1 You must obtain our prior written permission before keeping a pet at your home.

3.7.2 You must keep under control any animals kept at or visiting your home and not to keep any animal that might damage your home or cause a nuisance or annoyance to other persons in the neighbourhood.

3.8 **Condition of the property, repairs, maintenance and decoration**

3.8.1 You must keep the inside of your home in good and clean condition and undertake any minor repairs.

3.8.2 You must immediately tell us about any faults or damage which we are responsible for repairing.

3.8.3 You must maintain any equipment you install.

3.8.4 You must not make any improvements, alterations or additions to your home.

3.8.5 You must decorate all internal parts of your home as often as is necessary to keep them in good decorative order.

3.9 **Furniture (if applicable)**

3.10 You must not (and ensure that no one living at or visiting your home does not):

3.10.1 sell, rent or give away any of our furniture, appliances, carpets or curtains,

3.10.2 move any of our furniture , appliances, carpets or curtains out of your home without our prior written permission,

3.10.3 damage or vandalise our furniture, appliances, carpets or curtains.

3.11 You must repair any damage to our furniture, appliances, carpets or curtains which you or any other person or pet living in or visiting your home causes (other than fair wear and tear) and pay us the reasonable costs of repairing or replacing in the event of default.

3.12 You must ensure at the end of the tenancy that the furniture, appliances, carpets or curtains are left in the same rooms as they were located at the beginning of the tenancy.

3.13 You must pay us the reasonable costs of replacement of any items of furniture, appliances, carpets or curtains that are missing or damaged (other than fair wear and tear) at the end of the tenancy.

3.14 **Damage**

3.14.1 You or any person living in or visiting your home must not cause any damage to your home or to any other property in the local area.

3.14.2 You must immediately repair any damage (except fair wear and tear), which you or anyone living in or visiting you cause to your home, our fixtures and fittings or any shared parts. If we have to repair any damage caused by you or anyone living or visiting your home, you must pay our reasonable costs.

3.15 **Vehicles and parking**

3.15.1 You, or anyone living in or visiting your home, must not block local roadways and other vehicular access, and to keep them, and car parking spaces, clear of unroadworthy vehicles and other obstructions.

3.15.2 If you cause an obstruction on local roadways, other vehicular access points or car parking spaces, for example so as to prevent emergency services' or repairs operatives' access, we may arrange to have the obstruction removed.

3.16 **Shared areas**

3.16.1 You must not obstruct any of the shared areas of the block or estate with prams, bicycles, furniture, rubbish or other objects.

3.16.2 You must not interfere with or alter lighting or other equipment in any shared passageways, staircases or lifts.

3.17 **Gardens**

3.17.1 You must keep your garden (if any) tidy and free from rubbish. Hedges and trees should be kept trimmed and not allowed to become a nuisance. If you fail to keep your garden tidy we will request in writing that you do so and may undertake the work and charge you our reasonable costs reasonably incurred in default.

3.17.2 You must not remove or plant any tree in your garden, or erect any structure without our prior written permission.

3.17.3 You must maintain and repair or replace any wall, fence or hedge around your home and not remove it without our written permission.

3.18 **Subletting and lodgers**

You must not grant a sub-tenancy of the whole or any part of your home or take in lodgers.

4 Your rights

4.1 Right to occupy

You have the right to live in your home while the tenancy is in force, without interference from us (except for giving us access when necessary) as long as you keep to the terms of this agreement and respect the rights of other people in the neighbourhood. You must not allow your home to be occupied by more than the maximum number of permitted occupiers (as set out at the front of this tenancy)

4.2 Assignment

You may not assign (i.e. give or transfer) your tenancy unless you have our written permission or a court order.

5 Ending the tenancy and leaving your home

5.1 Your ability to end the tenancy

If you wish to surrender the tenancy before the end of the fixed term, you must:

- 5.1.1 give us at least four weeks' notice in writing, of the offer to surrender the tenancy, which surrender shall not be of effect to end the tenancy until it is explicitly accepted by us in writing and;
- 5.1.2 in the case of joint tenancy, to serve the notice referred to in clause 5.1.1 signed by both of the joint tenants.

5.2 Our ability to end the tenancy

Re-entry and termination prior to the end of the Term

5.2.1 If, before the end of the tenancy Term:

- (a) the rent and other charges payable shall remain unpaid, wholly or in part, for 14 days after becoming due whether formally demanded or not;
- (b) you do not use, or cease to use your home as your only or principal home;
- (c) any of your other obligations in this tenancy are not complied with, or
- (d) any of the grounds for possession listed in Schedule 2 to the Housing Act 1988 apply,

then we may re-enter your home and the tenancy shall thereupon be terminated.

5.2.2 If the circumstances outlined in conditions **Error! Reference source not found.**, **Error! Reference source not found.** or **Error! Reference source not found.** apply, we may apply to court to end this fixed term assured shorthold tenancy by obtaining a court order for possession of your home on one of the

applicable grounds listed in Schedule 2 to the Housing Act 1988. Details of the applicable grounds of possession can be obtained from us.

5.2.3 If we intend to seek possession of your home under one of the grounds for possession, we will give you no less than two weeks' notice in writing unless:

- we are using grounds 14 or 14A or any other statutory ground which allows us to give notice of less than two weeks, or
- the Court has allowed us to go ahead without serving notice on you.

Possession at the end of the Term

5.2.4 We can end this tenancy under Section 21 of the Housing Act 1988. The order for possession under Section 21 cannot take effect until the end of the Term.

5.3 Injunctions and other remedies

As well as seeking a possession order, we can ask the Court for an injunction, which may include a power of arrest and an exclusion order to make you comply with or stop breaching any terms of this tenancy or where you use your home for unlawful use. We may also apply for an injunction against an individual who engages in antisocial behaviour.

5.4 Cessation of assured tenancy

If the tenancy ceases to be an assured tenancy (for example if you do not use, or cease to use your home as your only or principal home) we may end the tenancy by giving you four weeks' notice in writing.

5.5 End of tenancy and moving out

5.5.1 During the last month of the tenancy, we may show prospective tenants around your home or pre inspect your home or arrange for photographs to be taken to allow the property to be marketed to new prospective tenants. All such visits will be at reasonable times and upon reasonable notice of at least 24 hours.

5.5.2 You must continue paying for the period until the tenancy ends or you return the keys, whichever is later.

5.5.3 You must give us vacant possession and return the keys of your home at the end of the tenancy, and remove all furniture, personal possessions and rubbish, and leave your home and our fixtures and fittings in good lettable condition and repair (subject to fair wear and tear). We do not accept any responsibility for anything you leave at your home at the end of the tenancy.

5.5.4 At the end of your tenancy you will be responsible for meeting all reasonable removal and/or storage charges when items are left at your home. We will remove and store them for a maximum of one month. We will notify you at the last known address. If the items are not collected within one month you agree that we may dispose of the items and you will be liable for the reasonable costs of disposal.

5.5.5 You must provide us with a forwarding address once the tenancy has come to an end.

6 [Inventory and security deposit]

6.1 Inventory check in, and check out

You will attend, or appoint a representative to attend, the inventory check in and check out at the beginning and the end of this tenancy, and accept and sign the resulting agreed reports. In the event that you or any representative appointed by you does not keep an appointment, you will be liable to pay the additional reasonable costs incurred by us in making and attending a further appointment to check the inventory. In the event that you or your appointed representative is not present at the second appointment or if you elect not to be present or to have a representative present, it is agreed that the inventory report and description of the condition of your home recorded at that appointment and attached to this agreement, shall be accepted by all parties as being a true and complete record.

6.2 Use of inventory

A copy of the inventory of contents and description of the condition of the property will be provided to you at the start of this tenancy. The principal copy will be retained by us. The check-out report will also be provided to you at the end of this tenancy. These documents will be used for the purposes of dealing with the deposit under this tenancy agreement.

6.3 Deposit

6.3.1 On or before the signing of this tenancy agreement, you will pay us a deposit of a sum equivalent to one month's rent. The deposit will be held as security for the performance of your responsibilities under this tenancy and to compensate us for any breach of those obligations. In particular, we may (but will not be obliged to) retain from the deposit any of the following sums:

- (a) any rent or other sums owed at the end of the tenancy, and/or
- (b) in the event that you remain in occupation of your home after the determination of the tenancy any sum owing in respect of mesne profits/damages for use and occupation, and/or
- (c) any reasonable sum (including agents' and/or solicitors' fees) reasonably expended or incurred by us in remedying your failure to comply with any of your responsibilities contained in this agreement, and/or
- (d) any damage or reasonable compensation for damage or for missing items at your home, subject to an apportionment or allowance for reasonable fair wear and tear, and for age and condition at the start of the tenancy, and/or
- (e) the costs of any unpaid utilities, water charges, council tax or other utility bills, accounts or charges which are payable by you.

6.3.2 If we apply the deposit or part of it, as authorised by conditions 6.3.1(a) to 6.3.1(e) above, you must, at our written request, pay us a further sum to restore the deposit to the original amount. In the event that the deposit is insufficient to pay your liabilities the remainder will remain due and payable by you to us on demand at the end of the tenancy.

6.3.3 It is understood that nothing shall excuse you from the obligations contained in this tenancy agreement to pay rent and other outgoings when they become due, and you must not withhold or make any deductions from the payment of rent or other sums payable during the tenancy.

6.4 **Tenancy deposit protection scheme**

The deposit will be held in accordance with section 213 of the Housing Act 2004 (or any successor or replacement legislation) in an authorised deposit scheme. We will, in accordance with the appropriate legislation:

6.4.1 provide you with information explaining how the deposit is protected under the legislation, and

6.4.2 register the deposit with an authorised deposit scheme and provide other required information about scheme within the statutory time limit, and

6.4.3 provide proof to you of our compliance with the requirements of the authorised scheme within the statutory time limit.

6.5 **Return of deposit**

We will inform you within any statutory time limit if we intend to withhold all or part of the deposit as payment towards the matters set out in condition 3 above, and we will inform the custodial scheme administrator that the deposit is to be repaid in the sums agreed.

6.6 **Good discharge**

Where 'the tenant' comprises of more than one person, the deposit or balance of the deposit may be repaid to only one or any one individual of the joint tenants and this will be a good discharge for us, without any further liability in respect of the amount so paid.

6.7 **Change of tenant**

We will not be obliged to refund the deposit or any part of the deposit on any change in the person or persons who for the time being comprise 'the tenant'.]

[Attached to and forming part of this agreement are signed copies of:

Inventory

Dated:

Tenancy Deposit Scheme Details

Dated:]

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Agenda Item 8

REPORT TO:	CABINET 10 DECEMBER 2018
SUBJECT:	QUARTER 2 FINANCIAL PERFORMANCE 2018/19
LEAD OFFICER:	RICHARD SIMPSON EXECUTIVE DIRECTOR RESOURCES (SECTION 151 OFFICER)
CABINET MEMBER:	CLLR TONY NEWMAN LEADER OF THE COUNCIL CLLR SIMON HALL, CABINET MEMBER FOR FINANCE AND RESOURCES
WARDS:	ALL
<p>CORPORATE PRIORITY/POLICY CONTEXT:</p> <p>The recommendations in the report will help to ensure effective management, governance and delivery of the Council's medium term financial strategy and ensure a sound financial delivery of the 2018/19 budget. This will enable the ambitions for the borough for the remainder of this financial year to be developed, programmed and achieved for the residents of our borough.</p>	
<p>AMBITIONS FOR CROYDON & WHY WE ARE DOING THIS:</p> <p>Strong financial governance and stewardship ensures that the Council's resources are aligned to enable the priorities, as set out in the Corporate Plan, to be achieved for the residents of our borough and further enables medium to long term strategic planning considerations based on this strong financial foundation and stewardship.</p>	
<p>FINANCIAL IMPACT</p> <p>The reduced financial settlement and ongoing demand pressures on a range of statutory services is resulting in pressures to the Council's budget, and resulting in a forecast overspend at Quarter 2.</p>	
<p>FORWARD PLAN KEY DECISION REFERENCE NO.</p> <p>Not a key decision</p>	
<p>The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below</p>	
<p>1 RECOMMENDATIONS</p> <p>Cabinet is recommended to :</p> <p>i) Note the current revenue outturn forecast at the end of the second quarter of 2018/19 of £1.266m, this is before exceptional items of £2.279m, resulting in a total overspend of £3.545m. If the £3.545m is not reduced by the end of the year then the £4.700m contribution to reserves identified in paragraph 2.2 will be reduced to a £1.155m contribution to reserves.</p> <p>ii) Note the ongoing engagement with and lobbying of Government by the Council for additional funding for Croydon, both in general terms and specifically Unaccompanied</p>	

Asylum Seeking Children given Croydon's gateway status, fire safety measures and mitigation of the impact of the Universal Credit implementation.

- iii) Note the HRA position of a **£0.475m** forecast underspend against budget;
- iv) Note the capital outturn projection of **£427.8m**, forecast to be an underspend of **£19.6m** against budget;
- v) Note the changes to the capital programme set out in paragraph 7.6, Table 6 and Appendix 2

2. EXECUTIVE SUMMARY

- 2.1 This report updates the Council's financial outlook at the end of the second quarter of 2018/19, which remains against a context of a series of adverse national funding changes affecting Local Government finance.
- 2.2 The budget set in February 2018 for 2018/19 assumed grant reductions of 6.5% (**£6.5m**) in the financial year. To manage this reduction there were a number of savings totalling **£17.5m** built in to the budget. Alongside these savings there was growth of **£26m** for areas where demand and costs have increased. A sum of **£4.7m** will also be added to revenue reserves in 2018/19, replacing the amount drawn down in 2017/18. This sum represents the surplus available from the collection fund during 2017/18, which was not available until after 1 April 2018.
- 2.3 Croydon Council continues to remain under huge financial pressures, deriving notably from:
- Historic underfunding of Croydon over the last 15-20 years,
 - Cumulative cuts of more than 75% of government funding between 2010/11 and 2019/20,
 - Failure to recognise the inflationary pressures the Council is subject to,
 - Continued Chronic underfunding of adult social care and children's social care – the Local Government Association (LGA) has reported that three quarters of local authorities with responsibility for social care are showing overspends and estimates that, by 2019/20, there will be a £2billion funding gap for each of adult social care and children's social care in England,
 - Substantial population increase,
 - Significant growth in demand for services, both from demographic pressures, such as an aging population and changes to the make-up of the Croydon population
 - Impact of welfare reform, notably the benefits cap, freezing of in-work benefits, local housing allowance, universal credit,
 - Underfunding of new duties, such as Health Visiting, Deprivation of Liberty assessments and the Homelessness Reduction Act,
 - Failure to properly fund the direct and indirect costs of Croydon's status as the gateway authority for Unaccompanied Asylum Seeking Children (UASC),
 - Impact of the underfunding of the health economy,
 - Failure to fund the cost of building new schools,
 - Restrictions on council housing, the Housing Revenue Account borrowing cap, rent restrictions, rules on right-to-buy receipts.
 - Delivering improvement as a result of the recent Ofsted inspection findings in Children's Social Care.

- 2.4 The financial monitoring process has identified a number of pressures across the council with the most significant being within Children, Families and Education department. The Council's overall forecast revenue over spend of **£3.545m** is made up of Departmental over spends of **£6.266m**, non-departmental under-spends of **£5.000m** and exceptional items of **£2.279m**. These exceptional costs relate to additional costs associated with UASC, Leaving Care and Appeal Rights Exhausted over and above the burden on Croydon council taxpayers assumed in the 2018/19 budget. Without these exceptional items the forecast overspend would be **£1.266m**, as shown in table 1 below.

Table 1 – Summary of forecast revenue outturn position at Quarter 2

Department	Quarter 2 Forecast Variance £'000s	Quarter 1 Forecast Variance £'000s
Health, Wellbeing and Adults	225	1,412
Children, Families and Education	7,542	4,558
Place	(5,062)	(3,387)
Gateway, Strategy & Engagement	1,517	380
Resources and CEO	2,044	2,272
Departmental Overspend	6,266	5,235
Corporate Items	(5,000)	(4,090)
Sub Total - Before Exceptional Items	1,266	1,145
Exceptional Items - Unaccompanied Asylum Seekers (UASC), UASC Leaving Care and All Rights Exhausted associated costs	2,279	1,454
Total Projected Over-spend	3,545	2,599

- 2.5 If the **£3.5m** forecast overspend is not reduced by the end of the year then the £4.7m contribution to reserves identified in paragraph 2.2 will be reduced to £1.155m
- 2.6 Based on the significant demand pressures and challenges that still continue to impact the council work is underway to look at how these pressures can be reduced, these include:
- Review of Adult Social Care fees and charges is underway to ensure services are charged in accordance with the Care Act legislation;
 - A review of SEN travel policy and the type of provision;
 - The Council is also undertaking a review of service provision for Appeal Rights Exhausted individuals and families;
 - A review of services provided by external contractors;
- 2.7 The Council is continuing to make a concerted drive for fairer funding for Croydon. Discussions are still ongoing with the Home Office to increase our funding for UASC. The Quarter 1 financial monitoring report presented to this cabinet in September 2018 contained at appendix 3 a letter from the Leader to the Home Secretary highlighting Croydon's concerns in relation to UASC. A reply to this letter is attached as appendix 3 to this report.
- 2.8 The government announced an additional £21.3m of controlling migration funding to help manage the pressures of UASC. Final allocations were confirmed in January 2018. Croydon was allocated £376,250, 1.8% of the total allocation despite us having just under 10% of the children in our care and our 'gateway authority' duties. The Leader wrote to Ministers to express concern about the fairness of this allocation however the final allocation received did not change.

- 2.9 The government announced £240m of additional funding for councils to spend on adult social care services to help councils alleviate winter pressures. Allocations were based on the Relative Needs Formula for adult social care and final allocations were confirmed in October. Croydon was allocated £1.4m, that will be used to support service delivery.
- 2.10 We also continue to engage with the Ministry for Housing, Communities and Local Government (MHCLG) seeking funding of **£10m** for fire safety works following the tragic incident at Grenfell Tower. The Cabinet Member for Homes, Regeneration and Planning has written to the Secretary of State twice seeking commitment to fund essential safety works in Croydon. To date, responses from the MHCLG have been disappointing and have failed to provide any funding, stating that our works do not meet the department's criteria of essential safety works and that the government expects Croydon to fund measures to make buildings safe.
- 2.11 As a result of work undertaken by Croydon, changes to the national policy for Universal Credit were announced which took effect from 1 April 2018. As a pilot authority we have incurred costs in excess of **£3m** and are still in dialogue with the government to seek reimbursement for these costs we have incurred.
- 2.12 Details of major variances are provided in Table 2, Section 3 of this report, with further information about all projected outturn variances in Appendix 1 to this report.

3. GENERAL FUND 2018/19 REVENUE SUMMARY

- 3.1 The projected outturn position at the first quarter of 2018/19 is showing the effect of anticipated saving and recovery plans that are being implemented.
- 3.2 The 2018/19 budget was set with the inclusion of growth to help manage previously identified pressures and ambitious savings targets. Despite this growth there continues to be increasing demand for the services in relation to adult and children's social care. There are also budget pressures in the Resources department relating to SEN transport costs, and pressures within the Gateway, Strategy and Engagement department in relation to temporary accommodation.

Table 2 – 2018/19 significant variances

Department	Major Variances over £500k	Quarter 2 £'000s	Quarter 1 £'000s	2017/18 Outturn £'000s
CHILDREN, FAMILIES AND EDUCATION				
Corporate Parenting	Corporate Parenting - an increase in the number of external placements and court driven assessments	5,862	3,416	8,093
	Variances below £500k	1,680	1,142	1,071
CHILDREN, FAMILIES AND EDUCATION TOTAL		7,542	4,558	9,164
HEALTH, WELLBEING AND ADULTS				
25-65 Disability Service	Residential Costs for 7 "Surrey and Borders" clients, formally Continuing Health Care funded	2,118	1,400	0
	Expenditure on Care Packages in relation to 36 new clients transferred from 0 - 25 Disability Service	999	1,000	0
	Over spend on Domiciliary Care associated with increased client numbers and increased supported living costs	1,174	0	0
Over 65 Providers	Use of Transformation funding to deliver the Out of Hospital program	(2,000)	0	0

0-25 CWD Service	The service is currently undergoing transformation and the associated costs will be funded from the transformation fund	0	1,128	1,364
Directorate	Improved Better Care funding	(2,000)	(2,000)	0
	Variances below £500k	(66)	(116)	(1,680)
HEALTH, WELLBEING AND ADULTS TOTAL		225	1,412	(316)
PLACE				
Public Realm	Additional Pay and Display and PCN Income	(3,719)	(2,025)	(1,100)
	Street lighting - additional costs in relation to the Street Lighting energy consumption	784	700	0
	Savings due to reduced unit cost of landfill during the Energy Recovery Facility commissioning phase	(1,205)	(915)	0
Directorate	Variances below £500k	(922)	(1,147)	30
PLACE TOTAL		(5,062)	(3,387)	(1,070)
GATEWAY, STRATEGY AND ENGAGEMENT				
	Increase in the number of household being placed in Private Rental Sector. And an increase in costs associated with voids, repairs and agency staff	1,417	380	0
	Variances below £500k	100	0	(1,709)
GATEWAY, STRATEGY AND ENGAGEMENT TOTAL		1,517	380	(1,709)
RESOURCES AND CHIEF EXECUTIVE				
Digital & IT	Saving on the ICT contract plus additional project work charged to capital	(677)	(663)	(1,779)
Commissioning and Procurement	SEN transport & demand pressure	1,585	1,865	3,080
Finance, Investment & Risk	Variances below £500k	1,136	1,070	(1,460)
RESOURCES AND CHIEF EXECUTIVES TOTAL		2,044	2,272	(159)
TOTAL DEPARTMENTAL OVERSPEND		6,266	5,558	5,910
CORPORATE ITEMS				
	Use of contingency budget	(2,000)	(2,000)	(1,000)
	Revolving Investment Fund earnings	(1,800)	(1,990)	0
	Unachievable Contract Review Savings	1,500	0	864
	Unachievable Digital and Advertising Income	750	750	0
	Additional Grant Funding Awarded in Year	(1,400)	0	0
	Commercial Rent Income	(1,450)	(850)	(7,031)
	Other Minor Variations	(600)	0	0
CORPORATE ITEMS TOTAL		(5,000)	(4,090)	(7,167)
SUB TOTAL BEFORE EXCEPTIONAL ITEMS		1,266	1,145	2,096
Exceptional Items	UASC, UASC Leaving Care and All Rights Exhausted costs	2,279	1,454	2,936
TOTAL VARIANCE		3,545	2,599	5,032

3.3 The main areas of pressure is within the Children, Families and Education department, with overspend in 2018/19 of £7.5m. These are also the areas that local authorities across the country are grappling with and are typically showing much larger percentage overspends.

- 3.4 As a result of the Ofsted inspection in the summer of 2017 £10.784m was added to the budgets for Children’s Services for 2018/19 to cover costs associated with additional placements, additional staff resources for social work and legal costs.
- 3.5 Children’s Services is still continuing to see pressures due to the number of cases that are being dealt with but also as a result of the transition whilst the new teams are being put into place and recruitment to roles continues. Funding for transformation will continue to be utilised where possible to fund Children’s Services.
- 3.6 The exceptional items reported at Quarter 2 relate to the overspend against budget for UASC, leaving care costs for former UASC and Appeal Rights Exhausted costs which the Council is continuing to lobby the government to fund as detailed in the last quarter report. The UASC pressure continues to be as a result of the Home Office continuing to only fund a fixed rate per child, which does not accurately reflect our costs for looking after those children, not the costs of acting as a ‘gateway’ authority. The fall in the number of UASC has exacerbated this issue. While our numbers of UASC are decreasing, direct and indirect service provision costs are not decreasing at the same rate. Options to reduce this funding gap through the reduction of costs and maximising Home Office income are still continuing to be explored.
- 3.7 The Home Office have said that they are committed to reviewing funding rates and we have contributed to their call for evidence. At this stage there is no date for when there will be an outcome of that review. The Home Office have indicated, in a schedule the Council is required to complete regarding UASC, that this year’s rates will be the same as last year and therefore our forecast reflects that.
- 3.8 Additionally, Croydon acting as a ‘gateway’ authority continues to fund provision for UASC both leaving care and for those who have exhausted all appeal rights. This additional expenditure further increases the cost of exceptional items for the council.
- 3.9 The Improved Better Care Funding (IBCF) is for a three year period and was allocated in two tranches. Tranche 1 was allocated in spending review 2015 and formed part of adult social care core funding to mitigate the reduction in core grant funding. This allocation was built in to base budgets and enabled protection from cuts. Tranche 2 was allocated in the spring 2017 budget. This money will be spent across the health and social care sector to ensure the criteria of the funding of Meeting Adult Social Care Needs, Supporting Hospital Discharge and Stabilising the Social Care provider Market are met.
- 3.10 The Local Government Association has launched a nationwide consultation “The lives we want to lead” to start a desperately-needed debate on how to pay for adult social care and rescue the services caring for older and disabled people from collapse.
- 3.11 Years of significant underfunding of councils, coupled with rising demand and costs for care and support, have combined to push adult social care services to breaking point.
- 3.12 Since 2010 councils have had to bridge a £6 billion funding shortfall just to keep the adult social care system going. In addition the LGA estimates that adult social care services face a £3.5 billion funding gap by 2025, just to maintain existing standards of care, while latest figures show that councils in England receive 1.8 million new requests for adult social care a year – the equivalent of nearly 5,000 a day.
- 3.13 Decades of failures to find a sustainable solution to how to pay for adult social care for the long-term, and the Government’s recent decision to delay its long-awaited green paper on the issue until the autumn, has prompted council leaders to take action.

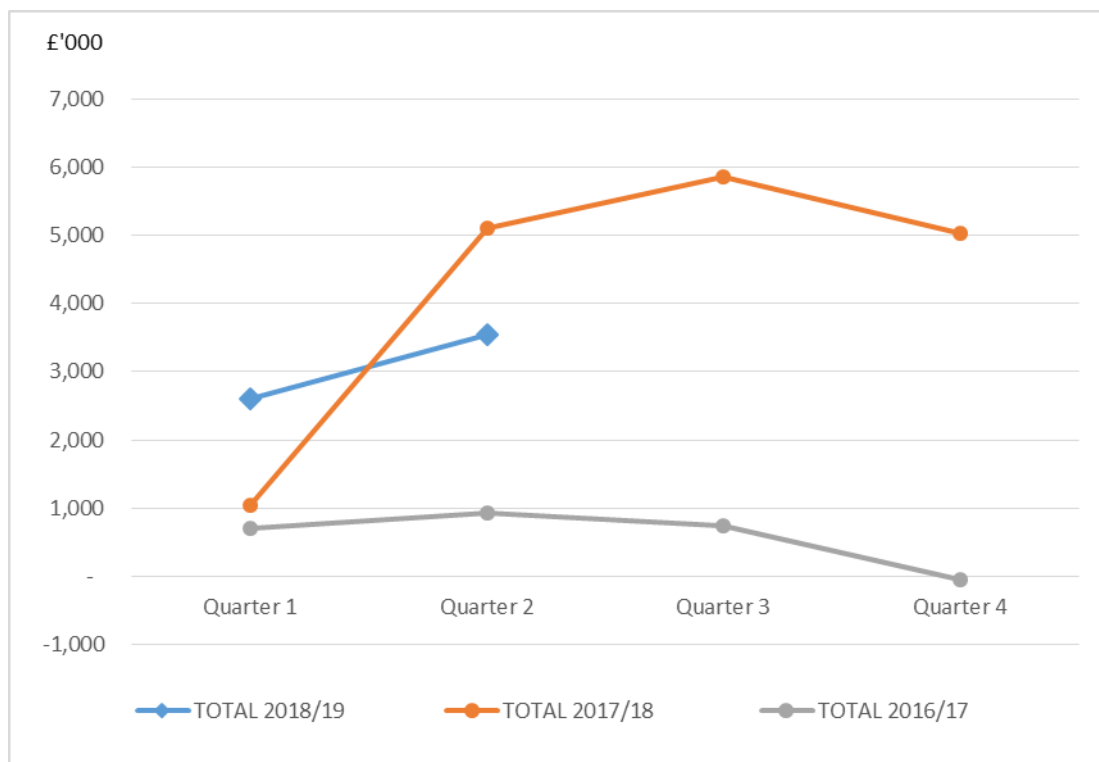
- 3.14 Short-term cash injections have not prevented care providers reluctantly closing their operations or returning contracts to councils resulting in less choice and availability to a rising number of people with care needs. This is increasing the strain on an already-overstretched workforce and unpaid carers, and leading to more people not having their care needs met.
- 3.15 Increased spending on adult social care – which now accounts for nearly 40 per cent of total council budgets – is threatening the future of other vital council services, such as parks, leisure centres and libraries, which help to keep people well and reducing the need for care and support and hospital treatment.
- 3.16 The LGA consultation sets out options for how the system could be improved and the radical measures that need to be considered given the scale of this funding crisis. Possible solutions to paying for adult social care in the long-term outlined in the consultation include:
- Increasing income tax for taxpayers of all ages: a 1p rise on the basic rate could raise £4.4 billion in 2024/25
 - Increasing national insurance: a 1p rise could raise £10.4 billion in 2024/25
 - A Social Care Premium – charging the over-40s and working pensioners an earmarked contribution (such as an addition to National Insurance or another mechanism). If it was assumed everyone over 40 was able to pay the same amount (not the case under National Insurance), raising £1 billion would mean a cost of £33.40 for each person aged 40+ in 2024/25.
 - Means testing universal benefits, such as winter fuel allowance and free TV licenses, could raise £1.9 billion in 2024/25
 - Allowing councils to increase council tax – a one per cent rise would generate £285 million in 2024/25
- 3.17 The consultation - the biggest launched by the LGA – is seeking the views of people and organisations from across society on how best to pay for care and support for adults of all ages and their unpaid carers, and aims to make the public a central part of the debate. The LGA will respond to the findings in the autumn to inform and influence the Government’s green paper and spending plans.
- 3.18 The LGA green paper – alongside funding issues – also seeks to start a much-needed debate about how to shift the overall emphasis of our care and health system so that it focuses far more on preventative, community-based personalised care, which helps maximise people’s health, wellbeing and independence and alleviates pressure on the NHS.
- 3.19 The pressure on children’s social care is now becoming apparent. Research conducted by the Local Government Association (LGA) has revealed children’s services are at breaking point with 75% of councils overspending to keep vital protections in place. The review found that in 2015/16 councils surpassed their children’s social care budgets by £605m in order to protect children at immediate risk of harm. There has been an increase of 140% in child protection enquiries over the last 10 years with enquiries up to more than 170,000 in 2015/16.
- 3.20 The chair of the LGA’s Children and Young People Board, has recently said: “The fact that the majority of councils are recording high levels of children’s services overspend in their local areas shows the sheer scale of the funding crisis we face in children’s social care, both now and in the near future.”

- 3.21 There are calls on the government to introduce a fairer funding system based on demand for services. Referrals to children’s services have increased and the number of children subject to child protection plans has doubled in the last decade. “Government needs to take note on this issue sooner rather than later, otherwise we are sleepwalking into another funding crisis for services that less fortunate young people rely on. LGA noted that a nationwide children’s services funding gap of £2bn will exist by 2020. As detailed in this report we are continuing to experience rising demand and costs.
- 3.22 This year to date, Children’s Social Care residential assessments have increased by 80% (10 in Q2, 18 in Q2). Comparing the same period (Q2) last year, the number of children with a Child Protection Plan has also increased by 35%, contributing towards the reported overspend.
- 3.23 Further to the approval of the Asset Investment Strategy by Cabinet in September, the Council has purchased the Colonnades Retail and Leisure Park on the Purley Way. This is being purchased in two tranches with the first tranche totalling £45m. This purchase will provide important revenue savings to the Council of around £1.4m a year net of interest and other costs, and help protect the delivery of core services to residents.

4 GENERAL FUND REVENUE SUMMARY POSITION 2018/19

- 4.1 Graph 1 below shows the forecast variance for 2018/19 compared to previous years. The Council continues to manage its finances through the rigorous monitoring and control of spending within the framework of the Financial Strategy.

Graph 1 – Forecast Variances



5 VIREMENTS OVER £500K REQUIRING CABINET APPROVAL

5.1 There are no virements requiring approval.

6. HOUSING REVENUE ACCOUNT (HRA)

6.1 The current forecast for the HRA is for an estimated underspend of **£0.475m**. The key variances being reported at Quarter 2 are summarised in Table 3 below:

Table 3 – 2018/19 Main variances within the HRA

Department	Major Variances	Quarter 2 £'000s	Quarter 1 £'000s	2017/18 Outturn £'000s
HRA – HOUSING NEEDS	Renewed lease agreement for Concorde, Sycamore and Windsor at reduced cost	(530)	(449)	(247)
HRA – DISTRICT CENTRES AND REGENERATION	An increase in discretionary payments over budget	55	(276)	(1,734)
TOTAL HRA PROJECTED VARIANCE		(475)	(725)	(1,981)

6.2 Longer term budget planning for the HRA is continuing to take place and includes reviewing the impact of the Housing and Planning Act 2016 to understand and model the impact of future rent reductions, and build a sustainable budget for revenue and capital spend within the HRA. In particular, the recent announcement about the removal of the HRA borrowing cap will be a key consideration.

6.3 As previously reported to this Cabinet, the charity Croydon Affordable Housing will be responsible for managing a number of affordable rented properties working alongside Brick by Brick and The Hub to deliver these additional properties by 2019. This is in addition to the 96 street properties that were purchased under the ETA (Emergency Temporary Accommodation) programme that have been transferred to Croydon Affordable Homes LLP and the additional street properties that are currently being purchased. A further 174 properties have been purchased towards an expected 250 properties for use as temporary accommodation. These properties are due to be transferred to Croydon Affordable Tenures LLP in March 2019.

6.4 Ongoing fire safety works are continuing and will continue to be funded from the HRA as a result of the government failing to provide funding for these essential works. As previously reported this investment will be in the region of £10m, with around £5.5m forecast for 2018/19.

7. FORECAST CAPITAL OUTTURN POSITION

7.1 The high level Capital programme for 2018/19 is shown in Table 4 below, full details of all projects are shown in appendix 2. A forecast under spend of **£19.572m** is projected for 2018/19.

Table 4 – 2018/19 Capital Programme

Original 2018/19 Budget £'000s		Carry forward from 2017/18 £'000s	Re-profiling / Increases in Schemes £'000s	Revised Budget 2018/19 £'000s	Actuals April-September 2018 £'000s	Forecast Outturn £'000s	Forecast Variance £'000s
0	HEALTH, WELLBEING AND ADULTS	579	0	579	93	379	(200)
35,527	CHILDREN, FAMILIES AND EDUCATION	26,822	(28,004)	34,345	8,924	33,935	(410)
33,850	GATEWAY, STRATEGY & ENGAGEMENT	8,254	86,000	128,104	20,463	120,180	(7,924)
224,984	PLACE	24,822	(111,917)	137,889	34,820	126,410	(11,479)
19,105	RESOURCES	2,973	87,361	109,439	77,356	110,166	727
313,466	GENERAL FUND TOTAL	63,450	33,440	410,356	141,656	391,070	(19,286)
32,385	HOUSING REVENUE ACCOUNT	4,715	0	37,100	1,555	36,814	(286)
345,851	CAPITAL PROGRAMME TOTAL	68,165	33,400	447,456	143,211	427,884	(19,572)

7.2 The main reported variances on projects within the Council's capital programme are as follows:

7.2.1 **Affordable Housing** (£3.791m) – This under-spend is a result of savings achieved on the estimated purchase costs of properties, as well as the timing of purchases in this financial year.

7.2.2 **Bereavement Services** (£2.603m) – This is a combination of delays in identifying suitable land to purchase for additional burial capacity, as well as delays in the incinerator replacement project, which will commence later this year.

7.2.3 **Blackhorse Road Bridge** (£3.648m) – TfL is the lead authority on the commissioning of the two bridges. The programme slippage is due to issues identified from the feasibility studies and engineering difficulties with construction. The construction is expected to be substantially completed and the road opened to traffic by Dec 2019 and the entire project by completed May 2020.

7.2.4 **Disabled Facilities Grant** (£1.5m) – Due to DFG spend restrictions, the council is unable to expand the team in line with the increase in grant allocation. Spend per property is capped at £30k, currently average spend is £10k per property. The remaining amount will be slipped to 2019/20.

7.2.5 **Fieldway Cluster (Timebridge Community Centre)** - (£3.6m) – Forecast spend lower than budget. The remaining amount is to be slipped to 2019/20.

7.3 The capital programme continues to be funded from a number of different funding streams and makes use of capital receipts to support the delivery of the financial strategy. Table 5 below details the funding for the original 2018/19 budget, the revised programme and the forecast outturn.

Table 5 – Sources of capital funding

Funding	Original 2018/19 budget £'000s	Revised 2018/19 budget £'000s	Forecast 2018/19 Outturn £'000s
School Condition Funding (Education)	3,770	3,770	3,770
EFA Invest to Save (Education)	969	969	969
TFL LIP and other funding	2,663	2,886	2,462
CIL	6,800	7,300	7,300
CIL local meaningful proportion	1,200	1,200	1,200
Disabled Facilities Grants	2,400	3,030	1,500
Borrowing - (RIF)	194,929	106,540	103,660
LLP Receipt	0	122,391	118,600
Growth Zone	4,000	4,574	4,474
S106	260	2,637	2,637
Borrowing	96,475	155,059	144,498
GENERAL FUND	313,466	410,356	391,070
Major Repairs Allowance	21,209	25,924	25,924
HRA - Revenue Contribution	3,718	3,718	3,718
HRA - Use Of Reserves	7,458	7,458	7,172
HRA FUNDING	32,385	37,100	36,814
TOTAL FUNDING	345,851	447,456	427,884

- 7.4 The majority of the general fund borrowing is to fund the education programme due to the inadequate level of funding received from Government and the essential need to provide school places in the borough.
- 7.5 The estimates within the capital programme have been reviewed at the mid point of the year, and the revised budget has been adjusted across financial years to remain consistent with expected delivery.
- 7.6 The budget has also been updated to include changes in schemes between Q1 and Q2. The main change is due to the purchase of Colonnades Retail Park from the asset acquisition scheme, as shown in table 6 below.

Table 6 – Additions to the Capital Programme

Additions to the Capital Programme Q2	2018/19 Additions £'000s
Asset Acquisition Fund	45,000
Libraries Investment	82
Total	45,082

- 7.7 The Asset Acquisition fund represents the move to secure medium to long term revenue returns from sound property investment within Borough. The acquisition of the Croydon Park Hotel and the Colonnades retail park site is anticipated to provide net revenue gains to the general fund after the interest costs have been factored in to the forecast outturn figures in this report.

8. FINANCIAL MANAGEMENT

8.1 Council Tax and Business Rates are two key income streams for the Council. Collection rates for the current year are shown in Table 7 below:

Table 7 - Council Tax and Business Rates collection

	Target collection – year to date %	Actual collection – year to date %	Variance to target – year to date %	Variance - last year - at Q2 %
Council Tax	54.75	54.84	+0.09	+0.46
Business Rates	56.76	59.09	+2.33	-0.81

Council Tax

8.2 At the end of quarter 2 Council Tax collection is above target by 0.09%. The Council remains on course to achieve its in-year collection target of 97.25%, which is an increase of 0.25% above the previous year's target of 97.00%.

Business Rates

8.3 At the end of quarter 2 Business Rates collection is 2.33 % above target, which is the result of a large business paying their year's liability in full, rather than in instalments. The Council is on target to achieve its full year collection target of 98.75%.

Local Discretionary Relief

8.4 In March 2017, the Government announced that funding would be made available across 2017/18 to 2021/22 to protect businesses from increases in business rates caused by the revaluation of business property introduced in 2017/18. The Council's local discretionary scheme was approved by Cabinet in 26 February 2018, which will distribute relief of up to the £870,000 in 2018/19 – the amount of funding made available to the Council. Table 8 sets out current performance:

Table 8 – Distribution of Local Discretionary Relief

Business Type (based on rateable value)	Anticipated number	Anticipated amount £'000s	Actual number – YTD	Actual relief – YTD £'000s
Small Businesses	2,038	352	1,810	311
Medium businesses	678	524	830	469
Borough Total	2,716	876	2,440	780

8.5 Amounts of relief distributed in year are lower than anticipated because business premises cease to be eligible for this relief if there is a change in occupation from the time the revaluation took place. This has also caused the reduction between Q1 and Q2.

9. CONSULTATION

9.1 All departments have been consulted during the preparation of this report.

10. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 10.1 This report sets out the current financial position of the Council, and actions being taken to address the projected overspend.

The report is submitted by Richard Simpson – Executive Director of Resources (Section 151 Officer)

11. COMMENTS OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

- 11.1 The Solicitor to the Council comments that the Council is under a duty to ensure that it maintains a balanced budget and to take any remedial action as required in year.
- 11.2 The Local Government Act 1972 Section 151 states that each local authority has a statutory duty to make arrangements for the proper administration of their financial affairs. In addition, the Accounts and Audit Regulations 2015 impose an explicit duty on the Council to ensure that financial management is adequate and effective and that they have a sound system of internal control, including arrangements for the management of risk.
- 11.3 “Proper administration” in the context of Section 151, referenced above, is not statutorily defined; however, there is guidance, issued by CIPFA on the responsibilities of the Chief Finance Officer (CFO). This states that local authorities have a corporate responsibility to operate within available resources and the CFO should support the effective governance of the authority through development of corporate governance arrangements, risk management and reporting framework. Regular monitoring of the Council’s actual expenditure to budget and forecasting of the expenditure for the full year is part of the proper administration and governance of the Council.
- 11.4 Statutory Guidance on the Flexible Use of Capital Receipts has been issued under the Local Government Act 2003. By Section 15(1) the Council is required to have regard to this guidance. The guidance applies with effect from 1 April 2016 to 31 March 2019. The guidance should be read alongside the Flexible use of capital receipts Direction made by the MHCLG in exercise of its powers under the Local Government Act 2003 Sections 16(2) (b) and 20.
- 11.5 Provision is made within the Local Government and Finance Act 1988 (“the Act”) as amended (including by section 69 of the Localism Act) for the Council to grant discretionary rate relief subject to parameters as set out within the Act and detailed within the proposed 2018/19 policy . Such rate relief terms are also subject to the terms of the Section 31 Grant from Government. The Non-Domestic Rating (Discretionary Relief) Regulations 1989 require authorities to provide ratepayers with at least one year’s notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year.

Approved by: Sandra Herbert Head of Litigation and Corporate Law for and on behalf of Jacqueline Harris-Baker Director of Law and Monitoring Officer.

12 HUMAN RESOURCES IMPACT

- 12.1 The items from the savings packages and action plans included in the report or those that need to be developed in response to the report are likely to have an impact on LBC staff as proposals are developed. These can vary from posts not being re-filled or deleted through

restructures proposals leading to possible redundancies. Where that is the case, the Council's existing policies and procedures must be observed and HR advice must be sought.

- 12.2 HR will continue to work closely with service areas on any in year proposals for savings or service redesign that affect the workforce. All proposals will be managed within the council HR procedures and policies and be subject to formal consultation with the trades unions.

Approved by: Sue Moorman, Director of Human Resources

13 EQUALITIES IMPACT

- 13.1 The key service areas that currently have over spend in budgets are Children's Social Care and Adults Social Care. These are areas that provide services to customers from equality groups that share protected characteristics; such as younger people (Looked after Children), people with a disability (Children with special educational needs), older people and BME groups. There are a number of known equality and inclusion issues in the above mentioned service areas such as an over-representation of BME young people in looked after children, over-representation of BME groups and other vulnerable groups, young children with a disability who have a special educational needs and their carers, vulnerable older people with complex needs etc. The mitigating actions, on these specific services are unlikely to affect these groups more than the population as a whole. In fact, a number of those will affect these groups less.
- 13.2 In addition, there are policy changes made by Government that will impact on the in-year budget, in particular the delay in the implementation of the Immigration Act. The Council will work to ensure key services to Croydon residents are protected wherever possible. However, it is likely that some of the areas affected will be a reduction in Home Office funding for UASC, a cut to the Public Health Grant and the Youth Justice Board grant and changes to the Welfare and Housing Bill. There is a likelihood that these cuts will have a more significant adverse impact on some groups that share a protected characteristic such as age, race and disability. Changes to the Welfare and Housing Bill are also likely to have an adverse negative impact on the more vulnerable customers.
- 13.3 In order to ensure that our vulnerable customers that share a "protected characteristic" are not disproportionately affected by the actions proposed to reduce in year budget over spend we will ensure that the delivery of the cost reduction initiatives are informed by a robust equality analysis of the likely detrimental impact it could have on all services users and in particular those that share a "protected characteristic".
- 13.4 If the equality analysis suggests that the cost reductions initiatives are likely to disproportionately impact on particular group of customers, appropriate mitigating actions will be considered. This will enable the Council to ensure that it delivers the following objectives that are set out in our Equality and Inclusion Policy:
- To increase the rate of employment for disabled people, young people, over 50s and lone parents who are furthest away from the job market
 - To increase the support offered to people who find themselves in a position where they are accepted as homeless especially those from BME backgrounds and women
 - To reduce the rate of child poverty especially in the six most deprived wards
 - To improve attainment levels for white working class and Black Caribbean heritages, those in receipt of Free School Meals and Looked After Children, particularly at Key Stage 2 including those living in six most deprived wards
 - To increase the percentage of domestic violence sanctions
 - To increase the reporting and detection of the child sexual offences monitored

- To reduce the number of young people who enter the youth justice system
- To reduce social isolation among disabled people and older people
- To improve the proportion of people from different backgrounds who get on well together
- To reduce differences in life expectancy between communities

Approved by: Yvonne Okiyo, Equalities Manager

14 ENVIRONMENTAL IMPACT

14.1 There are no direct implications contained in this report.

15 CRIME AND DISORDER REDUCTION IMPACT

15.1 There are no direct implications contained in this report.

16 REASONS FOR RECOMMENDATION /PROPOSED DECISION

16.1 Given the current in year-position Executive Leadership Team have been tasked to identify options to achieve a balanced year-end position.

17 OPTIONS CONSIDERED AND REJECTED

17.1 Given the current in year-position Executive Leadership Team have been tasked to identify options to achieve a balanced year-end position. The alternative would be to over-spend and draw down on balances, which would not be prudent.

CONTACT OFFICER: Richard Simpson - Executive Director Resources (Section 151 Officer). Tel number 020 8726 6000 ext. 61848

BACKGROUND PAPERS: none

APPENDICES: Appendix 1 – Revenue Variations over £100k with explanation
 Appendix 2 – 2018/19 Q2 Capital Outturn Forecast
 Appendix 3 – Letter to the Leader from the Minister of State for Immigration

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CHILDREN, FAMILIES AND EDUCATION

Division	Explanation of variance	Qtr 2 Amount £'000s	Qtr 1 Amount £'000s
Early Help and CSC Directorate	Unachievable savings offset by underspends in staffing	382	368
	Sub-total Early Help and CSC Directorate	382	368
Care Planning Service	Increase in costs in relation to Section 17 expenditure due to increased demand	383	383
	Other Minor Variances < £100k	93	83
	Sub Total Care Planning Service	466	466
Corporate Parenting	Increase in legal costs in relation to assessments.	1,407	1,407
	Increase in the number of external placements and court driven allowances	1,734	1,274
	Increase in payments for birthdays, holidays, subsistence care and fostering costs	200	200
	Costs in relation to the number of agency and supernumerary staff in looked after children	1,432	300
	Other Minor Variances < £100k	1,089	235
	Sub Total Corporate Parenting	5,862	3,416
Safeguarding and LAC Quality Assurance	Additional cost of locums in permanent posts within Safeguarding and Quality Assurance	140	113
	Other Minor Variances < £100k	93	0
	Sub-total Safeguarding and LAC Quality Assurance	233	113
MASH and Assessments	Agency cover costs for maternity and long term sickness and increase in costs in relation to Section 17 expenditure due to increased demand	274	275
	Early Help Service realignment costs	(122)	(352)
	Other Minor Variances < £100k	132	119
	Sub-total MASH and assessments	284	42
Adolescent Services	Unbudgeted costs in relation to the Safer London Contract	126	126
	Other Minor Variances < £100k	75	75
	Sub-total Adolescent Services	201	201
Education & Youth Engagement	Other Minor Variances < £100k	24	0
	Sub-total Education & Youth Engagement	24	0
Children, Families & Education Directorate	Other Minor Variances < £100k	116	0
	Sub-total Children, Families & Education Directorate	116	0
Early Years Services	Other Minor Variances < £100k	(36)	(48)
	Sub-total Early Years Services	(36)	(48)
	CHILDREN, FAMILIES AND EDUCATION	7,542	4,558

HEALTH, WELLBEING AND ADULTS

Division	Explanation of variance	Qtr 2 Amount £'000s	Qtr 1 Amount £'000s
25-65 Disability Service	Residential Costs for 7 "Surrey and Borders" clients that were formally Continuing Health Care funded	2,118	1,400
	Variance reduced due to management within budget of cost associated with provider failure.	0	275
	Over spend on domiciliary care associated with increased client numbers and increased supported living costs plus the additional cost of 36 clients moving from 0-25 Disability Service.	2,173	1,000
	Additional income from client contributions	(237)	0
	Other Minor Variances > £100k	132	1,081
	Sub Total - 25-65 Disability Service	4,186	3,756
0-25 CWD Service	The variance shown in quarter 1 to be funded from transformation funds.	0	1,128
	Sub Total - 0-25 CWD Service	0	1,128
Adult Social Care Directorate	Improved Better Care funding	(2,000)	(2,000)
	Other Minor Variances > £100k	(688)	0
	Sub Total - Adult Social Care Directorate	(2,688)	(2,000)
Mental Health	Increase in costs of placements	567	383
	Other Minor Variances > £100k	51	94
	Sub Total - Mental Health	618	477
Over 65 Commissioning	Contract Costs higher than anticipated	240	240
	Other Minor Variances > £100k	29	29
	Sub Total - Over 65 Commissioning	269	269
	Use of Transformation funding to deliver Out of Hospital program	(2,000)	0
	Other Minor Variances > £100k	(119)	(1,891)
	Sub Total - Over 65 Providers	(2,119)	(1,891)
Safeguarding & Quality Assurance	Reduction in use of agency staff	(131)	0
	Sub Total - Safeguarding & Quality Assurance	(131)	0
Disability Commissioning & Brokerage	"Mind in Croydon Employment support & Welfare benefits"	118	0
	Other Minor Variances > £100k	53	0
	Sub Total – Disability Commissioning & Brokerage	171	0
Day and Employment Services	Other Minor Variances > £100k	(81)	(81)
	Sub – Total Day and Employment Services	(81)	(81)
Transformation and Clienting	Other Minor Variances < £100k	0	(246)
	Sub – Total Transformation and Clienting	0	(246)
	HEALTH, WELLBEING AND ADULTS	225	1,412

PLACE DEPARTMENT

Division	Explanation of variance	Qtr 2 Amount £'000s	Qtr 1 Amount £'000s
District Centres and Regeneration	Parks – Unrealised income	100	0
	Other Minor Variances < £100k	18	0
	Sub-total District Centres & Regeneration	118	0
Planning	Other Minor Variances < £100k	(257)	(4)
	Sub-total Planning	(257)	(4)
Economic Growth	Apprenticeship Levy	100	0
	Other Minor Variances < £100k	35	0
	Sub-total Economic Growth	135	0
Public Realm	Parking - Increase in income	(3,719)	(2,025)
	Licensing - under recovery of licencing income	100	100
	Shortfall in street trading and market trading fees	104	129
	Street lighting – energy costs	784	700
	Waste collection savings	(329)	(265)
	Reduction in costs of energy for interim period results in savings on landfill waste tonnages costs	(1,205)	(915)
	Other Minor Variances < £100k	(193)	(502)
	Sub-total Public Realm	(4,458)	(2,778)
Directorate	NSO and Bulky Waste funding	(600)	(605)
	Sub-total Directorate	(600)	(605)
	PLACE DEPARTMENT	(5,062)	(3,387)

GATEWAY, STRATEGY AND ENGAGEMENT

Division	Explanation of variance	Qtr 2 Amount £'000s	Qtr 1 Amount £'000
Housing Need	Increase in the number of household being placed in Private Rental Sector. Increased costs associated with voids, repairs and agency staff	1,417	380
	Other Minor Variances < £100k	100	0
	GATEWAY, STRATEGY AND ENGAGEMENT DEPARTMENT	1,517	380

RESOURCES AND CHIEF EXECUTIVES DEPARTMENT

Division	Explanation of variance	Qtr 2 Amount £'000s	Qtr 1 Amount £'000s
Facilities Management and Support Services	Business Support - Scanning income not achievable	228	179
	Other Minor Variances < £100k	(68)	(343)
	Sub-total Facilities Management and Support Services	160	(164)
Digital and IT	ICT - Saving on the cost of the ICT contract and capitalisation of salaries	(677)	(663)
	Other Minor Variances < £100k	110	(10)
	Sub-total Digital and IT	(567)	(673)
Commissioning and Procurement	SEN – increased transport costs due to service demand	1,585	1,865
	Other Minor Variances < £100k	(245)	280
	Sub-total Commissioning and Improvement	1,340	2,145
Finance Investment and Risk	Revenues and Benefits - non recovery of parking income (£300k) and previous savings not realised (£460k)	760	760
	Other Minor Variances < £100k	(86)	4
	Sub-total Finance Investment and Risk	674	764
Law and Governance	Other Minor Variances < £100k	135	85
	Sub-total Law and Governance	135	85
Chief Executive's Department	Other Minor Variances < £100k	325	115
	Sub-total Chief Executive's Department	325	115
	RESOURCES AND CHIEF EXECUTIVES DEPARTMENT	2,044	2,272

CORPORATE ITEMS

Division	Explanation of variance	Qtr 2 Amount £'000s	Qtr 1 Amount £'000s
Corporate Items	Use of contingency budget	(2,000)	(2,000)
	Revolving Investment Fund earnings	(1,800)	(1,990)
	Unachievable Contract Review Savings	1,500	0
	Unachievable Digital and Advertising Income	750	750
	Additional Grant Funding Awarded in Year	(1,400)	0
	Commercial Rent Income	(1,450)	(850)
	Other Minor variations	(600)	0
	Total Forecast Variance – Corporate	(5,000)	(4,090)
	Total Overspend before Exceptional Items	1,266	1,145

EXCEPTIONAL ITEMS

Division	Explanation of variance	Qtr 2 Amount £'000s	Qtr 1 Amount £'000s
	Unaccompanied Asylum Seekers Grant lower than associated costs	1,311	1,131
	Leaving Care Unaccompanied Asylum Seekers not funded	700	454
	All Rights Exhausted associated costs	448	(131)
	Total Forecast Variance – Exceptional	2,279	1,454
	Total Overspend after Exceptional Items	3,545	2,599

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2018/19 Q2 Capital Outturn Forecast

Appendix 2

Category	2018/19 Original Budget £'000s	2017/18 carry forward £'000s	In Year Budget Adjusts. £'000s	2018/19 Revised Budget £'000s	2018/19 Q2 Actual £'000s	2018/19 Outturn Forecast £'000s	Forecast Variance £'000s
Adults ICT	0	579	0	579	93	379	(200)
Health, Wellbeing and Adults Sub Total	0	579	0	579	93	379	(200)
Education – Academies Programme	0	38	0	38	0	38	0
Education – DDA	0	6	0	6	0	6	0
Education – Fire Safety Works	2,000	0	0	2,000	0	1,877	(123)
Education – Fixed term expansion	0	1,760	243	2,003	564	2,003	0
Education – Major Maintenance	3,020	1,567	(933)	3,654	722	3,367	(287)
Education – Miscellaneous	2,118	1,259	(2,215)	1,162	53	1,162	0
Education – Permanent Expansion	11,639	13,332	(14,220)	10,751	5,648	10,751	0
Education – Secondary Schools Estate	0	318	(167)	151	55	151	0
Education – Special Educational Needs	16,750	5,114	(12,212)	9,652	1,082	9,652	0
Education – SEN Centre of Excellence	0	0	1,500	1,500	0	1,500	0
Onside Youth Zone	0	3,428	0	3,428	800	3,428	0
Children, Families and Education Sub Total	35,527	26,822	(28,004)	34,345	8,924	33,935	(410)
Bereavement Services	1,360	1,323	0	2,683	0	80	(2,603)
Disabled Facilities Grants	2,400	630	0	3,030	38	1,500	(1,530)
Affordable Housing Programmes	30,090	6,301	86,000	122,391	20,425	118,600	(3,791)
Gateway, Strategy and Engagement Sub Total	33,850	8,254	86,000	128,104	20,463	120,180	(7,924)
Blackhorse Lane Bridge	1,755	1,900	0	3,655	7	7	(3,648)
Brick by Brick programme	164,839	10,301	(100,000)	75,140	19,984	72,260	(2,880)
Community Ward Budgets	576	120	0	696	0	696	0
Devolution initiatives	782	0	0	782	0	782	0
Empty Homes Grants	500	0	0	500	68	500	0
Fairfield Halls – Council	0	721	0	721	11	827	106
Feasibility Fund	330	275	0	605	0	407	(198)
Fieldway Cluster (Timebridge Community Centre)	4,000	0	0	4,000	92	310	(3,690)
Growth Zone	4,000	474	100	4,574	401	4,474	(100)
Highways	5,000	0	0	5,000	709	5,000	0
Highways – flood water management	410	0	0	410	0	410	0
Highways – bridges and highways structures	793	0	0	793	17	793	0
Highways – Tree works	179	0	0	179	46	179	0
Measures to mitigate travellers in parks and open spaces	0	95	0	95	0	24	(71)
Leisure centres equipment upgrade	1,315	976	0	2,291	0	2,291	0
Libraries investment – general	130	0	82	212	0	212	0

Category	2018/19 Original Budget £'000s	2017/18 carry forward £'000s	In Year Budget Adjusts. £'000s	2018/19 Revised Budget £'000s	2018/19 Q2 Actual £'000s	2018/19 Outturn Forecast £'000s	Forecast Variance £'000s
Libraries investment – South Norwood library	555	0	0	555	0	30	(525)
New Addington Leisure Centre	24,386	1,633	(13,322)	12,697	4,391	12,681	(16)
New Addington wellbeing centre – borrowing element	200	0	0	200	0	200	0
New waste contract – vehicles	7,106	1,940	0	9,046	6,267	9,067	21
Old Ashburton Library	0	0	0	0	138	138	138
Parking	600	20	(200)	420	129	1,125	705
Public Realm	0	2,452	(715)	1,737	810	641	(1,096)
Salt Barn	0	524	0	524	541	591	67
Safety – digital upgrade of CCTV	500	0	0	500	0	200	(300)
Section 106 Schemes	0	1,562	1,075	2,637	167	2,637	0
Signage	25	0	0	25	0	25	0
South Norwood regeneration	500	0	0	500	0	129	(371)
Surrey Street Market	0	25	67	92	0	42	(50)
TfL LIP	2,462	0	0	2,462	482	2,462	0
Thornton Heath Public Realm	0	1,254	0	1,254	520	1,683	429
Unsuitable Housing Fund	0	250	0	250	0	250	0
Walking and cycling strategy	1,381	0	0	1,381	0	1,381	0
Waste and Recycling Investment	2,660	0	996	3,656	11	3,656	0
Waste and Recycling – Don't Mess with Croydon	0	300		300	29	300	0
Place Sub Total	224,984	24,822	(111,917)	137,889	34,820	126,410	(11,479)
Asset strategy – Cavendish House	100	0	0	100	0	100	0
Asset strategy – Stubbs Mead	1,650	283	0	1,933	0	1,933	0
Asset strategy – BWH	50	50	0	100	0	100	0
Asset strategy – Family Justice Centre	200	20	0	220	0	220	0
Asset strategy – Capita Davis House relocation	50	50	0	100	0	100	0
Asset strategy – Heathfield House	100	60	0	160	0	160	0
Asset Acquisition Fund	0	0	84,000	84,000	74,400	84,400	0
Corporate Property Programme	2,000	0	361	2,361	1,372	3,088	727
Crossfield (relocation of CES)	0	0	2,600	2,600	0	2,600	0
Emergency Generator (Data Centre)	0	1,200	0	1,200	0	1,200	0
Finance and HR system	4,055	1,310	(990)	4,375	6	4,375	0
ICT Refresh & Transformation	7,400	0	990	8,390	1,466	8,390	0
People ICT	3,500	0	0	3,500	112	3,500	0
Resources Sub Total	19,105	2,973	87,361	109,439	77,356	110,166	727
GENERAL FUND TOTAL	313,466	63,450	33,440	410,356	141,656	391,070	(19,286)

Category	2018/19 Original Budget £'000s	2017/18 carry forward £'000s	In Year Budget Adjusts. £'000s	2018/19 Revised Budget £'000s	2018/19 Q2 Actual £'000s	2018/19 Outturn Forecast £'000s	Forecast Variance £'000s
HOUSING REVENUE ACCOUNT							
Asset management ICT database	434	0	0	434	0	434	0
Fire safety programme	5,000	0	0	5,000	0	8,492	3,492
Larger Homes	0	62	0	62	0	100	38
Major Repairs and Improvements Programme	26,771	4,147	0	30,918	1,540	27,608	(3,310)
Special Transfer Payments	180	506	0	686	15	180	(506)
HOUSING REVENUE ACCOUNT TOTAL	32,385	4,715	0	37,100	1,555	36,814	(286)
LBC CAPITAL PROGRAMME TOTAL	345,851	68,165	33,440	447,456	143,211	427,884	(19,572)

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Home Office

Rt Hon Caroline Nokes MP
Minister of State for Immigration

Cllr Tony Newman
London Borough of Croydon
Town Hall
Katherine Street
Croydon
CR0 1NX

2 Marsham Street
London SW1P 4DF
www.gov.uk/home-office

01 NOV 2018

Dear Cllr Newman

Thank you for your letters of 19 July and 5 October. I sincerely apologise for the delay in responding to your original letter, and I understand that you should by now have received a response from my officials. You raised many important issues and I therefore wanted to write to you as well, and to take the opportunity to thank you and your officers for your ongoing commitment to supporting such a large number of unaccompanied asylum-seeking children. This continued commitment is greatly valued.

I understand that local authorities would like to know the outcome of the funding review as soon as possible. We hope to reach a conclusion soon, but I would like to reassure you that the time being taken is because we are listening to and taking very seriously the evidence local authorities, including Croydon, provided to the review. We have tough choices which need to be considered as part of the overall pressures on the Borders, Immigration and Citizenship System and in the wider context of fiscal pressures we are all facing.

Delivery of support for UASC is not just about funding alone. Whilst we consider the funding issue, we are continuing to take forward a number of other matters raised during the course of the review. This includes work to review the Home Office payments process, consider issues around former UASC care leavers and training for social workers on the asylum system. These issues should all be looked at alongside funding to provide long-term and sustainable solutions for these vulnerable young people.

Regarding education costs, we have always been clear that the UASC grant is intended as a contribution towards the support of UASC, and not a full cost recovery model. On funding for infrastructure costs, we recognise that certain local authorities with very large numbers of UASC, such as Croydon, incur certain infrastructure costs above those incurred by local authorities who look after smaller numbers.

The enhanced UASC rates you receive take these increased costs into account. The enhanced rates were agreed in February 2016, when it was agreed that they were sufficient to cover your full costs. Therefore, it has always been our intention that the enhanced funding rates you receive is to help with these additional costs. On that basis, we do not intend to introduce a core funding grant.

You mentioned the new duty introduced through the Children & Social Work (C&SW) Act that requires local authorities to continue to provide Personal Adviser support to any care leaver who requests it, through to age 25. The Department for Education's new burdens assessment considered how many young people we would expect to take up the offer of support, based on the experience of the small number of local authorities who had been offering support to all care leavers to age 25 before the legislation came into force.

A copy of the new burdens assessment is available at:

<https://www.gov.uk/government/publications/extending-personal-adviser-support-to-25-new-burdens-assessment>.

The accompanying guidance on implementing the new duty

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683701/Extending_Personal_Adviser_support_to_all_care_leavers_to_age_25.pdf) makes clear that the new duty does not require local authorities to offer the same proactive support to young people aged over 21 as is the case for those aged 18-20. For example, the new duty does not include the same requirements to keep in touch with care leavers that apply before they reach age 21.

In relation to care leavers who are former UASC, those who have leave to remain are entitled to access Personal Adviser support to age 25 if they want to, in the same way as any other care leaver. However, care leavers who become appeal rights exhausted (ARE) fall into the 4th category of 'ineligible person' listed in Schedule 3 of the Nationality, Immigration and Asylum Act 2002, which makes particular categories of people ineligible to receive leaving care support because of their immigration status. The Home Office ceases to provide leaving care funding to the local authority three months after the individual becomes ARE. In these circumstances, the local authority will only be able to continue to provide support to the extent necessary to avoid a breach of the person's rights under the European Convention on Human Rights.

The Home Office is currently reviewing asylum processing operations for UASC, as a result of the UASC funding review. Wherever operationally possible we will ensure as many UASC and former UASC cases are dealt with as a priority.

I have asked officials to work with you to determine whether better collaboration on the management of your cohort can deliver more timely outcomes. They will be in contact with you in due course to arrange a meeting or teleconference.

*Yours sincerely
Caroline Nokes*

**Rt Hon Caroline Nokes MP
Minister of State for Immigration**

REPORT TO:	Cabinet 10 December 2018
SUBJECT:	STAGE 1: RECOMMENDATIONS ARISING FROM SCRUTINY
LEAD OFFICERS:	Richard Simpson, Executive Director Resources and S151 Officer Stephen Rowan – Head of Democratic Services and Scrutiny
LEAD MEMBER:	Councillor Sean Fitzsimons Chair, Scrutiny and Overview Committee
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT:	The constitutional requirement that Cabinet receives recommendations from scrutiny committees and to respond to the recommendations within two months of the receipt of the recommendations

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations contained within this report:

1. RECOMMENDATIONS

Cabinet is asked to:

- 1.1 Receive the recommendations arising from the Scrutiny and Overview Committee (30 October 2018) & the Streets, Environment and Homes Sub-Committee (6 November 2018) and to provide a substantive response within two months (ie. at the next available Cabinet meeting on **21 January 2019**).

2. EXECUTIVE SUMMARY

- 2.1 Recommendations that have been received from the Scrutiny and Overview Committee and its Sub-Committees since the last Cabinet meeting are provided in the body of this report. The constitution requires that an interim or full response is provided within 2 months of this Cabinet meeting.

3. 30 OCTOBER 2018 – SCRUTINY AND OVERVIEW COMMITTEE RECOMMENDATIONS

- 3.1 The Committee held a Question Time session with the Cabinet Member for Finance

and Resources. Subsequent to the questions asked at the meeting, the Committee reached the following conclusions:

1. The Committee were disappointed with the lack of information provided as an update on the implementation of their recommendations made over the past four year.
2. It was particularly disappointing to note that a system for notifying local Members about S106 and Cil funds in their Wards had not been implemented in the three years since the recommendation was made.
3. That further information was required on the Council's Digital Strategy and the implementation of the Eyes and Ears Strategy and as such the new Chief Digital Officer would be invited to attend a future meeting of the Committee to provide an update.

3.2 The Committee also requested the following information to be provided by the Cabinet Member:-

1. It was requested that representations made by the Council calling for fair funding for outer London Boroughs are shared with Committee Members.
2. That an update on the implementation of a system for notifying local Members about the S106 & Cil funds raised in their Wards be provided.

3.3 The Committee agreed to make the following recommendation to the Cabinet:

1. Recommend to the Cabinet Member for Finance & Resources that action is taken to ensure that Members are informed when s106 and Cil agreements have been negotiated in their Ward, including confirming for what purpose the funds had been secured
2. Recommend to each Cabinet Member that a tracker is maintained of all Scrutiny recommendations which come under their responsibility.

3.4 The Committee considered an item on Co-operation and Social Enterprise in Croydon; present were the Cabinet Members Economy & Jobs and Finance & Resources. Subsequent to the questions asked of to those present, the Committee reached the following conclusions:

1. The Committee were disappointed to note that although the Council had signed up to support the ten principles for Cooperative Council's, there did not seem to be an overarching policy to support cooperatives within the Council.
2. Although there had been an emphasis on social enterprise over recent years, there was a need to develop a strategy that encompassed all the different social business models and in particular the various models of co-operatism.

3.5 The Committee also requested the following information to be provided by the Cabinet Member:

Arising from the discussion of this item, the following further information was requested a breakdown of Council contractors, categorised by business model.

3.6 The Committee agreed to make the following recommendation to the Cabinet:
Recommend to the Cabinet Member for Economy and Jobs that a comprehensive strategy is developed to set out how the Council will provide support for all forms of co-operatism and social enterprise.

4. 6 NOVEMBER 2018 – STREETS, ENVIRONMENT & HOMES SUB-COMMITTEE RECOMMENDATIONS

- 4.1 The Sub-Committee held a Question Time session with the Cabinet Member for Environment, Transport and Regeneration. Subsequent to the questions asked of those present, the Committee reached the following conclusions:
1. The Cabinet Member and officers were thanked for their presentation and report.
 2. That going forward, rolling trackers for recommendations made would be implemented to ensure that they were being monitored and completed as required.
 3. There was a concern at the lack of progress made on some of the recommendations that has been made over the last few years, in particular in relation to bonfires, smoke control and the impact on air quality.
- 4.2 The Committee agreed to make the following recommendation to the Cabinet:
1. Recommend to the Cabinet Member for Environment, Transport and Regeneration for exact timescales to be provided on the resolution of outstanding recommendations.
 2. Recommend to the Cabinet member for Environment, Transport and Regeneration for a review of Public by Laws to take place despite constraints.
- 4.3 The Committee also considered a report on Social Housing in Croydon. Subsequent to the questions asked of those present, the Committee reached the following conclusions:
1. The Members thanked the registered housing providers and Support for attending the meeting.
 2. The Sub-Committee Members felt that the information report presented by the Council officers required improvement as lacked vital information about the sector in Croydon.
 3. The Housing First initiative was innovative and welcoming and that progress details of progress would be welcomed at future meetings.
 4. The work of the Gateway service was positive and making a difference to the lives of Croydon residents.
 5. The short term funding provided by government to Thames reach was not beneficial to their workforce in the long term.
 6. The those housing providers that have been successful in ensuring that their contractors pay the London Living Wage be congratulated.
 7. There is a need for better co-ordination between all Registered Housing Providers in Croydon to ensure best use of resources across the borough
- 4.4 The Committee agreed to make the following recommendation to the Cabinet:
1. Recommend to Optivo, Caysh, CCHA and Thames reach to work extensively to encourage their contractors to pay staff the London Living Wage.
 2. Recommend to Cabinet Member that the Council should lead on having an annual review of Registered Housing Providers performance in the borough,
 3. Recommend to the all registered housing providers In Croydon to improve their partnership working within Croydon and with the Council.
 4. Recommend to Cabinet Member to review Croydon's overall approach to its relationship with Registered Housing Providers in Croydon and report back to this committee.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

There are no financial implications arising directly from the contents of this report.

6. COMMENTS OF THE BOROUGH SOLICITOR AND MONITORING OFFICER

The recommendations are presented to Cabinet in accordance with the Constitution. This requires that the Scrutiny report is received and registered at this Cabinet Meeting and that a substantive response is provided within 2 months (ie. **Cabinet, 21 January 2019** is the next available meeting).

CONTACT OFFICER:

Simon Trevaskis, Senior Democratic Services and Governance Officer - Scrutiny
T: 020 8726 6000 X 64840
Email: simon.trevaskis@croydon.gov.uk

BACKGROUND DOCUMENTS:

Background document 1: Reports to the Scrutiny & Overview Committee on 30 October 2018. <https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=166&MId=1519>

Background document 2: Reports to the Streets, Environment & Homes Sub-Committee on 6 November 2018.
<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=170&MId=1493&Ver=4>

REPORT TO:	CABINET 10 DECEMBER 2018
SUBJECT:	STAGE 2: RESPONSE TO RECOMMENDATIONS ARISING FROM: CHILDREN AND YOUNG PEOPLE SCRUTINY SUB-COMMITTEE – 18 SEPTEMBER 2018
LEAD OFFICERS:	RICHARD SIMPSON, EXECUTIVE DIRECTOR RESOURCES AND S151 OFFICER
CABINET MEMBERS:	ALL
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT:	THE CONSTITUTIONAL REQUIREMENT THAT CABINET RECEIVES RECOMMENDATIONS FROM SCRUTINY COMMITTEES AND TO RESPOND TO THE RECOMMENDATIONS WITHIN TWO MONTHS OF THE RECEIPT OF THE RECOMMENDATIONS.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below:

1. RECOMMENDATIONS

Cabinet is recommended to approve the response and action plans attached to this report at Appendix A and that these be reported to the Scrutiny and Overview Committee or relevant Sub-Committees.

2. EXECUTIVE SUMMARY/DETAIL

2.1 This report asks the Cabinet to approve the full response reports arising from the Stage 1 reports presented to the Cabinet meeting held on 24 September 2018 including:

- Action plans for the implementation of agreed recommendations, or
- Reasons for rejecting the recommendations

and that these be reported to the Scrutiny and Overview Committee or relevant Sub-Committees.

2.2 The Constitution requires that in accepting a recommendation, with or without amendment, from a Scrutiny and Overview Committee or Sub-Committee, the Cabinet shall agree an action plan for the implementation of the agreed recommendations and shall delegate responsibility to an identified officer to report

back to the Scrutiny and Overview Committee or Sub-Committee, within a specified period, on progress in implementing the action plan.

3. SCRUTINY RECOMMENDATIONS

- 3.1 The Scrutiny recommendations are contained in the schedule in the appendix to this report.
- 3.2 The detailed responses including reasons for rejected recommendations and action plans for the implementation of agreed recommendations are contained in the appendices.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1 The recommendations in this report may have a financial implication and as each recommendation is developed the financial implication will be explored and approved.

5. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

The recommendations are in accordance with the constitution.

6. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 6.1 These are contained in the appendix to this report.

7. OPTIONS CONSIDERED AND REJECTED

- 7.1 These are contained in the appendix to this report.

CONTACT OFFICER:

Stephen Rowan, Head of Democratic Services
and Scrutiny
T: 020 8726 6000 X 62529
Email: stephen.rowan@croydon.gov.uk

BACKGROUND DOCUMENTS:

Background document 1: Reports to the Children and Young People Scrutiny Sub-Committee on 18 September 2018.

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=167&MId=1513&Ver=4>

SCRUTINY RECOMMENDATION	DEPARTMENT AND CABINET MEMBER RESPONDING	ACCEPT/ REJECT RECOMMENDATIONS (inc. reasons for rejection)	IDENTIFIED OFFICER	ANY FINANCIAL IMPLICATIONS	TIMETABLE FOR IMPLEMENTATION OF RECOMMENDATIONS IF ACCEPTED (i.e. Action Plan)	DATE OF SCRUTINY MEETING TO REPORT BACK
CHILDREN AND YOUNG PEOPLE SCRUTINY SUB- COMMITTEE - At its meeting on 18 September 2018, the Committee RESOLVED to:						
1. An update report was required on progress and improvements based on the Children's Statutory Complaints Report 2017/18, to be brought to the Sub-Committee on a quarterly basis as well as an overview report to be brought before the Sub-Committee at its 27 November 2018 meeting.	Councillor Alisa Flemming Children, Family & Education	Accept	Clare Davies	None	Completed	27/11/18
2. The above Reports to include data on the Council's performance against neighbouring Local Authorities.	Councillor Alisa Flemming Children, Family & Education	Accept	Clare Davies	None	Completed	27/11/18
3. That the sessions that were held in 2017 (which enabled members to experience the journey of the child through visits with children's services departments) resume quickly and the timetable for the sessions be distributed as soon as the dates have been agreed.	Councillor Alisa Flemming Children, Family & Education	Accept	Philip Segurola / Kerry Crichlow	None	Sessions to be set up when the new Executive Director and Director of Early Help and Social Care are in post from January 2019	14/01/19
4. Officers circulate figures on the amount of cases of Section 20 accommodated children to the Sub-Committee after the meeting.	Councillor Alisa Flemming Children, Family & Education	Accept	Philip Segurola	None	Completed	27/11/18
5. Officers to produce and circulate to members following the meeting, a cluster of performance indicators by the 1st of November 2018.	Councillor Alisa Flemming Children, Family & Education	Accept	Philip Segurola	None	Completed	27/11/18

SCRUTINY RECOMMENDATION	DEPARTMENT AND CABINET MEMBER RESPONDING	ACCEPT/ REJECT RECOMMENDATIONS (inc. reasons for rejection)	IDENTIFIED OFFICER	ANY FINANCIAL IMPLICATIONS	TIMETABLE FOR IMPLEMENTATION OF RECOMMENDATIONS IF ACCEPTED (i.e. Action Plan)	DATE OF SCRUTINY MEETING TO REPORT BACK
CHILDREN AND YOUNG PEOPLE SCRUTINY SUB- COMMITTEE - At its meeting on 18 September 2018, the Committee RESOLVED to:						
6. The Sub-Committee work with officers to establish which performance indicators they would like to explore in further detail.	Councillor Alisa Flemming Children, Family & Education	Accept	Nick Pendry	None	Work on this to begin with Nick Pendry when in post from 2 January 2019	14/01/19
7. Invite partners (Council, CCG and Police) to attend a future Scrutiny meeting to answer questions on how they will apply the new guidance to reaching decisions of development under the new proposals.	Councillor Alisa Flemming Children, Family & Education	Accept	Independent Chair of CSCB	None	Completed	14/01/19
8. The partners to provide evidence to the Sub-Committee on how they are supporting each other, the effectiveness of their multiagency working and the impact on the lives of the children of Croydon.	Councillor Alisa Flemming Children, Family & Education	Accept - The Annual Report of the CSCB which was presented to CYP scrutiny is an assessment of the effectiveness of multi-agency safeguarding arrangements and has already been covered at a formal CYP scrutiny session and a further two hour session on 17th October with the Independent Chair. The evidence is contained in the Annual Report so this recommendation has already been addressed.	Independent Chair of CSCB	None	Completed	17/10/18

SCRUTINY RECOMMENDATION	DEPARTMENT AND CABINET MEMBER RESPONDING	ACCEPT/ REJECT RECOMMENDATIONS (inc. reasons for rejection)	IDENTIFIED OFFICER	ANY FINANCIAL IMPLICATIONS	TIMETABLE FOR IMPLEMENTATION OF RECOMMENDATIONS IF ACCEPTED (i.e. Action Plan)	DATE OF SCRUTINY MEETING TO REPORT BACK
CHILDREN AND YOUNG PEOPLE SCRUTINY SUB- COMMITTEE - At its meeting on 18 September 2018, the Committee RESOLVED to:						
9. Invite partners to attend a meeting of the Sub-Committee in January 2019 to present their proposals.	Councillor Alisa Flemming Children, Family & Education	Accept	Independent Chair of CSCB	None	Completed	14/01/19

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Croydon Council

REPORT TO:	CABINET 10 DECEMBER 2018
SUBJECT:	INVESTING IN OUR BOROUGH
LEAD OFFICER:	SARAH WARMAN, INTERIM DIRECTOR OF COMMISSIONING & PROCUREMENT RICHARD SIMPSON, EXECUTIVE DIRECTOR RESOURCES & S151 OFFICER
CABINET MEMBER:	COUNCILLOR SIMON HALL CABINET MEMBER FOR FINANCE AND RESOURCES
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: Effective outcome based commissioning and prudent financial transactions contribute to all corporate priorities. The Council's commissioning strategy sets out the approach to commissioning and procurement and puts delivery of outcomes at the heart of the decision making process. As the Council develops more diverse service delivery models, it is important to ensure that our contractual and partnership relationships are not only aligned to our corporate priorities but also represent value for money for citizens and taxpayers, contributing to the growth agenda for Croydon.	
FINANCIAL SUMMARY: There are no direct costs arising from this report.	
KEY DECISION REFERENCE NO.: There are key decisions mentioned in this report, but approval of the Recommendations would not constitute a key decision.	

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1 RECOMMENDATIONS

1.1 The Cabinet is requested to approve:

1.1.1. The procurement strategy which will result in contract awards for the provision of Social Care Assessment Services Approved Provider Panel for a maximum term of four years as set out at agenda item 11a.

1.2 The Cabinet is requested to note:

1.2.1 The contracts over £500,000 anticipated to be awarded by the nominated Cabinet Member, in consultation with the nominated Cabinet Member for Finance and Resources or, where the nominated Cabinet Member is the Cabinet Member for Finance and Resources, in consultation with the Leader.

- 1.2.2 The list of delegated award decisions made by the Director of Commissioning and Procurement, between 13/10/2018 – 09/11/2018.
- 1.2.3 The list of delegated award decisions made by the Nominated Cabinet Member for Finance and Resources for the Good to Great ICT transformation programme.
- 1.2.4 Property acquisitions and disposals agreed by the Cabinet Member for Finance and Resources in consultation with the Leader since the last meeting of Cabinet.

2 EXECUTIVE SUMMARY

2.1 This is a standard report which is presented to the Cabinet, for information, at every scheduled Cabinet meeting to update Members on:

- Delegated contract award decisions made by the Director of Commissioning and Procurement 13/10/2018 – 09/11/2018;
- Contract awards and strategies to be agreed by the Cabinet at this meeting which are the subject of a separate agenda item;
- Contracts anticipated to be awarded under delegated authority from the Leader by the nominated Cabinet Member, in consultation with the Cabinet Member for Finance and Resources and with the Leader in certain circumstances, before the next meeting of Cabinet;
- Delegated contract award decisions under delegated authority from the Leader by the Cabinet Member for Finance and Resources and in consultation with the Leader related to the Good to Great ICT transformation programme since the last meeting of Cabinet;
- Delegated contract award decisions under delegated authority from the Leader by the Cabinet Member for Finance and Resources and Cabinet Member for Children, Young People & Learning related to the new Addington Valley SEN School;
[As at the date of this report there are none]
- Property acquisitions and disposals to be agreed by the Cabinet Member for Finance and Resources in consultation with the Leader since the last meeting of Cabinet;
- Partnership arrangements to be agreed by the Cabinet at this meeting which are the subject of a separate agenda item.
[As at the date of this report there are none]

3 DETAIL

3.1 Sections 4.1 of this report lists those contract and procurement strategies that are anticipated to be awarded or approved by the Cabinet.

3.2 Section 4.2.1 of this report lists those contracts that are anticipated to be awarded by the nominated Cabinet Member.

- 3.3 Section 4.3.1 of this report lists the delegated award decisions made by the Director of Commissioning and Procurement, between 13/10/2018 – 09/11/2018.
- 3.4 Section 4.3.2 of this report list the delegated award decisions made by the Nominated Cabinet Member for Finance and Resources in consultation with the Leader and for the Good to Great ICT transformation programme.
- 3.5 Section 4.4.1 of this report lists the property acquisitions and disposals to be agreed by the Cabinet Member for Finance and Resources in consultation with the Leader since the last meeting of Cabinet.
- 3.6 The Council’s Procurement Strategy and Tender & Contracts Regulations are accessible under the Freedom of Information Act 2000 as part of the Council’s Publication Scheme. Information requested under that Act about a specific procurement exercise or contract held internally or supplied by external organisations, will be accessible subject to legal advice as to its commercial confidentiality, or other applicable exemption, and whether or not it is in the public interest to do so.

4 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

4.1 Proposed Strategy approvals

Procurement strategy for the purchase of goods, services and works with a possible contract value over £5 million decisions to be taken by Cabinet which are agenda item 11a.

Strategy	Contract Revenue Budget	Contract Capital Budget	Dept/Cabinet Member
Provision of Social Care Assessments Provider Panel	£10,000,000		Children, Young People & Learning / Cllr Flemming

4.2 Proposed Contract awards

- 4.2.1 Revenue and Capital consequences of contract award decisions to be made between £500,000 to £5,000,000 by the nominated Cabinet Member in consultation with the Cabinet Member for Finance and Resources or, where the nominated Cabinet Member is the Cabinet Member for Finance and Resources, in consultation with the Leader.

Contract Title	Value of Contract to Date	Value of Extension Term	Total Revenue value including extension term	Contract Capital Budget	Dept/Cabinet Member
Support for Young Carers contract extension & variation	£337,500	£162,500 (Croydon spend + £57,000. CCG spend) (Contract length 6+3+3 months)	£557,000 (aggregate)		Children, Young People & Learning / Cllr Flemming & Families Health & Social Care/ Cllr Avis

4.3 Contract Awards

4.3.1 Delegated award decisions made by the Director of Commissioning and Procurement.

Revenue and Capital consequences of delegated decisions made by the Director of Commissioning and Procurement for contract awards (Regs. 18, 27 a & b) between £100,000 & £500,000 and contract extension(s) previously approved as part of the original contract award recommendation (Reg. 27.d) and contract variations (Reg.29).

Contract Title	Contract Revenue Budget	Contract Capital Budget	Dept/Cabinet Member
New Addington Leisure & Community Centre – Professional Services (NEC Building Supervisor and M&E Supervisor)		£111,136 (Contract length 17 months)	Environment, Transport & Regeneration / Cllr King
Library Book Stock	£180,000 (Contract length 14 months)		Culture, Leisure & Sport / Cllr Lewis
IT Provision for Library Services	£384,021 (Contract length 12 + 3 Months)		Culture, Leisure & Sport / Cllr Lewis
CPZ Parking Stress and Vehicle Usage surveys	£255,000 (Contract Length 12 + 5 months)		Environment, Transport & Regeneration / Cllr King

Contract Title	Contract Revenue Budget	Contract Capital Budget	Dept/Cabinet Member
Traffic Management Orders Order Making & Mapping System	£312,380 (Contract Length 2 + 1 + 1 years)		Environment, Transport & Regeneration / Cllr King

CONTRACT VARIATIONS & EXTENSIONS					
Contract Title	Value of Contract to Date	Value of Extension Term	Total Revenue value including extension term	Contract Capital Budget	Dept/Cabinet Member
Caterham Bourne Flood Alleviation Study	£164,998	£85,002		£250,000	Environment, Transport & Regeneration / Cllr King
High Volume Print & Mail (Revs & Bens)	£1,861,000	£250,000 (Contract Length 1 years)	£2,111,000		Finance & Resources / Cllr Hall

4.3.2 Delegated award decisions for contracts for the Good to Great ICT Transformation programme over £500,000 in value made by the nominated Cabinet Member for Finance and Resources in consultation with the Leader since the last meeting of Cabinet.

Contract Title	Contract Revenue Budget	Contract Capital Budget	Dept/Cabinet Member
Telephony Services	£1,890,000 (Contract length 2 + 1 years)		Finance and Resources / Cllr Hall

4.4 Property Acquisitions and Disposals

4.4.1 Revenue and Capital consequences of property acquisitions and disposals over £500,000 to be agreed by the Cabinet Member for Finance and Resources in consultation with the Leader of the Council.

Contract Title	Disposals	Acquisitions	Dept/Cabinet Member
Grant of a 25 year lease for 37 Tamworth Road			Finance and Resources / Cllr Hall in Consultation with the Leader of Council

Approved by: Ian Geary, Head of Finance - Resources on behalf of Lisa Taylor, Director of Finance, Investment and Risk and Deputy Section 151 Officer.

5 COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 5.1 The Solicitor to the Council comments that the information contained within this report is required to be reported to Members in accordance with the Council's Tenders and Contracts Regulations and the council's Financial Regulations in relation to the acquisition or disposal of assets.

Approved by: Sean Murphy, Head of Commercial and Property Law and Deputy Monitoring Officer on behalf of the Director of Law and Monitoring Officer.

6 HUMAN RESOURCES IMPACT

- 6.1 There are no immediate HR issues that arise from the strategic recommendations in this report for LBC staff. Any specific contracts that arise as a result of this report should have their HR implications independently assessed by a senior HR professional.

Approved by: Sue Moorman, Director of Human Resources

7 EQUALITY IMPACT

- 7.1 An Equality Analysis process has been used to assess the actual or likely impact of the decisions related to contracts mentioned in this report and mitigating actions have been defined where appropriate.
- 7..2 The equality analysis for the contracts mentioned in this report will enable the Council to ensure that it meets the statutory obligation in the exercise

of its functions to address the Public Sector equality duty (PSED). This requires public bodies to ensure due regard to the need to advance equality of opportunity; foster good relations between people who share a “protected characteristic” and those who do not and take action to eliminate the potential of discrimination in the provision of services.

- 7..3 Any issues identified through the equality analysis will be given full consideration and agreed mitigating actions will be delivered through the standard contract delivery and reporting mechanisms.

Approved by: Yvonne Okiyo, Equalities Manager

8 ENVIRONMENTAL IMPACT

- 8.1 Any issues emerging in reports to the relevant Cabinet member will require these considerations to be included as part of the standard reporting requirements, and will not proceed without full consideration of any issues identified.

9 CRIME AND DISORDER REDUCTION IMPACT

- 9.1 Any issues emerging in reports to the relevant Cabinet Member will require these considerations to be included as part of the standard reporting requirements, and will not proceed without full consideration of any issues identified.

CONTACT OFFICER:

Name:	Rakhee Dave-Shah
Post title:	Head of Commissioning and Procurement (Corporate)
Telephone no:	63186

BACKGROUND DOCUMENTS:

The following public background reports are not printed with this agenda, but are available as background documents on the Croydon Council website agenda which can be found via this link [Cabinet agendas](#)

- *Support for Young Carers contract variation*
- *37 Tamworth Road Lease*

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REPORT TO:	CABINET 10 DECEMBER 2018
SUBJECT:	CHILDREN SOCIAL CARE ASSESSMENTS PROCUREMENT STRATEGY
LEAD OFFICER:	ROBERT HENDERSON, EXECUTIVE DIRECTOR CHILDREN, FAMILIES AND EDUCATION PHILIP SEGUOLA (INTERIM DIRECTOR, EARLY HELP FAMILY INTERVENTION AND CHILDREN'S SOCIAL CARE)
CABINET MEMBER:	COUNCILLOR ALISA FLEMMING CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE AND LEARNING COUNCILLOR SIMON HALL, CABINET MEMBER FOR FINANCE AND RESOURCES
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON	
<p>The development of this procurement strategy supports the Council's ambition to protect its most vulnerable residents and enhance the life chances of children in need. It supports the achievement of the following corporate priorities:</p> <ul style="list-style-type: none"> • To support individuals and families with complex needs; • To deliver better education and the opportunity for everyone to reach their full potential; • To secure a good start in life, improve health outcomes and increase healthy life expectancy. 	

FINANCIAL IMPACT
<p>At 2018/19 Q1, Assessments is overspending by £1.407m against a budget of £1.007m. This overspend and increased demand is predominately due to residential and reverse assessments.</p> <p>There has been a number of assumptions around future demand and past trends across all assessment types to establish an estimated total contract value of £10.049m over 4 years, £2.512m per annum.</p> <p>Based on the estimated yearly contract value of £2.512m and current budget of £1.007m, additional growth required in 2019/20, to meet estimated demand, is £1.505m. This additional growth has been agreed at Executive level as part of a wider package of growth for Childrens, Families & Education department.</p>
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to

- 1.1 To approve the procurement strategy for a 4 year (2+2) Approved Provider Panel for the delivery of Children's Social Care assessments during the period 1st August 2019 to 30th July 2023 (tentative), at a total estimated annual cost of £2.512m, making a total estimated cost of £10.049m for the 4 years.
- 1.2 To approve the deviation from the Council's Tender and Contract regulation 21 for the reasons set out in section 3.20, to depart from the standard evaluation split of 60:40 (cost: quality) to allow a weighting of 30:70 (cost: quality) for admittance on to the Approved Provider Panel.

2. EXECUTIVE SUMMARY

- 2.1 This report seeks Cabinet approval of the procurement strategy for the tendering of qualified assessors to be appointed to an Approved Provider Panel for a term of 2 years with a possible 2 year extension to deliver Children's Social Care Assessments.
- 2.2 The existing framework agreement for the provision of Supervised Contact and Assessment Services has recently been extended, providing assessment suppliers on the framework a 6 month extension with the possibility of two further 3 month extensions to expire no later than 31st October 2019.
- 2.3 The procurement of a new Approved Provider Panel, utilising the flexibilities of the Public Contract Regulations (PCR) Light Touch Regime will allow the Council to create a more flexible, responsive and better quality pool of assessors to carry out the required Children's Social Care assessments.
- 2.4 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
15th November 2018	CCB1430/18-19

3. BACKGROUND

- 3.1 In 2014 a contract award for the provision of supervised contacts and assessments under a Framework Agreement was approved by CCB for a term of 2 years with an option to extend for a further 2 years at an estimated total contract value of £3.232m (supervised contacts total = £1.9m; assessments total = £1,332m) [CCB1170/16-17] and [CCB1286/17-18].
- 3.2 Following a competitive procurement for the supervised contact service in 2017/18, the contract could not be awarded to the preferred bidder for

unforeseen circumstances. Therefore the terms of the existing framework was extended until 31st October 2019 [Key decision reference: 3518CYPL]

- 3.3 Since 2015, increased demand for assessments (including a significant increase in the number of Section 31 court applications) has led to an increase in both on and off Framework spend for assessments. In 2017/18, the majority of assessments were commissioned outside of the existing Framework. Since 2015/16 the annual expenditure for assessments has exceeded the annual budget (see the table in section 5.1 for a breakdown of the annual expenditure).
- 3.4 In 2017, it was recommended that supervised contacts and assessments were re-procured as separate contractual arrangements due to the distinct nature of each service area. The separate outsourcing of residential parenting, psychiatric and psychological assessments was approved at CCB on 13 June 2017 (CCB1241/17-18). However, the procurement strategy did not clarify whether the other assessment elements (i.e. Special Guardianship Order (SGO), viability, Form F and connected person assessments) were also to be procured or brought in-house. Therefore it was deemed that further work was required in order to develop the service model for the future provision of SGO, viability, Form F and connected person assessments. In November 2017 CCB approved the one-year extension of the existing Framework to enable further scoping to determine whether an in-house or alternative delivery method could achieve better outcomes and value for money.
- 3.5 Following discussions with the Heads of Service and the Interim Director of Early Help, Family Intervention & Children's Social Care in April / May 2018, the commissioning intentions for all assessment elements were refreshed, and a tripartite service model was proposed in a Make of Buy report (RP1) and approved by CCB on 5 July 2018.
- 3.6 Therefore, to provide continuity of service it was recommended that an Approved Provider Panel is procured for all assessment elements as a fall-back position whilst the proposed in-house delivery models are being developed and implemented. This will provide a contractual arrangement with suitably qualified and quality-assured suppliers from which the Council can call-off assessments as required, much like the operation of a procurement framework.
- 3.7 This report sets out the proposed procurement strategy for the Approved Provider Panel.

AIMS OF THE APPROVED PROVIDER PANEL

- 3.8 This procurement strategy sets out the proposal to procure a new 4-year multi-supplier Approved Provider Panel with suitably qualified providers, consultants, contractors and independent social workers to deliver a comprehensive range of children's social care assessments during the period 1st August 2019 to 31st July 2023 (tentative) for the aggregate sum of £10.048m.
- 3.9 It is expected that the Approved Provider Panel will contribute to the following outcomes:

- To support the Council to fulfil its statutory duty to provide assessments when required under the Children Act 1989 in order to meet the needs of individual children, determine what services to provide and action to take.
- These assessments are carried out in order to:
 - To gather important information about a child and family;
 - To analyse their needs and / or the nature and level of any risk and harm being experienced by the child;
 - To decide whether the child is a Child in Need (under Section 17 of the Children Act (CA) 1989) and / or is suffering or likely to suffer significant harm (Section 47, CA 1989); and
 - To provide support to address those needs, to improve the child's outcomes and to make them safe.

DEMAND FOR ASSESSMENTS

3.10 There has been a significant year on year increase in the number of proceedings and court ordered assessments both in Croydon and nationally, especially of Section 31 court applications. In the financial year 2016/17, there was a 48% increase in the number of proceedings compared to the previous year. A spike in child protection cases following the Ofsted Inspection, has also added to the demand for assessments, especially for (adult) parent and child cases, where a fostering placement cannot be found in house. The existing framework does not have a sufficient number of assessors nor the right breadth of expertise to meet current demand, hence the high level of off- contract spend.

3.11 It is envisaged that over the term of the contract, demand for externally commissioned assessment services will reduce as more of the assessments are conducted in-house by a Friends and Family Service to deliver SGO, viability, Form F, connected person and together and apart assessments. Furthermore as the Children's Social Care Improvement programme becomes embedded in practice, in particular: improvements around early permanence; earlier intervention through Early Help and pre-proceedings will all help reduce demand for assessments over time. At present the highest area of spend is on residential assessment unit placements for families but the Local Authority is seeking to recruit its own parent and child foster placements, which it is envisaged will enable fewer residential assessment placements to be sourced. The Local Authority is also part of a randomised control trial for children 5 and under in court proceedings . The trial compares the specialist attachment based assessment undertaken by the NSPCC (LIFT) versus services as usual. The LIFT service is free to the authority , and although those families who agree to participate, are randomised i.e. they have the chance of not being selected for the service, those that are selected for LIFT results in no cost to the authority. The families that are eligible either have to be placed in a parent and child foster placement or the baby has to be placed in foster care with their parents. At present the absence of parent and child placements often limits the number of children being put forward for the trial. It is anticipated that the developments in the fostering service will also increase the authority's ability to put forward eligible families which could in turn reduce the cost to the authority.

3.12 Since the inspection the increase of cases in PLO and in proceedings has meant that there has been little capacity to consider the allocated social

workers undertaking parenting assessments themselves. There is a desire, and this is supported by the Judiciary to develop the skills in the service for workers to undertake these assessments themselves. While this is a longer term aim, this too will reduce the spend on the assessment budget.

PRINCIPLES OF THE APPROVED PROVIDER PANEL

3.13 The aim of the Approved Provider Panel is to establish a flexible approach to commissioning assessments by implementing a more effective purchasing tool than the previous Framework, allowing the Council more control over providers, quality, costs and outcomes. Suppliers will be asked to outline their approach to quality control during the ITT method statements, and a robust performance management schedule will be included as part of the contract and will be monitored by the Children's Social Care Contract Management team within Commissioning and Procurement.

3.14 The full range of required assessments will be advertised in separate LOTS as follows:

- Psychological assessment
- Psychiatric assessment
- Parenting Assessment Manual Software (PAMS) assessment
- Parenting assessment
- Residential parenting assessment
- Reverse residential assessment (RRA)
- Viability assessment
- Connected person assessment
- Together & Apart assessment
- Form F assessment
- Risk assessment
- Special Guardianship Order (SGO) assessments

3.15 The assessments will be undertaken under the Approved Provider Panel as follows:

- Parenting, PAMS, risk, psychological and psychiatric assessments for the full 2+ 2 year duration of the agreement.
- All other assessment types until an in-house service delivery model is developed and implemented (timescales to be confirmed by the Heads of Service).

3.16 The procurement will make use of the significant flexibilities under the Public Contract Regulations (PCR) 2015 'Light Touch Regime' (LTR) to create a unique Approved Provider Panel which will operate similar to a traditional framework solution, however it will clearly state in the tender documentation that the Council reserve the right to open the panel to new entrants from the market at specific periods throughout the contract, most likely to be after the first initial 2 years. This will negate the current issue that the existing framework does not contain enough qualified assessors who can meet breadth of need and the growing demand for the service. New suppliers will need to meet the original quality and price evaluation criteria used to create the Approved Provider Panel.

PROPOSED TENDER PROCESS

- 3.17 Tenders will be returned electronically via the e-tendering portal. An evaluation panel consisting of social workers, business support officers and representatives from legal, will individually assess each qualitative submission and scores will be moderated by the panel. Finance will conduct a standard financial appraisal, while tender compliance will be conducted by the Commissioning and Procurement team, to ensure probity and that the most economically advantageous suppliers are admitted to the Approved Provider Panel.
- 3.18 The financial assessment of prospective suppliers will be conducted to determine their financial viability. However, so to not disproportionately impact on sole traders, or small to medium size enterprises, the discretion of the Director of Finance, Investment and Risk will be sought before dismissing any potential bidders purely on the grounds of financial assessment.
- 3.19 A specification is being developed and will form the basis of the competitive open tender. The standard SQ compliance questions will be asked, including
- Grounds for mandatory or discretionary exclusion
 - Economic and financial standing
 - Technical and professional past experience
 - Requirements under Modern Day Slavery Act 2015
 - Requirements under Public Sector Equality Duty and Equalities and Diversity monitoring
 - Insurance
 - London Living Wage
- 3.20 Price/quality evaluation ratio of 30/70% is recommended to ensure sufficiently high quality providers are submitted to the Approved Provider Panel. This will aim to alleviate previous criticism around the quality and timeliness of assessments. Our ability to drive down costs is limited due to the nature of the market being supplier led and with no national or pan-London approach to controlling costs. To try and influence this, the Approved Provider Panel will be open to other LAs to access, in an attempt to provide more leverage with the market. Setting an affordability cap across all LOTS will alienate some of the market, especially psychiatrist and psychologists, who can dictate their own market rates and therefore for those lots, securing the highest quality accessors on the Approved Provider Framework is paramount. By securing higher quality accessors, we will benefit from cost avoidance savings with fewer poor quality reports being dismissed by the Courts and having to be recommissioned. For social worker led assessments, once providers have passed the quality threshold, and are admitted onto the Approved Provider Panel, the subsequent call off process will have a greater weighting to price.
- 3.21 It is envisaged that method statements and a sample assessment report will constitute the 70% quality score. The exact weighting of each method statement and the full wording for each question is currently in development with the project team and will be finalised for the production of the tender documentation.

Question ref	Question	Maximum Question Score	Question Weighting %
1	Experience of delivery	5	TBC
2	Technical capability and experience of workforce	5	TBC
3	Approach to recruitment, training and supervision	5	TBC
4	Achievement of outcomes for families	5	TBC
5	Working with families with multiple risk factors	5	TBC
6	Safeguarding	5	TBC
7	Quality Assurance & Contract Management	5	TBC
8	Confidentiality/ GDPR	5	TBC
9	Social Value	5	5%
10	Premier Supplier Programme	5	N/A
Evaluation of sample report		5	TBC
Total			70%

3.22 Each method statement will be scored from 0 to 5. A minimum quality threshold will be set to ensure only sufficiently high quality assessors are admitted onto the Approved Provider Panel. Failure to meet this standard will result in rejection of the tenderers quality submission and the submitted tender will not be considered further. Marks will be awarded in line with the table below:

Scoring Methodology		
Score	Rating	Criteria for awarding score
5	Excellent	The supplier has provided responses that are robust and supported by suitable and relevant evidence of experience and technical and professional ability which significantly exceeds the Council's expectations
4	Good	The supplier has provided responses that are robust and supported by suitable and relevant evidence of experience and technical and professional ability which exceeds the Council's requirement
3	Satisfactory	The responses are compliant and the supplier has provided responses that demonstrate through suitable and relevant evidence that they have experience and have technical and professional ability which meet the Council's requirements
2	Fair	The responses are superficial and generic. The supplier has provided insufficient responses or the responses given demonstrate limited experience and limited technical and professional ability
1	Poor	The supplier has provided wholly insufficient responses or the responses given demonstrate very limited experience and insufficient technical and professional ability
0	Unacceptable	The supplier has not answered the question, has omitted information or has provided information that is not relevant and the evaluator is unable to determine whether the supplier possess sufficient technical and professional ability.

3.23 Suppliers will need to submit an assessment price and hourly rate for each LOT/type of assessment they wish to bid for. It is envisaged that the assessment fee has a 35% weighting and the hourly rate to attend meetings/court attendance will be 5%. It is proposed that the submitted tender prices are fully inclusive of travel expenses, travel time, report writing and management supervision. For assessments which can be conducted by a social worker, we will look to cap prices by stating an affordability threshold. As the market for psychiatric and psychological assessments is supplier led, the

service are of the view that capping cost for these types of assessment will deter suppliers from tendering, creating the need to spot purchase.

3.24 The tenderer's price score will be calculated using the following equation:

$$\text{Tenderer's Total Price Score} / \text{Lowest Scoring Price} \times 30\%$$

This weighted price score will be used to rank providers into two tiers in each LOT, with the expectation that the top 5 providers based on price, will form the top tier (assuming the response from the market is sufficiently large in any given LOT to make it worthwhile to create more than one tier). The creation of a tiering system will encourage the market to price competitively in order to receive more requests for assessments through the call off process.

3.25 The call off process will involve the business support team contacting all the approved providers in the relevant LOT, and asking for a response to the need for an assessment. This response will include their updated CV and availability to conduct the assessment in the specified timeframes. The CVs for the top tier of providers will then be sent to the relevant social worker, who will use their professional judgement to match the specifics of the individual case to the provider with the best level of specialism in the top tier. If no match can be made, the social worker will have the discretion to consider the next tier of providers.

3.26 As this will be an Approved Provider Panel, much like a framework agreement, the Council does not have to commit to any volumes of work to any provider. This will provide a mechanism to obtain assessment services as and when required, at a pre-agreed price and level of quality, thereby managing costs more effectively than the current off framework expenditure. The longer term strategy for achieving value for money, will be the in-sourcing of social work led assessments.

3.27 A Pre-procurement market engagement event was held on 24th September 2018, with a large number of providers in attendance with positive feedback. Further engagement with the market will continue to help strengthen Croydon's position as a strong buyer of assessment services. Feedback received will be used to influence the tender documentation and the specification and in particular incorporate achievable social value objectives.

3.28 Social value will be embedded in all stages of the process, from pre-procurement process through to service delivery.

- As part of the quality score, a method statement will be set asking providers to outline their approach to developing in-house capability during the life time of the contract as part of their Social Value offering.
- Providers will be required to submit policies / statements in regards to environmental management, targeted recruitment, training opportunities and community engagement.

3.29 The proposed Approved Provider Panel will be contract managed by the Commissioning and Procurement division, alongside the other tier 1 Children's Social Care contracts. Contract management arrangements will be included in the Council's terms and conditions of service.

PROPOSED PROCUREMENT TIMETABLE

Activity	Proposed Date
Current year	Medium Term Financial Strategy – 4 year forecast
Pre-tender market engagement	24 September 2018
Ongoing engagement and feedback from the market	October - December 2018
RP2 report to Cabinet	10 December 2018
Specification agreed & tender documentation approved	December 2019
OJEU Contract Notice dispatched (if applicable)	January 2019
Advertisement published (if applicable)	January 2019
Expressions of interest deadline	N/A
Issue Invitation to Tender	January 2019
Tender return deadline	Feb 2019
Tender evaluation*	March 2019
Commissioning and Contract Board	9 th May 2019
Cabinet meeting (if applicable)	June
Contract award	June/July
Contract commencement	August 2019
OJEU Contract Award Notice dispatch (if applicable)	June/July

4. CONSULTATION

- 4.1 Following discussions with the Heads of Service and the interim Director of Early Help & Children's Social Care in April / May 2018, the commissioning intentions for all assessments elements were refreshed, and a tripartite service model was proposed in a Make of Buy report (RP1) and approved by CCB on 5 July 2018.
- 4.2 A Pre-procurement market engagement event was held 24 on September 2018. Further engagement with providers, the service department and feedback from the Courts will inform the specification and design of the Approved Provider Panel.
- 4.3 Discussions with external legal have confirmed that the flexibilities on offer under the PCR Light Touch Regime, allows for an Approved Provider Panel to be designed and new providers omitted at prescribed stages of the contract.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 Revenue and Capital consequences of report recommendations

	2019/20	2020/21	2021/22	2022/2023	2023/24
	£'000	£'000	£'000	£'000	£'000
Revenue Budget available					
Expenditure	1,007	2,507	2,507	2,507	1,007
Income					
Estimated Growth	1,500	0	0	0	0
Effect of decision from report					
Contract Expenditure	2,512	2,512	2,312	2,312	193
In-house costs			200	200	17
Remaining budget	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>(797)</u>

5.2 The effect of the decision

The contract starts on 1 August 2019 and ends on 31st July 2023 (tentative), over 5 financial years. Total estimated contract value is £10.049m. The estimated growth required in Year 1 is approximately £1.5m. The estimated overspend of £5,149 from Year 1 to 5 will be managed in year to balance the budget. The underspend in Year 5 is estimated and will meet the costs of the new contract from 1 August 2023 onwards.

Overtime, SGO, viability, Form F and Connected Person Assessments will be conducted by the in house Friends and Family Service. This has been reflected in the budget being moved from third party spend to in-house expenditure from year 3 onwards. The true cost of delivering these assessments in-house and therefore the reduction in expenditure with the Approved Provider Panel will be calculated when the full business case is developed and costed.

5.3 Risks

Potential legal risks with undertaking a LTR Approved Provider Panel procurement approach are addressed as follows

Potential risk	Mitigating actions
Care will need to be taken to ensure that [PCR 2015 LTR] mandatory requirements are adhered to (and/or risk mitigated) in procuring a "pseudo" type of framework, particularly in respect of providing for and implementing 'refresh' arrangements. It is	Under LTR, contracting authorities can design a flexible procurement process subject to the mandatory requirements of the PCR and ensuring compliance with EU principles, including transparency and non-discrimination. This interpretation of the LTR flexibilities was tested with Council's lawyers on the 2 nd October 2018, and these assumptions confirmed, subject to a need for care in drawing up procedures and documentation to mitigate against additional risk associated with a non- traditional 'framework' model.

<p>suggested that consideration be given at the outset to whether a framework arrangement could be sustainable over its proposed duration in the event it should transpire at any time that risk attached to implementing refresh arrangements was found to be unacceptably high.</p>	<p>The procurement documents will be reviewed by the Council's lawyers prior to publishing to ensure that the mandatory requirements have been adhered to and any attendant risks both during the initial procurement and in respect of a re-opening of competition are identified and mitigated.</p>
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5.4 Options

See section 12.

5.5 Future savings/efficiencies

There is work in place to recruit more mother and baby foster carers, reducing the demand for private residential placements, hence reducing high costs.

The savings potential within the Approved Provider Panel will be calculated after providers have submitted their tender prices. A robust pricing schedule will be put in place to manage increasing spend and where possible cap costs.

The Approved Provider Panel should be considered as part of a comprehensive children's social care strategy to address the issues identified above. Savings will also be achieved via other cost improvement interventions outside of the scope of the Panel – e.g.

- improved practice around early permanence
- demand management via Council investment in prevention
- earlier intervention (Early Help and pre-proceedings)
- implementation of the proposed in-house service models for assessments
- residential parenting assessments can be sourced more cost effectively via Placement Finder)
- the development of the in-house parent and child fostering service the costs of which at present range from £1,300 – £1,600 a week from independent fostering agencies (IFAs).
- At present the Teams are piloting the use of reverse residential assessments, the cost of which are approx. £25k each.

It is anticipated that these approaches will have an impact on the predicted spend on residential assessments which make up the largest part of the assessment budget although the fostering service is not expected to be fully operational for 18 months from the time of writing this report.

Josephine Lyseight, Head of Finance, on behalf of the Director of Finance, Investment and Risk

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council comments that Legal considerations are addressed in the body of the report.

6.2 Approved by Sean Murphy, Head of Commercial and Property Law, on behalf of the Director of Law.

7. HUMAN RESOURCES IMPACT

7.1 Following consultation about any employment and TUPE implications, the following statement is provided by HR:

7.2 This report concerns the provision of services that will be provided by third party organisations. As such, the Council is not the employer of the staff working within the existing framework and there are no implications for Croydon employees. However, in the event that there are service provision changes, which may invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation (amended 2014). Where the activities of the new service are “fundamentally not the same”, TUPE may not apply, as provided for by the 2014 amendments to the Transfer of Undertakings (Protection of Employment) 2006 Legislation.

7.3 These service provision changes may impact non-Council staff (i.e. those employed by service providers that deliver services on behalf of the Council) who are directly employed to provide/support the services in scope for the Approved Provider Panel. Where the Council is not the employer the application of TUPE, or otherwise, would be determined between the service providers.

7.4 Nevertheless, this would remain a change of service provision for which the Council is the client; on that basis, the role of the Council would usually extend no further than facilitating the process.

7.5 Approved by: Nadine Maloney, Head of HR – Children, Families & Education Department, on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

8.1 An initial Equality Analysis was conducted in 2014 at the implementation of the existing Framework Agreement – this indicated that a detailed / full assessment was not required as no protected characteristics were impacted.

8.2 A full equality analysis will be undertaken prior to contract award.

Approved by: Yvonne Okiyo, Equalities Manager

9. ENVIRONMENTAL IMPACT

9.1 There are no environmental sustainability Impacts of this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no implications in the proposal for the reductions/prevention of crime and disorder.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

The current framework agreement for supervised contact and assessments service is due to expire in October 2019. The current providers for assessment services no longer meet the current service demand for assessment in terms of volume and breadth of specialism. Therefore procuring specialists from the market while in-sourcing certain assessments into the Council is the recommended approach.

The proposed strategy to procure an Approved Provider Panel for the delivery of Children's Social Care Assessments will support the Council to fulfil its statutory duty to provide assessments when required under the Children Act 1989 in order to meet the needs of individual children, determine what services to provide and action to take.

12. OPTIONS CONSIDERED AND REJECTED

Do nothing

The Council has a statutory duty to provide assessments when required under the Children Act 1989 therefore this is not an option.

Procure a new framework agreement

A standard procurement framework does not allow for new providers to be admitted to the framework, or the structure of the framework to be changed in any way. Therefore it cannot be refreshed to ensure it continues to meet demand and attract the best expertise throughout the life span of the proposed contract. Therefore this option was rejected.

Procure a Dynamic Purchasing System

The Interim Director of Children's Social Care confirmed that the additional resources and costs required to implement and manage a DPS will not be a cost effective solution for the ongoing commissioning of Children's Social Care assessments. Therefore this option was rejected at this time.

CONTACT OFFICER:

Sarah Risby, Category Manager,
Commissioning & Procurement (Children's
Services) 020 8726 6000 Ext 63070 and
Vivienne Weeks, Senior Commissioning and
Procurement Officer (Children's Services).

APPENDICES TO THIS REPORT:

None

BACKGROUND PAPERS:

None

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