



**CABINET
AGENDA**
for the meeting
on
18 January 2021 at
6.30 pm

To: Croydon Cabinet Members:

Councillor Hamida Ali, Leader of the Council
Councillor Stuart King, Deputy Leader (Statutory) and Cabinet Member for Croydon Renewal
Councillor Muhammad Ali, Cabinet Member for Sustainable Croydon
Councillor Jane Avis, Cabinet Member for Homes & Gateway Services
Councillor Janet Campbell, Cabinet Member for Families, Health & Social Care
Councillor Alisa Flemming, Cabinet Member for Children, Young People & Learning
Councillor Oliver Lewis, Cabinet Member for Culture & Regeneration
Councillor Manju Shahul-Hameed, Cabinet Member for Economic Recovery & Skills
Councillor David Wood, Cabinet Member for Safety, Communities & Resilience
Councillor Callton Young OBE, Cabinet Member for Resources & Financial Governance

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, 18 January 2021** at **6.30 pm**. **This meeting will be held remotely**

JACQUELINE HARRIS BAKER
Council Solicitor and Monitoring Officer
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
8 January 2021

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AGENDA – PART A

1. Apologies for Absence

2. Minutes of a previous meeting (Pages 7 - 22)

To approve the minutes of the meeting held on 19 October 2020 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.

5. Update on the Croydon Renewal Plan and Submission to MHCLG (presentation)

Cabinet Member: Leader of the Council, Councillor Hamida Ali
Officer: Interim Chief Executive, Katherine Kerswell
Key decision: no

6. Action Plan to address the Report in the Public Interest (Pages 23 - 72)

Cabinet Member: Leader of the Council, Councillor Hamida Ali
Officer: Executive Director Resources, Jacqueline Harris Baker
Key decision: no

- 7. Education Estates Strategy (Pages 73 - 176)**
Cabinet Member: Cabinet Member for Children, Young People & Learning, Councillor Alisa Flemming
Officer: Interim Executive Director Children, Families & Education, Debbie Jones
Key decision: yes
- 8. General Fund Capital Programme 2020-24 (Pages 177 - 194)**
Cabinet Member: Cabinet Member for Croydon Renewal, Councillor Stuart King
Officer: Interim Chief Executive, Katherine Kerswell
Key decision: no
- 9. Proposed closure of Virgo Fidelis Convent Senior School (Pages 195 - 266)**
Cabinet Member: Cabinet Member for Children, Young People & Learning, Councillor Alisa Flemming
Officer: Interim Executive Director Children, Families & Education, Debbie Jones
Key decision: yes
- 10. Dedicated Schools Grant Schools Funding 2021/22 Formula Factors (Pages 267 - 312)**
Cabinet Member: Cabinet Member for Children, Young People & Learning, Councillor Alisa Flemming
Officer: Interim Executive Director Children, Families & Education, Debbie Jones
Key decision: yes
- 11. Making Croydon's Private Rented Homes Safer and Protecting Residents (Pages 313 - 428)**
Cabinet Member: Cabinet Member for Homes & Gateway Services, Councillor Jane Avis
Officer: Executive Director Place, Shifa Mustafa
Key decision: yes
- 12. London Councils Grant Scheme 2021/22 (Pages 429 - 440)**
Cabinet Member: Cabinet Member for Communities, Safety & Resilience, Councillor David Wood
Officer: Executive Director Resources, Jacqueline Harris Baker
Key decision: no

13. Scrutiny Stage 1: Recommendations from Scrutiny & Overview Committee's consideration of the Strategic Review of the Council's Companies - Action Plan (Pages 441 - 456)

Lead Member: Chair of Scrutiny & Overview Committee, Councillor Sean Fitzsimons

Officer: Executive Director Resources, Jacqueline Harris Baker

Key decision: no

14. Investing in our Borough (Pages 457 - 462)

Cabinet Member: Cabinet for Resources & Financial Governance, Councillor Callton Young

Officer: Executive Director Resources, Jacqueline Harris Baker

Key decision: no

15. 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.”

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Cabinet

Meeting of Cabinet held on Monday, 19 October 2020 at 6.30 pm. This meeting was held remotely

MINUTES

Present: Councillor Alison Butler, Stuart Collins, Hamida Ali, Janet Campbell, Alisa Flemming, Stuart King (voting – Job Share), Oliver Lewis, Paul Scott (non-voting – Job Share), Manju Shahul-Hameed and Callton Young

Also Present: Councillor Jason Perry, Jason Cummings, Lynne Hale, Maria Gatland, Simon Hoar, Yvette Hopley, Vidhi Mohan, Helen Redfern, Scott Roche, Andy Stranack, Gareth Streeter, Louisa Woodley, Sean Fitzsimons, Robert Ward, Pat Clouder, Clive Fraser, Mario Creatura, Muhammad Ali, Jamie Audsley, Leila Ben-Hassel, Margaret Bird, Simon Brew, Patsy Cummings, Nina Degrad, Felicity Flynn, Patricia Hay-Justice, Bernadette Khan, Shafi Khan, Toni Letts and David Wood

Officers: Katherine Kerswell (Interim Chief Executive), Jacqueline Harris Baker (Executive Director of Resources), Debbie Jones (Interim Executive Director of Children, Families & Education), Shifa Mustafa (Executive Director of Place) and Lisa Taylor (Director of Finance, Investment & Risk and Section 151 Officer)

PART A

The meeting was chaired by the Statutory Deputy Leader, Councillor Alison Butler.

74/20 **Minutes of the previous meeting**

The minutes of the Cabinet meeting held on 21 September 2020 were agreed.

75/20 **Disclosure of Interests**

There were none.

76/20 **Urgent Business (If any)**

There were no items of urgent business.

Croydon Together: Update on our ongoing response to COVID-19 (verbal update)

The Director of Public Health, Rachel Flowers, advised Members that from Saturday 17 October, London and Croydon had moved into a High Alert tier which reflected that COVID-19 was being transmitted across the borough.

The Director thanked everyone for their commitment to working to reduce the transmission of the virus and stressed the need to focus on washing hands, wearing a face covering and to maintain social distance to further reduce the transmission of the virus.

Whilst it was noted that COVID-19 caused mild symptoms in most it could be devastating for some, and as such the Director of Public Health reiterated the message of Hands, Face, Space.

Members were advised that being in a High Alert tier meant people could no longer socialise indoors outside their household or social bubbles. However, people could meet up with others outside their household up to the Rule of Six. The need to adhere to these regulations was due to the virus thriving on people socialising and, as such, it was important that people maintained social distancing at all times.

The Director of Public Health advised Cabinet that there were 11 patients at Croydon University Hospital as of that morning and there were none in ITU (Intensive Treatment Unit), however two people had sadly passed away the previous week. Those two patients, it was noted, had underlying health conditions.

Whilst the incidence rate was low in Croydon, compared to the rest of London, it was rising with the incidence rate at 76 per 100,000, the R rate being over 1 and test positivity at 3.5%. The Director of Public Health stressed the need for everyone to continue supporting the measures to reduce transmission in order to slow the increase that was being experienced.

The Chief Executive stated that she fully supported the measures shared by the Director of Public Health and noted her tireless commitment to the residents of Croydon throughout the pandemic.

The Cabinet Member for Families, Health & Social Care offered her condolences, on behalf of the council, to those who had lost loved ones during the pandemic. It was noted that the council remained committed to supporting its residents during this period and in response to rising cases, the council's Gold Group had increased its meetings to twice weekly. The council was also planning ahead to ensure support for shielding residents was available.

It was noted by the Cabinet Member for Families, Health & Social Care that BAME residents, and in particular men, had presented late to hospital during the first wave and so issued a plea to all BAME residents to present early in future waves.

The Director of Public Health was thanked for her clear and consistent messaging throughout the pandemic. Furthermore, the Chair of the Health & Wellbeing Board thanked the Director for her work in liaising with Deloitte in relation to the issues experienced with the testing centre in New Addington. Members were advised that the Chair of the Health & Wellbeing Board had attended a community meeting earlier that day and there had been a commitment from Deloitte to work with the community going forward; including introducing more signage. It was further reported that the generator powering the centre had been quietened.

Members were advised that a detailed report on Winter Preparedness was due to be considered by the Health & Wellbeing Board later that week. The work of officers and partners was noted by the Chair of the Board as being an important element of the borough's response to the pandemic.

Concern was raised by the Shadow Cabinet Member for Families, Health & Social Care that with the abolition of the Adult Social Services Review Panel, much of the confidential information which had previously gone to the Panel was no longer being shared. The Shadow Cabinet Member reported that she was often approached by councillors requesting details on what was happening within their wards which she was no longer able to provide. The Cabinet Member was asked how information sharing would be addressed going forward.

The Cabinet Member thanked the Shadow Cabinet Member for consistently being a champion of care homes in the borough. It was stated that she was in discussion with the Executive Director of Health, Wellbeing & Adults in relation to the safeguarding report which would be sent to those councillors who had previously been on the Panel on a regular basis.

The Leader of the Opposition thanked the Director of Public Health for her update. It was recognised that the pandemic had caused concerns for many residents; whether it be financial, personal health or business survival. The Director of Public Health was requested to provide more details on the statement that there were positive cases across the borough and whether this meant there were cases in all wards or general areas.

In response, the Director of Public Health advised that there were positive cases in every super output area in the borough. The virus was spread widely across the borough and there were no particular hotspots. The Director of Public Health further confirmed that the Public Health team and colleagues in the NHS were reviewing the data on a daily basis to

establish whether there were any trends. Whilst there was a relatively low number of cases in the borough, the Public Health team was looking to develop data which would show the incidence rate in each ward without any personal identifiable information. In the meantime, the Director confirmed that should concerns arise regarding a particular area these would be shared with the Chief Executive, Leader and ward councillors.

Councillor Shafi Khan requested confirmation that the R rate in Croydon was at 1.1 and details of when the rise in cases would likely be exponential as it was recognised that this would cause alarm across the community. The councillor further requested that localised data was provided to ward councillors as it was noted that during the first wave of the pandemic councillors were often being told information by outside sources rather than from council sources. Concerns were raised by the councillor that a property on his road which had been rented out via Air BnB had been used for a house party the previous weekend and so suggested that alternative forms of campaigns and message sharing should be used to ensure there was an understanding of the gravity of the virus.

The Director of Public Health confirmed that monitoring the R rate was important as it related to the doubling of transmission. At the time of the meeting, it was noted that the doubling of the incidence rate was being seen every three to four weeks in Croydon. Members were informed that a number of metrics were being used by the Public Health team to monitor the spread of the virus, the R rate being one along with the incidence rate and positive test result. It was stressed that it was hoped that there would not be an exponential rise in cases in Croydon and that the data at the time was not evidencing such a rise.

Confirmation was provided by the Director of Public Health that the council was working to spread the message via a number of channels and to all groups within society. It was important that everyone worked to stop the spread of the virus and that it meant that people needed to stop doing things with the people they cared about in order to protect them.

The Director of Public Health concluded that it was difficult for her to share ward data as it was personally identifiable data, however it was stressed that should a particular concern arise then this would be raised but that there were no such concerns at the time of the meeting.

Councillor Bird informed Cabinet that she had been contacted by residents concerned about the New Addington test centre. The location; being in the middle of the central parade, near the leisure centre and bus stop; was raised as being a risk as people were queuing to enter the test centre where residents were visiting and the potential health hazard was highlighted.

In response to concerns raised, the Director of Public Health stated that she had not chosen the site for the testing centre, rather that the council

had identified four sites which were in line with the requirements for a testing centre. The final decision on the location had been made by Deloitte. The Director confirmed that she had visited the site and had apologised for the issues experienced by residents. Lessons had been learnt and new measures were being put in place, such as signage. It was noted that it had been important to ensure that there was a fixed Croydon testing site as previously there was no such facility in the borough as the Fairfield provision had been a drive in one which was available for three days a week only. The Director of Public Health further informed Members that she would continue to work with Deloitte and the Department for Health & Social Care to identify further testing opportunities. It was confirmed that 75% of tests at the New Addington site daily were for Croydon residents.

Additional concerns were raised by Councillor Bird in relation to students at Coulsdon College who were reportedly not wearing face coverings on buses or in shops and that the College was unable to police the actions of students in the community. The Cabinet Member for Children, Young People & Learning stated that Transport for London had been asked to put on more school buses in response to resident concerns. It was also noted that further conversations had started with education providers to stress the Hands, Face, Space message. The Cabinet Member concluded that it was important that it remained a two-way conversation and that everyone took responsibility and worked together as there had been reports that some students felt they were being alienated and blamed for the rise in cases.

In response to the query from Councillor Hay-Justice in relation to additional funding the Public Health team had received to respond to the pandemic the Director for Public Health confirmed that a range of money had been allocated to the council; including £1.98m for Outbreak Control plans and that additional money would be allocated to the council to support its response to being in Tier 2. It was recognised that funding would be required in the next financial year also to support the ongoing work which many were lobbying government for.

The Statutory Deputy Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To note the presentation provided by the Director of Public Health.

78/20

Sustainable Croydon - a year on update

The Chair advised Cabinet that the order of the agenda would be revised to enable an external guest to speak on this item, as such this item was taken as the fourth substantive item at the meeting. The order items were taken in the meeting was:

- 77/20 Croydon Together: Update on our ongoing response to COVID-19

- 79/20 Developing Croydon's new Community Safety Strategy
- 80/20 District Centre Prosperity - Purley BID
- 78/20 Sustainable Croydon – a year on update
- Followed by the order as published in the agenda

The Chair noted that a Citizen Assembly had been established in which residents across the borough participated and recommendations from the Assembly had been received by the council. The report outlined the ongoing work to create a sustainable borough.

The Cabinet Member for Environment, Transport & Regeneration (voting – Job Share) noted that 15 months had passed since the council had declared a climate crisis and whilst steps had been taken to advance this agenda there had also been dramatic changes with the pandemic and financial circumstances facing the authority. Despite these challenges, the Cabinet Member stated that it was important that this agenda was kept on track to ensure an improved future for the borough.

The Cabinet Member noted the activity that had taken place in the previous 15 months and that this reflected cross Cabinet working with the Cabinet Member for Clean Green Croydon working to increase recycling rates in the borough, the Cabinet Member for Culture, Leisure & Sport's work on supporting woodlands and the success of being awarded Tree Oscars, and the Cabinet Member for Homes & Gateway Services and her work to improve the energy efficiency of homes across the borough. For his part, the Cabinet Member stated the council had worked to reduce car journeys in the borough and supported the shift to active travel with 26 school streets now introduced.

Miatta Fahnbulleh, Chief Executive of the New Economics Foundation and Chair of the Croydon Climate Crisis Commission, was welcomed to the meeting.

The Chair of the Commission informed Members that the original purpose for the Commission was to look at options to rapidly reduce emissions in the borough to achieve the aim of being carbon neutral by 2030 through the use of fair and just changes. It was highlighted that it was important the changes also supported the creation of jobs and protected communities.

The impact of the pandemic had highlighted the scale of the crisis facing the country and shone a light on a number of issues including living standards, cuts in the local government funding, and the impact of a natural crisis when there was not action or preparation in place. The challenge now, it was suggested, was how we respond to those structural problems and supported a green recovery but a recovery which escalated the economy and improved living standards.

Cabinet was informed that the Commission hoped to have a first draft of the ambitions and recommendations by the end of the month, after which

there would be a thorough consultation period ahead of finalising the recommendations. It was noted that core ambitions should focus on improving living standards, opportunities to create good jobs, investing in green technology and infrastructure, and working in partnership with businesses to support these ambitions.

Cabinet Members thanked the Chair of the Commission for her inspiring contribution to the meeting and her work with the Commission.

The Cabinet Member for Clean Green Croydon noted that there were opportunities to create jobs within the circular economy and highlighted jobs within reuse being one such area of opportunity. Residents were thanked by the Cabinet Member for their work to increase recycling rates in the borough, with it noted that communication with residents and businesses was key. The meadowing of parks was noted as being an example of when communication was needed to highlight that this initiative supported insects by creating butterfly corridors and bee highways.

Members of Cabinet noted that there was a long list of achievements included within the report and that at every meeting of the Commission there had been productive contributions and discussions. It was recognised that there was now a dual challenge which needed to be tackled, namely of COVID-19 and climate change. It was noted that this work needed to take place at a time of significant financial pressure for the council, however it was felt by some Members that the impact of inaction was significantly more harmful for the borough.

Cabinet Members stated that climate change was the issue of this time and noted the work of Sir David Attenborough in raising awareness. Whilst it was recognised that the council could support work to improve sustainability, it was also important that regional and government supported this move. All those involved, including officers and community groups, were thanked for their work on woodlands which had led to the awarding of Tree Oscars in recognition of this work.

It was recognised by Cabinet Members that there was a need to balance the need for new homes in the borough with the development of a truly sustainable borough. The Cabinet Member for Environment, Transport & Regeneration (non-voting – Job Share) stated he believed the review of the Croydon London Plan sought to develop a response to the climate emergency and put sustainability at the heart of everything the council did by supporting meadowing, reforestation and protected green spaces.

The need for a balanced approach was highlighted by the Cabinet Member for Economy & Jobs as 57,000 residents had been furloughed or lost their jobs during the pandemic and 22,000 were in receipt of universal credit. To support these residents and the sustainability agenda, it was stated that the council was looking at employment and skills support whilst working with the Southbank University and local businesses. The

payment of the London Living Wage and the Good Employer Charter were highlighted as supporting the agenda of a green economic renewal.

To support the work of the Commission, the Cabinet Member for Children, Young People & Learning suggested that it was important that there was a focus on embedding behavioural changes and allowing young people's voices to be heard when developing the recommendations.

In response to the points raised by Cabinet Members, the Chair of the Commission confirmed that the Commission's approach was to look at low carbon jobs. Given the economic climate it was recognised that jobs needed to be quickly created and to support this there needed to be training available which required working with local colleges. Whilst the Chair of the Commission recognised that the council was facing a financial challenge it was felt by her that the council could not afford to not act.

The financial position of the council was raised by the Leader of the Opposition and it was queried as to how much capacity there was to deliver the outcomes required. The Leader of the Opposition further stated the council was building upon green spaces across the borough through Brick by Brick and suggested that there was a disconnect between the ambitions of the report and the actions of the council.

In response the Chair stated that whilst the council was facing financial difficulties, it was her belief that not everything was about money and that the council needed to utilise its influence to draw more money into the borough to support the green agenda. It was noted that there was also a question of social justice and whether the council should say it was a sustainable borough when children were living in bed and breakfast accommodation rather than homes.

The Shadow Cabinet Member for Economy & Jobs queried why there were no Conservative representatives on the Sustainable Economic Renewal Board and further questioned its effectiveness as it did not appear to be meeting as frequently as it should be. The Chair responded by suggesting that the Board had a number of sub-groups which were meeting and actively working on the agenda.

The Shadow Cabinet Member for Transport, Environment & Regeneration stated that the discussions at the recent Streets, Environment & Homes Scrutiny Sub-Committee had raised concerns that there was no means to measure the environmental impact, in terms of air quality, due to the emissions based parking. The Shadow Cabinet Member raised concerns that the policy would detrimentally impact those who were financially less well-off and suggested that the policy was related more to the state of the borough's finances than the environment.

In response to comments from the Leader of the Opposition, the Cabinet Member for Environment, Transport & Regeneration (non-voting – Job

Share) stated that the important message was that everyone worked together and took personal responsibility. It was suggested that should people have land they should plant trees to help the environment. The Cabinet Member referenced a planning application which, it was suggested, included plans to remove trees, however stated that he felt that Members should move away from attacking one another and should work together positively to build a sustainable borough.

The Cabinet Member for Environment, Transport & Regeneration (voting – Job Share) stated that there was no link between the council’s current financial position as the policy had been presented in March 2019 before the financial position was known. Whilst it was recognised the changes did impact upon poorer residents and the elderly it was also suggested that these groups were disproportionately impacted by poor air quality and that studies had shown that 205 Croydon residents lost their lives annually partly due to air quality. Individual policies, it was stated, would not solve the issue but collectively they will support tackling the crisis.

The Chair of Streets, Environment & Homes Scrutiny Sub-Committee confirmed the emissions policy had been considered by the Scrutiny Sub-Committee and that there had been a recognition by all that data would be important in understanding the impact of the policy. Furthermore, it was stated that there had been discussions at scrutiny meetings on how the council could harness the skills of residents and engage with them at every stage of the process when developing policies.

In conclusion, the Chair of the Commission stated that financial challenges were being faced by the public sector across the county, however it was suggested that the council should consider investment opportunities to get the best outcomes for all. Whilst a huge amount could be achieved, Members were advised that it was important that the council was clear of the outcomes it wanted to achieve to ensure the greatest positive impact.

The Statutory Deputy Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To note the work being done to make Croydon more sustainable to date involving:

- Croydon Climate Crisis Commission
- Sustainable Economic Renewal Board
- Air Quality Action Plan
- Waste & Recycling
- Trees & Woodland
- Energy Efficiency
- Transport
- Construction logistics & freight management

Developing Croydon's new Community Safety Strategy

This item was taken as the second substantive item at the meeting.

The Cabinet Member for Safer Croydon & Communities informed Members that it was proposed to extend the Community Safety Strategy until the end of 2021 to allow work to be undertaken to develop a new Strategy.

Whilst work on developing a new Strategy had started earlier in the year, this had been put on pause due to the pandemic. It had been planned that a number of groups would have been engaged in developing the Strategy, however it was concluded that it would have been challenging to effectively engage during the lockdown.

It was further noted by the Cabinet Member that the pandemic had an impact on community safety and the types of crimes which were being witnessed and it was important that this was taken into account when developing the new Strategy.

The Shadow Cabinet Member for Safer Croydon & Communities noted that previous iterations of the Community Safety Strategy had been published in March and that consultation had taken place the previous year. As such, the consultation on the new Strategy would have normally taken place in the latter half of 2019 and so before the pandemic. Concerns were raised that by delaying the publication of a new Strategy to spring 2022, the council would be in the pre-election period for the Local Elections and so there would not be an opportunity to scrutinise the new Strategy

In response to Member questions, the Cabinet Member stated that one of the main priorities in the development of the new Strategy was to ensure it was aligned with the council's public health approach to crime. It had been important to ensure thorough research and engagement with all those impacted had been undertaken prior to the publication of a new Strategy and, as such, it had not been possible to develop a new Strategy by March 2020. The Cabinet Member confirmed that the council sought to engage all who were impacted by crime, partners and the Scrutiny & Overview Committee in the development of the new Strategy.

Councillor Ward raised concerns that it had been calculated that violent crime had increased by 64% and crime involving a weapon had increased by 49% and that in light of these increases it was stated the current Strategy was not effective and should be replaced sooner rather than later. In response, the Cabinet Member stated that extending the Strategy did not mean that work to tackle crime had been paused and a new Strategy was to be developed which would be in line with the council's public health approach to violent crime. It was confirmed that the act of extending the Strategy was to reaffirm the council's priorities for tackling crime and supporting the victims of crime.

Further concerns were raised by the Shadow Cabinet Member that the footer in the appendix refers to 14 to 17 when the report was actually 17-20 and that various parts of the report had been copied and pasted, and that evidenced a lazy approach of policy development within the council.

In response the Cabinet Member reiterated the council's commitment to tackling violent crime and that this commitment was shared across the community safety partnership. It was further stated that inconsistent numbering in footers did not reflect the hard work of officers, organisations and emergency services in tackling crime in the borough.

Following the murder of an older resident the previous week, the Cabinet Member expressed her condolences to the family and friends of the resident.

The Statutory Deputy Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To recommend to Full Council that it agree to extend the current community safety strategy until the end of calendar year 2021 for the reasons detailed in the report.

80/20

District Centre Prosperity - Purley BID

This item was taken as the third substantive item at the meeting.

The Cabinet Member for Economy & Jobs informed Members that the report asked Cabinet to note the decisions which had been taken under delegated authority and under Special Urgency.

Purley BID had been established in 2015 and following its five year term was seeking to continue. It was noted by the Cabinet Member that the BID had worked tirelessly to support businesses in the local area and as such the council would continue to support its work. The ballot was scheduled to take place on 10 December 2020 and work had already begun with ballots having been posted.

Due to the economic impact of COVID-19 it was recognised that the BID was more important than ever in supporting the local economy and to further the council's understanding of the needs of local businesses the Cabinet Member and Chief Executive of the BID would be undertaking a walk around the Purley BID area in November 2020. The ward councillors of the two Purley wards were welcomed to join the walkabout.

Simon Cripps, Purley BID Chief Executive, was welcomed to the meeting and thanked the council for its support for the BID. Since its inception five years ago, the BID had delivered over 200 projects to support the local area.

One such project had been the Business Rates campaign. It had been noted in 2017 that Purley was heavily impacted by Business Rates, more so than other areas in the region. A campaign was developed and was supported by councillors and the local MP, and in 2018 the Business Rates were reduced.

Recently, the BID had supported local businesses to continue trading by providing PPE, screens, posters, marketing and supporting businesses to apply for grants.

With the renewal of the BID, three themes had been identified:

- Destination Purley – which sought to promote and support Purley as a vibrant high street;
- Access and safety – which included solutions to parking access issues experienced due to two A roads crossing through the centre of Purley and purchasing the services of a private security firm; and
- Business support – which included reducing the levy from 2% to 1.5%.

The BID Chief Executive stated that businesses needed the support of the BID, and whilst it was one of the smallest in the country it was considered to punch above its size.

Members thanked the BID Chief Executive for his work and enthusiasm and it was recognised that the BID had been very important to the area in supporting the local economy.

Concerns were raised by the Shadow Cabinet Member for Economy & Jobs that the council was responsible for enforcing the payment of the BID levy, however enforcement had taken place during the first term which had impacted upon the BID to the extent of £50,000 in lost income. It was further noted by the Shadow Cabinet Member that a collection system had been introduced in 2019 to support the collection of the levy but that no defaults had been issued in that time.

In response, the Cabinet Member stated that the council was responsible for managing the levy and there were approximately 180 properties which were eligible to pay the levy. The council sought to work with the BID and businesses to ensure the levy was paid and remained committed to ensuring the levy was paid. It was further noted that the council was also a levy payer for three properties in the BID area.

BIDs were recognised as having a positive impact on their areas. In Croydon there were three BIDs and there was a desire to support the development of more BIDs to support local businesses.

In response to concerns raised by the Shadow Cabinet Member for Clean Green Croydon that the BID levy should not be used to bolster shortfalls in council spending, the Cabinet Member stated that the financial situation of the council was well known and had been discussed at previous

meetings of councillors. However, in the case of the BID the one off cost to the council of £4,000 for the ballot had been identified and the council remained committed to its ongoing levy liability on the three properties in the BID area as it was recognised that the BID was able to attract additional investment to support the area.

Further concerns were raised in relation to agreed baseline services and the responsibility for the costs for these services, such as the Environmental Response Team (ERT), when they were disbanded by the council. It was stated by the Shadow Cabinet Member for Clean Green Croydon that the cost of those services should not be the responsibility of the Purley BID should the council discontinue them. In response, the Cabinet Member for Clean Green Croydon stated the service provided by the ERT would be provided by Veolia at a lower cost than that incurred from having an in house service.

Councillor Brew addressed Cabinet and stated that he was delighted to see the development of the Purley BID over the previous five years, however also raised concerns in relation to the levy which had not been collected by the council and which totalled £50,000, 5% of the BID's budget. It was further noted that invoices of £13,000 had been raised for the collection service which was felt to be sub-standard.

Members were assured by the Deputy Leader that their concerns in relation to the levy collection were being noted and that the council would continue to support the BID. The BID Chief Executive was thanked for his contributions and his enthusiasm. It was noted that the work of the BID was supporting work to make Purley a better place.

The Statutory Deputy Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To

1. Note that the Leader delegated authority (5420LR) to the Cabinet Member for Economy & Jobs in consultation with the Cabinet Member for Finance & Resources to:
 - i. Consider on behalf of the council as a billing authority, whether the Purley BID proposal conflicts with any formally adopted policy of the Council and, if it does, give notice of this in accordance with the BID Regulations
 - ii. Determine and agree that the council should approve the BID proposal and vote 'yes' on the BID ballot
 - iii. Determine and agree that the council can determine the baseline service provision for key services within the Purley BID area for 2020/21 on behalf of Cabinet
 - iv. Agree that the Council formally make arrangements for conducting a BID ballot in accordance with the BID regulations through the Council's electoral services team

(with the ballot day scheduled for Thursday 10th December 2020)

- v. Note that in the event of a 'Yes' vote at ballot:
- That the Council manage as the relevant local billing authority, the billing and collection of the additional levy, and its transfer to the BID Company, with all costs incurred by the council to be paid by the BID Company.
 - That the Council meet the Council's obligations in paying the extra BID levy, as a non-domestic ratepayer in the BID area, in accordance with the BID regulations over the life of the BID
 - That the Council enter into the key legal agreements with the BID Company regarding the operation of the BID and delivery of Council baselines and that the Executive Director – Place in discussion with the Cabinet Member for Economy and Jobs be given delegated authority to approve the final terms of those agreements

2. Note that the above decisions were taken under delegated authority by the Cabinet Member for Economy & Jobs in consultation with the Cabinet Member for Finance & Resources on 7 October 2020 (5420EJ).

81/20

Scrutiny Stage 1: Recommendations arising from Scrutiny

The Statutory Deputy Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To receive the recommendations arising from meeting of the Children & Young People Sub-Committee held on 15 September 2020, and to provide a substantive response within two months (i.e. at the next available Cabinet meeting on **14 December 2020**).

82/20

Investing in our Borough

The Cabinet Member for Finance & Resources informed Cabinet that pre-procurement for the Temporary Agency Staff contract had been due to start, however the pandemic had delayed this. By extending the contract, officers would have the opportunity to properly re-procure this contract and get best value for money. It was noted that this course of action was not the decision the Cabinet Member wanted to present to Cabinet, however it was recognised that it was essential that the council had access to temporary agency staff. The Cabinet Member further drew

Members attention to paragraph 3.4 of the report which stated that the trajectory for the usage of agency staffing was going down.

The trajectory of spend on the contract was highlighted by the Shadow Cabinet Member for Finance & Resources, as it was stated that when the contract was originally let it was for £80million over four years, however this figure had been exceeded with expenditure peaking at £44million a year. It was noted that at a time when the council was having to make redundancies and cuts that spending £25million per year on agency staff would send a negative message to permanent staff.

In response the Cabinet Member for Finance & Resources stated that agency staff were often specialists and were temporary, however there were numerous reasons for the use of temporary staff. It was stated by the Cabinet Member that it was important that the council continued on the trajectory of utilising temporary staff less to support the development of a stable workforce. By extending the contract it would enable the council to undertake the necessary work to ensure a stable workforce going forward.

The Shadow Cabinet Member for Homes & Gateway Services stated that she had concerns that the council was in breach of public contract regulations. Queries were raised as to how contract end dates had been missed as it would have been necessary to assess service needs, best value for money and consult with service users ahead of the end date of a contract to ensure an appropriate new contract was in place in time. Furthermore concerns were raised in relation to the council's oversight of the finances of the authority given the number of extensions being recommended.

In response, the Cabinet Member stated that public administration had always been challenging for all bodies, however the council was experiencing particularly difficulties with the impact of COVID-19 and the financial situation of the council. It had been recognised that there had been insufficient oversight but that work was under way to fix those issues to ensure contracts were properly procured to get best value for money. The Cabinet Member assured Members that officers did seek to achieve best value for money when procuring contracts.

The concerns of residents in relation to Purley pool were raised by the Shadow Cabinet Member for Culture, Leisure & Sport and the Cabinet Member was asked to ensure that the necessary funds were allocated to support the investment in the pool. In response the Cabinet Member stated that it was important that the council balanced all of its resources. Statutory services must be delivered and then all other services would be reviewed. It was necessary for tough decisions to be made to ensure there was a sustainable plan going forward.

The Statutory Deputy Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To approve the award of contract variation for Managed Service for Temporary Agency Resources contract in accordance with the recommendations set out in the report at agenda item 10a, as set out in section 4.1.1 of the report.

RESOLVED: To note

1. The contracts between £500,000 and £5,000,000 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, as set out in section 4.2.1 of the report.
2. The list of delegated award decisions made by the Director of Commissioning and Procurement, between 18/08/2020 – 24/09/2020, as set out in section 4.2.2 of the report.

a **Variation to the contract for the provision of a Managed Service for Temporary Agency Resources**

The Statutory Deputy Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To

1. Approve the award of a variation to the term of the temporary agency worker contract with Adecco Ltd in accordance with Regulation 30 of the Council's Tenders and Contracts Regulations for a contract period of up to 24 months for an additional contract value of £50,000,000 bringing the total contract value to £188,000,000.
2. Note that an internal review of the commissioning options will take place by March 2021 and September 2021 to determine the optimum time for the re-procurement of this service and hence extension period required. Officers will present the results of the internal review to CCB and to the Cabinet Member for Finance & Resources at the latest March 2021 and, if action not already taken as a result of March 2021 review, at the latest September 2021.

83/20

Exclusion of the Press and Public

This item was not required.

The meeting ended at 8.48 pm

REPORT TO:	CABINET 18 January 2021
SUBJECT:	Action Plan to address the Report in the Public Interest
LEAD OFFICER:	Jaqueline Harris Baker, Executive Director of Resources, and Elaine Jackson, Interim Assistant Chief Executive
CABINET MEMBER:	Councillor Hamida Ali, Leader of the Council
WARDS:	All

SUMMARY OF REPORT:

This report addresses recommendations 1.6 and 1.7 in a report to the Extraordinary Council meeting of 19th November 2020 in response to the Report in the Public Interest (RIPI). The improvement action plan has been considered and reviewed by both the Scrutiny & Overview Committee and the General Purposes & Audit Committee and they have both support the action plan but have made recommendations for improvements.

FINANCIAL IMPACT:

There will be costs associated with the implementation of the recommendations detailed within the report and for the production of the external auditor's report. To date, the external auditor's costs have totalled £65,000.

The costs of implementing the action plan will be included in the costs of the overall improvement plan being developed for the Council and will be reported to Members when these are fully known.

KEY DECISION REFERENCE NO.:

There are no key decisions contained in this report

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

RECOMMENDATIONS:

The Cabinet is asked to:

- i. Agree the amendments to the RIPI action plan recommended by the Overview & Scrutiny Committee (Appendix 1);
- ii. Agree the amendments to the RIPI action plan recommended by the General Purposes & Audit Committee (Appendix 2);
- iii. Agree that the action plan (Appendix 3) should be updated accordingly; and
- iv. Note that in accordance with the resolutions of Council on 19 November 2020, Cabinet, alongside the General Purposes & Audit Committee, the Scrutiny & Overview Committee and Council, will receive quarterly reports detailing

progress of delivering the action plan as part of quarterly progress monitoring reports from the forthcoming Council Improvement Board.

1. SUMMARY

1.1 On 23 October 2020 the Council's external auditor, Grant Thornton, issued a Report in the Public Interest (RIPI) concerning the Council's financial position and related governance arrangements. In line with the statutory framework for RIPI, the Council held an Extraordinary Council meeting on 19 November 2020 to discuss the report and the proposed action plan (Appendix 3) to address it.

1.2 At the Extraordinary Council meeting the action plan and a number of recommendations were agreed. This report addresses recommendations 1.6 and 1.7 as follows:

1.6 *that the Scrutiny and Overview Committee and the General Purposes and Audit Committee, at their next meetings, consider and review the Action Plan from their differing constitutional positions and report their feedback in separate reports to Cabinet at its 18th January 2021 meeting; and*

1.7 *Council requests that Cabinet receive a report at its 18th January 2021 meeting on the Action Plan. The report will respond to the feedback from the Scrutiny and Overview Committee and the General Purposes and Audit Committee. The report will also provide further detail on the recommendations, timelines and accountabilities, the delivery mechanism to support the improvement work and the costs, where possible, associated with implementing the recommendations.*

2. DETAIL

2.1 As requested by Council, the Scrutiny & Overview Committee and the General Purposes & Audit Committee have now had an opportunity to consider and review the action plan. Both committees support the action plan, but both have made some recommendations for improvements. These recommendations are attached as follows:

Appendix 1 - Recommendations from the Scrutiny & Overview Committee on the Report in the Public Interest Action Plan.

Appendix 2 - Recommendations from the General Purposes and Audit Committee on the Report in the Public Interest Action Plan.

2.2 The Committees took the view that the action plan was a robust piece of work considering the time frame for its creation and recommended that it should be viewed as a live document to guide the organisation going forward, which could

be amended as and when needed. The Committees also recognised that the action plan was ambitious in the scale of work it was proposing to deliver and recommended that robust assessment criteria be used to prioritise delivery, taking account of the available capacity.

- 2.3 The Scrutiny & Overview committee was content with the actions proposed to address 5 of the RIPI recommendations but made 23 proposals to enhance the remainder. The General Purposes & Audit Committee was content with the actions proposed for 8 of the RIPI recommendations, but also made 23 recommendations to enhance the remainder.
- 2.4 Officers from the Council's Executive Leadership Team attended the meetings of both committees and were supportive of the recommendations made.
- 2.5 It is also proposed that progress against the action plan should be monitored, tested and reported upon by the Council's internal audit team and there will be reports to future Cabinet meetings setting out progress with implementation.
- 2.6 The RIPI action plan has been incorporated into the Croydon Renewal Plan. The plan is structured around the new priorities agreed at Council, with 3 key improvement outcomes:
- Financial recovery
 - Governance improvement (which incorporates the RIPI action plan)
 - Operational improvement

The plan forms a critical part of the Council's capitalisation submission to MHCLG.

- 2.7 The Improvement Plan is a significant programme of work that is likely to take up to 5 years. The Improvement Plan has also identified key areas of focus which are essential to changing the overall culture of the Council to one that is evidence led, manages resources well, and is open and transparent with stakeholders.
- 2.8 The Council is strengthening its systems for monitoring and reporting performance and expenditure and applying a programme delivery approach to implement the change required. Delivery of the Improvement Plan will be coordinated by a new Renewing Croydon Programme Steering Group. The Steering Group is responsible for ensuring that all project and programme work undertaken by the council is aligned only to the strategic priorities of the council. They will hold officers to account for delivery, approve project initiation, prioritisation and close down, and manage compliance. A central Programme Management Office has been established to ensure consistent, effective management of the various improvement and savings programmes. Our approach has built on best practice advice received from the NHS and local government as well as lessons learned reports from MHCLG and the Infrastructure and Projects Authority.

3. CONSULTATION

- 3.1 The recommendations attached to this report are the product of discussions by both the Scrutiny & Overview Committee and the General Purposes & Audit Committee as requested by the Council at its Extraordinary meeting on 19 November 2020.

4. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 4.1 To ensure that the action plan to address the issues raised by the external auditor's Report in the Public Interest are addressed as promptly and effectively as practical to enable the Council to improve its financial standing and continue to deliver services to the residents and other stakeholders of Croydon.

5. OPTIONS CONSIDERED AND REJECTED

- 5.1 None

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 6.1 To date, the external auditor's costs have totalled £65,000.
- 6.2 There will be costs associated with the implementation of the recommendations detailed within the report.
- 6.3 The Council is currently assessing its capacity to deliver the overarching improvement plan, of which this action plan forms a key part, and those costs will be reported to Members when they are fully known.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk and s151 Officer.

7. LEGAL CONSIDERATIONS

- 7.1 The Head of Litigation and Corporate Law comments on behalf of the Council Solicitor and Monitoring Officer that the Report in the Public Interest ("the Report") dated 23 October 2020 was issued under the provisions of the Local Audit and Accountability Act 2014 ("the Act"). The Council must comply with the requirements of the Act in responding to the Report.
- 7.2 Under the provisions of paragraph 5(5) and (6) of Schedule 7 to the Act, the Council must decide within a period of one month whether the Report requires the authority to take any action or whether the recommendations are to be accepted. It must also decide what, if any, action is to be taken in response to the Report and its recommendations. The Report was considered at the Council meeting on 19 November when all of the Report's recommendations R1 – R20 and additional recommendations LBC1 – LBC3 were agreed

together with an Action Plan in response to each of the recommendations. Paragraph 7 goes on to provide that the authority's functions under paragraph 5 are not to be the responsibility of the executive.

- 7.3 Paragraph 10(1) of the Act provides that after considering the Report and its response to it, the Council must notify the external auditor of its decisions, and publish a notice on its website containing a summary of those decisions which has been approved by the external auditor.
- 7.4 At the time of writing this report, all of the relevant requirements of the Act have been complied with.

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

8. HUMAN RESOURCES IMPACT

- 8.1 There are no human resource impacts arising directly from the recommendations in this report. However, there will be impacts associated with the delivery of the improvement plan. The improvement plan is part of a range of measures relating to improving the Council's financial position and it is inevitable that this will ultimately impact on the Council's workforce, when the Council's agreed Human Resources policies and procedures will be followed.
- 8.2 Human resources impacts will be appropriately reported to the relevant decision-making bodies as individual actions from the plan are implemented.

Approved by: Sue Moorman, Director of Human Resources

9. EQUALITIES IMPACT

- 9.1 There are no equality impacts arising directly from the recommendations in this report. As such, an equality analysis has not been undertaken following the initial response to the external auditor's report. However, there will be impacts associated with the delivery of the improvement plan. The improvement plan is part of a range of measures relating to improving the Council's financial position and it is inevitable that this will ultimately impact on the Council's workforce and the communities it serves.
- 9.2 Consideration will be given as each of the individual actions included in the Action Plan are implemented as to whether they are relevant to equalities and will require an equalities impact assessment undertaken to ascertain the potential impact on vulnerable groups and groups that share protected characteristics.
- 9.3 Any improvements to governance that arise from the implementation of the recommendations in the action must pay due regard to ensuring that all residents in Croydon are able to understand the actions the Council takes in

their name, the decisions it makes to spend resources on their behalf, and who is accountable for that action.

- 9.4 Close attention will need to be paid to ensure the Council is as transparent as possible and is as open and engaging with all its local communities through this process of improvement and afterwards in the new governance practices that are established.

Approved by: Yvonne Okiyo, Equalities Manager

10. ENVIRONMENTAL IMPACT

- 10.1 None

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 None

12. DATA PROTECTION IMPLICATIONS

- 12.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

- 12.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

- 12.3 The report author comments that the recommendations of this report do not involve the processing of personal data and as such, there are no data protection implications arising from this report.

Approved by: Jacqueline Harris Baker, Executive Director of Resources and Monitoring Officer

CONTACT OFFICER: Jacqueline Harris Baker, Executive Director of Resources and Monitoring Officer

APPENDICES TO THIS REPORT:

Appendix 1 - Recommendations from the Scrutiny & Overview Committee on the Report in the Public Interest Action Plan.

Appendix 2 - Recommendations from the General Purposes and Audit Committee on the Report in the Public Interest Action Plan.

Appendix 3 - Action Plan in response to the Report in the Public Interest as agreed at Council on 19 November 2020.

BACKGROUND DOCUMENTS: None

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Recommendations from the Scrutiny & Overview Committee on the Report in the Public Interest Action Plan.

Introduction

The Scrutiny & Overview Committee (SOC) was given the opportunity to review the action plan created in response to the Report in the Public Interest (RIPI) issued by Grant Thornton at its meeting on 8 December 2020.

This report has been prepared to summarise the recommendations of the Committee on the action plan. At the meeting each recommendation in the action plan was reviewed in turn and the feedback is presented in this format.

General Feedback

Overall the Committee came to the view that the action plan presented was a robust piece of work, particularly considering the time frame for its creation. Given the short time frame for the creation of the action plan, the Committee recommended that it should be viewed as a live document to guide the organisation going forward, which could be amended as and when needed.

The Committee also recognised that the scale of the action plan was very ambitious in terms of the work it was proposing to deliver and recommended that robust assessment criteria be used to prioritise delivery, taking account of the available capacity.

Recommendation 1a: The Executive Director Children Families and Education needs to address the underlying causes of social care overspends in children’s social care and take effective action to manage both the demand and the resulting cost pressures.

1. Regarding action iii, it was recommended that prior to providing progress reports, Members needed a greater understanding of the current arrangements for Children’s Social Care, including clarity over what were the statutory and non-statutory areas of the service and the meaning and impact of ‘demand management’.
2. The Committee recognised that further consideration needed be given to how to demonstrate within the progress reports the wider impact of work to address cost pressures within Children’s Social Care beyond the purely financial implications. For instance any progress reports needed to provide reassurance that robust assessments were being undertaken to determine the potential impact on future demand from either reducing or stopping a service.

Recommendation 1b: The Executive Director Health, Wellbeing and Adults needs to address the underlying causes of social care overspends in adults social care and take effective action to manage both the demand and the resulting cost pressures.

3. Training needed to be provided for Members to understand the budget for Adult's Social Care. This should include an explanation of the reasons for the persistent overspend. Training was also required to help Members understand the complex health and care landscape in the borough.
4. As with Recommendation 1a, consideration needed be given to how to demonstrate within the progress reports the potential impact of the work to address cost pressures within Adult's Social Care beyond the financial implications.

Recommendation 2: The Council (including Cabinet and Scrutiny and Overview Committee) should challenge the adequacy of the reserves assessment which should include a risk assessment before approving the budget.

5. Consideration was needed to identify the most appropriate mechanism for the Committee to monitor and assess progress made against delivering the budget throughout the year.
6. Furthermore, consideration needed to how reassurance could be provided to Members that effective budget controls were in place to mitigate against potential risks to the delivery of the budget.
7. The governance of the Council needed to be mapped in order to reduce the risk of duplication and conversely to ensure that nothing was missed.

Recommendation 3: The Chief Executive should oversee a review of the outcomes achieved from the use of transformation funding to demonstrate that the funding has been applied in accordance with the aim of the scheme.

8. A corporate strategy needs to be developed to assess future transformation projects prior to funding. This should include a requirement to identify the intended outcomes, risk exposure, ongoing affordability, how success will be measured, how progress will be tracked, any interdependencies with other projects and any wider benefits.

Recommendation 4: The s151 officer should set out the strategy for applying capital receipts for transformation annually as part of the budget setting process.

As set out in recommendation 8 above.

Recommendation 5: The General Purposes and Audit Committee should receive reports on the actions being taken to address the Dedicated Schools Grant deficit and challenge whether sufficient progress is being made.

9. It was identified that training was needed for Members on education funding and budgets.

Recommendation 6: The Executive Director Children, Families and Education needs to review the services provided to UASC and to identify

options to meet their needs within the grant funding provided by the Home Office.
The actions set out in the report were supported by the Committee and no further recommendations were made. It was presumed that the delivery date for item 6 is December 2020, not 2021.
Recommendation 7: The Executive Director Children, Families and Education needs to identify the capacity threshold for the numbers of UASC that it has the capacity to deliver safe UASC services to.
The actions set out in the report were supported by the Committee and no further recommendations were made.
Recommendation 8: The Cabinet reports on the financial position need to improve the transparency of reporting of any remedial action taken to address in year overspends.
10. It was recognised that urgent action needed to be taken to address the culture of the Council to ensure that all officers and Members are aware of budgetary pressures and acted accordingly.
Recommendation 9: The Council (including Cabinet and Scrutiny and Overview Committee) need to show greater rigor in challenging underlying assumptions before approving the budget including understanding the track record of savings delivery.
11. It was felt that it was important for the Cabinet to take collective responsibility for addressing the Council's budget challenges, with further work recommended to consider how this can be demonstrated.
Recommendation 10: The General Purposes and Audit Committee must challenge officers on the progress in implementing the Financial Consultant's recommendations to improve the budget setting, monitoring and reporting process and actions to address the Head of Internal Audit's concerns on internal controls.
12. That work be undertaken to clarify the roles of both Scrutiny and Audit to reduce duplication and also to ensure nothing was being missed.
Recommendation 11: The s151 officer needs to revisit the Growth Zone assumptions following the pandemic and make recommendations to Cabinet and Council for the continued investment in the scheme.
13. It was recognised that the Council needs a mechanism in place to review projects to use the learning to inform any future work. This should be extended across all areas of the Council, with learning retained centrally as a corporate resources.

Recommendation 12: The s151 officer should review the financial rationale and associated risks and make recommendations to Cabinet and Council on whether the Revolving Investment Fund should continue.
See SOC Recommendation 13 above.
Recommendation 13: The s151 officer should review the purchase of Croydon Park Hotel to identify lessons learned to strengthen future due diligence arrangements.
See SOC Recommendation 13 above.
Recommendation 14: The Cabinet and Council needs to re-consider the Treasury Management Strategy for ongoing affordability of the borrowing strategy, the associated risks and identify whether alternative options can reduce the financial burden.
14. As mentioned above in recommendation 12, it is recommended that work be undertaken to clearly define the roles of Scrutiny and Audit, with particular regard to risk management and treasury management.
Recommendation 15: The Chief Executive should arrange detailed Treasury Management training to assist Members to better understand and challenge the long-term financial implications of matters reported within the Treasury Management Strategy.
See SOC Recommendation 14.
Recommendation 16: The s151 officer should revisit the Minimum Revenue Provision policy to demonstrate that a prudent approach is being taken.
The actions set out in the report were supported by the Committee and no further recommendations were made.
Recommendation 17: The Cabinet and Council should reconsider the financial business case for continuing to invest in Brick by Brick before agreeing any further borrowing.
The actions set out in the report were supported by the Committee and no further recommendations were made.
Recommendation 18: The Cabinet and Council should review and reconsider the ongoing financial rationale for the Council in the equity investment arrangement with Brick by Brick.
15. The Committee recommended that the December 2020 deadline for the action is reviewed to ensure further consultation could be undertaken.
Recommendation 19: The s151 officer and monitoring officer should monitor compliance with loan covenants with Brick by Brick and report any breaches to Members.

16. The Committee recommended that the December 2020 deadline for the action is reviewed to ensure further consultation could be undertaken.
Recommendation 20: The Cabinet and Council should review its arrangements to govern its interest in subsidiaries, how the subsidiaries are linked, and the long-term impact of the subsidiaries on the Council's financial position and how the Council's and taxpayers' interest is safeguarded.
The actions set out in the report were supported by the Committee, with no further recommendations made.
Recommendation LBC1: Given the challenges ahead there will need to be improvement of the Council's approach to risk management to enable a satisfactory turnaround of the financial position.
17. It was recommended that consideration be given to how to provide Members with assurance that there is sufficient risk management expertise within the Council to manage risk going forward.
18. It was recognised that the Council needed to define its appetite for risk and that as part of any future governance, risks are regularly reviewed to ensure that the appropriate level of mitigation is in place.
19. That work is undertaken to reconcile the various risks managed by the Council to understand how they impact upon each other.
Recommendation LBC2: Clarifying member and officer roles to support good governance arrangements.
20. The Committee agreed that any review of the governance arrangements, needed to give greater clarity to responsibility and accountability.
Recommendation LBC3: Ensuring that Members are appropriately trained across all aspects of the Council's financial duties and responsibilities.
21. That training be provided for Members to improve understanding of the commissioning process.
22. That appropriate training is offered to the committee members who are not elected members.
Recommendation LBC4: The Council develops an improvement programme that has the necessary elements for it to function effectively and within its financial resource.
23. The Committee recommended that corporate level sponsorship should be allocated to all projects to ensure clarity of responsibility for delivery.
24. It was also recommended that work needed to be undertaken as a priority to understand the future model of the Council, which would inform the direction of travel in the improvement journey.

25. That appropriate officer support is given to Scrutiny in order that it can fulfil its role.

Recommendations from the General Purposes and Audit Committee on the Report in the Public Interest Action Plan.

Introduction

The General Purposes and Audit Committee (GPAC) was given the opportunity to review the action plan created in response to the Report in the Public Interest (RIPI) issued by Grant Thornton at its meeting on 2 December 2020.

This report has been prepared to summarise the recommendations of the Committee on the action plan. At the meeting each recommendation in the action plan was reviewed in turn and the feedback is presented in this format.

Recommendation 1a: The Executive Director Children Families and Education needs to address the underlying causes of social care overspends in children’s social care and take effective action to manage both the demand and the resulting cost pressures.

1. The Committee recommended that action be taken to enable the ongoing production of a transparent data set which allowed Members to track progress on managing demand within social care.

Recommendation 1b: The Executive Director Health, Wellbeing and Adults needs to address the underlying causes of social care overspends in adults social care and take effective action to manage both the demand and the resulting cost pressures.

The actions set out in the report were supported by the Committee, with no further recommendations made.

Recommendation 2: The Council (including Cabinet and Scrutiny and Overview Committee) should challenge the adequacy of the reserves assessment which should include a risk assessment before approving the budget.

2. The Committee felt that further consideration needed to be given to how to improve Members understanding of the Council’s reserves.
3. It was also requested that sufficient time is built into the budget setting process to allow GPAC to provide comment.

Recommendation 3: The Chief Executive should oversee a review of the outcomes achieved from the use of transformation funding to demonstrate that the funding has been applied in accordance with the aim of the scheme.

4. The Committee recommended that further consideration needed to be given to how to improve Member’s understanding of transformational funding.

Recommendation 4: The s151 officer should set out the strategy for applying capital receipts for transformation annually as part of the budget setting process.

5. It was recommended that GPAC receive an annual report in addition to the Scrutiny & Overview Committee.

Recommendation 5: The General Purposes and Audit Committee should receive reports on the actions being taken to address the Dedicated Schools Grant deficit and challenge whether sufficient progress is being made.

The actions set out in the report were supported by the Committee, with no further recommendations made.

Recommendation 6: The Executive Director Children, Families and Education needs to review the services provided to UASC and to identify options to meet their needs within the grant funding provided by the Home Office.

6. Recommendation: That work is undertaken to understanding what provision is currently available for flagging safeguarding risks and thresholds for the number of UASC that can be safely looked after by the Council. Following on from this, to work with Ofsted on a system for other authorities to house UASC once the safe limit had been exceeded.

Recommendation 7: The Executive Director Children, Families and Education needs to identify the capacity threshold for the numbers of UASC that it has the capacity to deliver safe UASC services to.

The actions set out in the report were supported by the Committee, with no further recommendations made.

Recommendation 8: The Cabinet reports on the financial position need to improve the transparency of reporting of any remedial action taken to address in year overspends.

7. The Committee recommended that the relevant Cabinet Member should be identified as one of the 'accountable people' mentioned in action ii.

Recommendation 9: The Council (including Cabinet and Scrutiny and Overview Committee) need to show greater rigor in challenging underlying assumptions before approving the budget including understanding the track record of savings delivery.

8. The Committee felt it would be helpful for Councillor Callton Young to be included as the accountable Cabinet Member in addition to Councillor Stuart King.

Recommendation 10: The General Purposes and Audit Committee must challenge officers on the progress in implementing the Financial Consultant's recommendations to improve the budget setting, monitoring

and reporting process and actions to address the Head of Internal Audit's concerns on internal controls.
9. The Committee suggested that the underway deadline needed to be reviewed to provide more clarity on progress made with the actions.
Recommendation 11: The s151 officer needs to revisit the Growth Zone assumptions following the pandemic and make recommendations to Cabinet and Council for the continued investment in the scheme.
The actions set out in the report were supported by the Committee, with no further recommendations made.
Recommendation 12: The s151 officer should review the financial rationale and associated risks and make recommendations to Cabinet and Council on whether the Revolving Investment Fund should continue.
The actions set out in the report were supported by the Committee, with no further recommendations made.
Recommendation 13: The s151 officer should review the purchase of Croydon Park Hotel to identify lessons learned to strengthen future due diligence arrangements.
10. The Committee recommended that the strategic review be asked to expand its feedback on how asset investment decision was made, beyond simply the governance processes. 11. It was requested that fourth Action be expanded to include input from SOC and GPAC
Recommendation 14: The Cabinet and Council needs to re-consider the Treasury Management Strategy for ongoing affordability of the borrowing strategy, the associated risks and identify whether alternative options can reduce the financial burden.
The actions set out in the report were supported by the Committee, with no further recommendations made.
Recommendation 15: The Chief Executive should arrange detailed Treasury Management training to assist Members to better understand and challenge the long-term financial implications of matters reported within the Treasury Management Strategy.
12. The Committee requested the provision of training for Members to improve their understanding of Treasury Management.
Recommendation 16: The s151 officer should revisit the Minimum Revenue Provision policy to demonstrate that a prudent approach is being taken.
The actions set out in the report were supported by the Committee, with no further recommendations made.

Recommendation 17: The Cabinet and Council should reconsider the financial business case for continuing to invest in Brick by Brick before agreeing any further borrowing.

13. The Committee recommended that the risks relating to Brick by Brick are reviewed to ensure they are appropriately listed on the risk register.
14. It was highlighted that the accountable Cabinet Member should be Councillor Hamida Ali.

Recommendation 18: The Cabinet and Council should review and reconsider the ongoing financial rationale for the Council in the equity investment arrangement with Brick by Brick.

The actions set out in the report were supported by the Committee, with no further recommendations made.

Recommendation 19: The s151 officer and monitoring officer should monitor compliance with loan covenants with Brick by Brick and report any breaches to Members.

15. It was requested that GPAC have the opportunity to review the new loan covenant arrangements once finalised.
16. It was also suggested that parent guarantees be included within the scope of the review

Recommendation 20: The Cabinet and Council should review its arrangements to govern its interest in subsidiaries, how the subsidiaries are linked, and the long-term impact of the subsidiaries on the Council's financial position and how the Council's and taxpayers' interest is safeguarded.

17. The Committee recommended raising awareness of the timing of the Annual General Meetings of subsidiaries amongst Members.
18. It was also recommended that a cost effective mechanism for publicising the Board Membership of any Council subsidiaries is investigated.

Recommendation LBC1: Given the challenges ahead there will need to be improvement of the Council's approach to risk management to enable a satisfactory turnaround of the financial position.

19. The Committee recommended that Action 4 be expanded to clarify the level of training for Members depending on the roles.

Recommendation LBC2: Clarifying member and officer roles to support good governance arrangements.

20. The Committee recommended that Action 5 be expanded to clarify the ability and process for Members requesting information.

Recommendation LBC3: Ensuring that Members are appropriately trained across all aspects of the Council's financial duties and responsibilities.

21. It was recommended that thought be given to what should be considered to be mandatory training for Members.

22. It was also recommended that a training needs assessment of Members is undertaken to establish training requirements.

Recommendation LBC4: The Council develops an improvement programme that has the necessary elements for it to function effectively and within its financial resource.

23. It was requested that Action 3 be expanded to include GPAC

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ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

1. The Council has fully accepted all recommendations made by the external auditor (R1-R20)
2. The Council has added additional recommendations LBC1-4
3. There are 9 high priority recommendations from the external auditor for the Council to urgently address:

R1a Children's Social Care	R12 Revolving Investment Fund
R1b Adult Social Care	R14 Treasury Management
R2 Adequacy of Council Reserves	R18 Ongoing investment in Brick by Brick
R3 Use of Transformation Funding	R20 Governance of subsidiaries
R9 Budget Challenge/Rigour	

Overall accountability for the action plan rests with the Interim Chief Executive

Recommendation 1a – HIGH PRIORITY

The Executive Director Children Families and Education needs to address the underlying causes of social care overspends in children's social care and take effective action to manage both the demand and the resulting cost pressures.

Cabinet Member Accountability: Councillor Flemming, Cabinet Member for Children, Young People and Learning

Action	Deadline	Accountability
i) Develop a strategy for managing demand and expected impact / outcome and set up panels to manage activity and cost: <ul style="list-style-type: none"> - Weekly care panel to divert children from care - Bi-weekly Children Looked After review panel to identify children who can be supported to be reunited with families from care, and to systematically review higher cost placements 	February 2021	Director, Early Help and Children's Social Care
ii) Develop a monthly Corporate Finance, Performance and Risk report to progress, track and measure activity. Specifically for Children's social care, this will monitor the effectiveness of actions to reduce the number of local children in care. This progress report will bring together data on the monthly movement in numbers of children in care, the achievement of care outcomes, the financial impact including full year forecast, and benchmarking against best practice.	Monthly Departmental Leadership Team (DLT) meetings whilst Corporate Finance, Performance & Risk report is developed with	Interim Executive Director, Children Families and Education

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

	target date for March 2021	
iii) The progress report will be routinely presented to the Children's Improvement Board, Executive Leadership Team, Cabinet, General Purposes and Audit Committee and Scrutiny & Overview Committee which will bring a greater level of control and transparency (see Recommendation 5 which will also be incorporated into this process).	March 2021	Interim Executive Director, Children Families and Education
iv) Secure independent external challenge through the Partners in Practice programme to enable valid judgements to be made about the correct level of funding to meet the needs of Croydon's children in care.	January 2021	Interim Executive Director, Children Families and Education

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 1b – HIGH PRIORITY

The Executive Director Health, Wellbeing and Adults needs to address the underlying causes of social care overspends in adults social care and take effective action to manage both the demand and the resulting cost pressures.

Cabinet Member Accountability: Councillor Campbell, Cabinet Member for Families, Health and Social Care

Action	Deadline	Accountability
i) Commission a diagnostic of spend and opportunities to be carried out by the Local Government Association (LGA) National Care & Health Improvement Adviser Finance and Risks to inform future shape of transformation opportunities.	COMPLETED October 2020	Executive Director Adult Social Care
ii) Review the current service delivery models of adult social care and gateway services to right size the budget and delivery model to benchmark with comparator Councils in relation to population and service outcomes	December 2020	Executive Director Adult Social Care
iii) To create a placements board to challenge the Council on current cost of placements, managing demand for new placements and ensuring value for money in procurement of placements	January 2021	Executive Director Adult Social Care
iv) Use the output from the diagnostic review to remodel financial implications to help shape the Medium Term Financial Strategy (MTFS)	December 2020	Director of Finance, Investment & Risk
v) Develop a monthly Corporate Finance, Performance and Risk report to progress, track and measure activity. This will include monitoring of the new service delivery model to track progress and challenge effectiveness of the plan.	Monthly DLT meetings whilst wider Finance, Performance & Risk Report is developed with target date for March 2021	Executive Director Adult Social Care
vi) Progress will be governed by reporting to the Executive Leadership Team, Cabinet, General Purposes and Audit Committee and Scrutiny & Overview Committee which will bring a greater level of control and transparency.	March 2021	Executive Director Adult Social Care

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

vii) Ensure that cost of care tool is used effectively to track all case expenditure to improve financial control, identify areas of focus for further improvement and to enable better decision making.	December 2020	Executive Director Adult Social Care

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 2 – HIGH PRIORITY

The Council (including Cabinet and Scrutiny and Overview Committee) should challenge the adequacy of the reserves assessment which should include a risk assessment before approving the budget.

Cabinet Member Accountability: Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) Develop a reserves strategy as part of the Medium Term Financial Strategy (MTFS) and present it for approval with the Budget reports to Cabinet and Full Council. This needs to incorporate a clear assessment of risks and liabilities that demonstrate all current and future exposure has been thought through and factored into the recommendations.	February /March 2021	Director of Finance, Investment and Risk
ii) In considering future budget reports, Cabinet will assure itself that all risks and liabilities have been properly considered by requesting that the Scrutiny & Overview Committee and the General Purposes and Audit Committee review the adequacy of the strategy and its relationship to the MTFS prior to Cabinet taking a decision.	February/March 2021	Director of Finance, Investment and Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 3 – HIGH PRIORITY

The Chief Executive should oversee a review of the outcomes achieved from the use of transformation funding to demonstrate that the funding has been applied in accordance with the aim of the scheme.

Cabinet Member Accountability: Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) A review of all schemes previously funded from transformation capital receipts be undertaken and a report produced that assesses whether the funding has been applied in accordance with the scheme.	January 2021	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 4

The s151 officer should set out the strategy for applying capital receipts for transformation annually as part of the budget setting process.

Cabinet Member Accountability: Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) A strategy for funding transformation to be incorporated into the budget setting process using the current Ministry of Housing, Communities and Local Government (MHCLG) Flexible Use of Capital Receipts Scheme. Note: information at the time of writing this report is that this scheme is coming to an end.	January 2021	Director of Finance, Investment & Risk
ii) In the absence of any national capital receipts for transformation scheme, the strategy for funding transformation will set out how future schemes will be funded using invest to save principles using rolling investment that is set aside and supported by business cases that demonstrate return. Any business case will have to demonstrate governance of the programme to assure the section 151 officer and Cabinet that the deliverables are being met. All schemes approved for funding under this strategy will be assessed individually and against the overarching risk exposure and affordability for the Council.	February 2021	Director of Finance, Investment & Risk
iii) There will be an annual report to the Scrutiny & Overview Committee on the use of transformation funding and the delivery of schemes.	December 2021	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 5

The General Purposes and Audit Committee should receive reports on the actions being taken to address the Dedicated Schools Grant deficit and challenge whether sufficient progress is being made.

Cabinet Member Accountability: Councillor Flemming, Cabinet Member for Children, Young People and Learning

Action	Deadline	Accountability
i) The Dedicated Schools Grant recovery plan should be presented to General Purposes and Audit Committee and Scrutiny and Overview Committee for review and agreement to ensure that it is adequate to meet objectives and timelines that have been set.	February 2021	Interim Director of Education
ii) Special Educational Needs Finance Board to be established and chaired by the interim Director of Education to oversee the delivery of the Dedicated Schools Grant recovery plan.	COMPLETED October 2020	Interim Director of Education
iii) Implement the 'New Approach to Special Educational Needs delivery' strategy working with schools to ensure that more of our Special Educational Needs pupils are educated in mainstream provision to include: <ul style="list-style-type: none"> • Developing more capacity within the post-16 provision • Opening of new Special Educational Needs free schools 	Early adopter Locality areas from September 2020 Ongoing discussions with current provider (Croydon College) for 2020/21 academic year Opened September 2020 in temporary location and from September 2021 in substantive location	Interim Director of Education

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

<p>iv) Progress against the recovery plan to be included in the monthly budget monitoring report to Children's, Families and Education Department Leadership Team, the Executive Leadership Team, the Children's Improvement Board and the quarterly Cabinet, General Purposes and Audit Committee and Scrutiny & Overview Committee which will bring a greater level of control and transparency.</p>	<p>Period 7 report to Department Management Team November 2020</p> <p>Period 7 report to Extended Leadership Team December 2020</p> <p>Quarter 3 report to Cabinet February 2021</p>	<p>Interim Executive Director, Children Families and Education Head of Finance - CFE</p>
<p>v) Progress on Dedicated Schools Grant recovery plan to be reported to the Schools' Forum on a termly basis</p>	<p>December 2020</p>	<p>Interim Head of Finance, Children, Families and Education</p>

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 6		
The Executive Director Children, Families and Education needs to review the services provided to UASC and to identify options to meet their needs within the grant funding provided by the Home Office.		
Cabinet Member Accountability: Councillor Flemming, Cabinet Member for Children, Young People and Learning		
Action	Deadline	Accountability
i) Complete a forensic review of grant income against the total expenditure for unaccompanied asylum seeking children and care leavers over the past 3 years, including the co-ordination of pan-London arrangements	December 2021	Interim Head of Finance, Children, Families and Education
ii) Negotiate with the Home Office and Department for Education to secure the same financial support provided to other port of entry authorities such as Kent and Portsmouth to cover the exceptional overhead costs caused by the volume of unaccompanied asylum seeking children received in the Borough. <ul style="list-style-type: none"> • Full cost recovery for exceptional overheads provided by Croydon such as age assessments, the social care duty service at Lunar House and legal fees. Due to volumes in the Borough from its port of entry position, these cannot be absorbed within normal overhead cost as per all other local authorities. • Increased funding for children cared for over and above the voluntary national rate to match the funding of Croydon's children in care. 	Initial meeting end November 2020	Interim Executive Director, Children Families and Education
iii) Work with London local authorities to safely transfer responsibility for an agreed number of children in Croydon's care to reduce disproportionate burden on Croydon.	Initial meeting held October 2020	Interim Executive Director, Children Families and Education
iv) Introduce a needs based approach to withdrawing services to young people whose appeal rights are exhausted alongside earlier, robust triple planning as part of their pathway at 16 plus. This will assist and support a planned, safe voluntary return when all legal routes to remain have been exhausted and avoid a forced detention and removal when young people have no recourse to public funds, limited access to NHS and education and cannot work legally in UK.	December 2020	Director Early Help and Children's Social Care

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 7

The Executive Director Children, Families and Education needs to identify the capacity threshold for the numbers of UASC that it has the capacity to deliver safe UASC services to.

Cabinet Member Accountability: Councillor Flemming, Cabinet Member for Children, Young People and Learning

Action	Deadline	Accountability
i) Draw on the analysis and review at 6 (i) to develop options to establish a capacity threshold for Croydon for unaccompanied asylum seeking children that is commensurate with other Local Authorities and in line with the nationally agreed standards and funding.	December 2020	Interim Executive Director, Children Families and Education
ii) Present options for the Council to deliver safe services within the capacity threshold to the Children's Improvement Board, Cabinet and General Purposes and Audit Committee and Scrutiny & Overview Committee to increase levels of control and improve transparency.	February 2021	Interim Executive Director, Children Families and Education

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 8

The Cabinet reports on the financial position need to improve the transparency of reporting of any remedial action taken to address in year overspends.

Cabinet Member Accountability: Councillor Young, Cabinet Member for Resources and Financial Governance and Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) A review of financial reporting best practice be undertaken and the results used to design reports and a system of reporting that will improve its approach to managing finance, performance and risk to introduce a greater level of transparency and better grip of expenditure. All departments will be required to report against their budgets to the Departmental and Executive Leadership Teams on a monthly basis.	September 2021	Director of Finance, Investment & Risk
ii) The Council will develop a new corporate framework for monthly reporting that includes finance, performance and risk. This will report to the Executive Leadership Team, Cabinet, General Purposes and Audit Committee and Scrutiny and Overview Committee as appropriate. The new framework will include progress against service delivery, departmental actions plans, savings opportunities and actions contained within the Croydon Renewal Plan. All actions will be assigned to an accountable person and will be tracked through a central reporting team to ensure that the process is joined up, consistent and timely. This will be a recognised Programme Management Office function using savings and actions trackers.	April 2021	Interim Chief Executive
iii) A review of the capacity within the Finance Team to ensure there is adequate support for departmental cost centre managers to fulfil their responsibilities as budget holders.	November 2020	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 9 – HIGH PRIORITY

The Council (including Cabinet and Scrutiny and Overview Committee) need to show greater rigor in challenging underlying assumptions before approving the budget including understanding the track record of savings delivery.

Cabinet Member Accountability: Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) To support the Annual Budget setting process Budget Development Meetings will be held for each department and will be attended by Executive Directors, Corporate Leadership Team and Members with accountability for their service area and staff who are responsible for service delivery that understand what impact growth and savings plans will have on the services. To support this process Members will be provided with a clear set of proposals that demonstrate cost pressures (growth) and savings opportunities with narrative and comparators on budget and outcomes delivered to describe the impact of the decisions that are required to be taken.	October / November 2020	Director of Finance, Investment & Risk
ii) To support the budget exercise the Council will seek external support to test the draft budget proposals, seek ideas and good practice and will take the same approach by seeking support for the scrutiny process.	December 2020	Director of Finance, Investment & Risk
iii) Develop a budget savings tracker that profiles savings by month to enable Members to track that savings are on target. This will need to correlate with the finance, performance and risk reporting that Council will introduce.	January 2021	Director of Finance, Investment & Risk
iv) To increase understanding of the choices Cabinet Members are making with regards to the emerging budget and to effectively challenge budget assumptions, Scrutiny and Overview Committee Members to receive regular briefings on the progress of budget setting.	January 2021	Director of Finance, Investment & Risk
v) To review the budget setting-timetable to ensure that the Scrutiny & Overview Committee has the time to digest and review the budget proposals and underlying assumptions and for Cabinet to respond fully to any challenge or comments and for Cabinet to be able to consider changing its proposals.	April 2021	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 10

The General Purposes and Audit Committee must challenge officers on the progress in implementing the Financial Consultant's recommendations to improve the budget setting, monitoring and reporting process and actions to address the Head of Internal Audit's concerns on internal controls.

Member Accountability: Councillor Karen Jewitt, Chair of General Purposes and Audit Committee

Action	Deadline	Accountability
i) Delivery of the Financial Consultant's recommendations and the Head of Internal Audit's recommendations will be reported to the General Purposes and Audit Committee and to the Improvement Board as part of the Croydon Renewal Plan.	Underway	Executive Director of Resources

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 11

The s151 officer needs to revisit the Growth Zone assumptions following the pandemic and make recommendations to Cabinet and Council for the continued investment in the scheme.

Cabinet Member Accountability: Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) The Council have commissioned PwC to undertake a strategic review of the Growth Zone with completion expected November 2020. The report with recommendations on a way forward will be discussed with Cabinet and agreed by Members.	December 2020	Director of Finance, Investment & Risk
ii) Revised financial model profile to be presented alongside budget review in February 2021 to Cabinet, General Purposes and Audit Committee and the Scrutiny and Overview Committee.	February 2021	Director of Finance, Investment & Risk
iii) Cabinet paper with revised profile and recommendations to be issued March 2021.	March 2021	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 12 – HIGH PRIORITY

The s151 officer should review the financial rationale and associated risks and make recommendations to Cabinet and Council on whether the Revolving Investment Fund should continue.

Cabinet Member Accountability: Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) The Council have commissioned PwC to undertake a strategic review of the Revolving Investment Fund with completion expected in November 2020. The report with recommendations on a way forward will be discussed with Cabinet and agreed by Members.	December 2020	Director of Finance, Investment & Risk
ii) Recommendations to be presented alongside budget review in Feb 2021 to Cabinet, General Purposes and Audit Committee and Scrutiny and Overview	February 2021	Director of Finance, Investment & Risk
iii) Cabinet paper with recommendations be issued March 2021.	March 2021	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 13

The s151 officer should review the purchase of Croydon Park Hotel to identify lessons learned to strengthen future due diligence arrangements.

Cabinet Member Accountability: Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) The Council have commissioned PwC to undertake a strategic review of assets that have been purchased with completion expected in November 2020. The report with recommendations on a way forward will be discussed with Cabinet and agreed by Members.	December 2020	Director of Finance, Investment & Risk
ii) Recommendations, including lessons learned, will inform changes required to governance arrangements and training/development that might be required. These recommendations to be presented alongside budget review in February 2021 to Cabinet, General Purposes and Audit Committee and Scrutiny and Overview.	January 2021	Director of Finance, Investment & Risk
iii) Review and re-write the asset investment strategy that was approved by Cabinet in October 2018 incorporating advice from each of the Strategic Reviews. The review will explicitly consider best practice from the sector and lessons learned from other local authorities, the external auditor and the National Audit Office on effective investment practice.	March 2021	Director of Finance, Investment & Risk/ Executive Director of Place
iv) Cabinet paper with recommendations to be issued March 2021.	March 2021	Director of Finance, Investment & Risk/ Executive Director of Place

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 14 – HIGH PRIORITY

The Cabinet and Council needs to re-consider the Treasury Management Strategy for ongoing affordability of the borrowing strategy, the associated risks and identify whether alternative options can reduce the financial burden.

Cabinet Member Accountability: Councillor Young, Cabinet Member for Resources and Financial Governance and Councillor King, Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) The Treasury Management Strategy will be reviewed as part of the budget setting for 2021/22 and will take into consideration the outcome of the strategic reviews to factor in the overall financial position and best practice from other local authorities. The report with recommendations on a way forward will be discussed with Cabinet and agreed by Members.	February 2021	Director of Finance, Investment & Risk
ii) The outcome of the strategic reviews that the Council have commissioned will inform the Treasury Management Strategy for 21/22 onwards and any changes in governance that may be required.	February 2021	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 15

The Chief Executive should arrange detailed Treasury Management training to assist Members to better understand and challenge the long-term financial implications of matters reported within the Treasury Management Strategy.

Cabinet Member Accountability: Councillor Young Cabinet Member for Resources and Financial Governance

Action	Deadline	Accountability
i) Members to attend training sessions facilitated by the Local Government Association to cover treasury management to enable better and effective financial leadership.	January 2021	Interim Chief Executive

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 16

The s151 officer should revisit the Minimum Revenue Provision policy to demonstrate that a prudent approach is being taken.

Cabinet Member Accountability: Councillor King Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) Link Asset Management has been commissioned to carry out a review of the Minimum Revenue Position policy. The report with recommendations will be discussed with General Purposes and Audit Committee and then on to Cabinet.	December 2020	Director of Finance, Investment & Risk

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 17

The Cabinet and Council should reconsider the financial business case for continuing to invest in Brick by Brick before agreeing any further borrowing.

Cabinet Member Accountability: Councillor King Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) PwC has been commissioned to undertake a strategic review of Brick by Brick with completion expected in November 2020. The report with recommendations regarding the financial business case will be reviewed by the Scrutiny and Overview Committee prior to being presented to Cabinet.	December 2020	Interim Chief Executive

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 18 – HIGH PRIORITY

The Cabinet and Council should review and reconsider the ongoing financial rationale for the Council in the equity investment arrangement with Brick by Brick.

Cabinet Member Accountability: Councillor King Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) PwC has been commissioned to undertake a strategic review of Brick by Brick. The report and recommendations will consider the ongoing financial rationale and equity invested and will detail options for the Council that will be considered by the Scrutiny & Overview Committee Cabinet prior to being presented to Cabinet.	December 2020	Interim Chief Executive

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 19

The s151 officer and monitoring officer should monitor compliance with loan covenants with Brick by Brick and report any breaches to Members.

Cabinet Member Accountability: Councillor King Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
<p>i) Loan covenants are within scope of the PwC strategic review and will be considered as part of the overall recommendations.</p> <p>A review of the existing loan covenants and their governance is to be undertaken. Learning from this review, a new system of control for all loan agreements entered into by the Council will be presented to Members and this will form part of the new Corporate Finance, Performance and Risk reporting system.</p> <p>The review and the proposed new system for loan covenants will be presented to the Scrutiny and Overview Committee prior to being presented to Cabinet for approval.</p>	January 2021	<p>Executive Director of Resources</p> <p>Director of Finance, Investment & Risk</p>

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

Recommendation 20 – HIGH PRIORITY

The Cabinet and Council should review its arrangements to govern its interest in subsidiaries, how the subsidiaries are linked, and the long-term impact of the subsidiaries on the Council's financial position and how the Council's and taxpayers' interest is safeguarded.

Cabinet Member Accountability: Councillor Young Cabinet Member for Resources and Financial Governance

Action	Deadline	Accountability
i) An audit of the Council's approach to membership of each subsidiary board will be undertaken. The audit will involve officers of the Council and any Chairs/Members of company boards.	March 2021	Executive Director of Resources
ii) As part of this review the membership balance of the boards will be considered in aggregate in regard to best practice for achieving diversity, skill set, sectoral knowledge and Croydon Council representation.	March 2021	Executive Director of Resources
iii) External guidance on best practice will be sought. Roles, responsibilities and legal requirements for local authority company directors and guidance on skill set will be sought and this will include the best way to assess the competence of Members and Chief Officers for these roles.	March 2021	Executive Director of Resources
iv) Process for identifying gaps in knowledge and or experience will be brought forward to include training considerations. If necessary interim arrangements will be made to remove risks and ensure effective governance.	March 2021	Executive Director of Resources
v) Essential mandatory training will be undertaken on an annual basis and the retention of the director role for each Councillor and Council official will rely on completion of the recommended training.	March 2021	Executive Director of Resources
vi) The impact of these changes will need to be reflected in the Council's Constitution and relevant protocols.	March 2021	Executive Director of Resources
vii) Support for the effective governance of the Council's subsidiaries and retaining a corporate overview of activity of individual companies and the whole group of companies is to be developed.	March 2021	Executive Director of Resources

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

LBC Recommendation 1

Given the challenges ahead there will need to be improvement of the Council's approach to risk management to enable a satisfactory turnaround of the financial position.

Cabinet Member Accountability: Councillor King Cabinet Member for Croydon Renewal

Action	Deadline	Accountability
i) An externally led review of the Council's appetite for risk needs to be undertaken with Members and Officers to ensure that the council's financial capacity for managing risk is fully understood.	January 2021	Director of Finance, Investment & Risk
ii) Corporate Finance, Performance and Risk management to be combined into one reporting function to remove silo thinking and increase the rigour to enable delivery of services, savings plans and the overarching Improvement Plan. This will require one new unified system of corporate reporting.	February 2021	Executive Director of Resources
iii) Risk considerations to be made at the outset of all new decisions will ensure the Council has capacity, capability and financial resources needed to deliver. The assessment of risk is on the individual decision and its impact on the whole of the Council.	November 2020	All Executive Directors
iv) Develop training for Members and Officers to understand effective risk management.	January 2021	Executive Director of Resources
v) The Council to review the terms of reference in regards the General Purposes and Audit Committee and Scrutiny & Overview Committee with regards to risk management to ensure there are no gaps in governance, to remove silo thinking and that both committees have a clear understanding of their responsibilities. This will include new guidance and joint training.	March 2021	Executive Director of Resources

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

LBC Recommendation 2		
Clarifying member and officer roles to support good governance arrangements		
Cabinet Member Accountability: Councillor Young Cabinet Member for Resources and Financial Governance		
Action	Deadline	Accountability
i) The Council will need to undertake a review to consider its operating model to ensure it has capacity and specialist skills required to deliver the financial and operational improvements that are needed to deliver.	February 2021	Interim Chief Executive
ii) The Member/Officer protocol is to be reviewed to ensure that it gives clarity on the respective roles and responsibilities for both Members and officers. The protocol should also explicitly place the seven principles of public life, known as the Nolan principles, at its heart. https://www.gov.uk/government/publications/the-7-principles-of-public-life . Training will be held for all Councillors and senior officers to develop good practice.	March 2021	Executive Director of Resources
iii) A review of the member and officer Codes of Conduct will be undertaken to incorporate any learning from recent events and to ensure that they explicitly include the seven principles of public life, known as the Nolan principles, as the basis of the ethical standards expected of elected and appointed public office holders.	March 2021	Executive Director of Resources
iv) Development sessions for Members and officers to better understand each other's respective roles.	March 2021	Executive Director of Resources
v) Review the level of support and advice Scrutiny & Overview Committee and the General Purposes and Audit Committee receives from the Head of Paid Services, Section 151 Officer and Monitoring Officer to ensure that the advice is in line with their statutory responsibilities.	March 2021	Executive Director of Resources
vi) Review the capacity of the organisation to support the Scrutiny & Overview Committee and the General Purposes and Audit Committee so that activity is prioritised within the financial resources for these functions.	Commenced October 2020	Executive Director Social Care

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

LBC Recommendation 3		
Ensuring that Members are appropriately trained across all aspects of the Council's financial duties and responsibilities		
Cabinet Member Accountability: Councillor Young, Cabinet Member for Resources and Financial Governance		
Action	Deadline	Accountability
i) A detailed training and development programme is being designed to enable all Members to fulfil their roles in regard to their role with sufficient rigour. The programme being developed will cover: <ul style="list-style-type: none"> • Financial management to include the importance of effective budget setting, a robust Medium Term Financial Strategy and rigorous budget monitoring • Understanding funding sources, eg general fund, housing revenue account and direct schools grant • The role of Audit and the external auditor • Treasury management and capital strategies and the Council's approach to subsidiaries • Risk assessment • Commercial Investment • Mentoring 	December 2020	Interim Chief Executive and the Executive Director of Resources
ii) Further work on Cabinet development will be undertaken to support members to explore priorities for the new Cabinet, agree how the Members will work together to make the most of shared skills and consider individual and collective leadership styles and ways of working.	December 2020	Executive Director of Resources
iii) Target support to be provided for Cabinet Members, Scrutiny & Overview Committee Members and General Purposes and Audit Committee Members to strengthen the approach to reviewing the emerging plans, actions and risks that are being developed as part of the Croydon Renewal Plan, Financial recovery and progress against the Report in the Public Interest. In particular the training will include: <ul style="list-style-type: none"> • The role of Scrutiny and Overview in relation to finance and General Purposes and Audit Committee • Developing an effective culture of scrutiny and key questioning skills • Maintaining a 'big picture' view of the financial pressures affecting the council • Assessing effectively budget and financial plans, budget monitoring, reserves approach • Challenging how resources are allocated • Scrutinising partnership arrangements • Key finance issues for Scrutiny and Overview Committee to consider 	December 2020	Executive Director of Resources

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

LBC Recommendation 4

The Council develops an improvement programme that has the necessary elements for it to function effectively and within its financial resource.

Cabinet Member Accountability: Councillor Hamida Ali, Leader of the Council

Action	Deadline	Accountability
i) Implement new Council management arrangements that ensure: <ul style="list-style-type: none"> • the delivery of high quality statutory services • finances are appropriately managed and controlled • a sound understanding of risk management is at the heart of the organisation 	April 2021	Executive Director of Resources
ii) Working with local residents, rebuild the trust with their local Council by focussing on effective delivery of core services, responding promptly and appropriately to queries and complaints and learning from good practice as well as failures and from each other.	April 2021	Executive Director of Resources
iii) Introduce a new system of internal control focussed on finance, performance and risk to manage financial expenditure, risk management, service performance and the delivery of Council priorities. This will follow a monthly cycle of Departmental Leadership Teams, Executive Leadership Team, Cabinet and Scrutiny & Overview as appropriate.	April 2021	Executive Director of Resources
iv) Building on the work done to date and listening to staff concerns about equality and diversity in the workplace, co-create a working environment that respects and values all our staff and take positive action to ensure that this is the case.	April 2021	Executive Director of Resources
v) Create a new system of staff performance appraisal, co-created with staff and agreed with the trade unions.	April 2021	Executive Director of Resources
vi) By working with Council staff, co-create an environment that is open to listening, free from fear, built on trust and openness and reflects the diverse borough that we serve.	Commenced with appointment of Interim Chief Executive	Led by Interim Chief Executive

ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

vii) Agree a training programme for Council staff that includes finance for non-financial managers, Business Case Development, understanding risk, project management and the Council's own governance processes.	January 2021	Executive Director of Resources
viii) Ensure the actions contained in this plan are supported by a corporate programme office that can provide assurance to Members.		

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Agenda Item 7

REPORT TO:	CABINET 18 JANUARY 2021
SUBJECT:	Education Estates Strategy
LEAD OFFICER:	Debbie Jones - Interim Executive Director, Children, Families and Education Shelley Davies – Interim Director, Education and Youth Engagement Denise Bushay – Interim Head of Service, School Place Planning and Admissions
CABINET MEMBER:	Councillor Flemming, Cabinet Member for Children, Young People and Learning
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON The recommendations in this report are in line with the new corporate priorities and new Ways for renewing Croydon: <ul style="list-style-type: none">- We will live within our means, balance the books and provide value for money for our residents.- We will focus on tackling ingrained inequality and poverty in the borough.- We will focus on providing the best quality core service we can afford. This report sets out the draft education estates strategy for the three year period 2021-2024. The strategy aims to minimise council borrowing to an absolute minimum. Administration Priorities for the Croydon Renewal Plan	
FINANCIAL IMPACT The overall cost of the Education Capital Programme is estimated at £20,962m over the period 2021/22 – 2023/24 as set out in Appendix 2.	
FORWARD PLAN KEY DECISION REFERENCE NO.: 0121CAB The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.	

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

For approval

School Admission

- 1.1 agree to recommend to full Council that it determine the proposed community schools' Admission Arrangements for the 2022/23 academic year (Appendix 1);
- 1.2 approve the continued adoption of the proposed Pan London scheme for co-ordination of admissions to Reception and Junior schools – Appendix 1a; and adoption of the proposed Pan London scheme for co-ordination of admissions to secondary schools – Appendix 1b.

School Place Planning

- 1.3 approve the Capital Programme Budget summary (Appendix 2).

School Maintenance and Compliance

- 1.4 approve the proposed Schools' Maintenance Plan (Appendix 3) for 2021/22 with an overall budget cost of £2.945m.
- 1.5 Delegate authority to the Executive Director, Children, Families and Education to vary the proposed Schools' Maintenance Plan to reflect actual prices and new urgent issues that may arise, including authorising spend against the allowance for emergency and reactive works. The Executive Director, Children, Families and Education shall report back to members in respect of any exercise of such authority.

For information

School Place Planning

- 1.6 Academy conversion
note the change of status of Woodcote Primary to an academy.
- 1.8 Early Years
note the 2020 Childcare Sufficiency Assessment report – Appendix 4.

Special Educational Needs and Disability(SEND)

- 1.9 note that the SEND Estates strategies are contributing positively to the development of local provision maintaining some of our most challenging and vulnerable children and young people with SEND within their families and communities. For example, the:
 - 1.10 new special school – Addington Valley Academy - for severe and complex children with Autism Spectrum Conditions is underway and on schedule.

- 1.11 new school build for St. Nicholas Special School was completed and the school moved in over the last academic year.
 - 1.12 Croydon College Coulsdon Pathways provision for students with SEND aged 19-25 is now in its third year and has been a great success.
 - 1.13 review of the SEND estate – Red Gates / St. Giles / Priory - in terms of its quality, safeguarding and feasibility as approved by Cabinet in January 2020 is underway.
- Alternative Provision / Pupil Referral Unit (PRU)
- 1.14 note information on Alternative Provision / PRU.

2. EXECUTIVE SUMMARY

2.1 This report outlines the Council’s Education Estates Strategy for three stages of education: Early Years, Primary and Secondary, including Pupil Referral Unit and Special Educational Needs and Disability. It covers: School Place Planning; School Admissions; and Schools’ Maintenance and Compliance. Future reports might separate out the different aspects of this report for ease.

2.2 School Admission

Admission authorities, including local authorities, are responsible for admissions and must act in accordance with the School Admission Code, and the School Admission Appeals Code. All admission authorities must determine (i.e. formally agree) admission arrangements every year, by 28 February. The Council is also responsible for having in place a scheme for coordinating admission arrangements. The admission arrangements are part of the policy framework and are therefore reserved to full Council for decision.

2.3 School Place Planning

In accordance with the Education and Inspections Act 2006 (“EIA”) the Council has a statutory duty to “secure that sufficient schools for providing— (a) primary education, and (b) secondary education are available for their area” as well as to “secure diversity and increase opportunities for parental choice when planning the provision of school places” in the borough. The Council also has statutory duty to manage a potential surplus of schools places.

2.4 School Maintenance and Compliance

The Council is the employer for community schools, community special schools, maintained nursery schools and pupil referral units and is responsible for larger condition and maintenance works. It has a duty to ensure that appropriate arrangements are in place to monitor and review any preventative and protective measures that have been implemented. The Schools’ Maintenance Plan (Appendix 3) contains the planned repairs and maintenance programme for 2021/22.

2.5 Special Educational Needs and Disability

The SEND Estates strategies are contributing positively to the development of local provision maintaining some of our most challenging and vulnerable

children and young people with SEND within their families and communities. In turn, this contributes to the High Need Fund Recovery Plan as agreed previously by Cabinet. These include:

- the new special school – Addington Valley Academy
- The new school build for St. Nicholas Special School
- Croydon College Coulsdon Pathways provision for students with SEND aged 19-25 is now in its third year and has been a great success.
- Development of St. Giles to become a 2-19 aged provision has progressed with relevant staff transfer processes completed.
- The review of the SEND estate – Red Gates / St. Giles / Priory - in terms of its quality, safeguarding and feasibility as approved by Cabinet in January 2020 is underway.

2.6 Mainstream / Community / Voluntary Aided Schools

Feasibility is being undertaken at Gresham Primary to see if a permanent bulge class is practical and achievable for 2022/23 due to projected increase in demand for school places in the south of the borough. Currently, there is no other plan to create additional school places, however, we are reviewing our strategy following consultation and a decision on the Local Plan in order to assess the likely number of pupils that new housing developments will generate and the number of additional school places that may be required.

2.7 Woodcote Primary school changed its status to an academy, and it is now part of The Pioneer Academy, effective 1st November 2020.

2.9 Early Years

Local Authorities are required to report annually to elected council members on how they are meeting their duty to secure sufficient childcare, and make this report available and accessible to parents. Croydon's Childcare Sufficiency Assessment 2020 report indicates that there are sufficient early years and childcare places for families. The Sufficiency Assessment report is attached as Appendix 4.

2.10 Alternative Provision / Pupil Referral Unit (PRU)

The Council has a duty to make arrangements for the provision of suitable education at school or otherwise for each child of school age who for reasons of illness, exclusion or otherwise would not receive it unless such arrangements were made.

3. DETAIL

3.1 School Admissions

Croydon is the Admission Authority for Community schools and is therefore responsible for determining the Admission Arrangements for these schools. Where the admission arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities must consult on their admission arrangements at least once every 7 years. Croydon is not proposing any significant changes to the previously agreed admission arrangements, barring additional information added from the DfE guidance:

- parents must submit their request for their child to be educated outside their normal year group by completing the local authority online; and
- parents should include evidence from a relevant professional detailing their child's needs and circumstances which make education outside the normal age group necessary.

3.2 Admission authorities must determine admission arrangements for entry in September 2022 by 28 February 2021. The proposed Admission Arrangements for Community schools include the criteria by which schools places are allocated when a school receives more applications than places. There are no proposed change to the admission arrangements that have been previously determined in January 2020.

3.3 The Council is also responsible for having in place a scheme for coordinating admission arrangements. Croydon has participated in a Pan London arrangement for the Co-ordinated Admissions rounds for both primary and secondary applications for several years.

3.4 The annual school admissions arrangements are part of the Council's policy framework and as such require determination by the full Council. The Council is required by statute and regulations to approve its admissions policies for the schools it is responsible for the 2022/23 academic year (including Published Admissions Numbers – PANs). Accordingly Cabinet is requested to recommend to full Council that it determine the proposed Admission Arrangements for Croydon's community schools for the 2022/23 academic year (Appendix 1) and adoption of the proposed Pan London co-ordination arrangements (Appendix 1a & Appendix1b).

3.5 The governing bodies of voluntary aided, foundation schools and academies are their own admission authorities and therefore responsible for determining their own admission arrangements.

4. School Place Planning

Under section 14 of the Education Act 1996, every local authority (LA) has a statutory duty to provide sufficient school places for all pupils in its area. This includes the planning and reviewing of school places, securing diversity and increasing opportunities for parental choice to ensure the needs of the community are met, as well as managing surplus places.

4.1 Currently, there are more places than pupils at both primary and secondary levels, but the balance between the two varies across the borough, within educational planning areas and particularly school-by-school.

4.2 Shortages of places at popular schools can exist alongside surplus places at others. And over the next three years, the expected growth in pupil numbers varies widely: in some places, numbers are expected to increase due to pupil yield from planned housing developments; in others, particularly in the primary phase, they are expected to be a decrease due to fall in birth rates. Pupil projection indicates sufficiency of mainstream school places for both primary and secondary schools for the next 3 years. There is the potential for some

schools across the borough, both primary and secondary, to have higher levels of surplus places.

4.3 Mainstream / Community schools

A mainstream school is a maintained school or academy which is not a special school. A Community School is a school that is controlled and run by the Local Authority (LA). The LA owns the land/building and determines the admission arrangements. Croydon has a total of 87 mainstream primary schools of which 22 are maintained / community schools. None of Croydon's 23 secondary schools are maintained by the Local Authority.

4.4 Academy Conversion

Academies and free schools are state-funded, non-fee-paying schools in England, independent of local authorities. They operate in accordance with their funding agreements with the Secretary of State. Where the Secretary of State makes an Academy Order under the Academies Act 2010, the local authority (LA) is obliged to cease to maintain the school following conversion. The council is legally obliged to transfer the school to the relevant Academy under a 125 year lease with an associated Commercial Transfer Agreement (CTA).

4.5 Woodcote Primary school has changed its status to an academy, and it is now part of The Pioneer Academy, effective 1st November 2020. The lease and CTA for Woodcote has been agreed between the Council's in-house legal team and the solicitors acting for the Pioneer Academy.

4.6 School Maintenance

Local Authorities have responsibility to maintain school buildings so that they are safe, warm and weather tight and provide a suitable learning environment, including dealing with emergencies promptly and effectively and managing and procuring maintenance works efficiently. The Council is responsible for the larger condition and maintenance works in maintained schools.

4.7 The condition of some of the education estate has improved due to investment in the refurbishment of the building fabric and maintenance / replacement of electrical and mechanical equipment. However, as school buildings age, they present age related issues and the cost of maintaining them is increasing steadily. In addition, some of the buildings are nearing the end of their lives and structural issues are beginning to emerge.

4.8 The 2021/22 annual maintenance capital budget (Appendix 2) currently stands at £2.945m which is sufficient to only undertake the highest ranked projects; those categorised as the worst defects and designated D1 in the condition survey report. The council retains a percentage of its annual maintenance capital budget to address unexpected and urgent works in schools.

4.9 The School's Maintenance plan (Appendix 3) has been developed using information from condition surveys commissioned by the Council. These surveys are comprehensive and identify costed items across each school rated from A (good condition) to D (poor condition) as well as assessing the urgency of each (on a scale of 1 to 4, with 1 being the most urgent). The next condition surveys will be undertaken in 2021.

4.10 Asbestos Management in Community Schools

Where asbestos is present, the council will take the following steps to manage the asbestos in our schools ensuring they have the following:

- a) Management survey of asbestos-containing materials (ACMs)
- b) Assess the risks associated with ACMs.
- c) A plan for managing asbestos.
- d) Ensure staff and visitors know the risks and precautions they need to take.
- e) Keep the management of asbestos under continuous review

4.11 Statutory compliance Inspections

Both the Council and maintained schools are required to ensure school buildings are meeting the statutory standards by regularly undertaking statutory tests which includes Legionella Risk Assessment, Gas Safety Checks, Fire Alarm tests, NICEIC 5 Year Periodic Inspections, NICEIC Emergency Lighting, Fire Risk Assessment and Asbestos Management. The Council ensures that the policies and the condition of the school estate are compliant with appropriate legislation by requesting and checking the relevant certification.

4.12 Fire Safety

Cabinet has approved an additional £3m from 2018/19 through to 2019/20, extended to 2020/21 to undertake fire safety remedial works at schools for which it is the responsible body. This works programme will now conclude in 2022/23 due to challenges that have arisen in delivering the works on-site. The works are progressing well across the estate with significant progress made in 2020/21. The remaining works are currently being reviewed against other planned / agreed works to ensure the works are coordinated and minimise disruption to teaching and learning.

4.13 Special Educational Needs and Disability (SEND)

The development of the new provision for severe and complex children with Autism Spectrum Conditions is underway and on schedule. Addington Valley Academy – part of the Orchard Hill Academy Trust – opened in September 2020 for 20 Year 7 Croydon pupils. They are currently operating on a temporary site at Canterbury Road Recreation Ground. The main new build is progressing well and on schedule. It is due to open with capacity of up to 80 pupils from September 2021. This information was submitted to the ESFA by their deadline of the 13th November 2020 to ensure appropriate place funding is made.

4.14 The new school build for St. Nicholas Special School was completed and the school moved in over the last academic year. Formal opening activities were curtailed by the Covid 19 safety restrictions. The new school provides outstanding facilities for the school population.

4.15 Croydon College Coulsdon Pathways provision for students with SEND aged 19-25 is now in its third year and has been a great success. 53 students have been supported through the programme which is now in much demand. In order to sustain this provision an application is being submitted for permission to extend planning for the temporary accommodation base at Coulsdon to

remain in situ until September 2022. This is welcomed by Croydon College who are committed to developing this provision further in partnership with us.

- 4.16 Development of St. Giles to become a 2-19 aged provision has progressed with relevant staff TUPE processes completed. The Early Years specialist nursery, as approved by Cabinet in January 2020, is still operating out of its existing accommodation at Malling Close. This split site operation is presenting additional challenges to the head teacher and staff. It also means the young children do not have access to the facilities within the main school as was intended in the original planning. Permission for a temporary modular build based at St Giles is being sought and is currently with the Spending Review Panel for consideration.
- 4.17 The review of the SEND estate – Red Gates / St. Giles / Priory - in terms of its quality, safeguarding and feasibility as approved by Cabinet in January 2020 is underway. A conditions survey has been undertaken and the report is now under consideration.
- 4.18 All of the aforementioned SEND Estates strategies are contributing positively to the development of local provision maintaining some of our most challenging and vulnerable children and young people with SEND within their families and communities. In turn, this contributes to the High Need Fund Recovery Plan as agreed previously by Cabinet.
- 4.19 Early Years
Under the Childcare Act 2006 local authorities have a statutory duty to secure sufficient childcare for the needs of working parents/carers in their area. The Council's duties around inclusion birth to five are detailed in the Children and Families Act 2014, (section 2 Childcare Act 2016).
- 4.20 For the purposes of this assessment the supply of formal childcare includes private day nurseries, pre-schools, schools with nursery provision, childminders (funded childminders are accredited to deliver the free entitlement on behalf of the local authority), out of school clubs and holiday clubs. In total the 630 providers offer 14,555 childcare places.
- 4.21 In Croydon there are an estimated 17 childcare places per 100 children based on 86,290 children aged 0 to 14 years. Ofsted's national figures as at 31.8.20 state that the proportion of childcare providers on the Early Years Register judged to be good or outstanding was 96%.
- 4.22 Alternative Provision / Pupil Referral Unit (PRU)
Under Section 19 of the Education Act 1996 the Local Authority has a statutory duty to make arrangements for the provision of suitable full time education to those pupils who are unable to attend a mainstream school due to illness, exclusion or otherwise.
- 4.23 In this context, Alternative Provision in Croydon is provided by separate specialist providers for each of the Primary and Secondary settings, a Medical Tuition Service and the London Borough of Croydon supplement this with provision commissioned from the independent sector as required. The number of commissioned places from the Independent Sector varies according to need.

All of this place funded provision is good or outstanding. The number of places available at each setting is:

- Medical 90 places
- Primary 48 places
- Secondary 190 places

5. CONSULTATION

- 5.1 Where the admission arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities must consult on their admission arrangements at least once every 7 years, even if there have been no changes during that period.

6. PRE-DECISION SCRUTINY

- 6.1 This report did not go a Scrutiny meeting.

7 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

7.1 Revenue and Capital consequences of report recommendations

	Budget	Medium Term Financial Strategy – 3 year forecast		
	2020/21 £'000	2021/22 £'000	2022/23 £'000	2023/24 £'000
Capital Budgets				
Permanent expansions	413	180	44	0
FTE / Bulges	2,477	260	34	0
SEN provision	15,647	8,892	352	555
Major Maintenance	7,902	2,945	3,000	3,000
Fire Safety Works	1,000	1,200	300	0
Other schemes	650	200	0	0
Effect of decision from report (Total)	28,089	13,677	3,730	3,555
Funding sources				
School Condition Allocation	8,902	4,145	3,300	3,000
Special Provision Capital Funding	1,626	897	152	355
Basic Need Funding	3,540	640	78	0

ESFA	9,750	5,003	0	0
S106	316	362	0	0
Borrowing	1,955	2,330	0	0
CIL	2,000	300	200	200
Total	28,089	13,677	3,730	3,555

7.1.1 The table above details the Education Capital Programme for the current and future three financial years and the associated funding sources. The approved budget in the September Cabinet Report on the Quarter 1 Financial Performance was £40.986mn. This included the approved budget of 25.283mn and slippage of £15.874mn. The table above shows the reprofiled budget, revised to £28.089m. The spend in the 2022/23 and 2023/24 may increase dependent on the outcome of the following:

- a) The completion of the Condition Surveys across all of our community schools. This will determine the required level of funding over the coming years to ensure that our schools are compliant and safe.
- b) Conclusion of the viability study of the SEN estate; Red Gates, Priory and St Giles.
- c) The outcomes of the Croydon Local Plan Consultation.

7.1.2 A detailed breakdown of the projects can be found in Appendix 3 to this report. With a further detailed breakdown of the Schools' Maintenance Programme in Appendix 3.

7.1.3 The ESFA have commissioned Croydon to lead on the delivery of the new special free school - Addington Valley Academy (on Timebridge site). This project is predominately funded by the ESFA. Both the expenditure and funding for this project is detailed in the table above and the project is listed in Appendix 3.

7.2 The effect of the decision

7.2.1 The use of the free schools route to provide new school places within the borough in the future will result in a reduction in the requirements for future capital funding from the council as this will be funded by central government.

7.3 Risks

7.3.1 Due to the nature of this programme there is a risk that projects may overspend and regular monitoring of all projects and the programme will be undertaken and reported to this Cabinet as part of the quarterly financial monitoring reports.

7.3.2 If the costs of Addington Valley Academy are greater than the funding allocated by the ESFA the additional costs will need to be funded by the Council above and beyond the already £678,000 committed.

7.4 Future savings/efficiencies

- 7.4.1 If additional free school providers are interested in opening schools in Croydon, the cost to the Council could be reduced further in the future years. Also the Council's borrowing requirement may also be reduced if any further funding is allocated by the Department for Education. The fall in birth rate and associated demand for school places would however result in reduced demand and this would be monitored closely to make future savings.
- 7.4.2 The provision of more school places within the borough will result in a reduction in the need for young people to travel outside of the borough, which will result in financial savings to the SEND budget.

Approved by: Matthew Davis, Interim Deputy S151 Officer on behalf of Lisa Taylor, Director of Finance, Investment & Risk and S151 Officer

8. LEGAL CONSIDERATIONS

- 8.1 School place planning duties (s13-14 Education Act 1996).
- 8.2 The Council as an education authority has a duty to promote high standards of education and fair access to education. It also has a general duty to secure sufficient schools in their area, and to consider the need to secure provision for children with SEN. This includes a duty to respond to parents' representations about school provision. These are referred to as the school place planning duties.

Approved by: The Head of Social Care & Education Law on behalf of the Council Solicitor and Monitoring Officer.

9. HUMAN RESOURCES IMPACT

- 9.1 There are no direct HR implications arising from this report. Any resultant future increases or changes in staffing will be handled by schools' governing bodies in accordance with the appropriate school/council policy and procedures.
- 9.2 Approved by: Nadine Maloney, Head of HR Children, Families and Education, on behalf of the Director of Human Resources.

10. EQUALITIES IMPACT

- 10.1 An equality analysis has been undertaken as part of the January 2021 report to help us to understand whether people with protected characteristics, as defined by the Equality Act 2010, will be disproportionately affected by the proposed changes and recommendations in the Education Estates Strategy report.

- 10.2 The proposed changes in this report will help the Council meet its statutory duty to provide sufficient school places for protected and non-protected groups. Croydon schools provide diverse educational provision in terms of type/category, size and educational sponsors. These include special schools, enhanced learning provisions at mainstream schools; and Academies /Free Schools. Pupils are allocated a school place based on the admissions criteria which aims to promote fair access to schools and are compliant with the School Admissions Code.
- 10.3 The proposed strategy supports the Council's Equality and Inclusion Policy by extending the existing provision to accommodate students with an SEND need. This will support Croydon's aspiration to:
- Make Croydon a place of opportunity and fairness by tackling inequality, disadvantage and exclusion.
 - Promote provisions that close gaps in educational attainment by working with local businesses and community groups to enable people of all ages to reach their full potential through greater opportunity to access to quality schools and learning.
 - Work in partnership to lift people out of poverty by increasing employment opportunities across the borough ensuring local people have a pathway into employment, education and training.
- 10.4 The proposed strategy supports the Council's general equality duty to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010; to advance equality of opportunity and foster good relations between persons who share a protected characteristic and those who do not.
- 10.5 The equality analysis indicates that the proposed changes and recommendations will not negatively impact on any groups that share protected characteristics and that no major change is required as the strategy meets the general and specific equality duties as required by the Equality Act. An Equality Analysis Impact is attached at Appendix 6. Furthermore there is a written commitment in the Equality Analysis to continue to keep the strategy under review and make changes as appropriate should the need arise.

Approved by: Yvonne Okiyo, Equalities Manager

11. ENVIRONMENTAL IMPACT

- 11.1 Through the delivery of the Education Capital Programme of works the Council will strive to deliver energy efficient solutions through design and construction methodologies with the intention to reduce energy use and associated carbon emissions in our schools.
- 11.2 The Council will work with schools to monitor the energy performance post works so that this can be captured in lessons learnt for future projects

12. CRIME AND DISORDER REDUCTION IMPACT

- 12.1 Children being in school will help prevent criminal and anti-social behaviour or being victim of such behavior and reduce the number of children and young people in the criminal justice system.

13. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 13.1 The recommendations of this report are set out to ensure that the Council is compliant with its statutory duties as an education authority:
- School Place Planning (s13-14 Education Act 1996) to promote high standards of education and fair access to education; secure sufficient primary and secondary education, including SEN to meet the needs of the population of its area
 - School Admissions (School Admission Code 2014) to determine the Admission Arrangements for its community schools annually
 - School Maintenance - school buildings meet the minimum standard and premises are maintained so that they provide a suitable learning environment.

14. OPTIONS CONSIDERED AND REJECTED

- 14.1 In relation to mainstream schools, there are no confirmed plans to deliver any new/additional mainstream school places. A review of demand will be undertaken following consultation and decision on the Local Plan to ensure that any potential increase in demand is included in future pupil place projections. Future demand for new schools will be delivered through the free school route.
- 14.2 Special Educational Needs and Disability
- 14.3 The specialist nature of this early years provision is such that no other options were considered. The need for provision of suitable specialist education that leads to coherent specialist pathways is a key determinant in this decision-making.
- 14.4 Alternative options should not be identified purely for the purposes of the report. The report should merely reflect the various alternatives considered in the course of developing the project or initiative

15. DATA PROTECTION IMPLICATIONS

- 15.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

- 15.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

This report does not include any personal data.

The Director of Education comments that this report is an overview of education estates and does not contain any personal data.

Approved by: Shelley Davies, Interim Director of Education

CONTACT OFFICER:

Denise Bushay – Interim Head of Service,
School Place Planning & Admission,
07850882628; Kathy Roberts – Interim Head
of 0-25 SEN Service, 0208 604 7263

APPENDICES TO THIS REPORT:

Appendix 1 – Community Schools Admission Arrangements
Appendix 1a – Pan London Co-ordination – Reception and Junior
Appendix 1b – Pan London Co-ordination – Secondary
Appendix 2 – Capital Programme Budget Summary
Appendix 3 - Schools Maintenance Plan
Appendix 4 – Early Years Childcare Sufficiency Assessment report
Appendix 5 – Equality Impact Assessment

BACKGROUND DOCUMENTS:

None

DRAFT - Community Schools Admission Arrangements 2022/23

The criteria outlined below apply only to Croydon community schools.

Should any community school convert to academy status prior to September 2022, the admissions arrangements will apply as published below unless stated otherwise in their funding agreement.

Where the number of applications for a community school is higher than the published admission number, the following criteria will be applied in the order set out below to decide the allocation of places:

Children with an Education, Health & Care Plan (EHCP) that names a school will be admitted to the school before the admissions criteria are applied to all other applicants. (See note 7)

1. **Looked-after children and previously looked-after children** (see Note 1).

2. **Linked schools**

Children who are on the roll of their linked infant school at the time of application. (see Note 2).

3. **Siblings:**

Children with a brother or sister who will be in attendance at the school or the linked infant/junior school at the time of enrolment of the new pupil (see Note 3).

4. **Exceptional medical need:**

Pupils with a serious medical need for attending a particular school. (See Note 4)

Supporting professional evidence must provide specific reasons why a particular school is the only school that can meet your child's needs and the detriment that would be caused if your child had to attend another school. Your application must be supported by a GP or consultant.

For primary age children, their need to attend a particular school because of a parent's serious and continuing medical condition may also be relevant.

Supporting evidence should be set out on the medical form which is available online at: <https://www.croydon.gov.uk/education/schools-new/school-admissions/applications-due-to-a-medical-need> and both the completed medical form and the supporting evidence from the GP or consultant must be submitted with the application (see Note 4).

By submitting your evidence to the local authority you consent to this information being shared with the local authority's medical advisor.

5. Distance:

Priority will be given to pupils living nearest to the school as measured in a straight line (see Notes 5 and 6).

Tiebreaker

In the event that the number of applications for places exceeds the number of places available, after application of the admissions criteria, distance will be used to decide between applications. Where distance is the same for two or more applications the authority will use random allocation.

Note 1: Looked-after children are defined as ‘children in public care at the date on which the application is made’. Previously looked-after children are children who were looked after, but ceased to be so because they were adopted or became subject to a child arrangements order or special guardianship order, immediately after being looked-after. If an application is made under the ‘looked-after’ criterion, it must be supported by a letter from the relevant local authority children’s services department and/or relevant documents.

Note 2: This criterion does not include siblings on the roll of the infant school’s nursery class, if it has one.

A list of all infant and junior schools is provided in the table below. The shaded schools are their own admission authority, therefore, please refer to the individual school’s admissions policy.

Linked Infant School	Linked Junior School
Beulah Infant	Beulah Junior
Elmwood Infant	Elmwood Junior
The Minster Nursery and Infant	The Minster Junior
Park Hill Infant	Park Hill Junior
St Joseph’s Catholic Infant and Nursery	St Joseph’s Catholic Junior
St Mary’s Catholic Infant	St Mary’s RC Junior
Whitehorse Manor Infant and Nursery	Whitehorse Manor Junior
Winterbourne Infant	Winterbourne Junior Girls
Winterbourne Infant	Winterbourne Junior Boys

Note 3: A sibling is defined as a brother or sister, half-brother or sister, step brother or sister, foster-brother or sister or adopted brother or sister whose main residence is the same address as the child for whom the school place application is being made.

Children with siblings allocated a place in the Reception or Year 3 class at a linked junior school to start in September will be eligible for priority under the sibling criterion from 1 August each year when this local authority opens waiting lists for the new academic year.

In the case of in-year admissions, eligibility for sibling priority will apply at the time of an offer.

This criterion does not include siblings on the roll of the school's nursery class, if it has one.

Note 4: All schools have experience in dealing with children with a range of medical needs and all schools are required to make reasonable adjustments in order to do this.

In a very few exceptional cases, however, there may be reasons why a child needs to attend a specific school and this could be due to the child's medical need or the medical condition of the parent or the main carer with responsibility for the child. Providing evidence does not guarantee that a child will be given priority at a particular school and in each case a decision will be made based on the merits of the case and whether the evidence demonstrates that a placement should be made at one particular school above any other.

If you feel there are exceptional reasons for your child to be considered for a priority placement at a particular school, you must indicate this in the section provided in your application, and complete the medical form which is available online at : <https://www.croydon.gov.uk/education/schools-new/school-admissions/applications-due-to-a-medical-need> setting out the reasons to support your case.

All requests for priority consideration on medical grounds must be supported in writing by a doctor or consultant, and this must make clear which school you are making a special case for, the reason why it is necessary for your child to attend this school in particular, and the difficulties it will cause for your child to attend another school.

It is for you to decide how to support your case and what documents to provide but these must be submitted, together with the completed medical form and supporting statement by the GP/consultant, by the closing date of **15 January 2022**. The admissions team is not responsible for chasing you to submit medical evidence or for contacting professionals for information about your case. Any decision will be based on documents you submit by the closing date.

The local authority, using guidance received from Croydon's admissions panel (this is comprised of professionals from health and education), will decide whether an application for a school is to be prioritised on medical grounds, in light of the medical evidence submitted by the parent for their child to attend this particular school. Claims for priority of admission on medical grounds submitted after a decision on the original application has been made will only be considered if the documents submitted were not readily available at the time of application or if they relate to a new medical condition. Any submission made after the initial application must be supported by details of how the circumstances have changed since the original application and by further professional evidence.

Applicants who submit supporting information on medical grounds will not be advised whether their application is likely to be successful prior to the offer of places on 16 April 2022. If evidence is received after the closing date of 15 January 2022, it will not be taken into account until after places have been offered on 16 April 2022.

Note 5: 'Home' is defined as the address where the child normally resides Monday to Friday as their only or principal residence.

Addresses involving child-minding (professional or relatives) are excluded. There have been occasions when parents/carers have tried to use false addresses to obtain a place at a school. To prevent this happening, Croydon Council undertakes checks using an address verification tool called Datatank. If after these checks have taken place, we cannot be satisfied that the address is the parent and child's normal place of residence, the parent/carer will be asked to provide further proof of their home address. In this instance two forms of address verification will be required: a solicitor's letter confirming completion of contract or a tenancy agreement along with a recent utility bill in the applicant's name.

If the parent/carer is found to have used a false address or deliberately provided misleading information to obtain a school place, the offer will be withdrawn.

Should there be doubts about the address to be used, parents/carers may be asked to provide evidence concerning the child's normal place of residence. This could include a court order stating where the child should live during the course of the week. The local authority would expect that the parent/carer with whom the child is normally resident receives the child benefit for the child. If the residence is split equally between both parents, the home address may be determined to be the address where the child is registered with the doctor. This may be used to determine the normal place of residence for the purpose of measuring the home to school distance.

If parents/carers have more than one property they may be required to provide proof of the normal place of residence for the child.

The processing of applications outside England for admission to school within the normal admissions rounds (excluding Crown servants)

Applications with an address outside England can only be accepted for processing when this local authority is satisfied that there is **evidence of a link to an address in its area** and that **the child will be resident at that address on or before the date of admission** (i.e. start of September). Such evidence must include:

- Booked travel tickets and
- End of lease/notice to tenants in Croydon property or
- Start of employment contract in the Croydon area or
- End of employment contract abroad

The address outside England will apply until such time as there is evidence of a child's return to the linked address. In the event that a family does not return to the linked address provided by the start of September, this local authority will withdraw the application submitted and any offer made.

Note 6: The distance will be measured in a straight line from the child's home address to the designated entrance(s) of the school using a computerised measuring system (GIS) and geographical reference points as provided by the National Land and Property Gazetteer (NLPG). Those living closer to the school will receive higher priority.

If a child lives in a shared property such as flats, the geographical references will determine the start point within the property boundaries to be used for distance calculation purposes.

Distance measurements can be obtained using various internet sources however these do not replicate the system used by Croydon Council. Additionally, the distance measurement which can be obtained from the Croydon website using the 'Find It' link on the home page will not always be identical to that of the measurement obtained using the Croydon school admissions measuring tool (known as GIS) as the 'Find It' link is set up to measure to a range of council facilities and is not set up to measure for school admission purposes. It also does not give measurements to three decimal points.

Note 7: Education, Health and Care Plan

An Education, Health and Care plan (EHCP) is an integrated support plan for children and young people with complex special needs and disabilities. The plan gives a detailed description of the range of difficulties a child is facing and the level and type of provision required to help the child make progress and achieve positive outcomes.

Child minding arrangements:

Child-minding cannot be taken into account when allocating places at oversubscribed community schools.

Children attending a nursery class attached to an infant or primary school

Parents of children attending the nursery class at an infant or primary school must apply for a reception class place in the usual way. These children are not guaranteed a reception place at the school where they are attending the nursery class.

All applications are considered strictly in accordance with a school's admission criteria. Unless otherwise stated, children on the roll of a school's nursery class are not given priority admission into a reception class.

Twins/triplets or other multiple births for admission into an infant class

If you are applying for twins, or children from a multiple birth, and there is only one place available at the school, legislation allows us to admit them all i.e. all siblings from a multiple birth.

Waiting lists

If you are offered a place at a school through the in-year admissions process and you have also expressed a higher preference for another school or other schools, you will not be placed on the waiting list for your higher preference school/schools. You may request for your child to be added to the waiting list by completing the 'waiting list request' form available on the website.

In-year waiting lists are maintained for one academic year and applicants who have been unsuccessful for their preferred school(s) and who wish to remain on the waiting list are required to re-apply the following academic year.

Waiting lists for community schools for applicants who applied as part of the main admissions rounds are held for the first term of the reception year and thereafter, applicants are required to complete the local authority's in-year common application form (ICAF) if they wish to remain on the waiting list.

Admission of children below compulsory school age deferred entry to school

Parents can defer the date their child is admitted to the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which the application was made. Parents can also take up a part-time place until later in the school year but not beyond the point at which they reach compulsory school age.

A child reaches compulsory school age the term after their fifth birthday. Therefore, if you are offered a reception class place at a school, you can opt to defer your child's start date, but they **MUST** start full time school following their fifth birthday by the dates given below:

- Children born on or between 1 September and the end of December must start full time school by the beginning of the spring term in January
- Children born from 1 January to the end of March must start full time school on 1 April
- Children born from 1 April to the end of August must start school at the beginning of the autumn term in September

The local authority's expectation is that a child born between 1 April and 31 August should start the reception class at the beginning of the summer term at the latest. However, parents may choose that their child does not start school until the September (beginning of the autumn term) following their fifth birthday. Parents must note the place cannot be held open beyond the summer term, this will mean that as their child will be a year one pupil when they join, parents will need to apply for a year one school place, using the in-year application form.

Admission of children outside their normal age group

Parents may request that their child is exceptionally admitted outside their normal age group. The admission authority will decide whether or not the individual child's circumstances make this appropriate on educational grounds.

It is the expectation of Croydon Council that a child is educated alongside his/her age equivalent peers, in almost all cases. We would strongly advise that all children enter into their normal year group. The responsibility for addressing individual educational needs lies with the school through an appropriately differentiated and enriched curriculum.

Parents must submit their request for their child to be educated outside their normal year group by completing the local authority online form at:

<https://www.croydon.gov.uk/education/schools-new/school-admissions/admission-outside-of-normal-year-group/admission-outside-normal-year-group-request>

Parents should include evidence from a relevant professional detailing their child's needs and circumstances which make education outside the normal age group necessary. This could include:

- Evidence from a health or social care professional who is involved in the care or treatment of the child e.g. speech and language therapist, social worker, paediatrician.
- The view of any nursery or other early years setting the child attends and any records of the child's development.
- The progress the child has made in an early years setting, including the rate of progress.
- Whether the child's premature birth has caused health problems or developmental delays that mean the child would benefit from a delayed school start.

Decisions are made on the basis of the circumstances of each case and in the best interest of the child. This will require the admission authority to take account of the child's individual needs and abilities and to consider whether these can best be met in reception or year one. It will also involve taking account of the potential impact on the child of being admitted to year one without first having completed the reception year. The admission authority will consider:

- Parents' views.
- Information relating to the child's academic, social and emotional development, where relevant medical history and the views of a medical professional.
- Any previous history of a child being educated outside of their normal age group.
- If a child was born prematurely, the age group the child would have fallen if the child had been born on time.

- Views of the head teacher of the school(s) concerned.

PAN-LONDON CO-ORDINATED ADMISSION SYSTEM

Template LA Schemes for Co-ordination of Admissions to Reception/Junior in Maintained Schools and Academies in 2022/23

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PAN-LONDON CO-ORDINATED ADMISSION SYSTEM

**Template LA Schemes for Co-ordination of Admissions to
Reception/Junior in 2022/23**

Definitions used in the template schemes

“the Application Year”	the academic year in which the parent makes an application (i.e. in relation to the academic year of entry, the academic year preceding it).
“the Board”	the Pan-London Admissions Executive Board, which is responsible for the Scheme.
“the Business User Guide (BUG)”	the document issued annually to participating LAs setting out the operational procedures of the Scheme.
“the Common Application Form”	this is the form that each authority must have under the Regulations for parents to use to express their preferences, set out in rank order.
“the Equal Preference System”	the model whereby all preferences listed by parents on the Common Application Form are considered under the over-subscription criteria for each school without reference to parental rankings. Where a pupil is eligible to be offered a place at more than one school within an LA, or across more than one participating LA, the rankings are used to determine the single offer by selecting the school ranked highest of those which can offer a place.
“the Highly Recommended Elements”	the elements of the Template Scheme that are not mandatory but to which subscription is strongly recommended in order to maximise co-ordination and thereby simplify the application process as far as possible.
“the Home LA”	the LA in which the applicant/parent/carer is resident.
“the LIAAG Address Verification Register	the document containing the address verification policy of each participating LA.
“the Local Admission System	the IT module for administering admissions in

(LAS)”	each LA and for determining the highest offer both within and between participating Las.
“the London E-Admissions Portal”	the common online application system used by the 33 London LAs and Surrey County Council.
“the Maintaining LA”	the LA which maintains a school, or within whose area an academy is situated, for which a preference has been expressed.
“the Mandatory Elements”	those elements of the Template Scheme to which authorities must subscribe in order to be considered as ‘Participating Authorities’ and to benefit from use of the Pan-London Register.
“the Notification Letter”	the agreed form of letter sent to applicants on the Prescribed Day which communicates any determination granting or refusing admission to a primary or secondary school, which is attached as Schedule 2.
“the Prescribed Day”	the day on which parents/carers outcome are notified of their outcome. 16 April in the year following the relevant determination year except that, in any year in which that day is not a working day, the prescribed day shall be the next working day.
“the Pan-London Register (PLR)”	the database which will sort and transmit application and outcome data between the LAS of each participating LA.
“the Pan-London Timetable”	the framework for processing of application and outcome data, which is attached as Schedule 3.
“the Participating LA”	any LA that has indicated in the Memorandum of Agreement that they are willing to incorporate, at a minimum, the mandatory elements of the Template LA Scheme presented here.
“the Qualifying Scheme”	the scheme which each LA is required to formulate in accordance with The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) Regulations 2012, for co-ordinating arrangements for the admission of children to

maintained primary and secondary schools
and academies.

PAN- LONDON CO-ORDINATED ADMISSIONS SYSTEM**Template LA Scheme for Co-ordination of Admissions to
Reception/Junior in 2022/23**

All the numbered sections contained in this scheme are mandatory except those marked with an which are highly desirable.*

Applications

1. Applications from residents of Croydon LA will be made on this LA's Common Application Form, which will be available and able to be submitted on-line. This will include all the fields and information specified in Schedule 1 to this Template LA Scheme. These will be supplemented by any additional fields and information which are deemed necessary by this LA to enable the admission authorities in the LA area to apply their published oversubscription criteria.
2. Croydon LA will take all reasonable steps to ensure that every parent/carer who is resident in this LA and has a child in a nursery class within a maintained school or academy - in this LA or any other maintaining LA - is informed about how they can access Croydon LA's composite prospectus and apply online. Croydon LA also uses Decaux boards, libraries, schools, early years' providers, social media to advertise the closing date for applications. Additionally, this LA offers parents support and assistance with their online application at schools and its offices.
Parents/carers who do not live in Croydon LA will have access to Croydon LA's composite prospectus on the Council's website. It will advise parents/carers to contact their home LA for further information on the application process.
3. The admission authorities within Croydon LA will not use supplementary information forms except where the information available through the Common Application Form is insufficient for consideration of the application against the published oversubscription criteria. Where supplementary information forms are used by the admissions authorities within this LA, Croydon LA will seek to ensure that these only collect information which is required by the published oversubscription criteria, in accordance with paragraph 2.4 of the School Admissions Code 2014.
4. Where supplementary information forms are used by admission authorities in Croydon LA, they will be available on this LA's website, on the school's website, or a paper copy of the supplementary information form can be requested directly from the school. Such forms will advise parents that they must also complete their home LA's Common Application Form. Croydon LA's composite prospectus and website will indicate which schools in this LA require supplementary forms to be completed and where they can be obtained.

5. Where a school in Croydon LA receives a supplementary information form, this LA will not consider it to be a valid application unless the parent/carer has also listed the school on their home LA's Common Application Form, in accordance with paragraph 2.3 of the School Admissions Code 2014.
6. *Applicants will be able to express a preference for up to six maintained primary schools or academies within and/or outside the Home LA.
7. The order of preference given on the Common Application Form will not be revealed to a school within the area of this LA to comply with paragraph 1.9 of the School Admissions Code 2014. However, where a parent resident in this LA expresses a preference for schools in the area of another LA, the order of preference for that LA's schools will be revealed to that LA in order that it can determine the highest ranked preference in cases where an applicant is eligible for a place at more than one school in that LA's area.
8. Croydon LA undertakes to carry out the address verification process as defined in the Pan-London Coordinated Admissions Scheme. This will in all cases include validation of resident applicants against Croydon LA's maintained nursery and primary school data and the further investigation of any discrepancy. Where Croydon LA is not satisfied as to the validity of an address of an applicant whose preference has been sent to a maintaining LA, it will advise the maintaining LA no later than **11 February 2022**.
9. Croydon LA will confirm the status of any resident child for whom it receives a Common Application Form stating s/he is currently or previously a 'Child Looked After' and will provide any additional evidence on receipt of a reasonable request by the maintaining LA in respect of a preference for a school in its area by **4 February 2022**.
10. Croydon LA will advise a maintaining LA of the reason for any application which is made in respect of a child resident in the area of this LA to be admitted outside of their correct age cohort, and will forward any supporting documentation to the maintaining LA by **4 February 2022**.

Processing

11. Applicants resident within Croydon LA must submit their online Common Application Form to this LA by **15 January 2022**.
12. *Supplementary Information Forms for schools in Croydon LA must be returned directly to the relevant school by the date specified by the school.* Under the requirements of the scheme, parents/carers will not have to complete a supplementary information form where this is not

strictly required for the governing body to apply their admission criteria or where this is not a requirement in a school's admission arrangements.

13. *Schools that require a supplementary information form will check that a supplementary information form has been completed for each child. Schools will contact parents/carers who have not completed a supplementary information form. Schools will also check that parents/carers who have completed a supplementary information form have completed the LA's Common Application Form. If a parent has not completed a Common application Form, schools will share this information with Croydon LA.*
14. *Admission authority schools will start seeing details of their applications on **21 January 2022**.*
15. *Any changes to the preferences or the order of preference on a Common Application Form made after **15 January 2022** will not normally be considered until after the initial round of allocation – that is after 19 April 2022, unless there is a change of circumstances.*
16. Application data relating to all preferences for schools in the area of a participating LA, which have been expressed within the terms of Croydon LA's scheme, will be up-loaded to the PLR by **4 February 2022**. Supplementary information provided with the Common Application Form will be sent to maintaining LAs by the same date.
17. *Alternative arrangements will be made by Croydon LA to forward applications and supporting information securely to non-participating LAs.*
18. Croydon LA shall, in consultation with the admission authorities within this LA's area and within the framework of the Pan-London timetable in Schedule 3B, determine its own timetable for the processing of preference data and the application of published oversubscription criteria.
19. *Croydon LA will accept late applications only if they are late for a good reason, deciding each case on its own merits. *The latest date that an application that is late for good reason can be accepted for a resident of this LA is **10 February 2022**.*
20. Where such applications contain preferences for schools in other LAs, Croydon LA will forward the details to maintaining LAs via the PLR as they are received. Croydon LA will accept late applications which are considered to be on time within the terms of the home LA's scheme.
21. The latest date for the upload to the PLR of late applications which are considered to be on-time within the terms of the home LA's scheme is **11 February 2022**.

22. *Where an applicant moves from one participating home LA to Croydon LA after submitting an on-time application under the terms of the former home LA's scheme, Croydon LA will accept the application as on-time up until **10 February 2022**, on the basis that an on-time application already exists within the Pan-London system.
23. Croydon LA will participate in the application data checking exercise scheduled between **14 and 18 February 2022** in the Pan-London timetable in Schedule 3B.
24. All preferences for schools within Croydon LA will be considered by the relevant admission authorities without reference to rank order in accordance with paragraph 1.9 of the School Admissions Code 2014. When the admission authorities within Croydon LA have provided a list of applicants in criteria order to this LA, Croydon LA shall, for each applicant to its schools for whom more than one potential offer is available, use the highest ranked preference to decide which single potential offer to make. This is the 'Equal Preference System'.
25. *Own Admission authority schools must provide Croydon LA with the electronic list of their applicants in criteria order by **01 March 2022**.*
26. Croydon LA will carry out all reasonable checks to ensure that pupil rankings are correctly held in its LAS for all maintained schools and academies in this LA's area before uploading data to the PLR.
27. Croydon LA will upload the highest potential offer available to an applicant for a maintained school or academy in this LA to the PLR by **17 March 2022**. The PLR will transmit the highest potential offer specified by the Maintaining LA to the Home LA.
28. The LAS of this LA will eliminate, as a Home LA, all but the highest ranked offer where an applicant has more than one potential offer across Maintaining LAs submitting information within deadline to the PLR. This will involve exchanges of preference outcomes between the LAS and the PLR (in accordance with the iterative timetable published in the Business User Guide) which will continue until notification that a steady state has been achieved, or until **24 March 2022** if this is sooner.
29. Croydon LA will not make any additional offers between the end of the iterative process and **19 April 2022** which may impact on an offer being made by another participating LA.
30. Notwithstanding paragraph 29, if an error is identified within the allocation of places at a maintained school or academy in this LA, Croydon LA will attempt to manually resolve the allocation to correct the error. Where this impacts on another LA (either as a home or maintaining LA) Croydon LA will liaise with that LA to attempt to resolve the correct offer and any multiple offers which might occur. However, if another LA is unable to

resolve a multiple offer, or if the impact is too far reaching, Croydon LA will accept that the applicant(s) affected might receive a multiple offer.

31. Croydon LA will participate in the offer data checking exercise scheduled between **25 March and 6 April 2022** in the Pan-London timetable in Schedule 3B.
32. Croydon LA will send a file to the E-Admissions portal with outcomes for all resident applicants who have applied online no later than **11 April 2022**. (33 London LAs & Surrey LA only).

Offers

33. Croydon LA will ensure that, if there are places available, each resident applicant who cannot be offered a place at one of the preferences expressed on the Common Application Form, receives the offer of an alternative school place in accordance with paragraph 2.11 of the School Admissions Code 2014. *This will usually be the nearest school to the child's home address which has a place available, after the allocation of places has been completed.*
34. This LA's notification of the outcome will include the information set out in Schedule 2.
35. Croydon LA will inform all resident applicants of their highest offer of a school place and, where relevant, the reasons why higher preferences were not offered, whether they were for schools in the Home LA or in other participating LAs.
36. Croydon LA's notification information will include the information set out in Schedule 2.
37. Croydon LA will, on **19 April 2022**, publish online the outcome of resident applications. Resident applicants who applied online will be able to view the result of their application online as well as accept or decline their offer. *Croydon LA will not send out outcome letters in the post.*
38. *Resident applicants who are not successful in their application will be offered the right to appeal.*

Late applications

39. **Croydon LA will accept late applications as 'on-time' only if they are late for a good reason, deciding each case on its own merits. Examples of what will be considered as 'good reason' include when a single parent has been ill for some time, or has been dealing with the death of a close relative; a family who has just moved into the area or is returning from*

abroad (proof of ownership or tenancy of a property within Croydon LA will be required in these cases). Other circumstances will be considered and each case decided on its own merits and it is expected that all requests of this nature will be supported with evidence.

40. *The latest date that an application, that is late for good reason, can be accepted for a resident of Croydon LA will be **10 February 2022**. The date for an out-borough resident is fixed by the relevant home LA and is likely to be different for authorities outside the PAN London scheme.*

41. *Applications which are late for no good reason and those that are received after 10 February 2022 but before 19 April 2022 will not be considered in the initial allocation round but will be allocated a place after all on-time preferences have been processed. If the application is from a resident of Croydon LA and they cannot be offered a place at one of their preferences, they will be considered for a place at other maintained schools or academies in this LA that have vacancies, in accordance with the school's admission criteria. If the application is from a resident of another LA, their application will only be considered for the schools to which they have applied.*

Post Offer Process

42. Croydon LA will request that resident applicants accept or decline the offer of a place by **4 May 2022**, or within two weeks of the date of any subsequent offer.

43. *If resident applicants do not respond by this date, Croydon LA or the school, where it is its own admission authority, will make every reasonable effort to contact the applicant to find out whether or not they wish to accept the place. Where the applicant fails to respond and the admission authority can demonstrate that every reasonable effort has been made to contact the applicant, the offer of a place be withdrawn.*

44. Where an applicant resident in Croydon LA accepts or declines a place in a school maintained by another LA by **4 May 2022**, Croydon LA will forward the information to the maintaining LA by **11 May 2022**. Where such information is received from applicants after **4 May 2022**, Croydon LA will pass it to the maintaining LA as it is received.

45. Where a place becomes available in an oversubscribed maintained school or academy in Croydon LA's area, it will be offered from a waiting list ordered in accordance with paragraph 2.14 of the School Admissions Code 2014.

46. When acting as a maintaining LA, Croydon LA will place an applicant resident in the area of another LA on a waiting list for any higher

preference school. Where this is not done automatically, it will be done immediately following a request from the home LA.

47. Where a waiting list is maintained by an admission authority of a maintained school or academy in this LA's area, the admission authority will inform this LA of a potential offer, in order that the offer may be made by the home LA.
48. When acting as a maintaining LA, Croydon LA will inform the home LA, where different, of an offer for a maintained school or Academy in this LA's area which can be made to an applicant resident in the home LA's area, in order that the home LA can offer the place.
49. When acting as a maintaining LA, Croydon LA and the admission authorities within it, will not inform an applicant resident in another LA that a place can be offered.
50. When acting as a home LA, Croydon LA will offer a place at a maintained school or Academy in the area of another LA to an applicant resident in its area, provided that the school is ranked higher on the Common Application Form than any school already offered. **As a result, any offer held by the applicant resident at a lower preference school will automatically be withdrawn as a higher preference has been offered. Resident applicants who no longer wish to remain on the waiting list for a higher preference school must notify Croydon LA as soon as they receive their initial offer.**
51. **When acting as a home LA, Croydon will offer a place at a Croydon maintained school or Academy to an applicant resident in its area, provided that the school is ranked higher on the Common Application Form than any school already offered. The lower preference school offered will automatically be withdrawn as a higher preference school has been offered. Resident applicants who no longer wish to remain on the waiting list for a higher preference school must notify Croydon LA as soon as they receive their initial offer.**
52. When acting as a home LA, when Croydon LA is informed by a maintaining LA of an offer which can be made to an applicant resident in this LA's area which is ranked lower on the Common Application Form than any school already offered, it will inform the maintaining LA that the offer will not be made.
53. When acting as a home LA, when Croydon LA has agreed to a change of preferences or preference order, it will inform any maintaining LA affected by the change. In such cases, paragraphs 51 and 52 shall apply to the revised order of preferences.

54. When acting as a maintaining LA, Croydon LA will inform the home LA, where different, of any change to an applicant's offer status as soon as it occurs.
55. When acting as a maintaining LA, Croydon LA will accept a change of preferences or preference order (including reinstated or additional preferences) from home LAs for maintained schools and academies in its area.
56. When acting as a home LA, Croydon will accept applications for additional preferences after National Offer Day before the start of the new term.
57. Croydon LA, when acting as a home LA, will allow applicants to express up to three additional preferences before the start of the new term.
58. When acting as a home LA, Croydon LA will endeavour to fill any vacancies that become available after National Offer Day within four weeks from National Offer Day.
59. This LA's admission authorities will maintain a waiting list for at least one term until 31 December 2022. This LA will accept waiting lists requests from other LAs' residents through the maintaining LA.
60. *Croydon LA will maintain waiting lists for each school in its area with the exception of Voluntary Aided Schools who will maintain their own waiting lists. Croydon LA will notify applicants on the waiting list if a place becomes available. Any lower preference previously offered will be automatically withdrawn if an offer is made at a higher preference school.*
61. *Resident Applicants who receive an offer at their first preference school will only be placed onto a waiting list for a lower preference school in exceptional circumstances which would need to be supported with relevant evidence. In accordance with the Pan London agreement and to ensure that Croydon meets its duty to continue to coordinate admissions beyond National Offer Day and comply with the parents' highest possible preference, Croydon will ensure that waiting lists do not contain lower ranked preferences except where it has received a parent's request for a child to be placed on the waiting list for a lower preference school in exceptional circumstances.*
62. *Resident applicants who receive an offer at their first preference school will be able to apply for lower preference schools at the start of the new term through the in-year admission process.*
63. *Resident applicants who are unsuccessful in receiving an offer at one of their preferred schools will be given the opportunity to make late applications to schools they did not originally apply for.*

64. *Applications received after 19 April 2022 will be added to the waiting lists for the schools in this LA. Waiting lists will be ordered in accordance with each school's admission criteria.*
65. *Admission authorities for each school within Croydon LA will share details of their waiting lists with this LA.*
66. *When a vacancy occurs at a school within this LA, the first child on the waiting list will be considered for the place. Croydon LA will liaise with the admissions authority for the school and advise the parent/carer or home LA of the offer.*
67. *Where the first child is a resident of this LA, Croydon LA will issue notification of the outcome to the parent, provided that the school is ranked higher on the Common Application Form than any other school already offered.*
68. *When acting as a maintaining LA, Croydon LA will inform the home LA, where different, of an offer for a maintained school in this LA's area which can be made to an applicant resident in the home LA's area, in order that the home LA can offer the place.*
69. *When acting as a maintaining LA, Croydon will not inform an applicant resident in another LA that a place can be offered.*
70. *Own Admission Authority schools within Croydon LA will not inform any applicant that a place can be offered.*
71. *Waiting lists for schools in Croydon LA will be held for the first term of the Reception Year only, until **31 December 2022**. Applicants wishing to remain on a school's waiting list after this date must apply using the LA or school's In- Year Application Form in accordance with each admission authority's arrangements. This is to ensure that this LA has the most up to date information for an applicant, including a correct proof of address as at the time of the new application.*
72. *Waiting lists will be maintained and places allocated as they become available, in accordance with each admissions authority's published admission and oversubscription criteria, and without regard to the date the application was received or when a child's name was added to the waiting list.*

Applications for places in Reception after 31 December 2022 and applications to year groups other than to the Reception class.

73. *Applications for places in Reception after 31 December 2022 and to year groups other than the normal year of entry to primary school will be treated as in-year admissions.*

74. *Applications will be made and considered in line with the schools' admission arrangements. Please refer to Croydon's website and in-year guidance for more information.*
75. *Once an offer is made applicants will only be added to a waiting list if the parent/carer requests this in writing.*

**PAN-LONDON CO-ORDINATED ADMISSIONS SCHEME
SCHEDULE 1**

**Minimum Content of Common Application Form for Admissions to
Reception/Junior in 2022/23**

Child's details:

Surname

Forename(s)

Middle name(s)

Date of Birth

Gender

Home address

Name of current school

Address of current school (if outside home LA)

Parent's details:

Title

Surname

Forename

Address (if different to child's address)

Telephone Number (Home, Daytime, Mobile)

Email address

Relationship to child

Preference details (x 6 recommended):

Name of school

Address of school

Preference ranking

Local authority in which the school is based

Additional information:

Reasons for Preferences (including any medical or social reasons)

Does the child have an Education, Health and Care Plan Y/N*

Is the child a 'Child Looked After (CLA)'? Y/N

Is the child formerly CLA but now adopted or subject of a 'Child Arrangements

Order or 'Special Guardianship Order'? Y/N

If yes, name of responsible local authority

Surname of sibling

Forename of sibling

DOB of sibling

Gender of sibling

Name of school sibling attends

Other:

Signature of parent or guardian

Date of signature

* Where an LA decides not to request this information on the CAF, it must guarantee that no details of a child with an Education, Health and Care Plan will be sent via the PLR.

PAN-LONDON CO-ORDINATED ADMISSIONS SCHEME

SCHEDULE 2

Template Outcome Letter for Admissions to Reception/Junior in 2022/23

From: Home LA

Date: **19 April 2022**
(prim)

Dear Parent,

Application for a Primary/Junior School

I am writing to let you know the outcome of your application for a primary school. Your child has been offered a place at X School. The school will write to you with further details.

I am sorry that it was not possible for your child to be offered a place at any of the schools which you listed as a higher preference on your application form. For each of these schools there were more applications than places, and other applicants has a higher priority than your child under the school's published admission criteria.

Offers which could have been made for any schools which you placed lower in your preference list, were automatically withdrawn under the co-ordinated admission arrangements, as a higher preference has been offered.

If you would like more information about the reason that your child was not offered a place at any higher preference school, you should contact the admission authority that is responsible for admissions to the school within the next few days. Details of the different admission authorities for schools in the borough of X are attached to this letter. If the school is outside the borough of X, the admission authority will either be the borough in which the school is situated, or the school itself.

You have the right of appeal under the School Standards & Framework Act 1998 against the refusal of a place at any of the schools for which you have applied. If you wish to appeal, you must contact the admission authority for the school within the next few days to obtain the procedure and the date by which an appeal must be received by them.

Please would you confirm that you wish to accept the place at X School by completing the reply slip below. If you do not wish to accept the place, you will need to let me know what alternative arrangements you are making for your child's education.

You must contact this office if you wish to apply for any other school, either in this borough or elsewhere.

*Please return the reply slip to me by **4 May 2022 (prim)**. If you have any questions about this letter, please contact me on _____*

Yours sincerely

(First preference offer letters should include the paragraphs in italics only)

**PAN-LONDON CO-ORDINATED ADMISSIONS SCHEME
SCHEDULE 3B**

Timetable for Admissions to Reception/Junior in 2022/2023

Sat 15 Jan 2022	Statutory deadline for receipt of applications
Fri 4 Feb 2022	Deadline for the transfer of application information by the Home LA to the PLR (ADT file)
Fri 11 Feb 2022	Deadline for the upload of late applications to the PLR.
Mon 14 – Fri 18 Feb 2022	Checking of application data
Thur 17 Mar 2022	Deadline for the transfer of potential offer information from the Maintaining LAs to the PLR (ALT file).
Thur 24 Mar 2022	Final ALT file to PLR
Fri 25 Mar- Wed 6 Apr 2022	Checking of offer data
Mon 11 Apr 2022	Deadline for on-line ALT file to portal
Tues 19 April 2022	Outcomes published online.
Wed 4 May 2022	Deadline for receipt of acceptances
Wed 11 May 2022	Deadline for transfer of acceptances to maintaining LAs

PAN-LONDON CO-ORDINATED ADMISSION SYSTEM

**Template LA Scheme for Co-ordination of Admissions to Year
7/Year 10 in Maintained Schools and Academies in 2022/23**

Contents

Page 2: Definitions used in this document

Page 5: Template scheme for co-ordination of admissions to Year 7 in September 2022

Page 12: Content of Common Application Form -Year 7 Scheme (Schedule 1)

Page 14: Template outcome letter -Year 7 Scheme (Schedule 2)

Page 16: Timetable for Year 7 Scheme (Schedule 3A)

PAN-LONDON CO-ORDINATED ADMISSION SYSTEM

Template LA Scheme for Co-ordination of Admissions to Year 7/Year 10 in 2022/23

Definitions used in the template schemes

“the Application Year”	the academic year in which the parent makes an application (i.e. in relation to the academic year of entry, the academic year preceding it)
“the Board”	the Pan-London Admissions Executive Board, which is responsible for the Scheme
“the Business User Guide (BUG)”	the document issued annually to participating LAs setting out the operational procedures of the Scheme
“the Common Application Form”	this is the form that each authority must have under the Regulations for parents to use to express their preferences, set out in rank order
“the Equal Preference System”	the model whereby all preferences listed by parents on the Common Application Form are considered under the over-subscription criteria for each school without reference to parental rankings. Where a pupil is eligible to be offered a place at more than one school within an LA, or across more than one participating LA, the rankings are used to determine the single offer by selecting the school ranked highest of those which can offer a place
“the Highly Recommended Elements”	the elements of the Template Scheme that are not mandatory but to which subscription is strongly recommended in order to maximise co-ordination and thereby simplify the application process as far as possible
“the Home LA”	the LA in which the applicant/parent/carer is resident
“the LIAAG Address Verification Register”	the document containing the address verification policy of each participating LA
“the Local Admission System”	the IT module for administering admissions in

(LAS)”	each LA and for determining the highest offer both within and between participating LAs
“the London E-Admissions Portal”	the common online application system used by the 33 London LAs and Surrey County Council
“the Maintaining LA”	the LA which maintains a school, or within whose area an academy is situated, for which a preference has been expressed
“the Mandatory Elements”	those elements of the Template Scheme to which authorities must subscribe in order to be considered as ‘Participating Authorities’ and to benefit from use of the Pan-London Register
“the Notification Letter”	the agreed form of letter sent to applicants on the Prescribed Day which communicates any determination granting or refusing admission to a primary or secondary school, which is attached as Schedule 2
“the Prescribed Day”	the day on which parents/carers are notified of their outcome. 1 March (secondary) in the year following the relevant determination year except that, in any year in which that day is not a working day, the prescribed day shall be the next working day.
“the Pan-London Register (PLR)”	the database which will sort and transmit application and outcome data between the LAS of each participating LA
“the Pan-London Timetable”	the framework for processing of application and outcome data, which is attached as Schedule 3A
“the Participating LA”	any LA that has indicated in the Memorandum of Agreement that they are willing to incorporate, at a minimum, the mandatory elements of the Template LA Scheme presented here.
“the Qualifying Scheme”	the scheme which each LA is required to formulate in accordance with The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) Regulations 2012, for co-ordinating

arrangements for the admission of children to
maintained secondary schools and
academies.

PAN LONDON CO-ORDINATED ADMISSIONS SYSTEM**Template Scheme for Co-ordination of Admissions to Year 7/Year 10 in
2022/23**

All the numbered sections contained in this scheme are mandatory, except those marked with an which are highly desirable.*

Applications

1. Croydon LA will advise home LAs of their resident pupils on the roll of this LA's maintained primary schools and academies who are eligible to transfer to secondary school in the forthcoming academic year.
2. Applications from residents of Croydon LA will be made on this LA's Common Application Form, which will be available and able to be submitted on-line. This will include all the fields and information specified in Schedule 1 to this Template LA Scheme. These will be supplemented by any additional fields and information which are deemed necessary by Croydon LA to enable the admission authorities in the LA area to apply their published oversubscription criteria.
3. Croydon LA will take all reasonable steps to ensure that every parent/carer who is resident in this LA and has a child in their last year of primary education within a maintained school or academy, either in Croydon LA or any other maintaining LA, is informed how they can access Croydon's composite prospectus and apply online. Parents/carers who do not live in Croydon LA will have access to this LA's composite prospectus which will advise parents/carers to contact their home LA for further details on the application process.
4. The admission authorities within Croydon LA will not use supplementary information forms except where the information available through the Common Application Form is insufficient for consideration of the application against the published oversubscription criteria. Where supplementary information forms are used by the admissions authorities within Croydon LA, the LA will seek to ensure that these only collect information which is required by the published oversubscription criteria, in accordance with paragraph 2.4 of the School Admissions Code 2014.
5. Where supplementary information forms are used by admission authorities in Croydon LA, they will either be available on the school's website, on the LA's website or a paper copy of the supplementary information form can be requested from the school directly. Such forms will advise parents that they must also complete their home LA's Common Application Form. Croydon LA's composite prospectus will indicate which schools in this LA require

supplementary information forms to be completed and where they can be obtained.

6. Where an admission authority in this LA receives a supplementary information form, Croydon LA will not consider it to be a valid application unless the parent/carer has also listed the school on their home LA's Common Application Form, in accordance with paragraph 2.3 of the School Admissions Code 2014.
7. *Applicants will be able to express a preference for six maintained secondary schools or Academies within and/or outside the Home LA.
8. *Croydon LA will advise applicants that they will receive no more than one offer of a school place on 1 March 2022. Applicants will also be advised that a place will be offered at the highest preference school for which they are eligible for a place. If the parent nominates a school outside of a PAN-London LA, Croydon LA will pass relevant details on to that authority and will make every reasonable effort to resolve any multiple offers with them.*
9. The order of preference given on the Common Application Form will not be revealed to a school within the area of this LA. This is to comply with paragraph 1.9 of the School Admissions Code 2014 which states that admission authorities must not give priority to children whose parents rank preferred schools in particular order, including 'first preference first' arrangements. However, where a parent resident in Croydon LA expresses a preference for schools in the area of another LA, the order of preference for that LA's schools will be revealed to that LA in order that it can determine the highest ranked preference in cases where an applicant is eligible for a place at more than one school in that LA's area.
10. Croydon LA undertakes to carry out the address verification process as defined in the Pan-London Coordinated Admissions Scheme. This will in all cases include validation of resident applicants against this LA's primary school data and the further investigation of any discrepancy using Council Tax and Electoral Register records. Where Croydon LA is not satisfied as to the validity of an address of an applicant whose preference has been sent to a maintaining LA, it will advise the maintaining LA no later than **10 December 2021**.
11. Croydon LA will confirm the status of any resident child for whom it receives a Common Application Form stating s/he is currently or previously a 'Child Looked After' and will provide any additional evidence on receipt of a reasonable request by the maintaining LA in respect of a preference for a school in its area by **12 November 2021**.

12. Croydon LA will advise a maintaining LA of the reason for any application which is made in respect of a child resident in the area of this LA to be admitted outside of their correct age cohort, and will forward any supporting documentation to the maintaining LA by **12 November 2021**.

Processing

13. Applicants resident within Croydon LA must return the Common Application Form, which will be available and able to be submitted online, to this LA by **31 October 2021**.
14. Application data relating to all preferences for schools in the area of a participating LA, which have been expressed within the terms of this LA's scheme, will be up-loaded to the PLR by **12 November 2021**. Supporting documentation provided with the Common Application Form will be sent to maintaining LAs by the same date.
15. Croydon LA shall, in consultation with the admission authorities within its area and within the framework of the Pan-London timetable in Schedule 3A, determine and state its own timetable for the processing of preference data and the application of published oversubscription criteria.
16. *Supplementary information forms must be returned directly to the relevant school by the date specified by the school.* Under the requirements of the scheme, parents/carers will not have to complete a supplementary information form where this is not strictly required for the governing body to apply their admission criteria or where this is not a requirement in a school's admission arrangements.
17. *Admission authorities will start seeing details of their applications on the Schools Access Module (SAM) from **5 November 2021**. Schools that require a supplementary form will check that a supplementary form has been completed for each child and will contact parents/carers who have not completed a supplementary information form. Schools will also check that parents/carers who have completed a supplementary information form have completed the LA's Common Application Form. If a parent has not completed a Common Application Form, schools will share this information with Croydon LA.*
18. *Croydon LA will accept late applications only if they are late for a good reason, deciding each case on its own merits. *The latest date that an application that is late for good reason can be accepted for a resident of this LA is **9 December 2021**.*
19. Where such applications contain preferences for schools in other LAs, Croydon LA will forward the details to maintaining LAs via the PLR as they are received. This LA will accept late applications which are considered to be on time within the terms of the home LA's scheme.

20. The latest date for the upload to the PLR of late applications which are considered to be on-time within the terms of the home LA's scheme is **10 December 2021**.
21. Where an applicant moves from one participating home LA to another after submitting an on-time application under the terms of the former home LA's scheme, the new home LA will accept the application as on-time up to **9 December 2021**, on the basis that an on-time application already exists within the Pan-London system.
22. *Applications which are late for no good reason and applications received after **10 December 2021** but before **1 March 2022** will be considered after all on-time applications have been processed.*
23. Croydon LA will participate in the application data checking exercise scheduled between **13 December 2021 and 4 January 2022** in the Pan-London timetable in Schedule 3A.
24. All preferences for schools within Croydon LA will be considered by the relevant admission authorities without reference to rank order to comply with paragraphs 1.9 of the School Admissions Code 2014. When the admission authorities within Croydon LA have provided a list of applicants in criteria order to this LA, this LA shall, for each applicant to its schools for whom more than one potential offer is available, use the highest ranked preference to decide which single potential offer to make. This is the 'Equal Preference System'.
25. *Schools must provide Croydon LA with an electronic list of their applicants ranked in criteria order by **14 January 2022**.*
26. Croydon LA will carry out all reasonable checks to ensure that pupil rankings are correctly held in its LAS before uploading data to the PLR.
27. Croydon LA will upload the highest potential offer available to an applicant for a maintained school or academy in this LA to the PLR by **31 January 2022**. The PLR will transmit the highest potential offer specified by the Maintaining LA to the Home LA.
28. The LAS of this LA will eliminate, as a Home LA, all but the highest ranked offer where an applicant has more than one potential offer across Maintaining LAs submitting information within deadline to the PLR. This will involve exchanges of preference outcomes between the LAS and the PLR (in accordance with the iterative timetable published in the Business User Guide) which will continue until notification that a steady state has been achieved, or until **11 February 2022** if this is sooner.

29. Croydon LA will not make an additional offer between the end of the iterative process and **1 March 2022** which may impact on an offer being made by another participating LA.
30. Notwithstanding paragraph 29, if an error is identified within the allocation of places at a maintained school or academy in this LA, Croydon LA will attempt to manually resolve the allocation to correct the error. Where this impacts on another LA (either as a home or maintaining LA) Croydon LA will liaise with that LA to attempt to resolve the correct offer and any multiple offers which might occur. However, if another LA is unable to resolve a multiple offer, or if the impact is too far reaching, this LA will accept that the applicant(s) affected might receive a multiple offer.
31. Croydon LA will participate in the offer data checking exercise scheduled between **14 and 22 February 2022** in the Pan-London timetable in Schedule 3A.
32. Croydon LA will send a file to the E-Admissions portal with outcomes for all resident applicants who have applied online no later than **23 February 2022**. (33 London LAs & Surrey LA only).

Offers

33. Croydon LA will ensure that, if there are places available, each resident applicant who cannot be offered a place at one of the preferences expressed on the Common Application Form, receives the offer of an alternative school place in accordance with paragraph 2.11 of the School Admissions Code 2014. This will usually be the nearest school to the child's home address which has a place available, after the allocation of places has been completed.
34. Croydon LA will inform all resident applicants of their highest offer of a school place and, where relevant, the reasons why higher preferences were not offered, whether they were for schools in the Home LA or in other participating LAs.
35. This LA's online notification will include the information set out in Schedule 2.
36. On **1 March 2022**, *all resident applicants who applied online will be able to view their outcome online as well as accept or decline their offer. Croydon LA will not send outcome letters in the post.*
37. *Croydon LA will provide primary schools with destination data of its resident applicants by the end of the summer term 2022.

Post Offer

38. Croydon LA will request that resident applicants accept or decline the offer of a place by **15 March 2022**, or within two weeks of the date of any subsequent offer.
39. Where an applicant resident in this LA accepts or declines a place in a school within the area of another LA by **15 March 2022**, Croydon LA will forward the information to the maintaining LA by **22 March 2022**. Where such information is received from applicants after **15 March 2022**, this LA will pass it to the maintaining LA as it is received.
40. Where a place becomes available in an oversubscribed maintained school or academy in this LA's area, it will be offered from a waiting list ordered in accordance with paragraph 2.14 of the School Admissions Code 2014.
41. Where a waiting list is maintained by an admission authority of a maintained school or academy in this LA's area, the admission authority will inform Croydon LA of a potential offer, in order that the home LA can offer the place.
42. When acting as a maintaining LA, Croydon LA will inform the home LA, where different, of an offer for a maintained school or Academy in this LA's area which can be made to an applicant resident in the home LA's area, in order that the home LA can offer the place.
43. When acting as a maintaining LA, this LA and the admission authorities within it, will not inform an applicant resident in another LA that a place can be offered.
44. When acting as a home LA, Croydon LA will offer a place at a maintained school or Academy in the area of another LA to an applicant resident in its area, provided that the school is ranked higher on the Common Application Form than any school already offered.
45. When acting as a home LA, when Croydon LA is informed by a maintaining LA of an offer which can be made to an applicant resident in this LA's area which is ranked lower on the Common Application Form than any school already offered, it will inform the maintaining LA that the offer will not be made.
46. When acting as a home LA, when Croydon LA has agreed to a change of preference order for good reason, it will inform any maintaining LA affected by the change. In such cases, paragraphs 44 and 45 shall apply to the revised order of preferences.

47. When acting as a maintaining LA, Croydon LA will inform the home LA, where different, of any change to an applicant's offer status as soon as it occurs.
48. When acting as a maintaining LA, Croydon LA will accept a change of preferences or preference order (including reinstated or additional preferences) from home LAs for maintained schools and academies in its area.
49. When acting as a maintaining LA, Croydon LA will accept new applications (including additional preferences) from home LAs for maintained schools and academies in its area.
50. This LA, when acting as a home LA, will allow applicants to express additional preferences before the start of the school term, after National Offer Day. The number of additional preferences will be unrestricted.
51. Croydon LA, when acting as a home LA, will aim to start filing any vacancies which become available after 1 March 2022 within four weeks of National Offer Day. Secondary schools will be sent their waiting list and will be asked to rank all applicants, including late applications received after 31 October 2021, in accordance with their oversubscription criteria. Secondary schools will then advise Croydon LA of the offers to be made.
52. *Resident applicants who receive an offer at their first preference school will only be placed onto a waiting list for a lower preference school in exceptional circumstances which would need to be supported with relevant evidence. In accordance with the Pan London agreement and to ensure that Croydon meets its duty to continue to coordinate admissions beyond National Offer Day and comply with the parents' highest possible preference, Croydon will ensure that waiting lists do not contain lower ranked preferences except where it has received a parent's request for a child to be placed on the waiting list for a lower preference school following a change of circumstances.*

Waiting lists

Waiting lists will be maintained by Croydon secondary schools for at least one term until **31 December 2022** and places will be filled in accordance with each school's admission criteria. After this date, parents/carers will need to apply through the in-year application process if they wish their child to remain on a school's waiting list. Parents/carers must also refer to each school's admission policy for more information regarding the management of waiting lists.

Parents/carers' enquiries regarding waiting list positions or appeal procedures must be made directly to the schools.

The PAN London Coordinated Admission Scheme ends on **31 August 2022**. Applications for Year 7 received after this date will be treated as in-year applications. Please refer to Croydon Council's website and the in-year admissions guidance for more information.

**PAN-LONDON CO-ORDINATED ADMISSIONS SCHEME
SCHEDULE 1**

**Minimum Content of Common Application Form for Admissions to Year
7/Year 10 in 2022/23**

Child's details:

Surname

Forename(s)

Middle name(s)

Date of Birth

Gender

Home address

Name of current school

Address of current school (if outside home LA)

Parent's details:

Title

Surname

Forename

Address (if different to child's address)

Telephone Number (Home, Daytime, Mobile)

Email address

Relationship to child

Preference details (x 6 recommended):

Name of school

Address of school

Preference ranking

Local authority in which the school is based

Additional information:

Reasons for Preferences (including any medical or social reasons)

Does the child have an Education, Health and Care Plan Y/N*

Is the child a 'Child Looked After (CLA)'? Y/N

Is the child formerly CLA but now adopted or subject of a 'Child Arrangements Order or 'Special Guardianship Order'? Y/N

If yes, name of responsible local authority

Surname of sibling

Forename of sibling

DOB of sibling

Gender of sibling

Name of school sibling attends

Other:

Signature of parent or guardian

Date of signature

*Where an LA decides not to request this information on the CAF, it must guarantee that no details of a child with an Education, Health and Care Plan will be sent via the PLR.

**PAN-LONDON CO-ORDINATED ADMISSIONS SCHEME
SCHEDULE 2**

Template Outcome Letter for Admissions to Year 7/Year 10 in 2022/2023

From: Home LA

Date: **1 March 2022**
(sec)

Dear Parent,

Application for a Secondary School

I am writing to let you know the outcome of your application for a secondary/primary school. Your child has been offered a place at X School. The school will write to you with further details.

I am sorry that it was not possible for your child to be offered a place at any of the schools which you listed as a higher preference on your application form. For each of these schools there were more applications than places, and other applicants has a higher priority than your child under the school's published admission criteria.

Your child's name has been automatically added on the waiting list for any higher preference school you have been unsuccessful.

Offers which could have been made for any schools which you placed lower in your preference list, were automatically withdrawn under the co-ordinated admission arrangements, as a higher preference has been offered.

If you would like more information about the reason that your child was not offered a place at any higher preference school, you should contact the admission authority that is responsible for admissions to the school within the next few days. Details of the different admission authorities for schools in the borough of X are attached to this letter. If the school is outside the borough of X, the admission authority will either be the borough in which the school is situated, or the school itself.

You have the right of appeal under the School Standards & Framework Act 1998 against the refusal of a place at any of the schools for which you have applied. If you wish to appeal, you must contact the admission authority for the school within the next few days to obtain the procedure and the date by which an appeal must be received by them.

Please would you confirm that you wish to accept the place at X School by completing the reply slip below. If you do not wish to accept the place, you will need to let me know what alternative arrangements you are making for your child's education.

*Please return the reply slip to me by **15 March 2022 (sec)**. If you have any questions about this letter, please contact me on _____.*

Yours sincerely

(First preference offer letters should include the paragraphs in italics only)

**PAN-LONDON CO-ORDINATED ADMISSIONS SCHEME
SCHEDULE 3A**

Timetable for Admissions to Year 7/Year 10 in 2022/23

Sun 31 Oct 2021	Statutory deadline for receipt of applications
Fri 12 Nov 2021	Deadline for the transfer of application information by the Home LA to the PLR (ADT file).
Fri 10 Dec 2021	Deadline for the upload of late applications to the PLR.
Mon 13 Dec 2021 – Tues 4 Jan 2022	Checking of application data
Mon 31 Jan 2022	Deadline for the transfer of potential offer information from Maintaining LAs to the PLR (ALT file)
Fri 11 Feb 2022	Final ALT file to PLR
Mon 14 – Tues 22 Feb 2022	Checking of offer data
Wed 23 Feb 2022	Deadline for on-line ALT file to portal
Tues 1 Mar 2022	Outcomes published online.
Tues 15 Mar 2022	Deadline for return of acceptances
Tues 22 Mar 2022	Deadline for transfer of acceptances to maintaining LAs

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Capital Budget Programme Summary

Capital Programme Budget Summary						
Planning Area	Project Description	2020-21	2021-22	2022-23	2023-24	Total
	Table 1 - Primary School Places					
	Permanent Expansions					
North West	Chestnut Primary Academy	38,000				38,000
Central	3FE Harris Purley Way (pka Fiveways)	225,000	75,000	25,000		325,000
Central	Heathfield Academy, Aberdeen Road	100,000	65,000			165,000
East	1 FE Heavers Farm	3,000				3,000
South West	1 FE Chipstead Valley	7,000				7,000
South West	1FE Smitham Primary School	40,000	40,000	19,000		99,000
	Subtotal	413,000	180,000	44,000		637,000
	Fixed Term Expansions / Bulges					
South	Smitham Primary School (Bulge)	10,000	10,000	9,000		29,000
South	Gresham Primary School (Bulge)	75,000	250,000	25,000		350,000
Various	Contingency provision (Basic Need Allocation)	2,392,000				2,392,000
	Subtotal	2,477,000	260,000	34,000		2,771,000
	Table 1 Subtotal	2,890,000	440,000	78,000		3,408,000
	Table 2 SEN					
South	St Giles Internal Re-modelling Works	25,000	75,000			100,000
South	St Giles 2 Classroom Modular Expansion	700,000	42,000	37,000	75,000	854,000
South	St Giles Suctioning Treatment Space	15,000	25,000			40,000
South	Red Gates 1 classroom Modular Building Expansion 2018	30,000	25,000	25,000	80,000	160,000
South	Red Gates 2 classroom Modular Buidling Expansion 2019	50,000	30,000	30,000	80,000	190,000
South	St Nicholas (112 place SEN primary expansion)	3,700,000	400,000	200,000	200,000	4,500,000
South	Meridian School improved suitability for ASD secondary ELP	100,000				100,000
South	Castlehill School places for children with ASD at primary ELP	50,000				50,000
North East	Priory School Hermitage Road Site Fencing	55,000				55,000
North East	Priory School Hermitage Road ICT Replacement	66,000				66,000
North East	Priory School Hermitage Road Safeguarding & Suitability Works	25,000	75,000			100,000
TBC	Post 16 SEN Permanent Provision	500,000	2,500,000			3,000,000
South	Post 16 SEN Temp. Modular - Coulsdon College Site	60,000	60,000	60,000	120,000	300,000
South East	Addington Valley Academy (For ESFA)	10,066,000	5,365,000			15,431,000
South East	Redgates Staffroom Extension	30,000	270,000			300,000
South East	Redgates Playground Works	175,000	25,000			200,000
	Table 2 Subtotal	15,647,000	8,892,000	352,000	555,000	25,446,000
	Table 3 - Major Maintenance					
Various	Education Major Maintenance Programme	2,882,000	2,945,000	3,000,000	3,000,000	11,827,000
Various	Contingency provision (SCA)	5,020,000				5,020,000
	Table 3 Subtotal	7,902,000	2,945,000	3,000,000	3,000,000	16,847,000
	Table 4 - Fire Safety Works					
Various	Fire Safety Works	1,000,000	1,200,000	300,000		2,500,000
	Table 4 - Subtotal	1,000,000	1,200,000	300,000	-	2,500,000
	Table 5 - Other Education Schemes					
South	Kenley Modular Replacement	650,000	200,000			850,000
	Table 5 - Subtotal	650,000	200,000	-	-	850,000
	Totals	28,089,000	13,677,000	3,730,000	3,555,000	49,051,000

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School Maintenance Plan

School	Works Description	Budget 2020/21
	GENERAL BUILDING WORKS	
Bensham Manor	Replace defective windows to front of main school building	£175,000.00
Crosfield Nursery	Main roof replacement works following survey	£75,000.00
Elmwood Infants	Additional drainage outlets to flat roof	£15,000.00
Greenvale Primary	Pedestrian tarmac footway replacement works	£8,000.00
Heavers Farm Primary	Replace roof light and damaged canopy glass	£15,000.00
Priory School	External emergency staircase cladding works	£100,000.00
Purley Nursery	Party wall fencing and drainage works	£20,000.00
Purley Oaks	Acoustic tile replacement works	£45,000.00
Purley Oaks	School window replacement works	£350,000.00
Purley Oaks	Window lintel repair works	£125,000.00
Red Gates Primary	Main hall roof replacement and roof light replacement	£40,000.00
Red Gates Primary	Boxing in of electrical cable trays along corridors	£15,000.00
Red Gates Primary	Mezzanine timber floor works and staircase replacement	£15,000.00
Red Gates Primary	Roof covering/roof light and roof drainage – water ingress/wear and tear	£40,000.00
St Giles School	Replacement of flat roof sections, timber louvres, minor repairs to pitched roof and roof lights between pitched roofs	£310,000.00
St Giles School	Soffit replacement works to car park canopy	£12,000.00
St Giles School	External pedestrian ramp replacement	£15,000.00
St Giles School	Replacement flooring vinyl in particular locations	£10,000.00
The Hayes	Boundary fencing and gate works	£70,000.00
Tunstall Nursery	Rubber crumb surfacing replacement	£15,000.00
	ELECTRICAL WORKS	
Elmwood Infants	Replace distribution boards/switchgear and incoming supply and metering – end of life	£32,000.00
Elmwood Juniors	Replace distribution boards/switchgear and incoming supply and metering – end of life	£83,000.00
Forestdale Primary	Replace incoming supply and metering – end of life	£15,000.00
Howard Primary	Replace distribution boards through school – end of life	£50,000.00
Purley Nursery	Review and replace small power where required	£15,000.00
Ridgeway Primary	Replace distribution boards throughout school – end of life	£50,000.00
Ridgeway Primary	Replace switchgear	£40,000.00

Ridgeway Primary	Replace incoming supply and metering – end of life	£25,000.00
Selsdon Primary	Replace incoming supply and metering – end of life	£10,000.00
Smitham Primary	Replace distribution boards throughout school – end of life	£15,000.00
Thornton Heath Nursery	Replace distribution boards throughout nursery – end of life	£10,000.00
Thornton Heath Nursery	Replace switchgear – end of life	£10,000.00
Thornton Heath Nursery	Replace incoming supply and metering – end of life	£7,000.00
Winterbourne Girls	Replace distribution boards throughout school – end of life	£70,000.00
Winterbourne Girls	Replace incoming supply and metering – end of life	£15,000.00
Winterbourne Girls	Replace switch gear – end of life	£10,000.00
	HEATING & MECHANICAL WORKS	
Downsview Primary	Hot Water storage and pipework distribution - defective	£10,000.00
Elmwood Juniors	Incoming water supply – replacement	£10,000.00
Norbury Manor	Hot water storage and pipework distribution - defective	£50,000.00
Ridgeway Primary	Heating and emitter replacement through-out school (2021/22 and 2022/23)	£200,000.00
Red Gates Primary	Cold Water Service Insulation	£8,000.00
Selhurst Nursery	Hot water storage and pipework distribution - defective	£20,000.00
St Giles School	Hot Water storage and pipework distribution - defective	£200,000.00
Tunstall Nursery	Heating and emitter replacement through-out school	£130,000.00
	OTHER	
Asbestos	Annual re-inspection surveys/remedial works in schools	£40,000.00
Historical defects	Manage repair works in schools after defect period	£100,000.00
Re-active Maintenance	Undertake emergency works in schools throughout the year	£250,000.00
TOTAL		£2,945,000.00

Croydon's Childcare Sufficiency Assessment 2020

CROYDON
www.croydon.gov.uk

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1. Introduction

All councils are required by law to 'report annually to elected council members on how they are meeting their duty to secure sufficient childcare, and make this report available and accessible to parents'.¹ We have prepared this report in order to meet this duty.

Having sufficient childcare means that families are able to find childcare that meets their child's learning needs and enables parents to make a real choice about work and training. This applies to all children from birth to age 14, and to children with disabilities. Sufficiency is assessed for different groups, rather than for all children in the local authority.

In this report, we have made an assessment of sufficiency using data about the need for childcare and the amount of childcare available, along with feedback from local parents about how easy or difficult it has been for them to find suitable childcare.

We use information about childcare sufficiency to plan our work supporting the local childcare economy.

As a result of the COVID-19 virus, England has been in various stages of lockdown since March 2020. This has impacted on everyone and childcare is no exception, Ofsted suspended inspections in March, there was no moderation of the Early Years Foundation Stage profiles and childcare businesses continue to be directly impacted.

Although the majority of providers re-opened in June as requested, not all did and the guidance around which businesses can re-open, childcare 'bubbles' and social distancing has had a significant impact on the out of school sector in particular.

In addition, the ongoing spread of the virus and temporary closures means that provision is even more fluid than normal but in November we completed an update on all current registered provision in the borough which is reflected in this report. However there is no question that 2020 is an exceptional year and that the hard work and dedication of all Croydon childcare workers should be celebrated.

¹ Statutory guidance on Early Education and Childcare, effective from 1 March 2018.

2. Methodology

Quantitative and qualitative data as at 30th November 2020 is used within this report and consideration given to supply and demand, availability, affordability, choice and flexibility and quality under three main themes:

- childcare for children aged 0 to 4 years
- childcare for children aged 5 to 14 years and
- childcare for children with disabilities or special needs (all ages)

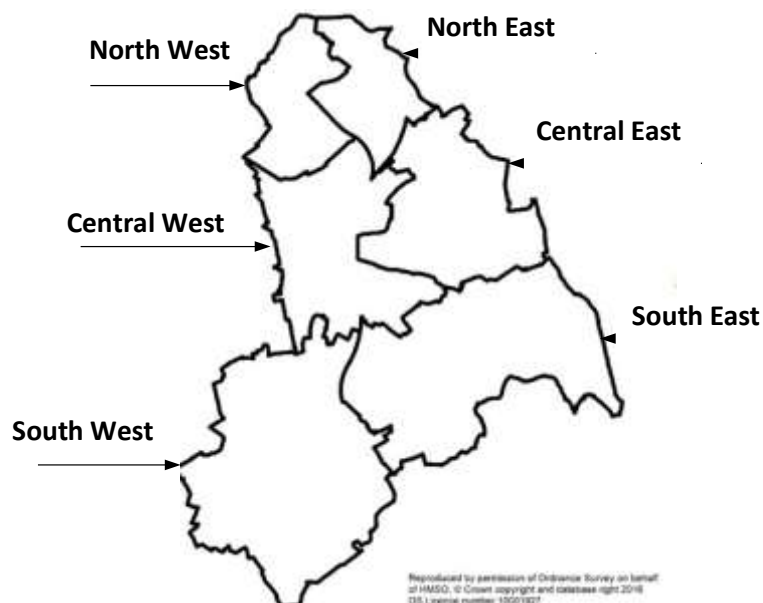
Analysis of demographic and socio-economic data was conducted by the Early Intervention Performance and Strategic Intelligence team and provides an indication of how the population is growing and therefore the impact on the childcare market.

Supply information on the number, cost and quality of childcare places was largely gathered from the Ofsted data held within the sufficiency department. Additional data was gathered from childcare providers via telephone calls and email updates.

Please note that all the details in this report were accurate as at November 2020 but that numbers of children, setting details including prices change constantly.

There are a number of factors that affect the demand and ability to pay for childcare. It is necessary to consider these wider issues when considering how demand levels may differ in particular areas of the borough.

As part of the strategy to deliver services more effectively, the borough has been re-aligned into six locality areas with the intention of bringing services closer to the communities they serve. These localities replace the Planning Areas previously in place. Please see page 11 for the detailed ward breakdown by locality.



3. About Croydon¹

Croydon is an outer London borough and is in the far south of London, making it London's southern-most borough. It covers an area of 87 square kilometres. To the very north of the borough, the five local authorities of Croydon, Lambeth, Southwark, Bromley and Lewisham meet, whilst to the south Croydon borders Surrey. To the north-east, east and south-east of Croydon the borders are with the London Borough of Bromley, whilst to the west the borders are with the London Boroughs of Sutton and Merton.

Population – Croydon has the second largest population of all London Boroughs at 386,710 just behind Barnet. Croydon has the 4th largest population of young people in London: 22.2% (85,672) of the population are aged 0–15 years. Croydon also has a large population of working age adults, 64.0% of the population are aged 16-64, whilst the proportion of older adults, aged 65+, is much lower than the national average making up only 13.8% of the population² (ONS mid-2019 population estimates).

Migration – Based on the latest figures for 2018, domestic migration has had little impact on the growth of the Croydon population. 22,897 people moved into the borough whilst 27,263 people left the borough to go to other areas of the UK. The international inflows into Croydon continue to exceed the international outflows and this results in more migrants from outside the UK. For 2018, the ONS has estimated that around 17.1% of the Croydon population is made up of non-British residents.

Ethnicity – Croydon has a diverse population; its communities speak more than 100 different languages and as with other London boroughs, Croydon has a higher proportion of residents from black and minority ethnic backgrounds than the national average. According to the Census 2011, the younger population is more diverse than the older population in Croydon.

Economy – The top three industries in Croydon, which accounted for nearly half (43.6%) of all businesses in the area in 2019 were professional, scientific and technical; construction and information and communication³.

There are fewer jobs in Croydon per head of population than the London average, with many residents commuting to work in other areas, such as central London. The high proportion of residents commuting to central London is one of the factors that influences the difference between the average earnings of people who work in Croydon and those of people who live in Croydon, although it should be noted there is some overlap between the two groups. The average gross earnings for male full-

¹ Unless stated Croydon data are taken from the Croydon Observatory (<http://www.croydonobservatory.org/>) and the latest Borough profile. Further ward data are also available on the Croydon Observatory.

² Population estimates available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>

³ ONS (2019) UK Business Activity, Size and Location

<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/datasets/ukbusinessactivitysizeandlocation>

time workers is about £45 higher a week for those who work in Croydon than those who live in Croydon. For female full-time workers it is higher by about £12 a week⁴.

In October 2020, there was an estimated 22,765 people in Croydon claiming out of work benefits. The number is more than double what it was a year earlier and is as a direct result of the Covid-19 pandemic with a significant increase since April 2020, as the table below shows. The proportion of out of work claimants is higher than the London and national (GB) proportion.

TABLE 1: Total Out of Work Claimants

Date	Croydon (%)	London (%)	Great Britain (%)	Croydon
Jun-19	4.1	2.8	2.7	10,270
Jul-19	4.1	2.8	2.8	10,230
Aug-19	4.2	2.8	2.8	10,415
Sep-19	4.2	2.9	2.8	10,475
Oct-19	4.3	2.9	2.9	10,540
Nov-19	4.3	2.9	2.9	10,555
Dec-19	4.2	3.0	2.9	10,525
Jan-20	4.2	3.0	2.9	10,440
Feb-20	4.4	3.1	3.0	10,820
Mar-20	4.4	3.1	3.1	10,835
Apr-20	6.8	5.0	5.1	16,790
May-20	8.8	7.5	6.4	21,860
Jun-20	8.7	7.5	6.2	21,520
Jul-20	8.8	7.6	6.4	21,855
Aug-20	9.2	7.8	6.5	22,720
Sep-20	9.2	7.9	6.4	22,890
Oct-20	9.2	7.9	6.3	22,765

Source: ONS claimant count by sex and age

Note: % is number of claimants as a proportion of resident population of area aged 16-64 and gender

Housing – Based on the 2011 Census, at a borough level 70.8% of Croydon residents lived in one family only households⁵, this was an increase of 2.4% compared to the 2001 figure. 25.3% of all households were married couples or couples in a civil partnership living with dependent children, 5.4% were co-habiting couples living with dependent children. 13.1% were a lone parent living with dependent children; the number of lone parent households increased from 17,347 in

⁴ ONS (2018) Annual Survey of Hours and Earnings (ASHE)

⁵ <http://www.croydonobservatory.org/document-library/> The Croydon Household Profile provides detailed information from the 2011 Census about the type of households that make up the borough of Croydon. “There are a range of household types that reflect the living arrangements that exist between people. These are: One person households, one family households (couple with or without children; single parents with child (ren), and Other households: multi-person households including unrelated adults sharing, student households, multi-family households and households of one family and other unrelated adults.” ONS Households and Household Composition in England and Wales, 2001-11 http://www.ons.gov.uk/ons/dcp171776_361923.pdf

2001 to 23,160 households in 2011. The rest of the households in Croydon were one-person households, aged over 65 or had non-dependent children.

According to the 2011 Census, 60.1% of all Croydon households were owner occupied, 22.1% were private rented or rent free households and 17.8% were households living in social housing. Croydon has the largest borough housing stock in London but its social housing stock is smaller than many other London boroughs.

For the quarter ending 31st December 2019, there were 1,980 households in temporary accommodation. In these households children made up 77.1% of the total which is an increase of 4.5% on the same time last year.

There remains a disproportionately high percentage (5 in 10) of homeless people from the Black community. The majority of people in Croydon who applied for help from the council for homelessness were in the 25–44 year old age group (58%); One in 5 (22%) are aged between 16 and 24 years and one in 5 (20%) are aged 45-59 years. There are very few people aged 60 years and over. The most common reason for homelessness is parental evictions, followed by exclusions by relatives and friends.

Education and skills – 49% of the eligible 2 year old population benefitted from a funded early education place in January 2020⁶. 85% of 3 and 4 year olds benefitted from a funded early education place in January 2020⁶. For both age groups, take up is below the London and England averages.

In 2019 74.6% of pupils achieved a good level of development in Croydon in the Early Years Foundation Stage (EYFS) in line with London and above England (71.8%)⁷. For Key Stage 1 the proportion of pupils in Croydon achieving the expected standard in reading (77%) in 2019 remains in line with the regional average (77%) but higher than the national average of 75%. In Croydon, 72% of pupils achieved the expected standard in writing in line with the outer London average (72%) and better than the national average (69%).

At Key Stage 2 the proportion of pupils achieving the expected standards for reading, writing and maths has improved from 55% in 2016 to 67% in 2019. Performance is above the national average (65%) but remains below the London average (71%)⁸.

Until 2016, attainment at Key Stage 4 was measured by counting the number of A*-C grades at GCSE. This measure has since changed to Average Attainment 8 score per pupil. This measures the average achievement of pupils in up to 8 qualifications. The average Attainment 8 score in Croydon has decreased from 49.9 in 2015 to 45.5% in 2019. Over the last 3 years, Croydon has been in line with the national average but below the London average.

⁶ Early Years Census, School Census, School Level Annual School Census 2019

⁷ Early Years Foundation Stage Profile attainment data

⁸ DfE LAIT, data released October 2020.

The latest figure for 2019 showed that 84.1% of young people in Croydon had achieved a Level 2 qualification by the age of 19. This is a poorer performance compared to the previous year (84.7%) but is above the national average of 81.8%. 10.1% of A-level students achieved grades AAB or better in 2019, up on the previous year (8.7%) but still significantly below the London average (19.2%) and national average (21.3%)¹¹.

Community Safety – The overall number of offences committed in Croydon has fallen in recent years based on the last 10 financial years of reporting. There is a high number of offences in Croydon but the borough has one of the largest populations in London which means that the overall rate of offences per 1,000 population in Croydon is not as high as other parts of London. The number of victims of serious youth violence has increased slightly in recent years.

Croydon is in the top third of London councils for highest domestic abuse incidents with a rate of 21.5 per 1,000 of population for the 12 months rolling to 30th September 2020. Of the total victims of domestic abuse in Croydon, 76% were female. One in 3 (33%) of those subjected to domestic abuse were in the 25-34 year age band. 23% were in the 35-44 year band and 18% were in the 18-24 year band.

There were 1,152 proven offences committed by children age 10-17 in Croydon during the year ending 31st March 2018⁹. This is an increase of 29% on the previous year. By far the highest proportion of proven offences committed is violence against the person. In Croydon, 88% of the youth offenders are male. There is a greater proportion of youth offenders, aged 10-17 years, who are from BAME backgrounds (68.9%). This is above the proportion of BAME offenders in London (63.5%). The proportion for England and Wales is much lower at 25.6% for the same period. There continues to be a disproportionately high percentage of young people from a Black or Black British background amongst the first time entrants in Croydon.

Health – Low birth rate is classified as any weight less than 2,500 grams. The Public Health Profile for 2018 shows that the percentage of low birth weight babies in Croydon was 3.52%. This is higher than the previous year figure of 3.31%. The national average figure for 2018 at 2.86% is also higher than the previous year's figure of 2.82%.

In 2017/2018, childhood immunisation rates in Croydon remained statistically lower than both the London average and the England average for all immunisations. For the year, Croydon failed to meet a single child immunisation national target set at 90% coverage¹⁰.

The proportion of Croydon pupils in Reception year (aged 4-5) measured as having excess weight was 21.8% in the latest year (2019/2020)¹¹. This is lower than both

⁹ Youth Justice Board.

¹⁰ PHE, Public Health Outcomes Framework (based on NHS Cover of Vaccination Evaluated Rapidly (COVER) data)

¹¹ PHE, NCMP Profiles (based on National Childhood Measurement Programme data)

the London average at 24.6% and the national rate at 23.0%. The proportion of Croydon pupils in Year 6 measured as having excess weight was 39.5% (2019/2020) and remains in line with the London average (38.2%) but higher than the England average (35.2%).

In the last 10 years life expectancy in Croydon has progressively increased. For males the life expectancy from birth increased from 79 years in 2008-2010 to 80.4 years in 2017-2019, this is in line with the average for London (80.9) and slightly higher than the England average of 79.8. Similarly life expectancy from birth for females has increased from 82.5 years to 83.9 years in the same period, however this is slightly below the London average of 84.7 years but similar to the England average of 83.4¹².

Deprivation – Croydon became relatively less deprived compared to other local authorities in England between 2015 and 2019 according to the Index of Multiple Deprivation (produced by DCLG). The Index of Multiple Deprivation looks at a range of different aspects of deprivation: income, education skills and training, employment, health deprivation and disability, barriers to housing and services, crime, and living environment deprivation. There continues to be geographic inequality in the distribution of deprivation in the borough with the north and south-east of the borough remaining more deprived. Some wards have low levels of disadvantage whilst others are amongst the most deprived in England.

Five of the seven deprivation domains indicate that there is less deprivation in Croydon relative to the previous index. The domains of barriers to housing and services and the living environment have shown more deprivation since IMD2015.

The Index Deprivation Affecting Children Index (IDACI) is a supplementary index looking at the proportion of children in an area that are living in families affected by income deprivation. In Croydon, 23.2% of children were living in families affected by income deprivation according to the IMD 2015 yet this was down to 18.5% with the IMD 2019 results.

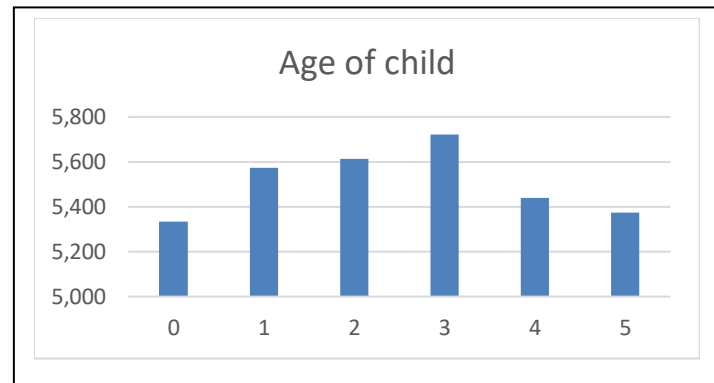
Current population figures – Based on the 2011 census there are 22,044 families with children aged under 5 living in Croydon. Using the latest mid-year population estimates (2019) these have risen to 33,056 children aged under 5 and 53,234 aged 5 to 14 in Croydon.

¹² 2017-2019 data from PHE's Children and Young People's Health Benchmarking Tool.

Table 1 – Number of children aged under 5 living in Croydon

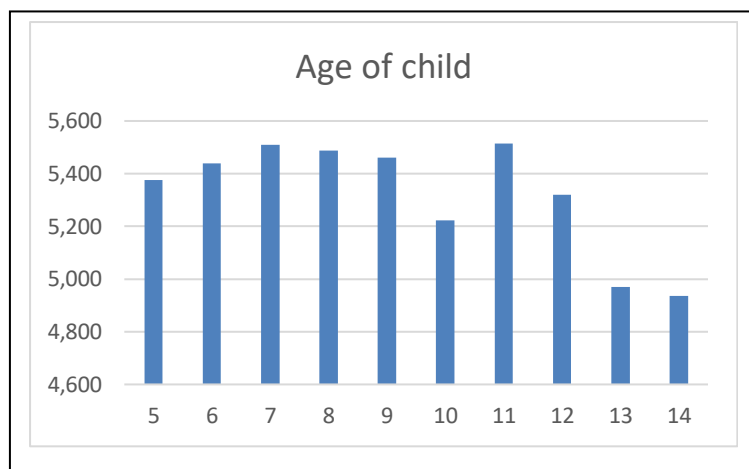
Name	Croydon
0	5,333
1	5,574
2	5,613
3	5,721
4	5,440
5	5,375

Source: ONS Mid-2019 population estimates

**Table 2 – Number of children aged 5 to 14 living in Croydon**

Name	Croydon
5	5,375
6	5,438
7	5,510
8	5,488
9	5,460
10	5,222
11	5,515
12	5,320
13	4,971
14	4,935

Source: ONS Mid-2019 population estimates

**4. Childcare in Croydon**

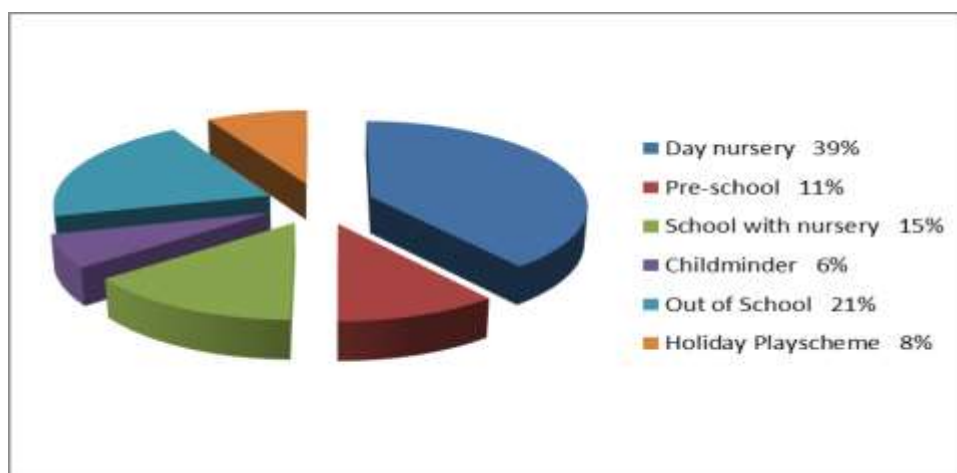
Supply of childcare

For the purposes of this assessment the supply of formal childcare includes private day nurseries, pre-schools, schools with nursery provision, childminders (funded childminders are accredited to deliver the free entitlement on behalf of the local authority), out of school clubs and holiday clubs.

Schools offering out of school provision are exempt from separate registration on the Ofsted Childcare Register but are included within the data. However crèches are not included as any care of less than three hours is not required to register with Ofsted.

Childcare places

In total the 630 providers offer 14,555 childcare places. The distribution of places by provider is shown below.



In Croydon there are an estimated 17 childcare places per 100 children based on 86,290 children aged 0 to 14 years.

Quality of childcare in Croydon

Ofsted inspect all registered provision and the table below shows the current quality judgements along with the national average.

	Outstanding		Good		Sub-total	Requires Improvement		Inadequate		Awaiting	
	Count	%	Count	%		Count	%	Count	%	Count	%
Day nurseries	10	12%	74	87%	99%	0	0%	1	1%	22	n/a
Pre-school	7	18%	31	82%	100%	0	0%	0	0%	8	n/a
Schools with nursery	12	26%	30	65%	91%	4	9%	0	0%	11	n/a
Childminders	32	11%	226	79%	90%	4	2%	23	8%	85	n/a
Out of School	9	18%	37	76%	94%	2	4%	1	2%	21	n/a
Holiday Playschemes	1	7%	11	79%	86%	0	0%	2	14%	7	n/a

Ofsted's national figures as at 31.8.20 state that the proportion of childcare providers on the Early Years Register judged to be good or outstanding was 96%. However, the proportion of providers judged outstanding has decreased by 3 percentage points since 31 August 2019.

Childcare providers

Across the London Borough of Croydon there are a total of 630 Ofsted/Independent School Inspectorate registered childcare providers. In addition, there are 41 school run breakfast and/or after school and holiday clubs, which come under the school's registration. This gives a total of 671 childcare service providers.

The table below shows the geographical distribution of the various types of provision against the 28 wards within Croydon as at November 2020.

	Locality	DN	PS	SCH w N	CM		OOS	HP
					Funded	Not funded		
Bensham Manor	NW	5	0	2	5	12	2	1
Norbury Park	NW	5	2	3	6	12	3	1
Norbury & Pollards Hill	NW	4	3	1	10	5	0	0
West Thornton	NW	6	1	1	6	15	5	1
Crystal Palace & Upper Norwood	NE	3	2	4	3	9	4	1
South Norwood	NE	3	2	3	6	6	4	2
Thornton Heath	NE	8	1	3	7	22	3	0
Addiscombe West	CW	3	4	3	6	7	2	0
Broad Green	CW	5	2	2	3	12	2	0
Fairfield	CW	7	2	1	1	1	2	2
Selhurst	CW	5	2	2	4	7	3	2
South Croydon	CW	9	1	4	5	13	4	0
Waddon	CW	7	1	2	0	7	3	2
Addiscombe East	CE	3	1	0	3	8	2	1
Park Hill & Whitgift	CE	2	0	0	1	1	1	1
Shirley North	CE	1	4	2	8	10	2	0
Shirley South	CE	4	0	0	2	8	4	1
Woodside	CE	5	1	2	9	15	1	1
Coulsdon Town	SW	3	1	3	5	15	2	1
Kenley	SW	4	0	1	2	7	5	0
Old Coulsdon	SW	2	2	1	7	6	2	1
Purley & Woodcote	SW	3	2	4	0	10	4	1
Purley Oaks & Riddlesdown	SW	2	0	2	1	6	0	1
New Addington North	SE	0	2	4	1	10	3	0
New Addington South	SE	2	2	2	6	9	2	0
Selsdon & Addington Village	SE	0	2	2	1	8	1	1
Selsdon Vale & Forestdale	SE	3	2	1	4	6	2	0
Sanderstead	SE	3	4	2	5	6	2	0
Total		107	46	57	117	253	70	21

Key

DN – Day nursery

PS – Pre-school or sessional and term time

Sch w N – School with nursery provision

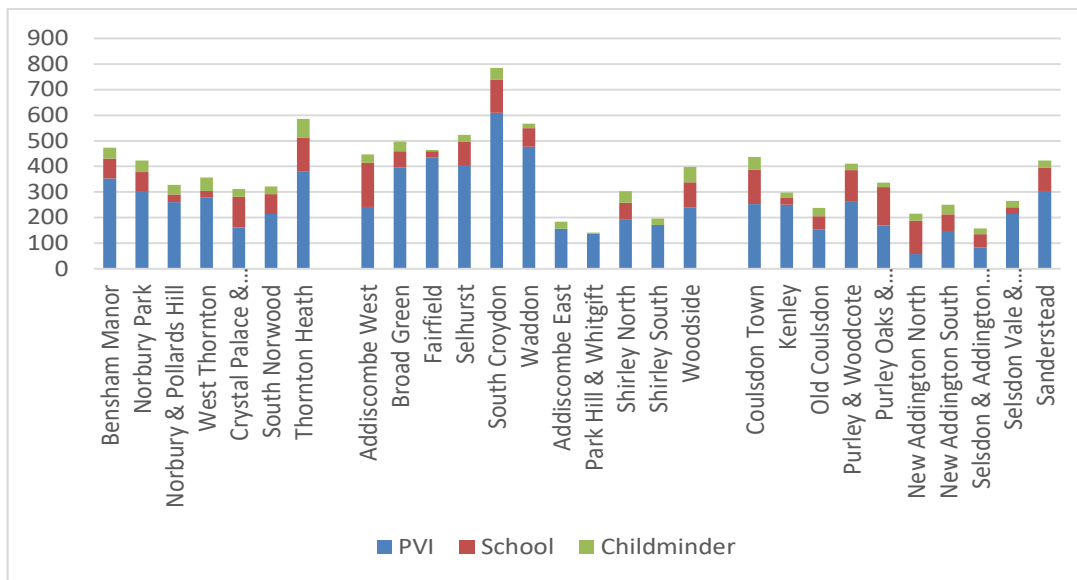
CM – Childminder; funded childminders offer free entitlement places

OOS – Out of School club

HP – Holiday playscheme

Early Years Childcare

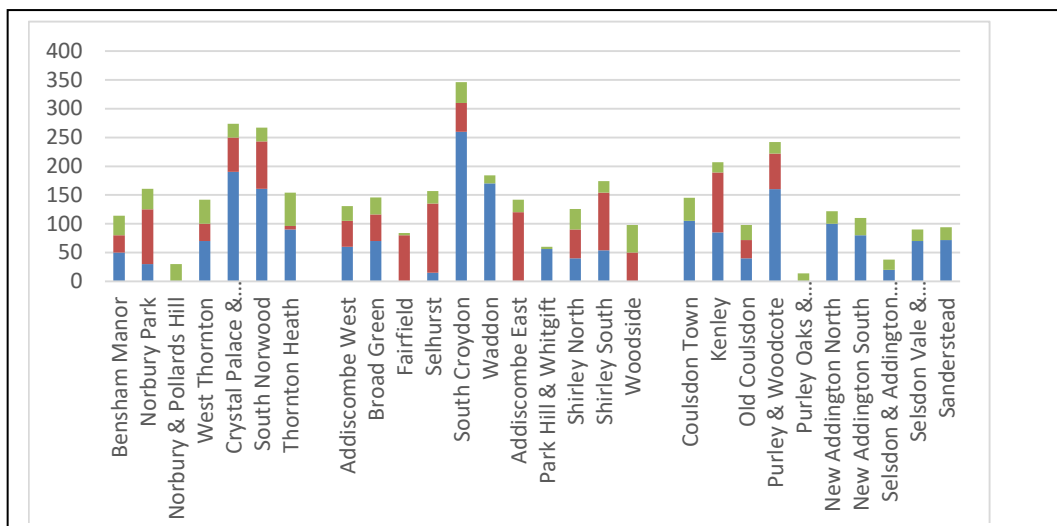
In Croydon there are currently 10,339 day care places for pre-school children aged 0 to 4 years. This is comprised of 7,298 nursery places in private settings, 2,116 via school provision and 925 with childminders; full details on previous page. Based on the mid-2019 population estimate of 27,681 this equates to 37 full-time places per 100 children aged 0 to 4 years across the borough.



However this varies across the borough but the high concentration of nursery provision in specific areas will also serve families living or travelling to neighbouring areas. Therefore any potential over or under supply of places should be considered within this context, please see North, Central and South specific breakdowns later in the report for more information.

Out of School Childcare

Out of school childcare comprises of before and after school clubs as well as provision offered by childminders. In total there are 3,210 out of school places available at out of school clubs with up to 740* additional spaces available with childminders. This equates to 7 places per 100 children aged 5 to 14 years (including disabled children) using the mid-2019 population estimate of 53,234.



Please note that the figure of 740 childminder places is based on 66% of childminders offering 3 spaces.

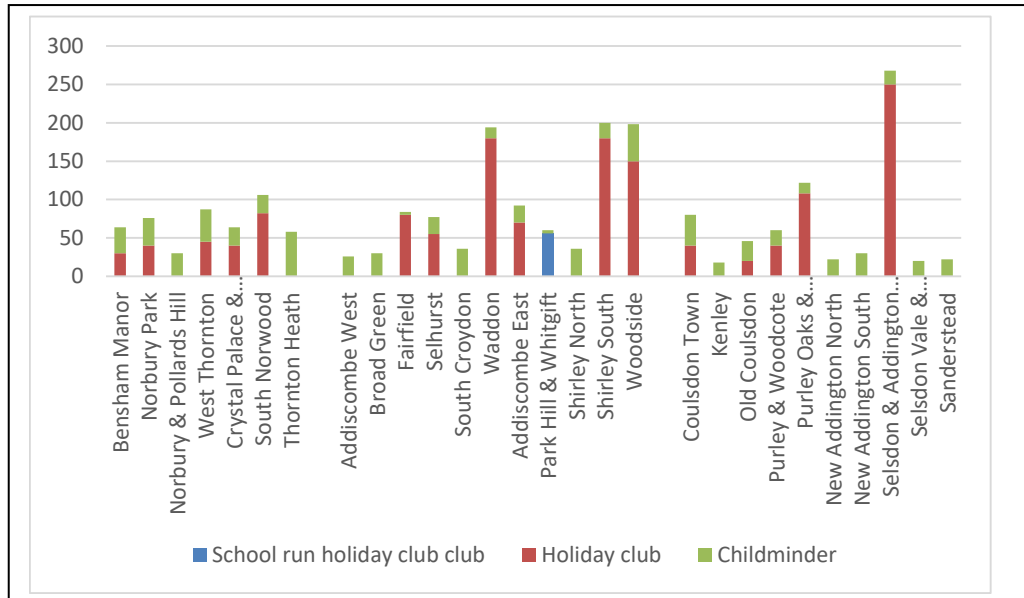
When considering the accessibility of out of school childcare, it is important to consider the number of schools served by individual clubs or childminders rather than a club's proximity to a child's home.

The borough average hourly rate for breakfast clubs is £4.30 and £4.59 for after school.

This year many out of school clubs did not run during the summer because of issues around 'bubbles' and government guidance recommending children only attending one childcare provider where at all possible.

Holiday Care

Holiday childcare includes holiday playschemes as well as provision offered by childminders. In total there are 1,466 out of school places available at holiday clubs with up to 740* additional spaces available with childminders. This equates to 4 places per 100 children aged 5 to 14 years (including disabled children). The average hourly rate across the borough for a holiday club is £3.62



*Please note that the figure of 740 childminder places is based on 66% of childminders offering 3 spaces.

This year as a direct result of the pandemic, many holiday clubs did not run during the summer.

5. Qualification levels in Croydon

Each year the Department of Education instructs local authorities on what data to collect within the Early Years census and in January 20 the information replicated the straightforward count of qualified staff requested in 2019.

The current statutory guidance dictates minimum qualified staffing levels and can be summarised as:

For children under 2: 1:3 staff to child ratio

For children aged 2: 1:4 staff to child ratio

For children aged 3 and over: 1:8 staff to child ratio

Irrespective of the child's age, at least one member of staff must hold a full and relevant level 3 qualification and at least half of all other staff must hold a full and relevant level 2 qualification. However please note that for children aged 3 and over this ratio changes to 1:13 when a person with Qualified Teacher Status or Early Years Professional Status (level 6 qualified) is working directly with the children; there is no difference to the ratios for younger children when cared for by a level 6 qualified person.

In addition anyone completing a level 2 or 3 qualification on or after 30th June 2016 must also have either a full or emergency Paediatric First Aid certificate within 3 months of starting work to count in qualified staff ratios.

Over the last 3 years our January census submissions for the Private, Voluntary and Independent sector have shown increasing numbers of staff and high level qualifications. However recruitment continues to be an issue for the whole sector as there is a shortage of quality, qualified childcare practitioners.

	Total number of staff	L2 qualified staff	L3 qualified staff	QTS/EYPS/EYT	Unqualified
2020	2,005	318 (16%)	1,103 (55%)	149 (7%)	435 (22%)
2019	1,795	283 (16%)	981 (55%)	101 (5%)	430 (24%)
2018	1,793	273 (15%)	1,022 (57%)	136 (8%)	362 (20%)

6. Early Years Funding

Take up of 3 and 4 year old funding

All 3 and 4 year olds are entitled to 15 hours of childcare a week over 38 weeks (570 hours) this is known as the universal offer. Parents can access their entitlement over a longer period of time known as the stretched offer dependent on each setting's individual offer.

In September 2017 the government introduced '30 hours' whereby working parents of 3 and 4 year old children could apply for an additional 570 hours of funded childcare.

The Department for Education latest figures indicate that within England 93% of 3 and 4 year old children take up their universal free entitlement, within London that figure is lower. The figures over the last four years are shown below:

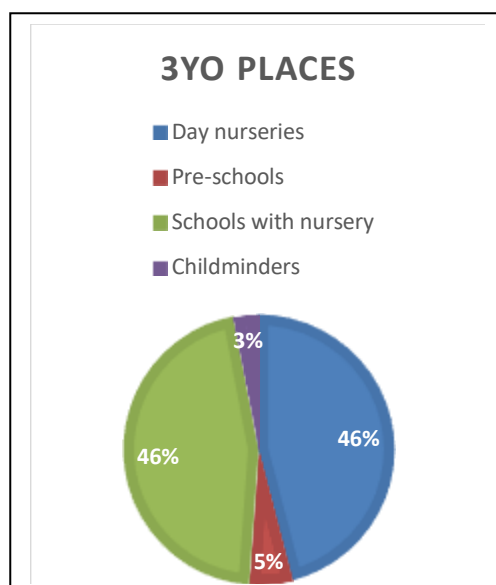
Year	Number 3YOs	%	London average	Number 4YOs	%	London average	Total	%	London average
2020	4692	82%	82%	4932	89%	87%	9624	85%	84%
2019	4622	80%	82%	4721	86%	86%	9343	83%	84%
2018	4540	80%	83%	4741	87%	86%	9281	83%	84%
2017	4581	82%	82%	5104	91%	87%	9685	87%	84%

<https://explore-education-statistics.service.gov.uk/find-statistics/education-provision-children-under-5> & published 29.7.20

Based on this year's data Croydon's take up is just above the London average for the universal entitlement.

The take up of extended hours continues to grow, in Summer 19 32% of 3 and 4 year olds were eligible for extended hours, in Summer 20 it had grown to 35% which represents 2,608 children were accessing additional funded hours.

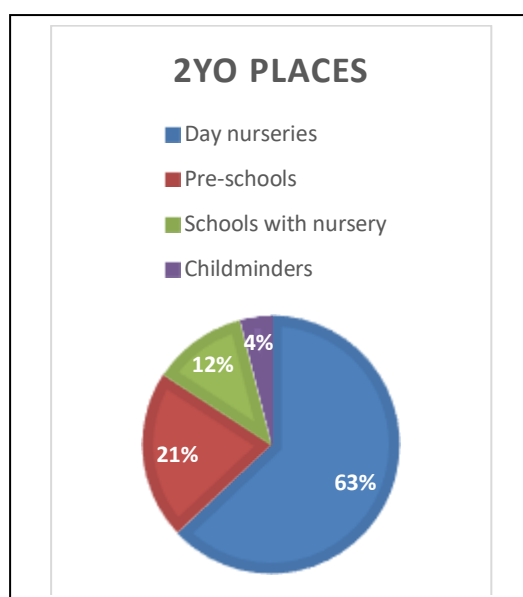
The distribution of funded spaces in Summer 20 by provider is shown below:



Early Years Pupil Premium (EYPP)

In April 2015 the government introduced EYPP for disadvantaged 3 and 4 year olds. Children are eligible if they are receiving their early years' entitlement and meet the benefits related criteria for free school meals or are in/have left the care of the local authority. The setting receives an additional 53p an hour for any eligible children and the intention is that these funds are used to close any developmental gaps the child may have and to enhance provision for these children.

EYPP criteria effectively matches the 2YO funding criteria and as the graph below shows the majority of 2YO places are delivered by private providers therefore those children would be eligible for EYPP when they turn 3 unless their home circumstances have changed.



In Summer 19 we had 470 pupils claiming EYPP, in Summer 20 we had 660 pupils and we anticipate this figure continuing to rise. EYPP pupils now also attract an additional deprivation uplift of £1.02 per hour therefore in total an additional £1.55 per hour can be claimed for eligible pupils. Historically the majority of EYPP claims have been from the school sector but for the first time ever in Summer 20 the PVI sector had 53% of the EYPP pupils, up from 32% last year.

2 year old funding (2YO)

Some 2 year olds are also entitled to 570 hours of funded childcare. This funding stream targets low income families (below £15,400) and applications are assessed by HMRC based on the information attached to their National Insurance number. In Croydon there is an online checker on Family Space Croydon which was used by over 2,000 parents and carers in 2019 but this figure includes some duplicates as parents often run more than one check.

2 year old funding is also available if the child:

- Is looked after by the local authority or has left care under a special guardianship order, child arrangement or adoption order
- Has a current statement of special educational need or an education, health and care plan
- Receives Disability Living Allowance

In 2019 additional criteria were also introduced:

- Children of Zambrano Carers
- Children of families with no recourse to public funds with a right to remain in the UK on grounds of private and family life under Article 8 of the European Convention on Human Rights
- Children of a subset of failed asylum seekers (supported under section 4 of the Immigration and Asylum Act 1999)

The Department for Work and Pensions (DWP) continue to provide lists to local authorities of potentially eligible families in order to target marketing.

The Department for Education latest figures indicate that within England 69% of eligible 2YOs are taking up their free entitlement, within London that figure is lower. The figures over the last four years are shown below:

Year	Number of funded Croydon 2YOs	%	London average
2020	1014	49%	59%
2019	1021	47%	56%
2018	1230	82%	61%
2017	1270	66%	58%

<https://explore-education-statistics.service.gov.uk/find-statistics/education-provision-children-under-5> & published 29.7.20

Croydon's 2YO take up figure has been largely stable but we have seen a slight reduction in numbers alongside the introduction of the extended hours.

According to DWP figures in November 1,801 families may be eligible and in Summer 20 905 2 year olds accessed a funded place. Marketing is now being done direct by the sufficiency team within the local authority rather than children's centres and it is hoped that will increase take up.

During 2019 2,038 parents used our online portal to confirm eligibility but not all then chose to go on to take up a place. We continue to monitor 2YO numbers closely but as there is no reported shortage of place and the actual number of children remains broadly constant no additional action is necessary.

7. Profile outcomes

Local Authorities have a statutory duty to improve outcomes for children which is known as the Early Years Outcome Duty and is often referred to as ‘school readiness.’ This is measured through the Early Years Foundation Stage Profile at the end of the reception class year when children are 5 years old (or rising 5).

Children who achieve at least “expected” in 12 of the 17 aspects of learning are said to have achieved a Good Level of Development (GLD).

Table 1 shows the percent of children who achieved the GLD in Croydon and nationally. There is no national or local data for 2020. Due to the pandemic, all assessments were cancelled.

Percentage of children achieving a GLD		
Year	Croydon	National
2015	64.7 %	66.2 %
2016	70.3 %	69.3 %
2017	73.6 %	70.3 %
2018	73.5%	71.5%
2019	74.6%	71.8%

Table 1

Percentage gap between children eligible for free school meals (FSM) and those not eligible achieving the GLD		
Year	Croydon	National
2015	13 %	18 %
2016	11.5 %	18 %
2017	13.8 %	17%
2018	8%	18%
2019	11.2%	18.5%

Table 2

It was noted in the 2019 data that outcomes for Croydon children in the area of Communication & Language were lower than for children nationally. This area is a focus for the coming year.

8. Children with SEND (Special Educational Needs and Disability)

Nurseries, pre-schools and childminders across Croydon are supported in developing and maintaining good inclusive practice, in line with the principles of the Early Years Foundation Stage and the 2015 SEND Code of Practice, by the Early Years Inclusion and Intervention Team and the Portage Team.

The Early Years Inclusion and Intervention Team supports private, voluntary and independent settings and childminders through a range of services for children, aged 0-5, who have identified special educational needs and disabilities. These range in severity from mild learning disabilities to profound multiple learning difficulties. The team ensure that a package of support is delivered that reflects the individual needs of the child. This may include individual support packages or whole setting training. The team also provide strategic support to the maintained nursery schools.

The Portage service was reinstated in Croydon in September 2018 following a review of the Early Years SEND provision. Within this review a need to provide parental support and intervention for preschool children with disabilities who were not in education was identified. Prior to the reinstatement of the Portage service families of those children had received educational advice and transition support into nursery or school. The intention is that the Portage model delivers support and advice with sufficient frequency to make an impact on children's developmental progress.

In the academic year 2019-2020 a total of 358 new referrals were received through SPOC by the team. Of these 266 were children supported within the settings and 92 within the home.

When a health care professional identifies that a young child, under 5, may have a special educational needs and/or disabilities they are required by law to tell the local authority. There were a total of 188 health notifications received via direct meetings with Gill Brock, Designated Medical Officer.

Specialised placements

The local authority has commissioned the following places across the borough:

St Giles Nursery (Central)	12 places
Willow Tree (South)	12 places
Winterbourne (North)	12 places

The team have overall responsibility for children placed in the specialist nursery provisions named above but do not offer regular support as each setting has an allocated Educational Psychologist.

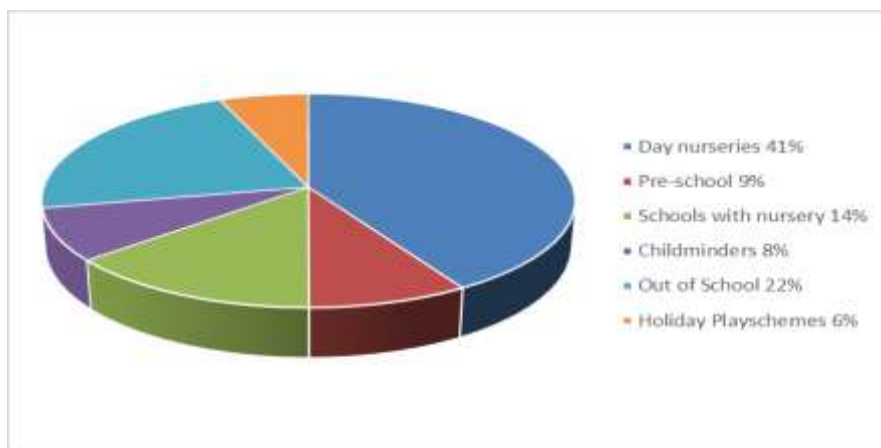
There were 90 new applications for personalised funding agreed and 37 for targeted funding for children attending PVI and maintained settings.

Whilst this data represents service delivery for children with SEND at a sustained personalised or targeted level, it does not fully depict the wider 'value added' work completed to initially assess needs (within the family home and in settings) in order to ensure that children have received an appropriate graduated response to their SEND. A considerable amount of service delivery involves managing demand and expectation within settings and family intervention for those children whose needs

are initially unclear and, through effective, short-term targeted intervention, no longer meet criteria for a long-term intervention. Data is not currently held for this aspect of service delivery but consideration is being given to methods for recording going forward.

9. Childcare in the North

There are seven wards in the North – Bensham Manor, Norbury Park, Norbury & Pollard’s Hill and West Thornton constitute the North West and the wards Crystal Palace & Upper Norwood, South Norwood, Thornton Heath are designated as North East. In the North there are 213 childcare providers offering 3,895 places. The distribution of places by provider is shown below.



The Ofsted grades are summarised in the following table

	Outstanding		Good		Requires Improvement		Inadequate		Awaiting	
Day nurseries	0	0%	26	100%	0	0%	0	0%	8	n/a
Pre-school	1	14%	6	86%	0	0%	0	0%	4	n/a
Schools with nursery	2	13%	11	74%	2	13%	0	0%	2	n/a
Childminders	9	10%	74	79%	0	0%	11	11%	30	n/a
Out of School	4	29%	10	71%	0	0%	0	0%	7	n/a
Holiday Playschemes	0	0%	5	100%	0	0%	0	0%	1	n/a

Ofsted’s statistics published on 31.8.20** state that as at 31.3.20, 96% of childcare on the Early Years Register was Good (79%) or Outstanding (17%) In the North only Schools (87%) and Childminders (89%) are below this figure.

Take up of funding in group provision as at 31.8.20

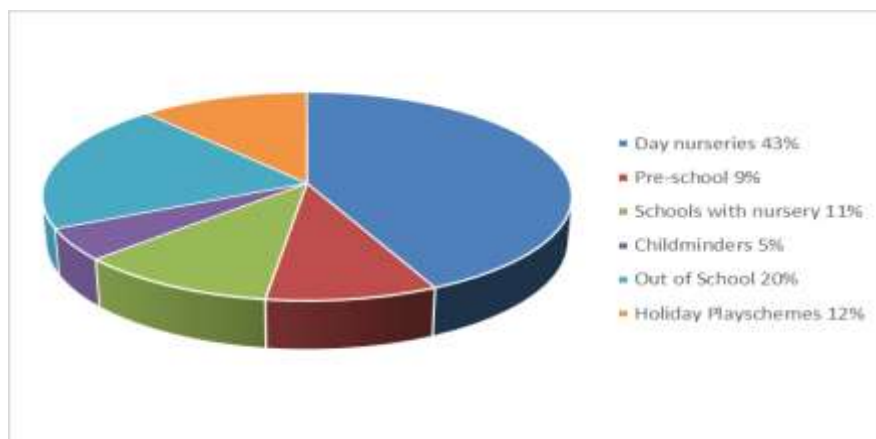
	No. of 2YOs	% within North	No. of 3&4YOs	% within North	No. of ext. hrs. 3&4 YOs	% within North
Day nurseries	175	71%	863	53%	336	69%
Pre-school	34	14%	184	11%	42	8%
Schools with nursery	37	15%	591	36%	111	23%
Total	246		1638		489	

In 2019 North was home to 30% of the under 5s in 2020 group provision delivers:
 27% of the borough’s funded 2YO places
 22% of the borough’s funded 3 and 4 year old universal places and
 19% of the borough’s funded 3 and 4 year old extended entitlement places.

**<https://www.gov.uk/government/publications/childcare-providers-and-inspections-as-at-31-august-2020/main-findings-childcare-providers-and-inspections-as-at-31-august-2020>

10. Childcare in Central

There are eleven wards in Central – Addiscombe West, Broad Green, Fairfield, Selhurst, South Croydon and Waddon constitute Central West and the wards Addiscombe East, Park Hill & Whitgift, Shirley North, Shirley South and Woodside are designated as Central East. In Central there are 254 providers offering 6,620 places. The distribution of places by provider is shown below.



The Ofsted grades are summarised in the following table

	Outstanding		Good		Requires Improvement		Inadequate		Awaiting	
Day nurseries	6	15%	32	82%	0	0%	1	3%	12	n/a
Pre-school	3	20%	12	80%	0	0%	0	0%	3	n/a
Schools with nursery	3	20%	10	67%	2	13%	0	0%	3	n/a
Childminders	9	9%	83	80%	3	3%	8	8%	28	n/a
Out of School	3	14%	15	71%	2	10%	1	5%	5	n/a
Holiday Playschemes	0	0%	6	75%	0	0%	2	25%	2	n/a

Ofsted's statistics published on 31.8.20** state that as at 31.3.20, 96% of childcare on the Early Years Register was Good (79%) or Outstanding (17%) In Central only Day nurseries (97%) and Pre-schools (100%) achieve this figure.

Take up of funding in group provision as at 31.8.20

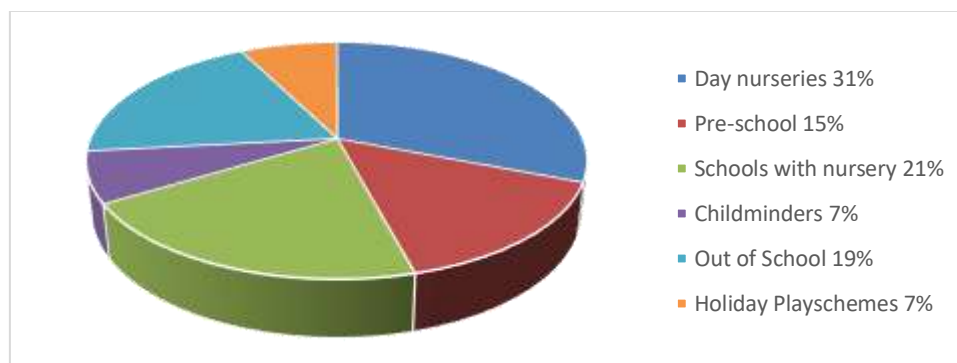
	No. of 2YOs	% within Central	No. of 3&4YOs	% within Central	No. of ext. hrs. 3&4 YOs	% within Central
Day nurseries	289	67%	1749	51%	774	66%
Pre-school	93	21%	607	18%	138	12%
Schools with nursery	54	12%	1070	31%	255	22%
Total	436		3426		1167	

In 2019 Central was home to 42% of the under 5s, in 2020 group provision delivers:
 48% of the borough's funded 2YO places
 46% of the borough's funded 3 and 4 year old universal places and
 45% of the borough's funded 3 and 4 year old extended entitlement places.

**<https://www.gov.uk/government/publications/childcare-providers-and-inspections-as-at-31-august-2020/main-findings-childcare-providers-and-inspections-as-at-31-august-2020>

11. Childcare in the South

There are ten wards in the South – Coulsdon Town, Kenley, Old Coulsdon, Purley & Woodcote and Purley Oaks & Riddlesdown constitute the South West and the wards New Addington North, New Addington South, Selsdon & Addington Village, Selsdon Vale & Forestdale and Sanderstead are designated as South East. In the South there are 202 childcare providers offering 4,136 places. The distribution of places by provider is shown below.



The Ofsted grades are summarised in the following table

	Outstanding		Good		Requires Improvement		Inadequate		Awaiting	
Day nurseries	4	20%	16	80%	0	0%	0	0%	2	n/a
Pre-school	3	19%	13	81%	0	0%	0	0%	1	n/a
Schools with nursery	7	44%	9	56%	0	0%	0	0%	6	n/a
Childminders	14	16%	69	78%	1	1%	4	5%	27	n/a
Out of School	2	14%	12	86%	0	0%	0	0%	9	n/a
Holiday Playschemes	1	100%	0	0%	0	0%	0	0%	2	n/a

Ofsted's statistics published on 31.8.20** state that as at 31.3.20, 96% of childcare on the Early Years Register was Good (79%) or Outstanding (17%) In the South only Childminders (94%) are below this figure.

Take up of funding in group provision as at 31.8.20

	No. of 2YOs	% within South	No. of 3&4YOs	% within South	No. of ext. hrs. 3&4 YOs	% within South
Day nurseries	106	57%	830	38%	430	54%
Pre-school	65	35%	484	22%	159	20%
Schools with nursery	16	8%	884	40%	213	26%
Total	187		2198		802	

In 2019 South was home to 27% of the under 5s, in 2020 group provision delivers: 21% of the borough's funded 2YO places 30% of the borough's funded 3 and 4 year old universal places and 31% of the borough's funded 3 and 4 year old extended entitlement places.

**<https://www.gov.uk/government/publications/childcare-providers-and-inspections-as-at-31-august-2020/main-findings-childcare-providers-and-inspections-as-at-31-august-2020>

12. Cost of childcare

The table below shows the average hourly rate for day nurseries and the average hourly sessional rate for pre-schools across each of the three areas.

	0-2 years	2-3 years	3-5 years
North			
Day nursery	£6.03	£5.78	£5.65
Pre-school	n/a	£7.22	£6.81
Central			
Day nursery	£5.84	£5.67	£5.51
Pre-school	n/a	£5.71	£5.62
South			
Day nursery	£5.89	£5.86	£5.65
Pre-school	n/a	£5.77	£5.58
Borough average			
Day nursery	£5.92	£5.77	£5.60
Pre-school	n/a	£6.23	£6.00
Childminder	£6.19	£6.19	£6.19

The current funding rates from the Dedicated School Grant are as shown:

2YOs are funded at £5.74 per hour

3YOs are funded at £4.87 per hour

However the introduction of the single funding formula requires local authorities to pass through 95% of the government rate, Croydon are paid £5.21 therefore 95% is £4.95. The difference is used to fund a deprivation uplift. Traditionally we calculated deprivation using children's postcodes but this year we have attached the deprivation uplift to those children eligible for EYPP. This ensures that the additional funding directly follows the child, the current deprivation rate is £1.02 per hour on a child's universal entitlement and is paid in full in arrears at the end of term.

All Croydon providers are paid as described above with the exception of the five nursery schools who also receive a Maintained Nursery School supplement from central government.

According to the Coram Family and Childcare's "Childcare Survey 2020", in Outer London the hourly rate

for a child under 2 is £6.24 and £6.04 for an over 2 in nursery and

for a child under 2 is £6.00 and £5.98 for an over 2 at a childminder.

13. Childcare compared to last sufficiency assessment in 2019

Croydon continues to have a diverse range of childcare providers – we have several small independent one-site providers, 21 providers who operate more than one setting within Croydon and/or the neighbouring boroughs including 4 of the large chains and two franchised nurseries.

Childminders

The number of childminders has decreased from 394 to 370, a net overall reduction of 16 which is in keeping with national trends. However we are seeing a steady flow of new childminders with 37 registering in the last year. The percentage of childminders eligible to deliver funding has again increased from 29% to 32% despite being significantly less than their average hourly rate which has increased by 10p. Childminders are the only sector to offer weekend care.

Pre-schools

Although the number of pre-schools has reduced by one, there have been changes in ownership since the last assessment and one pre-school provider has moved premises and now offers full day care. In addition a new provider is offering outdoor pre-school sessions but currently has reduced opening hours due to limited demand. There are only 3 pre-schools who do not offer more than 15 hours. A small number of pre-schools are unable to offer a full 30 hour service because of shared premises and the halls being used for other activities but most offer 30 hours. The average hourly cost has risen significantly again but this average is distorted by the high cost of the outdoor pre-school sessions.

Day Nurseries

The number of day nurseries in the borough has again increased this year, up by 8, including registration of a number of new sites. Only one provider closed as a result of the pandemic but one local chain has also not yet opened one site. Three of the new nurseries are not yet accredited to deliver funding and only two providers have chosen not to offer the 30 hours of extended entitlement. Average costs per hour have risen by 37p for 0-2 years, 50p for 2-3 years and 46p for 3-5 years, each age band has a different legally stated adult:child ratio. These increases represent an annual increase of approximately 8% which while higher than inflation reflects the additional costs being placed on individual businesses in terms of increased cleaning and hygiene practices resulting from Covid-19. Across the borough opening hours remain largely unchanged from last year and although non-core hours can be accessed at various settings, there is limited demand for very early mornings, late evenings or weekends.

Out of school care

The number of out of school clubs in the borough has fallen by 3 with the average cost of a 1.5 hour breakfast club being £4.30 and £4.59 for a 3 hour after school club.

The number of holiday schemes in the borough has decreased by 1 and the average daily rate for 10 hours is £36.20, an increase of £4.90 on last year.

The number of Tuition Centres often focussing on key skills such as literacy and numeracy across all age ranges continues to increase, up 4 to 24 this year.

Parental Childcare Questionnaire

This year we did not complete a parent questionnaire. We normally conduct our Childcare Sufficiency Assessment in the summer term but this year there was so much uncertainty stemming from the pandemic we did not feel it appropriate to canvas either the market or parents. However as almost all providers re-opened in the autumn and parent confidence has grown during the autumn we have completed our audit of provision.

We have ample childcare places available and although during lockdown we did experience some challenge over wrap around care this was largely due to central government restrictions on 'bubbles'. Although out of school and holiday provision are not back at pre-pandemic levels the increased flexibility in parental working patterns along with limited social contact has meant that many families are managing within their own childcare bubbles.

Our hope is that in 2021 we can conduct a more detailed parental survey.

Identified Issues and Actions

2019 Action	Progress	Status
Continue to monitor the take up of 30 hour entitlement places and the impact this may have on overall market capacity.	Take up of the extended hours has increased steadily and is being accommodated within the sector, as such further monitoring will occur within the annual sufficiency assessment.	Completed
Introduce a new online parental questionnaire.	Deferred due to increased work relating to Covid-19 and initial uncertainty over sustainability of childcare sector.	Outstanding
Update the Provider Agreement to reflect recent developments including privacy statements, term time only claims, removal from the directory of providers.	Unfortunately this task was deferred due to additional reporting requirements relating to the pandemic.	Outstanding
Family Space Croydon upgrade	Website was re-configured to improve presentation on a mobile phone which is how the site is most commonly accessed. We also have improved upload abilities which has been particularly useful in light of all the Covid-19 updates.	Completed
Promote Family Space Croydon to parents	Systems now in place for regular vacancy updates and the sufficiency team have once again taken over promotion of 2YO funding which signposts all parents to the site.	Completed

2020 Actions and Overview

1. This year has largely focussed on Covid-19. Initially we had to ensure that sufficient places were available for key workers and the PVI sector. We had several day nurseries who stayed open throughout and they were able to accommodate children whose original setting was not open. Central government introduced weekly monitoring of take up. In June the vast majority of PVI providers welcomed the children back as did a few of the school nursery classes. In the autumn everyone was initially struggling with low numbers but these have continued to grow through the term, the actual autumn headcount closed on 15th December and we will compare with last year's totals. The sector has seen intermittent closures due to confirmed cases but these have been few and far between. Overall the response from Croydon childcare providers to the pandemic has been excellent and Croydon are fortunate to have such hard working and resilient providers. We will continue to monitor the long term impact on the childcare sector.
2. The early years services had been commissioned from the Best Start Early Learning Collaboration but this contract is being terminated on 5th February

2021 as part of cost saving measures and the service delivered in-house. The local authority is committed to supporting the sector.

3. Although local authorities have a duty to ensure that there is sufficient childcare, they have limited mechanisms to affect the supply as the majority of funded places in Croydon are delivered by the private sector. Financial factors clearly play an important role in what type of funded offer is available and although the Early Years National Funding Formula guaranteed a 95% pass through rate for providers, it also effectively removed the ability for local authorities to incentivise and support places e.g. 2 year old places that may be less cost effective.
4. Demand for early years' places is also difficult to predict as early education is not statutory and while there is a wealth of research about the benefits of early education, ultimately it is still a parental choice. Price and availability of specific hours will also play a part and are inextricably linked to demand as full day providers offer a variety of funded offers to parents that also need to accommodate business considerations and while pre-schools offer more affordable packages they are by definition term-time.
5. At this point in time we believe we have sufficient childcare available across the borough. However ongoing uncertainty in relation to Covid-19 and ever-changing guidance make predictions more challenging. Based on the sector's performance and resilience to date and the steady stream of new providers to the borough we believe we already have sufficient capacity to continue to nurture and care for Croydon's children. We continue to see a net export of children from North and South into Central where there are more settings but also all the main transport links.
6. Although Croydon are constantly reviewing their property portfolio, there are currently no vacant council properties available from which a childcare business could be run. Therefore any providers hoping to open a childcare business in Croydon should first establish if there is a local demand for their service and then source their own premises and contact Ofsted regarding registration; the local authority does not offer any pre-registration support nor site visits. However once registered as Active, all providers will be contacted and asked for information to advertise their service on our Family Space Croydon website to which all parents are signposted and offered a programme of support.

1. Introduction

1.1 Purpose of Equality Analysis

The council has an important role in creating a fair society through the services we provide, the people we employ and the money we spend. Equality is integral to everything the council does. We are committed to making Croydon a stronger, fairer borough where no community or individual is held back.

Undertaking an Equality Analysis helps to determine whether a proposed change will have a positive, negative, or no impact on groups that share a protected characteristic. Conclusions drawn from Equality Analyses helps us to better understand the needs of all our communities, enable us to target services and budgets more effectively and also helps us to comply with the Equality Act 2010.

An equality analysis must be completed as early as possible during the planning stages of any proposed change to ensure information gained from the process is incorporated in any decisions made.

In practice, the term '**proposed change**' broadly covers the following:-

- Policies, strategies and plans;
- Projects and programmes;
- Commissioning (including re-commissioning and de-commissioning);
- Service review;
- Budget allocation/analysis;
- Staff restructures (including outsourcing);
- Business transformation programmes;
- Organisational change programmes;
- Processes (for example thresholds, eligibility, entitlements, and access criteria).

2. Proposed change

Directorate	Children, Families and Education
Title of proposed change	Education Estates Strategy / School Admission Arrangements
Name of Officer carrying out Equality Analysis	Denise Bushay

2.1 Purpose of proposed change (see 1.1 above for examples of proposed changes)

Briefly summarise the proposed change and why it is being considered. Please also state if it is an amendment to an existing arrangement or a new proposal.

The proposed Education Estates Strategy will ensure that the Council is compliant with its statutory requirements relating to school place sufficiency duties across three stages of education: early years, primary, and secondary and in relation to special school provision. The Strategy includes:
School Place Planning - Early Years; Alternative Provision / Pupil Referral Unit (PRU); Special Educational Needs and Disability (SEND);
School Admissions - proposed Admission Arrangements for Croydon’s community schools for the 2022/23 academic year and adoption of the proposed Pan London co-ordination arrangements;
School Maintenance and Compliance - proposed Schools’ Maintenance Plan for 2021/22 including asbestos management; and fire safety works in Croydon community schools.
 All of the proposed changes are amendments to existing arrangements.

The Strategy is submitted/approved by Cabinet, and full Council in relation to Admission Arrangements on an annual basis.

School Admissions

In line with the Schools Admission Code, 2014, Admission Authorities, including Local Authorities are responsible for ensuring that admission arrangements are compliant with the School Admissions Code. This includes consulting on proposed changes to admission arrangements annually and at least every 7 years where there have been no changes.

School Place Planning

In accordance with the Education and Inspections Act 2006, the Council has a statutory duty to “secure that sufficient schools for providing— (a) primary education, and (b) [secondary] education are available for their area” as well as to “secure diversity and increase opportunities for parental choice when planning the provision of school places” in the borough. The strategy aims to ensure that there are sufficient and suitable school places available for all of Croydon’s children; admission arrangements and policies are fair and lawful; the education estate is maintained to a good standard and comply with our duties under equalities and health and safety legislation and compliance with statutory safety legislation and mandatory fire safety requirements.

School Maintenance

The Council is the employer for community schools, community special schools, maintained nursery schools and pupil referral units and is responsible for larger condition and maintenance works. It has a duty to ensure that appropriate arrangements are in place to monitor and review any preventative and protective measures that have been implemented. The programme of works / maintenance plan will ensure that schools are properly maintenance and remain open and supports educational performance and the health & safety of pupils, staff and school community.

Special Educational Needs and Disability (SEND)

Nationally and in Croydon, about 97% of children are educated in the state-funded school system without the need for help or support beyond that which a mainstream school can provide. Of these children between 11-12% need some additional support at some stage to address a learning need for varying periods of time. The Council as an education authority has specific duties in relation to provision of education for children with special educational needs (SEN). The main duties include: to identify whether a child for whom they are responsible has SEN; and to assess a child who in their opinion has SEN. If the assessment shows that it is necessary, to make an EHC Plan: determining the child's needs and the educational provision required and to ensure the specific provision set out in the Plan is provided. The proposed strategy / changes, include change of provider of Rainbow nursery from September 20120 with a related consultation on the extension of the age range for St Giles School. This change will contribute to improved care, and early years educational outcomes and life chances for all children with Special Educational Needs and/or Disabilities. Consultation will be undertaken on a proposal to extend the age range of St Giles Special School to provide specialist education for children with learning difficulties from 3 - 4 years old, to enable Croydon's offer of early education to be provided effectively for all children.

The Council is undertaking feasibility studies and suitability/quality survey of a number of special schools (Red Gates; Priory and St Giles Schools) to inform options for the development of the Education Estate, specifically to ensure equality of opportunity to access good or outstanding special education provision in the Borough for children and young people with a wide range of special educational needs and disabilities.

Early Years

Local authorities are required by legislation - Childcare Act 2006 and Children and Families Act 2014 - to secure early education places for three and four year olds, as well as disadvantaged two year olds Early Years, until the child reaches compulsory school age. Croydon has a wide range of provision offering funded places ranging from day nursery, preschool; schools with nursery places and funded childminders. Cabinet has been asked to note the information contained in the Education Estates Strategy report. There are no proposed changes.

Alternative Provision / Pupil Referral Unit (PRU)

Under Section 19 of the Education Act 1996 Local Authorities have a statutory duty to arrange suitable education for permanently excluded pupils, and for pupils who – because of illness or other reasons – would not receive suitable education without such provision. Education outside of school, when it is arranged by Local Authorities or schools is called alternative provision. There are no immediate proposed changes. .

3. Impact of the proposed change

Important Note: It is necessary to determine how each of the protected groups could be impacted by the proposed change. If there is insufficient information or evidence to reach a decision you will need to gather appropriate quantitative and qualitative information from a range of sources e.g. Croydon Observatory a useful source of information such as Borough Strategies and Plans, Borough and Ward Profiles, Joint Strategic Health Needs Assessments <http://www.croydonobservatory.org/> Other sources include performance monitoring reports, complaints, survey data, audit reports, inspection reports, national research and feedback gained through engagement with service users, voluntary and community organisations and contractors.

3.1 Additional information needed to determine impact of proposed change

Table 1 – Additional information needed to determine impact of proposed change

If you need to undertake further research and data gathering to help determine the likely impact of the proposed change, outline the information needed in this table.		
Additional information needed	Information source	Date for completion
<p>Croydon has a diverse range of educational provision:, as outlined below:</p> <ul style="list-style-type: none"> • Mainstream community schools • Community special schools • Academies / free schools • Pupil Referral Unit/Alternative provision 		

For guidance and support with consultation and engagement visit <https://intranet.croydon.gov.uk/working-croydon/communications/consultation-and-engagement/starting-engagement-or-consultation>

3.2 Deciding whether the potential impact is positive or negative

Table 2 – Positive/Negative impact

<p>For each protected characteristic group show whether the impact of the proposed change on service users and/or staff is positive or negative by briefly outlining the nature of the impact in the appropriate column. . If it is decided that analysis is not relevant to some groups, this should be recorded and explained. In all circumstances you should list the source of the evidence used to make this judgement where possible.</p> <p>The primary aim of the Education Estates Strategy is to ensure that as an education authority the Council fulfils its statutory duties relating to school place planning, school admission and school maintenance. Local authorities are required to meet their statutory duty by providing a school place for every child that requires one, regardless of race, ethnicity, gender or disability and the other protected characteristics. Admission arrangements for all Croydon community schools must be determined annually. All schools are required by law to have oversubscription criteria for admissions, which are used to determine the offer of places if a school receives more applications than there are places available. The criteria must be clear, fair and objective in line with the School Admission Code, Equality Act and other relevant legislations, promoting equality and inclusiveness for residents.</p> <p>One of the key aims of the Education Estates Strategy is to improve diversity and choice of schools, the right amount of and different types of schools to improve parental choice. This will help to ensure that all pupils have equitable access to school and ensure that the Council’s duty to provide sufficient school places for pupils of statutory school age is fulfilled.</p> <p>The Council is the employer for community schools, community special schools, maintained nursery schools and pupil referral units and is responsible for larger condition and maintenance works ensuring that school buildings meet minimum standards.</p>

Protected characteristic group(s)	Positive impact	Negative impact	Source of evidence
Age	<p>In line with the School Admissions Code, school places are allocated using the agreed/published admissions criteria. The proposed changes relate to children and young people of statutory school age. Admissions to schools are a function that operates within a statutory framework. Croydon is the admission authority for community schools and there are arrangements and criteria for the admission of pupils to nursery, primary and secondary mainstream schools.</p>		
Disability	<p>Children and young people with special educational needs and/or disability are given priority in the admissions criteria or attend special schools. All schools are required to admit a child if their Education and Health Care Plan names the school.</p>		
Gender	<p>As above, children allocated school place in line with Admissions Code. The proposed strategies are not gender specific. The admission arrangements do not contain criteria that impact differently on people with a particular gender.</p>		
Gender Reassignment	<p>As above.</p>		
Marriage or Civil Partnership	<p>N/A</p>		
Religion or belief	<p>The admission arrangements for voluntary aided school could contain a denominational criterion within the policy, to enable priority for children whose parents are active</p>	<p>The admission criteria is based on determined admission arrangements compliant with the relevant legislation and is unlikely to discriminate unlawfully.</p>	

	members of the Church of England or Catholic and who request admission to a church school on denominational grounds. However, all applications, including those with no faith basis for applying, are considered applying the published arrangements.		
Race	The Admission Criteria, based on the Admissions Code, are used to allocate school places and do not include ethnicity or race as criteria. The proposed changes are not intended to have any negative impact on pupils from different ethnic groups		
Sexual Orientation	As above		
Pregnancy or Maternity	As above.		
<p>Important note: You must act to eliminate any potential negative impact which, if it occurred would breach the Equality Act 2010. In some situations this could mean abandoning your proposed change as you may not be able to take action to mitigate all negative impacts.</p> <p>When you act to reduce any negative impact or maximise any positive impact, you must ensure that this does not create a negative impact on service users and/or staff belonging to groups that share protected characteristics.</p>			

3.3 Impact scores

Example

If we are going to reduce parking provision in a particular location, officers will need to assess the equality impact as follows;

1. Determine the Likelihood of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the likelihood of impact score is 2 (likely to impact)
2. Determine the Severity of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the Severity of impact score is also 2 (likely to impact)
3. Calculate the equality impact score using table 4 below and the formula **Likelihood x Severity** and record it in table 5, for the purpose of this example - **Likelihood (2) x Severity (2) = 4**

Table 4 – Equality Impact Score

Severity of Impact	3	3	6	9
	2	2	4	6
	1	1	2	3
		1	2	3
	Likelihood of Impact			

Key

Risk Index	Risk Magnitude
6 – 9	High
3 – 5	Medium
1 – 3	Low

Equality Analysis

Table 5 – Impact scores

Column 1 PROTECTED GROUP	Column 2 LIKELIHOOD OF IMPACT SCORE Use the key below to score the likelihood of the proposed change impacting each of the protected groups, by inserting either 1, 2, or 3 against each protected group. 1 = Unlikely to impact 2 = Likely to impact 3 = Certain to impact	Column 3 SEVERITY OF IMPACT SCORE Use the key below to score the severity of impact of the proposed change on each of the protected groups, by inserting either 1, 2, or 3 against each protected group. 1 = Unlikely to impact 2 = Likely to impact 3 = Certain to impact	Column 4 EQUALITY IMPACT SCORE Calculate the equality impact score for each protected group by multiplying scores in column 2 by scores in column 3. Enter the results below against each protected group. Equality impact score = likelihood of impact score x severity of impact score.
Age	1	1	1
Disability	1	1	1
Gender	1	1	1
Gender reassignment	1	1	1
Marriage / Civil Partnership	1	1	1
Race	1	1	1
Religion or belief	1	1	1
Sexual Orientation	1	1	1
Pregnancy or Maternity	1	1	1

Equality Analysis

4. Statutory duties

4.1 Public Sector Duties

Tick the relevant box(es) to indicate whether the proposed change will adversely impact the Council's ability to meet any of the Public Sector Duties in the Equality Act 2010 set out below.

Advancing equality of opportunity between people who belong to protected groups

Eliminating unlawful discrimination, harassment and victimisation

Fostering good relations between people who belong to protected characteristic groups

Important note: If the proposed change adversely impacts the Council's ability to meet any of the Public Sector Duties set out above, mitigating actions must be outlined in the Action Plan in section 5 below.

5. Action Plan to mitigate negative impacts of proposed change

Table 5 – Action Plan to mitigate negative impacts

Complete this table to show any negative impacts identified for service users and/or staff from protected groups, and planned actions mitigate them.

Protected characteristic	Negative impact	Mitigating action(s)	Action owner	Date for completion
Disability	N/A			
Race	N/A			
Sex (gender)	N/A			
Gender reassignment	N/A			
Sexual orientation	N/A			
Age	N/A			
Religion or belief	N/A			
Pregnancy or maternity	N/A			
Marriage/civil partnership	N/A			

6. Decision on the proposed change

Based on the information outlined in this Equality Analysis enter X in column 3 (Conclusion) alongside the relevant statement to show your conclusion.		
Decision	Definition	Conclusion - Mark 'X' below
No major change	Our analysis demonstrates 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. If you reach this conclusion, state your reasons and briefly outline the evidence used to support your decision.	X
Adjust the proposed change	We will take steps to lessen the impact of the proposed change should it adversely impact the Council's ability to meet any of the Public Sector Duties set out under section 4 above, remove barriers or better promote equality. We are going to take action to ensure these opportunities are realised. If you reach this conclusion, you must outline the actions you will take in Action Plan in section 5 of the Equality Analysis form	
Continue the proposed change	We will adopt or continue with the change, despite potential for adverse impact or opportunities to lessen the impact of discrimination, harassment or victimisation and better advance equality and foster good relations between groups through the change. However, we are not planning to implement them as we are satisfied that our project will not lead to unlawful discrimination and there are justifiable reasons to continue as planned. If you reach this conclusion, you should clearly set out the justifications for doing this and it must be in line with the duty to have due regard and how you reached this decision.	
Stop or amend the proposed change	Our change would have adverse effects on one or more protected groups that are not justified and cannot be mitigated. Our proposed change must be stopped or amended.	
Will this decision be considered at a scheduled meeting? e.g. Contracts and Commissioning Board (CCB) / Cabinet		Meeting title: Cabinet / Full Council Date: 18 January 2021

7. Sign-Off

Officers that must approve this decision	
Equality lead	Name: Yvonne Okiyo Date: 18.12.20 Position: Equalities Manager
Director	Name: Date: Position: Interim Director of Education

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Agenda Item 8

REPORT TO:	CABINET 18th January 2021
SUBJECT:	General Fund Capital Programme 2020-2024
LEAD OFFICER:	<p>Katherine Kerswell, Head of Paid Service and Interim Chief Executive</p> <p>Lisa Taylor, Director of Finance, Investment and Risk (Section 151 Officer)</p> <p>Jacqueline Harris – Baker, Executive Director of Resources and Monitoring Officer</p>
CABINET MEMBER:	<p>Cllr Stuart King, Cabinet Member for Croydon Renewal</p> <p>Cllr Callton Young, Cabinet Member for Resources and Governance</p>
WARDS:	All
<p>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</p> <p>The Council’s capital programme underpins the capital resource allocation for all corporate priorities and policies for the residents of the Borough of Croydon. This report sets out the draft capital programme for the three year period 2021-2024 and amendments to the 2020/21 capital budget.</p>	
<p>FINANCIAL IMPACT</p> <p>The draft capital programme would result in borrowing over the Medium Term Financial Strategy (MTFS) of £90.546m. It is in addition to the borrowing required for the capitalisation direction if approved by central government.</p> <p>This report sets out a request for additional capital budget in this financial year of £2.228mn relating to budget amendments and additional capital works. Where budgets are approved, this is to ensure that any spending approved under the S114 Spending Control panel have followed the financial regulations.</p>	
<p>FORWARD PLAN KEY DECISION REFERENCE NO.: This is not a key decision</p>	

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 draft capital programme, which excludes the Housing Revenue Account capital programme. Note the final capital programme will be presented for Full Council approval as part of the budget setting process.
- 1.2 Recommend that Full Council approve amendments to the in year capital programme.

- 1.3 Note the changes to the Public Works Loan Board (PWLB) borrowing requirements, include the need to provide an outline capital strategy to central government before any further borrowing is permitted.
- 1.4 Note the proposal to review the Highways budgets alongside the Highways Strategy in the new financial year.
- 1.5 Cease the Asset Investment Board, as the Asset Acquisition Programme has stopped.

2. EXECUTIVE SUMMARY

- 2.1. The London Borough of Council is required, by law, to be a financially balanced and sustainable council. It faces significant challenges to achieve this, caused primarily by financial and other governance failures as highlighted in the Report in The Public Interest and other previous reports to Cabinet and Council.
- 2.2. In order to move the Council to a financial sustainable footing, work continues on reviewing operational and service delivery costs to bring them to a more appropriate level. This includes a review of the capital programme, to ensure that it better reflects the Council's priorities in light of its ongoing financial challenges.
- 2.3. The Council needs to balance its budget in the short and long term. While it works to reshape its service offer and bring costs down, the Council is seeking a direction to capitalise £70m of revenue expenditure in the current year and up to £80m over the subsequent three years, so that it can contain spending within available resources and build sufficient resilience to support its improvement journey. Clearly, there are revenue implications associated with this borrowing and this has an impact on the Council's ability to afford borrowing for its capital programme. The cost of this borrowing is built in to the council's MTFs and detailed in section 12 of this report.
- 2.4. This paper outlines an indicative capital programme for the General Fund, which will be completed as part of the budget setting cycle in February 2021. In order to finalise the programme, there is a need to review and challenge key projects and programmes in greater detail to ensure that they provide value for money for the Council and the residents of Croydon.
- 2.5. The capital programme for the Housing Revenue Account will be updated and reported to Cabinet in February 2021 as part of budget setting process. Work is underway to update the 30 year business plan which underpins the cycle of works to maintain council housing stock.

3. BACKGROUND

- 3.1. The financial regulations require a three year Capital Programme to be approved by Full Council, as part of the budget setting cycle. The Capital Programme is primarily funded by borrowing, with additional funding from developer contributions such as s106 agreements and the Community Infrastructure Levy and grants from external bodies. The Capital Programme is typically made up of:
 - 3.1.1. Recurring key projects and programmes linked to the Council's statutory duties. These include the Highways Maintenance programme and the Education Estates Programme;
 - 3.1.2. Recurring elements to ensure that the Council's infrastructure is repaired and maintained. This includes digital infrastructure, the corporate property programme;
 - 3.1.3. One – off elements linked to the Council's corporate priorities.
- 3.2. In recent years, the Capital Programme has also included borrowing for commercial investment for financial return or investment in commercial entities. These investments have a long term impact on the Council's financial position and performance, as has been reported to Cabinet as part of the strategic review of companies.

4. INDICATIVE DRAFT THREE YEAR CAPITAL PROGRAMME

- 4.1. The Council is working to re-align the capital programme to ensure that it is in proportion to its corporate priorities in light of the current financial challenges. There is a priority to ensure that programmes meet the Council's statutory objectives. Other projects which are already in progress will be scaled back accordingly.
- 4.2. **Appendix 1** sets out the indicative capital programme and the draft funding for the programme

CAPITAL PROGRAMME UPDATES

- 4.3. In the July 2021 review, the 2021/2024 capital programme will be updated for projects and programmes from the current financial year which are expected to slip. These amounts will be confirmed as part of the year end accounts close process.
- 4.4. The indicative programme will also be updated for:
 - 4.4.1. A review of any revised borrowing requirement of Brick by Brick. Further borrowing is likely to be required and this will be in line with value for money criteria and will be detailed and approved in future Cabinet reports;

- 4.4.2. A review of the assumptions underpinning the Growth Zone, which may impact on the profile and shape of the scheme; and
- 4.4.3. A review of other projects and programmes in light of the Croydon's financial position, revised priorities and Croydon Renewal Plan.
- 4.5. Programmes which were previously approved by Council will no longer be pursued and, therefore, removed from the programme. These are the Asset Acquisition Strategy and Sustainability measures.
- 4.6. In order to strengthen the governance around the capital programme, an officer Capital Board has been set up. This will ensure that adequate challenge is in place before any recommendations to Council are made on the shape and nature of the capital programme.

HIGHWAYS CAPITAL PROGRAMME

- 4.7. The Highways network is the highest value asset in the Council's portfolio, with a gross replacement value of £1.6 billion. The Highways' Strategy, published in September 2020, set out how the highways service will deliver against the Council's priorities.
- 4.8. Recent stock condition surveys indicate that the capital programme does not reflect the investment levels required to maintain a steady state. There is therefore a need for Council to consider different investment options and adopt the most appropriate one, taking into account the revised priorities in light of the Council's current financial position and Croydon Renewal Plan.
- 4.9. In order to achieve this, the Highways Service will bring a report to Cabinet in the new financial year, which sets out the Highways Strategy and associated budget proposals. The indicative capital programme currently reflects the previously approved Highways capital budgets and will need to be updated accordingly.

5. FUNDING THE PROGRAMME

- 5.1. The Capital Programme is funded by a mix of borrowing, developer contributions and external grants. As part of finalising the draft capital programme, the borrowing implications will be confirmed and the revenue implications factored into the MTFS. However, based on the indicative programme, the potential borrowing of £48.7m for 2021/22, for the programme of an estimate £77.4m but this is likely to change when the programme is updated for slippage. In line with the financial regulations, slippage is approved after the financial year end when outturn is finalised.

- 5.2. The Council holds balances of developer contributions known as the Community Infrastructure Levy and S106 contributions, which can be used to fund elements of the capital programme. In previous years, the Council expects to use CIL funding towards the Education Estates Programme. The Council also aims to use CIL towards key infrastructure in line with the underlying regulations governing CIL with the Council's internal Infrastructure Group. S106 contributions will be used in line with the associated agreements.
- 5.3. At the start of 2020/21, the borough CIL balance was £11.78m, with over £2m collected so far in the financial year. At least £6.8m will be allocated to the Council's capital programme in accordance with annual Council budget setting, but this will be amended each year based on funding available. The final amount to be allocated is decided in quarter 4 each year once there is certainty over the amount of CIL collected and the level of actual capital spend on programmes.

6. TRANSPORT FOR LONDON FUNDING

- 6.1. A number of capital schemes receive funding from Transport for London, including amounts under the Local Implementation Plan. Transport for London's financial position has been severely impacted by a decline in public transport use, due to the Coronavirus pandemic and the need to discourage public transport use for public health reasons. The financial situation has meant that TfL has also had to put most of the design, development and funding projects on pause, in addition to the safe stop on construction, with limited exceptions for safety and operationally critical expenditure. This pause has included pre-planned Local Implementation Plan funded and other borough programmes.
- 6.2. This therefore creates uncertainty within the capital programme as we are not able to confirm TfL LIP allocations for 2021/22. The programme will be updated once allocations are confirmed. This, in particular, has an impact on the Walking and Cycling Programme, which was funded through a combination of Growth Zone funding, TfL LIP and a small amount of capital borrowing.

7. CHANGES TO PWLB BORROWING CONDITIONS

- 7.1. As noted, the Capital Programme is mainly funded by borrowing. The Council obtains most of its borrowing from the Public Works Loans Board (PWLB). The PWLB's lending facility is operated by the UK Debt Management Office (DMO) on behalf of HM Treasury and provides loans to local authorities, and other specified bodies, from the National Loans Fund, operating within a policy framework set by HM Treasury.

- 7.2. The terms and arrangements for borrowing are determined by HM Treasury. Since 2004, under the prudential regime, local authorities are responsible for their own financial decision making. They were free to finance capital projects by borrowing, provided they can afford to service their debts out of their revenues. In deciding how much debt is affordable, local authorities are required by law to "have regard" to the Prudential Code, published by the Chartered Institute of Public Finance and Accountancy (CIPFA), but have discretion to decide how to fulfil this statutory requirement.
- 7.3. Decisions over which capital projects to pursue and whether to borrow for these investments are the responsibility of the elected Council of each local authority.
- 7.4. In response to local authorities using borrowing to fund investments in return for a yield, HM Treasury has announced targeted interventions which make some changes to the PWLB lending arrangements. Taking effect on 26 November 2020, these are:
 - 7.4.1. As a condition of accessing the PWLB, local authorities will be asked to submit a high-level description of their capital spending and financing plans for the following three years, including their expected use of the PWLB;
 - 7.4.2. As part of this, the PWLB will ask the S151 Officer to confirm that there is no intention to buy investment assets primarily for yield at any point in the next three years. This assessment is based on the finance director's professional interpretation of guidance issued alongside these lending terms.
 - 7.4.3. PWLB will not lend to a local authority that plans to buy investment assets primarily for yield anywhere in their capital plans, regardless of whether the transaction would notionally be financed from a source other than the PWLB.
 - 7.4.4. When applying for a new loan, the local authority will be required to confirm that the plans they have submitted remain current and that the assurance that they do not intend to buy investment assets primarily for yield remains valid.
 - 7.4.5. If HM Treasury has concerns that a loan may be used in a way that is incompatible with HM Treasury's own duties to ensure that public spending represents good value for money to the taxpayer, the department will contact the local authority to gain a fuller understanding of the situation. Should it transpire that an LA has deliberately misused the PWLB, HM Treasury has the option to suspend that LA's access to the PWLB, and in the most extreme cases, to require that loans be repaid. In practice such an eventuality is highly unlikely and would only occur after extensive discussion with the local authority in question.

8. IN-YEAR CAPITAL PROGRAMME

- 8.1. One of the work streams implemented by the Finance Review Panel was to look at the in-year capital programme to identify if projects could be paused, delayed or stopped in order to achieve immediate savings. As a result, the 2020/21 capital programme was reduced to £187.7m compared to £301.5m approved by Council in March 2020. The most significant reduction related to the cessation of the Asset Acquisition programme, which had assumed £100m of borrowing in the current year.
- 8.2. During the year, as part of the quarterly monitoring cycle, budget adjustments to the Capital Programme will need to be approved by Full Council.
- 8.3. **Table 3** in Appendix 1 outlines the changes to the current year programme that are recommended for Council approval. **Table 4** sets out the changes made to the Capital Programme which were reported to Cabinet in September 2020 in the Quarter 1 Financial Performance Report. This includes the £155m of budget adjustments made as part of the immediate measures actions under the Finance Review. Cabinet are asked to note that all spend against capital budgets are under the remit of the S114 notice and will continue to be subject to challenge by the S151 Officer as part of the Spending Control Panel mechanism. A budget increase does not, therefore, provide authority to spend but ensures the financial regulations must be adhered to, which stipulates that capital programme spend is within approved budgets.

9. RISKS ASSOCIATED WITH THE CAPITAL PROGRAMME

- 9.1. The Council will need to ensure that it is aware of the following risks when considering the final capital programme:
 - 9.1.1. The capitalisation direction has an impact on affordability of the capital programme as it will significantly increase the Council's borrowing;
 - 9.1.2. The cost of borrowing may change in future, which could have a revenue implication;
 - 9.1.3. PWLB will require the Council to provide a summary capital programme before any borrowing is agreed.
 - 9.1.4. As experienced by many other organisations, individual projects and programmes may be subject to the risk of overspend and delays. Regular monitoring and challenge is needed to help offset this. Any budget increases require Full Council approval.

- 9.2. There will also be key risks associated with individual programmes. These will be reported to Cabinet as part of the standard governance procedures and monitored in line with the Council's risk management framework.

10. CONSULTATION

- 10.1 The capital programme will require further review and due diligence along with specific processes for implementation including consultation with all relevant stakeholders.

11. PRE-DECISION SCRUTINY

- 11.1. This item has not been to a Scrutiny meeting for pre-decision debate. When a more up to date and complete programme is ready, it will be invited for scrutiny and challenge by the Scrutiny and Overview Committee as part of the overall budget setting process.

12. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 12.1. The annual revenue borrowing costs associated with the capital programme will depend on the life of the underlying assets and policy for minimum revenue provision. Based on an average life of 33 years, £50m of borrowing will result in revenue costs of £1.97m in the first year, made up of £815k of interest and £1.156m for the minimum revenue provision. This assumes a borrowing rate of 1.63%. Once the capital programme is finalised, the revenue costs associated with the borrowing will be updated. The Medium Term Financial Strategy currently includes an annual revenue budget of £9.847m, which covers the costs of the minimum revenue provision associated with existing borrowing. An additional £2.989m has been included to cover the minimum revenue provision associated with the MHCLG capitalisation direction.

12.2 Risks

The report sets out the risks in section 9.

12.3 Options

There are no options presented in this report.

12.4 Future savings/efficiencies

The work to finalise the capital programme will seek to ensure that it is in accordance with value for money requirements and the revised service offer.

Approved by: Interim Deputy S151 Officer Matt Davis on behalf of Lisa Taylor, Director of Finance, Investment and Risk and S151 Officer

13. LEGAL CONSIDERATIONS

- 13.1. The Interim Director of Law & Governance comments that, as mentioned earlier in this report, the Council is under a duty to ensure that it maintains a balanced budget and to take any remedial action as required in year.
- 13.2. 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.
- 13.3. "Proper administration" 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.

Approved by Sean Murphy, Interim Director of Law and Governance and Deputy Monitoring Officer

14. HUMAN RESOURCES IMPACT

- 14.1. There are no immediate implications for the workforce in respect to the recommendations.

Approved by: Sue Moorman, Director of Human Resources

15. EQUALITIES IMPACT

- 15.1. An equality analysis will be undertaken to ascertain the potential impact the programme will have on groups that share protected characteristics as part of the budget setting cycle. In order to finalise the programme, there is a need to review and challenge key projects and programmes in greater detail to ensure that they provide value for money for the Council and do not have any adverse impact on vulnerable residents and groups that share protected characteristics

Approved by: Yvonne Okiyo, Equalities Manager

16. ENVIRONMENTAL IMPACT

- 16.1. For each proposal within the Capital Programme, an environmental impact assessment will be carried out.

17. CRIME AND DISORDER REDUCTION IMPACT

- 17.1. For each proposal within the Capital Programme, an environmental impact assessment will be carried out.

18. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 18.1. To set out a draft capital programme for 2021-2024 and update the in year capital budget to ensure that any spending decisions have associated budget cover.

19. OPTIONS CONSIDERED AND REJECTED

- 19.1. No other existing options were considered.

20. DATA PROTECTION IMPLICATIONS

20.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

This reports presents high-level financial data only.

20.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

No

CONTACT OFFICER:	Lisa Taylor, Director of Finance Investment and Risk and S151 Officer
APPENDICES TO THIS REPORT:	Appendix 1 – indicative capital programme and the draft funding
BACKGROUND PAPERS:	None

Table 1: Indicative MTFS Capital Programme

Description	Budget 2021/22	Budget 2022/23	Budget 2023/24	Total MTFS budget	Three year funding source			
					Funding Borrowing	Funding Growth Zone	Other funding (Grants, CIL, other)	Total
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
Disabled Facilities Grant	2,400	2,400	2,400	7,200	0	0	7,200	0
Empty Homes Grants	500	0	0	500	500	0	0	0
Bereavement Services - burial land	600	0	0	600	600	0	0	0
Bereavement services - crematorium	465	0	0	465	465	0	0	0
Health, Wellbeing and Adults	3,965	2,400	2,400	8,765	1,565	0	7,200	8,765
Education – Fire Safety Works	1,200	300	0	1,500	0	0	0	0
Education – Fixed term expansion	260	34	0	294	0	0	0	0
Education – Major Maintenance	2,945	3,000	3,000	8,945	0	0	0	0
Education – Permanent Expansion	180	44	0	224	0	0	0	0
Education – Special Educational Needs	8,892	352	555	9,799	0	0	0	0
Education - other	200	0	0	200	0	0	0	0
Education Funding	0	0	0	0	2,330	0	18,632	20,962
Children, Families and Education Sub Total	13,677	3,730	3,555	20,962	2,330	0	18,632	20,962
Asset Management	155	0	0	155	155	0	0	155
Clocktower chillers	462	0	0	462	462	0	0	462

Appendix 1

Corporate Property	2,000	2,000	2,000	6,000	6,000	0	0	6,000
Feasibility Fund	330	330	330	990	990	0	0	990
Fieldway Cluster (Timebridge community centre)	121	0	0	121	121	0	0	121
Grounds Maintenance Insourced Equipment	1,200	0	0	1,200	1,200	0	0	1,200
Leisure centre invest to save	140	70	0	210	210	0	0	210
Libraries Investment	1,610	0	0	1,610	1,610	0	0	1,610
Measures to mitigate illegal encampments	73	73	73	219	219	0	0	219
Museum archives	100	0	0	100	100	0	0	100
Parking	475	475	0	950	950	0	0	950
Play equipment	815	0	0	815	505	0	310	815
Safety - Digital Upgrade of CCTV	655	0	0	655	655	0	0	655
SEN Transport	1,275	0	0	1,275	1,275	0	0	1,275
Signing	112	0	0	112	112	0	0	112
Waste and Recycling	1,558	0	0	1,558	1,558	0	0	1,558
Waste and Recycling - Don't Mess with Croydon	768	0	0	768	768	0	0	768
Place sub-total	11,849	2,948	2,403	17,200	16,890	0	310	17,200
ICT Refresh & Transformation	6,200	6,200	6,200	18,600	18,600	0	0	18,600
People ICT Programme	1,521	0	0	1,521	1,521	0	0	1,521
Uniform ICT upgrade	0	0	3,719	3,719	3,719	0	0	3,719
Finance and HR System	400	0	0	400	400	0	0	400

Appendix 1

Resources sub-total	8,121	6,200	9,919	24,240
Programmes under review				
Highways	17,231	8,051	tbc	25,282
Electric Vehicle Charging Points	500	0	0	500
Growth Zone	10,900	21,000	14,000	45,900
RIF - Brick by Brick Borrowing	tbc	tbc	tbc	tbc
New Addington wellbeing centre	2,979	10,833	0	13,812
Park Life	3,758	4,773	0	8,531
South Norwood Regeneration	1,323	849	74	2,246
Walking and Cycling strategy	tbc	tbc	tbc	tbc
Asset management - Stubbs mead	3,132	0	0	3,132
TFL projects	tbc	0	0	0
Total under review	39,823	45,506	14,074	99,403
Total General Fund Capital Programme	77,435	60,784	32,351	170,570
MHCLG capitalisation direction request	50,000	25,000	5,000	80,000

24,240	0	0	24,240
25,282	0	0	25,282
100	0	400	500
0	45,900	0	45,900
0	0	0	0
13,812	0	0	13,812
2,400	0	6,131	8,531
795	0	1,451	2,246
tbc	tbc	tbc	tbc
3,132	0	0	3,132
tbc	0	0	0
45,521	45,900	7,982	99,403
90,546	45,900	34,124	170,570
80,000	0	0	80,000

Table 2: Draft indicative funding

	Budget 2021/22	Budget 2022/23	Budget 2023/24	Total MTFS budget
	£000s	£000s	£000s	£000s
Borrowing	48,654	29,570	12,322	90,546
Borrowing - GZ	10,900	21,000	14,000	45,900
TfL	-	-	-	-
S106	771	-	-	771
CIL	400	200	200	800
School Condition Allocation	4,145	3,300	3,000	10,445
Special Provision Capital Funding	897	152	355	1,404
Basic Need Funding	640	78	-	718
ESFA	5,003	-	-	5,003
Other grant - DFG	2,400	2,400	2,400	7,200
Other grant - Football Foundation	2,000	3,073	-	5,073
Other grant - London Marathon	250	250	-	500
Other Grant - ORCS	300	-	-	300
Historic England	374	511	74	959
Other grants - GLA	701	250	-	951
	77,435	60,784	32,351	170,570
MHCLG capitalisation direction	50,000	25,000	5,000	80,000

Table 3 In year changes requiring Full Council approval

Service area	Description	Amount
		£000s
Health, Wellbeing and Adults Department		
Angel Lodge	Project over-spent against original budget	46
Place Department		
Highways Tree Works	Subject to works being approved by the SCP, the service has scheduled work which would be funded by Council £182k borrowing required. £39k of this acts as match funding leverage for a further £287k external funding from GLA. The original 5 yr programme agreed to £179k Council borrowing per annum.	182
Leisure	£180k required as per Leisure contract with GLL. Under the original terms of the leisure contract, the Council committed to fund capital works which would reduce the revenue payments to the leisure provider	180
Leisure	Budget correction	308
Asset Management programme	Fund to support Asset Strategy plan	310
Resources Department		
Corporate Property Program	Additional budget required for repairs.	682
Finance and HR system	Further bid requested to maintain the interim support arrangements for the Finance and HR system	524
	Total	2,232

Table 4 – Capital Programme reported to September Cabinet in the Quarter 1 Financial Performance report

Category	Original budget 2020/21 £000's	Revised Slippage 2019/20 £000's	Budget adjustments £000's	Revised budget 2020/21 £000's	Actuals 2020/21 £000's	Forecast 2020/21 £000's	Variance 2020/21 £000's
Adults ICT	0	284	0	284	0	284	0
Angel lodge conversion to MHO	100	0	0	100	0	100	0
Bereavement Services	0	900	0	900	0	900	0
Disabled Facilities Grants	2,400	2,013	0	4,413	168	4,413	0
Provider Services - Extra Care	500	0	0	500	0	500	0
Sheltered Housing	0	938	0	938	0	938	0
Health, Wellbeing and Adults including Gateway and Housing Sub Total	3,000	4,135	0	7,135	168	7,135	0
Education – Fire Safety Works	1,000	954	0	1,954	0	1,954	0
Education – Fixed term expansion	59	140	0	199	108	199	0
Education – Major Maintenance	2,882	1,929	0	4,811	362	4,811	0
Education – Miscellaneous	1,444	5,650	0	7,094	44	7,094	0
Education – Permanent Expansion	1,091	817	0	1,908	53	1,908	0
Education – Secondary Schools Estate	0	0	0	0	47	0	0
Education – Special Educational Needs	18,807	4,908	0	23,715	2,204	23,715	0
Education – SEN Centre of Excellence	0	1,305	0	1,305	0	1,305	0
Early Help Centre	0	0	0	0	73	78	78
Children, Families and Education Sub Total	25,283	15,703	0	40,986	2,891	41,064	78
Affordable Housing Programmes	40,000	0	(40,000)	0	0	0	0
Allotments	0	332	0	332	0	332	0
Brick by Brick programme	75,510	0	492	76,002	0	76,002	0
Community Ward Budgets	576	1,272	0	1,848	0	1,848	0
CALAT	0	619	0	619	52	619	0
Devolution initiatives	912	0	(912)	0	0	0	0
Electric Vehicle Charging Points	2,400	0	(1,200)	1,200	0	1,200	0
Empty Homes Grants	500	0	0	500	-20	500	0
Feasibility Fund	330	20	0	350	30	350	0
Fieldway Cluster (Timebridge Community Centre)	0	5,204	0	5,204	40	5,204	0

Appendix 1

Fiveways junction	0	0	0	0	0	0	0
Growth Zone	15,000	0	(8,327)	6,673	0	6,673	0
Grounds Maintenance Insourced Equipment	1,500	0	(1,500)	0	0	0	0
Highways - maintenance programme	6,000	0	0	6,000	33	6,000	0
Highways - maintenance programme (staff recharges)	567	0	0	567	0	567	0
Highways – flood water management	565	663	0	1,228	0	1,228	0
Highways – bridges and highways structures	575	423	0	998	0	998	0
Highways – Tree works	299	0	(299)	0	9	0	0
Measures to mitigate illegal encampments in parks and open spaces	0	0	0	0	0	0	0
Leisure centres equipment upgrade	0	0	0	0	0	0	0
Libraries investment – general	650	1,405	0	2,055	386	2,055	0
Libraries investment – South Norwood library	0	522	0	522	0	522	0
Neighborhood Support Safety Measures	50	0	0	50	0	50	0
New Addington wellbeing centre	3,000	0	(1,525)	1,475	121	1,475	0
Parking	2,825	113	0	2,938	0	2,938	0
Park Life	0	412	0	412	0	412	0
Play Equipment	0	730	0	730	3	730	0
Safety – digital upgrade of CCTV	250	309	0	559	0	559	0
Section 106 Schemes	0	0	4,973	4,973	66	4,973	0
SEN Transport	1,460	0	0	1,460	0	1,460	0
Signage	0	25	0	25		25	0
Sustainability Programme	2,500	0	(1,875)	625	0	625	0
TfL LIP	2,462	0	(2,462)	0	0	0	0
Unsuitable Housing Fund	0	30	0	30	0	30	0
Walking and cycling strategy	750	125	0	875	0	875	0
Waste and Recycling Investment	0	1,558	0	1,558	0	1,558	0
Waste and Recycling – Don't Mess with Croydon	768	0	0	768	0	768	0
Place Sub Total	159,449	13,762	(52,635)	120,576	720	120,576	0
Asset strategy – Stubbs Mead	0	200	0	200	0	200	0
Asset Strategy Programme	0	460	0	460	55	460	0
Asset Acquisition Fund	100,000	0	(100,000)	0	0	0	0

Appendix 1

Corporate Property Programme	2,000	0	0	2,000	41	2,000	0
Crossfield (relocation of CES)	0	0	0	0	0	0	0
Emergency Generator (Data Centre)	0	0	0	0	0	0	0
Finance and HR system	0	0	431	431	0	431	0
ICT Refresh & Transformation	6,200	187	0	6,387	138	6,387	0
People ICT	2,014	7,128	0	9,142	364	9,142	0
Uniform ICT Upgrade	3,600	0	(3,600)	0	7	0	0
Resources Sub Total	113,814	7,975	(103,169)	18,620	605	18,620	0
GENERAL FUND TOTAL	301,546	41,575	(155,804)	187,317	4,384	187,395	78

REPORT TO:	CABINET 18 JANUARY 2021
SUBJECT:	Proposed closure of Virgo Fidelis Convent Senior School
LEAD OFFICER:	<p style="text-align: center;">Debbie Jones - Interim Executive Director, Children, Families and Education</p> <p style="text-align: center;">Shelley Davies – Interim Director, Education and Youth Engagement</p> <p style="text-align: center;">Denise Bushay – Interim Head of Service, School Place Planning and Admissions</p>
CABINET MEMBER:	Councillor Flemming, Children, Young People and Learning
WARDS:	All
<p>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</p> <p>The recommendations in this report are in line with the new corporate priorities and new Ways for renewing Croydon:</p> <ul style="list-style-type: none"> - We will live within our means, balance the books and provide value for money for our residents. - We will focus on tackling ingrained inequality and poverty in the borough. - We will focus on providing the best quality core service we can afford. <p>Appendix D - Administration Priorities for the Croydon Renewal Plan</p>	

<p>FINANCIAL IMPACT</p> <p>Virgo Fidelis Convent Senior School currently has a projected year end deficit of £2.178m by March 2021, and a total estimated deficit of £2.5m by August 2021. Under current legislation, where a maintained school closes any balance held by the school (whether surplus or deficit) reverts to the Local Authority and the final projected deficit will have a negative impact on the Council's revenue budget.</p> <p>Officers continue to explore options to minimise expenditure and for additional income to be generated from the schools site to offset some or all of this forecast deficit.</p>
<p>FORWARD PLAN KEY DECISION REFERENCE NO.: 0221CAB</p> <p>The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee</p>

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 recommended to:

- (i) consider the representations made in response to the statutory notice and consultations regarding the proposed closure of Virgo Fidelis Convent Senior School from August 2021; and
- (ii) approve the proposed closure of Virgo Fidelis Convent Senior School from August 2021.

2. EXECUTIVE SUMMARY

- 2.1 This paper reports on the outcomes from the statutory consultations on the proposed closure of Virgo Fidelis Convent Senior School from August 2021. It recommends that cabinet consider representations made and decide whether to approve the proposed closure of the school from 31st August 2021.
- 2.2 The report includes a summary of responses and representations received during the consultation periods and the council and diocese response to issues/concerns raised. The consultation documents and outcome reports are appended to this report.
- 2.3 Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood. The Interim Executive Board [IEB], in consultation with Croydon Council and the Archdiocese of Southwark agreed to undertake statutory consultation on the proposed closure of Virgo Fidelis Convent Senior School, from August 2021.
- 2.4 The reasons for the proposed closure are because the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use); the pupil roll has fallen consistently over the past several years; the school budget has been in deficit over the past several years with the school now in significant debt.
- 2.5 A pre-publication consultation on the proposed closure of Virgo Fidelis Convent Senior School took place from 01 October 2020 to 23 October 2020. A total of 60 responses were received during the pre-publication consultation period and the majority do not support the proposed closure of the school. The full outcomes report is at Appendix 1a.
- 2.6 The representation - formal consultation - on the proposed closure of Virgo Fidelis Convent Senior School started on 12 November and ended on 10 December 2020 and the majority of respondents do not support the proposed closure of the school. The full outcomes report is at Appendix 2b.

3. DETAIL

- 3.1 Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood in the London Borough of Croydon. The school is part of the educational provision of the Archdiocese of Southwark and the London Borough of Croydon.
- 3.2 The Interim Executive Board (IEB), in consultation with Croydon Council and the Archdiocese of Southwark agreed to commence the statutory process for the proposed closure of the school from August 2021 as the school is no longer considered viable due to the majority of the building being unfit for purpose; low pupil number and significant deficit. As a consequence of these factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum.
- 3.3 On 1st October 2020, the Leader of the Council delegated authority to the Executive Director of Children, Families & Education, in consultation with the Cabinet Member for Children, Young People & Learning to authorise the Council to commence the statutory process — consultation; publication of proposal and representation - regarding the proposed closure of Virgo Fidelis Convent Senior School.
- 3.4 Pre-publication consultation
In line with the Department for Education guidance: Opening and closing maintained schools, Statutory guidance for proposers and decision-makers, November 2019, a pre-publication consultation on the proposed closure of the school took place from 01 October 2020 to 23 October 2020 where those who will be directly affected by the proposed closure could share their views.
- 3.5 A total of 60 responses were received during the pre-publication consultation period; 57 of the 60 responses were received via the online survey and 3 were received via email. Of the 57 online respondents:
- 32 do not support the proposed change.
 - 12 do support the proposed change
 - 12 were not sure
 - 1 was not affected/did not wish to answer the questions
- 3.6 The consultation document – Appendix 1; and consultation outcomes report – Appendix 1a – are attached.
- 3.7 Publication of statutory notice / Representation – formal consultation
A statutory notice was published in the Croydon Guardian newspaper and on the Council and school's website on 12 November 2020, which started the representation - formal consultation period. The formal consultation period lasted four weeks from 12 November to 10 December 2020 which allowed any person to send objections or comments to the council.
- 3.8 A total of 34 responses have been received during the representation period, of which:
- 22 do not support the proposed closure of the school,
 - 8 do support the proposed closure of the school, of which
 - 4 were not sure

3.9 The statutory notice – Appendix 2; representation document – Appendix 2a; and representation outcomes report -are attached at Appendix 2b.

3.10 Issues raised during pre-publication and representation periods

The main issues raised during both consultation periods are

- (a) about the potential disruption on students' education;
- (b) loss of Catholic Secondary School places and single sex schools in Croydon; and
- (c) history attached to the school

3.11 Response to issues raised

(a) about the potential disruption on students' education.

To minimise any potential disruption, subject to approval, the proposed closure will take place at the end of the academic year – 31st August 2021. This will mean that Year 10 pupils can continue their learning at St Mary's Catholic High School; Year 11 students would have completed their GCSE examinations and pupils in Years 8 and 9 at the school can start the academic year at a new school.

(b) loss of Catholic Secondary School places and single sex schools in Croydon

The council will continue to work closely with the Archdiocese of Southwark regarding Catholic secondary school places within the borough.

A key part of the council's duty is to provide diversity in its educational offers to increase opportunities for parental choice. Whilst bearing this in mind, it is important to note that there has been a declining roll at the school which has contributed to a significant financial deficit as the majority of funding received by schools is determined by the number of children on roll.

Currently there is sufficient school places across the borough to accommodate pupils on roll at Virgo Fidelis, and including places in Catholic Schools.

(c) history attached to the school

The Trustees response - The school's buildings will remain with the Trustees of Our Lady of Fidelity Established at Upper Norwood, London, who will look to maintain the historic buildings where possible.

3.12 The consultation outcome reports – Appendices 1a and 2b - contain the full details and our response to the issues raised.

3.13 The council's cabinet is the final decision maker on the proposed closure of Virgo Fidelis Convent Senior School and must make a decision within a period of two months of the end of the representation period, otherwise the proposal must be referred to the Schools Adjudicator for decision.

4. CONSULTATION

- 4.1 The Department for Education statutory guidance for proposers and decision-makers - Opening and closing maintained schools, November 2019 – outline the statutory process that must be followed for closing a maintained school:
- (i) It is a statutory requirement to consult any parties the proposer thinks is appropriate before publishing proposals
 - (ii) A statutory proposal should be published within 12 months of the initial consultation period being completed
 - (iii) The representation period starts on the date of publication of the statutory proposal and must last for four weeks. During this period, any person or organisation can submit comments on the proposal to the LA, to be taken into account by the decision-maker.
- 4.2 The council has been compliant to the above statutory requirements in relation to the proposed closure of Virgo Fidelis Convent Senior School. A copy of the consultation document, statutory notice and representation document is attached at Appendices 1, 2 and 2a respectively.

5. PRE-DECISION SCRUTINY

- 5.1 This report did not go a Scrutiny meeting.

6 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 6.1 The reasons for the proposed closure are because the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use); the pupil roll has fallen consistently over the past several years; the school budget has been in deficit over the past several years with the school now in significant debt.
- 6.2 Funding for schools is largely based on pupil numbers, and with reducing demand for places in recent year Virgo Fidelis has had insufficient funding to cover costs. In addition to a large portion of funding being directly related to the number of pupils attending a school, irrespective of the pupil numbers there are fixed running costs to be met from the schools delegated budget. Over the past number of years, the school's financial position has worsened as a consequence of a fall in pupil numbers, exacerbated by a deteriorating estate.
- 6.3 Virgo Fidelis financial position over the past four years and the estimated final position, as at 31 March 2021, is outlined in the table below:

Year	Delegated Funding £	Deficit (Carry Forward) £
2016-17	2,656,689	-839,000
2017-18	2,435,828	-1,267,621
2018-19	2,502,844	-1,669,868
2019-20	2,521,750	-1,947,346
2020-21	2,344,995	-2,177,728

- 6.4 Virgo Fidelis had a carried forward deficit of £1.947m as at March 2020, with a projected year end deficit of £2.178m (operating with a 2019/20 in-year deficit of £0.231m) by March 2021, and a total estimated deficit of and estimated £2.5m by August 2021. This deficit will only increase if the school remains open and does not operate at full capacity.
- 6.5 Under current legislation, where a maintained school closes any balance held by the school (whether surplus or deficit) reverts to the Local Authority and cannot be transferred as a balance to any maintained school, even where the school is a successor to the closing school.
- 6.6 Therefore, the closure of Virgo Fidelis will have a negative impact of approx. £2.5m on the Council's revenue budget. This will put increasing pressure on an already heavily pressurised budget and will need to be funded by the Council taxpayers of Croydon.
- 6.7 During the next 12 months the Council will be working with Virgo Fidelis and the Diocese to ensure that the school manages its budget as efficiently and effectively as possible to ensure the final deficit is kept to a minimum. Options will be explored to see if any additional income can be generated from this site to offset some or all of this forecast deficit.

Approved by: Kate Bingham (Interim) Head of Finance, Children, Families and Education on behalf of Lisa Taylor, Director of Finance, Investment and Risk and S151 Officer.

7. LEGAL CONSIDERATIONS

- 7.1 School place planning duties (s13-14 Education Act 1996).
- 7.2 The Council as an education authority has a duty to promote high standards of education and fair access to education. It also has a general duty to secure sufficient schools in their area. This includes a duty to respond to parents' representations about school provision. These are referred to as the school place planning duties.
- 7.3 Section 16 of the Education & Inspections Act 2006 establishes the consultation procedures for statutory proposals, and local authorities also have a duty to have regard to statutory guidance, in this particular case, the Department for Education's (DfE) guidance: "Opening and closing maintained

schools, Statutory guidance for proposers and decision-makers, November 2019.”

- 7.4 The Cabinet should consider the views of all those affected by the proposal or who have an interest in it. This includes statutory objections and comments submitted during the representation period. These are summarised in paragraphs 3.5 and 3.8 and full details in appendices 1a and 2b. The Cabinet should not simply take account of the numbers of people expressing a particular view when considering representations made on the proposal but should give the greatest weight to representations from those stakeholders most directly affected by the proposal.
- 7.5 The Cabinet must be satisfied that the consultation meets statutory requirements. If the requirements have not been met, the Cabinet may judge the proposal to be invalid and should consider whether they can make a decision on the proposal. Alternatively the Cabinet may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposal as a whole.
- 7.6 The LA will be the decision-maker on a school closure proposal and must make a decision within a period of two months of the end of the representation period or refer the case to the Schools Adjudicator. When issuing a decision, the decision-maker can:
- reject the proposal;
 - approve the proposal without modification;
 - approve the proposal with such modifications as they think desirable, after consulting the LA and/or proposer (as appropriate); or
 - approve the proposal – with or without modification – subject to certain conditions¹⁵ (such as the granting of planning permission) being met.

Approved by: The Head of Social Care & Education Law comments on behalf of the Council Solicitor & Monitoring Officer.

8. HUMAN RESOURCES IMPACT

- 8.1 Communication and consultation with both teaching and support staff will commence and will continue alongside representatives of the relevant professional associations and trade unions. This is supported by the school’s HR provider.
- 8.2 Consultation and process will abide in accordance to the Employment Rights Act 1996 and the Schools policies and procedures relating to Restructuring, Reorganisation and Redundancy Procedure

Approved by: Nadine Maloney, Head of HR Children, Families and Education, on behalf of the Director of Human Resources.

9. EQUALITIES IMPACT

- 9.1 An equality analysis has been undertaken to help us to understand whether people with protected characteristics, as defined by the Equality Act 2010, will be disproportionately affected by the proposed closure of the school.
- 9.2 Croydon schools provide diverse educational provision in terms of type/category, size and educational sponsors. These include faith/church schools, special schools, mainstream schools and Academies /Free Schools. Pupils are allocated a school place based on the admissions criteria which aims to promote fair access to schools and are compliant with the School Admissions Code.
- 9.3 The proposed strategy supports the Council's general equality duty to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010; to advance equality of opportunity and foster good relations between persons who share a protected characteristic and those who do not.
- 9.4 The equality analysis indicates that the proposed changes will not negatively impact on any groups that share protected characteristics and that no major change is required as the proposal meets the general and specific equality duties as required by the Equality Act. However, it is acknowledged that if the proposal is approved, it will result in less Catholic schools in the borough, however there will still be sufficient Catholic School places.
- 9.5 As part of the proposal to close a school that has been designated with a religious character, the council is required to consider the effect that this will have on the balance of denominational provision in the area. The Council will continue to work closely with the Diocese regarding Catholic secondary schools within the borough.
- 9.6 School Admissions would ensure that appropriate provisions are in place for any displaced pupils. They would ensure that parental preference and family circumstances such as siblings are considered when offering school places to minimise the impact on families where possible.
- 9.7 An individual and tailored approach will be used to help pupils with disabilities transition to another school. School transport support provided. An alternative place will be identified that meets their needs

Approved by: Yvonne Okiyo, Equalities Manager

10. ENVIRONMENTAL IMPACT

- 10.1 The Council will work with schools to monitor the energy performance post works so that this can be captured in lessons learnt for future projects

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 Children being in school will help prevent criminal and anti-social behaviour or being victim of such behavior and reduce the number of children and young people in the criminal justice system.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 The recommendations of this report are set out to ensure that the Council is compliant with its statutory duties as an education authority:
- School Place Planning (s13-14 Education Act 1996) to promote high standards of education and fair access to education; secure sufficient primary and secondary education, including SEN to meet the needs of the population of its area

13. OPTIONS CONSIDERED AND REJECTED

- 13.1 If Cabinet do not approve the proposed closure of the school, this would mean that the School's financial position would worsen, further impacting on the quality of education for its current pupils and leaving an even bigger budget deficit
- 13.2 The IEB, Croydon Council and Archdiocese of Southwark share the collective view that the school is no longer viable. There are several reasons contributing to this shared view, chiefly:
- the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use)
 - the pupil roll has fallen consistently over the past several years
 - the school budget has been in deficit over the past several years with the school now in significant debt.

As a consequence of the above, as well as other factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum that it would be reasonable to expect of a modern secondary school now and in the immediate and longer term future.

- 13.3 Any displaced pupils at Virgo Fidelis Cabinet will be offered an alternative place at another school, that meets the needs of the pupils. including places in single sex and Catholic schools

14. DATA PROTECTION IMPLICATIONS

- 14.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

- 14.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

This report does not include any personal data.

The Director of Education comments that this report does not contain any personal data.

Approved by: Shelley Davies - Interim Director of Education and Youth Engagement

CONTACT OFFICER:

Denise Bushay – Interim Head of Service,
School Place Planning & Admission,
07850882628

APPENDICES TO THIS REPORT

Appendix 1 – Pre-publication consultation document

Appendix 1a – Pre-publication consultation outcomes report

Appendix 2 – Statutory Notice

Appendix 2a – Representation – formal consultation – document

Appendix 2b – Representation – formal consultation – outcomes report

Appendix 3 – Equality Analysis

Appendix 4 – Difference between community and voluntary aided school

Appendix 5 – History of Virgo Fidelis Convent Senior School

BACKGROUND DOCUMENTS:

None

Pre-publication Consultation on the proposed closure of Virgo Fidelis Convent Senior School

Consultation period: 01 October 2020 to 23 October 2020

Consultation document

About the school

Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood in the London Borough of Croydon. The school is part of the educational provision of the Archdiocese of Southwark and the London Borough of Croydon. The school is situated at 147 Central Hill, Upper Norwood, London, SE19 1RT.

The Proposal

The Interim Executive Board [IEB], in consultation with Croydon Council and the Archdiocese of Southwark have agreed to commence the statutory process for the proposed closure of the school in August 2021 following completion of Year 11 GCSE examinations.

Reason for the proposed closure

The IEB, Croydon Council and Archdiocese of Southwark share the collective view that the school is no longer viable. There are several reasons contributing to this shared view, chiefly:

- the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use)
- the pupil roll has fallen consistently over the past several years
- the school budget has been in deficit over the past several years with the school now in significant debt.

As a consequence of the above, as well as other factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum that it would be reasonable to expect of a modern secondary school now and in the immediate and longer term future.

Statutory requirement

In line with the Department for Education's (DFE) guidance: *Opening and closing maintained schools, Statutory guidance for proposers and decision-makers, November 2019*, subject to approval, the council will be following the statutory process for closing a maintained school which consists of 5 stages:

Stage 1: consultation - it is a statutory requirement to consult any parties the proposer thinks is appropriate before publishing proposals. It is for the proposer to determine the nature and length of the consultation. The purpose of this consultation is to seek the views and engage with those that will be directly affected by the proposed closure of Virgo Fidelis Convent Senior School.

It is also an opportunity for interested parties to suggest options for consideration on the proposed closure of Virgo Fidelis Convent Senior School in August 2021.

Stage two: publication - A statutory proposal should be published within 12 months of the initial consultation period being completed.

Stage three: representation - The representation period starts on the date of publication of the statutory proposal and MUST last for four weeks. Any person can send objections or comments on the proposal to Croydon Council.

Stage four: decision - The LA will be the decision-maker on a school closure proposal.

Stage five: implementation - There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation.

Impact of the closure

Years 7 and 10 pupils

The Office of the Schools Adjudicator approved the suspension of entry to Year 7 for September 2020. Year 7 pupils who accepted a place at Virgo Fidelis have been offered an alternative school place at Notre Dame High School, an all-girls' Roman Catholic comprehensive school situated in Elephant and Castle; or another school of choice. Year 10 students will be taught on the site of St Mary's Catholic Secondary School. Subject to approval of the proposed closure of Virgo Fidelis, the governors of St Mary's Catholic Secondary School have agreed to retain the Year 10 pupils as they move into the final year of their education in a COVID-secure and single-sex location away from the rest of the school. The pupils who remain will be enrolled at St Mary's for Year 11.

Current Pupils

Years 8 and 9 will be offered alternative places at other schools, subject to approval for the proposed closure of the school. Year 11 pupils will have completed their GCSE examinations in July 2021, and the proposed closing date of the school is August 2021.

Staff

The Local Authority and Diocese will work collaboratively to seek to redeploy all staff, or as many as possible, into alternative positions in other schools locally.

Community

Local residents will have the opportunity to express their views during this consultation and the representation period.

School Places

School roll projections indicate sufficiency of secondary school places across the Borough for the next 3 years, however this will be reviewed / monitored if the proposed closure of Virgo Fidelis is approved.

Balance of denominational provision

With regards to diversity of education provision and parental preference, the proposed closure will reduce the number of Roman Catholic school places available in the Borough if an alternative plan has not been agreed by the Diocese.

Who we are consulting

We are consulting with the school, parents/carers, governors and the local community on the proposed closure of the school. In addition, we would welcome the views of:

- all schools / admission authorities in Croydon – governing body / academy trust
- neighbouring Admission Authorities;
- Ward members;
- The Diocese
- Students
- anyone else who has an interest or may be affected by the proposed closure of the school.

Consultation period

This consultation will run from **01 October 2020 to 23 October 2020**, during this time you are invited to respond to Croydon Council on the Interim Executive Board's proposal to close the school.

Consultation Timetable

21 Sep 2020	Seek approval from Council to start consultation <i>via delegated authority</i>
<hr/>	
01 Oct 2020	Stage 1: Start of consultation
23 Oct 2020	End of consultation period and deadline for response
26 Oct 2020	Analysis of response and preparation of consultation outcomes report
6 Nov 2020	LA considers consultation outcome and decides whether to approve publication of notice
<hr/>	
	<i>Subject to approval</i>
12 Nov 2020	Stage 2: Publication of statutory notice
12 Nov 2020	Stage 3: Start of representation period
10 Dec 2020	End of representation period
18 Dec 2020	Analysis of responses and preparation of representation outcome report
Jan 2021	Report to Cabinet Committee
<hr/>	

18 Jan 2021	Stage 4: Council's cabinet committee decision on whether to close the school
26 Jan 2021	Key decision implementation (subject to call-in) at 1pm
31 Jan 2021	Stage 5: Implementation of proposed school closure, if approved
31 August 2021	Proposed closure of Virgo Fidelis, subject to approval

How to give your views

This consultation period allows anyone with an interest to comment or raise any concerns about the proposal to close Virgo Fidelis Convent Senior School in August 2021, by:

- Completing the online questionnaire at www.croydon.gov.uk/getinvolved or paper copy of the questionnaire (Annex A below) and returning it by post to the address below or by email to the address below.

- Writing to:

School Place Planning
Croydon Council
School Place Planning Team
4th Floor Zone A
Bernard Weatherill House
8 Mint Walk
Croydon CR0 1EA

- Email: school.org@croydon.gov.uk

Due to COVID-19, the majority of staff are currently working from home and therefore we encourage responses to be submitted electronically either via the online questionnaire or by email where possible.

What happens next?

After the closing date of **23 October 2020**, responses will be analysed and a consultation outcomes report produced. This will be presented to the Executive Director, Children, Families & Education and Cabinet Member for Children, Young People & Learning to consider the outcome of the consultation and decide whether to publish a statutory notice and start the representation period on the proposed school closure. The outcomes report will be shared with the Diocese and IEB of Virgo Fidelis.

The results of the consultation will be published on the Council's website / school webpage.

Annex A below – Questionnaire

Questionnaire

Proposed closure of Virgo Fidelis Convent Senior School

1) Please tell us whether you support/do not support the proposed closure of Virgo Fidelis Convent Senior School

I support the proposed school closure

I do not support the proposed school closure

Not sure

I am not affected by/do not want to answer questions about the proposed closure

2) If you do not support the proposed change, please tell us why.

3) We are keen to understand how the proposed school closure may affect you. Please use this space to tell us if you are impacted by the proposed school closure and how. What can we do to address any impacts you have mentioned?

4) Do you have any alternative suggestions to any part of the proposal?

About You

We are endeavouring to receive comments from a broad range of people reflective of our community. In order to enable us to assess the degree to which this has been successful, it would be helpful if you could take a moment to complete the section below.

The Council will take all reasonable measures to ensure that any data provided will be protected against loss or misuse. Your information will not be retained or shared with any other parties and will be destroyed in line with relevant destruction policies and processes.

5) Please tell us who you are.

- Member of staff at Virgo Fidelis Convent Senior School
- Member of staff at another school
- School Governor at Virgo Fidelis Convent Senior School
- School Governor at another school
- Parent/carer of a child/children at Virgo Fidelis Convent Senior School
- Parent/carer of child/children at another school
- Pupil at Virgo Fidelis Convent Senior School
- Local resident
- Prefer not to say
- Other (Please specify) _____

6) Gender:

- Male
- Female
- Transgender
- Prefer to self-describe
- Non-binary
- Prefer not to say

7) Age:

- Under 15
- 16-18
- 19-25
- 26-34
- 35-44
- 45-54
- 55-64
- 65+
- Prefer not to say

8) Which of the following best describes your ethnic background?

- White British
- White Irish
- White European
- Other white
- Mixed white and black Caribbean
- Mixed white and black African
- Mixed white and Asian
- Other mixed background
- Asian or Asian British: Indian
- Asian or Asian British: Pakistani
- Asian or Asian British: Bangladeshi
- Asian or Asian British: Chinese
- Other Asian or Asian British Background
- Black or Black British: Caribbean
- Black or Black British: African
- Other Black or Black British background
- Arabic
- Prefer not to say

Other Please specify _____

9) Do you consider yourself to have a disability?

- No
- Yes
- Prefer not to say

10) Please specify

- Mobility
- Visual impairment
- Hearing impairment
- Mental Health
- Learning disability
- Prefer not to say
- Other (Please specify) _____

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Proposed closure of Virgo Fidelis Convent Senior School

Pre-publication Consultation Outcomes Report

1 Proposal

The proposal is to close Virgo Fidelis Convent Senior School in August 2021 following completion of Year 11 GCSE examinations.

- 1.1 There are several reasons for the proposed closure of the school, mainly because the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum that it would be reasonable to expect of a modern secondary school now and in the immediate and longer term future.
- 1.2 The majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use); the pupil roll has fallen consistently over the past several years; the school budget has been in deficit over the past several years with the school now in significant debt.

2. Consultation outcomes report

- 2.1 The purpose of this report is to provide the Interim Executive Director - Children, Families and Education, Cabinet Member for Children, Young People & Learning, and the Interim Executive Board (IEB) with the outcomes from the pre-publication consultation on the proposed closure of Virgo Fidelis Convent Senior School in August 2021.
- 2.2 This report is based on the responses received during the pre-publication consultation period when we sought views and engaged with those that will be directly affected by the proposed closure Virgo Fidelis Convent Senior School.

3. Background

- 3.1 Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood in the London Borough of Croydon. The school is part of the educational provision of the Archdiocese of Southwark and the London Borough of Croydon. The school is situated at 147 Central Hill, Upper Norwood, London, SE19 1RT.
- 3.2 The Interim Executive Board [IEB], in consultation with Croydon Council and the Archdiocese of Southwark have agreed to commence the statutory process for proposed closure of the school in August 2021 following completion of Year 11 GCSE examinations.
- 3.3 The IEB of Virgo Fidelis Convent Senior School has applied to the Office of the Schools Adjudicator (OSA) for a variation to the school's admission arrangements for September 2020. The proposed variation of the school's

Published Admission Number (PAN) for Year 7 has been approved by the OSA and as such, been reduced from 120 places to zero for September 2020.

4. Decision making

- 4.1 The Leader of the Council has delegated authority to the Interim Executive Director - Children, Families & Education, in consultation with the Cabinet Member for Children, Young People & Learning to consider the outcomes of the consultation on the proposed closure of Virgo Fidelis Convent Senior and decide whether to proceed to the next stage of the process - representation period.
- 4.2 Subject to approval, this consultation will be followed by the publication of the statutory notice, starting a 4 week representation period when any person can send objections or comments to Croydon Council on the proposal.
- 4.3 The council's cabinet committee is the final decision maker for the proposed closure of Virgo Fidelis Convent Senior and must make a decision within a period of two months of the end of the representation period.

5. Consultation

- 5.1 The process for decision making regarding proposed school closures is set out in the Department for Education's statutory guidance 'Opening and Closing Maintained Schools' November 2019. The statutory process consists of:
- Pre-publication consultation
 - Publication of statutory notice
 - Representation / formal consultation
 - Decision by the council's cabinet committee on the school closure proposal

6. Pre- publication consultation

- 6.1 The pre-publication consultation ran from 01 October 2020 to 23 October 2020, during this time anyone with an interest was invited to respond to the proposal to close Virgo Fidelis School.

7. Communication and consultation activities

- 7.1 A consultation document including a questionnaire was used as a basis of informing stakeholders, including parents/carers and local residents about the educational rationale for the proposed closure of the school and inviting feedback on the proposal.
- 7.2 Stakeholders were given the opportunity to express their views in writing via a questionnaire, both electronically and via the hard copy attached to the consultation document, by email and post.
- 7.3 Different modes and methods of communication were used to inform and facilitate feedback from stakeholders about/on the proposal. Communication activities included the circulation of the consultation document, including a questionnaire via;

- The following websites:
 - ✓ News.croydon.gov.uk
 - ✓ Virgo Fidelis Convent Senior
 - ✓ <https://getinvolved.croydon.gov.uk>
- E-bulletin
 - ✓ Your Croydon weekly
 - ✓ Schools' Bulletin
- Social Media/Applications:
 - ✓ Twitter
 - ✓ Facebook
- Email to MPs, Ward Councillors and neighbouring boroughs.

8. Equality and diversity monitoring

- 8.1 As part of the consultation process, respondents were asked to complete an equality and diversity questionnaire, looking at gender, age, ethnicity and disability. The information collected will help identify any special requirements and promote equality and diversity.

Equalities Impact Assessment

- 8.2 An initial Equalities Impact Assessment (EQIA) was undertaken as part of the pre-publication consultation process which found no negative impact on protected groups, although there is acknowledgement that should the school close, this will reduce the number of Catholic/single sex school in the borough. Another EQIA will be undertaken as part of the Education Estates Strategy report which will be going to cabinet in January 2021. The Equality analysis will enable the council to better understand the potential impact of the proposed closure of the school on the community.

9. Summary of responses

- 9.1 A total of 60 responses were received during the pre-publication consultation period;
- 9.2 57 (95%) of the 60 responses were received via the online survey and 3 (5%) were received via email;
- 9.3 Of the 57 online respondents;
- 32 do not support the proposed change.
 - 12 do support the proposed change
 - 12 were not sure
 - 1 was not affected/did not wish to answer the questions
- 9.4 Top thematic issues raised and Council's/Diocese response

Key issue	Council / Diocese response
11 respondents stated they are	We recognise that changing schools can be viewed as possibly disruptive. To minimise any potential

<p>concerned about the potential disruption the proposed closure may have on students' education.</p>	<p>disruption, subject to approval, the proposed closure will take place at the end of the academic year – 31 August 2021. This will mean that Year 11 students would have completed their GCSE examinations and other year groups can start the academic year at a new school.</p> <p>We have worked in partnership with the school's leadership team, Diocese and other schools to ensure that all displaced pupils have been / will be offered an alternative suitable school place.</p> <p>The council has a duty of care to ensure children in its schools are able to receive a high quality education with access to a full curriculum, and that the school's health and safety arrangements are adequate for students and staff.</p>
<p>9 respondents expressed concern surrounding the loss of Catholic Secondary School places in Croydon.</p>	<p>In deciding on a proposal to close a school that has been designated with a religious character, the council is required to consider the effect that this will have on the balance of denominational provision in the area, as well as the number of pupils currently on the roll, the medium and long term need for places in the area, and whether standards at the school have been persistently low.</p> <p>The council will continue to work closely with the Diocese regarding Catholic secondary schools within the borough. However, it should be noted that in line with the free school presumption, where the council identifies the need for a new school to meet basic need for additional school places, the council is under a duty to seek proposals to establish an academy (free school) via the 'free school presumption'. To support this the Department for Education will contact the council when a new free school is proposed through the central route. These measures will ensure a co-ordinated response to the need for additional places as well as quality and diversity of provision.</p>
<p>8 respondents are concerned that the proposed closure with impact the number of single sex secondary school places in Croydon.</p>	<p>It is acknowledged that the proposed closure of the school will impact on the number of single sex school places, particularly those parents/carers who have specifically chosen single-sex education for their child/ren. Should Virgo Fidelis close, there will be 2 single sex girls schools left in Croydon; Coloma Convent Girls' and Norbury Manor Business and Enterprise College</p>

	<p>A key part of the council's duty is to secure high quality and diversity of education offer to increase opportunities for parental choice when planning the provision of school places in the borough. However, it is important to note that there has been a declining roll at this school which has contributed to a significant financial deficit.</p> <p>In relation to equality and diversity, consideration must be given by the council as to whether there are any discrimination issues that arise from the proposed closure of the school. The initial equality impact assessment indicates that the proposed closure will have no negative impact on equality and diversity for protected groups.</p>
<p>7 respondents highlighted the history attached to the school and its building and wish for this to be protected.</p>	<p>The buildings will remain with the Trustees of Our Lady of Fidelity Established at Upper Norwood, London, who will look to maintain the historic buildings where possible.</p>
<p>5 respondents stated that Virgo Fidelis used to be a good school.</p>	<p>Although it is recognised that Virgo Fidelis was once able to offer good quality education and the current Executive Head Teacher and staff members are working to ensure that the existing pupils receive as good an education as possible while they remain on roll at the school, over the past several years, the number of pupils on roll has consistently fallen. Over many years, the school budget has been in deficit with the school now in significant debt. The majority of the estate required to run a viable secondary school is unfit for purpose and in poor repair with some portions having to be closed off in the interests of health and safety.</p> <p>Together, these factors have increasingly hampered the school's ability to deliver a broad and balanced curriculum that would be reasonable to expect of a modern secondary school.</p>

9.5 Of 12 respondents who support the proposal; only 2 gave their reasons why they support the proposed closure. The two respondents raised the following points;

- The number of students at the school has been falling for years.

- The school and its budget have been poorly managed.
- The building is in dire need of investment.
- The small number of students and staff at Virgo Fidelis has resulted in a decline in the standard of education offered by the school.

9.6 3 (5%) of the 60 responses were received via email.

- One email was received from a former student who expressed '*it has been with great sadness over recent years to see the school where I had been so happy change so totally*'. The respondent's main concern '*is the beautiful Victorian building which is of Gothic Style and Unique*' and wanted to raise awareness that '*the Church, The Convent and The School are Locally Listed and The School is in a Conservation Area which is surrounding The Convent*'.
- One respondent wrote '*Virgo Fidelis was and is an excellent Catholic school. I truly hope that the borough is not seeking to start up a non Christian school so as to keep Labour in the Borough*'.
- The council also received an email on behalf of a local football club regarding the future use of the school's playing fields and facilities. This query has received a direct response from Sister Bernadette of the Charitable Trust: Our Lady of Fidelity Established at Upper Norwood, London.

10. Next Steps

- 10.1 The Interim Executive Director, Children, Families & Education and Cabinet Member for Children, Young People & Learning will consider the outcome from the pre-publication consultation. Together, they will decide whether to proceed to the next stage of the process - publication of a statutory notice, starting the formal consultation (representation) period on the proposed closure of Virgo Fidelis Convent Senior School.
- 10.2 Subject to approval, the publication of statutory notice will kick start the four week formal consultation (representation) process on 12 November 2020 and end on 10 Dec 2020.
- 10.2 The council's cabinet committee is the final decision maker on the proposed closure of Virgo Fidelis Convent Senior School and must make a decision within a period of two months of the end of the representation period.
- 10.3 A summary of the responses can be found below in Annex A.

END

Annex A**Summary of responses**

A total number of 60 responses received during the pre-publication consultation period of which 57 responded via the online questionnaire on Get Involved and 3 responded in writing via email.

Please tell us whether you support/do not support the proposed closure of Virgo Fidelis Convent Senior School.

Response	Number	%
I do not support the proposed closure of Virgo Fidelis.	32	56
I do support the proposed closure of Virgo Fidelis	12	21
Not sure	12	21
I am not affected by/do not want to answer	1	2

Please tell us who you are.

Please tick all that apply*

*64 responses received from 57 respondents

Response	Number	%
Member of staff at Virgo Fidelis school	1	1
Member of staff at another school	2	3
School Governor at Virgo Fidelis school	0	0
School Governor at another school	2	3
Parent/carer of a child/children at Virgo Fidelis School	5	8
Parent/carer of child/children at another school	4	6
Pupil at Virgo Fidelis School	1	1
Local resident	13	20
Prefer not to say	5	8
Other (Please specify)	6	11
Did not respond	25	39

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Proposed Closure of Virgo Fidelis Convent Senior School from August 2021

Notice is given in accordance with the Department for Education's statutory guidance 'Opening and Closing Maintained Schools' (November 2019) that Virgo Fidelis Convent Senior School's Interim Executive Board (IEB), in consultation with Croydon Council and the Archdiocese of Southwark are proposing to close Virgo Fidelis Convent Senior School from August 2021.

Virgo Fidelis Convent Senior School is situated at 147 Central Hill, Upper Norwood, London, SE19 1RT.

The majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use); the pupil roll has fallen consistently over the past several years; and the school budget has been in deficit over the past several years with the school now in significant debt. As a consequence of the above, as well as other factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum.

This notice is an extract from the complete proposal which can be viewed at www.croydon.gov.uk/getinvolved. Copies of the full proposal can also be obtained from Croydon Council at: School Place Planning Team, 2nd Floor Zone D, Bernard Weatherill House, 8 Mint Walk, Croydon, CR0 1EA. Or via Email: school.org@croydon.gov.uk

Within four weeks of the date of publication of this statutory notice, any person may object to or make comments on the proposal by sending them to the School Place Planning Team, 2nd Floor Zone D, Bernard Weatherill House, 8 Mint Walk, Croydon, CR0 1EA or Email: school.org@croydon.gov.uk

Due to COVID-19, the majority of staff are currently working from home and therefore we encourage responses to be submitted electronically either via the online questionnaire or by email where possible.

Publication date: 12 November 2020.

Responses must be received by Thursday 10 December 2020 at 5pm (4 weeks from publication date).

Signed:

Interim Director of Education
Croydon Council

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Representation - formal consultation - on the proposed closure of Virgo Fidelis Convent Senior School

Representation period: 12 November to 10 December 2020

Consultation document

Background

Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood in the London Borough of Croydon. The school is part of the educational provision of the Archdiocese of Southwark and the London Borough of Croydon. The school is situated at 147 Central Hill, Upper Norwood, London, SE19 1RT.

Croydon Council, in consultation with Virgo Fidelis Convent Senior School Interim Executive Board (IEB) and the Archdiocese of Southwark, led a pre-publication consultation from 01 October to 23 October 2020, allowing stakeholders to comment on the proposed closure of Virgo Fidelis School from 31 August 2021. Analysis of the 60 responses received during the pre-publication consultation period formed the basis of the outcomes report. The pre-publication outcomes report was presented to the Interim Executive Director of Children, Families & Education and the Cabinet Member for Children, Young People & Learning for a decision/approval to progress to the next step of consultation known as the representation period.

The representation period is the opportunity for people to comment on or object to the council about the proposal within four weeks of the publication date. This consultation will run from 12 November to 10 December 2020, after which, the responses will be analysed and used to construct the formal consultation outcomes report. This report will be submitted to the council's cabinet in January 2021 for a final decision on the proposal to close Virgo Fidelis School from August 2021.

The Proposal

The IEB, in consultation with Croydon Council and the Archdiocese of Southwark have agreed to commence the statutory process for the proposed closure of Virgo Fidelis Convent Senior School from August 2021 following completion of Year 11 GCSE examinations.

Reason for the proposed closure

The IEB, Croydon Council and Archdiocese of Southwark share the collective view that the school is no longer viable. There are several reasons contributing to this shared view, chiefly:

- the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use due to health and safety concerns)

- the pupil roll has fallen consistently over the past several years
- the school budget has been in deficit over the past several years with the school now in significant debt.

As a consequence of the above, as well as other factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum that it would be reasonable to expect of a modern secondary school now and in the immediate and longer term future.

The IEB applied to the Office of the Schools Adjudicator (OSA) for a variation to the school's admission arrangements for September 2020. The proposed variation of the school's Published Admission Number (PAN) for Year 7 was approved by the OSA and as such, been reduced from 120 places to zero for September 2020.

Statutory requirement

The process for decision making regarding school closures is set out in the Department for Education's (DfE) statutory guidance 'Opening and Closing Maintained Schools' November 2019. The statutory process consists of:

- Pre-publication consultation
- Publication of statutory notice
- Representation / formal consultation
- Decision by the council's cabinet on the school closure proposal

Pre-publication consultation

Thursday 01 October 2020 marked the beginning of the pre-publication consultation which ran until 23 October 2020. Stakeholders were invited to share their views on the proposal to close Virgo Fidelis from August 2021. .

A total of 60 responses were received during the pre-publication consultation period;

- 57 (95%) of the 60 responses were received via the online survey and 3 (5%) were received via email;
- Of the 57 online respondents;
 - 32 do not support the proposed change.
 - 12 do support the proposed change
 - 12 were not sure
 - 1 was not affected/did not wish to answer the questions
- The 3 email respondents did not specifically state whether or not they support or do not support the proposed closure.

The top thematic issues raised by respondents are:

- potential disruption the proposed closure may have on students' education.
- loss of Catholic secondary school places in Croydon
- impact on the number of single sex secondary school places in Croydon
- history attached to the school and its building and wish for this to be protected.
- used to be a good school

The pre-publication consultation outcomes report (www.croydon.gov.uk/getinvolved) contains the Diocese and council's response to the above issues.

The pre-publication consultation outcomes report was presented to the Interim Executive Director of Children, Families & Education and the Cabinet Member for Children, Young People & Learning for consideration. It was agreed to proceed to the next stage of the statutory process - known as publication of statutory notice and representation / formal consultation period. Please note that no decisions have been made at this point as the DfE's guidance stipulates that any persons can send objections or comments to the LA within four weeks of the publication date.

Potential impact of the closure

Years 7 and 10 pupils

The Office of the Schools Adjudicator approved the suspension of entry to Year 7 for September 2020. Year 7 pupils who accepted a place at Virgo Fidelis have been offered an alternative school place at Notre Dame High School, an all-girls' Roman Catholic comprehensive school situated in Elephant and Castle; or another school of choice. Year 10 students will be taught on the site of St Mary's Catholic Secondary School. Subject to approval of the proposed closure of Virgo Fidelis, the governors of St Mary's Catholic Secondary School have agreed to retain the Year 10 pupils as they move into the final year of their education in a COVID-secure and single-sex location away from the rest of the school. The pupils who remain will be enrolled at St Mary's for Year 11.

Current Pupils

Years 8 and 9 will be offered alternative places at other schools, subject to approval for the proposed closure of the school. Year 11 pupils will have completed their GCSE examinations in July 2021, and the proposed closing date of the school is August 2021.

Staff

The Local Authority and Diocese will work collaboratively to seek to redeploy all staff, or as many as possible, into alternative employment in other schools locally.

Community

Local residents will have the opportunity to express their views during this consultation and the representation period.

School Places

School roll projections indicate sufficiency of secondary school places across the Borough for the next 3 years, however this will be reviewed / monitored if the proposed closure of Virgo Fidelis is approved. The expansion of Free Schools in the Borough has created a surplus of places and choice for parents.

Balance of denominational provision

With regards to diversity of education provision and parental preference, the proposed closure will reduce the number of Roman Catholic school places available in the Borough if an alternative plan has not been agreed by the Diocese, although the London Borough of Croydon has more Catholic secondary schools than any other borough intersecting with the Diocese.

Who we are consulting

We are formally consulting with the school, parents/carers, governors and local community on the proposed closure of the school. In addition, we would welcome the views of:

- all schools / admission authorities in Croydon – governing bodies / academy trusts
- neighbouring Admission Authorities;
- Ward members;
- The Anglican Diocese of Southwark (C of E);
- The Archdiocese of Southwark (Catholic);
- Students;
- Anyone else who has an interest or may be affected by the proposed closure of the school.

Formal consultation (representation) period

This consultation will run from **12 November to 10 December 2020**. During this time you are invited to respond to Croydon Council on the IEB's proposal to close Virgo Fidelis Convent Senior School from August 2021.

Consultation Timetable

Date	Action
12 November 2020	Publication of statutory notice
12 November 2020	Start of representation period
10 December 2020	End of representation period
18 January 2021	council's cabinet decision on whether to close the school
31 August 2021	Proposed school closure, if approved

How to give your views

Should you require this document in any other format or language, please contact the council using the details below.

This consultation period allows anyone with an interest to comment or raise any concerns about the proposal to close Virgo Fidelis Convent Senior School from August 2021 by:

- Completing the online questionnaire at www.croydon.gov.uk/getinvolved or a paper copy of the questionnaire (Annex A below) and returning it by post or email to the address below.
- Writing to:

Croydon Council
School Place Planning Team
2nd Floor Zone D
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

- Email: school.org@croydon.gov.uk

Due to COVID-19, the majority of staff are currently working from home and therefore we encourage responses to be submitted electronically either via the online questionnaire or by email where possible.

What happens next?

After the closing date of 10 December 2020, responses will be analysed and a formal consultation outcomes report will be written. The council's cabinet is the final decision maker on the proposed closure of the school. The outcomes report will be submitted on the 18 January 2021 as part of the Education Estates Strategy report.

The results of the consultation will be published on the council's website.

Annex A below – Questionnaire

Annex A - Questionnaire

Proposed closure of Virgo Fidelis Convent Senior School

1) Please tell us whether you support/do not support the proposed closure of Virgo Fidelis Convent Senior School.

I support the proposed school closure

I do not support the proposed school closure

Not sure

2) If you do not support the proposed change, please tell us why.

3) We are keen to understand how the proposed school closure may affect you. Please use this space to tell us if you are impacted by the proposed school closure and how.

4) What can we do to address any impacts you have mentioned?

About You

We are endeavouring to receive comments from a broad range of people reflective of our community. In order to enable us to assess the degree to which this has been successful, it would be helpful if you could take a moment to complete the section below.

The Council will take all reasonable measures to ensure that any data provided will be protected against loss and misuse. Your information will not be retained or shared with any other parties and will be destroyed in line with relevant destruction policies and processes.

6) Please tell us who you are.

- | | |
|--|--------------------------|
| Member of staff at Virgo Fidelis | <input type="checkbox"/> |
| Member of staff at another school | <input type="checkbox"/> |
| Governor at Virgo Fidelis | <input type="checkbox"/> |
| School Governor at another school | <input type="checkbox"/> |
| Parent/Carer of a child/children at Virgo Fidelis School | <input type="checkbox"/> |
| Parent/Carer of child/children at another school | <input type="checkbox"/> |
| Pupil at Virgo Fidelis School | <input type="checkbox"/> |
| Ex-pupil of Virgo Fidelis School | <input type="checkbox"/> |
| Local resident | <input type="checkbox"/> |
| Member of a local church | <input type="checkbox"/> |
| Prefer not to say | <input type="checkbox"/> |

Other (Please specify) _____

7) Gender:

- | | |
|-------------------------|--------------------------|
| Male | <input type="checkbox"/> |
| Female | <input type="checkbox"/> |
| Transgender | <input type="checkbox"/> |
| Non-binary | <input type="checkbox"/> |
| Prefer to self-describe | <input type="checkbox"/> |
| Prefer not to say | <input type="checkbox"/> |

8) Age:

- | | |
|-------------------|--------------------------|
| Under 16 | <input type="checkbox"/> |
| 16-18 | <input type="checkbox"/> |
| 19-25 | <input type="checkbox"/> |
| 26-34 | <input type="checkbox"/> |
| 35-44 | <input type="checkbox"/> |
| 45-54 | <input type="checkbox"/> |
| 55-64 | <input type="checkbox"/> |
| 65+ | <input type="checkbox"/> |
| Prefer not to say | <input type="checkbox"/> |

9) Which of the following best describes your ethnic background?

- | | |
|---------------------------------|--------------------------|
| White British | <input type="checkbox"/> |
| White Irish | <input type="checkbox"/> |
| White European | <input type="checkbox"/> |
| Other white | <input type="checkbox"/> |
| Mixed white and black Caribbean | <input type="checkbox"/> |
| Mixed white and black African | <input type="checkbox"/> |

- Mixed white and Asian
- Other mixed background
- Asian or Asian British: Indian
- Asian or Asian British: Pakistani
- Asian or Asian British: Bangladeshi
- Asian or Asian British: Chinese
- Other Asian or Asian British Background
- Black or Black British: Caribbean
- Black or Black British: African
- Other Black or Black British background
- Arabic
- Prefer not to say

Other Please specify _____

10) Do you consider yourself to have a disability?

- No
- Yes
- Prefer not to say

11) Please specify

- Mobility
- Visual impairment
- Hearing impairment
- Mental Health
- Learning disability
- Prefer not to say

Other (Please specify) _____



Formal consultation on the proposed closure of Virgo Fidelis Convent Senior School

Representation (formal consultation) Outcomes Report

1 Proposal

1.1 The proposal is to close Virgo Fidelis Convent Senior School from August 2021 following completion of Year 11 GCSE examinations. The reason for the proposed closure is because the school is no longer viable. There are several reasons contributing to this shared view, chiefly:

- the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and is in poor repair (these portions of the estate are currently out of use due to health and safety concerns)
- the pupil roll has fallen consistently over the past several years
- the school budget has been in deficit over the past several years with the school now in significant debt.

2. Representation Consultation outcomes report

- 2.1 The purpose of this report is to provide the council's cabinet, Virgo Fidelis Interim Executive Board (IEB), Archdiocese of Southwark and respondents to the consultation with the results of the consultation. The council cabinet is the decision maker on the proposed closure of the school and the report will be submitted to cabinet for a decision on 18 January 2021.
- 2.2 This report is based on the responses received during the representation period when those with an interest were provided with an opportunity to comment or object to the proposed closure of the school. The representation period lasted four weeks from 12 November to 10 December 2020.

3. Background

- 3.1 Virgo Fidelis Convent Senior School is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood in the London Borough of Croydon. The school is part of the educational provision of the Archdiocese of Southwark and the London Borough of Croydon. The school is situated at 147 Central Hill, Upper Norwood, London, SE19 1RT.
- 3.2 The Office of the Schools Adjudicator approved the suspension of entry to Year 7 for September 2020. Year 7 pupils who accepted a place at Virgo Fidelis have been offered an alternative school place at Notre Dame High School, an all-girls' Roman Catholic comprehensive school situated in

Elephant and Castle; or another school of choice. Year 10 students are being taught on the site of St Mary's Catholic High School. Subject to approval of the proposed closure of Virgo Fidelis, the governors of St Mary's Catholic High School have agreed to retain the Year 10 pupils as they move into the final year of their education in a COVID-secure and single-sex location away from the rest of the school. The pupils who remain will be enrolled at St Mary's for Year 11.

- 3.3 The current pupils - Years 8 and 9 - will be offered alternative places at other schools, subject to approval of the proposed closure of the school. Year 11 pupils will have completed their GCSE examinations in July 2021, and the proposed closing date of the school is August 2021.

4. Statutory requirement

- 4.1 The process for decision making regarding school closures is set out in the Department for Education's (DfE) statutory guidance 'Opening and Closing Maintained Schools' November 2019. The statutory process consists of:
- Pre-publication consultation
 - Publication of statutory notice
 - Representation / formal consultation
 - Decision by the council's cabinet on the school closure proposal

5. Pre-publication consultation

- 5.1 From 01 October to 23 October 2020, stakeholders were invited to share their views on the proposal to close Virgo Fidelis from August 2021.

- 5.2 A total of 60 responses were received during the pre-publication consultation period;

- 57 (95%) of the 60 responses were received via the online survey and 3 (5%) were received via email;
- Of the 57 online respondents;
 - 32 do not support the proposed change.
 - 12 do support the proposed change
 - 12 were not sure
 - 1 was not affected/did not wish to answer the questions
- The 3 email respondents did not specifically state whether or not they support or do not support the proposed closure.

- 5.3 The pre-publication consultation outcomes report (www.croydon.gov.uk/getinvolved) contains the Diocese and council's response to the issues raised.

- 5.4 The Leader of the Council delegated authority to the Interim Executive Director - Children, Families & Education, in consultation with the Cabinet Member for Children, Young People & Learning to consider the outcomes of the pre-publication consultation on the proposed closure of Virgo Fidelis

Convent Senior and decide whether to proceed to the next stage of the process – publication of statutory notice and representation period.

- 5.5 Approval was given to proceed to the publication of the statutory notice, starting a 4 week representation period when any person could send objections or comments to Croydon Council on the proposed closure of the school.

6. Publication of statutory notice

- 6.1 A notice was published in the Croydon Guardian newspaper and on the Council and school's website. A copy of the notice was also displayed on the school's gates.

7. Representation period

- 7.1 The representation period lasted four weeks from 12 November to 10 December 2020 which allowed any person to send objections or comments to the LA within 4 weeks from the date of publication of the proposal.

8. Decision making

- 8.1 The council's cabinet is the final decision maker on the proposed closure of Virgo Fidelis Convent Senior School and must make a decision within a period of two months of the end of the representation period, otherwise the proposal must be referred to the Schools Adjudicator for a decision.
- 8.2 The representation outcomes report will be submitted to the council's cabinet on 18 January 2021.

9. Communication and consultation activities

- 9.1 A consultation document including a questionnaire was used as a basis of informing stakeholders, including parents/carers and local residents about the educational rationale for the proposed closure of the school and inviting feedback on the proposal.
- 9.2 Stakeholders were given the opportunity to express their views in writing via a questionnaire, both electronically and via the hard copy attached to the consultation document which could be submitted by email or post.
- 9.3 Different modes and methods of communication were used to inform and facilitate feedback from stakeholders about/on the proposal. Communication activities included notice in the Croydon Guardian newspaper and the circulation of the consultation document, including a questionnaire via;
- The following websites:
 - ✓ Croydon Council
 - ✓ Virgo Fidelis Convent Senior School
 - ✓ 'Get Involved'
 - Schools Bulletin:
 - ✓ Bulletin sent to all schools in Croydon
 - Social Media/Applications:
 - ✓ Twitter

- ✓ Facebook
- ✓ 'Your Croydon'
- ✓ Press release

10. Equality and Diversity Monitoring

- 10.1 An initial Equalities Impact Assessment (EQIA) was undertaken as part of the pre-publication consultation process which found no negative impact on protected groups, although there is acknowledgement that should the school close, this will reduce the number of Catholic/single sex schools in the borough.
- 10.2 As part of the consultation process, respondents were asked to complete an equality and diversity questionnaire, looking at Gender, Age, Ethnicity and Disability. The information collected will help identify any special requirements and promote equality and diversity.

11. Representation period - summary of responses

- 11.1 A total of 34 responses have been received during the representation period of which 32 were received via the Get Involved website and 2 were received via email.
- 11.2 Of the 34 responses received;
- 22 do not support the proposed closure of the school,
 - 8 do support the proposed closure of the school, of which
 - 4 were not sure
- 11.3 The top thematic issues raised by respondents and council's/Diocese response are outlined in the table below:

Key issue	Council / Diocese response
10 respondents expressed concern surrounding the loss of Catholic secondary school places in the area.	<p>As part of the proposal to close a school that has been designated with a religious character, the council is required to consider the effect that this will have on the balance of denominational provision in the area. The council must also consider the number of pupils currently on roll at the school, the medium and long term need for places in the area and whether educational standards at the school have been persistently low.</p> <p>Currently there are sufficient school places across the borough to accommodate pupils on roll at Virgo Fidelis.</p> <p>The council will continue to work closely with the Archdiocese of Southwark regarding Catholic secondary school places within the borough.</p>
9 respondents said that the proposed closure will reduce the number of	When planning the provision of school places in the borough, a key part of the council's duty is to provide diversity in its educational offers to increase

single sex secondary school places for girls in the area.	<p>opportunities for parental choice. Whilst bearing this in mind, it is important to note that there has been a declining roll at the school which has contributed to a significant financial deficit as the majority of funding received by schools is determined by the number of children on roll.</p> <p>In relation to equality and diversity, consideration must be given by the council as to whether there are any discrimination issues that arise from the proposed closure of the school. The initial equality impact assessment indicates that the proposed closure will have no negative impact on equality and diversity.</p>
5 respondents stated they are concerned about the potential disruption the proposed closure may have on students' education.	<p>It is recognised that changing schools could be viewed as disruptive for pupils who attend Virgo Fidelis. To minimise any potential disruption, subject to approval, the proposed closure will take place at the end of the academic year – 31st August 2021. This will mean that Year 10 pupils can continue their learning at St Mary's Catholic High School; Year 11 students would have completed their GCSE examinations and pupils in Years 8 and 9 at the school can start the academic year at a new school.</p> <p>We have worked and will continue to work in partnership with the school's leadership team, the Diocese and other schools to ensure that all displaced pupils have been / will be offered an alternative suitable school place.</p> <p>The council has a duty of care to ensure children in its schools are able to receive a high quality education with access to a full curriculum, and that the school's health and safety arrangements are adequate for students and staff.</p>
4 respondents highlighted the history attached to the school and its grounds.	The school's buildings will remain with the Trustees of Our Lady of Fidelity Established at Upper Norwood, London, who will look to maintain the historic buildings where possible.
3 respondents worry that the land will be sold and used for flats.	The land will not be sold for flats it will be retained as an Educational Facility and this will be ensured by the Congregation of Our Lady of Fidelity.

11.4 Points made in support of the proposed closure of Virgo Fidelis

- The number of children attending the school has consistently fallen over the years, resulting in low numbers.

- It is felt that the current students are not receiving a good quality of education.
- The school has a huge deficit, as does Croydon Council.
- There are other schools in Croydon and Lambeth that offer denominational places, including single-sex schools.

12. Next Steps

- 12.1 On 18 January 2021, the council's cabinet will consider the consultation results and decide on the proposed closure of the school. In making a decision, the cabinet should be satisfied that there are sufficient surplus places elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term. The cabinet should take into account the overall quality of alternative places in the local area and the popularity of other local schools.

Annex A**Summary of responses**

A total number of 34 responses were received; 32 via the Get Involved website and 2 via email.

Please tell us whether you support/do not support the proposed closure of Virgo Fidelis Convent Senior School.

Response	Number	%
I do not support the proposed closure of Virgo Fidelis	22	65
I support the proposed closure of Virgo Fidelis	8	24
Not sure	4	11
I am not affected by/do not want to answer	0	0

Please tell us who you are.

Please tick all that apply*

*36 responses were received from 34 respondents

Response	Number	%
Member of staff at Virgo Fidelis school	0	0
Member of staff at another school	1	3
School Governor at Virgo Fidelis school	0	0
School Governor at another school	2	6
Parent/carer of a child/children at Virgo Fidelis school	4	11
Parent/carer of child/children at another school	6	16
Pupil at Virgo Fidelis school	1	3
Ex-pupil of Virgo Fidelis school	1	3
Local resident	13	36
Member of a local church	6	16
Prefer not to say	1	3
Other	1	3

Equality Data

Gender

Response	Number	Percentage
Male	6	18
Female	14	41
Transgender	0	0
Prefer to self-describe	0	0
Non-binary	1	3
Prefer not to say	3	9
No response given	10	29
Total	34	100

Age Range

Response	Number	Percentage
Under 16	1	3
16 - 18	0	0
19 - 25	1	3
26 - 34	5	15
35 - 44	7	20
45 - 54	3	9
55 - 64	2	6
65+	3	9
Do not wish to declare	2	6
No response given	10	29
Total	34	100

Ethnicity

Response	Number	Percentage
White British	6	18
White Irish	0	0
White European	0	0
Any other white background	2	6
Mixed white and black Caribbean	0	0
Mixed white and black African	0	0
Mixed white and Asian	0	0
Any other mixed background	1	3
Asian or Asian British: Indian	0	0
Asian or Asian British: Pakistani	0	0
Asian or Asian British: Bangladeshi	0	0
Asian or Asian British: Chinese	0	0
Other Asian or Asian British Background	0	0
Black or Black British: Caribbean	3	9
Black or Black British: African	3	9
Other Black or Black British background	1	3
Arabic	0	0
Prefer not to say	7	20
Other	0	0
No response given	11	32
Total	34	100

Do you consider yourself to have a disability?

Response	Number	Percentage
No	15	44
Yes	1	3
Prefer not to say	7	21
No response given	11	32
Total	34	100

If yes, please tick all that apply

Response	Number	Percentage
Mobility	1	100
Visual impairment	0	0
Hearing impairment	0	0
Mental Health	0	0
Learning Disability	0	0
Communication difficulty	0	0
Other	0	0
Prefer not to say	0	0
No response given	0	0
Total	1	100

END

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Equality Analysis Form

1. Introduction

1.1 Purpose of Equality Analysis

The council has an important role in creating a fair society through the services we provide, the people we employ and the money we spend. Equality is integral to everything the council does. We are committed to making Croydon a stronger, fairer borough where no community or individual is held back.

Undertaking an Equality Analysis helps to determine whether a proposed change will have a positive, negative, or no impact on groups that share a protected characteristic. Conclusions drawn from Equality Analyses helps us to better understand the needs of all our communities, enable us to target services and budgets more effectively and also helps us to comply with the Equality Act 2010.

An equality analysis must be completed as early as possible during the planning stages of any proposed change to ensure information gained from the process is incorporated in any decisions made.

In practice, the term '**proposed change**' broadly covers the following:-

- Policies, strategies and plans;
- Projects and programmes;
- Commissioning (including re-commissioning and de-commissioning);
- Service review;
- Budget allocation/analysis;
- Staff restructures (including outsourcing);
- Business transformation programmes;
- Organisational change programmes;
- Processes (for example thresholds, eligibility, entitlements, and access criteria).

2. Proposed change

Directorate	Education
Title of proposed change	Proposed closure of Virgo Fidelis Convent Senior School
Name of Officer carrying out Equality Analysis	Denise Bushay

2.1 Purpose of proposed change (see 1.1 above for examples of proposed changes)

Briefly summarise the proposed change and why it is being considered/anticipated outcomes. What is meant to achieve and how is it seeking to achieve this? Please also state if it is an amendment to an existing arrangement or a new proposal.

Virgo Fidelis Convent Senior School Interim Executive Governing Board, in consultation with Croydon Council and the Archdiocese of Southwark have agreed to commence the statutory process for proposed closure of the school in August 2021.

The IEB, Croydon Council and Archdiocese of Southwark share the collective view that the school is no longer viable. There are several reasons contributing to this shared view, chiefly:

- the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use)
- the pupil roll has fallen consistently over the past several years
- the school budget has been in deficit over the past several years with the school now in significant debt.

As a consequence of the above, as well as other factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum that it would be reasonable to expect of a modern secondary school now and in the immediate and longer term future.

Years 7 and 10 pupils

The Office of the Schools Adjudicator approved the suspension of entry to Year 7 for September 2020. Year 7 pupils who accepted a place at Virgo Fidelis have been offered an alternative school place at Notre Dame High School, an all-girls' Roman Catholic comprehensive school situated in Elephant and Castle; or another school of choice. Year 10 students will be taught on the site of St Mary's Catholic Secondary School. Subject to approval of the proposed closure of Virgo Fidelis, the governors of St Mary's Catholic Secondary School have agreed to retain the Year 10 pupils as they move into the final year of their education in a COVID-secure and single-sex location away from the rest of the school. The pupils who remain will be enrolled at St Mary's for Year 11.

Current Pupils

Years 8 and 9 will be offered alternative places at other schools, subject to approval for the proposed closure of the school. Year 11 pupils will have completed their GCSE examinations in July 2021, and the proposed closing date of the school is August 2021.

Statutory process

The process for decision making regarding school closures is set out in the Department for Education's (DfE) statutory guidance 'Opening and Closing Maintained Schools' November 2019. The statutory process consists of:

- Pre-publication consultation
- Publication of statutory notice
- Representation / formal consultation
- Decision by the council's cabinet on the school closure proposal

Pre-publication consultation will take place from 01 October until 23 October 2020. Subject to approval, the statutory notice will be published on 12 November which will start the four week representation period (formal consultation) which will end on 10 December 2020.

A statutory notice was published on 12 November 2020, which started the representation - formal consultation period. The formal consultation period lasted four weeks from 12 November to 10 December 2020 which allowed any person to send objections or comments to the council.

The pre-publication and formal consultation outcomes reports are attached to the main report – Proposed closure of Virgo Fidelis Convent Senior School.

3. Impact of the proposed change

Important Note: It is necessary to determine how each of the protected groups could be impacted by the proposed change. Who benefits and how (and who, therefore doesn't and why?) Summarise any positive impacts or benefits, any negative impacts and any neutral impacts and the evidence you have taken into account to reach this conclusion. Be aware that there may be positive, negative and neutral impacts within each characteristic.

Where an impact is unknown, state so. If there is insufficient information or evidence to reach a decision you will need to gather appropriate quantitative and qualitative information from a range of sources e.g. Croydon Observatory a useful source of information such as Borough Strategies and Plans, Borough and Ward Profiles, Joint Strategic Health Needs Assessments <http://www.croydonobservatory.org/> Other sources include performance monitoring reports, complaints, survey data, audit reports, inspection reports, national research and feedback gained through engagement with service users, voluntary and community organisations and contractors.

3.1 Deciding whether the potential impact is positive or negative

Table 1 – Positive/Negative impact

For each protected characteristic group show whether the impact of the proposed change on service users and/or staff is positive or negative by briefly outlining the nature of the impact in the appropriate column. . If it is decided that analysis is not relevant to some groups, this should be recorded and explained. In all circumstances you should list the source of the evidence used to make this judgement where possible.

Protected characteristic group(s)	Positive impact	Negative impact	Source of evidence
Age	In line with the School Admissions Code, school places are allocated using the agreed/published admissions criteria. The proposed changes relate to children and young people of statutory school age. Admissions to schools are a function that operates within a statutory framework. Croydon is the admission authority for community schools and there are arrangements and criteria for the admission of pupils to nursery, primary and secondary mainstream schools.	The closure may affect siblings of pupils attending Virgo if they intended to attend the same school. School Admissions would ensure that appropriate provisions are in place for any displaced pupils. They would ensure that parental preference and family circumstances such as siblings are considered when offering school places to minimise the impact on families where possible.	Croydon Observatory
Disability	Children and young people with special educational needs and/or disability are given priority in the admissions criteria or attend	For any pupils at Virgo with a disability / Education and Health Care Plan. For these pupils, an individual and	Croydon Observatory

	special schools. All schools are required to admit a child if their Education and Health Care Plan names the school. The new special free school – AVA – in New Addington will provide additional school places.	tailored approach will be used was to help with the transition to another school. School transport support provided. An alternative place will be identified that meets their needs	
Gender	As above, children allocated school place in line with Admissions Code. The proposed changes are not gender specific. The admission arrangements do not contain criteria that impact differently on people with a particular gender	This is a single sex girls schools and there is a limited number of girl only schools in Croydon. However, as the Virgo boarders neighbouring borough - Lambeth and Southwark- there's an opportunity to apply for a school place at girl only schools in these boroughs.	Croydon Observatory
Gender Reassignment	N/A		
Marriage or Civil Partnership	N/A		
Religion or belief	The admission arrangements for voluntary aided school could contain a denominational criterion within the policy, to enable priority for children whose parents are active members of the Roman Catholic and who request admission to a church school on denominational grounds. However, all applications, including those with no faith basis for applying, are considered applying the published arrangements Surplus school places available and some pupils could attend other Catholic secondary schools in and bordering Croydon.	The admission criteria is based on determined admission arrangements compliant with the relevant legislation and is unlikely to discriminate unlawfully. A decrease in the number of faith school provision for families seeking such places. Pupils may have to travel further to school and attend a non-faith school. However pupils of secondary school age tend to travel further to school. School Admissions would ensure that appropriate provisions are in place for any displaced pupils. They would ensure that parental preference and family circumstances such as siblings are considered when offering school places to minimise the impact on families where possible.	Croydon Observatory

Race	The Admission Criteria, based on the Admissions Code, are used to allocate school places and do not include ethnicity or race as criteria. The proposed changes are not intended to have any negative impact on pupils from different ethnic groups		Croydon Observatory
Sexual Orientation	N/A		
Pregnancy or Maternity	N/A		
<p>Important note: You must act to eliminate any potential negative impact which, if it occurred would breach the Equality Act 2010. In some situations this could mean abandoning your proposed change as you may not be able to take action to mitigate all negative impacts.</p> <p>When you act to reduce any negative impact or maximise any positive impact, you must ensure that this does not create a negative impact on service users and/or staff belonging to groups that share protected characteristics. Please use table 4 to record actions that will be taken to remove or minimise any potential negative impact</p>			

3.2 Additional information needed to determine impact of proposed change

Table 2 – Additional information needed to determine impact of proposed change

If you need to undertake further research and data gathering to help determine the likely impact of the proposed change, outline the information needed in this table. Please use the table below to describe any consultation with stakeholders and summarise how it has influenced the proposed change. Please attach evidence or provide link to appropriate data or reports:		
Additional information needed and or Consultation Findings	Information source	Date for completion
<p>Two periods of statutory consultations will be undertaken – pre-publication and representation – where those with an interest could express their views and/or object/comment on the proposal to close the school.</p> <p>A consultation document including a questionnaire will be used as a basis of informing stakeholders, including parents/carers and local residents about the educational rationale for the proposed closure of the school and inviting feedback on the proposal.</p> <p>Stakeholders will be given the opportunity to express their views in writing via a questionnaire, both electronically and via the hard copy attached to the consultation document, by email and post.</p>	<p>Pre-publication consultation outcomes report</p> <p>Representation outcomes report</p> <p>School census data</p> <p>Admissions data</p> <p>Birth data</p>	<p>October – December 2020</p> <p>November / December 2020</p>
<p>Different modes and methods of communication will be used to inform and facilitate feedback from stakeholders about/on the proposal.</p> <p>Equality and Diversity Monitoring: As part of the consultation process, respondents were asked to complete an equality and diversity questionnaire, looking at Gender, Age, Ethnicity and Disability. The information collected will help identify any special requirements and promote equality and diversity.</p> <p><u>Pre-publication consultation period</u></p> <p>A total of 60 responses have been received during the representation period. 57 responses were received via the online Get Involved survey and 3 were received via email.</p> <p>Of those who chose to complete the 'about you' questions, the majority of respondents were local residents.</p> <p>Of the 57 responses received via Get Involved;</p> <ul style="list-style-type: none"> • 32 do not support the proposed change • 12 do support the proposed change 	<p>Croydon Observatory</p>	

- 12 were not sure
- 1 was not affected/did not wish to answer the questions relating to the proposal.

About You Questions

Tell us who you are. Please tick all that apply.

Response	Number	Percentage
Member of staff at Virgo Fidelis	1	3
Member of staff at another school	2	5
School Governor at Virgo Fidelis	0	0
School Governor at another school	2	5
Parent/carer of a child/children at Virgo Fidelis	5	13
Parent/carer of child/children at another school	4	10
Pupil at Virgo Fidelis Convent Senior School	1	3
Local resident	13	33
Prefer not to say	5	13
Other (Please specify)	6	15
Total	39	100

Gender

Response	Number	Percentage
Male	7	12
Female	20	35
Transgender	0	0
Prefer to self-describe	2	4
Non-binary	0	0
Prefer not to say	4	7
No response given	24	42
Total	57	100

Age Range

Response	Number	Percentage
Under 16	1	2
16 - 18	0	0

19 - 25	1	2
26 - 34	4	7
35 - 44	7	12
45 - 54	11	19
55 - 64	5	9
65+	0	0
Do not wish to declare	4	7
No response given	24	42
Total	57	100

Ethnicity

Response	Number	Percentage
White British	10	18
White Irish	2	4
White European	0	0
Other white	1	2
Mixed white and black Caribbean	1	2
Mixed white and black African	2	3
Mixed white and Asian	0	0
Other mixed background	2	3
Asian or Asian British: Indian	3	5
Asian or Asian British: Pakistani	0	0
Asian or Asian British: Bangladeshi	0	0
Asian or Asian British: Chinese	0	0
Other Asian or Asian British Background	0	0
Black or Black British: Caribbean	3	5
Black or Black British: African	2	3
Other Black or Black British background	0	0
Arabic	0	0
Prefer not to say	5	9
Other	1	2
No response given	25	44
Total	57	100

Do you consider yourself to have a disability?

Response	Number	Percentage
No	24	42
Yes	3	5
Prefer not to say	5	9
No response given	25	44
Total	57	100

If yes, please tick all that apply*

*3 respondents provided 4 answers

Response	Number	Percentage
Mobility	2	50
Visual impairment	0	0
Hearing impairment	0	0
Mental Health	0	0
Learning Disability	1	25
Communication difficulty	1	25
Other	0	0
Prefer not to say	0	0
No response given	0	0
Total	4	100

Representation – formal consultation - period

Summary of responses

A total number of 34 responses were received; 32 via the Get Involved website and 2 via email.

Please tell us whether you support/do not support the proposed closure of Virgo Fidelis Convent Senior School.

Response	Number	%
I do not support the proposed closure of Virgo Fidelis	22	65
I support the proposed closure of Virgo Fidelis	8	24
Not sure	4	11
I am not affected by/do not want to answer	0	0

Please tell us who you are.

Please tick all that apply*

*36 responses were received from 34 respondents

Response	Number	%
Member of staff at Virgo Fidelis school	0	0
Member of staff at another school	1	3
School Governor at Virgo Fidelis school	0	0
School Governor at another school	2	6
Parent/carer of a child/children at Virgo Fidelis school	4	11
Parent/carer of child/children at another school	6	16
Pupil at Virgo Fidelis school	1	3
Ex-pupil of Virgo Fidelis school	1	3
Local resident	13	36
Member of a local church	6	16
Prefer not to say	1	3
Other	1	3

Equality Data

Gender

Response	Number	Percentage
Male	6	18
Female	14	41
Transgender	0	0
Prefer to self-describe	0	0
Non-binary	1	3
Prefer not to say	3	9
No response given	10	29
Total	34	100

Age Range

Response	Number	Percentage
Under 16	1	3
16 - 18	0	0

19 - 25	1	3
26 - 34	5	15
35 - 44	7	20
45 - 54	3	9
55 - 64	2	6
65+	3	9
Do not wish to declare	2	6
No response given	10	29
Total	34	100

Ethnicity

Response	Number	Percentage
White British	6	18
White Irish	0	0
White European	0	0
Any other white background	2	6
Mixed white and black Caribbean	0	0
Mixed white and black African	0	0
Mixed white and Asian	0	0
Any other mixed background	1	3
Asian or Asian British: Indian	0	0
Asian or Asian British: Pakistani	0	0
Asian or Asian British: Bangladeshi	0	0
Asian or Asian British: Chinese	0	0
Other Asian or Asian British Background	0	0
Black or Black British: Caribbean	3	9
Black or Black British: African	3	9
Other Black or Black British background	1	3
Arabic	0	0
Prefer not to say	7	20
Other	0	0
No response given	11	32
Total	34	100

Do you consider yourself to have a disability?

Response	Number	Percentage
No	15	44
Yes	1	3
Prefer not to say	7	21
No response given	11	32
Total	34	100

Pre-publication and Representation findings

Religious education - 19 respondents expressed concern surrounding the loss of Catholic secondary school places in Croydon. The council is required to consider the effect the proposed closure will have on the balance of denominational provision in the area and will continue to work closely with the Diocese regarding Catholic secondary schools within the borough.

Single sex education - 17 respondents stated they are concerned that the proposed closure will impact the number of single sex secondary school places in Croydon. A key part of the council's duty is to secure diversity of education offer to increase opportunities for parental choice when planning the provision of school places in the borough. However, it is important to note that there has been a declining roll at the school which has contributed to a significant financial deficit.

Although the council recognises that the proposed closure will result in a reduction in both Catholic and single sex secondary school places in Croydon, due to the falling roll at Virgo Fidelis Convent Senior School, it is felt that the proposed closure will not have a negative impact on equality and diversity for protected groups.

For guidance and support with consultation and engagement visit <https://intranet.croydon.gov.uk/working-croydon/communications/consultation-and-engagement/starting-engagement-or-consultation>

3.3 Impact scores

Example

If we are going to reduce parking provision in a particular location, officers will need to assess the equality impact as follows;

1. Determine the Likelihood of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the likelihood of impact score is 2 (likely to impact)
2. Determine the Severity of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the Severity of impact score is also 2 (likely to impact)
3. Calculate the equality impact score using table 4 below and the formula **Likelihood x Severity** and record it in table 5, for the purpose of this example - **Likelihood (2) x Severity (2) = 4**

Severity of Impact	3	3	6	9
	2	2	4	6
	1	1	2	3
		1	2	3
	Likelihood of Impact			

Table 4 – Equality Impact Score Key

Risk Index	Risk Magnitude
- 9	High
- 5	Medium
- 3	Low

Equality Analysis

Table 3 – Impact scores

Column 1 PROTECTED GROUP	Column 2 LIKELIHOOD OF IMPACT SCORE	Column 3 SEVERITY OF IMPACT SCORE	Column 4 EQUALITY IMPACT SCORE
	Use the key below to score the likelihood of the proposed change impacting each of the protected groups, by inserting either 1, 2, or 3 against each protected group. 1 = Unlikely to impact 2 = Likely to impact 3 = Certain to impact	Use the key below to score the severity of impact of the proposed change on each of the protected groups, by inserting either 1, 2, or 3 against each protected group. 1 = Unlikely to impact 2 = Likely to impact 3 = Certain to impact	Calculate the equality impact score for each protected group by multiplying scores in column 2 by scores in column 3. Enter the results below against each protected group. Equality impact score = likelihood of impact score x severity of impact score.
Age	1	1	1
Disability	1	1	1
Gender	1	1	1
Gender reassignment	n/a		
Marriage / Civil Partnership	n/a		
Race	n/a		
Religion or belief	2	2	4
Sexual Orientation	n/a		
Pregnancy or Maternity	n/a		

Equality Analysis

4. Statutory duties

4.1 Public Sector Duties

Tick the relevant box(es) to indicate whether the proposed change will adversely impact the Council’s ability to meet any of the Public Sector Duties in the Equality Act 2010 set out below.

- Advancing equality of opportunity between people who belong to protected groups
- Eliminating unlawful discrimination, harassment and victimisation
- Fostering good relations between people who belong to protected characteristic groups

Important note: If the proposed change adversely impacts the Council’s ability to meet any of the Public Sector Duties set out above, mitigating actions must be outlined in the Action Plan in section 5 below.

5. Action Plan to mitigate negative impacts of proposed change

Important note: Describe what alternatives have been considered and/or what actions will be taken to remove or minimise any potential negative impact identified in Table 1. Attach evidence or provide link to appropriate data, reports, etc:

Table 4 – Action Plan to mitigate negative impacts

Complete this table to show any negative impacts identified for service users and/or staff from protected groups, and planned actions mitigate them.				
Protected characteristic	Negative impact	Mitigating action(s)	Action owner	Date for completion
Disability		For these pupils, an individual and tailored approach was used to help with the transition to another school. School transport support provided. An alternative place will be identified that meets their needs	Kathy Roberts	August 2021, subject to cabinet decision

Equality Analysis

Race				
Sex (gender)	<p>17 respondents stated they are concerned that the proposed closure will impact the number of single sex secondary school places in Croydon. A key part of the council's duty is to secure diversity of education offer to increase opportunities for parental choice when planning the provision of school places in the borough. However, it is important to note that there has been a declining roll at the school which has contributed to a significant financial deficit.</p> <p>Although the council recognises that the proposed closure will result in a reduction in both Catholic and single sex secondary school places in Croydon, due to the falling roll at Virgo Fidelis Convent Senior School, it is felt that the proposed closure will not have a negative impact on equality and diversity for protected groups.</p>	<p>19 respondents expressed concern surrounding the loss of Catholic secondary school places in Croydon. The council is required to consider the effect the proposed closure will have on the balance of denominational provision in the area and will continue to work closely with the Diocese regarding Catholic secondary schools within the borough.</p>		<p>August 2021, subject to cabinet decision</p>
Gender reassignment				
Sexual orientation				

Equality Analysis

Age	The closure may affect siblings of pupils attending Virgo if they intended to attend the same school.	School Admissions would ensure that appropriate provisions are in place for any displaced pupils. They would ensure that parental preference and family circumstances such as siblings are considered when offering school places to minimise the impact on families where possible.	Niora Amani Melanie Arscott	
Religion or belief	<p>A decrease in the number of faith school provision for families seeking such places.</p> <p>Pupils may have to travel further to school and attend a non-faith school. However pupils of secondary school age tend to travel further to school.</p>	<p>School Admissions would ensure that appropriate provisions are in place for any displaced pupils. They would ensure that parental preference and family circumstances such as siblings are considered when offering school places to minimise the impact on families where possible.</p> <p>19 respondents expressed concern surrounding the loss of Catholic secondary school places in Croydon. The council is required to consider the effect the proposed closure will have on the balance of denominational provision in the area and will continue to work closely with the Diocese regarding Catholic secondary schools within the borough.</p>	Niora Amani Melanie Arscott	
Pregnancy or maternity				
Marriage/civil partnership				

6. Decision on the proposed change

Based on the information outlined in this Equality Analysis enter **X** in column 3 (**Conclusion**) alongside the relevant statement to show your conclusion.

Decision	Definition	Conclusion - Mark 'X' below
No major change	Our analysis demonstrates 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. If you reach this conclusion, state your reasons and briefly outline the evidence used to support your decision. Equality and diversity monitoring done during consultation. Statutory framework supports the allocation of school places	X .
Adjust the proposed change	We will take steps to lessen the impact of the proposed change should it adversely impact the Council's ability to meet any of the Public Sector Duties set out under section 4 above, remove barriers or better promote equality. We are going to take action to ensure these opportunities are realised. If you reach this conclusion, you must outline the actions you will take in Action Plan in section 5 of the Equality Analysis form	
Continue the proposed change	We will adopt or continue with the change, despite potential for adverse impact or opportunities to lessen the impact of discrimination, harassment or victimisation and better advance equality and foster good relations between groups through the change. However, we are not planning to implement them as we are satisfied that our project will not lead to unlawful discrimination and there are justifiable reasons to continue as planned. If you reach this conclusion, you should clearly set out the justifications for doing this and it must be in line with the duty to have due regard and how you reached this decision.	

Equality Analysis

Stop or amend the proposed change	Our change would have adverse effects on one or more protected groups that are not justified and cannot be mitigated. Our proposed change must be stopped or amended.	
Will this decision be considered at a scheduled meeting? e.g. Contracts and Commissioning Board (CCB) / Cabinet		Meeting title: Cabinet Date: 18 January 2021

7. Sign-Off

Officers that must approve this decision	
Equalities Lead	Name: Yvonne Okiyo Position: Equalities Manager 05.01.2021
Director	Name: Shelley Davies Date: 07.01.21 Position: Interim Director of Education

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Difference between community schools and voluntary aided schools

There are some key differences between community schools and voluntary aided schools. The differences are over:

- Who employs the staff
- Who owns the land and buildings
- Who is responsible for maintenance of the school premises; and
- Who controls the admissions arrangements

Community schools, also known as Local Authority (LA) maintained schools are those that are funded and controlled by the local education authority. The LA owns the land and buildings, funds the school, employs the staff, and determines the admissions arrangements.

The LA is the responsible body for community schools.

Voluntary aided (VA) schools are often, but not always, church or faith schools. The land and buildings are usually owned by the religious organisation but the governing body runs the school, employs the staff and controls admissions.

The Diocese is the responsible body for VA schools.

Capital Funding for schools

Responsibility for work to VA school premises is shared between the school's governing body and the LA. The LA has responsibility for the playing fields and the governing body of VA schools are liable for all other capital expenditure.

Funding for capital works in VA schools is grant aided, generally up to 90%, by the Department for Education, either directly to the school or via the Diocesan Board of Education. The governing body usually contributes 10% to of the costs of capital work undertaken.

Condition funding is the money Department for Education (DfE) allocate each year to improve and maintain the condition of the school estate (buildings and grounds).

Condition funding includes School Condition Allocations and Devolved Formula Capital for:

- local authorities and local-authority-maintained schools, and
- voluntary-aided bodies.

Devolved formula capital (DFC)

This grant is capital funding calculated on a formulaic basis for each educational establishment. It gives schools direct funding for the priority capital needs of its buildings and grounds and for investment in capital equipment including ICT.

VA schools receive their DFC direct from the DfE and each school gets a fixed sum and a variable amount based on pupil numbers (pre-determined by DfE formula) with each governing body having full discretion as to the use of those funds. Recipients of grant are expected to comply with any requests from the DfE requesting spend information for the grant.

School Condition Allocation (SCA)

For VA schools, SCAs are paid directly to the local Archdiocese, as the responsible body, through a formulaic allocation. Directly-paid SCA is for responsible bodies to prioritise on condition need across their institutions. The terms and conditions issued to responsible bodies give the detail on the types of project allocations can be used for.

This funding was formerly known as Locally Coordinated Voluntary Aided Programme (LCVAP) - an independent capital funding stream held centrally by the Education and Skills Funding Agency (ESFA) but which was locally co-ordinated by LAs. This enabled governing bodies to carry out improvement schemes in voluntary aided schools and priorities determined in consultation with the diocesan authorities.

Condition Improvement Fund (CIF)

The CIF is an annual bidding round for eligible* VA schools to apply for capital funding. The priority for the fund is to address significant condition need, keeping the buildings safe and in good working order. This includes funding projects to address health and safety issues, building compliance and poor building condition.

* VA schools not part of larger VA bodies eligible for SCA.

Virgo Fidelis Convent Senior School (147 Central Hill, London SE19 1RS)

Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood at 147 Central Hill, London SE19 1RS in the London Borough of Croydon. The school is part of the educational provision of the Archdiocese of Southwark and the London Borough of Croydon.

Background

The current building was designed by William Wardell and built in phases in the gothic style to accommodate Virgo Fidelis Convent Senior School commencing at that time. The convent is part of the Sisters of Our Lady of Fidelity, an international Roman Catholic religious organisation, founded in France in 1831.

It was set up in 1848 by a French Order of nuns called the Congregation of our Lady of Fidelity. The congregation was itself established in 1831 by Sister St Mary who devoted her life to the care of orphans and underprivileged children.

The orphanage closed after the Second World War in the 1960's. However, the buildings carried on in use as a fee-paying secondary school. A voluntary Aided School was founded 1945 called Our Lady's School. It took many "difficult" students from around Croydon but was always very small number about 200 students. The Director of Education closed the school in 1981. The majority of Students went to Bishop Thomas Grant and Saint Mary's. For two years the Salvation Army used the premises while their Premises was being built at Crystal Palace.

The school became a grant maintained school in 1997 and then a Local Authority (LA) Voluntary Aided School when all state-funded provision reverted back to LA control in 1998-99. After which the senior school and the independent prep school run alongside each other until 2016 when the prep school closed.

"The New School" opened in September 2020 which provides a unique education for children 4 to 16 years old.

The school is in the trusteeship of the Congregation of our Lady of Fidelity. Though it remains in the geographical territory of the Diocese, under Canon Law (the law of the Roman Catholic Church), the Archbishop – and/or his delegates – only has the power to retain or remove its designation as a Catholic school. The land and buildings in which the school is conducted are let for the purposes of education by the Trustees.

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Agenda Item 10

REPORT TO:	CABINET 18 JANUARY 2021
SUBJECT:	Dedicated Schools Grant (DSG) School Funding 2021/22 Formula Factors
LEAD OFFICER:	Debbie Jones, (Interim) Executive Director - Children, Families and Education Kate Bingham, (Interim) Head of Finance - Children, Families and Education
CABINET MEMBER:	Councillor Alisa Flemming – Cabinet Member for Children, Young People & Learning
WARDS:	All

SUMMARY OF REPORT:

Dedicated School Grant (DSG) is a ring fenced grant of which the Schools Block element is used to fund individual schools budgets in maintained schools and academies. This report provides the basis for the funding allocation across individual school budgets, consulted on through Schools Forum meetings in November and December 2020 and require Cabinet approval prior to APT submission by 21st January 2021.

POLICY CONTEXT/AMBITIOUS FOR CROYDON:

The effective allocation of the DSG Schools Block to individual schools supports the provision of sufficient and best quality school places in the right place helping to ensure all children and young people achieve their full potential.

FINANCIAL IMPACT

Approval of the formula factors to be used to set the 2021/22 schools budgets from the Dedicated Schools Grant (DSG) – Schools Block allocation for Croydon for 2021/22.

FORWARD PLAN KEY DECISION REFERENCE NO.: 0321CAB

The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.

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 Approve the provisional funding formula for Croydon schools for the financial year 2021/22 for maintained schools, and the academic year 2021/22 for academies, in line with the recommendations of the School Forum:
 - a) to agree for the phased implementation of the National Funding Formula in 2021/22 to ease the potential turbulence of moving to a hard formula at a later stage; and
 - b) to agree the funding formula factors set out in Table 2 and paragraphs 3.10 to 3.31 of this report.

2. EXECUTIVE SUMMARY

- 2.1 In September 2020 the Education and Skills Funding Agency (ESFA) published the 2021/22 school revenue guidance for local authorities and schools forums. The guidance confirmed the arrangements for distributing funding through the National Funding Formula (NFF) for schools, early years, high needs and central schools services.
- 2.2 This report outlines the factors which are proposed for the setting of the schools budgets for 2021/22 through the Authority Proforma Tool (APT). These factors have been consulted on through Schools Forum meetings in November and December 2020. Final values per factor will be calculated after the total funding available via the Dedicated Schools Grant (DSG) is confirmed by government in December 2020, the final allocation tool is issued and then approved by School Forum on 18th January 2021.
- 2.3 The Local Authority (LA) is required to submit the approved formula by 21st January 2021 to the Department for Education (DfE).
- 2.4 The DfE require the proposed formula for 2021/22 to be politically approved prior to APT submission. This paper therefore sets out the proposals, agreed by the Croydon Schools Forum on 9 November and 7 December 2020, for Cabinet approval.

3. SCHOOL FUNDING FORMULA

- 3.1 The NFF came into effect in April 2018 for schools, high needs, early years and central services block. The schools block NFF calculates a notional allocation at a school level and then aggregates these to produce the LA level allocations. The DfE have confirmed the intention to move to a hardening of

the individual factors between now and 2024/25 however for 2021/22, LAs will continue to be allowed to determine final funding allocations for schools through a local formula. In 2020/21 Schools Forum made the decision to move closer to the NFF on some factors by taking the mid-point between the previous year's factor rate and the NFF rate. This paper continues on this path towards NFF and sets out two options:

- 3.2 Croydon's School Forum was presented with two options: move to the NFF in 2021/22 or make a partial transition to ease the potential turbulence of moving to a 'hard formula' at a later stage.
- 3.3 Schools Forum considered a paper on the Dedicated Schools Grant (DSG) School Funding Formula – 2020/21 Formula Factors at their meeting on 9 November 2020 (Appendix 1) and Dedicated Schools Grant (DSG) School Funding Formula – 2021/22 Split Sites factor on 7 December 2020 (appendix 2) and, where recommended, the School Forum agreed that the local formula should be set at the midpoint between the prior year local rate and the NFF in order to smooth the transition for schools towards NFF. In other cases, the factors have remained the same.
- 3.4 The schools block is ring-fenced in 2021 to 2022, but local authorities can transfer up to 0.5% of their schools block funding into another block, with the approval of their schools forum. However, this flexibility has not been sought for 2021/22.
- 3.5 Croydon did not rely on any further transfers from the Schools Block to the High Needs Block in our DSG Deficit Recovery Plan as that was
 - (i) counterproductive to the SEND strategy with the emphasis on increasing inclusivity in mainstream schools; and
 - (ii) any such transfer would require year on year approval and including any reliance of this in the recovery plan was presumptuous.
- 3.6 Both of those conditions remain present, in addition to the new consideration relating to significant increases in both the Schools Block and the High Needs Blocks for 2021/22. This latter consideration has enabled Croydon to review the current DSG Deficit Recovery Plan which now does not depend on any transfer from the Schools Block in future for the same reasons as outlined in (i) above.
- 3.7 The November and December 2020 School Forum reports and the minutes are attached (and can be located) at Appendix 1, 2 and 3 of this report.

Dedicated School Grant allocation

- 3.8 The NFF allocation for 2021/22, announced in December 2020, is below in Table 1. The movement shows an increase of £18.350 from the 2020/21 final allocation.
- 3.9 The Teachers pensions & the teachers' pay award grants have been rolled into the schools block funding, accounting for £12.154 million of the total increase.

Table 1: Schools Block provisional allocation 2021/22

	Total 2020/21 final allocation million	Final allocation 2021/22 million	Movement million
Schools block allocation	£262,963	£281.313	£18.350

Formula factors

3.10 The formula factors used in Croydon and which require Schools Forum approval are set out below and are summarised in Table 2.

Table 2: Formula factors requiring approval

Para No.	Formula factor	Approval type -2021/22
3.11	Minimum per pupil funding	To note (compulsory factor and rate)
3.12	Age weighted pupil unit	To note (compulsory factor and local rate)
3.14	Deprivation - IDACI	To agree to continue to use as a method of calculating deprivation; To agree rates to be used (compulsory / discretionary)
3.16	Deprivation - FSM	To agree to continue to use as a method of calculating deprivation; To agree continue to follow NFF rates (compulsory / discretionary)
3.17	Low prior attainment	To agree (optional / discretionary)
3.19	English as an additional language	To agree (optional / discretionary)
3.20	Looked after children	To agree (optional / discretionary)
3.21	Lump Sum	To agree (optional / discretionary)
3.22	Mobility	To agree (optional / discretionary)
3.24	Private Finance Initiative - RPI – base rate increase	Compulsory factor as have one but with an (optional / discretionary) To agree (optional / discretionary)
3.26	Minimum Funding Guarantee	To agree (compulsory)
3.28	Growth	To agree
3.29	Split Site	To agree (optional / discretionary)

Minimum per pupil level funding

3.11 Minimum per pupil funding level is set by the NFF to ensure that each pupil attracts a basic level of funding to ensure that if no other factor is relevant that there is a minimum level each pupil at each school phase should be funded for. At both primary and secondary level, as the minimum per pupil in funding is more than that set by the NFF, no decision was required by the School Forum.

Table 3 Rates for Minimum per pupil level funding

School phase	NFF & Croydon rate per pupil 2020/21	NFF & Croydon 2021/22 rate per pupil	Variance
Primary school	£3,750	£4,180	£430
Secondary school	£5,000	£5,415	£415

Age weighted pupil unit (AWPU)

3.12 The funding formulae will calculate a rate of AWPU after all the other factors amounts have been allocated. The amount will be flexed dependent on our final allocation from the DfE in December. The AWPU rates for prior years are below. Initial modelling of the indicative allocations shows an expected increase in the AWPU rates for 2021/22. The final rate can only be determined after all other funding rates have been allocated via the other factors.

Table 4 AWPU rates

School phase	2021/22 proposed rate per pupil	AWPU at NFF rates	AWPU at midpoint rates
Primary (Yrs R-6)	TBC	£3,713.01	£3,754.79
Key Stage 3 (Yrs 7-9)	TBC	£4,772.23	£4,814.02
Key Stage 4 (Yrs 10-11)	TBC	£5,090.00	£5,131.78

Deprivation

3.13 This is a compulsory factor and is made up of three elements: free school meals (FSM), free school meals 6 (FSM6) and the income deprivation affecting children index (IDACI). Schools Forum agreed the continued use of free school meals (FSM and FSM6) and to move to the midpoint of the IDACI rate.

IDACI

3.14 For 2021/22 the DfE have set revised IDACI banding rate amounts. The intention is for this factor to be moved to a 'hard formula' to introduce nationally consistent factor values.

3.15 Table 5 sets out the IDACI rates per primary and secondary pupil at the midpoint rate for Croydon for 2021/22.

Table 5 IDACI rates

School phase	Croydon 2021/22 (midpoint)IDACI rate per primary pupil	Croydon 2021/22 (midpoint)IDACI rate per secondary pupil
IDACI Band F	£203	£284
IDACI Band E	£253	£397
IDACI Band D	£383	£512

IDACI Band C	£426	£575
IDACI Band B	£481	£670
IDACI Band A	£717	£1,015

Free School Meals (FSM)

- 3.16 Schools received funding for all FSM eligible pupils through this factor. In 2020/21 Croydon followed the NFF rates and distributed £16.7m through this factor. The rates per school phase varies for each of the two elements (FSM rates and FSM6). Based on 2020/21 school data and using the NFF rates, Croydon would distribute (£16.8m) £5.5m for FSM and £11.3m for FSM6.

Table 6 FSM rates

School phase	Croydon 2021/22 (NFF) rate per pupil - FSM	Croydon 2021/22 (NFF) rate per pupil – FSM6
Primary school	£460	£575
Secondary school	£460	£840

Low Prior Attainment

- 3.17 This is an optional factor which Croydon has applied in prior years. It is a rate per pupil per school phase and is set locally. In the 2020/21 allocation Croydon distributed £12.9m through this factor. The mid-point rate between the 2020/21 and NFF rate, as shown in Table 7 below, has been agreed for 2021/22 resulting in approximately £15.2m being distributed.
- 3.18 The APT automatically provides the number of pupils who are eligible (based on the prior year census data).

Table 7 Low Prior Attainment rates

School phase	Croydon 2021/22 (midpoint) rate per pupil
Primary school	£908
Secondary school	£1,524

English as an additional language (EAL)

- 3.19 This is an optional factor but has been used in the Croydon local formula. This rate per pupil per phase has been set locally. In the 2020/21 allocation Croydon distributed £5m through this factor. The midpoint rate has been agreed for 2021/22.

Table 8 EAL rates

School phase	Croydon 2021/22 (midpoint) rate per pupil
Primary school	£539
Secondary school	£1,503

Looked after Children

- 3.20 This rate per pupil per school phase is set locally. Using the 2020/21 local rate Croydon distributed £170k through this factor. There is no guided NFF rate. This would remain unchanged. It was agreed to allocate the funding for this factor to the Virtual Schools directly.

Table 9 Looked after Children rate

School phase	Croydon 2021/22 proposed rate per pupil	Number of pupils
Primary school	£500	145
Secondary school	£500	192

Lump Sum

- 3.21 Each school receives a lump sum. In 2020/21, the local lump sum per school was £140,000 and resulted in a distribution of £15.4m. School Forum agreed to continue the lump sum at £140,000 per school.

Table 10 Lump sum rates

School phase	Croydon 2021/22 rate per school
Secondary school	£140,000
Primary school	£140,000

Mobility

- 3.22 The mobility factor allocates funding to schools with a high proportion of pupils who first join on a non-standard date. Mobility funding was previously allocated on the basis of historic spend. However, for 2020/21, the DfE developed a new methodology that enables calculation of allocations of this funding on a formulaic basis.
- 3.23 This is an optional factor, the LA recommended inclusion of this factor in the formula and School Forum has agreed to move to the mid-point rate.

Table 11 Mobility rates

School phase	Croydon 2021/22 (Midpoint) rate per school	Number on Roll eligible	How many schools would be impacted
Primary school	£807	550	41
Secondary school	£1,202	119	8

Private Finance Initiative

- 3.24 Croydon has one PFI school and therefore uses this factor. The purpose of the factor is to fund the additional costs to a school of being in a PFI contract.

The amount was last increased by £220k over the two year period ending 2020/21 to uplift the schools allocation as the previous increase was in 2014/15.

- 3.25 The proposal confirmed by Schools Forum for 2021/22 is to continue to fund the school at the rate set in the 2020/21 formula of £607,831. Table 12 sets out the prior year's PFI funding through this factor alongside the cost to the school.

Table 12 PFI funding

Year	Funding	Costs to school *
2019/20	£486,163	£876,775**
2020/21	£607,831	£1,087,806***
2021/22	£607,831	£1,087,806***

* Costs to school does not include the library & music service costs. These are additional to the above

** Estimated cost based on the prior on year actual % increases

*** Costs to school is as per the paper presented by the school to Schools Forum on 5th October 2020

Minimum funding Guarantee (MFG)

- 3.26 MFG protects schools' budgets from large changes in funding based on factor changes. It protects on £/per pupil basis it does not protect against a fall in pupil numbers. In the past MFG in Croydon formula has been set at -1.5%.
- 3.27 For 2020/21, the DfE changed the levels at which the MFG may be applied in local formulae to between +0.5% and +1.84%, moving to between +0.5% and +2.0% in 2021/22. All of Croydon schools have reached and exceeded these increases using the NFF rates. School Forum agreed to set the MFG at +0.5%.

Table 13 MFG rates

Year	MFG	NFF rate for all factors	Midpoint rate	No. of schools & school type
2016/17	£11,425,730			
2017/18	£3,861,329			
2018/19	£2,362,522			
2019/20	£1,143,179			
2020/21	£670,987			
2021/22	TBC	£88,310	£67,104	1

Growth

- 3.28 The criteria for growth funding for schools was reviewed and approved by Schools Forum on 5th October 2020. School Forum noted that the AWPU rates will be applied to the schools that meet the growth criteria and have been confirmed by the Schools Admissions Team.

Table 14 Growth rates

Year	Growth
2017/18	£3,002,894
2018/19	£3,365,680
2019/20	£2,279,811
2020/21	£1,708,617
2021/22	TBC

Split Sites

- 3.29 This is an optional factor used to support schools that have additional unavoidable costs because the school buildings are on separate sites, the guidance states the allocations must be based on objective criteria for the definition of a split site and for how much is paid.
- 3.30 Within Croydon local factors the element for split sites has been worked out via the criteria set within growth. The rationale for this is because the split site funding for the years 1 to 4 was funded from the growth fund. After year 4 the schools are funded for this factor through the Authority Proforma Tool (APT).
- 3.31 There is no NFF rate set for the split site factor. The actual premises funding for the 2021-22 NFF allocation to the LA is to use the levels of funding given via the LAs' 2020-21 APT. The funding level has remained constant at £35,000 per school.

Table 15 Split site schools & funding

School	Budget 2021/22
West Thornton Primary Academy	£35,000
Whitehorse Manor Infant School	£35,000
Cypress Primary School	£35,000
Oasis Academy Shirley Park	£35,000
Total	£140,000

4. CONSULTATION

- 4.1 Croydon Schools Forum has a statutory consultative and advisory role in respect of school funding and consultation took place at the meeting of 9 November 2020. The meetings of Schools Forum have reviewed and modelling on the options proposed to set the above factors at the proposed

levels. The formula proposals have been communicated to schools via the Schools Forum papers. The responsibility for determining and approving the funding formula rests with the LA.

5. PRE-DECISION SCRUTINY

- 5.1 At its meeting of 8 December 2020, the Scrutiny and Overview Committee considered and review the Council's the Action Plan developed in response to the Report in the Public Interest (the Report), concerning the Council's financial position and related governance arrangements.
- 5.2 One of the recommendations of the Report and, therefore, a matter directly referred to in the Action Plan is of direct relevance to the Dedicated School Grant in that the General Purposes and Audit Committee (GPAC) should receive reports on the actions being taken to address the Dedicated Schools Grant (DSG) deficit and challenge whether sufficient progress is being made.
- 5.3 There were no additional actions arising from the discussion at the Scrutiny and Overview Committee and it anticipate that GPAC will consider the first report on the DSG Management Plan in March 2021.
- 5.4 Further, the annual Education Budget 2021/22 report, which covers the allocation of the entire DSG and includes the DSG deficit management plan, will be presented to Scrutiny Sub Committee – Children and Young People on 19th January 2021.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 6.1 This report asks Members to accept the recommendation of Croydon Schools Forum on the funding formula for Croydon schools for the financial year 2021/22 for maintained schools, and the academic year 2021/22 for academies.
- 6.2 The school funding formula is used to determine how part of the Council's DSG allocation, in particular the Schools Block, is distributed to Croydon maintained schools and academies. The individual school budget shares determined by the formula represent a significant proportion of the annual revenue funding for maintained schools for the financial year, and funding for academies for the academic year. The funding for maintained schools is distributed through the LA, while the ESFA uses the formula to allocate funding direct to Croydon academies.
- 6.3 The final 2021/22 DSG allocation is expected to be published in late December 2020, following the spending round announcements in September and provisional allocation notification in October 2020.
- 6.4 The total 2021/22 provisional DSG Schools Block allocation for Croydon is £279.333 million, an increase in the level of DSG funding of £16.370 million compared to 2020/21

- 6.5 It should be noted that on 23 October 2020, the Council's external auditor issued a Report in the Public Interest (the Report) concerning the Council's financial position and related governance arrangements. Whilst this report does contain a recommendation regarding the DSG deficit and the consequent recovery plan, the Report does not impact directly on the recommendation to approve the Croydon school funding formula and any actions required and agreed as a result of the Report will be implemented in accordance with the action plan approved at the Extraordinary Council Meeting on 19th November 2020.
- 6.6 Further, the Council is subject to a Section 114 report issued by the Director of Investment, Finance and Risk (S151 Officer) on 11 November 2020, with a second notice issued on 2 December, and the Council will not be able to balance its budget in the 2020/21 or over the Medium Term Financial Strategy Period (2021/24) until such time as it receives external support in the form of a capitalisation direction request from the Ministry of Housing, Communities and Local Government (as reported to the Extraordinary Council Meeting of 1 December, 2020). Whilst acknowledging the financial position of the Council in respect of the General Fund, the Section 114 notice has no bearing on this decision as this approval is to determine the funding formula in order to passport the Schools Block element of the ring fenced Dedicated School Grant, to be used for the purposes of providing education, to the borough's schools in accordance with *The School and Early Years Finance (England) Regulations* and DfE guidance.

Approved by: Lisa Taylor, Director (Finance, Investment and Risk) and Section 151 Officer.

7. LEGAL CONSIDERATIONS

- 7.1 The Head of Litigation and Corporate Law comments on behalf of the Council's Solicitor that the Local Government Finance Act 1992 section 31A places the Council under a statutory duty to set a balanced budget and to take any remedial action as required in-year.
- 7.2 Dedicated Schools Grant (DSG) is paid to the Council by the Secretary of State under the Education Act 2003 section 14.
- 7.3 Details of the national funding formula (NFF) are contained in various DfE publications.
- 7.4 The Report in the Public Interest dated 23 October 2020 was issued under the Local Audit and Accountability Act 2014. The Council must comply with the requirements of the Act in responding to the Report. The report sets out a range of recommendations, which have been agreed by the Council, and an Action Plan has now been put in place. The report provides, amongst other things, that the DSG should be managed within existing budgets. Regular reports are required to be made to the General Purposes and Audit Committee regarding actions being taken by the Council to address the DSG deficit which has built up.

- 7.5 The two reports presented to Members by the Chief Finance Office on 11 November 2020 and 2 December 2020 were issued under of the Local Government Finance Act 1988 section 114(3). A prohibition period of up to 21 days follows each notice during which the Council is not permitted to incur any new expenditure without the prior approval of the Council's Chief Finance Officer.
- 7.6 The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulation 2020 which came into force on 29 November 2020 introduced a new accounting treatment for DSG deficits for the financial years 20/21, 21/22 and 22/23. Any outstanding deficit at the end of this period will, as currently drafted, reduce un-earmarked general fund reserves in the financial year commencing 1 April 2023.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Council's Solicitor and Monitoring Officer.

8. HUMAN RESOURCES IMPACT

- 8.1 There are no direct Human Resources considerations arising from this report. If there are subsequent proposals that affect the workforce as a result of the budget limit set, consultation and planning must be in line with HR policies and procedures and HR advice must be sought from the assigned provider. Council HR should be kept informed of proposals.

Approved by: Sue Moorman Director of Human Resources

9. EQUALITIES IMPACT

- 9.1 The funding allocations and formulae are set nationally and are therefore already subject to an equality assessment. The Council is also committed to the government's vision - an education system that works for everyone. No matter where they live, whatever their background, ability or need, children should have access to an excellent education that unlocks talent and creates opportunity. We want all children to reach their full potential and to succeed in adult life.
- 9.2 In setting the Education Budget 20120/21, the Council has taken into account the need to ensure targeted funding is available for work on raising the attainment of disadvantaged pupils who are likely to share a "protected characteristic" (as defined in the Equality Act 2010) and close the gap between them and their peers.
- 9.3 The Council will ensure that the system for distributing funding is fair in order to support the life chances of our most vulnerable children and young people; a fairer funding system will help provide all schools and all areas with the resources needed to provide an excellent education for all pupils irrespective of their background, ability, need, or where in the country they live.

- 9.4 This will help the Council meet its equality objective “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.”

Approved by: Yvonne Okiyo, Equalities Manager

10. ENVIRONMENTAL IMPACT

- 10.1 There are no direct implications contained in this report.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There are no direct implications contained in this report.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 The Education and Skills Funding Agency require the proposed 2021/22 school funding formula to be politically approved by mid-January 2021, prior to the submission of the authority pro-forma tool, which specifies Croydon’s schools funding formulae, by 21st January 2021. There is no direct action requested at this point.

13. OPTIONS CONSIDERED AND REJECTED

- 13.1 Given the provisional allocations there is no requirement for additional action at this time.

14. DATA PROTECTION IMPLICATIONS

- 14.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF ‘PERSONAL DATA’?**

NO

CONTACT OFFICER: Kate Bingham, (Interim) Head of Finance – Children, Families and Education

APPENDICES TO THIS REPORT:

- Appendix 1: Dedicated Schools Grant (DSG) School Funding Formula – 2021/22 Formula Factors
Appendix 2: Dedicated Schools Grant (DSG) School Funding Formula – 2021/22

Appendix 3: Split Sites factor
Schools Forum Minutes of Meeting held on Monday 9 November 2020

BACKGROUND PAPERS:

School Forum Papers <https://www.croydon.gov.uk/education/schools-new/statnotice-consult/croydon-schools-forum/csforum>

ITEM 3**Dedicated Schools Grant (DSG) School Funding Formula – 2021/22
Formula Factors**

Schools Forum – 9 November 2020

Recommendation**The Schools Forum is asked to:**

Agree on the formula factors to be used in the setting of the 2021/22 schools budgets set out in Table 2 below

Members of Forum allowed to vote:- All school and academy members are able to vote. Only early years representatives from the non schools members are able to vote. Non-school members even if represented by school staff are not eligible to vote.

1. Background

- 1.1** The National Funding Formula (NFF) came into effect in April 2018 for schools, high needs, early years and central services block. The schools block NFF calculates a notional allocation at a school level and then aggregates these to produce the LA level allocations. The Department for Education (DfE) have confirmed the intention to move to a hardening of the individual factors between now and 2024/25 however for 2021/22, local authorities will continue to be allowed to determine final funding allocations for schools through a local formula. In 2020/21 Schools Forum made the decision to move closer to the NFF on some factors by taking the mid-point between the previous year's factor rate and the NFF rate. This paper continues on this path towards NFF and sets out two options: move to the NFF in 2021/22 or make a partial transition to ease the potential turbulence of moving to a 'hard formula' at a later stage.
- 1.2** This paper sets out each of the factors that are used in the Croydon local formula, the rate/amounts in the NFF and rates at the midpoint between the two.
- 1.3** The schools block is ring-fenced in 2021 to 2022, but local authorities can transfer up to 0.5% of their schools block funding into another block, with the approval of their schools forum. However, there is no request to transfer between blocks at this time.

2. Provisional funding allocation

- 2.1** The NFF provisional allocation for 2021/22 is below in Table 1. The funding is an indicative allocation and subject to change following pupil numbers adjustments after the October census. Final allocations have in prior years been issued in late December. The movement shows an indicative increase of £16.4m from the 2020/21 final allocation.

2.2 The Teachers pensions & the teachers' pay award grants have been rolled into the schools block funding. In 2020/21 the grants approx. £14.5m.

Table 1 Schools Block provisional allocation 2021/22

	Total 2020/21 final allocation	Provisional funding in 2021/22	Movement
Schools block allocation	£262,963,215	£279,332,919	£16,369,704

3. Formula factors

The formula factors used in Croydon and which require Schools Forum approval are set out below and are summarised in Table 2.

Table 2 Formula factors requiring approval

Para No.	Formula factor	Approval type -2021/22
3.1	Minimum per pupil funding	To note (compulsory factor and rate)
3.2	Age weighted pupil unit	To note (compulsory factor and local rate)
3.3.1	Deprivation - IDACI	To agree to continue to use as a method of calculating deprivation; To agree rates to be used (compulsory / discretionary)
3.3.2	Deprivation - FSM	To agree to continue to use as a method of calculating deprivation; To agree continue to follow NFF rates (compulsory / discretionary)
3.4	Low prior attainment	To agree (optional / discretionary)
3.5	English as an additional language	To agree (optional / discretionary)
3.6	Looked after children	To agree (optional / discretionary)
3.7	Lump Sum	To agree (optional / discretionary)
3.8	Mobility	To agree (optional / discretionary)
3.9.1	Private Finance Initiative - RPI	Compulsory factor as have one but with an (optional / discretionary)

3.9.2	Private Finance Initiative – base rate increase	To agree (optional / discretionary)
3.10	Minimum Funding Guarantee	To agree (compulsory)
3.11	Growth	Criteria for growth agreed SF 5 th October 2020

3.1 Minimum per pupil level funding

Minimum per pupil funding level is set by the NFF to ensure that each pupil attracts a basic level of funding thus ensure that if no other factor is relevant that there is a minimum level each pupil at each school phase should be funded for.

Table 3 Rates for Minimum per pupil level funding

School phase	2019/20 local rate per pupil	NFF & Croydon rate per pupil 2020/21	Croydon 2021/22 rate per pupil	Variance
Primary school	£3,500	£3,750	£4,180	£430
Secondary school	£4,800	£5,000	£5,415	£415

3.1 Schools Forum are requested to note that the mandatory minimum per pupil level funding rates for 2021/22.

3.2 Age weighted pupil unit (AWPU)

The funding formulae will calculate a rate of AWPU after all the other factors amounts have been allocated. The amount will be flexed dependent on our final allocation from the DfE in December. The AWPU rates for prior years are below. Our initial modelling of the indicative allocations shows an expected increase in the AWPU rates for 2021/22.

Table 4 AWPU rates

School phase	2019-20 rate per pupil	2020-21 rate per pupil (@NFF/local midpoint)	2021/22 proposed rate per pupil	AWPU at NFF rates	AWPU at midpoint rates
Primary (Yrs R-6)	£3,151.22	£3,396.13	TBC	£3,713.01	£3,754.79
Key Stage 3 (Yrs 7-9)	£4,088.66	£4,389.41	TBC	£4,772.23	£4,814.02

Key Stage 4 (Yrs 10-11)	£4,372.23	£4,689.89	TBC	£5,090.00	£5,131.78
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3.2 Schools Forum are requested to note that the AWPU can only be determined after the LA receives the final allocation.

3.3 Deprivation

This is a compulsory factor and is made up of 3 elements; free school meals (FSM), free school meals 6 (FSM6) and the income deprivation affecting children index (IDACI). Schools Forum can choose to use free school meals (FSM and FSM6) and/or IDACI.

For 2021/22 the DfE have set revised IDACI banding rate amounts. The intention is for this factor to be moved to a 'hard formula' to introduce nationally consistent factor values.

Table 5 sets out the NFF IDACI rates per primary and secondary pupil alongside the midpoint rate from the 2020/21 IDACI rate used in Croydon.

See Appendix A for definition of FSM6 relates to and the IDACI movements

Table 5 IDACI rates

School phase	2020/21 IDACI rate per primary pupil used in Croydon (midpoint rate)	2021/22 national rate per primary pupil	Midpoint IDACI rate per primary pupil		2020/21 IDACI rate per secondary pupil used in Croydon (midpoint rate)	2021/22 national rate per secondary pupil	Midpoint IDACI rate per secondary pupil
IDACI Band F	£190	£215	£203		£258	£310	£284
IDACI Band E	£245	£260	£253		£378	£415	£397
IDACI Band D	£356	£410	£383		£443	£580	£512
IDACI Band C	£407	£445	£426		£520	£630	£575
IDACI Band B	£487	£475	£481		£659	£680	£670
IDACI Band A	£813	£620	£717		£1,165	£865	£1,015

(1) IDACI

Proposal to continue to use IDACI as a method of calculating deprivation

- 3.3 .1 (a) Move to the national average rate set by in the NFF rate per pupil or**
(b) Move to the midpoint rate between Croydon 2021/22 local rates and NFF.

(2) Free School Meals (FSM)

Schools received funding for all FSM eligible pupils through this factor. In 2020/21 Croydon followed the NFF rates and distributed £16.7m through this factor. The rates per school phase varies for each of the two elements (FSM rates and FSM6). Based on 2020/21 school data and using the NFF rates, Croydon would distribute (£16.8m) £5.5m for FSM and £11.3m for FSM6.

Table 6 FSM rates

School phase	2020/21 rate per pupil - FSM	2020/21 rate per pupil – FSM6	2021/22 NFF rate per pupil - FSM	2021/22 NFF rate per pupil –FSM6
Primary school	£450	£560	£460	£575
Secondary school	£450	£815	£460	£840

3.3.2 Schools Forum are requested to continue to use free schools meals in the deprivation funding and to use the national average rate set by in the NFF rate per pupil for FSM and FSM6.

3.4 Low Prior Attainment

This is an optional factor which Croydon had applied in prior years. It is a rate per pupil per school phase and is set locally. In the 2020/21 allocation Croydon distributed £12.9m through this factor. The NFF rates are considerably higher and would result in £17.6m being distributed through this factor (based on 2020/21 APT school data), offsetting reductions in Deprivation funding should the lower NFF deprivation rates be used. The midpoint would result in £15.2m being distributed.

The APT tool automatically provides the number of pupils who are eligible (based off the prior year census data).

See Appendix A for definition of Low Prior Attainment and the pupils in this category

Table 7 Low Prior Attainment rates

School phase	2020/21 Local rate per pupil (@NFF/local midpoint)	2021/22 NFF rate per pupil	2021/22 midpoint rate per pupil
Primary school	£721	£1,095	£908
Secondary school	£1,388	£1,660	£1,524

3.4 Schools Forum are requested for the Low Prior Attainment rate to be included as a factor and to agree the rate:

- (a) Move to the national average rate set by in the NFF rate per pupil or
 (b) Move to the midpoint rate between Croydon local rates and NFF.

3.5 English as an additional language (EAL)

This is an optional factor but has been used in the Croydon local formula. This rate per pupil per phase has been set locally. In the 2020/21 allocation Croydon distributed £5m through this factor. Using the NFF rate and the midpoint rate, this would be virtually unchanged.

Table 8 EAL rates

School phase	2020/21 Local rate per pupil (@NFF/local midpoint)	2021/22 NFF rate per pupil	2021/22 midpoint rate per pupil
Primary school	£528	£550	£539
Secondary school	£1,520	£1,485	£1,503

3.5 Schools Forum are requested to maintain English as an additional language as a factor and to agree the rate:

- (a) Move to the national average rate set by in the NFF rate per pupil or
 (b) Move to the midpoint rate between Croydon local rates and NFF.

3.6 Looked after Children

This rate per pupil per school phase is set locally. Using the 2020/21 local rate Croydon distributed £170k through this factor. There is no guided NFF rate. This would remain unchanged.

Table 9 Looked after Children rate

School phase	2021/22 proposed rate per pupil	Number of pupils
Primary school	£500	145
Secondary school	£500	192

3.6 Schools Forum are requested for Looked after Children to remain as a formula factor and to:

- (a) Agree to maintain the existing rates per pupil and
 (b) Agree to de-delegate/allocate the funding to Virtual Schools directly

3.7 Lump Sum

Each school receives a lump sum. In 2020/21, the local lump sum per school was £140,000 and resulted in a distribution of £15.4m. The published NFF rate is £117,800. Using the NFF would result in a distribution of £13m, at the mid-point rate it would be £14m and at the higher rate per prior year its £15.4m.

Table 10 Lump sum rates

School phase	2020/21 Local rate per school	2021/22 NFF rate per school	Midpoint rate per school
Secondary school	£140,000	£117,800	£128,900
Primary school	£140,000	£117,800	£128,900

3.7 Schools Forum are requested for lump sum to remain as a factor and to agree to the rate:

- (a) **Decrease the amount per school to the NFF rate of £118k for 2021/22**
or
- (b) **Decrease the amount per school to the midpoint rate of £128,900** **or**
- (c) **Retain the higher rate as per the prior year of £140,000 per school**

3.8 Mobility

The mobility factor allocates funding to schools with a high proportion of pupils who first join on a non-standard date. Mobility funding was previously allocated on the basis of historic spend. However, for 2020/21, the DfE developed a new methodology that enables calculation of allocations of this funding on a formulaic basis.

Rather than relying on a single census, the new methodology involves tracking individual pupils using their unique pupil ID through censuses from the past 3 years. If the first census when the pupil was in the school was a spring or summer census, they are considered a mobile pupil.

To be eligible for mobility funding, the proportion of mobile pupils a school has must be above the threshold of 6%. A per pupil amount will then be allocated to all mobile pupils above that threshold. As this is an optional factor, the LA will be able to decide whether or not to include this factor in their formula.

See Appendix A for definition of Mobility and the schools and school phases impacted

Table 11 Mobility rates

School phase	2020/21 Local rate per school (@NFF/local midpoint)	2021/22 NFF rate per school	Midpoint rate per school	NOR eligible	How many schools would be impacted
Primary school	£714	£900	£807	550	41
Secondary school	£1,113	£1,290	£1,202	119	8

3.8 Schools Forum are requested to maintain Mobility as a formula factor and to:

- (a) Move to the national average rate set by in the NFF rate per pupil or**
(b) Move to the midpoint rate between Croydon local rates and NFF.

3.9 Private Finance Initiative

Croydon has one PFI school and therefore uses this factor. The purpose of the factor is to fund the additional costs to a school of being in a PFI contract. The amount was last increased by £220k over the two year period ending 2020/21 to uplift the schools allocation as the previous increase was in 2014/15.

See Appendix A for PFI methodology funding & for details on the DfE Allocation for the PFI factor within the schools block allocation

The proposals are:

- (1) The amount awarded to the school in 2020/21 was £607,831 proposal to maintain this rate for 2021/22
- (2) to increase annually the base rate of funding by RPI (Retail process index as set by the Office for National Statistics) (1.56%) £9,482 to £617,313. This is as per the NFF guidance on an acceptable methodology for funding a PFI.
- (3) to increase the base funding in 2021/22 to a level that reflects the actual cost of the PFI for the school. £110,000 is proposed in line with prior year increases and to reflect in some part the actual costs to the school of being in a PFI contract.
- (4) in Croydon there are 50,844 number of pupils and if we assign £3 from the schools block funding to the PFI it would equate to £152,532. This option will then

Under option (4) and assuming the midpoint rate for all other NFF factors there would be MFG protection applied as a result of the reduction in the per pupil funding level from the prior year. MFG of £230,592 would be applied.

Table 12 PFI funding

Year	Funding	Costs to school *
2013/14	£66,127	£571,162
2014/15	£150,000	£708,153
2015/16	£310,632	£714,558
2016/17	£360,632	£747,417
2017/18	£360,632	£799,583
2018/19	£360,632	£855,390**
2019/20	£486,163	£876,775**
2020/21	£607,831	£1,087,806***
2021/22	TBC	£1,087,806***

* Costs to school does not include the library & music service costs. These are additional to the above

** Estimated cost based on the prior on year actual % increases

*** Costs to school is as per the paper presented by the school to Schools Forum on 5th October 2020

3.9 Schools Forum requested to:

- (1) to maintain the funding at the prior year amount
- (2) to increase annually the base rate of funding by RPI
- (3) in 2021/22 increase the base rate funding amount by £110k to reflect in some part the actual costs to the school of being in a PFI contract
- (4) Introduce a cap per pupil cost across Croydon pupils at £3 contribution per pupil

3.10 Minimum funding Guarantee (MFG)

MFG protects schools' budgets from large changes in funding based on factor changes. It protects on £/per pupil basis it does not protect against a fall in pupil numbers. For the last 4 years, the MFG in Croydon formula has been set at -1.5%.

For 2020/21, the DfE changed the levels at which the MFG may be applied in local formulae to between +0.5% and +1.84%, moving to between +0.5% and

+2.0% in 2021/22. All of Croydon schools have reached and exceeded these increases using the NFF rates. Proposed to set the limit at +0.5%.

Table 13 MFG rates

Year	MFG	NFF rate for all factors	Midpoint rate	No. of schools & school type
2016/17	£11,425,730			
2017/18	£3,861,329			
2018/19	£2,362,522			
2019/20	£1,143,179			
2020/21	£670,987			
2021/22	TBC	£88,310	£67,104	1

3.10 Schools Forum are requested to agree to set the MFG at +0.5%.

3.11 Growth

The criteria for growth funding for schools was reviewed and approved by Schools Forum on 5th October 2020. The AWPU rates will be applied to the schools that meet the growth criteria and have been confirmed by the Schools Admissions Team.

Table 14 Growth rates

Year	Growth
2017/18	£3,002,894
2018/19	£3,365,680
2019/20	£2,279,811
2020/21	£1,708,617
2021/22	TBC

3.11 Schools Forum are requested to note the above

Recommendation that the Schools Forum agree on each of the formula factors to be used in the setting of the 2021/22 schools budgets set out in Table 2

Appendix A

FSM6 - Pupils who are identified as FSM6 eligible (pupils who have been entitled to FSM at any time in the last 6 years) as taken from the previous January census.

IDACI - The IDACI element of the deprivation factor is based on the IDACI dataset for 2019, which is published by the Ministry for Housing, Communities and Local Government (MHCLG). IDACI is a relative measure of socio-economic deprivation—an IDACI score is calculated for an LSOA (an area with typically about 1,500 residents) based on the characteristics of households in that area. The IDACI score of a given area does not mean that every child living in that area has particular deprivation characteristics—it is a measure of the likelihood that a child is in a household experiencing relative socio-economic deprivation. LSOAs are ranked by score, from the most deprived LSOA, with the highest score, to the least deprived LSOA.

The IDACI measure uses 7 bands (A to G where A is the most deprived) and different values can be attached to each of the 6 bands A to F. Different unit values can also be used for primary and secondary schools in each band.

Low Prior Attainment - The LPA factor acts as a proxy indicator for low level, high incidence, special educational needs and is measured as such for primary and secondary pupils:

1. primary pupils identified as not achieving the expected level of development in the early years foundation stage profile (EYFSP).
2. secondary pupils not reaching the expected standard in KS2 at either reading, writing or maths—an individual weighting is applied to each year group from years 7 to 10 when calculating secondary LPA to reflect the higher levels of low attainment under the new testing regime

Mobility - This factor pertains to pupils who first appeared in either the January or May census return at their current school (the one they are on roll with in the October census) in 2017 or later. This is for pupils in reception only, those first appearing at their current school in the May census are classed as mobile.

With this factor, there is a 6% threshold and funding is allocated based on the proportion above the threshold (for example, a school with 8% of pupils classed as mobile will attract pupil mobility funding for 2% of pupils).

How PFI is calculated in the NFF - Premises funding will continue to be allocated at local authority level on the basis of actual spend in the 2020-21 APT, with the PFI factor increasing in line with the RPIX measure of inflation (1.56%) to reflect PFI contracts.

Guidance by DfE on how to set the Private finance initiative (PFI) factor:

The purpose of this factor is to support schools that have unavoidable extra premises costs, because they are a PFI school, and to cover situations where the PFI 'affordability gap' is delegated and paid back to the local authority.

Methodologies for funding PFI schools must be objective and clear, and capable of being replicated for academies. The purpose of the factor is to fund the additional costs to a school of being in a PFI contract, not necessarily the full cost, as some costs may be covered within other factors.

An acceptable methodology would generally contain some of the features set out below.

These examples are intended to help local authorities formulate a clear process for funding; it is unlikely that a local authority would need to incorporate all of the features into its own policy.

If a PFI factor is used, all PFI schools should receive it; there may be different arrangements between contracts but, within a contract, all PFI schools should receive funding on an equivalent basis.

This does not necessarily mean all schools should receive the same amount per pupil, but they should be treated on a consistent basis.

Examples of a clear formula for funding PFI schools are:

- Allocations are in accordance with an original governors' agreement
- Allocations reflect the difference between the PFI contractual cost, and the grant received by the local authority, less any local authority contribution
- Methodologies for calculating allocations could include:
 - A percentage of the school's budget share
 - A per-pupil rate
 - A rate per square metre of floor area
 - A historical lump sum previously agreed, and indexed by a percentage per year

Agreements can refer to proportions or elements of the school's budget share, which, due to changes in funding arrangements, may have changed significantly. Where this situation occurs, the department would expect schools and local authorities to work together to agree an alternative arrangement, so that neither party is significantly disadvantaged

ITEM 4 - Dedicated Schools Grant (DSG) School Funding Formula – 2021/22 Split Sites factor

Schools Forum –

Recommendation

The Schools Forum is asked to:

- (1) To review and agree on the criteria of the formula factor for 2021/22 split sites
- (2) To review and agree the amount of funding to be awarded to the four split site schools

Members of Forum allowed to vote:- All school and academy members are able to vote. Only early years representatives from the non schools members are able to vote. Non-school members even if represented by school staff are not eligible to vote.

1. Introduction

- 1.1 The current growth criteria is illustrated in Appendix A and has been used by Croydon to distribute funding for in-borough pupil growth and ongoing support.
- 1.2 The criteria was agreed by Schools Forum 5th October 2020. The purpose of this paper is to review one element of it the Split Site Factor

2. Premises factor – Split sites

- 2.1 The premises factor within the National Funding Formula (NFF) is made up of, PFI factor, rates, split sites and exceptional circumstances. Within Croydon local factors the element for split sites has been worked out via the criteria set within growth. The rationale for this is because the split site funding for the years 1 to 4 was funded from the growth fund.
- 2.2 There is no NFF rate set for the split site factor. The actual premises funding for the 2021-22 NFF allocation to the LA is to use the levels of funding given via the LAs' 2020-21 Authority Proforma Tool (APT) with an uplift of the PFI factor in line with inflation using RPIX data (retail prices index for all items excluding mortgage interest).
- 2.3 Table 1 is a summary of the schools that have split sites and the allocation amount as per the draft APT. As the schools are beyond year 4 the funding no longer funded via the Growth fund and is the set £35k per annum

Table 1: Split site schools

	School	Budget 2021/22
3062046	West Thornton Primary Academy	35,000
3062048	Whitehorse Manor Infant School	35,000
3062114	Cypress Primary School	35,000
3066909	Oasis Academy Shirley Park	35,000
	Total	140,000

3. Split sites criteria

3.1 This is an optional factor used to support schools that have additional unavoidable costs because the school buildings are on separate sites, the guidance states the allocations must be based on objective criteria for the definition of a split site and for how much is paid.

3.2 In order to receive split site funding the following criteria must be met in full:

3.2.1 The two or more sites must belong to a single school that by definition has one DfE number.

3.2.2 The two or more stand alone sites are not physically connected or directly accessed from another part of the school.

3.2.3 Each site has its own reception that is consistent in appearance with a reception for a one site school.

3.2.4 Over 18 % of the school's curriculum for pupils in the age range R to 11 are taught on the site

4. Future strategy for split sites factor

As this is an optional factor for the future APT workings this factor will be reviewed as an individual premises factor rather than through the Growth funding criteria.

Recommendation

The Schools Forum is asked to:

- (1) To review and agree on the criteria of the formula factor for 2021/22 split sites
- (2) To review and agree the amount of funding to be awarded to the four split site schools

Appendix: Growth Funding Criteria**Appendix A: Agreed Growth Factors**

Criteria	2020/21 Criteria
Start Up	£150k for both primary and secondary
Split Site	£150k in the first year
Inefficiency Factors	To reduce the current lump sum in equal instalments over the remaining forms post year 1. As laid out in tables two and three below.
Bulge	Allocate based on 30 pupils x APWU x AEN
Expansion Classes	As Above
Contingency	If numbers were below 30 in January census to look to adjust funding to a cap of 25
Equipment	£5k

Appendix B: Start Up - Inefficiency factor for new build schools

The principle is that when Schools get to a total of 7 classes Schools are funded entirely from formula factors – AWPU & Lump sum. The funding would be based on the number of classes unfilled before Schools reach 7 (primary) or 5 (secondary) as a percentage of the initial sum. All calculations are rounded to nearest £1K.

Years after establishment	Primary	
Year 1	Start up	£150K
Year 2	5/6 – Inefficiency	£125K
Year 3	4/6 - Inefficiency	£100K
Year 4	3/6 - Inefficiency	£75K
Year 5	2/6 - Inefficiency	£50K
Year 6	1/6 - Inefficiency	£25K
Year 7	0 - Inefficiency	£0
Years after establishment	Secondary	
Year 1	Start up	£150K
Year 2	3/4 - Inefficiency	£112.5K
Year 3	2/4 – Inefficiency	£75K
Year 4	1/4 - Inefficiency	£37.5K
Year 5	0 - Inefficiency	£0

Appendix C: Start-Up Inefficiency factor for annexes

The principle is that the inefficiency factor reduces until it reaches the same level as split site factor.

Years after establishment	Split Site Primary Annex	
Year 1	Start up	£150K
Year 2	5/6 – Inefficiency	£125K
Year 3	4/6 - Inefficiency	£100K
Year 4	3/6 - Inefficiency	£75K
Year 5	Split site factor (distance dependent)	£30 / (£35k)
Year 6	Split site factor (distance dependent)	£30 / (£35k)

Years after establishment	Split Site Secondary Annex	
Year 1	Start up	£150K
Year 2	3/4 - Inefficiency	£112.5K
Year 3	2/4 – Inefficiency	£75K
Year 4	1/4 - Inefficiency	£37.5K
Year 5	Split site factor (distance dependent)	£30/ (£35k)

The differences between split site and start-up funding in years 1 to 4 would be funded from the growth fund.

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Schools Forum

Minutes of Meeting held on Monday 9 November 2020

Virtual (via Zoom)

Members Present:	Nicholas Dry	Jenny Adamson
	Sharon Oliver	Rob Veale
	Patrick Shields	Lorraine Slee
	Cllr Helen Redfern	Neil Ferrigan
	Tyrone Myton	Nathan Walters
	Rob Hitch	Chris Andrews
	Soumick Dey	Louise Lee
	Jaqi Stevenson	Dave Harvey
	Linda O'Callaghan	Joe Flynn
	Kevin Standish	Keran Currie
	Josephine Copeland	Dave Winters

Observers Present:	Cllr Shafi Khan	Cllr Alisa Flemming
	Cllr Margaret Bird	Shelley Davies
	Michael McKeaveney	Orlagh Guarnori
	Sarah Bailey	Emma Watson

Apologies: Vivienne Esparon, Roger Capham
Cllr Joy Prince – technical issues were cited.

Chair: Jolyon Roberts

Vice Chair: Theresa Staunton

Clerk: Heather Beck/Geraldine Truss

	<p>Declaration of Interest</p> <p>There were none.</p>	
	<p>The Chair welcomed everyone to the meeting. Observers at the meeting were asked introduce themselves and were:</p> <ul style="list-style-type: none"> • Emma Watson – School Business Manager, Winterbourne Junior Girls <p>The meeting was quorate.</p>	

1:	<p>Minutes and actions from the last meeting (5 October Virtual Meeting – Zoom)</p> <p><u>Matters arising</u></p> <p>Page 3, Item 5 – Para 2.... ‘The wear and tear of the building has impacted heavily (£50,000) on the school....’. Members reminded the meeting that ALL schools experience wear and tear and that this was not an exclusive feature of PFI schools.</p> <p>Pick up amendment on wording POST MEET ACTION</p> <p>Dave Harvey (DH) asked if an LA officer could provide a list of beneficiaries of the Ashburton PFI to the Schools Forum in December ACTION</p> <p>Page 7, Item 8b – Para 4.... High Needs is currently running at 16M deficit.</p> <p>Dave Harvey highlighted once again the ever expanding deficit of the High Needs. He mentioned the Grant Thornton public interest report on the council’s financial position and how it impacts on Forum and recommendations the report has made. He suggests this report should be on a future Forum agenda. DH said an item in the report points to the Asylum Seekers threshold – and a suggested cut to this funding. He said Forum need to address this.</p> <p>Overview of the Audit Report on the Croydon Recovery Plan in relation to DSG; UASC; High Needs – LA to share their actions and follow up report to be presented to Schools Forum in December.</p> <p>ACTION</p> <p>Standing Agenda Item – Croydon Recovery Plan (January 2021)</p>	<p>Jolyon Roberts</p> <p>Orlagh Guarnori</p> <p>Shelley Davies/ Kate Bingham</p>
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	<p>Jolyon Roberts picked up on Dave Harvey's comments saying the High Needs deficit had been repeatedly discussed at Forum. Croydon is not the only borough to be suffering from High Needs funding.</p> <p>Kate Bingham said the LA response needs to be delivered within 30 days which is on 11 November 2020 and will be published on the Croydon Council' website.</p> <p>Neil Ferrigan made a comment having picked up in the report the LA's borrowing is be increased to around £2.2B in two years' time.</p> <p>Q1: Neil Ferrigan asked what the impact would be on the borrowing against where we are now. Will there be further shavings along the way, set aside the recommendations;</p> <p>A1: Jolyon Roberts said Forum has got the DSG remit and the rest of the LA response to the section 114 notice are for the new CEO and elected members.</p>	
2:	<p>Establishing membership and voting rights</p> <p>Jolyon Roberts said further work needs to be carried out on getting more members.</p> <p>Jolyon Roberts and Clerk to organise an election for Primary Maintained School Headteachers ACTION</p>	Jolyon Roberts & Clerk
3:	<p>Virtual School update report</p> <p>Sarah Bailey (SB) presented this paper and directed the attention of members to some sections of particular interest:</p> <ul style="list-style-type: none"> • The Report highlights that the Personal Education Plan (PEP) completion rate for those attending the virtual school increased from 85% to 95% this year. The majority of funding is devoted to staffing which has increased to 30 FTE with 3 members of staff targeting post -16 pupils. The Report evidences the spend by the Virtual School of monies received from Schools Forum; • Croydon looked after children achieved a ranking of second overall nationally for KS1-2 progress and KS2-4 progress out of 346 LAs nationally; • Teachers have a cap of 60 pupils that they have responsibility for and this has proved to be manageable; • The Ofsted ILACs inspection in February 2020 gave Croydon Virtual School a very positive comprehensive review of their contribution in their published report. <p>Q1: Page 3, Para 3 3.6 - Neil Ferrigan queried the KS2 drop from 43 to 37. Is there a reason for this drop;</p>	

	<p>A1: SB said that this year it was due to the teacher's assessment and they would have been more cautious. The cohorts vary from year to year and this year there were 15 pupils with identified SEN needs. Due to the differing individual needs it is hard to compare year on year;</p> <p>Q2: Page 9, Para 10.1 – Neil Ferrigan asked about the two exclusions;</p> <p>A2: SB said the two pupils were permanent exclusions from Croydon secondary schools. One pupil had gone into an alternate provision while the other was placed out of borough. They are both still in education;</p> <p>Q3: Neil Ferrigan asked what happens to the children once they leave VS;</p> <p>A3: SB said pupils will then come under Social Care;</p> <p>Q4: Neil Ferrigan asked about the percentage of pupil absence and said a marker would help to gauge it;</p> <p>A4: SB said due to Covid-19 the percentage marker slipped and persistence absentees is always a challenge. This currently sits at 14% which is higher than preferred. VS will take on board a design for a marker to gauge absenteeism.</p> <p>Jolyon Roberts said the report was discussed in Pre Meet and shows a positive picture of improvement and progress. Since Forum has receiving these reports the measurable outcomes has improved and so it is good that Ofsted have now recognised this too.</p> <p>Shelley Davies said this was an ILAC partnership which is key. There is a link between education and Social care, learning access, EHE and CME.</p> <p>Q5: Jolyon Roberts asked has online teaching being viable due to Covid-19;</p> <p>A5: SB said online learning is working and that in fact some young people are engaging more now.</p> <p>Orlagh Guarnori said the funding for VS sits within the AWPU tool.</p>	
4:	<p>Dedicated Schools Grant (DSG) School Funding Formula – 2021/22 Formula Factors</p> <p>Orlagh Guarnori (OG) presented this paper</p> <p>This paper sets out each of the factors that are used in the Croydon local formula, the rate/amounts in the NFF and rates at the midpoint between the two.</p> <p>Jenny Adamson informed Forum that the minutes of the School Block working party (13/10/2020) gave an in-depth assessment of the funding paper and suggestions as to how factors should be used. These minutes should be front loaded to assist the Forum.</p>	

Jolyon Roberts agreed with Jenny Adamson and said the Chair of the Schools Block, Patrick Shields would input on how decisions in Schools Block were reached and their recommendations for each point and whether there was a majority for each recommendation. OG said the increase in Schools Block has been ring fenced and at this time no request has been made to top slice it. The teachers' pension grant and the teachers' pay award grants have been rolled into the Schools Block funding which meant that instead of £14.5m of new money becoming available there was now about £1.9m of new money.

3.1 – Minimum per pupil funding

No decision was needed here as these are nationally agreed arrangements.

3.2 – Age weighted pupil unit (AWPU)

No decision was needed. This rate can only be determined once other funding rates have been allocated via the other factors.

3.3.1 – Deprivation – IDACI

This is a compulsory factor made up of 3 elements; free school meals (FSM) free school meals 6 (FSM6) and income deprivation affecting children index (IDACI). In the past Croydon has used all 3 factors.

Patrick Shields said the discussion within Schools Block covered the impact on schools if this rate changed. Schools Forum have done a huge amount of work over past years and Schools Block voted unanimously to move to the mid point between Croydon's existing rate and the NFF rate.

Q1: Tyrone Myton asked if these numbers we are voting on will mean that whatever decision is made we will stay within the overall DSG budget allocated to Croydon;

A1: Jolyon Roberts said we are not allowed to go outside of the budget

Patrick Shields said School Block recommend moving to midpoint.

Option a: Those in favour = 0

Option b: Those in favour = 14

Abstention: = 0

3.3.2 – Deprivation – FSM

Patrick Shields said School Block recommend voting the request to include an FSM factor in the formula.

3.4 - Low Prior Attainment (LPA)

<p>Table 7 illustrated the payments which have applied in previous years.</p> <p>Patrick Shields said that Schools Block had requested more information on the definition of LPA. Schools Block recognised this is one of the few factors that is increasing to reach the NFF rate. Schools Block had unanimously agreed to move towards mid point.</p> <p>Q2: Jolyon Roberts asked how many pupils were eligible for LPA; A2: OG said she would find out and get back to the Forum; Q3: Tyrone Myton asked who sets the criteria; A3: Jolyon Roberts said Forum determine whether the definition is a national factor as Forum used this last year in order to avoid turbulence.</p> <p>Option a: Those in favour of = 0 Option b: Those in favour of = 14 Abstention: = 0</p> <p>3.5 - English as an additional language</p> <p>This is an optional factor that Croydon has used in the local formula up until now. Table 8 sets out the rates in 2020/21 and proposed rate for 2021/22. The rate is virtually unchanged. Jolyon Roberts said the difference between the NFF and the midpoint rate for the primary sector was £11. If Forum moved the NFF rate it would be a greater amount.</p> <p>Patrick Shields said Schools Block recognised the need for EAL and recommend move once again to the mid point between Croydon and the NFF rate</p> <p>Option a: Those in favour = 0 Option b: Those in favour = 14 Abstention: = 0</p> <p>3.6 - Looked after children</p> <p>There is no guided NFF rate and Croydon can set the rate locally. The VS received funding last year. Patrick Shields said Schools Block held a good discussion regarding the Virtual School's paper which was presented above. The report evidenced the success Virtual School had achieved through receiving this funding.</p> <p>Schools Block unanimously recommend maintaining the existing rate of £500 per pupil and for it to be awarded to the Virtual School.</p> <p>Q4: Neil Ferrigan asked if this funding was monitored; A4: OG said yes it was monitored via Schools Forum papers such as the one that was received at this meeting</p>	
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Option a + b were considered together as one decision.

Those in favour = 14

Abstention: =0

3.7 - Lump Sum

Each school received a lump sum of money illustrated in Table 10. There are different rates for primary and secondary in 2020/21 and 2021/22. It is noted that smaller schools i.e. 1 form entry schools are impacted most by changes to this factor.

Patrick Shields said this provoked a long discussion at Schools Block. Schools Block were unable to achieve a unanimous recommendation; Decision - no recommendation from Schools Block.

Jolyon Roberts said Schools Forum members should vote with their conscience and on information they received today but to please bear in mind the effect on smaller schools.

Sharon Oliver said there are only five 1FE schools Croydon and if funding was put at the midpoint it would affect the schools budgets. Schools are getting more children who need an EHCP, this impact requires a TA to be with the child until the EHCP plan is received. Small schools rely on outside clubs, and single entry schools are not always in deprived areas and do not get funds from other areas. Having smaller number of children means not always getting the funds that larger schools get. Sharon Oliver said she will take this up with the government in the future.

Q5 Jaqi Stevenson said she understood what Sharon Oliver was saying and that small schools should be protected. How many years do we have the flexibility to cushion the move to the hard formula;

A5: OG said Croydon will have to move to the individual hard formula by 2024/25 and that the soft formula can be used till then.

OG said there is no small school factor and if small schools are to be kept they need to be supported.

Option a: Those in favour = 0

Option b: Those in favour = 0

Option c: Those in favour = 14

Abstention: = 0

3.8 – Mobility

The allocation of the mobility fund is for pupils who join a school on a non-standard date. The DfE have developed a new methodology that enables calculation of distribution funds on a formulaic basis. The

unique pupil ID is used to track the movement of pupils for the last 3 years. To be eligible for mobility funding a school has to be above the threshold of 6% in the one year.

Patrick Shields said Schools Block discussed this in depth and were in agreement to move to the mid point rate.

Option a: those in favour = 0

Option b: those in favour = 14

Abstention = 0

3.9.1 – Private Finance Initiative – PFI

Croydon has one school that has a PFI contract. Appendix A shows how PFI is calculated within the NFF, along with guidance by the DfE regarding the PFI factor.

Table 12 sets out the historic spend since 2013/14 to the present day. The figures are taken from Louise Lee, Regional Director for Oasis Academy paper that she presented to Schools Forum on 5 October 2020.

Patrick Shields said that Schools Block recognised that Louise Lee presented a strong paper to Schools Forum. The addition of proposal 4 was based on a discussion in Schools Block. 93000 students in Croydon are paying £6/7 towards this schools PFI. Only 50000 of those students are contained in this formula. This PFI has a negative impact on Oasis one which they would have known about. Oasis is a member of a federation and they should contribute more towards the school. Everyone is suffering from inflation.

The Schools Block recognised this was a difficult discussion and there was not agreement reached.

Q6: Jolyon Roberts said the idea of a % increase was not requested by Louise Lee, it was a suggestion from the last Schools Forum, possibly from Dave Harvey at the last Schools Forum – is this true?

A6: Dave Harvey said he did not suggest an RPI figure but did ask that that it be re-examined and an increase considered

Dave Winters said Oasis was unique in Croydon not only because it is the only PFI in Croydon and that the school cannot generate incomes like other schools. The situation is unsatisfactory and a number of issues have been identified by Schools Block which should be addressed. The attitude of 'we are stuck with it' is not productive as this was a poor decision made by politicians who should be pushed into trying to do something about this. Oasis should do something about this as well. There is legislation relating to restricting fares/rates, energy prices, rents, so why not have a restriction on this situation. Dave Winters said he would pick option 3 as the best for

	<p>allowing the school to keep their head above water, if not then option 4.</p> <p>Tyrone Myton pointed out that when Oasis took over the school they would have been aware of the PFI arrangements and the risks that went with that.</p> <p>Q7: Tyrone Myton asked is the cost of proposal 3 above what we gave last year and what is the total on proposal 4 – we give £300K;</p> <p>A7: Jolyon Roberts said the amount is £380K approaching £400K.</p> <p>Tyrone Myton asked if there was a reduction in last year's figures, would Oasis not have taken account of this. He raised this at the last meeting at Forum that when Oasis took over Ashburton they would have known about this and surely factored this in. He agreed with Patrick Shields points that children all around Croydon not studying at Oasis have to pay for this. He comes from a trust himself and believes Oasis could be picking up some of this.</p> <p>Jolyon Roberts said this PFI was signed a long time ago and things have changed although the points made by Tyrone Myton and Patrick Shields are valid.</p> <p>Dave Harvey said option 3 indicated the detriment that the children have had over the past years. It is not the fault of the children whether the furniture should be replaced; or building surveyed; or there are after school activities. The children were not born when this PFI was initiated. The unions have contested this down the line for years. This is an unfair penalty on the pupils in the school in relation to the support pupils in other schools receive.</p> <p>Rob Hitch said he is in agreement with Dave Harvey but asked if we continued with the present arrangements is this merely stopping the Trust from helping themselves?</p> <p>Nick Dry said he thought Oasis was a larger academy trust and they had the mobility of moving resources where required.</p> <p>Orlagh Guarnori said option 4 contributes £3 p/p in Croydon and then MFG applies making a total of £380k which is a significant decrease from previous funding.</p> <p>Patrick Shields said to some extent looking at the figures it is saying what value we think that every other pupil in Croydon has. Other schools do not have brand new buildings. Pupils in Croydon were born before this political decision was made and option 3 with £3 along with MFG will be safeguarded.</p>	
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Dave Harvey said they always operated on £50K, there was talk about £90K. To be clear option 4 would be reducing the amount going to Oasis this year.

Neil Ferrigan said the PFI will finish in 18 years' time and says the emphasis should be on Oasis to solve this. What would happen if the school had no PFI factor? He would opt for option 1 and would like to abstain as he felt he did not know enough.

Jolyon Roberts informed meeting that at the end of 18 years the contract has to be paid off. If any gaps happen the money still has to be found. The ultimate signatory for the PFI is Croydon Council who do not need to default on any payments. All pupils in Croydon are paying for this and we have to be practical and manage it. He personal view would be to select option 1 which would then put the emphasis on Oasis to fill the small resulting gap. He is uncomfortable about radically changing, as a decrease in funding will probably have the effect of bringing SLT from the school back to Schools Forum until it is resolved. He agrees with members concerns but we have to take a pragmatic view on this.

Q8: Sharon Oliver asked if we were in NFF formula what would Oasis get;

A8: Orlagh Guarnori said NFF would be the historic rate which was applied in previous years. Appendix A of the paper sets out the calculation of the PFI and the guidance indicates an agreement must be reached with all.

Option 1: those in favour = 7

Option 2: those in favour = 0

Option 3: those in favour = 0

Option 4: those in favour = 6

Abstention: = 1

Jolyon Roberts said everyone voted with their conscience and he thanked Forum for the thought that went into this.

3.10 – Minimum Funding Guarantee - MFG

This is set at the lowest rate. This is estimated at £88.310 if we go with the NFF factors. Croydon has set this formula at 1.5% for the last 4 years and Table 13 exhibits the previous history of the MFG rate.

Patrick Shields said Schools Block recommended setting MFG at +0.5%

Schools Forum are requested to agree to set the MFG at +0.5%

Those in favour =14

Abstention: = 0

There was unanimous agreement to set MFG +0.5%.

	<p>3.11 - Growth</p> <p>The criteria for growth funding for schools was reviewed and approved by Schools Forum on 5 October 2020. The AWPU rates will be applied to the schools who meet the growth criteria and have been ratified by Schools Admission.</p> <p>Table 14 illustrates the growth rate from 2017/18 to the present day.</p> <p>Schools Forum are requested to note the above.</p>	
5:	<p>Mobility funds distribution</p> <p>Orlagh Guarnori (OG) presented this paper</p> <p>The methodology for the allocation of this 'one off' payment of the carry forward growth fund for mobility, was agreed in previous meetings.</p> <p>Patrick Shields said Schools Block working group agreed to the format for the disbursement of £182,707.</p> <p>OG said Table 1 lists the 41 schools who returned their claims within the time limit. Two schools included one pupil where the pupil has not attended the setting. Three late applications were discounted, 369 pupils equates to £459.14 p/p.</p> <p>Patrick Shields said Schools Block had discovered that non claims had not been weeded out when the distribution fund was initially planned. At this preliminary stage Schools Block would welcome further scrutiny.</p> <p>Schools Forum unanimously carried the motion.</p>	
6:	<p>Update from Schools Forum Work Groups (for information)</p> <p><u>Early Years Working Party</u></p> <p>A meeting was held on 29 September 2020 where they discussed High Needs/Early Years funding along with discussion on maintained nursery schools and current actions.</p> <p><u>High Needs Working Party</u></p> <p>A meeting will be held on 18 November 2020.</p> <p><u>Schools Block Working Party</u></p> <p>A meeting was held on 13 October 2020. There was a heavy load and had poor attendance.</p>	

7:	<p>Any Other Business</p> <p>Cllr Redfern referred Forum members to the Report in the Public Interest published by external auditors on Croydon Council's finances. The DSG recommendation is detailed on Page 9, Item 4.</p> <p>https://www.croydon.gov.uk/democracy/budgets/report-in-the-public-interest#:~:text=What%20is%20a%20Report%20in,audited%20body%20and%20the%20public</p> <p>Jolyon Roberts thanked Forum for their attendance today. It was a really good piece of scrutiny. He thanked the officers who do lots of work on this – the information they provide is logical and well thought out.</p>	
	<p>Next meeting 7 December 2020</p>	

Abbreviations used within the minutes

AWPU	Average weighted pupil unit
BWH	Bernard Weatherill House
CALAT	Croydon Adult Learning and Training
CHTA	Croydon Headteachers Association
DfE	Department for Education
DSG	Dedicated Schools Grant
EAL	English as an additional language
ESOL	English as a second/or other language
ESFA	Education Skills Funding Agency
EHCP	Education, Health and Care Plan
E-PEP	Electronic Personal Education Plan
ESG	Education Services Grant
EY	Early Years
FSM	Free School Meals
IDACI	Income Deprivation Affecting Children Index
IMD	Index of Multiple Deprivation
INM	Independent/non-maintained
KPI	Key Performance Indicator
LA	Local Authority
LAC	Looked After Children
LLW	London Living Wage
LPA	Low Prior Attainment
MAT	Multi-Academy Trust
MFG	Minimum Funding Guarantee
MNS	Maintained Nursery Schools
NEOST	National Employers Organisation for School Teachers
NEET	Not in Education, Employment or Training
NFF	National Funding Formula
PAN	Planned Admission Number
PEP	Personal Education Plan
PFI	Private Finance Initiative
PPG	Pupil Premium Grant
PPL	Private Public Limited, Consultancy Firm
PVI	Private, voluntary sector and independent providers
SLA	Service Level Agreement
SRMA	School Resource Management Adviser
STPCD	School Teachers Pay and Conditions Document
STRB	School Teachers Review Board
ToR	Terms of Reference
TPA	Teacher Professional Association
UASC	Unaccompanied Asylum Seeker Children
UPN	Unique Pupil Number

REPORT TO:	CABINET 18 January 2021
SUBJECT:	Making Croydon’s Private Rented Homes Safer and Protecting Residents
LEAD OFFICER:	Shifa Mustafa, Executive Director – Place Steve Iles, Director Public Realm – Place
CABINET MEMBER:	Councillor Jane Avis, Cabinet Member for Homes and Gateway Services
WARDS:	All

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

The report builds on the three priorities that have been written into the 2020 Croydon Renewal Plan. The private rented sector forms approximately one third of all homes in the borough and for a diverse group of tenants, including some of the most vulnerable and ‘hard to reach’ residents. The adoption of a proposed penalty charge structure for taking formal action against the non-compliant landlords, letting agents and property managers, under the provisions of recently enacted legislation, will enable the Council to take positive steps in line with these priorities. The updated proposed houses in multiple occupation (“HMO”) mandatory conditions and fee structure will enhance property safety and guide licence holders to council expectations with safety standards, property management and supporting tenants.

FINANCIAL IMPACT

The cost of implementing wider enforcement powers will be contained within existing staff resources, which are funded from licensing income and staffing budgets. Where penalties are issued, there may be additional legal and tribunal costs which would expect to be covered by any fine receipts.

The report also sees recommendations to adapt the current houses multiple occupation application system to allow for a two stage payment process. Overall the financial impact will be cost be neutral as the cost of administering the scheme is covered by charging license fees to landlords. It is possible some resources will be needed in chasing the Part B payment but these will be met by the license fees. More detail on the current and proposed fee structure are outlined in the appendices to the report.

FORWARD PLAN KEY DECISION REFERENCE NO: 0421CAB

The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee

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 new enforcement powers available to the Private Sector Housing Enforcement and Trading Standards teams including the various responsibilities, duties and commencement dates.

1.2 Adopt the proposed policy 'Determining the Penalty and Banding the Offence'; attached as Appendix 1. This policy covers the process to both:

- Determine the Penalty - determine what is the most appropriate sanction to be taken against an offending landlord; and
- Banding the Offence - where the sanction is a Financial Penalty, the level of penalty.

Subject to the adoption of the proposed policy "Determining the Penalty and Banding the Offence"; as per recommendation 1.2 above and having regard to the said determination process:

1.3 Resolve for the proposed policy 'Determining the Penalty and Banding the Offence' to supersede the existing policy "Determining the Penalty" which was approved on the 3rd May 2017 and which the Council commenced using on the 8th May 2017.

1.4 Adopt the proposed revised Statement of Principles attached at Appendix 3 which has been produced as required under regulation 13 of The Smoke and Carbon Monoxide (England) Regulations 2015 and agree to the publication of the Statement of Principles.

Subject to the adoption of the proposed revised Statement of Principles attached at Appendix 3; as per recommendation 1.4 above and having regard to the said determination process;

1.5 Resolve for the proposed Statement of Principles attached at Appendix 3 to supersede the existing Statement of Principles, attached as Appendix 2, which was approved on the 3rd May 2017 and which the Council commenced using on the 8th May 2017".

Subject to the adoption of the proposed policy "Determining the Penalty and Banding the Offence"; as per recommendations 1.2 and 1.3, having regard to the said determination process; and subject to the adoption and publication of the Statement of Principles as per decision 1.4 and 1.5 and having regard to the said Principles;

1.6 Agree to the proposed policy 'Determining the Penalty and Banding the Offence' and proposed revised Statement of Principles to commence on the 1st February 2021 in respect of powers created under the various

enactments.

- 1.7 Approve the revised proposed houses in multiple occupation licensing ["HMO"] fee payment arrangement that requires the applicant to make the same total payment under the scheme if the licence is successfully granted, but in two stages, Part A on application and Part B if the License is granted, as detailed in a fee structure section 18 of the report and documented in Appendix 4 (current fees) and Appendix 5 (proposed fees).
- 1.8 Authorise the Council to include new or revised houses in multiple occupation licence conditions as detailed in section 17 of the report and documented in Appendix 6 (current conditions) and Appendix 7 (proposed conditions) covering:
- the safety of the electrical installation requirements, new condition 1.2.1;
 - the revision of conditions 1.1, 1.2.2 and 1.2.3 to give a deadline of 14 days in which a licence holder must return a declaration to the Council on request;
 - the smoke and carbon monoxide alarm requirements, new condition numbers 1.3.1 and 1.3.2;
 - the control of anti-social behaviour, reworded condition 1.5 with new sections 1.5.2 and 1.5.3;
 - the storage and disposal of household waste requirement, new condition 1.6.1, 1.6.2, and 1.6.3; and
 - the introduction of minimum room standards in paragraph 2 and through 2.3 and 2.4, a system for managing breaches of 2.1 a landlord was not aware of.

Subject to the adoption of the proposed revised fee charging mechanism for houses in multiple occupation licenses as per recommendation 1.7 and having regard to the said determination process; and subject to the adoption of the revised houses in multiple occupation licence conditions as per recommendation 1.8:

- 1.9 Agree to adopt the proposed revised fee charging mechanism for houses in multiple occupation applications attached as Appendix 5 made on or after the 1st February 2021.
- 1.10 Agree to adopt the proposed revised HMO licence conditions attached as Appendix 7 for new HMO licences issued on or after the 1st February 2021.

Subject to Cabinet agreeing 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9 and / or 1.10:

- 1.11 Authorise officers to arrange the publication of the documentation, subject to updates to ensure that typographical matters, such as reference to draft and seeking Cabinet approval, are updated prior to publication.

2. EXECUTIVE SUMMARY

- 2.1 The London Borough of Croydon [“the Council”] is very proactive in improving property and management standards in the Borough’s private rented stock. At the Cabinet meeting on 11th May 2020, Members heard that this sector makes up 35.6% of all households (58,585 of the 164,378 residential properties in Croydon), but is beset with problems associated with property condition, anti-social behaviour and deprivation. As part of the Council’s commitment to improve standards, Cabinet resolved to make two selective licensing designations, A and B. On 20th July 2020 the application was made to Government to confirm these designations and a decision is awaited.
- 2.2 The selective licensing scheme application saw the Council continue with its commitment to improve private rented property and management standards. In the application Croydon further committed to the adoption of the wider enforcement responsibilities created through recent legislation. This report “Making Croydon’s Private Rented Homes Safer and Protecting Residents” proposes that officers of the Private Sector Housing and Trading Standards Teams are able to fully utilise the new powers, including the issuing of financial penalties, to honour that commitment and drive to make ‘Croydon a Better Place to Rent’.
- 2.3 In the three years since the 3rd May 2017, the range of powers and sanctions available to the Council to enforce on non-compliant private sector landlords, letting agents and property managers have widened. More statute has been passed allowing an Enforcing Authority [“EA”], in certain circumstances, to take action to;
- Ensure that landlords only rent properties that meet the current electrical safety standards and their tenants are provided with certification.
 - Ensure that landlords do not rent properties where the Energy Performance Certificate [EPC] is below the minimum level of energy efficiency of band E.
 - Ensure that landlords and agents only charge tenants fees that they are permitted to charge as part of a tenancy;
 - Ensure letting agents are member of client money protection schemes or complaint redress scheme and where fees are charged they are clearly described and published.
 - Enter landlords, convicted of the more serious banning order offences, on the Ministry for Housing and Local Government’s Rogue Landlord Database;
 - Consider whether a landlord, who has been convicted of a banning order offence(s) is considered for a banning order and in certain circumstances an application to the First-tier Tribunal (Property Chamber) [“FTT”] is made.
 - Support tenants who have been subject to poor standards of renting such as with an application for a rent repayment order or with reclaiming prohibited fees.
- 2.4 The Council has adopted and uses a wide range of existing powers to improve and maintain property condition and property management standards in the borough’s private rented sector [“PRS”]. This report outlines the increasing and

widening powers introduced by the Government with the clear aim of ensuring there is a comprehensive and ultimately effective set of options for EAs. When an offending landlord, letting agent or property manager does not comply with his or her duties, commits a breach or fails to comply with an order from the Council, the option of imposing a further sanction, including the issue of a financial penalty, should be reviewed based on the seriousness of the offence.

- 2.5 The powers for an EA to serve financial penalties (including penalty charges) ["FP"] or apply for rent repayment orders ["RRO"] was first enacted in the Housing and Planning Act 2016 ["2016 Act"]. These related to certain housing offences under the Housing Act 2004 ["2004 Act"], 2016 Act, Criminal Law Act 1977 and the Protection from Eviction Act 1977 [reference section 2.1 of Appendix 1]. To enable the Council to use the 2016 Act powers, a policy and process was approved for determining a financial penalty (within a penalty charge structure) and a rent repayment order application was developed. The policy was called 'Determining the Penalty' and came into force on 8th May 2017 following an Executive Decision on 3rd May 2017.
- 2.6 To continue to enforce standards the Council's Private Sector Housing and Trading Standards Team [together the "EA"] would like to utilise the new powers. The statutory and non-statutory guidance published by the Government directs that an EA such as the Council are expected to develop and document their own policy on when to prosecute and when to issue a financial penalty. EAs must consider all of the available options as part of a making a decision as to what is the most appropriate and effective sanction(s) in that particular case.
- 2.7 The wider powers require the development of a revised policy. The current policy, 'Determining the Penalty', has accordingly been revised and expanded to both make provision for the Council to determine the sanction against an offending landlord and, where a sanction is a financial penalty, to decide the level of the penalty up to the legislative maximum which is currently £30,000. The new proposed approach is attached as Appendix 1 to this report and named; 'Determining the Penalty and Banding the Offence'.
- 2.8 Each of the actions above require officers to make decisions that will ultimately impact on a landlord's, letting agent's or property manager's livelihood, reputation and future ability to rent. Issuing a FP or prosecuting is a serious step and saved for the worst offenders. The revised and expanded policy brings the process for wider decision making into a single policy document. 'Determining the Penalty and Banding the Offence' has been developed to allow the Council to achieve this aim and meet the obligations in the statutory and non-statutory guidance. The proposed policy allows a decision to be made that reflects the offending on a wider scale.
- 2.9 Members should be aware that the costs incurred by the Council with issuing a FP or applying for a RRO are not recoverable. Generally, each party bears its own costs. However, the FTT may award costs where a person has acted unreasonably in bringing, defending or conducting proceedings. Where the selected sanction is to prosecute in a Magistrates Court, an application can be made to cover a proportion of the Council's costs. Table 9 of Appendix 1

shows that the recovered penalty can be used for local authority functions and indicates whether it is for general use or limited to enforcement in the PRS. A landlord fine in the Magistrates Court does not arrive as a financial benefit to the authority.

- 2.10 Since February 2018 the Private Sector Housing team has issued 59 Fixed Penalties (FP) against offending landlords and letting agents; the collective penalty is £244,500 making the average £4,144 per penalty. There are 18 of the FP that are subject to an appeal; within the appeal period or at the notice of intention stage. Progress with collecting the 41 penalties is ongoing with 14 have been paid. The remaining 27 are at the debt recovery stage and the council is in communication with the relevant landlords to ensure payment is made to avoid Enforcement Agency action where possible.
- 2.11 Many of the borough's more vulnerable residents live in the 3,000 houses in multiple occupation, 700 of the larger higher risk properties falling within the mandatory houses in multiple occupation licensing scheme ["MHMO"]. On the 18th November 2020 Cabinet authorised the revision of the fee structure and property licence conditions of the designated Croydon Private Rented Property Licensing Scheme ["CPRPL 2015"]. In a similar way, Cabinet authority is needed to achieve an update to the MHMO scheme that reflect the various legislative changes and the current legal interpretation by the Courts which have occurred over the past few years.
- 2.12 This report also seeks authority to implement a revised set of MHMO licensing conditions for licence holders in the MHMO licensing scheme. It also seeks authority to introduce a split fee structure that sees the fee total remain the same but the fees being collected in two stages; Part A and Part B. Further details of these proposals is covered in paragraphs 15 to 18 and Appendices 4 to 7 of this report.
- 2.13 Where approval is given by Cabinet, the proposed date on which authorised Council officers can commence to use the new policy, powers and documentation is proposed as the 1st February 2021.
- 2.14 The Cabinet report now considers the implications for the sector with the implementation of the various pieces of legislation and the proposed changes to the MHMO licensing conditions and application fee.
- Section 3 – Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
 - Section 4 - Tenant Fees Act 2019
 - Section 5 - Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
 - Section 6 - Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended).
 - Section 7 - Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019.
 - Section 8 - The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme etc.) (England) Order 2014.
 - Section 9 - Consumer Rights Act 2015.
 - Section 10 - Rent Repayment Orders (RRO) under the 2016 Act

Section 11 - Landlord Banning Order under the Housing and Planning Act 2016.

Section 12 - Ministry for Housing, Communities and Local Government's Rogue Landlord and Property Agent Database.

Section 13 - Mayor for London Landlord and Letting Agent checker.

Section 14 - Publicising successful convictions and wider EA action against a landlord.

Section 15 - Mandatory Licensing of Houses in Multiple Occupation.

Section 16 - The need for changes to the HMO mandatory licensing fees and licence conditions.

Section 17 - Proposal for the revision of the HMO mandatory licence conditions.

Section 18 - Two part HMO fee structure following Gaskin v Richmond-Upon-Thames London Borough Council and Anor.

3. Smoke and CO Alarm (England) Regulations 2015.

3.1 Authority to start enforcing the powers within the Smoke and Carbon Monoxide (England) Regulations 2015 ["2015 Alarm Regulations"] was granted by Executive Decision on the 3rd May 2017. Authority enabled the EA to take action using a penalty charge ["PC"] with the level of the charge determined by a penalty charge structure captured in a Statement of Principles; subsequently published [\[LINK\]](#). The 2015 Regulations came into force on the 1st October 2015 and the date on which authorised officers could use the new powers was 8th May 2017.

3.2 A sanction available to the EA for a breaches of Regulation 6(1) of the 2015 Alarm Regulations is the penalty charge ["PC"]. The current approach to determine whether a penalty should be issued (and if so the amount of the PC) is explained in Statement of Principles (attached as Appendix 2). It sees a penalty structure with a fixed penalty for a first offence and a greater fixed penalty for second and subsequent offences up to the legal maximum, with a 14 day early payment reduction for the first offence only.

3.3 This report seeks Cabinet approval for a single policy that allows the EA to determine the penalty and where the sanction is a financial penalty, to determine the level of the penalty. This report proposes that the enforcement of the 2015 Alarm Regulations should be aligned with the proposed policy 'Determining the Penalty and Banding the Offence'. The Council believes this change would allow a consistent approach for the EA when taking formal action for a breach. The proposed change sees the removal of the fixed penalty structure with a penalty can now be issued at any one of 16 levels from £250 to £5,000, capped at the maximum of £5,000 [refer to Table 3 in Appendix 1]. The option for offering a reduced fee for first offences and where the fee is paid within 14 days is retained. The means by which the fee is calculated is changed from a reduction of £1,000 to a reduction in the determined penalty by one penalty point.

3.4 To reflect the alignment of the Statement of Principles with the proposed policy, Members are asked to agree the revised 'Statement of Principles' (attached as

Appendix 3). This report proposes that the revised Statement of Principles be applied to breaches occurring on or after the 1st February 2021.

- 3.5 On the 17th November 2020 the Ministry for Housing, Communities and Local Government [“MHCLG”] commenced an open consultation entitled ‘Domestic smoke and carbon monoxide alarms: proposals to extend regulations’; with a closing date of the 11th January 2021 [\[LINK\]](#). The consultation seeks views on proposed amendments to the 2015 Alarm Regulations to:
- a) require social landlords to ensure at least one smoke alarm is installed on each storey of the premises on which there is a room used wholly or partly as living accommodation.
 - b) amend the statutory guidance (Approved Document J) supporting Part J of the Building Regulations to require that carbon monoxide alarms are fitted alongside the installation of fixed combustion appliances of any fuel type (excluding gas cookers).
 - c) require private and social landlords to install a carbon monoxide alarm in any room used as living accommodation where a fixed combustion appliance is used (excluding gas cookers).
- 3.6 In the recently ended selective licensing designation the Council recommended the installation of carbon monoxide alarms in rooms with a fixed combustion appliance in line with current guidance [The Smoke and Carbon Monoxide Alarm (England) Regulations 2015: explanatory booklet for local authorities] [\[LINK\]](#). The Government statistics (released with consultation) show In 2019/20, fire and rescue services attended nearly 30,000 dwelling fires in England and sadly there were nearly 200 fire-related fatalities. Around 20 people die from accidental carbon monoxide poisoning every year (excluding those relating to accidental exposure to smoke, fire and flames, with more than 4,000 presentations to hospitals estimated to be related to carbon monoxide.

4. Prohibition on landlords charging tenants excessive fees.

- 4.1 The Government wants a fair private rental market where services are paid for by the person that contracts them. The Tenant Fees Act 2019 [“2019 Fees Act”] was passed to help to achieve this and as part of the progress to improve property standards, professionalise the sector, strengthen consumer protection for tenants and tackle rogue landlords and letting agents.
- 4.2 The 2019 Fees Act places a duty on every local weights and measures authority [“WMA” or “EA”] to enforce these requirements and the breaches are;
- Section 1 (prohibitions applying to landlords),
 - Section 2 (prohibitions applying to letting agents), and
 - Schedule 2 (treatment of holding deposits).
- 4.3 From 1st June 2019, landlords or letting agents can no longer require new tenants in the PRS in England, or any persons acting on behalf of a tenant or guaranteeing the rent, to make certain payments in connection with an applicable tenancy. Any other such payment will be regarded as a prohibited payment. Tenancies include assured shorthold tenancies, student accommodation and licences to occupy including HMOs and lodgers.

- 4.4 From the 1st June 2020, the ban on prohibited fees applies to all tenancies. Any term that is prohibited in a tenancy agreement entered into prior to the commencement date will cease to be binding on the tenant and any enforcement of the term by a landlord or agent will be prohibited.
- 4.5 The 2019 Fees Act only permits certain fees or charges related to a tenancy;
- The rent
 - A refundable tenancy deposit capped at no more than five weeks' rent (where the total annual rent is less than £50,000);
 - A refundable holding deposit (to reserve a property) capped at no more than one week's rent;
 - Payments to change the tenancy when requested by the tenant, capped at £50, or reasonable costs incurred if higher;
 - Payments associated with early termination of the tenancy, when requested by the tenant;
 - Payments in respect of utilities, communication services, TV licence and council tax; and
 - A default fee for late payment of rent and replacement of a lost key/security device giving access to the housing, where required under a tenancy agreement.
- 4.6 A landlord or agent who breaches section 1, section 2 or schedule 2 commits an offence and EA may issue a financial penalty ["FP"]. The FP may be of such amount as the EA determines, but must not exceed £5,000. [Refer to Table 4 in Appendix 1]. Only one FP may be imposed in respect of the same breach.
- 4.7 Where a landlord commits a further breach within five years of the imposition of a FP or conviction for a previous breach the EA will have discretion over whether to prosecute or impose a FP. Upon conviction, the courts can impose an unlimited fine and this is deemed a criminal breach. Alternatively, an EA may impose a FP of up to £30,000.
- 4.8 The 2019 Fees Act enables an EA to help a tenant through the pursuance of the repayment of a prohibited fee. An EA can either assist a tenant with an application to the FTT or the repayment amount can be included in the FP on the landlord. The EA needs to be satisfied on the balance of probabilities that the breach resulted in a tenant making a prohibited payment *and* that all or part of the prohibited payment has not been repaid to the tenant.
- 4.9 EA are expected to develop and document their own policy on when to prosecute and when to issue a FP of up to £30,000 and should decide which option they wish to pursue, on a case-by-case basis, in line with that policy. The EA may decide that a significant FP, rather than prosecution, is the most appropriate and effective sanction in that particular case. The proposed policy for the London Borough of Croydon is attached as Appendix 1; 'Determining the Penalty and Banding the Offence' to set the level of the FP.

5. Electrical safety standard; property inspections and testing.

- 5.1 On the 18th March 2020 the Government enacted the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 ["2020 Electrical Regulations"]. The 2020 Electrical Regulations came into force on 1st June 2020 and applied to new tenancies from the 1st July 2020 and will apply to existing tenancies from 1st April 2021. Tenancies include assured shorthold tenancies and licences to occupy, including in HMOs. The aim of the regulations is to improve electrical safety standards in the PRS and to improve the confidence of tenants in the safety of their home. The electrical installations in rented properties must be inspected and tested every 5 years by a person who is qualified and competent. National standards are set out in the 18th Edition of the 'Wiring Regulations'.
- 5.2 Providing information to tenants is central to the 2020 Electrical Regulations. Following the inspection the landlord must request the report and supply their tenant with a copy within 28 days. New tenants are to be provided with a copy before they occupy the premises. When one inspection report is completed the future inspection date and test is to be set within 5 years.
- 5.3 The 2020 Electrical Regulations place EA at the heart of regulating tenant safety; duties are given to both the landlord and EA to take action and within strict timescales. The landlord must supply the local authority with a copy of an electrical report on request. Where the report shows that remedial or further investigative work is necessary, the EA must serve a remedial notice. The landlord is to complete this work within a maximum of 28 days before supplying written confirmation of the completion of the remedial works from the electrician to the tenant and the local authority. Should a landlord not comply with the remedial notice, the EA may arrange for remedial action to be taken themselves.
- 5.4 Where the report indicates that urgent remedial action is required and the landlord has not carried this out within the period specified, the EA may, with the consent of the tenant, arrange to carry out remedial work. A tenant must be given at least 48 hours' notice before a qualified and competent person attends to undertake the remedial action. The EA can recover costs reasonably incurred of taking action to comply with its duties in default of the landlord. This cost will include the cost of the works plus an administrative cost; currently set at 30% of the nett work costs. The landlord has the right of appeal against a demand for costs.
- 5.5 The 2020 Electrical Regulations make a change to the mandatory HMO licence or selective licence property licence conditions. At Cabinet, on the 11th May 2020, Members agreed the proposed licence conditions that would apply to any granted selective licence as set out at Appendix 7 of the report. These licensing conditions already contain, in condition 1.8 and 3.1A the necessary requirements for landlords as introduced by the 2020 Electrical Regulations. In this report the proposed mandatory houses in multiple occupation licensing MHMOL conditions see the same change with the inclusion of this electrical safety condition.

- 5.6 The 2020 Electrical Regulations do not apply to electrical appliances like cookers, fridges, televisions etc. as they are not fixed. A landlord is recommended to regularly carry out portable appliance testing (PAT) on any electrical appliance that they provide and then supply tenants with a record of any electrical inspections carried out as good practice.
- 5.7 The 2020 Electrical Regulations give the EA a number of powers to deal with electrical safety breaches. A Remedial Notice must be served on a landlord where the local authority has reasonable grounds to believe that a landlord is in breach of one or more of the duties. Should a landlord not comply with the remedial notice, the EA may arrange for remedial action to be taken themselves. The EA can recover the costs of taking the action from the landlord. The landlord has the right of appeal against a demand for costs.
- 5.8 Part 5 and schedule 2 allows EA, who are satisfied beyond reasonable doubt, to impose a FP of up to £30,000 on a landlord who is in breach of one of their duties. EA are required to develop and document their own policy on how they determine appropriate FP levels. EA are guided to consult the guidance produced on FPs under the Housing and Planning Act 2016. The Government advises that the maximum amount is to be reserved for the very worst offenders. The actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord's previous record of offending. The proposed policy for the London Borough of Croydon is attached as Appendix 1; 'Determining the Penalty and Banding the Offence' to set the level of the FP.

6. Improving the Energy Efficiency Rating of Croydon's private rented properties.

- 6.1 On the 11th May 2020, the Cabinet resolved to introduce two new selective licensing designations. Appendix 6 of that report set out the scheme objectives with objective 3 titled 'Improve property conditions, management standards and compliance with CPRPL 2020 conditions in licensable dwellings'. A sub-objective directly referred to the energy improvements in the private rented stock; 'Ensure that all licensed properties have an energy performance rating ["EPC"] of at least "E" by the end of the scheme and that 75% have an energy rating of at least "D" (subject to exemptions)'.
- 6.2 The requirement to improve the EPC of private rented properties was set out in the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ["2015 Energy Regulations"].
- 6.3 EPC ratings range from A to G, with A the most efficient and G the least efficient. Cabinet on the 11th May 2020 heard that the modelling report estimated that 27% of PRS properties in Croydon have an E, F, and G EPC rating. 5.5% of PRS properties have an F and G rating and 42% have a D rating [London Borough of Croydon - Private Rented Sector: Housing Stock Condition and Stressors Report – Metastreet – September 2019]. A further data source is in Table 1.

Table 1: EPC Data relating to the Private Rented Sector (August 2019)

EPC Band	Number of PRS properties	Percentage of all certificated PRS properties.
G	173	0.8%
F	585	2.6%
E	4,038	17.9%
E-G	4,796	21.3%
D	10,295	45.6%
A-C	7,468	33.1%
TOTALS	22,559	100%

Data source: Department for Business Energy and Industrial Strategy [BEIS]. EPCs registered on EPC register by band and identified as PRS property. To August 2019.

- 6.4 The 2015 Energy Regulations have been amended twice. Firstly on the 21st June 2016 to postpone the dates on which the PRS [“Private Rented Sector”] Exemptions Register opened to domestic landlords, and secondly, on the 15th March 2019, with respect to the domestic sector only, to include a capped landlord’s contribution requirement in the event of the non-availability or insufficiency of third-party funding. The capped landlords contribution of £3,500 was incorporated in the Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 [“2019 Energy Regulations”].
- 6.5 The 2015 Energy Regulations introduced, in April 2016, the minimum energy efficiency standard [“MEES”] for domestic properties. With effect from the 1st April 2018 it was a requirement for any domestic properties rented out in the PRS (required to have an EPC from 2008) to have a MEES; an Energy Performance Certificate rating of E. It is unlawful for a landlord to rent a property that breaches the MEES unless there is a valid exemption and the exemption is registered on the PRS Exemptions Register. The regulations came into force for new lets and renewals of tenancies with effect from 1st April 2018 and for all existing tenancies on 1st April 2020.
- 6.6 Local authorities [“EA”] are responsible for enforcement. An EA can issue a compliance notice to request documentation from the landlord to check whether a property meets the MEES which can allow a review of the information uploaded by a landlord when registering the property on the PRS Exemptions Register.
- 6.7 An EA may serve a penalty notice where it is satisfied that there is a breach. An EA can also publish details of the breach on the PRS Exemptions Register, a “publication penalty”. The offences (and maximum penalty) are under;
- Regulation 23 - landlord has let a sub-standard property in breach of the Regulations (up to £4,000).
 - Regulation 36(2) – landlord has registered false or misleading information on the PRS Exemptions Register (up to £1,000).
 - Regulation 37(4) (a) – landlord has failed to comply with the compliance notice (up to £2,000).
 - Regulation 38(4) – landlord has failed to comply with the action in a penalty notice within prescribed time scale.

- 6.8 A landlord served with a penalty notice under Regulation 38(4) can request a review by the Council and if the penalty is upheld on review, the landlord may then appeal the penalty notice to the First-tier Tribunal.
- 6.9 The 2015 Energy Regulations set a maximum per breach and a maximum for a property; both at £5,000. Where a penalty is issued for a Regulation 23 offence AND one or both of a Regulation 36 and Regulation 37 offence the total of the FP is £5,000. If an EA confirms that a property is (or has been) let in breach of the Regulations, they may serve a financial penalty up to 18 months after the breach and/or publish details of the breach for at least 12 months.
- 6.10 Where a landlord having been previously fined up to £5,000 for having failed to satisfy the requirements of the 2015 Energy Regulations then proceeds to unlawfully let a sub-standard property on a new tenancy; a further financial penalty of up to £5,000 can be issued. The maximum remains.
- 6.11 EA can decide on the level of the penalty, up to maximum limits set by the Regulations. The proposed policy for the London Borough of Croydon is attached as Appendix 1; 'Determining the Penalty and Banding the Offence' to set the level of the FP. If a landlord does not pay a financial penalty imposed on them, the EA may take the landlord to court to recover the money.
- 6.12 The PRS Exemptions Register is for properties which:
- are legally required to have an EPC
 - are let on a relevant tenancy type (licences excluded)
 - cannot be improved to meet the minimum standard of EPC band E for one of the reasons; a high cost exemption, a 7-year payback exemption, all improvements made exemptions, wall insulation exemption, consent exemption, devaluation exemption and new landlord exemption.
- Further information is available in the Guidance on PRS exemptions and Exemptions Register evidence requirements [\[LINK\]](#).
- 6.13 The 2019 Energy Regulations made amendments to what a landlord must do. Since 1st April 2019, landlords of domestic properties with an EPC rating below E must carry out up to £3,500 (Inc. VAT) worth of works improving their energy efficiency if they cannot obtain third-party funding to meet the full costs. The £3,500 cap is an upper ceiling, not a target or a spend requirement and landlords may spend more if they wish. If a landlord can improve their property to E (or higher) for less than £3,500 then they will have met their obligation. NB: If a landlord is unable to improve their property to EPC band E for £3,500, they should install all measures which can be installed up to £3,500, then register an exemption on the PRS Exemption Register.
- 6.14 On the 30th September 2020 the Department for Business Energy and Industrial Strategy ["BEIS"] reinforced the Governments' commitment to upgrade as many PRS homes as possible to Energy Performance Certificate ["EPC"] Band C by 2030, where practical, cost-effective and affordable. An open consultation entitled 'Improving the energy performance of privately rented homes' has commenced with a closing date of the 30th December 2020 [\[LINK\]](#).

- 6.15 Central to the consultation the Government proposes a further amendment to the 2015 Energy Regulations. The amendments see the following changes:
- Raising the energy performance standard to Energy Performance Certificate (EPC) energy efficiency rating (EER) Band C [from Band E];
 - A phased trajectory for achieving the improvements for new tenancies from 2025 and all tenancies from 2028;
 - Increasing the maximum investment amount, resulting in an average per-property spend of £4,700 under a £10,000 cap.
 - Introducing a 'fabric first' approach to energy performance improvements.

7. Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019.

- 7.1 The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 (as amended) ["2019 CMP Regulations"] came into force on the 1st April 2019 and made it a requirement that property agents (letting agents or property manager) working in the PRS and who are receiving and holding client money must obtain membership from a Government approved or designated client money protection scheme.
- 7.2 Client money must be held in client money account with a bank or building society authorised by the Financial Conduct Authority. A grace period was offered until the 1st April 2020 to allow schemes to accept agents as members who have made all reasonable efforts to hold client money in such an authorized account. A client money protection scheme means a scheme which enables a person on whose behalf a letting agent holds money to be compensated if all or part of that money is not repaid to that person in circumstances where the scheme applies.
- 7.3 In the 2019 CMP Regulations it is the duty of every EA in England to enforce the requirements of regulations 3 and 4.
- Regulation 3 – Requirement to belong to an approved client money protection scheme from 1 April 2019.
 - Regulation 4 – Transparency requirements relating to the publishing or display of certification and steps when membership changes.
- 7.4 As of the 2nd December 2020 the current approved or designated client money protection schemes are run by; Client Money Protect, Money Shield, PropertyMark, RICS, Safeagent (previously NALS), and UKALA Client Money Protection. A property agent must get a certificate from the scheme, confirming membership of the scheme, and provide it to anyone who asks, free of charge,
- 7.5 EA should be proactive with their enforcement to ensure membership exists through working with the approved schemes to identify non-compliance. There are provisions in the Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018 for approved schemes to share information on the membership of agents and claims against the scheme with local authorities.

7.6 Since 2018 Croydon Trading Standards team have been working with property agents based within the borough to ensure compliance with the range of consumer protection legislation that affects them. All businesses affected have received written business advice followed by visits to premises to ensure that the advice has been adopted. Any non-compliant agents have received warnings and follow up enforcement visits. Levels of compliance are now good with only a few agents failing to adhere completely to the requirements; further work is currently underway in relation to these. The adoption of this policy will enable staff to take proportionate action as necessary with those remaining in breach of duty.

7.7 The proposed selective licensing scheme, if confirmed, will require property agents to provide continued evidence of membership of a client money protection scheme as part of the Council agreeing to the agent taking on responsibility as a licence holder or property manager accepting responsibility for licence conditions.

8. The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.

8.1 The Council have a duty to enforce the Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 ["2014 Redress Order"]. From the 1st October 2014, article 5(1) of the 2014 Redress Order create the legal requirement for a person engaging in letting agency work or property management work or estate agency work dealing with residential property to belong to a government-approved redress scheme.

8.2 Letting agency work and property management work are defined in section 83 and section 84 of the Enterprise and Regulatory Reform Act 2013. Lettings agency work includes actions by an agent in the course of a business in response to instructions from either a PRS landlord who wants to find a tenant: or a tenant who wants to find a property in the PRS. The tenancy is an assured shorthold. It does not include publishing advertisements, providing information, connecting landlords and tenants in response to an advert or to communicate.

8.3 Property management work means things done by a person in the course of a business in response to instructions from another person who wants to arrange services, repairs, maintenance, improvement, or insurance or to deal with any other aspect of the management of residential premises on an assured shorthold or protected tenant.

8.4 As of the 2nd December 2020 there are two government approved redress schemes which are; The Property Ombudsman Limited and Property Redress Scheme. If a letting agent or property manager continues to act in any of the capacities without belonging to an approved redress scheme, a monetary penalty ["FP"] with a fine of up to £5,000 can be given.

8.5 Under article 7 the Council are under a duty to enforce the 2014 Redress Order. An EA has authority under article 8, to require, by notice, the payment a monetary penalty of such amount as the EA may determine. The proposed policy for the London Borough of Croydon is attached as Appendix 1; 'Determining the Penalty and Banding the Offence' to set the level of the FP. The 2014 Redress Order require that a notice of intent must be first served and within 6 months. Any monetary penalties received by the Council for such breaches can be used for any of its functions.

9. Consumer Rights Act 2015.

9.1 Part 3 of the Consumer Rights Act 2015 ["CRA 2015"] required, from 27th May 2015, that letting and management agents to display a list of all fees, charges or penalties (however expressed) payable by landlords and tenants for any letting agency or property management service. This includes any additional fees, charges or penalties which may be incurred during a tenancy as well as fees, charges and penalties which are referenced in Tenancy Agreements and in Terms of Business.

9.2 Some of the main points of the 2015 CRA to note are that:

- The description of each fee must be sufficient to enable the person who is liable to pay it to understand the service or cost that is covered by the fee or the purpose for which it is imposed;
- All fees, charges and/or penalties must be quoted inclusive of VAT;
- Fees, charges and/or penalties must be displayed prominently (i.e. where it is likely to be seen by consumers) and in all branches; and
- Fees, charges and/or penalties must be displayed in full on the agent's website.

9.3 The 2019 Fees Act made changes to the 2015 CR Act in respect of what must be contained on the list of fees and how it is displayed. Where a letting agent advertises either a property for rent on a third party website (such as on Rightmove, Zoopla etc.) or advertises letting agency work carried on by the agent (such as advertising their services as sponsorship), the agent must ensure that a list of the agent's relevant fees is published on the third party website, or there is a link on that website to a part of the agent's website where a list of those fees is published.

9.4 Under the 2015 CR Act, the list of fees must contain details of the redress scheme the agent is a member of. From 1st April 2019, where the agent is required to be a member of a client money protection scheme, the list of fees must also include a statement that indicates that the agent is a member of a client money protection scheme, and gives the name of the scheme.

9.5 The EA will have the ability to impose a fine on the letting or management agent of up to £5,000 if non-compliance with the 2015 CR Act is found. The proposed policy for the London Borough of Croydon is attached as Appendix 1; 'Determining the Penalty and Banding the Offence' to set the level of the FP.

10. Rent Repayment Orders under the 2016 Act.

- 10.1 Rent repayment orders ["RRO"] give the Council and tenant the opportunity to claim back rent where a landlord was committing an offence. In part 2, section 41 the 2016 Act extended the RRO to cover the offences of not licensing, non-compliance with an improvement notice, non-compliance with a prohibition order, illegal evictions, forced entry or the breach of a banning order.
- 10.2 A rent repayment order is an order made by the FTT requiring a landlord to repay a specified amount of rent. The rent is returned to either the tenant or the local housing authority. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority.
- 10.3 Procedurally an EA must give notification of its intent to apply for a RRO to the landlord and allow a period of 28 days for representations to be made. Then, on application to the FTT it may make a RRO if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter 2 of the 2016 Act applies (whether or not the landlord has been convicted).
- 10.4 The amount of a RRO under this section that can be awarded by a FTT is determined in accordance with whether the application is made by a tenant, by the EA or in cases where the landlord has been convicted. The maximum amount of rent that can be recovered is capped at 12 months.
- 10.5 Section 48 of the 2016 Act makes it a duty for the EA to consider applying for RRO in situations it becomes aware that a person has been convicted of a relevant offence. An EA has the option to help tenants apply for a RRO, by for example, helping the tenant to apply by conducting proceedings or by giving advice to the tenant. EA are expected to develop and document their own policy on when to prosecute and when to apply for a rent repayment order and should decide each case independently. The proposed policy for the London Borough of Croydon is attached as Appendix 1; 'Determining the Penalty and Banding the Offence' to set the level of the FP.

11. Landlord Banning Order under the Housing and Planning Act 2016 ["the 2016 Act"].

- 11.1 Banning orders for the most serious offenders came in on the 6th April 2018 to allow an EA to determine, in line with their policy, on whether to pursue a landlord banning order LBO on a case-by-case basis. Banning orders were introduced by the 2016 Act and were aimed at forcing the worst landlords and agents out of the sector. This new power was introduced to address the problem of repeat offenders who had committed multiple offences but continued to operate in the PRS.
- 11.2 For the banning order offences relevant to this policy refer to section 3.2 or table 9 of Appendix 1 to this report. Following a successful conviction for a banning order offence(s), an EA can then make the application for a banning order to the FTT. In the application the EA proposes the length of time that a

banning order, if made, would last for with a minimum set by law of 12 months; there is no upper time limit. It is the FTT that makes the order, and determines the term, that bans a landlord or letting agent from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

11.3 If the FTT makes a banning order, an EA must make an entry in the database of rogue landlords and property agents under the 2016 Act (see section 12 of this report). If a landlord breaches a banning order he / she commits an offence which can result in the imposition of a FP or prosecution proceedings in the Magistrates Court. The decision would be made using the proposed policy attached as Appendix 1; 'Determining the Penalty and Banding the Offence' to set the level of the FP.

12. Ministry for Housing, Communities and Local Government's Rogue Landlord Database.

12.1 From the 1st April 2018 a landlord who has been convicted of; and/or received two or more financial penalties in respect of a banning order offence within a period of 12 months is considered for entry on the Ministry for Housing and Local Government's Rogue Landlord Database.

12.2 While it is not compulsory, EA are strongly encouraged to consider a landlord for entry. This will help ensure that other local housing authorities are made aware that formal action has been taken against the landlord. At the moment the information stored is not publicly accessible as it is an information tool for enforcing authorities.

13. Mayor for London Landlord and Letting Agent checker.

13.1 The Council, as with all London Boroughs has agreed to participate in the Mayors' Rogue Landlord and Agent Checker ["the checker"]. This contains information about private landlords and letting agents who have been prosecuted or fined.

13.2 The checker also includes information about landlord and agent offences submitted by the London Fire Brigade and the two letting agent consumer redress schemes - The Property Redress Scheme and The Property Ombudsman.

13.3 Only landlords and agents who've been fined or convicted of a relevant housing offence will appear. The database has a publically and privately accessible tier. All landlords are informed by the Mayor's office that their record is about to be presented on the system, albeit for a limited time. In the public tier records remain accessible as follows; penalties for 12 months and prosecutions until spent. Reference should be made to Table 10 in Appendix 1 for the period offences will remain on the public and private tiers.

13.4 The checker retains the information for 10 years as a resource for EA. An EA has the discretion as how to use a person or organisation's record with respect to housing penalties. The information is useful as part of an investigation and when coming to a decision regards 'Determining the Penalty'.

14. Publicising successful convictions and wider LHA action against a landlord

14.1 Reference is made to this in this report and the proposed policy because of the importance of making public the successful formal actions taken by the Council. In doing so, the Council will however continue to ensure that it adheres to the requirements within the Data Protection Act 2018 and the General Data Protection Regulation.

14.2 Reference also needs to be made to the EA's power to serve a penalty notice on a landlord under the 2015 Energy Regulations. In any case where an EA is satisfied that the landlord is in breach of one or more of regulations 23, 36 or 37 it can impose a financial penalty, a publication penalty, or both. The "publication penalty" means publication for a minimum period of 12 months, or such longer period as the Council may decide, on the Exemptions Register and including; where the landlord is not an individual, the landlord's name; the breach, the subject property and the amount of the FP imposed.

14.3 The statutory guidance published in relation to the 2019 Fees Act covers publicity and states that EA have discretion about publicising a successful penalty for a breach of the legislation at the local level. The statutory guidance directs authorities to the Publicising Sentencing Outcomes produced by the Criminal Justice System (June 2011). For an initial breach of the ban, the guidance states that EA are expected to publicise the successful imposition of a FP where this would have a beneficial effect on awareness of the legislation for the public. With second offences, an EA goes further than successful convictions, banning orders or financial penalties should be covered in the article to look to both deter the offender from repeating the offence and dissuade others from committing similar offences. It should however be noted that this guidance from June 2011 predates the current Data Protection Act 2018 and the General Data Protection Regulation, both of which govern the current requirements on authorities in relation to data protection and what may or may not be appropriate to publish. Specific legal advice will be sought as required before seeking to rely on this old guidance.

15. Mandatory Licensing of Houses in Multiple Occupation.

15.1 The Private Sector Housing Team operates the national mandatory licensing of houses in multiple occupation (HMO) scheme which commenced in April 2006 and that falls under Part 2 of the Housing Act 2004. A HMO is a building, or part thereof, in which more than one household shares a basic amenity, such as bathroom, toilet or cooking facilities. It can also include a building that has been converted and does not entirely comprise of self-contained flats so some

sharing of facilities occurs. Shared houses, hostels and bedsits are common forms.

- 15.2 To date the Council has issued 695 licences with some HMOs now being licensed for a second or third five-year term. Mandatory licensing is required where the HMO is occupied by five or more persons living in two or more separate households. On the 1st October 2018 the definition of a mandatory HMO changed with the requirement for the HMO to be of three or more storeys removed. A HMO can also be a flat above or below a business premises. With the five year selective licensing scheme closing on the 30th September 2020, the change in definition will see up to 250 rented properties now fall under the mandatory HMO licensing scheme. Legislation had allowed the properties' selective licence to run its term before the new responsibility to apply for a MHMO licence commenced.

16. The need for changes to the mandatory HMO licensing fees and conditions.

- 16.1 This report recommends amendments to the mandatory HMO licensing scheme licence conditions and application fees to ensure the scheme is updated in line with a number of key legislative changes and Court judgements. The changes take account of further licensing conditions imposed by:
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
 - The Smoke and Carbon Monoxide Alarm (England) Regulations 2015,
 - The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.
- 16.2 This report also recommends a change to the notes section that informs a landlord of the possible penalties of not complying with a licensing condition under section 72(2) of 72(3) of the 2004 Act. The 2016 Act introduced FP as an alternative sanction to the Council instituting criminal proceedings in the Magistrates Court for certain offences. The Council adopted the FP sanction in May 2017. The current conditions, whilst warning landlords about the consequences of not licensing a property or failing to comply with licensing conditions the only sanction is proceedings in a Magistrates Court. The proposed amended conditions informs licence holders of the introduction of FP as an alternative to proceedings in the Magistrates' Court. Additionally changes to the levels of fine were introduced by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 which made the maximum fine (for some offences) allowed in a magistrates' courts, unlimited.

It is also recommended that the MHMO licensing scheme is updated in line with a key court judgement regarding the licensing fee payment system. The judgement in the case *R (Gaskin) v Richmond-upon-Thames London Borough Council and Anor* [2018] EWHC 1996 requires the Council to levy licensing fees in two separate parts: Part A – a fee levied at the point of application, to cover the costs of the scheme's 'authorisation procedures and formalities', i.e. the costs of processing the application; and Part B – if the application is successful,

a further fee to cover the costs of running and enforcing the scheme. The MHMO licensing fee needs to be updated to reflect this requirement.

17. Proposal for the revision of the mandatory HMO licence conditions.

- 17.1 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force on the 1st June 2020 and place duties on a landlord to ensure the safe condition of the property electrical installation.
- 17.2 Paragraph 13 of Part 6 of the 2020 Electrical Safety Regulations amend Schedule 4 of the Housing Act 2004 [mandatory conditions] to introduce a new condition for licences issued under Parts 2 and 3 of the Housing Act 2004. The condition requires that a licence holder takes steps;
“to ensure that every electrical installation in the house is in proper working order and safe for continued use; and to supply the authority, on demand, with a declaration by him as to the safety of such installations”.
- 17.3 The 2020 Electrical Regulations are very prescriptive with further duties placed on a landlord. It is for that reason and also to mirror condition 3.1A of the proposed selective licensing conditions that the Council has decided to propose further conditions, namely: 1.2.1, 1.2.1(i), 1.2.1(ii) and 1.2.1(iii). These conditions give licence holders up to 14 days in which to provide the Council with a declaration about the safe condition of the installation, require the licence holder to further test the installation within a period of not more than five years and also, require licence holders to retain a copy of the current electrical inspection and certification report [“EICR”] to give to the electrician completing the further test. Condition 1.2.1(i) is found in Part 2 of the 2020 Electrical regulations, regulation 3(3)(c) where a maximum 7 day period to supply the Council with a copy of the EICR certificate is stipulated. The licensing condition proposed by the Council gives a landlord a 14 day period to provide the Council with a certificate and 7 days from receipt of the written request. Conditions 1.2.1(ii) and 1.2.1(iii) mirror duties in regulations 3(2)(a) and 3(3)(d) of the 2020 Electrical Safety Regulations, respectively.
- 17.4 The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 [“2018 HMO Regulations”] came into force on the 1st October 2018 having been made on the 23rd May 2018. The additional condition to be included in HMO licences under Part 2: household waste is in paragraph 2 of the said regulations;
“Where the HMO is in England, a licence under Part 2 must include conditions requiring the licence holder to comply with any scheme which is provided by the local housing authority to the licence holder and which relates to the storage and disposal of household waste at the HMO pending collection.”
- 17.5 The mandatory licensing of HMO conditions see the insertion of this new household waste management condition as 1.6.1. HMOs, being properties occupied by separate and multiple households, generate more waste and rubbish than single family homes. In addition to the need for the licence holder to comply with the requirements of such a scheme, it is felt appropriate to ask a licence holder to proactively manage the possible negative impact caused by

the absence of, or improper use of waste storage receptacles within the grounds of a HMO. To manage such expectations, that are not felt to be burdensome, the Council proposes the addition of further conditions 1.6.2 and 1.6.3 which require the licence holder to regularly inspect the property for waste issues and where a problem is identified, it is investigated and where the problem has arisen from the behaviour of the occupiers or their visitors; a letter of warning is written to the occupiers within 14 days. It is considered that taking immediate action will help correct the problem.

- 17.6 The 2018 HMO Regulations came into force on the 1st October 2018 having been made on the 23rd May 2018. The additional condition to be included in HMO licences under Part 2: minimum room sizes is in paragraph 2 of the 2018 HMO Regulations and included as paragraphs 2.1.1 to 2.1.5 of the mandatory HMO licensing conditions (Appendix 7 of this report). The 2018 HMO Regulations legislate to ensure that minimum room sizes for HMOs exist nationally to prevent unreasonable conditions. EAs' can adopt higher standards, as the Council does and provided as Table 2, but this approach ensures a minimum stipulated by statute. The 2018 HMO Regulations see the minimum rooms sizes for sleeping accommodation for; a person over the age of 10 at least 6.51m² , for two people over the age of 10 at least 10.22m², for a person under the age of 10 at least 4.64m² and a room of less than 4.64m² cannot be used as sleeping accommodation.

Table 2: Croydon Council, HMO minimum sleeping accommodation sizes.

	Bedsit room containing kitchen facilities only	Bedsit room containing ensuite facilities only	Bedsit room where shared kitchen and bathroom facilities are in a separate room	Shared house where kitchen and bathroom facilities are in a separate room <u>and</u> there is a communal living room
Single room	13.5m ²	12.5m ²	10m ²	6.5m ²
Double room	18.5m ²	17.5m ²	15m ²	10.2m ²

- 17.7 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on the 1st October 2015 and place duties on landlords to provide and maintain smoke and carbon monoxide alarms in private rented properties. Premises licensable under Parts 2 and 3 of the Housing Act 2004 Act are exempt from the 2015 Alarm Regulations as licence holders are given wider responsibilities through the amended Housing Act 2004 Part 2 (Mandatory HMO) and Part 3 (selective) CPRPL conditions. Until a new selective licensing scheme is confirmed the 2015 Alarm Regulations apply.
- 17.8 Part 4, regulation 15 of the 2015 Alarm Regulations amends the mandatory licensing conditions of Schedule 4 sub paragraph 4 of the Housing Act 2004 to require a licence holder; for licences granted or renewed on or after the 1st October 2015;

- “to ensure that a smoke alarm is installed on each storey of the house on which there is a room (including landing) used wholly or partly as living accommodation (including bathroom or lavatory), and to keep each such alarm in proper working order;” and
- “to ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and to keep any such alarm in proper working order; and
- “to supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm.”

17.9 The proposed change introduces new HMO licensing conditions at 1.3.1 covering smoke alarms and 1.3.2 covering carbon monoxide alarms. The proposed conditions adopt the wording in the 2015 Alarm Regulations but are widened to make reference to fire detection systems; “All smoke alarms or fire detection systems within the house must be maintained in good working order at all times during the period of this licence”. Similarly the requirement to supply the Council with a declaration about safety is widened to fire detection systems; “As and when required, the licence holder must make a declaration as to the positioning and operation of the smoke alarms or provide copies of the annual test certificates for smoke alarms and fire detection systems to the Council within 14 days of request”. The widening of the condition to include fire protection systems is made because this is the common alarm system necessary in houses in multiple occupation which are of higher fire risk. Fire protection systems are interlinked hard wired systems installed in compliance with British Standard 5839.

18. Two part fee HMO structure following Gaskin v Richmond Council

18.1 On 31 July 2018, the Divisional Court held in R (Gaskin) v Richmond-upon-Thames London Borough Council & Anor [2018] EWHC 1996 that schemes for the licensing of houses in multiple occupation ['HMOs'] under Part 2 of the Housing Act 2004 ('the 2004 Act') are authorisation schemes, within the meaning of EU Directive 2006/123/EC ('the Directive') and regulations incorporating the Directive in domestic law: the Provision of Services Regulations 2009 ['the 2009 Regulations']. Part 2 schemes are seen as authorisation schemes.

18.2 As a consequence, a fee for a licence to let accommodation under the mandatory HMO licensing scheme must be levied in two, separate parts, in accordance with the type A scheme endorsed by the Supreme Court in R (Hemming, t/a Simply Pleasure Ltd) v Westminster CC [2015] UKSC 25; [2015] AC 1600.

18.3 The new fee structure sees the HMO fee levied in two parts;
 Part A fee – a fee levied at the point of application, to cover the costs of administration and inspection to allow a decision regarding the issuing of the HMO licence application; and

Part B fee – if the application is successful, a further fee to cover the costs of

running and enforcing the (rolling) mandatory HMO licensing scheme. This fee is to be paid just prior to the issuing of a HMO licence. The payment of the Part B fee is deemed a part of making a duly made application so if it is not made the duty on a landlord to license will not have been met.

- 18.4 The London Borough of Croydon currently charges a standard fee of £250 for each habitable rooms (bedroom or living room) in the HMO property. For example, the fee to accompany an application for a licence for a HMO with three bedrooms and one living room is £1,000. The licence being issued for up to 5 years.
- 18.5 The proposed HMO licensing fee structure sees one proposed change with the introduction of a one-year licence at a reduced fee. This type of licence was agreed at Cabinet on the 11th May 2020 for the proposed selective licensing fee structure. A one-year licence is proposed to be issued in situations where the Council determine a license for less than 5 years should be granted. It will be for HMOs where there is a need for a higher levels of monitoring or a licence holder needs time to get his/ her property management in order. A number of applications for HMO licences are made for a property without the correct planning permission in place and whilst not having the correct planning permission is not a reason to refuse a licence application, a one-year licence could be appropriate in such a circumstance. With a one-year licence, the Part A fee remains identical to a five-year licence fee but the Part B fee is for one fifth of the Part B payment for a five-year licence fee. At the end of the one year, a further application with full fee would need to be made where the HMO remains licensable. To date, the Council would have issued a licence for up to five years and charged the full five-year fee. The one-year licence will give the Council increased flexibility and the fee be a fairer reflection of costs
- 18.6 The current fee structure is Appendix 4 to the Report. The proposed two stage fee amounts are covered in the proposed fee structure attached as Appendix 5 to the report.

19. CONSULTATION

- 19.1 The Cabinet report presents the revised and extended policy “Determining the Penalty and Banding the Offence” as the approach that will be used by the Council’s Private Sector Housing and Trading Standards teams for making a decision as to the most appropriate sanction(s) to impose on a landlord and if a financial penalty is this sanction then in determining the level of the penalty.
- 19.2 The advantage for the Council is that in extending the policy to cover a range of new pieces of legislation, we are able to build on the work completed and experience gained over the past 3 years. In May 2017, when the current Council policy was adopted, only two months had passed since the introduction of the statutory guidance on the issuing of FP and RR0 under the 2004 Act (as amended). Two appeals have been heard in the FTT and whilst the FTT varied the penalty score, the policy ‘Determining the Penalty’ was accepted.

19.3 The majority of the changes proposed within this report pertain to legislative changes or interpretation of legislative provisions arising from case law. As such, those elements have not been consulted on. However, landlords and letting agents have been made aware of legislation in relation to these matters via previous forums and using the landlord newsletter that goes out to approximately 20,000 previously licensed landlords. The newsletter scheduled for January 2021 will cover the changes proposed in this report and the webpage “Landlord Information Pack” [\[LINK\]](#) will be duly updated in first two weeks of the New Year. Additionally, the introduction of the various pieces of legislation has been shared with landlords and letting agents through the day to day work of the Private Sector Housing and Trading Standards teams.

20. PRE-DECISION SCRUTINY

20.1 Decisions relevant to the PRS are subject to the Scrutiny of the Scrutiny Streets, Environment & Homes Sub-Committee. The committee meeting diarised for November 17th 2020 was cancelled and the next meeting is scheduled for February 2nd 2021. The agenda for this meeting is full.

20.2 In discussion with the chair of the Scrutiny Streets, Environment & Homes Sub-Committee it was agreed that this paper, Making Croydon’s Private Rented Homes Safer and Protecting Residents, would be shared with the sub-committee during the latter stages leading up to the Cabinet meeting on the 18th January 2021. Any views, concerns and recommendations can then be made, considered and adopted as appropriate.

20.3 The Council awaits a decision from the Government on its application for confirmation on the proposed selective licensing scheme. The application is currently being assessed as part of the Government process. Following the Government’s determination it is proposed that the Council’s approach to improve standards in the PRS will be subject to scrutiny. The review will consider; the impact of the Government’s decision, the decision by Cabinet on the 18th January 2021 with respect to the proposed policy “Determining the Penalty and Banding the Offence” and the fee structure and conditions for the mandatory houses in multiple occupation licensing scheme that have not been reviewed since 2017.

21. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

21.1 The penalties levied through the financial penalty and rent repayment orders can be retained by the Council, provided that, in most cases, the income is used to further the local authority’s statutory functions in relation to enforcement activities in the private rented sector. Refer to table 11 of Appendix 1 for a summary of the permitted uses.

21.2 Penalties will be issued on a sliding scale basis depending on the severity of the offence, with penalties ranging from £250 to £30,000. In the last 3 years all but two penalties related to the offence of not licensing a property under the selective licensing scheme. With the widening of offences where a penalty can

be issued and at the same time the uncertainty of the proposed future selective licensing scheme, it is not possible to estimate the level of income from these penalties as the number of penalty notices that could be issued is unknown. It is likely that the fine income received will cover any additional legal and tribunal costs incurred to pursue.

- 21.3 The penalties levied in some legislation has a legislative cap that the penalty charge can rise to. This is either £30,000 or £5,000 but in the 2015 Energy Regulations there are smaller amounts for different breaches that can collectively rise to £5,000.
- 21.4 Experience has shown that not all penalties are immediately paid but only two have reached the Tribunal for an appeal hearing. Again, at this stage, it is not possible to estimate the level of income from penalties as the number of penalty notices that could be issued is unknown as is the number that will be paid.
- 21.5 The fee charged to landlords for mandatory houses in multiple occupation licence applications will remain the same with no changes to the amount. The fee will be collected in two stages instead of in one. The first part of the fee will be levied at the point of the application and the second element before the license is issued. This change ensures that the scheme is update in line with key legislative changes and court judgements.
- 21.6 The changes proposed within this report do not require additional revenue or capital budget and the over income versus expenditure can be monitored over the next 24 months.
- 21.7 The income budget for HMO licensing is £203k for 2020/21. The proposed change to move fees from a single payment to a two payment is not expected to result in a change, therefore the budget will remain.

21.8 The effect of the decision

It is not currently possible to estimate the level of income that could be earned from penalty notices. It is evident that fines are only issued to the worst offenders with prosecutions saved for the more serious offending. The implementation of this penalty charging scheme did encourage landlords to comply (apply for a licence) and therefore the need to issue fines and the corresponding work associated with the administration of the scheme was and again, if the scheme is confirmed, will be kept to a minimum and can be funded from the fee income.

The changes to mandatory HMO licensing fee collection will be managed within the existing budget and no additional resource required.

21.9 Risks

There is a risk that the administration (including processing appeals) of this scheme will be greater than the level of income earned from fines and therefore the implementation of this charging scheme will fail to be cost neutral and will

need investment. The cost associated with running the schemes will need to be reviewed regularly to ensure it remains efficient and effective.

Updating the mandatory HMO charging structure ensures that the Council's current mandatory houses in multiple occupation licensing scheme is in line with relevant legislation. There is a risk of reduced or delayed fee levels, if an application is unsuccessful. This however is mitigated by the fact that the initial fee covers the cost of processing.

21.10 Options

There is the option to not implement a penalty charging scheme. This is not considered appropriate as it is anticipated that the introduction of fines will encourage a greater level of compliance across the Borough, making homes safer.

In order to ensure the Council complies with legal requirements, the option presented with the changes to the licence fee structure in this paper meets that objective.

21.11 Future savings/efficiencies

The licensing scheme is a self-financing scheme. The changes to the fee structure will enable the Council to match the processing costs to the fee and the running costs of the scheme and make efficiencies where necessary.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk and s151 Officer

22. LEGAL CONSIDERATIONS

22.1 The Head of Litigation and Corporate Law comments on behalf of the Council Solicitor that the various legislative provisions applicable to the recommendations are detailed throughout the body of the report. In addition, many of the provisions have specific statutory and /or non-statutory guidance to which the Council either must have regard (statutory guidance) or is recommended to consider (non-statutory guidance). Statutory guidance issued in relation to the subject matter of the recommendations includes:

- Building Regulations 2010 Combustion appliances and fuel storage systems Approved Document J, 2010 edition as updated in 2013
- Civil penalties under the Housing and Planning Act 2016, April 2018
- Rent repayment orders under the Housing and Planning Act 2016, April 2017
- Houses in Multiple Occupation and residential property licensing reform, December 2018
- Database of rogue landlords and property agents under the Housing and Planning Act 2016, April 2018
- Mandatory client money protection for property agents :Enforcement guidance for local authorities, May 2019

- Tenant Fees Act 2019 Statutory guidance for Enforcement Authorities, updated September 2020
- 22.2 In relation to financial penalties, the statutory guidance “Civil Penalties under the Housing and Planning Act 2016” places a requirement on Local housing authorities to develop and document their own policy on when to prosecute and when to issue a civil penalty and should decide which option it wishes to pursue on a case-by-case basis in line with that policy. This requirement is reiterated in the various statutory guidance: Tenant Fees Act 2019 Statutory guidance for Enforcement Authorities, updated September 2020; the statutory guidance: Mandatory client money protection for property agents Enforcement guidance for local authorities, May 2019; statutory guidance: Rent repayment orders under the Housing and Planning Act 2016, April 2017. Similar provision is made in the non-statutory guidance in respect of Landlord Banning Orders: Banning Order Offences under the Housing and Planning Act 2016, April 2018. The purpose of Appendix 1 is to make provision for such a policy and means of determination.
- 22.3 Regulation 13 of The Smoke and Carbon Monoxide (England) Regulations 2015 places a requirement on the Council to agree and publish a Statement of Principles which it proposes to follow in determining the amount of a penalty charge.
- 22.4 The Tenant Fees Act 2016 provides that where an enforcement authority (such as the Council) is satisfied beyond reasonable doubt that a person has breached section 1 or 2 or Schedule 2 of that Act, the authority may impose a financial penalty on the person in respect of the breach. The financial penalty— may be of such amount as the authority determines, but subject to section 8(3), must not exceed £5,000. Section 8(3) provides that where the enforcement authority is satisfied beyond reasonable doubt that the person has committed an offence under section 12 of the Act, the financial penalty may exceed £5,000, but must not exceed £30,000. Enforcement authorities must apply the principles of the European Convention on Human Rights, in accordance with the Human Rights Act 1998, at each stage of a case.
- 22.5 Paragraph 10 of Schedule 3 of the Tenant Fees Act 2019 provides that where an enforcement authority imposes a financial penalty under the Tenant Fees Act 2019, it may apply the proceeds towards meeting the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions under that Act or otherwise in relation to the private rented sector. Any proceeds of a financial penalty imposed under this Act which are not applied in accordance with paragraph 10 must be paid to the Secretary of State.
- 22.6 Guidance issued in relation to the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provide that following failure to comply with the Regulations, a local housing authority can impose a financial penalty of up to £30,000 on a landlord. Proceeds of financial penalties can be used to carry out private rented sector enforcement. Any amount that is not used in this way must be paid into the Consolidated Fund, the government’s general bank account at the Bank of England. Local housing authorities should

develop and document their own policy on how they determine appropriate financial penalty levels.

22.7 Where the Local Authority decides to impose a financial penalty under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended, they have the discretion to decide on the amount of the penalty, up to maximum limits set by the Regulations. The maximum penalties are as follows: (a) where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty. (b) Where the landlord has let a sub-standard property in breach of the Regulations for 3 months or more, the Local Authority may impose a financial penalty of up to £4,000 and may impose the publication penalty. (c) Where the landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose the publication penalty. (d) Where the landlord has failed to comply with the compliance notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.

22.8 A publication penalty in the context of the above referenced regulations means that the enforcement authority will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The enforcement authority can decide how long to leave the information on the Register, but it will be available for view by the public for at least 12 months. The information that the enforcement authority may publish is:

- the landlord's name (except where the landlord is an individual);
- details of the breach;
- the address of the property in relation to which the breach occurred; and
- the amount of any financial penalty imposed.

It is for the enforcement authority to decide how much of this information to publish. However, the authority may not place this information on the PRS Exemptions Register while the penalty notice could be, or is being reviewed by the Local Authority, or while their decision to uphold the penalty notice could be, or is being, appealed. In addition, the Council needs to have regard to its duties and requirements under the Data Protection Act 2018 and the General Data Protection Regulation in this regard.

22.9 The Statutory Guidance (Mandatory client money protection for property agents Enforcement guidance for local authorities, May 2019) provides that, in relation to the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 as amended by the Tenant Fees Act 2019, enforcement authorities are expected to develop and publish their own policy on determining the appropriate level of financial penalties to impose which may be part of pre-existing enforcement policy. Enforcement authorities are expected to consider each breach on a case by case basis and for the maximum amount to be reserved for the worst offenders.

22.10 Non-Statutory Guidance for Local Authorities on The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 provides that the enforcement

authority can impose a fine of up to £5,000 where it is satisfied, on the balance of probability that someone is engaged in letting or management work and is required to be a member of a redress scheme, but has not joined. The Guidance suggests that the expectation is that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcement authority is satisfied that there are extenuating circumstances. It will be up to the enforcement authority to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine.

- 22.11 In relation to breaches of the Consumer Rights Act 2015 duties of letting agents to publicise fees as detailed within this report, the amount of a financial penalty imposed by the Council may be such as the authority imposing it determines, but must not exceed £5,000.
- 22.12 Part 2 of the Housing Act 2004 ("the 2004 Act") provides for local housing authorities to license HMOs in their areas if they meet the definition of an HMO prescribed under section 55 of the 2004 Act. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 ('the Prescribed Description Order 2018') has the effect of extending the scope of section 55(2)(a) of the 2004 Act, so that mandatory HMO licensing also applies to HMO properties which are less than three storeys high. A second statutory instrument, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 ('the Mandatory Conditions Regulations 2018') amends Schedule 4 of the Act, introducing new conditions that must be included in licences that have been granted under Part 2 of the Act. These are: Mandatory national minimum sleeping room sizes; and Waste disposal provision requirements.
- 22.13 In respect of fixing fees under section 63(7) of the Housing Act 2004 for HMO applications under Part 2 of the 2004 Act, the local housing authority may (subject to any regulations made under subsection (5)) take into account—
- (a) all costs incurred by the authority in carrying out their functions under this Part, and
 - (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Chapter).
- 22.14 In respect of the imposition of licence conditions, Section 67 of the 2004 Act provides that a licence may include such conditions as the local housing authority consider appropriate for regulating the management, use and occupation of the house concerned, and its condition and contents. Those conditions must include the conditions required by Schedule 4 of the 2004 Act and may, in particular, include (so far as appropriate in the circumstances)—
- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;
 - (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house;

- (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;
- (d) conditions requiring such facilities and equipment to be kept in repair and proper working order;
- (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;
- (f) conditions requiring the licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 233.

- 22.15 On 31 July 2018, the Divisional Court held in *R (Gaskin) v Richmond-upon-Thames LBC* [2018] EWHC 1996 (Admin) that schemes for the licensing of houses in multiple occupation ('HMOs') under Part 2 of the Housing Act 2004 ('the 2004 Act') are authorisation schemes, within the meaning of EU Directive 2006/123/EC ('the Directive') and regulations incorporating the Directive in domestic law: the Provision of Services Regulations 2009 ('the 2009 Regulations').
- 22.16 The consequence is that the fee for a HMO licence under Part 2 of the 2004 Act and, indeed, for a licence to let other accommodation under Part 3, must be levied in two, separate parts, in accordance with the type A scheme endorsed by the Supreme Court in *R (Hemming, t/a Simply Pleasure Ltd) v Westminster CC* [2015] UKSC 25; [2015] AC 1600:
- Part 1 – a fee levied at the point of application, to cover the costs of the scheme's 'authorisation procedures and formalities', i.e. the costs of processing the application; and
- Part 2 – if the application is successful, a further fee to cover the costs of running and enforcing the scheme.
- 22.17 Finally in relation to the publication of details pertaining to successful prosecutions or in consideration of adding information to databases such as the Rogue Landlord and Property Agent Database and Mayor for London Landlord and Letting Agent checker due regard will be had to any relevant enabling provisions and the requirements of the Data Protection Act 2018 and the General Data Protection Regulation. Officers responsible for such publication or inclusion on databases will ensure that appropriate advice is sought to ensure compliance with the necessary requirements.

Approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Council Solicitor & Monitoring Officer.

23. HUMAN RESOURCES IMPACT

- 23.1 There are no immediate HR impact issues in this report. If any HR issues should arise these will be managed under the Council's Policies and Procedures.

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

24. EQUALITIES IMPACT

- 24.1 The 55,585 PRS properties makes up 35% of the 156,136 properties in the Borough. In Croydon 12,704 (or 23%) dwellings in the PRS have a significant (category 1) property hazard when assessing using the Housing Health and Safety Rating System (HHSRS). The national picture estimates that 14% of the 4.6M properties in the PRS have a significant hazard offering the worst housing conditions.
- 24.2 Throughout the 1980s and 1990s, the proportion of private rented households was steady at around 9% to 11%. From 2002 the sector has doubled in size and from 2013-14 the rate has remained around 19% / 20%. The sector is home to a diverse sector and whilst there remains a high number of tenants who have vulnerabilities associated with disability, life long illness, financial means, ethnicity or age statistics are showing that, as a percentage, these groups are lower when compared to owner occupation or social renting.
- 24.3 Croydon Council's recent and proposed selective licensing designation and the new powers compliment and build on the options already available for enforcement for the private sector housing team in tackling bad practice and criminal landlords. The new maximum penalties for the power to issue a FP are up to a £30,000 and Appendix 1 and the earlier sections in this report explain wider sanctions such as rent repayment orders, publicity and in the extreme case the banning order, the option for excluding criminal landlords or letting agents. The Public Realm Enforcement Policy will now need to be updated and in line with the policy "Determining the Penalty and Banding the Offence" will provide the framework for decision making that can ultimately impact on the livelihoods of the landlords, letting agents and property managers operating in this Borough.
- 24.4 It is recognised that some of the worst properties offer accommodation at the lower end with respect to standards and affordability. The use of the new powers will consequently be more prevalent in some wards compared to others. An aim of adopting these new powers is to continue to bring parity to the private rented housing sector so all renters get an increased confidence and can enjoy at least a minimum in terms of service. The Council wants Croydon to be the "Better Place to Rent". Enforcement staff will continue to promote good practice, support landlords with renting and act as a point of contact for all stakeholders supporting the market. The valuable role of private landlords in providing low cost accommodation is acknowledged. The benefits of an improved sector will be felt borough wide.
- 24.5 An Equalities Analysis has been carried out to ascertain the impact of revising and expanding the policy "Determining the Penalty and Banding the Offence", changing how the MHMO licensing fees are paid and updating the licence conditions attached to a new MHMO licence. The key findings were that there is no reason to believe that the protected groups will be at any greater risk than

the rest of the population. The policy promotes objective, consistent and transparent decision making and opportunities to advance equality through greater awareness have been taken, so no change to the recommendations is suggested.

- 24.6 The widened enforcement framework will continue to have a positive impact relevant to all protected characteristic groups. The awareness of and rigorous enforcement of the legislation will reduce the opportunities for landlords and letting agents to victimise residents, through; improved living and environmental conditions, providing enhanced protection against retaliatory eviction, preventing charging of prohibited fees, increased transparency to letting agency fee charging, client money protection and property redress scheme membership, the signposting to other services and joint working with other enforcement agencies to deal with crime and anti-social behaviour. Income received from a FP can be used in relation to private sector housing enforcement
- 24.7 In developing this proposal, regard has been had to the council's Corporate Plan and its equality objectives contained in the Opportunity and Fairness Plan 2016-20.
- 24.8 The outcome of our Equality Analysis in relation to the recommendations contained in this report are as follows:-
- No major change – Enforcement and licensing protects all vulnerable tenants. It would be a serious breach of licencing conditions if a landlord were to discriminate against any of the protected groups. Landlords who have been convicted of a housing or tenancy or discriminatory offence cannot receive a licence and may be considered for a banning order. Enforcement and licensing provides additional safeguards because of the joint working arrangements and signposting which are built into the scheme.

Approved by: Yvonne Okiyo, Equalities Manager.

25. ENVIRONMENTAL IMPACT

- 25.1 There are no identifiable environmental sustainability impacts as a consequence of this report.
- 25.2 Poorly managed private rented properties will cause neighbourhood problems with refuse, noise and cause a blight through poor appearance. The energy used in homes accounts for more than a quarter of energy use and carbon dioxide emissions in the United Kingdom. More energy is used in housing than either road transport or industry [DECC United Kingdom housing energy fact file 2013].
- 25.3 In section 6 of this report, information was provided on the energy banding of Croydon's Private Rented housing stock. It is estimated that 27% of PRS properties in Croydon have an E, F or G EPC rating. 5.5% of PRS properties have an F and G rating which is below the current MEES. [London Borough of

- 25.4 The recommendations set out in this report should have a positive impact on energy use and energy efficiency in Croydon, as the adopted of the proposed revised policy 'Determining the Penalty and Banding the Offence' includes the new 2015 Energy Regulations (as amended) and will allow the Council to enforce against non-compliant landlords letting properties below the MEES. It also ties in the with the proposed selective licensing objective to 'Ensure that all licensed properties have an energy performance rating ["EPC"] of at least "E" by the end of the scheme and that 75% have an energy rating of at least "D" (subject to exemptions)'.
- 25.5 The recommendations set out in this report should also have a positive impact on the living environment in Croydon. The new legislation, including through licensing conditions, brings duties and responsibilities for landlords, letting agents and property manager to take further responsibility for safety, energy use, property conditions, management and reducing ASB such as waste disposal in the area relevant to a property.

26. CRIME AND DISORDER REDUCTION IMPACT

- 26.1 A small number of landlords operating private rented properties are operating as criminals. Their lifestyles are being supported by these criminal activities. The new powers will support Croydon Council's continued drive to improve the practices in the PRS and ensure penalties are proportionate to the offence. The new penalties are limited to the offences list in section 3 to 14 of this report and summarized in an offences and breaches table in Table 19 of Appendix 1.
- 26.2 The recommendations set out in this report should facilitate the prevention of crime in Croydon under Section 17 of the Crime and Disorder Act 1998 and reduction of crime and disorder under Section 6 of the same Act. Private rented properties are increasingly used for unlawful purposes such as high density living, for growing or smoking cannabis, or housing illegal immigrants who are poorly employed. The increased enforcement and through penalties the increased income for resources in the area of private sector housing standards and property management should help improve the problems faced in the sector in Croydon. Enforcement enables, subject to data protection requirements, intelligence sharing between multiple agencies and provides for the Council to take a lead in bringing together other appropriate agencies to address the problems which may be present at a single address.

27. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 27.1 The report sets out the new enforcement and penalty powers that have been introduced, in alphabetical order, under the; Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme) Regulations 2019, Consumer Rights Act 2015, Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, Energy Efficiency (Private Rented

Property) (England and Wales) Regulations 2015 (as amended), Housing Act 2004 (as amended), Housing and Planning Act 2016; Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017; Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014; Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and Tenant Fees Act 2019. The Government has made new statutes legislating to improve standards and letting arrangements and to widen the scope for the Council to take action including the issuing of Financial Penalties, and Rent Repayment Orders. The Government identified the negative impact of criminal landlords and the adoption of the powers continues the proactive approach to private sector housing enforcement taken by Croydon Borough Council. Additional funding received following the successful use of the FP and RRO will further the local authority's statutory functions in relation to their enforcement activities covering the PRS.

- 27.2 In a similar way, the report seeks to update the MHMO licensing scheme that reflect the various legislative changes and the current legal interpretation by the Courts which have occurred over the past few years. A revised set of MHMO licensing conditions for licence holders in the MHMO licensing scheme is proposed and also authority to introduce a one year HMO licence and a split fee structure that sees the fee total remain the same but the fees being collected in two stages; Part A and Part B. These changes will ensure the scheme protects tenants in line with the aims of the legislative changes.
- 27.3 These decisions are sought to ensure all residents, regardless of tenure, have access to decent, safe housing, feel protected and are treated fairly. These decisions are also aimed at improving the living environment and letting experience across Croydon, and will enable targeted responses to the range of issues across the borough.

28. OPTIONS CONSIDERED AND REJECTED

- 28.1 The new powers are contained within national legislation and are available (from the implementation dates) for all Councils to use. It is felt that these are a significant new tool to address poor housing conditions and letting practices used by rogue landlords, letting agents and property managers and that choosing not to use them is not an option. In addition, the Government has issued strongly worded statutory guidance and it is clear that it expects Councils to make full use of them.
- 28.2 This report recommends the adoption of the revised and expanded policy "Determining the Penalty and Banding the Offence". The result is that the Private Sector Housing and Trading Standards team have one policy to refer to for offences included within 12 Acts or sets of Regulations. The policy covers two steps;

- ‘Determining the Penalty’ steps to determine what is the most appropriate sanction(s) to be taken against an offending landlord or property agent; and
- ‘Banding the Offence to set the Level of the Financial Penalty’ steps where the sanction includes a Financial Penalty to determine the level of the penalty.

28.3 Because of the wide range of offences and breaches that were available to an EA, the option existed to have a process that considered the sanction individually for each offence or collectively for all offences; for all offences with sufficient evidence where in the public interest. The option to consider the offences and breaches collectively was felt to be by far to be the better option where the ability to seek further redress for multiple issues was made available. It also ensures that officers have duly considered the wider picture when proposing enforcement action. The collective decision is captured on a Case Summary Form where background information is collated to allow a proportionate decision.

28.4 When the framework for banding the offence is used to set the level of the penalty, the option again existed for the EA to introduce a process to determine the level of penalty for each offence; there being 12 statutes. The process for determining the banding of an offence is complex. An officer needs to work in a defined framework but needs discretion so a penalty can be determined on a case by case basis. A range of starting points for FPs, for example £2,000, was considered but rejected this approach as being too punitive in some cases. Government guidance is clear that aggravating and mitigating factors should be taken into consideration and having a fixed starting point or a prescriptive framework would not do this. Therefore this option was rejected in favour of a wide range of financial penalties, across 4 bands and 16 penalty points, even though this is more complicated. After due consideration, it was therefore decided that the framework for banding the offence to set the level of the penalty should be the same 5 stage process for all offences, including proposed the 2015 Alarm Regulations. If the legislation imposes a cap, the maximum penalty at the cap is used where the assessed penalty would exceed this.

28.5 With the MHMO licensing scheme this report sees minimal changes recommended. The proposed changes to property conditions see only a small number of changes proposed; which allow the scheme to fall in line with legislative change. The revision to the fee structure is again introduced to fall in line with recent case law about the fee structure. As the MHMO licensing scheme has not been reviewed since 2017 it is proposed that a full review will take place later in 2021 and where changes are proposed a report to Cabinet will seek further more in-depth changes. These changes will, as appropriate, be consulted with the scheme landlords.

29. DATA PROTECTION IMPLICATIONS

29.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF ‘PERSONAL DATA’?

YES

The data relates to the person, so the following stakeholders: property owners, private landlords, applicants, licence holders (Part 2 for HMOs or Part 3 other premises), managing agents, tenants, property managers, letting agents, mortgage companies, freeholders, applicants and leaseholders and property agents. This can be someone acting as an individual or company. The company can be a partnership or limited.

The data relates to the property, including the following areas; gas safety certification, electrical installation certification, declarations regarding smoke alarm, carbon monoxide alarm and furnishings, energy performance and further fire safety certification (risk assessments, installation, periodic inspections, external walling etc.).

The data relates to the working practice of landlords, letting agents and property managers and data relates to client money protection scheme membership, property redress scheme membership, tenancy agreements, protection of deposits, fees charged and paid, fees advertised. Some documentation referred to may contain name and address details of the persons mentioned to allow identification.

Details of wider offences maybe collated from partner services or databases including the Mayor of London Landlord and Letting Agency Checker, Ministry for Housing Communities and Local Government Rogue Landlord and Letting Agent database, the PRS Exemptions Register for property exemptions and publications database for offending landlords.

29.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

YES.

The Director of Public Realm confirms that a DPIA has been completed and signed off and will be kept under review.

CONTACT OFFICER:

Nick Gracie-Langrick, Private Sector Housing Manager.
0208 726 6000 x 50190.
nick.gracie-langrick@croydon.gov.uk

APPENDICES TO THIS REPORT:



Appendix 1: 'Determining the Penalty' and 'Banding the Offence' to set the Level of the Financial Penalty. The London Borough of Croydon's approach to taking enforcement action against offending landlords, letting agents and property managers in the Borough.

Appendix 2: Current Statement of Principles under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

Appendix 3: Proposed Statement of Principles under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

- Appendix 4:** Current mandatory houses in multiple occupation licensing fee structure.
- Appendix 5:** Proposed mandatory houses in multiple occupation licensing fee structure.
- Appendix 6:** Current mandatory houses in multiple occupation licensing conditions.
- Appendix 7:** Proposed mandatory houses in multiple occupation licensing conditions.

BACKGROUND DOCUMENTS: None

<p style="text-align: center;"><u>“Determining the Penalty and Banding the Offence”</u></p> <p style="text-align: center;"><u>to set the Level of the Financial Penalty.</u></p>	
<p>This policy covers:</p> <ul style="list-style-type: none"> • ‘Determining the Penalty’ steps to determine what is the most appropriate sanction(s) to be taken against an offending landlord or property agent; and • ‘Banding the Offence to set the Level of the Financial Penalty’ steps where the sanction includes a Financial Penalty to determine the level of the penalty. 	

1.0 Background.

Local Housing Authorities (“LHA”) and Local Weights and Measures Authorities (“LWMA”) (collectively enforcing authorities “EA”) have a significant responsibility for policing property standards, management and the action of landlords, letting agents and property managers who are engaged in operations within the private rented sector (“PRS”). The Government expects serious offenders to be dealt with proportionately and effectively to ensure an appropriate punishment and to act as a deterrent against future offending. The PRS in Croydon is large and significant problems relating to property standards, management and tenant behaviour exist. The London Borough of Croydon (“LBC” or “EA”) recognises the importance of a fit for purpose sector and is proactive in the steps it takes to work in partnership to seek improvements and ultimately make Croydon a ‘Better Place to Rent’.

LBC has adopted the greater majority of powers enacted by central Government and this provides legislative options to solve problems, ensure safety and improve renting in the PRS. Not all intervention taken by the LBC achieve a positive result and some landlords, letting agents and property managers fail to comply, ignoring the Regulator and on occasions leaving tenants at risk. In these situations, empowered through various enactments and statutory guidance, LBC will consider the option of taking formal action against the offender. First stage actions can include a; manager’s warning, simple caution, prosecution in the magistrates’ court or the issuing of a financial penalty notice. All options for dealing with the offences or breaches committed are considered objectively as a way of determining the proportionate penalty.

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**A BETTER PLACE
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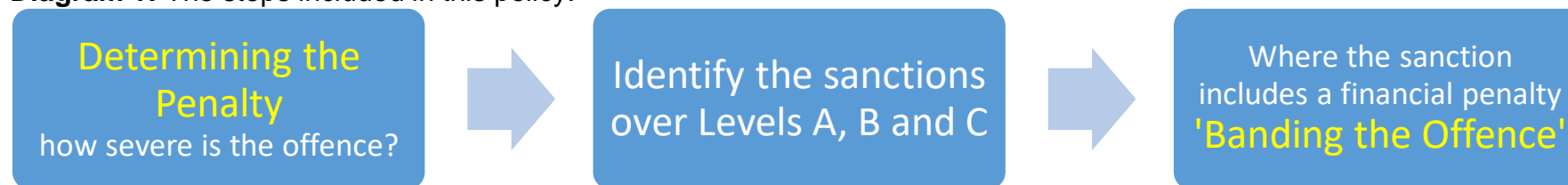
1.1 Making Homes Safer

The original authority to issue a Financial Penalty Notice (“FPN”) and Rent Repayment Order (“RRO”) came into force on the 6th April 2017 following the making of The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017 and The Housing and Planning Act 2016 (Commencement No. 5, Transitional Provisions and Savings) Regulations 2017. These Regulations were introduced under the provisions of the Housing and Planning Act 2016 (“2016 Act”); section 126 enabling FPN and all sections in Part 2, Chapter 4 enabling applications for RRO.

On the 3rd May 2017 a report titled ‘Making Homes Safer’ was prepared for presentation to Cabinet. This paper proposed a policy framework for the use of FPN and RRO with certain housing offences as enabled by the new provisions inserted by the 2016 Act. The policy seeks to ensure consistency and transparency with decision making in this area. This process was termed “Determining the Penalty” and through an Executive Decision [[LINK](#)] on the 3rd May 2017, LBC resolved to adopt the policy and the process on the 8th May 2017.

Over three years on, further legislation (listed in table 1) has been passed and created new housing, tenancy related and property agent offences and breaches that can be considered for FPN and other sanctions. LBC has adopted these new powers and the decision making framework in the 2017 policy “Determining the Penalty” has been revised and expanded into a new reference document entitled “Determining the Penalty and Banding the Offence”. Diagram 1 summarises the two main policy steps. ‘Determining the Penalty’ is the process by which LBC determines the severity of the offence and the appropriate sanction(s) to be taken against an offending landlord or property agent. Sanctions are set over levels A, B and C. ‘Banding the Offence to set the Level of the Financial Penalty’ provides a 5 stage approach to determine the level of the penalty where the sanction includes a Financial Penalty. On January 18th 2021, Cabinet resolution is sought to confirm the revised and expanded policy with a proposed implementation date for offences committed after Monday 1st February 2021.

Diagram 1: The steps included in this policy.



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1.2: Table 1: List of statute central to the policy with abbreviation.

Full title of legislation	Abbreviation in this policy
Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme) Regulations 2019	2019 CMP Regulations
Consumer Rights Act 2015	2015 CR Act
Criminal Law Act 1977	1977 Criminal Law Act
Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020	2020 Electrical Regulations
Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	2015 Energy Regulations
Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019	2019 Energy Regulations
Housing Act 2004	2004 Act
Housing and Planning Act 2016	2016 Act
Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017	2017 BOO Regulations
Management of Houses in Multiple Occupation (England) Regulations 2006	HMO Management Regulations
Protection from Eviction Act 1977	1977 Eviction Act
Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014	2014 Redress Scheme Order
Smoke and Carbon Monoxide Alarm (England) Regulations 2015	2015 Alarm Regulations
Tenant Fees Act 2019	2019 Fees Act

Note:

For details on the relevant offences and breaches refer to Table 19.

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1.3: Table 2: Abbreviations used in this policy.

Abbreviation	Description of the abbreviation
EA	Enforcing Authority - The London Borough of Croydon being duly empowered through statute to take enforcement action against an offending person and acting in the capacity as either the Local Housing Authority (“LHA”) or the Local Weights and Measures Authority (“LWMA”).
FP	Financial Penalty (also referred to penalty charge (PC) in some Regulations)
FPN	Financial Penalty Notice – as an alternative to a prosecution.
FTT	First-tier Tribunal (Property Chamber).
Landlords	Each piece of legislation has differing definitions of the person that has a duty and can be in breach of a duty or commit an offence. For a full definition reference must be made to the relevant legislation. In this policy the term landlord is used to refer to wider parties that include letting agents, property agents and property managers. It includes persons who are managing or in control of a premise let on a tenancy or licence.
LBC	The London Borough of Croydon in its capacity as either the Local Housing Authority or Local Weights and Measures Authority
LBO	Landlord Banning Order; made by the First-Tier Tribunal on application banning a person from— (a) letting housing in England, (b) engaging in English letting agency work, (c) engaging in English property management work, or (d) doing two or more of those things.
Offence	The legislation makes provision for the EA to take action where the landlord has committed an offence.
PCN	Penalty charge notice – a civil penalty including a penalty charge (“PC”) in the sanction in some regulations.
PRS	The Private Rented Sector in Croydon is 35% (58,585) of the total borough housing stock.
Exemptions Register	Private Rented Sector Exemptions Register in relation to the 2015 or 2019 Energy Regulations
RRO	Rent Repayment Order
Tenant	Each piece of legislation has differing definitions of the person affected; so the beneficiary of a tenancy or licence and subject to the actions, breaches, or consequences of the approach of a landlord, letting agent, property agent, property manager or third party. For a full definition reference must be made to the relevant legislation. It can include as in the 2019 Fees Act: a tenant, or a person acting on behalf of, or who has guaranteed the payment of rent by, a tenant.

1.4 Further important reference documentation

The following documents have been duly considered as part of developing this revised policy and should be referred to, as necessary, in future LBC decision making.

1. The statutory guidance issued by the Secretary of State under;
 - Section 41 (4) of the 2016 Act relating to making applications for Rent Repayment Orders [\[LINK\]](#) [6th April 2017].
 - Article 12 of schedule 13A in the 2004 Act (as amended) in relation to FP under the 2004 Act [\[LINK\]](#) [6th April 2018].
 - Section 6(4) of the Tenant Fees Act 2019 [\[LINK\]](#). [30th September 2020].
 - Section 30 (7) of the 2016 Act relating to making a decision about whether to make an entry in the MHCLG database under section 30 of the Act, and the period to specify in a decision notice under section 31 of the Act [\[LINK\]](#).
 - Publicised statement of principles in relation to the issue of a FP under the 2015 Alarm Regulations [\[LINK\]](#).
 - Regulation 5(3) of the 2019 CMP Regulations regarding ‘Mandatory client money protection for property agents - enforcement guidance for local authorities’; MHCLG May 2019 [\[LINK\]](#).
2. The non-statutory guidance issued by the Secretary of State under;
 - The whole of Part 2, Chapter 2 of the 2016 Act (Banning Order Offences and guidance for EA) [\[LINK\]](#).
 - Guide for local authorities: electrical safety standards in the private rented sector 19th June 2020 [\[LINK\]](#)
 - Guide for local authorities: the domestic private rented property minimum standard April 2020 [\[LINK\]](#)
 - Guidance on PRS exemptions and Exemptions Register evidence requirements 22nd March 2019 [\[LINK\]](#)
3. The Code for Crown Prosecutors which gives guidance to prosecutors on the general principles to be applied when making decisions about prosecutions.
4. Sentencing Council Guidance for Health and Food Safety Offences, 1st February 2016 [\[LINK\]](#).
5. Croydon Council Public Protection Enforcement Policy (reviewed October 2020). [\[LINK\]](#).
6. Making Homes Safe – May 3rd 2017. Executive decision to give authority to use ‘Determining the Penalty’ [\[LINK\]](#).
7. Regulation of Investigatory Powers Act 2000 controlling evidence gathering.
8. Investigatory powers available for the purposes of enforcing the 2019 Fees Act; schedule 5 to the 2015 CR Act.
9. Offences Taken into Consideration and Totality. Sentencing Council for England and Wales. March 2012 [\[LINK\]](#).
10. Policy regarding the granting of property licences under any new licensing designation(s) Cabinet report 11th May 2020 Appendix 11 [\[LINK\]](#).
11. Publicising Sentencing Outcomes Ministry of Justice June 2011. [\[LINK\]](#).
12. Rogue landlord database reform document – April 2019 [\[LINK\]](#).
13. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015: explanatory booklet for local authorities [\[LINK\]](#).

2.0: Offences and breaches where Financial Penalties can be issued

This section considers the legislation that has been introduced since 2015 and the opportunities provided for LBC to deal with the offences and breaches committed; including through the issue of a financial penalty or penalty charge (“FP”).

2.1: Offences committed under the Housing Act 2004 and Housing and Planning Act 2016.

With effect from the 6th April 2017, section 249A and schedule 9 of the Housing Act 2004 (“2004 Act”) allows the Enforcing Authority (“EA”) to issue a FP. A FP can be issued up to a maximum penalty of £30,000 with the EA determining the level of the penalty in line with an agreed policy in each particular case. Under the 2016 Act, a FP can be issued to a landlord or agent (includes other responsible persons) who commits one of the following 2004 Act or 2016 Act offences.

- Section 30 (1) – failure to comply with an improvement notice
- Section 72 (1) – not licence a house in multiple occupation
- Section 72 (2) – licensed house in multiple occupation [HMO] that is overcrowded
- Section 72 (3) – not comply with HMO licence conditions
- Section 95 (1) – not licence a private rented property (including non-mandatory HMO)
- Section 95 (2) – not comply with a private rented property licence condition.
- Section 139 (7) – contravention of an overcrowding notice for HMO
- Section 234 (3) – non-compliance with the HMO management regulations; AND
- Section 21(1) 2016 Act - the breach of a landlord banning order, including sanction for continued breach

A FP is an alternative to a prosecution in the Magistrates Court where the fine is unlimited (level 5 offence or unlimited). A person to whom a final FP is given may appeal to the First-tier Tribunal against the decision to impose the penalty or the amount of the penalty. These are civil penalties so debt recovery will be via the County Court in the event of non-payment.

A person convicted of an offence under section 21(1) of the 2016 Act is liable to a FP of up to £30,000 under section 23 or alternatively on summary conviction to imprisonment for a period of up to 51 weeks or to a fine or to both. If the breach continues after conviction, a person commits a further offence and is liable on summary conviction to a fine not exceeding 1/10th of level 2 on the standard scale for each day or part of day in which the breach continues. Following the service of a FP, if a breach continues for more than 6 months, a further FP may be imposed for each additional 6 month period for the whole or part of which the breach continues.

Section 234(3) of the 2004 Act provides that a person commits an offence if he fails to comply with a regulation. Hence, each failure to comply with the regulations constitutes a separate offence for which a civil penalty can be imposed. In situations where a landlord has failed to comply, under section 30(1), with an improvement notice only one civil penalty can be issued.

The 2004 Act and 2016 Act offences listed above are all banning order offences as prescribed in the 2017 BOO Regulations.

2.2: Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

The 2015 Alarm Regulations, under regulation 4, place a duty on a landlord to ensure that from the 1st October 2015 in relation to premises occupied and let on a specified tenancy:

- (a)(i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- (a)(ii) a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel (coal fire, log burning stove) burning combustion appliance; and
- (b) checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

Under regulation 8(1) an EA can impose a penalty on a landlord for a breach of the duty under regulation 6(1). An EA can, where it is satisfied that, on the balance of probabilities, a landlord on whom it has served a remedial notice is in breach of the duty under regulation 6(1), require the landlord to pay a penalty charge (“PC”). The authority must determine the level of the PC which must not exceed £5,000. A penalty charge notice (“PCN”) may specify that if the landlord complies with the requirement to pay or request a review within 14 days the PC will be reduced by an amount specified in the PCN.

The existing penalty charge structure was resolved by Executive decision on May 3rd 2017 to commence on the 8th May 2017 as is set out in the published statement of principles [\[LINK\]](#). The current Statement of Principles is attached as Appendix 2 to the Cabinet report for January 18th 2021 and version proposed attached as Appendix 3. The proposed penalty charge is provided in Table 3 and comprises two parts;

- a punitive element for failure to comply with the absolute requirement to comply with a remedial notice, and / or
- a reasonable cost element relating to costs incurred by LBC in complying with its duties (including completing the works).

Table 3: Penalty Charge Structure for LBC for 2015 Alarm Regulations.

Breach	Payment period	Penalty Charge ²	
		Punitive Charge	(and) Costs ³
Breach of regulation 6(1)	Within 28 days	£5,000 ¹	Reasonable costs plus 30% administrative charge

Note:

1. The maximum penalty charge is £5,000. The level of penalty is to be determined using the Statement of Principles in conjunction with the policy 'Determining the Penalty and Banding the Offence'.
2. An early payment opportunity is available for this penalty charge structure as permitted by Paragraph 9(2) of the 2015 Alarm Regulations.
3. There is no other provision made in the regulations for enforcement authorities to redeem costs for any remedial works carried out. Collection of the civil penalty fine is the only method.

Under Regulation 9(2) a PC can be reduced in circumstances where the landlord either makes the required payment to pay the PC, or gives written notice to the EA of a wish for the EA to review the PC. If neither is satisfactorily completed within the 14 days then the PC reverts to the full amount. The PC amount will reflect the determined penalty score using Table 16. The reduced amount will be the determined penalty score reduced by one point, a 'mitigating factor' and this amount will be specified in the notice. Where the PC is Band 2, 7 points or greater, the reduced amount will be Band 2, 6 points at £4,000.

The costs incurred will be added to any penalty not determined as being at its maximum following the determination of the punitive element.

Premises that are required to be licensed under Part 2 (houses in multiple occupation) or Part 3 (selective licensing) of the 2004 Act are exempt from the 2015 Alarm Regulations. Part 6 of the 2015 Alarm Regulations considers Licences under Parts 2 and 3 of the Housing Act 2004 and introduces amendments to Schedule 4 to the 2004 Act; the mandatory conditions. A breach of the amended conditions can be considered for an offence under section 72(3) or section 95(2), as relevant, of the 2004 Act. This can result in the issue of a FP or prosecution in line with the policy 'Determining the Penalty' and 'Banding the Offence'.

A breach of the 2015 Alarm Regulations is not a banning order offence nor can it be considered for a rent repayment order ("RRO"). Regulation 12(6) allows the sums received by a local housing authority under a penalty charge to be used by the authority for any of its functions.

2.3: Tenant Fees Act 2019.

The Tenant Act 2019 (“2019 Fees Act”) limits the payments a landlord or letting agent (“landlord”) can charge in connection with a tenancy in England. If the payment being charged is not specified as a permitted payment it is not lawful, and a landlord or letting agent under sections 1 and 2 must not ask a tenant (or their guarantor) to pay it. The payments are relevant where the landlord or agent requires the person to do any of those things in consideration of the grant, renewal, continuance, variation, assignment, novation or termination of such a tenancy. Permitted payments [schedule 1 of the 2019 Fees Act] include:

- The rent
- A refundable tenancy deposit capped at no more than five weeks’ rent (where the total annual rent is less than £50,000);
- A refundable holding deposit (to reserve a property) capped at no more than one week’s rent;
- Payments to change the tenancy when requested by the tenant, capped at £50, or reasonable costs incurred if higher;
- Payments associated with early termination of the tenancy, when requested by the tenant;
- Payments in respect of utilities, communication services, TV licence and council tax; and
- A default fee for late payment of rent and replacement of a lost key/security device giving access to the housing, where required under a tenancy agreement.

From 1 June 2020, the ban on non-permissible fees applies to all assured shorthold tenancies, tenancies of student accommodation and licences to occupy housing. Section 6 makes it a duty of every local weights and measures authority [“LWMA”], LBC being one such authority, to enforce the 2019 Fees Act and determine whether a tenant has been charged an unlawful or unfair payment by a landlord or agent.

A breach of the legislation will usually be a civil breach with a financial penalty (“FP”) of up to £5,000. LBC is empowered to issue a FP under section 8 or to take a prosecution in the event of subsequent offences under section 12; see Table 4. A FP can include two separate elements:

1. A penalty in relation to the offence; and
2. The requirement on the landlord to make repayment of the prohibited payment, holding deposit or amount paid under a prohibited contract; to the tenant.

Under section 8, where LBC is satisfied beyond reasonable doubt that a person has breached section 1 (prohibitions applying to landlords), section 2 (prohibitions applying to letting agents), or Schedule 2 (treatment of holding deposits), the authority may impose a FP. The FP may be of such amount as the authority determines, but subject to subsection (3), must not exceed £5,000.

Only one FP may be imposed in respect of the same breach. Schedule 3 makes further provision about FPs under this section and other payments required to be made under the 2019 Fees Act.

In circumstances where a landlord or agent commits a further breach within five years of the imposition of a FP or conviction for a previous breach, this is a breach of section 12 and will be a criminal offence. In such a case, LBC will have discretion over whether to prosecute or impose a FP. Upon conviction, the courts can impose an unlimited fine. Alternatively, LBC may impose a FP of up to £30,000. Where a FP is imposed this does not amount to a criminal conviction.

A breach of schedule 2, the requirement to repay the holding deposit is a civil offence and will be subject to a FP of up to £5,000.

Table 4: Financial penalty levels for first and further offences under the 2019 Fees Act.

Breach of:	First Offence	Further breach within 5 years ²
Charging unlawful fees	Civil breach – up to £5,000 fine ¹ .	Criminal offence with a prosecution OR a financial penalty of up to £30,000 can be issued as an alternative ³ . The criminal offence would be a banning order offence under section 14 of the Housing and Planning Act 2016.
Unlawfully retaining the holding deposit	Civil breach – up to £5,000 fine	Civil breach – financial penalty of up to £5,000 fine. Not a banning order offence

Note:

1. The £5,000 maximum relates to the penalty alone. It is not deemed to be the sum of the penalty and the prohibited payment amount.
2. The period of five years (in which a second breach could occur) begins on the day on which the relevant penalty was imposed or the person was convicted. The date on which the penalty is imposed is the date specified in the final notice.
3. A further breach resulting in the issuing of a FP is not deemed a criminal conviction.

Each request for a prohibited payment is a breach. For example, the following would be considered multiple breaches:

- An agent/landlord charging different tenants under different tenancy agreements prohibited fees
- An agent/landlord charging one tenant multiple prohibited fees for different services at different times
- An agent/landlord charging one tenant multiple prohibited fees for different services at the same time
- An agent/landlord charging one tenant one total prohibited fee which is made up of different separate prohibited requirements to make a payment e.g. £200 requested for arranging the tenancy and doing a reference check would represent multiple breaches.

In the guidance to the 2019 Fees Act it says the following “In all instances when determining whether to prosecute or impose a FP, LBC must be fair, independent and objective. They must not let any personal views about ethnic or national origin, gender, disability, age, religion or belief, political view, sexual orientation of the parties involved influence their decisions”. Neither must LBC be affected by improper or undue pressure from any source. LBC must always act in the interest of justice and not solely for obtaining a conviction. LBC must apply the principles of the European Convention on Human Rights, in accordance with the Human Rights Act 1998, at each stage of a case.

LBC are expected to develop and document their own policy on when to prosecute and when to issue a FP of up to £30,000 and should decide which option they wish to pursue, on a case-by-case basis, in line with that policy. LBC may decide that a significant FP, rather than prosecution, is the most appropriate and effective sanction in that particular case.

The 2019 Fees Act enables LBC to pursue the repayment of a prohibited fee. The repayment amount can be included in the FP served on the landlord or letting agent. An EA must be satisfied, on the balance of probabilities that that the breach resulted in a tenant making a prohibited payment to a landlord, letting agent or third party and that all or part of the prohibited payment has not been repaid to the tenant.

Section 15 makes provision for tenants to recover unlawfully charged fees through the First-Tier Tribunal Property Chamber (“FTT”). LBC or Citizens Advice Bureaux can provide support with applications to the FTT to regain the prohibited fee; issues with Letting Agents can be referred to the redress scheme. A landlord or agent can agree a repayment method with the tenant. An application cannot be made to the FTT for repayment if the LBC has, in relation to the relevant breach, commenced criminal proceedings or required the landlord or agent to repay the tenant. Section 16 provides that LBC may help a tenant to make an application under section 15, for example, by providing advice or by conducting proceedings.

LBC may further help a tenant in the event that the landlord or agent does not comply with the order of the FTT and needs to apply to the county court.

LBC should consult with the lead enforcement authority to ensure their policies are in line with the national approach to promote consistency, alongside local priorities. This includes the requirement to notify the lead enforcement authority as soon as is reasonably practicable whenever LBC imposes a FP. LBC must consult another local authority when it proposes to take

enforcement action outside of its local area. LBC may operate outside its area with landlords owning multiple properties or letting agents acting nationally.

The 2019 Fees Act amends section 14 (4) of the 2016 Act in that an offence under section 12 is also a banning order offence.

EA will be able to retain the money raised through FP for the costs incurred in, or associated with, carrying out any enforcement function in relation to the private rented sector.

2.4: The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (“2020 Electrical Regulations”) were passed on the 15th March 2020 having been made under the provisions of the 2016 Act and the 2004 Act. The 2020 Electrical Regulations came in force in England on the 20th June 2020 and applied in two stages, to new specified tenancies from the 1st July 2020 and to existing specified tenancies on the 1st April 2021. They place additional duties on landlords with respect to electrical safety in private rented properties. Landlords are to meet this duty by organising for the completion of an electrical inspection condition report (“EICR”) or electrical installation report (“IR”) and act on recommendations that require the completion of key safety works to the fixed installation.

The 2020 Electrical Regulations apply equally to houses in multiple occupation (“HMO”). The Management of Houses in Multiple Occupation (England) Regulations 2006 previously, through regulation 6(3), put specific duties on landlords around electrical safety. This requirement has now been repealed, and electrical safety in HMOs is now covered by the 2020 Electrical Regulations.

Where a private landlord has, on the balance of probabilities breached a duty under regulation 3, the EA must serve a remedial action notice [“RAN”]. If a landlord does not complete the work in the RAN schedule the EA can complete them in default; in the case of works deemed urgent; the EA can complete them immediately. A landlord prevented from gaining access by his tenants will not be deemed in breach of this duty. A landlord must organise for an inspection and test at least every five years and must retain a copy of the certification for the tenant and future authorised electrical inspector.

An EA may impose a financial penalty (“FP”) (or more than one penalty in the event of a continuing failure) in respect of the breach. A FP may be of such amount as the EA determines; but must not exceed £30,000. The breaches that may attract a FP on a landlord are in situations where he fails to ensure:

- Regulation 3 (1) (a) ensure that the electrical safety standards are met during any period when the residential premises;
- Regulation 3 (1) (b) ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
- Regulation 3 (1) (c) ensure the first inspection and testing is carried out—
 - (i) before the tenancy commences in relation to a new specified tenancy; or
 - (ii) by 1st April 2021 in relation to an existing specified tenancy.
- Regulation 3 (4) Where a report under sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial work is carried out by a qualified person within—
 - (i) 28 days; or
 - (ii) the period specified in the report if less than 28 days, both starting with the date of the inspection and testing.
- Regulation 3 (6) Where further investigative work is carried out in accordance with paragraph (4) and the outcome of that further investigative work is that further investigative or remedial work is required, the private landlord must repeat the steps in paragraphs (4) and (5) in respect of that further investigative or remedial work.

The EA must follow the prescribed steps as part of imposing a FP on a landlord for a breach of a duty under regulation 3. The EA must serve a notice of intent within 6 months beginning with the first day on which the authority is satisfied, in accordance with regulation 11, that the private landlord is in breach. If the offence was a continuing offence, within 6 months of the date that the breach stopped. A landlord can make representations that must be considered as part of the EA deciding whether or not to proceed to a full FP.

Where an EA imposes a FP under the 2020 Electrical Regulations, it may apply the proceeds to meet the costs and expenses incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

2.5: The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended by the Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019).

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (“2015 Energy Regulations”) came into force on the 1st October 2016 using powers conferred to the Secretary of State in the Energy Act 2011. The rules came into force on various dates beginning with the 1st April 2018 and apply to all domestic private rented properties that are let on specific types of tenancy agreement and legally required to have an Energy Performance Certificate (“EPC”).

Part Two of the 2015 Energy Regulations allow the tenant of a private rented property to request permission from their landlord to make energy efficiency improvements in the property they rent. Part Three of the Regulations outline that private sector landlords must not, after 1st April 2018 grant a new tenancy of a property (including an extension or renewal), nor continue to let the property (on an existing tenancy) after 1 April 2020, where the EPC is below the minimum level of energy efficiency. The Domestic Minimum Energy Efficiency Standard (MEES) Regulations set a minimum energy efficiency standard (“MEES”) for domestic private rented properties. The MEES is Energy performance indicator of Band E and where a property is sub-standard, landlords make energy efficiency improvements which raise the EPC rate to at least a minimum of Band E before they let the property.

The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 make changes to Part 3 of the 2015 Energy Regulations. Since 1 April 2019, landlords of domestic properties with an EPC rating below E must carry out up to £3,500 (Inc. VAT) worth of works improving their energy efficiency if they cannot obtain third-party funding to meet the costs. The £3,500 cap is an upper ceiling, not a target or a spend requirement and landlords may spend more if they wish. If a landlord can improve their property to E (or higher) for less than £3,500 then they will have met their obligation. NB: If a landlord is unable to improve their property to EPC band E for £3,500, they should install all measures which can be installed up to £3,500, then register an exemption on the PRS Exemption Register. Time periods exist for the length of an exemption registered before the 2019 Energy Regulations made amendments.

AN EA may serve a compliance notice on a landlord who appears to be, or to have been at any time within the 12 months preceding the date of service of the compliance notice, in breach of Regulation 23. Giving at least one month, the compliance notice enables the EA to monitor compliance by requesting relevant information which can include copies or the original of:

- the EPC that was valid for the time when the property was let;
- any other EPC for the property in the landlord’s possession;
- the current tenancy agreement used for letting the property;
- any Green Deal Advice Report in relation to the property;
- any other relevant document that the enforcement authority requires in order to carry out its functions.

The compliance notice may also require the landlord to register copies of the requested information on the PRS Exemptions Register. The compliance notice will specify both the name and address of the person that a landlord must send the requested information to and the date by which the requested information must be supplied.

An EA may serve a financial penalty notice on a landlord who appears to be, or has been at any time in the 18 months preceding the date of service of the FPN, in breach of Regulation 23 and / or Regulation 37(4)(a). Regulation 33 allows for a temporary exemption to Regulation 23 in certain specified circumstances. The FPN may include a FP (saying how much and with the calculation), a publication penalty or both. The FPN will explain which of the provisions the landlord is believed to have breached, whether they must take any action to remedy the breach and, if so, the date for compliance. Under regulation 38(4) a further FPN may be issued if the action required is not completed in the time specified.

Table 5: Maximum financial penalty levels under Regulation 40 for the different breaches of 2015 Energy Regulations

Breach of:	Length of breach on issue of FPN	Financial penalty (not exceeding)	Publication penalty
Regulation 23 - landlord has let a sub-standard property in breach of the 2015 Energy Regulations	Less than 3 months	£2,000	✓
	3 months or more	£4,000 ¹	✓
Regulation 36(2) – landlord has registered false or misleading information on the PRS Exemptions Register		£1,000	✓
Regulation 37(4)(a) – landlord has failed to comply with the compliance notice		£2,000	✓
Regulation 38(4) – landlord has failed to comply with the action in a penalty notice (new penalty notice served)		£5,000 ²	✓

Notes.

¹£5,000 is the maximum level of penalty which applies to each property. If, for instance, a landlord is fined £2,000 for being in breach of Regulations 23 for less than three months, and they continue to let the property below the minimum standard after three months, the most they can be fined for a three months or more breaches, will be £3,000. £5,000 in total.

²Where a landlord fails to take the action required by a penalty notice within the period specified in that penalty notice in accordance with paragraph (2) (c) a further penalty notice can be served. The total of all fines for the same breach remain capped at £5,000.

The 2015 Energy Regulations introduce some FP fine maximums. Where a penalty is issued for a Regulation 23 offence AND one or both of a Regulation 36 and Regulation 37 offence the total of the FP is £5,000. If an EA confirms that a property is (or has been) let in breach of the Regulations, they may serve a financial penalty up to 18 months after the breach and/or publish details of the breach for at least 12 months. The penalty notice may include a financial penalty, a publication penalty or both. Local authorities can decide on the level of the penalty, up to maximum limits set by the Regulations.

This maximum amount of £5,000 applies per property, and per breach of the 2015 Energy Regulations. This means that if, for instance, a landlord is fined £2,000 for being in breach of the 2015 Energy Regulations for less than three months, and the landlord continues to let the property below the minimum standard after three months, the most the landlord can be further fined for a three months or more breach, will be £3,000 so £5,000 in total.

Where a landlord having been previously fined up to £5,000 for having failed to satisfy the requirements of the 2015 Energy Regulations then proceeds to unlawfully let a sub-standard property on a new tenancy; a further financial penalty of up to £5,000 can be issued. The maximum remains but the ability to issue a further financial penalty starts again with a new tenancy.

Under Regulation 31, a landlord has a defence against the breach under Regulation 23 where he has, within the preceding five years, been unable to increase the energy performance indicator of the property to not less than the MEES as a result of the tenant refusing or despite reasonable attempts third party consent is not achieved. To rely on these exemptions the landlord must register the information on the PRS Exemptions Register. In fact, if a landlord wants to rely on any of the following regulations; 24(2), 25, 31(1), 32(1), 33(1) or 33(3) he must also register the information set out in the Schedule on the PRS Exemptions Register. This exemption lasts 5 years after that, it will expire and a landlord must try again to improve the property's EPC rating to E. If it is still not possible, a further exemption must be registered.

If a House in Multiple Occupation (HMO) is legally required to have an EPC (Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007), and if it is let on one of the qualifying tenancy types, then it will be required to comply with the minimum level of energy efficiency. However, individual rooms within HMOs are not required to have their own EPC, so a property which is an HMO will only have an EPC if one is required for the property as a whole.

The PRS Exemptions Register is an online platform which allows landlords (or an agent acting on their behalf) to register valid exemptions from the minimum energy efficiency requirements. The Register can be accessed on the Department for Business, Energy and Industrial Strategy ["BEIS"] website. Landlords must register both the exemption type and the information required to support that exemption before they can rely on it and let (or continue to let) the property. There is no fee or charge. It is a breach of the Regulations to put false or misleading information. From 1 April 2018, where the EA considers that a landlord may be in breach of the Regulations or a landlord has been in breach of the rules at any time in the past 12 months, it may serve a Compliance Notice requiring the landlord to provide evidence to the enforcement authority.

A publication penalty means that the enforcement authority will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The enforcement authority can decide how long to leave the information on the Register, but it will be available for view by the public for at least 12 months. The information that the enforcement authority may publish is:

- the landlord's name (except where the landlord is an individual);
- details of the breach;
- the address of the property in relation to which the breach occurred; and
- the amount of any financial penalty imposed.

The enforcement authority may decide how much of this information to publish. However, the authority may not place this information on the PRS Exemptions Register while the penalty notice could be, or is being reviewed by the EA, or while their decision to uphold the penalty notice could be, or is being, appealed.

2.6: The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme) Regulations 2019

The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme) Regulations 2019 ("2019 CMP Regulations") is made under section 133 of the 2016 Act and amended by the 2019 Tenant Fees Act. The 2019 CMP Regulations are enforced by LWMA in England, who must have regard to the statutory guidance which has been issued [[LINK](#)].

The 2019 CMP Regulations apply to letting agency work and property agency work where the premises consist of housing let under a tenancy. The definition of a property agent is found at s133 (4) of the 2016 Act; and there are further definitions in s.54 (5) and s55 (3) of that Act for letting agency work and property management work. A property agent includes both a letting agent and property manager.

It is a legal requirement that property agents in the private rented sector holding client money obtain membership from a Government approved or designated client money protection scheme from 1 April 2019 (no transition period). 'Client money' means money received by a property agent in the course of English letting agency or property agency work. Examples of client money include the rent, a holding deposit, and monies paid to a property agent for repairs and maintenance work or maintenance floats.

Client money does not include money held in accordance with an authorised tenancy deposit scheme (when deposited) within the meaning of Chapter 4 of Part 6 Housing Act 2004. Agents can demonstrate that they do not hold client money by providing evidence which may take the form of, but is not limited to evidence that; the tenant pays rent directly to landlord, deposits are paid directly to the landlord for the landlord to protect and any invoices for maintenance / remedial work on a client property is given directly to the client to pay.

If the scheme provides a certificate of membership, the agent must:

- Display the certificate where it's likely to be seen at each of the agent's premises in England at which the agent deals face-to-face with persons using or proposing to use the agent's services
- Publish a copy of the certificate on the agent's website (if any); and
- Produce a copy of the certificate to any person who may reasonably require it, free of charge.

Table 6 summarises the two main requirements in the 2019 CMP Regulations with which property agents must comply.

Table 6: Maximum financial penalty levels under Regulations 6 and 7 for the different breaches of 2019 CMP Regulations

Breach of:	Financial penalty (not exceeding)	Continued breach ¹ (regulation 9)
Regulation 3 – Requirement to belong to an approved or designated client money protection scheme from 1 April 2019.	£30,000	✓
Regulation 4 – Transparency Requirements; breaches include; <ul style="list-style-type: none"> • fails to display a certificate of its membership of an approved client money protection scheme prominently in their office(s) or on their website, and/ or • fails to provide copies of these certificates free of charge to anyone who reasonably asks, and/or • fails to notify its clients of any change in the status of its membership of an approved scheme within 14 days of the occurrence. 	£5,000 ²	✓

Note:

1 - A continued breach includes the authority for an EA to serve a further FP after a 28 day period from the day after the date of the previous FP.

2 – Each breach can be subject to a separate FP, each with a maximum of £5,000.

The lead enforcement authority has the power to take steps to enforce the relevant letting agent legislation where necessary or expedient to do so. Where an EA proposes to impose a FP under the 2019 CMP Regulations for a breach of regulation 3 and or 4 that occurs in the area of a different local authority the EA must notify the EA in the relevant local authority of its intent to do so.

An EA is under a duty to enforce the 2019 CMP Regulations and will be able to retain the money raised through FP for carrying out any of their enforcement functions in relation to the private rented sector.

Where in addition to breaching the 2019 CMP Regulations, a property agent breaches the requirements in the Consumer Rights Act 2015 relating to the disclosure of client money protection scheme membership, enforcement action could also be brought under the Consumer Rights Act. Where an EA is satisfied, on the balance of probabilities, that a property agent has breached the Consumer Rights Act 2015 the EA may impose a FP in respect of the breach which;

- may be of such amount as the authority imposing it determines; but
- must not exceed £5,000

2.7: The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014

EA have a duty, in their area, to enforce The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014 [2014 Redress Scheme Order“]. The 2014 Redress Scheme Order creates, from the 1st October 2014, the legal requirement for a person engaging in letting agency work or property management work to belong to an approved redress scheme and to provide details of the scheme to which they belong. As of 2nd December 2020 there are only two approved schemes.

The Order was made in exercise of powers conferred by sections of the Enterprise and Regulatory Reform Act 2013 with letting agency work and property management work defined in sections 83 and 84. Lettings agency work is work done by an agent in the course of a business in response to instructions from:

- a private rented sector landlord who wants to find a tenant: or
- a tenant who wants to find a property in the private rented sector

But it does not include matters such as publishing advertisements or providing information; or providing a way for landlords or tenants to make direct contact with each other in response to an advertisement or information provided.

Property management work means things done by a person in the course of a business in response to instructions from another person who wants to arrange services, repairs, maintenance, improvement, or insurance or to deal with any other aspect of the management of residential premises.

Table 7: Maximum FP levels for breaches under Part 2, article 3 and Part 3 article 5 of the 2014 Redress Scheme Order

Breach of requirement:	Financial penalty (not exceeding)
Article 3 – Requirement to belong to an approved redress scheme, when required to belong to one by the order, letting agency work ¹ .	£5,000
Article 5 – Requirement to belong to an approved redress scheme, when required to belong to one by the order, property management work.	£5,000

Note:

1 – For dealing with complaints when made by a person who is or has been a prospective landlord or prospective tenant [subject to exclusions].

An EA has authority under article 8 to require, by notice, a property agent to pay a monetary penalty of such amount as the EA may determine up to a maximum of £5,000.00. The 2014 Redress Order requires that a notice of intent must be first served and within 6 months of the date on which the EA is first satisfied that the person has failed to comply with either article 3 or 5.

EA will be able to retain the money raised through FP for any of its functions. Guidance for the sector is provided here [[LINK](#)].

2.8: Consumer Rights Act 2015

The Consumer Rights Act 2015 [“2015 CR Act”] came into force on 1 October 2015. It is the duty of a LWMA as EA in England and Wales to enforce Part 3, Chapter 3 of the 2015 CR Act. This chapter creates a duty, under section 83(1), for certain information to be publicised, refer to Table 8, by any person engaging in letting agency work or property management work; these roles are defined in s 86 of the 2015 CRA Act.

Table 8: Publicity responsibilities for letting agents engaged in letting agency and/ or property management work.

Summary of duty	The Duty – section in Consumer Protection Act 2015	Relevant to letting agents engaged in		Maximum Level of financial penalty
		‘Letting agency work’	‘Property management work’	

A list of 'relevant fees' under section 83 (1) as charged by the agent.	Section 83 (2), and section 83 (3)	a) Fee description b) a tenants liability, and c) a fee breakdown.	x	£5,000
Information about client money protection scheme membership	Section 83 (6)	a statement – of whether the agent is a member of a client money protection scheme	a statement – of whether the agent is a member of a client money protection scheme	£5,000
Information about redress scheme membership	Section 83 (7)	a statement— (a) that indicates that the agent is a member of a redress scheme, and (b) that gives the name of the scheme.	a statement— (a) that indicates that the agent is a member of a redress scheme, and (b) that gives the name of the scheme.	£5,000

The required information must be displayed:

- Visibly at each of the agents premises where face to face contact is made with customers and clients,
- On the agent's own website (if they have one),
- On any third party website, or provide a link to the information on their own website

The EA may impose a penalty under section 83(3) in respect of a breach which occurs in England and Wales (for Wales with consent of that authority) but outside of the LBC area (as well as in respect of a breach which occurs within that area). Only one penalty under this section may be imposed on the same letting agent in respect of the same breach.

The amount of penalty imposed can be determined by the EA up to a maximum of £5,000.00 using any guidance issued by the Secretary of State about compliance by letting agents with duties imposed by or under section 83 or the exercise of its functions under this section or Schedule 9. EA will be able to retain the money raised through FP for any of its functions.

3.0 Other sanctions against Landlords that commit an offence.

3.1: Rent Repayment Orders

As of April 2017, a tenant or EA could apply for a Rent Repayment Order (“RRO”) under sections 73 and 96 of the 2004 Act for the offence of either failing to license an HMO (Part 2, section 72(1)) or failing to license a licensable house (Part 3, section 95(1)) of the 2004 Act. Here a tenant could only make an application where the EA had either secured a conviction *or* following a successful RRO award, within 12 months of either event, whichever is the later. Section 96(8) enables further applications from further tenants. For offences wholly committed on or after 6 April 2017, the provisions in the 2016 Act then apply.

Chapter 4 of Part 2 of the 2016 Act widened the options for an EA or tenant, during or within 12 months of the date of offence, to be able to make an application to the First Tier Tribunal (FTT) for a RRO against a landlord who commits one of the following offences (whether or not convicted).

- Failure to comply with an Improvement Notice under section 30* \$,
- Failure to comply with a Prohibition Order under section 32(1) \$,
- Offence of failing to license an HMO under section 72(1)* \$,
- Offence of failing to license a licensable house under section 95(1) Part 3* \$,
- Using violence to secure entry to a property under section 6 of the Criminal Law Act 1977 \$, and
- Illegal eviction or harassment of the occupiers of a property under section 1(2), (3) and (3A) of the Protection from Eviction Act 1977 \$,
- The breach of a banning order under section 21(1) of the 2016 Act*;

Note:

* - The sanction can be to prosecute in the Magistrates Court, to issue a financial penalty and / or an application for RRO.

\$ - This offence falls under the definition of a banning order offence.

Under section 46 of the 2016 Act, where a landlord has been convicted of the offence or issued with a FP, to which the RRO relates, the FTT must award the RRO and require that the maximum amount of rent in its power is repaid (capped at a maximum of 12 months) (for certain offences). Section 48 of the 2016 Act makes it a duty for the EA to consider applying for RRO in situations it becomes aware that a person has been convicted of a relevant offence. In exercising their functions in respect of RRO, an EA must have regard of the statutory guidance issued.

An EA has the option to help tenants apply for a RRO, by for example, helping the tenant to apply by conducting proceedings or by giving advice to the tenant. An application for a RRO can be made or supported by an EA if no conviction has been secured. EA are expected to develop and document their own policy on when to prosecute and when to apply for a rent repayment order and should decide each case independently.

A decision about an application for a RRO will normally take place at the stage “*Determining the Penalty*” as part of a review of proposed actions. A decision can also be held in abeyance pending the securing a conviction or issuing a FPN as the notice of intention to apply can be made within 12 months. Before applying for a RRO an EA must give the landlord a notice of intended proceedings including information explaining how a landlord can make representations within a period of not less than 28 days.

3.2: Landlord Banning Order

Chapter 2 of the 2016 Act introduced the “Landlord Banning Order” (LBO) to be pursued for the most serious and prolific offenders. The power was available from the 6th April 2018 to allow an EA to determine, in line with their policy, on whether to pursue a LBO on a case-by-case basis following conviction for a banning order offence. An EA makes the application for a banning order which is an order by the First-tier Tribunal that bans a landlord or letting from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

Before an application, an EA must first serve a notice on the landlord or agent stating; why it is applying for a banning order, the length of order it will apply for and that s/he has at least 28 days to make representations in their defence. The notice must be served within six months beginning with the date of the conviction for the banning order offence.

A landlord can be banned for a minimum of 12 months with no maximum; the length proposed in the application by the EA but determined by the FTT. A banning order may contain exceptions to the ban to some or all of the period the ban lasts for. The exceptions may also be subject to conditions. If an EA believes a banning order offence has been committed by a body corporate with the consent or knowledge of an officer of that body corporate then they should seek separate banning orders for both the body

corporate and the officer of the body corporate. AN EA must apply for a banning order against any officer who has been convicted of the same offence as a body corporate.

A banning order offence is an offence of a description specified in the schedule to The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018. A list of the 41 banning order offences is also in at Annex A of the non-statutory guidance. They also include the unlawful eviction or harassment, under s.1 Protection from Eviction Act 1977 and using or threatening violence for securing entry into premises, under s.6 Criminal Law Act 1977

A spent conviction is a conviction which, under the provisions of the Rehabilitation of Offenders Act 1974, is considered spent, the offender having completed the specified rehabilitation period specified in the Act, which is subject to exemptions. A spent conviction should not be taken into account when determining whether to apply for and/or make a banning order.

The Government's expectation is that a local housing authority will pursue a banning order for the most serious offenders who have been convicted of a banning order offence. The level of fine is a consideration but a low fine does not prevent an application.

A criminal offence was created by section 21(1) of the 2016 Act; breach of a Banning Order; this power became available on the 6th April 2018. A person who, without reasonable excuse, breaches a banning order commits an offence which can result in the imposition of a financial penalty or prosecution proceedings in the Magistrates Court. A FP, under section 23, maybe imposed to a maximum of £30,000 as a result of the breach. Where the person is guilty of a breach, following a summary conviction, they are liable to imprisonment for a period not exceeding 51 weeks or a fine or both. A person banned who commits further breaches can be subject to further criminal sanctions or where the breach continues for over 6 months a further FP.

If the Tribunal makes a banning order, the local housing authority must make an entry in the database of rogue landlords and property agents under the 2016 Act. An entry may also be made if a person is convicted of a banning order offence.

The LBC will also publicise the name of any person or business that is made subject of a Banning order.

A person against whom a banning order is made may apply to the First-tier Tribunal for an order under this section revoking or varying the order.

3.3 Ministry for Housing Communities and Local Government's Rogue Landlord and Property Agents database.

The database is a new tool for local housing authorities in England to keep track of rogue landlords and property agents. Database users will be able to view all entries on the database, including those made by other local housing authorities. The database can be searched to help monitor known rogues, especially those operating across council boundaries and will help authorities target their enforcement activities. The Government has published statutory guidance and local housing authorities must have regard to the criteria in this guidance in deciding whether to;

1. Make an entry in the database under section 30 of the 2016 Act, and
2. The period to specify in a decision notice under section 31 of the 2016 Act.

An entry can be made for a person or organisation (who was a residential landlord or property agent at the time) who has:

- been convicted of a banning order offence; and/or
- received two or more financial penalties in respect of a banning order offence within a period of 12 months.

In October 2018 the Prime Minister committed to opening up access to information on the database of rogue landlords and property agents to tenants. The consultation ran from July to October 2019 and sought views on both widening access to the database to allow tenants and prospective tenant's access to the database and expanding the scope of offences and infractions which could lead to entries on the database. Where further offences and infractions are included this policy will be widened to consider the action against a landlord that has committed one of those wider breaches.

An EA must consider the variation or removal of an entry pursuant to sections 36 or 37 of the 2016 Act.

3.4 Mayor of London Landlord and Letting Agent checker.

All London councils have agreed to participate in the Rogue Landlord and Agent Checker, which contains information about private landlords and letting agents who have been prosecuted or fined for certain offences (Table 9). LBC will therefore publish all convictions or penalties issued where no appeal was made or the conviction/penalty was upheld on appeal.

There are three parts to the checker;

- **Public tier** - a list of private landlords and agents who have faced certain enforcement action. The types of enforcement action are described below. This is a publicly available list;
- **Private tier** – a database accessible only to London boroughs and the London Fire Brigade ('LFB') containing a greater range of enforcement actions with records viewable for a longer period; and
- **Reporting tool** – this is a facility to enable private tenants to make a complaint about a landlord or agent to their local authority.

Table 9: Relevant offences or breaches for the purposes of the Rogue Landlord and Agent Checker

Legislation ¹	Section(s)	Description of offence or breach
Housing Act 2004	30(1)	Offence of failing to comply with improvement notice
	32(1)	Offence of failing to comply with prohibition order etc.
	72(1)(2)(3)	Offences in relation to licensing of HMOs
	95(1) or (2)	Offences in relation to licensing of houses under this Part
	139(7)	Service of overcrowding notices
	234(3)	Management regulations in respect of HMOs
	236(1)	Enforcement of powers to obtain information
	238(1)(2)	Information Provisions
Prevention of Damage by Pests Act 1949	4(1)	Power of local authority to require action
	1	Unlawful eviction and harassment of the occupier
Protection from Eviction Act 1977	2	Restriction on re-entry without due process of law
	3	Prohibition of eviction without due process of law
Environmental Protection Act 1990	80(4)	Summary proceedings for statutory nuisances
Local Government (Miscellaneous Provisions) Act 1976	16(2)	Power of local authorities to obtain particulars of persons interested in land.
Housing Act 1985	331	Penalty for landlord causing or permitting overcrowding
The Redress Schemes for Letting Agency Work and Property Management Work Order 2014	3	Requirement to belong to a redress scheme: letting agency work
	5	Requirement to belong to a redress scheme: property management work
	6	Energy performance certificates on sale and rent

The Energy Performance of Buildings Regulations 2012	7	Energy performance certificates on marketing
	11	Statement of energy performance indicator
Consumer Rights Act 2015	83	Duty to publicise fees etc.
Furniture and Furnishings (Fire) (Safety) Regulations 1988	15	Prohibition on supply

Note.

1 - The range of offences that can be incorporated is regularly reviewed and updated.

It also includes information about landlord and agent offences submitted by the London Fire Brigade and the two letting agent consumer redress schemes - The Property Redress Scheme and The Property Ombudsman.

Table 10: Relevant offence/breach disposal for the purposes of the Rogue Landlord and Agent Checker

Enforcement action	Public tier	Max public retention	Private tier	Max private retention
Criminal conviction	Yes	Until spent	Yes	10 years
Civil penalty (Housing and Planning Act 2016.	Yes – Penalties of £500 or more	One year	Yes – No threshold	10 years
Civil penalty (Trading standards)	Yes – Penalties of £500 or more	One year	Yes	10 years
Conditional discharge	Yes	Length of discharge	Yes	10 years
Criminal caution	No	N/A	Yes	10 years

The Mayor of London has clearly set out the background to the database, data protection implications, policies and procedures and the current use on the public website [\[LINK\]](#). As LBC is a member borough it will act in line with the Mayor's policies and procedures as regards the database.

3.5 Informing landlords, publicising successful convictions and wider EA action against a landlord

The Council will always inform landlords of the consequences of committing an offence. This information is made available in the policies of the Council and in letters to parties where enforcement action is under consideration. On occasion, action will be immediate and with no warning. At the point, during an investigation, LBC has sufficient evidence that an offence(s) has been committed it conducts a full case review; this requires a decision whether to proceed with enforcement action against an offending

person(s). On conclusion of the full case review, if the decision is taken to proceed, all parties will be written to. The FPN contains a notes section that makes reference to both the Mayor for London Landlord and Agent checker and the MHCLG Rogue Landlord database so that a landlord in receipt of an FPN would be aware of potential further sanctions.

LBC's policy considers two factors in 'Determining the Penalty', the need to both

- Deter the offender from repeating the offence.
- Dissuade others from committing similar offences.

In some cases, the need to publicise in the media a successful conviction or sanction is an important part of raising awareness, deterring others and, importantly, improving compliance and ultimately making Croydon a 'Better Place to Rent'.

The Council will usually publicise the outcome of a successful prosecution, which is in the public domain, but will selectively choose to publicise the issue of a FP. Rent repayment orders ("RROs") are imposed by the FTT and so the fact someone has received a RRO will be in the public domain. The publication of a RRO awarded will be decision based on the severity of the case. Robust and proportionate use of RROs is likely to help ensure others comply with their responsibilities.

Where the EA proposes to publish the details of a relevant conviction or the issue of two separate FP issued within a 12 month period on the MHCLG database, the EA must inform the landlord or property agent through the service of a Decision Notice. An appeal period of 21 days exists to the FTT who will make a decision as to publication as well as the proposed time period. The issue of a banning order to an individual or organisation must be published on the MHCLG database.

Table 11: A summary of the legislation in sections 2 and 3 this report and powers available to EA.

Section	Legislation	Standard of proof	FP maximum	Prosecution	RRO (3.1) ¹	BOO (3.2) ²	Enabled to help tenants	Publicity ³ (3.4)	Income from FP ⁴
2.1	Housing Act 2004	Beyond reasonable doubt	£30,000	✓	✓	✓	n/a	Databases	✓
2.2	Smoke and CO Alarm (England) Regulations 2015.	Balance of probabilities	£5,000	x	x	x	n/a	✓	✓✓
2.3	Tenants Fees Act 2019.	Beyond reasonable doubt	£30,000 or £5,000	✓	x	✓	✓	Discretion	✓
2.4	Electrical Safety Standards in the PRS (England) Regulations 2020.	Beyond reasonable doubt	£30,000	x	x	x	n/a	✓	✓
2.5	Energy Efficiency (PRS) (England and Wales) Regulations 2015	Beyond reasonable doubt	£5,000	x	x	x	n/a	Publications register	✓✓
2.6	The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme) Regulations 2019	Beyond reasonable doubt	£30,000 or £5,000	x	x	x	n/a	✓	✓
2.7	2014 Redress Scheme Order	Balance of probabilities	£5,000	x	x	x	n/a	Databases	✓✓
2.8	Consumer Rights Act 2015	Balance of probabilities	£5,000	x	x	x	n/a	✓	✓✓
3.1	Rent repayment order	Beyond reasonable doubt	Rent capped at 12 months	n/a	n/a	x	✓	✓	✓✓
3.2	Housing and Planning Act 2016	Beyond reasonable doubt	£30,000	✓	✓	x	n/a	Databases	✓

Notes:

1. RRO –Indicates whether there is scope to apply for a rent repayment order as part of the sanctions for non-compliance with this offence or breach.
2. BOO – banning order offences are included in The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017.
3. Publicity makes reference to the general ability to publicise successful actions, the databases run by the Mayor of London and the MHCLG
4. Income from the issue of the financial penalty can be used (having regard to the relevant legislative wording) for;
 - ✓✓ any function within the local authority, or
 - ✓ use limited to functions associated with the enforcement of standards and renting in the private rented sector.

4.0: What course of action should the Local Housing Authority take to deal with offenders?

An EA must determine what action it will take against a landlord. Croydon Council has developed this process over the past three years to provide a framework to assist with “*Determining the Penalty*” which will ensure consistency, transparency and a fair assessment for all parties.

4.1: Financial Penalties as an alternative disposal of offences to prosecution.

The Government first introduced the FP as part of its campaign to clamp down heavily on criminal landlords; Ministers have made it very clear that they expected this power to be used robustly and that FPs, whilst an alternative, are not a lesser alternative to a prosecution. EAs have been given the authority to both determine the penalty and the level of FP to impose; at up to £30,000 [with lower caps set by some legislative provisions]. The level of penalty in the Magistrates Court is now unlimited for all offences where a FP could also be issued. All monies collected following the issue of a FP can be retained by the EA to further its statutory functions in relation to private housing enforcement work (table 9), or its some cases for any functions. The 2016 Act has also introduced the “Landlord Banning Order” (LBO) for the most serious and prolific offenders.

4.2: General Principles.

LBC will consider the following general principles when deciding whether to take formal action against a landlord or agent:

- a) there is sufficient admissible and reliable evidence that the offence has been committed and there is a realistic prospect of conviction; and
- b) the enforcement authority believes that it is in the public interest to do so.

An enforcement authority’s determination should be fair and proportionate reflecting the severity of the breach as well as taking into account the landlord’s or agents’ previous record of non-compliance. LBC have considered the guidance ‘The Code for Crown prosecutors by the Crown Prosecution Service’ in formulating this policy and with the purpose of reviewing advice on the extent to which there is likely to be sufficient evidence to secure a conviction.

4.3: ‘Determining the Penalty’

Local housing authorities are expected to develop and document their own policy on what action to take when an offence has been committed. Following review of the general principles (report section 4.2) and the evidential and public interest tests; the EA should decide which option it will pursue on a case-by-case basis and in line with that policy. This document creates the policy and decision making framework that allows LBC to decide the appropriate sanction and it is called locally ‘Determining the Penalty’.

A number of sanctions remain open to EAs for landlords who have committed an offence and decisions need to be taken to ensure the penalty given reflects the seriousness of the offence committed; it needs to be a proportionate sanction. The statutory and non-statutory Government guidance (report section 1.3) considers the most appropriate sanction to reflect the seriousness of the offence. For example; “a prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past”, and “our expectation is that a local housing authority will pursue a banning order for the most serious offenders”.

Under the 2004 Act, the issue of a FP is an alternative to prosecution for the relevant offences. If a person has been convicted or is currently being prosecuted, the EA cannot also impose a FP in respect of the same offence. Similarly, if a FP has been imposed, a person cannot then be convicted of an offence for the same conduct.

LBC has considered the range of sanctions available as part of this stage; ‘Determining the Penalty’. The sanctions have been put into one of three levels. Some sanctions will be conditional on the outcome of a hearing in the Tribunal system or Magistrates court and are subject to any appeal.

Level A – this is the immediate penalty for committing the offence with the option chosen reflecting the seriousness.

Level B – where a steeper Level A penalty is appropriate further sanctions are considered at Level B. These options again focus on the landlords approach to the single property where it was determined an offence had been committed.

Level C – Where the more serious sanctions have been chosen for Levels A and B, the option to impose further sanctions at Level C will be considered; such will impact more widely on the landlord’s ability to work in letting or property management.

Table 12: The sanctions are considered at 3 levels; A, B and C.

Determining the penalty		
Level A	Level B	Level C
1. Managers warning 2. Simple caution 3. Financial penalty ¹ 4. Prosecution in Magistrates Court	1. Register on Mayor of London RLMAC ² 2. Publication penalty - PRS Exemptions Register ³ 3. Issue a 1 – year licence ⁴ 4. Apply for rent repayment order ⁵ 5. Recover prohibited fees ⁶ 6. Revoke / refuse licence ⁷	1. Register on MHCLG database ⁸ 2. Banning order application and term ⁹ 3. Review wider licences ¹⁰ 4. Review action against landlord debts ¹¹ 5. Management order – Part 4 2004 Act

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Notes:

1. Financial Penalty include use of either term used; a financial penalty (FP) or penalty charge (PC) that can be issued under the various Acts or Regulations.
2. Mayor for London's Rogue Landlord and Managing Agent Checker [[LINK](#)].
3. Private Rented Sector Exemptions Register. Created under the 2015 Energy Regulations.
4. Policy on the granting of licences under a new housing designation (report section 1.3.9)
5. Chapter 4 of the 2016 Act allows an EA or tenant to apply to the Tribunal for a RRO, whether or not a Level A sanction has been imposed.
6. Section 10 of the 2019 Fees Act allows an EA to make a landlord repay a prohibited payment.
7. Revoke an issued licence or refuse a licence application made under Part 2, mandatory HMOs and / or Part 3 property licences of the 2004 Act.
8. Ministry for Housing Rogue Landlord and Letting Agent Database created under the 2016 Act. Statutory guidance for Local Housing Authorities. April 2018 version. Access to the database is for EA only [review of database completed by MHCLG in 2019].
9. Banning Order Offences under the Housing and Planning Act 2016. Non-statutory guidance for Local Housing Authorities. April 2018 version
10. Licences refer to mandatory HMO licences as under Part 2 and property licences under Part 3 of the 2004 Act. If there has been a serious offence then a review of all licences issued to that landlord or letting agent and licences issued to parties associated to them.
11. The ability to manage relies on funding. What is the financial position of the landlord in relation to wider housing or tenancy related debts?

To assist officers with the process a five step matrix has been developed and is covered in 'Banding the Offence'. The first of the five stages of this matrix additionally provides a means of Determining the Penalty based on the seriousness of the offence, culpability of the landlord and impact on tenant and community. The five stages allow a wide review of the appropriateness of the sanction chosen including a consideration of the financial means of the offender (when known and including that income derived from the asset) and the anticipated impact of the issued penalty. Table 13 and Table 14 are a guide to the process. As part of reviewing whether to prosecute, the EA should consider the scope for working together with other EAs where a landlord has committed breaches in more than one local authority area. London Borough of Croydon works closely with both the sub region and the Private Sector Housing team within the Greater London Authority who support all London Boroughs.

The decision whether to prosecute will be considered for each offence but LBC will regard consideration for prosecution as the preferred option for the higher banded offences and offences that the EA determine fall at the threshold where it is proportionate to look to seek further redress ultimately through the Ministry for Housing, communities and Local Government Rogue Landlord Database, the Mayor of London Landlord and Letting Agent checker and BO penalties. This approach will meet the Government's aim of clamping down heavily on a criminal landlord or letting agents. Tables 13 and 14 link the penalty score and banding with the appropriate sanction with Determining the Penalty.

Table 13: Determining the Penalty (using scoring matrix in section 5)

Band 1				Band 2				Band 3				Band 4			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Simple Caution															
Financial Penalty															
Greater London Authority; Mayor's Rogue Landlord and Letting Agent Checker															
			Register on Rogue Landlord Database (2 FP within 12M period)												
					Rent Repayment Order / Recover Prohibited Fees										
					Prosecution										
												Banning order application			

Table 13 guides authorised officers in determining the penalty in relation to the penalty score and banding where;

- A simple caution is for low Band 1 offences.
- A financial penalty can be considered for any Band 1 to 4 offences. As the penalty score increases, alternative Level A sanctions may apply and additionally Level B or C sanctions. A FP maximum is set by the applicable legislation.
- All offences are registered on the Mayor for London's Rogue Landlord and Letting Agent checker tool.
- To considering registering on the MHCLG rogue landlord database either two Band 2 FPN need be served in a 12 month period or a single prosecution conviction achieved.
- Prosecutions are to be considered for Band 3 and 4 offences where the stage 1 of Banding the Offence sees a score of 3 or 4 attributed to either of the culpability or harm considerations. Some flexibility is introduced where either a mitigation factor allows the score to be reduced, or an aggravating factor allows the score to be increased; to a high Band 2 offence.
- An application for a banning order is saved for the more serious offences where the stage 1 of Banding the Offence sees a score of 3 and 4 attributed to either of the culpability or harm considerations. Some flexibility is given for a situation where a mitigating factor sees the offence move to a high Band 3 offence. If banned, entry onto the MCLG database is mandatory.
- For LBC to proceed with an application for a banning order, the landlord will generally need to have been convicted of a second serious banning order offence; either concurrently or soon after to meet the 6 month application deadline. Other convictions from within the last 24 months may also be considered. The offence could be in the same authority area or across the country. Unless sufficiently serious on its own, an element of repeat offending is needed to achieve this

threshold. The notice of intention must be issued within 6 months of the relevant conviction under section 15(1) of the 2016 Act.

- Consideration needs to be given to the wider sanctions in Levels B and C in the “Determining the Penalty” stage.
- Consideration needs to be given to EA resources when considering multiple sanctions.
- RRO or recovery of prohibited payments can be progressed with no Band A sanction.
- Not all powers will be available to the EA at all times; e.g. a selective licensing designation lasts for up to 5 years.

Some of the higher scores may only be achieved where a further offence is committed and the approach of the landlord, letting agent or property manager is clear in that there is a continuous and flagrant disregard to the law.

Table 14: Linking stage 1, culpability and harm, with the appropriate sanction.

Determining the Penalty				
Penalty for Landlord		Banding the Offence Penalty Score	Offender [level of culpability]	Offender [level of harm to tenant or community]
Financial Penalty	Simple Caution	Band 1 offence – <u>score of 1</u> (both factors low) or <u>score of 2</u> (where one of the factors is moderate)	LOW committed with little fault, (significant effort to mitigate, minor failing, little indication of risk)	LOW Low risk of an adverse effect on individual(s). Public misled but little or no risk of actual adverse effect on individual(s)
		Band 1 offence – score of <u>1</u> <u>score of 4</u> (both factors moderate)	MODERATE committed through act or omission which a landlord exercising reasonable care would not commit	MODERATE Moderate risk of an adverse effect on individual(s) (not low). Public misled but little or no risk of actual adverse effect on individual(s)
	Prosecution	Band 2 offence – <u>score of 6</u> (where 1 factor is moderate) <u>score of 8</u> (where one factor is moderate and other is significant)		
	Application for Banning Order	Band 3 offence – <u>score of 9</u> (both factors high) or	HIGH actual foresight of, or wilful blindness to, risk of	HIGH Serious adverse effect on individual(s) (not significant) (assess

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		(where prosecution achieved)	score of <u>12</u> (where one of factors is significant)	offending but risk nevertheless taken.	vulnerabilities). (Tenant /consumer mislead) Regulator and/or legitimate industry substantially undermined by offender's activities
			Band 4 offence – <u>score of 16</u> (both factors significant)	SIGNIFICANT deliberately or intentionally breached, or flagrantly disregarded, the law.	SIGNIFICANT Serious adverse effect(s) on individual(s) (assess vulnerabilities) and/or having a widespread impact. Significant disregard of Regulator with significant deceit.

4.4 Other considerations when 'Determining the Penalty'

Prosecutions.

The following factors (from the tenant fees act statutory guidance) may be considered as part of "Determining the Penalty" when deciding whether to prosecute:

- History of non-compliance and any relevant debts
- Severity of the breach
- Deliberate concealment of activity or evidence
- Knowingly or recklessly supplying false or misleading evidence
- Intent of the landlord/agent, individually and/or corporate body
- Attitude to regulation of the landlord/agent
- Deterrent effect of a prosecution on the landlord/agent and others
- Extent of financial gain as result of the breach.

Making an Entry on the MHCLG Rogue Landlord and Letting Database and the period the entry remains live.

An EA must have regard to the following criteria when deciding whether to make an entry in the database under section 30 and section 32 of the Act. A landlord is informed through the service of decision notice that they can make representations about.

Table 15: Considerations when making an entry in the MHCLG database.

	Making an entry (s30)	Period the entry remains live (s31)
Severity of the offence.	✓	✓
Mitigating factors.	✓	✓
Culpability and serial offending	✓	✓
Deter the offender from repeating the offence	✓	✓
Deter others from committing similar offences.	✓	✗

Banning Order Applications

An EA should consider the following factors when deciding whether to apply for a banning order for a landlord or property agent and when recommending the length of any banning order:

- The seriousness of the offence. All banning order offences are serious. The more severe the sentence imposed by the Court, the more appropriate it will be for a banning order to be made. Past Rogue landlord database entries reviewed.
- Previous convictions/rogue landlord database. The rogue landlord database can be reviewed for other conviction and knowledge of legal responsibilities.
- The harm caused to the tenant.
- Punishment of the offender. A banning order is a severe sanction. It should ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
- Deter the offender from repeating the offence.
- Deter others from committing similar offences.
- The likely impact of the banning order on the landlord and other persons affected.

5.0 Banding the Offence to set the Level of the Financial Penalty.

This section relates to the steps the EA should take when making a decision about the level of the FP.

Principles in the Statutory Guidance for Financial Penalties.

This explains that the FP should; reflect the severity of the offence, the culpability and track record of the offender, the harm caused to the tenant or client, the punishment of the offender, to deter the offender from repeating the offence, to deter others from committing similar offences and to remove any financial benefit the offender has gained from the offending.

5.1 The five Stages in ‘Banding the Offence to Determine the Level of Financial Penalty’.

The Council has adopted a five stage approach to determine the level of the FP that should be imposed on the offender. This sees the penalty falling into one of four bands each with four penalty scores.

Table 16: The penalty score falls has sixteen levels of fine over four bands.

Penalty band	Band 1				Band 2				Band 3				Band 4			
Penalty Score	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Financial Penalty	£250	£500	£750	£1000	£2,000	£4,000	£6,000	£8,000	£10,000	£12,000	£15,000	£18,000	£20,000	£23,000	£26,000	£30,000

Stage 1: Banding the offence. The initial FP band is decided following the assessment of two factors. The scores are multiplied to give a penalty score which sits in one of four penalty bands;

- Culpability of the landlord or agent; and
- The level of harm that the offence or breach has had.

Stage 2: Amending the penalty band based on aggravating factors.

Stage 3: Amending the penalty band based on mitigating factors.

Stage 4: A Penalty Review. To review the penalty to ensure it is proportionate and reflects the landlord’s or agent’s ability to pay.

Stage 5: Totality Principle. A consideration of whether the enforcement action is against one or multiple offences and ensuring the total penalties are just and proportionate to the overall offending behaviour.

Stage 1: Banding the level of Offence, (there are two factors to assess).

Banding the Offence	
<p>Factor 1. Culpability of Landlord or Agent (seriousness of offence and culpability)</p> <p>To consider as part of assessment</p> <ul style="list-style-type: none"> • the scale and scope of the offences or breaches, • what length of time did the offence or breach continue for or repeat over? • what was the legislation being breached? • to what extent was the offence or breach premeditated or planned, • whether the landlord or agent knew, or ought to have known, that they were not complying with the law (business operator), • the steps taken to ensure compliance. • the likelihood of the offence or breach being continued, repeated or escalated. • the responsibilities the landlord or agent had with ensuring compliance in comparison with other parties 	<p>Assessment: The landlord or agent is to be assessed against four levels (low, moderate, high or significant) of culpability:</p> <p>Significant - Where the offender deliberately or intentionally breached, or flagrantly disregarded, the law.</p> <p>High – Landlord or agent had actual foresight of, or wilful blindness to, risk of offending but risk nevertheless taken.</p> <p>Moderate - Offence committed through act or omission which a landlord or agent exercising reasonable care would not commit</p> <p>Low - Offence committed with little fault, for example, because: Significant efforts were made to address the risk although they were inadequate on this occasion There was no warning/circumstance indicating a risk Failings were minor and occurred as an isolated incident</p>
<p>Factor 2 Level of Harm (for tenant, client or community)</p> <p>To consider as part of assessment</p> <ul style="list-style-type: none"> • circumstances or vulnerabilities or actual discrimination against the tenant(s) or client(s). (age, illness, language, 	<p>Assessment: The landlord or agent is to be assessed against four levels (low, moderate, high or significant) of harm or consequence:</p> <p>Significant.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Serious adverse effect(s) on individual(s) and/or having a widespread impact

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<p>ability to communicate, young children, disabilities or in relation to any protected characteristic (Equalities Act 2010)</p> <ul style="list-style-type: none"> • tenant's or client's views about the impact that the offence or breach has had on them. • the extent to which other people in the community have been affected, for example, because of anti-social behaviour, excessive noise and damage to adjoining properties. • Established evidence of longer term impact on the (wider) community as a consequence of activities. • was more than one other household affected, • the level of actual or potential physiological or physical impact on tenant(s), client(s) and third parties? • what regulation, legislation, statutory guidance or industry practice governed the circumstances of the offence or breach? • has the level of trust been breached and have landlord or agent actions impacted on sector? 	<ul style="list-style-type: none"> <input type="checkbox"/> Significant risk of an adverse effect on individual(s) – including where persons are vulnerable <input type="checkbox"/> Significant disregard of Regulator or legitimate industry role with significant deceit.
	<p>High</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adverse effect on individual(s) (not amounting to significant) <input type="checkbox"/> High risk of an adverse effect on individual(s) or high risk of serious adverse effect, some vulnerabilities. <input type="checkbox"/> Regulator and/or legitimate industry substantially undermined by offender's activities <input type="checkbox"/> Consumer/tenant/client misled
	<p>Moderate</p> <ul style="list-style-type: none"> <input type="checkbox"/> Moderate risk of an adverse effect on individual(s) (not amounting to low risk) <input type="checkbox"/> Public misled but little or no risk of actual adverse effect on individual(s)
	<p>Low</p> <ul style="list-style-type: none"> <input type="checkbox"/> Low risk of an adverse effect on individual(s) <input type="checkbox"/> Public misled but little or no risk of actual adverse effect on individual(s)

Table 17: Scoring Matrix after stage 1 of Banding the Offence

Stage 1: Scoring Matrix for Financial Penalty					
LEVEL OF CULPALABILITY	Significant	4	8	12	16
	High	3	6	9	12

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	Moderate	2	4	6	8
	Low	1	2	3	4
		Low	Moderate	High	Significant
FACTORS	IMPACT, LEVEL OF HARM				

Note:

The score for each factor is multiplied to determine the score and then the financial penalty band (smaller penalty points)

Stage 2: Amending the penalty band based on aggravating factors.

Objective: to consider aggravating factors of the offence that may influence the FP. A significant aggravating factor may allow the FP to be increased by a FP point.

Example aggravating factors:

- Previous convictions or record of non-compliance, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence or breach; and b) the time that has elapsed since the conviction (is conviction spent) (source including MHCLG Rogue Landlord or Mayor for London Landlord and Letting Agent checker),
- Motivated by financial gain, profited from activities.
- Deliberate planned concealment of activity resulting in offence or breach and obstructive nature of landlord or agent towards investigation
- Whether the landlord has recent unspent relevant housing related convictions (source Ministry for Housing, Communities and Local Government Rogue Landlord database and Mayor of London Landlord and Letting Agent checker
- Role within the private rented sector and familiarity with responsibilities and current level of responsibility with managing and letting private rented properties.
- Refusal to accept offer of, or respond to EA advice regarding responsibilities, warnings of breach or learned experience from past action or involvement of EA or other Regulatory Body.

Stage 3: Amending the penalty band based on mitigating factors.

Objective: to consider any mitigating factors and whether they are relevant to the offence or breach. A significant mitigating factor may allow the FP to be decreased by a financial penalty point.

Example mitigating factors:

- No evidence of previous convictions or no relevant/recent convictions or breaches.
- Steps voluntarily taken to remedy problem (application to license premises or for temporary exemption, repayment of prohibited charge to tenant, scheme membership or display of information).
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of maintaining property and compliance with legislation, statutory standards and industry standards
- Self-reporting, co-operation and acceptance of responsibility / admittance of guilt.
- Mental disorder or learning disability, where linked to the commission of the offence or breach preventing reasonable compliance
- Serious medical conditions requiring urgent, intensive or long-term treatment where linked to the commission of the offence or breach.
- Age and/or lack of maturity where it affects the responsibility of the offender; vulnerabilities.
- Whether landlord or agent's primary trade or income is connected with the private rented sector

Stage 4: A review of the financial penalty to ensure that the case can be made and that the chosen approach is proportionate:

Step 1: to check that the provisional assessment, proposed FP meets the aims of the Sentencing Council's sentencing Code:

- Punishment of offenders
- Reduction of/stopping crime
- Deterrent of the offender or for other potential offenders
- Rehabilitation of the offender
- Protection of the public
- Reparation by offender to victim(s)

- Reparation by offender to community
- Removal of any financial benefit the offender may have obtained as a result of committing the offence or breach.

Step 2: to check that provisional FP assessment, proposed FP is proportionate and will have an appropriate impact. Is it set at a high enough level to help ensure that it has a real economic impact on the landlord or agent and demonstrates the consequences of not complying with their legal obligations?

A financial penalty should not be regarded as an easy or lesser option compared to prosecution.

Local authorities should use their existing powers to, as far as possible, make an assessment of a landlord's or agent's assets and any income (not just capital valuation or rental income) they receive when determining an appropriate penalty by making an adjustment to the financial penalty band. The general presumption should be that a FP should not be revised downwards simply because an offender has (or claims to have) a low income. Similarly, if a landlord with a large portfolio was assessed to warrant a low FP, the FP might require adjustment to have sufficient impact, and to conform to sentencing principles.

Schedule 16 Part 6 of the Crime and Courts Act 2013 permits the value of any assets owned by the landlords, e.g. rental property portfolio, to be taken into account when making an assessment and setting the level of penalty.

The FP is meant to have an economic impact on the landlord or agent, removing incentive/benefit for criminal activities and acting as a deterrent to offending. Thought should be given to the impact of the financial penalty on the landlord or agent's ability to comply with the law and whether it is proportionate to their means (e.g. risk of loss of home) and the impact of the financial penalty on third parties (e.g. employment of staff or other customers).

In setting a financial penalty, the EA may conclude that the offender is able to pay any financial penalty imposed unless the offender has supplied any financial information to the contrary. It is for the offender to disclose to the EA such data relevant to his financial position as will enable it to assess what he can reasonably afford to pay. Where the EA is not satisfied that it has been given sufficient reliable information, the EA will be entitled to draw reasonable inferences as to the offender's means from evidence it has heard and from all the circumstances of the case which may include the inference that the offender can pay any financial penalty.

Process: The offender will be asked to submit relevant information as part of the process and the request for financial information will be incorporated into the notes on the “notice of intended action”, the first step with issuing a FP notice.

Stage Five: Totality principle

Objective: Where the offender is issued with more than one financial penalty, the EA should consider the following guidance from the definitive guidelines on Offences Taken into Consideration and Totality. “Where separate financial penalties are passed, the EA must be careful to ensure that there is no double-counting”. Section 249A of the 2004 Act (amended) states that ‘only one financial penalty under this section may be imposed on a person in respect of the same conduct’. The 2016 Act does permit the EA to issue a FP and also apply for a RRO. Under section 46 of the 2016 Act, where the FP is issued and there is no prospect of an appeal, the FTT must award, for certain offences, the maximum RRO the FTT has the power to award.

“The total financial penalty is inevitably cumulative”. The EA should determine the financial penalty for each individual offence based on the seriousness of the offence and taking into account the circumstances of the case including the financial circumstances of the offender so far as they are known, or appear, to the EA. The EA should add up the financial penalties for each offence and consider if they are just and proportionate to the overall offending.

If the aggregate total is not just and proportionate the EA should consider how to reach a just and proportionate financial penalties. There are a number of ways in which this can be achieved.

Examples:

- where an offender is to be penalised for two or more offences that arose out of the same incident or where there are multiple offences of a repetitive kind (management offences or breach of conditions), especially when committed against the same person, it will often be appropriate to impose a sanction for the most serious offence, e.g. a financial penalty which reflects the totality of the offending where this can be achieved within the maximum penalty for that offence. No separate penalty should be imposed for the other offences;
- where an offender is to be penalised for two or more offences that arose out of different incidents, it will often be appropriate to impose a separate financial penalties for each of the offences. The EA should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the EA should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be passed.

□ where an EA has determined that it will apply for a RRO within the 12 month deadline the FP should be reviewed to ensure the total penalty is proportionate as guided by Stage 4. The FP may be adjusted accordingly knowing that, *if successful*, the RRO award will be the maximum.

5.2: Setting the Rent Repayment Order (RRO) for a Landlord.

A tenant or an EA may individually apply to a FTT for a RRO award in respect of their rent payments within 12 months of an offence. Under section 73 (7 iii) and section 96 (7iii) of the 2004 Act and section 42 (2b) of the 2016 Act; the EA is required to stipulate, in the notice of intended proceedings, how much the order for repayment of rent is. The level or rent relates to a defined period of 12 months in the period leading up to the offence or during the 12 month period whilst the offence was being committed. The local investigation will determine the levels of rent paid. An EA has no control over the level of rent a tenant may apply for.

The Government has advised that the RRO should reflect the; punishment of the offender, the recipient of any recovered rent, deter the offender from repeating the offence, deter others from committing similar offences and remove any financial benefit the offender may have obtained as a result of committing the offence. EA must have regard to the statutory guidance issued under section 41(4) of the 2016 Act when exercising their functions in respect of RRO.

Where a conviction has been achieved the LBC will apply to the FTT for the maximum rent repayment; within a 12 month period. Section 46 of the 2016 Act states this is the level that must be awarded to either a tenant (except for section 72(1) or 95(1) offences) or an EA where the landlord has been convicted or a FP issued in relation to that offence. In these cases there is no discretion within “Determining the Penalty and Banding the Offence”.

If no conviction or FP is issued or no FP can also be issued, and a RRO is applied for, LBC will apply to the FTT for the maximum rent repayment. If a FP is to be issued, the penalty point/ banding first determined will be reviewed under Stage 4 to ensure the ‘Proportionality Principle’ is met. This aims to ensure that the total penalties are just and proportionate to the offending behaviour.

The legislation places the ultimate decision for determining the financial award under a RRO with the FTT in line with section 74 and 97 of the 2004 Act and the tables in section 44 and 45 of the 2016 Act. The FTT must take into account; the conduct of the landlord, the financial circumstances of the landlord, and whether the landlord has at any time been convicted of an offence to which this Chapter (Part 2 Chapter 4) applies. Whilst the Council has discretion to specify the amount it seeks to recover, the general approach will be to apply for the maximum amount.

A person aggrieved by the decision of the FTT may appeal under the provisions of Part 2 Chapter 5 of the 2016 Act.

5.3 Financial Penalty Process and Right for Person to make Representations.

Before imposing a financial penalty on a person under section 249A of the 2004 Act, or Schedule 3 of the 2019 Fees Act (examples) the EA must, within 6 months of the date of the offence (unless continuing), give the person notice of the EA proposal to do so (a “notice of intent” or “NOI”); incorporating why and the level of fine.

A person in receipt of the notice of intent (“NOI”) can make written representations within 28 days. Following consideration of any further information and representations the EA must decide whether to issue a final FPN include the amount of the FP.

Table 18 provides further details including the requirement to issue a NOI and the date it needs to be served, the FP maximum and the time period for a landlord, letting agent or property manager to make representations. The landlord has the right to make representations and any representation must be duly considered. There is no legislative time period in which an EA must review the representations and inform the person making representations of the EA decision, a decision notice must state whether the penalty will be withdrawn, varied or upheld. LBC has set a target time of 21 days to both review any further information and / or representations and then issue the decision notice or final FPN.

LBC will not shorten the time period for a landlord to make representations even in a situation where the person receiving the NOI FPN has made representations and requests an early review or suggests that no representations will be made. When making a decision whether or not to issue the final FPN, LBC will consider any further information and representations received in the period from the date that LBC decided to issue a NOI FPN. This will commonly predate the issue of the NOI FPN.

Not all communication received in response to a NOI FPN will be deemed representations. Any relevant further information collected or representations received will result in a review being conducted by the relevant Head of Service; see section 5.6.

Table 18: Time periods with respect to penalty, representations and appeal.

Section	Legislation	Notice of Intention (NOI) to issue a FPN	Time to issue a NOI	FP maximum	Time period for landlord to make representations ⁵	Time period set by LBC to review and respond to representations	Time period for landlord to make an appeal to Tribunal ⁶	Time to pay penalty
2.1	Housing Act 2004	✓	6 months	£30,000	28 days	21 days ¹	28 days	28 days
2.2	Smoke and CO Alarm (England) Regulations 2015.	✓	6 weeks ²	£5,000	28 days	28 days	28 days ³	28 days
2.3	Tenants Fees Act 2019.	✓	6 months	£5,000 and £30,000	28 days	21 days ¹	28 days ⁴	28 days ⁴
2.4	Electrical Safety Standards in the PRS (England) Regulations 2020.	✓	6 months	£30,000	28 days	28 days	28 days	28 days
2.5	Energy Efficiency (PRS) (England and Wales) Regulations 2015	✓	18 months	£5,000	28 days ⁷	21 days ¹	1 month	1 month
2.6	The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme) Regulations 2019	✓	6 months ⁵	£5,000 and £30,000	28 days	21 days ¹	28 days	28 days
2.7	The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014	✓	6 months	£5,000	28 days	21 days ¹	28 days ⁸	28 days
2.8	Consumer Rights Act 2015	✓	6 months	£5,000	28 days	21 days ¹	28.days	28 days
3.1	Rent repayment order	✓	12 months	12 months' rent	28 days	21 days ¹	n/a	n/a
2.1	Housing and Planning Act 2016	✓	6 months	£30,000	28 days	21 days ¹	28 days	28 days

Notes:

1. No statutory time period exists so this is the internal process time target LBC will aim for.
2. In the 2015 Alarm Regulations there is no notice of intention stage.
3. 28 days by virtue of what is implied by paragraph 12(2).

Version 1 8th May 2017 – this version 1st February 2021. To be reviewed January 2023.

4. Under the 2019 Fees Act, in relation to an amount which is required to be paid under section 10(2), (5) or (8) or 11(1), the period specified for payment or appeal in the notice must be a period of at least 7 days but not more than 14 days beginning with the day after that on which the notice is served. The penalty element has to be repaid in 28 days.
5. It is 6 months beginning with the first day on which the authority has sufficient evidence of the breach but extending in line with a continuing breach.
6. A person on whom a notice of intent is served may within 28 days beginning with the day after the date on which the notice was sent or issued.
7. Representations are to be made in period specified under regulation 38(2) (h) (ii). With no time specified in the Regulations it will be a minimum of 28 days.
8. 28 days by virtue of the guidance to the Regulations.

Similarly, section 42 of the 2016 Act requires that the EA must first serve a notice of intended proceedings for an RRO on the landlord. The landlord can then make written representations within 28 days of the date of service to the EA about the proposed RRO.

An EA may at any time withdraw a notice of intent or final notice. The EA may also reduce the amount specified in a notice of intent or a final notice or amend a notice to remove a requirement to repay a prohibited payment or holding deposit or works costs. The person who has received the notice must be notified in writing of any such withdrawal, reduction or amendment.

5.4 Recovering unpaid financial penalties from a landlord or agent.

The legislation sets out what information needs to be included in the final notice. The final notice will require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was served. An invoice will accompany the final notice and information will be provided about how a payment can be made. If a landlord or agent fails to pay all or part of a FP, the EA may recover the outstanding amount on the order of the county court, as if it were payable under the order of that court.

Where a landlord, property agent, property manager, letting agent or other recipient has failed to pay the FP the Council may regard this as a contra-indication when taking a view as to the fit and proper status of a prospective licence holder, managing agent, or person with responsibility and this will inform the decision whether or not to issue a licence under Part 2 or Part 3 of the Housing Act 2004.

The EA expects all penalties to be paid within the time period stipulated in the final notice. Where other particular circumstances exist the recipient is expected to communicate with the LBC's Debt Recovery Team to agree a reasonable re-payment plan. Debts from the penalty may be included with other debts as part of the EA debt recovery plan.

5.5 Right of Appeal against a financial penalty.

The final notice must set out; the amount of the financial penalty; the reasons for imposing the penalty; information about how to pay the penalty; the period for payment of the penalty; information about rights of appeal; and the consequences of failure to comply with the notice.

A person on whom a final notice is served may appeal to the First-tier Tribunal against the decision to impose the penalty and / or the amount of the penalty. An appeal under this paragraph must be brought within the period of 28 days beginning with the day after that on which the final notice was issued. An appeal suspends the final notice until the appeal is finally determined or withdrawn.

An appeal is to be a re-hearing of the local housing authority's decision; but may be determined having regard to matters of which the authority was unaware.

On an appeal under this paragraph the First-tier Tribunal may quash, confirm or vary the final notice. The decision of the FTT can also be the subject of an appeal by either party to the Upper Tier Tribunal.

5.6 Making representations and communicating with the Council.

All communications for representations made against the intended FP or RRO or BO or MHCLG database proposed entry are to be in writing and sent within the prescribed timescale to:

Head of Public Protection and Licensing Manager

Croydon Borough Council
Place Department
Public Realm Division
6th floor zone A
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

All representations must be in writing and may be considered by an officer of similar grade where the Head of Public Protection and Licensing is not available.

Private Sector Housing Team

Information is available from the case officer or by contacting telephone: 020 8760 5631 (direct dial with answerphone)

Web: www.croydon.gov.uk/betterplacetorent

Or by email to: hsg-privatehousing@croydon.gov.uk

Trading Standards Team.

Information is available from the case officer or by contacting telephone: 020 8407 1311 (direct dial with answerphone)

Web: www.croydon.gov.uk/tradingstandards

Or by email to: trading.standards@croydon.gov.uk

5.7 Data Protection Matters

Reference is made to this in the Cabinet report and the proposed policy because of the importance of making public the successful formal actions taken by the Council. In doing so, the Council will however continue to ensure that it adheres to the requirements within the Data Protection Act 2018 and the General Data Protection Regulation.

Table 19: A summary of the offences or breaches relevant to the policy ‘Determining the Penalty and Banding the Offence’.

No	Full title of legislation	Date(s)	Offence(s) or Breach(es)
1	Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme) Regulations 2019	1.04.2019 and 1.4.2020	<ul style="list-style-type: none"> • Regulation 3 – Requirement to belong to an approved client money protection scheme. • Regulation 4 – Transparency requirements relating to the publishing or display of certification and steps when membership changes.
2	Consumer Rights Act 2015	1.10.2015	<ul style="list-style-type: none"> • Section 83 (1) A letting agent must, publicise details of the agent’s relevant fees. • Section 83 (2) The agent must display a list of the fees (meeting fee description in s83(4)) <ul style="list-style-type: none"> • at each of the agent’s premises at which the agent deals face-to-face with persons using or proposing to use services to which the fees relate, and • at a place in each of those premises at which the list is likely to be seen. • Section 83 (3) The agent must publish a list of the fees on the agent’s website (if one). • Section 83 (6) Publish a statement of whether the agent is a member of a client money protection scheme. • Section 83 (7) Publish a statement that indicates that the agent is a member of a redress scheme, and the scheme name.
3	Criminal Law Act 1977	29.07.1977	<ul style="list-style-type: none"> • Section 6 - Using violence to secure entry to a property.
4	Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020	01.07.2020 and 01.04.2021	<ul style="list-style-type: none"> • Regulation 3 (1) (a) ensure that the electrical safety standards are met during any period when the residential premises are let. • Regulation 3 (1) (b) ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; • Regulation 3 (1) (c) ensure the first inspection and testing is carried out— <ul style="list-style-type: none"> • before the tenancy commences in relation to a new specified tenancy; or • by 1st April 2021 in relation to an existing specified tenancy. • Regulation 3 (4) Where a report under sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial work is carried out by a qualified person within (starting with the date of the inspecting and testing)— <ul style="list-style-type: none"> • 28 days; or • the period specified in the report if less than 28 days, • Regulation 3 (6) - Where further investigative work is carried out in accordance with paragraph (4) and the outcome of that further investigative work is that further investigative or remedial work is required, the private landlord must repeat the steps in paragraphs (4) and (5) in respect of that further investigative or remedial work.

5	Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended by 2019 Energy Regulations)	1.4.2018 and 1.4.2020	<ul style="list-style-type: none"> Regulation 23 – Breach for landlord who has let a sub-standard property (unless regulation 25 or schedule 4 applies). Regulation 36(2) – Breach for landlord who has registered false or misleading information on the PRS Exemptions Register Regulation 37(4)(a) – landlord has failed to comply with the compliance notice Regulation 38(4) – landlord has failed to comply with the action in a penalty notice
6	Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019	1.4.2019	<ul style="list-style-type: none"> Regulation 4 – widens the definition of a relevant energy efficiency improvements to include those financed (wholly or partly) by the landlord to no more than the cost cap. Regulation 6 - “the cost cap” means £3,500 (including valued added tax) less monies spent by the landlord on unregistered energy efficiency improvements in the period 1st October 2017 and ending with 31st March 2019, or made on or after 1st April 2019.
7	Housing Act 2004	6.04.2017	<ul style="list-style-type: none"> Section 30 – failure to comply with an improvement notice. Section 72 (1) – not licence a house in multiple occupation. Section 72 (2) – licensed house in multiple occupation [HMO] that is overcrowded. Section 72 (3) – not comply with HMO licence conditions. Section 95 (1) – not licence a private rented property (including non-mandatory HMO). Section 95 (2) – not comply with a private rented property licence condition. Section 139 (7) – contravention of an overcrowding notice for HMO. Section 234 (3) – non-compliance with the HMO management regulations
8	Housing and Planning Act 2016	6.4.2018	<ul style="list-style-type: none"> Section 21(1) - the breach of a landlord banning order, and sanction for continued breach.
9	Protection from Eviction Act 1977	29.8.1977	<ul style="list-style-type: none"> Section 1(2) Offence where any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, Section 1(3) Offence for any person with intent to cause the residential occupier of any premises— <ul style="list-style-type: none"> (a) to give up the occupation of the premises or any part thereof; or (b) to refrain from exercising any right or pursuing any remedy or does acts calculated to interfere with the peace or comfort of the residential occupier or persistently withdraws or withholds services reasonably required for the occupation. Section 1(3A) Offence where the landlord, or agent of landlord, of a residential occupier <ul style="list-style-type: none"> (a) does acts likely to interfere with the peace or comfort of the residential occupier or (b) persistently withdraws or withholds services reasonably required for the occupation of the premises and has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

10	Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014	1.10.2014	<ul style="list-style-type: none"> Article 3 – Requirement to belong to an approved redress scheme, when required to belong to one by the order, letting agency work. Article 5 – Requirement to belong to an approved redress scheme, when required to belong to one by the order, property management work.
11	Smoke and Carbon Monoxide Alarm (England) Regulations 2015	1.10.2015	<ul style="list-style-type: none"> Regulation 6(1). Non-compliance with a remedial action notice
12	Tenant Fees Act 2019	1.6.2019 1.6.2020	<ul style="list-style-type: none"> Section 1. Prohibitions applying to landlords, Section 2. Prohibitions applying to letting agents, and Schedule 2. The treatment of holding deposits.
Note: for a full detailed description of a breach or offence reference must be made to the full legislation, readily available for no charge on the internet.			

Statement of Principles.	
<p><u>Private Housing Enforcement Team - Smoke and Carbon Monoxide (England Regulation 2015.</u></p> <p>Last updated 1st January 2017</p>	

Introduction:

The Council is required under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations) to prepare and publish a Statement of Principles which it must follow when determining the amount of a penalty charge.

The Council may revise its statement of principles at any time, but where it does so, it must publish the revised statement. The current statement of principles is to be used when deciding on the amount for the penalty charge.

Duties on Landlords

The Regulations require that landlords ensure that:

- a smoke alarm is installed on each storey of premises where there is living accommodation
- a carbon monoxide alarm is installed in any room of premises used as living accommodation, which contained a solid fuel burning appliance.

AND for tenancies starting from 1 October 2015

- that checks are made by the landlord, or someone acting on his behalf, that the alarm(s) are in proper working order on the day the tenancy starts.

Properties subject to Part 2 or Part 3 licensing are exempt from the Regulations although compliance is achieved through an additional clause being added to the property licensing conditions.

Enforcement

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council must serve a Remedial Action Notice (RAN) on the landlord under Regulation 5. This will list the remedial works and direct the Landlord on how to comply with his duty.

If the Landlord then fails to take the remedial action, specified in the RAN, within specified timescale, the Council must do the works in default. The Council can then reclaim all reasonable costs incurred.

In addition to the RAN the Council can require a Landlord to pay a penalty charge under Regulation 8, where it is satisfied that on the balance of probabilities, that the Landlord has not satisfactorily completed the remedial works within the required timescale.

Criteria for determining the amount of a financial penalty

The Regulations state the amount of the penalty charge must not exceed £5,000.

The penalty charge comprises two parts;

- a punitive element for failure to comply with the absolute requirement to comply with a remedial notice, and
- a reasonable cost element relating to costs incurred by the Council in complying with its duties (including completing the works).

The reasonable costs incurred by the Council could include time spent with; investigating, surveying, contacting relevant parties, administration and any remedial works (labour and materials) arranged and carried out by the Council’s contractors. This cost element is unlikely to exceed £500.

The penalty charge is payable within 28 days beginning with the day on which the Penalty Charge Notice is served; (subject to representations being made).

The Council has discretion to offer an early payment reduction if a landlord pays the penalty charge within 14 days beginning with the day the penalty charge notice is served; (subject to representations being made). A £1,000 early payment reduction has been built into the charging structure for the first offence only.

The penalty charge (below) is the sum of the punitive charge and costs:

	Payment period	Penalty Charge	
		Punitive Charge	(and) Costs
First Offence	Within 28 days	£2,500	Reasonable costs plus 30% administrative charge
	Early Payment	£1,500	
Second and subsequent offences	Within 28 days	£4,500	Reasonable costs plus 30% administrative charge

The early payment period is 14 days from service of the Penalty Charge Notice. A review requested within the 14 day period will enable the Landlord to be eligible for the early payment fee; dependent on the decision of the review.

The Purpose of Imposing a Financial Penalty Charge:

The purpose of the Council in exercising its regulatory powers is to protect the interests of the public.

The aims of financial penalties on landlords are to:

- Lower the risk to tenant's health and safety
- Reimburse the costs incurred by the Council in arranging remedial action in default of the landlord
- Change the behaviour of the landlord and aim to prevent future non-compliance
- Penalise the landlord for not installing alarms in line with the Regulations and after being required to so, under notice
- Eliminate financial gain or benefit from non-compliance with the Regulations.
- Be proportionate to potential harm outcomes, the nature of the breach, and the cost benefit to comply with these legal requirements.

Criteria for the Imposition of a Financial Penalty (Punitive Element):

In deciding whether a financial penalty is appropriate, the Council will take full account of the particular facts and circumstances of this breach and past breaches. The expectation is that a landlord is proactive with complying with his duties in order to protect the tenant from fire. The Remedial Action Notice (RAN) offers the landlord additional time in which to comply.

The penalty charge notice will be issued unless on the balance of probabilities the landlord has looked to comply with his duties. To determine this the Council will look at the evidence concerning the breach of the requirements of the notice and what action the landlord has taken to try to comply with his duties both at the start of a tenancy and/ or in response to the RAN.

The evidence the Council will collect includes that from a property inspection, or from information provided by the tenant, landlord or agent on whether any remedial action had been undertaken and satisfactory compliance has been achieved.

Landlords can demonstrate compliance with their duty to install by supplying dated photographs of alarms, together with installation records or confirmation by the tenant that a system is in proper working order.

Landlords can demonstrate compliance with their duty to undertake testing at the start of the tenancy. This could be achieved by tenants signing an inventory form and that they were tested and were in working order at the start of the tenancy. Tenancy agreements can specify the frequency that a tenant should then test the alarm to ensure it is in proper working order.

Appeals of Penalty Charge Notices

The Landlord can request in writing that the local authority review the penalty charge notice. The request for a review must be made within 28 days on which the penalty charge notice is served.

The local authority must consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice. The Council in making decision will consider the following:

1. Whether the facts of the matter supported the service of the penalty charge notice.
2. The decision was correct having regard to the relevant laws.
3. The amount of the penalty charge was reasonable having regard to any mitigating or other circumstances submitted with the request for review.

Remedial Works to comply with Regulations

To comply with these Regulation the type of smoke alarm deemed acceptable is either a mains powered alarm or one operated with a battery with a 10 year life with one fitted on each floor. This are deemed reasonable in order to comply with these Regulations.

It is important to remind landlords that a full fire risk assessment should be undertaken to ensure that this level of detection meets the risk within the premises. The Council can assess risk using the Housing Act 2004 and this may require additional detection. Such circumstances include mode of occupation, nature of tenants, property layout or height of building.

Carbon Monoxide Alarms – In order to comply with these Regulations, a carbon monoxide alarm will be installed in every room containing a solid fuel combusting appliance.

All communications for representations made against the Remedial Notice (Regulation 5) or the Penalty Charge Notice (Regulation 8) are to be sent to:



Shayne Coulter
Public Protection Manager
Croydon Council
Place department – Safety division
Housing standards & enforcement team
Bernard Weatherill House
6th floor - Zone D 8 Mint Walk Croydon CR0 1EA

Web: www.croydon.gov.uk
Telephone: 0208 726 6100

Or by email to: hsg-privatehousing@croydon.gov.uk

Proposed Statement of Principles

All amendments made to v1 to produce v2 are highlighted in blue.

Statement of Principles.	
<u>Private Sector Housing Team</u> <u>Smoke and Carbon Monoxide Alarm</u> <u>(England) Regulations 2015.</u>	

Introduction:

The Council is required under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“[the 2015 Alarm Regulations](#)”) to prepare and publish a Statement of Principles which it must follow when determining the amount of a penalty charge.

The Council may revise its Statement of Principles at any time, but where it does so, it must publish the revised statement. The current statement of principles is to be used when deciding on the amount of the penalty charge.

Duties on Landlords

The Regulations require that landlords ensure that:

- a smoke alarm is installed on each storey of premises on which there is a room used wholly or partly as living accommodation.
- a carbon monoxide alarm is installed in any room of premises which is used ([wholly or partly](#)) as living accommodation and contains a solid fuel burning combustion appliance.

AND for tenancies starting from 1 October 2015

- that checks are made by the landlord, or someone acting on his behalf, that the alarm(s) are in proper working order on the day the tenancy starts.

Properties subject to licensing under Part 2 or Part 3 of the Housing Act 2004 are exempt from the 2015 Alarm Regulations although compliance is achieved through an additional clause in the property licensing conditions.

Enforcement

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council must serve a Remedial Action Notice (RAN), [within 21 days](#), on the landlord under Regulation 5. This will list the remedial works and direct the Landlord on how to comply with his duty.

If the Landlord then fails to take the remedial action, specified in the RAN, within the specified timescale, the Council must do the works in default

(provided the consent of the occupier is obtained). The Council can then reclaim all reasonable costs incurred.

In addition to the RAN the Council can require a Landlord to pay a penalty charge under Regulation 8, where it is satisfied that on the balance of probabilities, that the Landlord has not satisfactorily completed the remedial works within the required timescale.

Criteria for determining the amount of a penalty charge.

The 2015 Alarm Regulations state the total amount of the penalty charge must not exceed £5,000. The penalty charge comprises two parts;

- a punitive charge element for failure to comply with the absolute requirement to comply with a remedial notice, **and / or**
- a reasonable cost element relating to costs incurred by the Council in complying with its duties (including completing the works).

The reasonable costs incurred by the Council could include time spent with; investigating, surveying, contacting relevant parties, administration and any remedial works (labour and materials) arranged and carried out by the Council’s contractors. This cost element is unlikely to exceed £500.

The penalty charge is payable within 28 days beginning with the day on which the Penalty Charge Notice is served; (subject to representations being made).

The Council has discretion to offer an early payment reduction if a landlord pays the penalty charge within 14 days beginning with the day the penalty charge notice is served. **For penalties issued for offences committed on or after 1st February 2020, the option of an early payment will be offered for first offences that reduces the punitive element of the penalty charge by one penalty point in line with the charging structure which is displayed in Table 2.**

Table 1: The penalty charge (below) is the sum of the punitive charge and / or costs incurred by the Council:

Breach	Payment period	Penalty Charge ²	
		Punitive Charge	(and) Costs ³
Breach of regulation 6(1)	Within 28 days	£5,000 ¹	Reasonable costs plus 30% administrative charge

Note:

1. The maximum penalty charge is £5,000. The level of the punitive element of the penalty is to be determined using the Statement of Principles in conjunction with the policy ‘Determining the Penalty and Banding the Offence’.
2. An early payment opportunity is available for this penalty charge structure as permitted by Paragraph 9(2) of the 2015 Alarm Regulations.
3. There is no other provision made in the regulations for enforcement authorities to redeem costs for any remedial works carried out. Collection of the civil penalty fine is the only method.

The Purpose of Imposing a Penalty Charge:

The purpose of the Council in exercising its regulatory powers is to protect the interests of the public.

The aims of issuing penalty charges to landlords are to:

- Lower the risk to a tenant health and safety from exposure to uncontrolled fire or CO;
- Reimburse the costs incurred by the Council in arranging remedial action in default of the landlord;
- Change the behaviour of the landlord and aim to prevent future non-compliance;
- Penalise the landlord for not installing alarms in line with the Regulations and after being required to so, by notice;
- Eliminate financial gain or benefit from non-compliance with the Regulations;
- Be proportionate to potential harm outcomes, the nature of the breach, and the cost benefit to comply with these legal requirements.

Criteria for the Imposition of a Financial Penalty (Punitive Element):

In deciding whether a financial penalty is appropriate, the Council will take full account of the particular facts and circumstances of the breach and past breaches. Reference will be made to the proposed Council policy “Determining the Penalty and Banding the Offence” in determining whether a penalty or wider sanction(s) is the best course of action.

If a penalty charge is the selected sanction, the policy framework allows the banding of the penalty charge across 16 penalty scores within four bands. The penalty ranges from £250 to £30,000. Where the assessed score falls at band 2 and a penalty score of 7 or greater the maximum penalty of £5,000 will be applied; regardless of the charge for the costs element.

Table 2: The penalty score falls has sixteen levels of fine over four bands.

Penalty band	Band 1				Band 2				Band 3				Band 4			
Penalty Score	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Financial Penalty	£250	£500	£750	£1000	£2,000	£4,000	£6,000	£8,000	£10,000	£12,000	£15,000	£18,000	£20,000	£23,000	£26,000	£30,000

For first offences, the reduced amount for the punitive element will be the determined penalty score reduced by one point, applied as a ‘mitigating factor’ and this amount will be specified in the notice. Where the PC is Band 2, 7 penalty score or greater, the reduced amount will be Band 2, 6 points at £4,000.

The costs incurred will be added to any penalty not determined as being at its maximum following the determination of the punitive element.

The expectation is that a landlord will be proactive with complying with his duties in order to protect the tenant from fire risk. The Remedial Action Notice

(RAN) offers the landlord additional time in which to comply with his duties, **makes him aware of his responsibilities and that a penalty charge can be issued for failing to comply.**

The penalty charge notice will be issued unless, on the balance of probabilities the landlord **has taken all reasonable steps** to comply with his duties. To determine this the Council will look at the evidence concerning the breach of the requirements of the notice and what action the landlord has taken to try to comply with his duties both at the start of a tenancy and/ or in response to the RAN.

The evidence the Council will collect includes that from a property inspection, or from information provided by the tenant, landlord or agent on whether any remedial action had been undertaken and satisfactory compliance has been achieved.

Landlords can demonstrate compliance with their duty to install by supplying dated photographs of alarms, together with installation records or confirmation by the tenant that a system is in proper working order.

Landlords can demonstrate compliance with their duty to undertake testing at the start of the tenancy. This could be achieved by tenants signing an inventory form and that they were tested and were in working order at the start of the tenancy. Tenancy agreements can specify the frequency that a tenant should then test the alarm to ensure it is in proper working order.

Appeals of Penalty Charge Notices

The Landlord can request in writing that the local authority review the penalty charge notice. The request for a review must be made within 28 days on which the penalty charge notice is served.

The local authority must consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice. The Council in making decision will consider the following:

1. Whether the facts of the matter supported the service of the penalty charge notice.
2. That the decision was correct having regard to the relevant laws.
3. That the amount of the penalty charge was reasonable having regard to any mitigating or other circumstances submitted with the request for review.

Remedial Works to comply with 2015 Alarm Regulations

To comply with these Regulation the type of smoke alarm deemed acceptable is either a mains powered alarm or one operated with a battery with a 10 year life with one fitted on each floor. These are deemed reasonable in order to comply with these Regulations.

It is important to remind landlords that a full fire risk assessment should be undertaken to ensure that this level of detection meets the risk within the premises. The Council can assess risk using the Housing Act 2004 and this

may require additional detection. Such circumstances include mode of occupation, nature of tenants, property layout or height of building.

Carbon Monoxide Alarms – In order to comply with these Regulations, a carbon monoxide alarm will be installed in every room containing a solid fuel combusting appliance.

Government Consultation on the Smoke and Carbon Monoxide Alarm Regulations 2015.

On the 17th November 2020 the Ministry for Housing, Communities and Local Government [“MHCLG”] commenced an open consultation entitled ‘Domestic smoke and carbon monoxide alarms: proposals to extend regulations’ with a closing date of the 11th January 2021 [\[LINK\]](#). The consultation seeks views on proposed amendments to the 2015 Alarm Regulations to:

- a) require social landlords to ensure at least one smoke alarm is installed on each storey of the premises on which there is a room used wholly or partly as living accommodation.

- b) amend the statutory guidance (Approved Document J) supporting Part J of the Building Regulations to require that carbon monoxide alarms are fitted alongside the installation of fixed combustion appliances of any fuel type (excluding gas cookers).

- c) require private and social landlords to install a carbon monoxide alarm in any room used as living accommodation where a fixed combustion appliance is used (excluding gas cookers).

In the selective licensing designation [CPRPL 2015] the Council recommended the installation of carbon monoxide alarms in rooms with a fixed combustion appliance in line with current Government guidance to landlords and tenants [\[LINK\]](#) which stated;

“However, as gas appliances can emit carbon monoxide, we would expect and encourage reputable landlords to ensure that working carbon monoxide alarms are installed in rooms with these”.

Government statistics show that in 2019/20, fire and rescue services attended nearly 30,000 dwelling fires in England and sadly there were nearly 200 fire-related fatalities. Around 20 people die from accidental carbon monoxide poisoning every year (excluding those relating to accidental exposure to smoke, fire and flames, with more than 4,000 presentations to hospitals estimated to be related to carbon monoxide.

Other Documents.

This Statement of Principles should be read in conjunction with the proposed policy “Determining the Penalty and Banding the Offence” to set the Level of the Financial Penalty (of Penalty Charge). February 2021.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Explanatory Booklet for Local Authorities [\[LINK\]](#). September 2015

All communications for representations made against the Remedial Notice (Regulation 5) or the Penalty Charge Notice (Regulation 8) are to be sent to:

Head of Public Protection and Licensing
Croydon Council
Place Department –
Public Realm Division,
Private Sector Housing Team,
Bernard Weatherill House,
6th floor - Zone A,
8 Mint Walk,
Croydon
CR0 1EA.

Website: www.croydon.gov.uk
Public telephone: 020 8760 5476 (direct dial with monitored answerphone)
Minicom: 020 8760 5797
Email: hsg-privatehousing@croydon.gov.uk

The representations against the penalty charge notice will be reviewed by this post holder, or a person of equivalent grade.



**Croydon Mandatory Houses in Multiple Occupation Licensing
Current licensing fee structure.**

<u>Licence fee structure</u> licence issued for up to 5 years	Total Fee
Fee per habitable room – (bedroom or living room)	£250

The maximum fee is £5,000.

<u>HMO Advisory visit</u>	Total Fee
Single HMO inspection	£200

A HMO advisory visit is for a landlord who is thinking of renting an empty property as a house in multiple occupation. A visit from a Private Sector Housing Team officer can offer advice, a full inspection which includes the calculation of room sizes. To conclude a schedule of works is produced covering what is required to bring the property up to the full HMO standard.

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**Croydon Houses in Multiple Occupation Mandatory Licensing
Proposed licensing fee structure (to commence 1st February 2021)**

There are two fees to pay (see table below):

1. Part A fee. The fee on application covers the cost of administration and inspection. This payment is based on the number of rooms being let and should be made with the application.
2. Part B fee. The fee on grant of licence covers the cost of the overall management of the HMO licences. This payment is payable just before the licence is granted.

Once a HMO licence is granted, a refund will only be given in exceptional circumstances and at the Council's discretion, as the fees are calculated to cover our costs, which may have already been incurred. No reduced licence fee is available.

<u>Licence fee structure</u> Fee maximum £5,000 Licence issued for up to 5 years	Total Fee	Part A	Part B
Fee per habitable room (e.g. bedroom or living room)	£250	£150	£100

<u>Licence fee structure</u> Licence issued one 1 year	Total Fee	Part A	Part B
Fee per habitable room (e.g. bedroom or living room)	£170	£150	£20

One Year Licence - for when the council determine a licence for less than 5 years should be granted. This will allow higher levels of monitoring or a licence holder needs time to get his/ her property management in order. At the end of one year a new application will be needed. The council may refuse to issue a licence or issue a licence of a further one year or five year period.

HMO Advisory visit	Total Fee	£200

A HMO advisory visit is for a landlord who is thinking of renting an empty property as a house in multiple occupation. A visit from a Private Sector Housing Team officer can offer advice, a full inspection which includes the calculation of room sizes. To conclude a schedule of works is produced covering what is required to bring the property up to the full HMO standard.

Eligibility for a licence is to be considered in line with the Public Realm Enforcement Policy and the policy relating to the granting of a licence.



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Other fees and charges.

These fees are applicable as appropriate in relation to licensing applications, or where properties are licensed.

<u>Licensed Premises Proposed Licence Variation</u>	<u>Variation Application Fee</u>
Change of address details of any existing licence holder, manager, owner, mortgagor, freeholder, leaseholder etc.	No fee
Change of mortgagor, owner, freeholder, and leaseholder (unless they are also the licence holder or manager)	No fee
Reduction in the number of maximum occupiers and/or households for licensing purposes	No fee
Variation of licence instigated by the council	No fee
Change of licence holder (e.g following sale)	Application fee
Change of manager (unless they are also the licence holder)	No fee
Increase in the number of maximum occupiers and/or households for licensing purposes, through increasing the number of habitable rooms, change in room sizes, and/or amenity provision	No fee

<u>Action</u>	<u>Applicable Fee</u>
Processing of Temporary Exemption Notice	No fee
Return of incomplete application. [licence remains not duly made]	No fee, and a refund of the Part A fee [if taken] will be made.
Revocation of licence	No refund of application fee
Application to licence following revocation of licence	Application fee
Application refused by the council	Part A application fee not refunded
Application withdrawn by the applicant	Part A application fee not refunded
Application made in error and not granted e.g. duplicate or exempt.	No fee, and a refund of the Part A fee will be made.
Non-payment of the Part B payment	Licence will be determined as not duly made. No refund of Part A fee.
Providing support with licence application	No fee
Properties that cease to be licensable during the licensing process (as when planning permission subsequently refused)	No refund of application fee
Enforcement action under Part 1 of the Housing Act 2004 relating to a licensed property (Charged under The Housing Act 2004, Section 49)	A separate charge for action, currently £650 for notice with additional £100 per hazard.

Croydon Mandatory Houses in Multiple Occupation Licensing Current licence conditions.

HMO licence conditions

Property address:

General

The licence is valid for a period of 5 years from the date on the licence. Relevant time periods for compliance with conditions (if any) are indicated adjacent to that condition.

A written statement of the terms of occupation must be provided to all occupiers of the house.

The maximum number of people allowed to occupy this **hostel / bedsit / shared house*** (delete as necessary) is:

xxx

The permitted number per room are as follows:

Room	Number of people

Section 1

1.1 Gas safety

There must be a valid gas safety certificate (if applicable) at all times during the period of this licence. Copies of the annual test certificates must be sent to the Council within 14 days of issue.

1.2 Electrical safety and furniture safety

All electrical appliances and furniture supplied by or on behalf of the Licence Holder must be kept in a safe condition and meet the requirements of the relevant British Standard. As and when required, the licence holder must make a declaration as to the safety of the furniture and appliances.

1.3 Smoke alarms and carbon monoxide alarms

A smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation. All smoke alarms or fire detection systems within the house must be maintained in good working order at all times during the period of this licence. Copies of the annual test certificates must be sent to the Council within 14 days of issue. As and when required, the licence holder must make a declaration as to the positioning and operation of the smoke alarms.

A carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. Keep any such alarm in proper working order; and supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm.

1.4 Personal washing facilities

All baths, showers and wash basins must be provided with an adequate supply of cold water and constant hot water.

1.5 Anti-social behaviour

The Licence holder shall take such reasonable and practicable steps as are necessary to prevent or reduce anti-social behaviour by persons occupying or visiting the house. This must include working with the Metropolitan Police and the London Borough of Croydon to resolve such problems, and a clause in the tenancy or occupancy agreement to make it clear to tenants that they must not behave in a way that causes nuisance or distress to any other person in the HMO or locality of the HMO.

1.6 Changes to type of tenure

The Licence holder shall inform the London Borough of Croydon of any changes to type of tenure that the property is to be used for, as changes in tenure may require the licence to be varied.

1.7 Additional facilities required (delete as necessary)

- Provide adequate means of space heating to the following units:
- Provide an additional toilet and wash basin in a separate room.
- Provide a wash hand basin, with splash back, to the following units:
- Provide adequate heating to the bathroom(s).
- Provide additional kitchen facilities in a room suitable for the purpose. Each set to comprise the following:
 - Sink with draining board and adequate supply of cold and constant hot water
 - Cooker with 4 burners, oven and grill
 - 4 electric sockets
 - Adequate worktop
 - Adequate storage cupboards for food and utensils
 - Refrigerator with an adequate freezer compartment (or separate freezer)
 - Adequate facilities for the disposal of refuse
 - Adequate extractor fan and a fire blanket adjacent to the cooker

Section 2

Section 2 does not apply to an HMO which is managed by a charity registered under the Charities Act 2011 and which is a night shelter, or consists of temporary accommodation for persons suffering or recovering from drug or alcohol abuse or a mental disorder.

This section applies in relation to an HMO in England in respect of the first licence granted on or after 1st October 2018 in relation to the HMO, regardless of whether a licence was in force in relation to the HMO immediately before that date.

2.1 Minimum room sizes

The table below shows the required minimum room size standards within the London Borough of Croydon.

	Bedsit room containing kitchen facilities only	Bedsit room containing en suite facilities only	Bedsit room where shared kitchen and bathroom facilities are in a separate room	Shared house where kitchen and bathroom facilities are in a separate room and there is a communal living room
Single room	13.5m ²	12.5m ²	10m ²	6.5m ²
Double room	18.5m ²	17.5m ²	15m ²	10.2m ²

- Rooms used as sleeping accommodation by one person over the age of 10 must be at least 6.5m².
- Rooms used as sleeping accommodation by two people over the age of 10 must be at least 10.22m².
- Rooms used as sleeping accommodation by one person under the age of 10 must be at least 4.64m².
- Rooms less than 4.64m² cannot be used as sleeping accommodation.
- The licence holder must notify the local housing authority of any room in the HMO with a floor area of less than 4.64m².
- Maximum numbers of people permitted as specified in the licence must not be exceeded regardless of whether the person is over or under the age of 10.
- With regards to the permitted number of people using a room as an HMO, this does not include visitors of an occupier.
- A room is used as sleeping accommodation if it is used as a bedroom, whether or not it is also used for other purposes.
- Any part of the floor area of a room where the height is less than 1.5 metres should not be taken into account when determining the floor area of that room.

2.2 Household waste

The licence holder must comply with any scheme which is provided by the local housing authority which relates to the storage and disposal of household waste at the HMO pending collection.

2.3 Time for compliance with conditions under section 2

If the local housing authority consider that, at the time the licence is granted, the licence holder is not complying with one or more of the conditions of the licence imposed, the authority will grant the licence holder a period of not more than 18 months to comply with the condition/s.

During the compliance time:

- a) The local housing authority may not revoke the licence for a breach (or repeated breach) of any condition of the licence specified in the notification.
- b) The licence holder does not commit an offence under section 72(3) in respect of any failure to comply with such a condition, and
- c) The local housing authority may not impose a financial penalty under section 249A on the licence holder in respect of such a failure.

These exemptions do not apply if, the licence holder was convicted of an offence under section 72(2) or (3) in relation to the HMO before the licence was granted.

Notes

Anyone failing to comply with licence conditions commits an offence punishable on summary conviction to an unlimited fine per offence. A Civil Penalty Notice of up to £30,000 is an alternative sanction available to the local authority.



**Croydon Houses in Multiple Occupation - Mandatory Licensing.
Proposed licence conditions (commencement date 1st February 2021).**

The current version of the conditions is dated the 1st October 2018 (Appendix 6). The proposed amendments are highlighted in this document for the benefit of Cabinet members; **new text or conditions are highlighted in blue text** and **revised or clarified existing conditions are highlighted as purple text**.

HMO licence conditions

These conditions impose restrictions and obligations on the licence holder and further person(s) (e.g. property manager or managing agent) who has consented to the imposition of the restrictions or obligations at the point of the issue of the licence.

Property address:

A. General

The licence is valid for a period of 5 years from the date on the licence. Relevant time periods for compliance with conditions (if any) are indicated adjacent to that condition.

A1. A written statement of the terms of occupation must be provided to all occupiers of the house. [Mandatory].

A2. The maximum number of people allowed to occupy this **hostel / bedsit / shared house* (delete as necessary)** is: [add number]

The permitted number per room are as follows:

Room	Number of people

Section 1

1.1 Gas safety

There must be a valid gas safety certificate (if applicable) at all times during the period of this licence. A copy of the annual test certificates must be sent to the Council within 14 days of issue **or within 14 days of request**. [Mandatory]

1.2 Electrical safety and furniture safety

1.2.1 Electrical installation. The electrical installation supplied by or on behalf of the Licence Holder in the premises must be in proper working order and safe for continued use. [Mandatory]



- 1.2.1(i) A declaration as to the safety of such installations must be provided to the Council within 14 days of request. Where a written request is made by the Council for a copy of the current electrical installation report/certificate, it shall be provided to the Council within 7 days of receiving that request.
- 1.2.1(ii) Ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; where regular intervals is at intervals of no more than 5 years or where the most recent report requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.
- 1.2.1(iii) The Licence Holder must retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test.

For the purposes of paragraph 1.2.1 “electrical installation” has the meaning given in regulation 2(1) of the Building Regulations 2010.

1.2.2 Electrical appliances.

1.2.2.(i) All electrical appliances supplied by or on behalf of the Licence Holder must be kept in a safe condition and meet the requirements of the relevant British Standard. As and when required, the licence holder must make a declaration as to the safety of the appliances **to the Council within 14 days of request. [Mandatory]**

1.2.3 Furniture safety

1.2.3.(i) electrical appliances and furniture supplied by or on behalf of the Licence Holder must be kept in a safe condition and meet the requirements of the relevant British Standard. As and when required, the licence holder must make a declaration as to the safety of the furniture **to the Council within 14 days of request. [Mandatory]**

1.3 Smoke alarms and carbon monoxide alarms

1.3.1 A smoke alarm must be installed on each storey of the house on which there is a room used wholly or partly as living accommodation.

1.3.1.(i) All smoke alarms or fire detection systems within the house must be maintained in good working order at all times during the period of this licence.

1.3.1.(ii) Copies of the annual test certificates must be sent to the Council within 14 days of issue.

1.3.1.(iii) As and when required, the licence holder must make a declaration as to the positioning and operation of the smoke alarms or provide copies of the annual test certificates for smoke alarms and fire detection systems to the Council within 14 days of request [Mandatory].

1.3.2. A carbon monoxide alarm must be installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance.



1.3.2.(i) Any such alarm must be kept in proper working order; and the licence holder must supply the authority, on demand, with a declaration made by them as to the condition and positioning of any such alarm within 14 days of request [Mandatory].

1.4 Personal washing facilities

All baths, showers and wash basins must be provided with an adequate supply of cold water and constant hot water.

1.5 Anti-social behaviour (ASB)

1.5.1 General requirements. The Licence holder shall take such reasonable and practicable steps as are necessary to prevent or reduce anti-social behaviour by persons occupying or visiting the house. This must include working with the Metropolitan Police and the London Borough of Croydon to resolve such problems, and a clause in the tenancy or occupancy agreement to make it clear to tenants that they must not behave in a way that causes nuisance or distress to any other person in the HMO or locality of the HMO.

1.5.2 The Licence Holder must provide to the council details in writing, of the tenancy management arrangements that have been, or are to be, made to prevent or reduce anti-social behaviour (ASB) by persons occupying or visiting the property. The following arrangements shall be implemented to fulfil the requirements of this condition:

1.5.2(i) Provision of an emergency 24 hour contact number (including out of hours response arrangements).

1.5.2(ii) Copies of the tenancy management arrangements are to be supplied to the council within 14 days of request.

1.5.3 The Licence Holder shall effectively address problems of ASB resulting from the conduct on the part of occupiers of, or visitors to the premises by complying with the requirements of paragraphs 1.5.3(i) to 1.5.3(viii) below:

1.5.3(i) The Licence Holder must not ignore or fail to take action, if he/ she has received complaints of anti-social behaviour (ASB) that concern the visitors to or occupiers of the premises.

1.5.3(ii) The Licence Holder shall from the date of receipt of the complaint of ASB, monitor and investigate any allegations of ASB.

1.5.3(iii) If a complaint is received, or ASB is discovered, the Licence Holder must contact the tenant within 7 days. The tenant must, in writing, be warned of the allegations of the ASB and of the consequences of its continuation.



- 1.5.3(iv) Where the ASB is continuing after 14 days from warning letter 1 (condition 1.5.3(iii)), the Licence Holder, or his agent must, within 14 days, visit the premises and provide the tenant with a further warning letter advising them of the possibility of eviction if their behaviour continues.
- 1.5.3(v) If after 14 days of giving warning letter 2 (as in condition 2.1.4), the tenant has taken no steps to address the ASB and the ASB is continuing the Licence Holder shall take formal steps under the written statement of terms for occupation, e.g. the tenancy agreement or licence and which shall include promptly taking any legal eviction proceedings to address the ASB.
- 1.5.3(vi) Where the Licence Holder or his agent has reason to believe that the ASB involves criminal activity the Licence Holder shall ensure that the appropriate authorities are informed. The Licence Holder may inform the police and the council. If invited to a case conference or multi-agency meeting the Licence Holder must attend.
- 1.5.3(vii) Any correspondence, letters and records referred to in conditions 1.5.3 (i-vi) above must be provided to the council within 14 days on request.
- 1.5.3(viii) Any letters, meeting notes, notes made following telephone conversations; relating to conditions 1.5.3 (i-vi) sent or received by the Licence Holder, or agent of the Licence Holder, must be kept for the duration of the licence.

For the purposes of paragraph 1.5 and sub-paragraphs, “anti-social behaviour” has the meaning given in section 57(5) of the Housing Act 2004.

1.6 Household waste management

1.6.1 General requirement. The licence holder must comply with any scheme which is provided by the local housing authority which relates to the storage and disposal of household waste at the HMO pending collection [Mandatory].

1.6.2 The Licence Holder must ensure that regular checks are carried out to ensure that the common parts, gardens and yards are free from waste, which could provide harbourage for pests and/or is a nuisance and/or is detrimental to the local amenities, other than waste stored in appropriate receptacles for the storage of household refuse and recycling; and that waste such as old furniture, bedding, rubbish or refuse from the house is not left outside the property or in its vicinity.

- 1.6.2(i) No refuse shall be kept in the front or rear garden other than in an approved storage container for that purpose.

1.6.3 If the Licence Holder becomes aware that the occupiers of the house or their visitors are not using the waste disposal facilities provided and/or leaving waste outside the house or in its vicinity (for example old furniture, mattresses), they must



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ensure that a warning letter is sent to the occupiers within 14 days advising them to remove the items immediately.

- 1.6.3(i) Any correspondence, letters and records created in compliance with this condition must be retained for the duration of the licence and provided to the council within 14 days on request.

1.7 Changes to type of tenure

The Licence holder shall inform the London Borough of Croydon of any changes to type of tenure that the property is to be used for, as changes in tenure may require the licence to be varied.

1.8 Additional facilities required (delete as necessary)

1.8.1 Provide adequate means of space heating to the following units:

1.8.2 Provide an additional toilet and wash basin in a separate room.

1.8.3 Provide a wash hand basin, with splash back, to the following units:

1.8.4 Provide adequate heating to the bathroom(s).

1.8.5 Provide additional kitchen facilities in a room suitable for the purpose. Each set to comprise the following:

- Sink with draining board and adequate supply of cold and constant hot water
- Cooker with 4 burners, oven and grill
- 4 electric sockets
- Adequate worktop
- Adequate storage cupboards for food and utensils
- Refrigerator with an adequate freezer compartment (or separate freezer)
- Adequate facilities for the disposal of refuse
- Adequate extractor fan and a fire blanket adjacent to the cooker

Section 2

Section 2 does not apply to an HMO which is managed by a charity registered under the Charities Act 2011 and which is a night shelter, or consists of temporary accommodation for persons suffering or recovering from drug or alcohol abuse or a mental disorder.

This section applies in relation to an HMO in England in respect of the first licence granted on or after 1st October 2018 in relation to the HMO, regardless of whether a licence was in force in relation to the HMO immediately before that date.

2.0 Minimum room sizes

The table below shows the required minimum room size standards within the London Borough of Croydon.



	Bedsit room containing kitchen facilities only	Bedsit room containing ensuite facilities only	Bedsit room where shared kitchen and bathroom facilities are in a separate room	Shared house where kitchen and bathroom facilities are in a separate room <u>and</u> there is a communal living room
Single room	13.5m ²	12.5m ²	10m ²	6.5m ²
Double room	18.5m ²	17.5m ²	15m ²	10.2m ²

2.1 Further conditions in relation minimum room sizes and the requirement for the licence holder to inform the Council of breaches.

- 2.1.1 Rooms used as sleeping accommodation by one person over the age of 10 must be at least 6.51m².
- 2.1.2 Rooms used as sleeping accommodation by two people over the age of 10 must be at least 10.22m².
- 2.1.3 Rooms used as sleeping accommodation by one person under the age of 10 must be at least 4.64m².
- 2.1.4 Rooms less than 4.64m² cannot be used as sleeping accommodation.
- 2.1.5 The licence holder must notify the local housing authority of any room in the HMO with a floor area of less than 4.64m² and where a room in the HMO has a floor area of less than 4.64m², in a situation where this room is being used for sleeping.
- 2.1.6 The maximum numbers of people permitted, as specified in the licence, must not be exceeded regardless of whether person(s) are over or under the age of 10.

2.2 Notes to accompany section 2.

1. With regards to the permitted number of persons using a room in the HMO, this does not include a person doing so as a visitor(s) of an occupier.
2. A room is used as sleeping accommodation if it is normally used as a bedroom, whether or not it is also used for other purposes.
3. Any part of the floor area of a room where the height of the ceiling is less than 1.5 metres should not be taken into account when determining the floor area of that room.



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2.3 Licence in force: time for compliance with conditions under section 2.1

If the local housing authority consider that, at any time after issue of the licence; the licence holder:

- is not complying with one or more of the conditions of the licence imposed in section 2.1, and
- has not knowingly permitted the breach; and
- the local authority has notified the licence holder of the breach;

the authority will grant the licence holder a period of not more than 18 months to comply with the condition(s).

2.4 Licence to be granted: time for compliance with conditions under section 2.1

If the local housing authority consider that, at a time a first licence or further licence is to be granted, on or after the 1st October 2018 and whether a licence was in force before or not, the licence holder:

- is not complying with one or more of the conditions of the licence imposed in section 2.1;

the authority must when granting the licence:

- give the licence holder a notification specifying the condition(s) breached; and
- the period in which the licence holder must comply with the condition(s).

The maximum time period in the notification is to be 18 months.

During the compliance time in the notification:

- a) The local housing authority may not revoke the licence for a breach (or repeated breaches) of any condition(s) of the licence specified in the notification.
- b) The licence holder does not commit an offence under section 72(3) in respect of any failure to comply with such a condition(s), and
- c) The local housing authority may not impose a financial penalty under section 249A on the licence holder in respect of such a failure.

These exemptions, under section 2.4 do not apply if the licence holder was convicted of an offence, under section 72(2) or (3), in relation to the HMO before the licence was granted.

Offences

There are two offences that are important to be aware of in relation to HMO licensing that are part of the Housing Act 2004.

Under section 72(2) a person having control or managing the HMO commits an offence if he, in an HMO which is licensed under Part 2, knowingly permits another person to occupy the house, and the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

A further offence occurs under section 72(3) where a person commits an offence if he is a licence holder or a person on whom restrictions or obligations under a licence are imposed, fails to comply with any condition of the licence.

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The relevant conditions to be complied with are set out in this document under sections A, 1 and 2.



Penalty for non-compliance. If an offence is committed the council may consider taking action which could include the issuing of a Simple Caution, Financial Penalty to £30,000, or a prosecution in the Magistrates Court where an unlimited fine can be issued. Please note that any legal action taken against the Licence Holder or anyone associated with Licence Holder, or the management of the property (with or without responsibility for conditions), may affect the Licence Holder's 'fit and proper' status. The Authority can revoke or vary the licence at any time, giving proper statutory notice.

REPORT TO:	CABINET 18 JANUARY 2021
SUBJECT:	London Councils Grants Scheme 2021/22
LEAD OFFICER:	Jacqueline Harris-Baker, Executive Director of Resources Gavin Handford, Director of Policy and Partnership
CABINET MEMBER:	Cllr David Wood, Cabinet Member for Communities, Safety and Resilience
WARDS:	All

POLICY CONTEXT

Approval of the 2021/22 budget for the London Councils Grants Scheme and Croydon Council's contribution to the Scheme.

The Grants to Voluntary Organisations (Specified Date) Order 1992, as read with Section 48(3) of the Local Government Act 1985, provides that two-thirds of constituent councils must agree the London Councils Grants Committee's budget by 1 February each year. If it is not agreed, the overall level of expenditure is deemed to be set at the same level as was approved or deemed to be approved for the preceding financial year, in this instance the sum approved for the 2020/21 year, a larger sum than is proposed for 2021/22.

The [London Councils Grants Scheme](#) has allocated funding against two priorities:

- Combatting homelessness
- Tackling sexual and domestic violence

These align with the following Croydon Council [priority for 2021/24](#):

- We will focus on tackling ingrained inequality and poverty in the borough.

FINANCIAL IMPACT

Approval of the Council's contribution of £287,731 to the London Councils Grants Scheme for 2021/22. This amounts to a reduction of £722 compared with the Council's net contribution to the Scheme in 2020/21.

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 below:

1. RECOMMENDATIONS

1.1 Cabinet is recommended to agree the recommendation of the London Councils Leaders Committee to:

- a. Approve the London Councils Grants Scheme budget for 2021/22 of £6.668m.

b. Agree Croydon Council's 2021/22 contribution to the London Councils Grants Scheme budget amounting to £287,731.

2. EXECUTIVE SUMMARY

2.1 This report seeks approval for the London Councils Grants Scheme (LCGS) budget in 2021/22 set at £6.668m, and Croydon Council's contribution to that budget of £287,731, being the level recommended by the London Councils Leaders' Committee at their meeting on 8 December 2020.

3. DETAIL

3.1 Budget

3.1.1 The London Councils Grants Scheme (the Scheme) was established in accordance with the Local Government Act 1985, following the abolition of the Greater London Council in 1986. The Scheme is now governed by the London Councils Grants Committee and membership comprises all the London Borough Councils and the City of London.

3.1.2 The financial year 2021/22 represents the final year of the extended five-year programme of commissions as recommended by the Grants Committee and approved by the Leaders Committee in March 2016.

3.1.3 Notification has been received from the Chief Executive of London Councils that, following a recommendation as to proposals for expenditure under the Scheme for 2021/22, the London Councils Leaders Committee agreed on 8 December 2020 to make the following recommendation to constituent Councils:

Overall level of expenditure of £6,668,000 comprising:	(£m)
Payments to Commissions	6.173
Administrative Expenditure	0.435
London Funders Membership Fees	0.060
Income would comprise:	
Borough contributions	6.668

3.1.4 The recommendation to constituent councils from the London Councils Leaders Committee proposes an overall budget in 2021/22 of £6.7m, funded entirely by constituent council contributions. The total amount required from councils is the same as 2020/21. An outline of the approved budget is attached at Appendix A.

3.1.5 Population changes affect the levels of contribution due from each constituent council. The contribution required from each council for 2021/22 is shown at Appendix B.

3.1.6 For 2021/22, the apportionment is based on the Office of National Statistics' mid-year population estimates for June 2019 and the overall proposed programme budget as detailed in paragraph 3.1.3 above.

3.2 Commissioning 2017-22

3.2.1 In March 2016, the London Councils Leaders' Committee agreed a revised set of priorities for commissioned services:

Priority 1: Combatting Homelessness

Priority 2: Tackling Sexual and Domestic Violence

Priority 3: Tackling Poverty through Employment (European Social Fund match-funded – now closed)

3.2.2 The priorities of the scheme align with the following Croydon Council [priority for 2021/24](#):

- We will focus on tackling ingrained inequality and poverty in the borough.

3.2.3 13 projects have been commissioned to deliver pan-London services under Priorities 1 and 2 between April 2017 and March 2021. The scheme was subsequently extended for a further year. A full list of these commissioned services is available on the London Councils website at <http://www.londoncouncils.gov.uk/node/30010>.

3.2.4 The grants programme is focussed on the needs of both inner and outer London, which is critical given that as the second most populous borough, Croydon is the second highest contributor to the LCGS. The approach enables boroughs to tackle high priority need where this may be more effective at a pan-London level.

3.2.5 The LCGS provides monitoring data to demonstrate performance and the benefits to individual boroughs from commissioned services. LCGS data for April 2017 to September 2020 (14 quarters of this programme) compare the indicative levels of delivery per borough based on relevant needs data with the actual proportion of new service users from each borough.

3.2.6 With regard to Priority 1 services for combatting homelessness, overall performance was 10% above profile, with particularly strong performance in relation to tackling youth homelessness. Locally, the indicative level for Croydon was between 3% and 4% of service users and the proportion of actual service users who were from Croydon was 3.83% (the ninth highest share among London boroughs).

3.2.7 With regard to Priority 2 services for tackling sexual and domestic violence, overall performance was 4% below profile. This underperformance related mainly to prevention services (-12%). Performance around tackling harmful practices (such as female genital mutilation and forced marriage) was particularly strong. Locally, the indicative level was between 3% and 4% of users, and the proportion of actual users from the borough was 4.06% (the third highest share among London boroughs).

- 3.2.8 Lockdown disrupted the delivery of prevention projects in schools, alternative provision and youth settings, though some work moved online. Taking referrals and finding safe accommodation took longer due to the perpetrator being present. The pandemic has decreased the availability of refuge services due to reduced throughput. Following London Councils' declaration of its commitment to use money flexibly to meet emerging needs due to Covid-19, some organisations furloughed or redeployed staff within their respective organisations to meet the increased demand for frontline services for tackling violence against women and girls. Helplines, emails and web chats were heavily used by survivors finding it difficult to access support.
- 3.2.9 All 13 projects are rated Green. The report to London Councils Grants Committee on Performance of the LCGS between April 2017 and September 2020 is available at: <https://www.londoncouncils.gov.uk/node/37815>.
- 3.2.10 The priorities and projects funded by the LCGS align well with the Council's priorities. The projects provide additional options for the Council in supporting residents in these priority areas, aligning with local projects, services and support.
- 3.2.11 Croydon council officers and partners are aware of the projects funded by LCGS. The projects provide added value and additional specialist support for people with protected characteristics who are facing homelessness or domestic and sexual violence.
- 3.2.12 The performance data suggests that work by officers with London Councils to ensure that pan-London projects deliver locally has ensured that the programme impact is maximised in Croydon.

4. CONSULTATION

- 4.1 The Council is required by statute to contribute to the London Councils Grants Scheme as set out in paragraph 7 below.

5. PRE-DECISION SCRUTINY

- 5.1 This decision did not go to a Scrutiny meeting for pre-decision debate. The Council is required by statute to contribute to the London Councils Grants Scheme as set out in paragraph 7 below.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 6.1 As set out in section 7 below, the Council is required under statute to contribute to the London Councils Grants Scheme in proportion to the population of the borough. The level of expenditure for the Scheme varies from year to year as does the estimated population of Croydon as a proportion of the total estimated population of Greater London. It is therefore not possible to accurately predict the precise level of the Council's contribution from year to year.

6.2 The costs are updated annually and the Council's contribution for 2021/22, based on a population of 386,710 (4.32% of the population of Greater London), results in a reduction of £722 in the contribution required from Croydon. 2021/22 is the final year of the 2017/22 Grants Scheme. This will be followed by a new pan-London grants programme for 2022-26, the priorities of which are currently out to consultation.

6.3 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2020/21 £'000	2021/22 £'000	2022/23 £'000	2023/24 £'000
Revenue Budget available				
Expenditure	288	288*	288	288
Income	0	0	0	0
Effect of decision from report				
Expenditure	288	288	288	288
Income	0	0	0	0
Remaining budget	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Capital Budget available				
Expenditure	0	0	0	0
Effect of decision from report				
Expenditure	0	0	0	0
Remaining budget	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

* The annual cost for Croydon Council has reduced by £722 from 2020/21 to 2021/22; this is not shown in the table above due to the denomination the numbers are reported in.

Note – Future years have been assumed at 2021/22 amounts, although this is the final year of the 2017/22 Grants Scheme. It will be followed by a new scheme for the 2022/26 period, contributions to which will be reported to Cabinet in the future once confirmed by London Councils.

6.4 Risks

6.4.1 If the Council fails to make a decision by the statutory deadline of 1 February 2021 there is a risk that the Secretary of State will order that the 2021/22 budget should be set at the rate agreed for 2020/21, resulting in additional cost of £722. However, agreement of only two-thirds of the constituent councils is required for London Councils to set a budget for the scheme. The Secretary of State would only have the power to intervene if eleven councils failed to approve the recommended budget by 1 February 2021.

6.5 Options

- 6.5.1 The Council is required to contribute to the London Councils Grants Scheme under the provisions of the 1985 Local Government Act if the proposals recommended by the Leaders Committee are agreed by two-thirds of the constituent councils by 1 February 2021.

6.6 Future savings/efficiencies

- 6.6.1 The Council's contribution to the scheme is updated annually dependent upon the agreed level of expenditure, the population of the borough as a proportion of the total population of Greater London and minor variables such as the use of reserves and balances by the Scheme. The Council may influence the total level of expenditure through its membership of the scheme but is bound by the two-thirds majority decision of the London Councils Grants Committee

Approved by Lisa Taylor, Director of Finance, Investment and Risk, S151 Officer

7. LEGAL CONSIDERATIONS

- 7.1 The Head of Litigation and Corporate Law comments on behalf of the Council Solicitor and Monitoring Officer that under Section 48(3) of the Local Government Act 1985 and Regulation 6(8) of the Levying Bodies (General) Regulations 1992, member authorities are required to contribute financially to the Scheme in proportion to their respective populations.
- 7.2 The Grants to Voluntary Organisations (Specified Date) Order 1992 which came into effect on 2nd November 1992 and remains in force, as read with Section 48(3) of the 1985 Act, provides that two-thirds of constituent Councils must agree the London Councils Grants Committee's budget by no later than 1st February annually. If it is not so agreed, the overall level of expenditure is deemed to be set at the same level as was approved or deemed to be approved for the preceding financial year, in this instance the sum approved for the 2020/21 year (which was £288,453 for Croydon).
- 7.3 While the Council is not directly responsible for administration of the Scheme, as a participant Council in the Scheme it must still be mindful of its general equalities duty under the Equality Act 2010 and take such steps as are appropriate to consider this duty. Any such considerations need to be addressed in the equalities impact assessment section below.

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

8. HUMAN RESOURCES IMPACT

- 8.1 There are no human resources implications arising from this report.

Approved by: Sue Moorman, Director of Human Resources

9. EQUALITIES IMPACT

- 9.1 London Councils is responsible for assessing the impact of individual funding decisions but constituent councils must consider the overall impact of changes to the budget available to the London Councils Grants Committee.
- 9.2 An Equalities Analysis was carried out in 2017/18 (when the commissioned services were originally funded) to ascertain the likely impact of the proposals on groups that share protected characteristics. This indicated that the Council's decision on this matter will have no significant impact on groups that share a protected characteristic.
- 9.3 Providers combatting homelessness continue to support vulnerable and disadvantaged service users who share protected characteristics. London-wide, over the 14 quarters to September 2020, 42.3% of service users were female; 46.2% were under 25 years of age; 7% were over 55 years of age; 76.6% were from black and minority ethnic backgrounds; 17.3% declared a disability; 12.4% were LGBT; and 1,886 people had no recourse to public funds (4%).
- 9.4 Providers combatting sexual and domestic violence continue to support vulnerable and disadvantaged service users who share protected characteristics. London-wide, over the 14 quarters to September 2020, 64.2% of service users were female; 8.6% were aged less than 25 years; 4.5% were aged over 55 years; 74.2% were from black and minority ethnic backgrounds; 14.7% declared a disability; 4.6% were LGBT; and 3,325 people had no recourse to public funds (3%).

Approved by Yvonne Okiyo, Equalities Manager

10. ENVIRONMENTAL IMPACT

- 10.1 There are no main environmental sustainability impacts arising from this report.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There are no implications for crime and disorder reduction arising from this report.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 If the Council failed to agree the recommendations of the London Councils Leaders' Committee, there is a risk that the requisite majority of boroughs could fail to agree the proposals by the statutory deadline and the budget would be deemed to be set at the 2020/21 level.

13. OPTIONS CONSIDERED AND REJECTED

- 13.1 The options available to the Council are to agree or reject the recommendations of the London Councils Leaders Committee. If rejection is considered, unless

the Council was reasonably sure it could secure the support of at least two-thirds of the constituent councils, it would be futile to seek agreement for an alternative budget. As the Leaders Committee which put forward the proposals is made up of the Leaders of all the constituent councils, it is extremely unlikely a sufficient number would be minded to support an alternative budget to that which they had already agreed.

13.2 For reasons set out in 12 and 13.1 above, rejecting the recommendation made by the London Councils Leaders' Committee is not the proposed option.

14. DATA PROTECTION IMPLICATIONS

14.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

Approved by: Gavin Handford, Director of Policy and Partnership

CONTACT OFFICER: John Montes, Senior Strategy Officer, Ext 61613.

APPENDICES TO THIS REPORT:

Appendix A Grants Committee Income and Expenditure Budget 2021/22

Appendix B Grants Programme Borough Subscriptions 2021/22

BACKGROUND DOCUMENTS: None

Grants Committee Income and Expenditure Budget 2021/22

Expenditure	Revised Budget 2020/21 £000	Developments £000	Inflation £000	Original Budget 2021/22 £000
Payments in respect of Grants				
London Councils Grants Programme	6,173	0	0	6,173
Membership Fees to London Funders (for all boroughs)	60	0	0	60
European Social Fund Co-Financing	0	0	0	0
Sub-Total	6,233	0	0	6,233
Operating (Non-Grants) Expenditure				
Contractual Commitments				
Maintenance of GIFTS Grants IT system	10	0	0	10
	10	0	0	10
Salary Commitments				
Officers	228	-16	6	218
Members	19	0	0	19
Maternity provision	10	0	0	10
	257	-16	6	247
Discretionary Expenditure				
Staff training/recruitment advertising	7	0	0	7
Staff travel	2	0	0	2
	9	0	0	9
Total Operating Expenditure	276	-16	6	266
Central Recharges	159	0	10	169
Total Expenditure	6,668	-16	16	6,668
Income				
Core borough subscriptions				
Contribution to grant payments	6,173	0	0	6,173
Contribution to non-grants expenditure	495	0	0	495
	6,668	0	0	6,668
Transfer from Reserves	0	0	0	0
Central Recharges	0	0	0	0
Total Income	6,668	0	0	6,668
Net Expenditure	0	16	-16	0

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Grants Programme Borough Subscriptions 2021/22

ONS Mid-2018 Estimate of Population ('000)	%	2020/21 Base Borough Contribution (£)		ONS Mid-2019 Estimate of Population ('000)	%	2021/22 Base Borough Contribution (£)	Base Difference from 2020/21 (£)
Inner London							
262.23	2.94%	196,291	Camden	270.03	3.01%	200,915	4,623
8.71	0.10%	6,520	City of London	9.72	0.11%	7,233	713
286.19	3.21%	214,227	Greenwich	287.94	3.21%	214,243	16
279.67	3.14%	209,346	Hackney	281.12	3.14%	209,167	-179
185.43	2.08%	138,803	Hammersmith and Fulham	185.14	2.07%	137,755	-1,048
239.14	2.68%	179,007	Islington	242.47	2.71%	180,407	1,400
156.20	1.75%	116,923	Kensington and Chelsea	156.13	1.74%	116,168	-756
325.92	3.66%	243,966	Lambeth	326.03	3.64%	242,585	-1,381
303.54	3.41%	227,214	Lewisham	305.84	3.41%	227,561	347
317.26	3.56%	237,484	Southwark	318.83	3.56%	237,225	-259
317.71	3.57%	237,821	Tower Hamlets	324.75	3.62%	241,626	3,805
326.47	3.66%	244,378	Wandsworth	329.68	3.68%	245,296	918
255.32	2.87%	191,119	Westminster	261.32	2.92%	194,432	3,313
3,263.79	36.64%	2,443,099		3,299.00	36.81%	2,454,612	11,513
Outer London							
212.00	2.38%	158,692	Barking and Dagenham	212.91	2.38%	158,412	-280
392.14	4.40%	293,535	Barnet	395.87	4.42%	294,546	1,010
247.26	2.78%	185,086	Bexley	248.29	2.77%	184,738	-348
330.80	3.71%	247,619	Brent	329.77	3.68%	245,366	-2,254
331.10	3.72%	247,844	Bromley	332.34	3.71%	247,274	-570
385.35	4.33%	288,453	Croydon	386.71	4.32%	287,731	-722
341.98	3.84%	255,988	Ealing	341.81	3.81%	254,320	-1,668
333.87	3.75%	249,917	Enfield	333.79	3.72%	248,359	-1,558
270.62	3.04%	202,572	Haringey	268.65	3.00%	199,886	-2,685
250.15	2.81%	187,249	Harrow	251.16	2.80%	186,875	-374
257.81	2.89%	192,983	Havering	259.55	2.90%	193,119	136
304.82	3.42%	228,172	Hillingdon	306.87	3.42%	228,326	154
270.78	3.04%	202,691	Hounslow	271.52	3.03%	202,026	-665
175.47	1.97%	131,348	Kingston upon Thames	177.51	1.98%	132,074	726
206.19	2.31%	154,343	Merton	206.55	2.30%	153,682	-661
352.01	3.95%	263,496	Newham	353.13	3.94%	262,749	-747
303.86	3.41%	227,453	Redbridge	305.22	3.41%	227,100	-354
196.90	2.21%	147,389	Richmond upon Thames	198.02	2.21%	147,336	-53
204.53	2.30%	153,100	Sutton	206.35	2.30%	153,534	433
276.70	3.11%	207,123	Waltham Forest	276.98	3.09%	206,089	-1,034
5,644.34	63.36%	4,225,053		5,662.99	63.19%	4,213,540	-11,513
8,908.13	100.00%	6,668,152	Totals	8,961.99	100.00%	6,668,152	0

6,668,152

6,668,152

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REPORT TO:	CABINET 18 JANUARY 2020
SUBJECT:	STAGE 1: RECOMMENDATIONS ARISING FROM SCRUTINY & OVERVIEW COMMITTEE'S CONSIDERATION OF THE STRATEGIC REVIEW OF THE COUNCIL'S COMPANIES – ACTION PLAN
LEAD OFFICERS:	JACQUELINE HARRIS BAKER, EXECUTIVE DIRECTOR - RESOURCES STEPHEN ROWAN – HEAD OF DEMOCRATIC SERVICES & SCRUTINY
LEAD MEMBER:	COUNCILLOR SEAN FITZSIMONS CHAIR, SCRUTINY AND OVERVIEW COMMITTEE
CABINET MEMBER:	ALL
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT:	
<u>Corporate Plan for Croydon 2018-2022</u>	
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	
FINANCIAL IMPACT	
The recommendations in the appendix to this report may have a financial implication and as each recommendation is developed the financial implication will be explored and approved.	
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 contained within this report:

1. RECOMMENDATIONS

Cabinet is asked to:

Receive the recommendations arising from the Scrutiny & Overview Committee's consideration of the Strategic Review of the Council's Companies - Action Plan at the

Committee meeting held on 21 December 2020 , and to provide a substantive response within two months (i.e. at the next available Cabinet meeting on **22 March 2021**).

2. STAGE 1: RECOMMENDATIONS ARISING FROM SCRUTINY

- 2.1 Recommendations arising from the Scrutiny and Overview Committee's consideration of the Strategic Review of the Council's Companies – Action Plan at a meeting of the Committee held on 21 December 2020 are provided in Appendix A. For additional context a copy of the Action Plan is provided in Appendix 2. The constitution requires that an interim or full response is provided within 2 months of this Cabinet meeting.

3. CONSULTATION

- 3.1 The recommendations were developed from the deliberations of either the Scrutiny & Overview Committee or one of its Sub-Committees.

4. PRE-DECISION SCRUTINY

- 4.1 The recommendations set out in the appendix to this report directly arise from Scrutiny.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 There are no financial implications arising directly from the content of this report.

6. LEGAL CONSIDERATIONS

- 6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that the recommendations are presented to Cabinet in accordance with the Constitution.
- 6.2 This requires that the Scrutiny report is received and registered at this Cabinet Meeting and that a substantive response is provided within 2 months (i.e. **Cabinet, 22 March 2021** is the next available meeting).

Approved by Sandra Herbert, Head of Litigation & Corporate Law on behalf of the Director of Law and Governance & Deputy Monitoring Officer

7. EQUALITIES IMPACT

- 7.1 There are no equalities implications arising directly from the content of this report

8. HUMAN RESOURCES IMPACT

8.1 There are no human resource implications arising directly from the contents of this report

9. ENVIRONMENTAL IMPACT

9.1 There are no environmental implications arising directly from the contents of this report

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no crime and disorder implications arising directly from the contents of this report

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 There is a statutory requirement for Cabinet to receive the recommendations made by Scrutiny.

12. OPTIONS CONSIDERED AND REJECTED

12.1 None

13. DATA PROTECTION IMPLICATIONS

13.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

There are no Data Protection implications at this stage, but that the situation will be reviewed again at Stage 2 when Cabinet provide their response to the proposed recommendations.

13.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

No.

CONTACT OFFICER:

Simon Trevaskis, Senior Democratic Services & Governance - Scrutiny
T: 020 8726 6000 X 64840
Email: simon.trevaskis@croydon.gov.uk

BACKGROUND DOCUMENTS:

Background document 1:

Meeting of the Scrutiny & Overview Committee held on 21 December 2020

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=166&MId=2481&Ver=4>

Scrutiny & Overview Committee

Date: 21 December 2020

Item: Strategic Review of the Council's Companies – Action Plan

Conclusions and Recommendations

Introduction

The Scrutiny & Overview Committee (SOC) was given the opportunity to review the action plan created in response to the findings from the Strategic Review of the Council's Companies at its meeting on 21 December 2020.

This report has been prepared to summarise the recommendations of the Committee on the action plan. At the meeting each recommendation in the action plan was reviewed in turn and the feedback is presented in this format. A copy of the Strategic Review of Companies Action Plan can be found at Appendix 2).

General Recommendations

1. The Committee would request the opportunity to scrutinise the report arising from the second phase of the PwC review of the Council's Companies.
2. The Committee would request the opportunity to scrutinise the progress made against delivering the action plan, at the appropriate time.
3. The Committee identified that a lack of governance and appropriate management systems were a reoccurring theme in both this report and the Report in the Public Interest, and as such it was important to ensure that a robust level of challenge from scrutiny was facilitated to prevent any repetition of past mistakes.
4. The Committee noted that investigation had found no evidence that Brick by Brick had ever produced monthly management accounts and recommends that this is addressed as soon as possible.
5. Should the second phase report identify continuing with Brick by Brick, it was requested that the annual business case for the company continue to receive scrutiny from the Streets, Environment & Homes Sub-Committee.
6. The Committee recognised the need to be mindful of the capacity within the Council to respond to requests from scrutiny, particularly in light of the ongoing pressures from covid-19, and would both encourage and welcome an open dialogue with the Corporate and Political Leadership to manage expectations.
7. The Committee recommends that achieving value for money should form a key priority within any future relationship with its companies.

Strategic Review Action Plan Recommendations 1 – 4 (Brick by Brick Financial Planning, Financial Governance & Financial Governance Reporting)
<ol style="list-style-type: none"> 8. The Committee requested that other criteria, such as potential housing delivery, be included in the report due in February 2021 on the options for Brick by Brick.

<p>9. The ability of Brick by Brick to deliver housing on sites that had previously been identified for transfer to the company should be one of the primary factors for consideration when any decision was made by the Council over the future of each individual site.</p> <p>10. The Committee would ask that the Board of Brick by Brick give consideration to the publication of non-commercially sensitive information that could be used to provide assurance that the Council's investment is being put to good use.</p> <p>11. The Committee welcomed confirmation that an audit review had been commissioned on the Fairfield Halls development, to understand the decision making behind the arrangements with Brick by Brick.</p>
Strategic Review Action Plan Recommendation 5 (Brick by Brick State Aid)
<p>12. The Committee welcomed the confirmation that site specific risk assessments would be required as part of any consideration of the future of those sites. The Committee recommended that any future land disposal policy includes a requirement for an assessment of the viability of delivery of housing on a site.</p>
Strategic Review Action Plan Recommendation 6 (Croydon Council Purchase of Brick by Brick Properties)
<p>13. The Committee welcomed confirmation that all sites that had not yet been transferred to Brick by Brick will be re-evaluated by the Council before making a decision on how to proceed, if at all, with a planning application.</p>
Strategic Review Action Plan Recommendation 7 (Croydon Council – Brick by Brick Developments)
<p>14. The Committee highlighted that the limited capacity within the Planning Service presented a considerable risk to the Council and recommends that an increased level of monitoring is put in place to ensure the risk was managed appropriately.</p>
Strategic Review Action Plan Recommendation 8 (Croydon Council – Brick by Brick – State Aid)
<p>15. The Committee felt that further investigation was required to understand why the Council had never implemented its 25% equity investment in Brick by Brick.</p>
Strategic Review Action Plan Recommendations 9 – 12 (Croydon Council – Governance)
<p>16. The Committee noted that the LGA investigation was currently underway and requests reassurance that efforts are being made to preserve any documents that may be relevant to this review.</p>
Recommendations 13 – 15 (Croydon Council – Disposals)

17. The Committee would request the opportunity to scrutinise the systems that are being put in place for recommendations 13 and 14, once they have been tested.
Recommendation 16 – 18(Growth Zone – Business Case & Governance)
18. The Committee acknowledged that the current economic reality meant the original ambitions for the Growth Zone would need to be reassessed. It was recommended that any such reassessment include a detailed risk assessment that was regularly monitored as part of the project going forward.
Recommendations 19 – 21 (Revolving Investment Fund)
19. The Committee recommends that consideration is given to whether the responsibility for monitoring Treasury Management sits within either the scrutiny or audit function.
20. The Committee would recommend that governance systems are developed to improve the retention of ‘corporate memory’ going forward as a priority.
Recommendations 22 – 24 (Croydon Affordable Housing – Lifecycle Cost Provision & State Aid)
21. The Committee would request further information is provided to improve their understanding of the flow of funds between the Council, Croydon Affordable Homes and any other associated entities.
22. The Committee would recommend that the action set out in recommendation 24, concerning the amount of money set aside for life cycle costs of Croydon Affordable Housing stock is undertaken as a priority.
Recommendations 25 – 26 (Croydon Affordable Housing)
23. The Committee would request the provision of further information on the housing allocation policy used for Croydon Affordable Homes.
Recommendations 27 – 29 (Asset Investment Fund)
24. The Committee welcomed confirmation that there was no intention to undertake a ‘fire sale’ of assets to realise funds and would encourage that a full assessment is made prior to the disposal of any assets to ensure that value for money is achieved for Council Tax payers.

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Action Plan arising from PwC -Key observations and recommendations

Ref.	Area	Observation and action	Responsible Organisation	Responsible person	Due date
1	BBB - Financial planning	The Company does not currently produce a consolidated phased plan against which to assess year to date financial performance, nor does it produce consolidated forecasts in terms of cash flow, profit and loss or financial position. We recommend that BBB should improve its financial oversight by producing: A 13 week rolling cash flow forecast; and integrated forecast profit and loss and balance sheet statements.	BBB	BBB – Board of Directors	January 2021
2	BBB - Financial governance	There is currently no financially qualified member of the Board to provide challenge to BBB's reported performance or forecasts. BBB should ensure that there is a sufficiently qualified Director of Finance in post to increase the internal financial scrutiny and challenge and support the Shareholder Board to improve its understanding of the business's finances.	BBB	BBB – Board of Directors	February 2021
3	BBB - Financial Governance - reporting	BBB does not currently have any integrated company-wide financial monitoring or forecast and therefore it is challenging for the Board to make effective decisions on the basis of Company financial performance. Whilst we understand there is an ambition to produce monthly management accounts moving forward, BBB should integrate development, sales and financial projections into a monthly reporting cycle to provide visibility to the Board on the Company's financial position.	BBB	BBB – Board of Directors	February 2021

4	BBB - Financial Governance	There is a lack of financial capacity and capability within BBB. In addition to the appointment of a qualified Director of Finance we expect there to be at least one additional suitably qualified member of staff who can support the development of robust financial information to proactively manage the BBB business.	BBB	BBB – Board of Directors	February 2021
5	BBB - State aid	Improve documentation of arrangements for the subsequent sale of assets by BBB, particularly where this has a direct influence on the valuation of land to be acquired / transferred.	LBC	ED - Resources	January 2021
6	LBC - Purchase of BBB properties	The Cabinet has approved in July the further purchase of 231 BBB properties, but has not yet entered into contract for any of these. We understand that the status of these property purchases is pending, subject to review. The Council will need to decision on a site by site basis whether to pursue this option and notify BBB accordingly immediately prior to the practical completion of the schemes. LBC should review the proposed purchases of these properties in light of current market conditions, so that it does not exceed these thus exposing the Council to risk under S123.	LBC	ED Place	March 2021
7	LBC - BBB developments	LBC has not created sufficient capacity in its own teams (such as planning) to allow for the increased demand for services that its drive to create affordable homes is generating. There is evidence that some of the delays experienced on BBB development sites are being driven by longer	LBC	ED Place	June 2021

		than normal process time in the Council's operational teams. Since the Council must avoid preferential treatment to BBB, it may wish to consider general additional capacity in these teams to support quicker processing across the board. This will support quicker resolution for all developer delays including BBB.			
8	LBC - BBB - State aid	<p>The Council should regularly review the financing and operational arrangements of BBB for ongoing compliance with State Aid requirements, particularly in the context of:</p> <ul style="list-style-type: none"> • Maintaining a state aid compliant capital structure including the equity loan debt model • Pricing loans on a state aid compliant basis which reflect the risk associated with investing in BBB specifically. 	LBC	LBC- Exec Director Resources + Finance Director/S151 Officer	Ongoing Ongoing
9	LBC - Governance	There are significant concerns around the adherence to governance procedures within LBC and its subsidiaries. LBC should consider commissioning a wider and thorough governance review of the organisation.	LBC	LBC – CEO	April 2021
10	LBC - Governance	There is insufficient capacity within the LBC corporate governance team to appropriately oversee the application of governance across the organisation. LBC should review its governance team structure and ensure it has the required level of capacity and capability along with senior input to ensure best practice governance procedures are adhered to.	LBC	LBC – CEO	April 2021

11	LBC - Governance	It has proven difficult to obtain a complete set of documentation in relation to loans and other agreements between LBC and its subsidiaries. LBC should ensure that it collates and maintains a complete central repository of all commercial arrangements between itself and its subsidiaries,	LBC	LBC – ED Resources	January 2021
12	LBC - Governance	Given the level of risk associated with BBB, the Council should consider reviewing the BBB risk entry on the central risk register and reflect the risk outside of general governance matters.	LBC	ED Place in liaison with FD/S151 Officer	December 2020
13	LBC - Disposals	Where analysis and calculations are undertaken with regard the allocation of negative land value across sites, greater levels of clarity and explanation as to the process undertaken should be developed and retained for future audit trail purposes.	LBC	ED Place in liaison with FD/S151 Officer	December 2020
14	LBC - Disposals	Consider the greater use of third party external valuers for all future site disposals, transfers or acquisitions.	LBC	ED Place	January 2021
15	LBC - Disposals	Maintain an audit trail or log of key assumptions employed in developing valuations and analyses related to land transfers, disposals and acquisitions, particularly where this is performed in house (external valuers typically provide detailed reports on valuation, including assumptions employed).	LBC	ED Place in liaison with FD/S151 Officer	January 2021

16	GZ - Business case	<p>The assumptions on which the original business case was based (forecast business rates increases and the development of a Westfield retail complex) are no longer valid and the business case should be revised.</p> <p>This should be done building on the COVID-19 impact review already completed and must consider the change in the economic forecast for the duration of the proposed investment period and the changes in the requirements of Croydon's population and behaviours following COVID-19 and any associated downturn.</p>	LBC	ED Place in liaison with FD/S151 Officer	March 2021
17	GZ - Governance	<p>Annual and quarterly review meetings with GLA and the Mayor of London's office: Frequency of governance meetings with stakeholders may not be sufficient in light of ongoing economic uncertainty.</p> <p>LBC may wish to consider increasing frequency until such time as a revised GZ business plan is agreed including the underpinning assumptions over funding - i.e. business rate increases and the Councils ongoing ability to utilise these.</p>	LBC	ED Place	Ongoing
18	GZ - Governance	<p>Any subsequent increase in planned investment should be supported by a business case and taken through robust governance and sign off processes for full scrutiny.</p>	LBC	ED Place	Ongoing
19	RIF	<p>The RIF fund was intended to be ring-fenced and have clear governance and decision making. Neither of these stated intentions have been put into place.</p>	LBC	Finance Director	February 2021

		Cabinet should urgently revisit the purpose of the RIF fund, and set clear lending controls with well enforced drawdown requirements to prevent any further loss of control.			
20	RIF	<p>Management of the RIF's loan book has been left to the LBC finance team, but up until mid-October 2020 there was no individual within LBC who had current active oversight of the RIF loan portfolio. Changes in personnel have left a lack of corporate memory in relation to the RIF loans. It has been particularly challenging to locate copies of loan documentation for the purposes of this review.</p> <p>Loan documents should all be properly archived and filed so that they can be easily located. An automated reminder and alert system should be established so that Loans are properly managed.</p>	LBC	Finance Director	February 2021
21	RIF	<p>There is no robust treasury plan for management of these loans, or set of standard operating procedures in relation to the management of RIF loans and loan management is not in keeping with industry best practice in relation to management of loans of this size.</p> <p>A robust set of operating procedures should now be put into place with immediate effect.</p>	LBC	Finance Director	February 2021
22	CAH - Life cycle cost provision	We understand that there should be a provision in the LBC accounts for the life cycle costs of the lease properties managed by the CAH group of LLPs. There is no evidence that this provision exists suggesting there is a risk that the true future costs of the leases through to the planned	CAH	ED Place in liaison with FD/S151 Officer	February 2021

		transfers to the Pension Scheme are not recognised. CAH should recognise a liability in their accounts to address this, and funds should be ring fenced to reflect this future cost.			
23	CAH - State aid	A more consistent approach to agreeing land value between the Council and its wholly owned subsidiary: It does not appear to be logical for the two related entities to have materially different views on land valuation.	LBC	ED Place	January 2021
24	CAH	There is a lack of clarity on whether or not life cycle costs are being appropriately recognised. Immediate steps should be taken by LBC and CAH to assure the Board and Cabinet that suitable provisions for life cycle costs are being made. The amount not reserved may need to be backdated.	LBC	ED Place in liaison with FD/S151 Officer	February 2021
25	CAH	We recommend LBC puts in place robust governance around CAH given the value of the assets held, with dedicated team resource including a company secretary function to oversee general CAH LLP group companies house filing and require improved financial reporting from the LLPs.	LBC	ED Resources	February 2021
26	CAH	LBC should formulate a clear strategy on the use of homes in terms of tenant type to understand the impact of suggested rent levels and the ability to pay these.	LBC	ED Place	February 2021
27	AIF	Monitoring of the AIF portfolio and governance is very limited. AIF performance is not discussed at any formal board, with reporting confined to within the Asset and Estates team and Place directorate.	LBC	ED Place	January 2021

		AIF is covered by general financial monitoring on a monthly (previously quarterly) basis. The governance of AIF should be formalised with a clear regular review with reports to Cabinet on status.			
28	AIF	Making strategic decisions on asset realisation at a time of uncertainty may impact value and therefore disposals in the immediate term are currently unlikely to realise best value. We believe the best course of action at present is to seek to maximise returns on the existing investments and undertake annual strategic reviews of the AIF to assess if/when disposals will result in best value.	LBC	ED Place in liaison with FD/S151 Officer	January 2021
29	AIF	If LBC needs to release cash to mitigate financial pressures in year, the AIF does represent significant potential for unlocking cash. Assess if there is a need for cash. If there is, then undertake a more detailed review of each asset for suitability to meet this need. This could include a detailed valuation exercise.	LBC	ED Place in liaison with FD/S151 Officer	January 2021

REPORT TO:	CABINET 18 JANUARY 2021
SUBJECT:	INVESTING IN OUR BOROUGH
LEAD OFFICER:	RACHEL SONI, INTERIM DIRECTOR OF COMMISSIONING & PROCUREMENT JACQUELINE HARRIS BAKER, EXECUTIVE DIRECTOR RESOURCES
CABINET MEMBER:	COUNCILLOR CALLTON YOUNG CABINET MEMBER FOR RESOURCES AND FINANCIAL GOVERNANCE
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 Framework (2019 – 2023) 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 note:

1.1.1. The contracts between £500,000 and £5,000,000 anticipated to be awarded under delegated authority from the Leader by the nominated Cabinet Member, in consultation with the Cabinet Member for Resources and Financial Governance and with the Leader in certain circumstances, before the next meeting of Cabinet, as set out in section 4.1.1.

1.1.2. The list of delegated award decisions made by the Director of Commissioning and Procurement, between 25/11/2020 – 17/12/2020, as set out in section 4.1.2.

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:

- Decisions taken by the Director of Commissioning & Procurement under delegated powers, and decisions to be taken by Cabinet Members or Cabinet as listed in this report have been confirmed to have met the Essential Criteria as set out in Section 114 Notice;
- Contracts between £500,000 and £5,000,000 anticipated to be awarded under delegated authority from the Leader by the nominated Cabinet Member, in consultation with the Cabinet Member for Resources and Financial Governance and with the Leader in certain circumstances, before the next meeting of Cabinet;
- Delegated contract award decisions made by the Director of Commissioning and Procurement 25/11/2020 – 17/12/2020;
- Contract awards and strategies 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]
- Property lettings, acquisitions and disposals agreed by the Cabinet Member for Resources and Financial Governance in consultation with the Leader since the last meeting of Cabinet;
[As at the date of this report there are none]
- Delegated contract award decisions under delegated authority from the Leader by the Cabinet Member for Families, Health & Social Care in consultation with the Cabinet Member for Resources and Financial Governance related to the Adult and Young People Social Care Dynamic Purchasing Systems (DPS);
[As at the date of this report there are none]
- 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 Section 4.1.1 of this report lists those contracts that are anticipated to be awarded by the nominated Cabinet Member.

3.2 Section 4.1.2 of this report lists the delegated award decisions made by the Director of Commissioning and Procurement, between 25/11/2020 – 17/12/2020.

- 3.3 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 Contract Awards

- 4.1.1 Revenue and Capital consequences of contract award decisions to be made between £500,000 and £5,000,000 by the nominated Cabinet Member in consultation with the Cabinet Member for Resources & Financial Governance or, where the nominated Cabinet Member is the Cabinet Member for Resources & Financial Governance, in consultation with the Leader.

Contract Title	Contract Revenue Budget	Contract Capital Budget	Dept/Cabinet Member
CAYSH Drop in Zone Variation Award	£2,755,644 (Extension length of 10 months) (Increase of £241,363) (Decision taken on 6 th Jan 2021)		Homes and Gateway Services / Cllr Avis

- 4.1.2 Revenue and Capital consequences of delegated decisions made by the Director of Commissioning and Procurement for contract awards (Regs. 19, 28.4 a & b) between £100,000 and £500,000 and contract extension(s) previously approved as part of the original contract award recommendation (Reg. 28.4 d) and contract variations (Reg.30).

Contract Title	Contract Revenue Budget	Contract Capital Budget	Department
Contract Award for Hosted IT Solution for Landlord Licensing		£169,500 (Contract length 5 years) (Decision taken on 8 th Dec 2020)	Place

Contract Title	Contract Revenue Budget	Contract Capital Budget	Department
Consultancy support for Finance Team Contract Award	£140,000 (Contract length 1 month) (Decision taken on 26 th Nov 2020)		Resources

CONTRACT VARIATIONS & EXTENSIONS					
Contract Title	Value of Contract to Date	Value of Extension Term	Total Revenue value including extension term	Contract Capital Budget	Department
Strategic Options Review - Group Companies, Growth Zone and the Revolving Investment Fund Variation	£94,380	£40,235 (2 month extension)	£134,615 (Decision taken on 26 Nov 2020)		Place

Approved by: Matthew Davis, Head of Finance – MTFs, on behalf of Lisa Taylor, Director of Finance, Investment and Risk and Section 151 Officer.

5 LEGAL CONSIDERATIONS

- 5.1 The Interim Director of Law and Governance 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, Interim Director of Law and Governance and Deputy 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.

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.

10 DATA PROTECTION IMPLICATIONS

- 10.1 Will the subject of the report involve the processing of ‘personal data’?

NO

Has a Data Protection Impact Assessment (DPIA) been completed?

NO

Data Protection Impact Assessments have 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.

Approved by: Rachel Soni, Interim Director of Commissioning & Procurement

CONTACT OFFICER:

Name:	Bianca Byrne
Post title:	Head of Commissioning and Procurement (Corporate)
Telephone no:	63138

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](#)

- *CAYSH Drop in Zone Variation Award.*