



# CABINET

<b>7.30 pm</b>	<b>Tuesday 13 June 2017</b>	<b>Council Chamber - Town Hall</b>
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Members 9: Quorum 5

Councillor Roger Ramsey (Leader of the Council), Chairman

**Cabinet Member responsibility:**

Councillor Damian White	Housing
Councillor Robert Benham	Children & Learning
Councillor Wendy Brice-Thompson	Adult Social Services and Health
Councillor Osman Dervish	Environment and Community Safety
Councillor Melvin Wallace	Culture and Community Engagement
Councillor Clarence Barrett	Financial Management, Transformation & IT
Councillor Ron Ower	Housing Development Company and OneSource Management
Councillor Joshua Chapman	Deputy Cabinet Member for Housing
Councillor Jason Frost	Deputy Cabinet Member for Environment, Regulatory Services & Community Safety

**Andrew Beesley**  
**Head of Democratic Services**

**For information about the meeting please contact:  
Debra Marlow tel: 01708 433091  
e-mail: [debra.marlow@onesource.co.uk](mailto:debra.marlow@onesource.co.uk)**



**Please note that this meeting will be webcast.  
Members of the public who do not wish to appear  
in the webcast will be able to sit in the balcony,  
which is not in camera range.**

## **Protocol for members of the public wishing to report on meetings of the London Borough of Havering**

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

## **AGENDA**

### **1 ANNOUNCEMENTS**

On behalf of the Chairman, there will be an announcement about the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

### **2 APOLOGIES FOR ABSENCE**

(if any) - receive

### **3 DISCLOSURES OF INTEREST**

Members are invited to disclose any interests in any of the items on the agenda at this point of the meeting. Members may still disclose an interest in an item at any time prior to the consideration of the matter.

### **4 MINUTES (Pages 1 - 4)**

To approve as a correct record the minutes of the meeting held on 10<sup>th</sup> May, 2017, and to authorise the Chairman to sign them.

### **5 CALL-IN OF A NON-KEY EXECUTIVE DECISION RELATING TO THE HIGHWAYS CAPITAL PROGRAMME 2017/18 (Pages 5 - 26)**

### **6 EX-GLC/ILEA PENSION FUND DEFICIT (Pages 27 - 34)**

### **7 ARRANGEMENTS FOR ONE ORACLE POST JULY 2018 (Pages 35 - 40)**

### **8 LOAN TO AND ACQUISITION OF LAND FROM HAVERING COLLEGE (Pages 41 - 58)**

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

To consider whether the press and public should now be excluded from the remainder of the meeting on the grounds that it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the press and public were present during those items there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government Act 1972; and, if it is decided to exclude the public on those grounds, the Committee to resolve accordingly on the motion of the Chairman.

### **10 ARRANGEMENTS FOR ONE ORACLE, POST JULY 2018 (Pages 59 - 66)**

### **11 LOAN TO AND ACQUISITION OF LAND FROM HAVERING COLLEGE (Pages 67 - 80)**





**MINUTES OF A CABINET MEETING**  
**Council Chamber - Town Hall**  
**Wednesday, 10 May 2017**  
**(7.30 - 8.00 pm)**

**Present:**

Councillor Roger Ramsey (Leader of the Council), Chairman

	<b>Cabinet Member responsibility:</b>
Councillor Damian White	Housing
Councillor Robert Benham	Children & Learning
Councillor Wendy Brice-Thompson	Adult Social Services and Health
Councillor Osman Dervish	Environment, Regulatory Services and Community Safety
Councillor Melvin Wallace	Culture and Community Engagement
Councillor Clarence Barrett	Financial Management, ICT (Client) and Transformation
Councillor Ron Ower	Housing Company Development and OneSource Management
Councillor Joshua Chapman	Deputy Cabinet Member assisting Cabinet Member for Housing
Councillor Jason Frost	Deputy Cabinet Member assisting Cabinet Member for Environment, Regulatory Services & Community Safety

**101 APOLOGIES FOR ABSENCE**

Apologies were received from Barbara Nicholls.

**102 DISCLOSURES OF INTEREST**

Item 5. Authority to submit funding application to Veolia Havering Riverside Maintenance Trust and development of mechanism for future funding of maintenance and management of Rainham Landfill aftercare.

Councillor Robert Benham declared a non-pecuniary interest as a Trustee of The Veolia Havering Riverside Maintenance Trust and absented himself from the meeting for the duration of the discussion and decision making process..

103 **MINUTES**

The minutes of the meeting held on 12<sup>th</sup> April, 2017 were agreed as a correct record and signed by the Chairman.

104 **AUTHORITY TO SUBMIT FUNDING APPLICATION TO VEOLIA HAVERING RIVERSIDE MAINTENANCE TRUST AND DEVELOPMENT OF MECHANISM FOR FUTURE FUNDING OF MAINTENANCE AND MANAGEMENT OF RAINHAM LANDFILL AFTERCARE**

Consideration was given to the report of Bob Flindall which was presented to Cabinet by Councillor Osman Dervish, Cabinet Lead Member for the Environment, Regulatory Services and Community Safety.

Cllr Dervish stated that until recently the Veolia Havering Riverside Maintenance Trust had been seeking to secure funding from the Landfill Communities Fund as an endowment to provide the management and maintenance of the restored Landfill Trust in perpetuity. The Trust has approximately £5 million of funds set aside for this purpose but due to legislative changes, this money will need to be spent much sooner than anticipated. The prior funding source is no longer available and new resources have to be found through a new mechanism to secure finance into the future.

The project has been established for fifteen years and represents a significant regeneration programme that will continue to provide good quality wild space as an important part of the local green infrastructure.

The concept of Rainham Wildspace was established in partnership with a number of other organisations and has successfully delivered a wide range of projects. In 2012 Havering Council intended to establish a strong decision making governance structure for Rainham Wildspace but this coincided with a planning application on behalf of Veolia UK to establish a longer period of landfill operation on the site. The subsequent planning agreement included the opportunity for the Council to acquire a pie crust lease to manage the site by or before October, 2031.

The Council have now been approached by Trustees with an invitation to apply to use Trust Funds to deliver projects that meet the objectives of the Trust and to seek out and develop alternative methods of funding.

It was noted that Members will be kept updated in respect of these matters through Executive Decisions and as part of the Capital Programme.

The Council have been involved in a number of meetings with the Trust and has met with the Government Department to establish whether it is absolutely necessary to wind up the Trust. All attempts to retain it have been unsuccessful.

Cabinet noted that use of funding will be in line with the Capital Programme and the terms of the scheme must be in accordance with the Trust objects and approved by ENTRUST (the regulatory body of the Trusts).

**For the reasons set out in the report, Cabinet:**

- **AGREED** that the Council prepare and submit funding applications to the Veolia Havering Riverside Maintenance Trust (the “Trust”) that meet the Trust objects and that the Chief Executive, after consultation with the Leader, shall have delegated authority to identify those projects and make the applications.
- **AGREED** that the Council consider the various options, to facilitate funding for the annual maintenance of and public access to the restored landfill site. Options to consider include the provision of financial support directly, via a trust or through a third party.
- **DELEGATED** authority to the Chief Executive after consultation with Director of Legal and Governance and the section 151 officer, to develop options and implement a solution to secure the management and maintenance of the completed landfill site including the facilitation of required funding streams. These options may include the Council taking responsibility for its management and upkeep and/or making financial provision with a third party (e.g. RSPB or Land Trust).

105 **THE CORPORATE PLAN 2017/18**

Consideration was given to the report of Pippa Brent-Isherwood, the Assistant Director of Policy, Performance and Community and this was presented to Cabinet by Councillor Clarence Barrett, Cabinet Member for Financial Management, ICT and Transformation.

Cllr Barrett detailed the draft Corporate Plan for 2017/18 which has been aligned to the new Vision for Havering which will be achieved through delivery of the four corporate priorities: Communities, Places, Opportunities and Connections.

Each priority has a “Plan on a Page” detailed in the agenda at pages 23 to 29, setting out the target outcomes in each area and what the Council will do to achieve these together with how progress and success will be measured.

The Corporate Performance Indicators (CPI's) underpin the Vision. The CPI set was approved in principle by Cabinet on 12th April, subject to any comments made by the Overview and Scrutiny Board at the meeting on 3<sup>rd</sup> May, 2017. There were no comments or amendments.

It was noted that much of the content of the proposed Corporate Plan is cross-cutting with many of the actions and achievements of the CPI's being the responsibility of not one but a number of services and partnership agencies all working together to secure excellent outcomes.

Cllr Barrett stated that the aim is to help and support local businesses and residents, in line with the new Council website, encouraging development and improvement for all.

**For the reasons set out in the report Cabinet:**

- **NOTED** that there were no comments or amendments to the list of Corporate Performance Indicators following the Overview and Scrutiny Board meeting on 3<sup>rd</sup> May, 2017.
- **RATIFIED** the decision in principle taken by Cabinet on 12<sup>th</sup> April, 2017, in respect of the Corporate Performance Indicators.
- **APPROVED** the Corporate Plan 2017/18

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**Chairman**





**CABINET**

<b>Subject Heading:</b>	<b>CALL-IN OF A NON-KEY EXECUTIVE DECISION RELATING TO THE HIGHWAYS CAPITAL PROGRAMME 2017/18</b>
<b>Cabinet Member:</b>	Councillor Osman Dervish
<b>SLT Lead:</b>	Steve Moore, Director of Neighbourhoods
<b>Report Author and contact details:</b>	<b>Richard Cursons, Democratic Services Officer</b>
<b>Policy context:</b>	<b>Highways Capital Programme. Overview &amp; Scrutiny Procedure Rules</b>
<b>Financial summary:</b>	Financial summary is covered in the appendix to the report
<b>Is this a Key Decision?</b>	No
<b>When should this matter be reviewed?</b>	N/A
<b>Reviewing OSC:</b>	Environment OSSC

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

**SUMMARY**

At its meeting on 24 May 2017, the Overview & Scrutiny Board resolve to uphold a requisition of a non-key executive decision concerning the Highways Capital Programme 2017/18. The matter is now referred back to Cabinet for its consideration.

**RECOMMENDATIONS**

That Cabinet Agrees:

- 1) To Implement the decision as set out in the non-key executive decision for the Highways Capital Programme 2017/18; or
- 2) Not to implement the decision as set out in the non-key executive decision for the Highways Capital Programme 2017/18

**REPORT DETAIL**

On 24 May 2017, the O&S Board convened to consider a requisition of a non-key executive decision, signed by the Cabinet Member for Environment, Regulatory Services & Community Safety, concerning the Highways Capital Programme for 2017/18 (draft minutes of the meeting are attached as Appendix A).

In accordance with the Overview & Scrutiny Procedure Rules, the O&S Board resolved to refer the decision back to Cabinet for its re-consideration.

In reaching its decision, the O&S Board made the following recommendations for Cabinet to consider:

- 1) That a more detailed business case was needed to explain the rationale for the selection of certain roads above others.
- 2) That the business case be provided at the end of the calendar year in conjunction with the use of the Horizon software.
- 3) There needed to be more detail on the number of requests received for works to be done in each road, details of input from highways inspectors and results from the UKPMS survey

Taking into consideration the recommendations of the O&S Board, Cabinet must now decide whether or not to implement the non-key executive decision signed by the Cabinet Member.

**REASONS AND OPTIONS**

**Reasons for the decision:**

**Cabinet is required to provide reasons regarding its decision on whether or not proceed with the implementation of the Highways Capital Programme 2017/18 executive decision.**

**Other options considered:**

Cabinet has two options:

- 1) To Implement the decision as set out in the non-key executive decision for the Highways Capital Programme 2017/18; or
- 2) Not to implement the decision as set out in the non-key executive decision for the Highways Capital Programme 2017/18

**IMPLICATIONS AND RISKS**

**Financial implications and risks:**

As set out in Appendix B to the report

**Legal implications and risks:**

As set out in Appendix B to the report

**Human Resources implications and risks:**

As set out in Appendix B to the report

**Equalities implications and risks:**

As set out in Appendix B to the report

**BACKGROUND PAPERS**

None

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## Appendix A

### **Draft Minutes of the OVERVIEW and SCRUTINY BOARD MEETING 24<sup>th</sup> May, 2017**

#### **CALL-IN OF A NON-KEY EXECUTIVE DECISION RELATING TO THE HIGHWAYS CAPITAL PROGRAMME 2017/18**

The report before Members detailed the call-in of a Non-Key Executive Decision relating to the Highways Capital Programme 2017/18

A requisition signed by Councillors Ray Morgon & Keith Darvill had called-in the Non-Key Executive Decision (17/35) dated 8 May 2017.

The reasons for the requisition were as follows:

There was a lack of detail in respect of the business case for each intended works.

There was no clear policy on the prioritisation of highways works to meet the Council's statutory duty.

There was a lack of detail as to why each scheme was in need of urgent attention.

There was a lack of data to provide evidence to back up the business case. There were no figures on the number of requests received for works to be done in each road, details of input from the ALO's and results from the UKPMS survey.

During the debate Members asked for and received several points of clarification which were provided by the Council's Director of Neighbourhoods and the Group Manager for Streetcare.

Several Members commented that roads previously prioritised for improvements had been chosen incorrectly as there were other roads throughout the borough that had been in more need of improvement works.

Members were advised that there were approximately 700km of roads and pavements in the borough but that the budget for improvements was fairly small at approximately £1 million. To put this into perspective officers advised that it cost on average £1k to resurface one linear metre of carriageway which equated to 1km a year out of the 700km in the borough.

Members noted that there were three types of highway improvement works these were:

- Reactive (pot holes etc.)
- Preventative (to extend the life of)
- Planned (works where a resurface was required)

Officers were currently investigating the business case for more planned works rather than reactive works on roads that had been previously repaired a number of times. Officers advised that it was a balancing act between invest to save planned

works which would be offset by increased insurance claims from areas where reactive works were not carried out.

Members also noted that roads were prioritised 1, 2 or 3 depending on their need for improvement.

Previously the Council had not used any software packages that would highlight and prioritise which highways needed improvement. A new software package (Horizon) had been purchased, for approximately £70/100k, which would enable officers to enter data which would help prioritise areas of need. Although the software was in place there was currently a lack of data from surveys, inspections and complaints as data collection was in its infancy.

Officers advised that currently the works chosen were inspection based. Inspections were carried out to every road in the borough either by foot or by car every year.

Safety assessments of roads were carried out where reports of repairs had been received from the public and Councillors and this information was analysed along with any history of insurance claims. Officers advised that the Havering had a good record of defending insurance claims.

Officers also measured traffic and pedestrian activity in roads throughout the borough.

Approximately 20/25% of roads in the borough needed improvements.

In roads where some improvement was needed slurry seal was a good option to extend the surface of a road and cost in the region of £6 per Sq m.

During the debate Members discussed the merits of contacting Councillors when programmes of works were being formulated to allow Councillors to nominate the worst two roads in their wards.

Members commented on several roads in the borough that were in a poor state of repair yet resurfacing works had been carried out on roads that were in a good state of repair. The resurfacing of Main Road was given as an example. Officers advised that works to Main Road had been carried out using funds from the LIP funding that was provided by Transport for London (TfL) and could only be spent on certain arterial and trunk roads within the borough.

Members felt it would be beneficial if this information was divulged to the public as some members of the public were unaware of these restrictions which led to increased correspondence for Councillors from constituents.

Officers advised that Lead Members were happy to engage with Members when work programmes were being formulated.

In response to several Members reports of individual cases of roads in need of repair, officers advised that any issues reported by Councillors or the public were logged and investigated.

Several Members commented that, as per the requisition, there was little rationale behind the roads chosen in the Highways Improvement Programme and that there appeared no clear policy on how the Council allocated resources.

Members commented that it would be useful if the narrative was extended to explain why some priority 1 schemes were chosen above others.

Officers advised that the Highways Asset Management Programme (HAMP) looked at the total value of the asset, looked at the asset condition and assessed the amount of money the Council should be spending each year to keep it in its current condition. Officers confirmed that current estimations showed that a sum in the region of £10million needed to be spent to keep the asset in its current condition alone. Officers confirmed that this increased the need for the business plan going forward as more capital needed to be invested in the Highways Improvement Programme.

Members noted that the overall condition of Havering's roads were of a good standard within the London borough's area and that the borough's A roads were in the top quartile.

Members agreed that going forward it was important that going forward if LIP funding was to be applied for then it was important that Member engagement took place at a far earlier stage to ensure that the funding received was used in the most effective way to the Council.

Officers advised that many authorities had lobbied TfL to relax the ring-fencing arrangements on where funding had to be spent and let the authority decide on its own priorities.

In response to a question relating to top-dressing of roads, officers confirmed that it was only an option on roads that had high vehicular movement as the treatment needed bedding in very quickly and was not always popular with drivers due to stone-chipping of vehicles.

Officers again advised that it was important that the business plan detailed achievable value from limited funding.

Members noted that with regards to the Horizon software, that this financial year would be a data input year that would enable better identification of roads going forward.

Following the debate Members made the following recommendations:

- The business case going forward needed more narrative as to why certain roads had been selected for works and not others.
- The business case would be provided at the end of the calendar year in conjunction with the use of the Horizon software.
- There needed to be more detail on the number of requests received for works to be done in each road, details of input from the ALO's and results from the UKPMS survey

The vote for the decision as to whether to uphold or dismiss the call-in was carried by 9 votes to 4 with 2 abstentions.

Councillors Kelly, Trew, Matthews, Morgon, Ganly, De Wulverton, Webb, Williamson and Darvill voted to uphold the call-in.

Councillors Crowder, Misir, Patel and Persaud voted to dismiss the call-in.

Councillors Ford and Wise abstained from voting.

It was **RESOLVED** that the call-in of the Non-Key Executive Decision (17/35) dated 8 May 2017 be upheld and referred back to Cabinet for its re-consideration.

DRAFT



17/35+  
appendices  
1-4.



**Havering**  
LONDON BOROUGH

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Highways Capital Programme 2017/18
<b>Cabinet Member:</b>	Councillor Osman Dervish
<b>CMT Lead:</b>	Dipti Patel
<b>Report Author and contact details:</b>	Ollie Miller <a href="mailto:Ollie.Miller@havering.gov.uk">Ollie.Miller@havering.gov.uk</a>
<b>Policy context:</b>	Maintaining our roads and footways is a key Administration policy directly linked to a Safe and Proud borough  The Corporate Plan includes specific commitments to maintain and clean our roads, pavements and town centres.  Highways Act 1980 outlines a duty of the council to maintain the highways at public expense free from danger.
<b>Financial summary:</b>	The agreed capital value of £0.425 million for 2017/18 for Street management contributes to the attached programme of works shown in Appendix 1 to 4.
<b>Relevant OSC:</b>	Environment Overview and Scrutiny
<b>Is this decision exempt from being called-in?</b>	No

**The subject matter of this report deals with the following Council Objectives**

Havering will be clean and its environment will be cared for	<input checked="" type="checkbox"/>
People will be safe, in their homes and in the community	<input checked="" type="checkbox"/>
Residents will be proud to live in Havering	<input checked="" type="checkbox"/>

**Non-key Executive Decision**

**Part A – Report seeking decision**

**DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

To approve the highway works schemes selected in appendices 1 to 4.

**AUTHORITY UNDER WHICH DECISION IS MADE**

Individual Cabinet members' responsibilities for functions are set out in Part 3, section 2.5 (D) of the Constitution.

"To determine priorities in conjunction with the relevant member of CMT (within the policy framework and budget)."

**STATEMENT OF THE REASONS FOR THE DECISION**

As Highway Authority, Havering has a statutory duty to maintain the public highway and ensure that it is in a safe condition. An annual preventative maintenance programme is critical to fulfilling this duty.

Further, preventative road maintenance helps improve the communities, places, connections and opportunities in Havering. The works programme detailed in this report contribute to the delivery of the Council's Vision of Making a Greater London. This will in particular deliver the theme around 'Place' and the ambition to *achieve a clean and safe environment for all*.

**Carriageway Works**

There is a need to prioritise the use of £0.160 million for carriageway works allocated by the Council for Highway Improvements and to ensure that the works are programmed for completion during the prescribed 2017/18 financial year. The works will be completed by the Council's Highway Maintenance Term Contractor.

The schemes chosen (see Appendices 1 & 2) are considered to be the most in need of urgent attention. The selection of scheme priorities includes the following:

1. Collation of all requests for works received from various sources including residents, businesses and Council Members.
2. Significant input from Area Liaison Officers who have an awareness of areas of concern, insurance claims and interim repairs.
3. The results of United Kingdom Pavement Management Surveys (UKPMS) Condition surveys.

### **Non-key Executive Decision**

Engineers prioritise works based on visual inspections made of the above and take into account the location, usage, and cost effectiveness of the required works.

### **Footway Works**

The need to prioritise the use of £0.265 million for footway works allocated by the Council for Highway Improvements and to ensure that the works are programmed for completion during periods 2017/18. The works will be completed by Havering's Highway Maintenance Term Contractor. Works will be supervised and scrutinised by Council highways maintenance engineers.

The schemes proposed (see Appendices 3 & 4 for locations) are considered to be the most in need of urgent attention. The selection of scheme priorities includes the following :

1. Collation of all requests for works received from various sources including residents, businesses and Council Members.
2. Significant input from Area Liaison Officers who have an awareness of areas of concern, insurance claims and interim repairs.

Suitably qualified and experienced engineers prioritise works based on visual inspections and take into account the location, usage, and cost effectiveness of the required works when finalising proposals.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

Preventative on going small scale maintenance assist in maintaining our roads and footways to a safe and reasonable level, although the schemes listed in the attached are deemed to be in greater need at this present moment in time, the alternative not to invest this capital funding would result in a further deterioration of capital assets resulting in more costly future repairs, possible safety implications and poor public perception.

### **PRE-DECISION CONSULTATION**

N/A


Non-key Executive Decision

OLLIE MILLER  
O Miller  
8-5-17

**NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Dipti Patel

Designation: Assistant Director, Environment

Signature: 

Date: 8/5/17

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

A Cabinet Report dated 18<sup>th</sup> January 2017 approved the award of the Term Service Contract to Marlborough Surface Limited. Therefore, there are no issues with the use of such contractor to carry out the works as set out in this report. Further, the overall budget for the contract term of 5 years has been approved by Cabinet by way of the award decision dated 18<sup>th</sup> January 2017; allocating £43 million to Reactive & Planned Highway Maintenance and Construction of Improvement Schemes in the borough.

Here Officers seek approval for the Street Management Capital Programme for 2017/2018 and the allocation of expenditure of £0.160 million for carriageway renewal and £0.265 million for footway renewal.

The London Borough of Havering as Highway Authority has a statutory duty to maintain the public highway (Highways Act 1980 s41) ensuring that it is in a safe and condition.

When carrying out the works Officers need to ensure the Contractor is mindful to ensure appropriate notices are lodged that include the Road Traffic Act 1988.

### FINANCIAL IMPLICATIONS AND RISKS

A £0.425 million capital allocation for highway renewals is available as part of the Street Management Capital programme for 2017/18. Approval is being sort to allocate £0.160 million for carriageway renewal and £0.265 million for footway renewal.

It is intended that all of this allocation will be spent during 2017/18. The carriageway and footway works referred to in this decision will be funded from both these allocations and the small amount of capital money carried over from 2016/17 of £0.176 million. This will cover the total cost of £0.601million for the proposed Highway works schemes shown in appendix 1 to 4.

Due to the nature of highway resurfacing works unforeseen circumstances within the highway construction phase could cause the amount of works necessary to change along with the associated costs. Two examples of this would be income generated from reduced rate vehicle crossovers within footway works that would reduce the overall costs of the works, while finding contaminated asphalt during excavating would increase disposal costs thus increasing the overall cost of works. All costs of works will be monitored to ensure that there will be no overspend of these capital budgets, even if this means deferring some of the proposed works to the following financial year.

The London Borough of Havering, in its capacity as the Highway Authority, has a statutory duty to maintain the public highway (Highways Act 1980 s41) ensuring that it is in a safe and passable condition and is maintained to an acceptable standard.

The risk of not carrying out these carriageway and footway renewals is that it would increase the chances of an accident occurring on these chosen schemes, for which

**Non-key Executive Decision**

the Council could find itself financial liable from third party claims.

**HUMAN RESOURCES IMPLICATIONS AND RISKS  
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no HR implications or risks arising directly as a result of this decision.

**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

Improved Highway condition will improve accessibility for all road users. There is no equality or social inclusion implications/risk from this proposed decision.

Where the highway infrastructure is being upgraded reasonable adjustments would be made to improve access for disabled people, which will assist the Council in meeting its duties under the Equality Act 2010.

**BACKGROUND PAPERS**

None

Non-key Executive Decision

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

~~Proposal NOT agreed because~~

**Details of decision maker**

Signed



Name: Cllr Osman Dervish

Cabinet Member for Environment, Regulatory Services & Community Safety

Date: 08/05/17

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on 10/5/2017

Signed 





17/35  
APPENDICES  
1 - 4

Appendix 1 – Carriageway Renewal Programme 2017/2018			
Road Name	Ward	Comments	Estimate
Wingletye Lane	Emerson Park	Minster Way to Dury Falls Close	£ 0.096m
		<b>Total</b>	<b>£ 0.096m</b>

**Appendix 2 – Carriageway Micro Asphalt Programme 2017/2018**

Road Name	Ward	Comments	Estimate
Preston Road	Gooshays		£ 0.014m
Tweed Way	Pettits		£ 0.011m
The Witherings	Emerson Park		£ 0.012m
Peerage Way	Emerson Park		£ 0.007m
Longfield Avenue	Romford		£ 0.008m
Eyhurst Avenue	Elm Park	St.Nicholas Avenue to Warren Drive	£ 0.012m
Springbank Avenue	Hacton		£ 0.006m
Sunningdale Road	South Hornchurch		£ 0.009m
Canterbury Avenue	Cranham		£ 0.016m
Trent Avenue	Cranham		£ 0.012m
		<b>Total</b>	<b>£ 0.107m</b>

Appendix 3 – Proposed Footway Renewals List 2017/18

Road Name	Ward	Comments	Treatment	Priority	Estimates
Ashbourne Road	Heaton	In area of school	Renew asphalt	1	£0.055m
Ashby Close	Cranham		Renew asphalt	1	£0.015m
Blenheim Close	Cranham		Renew asphalt	1	£0.015m
Collier Row Lane	Mawneys	Rex Close to Playfield Ave	Convert to asphalt	1	£0.075m
Holme Road	Cranham		Renew asphalt	1	£0.040m
Ingrebourne Gardens	Cranham	Front Lane to Eversleigh Gardens (south side)	Exact treatment is to be decided	1	£0.040m
Taunton Road	Heaton	Complete area not resurfaced last year	Convert to asphalt	1	£0.050m
				<b>TOTAL</b>	<b>£ 0.290m</b>

**Appendix 4 – Footway Slurry Programme 2017/2018**

<b>Road Name</b>	<b>Ward</b>	<b>Comments</b>	<b>Treatment</b>	<b>Estimate</b>
Swanbourne Drive estate	Hacton	Approx half of the estate to be selected after detailed inspection	Slurry	£0.109m
			<b>Total</b>	<b>£0.109m</b>

### **Appendix C - Supplementary note in response to issues raised by Overview and Scrutiny Board**

The current method of determining which roads and footways are prioritised for planned works each year is sufficiently robust for the original Executive Decision to stand and for the 2017/18 Highways Capital Programme to go ahead.

With only finite monies available to carry out highway capital works, a system of prioritisation has been used over many years to enable the Council to meet its statutory duty to maintain the public highway. Consideration is given by Council engineers to a range of factors when the locations are identified for the programme. Considerations include:

- Condition of surface
- Rates of deterioration
- History of claims against the Council
- Local environment
- Traffic levels
- Bus routes
- Pedestrian activity/ sensitive location
- Complaints
- Member enquiries

The types of works proposed to be undertaken in the capital programme fall into one of four categories and each were identified in the appendices to the original Executive Decision. Works are either full renewal or for micro-ashpalt and apply to either footways or carriageways.

It is worth noting that micro-ashpalt is more cost-effective than full renewal and can prolong the life of the surface considerably and cheaply. However, this type of work needs to be carried out on surfaces before they are so deteriorated that they would require full renewal. Therefore surfaces in the worst condition cannot be considered for micro-ashpalt, these normally require costly full renewal.

#### **Improvements to the process going forward**

The introduction of a specialist software system “Horizons” by the end of the year will inform all future highways capital programmes from 2018/19. The system will capture all highways condition data and in turn generate an output score that will be used to prioritise the boroughs roads and help inform decisions about maintenance spend. Thus resulting in a transparent and evidence-based prioritisation programme, supported by the professional expertise of the Council's engineers.

Additionally, the service will engage with local ward Members on the highways capital programme to further inform the decision making process and support the prioritisation and justification of the specific locations chosen.

***Ollie Miller. Group Manager Highways Traffic and Parking***

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**CABINET**

*13<sup>th</sup> June 2017*

**Subject Heading:**

*Pension Fund Deficit from the Former Greater London Council*

**Cabinet Member:**

*Councillor Barrett, Cabinet Member for Financial Management*

**SLT Lead:**

*Debbie Middleton, Chief Financial Officer*

**Report Author and contact details:**

*Paul Thorogood, Director of Finance (oneSource), 01708 432 365, paul.thorogood@oneSource.co.uk*

**Policy context:**

*The Council has a legal responsibility to meet it's liabilities*

**Financial summary:**

*The Councils has an outstanding contribution to the former Greater London Council pension fund liability estimated at £2.132m*

**Is this a Key Decision?**

*Yes, expenditure exceeds £500,000*

**When should this matter be reviewed?**

*The Councils contribution will be reviewed periodically as part of the actuarial review of the pension funds assets and liabilities by the London Pension Fund Authority*

**Reviewing OSC:**

*Overview and Scrutiny Board*

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering  
Places making Havering  
Opportunities making Havering  
Connections making Havering

**SUMMARY**

1. Following the abolition of the Greater London Council in 1986, the London Pension Fund Authority (LPFA) was established to take over specific functions of the London Residuary Body (the successor organisation), in particular the former pension fund and associated liabilities.
- 1.2 The former pension fund liability is the responsibility of all London Borough Councils to meet. The total liability at the last actuarial review conducted in 2016 was assessed at £177.209m and 90% of this liability (£159.488m) needs to be met by London Borough Councils. The liability includes the former Greater London Council and the Inner London Education Authority; however Havering is not responsible for contributing to the latter. The contribution and associated liabilities will be reviewed every three years when actuarial reviews of the fund are undertaken.
- 1.3 There is no direct link between the former employees of the London Residuary Body and individual boroughs, but collectively London Borough Councils are being held liable for the historical pension deficit that exists. The costs are to be apportioned on the most appropriate basis available. The Society of London Treasurers has agreed that the liability should be split on the current levy allocation. The Havering contribution to the liability is assessed as £2.132m or 1.34% of the total liability.
- 1.4 The terms of repayment of the liability to the LPFA are yet to be finalised, although the LPFA has indicated that it will be willing to negotiate repayment terms over a period up to 30 years.
- 1.5 The Council has not previously made budgetary provision for payment of this liability. Therefore the opportunity to pay over the long term of 30 years would be advantageous to the Councils financial planning. Assuming a 30 year term can be agreed annual payments would be in the region of £0.071m per year. If agreed for payments to commence in 2017/18 then this will be funded from the corporate risk budget and will be incorporated into the base budget from 2018/19 onwards as part of the 2018/19 budget setting process.

**RECOMMENDATIONS**

Cabinet are asked to:



2. Note the liability that is payable to the London Pension Fund Authority towards the pension fund deficit of the Greater London Council which is currently assessed at £2.132m.
- 2.1 Recommend to Council the approval of a payment of £2.132m towards the pension fund deficit of the Greater London Council over a period of up to 30 years.
- 2.2 To give delegated authority to the Chief Financial Officer to finalise the repayment terms of the liability with the London Pension Fund Authority.

<b>REPORT DETAIL</b>
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### **3 Background**

- 3.1 Following the abolition of the Greater London Council in 1986, and subsequently the Inner London Education Authority in 1990, the London Pension Fund Authority was established to take over specific functions of the London Residuary Body (the successor to the Greater London Council and Inner London Education Authority), in particular the former pension fund and associated liabilities.
- 3.2 In 1986 significant numbers of existing employees were transferred to new employers, principally the London Borough Councils although other employers were also involved with regard to specific functions. It was determined at that time that liabilities for those active members who moved to new employers should be transferred across to the new fund and accordingly an appropriate apportionment of the fund was calculated and eventually paid to the successor authority in 1990.
- 3.3 Liabilities for all current deferred and pensioner members of the Greater London Council and Inner London Education Authority remained within the London Pension Fund Authority fund, including the large number of staff who were made redundant on 31<sup>st</sup> March 1986.
- 3.4 Subsequently in 1990 the Inner London Education Authority was abolished and again a substantial number of existing staff transferred across to, principally, the Inner London Boroughs. The Local Government Pension Scheme regulations were amended at this time to stipulate that any employee of the Inner London Education Authority or London Residuary Body who transferred to a London borough, within a month of leaving, would remain within the London Pension Fund Authority fund and no apportionment would be made. Again large numbers of staff were made redundant around this time and these liabilities remained with the London Pension Fund Authority fund.
- 3.5 The London Residuary Body was formally wound up in 1996 although most staff had left by the end of 1992 with liabilities remaining within the London Pension Fund Authority fund.

3.6 The relevant liabilities can be split into two distinct groups as follows:

**4. Group 1 Former Greater London Council/London Residuary Body staff:**

4.1 When the Greater London Council was abolished in 1986 a number of staff transferred to successor authorities, principally the London Borough Councils and an apportionment of the fund was made at that time based on relevant actuarial assumptions. The transfer was only in respect of active members with deferred, pensioner and dependant liabilities remaining within the former Greater London Council/ Inner London Education Authority fund. As at 31<sup>st</sup> March 1986 active membership of the Greater London Council fund was approximately 37,500 with 3,652 transferring to successor authorities, over 2,000 entitled to immediate retirement benefits (the majority of which were paid early on redundancy grounds) and 1,650 other leavers. Liability for any deficit on this group largely rests with all the London Borough Councils.

**5. Group 2 Former Inner London Education Authority staff:**

5.1 The Inner London Education Authority was abolished in March 1990 with the Inner London Boroughs becoming education authorities in their own right and taking on the relevant functions associated with that body. Given the large number of staff involved there was no apportionment of the fund and instead those members transferring to Boroughs remained within the Inner London Education Authority fund. In total 9,000+ members transferred across, principally to the Inner London Boroughs, at that time.

5.2 A number of the members transferred have since moved away from direct Borough control, i.e. to Further Education Colleges and Schools. Again the pensioner and deferred liabilities for former Inner London Education Authority staff remained within the Greater London Council/Inner London Education Authority fund and this included a large numbers of early retirements and other withdrawals which took place in the run up to abolition. Liability for the non further education element rests with the Inner London Boroughs.

**6. Since Abolition of the Inner London Education Authority and London Residuary Body**

6.1 Following the abolition of the Inner London Education Authority and London Residuary Body, the London Pension Fund Authority divided the fund into two sub funds.

6.2 Following the 2007 actuarial review, the London Pension Fund Authority notified the London Borough Councils that they intended to issue a further charge due to the deficit that had arisen on the pensioner sub fund. At the time discussions were held with the Society of London Treasurers and draft

regulations were prepared by the Department of Communities and Local Government (or its predecessor) to give effect to the proposed levy. This process was challenged by two London Councils and by 2010 the position was unresolved.

- 6.3 The former Coalition government's preference was for the London Borough Councils and the London Pension Fund Authority to try to resolve the issue and subsequently the London Pension Fund Authority abolished the two sub funds which with the other changes to the investment strategy has led to an improvement to the deficit position.

## **7. Current Position**

- 7.1 Following the 2016 valuation of the fund, the overall total deficit on these liabilities is now £177.209m. Discussions with representatives of the Society of London Treasurers and the London Pension Fund Authority have clarified that a fair proportion of any deficit for the London Borough Councils to be responsible for 90% of the deficit and accordingly the proposals for further discussion would be based on this sum (£159.488m).

## **8. Proposal**

- 8.1 It is proposed that the Greater London Council/Inner London Education Authority deficit is apportioned to each London Borough Council in line with the current Levy allocation (i.e. 2016/17 Council Tax Base with a Greater London spread for group 1 and Inner London spread for group 2). This equates to a share of 1.34%/£2.132m for Havering. This will be reviewed three years when further actuarial reviews will be completed.
- 8.2 As the Council was not a member of the Inner London Education Authority we are only liable to contribute to group one relating to former members of the Greater London Council.
- 8.3 The Council need to finalise negotiations with the London Pension Fund Authority on how the liability will be paid and in line with the report recommendations delegated authority is requested for the Chief Financial Officer to conclude these arrangements.

### **REASONS AND OPTIONS**

- 8.4. The Council has a responsibility to meet its share of the former Greater London Council pension fund deficit. The payment mechanism can be entered into voluntarily as proposed, as the only alternative would be for the London Pension Fund Authority to apply to the Department for Communities and Local Government to issue regulations that would be legally binding on the Council.

**9. Reasons for the decision:**

9.1 For the Council to meet its long term liabilities.

**10. Other options considered:**

10.1 The Society of London Treasurers considered in 2010 with the London Pension Fund Authority the option of issuing regulations through the Department of Communities and Local Government however this was unsuccessful.

**IMPLICATIONS AND RISKS**

**11. Financial implications and risks:**

11.1 The Council currently incurs an annual levy of £0.235m from the LPFA in respect of expenditure on premature retirement compensation and outstanding personnel matters for which the LPFA is responsible but cannot charge to its pension fund. This levy is included within the Council's approved budget.

11.2 The Council has a financial duty to meet its liabilities in the both the short and long term. The Council is required to fund its share of the total assessed liability of £177.209m for all London Boroughs resulting from the 2016 valuation of the pension fund. Havering's share is determined to be £2.132m for the Greater London Council only.

11.3 The Council has not previously made any budgetary provision for payment of this additional £2.135m liability. Therefore the opportunity to pay over the long term of 30 years would be advantageous to the Council's financial planning. Assuming a 30 year term can be agreed annual payments would be in the region of £0.071m per year.

11.4 If agreed for payments to commence in 2017/18 then this will be funded from the corporate risk budget and will then be built into the base budget from 2018/19 onwards through the 2018/19 budget setting process.

11.5 Alternative options will be explored with the London Pension Fund Authority to fund the deficit, including the possibility of the additional levy being offset against future reductions in the existing levy referred to in 11.1 above. The final decision will be made by the Chief Finance Officer, subject to Cabinet approval of the delegation.

**12. Legal implications and risks:**

- 12.1 The London Pensions Fund Authority (LPFA) was established by the London Government Reorganisation (Pensions etc.) Order 1989.
- 12.2 The property rights and liability of the London Residuary Body (the successor to the GLC etc) in relation to pensions were transferred to it and under the same order the LPFA was given the power to raise levies on inner and outer London Boroughs in accordance with the Order.
- 12.3 In formulating its budget for each financial year, the LPFA should have regard to the following general principles:
- It must exercise its statutory powers and duties for the purposes they were enacted and must comply with the requirements of all relevant enactments;
  - It is under a duty at common law to act reasonably in the Wednesbury sense (i.e. it must take into account relevant factors and no irrelevant ones and must not come to a decision that is irrational);
  - It has to comply with its duty properly to administer the Pension Fund in accordance with the applicable legislation and its fiduciary duty to promote the financial interests of the pensioners, members and employers of the Fund;
  - It has a general fiduciary duty to the council taxpayers of the authorities upon which any levy is to be raised to strike a fair balance between the financial interests of those taxpayers and those who will benefit from the expenditure or the forgoing of income.

**13. Human Resources implications and risks:**

- 13.1 There are no human resources implications associated with this paper.

**14. Equalities implications and risks:**

- 14.1 There are no equality implications arising from this report.

**BACKGROUND PAPERS**

None

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**CABINET**

**Subject Heading:**

Arrangements for One Oracle post July 2018

**Cabinet Member:**

Councillor Ron Ower

**SLT Lead:**

Jane West, Managing Director, oneSource

**Report Author and contact details:**

Jane West  
020 3373 2703  
jane.west@onesource.co.uk

**Policy context:**

Havering’s contract with Capgemini for the provision of its One Oracle R12.1 solution for finance, HR and payroll ends in July 2018. Alternative arrangements need to be put in place to secure the availability of the One Oracle R12.1 solution for at least one year after July 2018.

**Financial summary:**

It is recommended that a new contract be entered into with the existing provider Capgemini. The new contract with Capgemini requires set up costs of £55,000 and an ongoing contract cost of £497,709 per annum which is an additional cost per year of £30,000.

**Is this a Key Decision?**

Yes  
(a) Expenditure or saving (including anticipated income) of £500,000 or more

**When should this matter be reviewed?**

A further review of the contractual arrangements will be required in a year’s time.

**Reviewing OSC:**

Overview and Scrutiny Board

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

**SUMMARY**

The current contract with Capgemini for the provision of Havering's One Oracle Finance, HR and Payroll system expires in July 2018. The long term strategy for the replacement of these systems is still being worked through and will not be completed by July 2018. It is therefore necessary to put in place alternative arrangements from July 2018.

Capgemini have submitted a proposal for arrangements after July 2018. Other options have been explored but the Capgemini proposal is the only option considered to be suitable. The proposal is to use Crown Commercial Services G-Cloud to award a contract to Capgemini for a period of at least one year.

This proposal has an additional cost per year of £30,000 and a set up cost of £55,000. There is an existing shortfall in annual budget for the One Oracle system of £190,000. The additional budget requirement of £220,000 will be funded from Havering's 2018/19 ICT revenue funding. The overall ICT budget is currently subject to review to understand the full underlying pressure.

It is also proposed that the resources currently managed by London Borough of Brent on behalf of the One Oracle Partnership are returned to be managed within oneSource, within the existing budget.

**RECOMMENDATIONS**

1. That Havering enter into a contract with Capgemini, if possible through a Crown Commercial Services G-Cloud framework for the One Oracle R12.1 solution for a period of at least one year.
2. That the resources in relation to Havering's One Oracle Shared Applications Support Team be transferred to oneSource at the appropriate time.
3. The additional budget required per annum of £210,000 will need to be identified from the oneSource ICT budget (currently under review) in relation to the additional cost above base budget of the new contract with Capgemini, due to an ongoing



shortfall in the current budget for One Oracle (the shortfall is being met from one-off funding from the Strategic Reserve in 2017/18)

4. That the Managing Director, oneSource be delegated authority to finalise the contractual arrangements with Capgemini.

**REPORT DETAIL**

In July 2012, six London Councils entered into an agreement with Capgemini to deliver a solution known as “One Oracle” into their back office services supporting HR, Finance, Procurement and Reporting. The solution was defined on common One Oracle processes and procedures being shared across the partner councils. Newham joined the partnership and went live with the system in April 2016.

The members of the One Oracle partnership have agreed not to continue with the current arrangements beyond July 2018. oneSource is therefore seeking a solution to replace the current One Oracle hosting and support agreement in Havering and Newham separately to the other partner councils (who are also seeking solutions independently), albeit collaborating with other authorities where there is benefit in doing so.

The other boroughs (with the exception of Barking & Dagenham, which is to be confirmed) are all planning to move to Oracle Cloud, albeit at different times as shown in the table below. As an interim step, Brent has decided to host their own on-premises Oracle R12.1 solution in advance of moving to Cloud post 2020.

<b>2018</b>	<b>2019</b>	<b>2020+</b>
Lambeth	Croydon	Brent
Lewisham		Barking & Dagenham (TBC)

Havering and Newham have yet to make a decision on the way forward. Newham has commissioned an independent review of its options from Gartner and the outcome of this review is awaited. Once this is received, and Newham have had an opportunity to consider its findings, oneSource will be able to devise either a joint strategy or separate strategies for Havering and Newham.

But in the meantime it is clear that the two boroughs will need to continue using the current One Oracle R12.1 solution until at least April 2019 which is beyond the timeframe of the current contract with Capgemini.

The current cost of the Capgemini contract per annum is £468,000.

A further consideration is that the seven boroughs have in place a Shared Application Support Team based in Lambeth but managed by Brent. The cost of this team to the council is currently £168,000 per annum.

The total cost of the current system, excluding Oracle licences and in-house support, is therefore £636,000.

### **Recommendation and Options**

There are two options for replacement arrangements for the current Capgemini contract within the time available before the current contract expires:-

- Put in place arrangements with Brent to use their planned One Oracle R12.1 solution hosted on Brent's infrastructure
- Put in place a new arrangement with Capgemini to continue to host the One Oracle R12.1 solution after July 2018.

The detail in relation to these options is contained in the Part B confidential Cabinet paper.

### **Shared Application Support Team**

There is no demand, post July 2018, for a shared arrangement across the boroughs for application support. In the Finance restructure, oneSource established a Business Systems Team that brought together technical staff who were responsible for the One Oracle R12.1 system in Havering and Newham, the Oracle system in Bexley and an assortment of other financial systems. It is proposed that this team be supplemented by the resources currently located within the Shared Application Support Team managed by Brent but who are identified as supporting Havering and Newham. The Business Systems Team will then assume responsibility for all the calls currently dealt with by the Shared Application Support Team and will interface directly with Capgemini for calls that they are unable or do not have the access rights to fix themselves.

## **REASONS AND OPTIONS**

### **Reasons for the decision:**

Havering's contract with Capgemini for the provision of its One Oracle R12.1 solution for finance, HR and payroll ends in July 2018. Alternative arrangements need to be put in place to secure the availability of the One Oracle R12.1 solution for at least one year after July 2018.

### **Other options considered:**

The potential option of an open tender process for the One Oracle R12.1 solution was discounted as there is insufficient time to run such a process and for an alternative provider to reprovision the solution onto their own infrastructure before July 2018. It is also unlikely that the market would be interested in responding to such a process as the Oracle R12.1 solution will not be maintained by Oracle after December 2021 and so the lifespan of any R12.1 contract would be severely limited.

A further potential option of oneSource hosting the One Oracle R.12 solution within its own ICT infrastructure was also considered but discounted. This would require a new procurement exercise to be undertaken, similar to the one undertaken by Brent already, to find a partner to facilitate the transfer from Capgemini. There is insufficient time available to undertake such a procurement. There is also insufficient time to design, cost and implement an on-premises solution within oneSource's ICT infrastructure. There is no assurance that the cost of such a solution would be less than the cost of the service on offer from Capgemini.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

The new contract with Capgemini requires set up costs of £55,000 and an ongoing contract cost of £497,709 per annum which is an additional cost per year of £30,000. There is an existing shortfall in annual budget for the One Oracle system of £190,000. The additional budget requirement of £220,000 will be funded from Havering's 2018/19 ICT revenue funding. The overall ICT budget is currently subject to review to understand the full underlying pressure.

### **Legal implications and risks:**

This report seeks delegated authority to be given to the Managing Director of oneSource to conclude the contractual arrangements regarding the continuation of the One Oracle service currently delivered by Capgemini for at least one year.

Delegation of authority for this Key Decisions is rightly being sought from Cabinet in accordance with section 17(b) of Part 4 of the Havering Constitution and clause 9 of the oneSource Scheme of Delegation requiring all delegations to comply with the specific Authority's Constitution.

The oneSource Managing Director's authority to enter into the proposed contractual arrangements derives from the delegation to the oneSource Joint Committee by the Council to control and co-ordinate the Council's back office

functions including Business Systems as specified in Article 11.02(e) and section 2.8(c) of Part 3 of the Havering Constitution.

The proposed use of one of the CCS' G Cloud frameworks is permitted as the London Borough of Havering is named as one of the contracting authorities authorised to call off the frameworks. This complies with the provisions of Regulation 33 of the Public Contracts Regulations 2015 (the Regulations).

Finally, the approved procurement route must be conducted in accordance with the Regulations and the provisions of the Council's Contract Procedure Rules and Constitution.

**Human Resources implications and risks:**

Two contractors currently work on behalf of oneSource for the Shared Application Support team run by Brent. The proposal will be to bring the service back in-house and therefore a reorganisation will be required nearer the time.

**Equalities implications and risks:**

Any staff reorganisation will require an Equalities Impact Assessment to be undertaken.

**BACKGROUND PAPERS**

None

## CABINET

13 June 2017

**Subject Heading:**

Loan to and Acquisition of Land from Havering College

**Cabinet Member:**

Cllr Roger Ramsey - Leader of the Council & Cabinet Member for Value

**SLT Lead:**

Andrew Blake-Herbert - Chief Executive Officer

**Report Author and contact details:**

Garry Green, Head of Property, oneSource  
[Garry.Green@onesource.co.uk](mailto:Garry.Green@onesource.co.uk)

**Policy context:**

Economic Development

**Financial summary:**

The immediate purchase of the freehold of the Quarles Campus by the Council from HCF&HE for an amount as set out in the Exempt part of this Report, and the potential to make a loan of £2,800,000 to the College by the Council.

The terms of any loan will need to ensure that the Council's costs are covered as a minimum; that adequate security for the loan is in place; that the loan does not constitute unlawful State Aid and that the College's financial arrangements are such that the Council can be assured that repayment of the loan is realistic and affordable for the College; and that it is not directly linked to the lease agreement, as confirmed by a specialist VAT adviser.

Detailed financial implications can be found in Section 4 and the Exempt part of this Report.

**Is this a Key Decision?**

Yes

**When should this matter be reviewed?**

Spring 2018

**Reviewing OSC:**

Towns and Communities

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	[ X ]
Places making Havering	[ X ]
Opportunities making Havering	[ X ]
Connections making Havering	[ X ]

**SUMMARY**

A Report to Cabinet on the 18 January 2017 outlined a proposed loan from Havering Council to Havering College of Further & Higher Education (HCF&HE) for the purposes of facilitating proposed improvements to the College's Rainham Campus in New Road, Rainham, RM13 8GP and Cabinet agreed, in principle, subject to due diligence:

- a. to enter into an option from Havering College [*for the Council*] to acquire the Quarles Campus site (which can be assignable to another body or party of the Council's choice).
- b. the provision of loans up to £10,000,000 (ten million pounds) from the Council to Havering College.

Subsequently, in April 2017, it was formally announced that the Barking & Dagenham College (B&DC) and HCF&HE are considering a possible merger.

The respective Boards of Governors of the Colleges have launched a public consultation to obtain views on the proposal. A final decision on the merger is expected to be made by July 2017, with implementation in August 2017. Any outstanding liability would be automatically assigned to a new College Corporation existing after the merger.

For the reasons set out in the Exempt part of this Report, it has been necessary for the College to propose a different approach to this transaction that would involve the Council acquiring their Quarles Campus immediately rather than having an option to do so. Additionally, the need for a loan previously sought by the College from the Council is under consideration but if required would be reduced to £2,800,000 (two million & eight hundred thousand pounds) as the Quarles Campus land receipt and possible other funding from the merger arrangements would be available to the College, removing the need for an additional loan amount.

The land sale would permit Havering College to secure match funding in order to take advantage of a Local Enterprise Panel (LEP), now renamed as London Economic Action Partnership (LEAP), for the development of a proposed Construction Infrastructure Skills and Innovation Centre (CISIC) and improvements to an existing building all at HCF&HE's Rainham Campus, New Road, Rainham.

It is now proposed that, subject to further due diligence:

1. Havering Council will immediately purchase outright HCF&HE's freehold interest in the Quarles Campus at Tring Gardens, Harold Hill and would acquire and hold the property for 'planning purposes' under the Town & Country Planning Act 1990; and
2. the Council will simultaneously lease back the site to HCF&HE for a term up to September 2019 at a peppercorn rent, contracted outside of the security of tenure provisions of the Landlord & Tenant Act 1954, with a provision for HCF&HE to be able to break the lease early once they have vacated the site.
3. using part of the proceeds from the sale of the Quarles Campus to the Council, HCF&HE will simultaneously discharge both of the following existing loan arrangements -
  - (a) a bank loan, which is currently secured by a Legal Charge against the freehold title of the College's Ardleigh Green Campus; and
  - (b) a Dept. for Education loan, administered by the Education and Skills Funding Agency (ESFA), currently secured by a Legal Charge against one of the freehold titles of the Quarles Campus.
4. that the possible involvement of the Council's wholly owned company, Mercury Land Holdings Limited (MLH), in seeking planning permission and/or acquiring and redeveloping the site to be the subject of a future decision.
5. The Council will, if required, loan to HCF&HE's up to £2,800,000 (two million & eight hundred thousand pounds) for a period of up to 10 years. Irrespective of the amount of the loan, the Council will be protected by a first legal charge against the entirety of the College's Ardleigh Green Campus as security.

<b>RECOMMENDATIONS</b>
------------------------

It is recommended that the Cabinet:

1. Agree 'in principle', the following revised proposals –
  - (a) in respect of the Quarles Campus –
    - (i) for Havering Council to immediately purchase from Havering College the freehold interest in the Quarles Campus, Harold Hill site on the terms set out in the Exempt part of this Report and to acquire

and hold the property for 'planning purposes' under the Town & Country Planning Act 1990; and

- (ii) the Council will simultaneously lease back the Quarles Campus site to HCF&HE for a term up to September 2019 at a peppercorn rent, contracted outside of the security of tenure provisions of the Landlord & Tenant Act 1954, with a provision for HCF&HE to be able to break the lease early once they have vacated the site; and
- (iii) that the possible involvement of the Council's wholly owned company, Mercury Land Holdings Limited (MLH), in seeking planning permission and/or acquiring and redeveloping the site to be the subject of a future report.

(b) in respect of a loan to the College –

- (i) the Council entering into a Loan Agreement, if required, for a loan of up to a total of £2,800,000 (two million & eight hundred thousand pounds) from the Council to HCF&HE; and that
- (ii) the Council's security for such a loan will be a first legal charge against the freehold title of the entirety of HCF&HE's Ardleigh Green Campus, Hornchurch.

all on the terms set out in the Exempt part of this Report.

2. Agree to meet the capital financing costs associated with the acquisition of the Quarles Campus from the Transformation Reserve (formerly Strategic Reserve) in 2017/18 and future budgetary provision to be built into the proposed base budget for 2018/19 to be subsequently considered for approval by Council.
3. Delegate to the Section 151 Officer:
  - (a) the carrying out of the degree and extent of due diligence they consider necessary having regard to the proposals, in particular having regard to assessing the ability of the College to repay any loan provided to it by the Council;
  - (b) the release of loan monies to the College in accordance with the terms of the proposed Loan Agreement which, irrespective of the amount of the loan, will be protected by a first legal charge against the title of the entirety of the College's Ardleigh Green Campus in favour of the Council, as security.
4. Delegate to the Head of Property, oneSource, following consultation with the Director of Legal and Governance and the S.151 Officer and after undertaking any necessary property due diligence the preparation and entering into all



necessary legal documentation to bring the proposed arrangements in Recommendation 1. into effect.

**REPORT DETAIL**

**1. BACKGROUND**

- 1.1. Havering College of Further and Higher Education (HCF&HE) is an independent organisation. It currently provides education to around 8,500 students and has around 476 full-time equivalent staff.
- 1.2. HCF&HE currently operates from three campuses within the Borough. Its main campus is at Ardleigh Green, Ardleigh Green Rd, Hornchurch. It also operates a Rainham Campus at New Road, Rainham (near Dovers Corner) and the Quarles Campus, Tring Gardens, Harold Hill.
- 1.3. HCF&HE became fully independent of the local authority in 1993; it is governed by an independent Board (the Corporation). Governance arrangements are outlined in the College's Instruments and Articles.
- 1.4. HCF&HE wish to expand their Rainham Campus have successfully applied for funding from the Local Enterprise Panel (LEP) to build a Construction Infrastructure Skills and Innovation Centre (CISIC) on the site costing £10,800,000 (ten million & eight hundred thousand pounds).
- 1.5. The Further Education sector is under financial pressure due to a combination of the falling numbers of 16-18 year olds in many areas of the country; reducing funding rates; increasing cost pressures such as on pensions; more competition for post 16 learners from school 6<sup>th</sup> forms, academies, UTCs and free schools; and more competition from HEIs for learners that may previously have attended colleges for Higher Education in FE.
- 1.6. In July 2015, the government published a policy statement setting out its approach to a programme of national Area Reviews of post-16 education and training institutions designed "*to establish the appropriate set of institutions (colleges and providers) to offer high quality provision based on the current and future needs of learners and employers within the local area*". There is a national process of Area Reviews that are being conducted.
- 1.7. In London, the review process is being undertaken in conjunction with the London Mayor and the boroughs are working with the government review process on the Area Reviews. Area Reviews are likely to recommend

merging of institutions in order to make the Further Education sector more resilient.

- 1.8 The November 2016, the Government's Comprehensive Spending Review signalled continuing austerity and the likelihood that non-protected public services such as post 16 further education will continue to experience real reductions in funding for the medium term and, in the current economic environment, there is little prospect of government addressing the unfavourable college Further Education funding rates compared with other parts of the education sector.
- 1.9 Barking & Dagenham College (B&DC) have their main site in Dagenham Road, Rush Green, one mile to the south-west of the centre of Romford. HCF&HE and B&DC have co-operated over a number of years, and have a strategic relationship. It is likely that the two Colleges will agree a formal merger from August 2017.

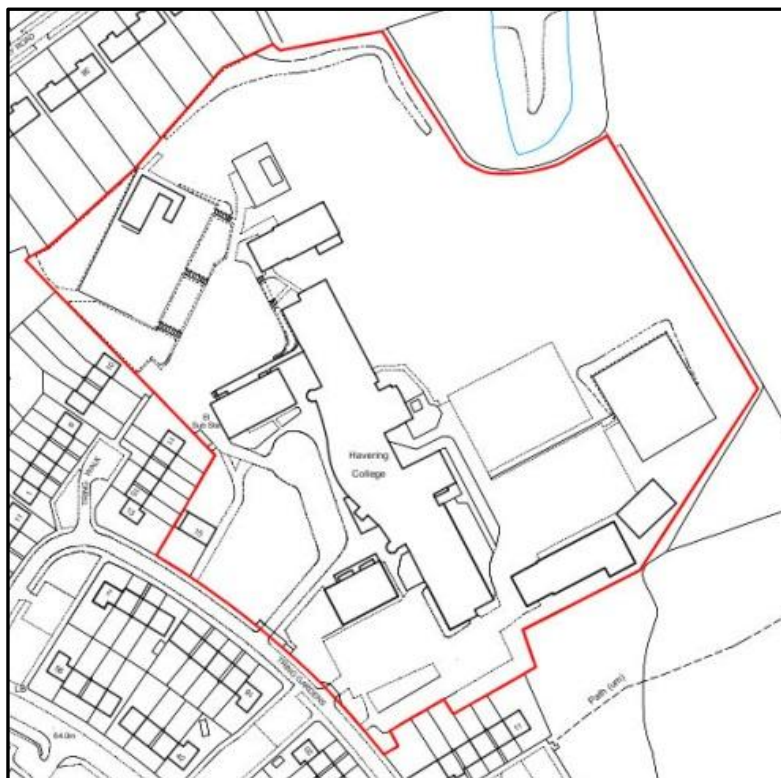
## **2. HAVERING COLLEGE OF FURTHER & HIGHER EDUCATION**

- 2.1 HCF&HE's main site is the **Ardleigh Green Campus**, which is intended to remain the case.
- 2.2 The **Quarles Campus** in Tring Gardens is a large developed site located at the northern edge of Harold Hill, within the Borough. Prior to the existence of the National Planning Policy Framework, the site had the planning designation of a Major Developed Site in the Green Belt.
- 2.3 Currently, HCF&HE provides a range of further and higher education programmes in engineering, plumbing, health and social care, catering, sport and public services and social work and policy. For the 2016/17 academic year Quarles Campus has 1,515 students and around 200 staff.
- 2.4 HCF&HE has had a long-standing wish to relocate their provision from this site, due to the age of the premises. The main building was erected for the Quarles Secondary School, which opened in 1955. There are seven additional buildings situated throughout the remainder of the site.
- 2.5 The total gross internal area of all of the buildings is circa 8,350 m<sup>2</sup> which accommodate: Hospitality and Catering; Sport and Public Services; Foundation Learning (SEND), including a high dependency Bungalow; Engineering (including railway engineering) and Plumbing; Health and Social Care.

2.6 The illustration below shows the extent and types of building currently on the Quarles site –



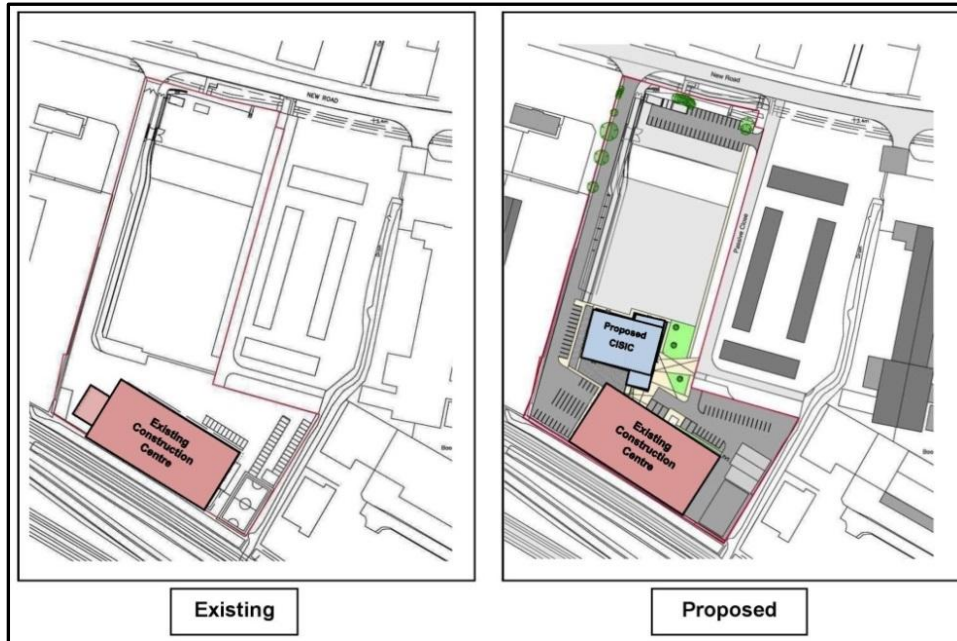
2.7 The extent of the Quarles Campus site is as edged on the plan below -



- 2.8 HCF&HE would require time to re-organise and relocate their education provision from the Quarles Campus site, and the Council's proposed immediate freehold purchase of the site from HCF&HE and simultaneous grant of a short-term lease back to them would give them sufficient time to relocate from the Quarles Campus.
- 2.9 It will be important that any re-provision of the Foundation Learning (SEND) ensures that learners are still able to access suitable further education, in appropriate facilities, within a reasonable travel-to-study distance. Places on the Foundation Learning provision are commissioned by Local Authorities and it is important to engage early with the relevant commissioners to ensure any disruption is kept to a minimum.
- 2.10 In discussions with HCF&HE, the Council and HCF&HE have both agreed that continued provision of Further Education would be needed within the Harold Hill area, and that in the period in which the College is preparing their detailed relocation plans, a suitable location for such provision would be found. This requirement would be part of the Council's proposed agreement with HCF&HE.
- 2.11 The **Rainham Campus at New Road, Rainham** currently provides 55 construction courses from a large three-storey detached building at the rear of the site known as 'Burnside House' and HCF&HE wish to expand the facilities by building a Construction Infrastructure Skills and Innovation Centre (CISIC) on the site, with the total project costing £10,800,000 (ten million & eight hundred thousand pounds).
- 2.12 The CISIC concept was developed through employer and stakeholder consultation and includes potential ground breaking technology in the Further Education sector of Building Information Modelling, Computer Aided Design with a Virtual Engineering, Virtual Reality offer. The provision would support on an annual basis extra c.500 learners. Given the expected construction activity in this part of London, such an offer should greatly support Havering residents into construction related employment.
- 2.13 In early 2015, with assistance from Havering Council, HCF&HE applied for funding to the London Local Enterprise Panel (LEP) for their proposed CISIC Project and also submitted a planning application (Ref: P0196.15) for -

*Havering College of Further and Higher Education, New Road, Rainham, RM13 8GP*

*"Erection of a part two, part three storey 'Construction and Infrastructure Skills and Innovation Centre' with covered pedestrian link, external alterations to the existing building and alterations to the existing servicing arrangements and car parking provision along with associated landscaping and a cycle / pedestrian path."*



2.14 In March 2016, HCF&HE was allocated capital funding of ‘up to £5,446,191’ by the London Local Enterprise Panel (LEP) for 50% of the cost of their proposed Construction Infrastructure Skills and Innovation Centre (CISIC) project, for:

*Skill: Infrastructure and Construction Engineering*

*Funding will help create a Construction & Infrastructure Skills & Innovation Centre at the site in Rainham, as well as 2,762 m<sup>2</sup> of essential additional learning space for professional and trade skills in infrastructure (rail) and construction engineering. The project will also see the refurbishment of the college’s existing construction centre and the installation of a Virtual Reality, simulated learning environment, unique in construction FE in the UK.*

2.15 The LEP grant was approved on the basis that HCF&HE matched such funding. With the grant funding, together with the receipts from the immediate sale of the Quarles Campus to the Council and, if needed, a secured loan of up to £2,800,000 from Havering Council, HCF&HE intends to deliver a Rainham Construction Infrastructure Skills and Innovation

Centre (CISIC), refurbish the existing facilities at the Rainham Campus and restructure their existing loans.

- 2.16 The planning application had been 'on hold' at the applicant's request since April 2015. However, revised information was submitted and received by the Council's Planning Department on the 15 February 2017 in respect of the strategic Rainham cycle / pedestrian path running through the site and on the 21 April 2017 the Flood Risk Assessment and the application was considered by the Regulatory Services Committee on the 11 May 2017.
- 2.17 It was Resolved that consideration of the report be deferred to allow officers to contact the applicant to explore –
- Whether more parking spaces could be provided on site.
  - Whether the land to the north of the site was within the applicant's control.
  - Whether there was a highway safety issue in Passive Close arising from the proposal.
  - Whether the new building could be located further away from the existing building to facilitate vehicular access from New Road instead of Passive Close.
- 2.18 In December 2016, the LEP was renamed the London Economic Action Partnership (LEAP) and has the aim of bringing entrepreneurs and business together with the Mayoralty and London Councils to identify strategic actions to support and lead economic growth and job creation in the capital.
- 2.19 In order to provide the match funding that would be needed for the re-development of the Rainham Campus, New Road, Rainham; HCF&HE are seeking to sell their freehold interest in the Quarles Campus, Tring Gardens, Harold Hill to the Council.
- 2.20 There are currently approximately 318 students registered Rainham Campus. On completion of the CISIC, HCF&HE will be able to accommodate approximately 732 full-time students and 551 part-time students. The expansion will also create a further 60 full time jobs, taking the numbers of employees from 30 to a total of 90.

### **Recommendation**

- 2.21 This Report recommends that the Council purchases the freehold interest of the 9.345 acres (3.782 ha) Quarles Campus from HCF&HE and leases the Campus back to HCF&HE on a short-term lease contracted outside of the security of tenure provisions of the Landlord & Tenant Act 1954 for a

period whilst they build their proposed CISIC at their Rainham Campus and then transfer courses and students from the Quarles Campus.

**REASONS AND OPTIONS**

**Reasons for the decision:**

- 3.1 That a loan from Havering Council, if required, together with the acquisition of the Quarles Campus will ensure that HCF&HE has the match funding it needs to take up the LEP / LEAP grant funding allocation of up to £5,446,191 to build the proposed CISIC facility & refurbish the existing facilities on their Rainham Campus and restructure their existing bank loans will ensure HCF&HE is in a stronger position to continue to provide educational provision within the Borough and will assist in securing suitable and sustainable further education provision for residents of the Borough.
- 3.2 The provision of a loan to HCF&HE would also assist them to improve their facilities within the Borough and plug a construction skills gap in the region.
- 3.3 The acquisition of the Quarles Campus by the Council would enable that site to be held and used for a suitable purpose in accordance with the Council's policies and with the objective of supporting the local economy in order to benefit, improve and develop the Borough, in due course.
- 3.4 The interest on any loan and repayment of principal would not commercially disadvantage the Council i.e. the terms of the loan would, as a minimum, meet the Council's costs and the level of return the Council can currently achieve through its Treasury Management activities.

**Other options considered:**

- 3.5 There exists the do-nothing option. It is possible in this position that the Quarles Campus site would be disposed of by HCF&HE to a third-party, subject to restrictive covenants on the site in the Council's favour; however, the Council's influence on the site's future may well be limited.
- 3.6 A more likely option is that, if the immediate acquisition of the freehold interest in the Quarles Campus and a loan of up to £2,800,000 (if required in addition) was not offered by the Council to enable the HCF&HE to discharge existing bank and DfE loans to HCF&HE and to meet the match funding requirement for the LEP / LEAP grant allocation of up to £5,446,191, then the opportunity to provide a state of the art construction facility in Rainham is likely to be lost. An important education facility for the future of the Borough's residents would not be able to go ahead, which the

authors believe would be detrimental to the interests of the Borough, and its residents.

## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

- 4.1 The immediate purchase of the Quarles Campus by the Council would represent capital expenditure.
- 4.2 The purchase would be from the £100,000,000 (one hundred million pounds) capital budget allocated within the 2016/17 capital programme (as agreed by Council / Cabinet in February 2016) for regeneration and development, subject to the completion of due diligence and approval of the business case. There will be capital finance costs incurred in the financial year the property is acquired and subsequently. There is currently no budget identified to meet revenue costs. There are insufficient unallocated capital receipts available within the Council's capital programme to purchase the site. There will also be Stamp Duty Land Tax, Minimum Revenue Provision and VAT implications.
- 4.3 It should be noted that whilst the £100,000,000 capital budget was approved in 2016/17 to be financed from borrowing, the assumptions made in establishing the capital budget were that the whole of the £100,000,000 of expenditure would be incurred in respect of granting of loans to third parties for regeneration and development projects e.g. Mercury Land Holdings Limited (MLH).
- 4.4 On that basis, the Capital Financing Regulations do not require the Council to provide for the repayment of principal via the Minimum Revenue Provision (MRP) as a charge in its revenue accounts where a loan agreement and repayment schedule provide for the payment of interest and the repayment of capital. In these circumstances, the interest on the Council's external borrowing would be met from interest charged to the borrower (the College) who would also pay an additional margin on the rate of interest to generate a net revenue income stream for the Council.
- 4.5 As a result of the assumptions set out in paragraph 4.3 & 4.4 (above), no revenue budget has been provided in relation to the capital financing costs (principal and interest) that may be associated with the £100,000,000 of capital expenditure if financed by borrowing over the Medium Term. Therefore, where proposed schemes are subsequently developed which vary from these key assumptions, there will be a need to make revenue budgetary provision in the year of acquisition and future years to meet the associated capital financing costs (both principal and interest) in order to



comply with Capital Financing Regulations. Examples where the Council is required to make revenue budget provision for capital financing costs include acquisition of assets (such as the Quarles Campus) and/or investment of equity in third party deals such as in Mercury Land Holdings Limited (MLH).

- 4.6 Whilst this will place pressures upon the Council's revenue budget in the short term, the business cases associated with such capital investment will be required to demonstrate the ability to realise capital receipts to repay the principal and/or revenue income streams to return an acceptable surplus to the Council after meeting its capital financing costs as a return on its investment over the medium term. A fundamental review of the Council's Capital Programme is currently being undertaken alongside due diligence on a range of pipeline schemes in development to ensure that the Council's Medium Term capital investment plans are financially robust both in capital and revenue terms.
- 4.7 Further, it should be noted that the financing of the Capital Programme is managed flexibly on the basis of the expenditure and resources available to the whole Council Programme. The Chief Finance Officer will seek to apply other available capital resources such as capital grants and capital receipts before resorting to financing, through borrowing, to manage the overall cost efficiency and affordability of the Programme for the Council and to mitigate the impact upon its revenue budget. Financing decisions will be kept under review throughout the financial year and finalised as the 2017/18 accounts are produced in 2018.
- 4.8 Whilst there is a possibility that the Council may want to sell the Quarles Campus to Mercury Land Holdings Limited (MLH) at some stage, this is not yet determined and therefore the prudent accounting treatment requires it to make revenue budget provision to meet the capital financing costs. Where capital receipts are available, the purchase of the Quarles Campus will be financed by those, as the first call upon resources. Where they are not available it will be necessary to finance this expenditure by borrowing.
- 4.9 Details of the capital financing costs associated with this acquisition are contained within the Exempt part of this Report. An adjustment to the Capital financing revenue budget will be required to reflect the principal and interest costs associated with the acquisition. This will be met from the Transformation Reserve (formerly Strategic Reserve) in 2017/18 and future budgetary provision will be built into the proposed base budget for 2018/19 onwards to be subsequently considered for approval by Council.
- 4.10 The Council will acquire the Quarles Campus from the College and it will initially be leased back to the College at a peppercorn rent for a period of just over two years, which has the effect of giving the lease a 'non-business' status for VAT purposes. If linked to a potential future loan by the Council to the College, there is a risk that the lease agreement has potential to impact upon the Council's partial exemption from VAT.

- 4.11 The peppercorn rent nature of the lease is required to assist the College with their cash-flow projections and accordingly other terms have been adjusted in order to reflect this as part of the overall commercial transaction.
- 4.12 The Council has no plans to incur further expenditure on the site and must avoid this, taking further specialist VAT advice if this becomes a possibility. Otherwise, this will impact adversely upon the Council's partial exemption limit in respect of VAT.
- 4.13 The College has requested that the Council agrees to make provision for a loan of up to £2,800,000 (two million & eight hundred thousand pounds) to the College, should this be required. The terms of the loan, remain to be fully negotiated between the parties, but will be required to ensure that:
- The Council's administration costs and capital financing costs are at least recovered in full from HCF&HE.
  - The Council obtains adequate security for the loan in the form of a first legal charge on specified land and building assets owned by the College in order to mitigate the financial risk to the Council of non-payment of the loan by HCF&HE.
  - An assessment of HCF&HE's financial position and ability to meet the payment terms is realistic and affordable.
  - That HCF&HE will apply the loan solely for the expenditure purposes set out in the loan agreement.
  - The loan is not directly linked to the agreement for the Council to purchase and lease it back to the College for the purposes of assessing the VAT position.
- 4.14 In purchasing the Quarles Campus land at the outset, the Council needs to be satisfied that the purchase price represents good value for money, and that the site can be utilised for purposes that will be of benefit to the Borough. The Council's decision to acquire is based on valuation advice received and set out in the Exempt part of this report. As the acquisition is proposed to be on an unconditional basis there is greater risk with regard to the alternative use of the site as planning permission is not in place ahead of purchase. However, the land price has been revised to reflect this risk.
- 4.15 Valuation figures for the Quarles Campus site are set out in the Exempt part of this Report. Potential uses for the site include education and/or residential, subject to further due diligence. The land is within the Metropolitan Green Belt and prior to the existence of the National Planning

Policy Framework, the site had the planning designation of a Major Developed Site in the Green Belt.

**Legal implications and risks:**

**(a) General**

- 5.1 Section 15B of the Education Act (the 1996 Act) provides the Council with the power to secure the provision of education for persons over the age of 19. The Council also has a duty under: section 13 of the Education Act 1996 (the 1996 Act) to secure the provision of suitable further education provision for persons under 19 (or 25 for those with learning difficulties). Cabinet should satisfy itself that the proposed loan and option arrangements with Havering College are likely to assist with securing suitable further education provision for residents.
- 5.2 The provision of financial and other support would fall under these powers if they are exercised together with the ancillary power of section 111 of the Local Government Act 1972 (the 1972 Act) (though section 111 does not in itself authorise the loan).
- 5.3 However, the Council, may enter into the loan relying on the General Power as set out in Section 1 of the Localism Act 2011 which provides it (subject to a number of limitations) may do anything which an individual may do. The Council's purpose is to further its legal responsibilities to secure suitable further education for its residents and more generally to support a local college. These do not constitute a commercial purpose. The Council would under the general power be entitled to directly provide the proposed loan.
- 5.4 Section 227 Town and Country Planning Act 1990 allows the Council to acquire land by agreement where they think its development, redevelopment, or improvement will promote the economic, social or environmental well-being of their area (a planning purpose). Section 203 Housing and Planning Act 2016 provides that where the Council acquires land and planning consent has been obtained to allow maintenance, building work or a change of use for the purposes for which it has been acquired by the Council then any restriction on carrying out the development or using the land for that purpose will be overridden, allowing the new development or the change of use of the land to proceed. The benefit of this provision extends to subsequent owners of the land. Landowners affected by any interference with their rights or interests in this way are entitled to receive compensation.
- 5.5 The Council may under section 3 of the Local Authorities (Land) Act 1963 make a loan to any person (which would include a Council owned subsidiary) to acquire land and / or erect any building of that land. To exercise this power, Cabinet should be satisfied that this would benefit or improve the Council's area. Alternatively, the Council could seek to rely

upon its General Power to make such a loan under section 1 of the Localism Act 2011.

**(b) Finance**

- 5.6 In accordance with the Council's constitution, any capital funding requirements will need to be allowed for in the Council's budget strategy which needs to be approved by full council. This will need to be reviewed and updated in subsequent years.
- 5.7 To the extent that the Council intends to borrow to lend to HCF&HE, Regulation 25 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003/3146) treats the giving of a loan by a local authority to a third party (such as HCF&HE) towards expenditure (e.g. works on a new buildings) as capital expenditure providing that if the local authority itself incurred that expenditure (it borrowed to undertake the works itself) it would treat that expenditure (under proper accounting practices) as capital expenditure.

**Land disposal and financial assistance**

**(a) Fiduciary Duties**

- 5.8 The Council's fiduciary duties is a reference to it acting as a trustee of tax and public sector income on behalf of its business rate and tax payers. The Council in effect holds money but does not own it; it spends money on behalf of its business rate and council tax payers.
- 5.9 Members in making the decisions concerning a loan to HCF&HE (and similar activities) should give proper consideration to the risks and rewards of approving the recommendations. In practice, Members will want to consider whether the Council will achieve an appropriate return for its risk and that the Council has minimised the risk and potential cost to it if HCF&HE (or any successor combined College body) became insolvent and / or defaulted on its loan.
- 5.10 Consideration should also be given to whether the Council's involvement in this arrangement is proportionate and properly balanced against the anticipated benefit as well as the wider interests of its local business rate and tax payers.
- 5.11 On a practical level, this means that Members should consider whether the monies they are requested to approve for investment / lending to HCF&HE could be better used by the Council for the wider interests of its local tax-payers. This should include considering the impact on the Council (and therefore its local tax payers) if HCF&HE (or any successor combined College body) become insolvent or otherwise defaulted on a loan provided by the Council.

**(b) State Aid**

- 5.12 State Aid can be briefly summarised as funding or support from the public sector which has the potential to distort competition and grant an unfair advantage to economic operators.
- 5.13 State Aid generally does not arise from public sector financing of public education (and childcare) which is open to and directed at the general public for social educational or cultural purposes.
- 5.14 HCF&HE meets the criteria of an institution which is providing education aimed at the general public. Providing the arrangements between the Council and the HCF&HE do not involve market activity (e.g. it is for educational purposes) then, from a State Aid perspective, the Council may lawfully provide HCF&HE with a loan on such terms as the Council believes is appropriate (which should also take into account its fiduciary duties).
- 5.15 State Aid compliance does not restrict the terms on which the Council gives support to HCF&HE. If it chose to, Havering Council could, for instance, provide a loan at, either, a market interest rate, or, a subsidised interest rate.
- 5.16 Section 19(4) of the Further and Higher Education Act 1992 empowers a further education corporation (HCF&HE) to acquire and dispose of land. However, property due diligence should include confirmation that there are no conditions of, either, public, or, private funding arrangements to which HCF&HE is a party, or any constitutional or other restriction which would prevent HCF&HE from disposing of the Quarles Campus site to the Council.

**Human Resources implications and risks:**

- 6.1 There are no human resource implications from this report.

**Equalities implications and risks:**

- 7.1 Through this loan and potential transaction, HCF&HE will establish a much more sustainable footprint for delivery of education on behalf of Havering residents. The Further Education offer in Rainham and the provision overall of construction education and skills provision will be strengthened.
- 7.2 It is noted that the demand for construction skills is on an increase. Rainham is a relatively deprived area of Havering therefore this investment is welcome.

- 7.3 As a Council we would have a concern that the provision in Harold Hill is reduced, especially the provision of programmes up to level two. HCF&HE have expressed their commitment to retain such provision and the Council is committing itself to assist in that endeavour.

**BACKGROUND PAPERS**

None.

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of the Local Government Act 1972.

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