

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Consultation on the introduction of a community toilet scheme
<b>Cabinet Member:</b>	Cllr Osman Dervish
<b>SLT Lead:</b>	Barry Francis, Director of Neighbourhoods
<b>Report Author and contact details:</b>	Jacki Ager Waste and External Contracts Manager Ext 3363
<b>Policy context:</b>	Consultation on a service that would have impacts throughout the Borough, in this instance the provision of publicly-accessible toilets. The Public Consultation Policy requires the Council to stay in touch with and meet the needs of residents, service users and communities.
<b>Financial summary:</b>	Agreed as an MTFS saving, ref: NEI 24. of £0.115m. The first full year this saving would be achieved is 2021/22.  Cost will be £0.050m pa with an additional £0.005m in the first year.
<b>Relevant OSC:</b>	Neighbourhoods
<b>Is this decision exempt from being called-in?</b>	Yes

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

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

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1. The purpose of this report is to gain approval to go out to public consultation on the removal of the 9 Automated Public Conveniences (APCs) in Havering, and introduction of a proposed Community Toilet Scheme (CTS) following the expiration of the contract for automated public conveniences. The consultation will aim to inform the introduction of the CTS, to ensure it is designed around the needs of the community.

### AUTHORITY UNDER WHICH DECISION IS MADE

The Council's consultation procedures state that the authorisation for going out to consultation shall be granted by a Director or Head of Service.

### STATEMENT OF THE REASONS FOR THE DECISION

#### Background

LBH currently has 9 automated public conveniences (APCs), operated by an external contractor, JC Decaux (JCD). 7 of these are run under one contract, ending in December 2020, whilst 2 form part of a wider corporate advertising contract encompassing street furniture and advertising boards. This contract was due to expire in August 2019 but has been extended to 31 December 2020 to bring it in line with the APCs contract. The Council will retain the public toilets it owns adjacent to Upminster Park in Corbets Tey Rd, consisting of 1 x disabled access cubicle, 2 x men's cubicles and 3 x ladies' cubicles.

There is no legal obligation for Local Authorities to provide public toilets. For example, Section 87 of the Public Health Act 1936 gives Local Authorities the power to provide public toilets, but imposes no duty to do so. However, Local Authorities are responsible for street and environmental cleanliness. Furthermore, the *Disability Discrimination Act 1995* requires publicly available facilities to be accessible to disabled people. Havering public toilets currently operate a RADAR lock to enable disabled citizens to use all public toilet facilities free of charge.

In 2008 the Department for Communities and Local Government published guidance aimed at encouraging Local Authorities to provide better access and better quality toilets. Options included:

- SatLav – a charged service whereby text information about the nearest public toilet is sent to the subscriber's mobile phone
- Community Toilet Schemes – where local shops and businesses open up public access to their toilets.
- Use of the planning system to encourage developers to fund new toilets.

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### **Community Toilet Scheme**

Community Toilet Schemes (CTS) have been successfully implemented by a number of Councils, including Richmond, the City of London and Newham. A CTS would span the whole borough, aiming to provide clean, safe and accessible public toilets in convenient locations. Under the scheme, businesses allow members of the public to use their toilet facilities during their normal opening hours without the obligation to make a purchase. LBH would ensure that as many premises as possible in the scheme offer wheelchair access and baby changing facilities.

Existing schemes within other Local Authorities pay businesses between £700- £1,000 per annum. The payment is dependent on the types of facilities available, for example disabled access, baby changing, dementia friendly and number of conveniences. This would be paid in 6 monthly instalments.

The scheme requires members to display a sticker in their premises window to show the business is part of the scheme and the types of facilities available. Businesses are obligated to ensure that their facilities are kept clean, adequately stocked and easily accessible to the public throughout their opening times.

The Community Toilet Scheme members would regularly be inspected by the Council to ensure they meet the appropriate standards. There are a number of options available to resource for this.

The Scheme offers a flexible approach that can be adapted depending on the requirements of the local area. Public toilets should be located in key areas such as town centres, parks and leisure areas, along main routes into towns. Provision should be located so it fits in with the way the area is actually used economically and socially.

Under current proposals, the 9 automated public conveniences would close following termination of the current contract with JC Decaux, and alternative facilities would be made available through a Community Toilet Scheme.

### **Aims and Objectives**

- Improve access to public toilet provision in Havering while realising savings. (See funding section below).
- Provide at least 30 public conveniences (increasing up to 50 over time) in partnership with businesses.
- Include in the 30 at least 15 disabled access toilets and at least 10 toilets with baby changing facilities, spread as evenly throughout the borough as possible.

### **Funding**

The proposed scheme will be funded from the remaining service budget. The cost of implementing a CTS is estimated to be £0.050m per annum, plus an additional £0.005m set-up cost in the first year. This is based on 50 businesses signing up, with the maximum fee paid of £0.001m to each. There may be staff time to be added to this

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though it is envisaged the Food Safety Team in Public Protection will play a part in carrying out inspections of facilities.

### **Consultation**

The end of the JCD contract and budget restrictions mean the Council cannot build new public conveniences. Whilst there is no statutory obligation to provide this service, a full removal of access to public toilets would have a negative impact on more vulnerable members of the community. A CTS would enable either equal, or additional provision of public toilets throughout the Borough. However, it is important that any replacement scheme is fit for purpose. This public consultation will aim to gather viewpoints from across the community to establish the requirements of local people. In particular, engagement with the following groups will be sought, in order to ensure that those customers with protected characteristics and who may have additional needs are given the opportunity to offer their views. Those groups include the elderly, disabled, homeless and parents with small children. They will be contacted through existing Council links with local groups and charities, as well as through advertisements on Council notice boards and in Council buildings.

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

Removal of public toilet provision altogether, whilst statutorily acceptable, would potentially have equalities impacts on vulnerable members of the community, as well as risk additional street cleansing costs and public health risks through increased public urination / defecation. These risks can be mitigated by introducing a network of regulated facilities in convenient locations.

Whilst provision of public toilets is not legislated, it is advisable to consult on an issue that would have a particular impact on vulnerable users, in order to ensure any replacement scheme is fit for purpose. Therefore, whilst consultation may not be statutory, it is necessary.

### **PRE-DECISION CONSULTATION**

No consultation has yet taken place.

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

Name: Jacki Ager

Designation: Waste and External Contracts Manager

Signature:

Date:

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The Public Health Act 1936 (as amended) provides that a Local Authority may provide sanitary conveniences in proper and convenient situations. The provision of public toilets is therefore a discretionary service. The discretion should be exercised reasonably and with a clear objective rationale.

The consultation responses must be taken into account in finalising the decision. The process must comply with the established consultation principles:

- Consultation should occur when proposals are at a formative stage;
- Consultations should give sufficient reasons for any proposal to permit intelligent consideration;
- Consultations should allow adequate time for consideration and response;

Consultation will provide a sound evidence base to ensure the needs of the community are met through provision of appropriate facilities.

**Equality Act** - the decision maker must also comply with the Public Sector Equality duty to consider the need to promote equality for persons with “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and have due regard to:

- i. eliminate discrimination, harassment, and victimisation;
- ii. advance equality of opportunity;
- iii. foster good relations between persons who share a relevant protected characteristic and those who do not share it.

In order to do this the Decision maker will need to have sufficient information about the effects of the proposed changes on the aims of the Equality Duty. The Equalities impact assessment is designed to assist with compliance with this duty and so the Decision maker must take into consideration the assessment and the public sector equality duty before taking the decision.

Where a public or private organisation wishes to join a Community Toilet Scheme, appropriate covenants are to be included in the contract terms or service level agreement to protect the Council’s position and to ensure the continued provision of toilets in these locations. The public convenience plan recognises that buildings may need to be reconfigured to meet or improve upon specified requirements, and the contracts or SLAs include a clause which enables the provider to undertake such works subject to consent from the Council.

### FINANCIAL IMPLICATIONS AND RISKS

A CTS to replace the current APC contract would reduce expenditure by approximately £0.115m per annum, therefore fully achieving the MTFS saving from

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2021/22. Monitoring of a CTS will be met through existing resource. If a CTS scheme is not rolled out, as well as the reputational costs, the main financial risk would be through increased street cleansing costs. However, for the purpose of this exercise as a stand-alone piece, there are nominal financial implications (advertising / communications).

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

There is no impact on any directly employed Council employees.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

An Equalities and Health Impact Assessment will be provided with an Executive Decision following the outcome of the proposed consultation. This approach has been approved by the Equalities and Diversity team.

### **BACKGROUND PAPERS**

None



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**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

**Details of decision maker**

Signed

Name: Dipti Patel

Cabinet Portfolio held:

CMT Member title:

Head of Service title:

Other manager title: Assistant Director - Environment

Date:

**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 \_\_\_\_\_

Signed \_\_\_\_\_