

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Removal of automated public conveniences and 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>	There is no statutory requirement for local authorities to provide public conveniences.
<b>Financial summary:</b>	Agreed as an MTFs saving, ref: NEI 24. of £115,000 (£0.115m). The first full year this saving would be achieved is 2021/22.  Cost of a community toilet scheme will be £50,000 (£0.050m) per annum with an additional £5,000 (£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 obtain approval to remove the Council's 7 automated public conveniences upon the expiry of the contract with JC Decaux on 31<sup>st</sup> December 2020. It is then proposed to introduce a Community Toilet Scheme at a later date, when the public health risk is lower and both businesses and members of the public are likely to be more receptive to this type of service.

### AUTHORITY UNDER WHICH DECISION IS MADE

The Council's Constitution  
Part 3: Responsibility for Functions  
3.8.3 Assistant Director of Environment  
(i) To exercise the Council's powers in relation to providing public conveniences

### STATEMENT OF THE REASONS FOR THE DECISION

#### Background

LBH currently has 9 automated public conveniences (APCs), operated by an external contractor, JC Decaux. 7 of these are run under one contract, ending on 31 December 2020, whilst 2 form part of a wider corporate advertising contract encompassing street furniture and advertising boards. Those two units are located at South Street, Romford and Gidea Park Station. These are the two most well-used units, although Gidea Park Station has experienced a steep reduction in usage this year, most likely due to fewer residents commuting. The South Street unit has seen a sharp increase in usage this year, most likely due to local food outlets being stricter around allowing customers only to use their facilities. These two units will continue to be provided as long as the advertising contract is in operation. It is likely that the advertising contract will be extended by at least 12 months, taking it up to 31<sup>st</sup> December 2021, however this has not been agreed by the Communications Team.

The full list of remaining Council facilities is as follows:

South Street, Romford  
Gidea Park Station  
Corbets Tey Road, Upminster  
Langtons Gardens, Hornchurch  
Harrow Lodge Park, Hornchurch  
Raphael Park, Romford  
Romford Market Place (ground floor of Tollgate House)

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There are also two homeless hostels in Havering, in Harold Hill (Abercrombie House) and Rainham (Will Perrin Court), as well as a number of private public conveniences such as Romford Mall.

As part of the APC contract, JC Decaux would remove their 7 units, disconnect all relevant utilities and reinstate the highway underneath.

In 2019, 5 out of the 7 units saw a reduction in usage compared to 2018 - overall this was 12.7%. Between 2019 and 2020 the 7 APCs under the JC Decaux APC contract did not experience a marked change in usage (1.61% increase). However, between March and August, all units were closed due to PPE shortages experienced by JC Decaux meaning they were unable to safely service the units. On average, each unit is used approximately 6 times per day. The cost of maintaining the units is currently £190,000 (£0.190m) per annum. This level of usage means that each occasion effectively costs the Council over £13 per “flush” (2019 figures: £190,000/14,272 uses = £13.31 per use). It is worth noting that the increased usage seen at Hilldene Avenue between 2018 and 2019 may be attributed to the payment mechanism being removed, and the toilets therefore being made free to use. This was due to frequent vandalism, when the doors were regularly forced open.

### USAGE JAN-SEP 2020

	Jan	Feb	Mar	Aug	Sep	TOTAL
APPLETON WAY, HORNCHURCH	133	112	46	158	239	688
HILLDENE AVENUE, ROMFORD	394	235	252	346	501	1728
AVENUE ROAD, AVENUE ROAD	111	60	66	92	82	411
CHERRY TREE LANE - RAINHAM	85	76	30	150	120	461
COLLIER ROW, ROMFORD	176	131	117	171	153	748
UPMINSTER BRIDGE, UPMINSTER	79	123	120	96	119	537
ELM PARK, STATION PARADE	254	262	248	352	182	1298
<b>TOTAL</b>	<b>1232</b>	<b>999</b>	<b>879</b>	<b>1365</b>	<b>1396</b>	<b>5871</b>

### Change in usage 2018 to 2019

SITE	2018	2019	% CHANGE
APPLETON WAY, HORNCHURCH	3346	2517	-24.78%
HILLDENE AVENUE, ROMFORD	2141	3611	68.66%
AVENUE ROAD, AVENUE ROAD	1016	490	-51.77%
CHERRY TREE LANE - RAINHAM	960	1271	32.40%
COLLIER ROW, ROMFORD	1498	1433	-4.34%
UPMINSTER BRIDGE, UPMINSTER	2236	1492	-33.27%
ELM PARK, STATION PARADE	5152	3458	-32.88%
<b>TOTAL</b>	<b>16349</b>	<b>14272</b>	<b>-12.70%</b>

### Change in usage 2019 to 2020 (operational months only)

SITE	2019	2020	% CHANGE
APPLETON WAY, HORNCHURCH	1201	688	-42.71%
HILLDENE AVENUE, ROMFORD	1209	1728	42.93%

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AVENUE ROAD, AVENUE ROAD	321	411	28.04%
CHERRY TREE LANE - RAINHAM	612	461	-24.67%
COLLIER ROW, ROMFORD	711	748	5.20%
UPMINSTER BRIDGE, UPMINSTER	545	537	-1.47%
ELM PARK, STATION PARADE	1179	1298	10.09%
<b>TOTAL</b>	<b>5778</b>	<b>5871</b>	1.61%

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 *Equality Act 2010* requires publicly available facilities to be equally accessible to disabled people as to non-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.

### **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.

Under current proposals, 7 automated public conveniences would close following termination of the current contract with JC Decaux. Due to the ongoing Covid-19 public health emergency, it is not considered an appropriate time to be encouraging businesses to open doors to additional (potentially non-paying) customers. However, given the successful implementation of schemes in other boroughs, it is recommended that this be considered at a later date.

### **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.

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- 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 as and when it is appropriate to introduce it. The cost of implementing a CTS is estimated to be £50,000 (£0.050m) per annum, plus an additional £5,000 (£0.005m) set-up cost in the first year. This is based on 50 businesses signing up, with the maximum fee paid of £1,000 (£0.001m) to each. There may be staff time to be added to this though it is envisaged the Food Safety Team in Public Protection will play a part in carrying out inspections of facilities.

### **Public engagement**

Budget restrictions mean the Council cannot build new public conveniences. Whilst there is no statutory obligation to provide this service, a CTS would provide either an equal, or additional number of public toilets compared to those originally provided under the JC Decaux service throughout the Borough without building new facilities, and would therefore ensure the public continues to benefit from freely available facilities. Public engagement 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**

1. 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.
2. Remove the APCs and immediately introduce a CTS. This is not advisable due to the Covid-19 public health emergency, both in terms of successfully recruiting business, as well as encouraging the public to utilise the facilities.
3. Extend the contract. JC Decaux would be able to extend for 6 months, after which time they would be unable to maintain the units due to their relative obsolescence, given their age. There would also be a cost implication, and the proposed savings under the MTFs would need to be found elsewhere.

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**PRE-DECISION CONSULTATION**

Discussion with Lead Member for Environment.

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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

1. By section 87(1) of the Public Health Act 1936 (as amended) a local authority has the power to provide sanitary conveniences but it is not under obligation to do so. The provision of sanitary conveniences (which includes public toilets) is therefore a discretionary service which should be exercised reasonably and with a clear objective.
2. The Council also has a “general power of competence” under Part 1 Chapter 1 of the Localism Act 2011 which gives it the same power to act as an individual, subject to other statutory provisions limiting or restricting its use of that power. The Council’s decision to provide public conveniences under the JC Decaux contract is therefore compatible with the Council’s exercise of its general power of competence.
3. With the coming to an end of that contract however and as has been confirmed in this report and the supporting Equality Impact Assessment report, there will be a gap in this provision within the borough from 31<sup>st</sup> December, 2020.
4. The Council intends for a Community Toilet Scheme (CTS) to replace the Automated Public Conveniences (APCs) provided under the contract with JC Decaux. The implementation of the CTS has however been delayed by the Covid-19 restrictions placed on the whole of London in recent months.
5. At the time of drafting these comments, the borough has come under the latest tier-4 restrictions placed on the whole of London as a result of the spikes in Covid-19 cases occurring in London and this would of necessity affect the amount of residents going out and about within the borough and requiring public toilets. The persisting uncertainty brought about by the Covid-19 pandemic also means that the roll-out of the CTS must be kept under regular review by the Council.
6. The Council is also under a Public Sector Equality duty to consider how its policies or decisions affect its residents with “protected characteristics” (i.e., age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) with the aim of eliminating discrimination, harassment, and victimisation; advancing equality of opportunity; and fostering good relations between persons who share a relevant protected characteristic and those who do not in the exercise of its duties or powers.
7. The Equality Impact Assessment (EqIA) attached to this report is designed to assess and ensure the Council’s compliance with its Public Sector Equality duty so the Decision maker is assured that this has been taken into consideration before reaching a decision. Having read through the EqIA, it is apparent that a definitive decision cannot be reached with regard to the replacement provision without regular reviews of the Covid situation, especially in light of the tightening of restrictions in London over the Christmas holiday season. This

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would most likely explain the absence of outcomes/monitoring in the Action Plan contained in the EqIA.

8. In light of the recent tier-4 restrictions imposed on London, the implementation of a Community Toilet Scheme in the borough is likely to be pushed back further and take longer to implement, which means the gap in provision might last longer unless another replacement can be found. The Council is therefore advised to conduct regular reviews of the situation in line with government reviews of the Covid-19 situation.

### **FINANCIAL IMPLICATIONS AND RISKS**

The removal of the APC's and introduction of a CTS at an appropriate time is expected to deliver the MTFS of £115,000 (£0.115m) from 2021/22. This is the £170,000 (£0.170m) budget, minus £50,000 (£0.050m) operational costs to pay participating outlets (once the Covid-19 situation allows for such a scheme), and £5,000 (£0.05m) public communications costs. 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 likely be through increased street cleansing costs. However, for the purpose of this exercise as a stand-alone piece, there are nominal financial implications (c£5,000 / £0.005m for 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 has been produced to outline the impacts of the proposed APC closures, and the introduction of a CTS (including its delay).

### **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

A handwritten signature in black ink, appearing to read 'SAH', with a horizontal line underneath it.

Name: Sue Harper

Interim Assistant Director - Environment

Date: 04/01/2021

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