



Meeting of the

CABINET

Wednesday, 13 January 2010 at 5.30 p.m.

SUPPLEMENTAL AGENDA

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If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

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Agenda Item 7.1

Committee: Cabinet	Date: 13 January 2010	Classification: Unrestricted	Report No: CAB 097/090	Agenda Item: 7.1
Report of: Corporate Director Children, Schools and Families Originating officer(s) Susan Acland-Hood, Service Head Strategy Partnerships and Performance		Title: Addendum to Agenda Item 7.1: Update on Consultation on Proposals for a National Challenge Trust at St Paul's Way Community School Wards Affected: Mile End East		

1. Summary

- 1.1. The IEB has determined to proceed with the proposal referred to in the principal report. It was made clear in the principal report that in these circumstances an addendum would be brought forward reporting on the IEB's consultation, providing details of the proposed Trust and the associated land transfer.

2. Consultation and decision by the IEB

- 2.1. Paragraph 3.5 of the principal report sets out details of the consultation conducted by the IEB in relation to its proposals. The consultation was in compliance with the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007, as stated in paragraph 7.1 of the principal report, and with government guidance.
- 2.2. During the four week consultation period there were two requests for the full proposals for St Paul's Way Community School, which were the subject of the statutory notice. The consultation period ended on 21 December 2009.
- 2.3. The IEB received one submission in relation to the proposals, which was from the National Union of Teachers (NUT). The focus of the submission was on the governing body composition (particularly around adding in an additional staff governor), parent governors and meeting with the proposed partners. The governing body of the school is separate from the Trust, although the Trust may appoint some members of the governing body.
- 2.4. The proposals were discussed at a meeting of the proposed partners on 14 December 2009.
- 2.5. On 22 December 2009, after consideration of the submission received, the IEB decided to proceed with plans to establish a National Challenge Trust at St Paul's Way Community School (SPW).

- 2.6. The IEB considered the representation from the NUT and also those received from the proposed partners. The IEB decided not to increase the staff representation on the governing body at this time but the Board is clear in its message to the proposed Trust that it would expect the governing body to keep its membership under review so the staff numbers might change in the future.
- 2.7. The IEB resolved to increase the elected parent governors by 1, giving 2 in total, which reduces the Trust-appointed parent governors by 1, while retaining a total of 7 Trust appointed governors. The IEB felt that this went some way to address the concerns that there should be more representation from local community on the governors.
- 2.8. The proposed partners have indicated willingness to meet with staff and staff side representatives early in 2010, so that staff can continue to be involved in the establishment and conduct of the National Challenge Trust.

3. Details of the proposed St Paul's Way School Foundation Trust

- 3.1 As set out in section 4 of the principal report, the proposed National Challenge Trust will take the form of a company limited by guarantee, which establishes charitable status under the Charities Acts. It is proposed that the Trust will be called the St Paul's Way School Foundation Trust. The memorandum and articles of association will be the key constitutional document of the Trust and is based on the standard model Trust recommended by government.
- 3.2 As a company limited by guarantee, the Trust will not have any shares and thus no shareholders. Instead, the Trust will have a limited number of members, who have a duty to manage the property of the Trust consistent with its object. The memorandum and articles state that the liability of the members of the Trust is limited to £10 per member. The memorandum of association sets out the proposed initial members. It is intended that the Council will be a member of the Trust, along with Queen Mary, University of London, The Institute of Education (University of London), King's College London, The University of East London, Catlin Group Ltd and NHS Tower Hamlets. On the basis of the drafted articles, the admission of new members will require the unanimous approval of the trustees. It is proposed that membership will not be transferable. Members may be removed by the decision of the directors appointed by all other members.
- 3.3 The articles of association set out the object, powers, statement of liability and day to day management of the Trust. The Object of the Trust is *"to advance education for the public benefit and in particular to advance the education of the pupils at St. Paul's Way Foundation School (the "**School**") which is a Qualifying School, it being acknowledged that in carrying out the Object the Company must, so far as is consistent with this purpose, have regard to its obligation to promote community cohesion under the Education Acts"*. The powers of the Trust are expressed reasonably widely, so as to permit it to carry out its functions under the Education Acts. Those functions include holding the school property and appointing governors. The Trust will only be able to exercise its powers so as to achieve its charitable Object.

- 3.4 The articles provide that each member shall appoint one director/trustee and the directors will be ultimately responsible for the management of the Trust. This is separate from the management of the school, which will be the responsibility of the Head Teacher and staff, overseen by the governing body. The articles specify the number of directors meetings to be held each year (at least 3), the quorum for such meetings and the voting at such meetings. The directors will be subject to the requirements of the Companies Act 2006 to act in the interests of the Trust and its beneficiaries at all times. The directors have the power to implement rules or bye laws, provided they do not conflict with the articles or any law.
- 3.5 The articles provide for general meetings of members (including an annual general meeting) and how those will be conducted. Members are to be represented at general meetings by their Member Authorised Representative (an individual). Members may choose to have their appointed director fulfil the role of Member Authorised Representative, or may (by notifying the Trust) have different individuals perform these functions. The council will, if it chooses, be able to make two appointments to execute its role as Trust member, one member representative and one trustee.
- 3.6 There may be the need for some amendment to the memorandum and articles of association, depending upon the comments received from others of the proposed partners. It is intended that the proposed delegation to the Corporate Director Children Schools and Families (in consultation with the Lead Member and the Assistant Chief Executive (Legal)) to make consequential decisions necessary to enable orderly implantation of the IEB's proposals will enable the Council to agree any reasonable amendments.

4. Appointment of parent trustees

- 4.1. As outlined above, the IEB decided to add an additional governor to the governing body, to bring it to 13 members. The implication of this decision is that of the four parent governors on the governing body, now two will be elected (previously it was one) and two will be appointed.
- 4.2. The appointment of the parent governors was discussed at a proposed Trust partner meeting on 14 December 2009 and all the partners agreed on an open and transparent method of appointing parents. The suggested method for appointing parents would include the positions being advertised around the school, and via the parent council. Nominees will then be asked to complete a brief application form. Assessment will be based on the skills, expertise and the potential contribution to the work of the Governing Body.
- 4.3. For all trust appointed governor posts (including those of parents) each potential governor must satisfy the appointing body that he or she:
- Has a commitment to and interest in education
 - Has good communication/interpersonal skills

- Has a desire to support the school concerned
 - Has a willingness to serve the local community
 - Has the ability to work as a member of a team
 - Is able to arrange their commitments to fit in with membership of a Governing Body
 - Has other relevant experience
- 4.4. The partners will work to ensure that any criteria would be worded to ensure an inclusive approach.

5. Input of Trust members

5.1. The draft five year St Paul's Way Community School Improvement Plan (SIP) is designed to deliver long-term sustainable change in the school. The plan is currently in draft and will be signed off by the Trust partners and the DCSF in January 2010. The plan focuses on making rapid improvements and includes the planned role to be played by the Trust partners in supporting the school. The plan envisages the trust partners will support the school in the following ways:

- Supporting a phased programme of mentoring beginning with years 10 and 11 of academic mentoring building on the current Aim Higher Programme in order to further encourage HE progression.
- Securing effective governance and delivering the strategic vision through systematic and rigorous scrutiny.
- Supporting access to development programmes for new heads of department through Masters in Teaching and Learning. Bespoke programmes of professional development for non teaching staff. .
- Supporting a planned programme for all students to experience science supported by real scientists from universities, or working alongside science related professionals within the PCT.
- Providing opportunities to meet and explore work places and higher education
- Introducing opportunities for student voice through providing events and venues for students to present; participation at seminars and university activities as well as access to national and international research and good practice

5.2. The envisaged impact of the SIP is that within five years –

- Standards will rise to national averages or better.
- There is a fully comprehensive intake and the school is full
- Staff are highly skilled and retention is high.
- Leadership and management is outstanding.
- The school is highly regarded in the local community and within Tower Hamlets as a whole.
- Students have a wide and varied curriculum offer to meet all needs and are able to progress rapidly to higher levels.
- A high proportion of students achieve university entrance.

6. Land Transfer

- 6.1. Section 5 of the principal report specifies that the land held by the Council for the purposes of the St Paul's Way Community School must transfer to the new National Challenge Trust on the implementation date (26 February 2010).
- 6.2. Appendix 1 is a plan that specifies the land held by the Council for the purposes of St Paul's Way Community School. This is the land that it is proposed the Council formally transfer to the St Paul's Way School Foundation Trust as proposed in paragraphs 2.1 and 5.6 of the principal report. The Council will transfer a long leasehold interest to the Trust.

7. Recommendations

Taking into account the matters set out in this addendum, it is recommended, in variation of the recommendations in the principal report, that Cabinet –

- 7.1 Approve leasehold transfer to the St Paul's Way School Foundation Trust ("the Trust") of the land shown on the plan at Appendix 1.
- 7.2 Authorise the Corporate Director Children Schools and Families, in consultation with the Assistant Chief Executive (Legal), to agree the terms and conditions of any lease necessary to effect the transfer of the land in accordance with 7.1.
- 7.3 Approve the Council becoming a member of the Trust.
- 7.4 Authorise the Corporate Director Children Schools and Families, following consultation with the Lead Member, to appoint the Council's director/trustee to the Trust and the Council's Member Authorised Representative.
- 7.5 Authorise the Corporate Director Children Schools and Families, in consultation with the Assistant Chief Executive (Legal), to agree any reasonable amendments to the memorandum and articles of association of the Trust.
- 7.6 Authorise the Corporate Director Children Schools and Families, in consultation with the Lead Member and the Assistant Chief Executive (Legal) to take any consequential action necessary on behalf of the Council to enable the Trust to be established by the implementation date of 26 February 2010.

Local Government Act 1972 (as amended) Section 100D
List of “Background Papers” used in the Preparation of this report

Brief description of “background paper” –

Name and telephone number of holder
And address where open to inspection –

Draft Memorandum and Articles of Association

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Agenda Item 10.5

Committee: Cabinet	Date: 13 January 2010	Classification: Unrestricted	Report No: CAB 103/090	Agenda Item:
Report of: Corporate Director Development & Renewal Originating officer(s) Chris Holme Service Head (Resources) – Development and Renewal / Paul Leeson Finance Manager - Development & Renewal		Title: Housing Revenue Account First Budget and Rent Setting report Wards Affected: All		

SPECIAL CIRCUMSTANCES AND REASONS FOR URGENCY

This report was unavailable for public inspection within the stated timescales set out in the Authority's constitution because of the late publication of the Government's Draft HRA Subsidy Determination for 2010/11. That Determination sets out the Government's guideline rent increase and was not made available until 9 December 2009 (some two months later than usual). The Determination is a complex document that requires investigation and assessment by the Council, as a consequence of which it has not been possible to finalise this report until 8 January 2010. The report proposes rent increases that need to take effect from 1 April 2010, having regard to the need, referred to in the report, to keep the housing revenue account in balance. Taking into account the call-in period and the requirement for the Council to give four weeks' notice to tenants of a rent increase, the latest meeting at which Cabinet can prudently determine the rent increase in order to achieve implementation from 1 April 2010 is at the meeting on 13 January 2010.

1. **SUMMARY**

- 1.1 This report sets out officers' initial assessment of the Draft HRA Subsidy Determination for 2010/11, and seeks Cabinet approval of the level of rents for the year ahead in order for the Council to comply with its statutory requirement to notify tenants.
- 1.2 The 2010/11 estimates will have to be finalised before final subsidy decisions have been made by the Government. Guideline council rent levels are determined by the Department for Communities and Local Government (CLG) and impact upon Housing Subsidy entitlement. Whilst the Council is not legally

obliged to adopt the guideline rent increase, any increase either above or below that set by the Government will have significant Housing Subsidy implications. The draft HRA Subsidy and HRA Item 8 Determinations for 2010/11 were published on the 9th December 2009 with consultations ending on the 25th January 2010. The final HRA Subsidy Determination is expected to be issued in late February 2010.

- 1.3 This report has been completed prior to the issue of the Department for Communities and Local Government's final subsidy determinations. The figures within the report are based on an assessment of the implications contained within the draft determinations that were issued in December 2009. Any significant amendments between the draft and final determinations could have a major impact upon the Housing Revenue Account. Members will be notified of any significant changes, and if this requires a significant change to the average rent for 2010/11, then a further report will be presented to Cabinet on receipt of the final determination.

2. **RECOMMENDATIONS**

Cabinet is recommended to:-

- 2.1 Note officers initial assessment of the Government's Draft Housing Revenue Account (Item 8) and Draft Housing Revenue Account Subsidy Determinations 2010/11, and their likely HRA implications as outlined in paragraph 5.
- 2.2 Agree that the average weekly rent for tenancy or occupation of Council dwellings will increase by £2.60 and the average weekly tenanted service charge will increase by £0.20 from the first rent week in April 2010, subject to that increase not adversely impacting upon the authority's subsidy entitlement as a consequence of information still to be received relating to the Caps and Limits regulations, as set out in paragraph 6.9 of the report.
- 2.3 Note that the HRA budget will be presented to Cabinet for approval in February 2010, and that report will provide for Members an update on the 2010/11 rent level position.
- 2.4 Note that the final Determination is unlikely to be published in time for the Council to comply with its statutory notification requirements for determination of the 2010/11 level of rents, to take effect from the first rent week in April 2010, should that Determination require a significant variation to the weekly rent increase, and in that eventuality a further report to Cabinet will be required in March 2010.

3. **BACKGROUND**

- 3.1 The Housing Revenue Account relates to the activities of the Council as landlord of its dwelling stock. Income to the Housing Revenue Account is primarily

derived from tenants' rents, service charges and government subsidy. Expenditure includes repairs and maintenance and the provision of services to manage the council's housing stock. Expenditure not met by Housing Revenue Account subsidy must mainly be met from Council tenants and leaseholders.

- 3.2 In recent years the Council's entitlement to Housing Subsidy has reduced significantly, both in total terms and per dwelling. In 2004 the Council received some £60million. This year the likely amount of subsidy received will be approximately £12million, and it is continuing to decline. Even allowing for changes associated with stock numbers and overhanging debt, this means a greater proportion of costs must be recovered from tenants and leaseholders.
- 3.3 Since 1st April 1990 the Housing Revenue Account has been "ring-fenced". This means that deficits on the Housing Revenue Account cannot be met from the General Fund. The HRA must remain in balance.

4. 2009/10 LATEST BUDGET & PROJECTED OUTTURN

- 4.1 The latest HRA budget was reported in the second quarter's budget monitoring report to Cabinet on 2nd December 2009, and Members requested that a further report be presented to this Cabinet meeting. There is a separate report on this agenda. Any overspend in this financial year will have implications for resources available in 2010/11.

5. 2010/11 IMPLICATIONS OF THE DRAFT DETERMINATION

- 5.1 The draft HRA Subsidy and Item 8 Credit and Item 8 Debit (General) determinations are usually issued by the Government for consultation in the October preceding the start of the relevant financial year, with the final determinations announced in December. This allows authorities to determine their HRA budget strategies in timely fashion and finalise rent levels before the start of the financial year.
- 5.2 For 2010/11, the release of the draft determinations by Government was delayed and not issued until after the Pre-Budget report on 9th December 2009. Furthermore they appear not to be as detailed as in previous years. The statutory consultation period for the draft determinations will close on 25th January 2010 and it is anticipated that the final determinations will not be published until the end of February.
- 5.3 As a consequence of this Cabinet will need to agree the HRA budget for 2010/11 in advance of the final Determination being published. It also means that officers, in conjunction with officers from Tower Hamlets Homes, are still verifying the detailed assumptions that make up the individual components of the draft determination, and assessing the likely impact upon the Housing Revenue Account. However, as explained in paragraph 8 below, the level of rents must be

determined at this stage in order to undertake the necessary arrangements for notifying tenants in accordance with statutory requirements.

- 5.4 Overall the HRA is under significant pressure as a consequence of the ongoing economic environment, which is having a direct impact on subsidy receivable and reduced investment income. As a consequence of ongoing low interest rates Housing Subsidy receivable is likely to be significantly less than anticipated. This is impacting upon resources available both for the current and future years, and will require the delivery of significant efficiency and other savings and measures to ensure a balanced HRA in 2010/11. Savings proposals will be included within the February budget report.

6. **RENT RESTRUCTURING AND RENT IMPLICATIONS 2010/11**

- 6.1 The introduction of rent restructuring has broken the link between the level of expenditure in the Housing Revenue Account and the rent increase necessary to finance that expenditure.
- 6.2 The rent restructuring programme is one of the main government policies for council housing. The programme started in 2002/03. Its original aim was to put all council house rents on the same clear and transparent basis, with comparability with housing association rents in the same area. The rent restructuring process would take 10 years to achieve these aims.
- 6.3 At the end of rent restructuring, councils would be charging formula rents for their properties which would take into account:
- the size of a property
 - the value of a property (as a social rented property)
 - average earnings in that council's area
 - a percentage uplift each year to reflect inflation and government policy)
- 6.4 Rent restructuring took the opportunity to work towards replacing two other rent calculations by the formula rent – firstly, the guideline rent used for subsidy calculations; secondly, the limit rent used to control housing benefit subsidy to the HRA.
- 6.5 The whole rent restructuring programme is likely to be reviewed as part of the wider review of housing subsidy. But until it is replaced, it continues in operation. Councils do not have to follow the Government rent restructuring guidelines, but they will be penalised through the HRA Subsidy system if they do not. The implications are outlined in the next two paragraphs:
- 6.6 Rent increases below the Government guideline - The housing subsidy system assumes that the Council will increase rents in line with the Determination. If the Council decided to increase rents at a lower rate, then there would be a net loss of income to the HRA. Each 1% less than guideline rent equates to an estimated net loss of some £550k.

- 6.7 Rent increases above the Government guideline - Increases in excess of those detailed in the determination are possible, but the Authority would not benefit from the full amount of the additional rent generated. Although rental income would rise, the Authority would potentially exceed the limit rents that are used to control housing benefit subsidy to the HRA. Any benefit paid in respect of the element of Local Authority rents that exceed the 'Limit Rent' must be funded from the Housing Revenue Account. Due to the relatively large numbers of tenants that are in receipt of some degree of benefit within Tower Hamlets this impact would be substantial. In addition the authority would potentially become ineligible for the Rents and Caps subsidy element that it currently receives as a result of following rent restructuring.
- 6.8 Given the above it is recommended that Cabinet agrees a weekly rent increase of £2.60 and tenants service charge (excluding energy which must be charged in line with cost of provision) of £0.20. This equates to the Government's average 3.1% increase as set out in the Draft Determination.
- 6.9 Members will be aware that the initial rental increase that was agreed for the Authority's tenants for 2009-10 (Cabinet – January 2009) was subsequently significantly reduced (Cabinet – April 2009) after the Government reduced the assumed Guideline rental increase from 6.2% to 3.1% following representation from local authorities. This movement away from the previous rent restructuring format has led to a distortion of the year on year movement assumptions for Subsidy purposes in respect of any caps and limits entitlement. The draft determination is not specific on this issue and clarification is being sought from the CLG on the assumptions that will be used for this element of the subsidy eligibility for this and later years.
- 6.10 Should the final published Determination require a significant change to the recommended increase outlined above, then a further report will be presented to Cabinet in March 2010.

7. MEDIUM TERM FINANCIAL FORECAST

- 7.1 The medium term financial forecast for the Housing Revenue Account is being reviewed in the light of the draft housing subsidy determination.
- 7.2 In March 2008, the Housing Minister announced an in depth review of council housing finance. The joint review by HM Treasury and the DCLG resulted in the publication of a consultation document on Council House finance in summer 2009. Consultation closed in October 2009 and details of any outcome are yet to be announced. It is not anticipated that the results of the review will be implemented until 2011/12 at the earliest, but will have significant financial implications for the Council, both revenue and capital.

8. **BUDGET 2010/11**

- 8.1 The 2010/11 HRA estimates will contain a number of provisional figures in respect of key items, most notably the housing subsidy calculation. When the final subsidy determination is issued, it will be possible to finalise the budget. However that will be after Cabinet considers the budget in February.
- 8.2 To ensure that a rent increase is operative from the first rent week in April 2010, a Cabinet decision on the rent increase must be made in January to enable all scrutiny requirements to be met and rent notices to be issued. This report has been prepared in advance of final subsidy decisions by the Government and therefore a delegated authority to the Corporate Director of Development & Renewal, after consultation with the Lead Member Housing and Development, is sought to vary the rent increase, should that be necessary.

9. **COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 9.1 The report recommends that Members adopt the Government's average guideline rent increase for 2010/11 as set out in the Draft HRA Subsidy Determination, subject to further assessment of Subsidy implications.
- 9.2 It also advises Members that the 2010/11 HRA budget will be presented to Cabinet for approval in February 2010, and that it is hoped that the rent level can at that stage be confirmed or amended accordingly. The report will need to take account of the projected deficit on the HRA for 2009/10, as set out in a separate report on this agenda and the consequential requirement to replenish balances accordingly. Furthermore, notwithstanding the increase to rents, the report highlights that there will need to be significant savings to the next years and future years' budgets, to ensure the Council complies with its statutory requirement to maintain a balanced Housing Revenue Account.
- 9.3 Although the Council is able to determine its own level of rent, paragraph 6 of the report highlights the financial implications of significant variations from those set out in the Government's Subsidy Determination.

10. **CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 10.1 The Council has power under section 24 of the Housing Act 1985 to review from time to time the rents that it charges for the tenancy or occupation of its dwellings.
- 10.2 At the same time, the Council is subject to an obligation under Part VI of the Local Government and Housing Act 1989 to maintain a housing revenue account. The Council is required to prepare proposals in January and February each year relating to the income of the authority from rents and other charges, expenditure

in respect of repair, maintenance, supervision and management of HRA property and other prescribed matters. The proposals should be based on the best assumptions and estimates available and should be designed to secure that the housing revenue account for the coming year does not show a debit balance.

- 10.3 The report seeks to have Cabinet exercise the power to increase the rent charged on Council dwellings, having regard to the need to maintain a positive balance in the housing revenue account in 2010/2011.
- 10.4 The Council may increase the rent by giving four weeks' notice to tenants. The notice period appears from section 103(4) of the Housing Act 1985, but also from the terms of the Council's standard tenancy agreement.

11. **ONE TOWER HAMLETS CONSIDERATIONS**

- 11.1 As set out in the report, the Council is subject to an obligation to determine proposals targeted at maintaining a positive balance in the housing revenue account. The aim of this report is to agree a level of rents that strikes the balance between maximising resources available to the Council for social housing purposes and avoiding undue additional hardship to vulnerable tenants. If rents are not increased then additional savings will have to be identified to offset the loss of Housing Subsidy, as outlined in paragraph 6.6 of the report. Those savings will impact upon services relating to both the management and maintenance of the housing stock, and are likely to impact upon specific services for supporting vulnerable residents. It is considered that a rent increase of the size proposed in the report strikes the right balance and provides the best overall outcome for residents, allowing services to be maintained. For the same reason the rent increase is considered preferable from an equalities perspective.
- 11.2 The Housing Benefits system is designed to ensure a proportionate level of protection for low income residents. This is reimbursed by Central Government, but only up to "Limit Rent" levels, as outlined in paragraph 6.7.

12. **RISK MANAGEMENT IMPLICATIONS**

- 12.1 The resources available to support HRA expenditure have reduced significantly as a consequence of the economic climate and subsequent low interest rates. This recent trend is unlikely to change and officers' assessment is that Subsidy levels will continue to fall. Historical levels of expenditure incurred on managing and maintaining our stock are no longer sustainable and significant real savings will be required to ensure the Council complies with its statutory responsibilities. The significant reductions in interest rates, ongoing from November 2008 are having a major financial impact on the HRA, through net loss of housing subsidy and reduced investment income. The budget will incorporate an assessment of

the effect of ongoing low interest rates but this continues to be an area of significant financial risk.

- 12.2 The budget will be prepared on the basis that there will be no significant changes to stock numbers in 2010/11, although the impact of the various decanting, demolition and refurbishment initiatives that are being undertaken as part of the different regeneration programmes that are being progressed in the borough must be considered.
- 12.3 A detailed review of the medium term financial forecast of the HRA has been undertaken to assess the appropriate levels of balances and reserves taking into account the risks and uncertainties facing the HRA over the next five years.
- 12.4 There is a risk that if the Authority set a level of rent which is inconsistent with that indicated in the draft determination the Council will not be following rent restructuring rules which could affect subsidy entitlement not just in 2010/11, but beyond. Due to the current review of the Housing Finance system the effects, if they exist, cannot be quantified.

13. **EFFICIENCY STATEMENT**

- 13.1 Following the publication of the Final HRA Subsidy Determination 2010/11 Gershon efficiency savings will be incorporated into the draft estimates in order to ensure the HRA remains in balance.

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

There are no working papers applicable to this report

Agenda Item 12.1

Committee	Date	Classification	Report No.	Agenda Item No.
Cabinet	13th January 2010	Unrestricted	CAB 104/090	
Report of Aman Dalvi – Corporate Director Development & Renewal		Title Housing Revenue Account 2009/10 – Forecast Financial Position Statement, as at 31 December 2009.		
Originating Officer Chris Holme Service Head (Resources) – Development and Renewal / Paul Leeson Finance Manager - Development & Renewal		Wards Affected All		

Special Circumstances and Reasons for Urgency

This report was unavailable for public inspection within the stated timescales set out in the Authority's constitution because it is an urgent report requested by Cabinet at its meeting on 2 December 2009. Cabinet requested the preparation of an urgent report to the meeting of 13 January 2010 in light of a significant projected deficit on the housing revenue account. The preparation of this report has required joint working with the Council's ALMO, Tower Hamlets Homes, using where possible information available as at the end of December 2009. The time necessary to prepare an accurate update with recent information prevented earlier publication.

1. Summary

- 1.1 At its meeting of 2nd December Cabinet considered the second quarter's budget monitoring for 2009/10. The report outlined that projections were indicating a potential £4million deficit on the Housing Revenue Account (HRA) as a consequence of falling income and budget overspends. Members requested that a further report be presented to the January Cabinet. Officers have been working with the Council's ALMO, Tower Hamlets Homes, who manage key housing activities on behalf of the Council, to provide the most up-to-date position on the finances of the HRA in the current financial year. This report updates Cabinet of the outcome of that work, and provides officers current forecast of the likely outturn position.
- 1.2. The report identifies that an over spend of £2.6m is now projected for 2009/10, although management action will continue for the rest of the financial year in an effort to mitigate this. Around £1.3m of this variance is due to changes in capital financing costs and HRA subsidy income which the Council cannot affect. The remainder is due to over spends in expenditure budgets, partly offset by additional income. Actions are set out in the report aimed at containing these costs.

2. Recommendation

Cabinet is recommended to: -

- 2.1 Note the projected outturn in respect of the 2009/10 Housing Revenue Account as detailed in Appendix A to this report, and its implications for 2010/11, as outlined in paragraph 4 of the report.

3. Background

- 3.1 Cabinet considered 'The 'Performance and Corporate Revenue Budget Monitoring report 2009-10 – Performance to 30th September 2009' report on 2 December 2009. It was requested that a further report be submitted to the January 2010 Cabinet outlining the position on the Housing Revenue Account and the pressures that are being faced. That report identified a significant potential deficit as a consequence of falling income and a number of projected budget overspends particularly with regard to Repairs and Maintenance expenditure. At that meeting it was reported to Members that the deficit for the year could be up to £4million.
- 3.2 This report updates Members of the financial position of the Housing Revenue Account (HRA) in 2009/10. It is based on the most up-to-date information available on income, expenditure and service activity to 31 December 2009. Key elements of the management and special services budget are procured through the management agreement with Tower Hamlets Homes, the Council's Arms Length Management Organisation.
- 3.3 The original budget used in this report was approved by Cabinet on 8th April 2009, following the Government's decision to lower the guideline rent increase from that previously announced in its HRA Determination of December 2008.
- 3.4 The HRA is a statutory ring-fenced account and relates to the activities of the Council as landlord of its dwelling stock. Income to the HRA is primarily derived from tenants' rents, service charges and government subsidy. Expenditure includes repairs and maintenance and the provision of services to manage the stock. Expenditure not met by Housing Revenue Account subsidy must mainly be met from Council tenants and leaseholders.
- 3.5 A number of substantial elements of the HRA such as subsidy and capital charges are either totally, or largely, out of the control of the Council. The major areas within the control of the Council are management, special services and maintenance. The majority of these services are managed by Tower Hamlets Homes on behalf of the Council.
- 3.6 Officers have been, in conjunction with Tower Hamlets Homes, conducting a detailed review of income and expenditure actuals and assumptions.

4 Current Position

- 4.1 Set out in Appendix 1 is the original 2009/10 HRA budget in its statutory format, together with the latest budget, and explanations for major variances are set out below.

4.2 The Housing Revenue Account is under the most severe financial pressure, and this is unlikely to change in the medium term. Overall, officers' current assessment is that the deficit for 2009/10 will be some £2.6million, and this will have significant implications for a number of years to come. The deficit must be financed by the utilisation of HRA reserves, and ring-fencing regulations preclude any subsidy from the Council's General Fund. To ensure long-term sustainability of the HRA those reserves must be replenished.

4.3 The resources available to fund the HRA have reduced significantly as a consequence of the current economic climate, and this will have an ongoing impact into 2010/11, as interest rates continue to remain at historic lows. The loss of income must be offset by making additional savings and/ or generating additional income from other sources within the HRA.

4.4 **HRA Subsidy / Capital Charges**

The on-going economic situation and particularly the large reductions in interest rates have had a major impact on the HRA. The 2009/10 budget was prepared using the latest interest rate projections available at that time, but these rates have had to be updated to reflect the on-going economic position.

For subsidy purpose the Government assumes a notional debt level for the Authority which is significantly in excess of the Council's actual level of debt and this is common amongst London local authorities. This means that although capital charges are reduced as a consequence of lower interest rates, housing subsidy reduces at a much faster rate. Officers' assessment is that there will be a loss of over £4million of housing subsidy in this year as a consequence of this whereas capital charges will only reduce by £3.1million.

In addition the interest that the Authority expects to generate on the HRA balances held will also significantly reduce, due both to the significant use of balances and on-going low interest rates. Current estimates are that the interest received will be less than £200,000 compared to the budget of £600,000.

4.5 **Repairs and Maintenance**

Repairs are managed on behalf of the Council by Tower Hamlets Homes, and they forecast that despite a number of measures to mitigate, significant overspend is anticipated on this budget. The main reasons for this are as follows;-

- increasing age and frailty of the stock are having additional demand pressures;
- there has been a greater focus to meet tenants' needs by undertaking more work, and consequential raising of expectations
- a greater emphasis on clearing communal backlog repairs through estate inspections and repair days.

Tower Hamlets Homes have been reviewing the spend position and have introduced a number of measures to alleviate the overspend position. These include;

- All orders are now assessed on a daily basis and prioritised accordingly
- Greater focus on work with the contractors to identify alternative more economic solutions to repairs eg bulking communal work orders on repair days.

- Void costs have been looked at in detail and a number of potential savings have been identified. However, based on the number of voids in the first part of the year we are projecting a greater number of voids this year over last year so no overall reduction in spend is expected even though average cost will decrease.
- Ongoing VFM work with contractors should deliver more effective ways of obtaining greater value from these contracts.

Council officers have been working with Tower Hamlets Homes staff to investigate, and have identified areas where there is scope to finance certain items of repairs expenditure from other funding sources, in particular the capital programme. However Members should note that current adverse weather conditions are likely to further impact upon demand for responsive maintenance.

4.6 Management – General and Special Services

As outlined in the first quarter's 'Performance and Corporate Revenue Budget Monitoring report 2009-10' that was considered by Cabinet on 2 September, net expenditure on Supervision and Management is currently forecast to be over 2% in excess of budget. The projections include some extra-ordinary one-off restructuring and legacy costs which have been provided for within reserves. In addition to this there have been additional costs associated with squatting and its prevention on regeneration estates. Other potential overspends are anticipated across various other budgets, including those provided through the Council. On-going efforts are being made in conjunction with Tower Hamlets Homes to reduce expenditure in this area.

4.7 Dwelling and Non-Dwelling Rental Income

The first quarter's monitoring feedback reported that Rental Income would be lower than originally estimated due to various factors. The transfer of approximately 90 tenanted properties on the Coventry Cross estate to Polar HARCA in July 2009 has reduced the number of rent generating properties within the Council's ownership. In addition the greater number of voids in the current year, mainly due to the Authority's on-going regeneration schemes including the Ocean Estate and Blackwall Reach, means that a projected shortfall of approximately 1% is anticipated on the £55 million dwellings rent budget. This is partially offset by increased income from shop rents following the on-going re-negotiation of leases.

4.8 Service Charge Income

When the April to June monitoring report was considered in September it was reported that the income anticipated from the service charges for 2009/10 would be higher than originally estimated. At that stage the actualisation of service charges for 2008/09 was still to be completed, and following the finalisation of this process in September the projected service charge income for 2009-10 has increased further, with current estimates being that income will be £1.5 million in excess of budget.

5. Comments of the Chief Financial Officer

- 5.1 This report was requested by Members to provide an update on the current projected outturn position on the Housing Revenue Account during 2009-10. This followed the second quarter's budget monitoring report to Cabinet that highlighted a significant overspend and shortfall in income within the HRA.
- 5.2 The report suggests that the net level of overspend / reduced income could exceed £2.6 million. Specific explanations relating to variances on expenditure and income, together with associated risks, are reflected in the body of the report.
- 5.3 This is a very significant budget overspend and although it can be contained within the current level of balances held, it is essential that on-going actions are undertaken and initiatives developed to reduce expenditure, and where possible generate additional income. The report sets out the actions that will be taken and the Cabinet needs to assure itself that these actions will mitigate the situation for 2009/10.. .
- 5.4 Whilst an overspend of this magnitude can be contained within existing reserves, if it transpires that the HRA does overspend by this amount, after taking account of approved commitments, this will take the HRA below the minimum recommended level of reserves (£9m). This risk will need to be taken into account in setting the budget for 2010/11 and provision made for replenishing reserves if necessary.
- 5.5 As Members are aware, severe budgetary pressures are impacting on the authority's finances. These pressures are particularly acute for the HRA because of the way the Housing Subsidy system operates (as explained in the report) and because of the strict ring-fencing that applies to the HRA. The HRA has also not benefited from the three year settlement which applied to the General Fund. The current budget process for 2010-11 has highlighted the need for savings within the authority's budgets, and the proposed HRA savings will be reported to Cabinet in February. It is important that the finances of the HRA are kept under review and projected going forward so that these pressures can be strategically managed.
- 5.6 The Council's Rent proposals for 2010-11 are being considered in a report elsewhere on this agenda.

6. Concurrent Report of the Assistant Chief Executive (Legal)

- 6.1 The Council is required to keep an account, called the housing revenue account, of sums credited or debited in respect of houses provided by the Council under the Housing Act 1985, land acquired or appropriated for that purpose and other prescribed matters: Local Government and Housing Act 1989, s.74 ("the 1989 Act"). There is a further obligation on the Council to develop proposals for each financial year, the implementation of which is designed to secure that the account does not show a debit balance: the 1989 Act, s.76. The Council is required to review its proposals from time to time and make any necessary adjustments. It is consistent with these duties and with good financial administration for Cabinet to receive information concerning the expected out-turn of the housing revenue account and any action to be taken in relation to it.

7. One Tower Hamlets Considerations

7.1 There are no specific equalities, community cohesion or community leadership issues arising from this report.

8. Sustainable Action for a Greener Environment

8.1 There are no specific implications arising from this report.

9. Risk Management Implications

9.1 There are on-going pressures on the Repairs and Maintenance budget as outlined in paragraph 4.5. Efforts are being taken in conjunction with Tower Hamlets Homes to closely control and reduce expenditure in this area, but ultimately the Authority has legal responsibilities in respect of maintenance obligations for the tenanted stock. A particular risk is the significant added pressures that will be placed on the responsive repairs budget by an on-going period of severe winter weather.

9.2 In addition to the budget pressures outlined in the report, Members should be aware that there are on-going legacy issues arising from the Housing Choice process. These include employee challenges which are currently the subject of legal proceedings.

9.3 The ongoing low levels of interest rates have had a major impact on both the Housing Revenue Account and the General Fund, as will any future rate changes. This report incorporates a likely assessment of the effect of the base rate changes, but the position will be closely monitored and Members will be updated of the position within this and future years' quarterly budget monitoring reports to Cabinet.

10. Efficiency Statement

10.1 We are required to ensure that, over the medium term, HRA expenditure is contained within income from tenants, leaseholders and the housing subsidy system. This report highlights the significant impact that current interest rates have on income to the HRA through the subsidy system. This means that Value for Money, in delivery of services is paramount, and this is reflected in our HRA financial strategy.

11. List of Appendices

Appendix 1:

Housing Revenue Account: Forecast Outturn 2009/10 (as at 31 December 2009)

Local Government Act 1972 (as amended) Section 100D
List of "Background Papers" used in the Preparation of this report

Brief description of "background paper"

Name and telephone number of holder
And address where open to inspection

There are no background papers applicable to this report

BUDGET MONITORING REPORT 2009/10

2009/10 Original Budget £'000	HEADING	2009/10 Latest Budget £'000	2009/10 Forecast Outturn £'000	Forecast Variance £'000
Income				
(55,219)	Dwelling rents	(55,219)	(54,626)	594
(2,815)	Non-dwelling rents	(2,815)	(3,072)	(257)
(6,718)	Heating and other tenant charges	(6,718)	(6,418)	300
(9,613)	Leaseholder charges for services and facilities	(9,613)	(11,203)	(1,590)
	HRA Subsidy Receivable (including MRA)			
(6,788)	General	(6,788)	(2,737)	4,051
(12,556)	MRA	(12,556)	(12,556)	(0)
(115)	Contributions towards expenditure	(115)	(115)	-
(93,824)	Total Income	(93,824)	(90,727)	3,097
Expenditure				
22,901	Repairs & Maintenance	22,901	24,438	1,537
39,023	General and Special Services	39,023	40,013	990
2,947	Rents, rates, taxes and other charges	2,947	2,713	(234)
	Rent rebate subsidy limitation deduction transfer to			
	- General Fund	-	-	-
900	Increased/(Decrease) provision for bad debts	900	900	-
	Capital Financing Charges			
17,630	Interest (Item 8)	17,630	14,457	(3,173)
12,556	Depreciation - HRA dwellings	12,556	12,556	0
789	Depreciation - Non Dwellings	789	789	-
213	Debt Management Costs	213	213	-
96,959	Total Expenditure	96,959	96,079	(880)
3,135	Net costs of services	3,135	5,352	2,217
				-
(538)	Supporting People Grant	(538)	(538)	-
585	Amortised Premiums and Discounts	585	585	-
(612)	HRA investment income	(612)	(178)	434
2,570	Net operating expenditure	2,570	5,221	2,651
Appropriations				
3,700	Revenue Contributions to Capital Expenditure	6,700	6,700	-
	Transfer from Major Repairs Reserve	(789)	(789)	-
(1,181)	Transfer from Housing Choice Reserve	(4,181)	(4,181)	-
5,089	Deficit / (Surplus) for year	4,300	6,951	2,651
Balances - General				
(12,120)	Balances at beginning of year	(12,120)	(12,120)	-
(7,031)	Balances at end of year	(7,820)	(5,169)	2,651
Housing Choice Reserve				
(11,181)	Balances at beginning of year	(11,181)	(11,181)	-
(10,000)	Balances at end of year	(7,000)	(7,000)	-

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