# OVERALL FINANCIAL POSITION STATEMENT

## 1. CABINET MEMBER'S INTRODUCTION

I present to Cabinet the Overall Financial Position report for the 2013/14 financial year which is based on detailed January monitoring data from directorates. The report is forecasting an underspend of £1,570k at year end, which is an increase of £26k in the underspend reported in December. This will be earmarked to support the funding of future cost pressures and the Capital Programme.

## 2. CORPORATE DIRECTOR'S INTRODUCTION

2.1. The OFP shows that the Council is forecast to have a £1,570k underspend which is equivalent to 0.1% of the total gross budget. It is my intention to earmark this underspend to support the funding of future cost pressures and the funding of the Capital Programme.

2.2 The Institute for Fiscal Studies has recently published a report on the prospects for public sector employment over the next 5 years which makes very grim reading. The Office for Budget Responsibility (OBR) forecasts that there will be cuts in general government employment of 1.1m over the period 2010/11 to 2018–19. This would take the share of the workforce working in general government to just 14.8%, compared to just under 20% in the middle of 2013. It is clear that OBR expects further significant cuts in total public sector employment over the next 5 years. It should be noted that the NHS and public education workforces have grown steadily over the last 50 years, both in size and as a proportion of the public sector workforce. Together, these two functions made up 23% of the public sector workforce in 1961, 42% in 1991 and around 57% in 2013. Now if schools and the NHS continue to be protected from spending cuts as they were in the 2010 and 2013 Spending Reviews, and there were no reductions to the education and NHS workforces between mid-2013 and 2018–19; the IFS believe that the OBR's forecasts could only be borne out if the rest of general government shrank by 40%. Even if education and NHS were cut by 200,000 from mid-2013 to 2018–19, the cuts to the rest of general government according to the IFS would still need to be about 30%. Local Government is an unprotected Department and it follows that on the basis of the OBR forecasts and IFS analysis, there will be significant further cuts in Councils' total employment over the next 5 years.

2.3 **Proposal to enter into a lease for a term of 15 years in respect of the Portico Building, Laura Place E5 0RB shown edged red on the Plan annexed as Appendix 1 ("the Property")**

The property comprises a stone Doric portico constructed as part of a larger building to house an orphanage in 1825. The Portico served as the entrance to a much larger complex of buildings that were demolished in the 1970s, leaving behind the portico and colonnades. In 2006 a new learning centre building was constructed onto the back of the portico entrance to provide a City Learning Centre. The City Learning Centre moved out in 2008 when Clapton Girls school occupied the Portico as a decant site as part of the BSF programme. Clapton Girl's converted to academy status from 1st September 2011. The Portico was not included as part of the lease granted by the Council at conversion. The Academy want to remain in occupation of the Portico and feel it is integral to the school's identity. The Council does not have any other planned use of the building and as the Portico has been in educational use in the last 8 years the opportunity for disposal or change of use is limited. In summary, the lease will be for a term of 15 years with a break clause on the provision of 12 month's notice on either side. The lease will be a full repair and insuring lease and a schedule of condition will be prepared prior to the completion of the lease. The lease will be granted at zero rent to the Academy but the Academy will be responsible for the maintenance of the Portico. An element of backlog maintenance has been identified and the cost of this has been estimated at £105,000 over the first five years of the lease. It is proposed that the lease will include a clause whereby the Council contribute up to a maximum of £50,000 towards this backlog maintenance. A plan of the property is attached at Appendix 1 and a Heads of Terms outlining the proposed transaction is set out at Appendix 2.

2.4 **Proposed Disposal of Freehold Interest in 2 Newton Close N4 and the Long Leasehold Interest in 115C Clapton Common E5**

<u>2 Newton Close</u>

This property managed by Hackney Homes comprises a large 4 bedroom detached house with gardens front and rear and it immediately adjoins the New River. It is in a very dilapidated state of repair exhibiting signs externally of severe structural movement on all foundations which has caused extensive cracking internally in all rooms. Hackney Homes has estimated that to undertake full repair and refurbishment to Decent Homes standards will cost at least £500k and have advised that this level of expenditure cannot be justified. At present the property is squatted.

The options for this property have been extensively discussed at the Corporate Property Group which has confirmed that given there is no other operational use it should be recommended for disposal. Furthermore as it does not fall within the Woodberry Down Regeneration area there is no requirement for its retention. Agents have been instructed to advise on the anticipated open market value and notwithstanding its poor state of repair it is still likely to achieve in excess of £500k.

115c Clapton Common

This property managed by Hackney Homes comprises a one bedroom top floor flat within a large property at Clapton Common and is held on a 999 year lease from 2003. The remainder of the property is in the ownership of the freeholder.

This flat has been void since 2003 and has since that time had a very chequered history with the previous freeholder having restricted access over the common parts to enable re-letting by the Council and also having allowed the entire property to fall into considerable disrepair which in turn has rendered this flat as being totally uninhabitable. There are no longer any walls nor is there a fitted kitchen or bathroom and extensive works would therefore be required to put this property into a reasonable condition for occupation.

The Corporate Property Group have considered the options including suing the freeholder but as the freehold ownership has now changed hands it has been accepted that may be both difficult and costly to pursue. The new freeholder however has expressed a desire to acquire this flat from the Council as they want to repair and refurbish the entire building for their own use and occupation. The Corporate Property Group now considers this to be the preferable option. This is also likely to produce the highest capital receipt for the Council albeit if satisfactory terms cannot be achieved the property could still be marketed in its present condition.

Agents have advised that given the condition of this property the open market value is in the region of £200k.

The Lead Member for Housing has endorsed the decision to dispose of both of these properties but has requested that as with previous HRA disposals that the capital receipt be ring fenced for the renovation of other problematic Street Properties.

2.5 The latest position in relation to **GENERAL FUND REVENUE EXPENDITURE** is summarised in table 1 below;

**TABLE 1: GENERAL FUND FORECAST OUTTURN AS AT JANUARY 2014**

| Original Budget £k | Virements £k | Revised Budgets £k | Service Unit | Change from Revised Budget £k | Change from Previous Month £k |
|---|---|---|---|---|---|
| 93,920 | 2,272 | 96,191 | Childrens' Services | 0 | 0 |
| 149,160 | 1,178 | 150,338 | Health & Community Services | -916 | 25 |
| 1,516 | 0 | 1,516 | Housing | -52 | 15 |
| 12,323 | 251 | 12,574 | Chief Executive | -12 | -6 |
| 6,025 | 285 | 6,310 | LHRR | -432 | -19 |
| 19,532 | 922 | 20,454 | Finance and Resources | -158 | -41 |

| | | | | | |
|---|---|---|---|---|---|
| 26,112 | -4,803 | 21,309 | General Finance Account | 0 | 0 |
| **308,588** | **105** | **308,692** | **GENERAL FUND TOTAL** | **-1,570** | **-26** |

## 3.0 RECOMMENDATIONS

**3.1 To note the overall financial position for January 2014, covering General Fund and the HRA, and the earmarking by the Corporate Director of Finance and Resources of the underspend to support funding of future cost pressures and the funding of the Capital Programme.**

**3.2 Authorise the Council to grant a lease relating to the Property at Clapton Girls Academy, for a term of 15 years at a rent of a peppercorn with terms as set out in 2.3 above and shown edged in red on the plan attached at Appendix 1. The heads of Agreement are attached at Appendix 2.**

**3.3 Delegate authority to the Corporate Director of Legal HR and Regulatory Services to agree to the terms of the proposed lease re the Property at Clapton Girls Academy and settle the legal documentation to implement the proposed grant of lease to include ancillary legal documents relating thereto.**

**3.4 To authorise the disposal of the freehold interest in 2 Newton Close (shown edged red on plan attached at Appendix 3 and leasehold interest in 115c Clapton Common (shown edged red on plan attached at Appendix 4) as set out in 2.4 above.**

**3.5 To authorise the Corporate Director of Legal, HR and Regulatory Services to prepare, agree, settle and sign the necessary legal documentation to effect these proposed disposals and any other legal documentation required to complete the transactions envisaged.**

**3.6 To authorise the Corporate Director of Finance & Resources to agree the commercial terms relating to the disposal of 2 Newton Close and 115c Clapton Common as proposed and envisaged within this report (provided always that he is satisfied that the Council will achieve the best value considerations set out in Section 123 of the Local Government Act 1972).**

## 4. REASONS FOR DECISION

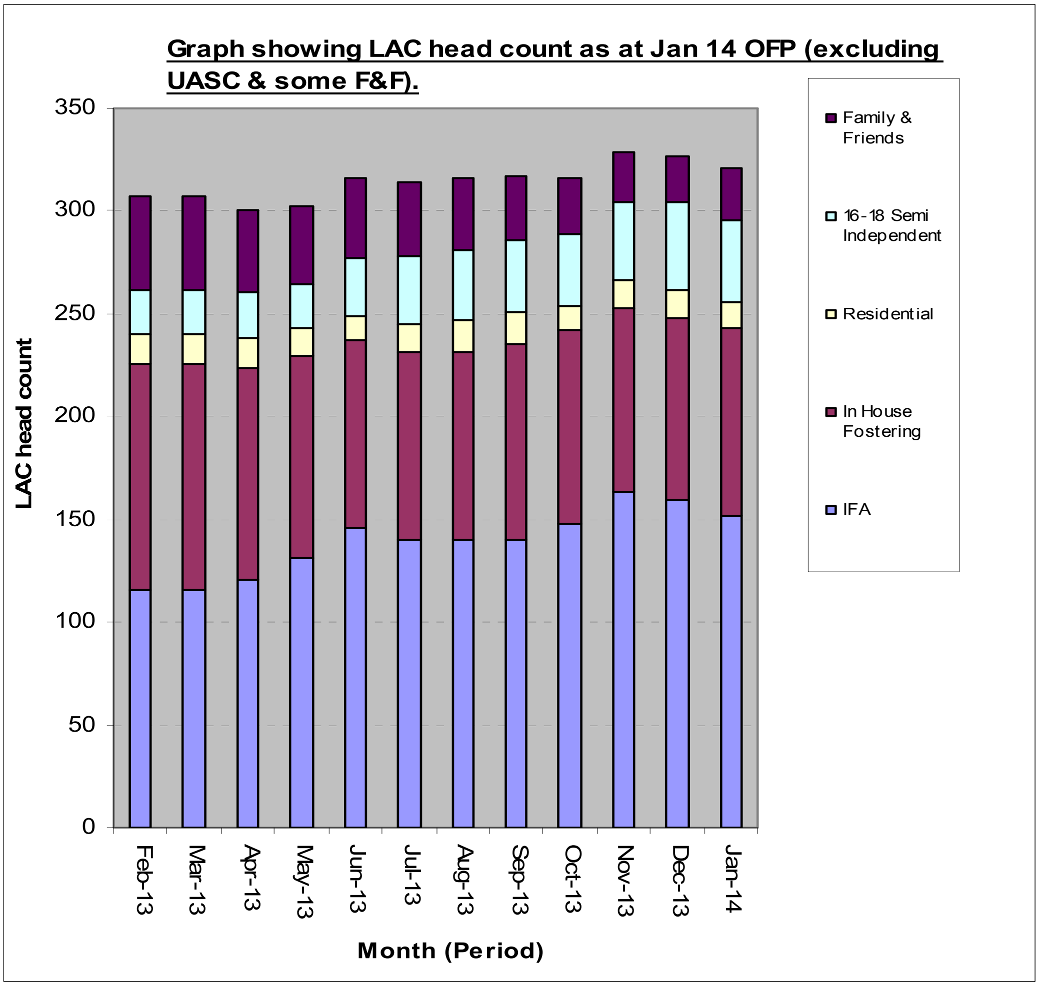
4.1 To facilitate financial management and control of the Council's finances. Commentaries on each directorate's financial position are given below.

4.2 CYPS

CYPS is currently forecasting a £0k variance after planned use of reserves of £1,887k.

As at January 2014, we are forecasting an overspend of £1,197k in Corporate Parenting (before use of reserves). This is due to the increased number of children and young people that have come into care since 2011/12 along with the shortage of in-house foster carers. The chart below shows that LAC numbers over the first 4 months of the calendar year remained relatively stable. There was an increase in LAC numbers in June that remained consistent until November when the numbers coming into care increased by a further 15. However, since December there has been a reduction in the head count of 8.

In addition, there has been an increase in the number of young people placed in semi-independent accommodation in both 16-18 and 18+ age categories. This is due to the LAC population aging and those between 16-18 becoming homeless and receiving services as per the Southwark Judgement.




*Note: Unaccompanied Asylum seekers and family and friends placements excluded where they do not result in a net cost to the Council*

The chart above also shows a change in the profile of placements over time. While residential placements (the most costly) remain low, there has been an increase in placements in the private and voluntary (P&V) fostering sector and a decrease in those in in-house foster care. This is a consequence of the shortage of in-house foster carers and also the fact that some more complex cases might require a foster carer with specific experience and/ or capacity which we will not always have available amongst our in-house foster carers. The marginal cost of an in-house foster care placement is significantly less than that of a P&V foster care placement. It should be noted however, that a recent benchmarking exercise has shown that Hackney's overall expenditure on LAC placements is low compared to our statistical neighbours.

A pilot has been agreed via single tender action for an external organisation to recruit in house foster carers for Hackney. The organisation has had significant success in another London borough and will manage the process from advertising for interested people through to the point that the people are successfully accepted as foster carers. The objective is to increase the proportion of LAC placed in in-house arrangements and therefore significantly reduce the average unit cost of a placement. Results of these actions will be closely monitored and expenditure reductions factored into the forecast as they are achieved, however, this initiative is in the early stages of implementation and therefore, the full impact is unknown at the present time. It is also worth noting that Hackney has improved its performance in achieving permanency for children with an increase in numbers of children being adopted and an increase in the percentage of children leaving care on Special Guardianship Orders (top 25% nationally, despite the increase in numbers). Both of these outcomes are usually less costly than P&V fostering arrangements.

We have a seen a net reduction in numbers coming into care since December particularly those placed in P&V placements. Realistically, we do not anticipate a material shift in the numbers and profile of LAC in the short term and it is therefore likely that a significant pressure will continue into 2014/15. Finance has prepared a forecast for 2014/15 which takes into account the anticipated impact of agreed actions to reduce spend.

Children in Need are forecast to overspend by £770k. However, a large proportion of this relates to the forecast spend on legal fees and court costs (£359k). Due to the volatility of such costs and the fact that they can arise in varying services across the Directorate, the budget is held on the Directorate Management Team (DMT) cost centre and DMT are reporting a corresponding underspend. The true overspend in Children in Need is therefore £411k. This is due to an overspend on payments to Section 17 clients (£396k). This includes contributing to one expensive education placement of £102k. These cases are being reviewed by the Head of Service. The S17 overstayers cases will be transferred to the Overstaying Family Intervention Team (OFIT) in the new financial year. OFIT will review all cases to confirm that we continue to support families with legal entitlement. The subsistence for these families is also being reviewed to ensure that most cost effective housing options are utilised. The budget holder is aware of these costs and with the finance lead is working on ways of managing this financial pressure.

The overspends in Corporate Parenting and Children in Need are offset by significant underspends in Family Support Services and the Directorate Management Team. Family Support Services are forecast to underspend by £667k due to posts held vacant pending a restructure of the service. DMT are forecasting to underspend by £585k. This is primarily due to legal budgets held on this cost centre whilst costs are incurred elsewhere across the Directorate as explained in relation to the Children in Need overspend above.

The Hackney Learning Trust (HLT) position is consolidated into the CYPS directorate forecast. Outturn is forecast on budget.

4.3 <u>Health and Community Services</u>

The forecast for the Health and Community Services directorate is a £916k underspend, which is an adverse movement of £25k on the December position. The forecast includes the bringing forward of £3,100k of savings for the directorate, as the Council looks to build headroom ahead of anticipated further central government funding reductions. The saving is being held as a contribution to reserves separately within the HCS directorate budgets ahead of year-end. £1,600k of the brought forward Directorate savings have so far been secured.

**Adult Social Care**

The Adult Social Care forecast is an £863k overspend, which is an adverse movement of £38k on December.

The Provided Services forecast has moved adversely by £146k, to a £118k underspend, and this is being driven by a £137k activity related increase in agency staff within our Housing with Care function. Care Support Commissioning has improved by £266k, with the main change being a £323k improvement in Learning Disabilities commissioning. The major contributing factors to this are a £188k improvement in the forecast for day care and £47k improvement in client transport, both of which reflect work that has happened this year in reviewing client needs in this area. There has also been a £74k improvement in residential care reflecting the January snapshot of commissioned services, and a £36k increase in income received from charging service users for residential care.

The other major change in Care Support Commissioning has been an adverse movement of £42k in voluntary sector contracts, reflecting an additional two newly commissioned contracts.

Mental Health has improved by £29k, to £41k and this primarily reflects updates to the staffing forecasts.

The Preventative Services forecast has moved adversely by £182k, to £269k overspend. The forecast for the reablement function has increased by £175k, which has been caused by a £104k increase in the charges for health staff (nurses) employed to run the service, which relates to activity, and a £70k increase in the agency forecast which is a correction on the previous month's forecast following a robust review of spend in this area.

**Health and Wellbeing**

The Health and Wellbeing forecast for January is a £155k underspend, which is an adverse movement of £10k on December.

**Public Realm**

The Public Realm position for December is a £125k underspend, which is an improvement of £78k on the December forecast. There has been a £36k improvement in Environmental Enforcement, reflecting improvements in staffing where recruitment to vacant posts has either not happened or has been delayed, and a £41k improvement in Streetscene, which is due to additional income from charges to Utilities companies and developers

**Directorate Management**

The Directorate Management position has moved adversely by £55k, to a £1,500k underspend, which primarily reflects the balance of the brought forward savings not made in Adult Social Care.

4.4 Finance & Resources Directorate

The forecast position is £158k under budget. As noted in previous OFP's, this is despite cost pressures in revenues and benefits, and within temporary accommodation. There is a significant increase in account management and recovery workload arising from the new council tax reduction scheme and significant cost pressures arising from the persistent increase in homeless applications and acceptances. Within our forecasts, there are also pressures resulting from delays in making council owned properties available for temporary accommodation, which are masked by the early delivery of future years' savings.

4.5 Chief Executive

The overall position is forecast underspend of £12k with an underspend on PP&D offsetting overspends in the Chief Executive's Office and Safer Communities. The reasons for the overspends and underspends in these areas has been discussed in previous OFP's.

4.6 Legal, HR and Regulatory Services

As at January 2014, LHRR is forecasting an under spend of £432k after use of reserves. The most significant forecast variances are: an underspend of £103k in Governance Services due to unfilled posts in anticipation of a planned restructure; and an underspend in Legal Services of £95k due to additional income forecast of £151k offset by additional spend on external barristers and solicitors of £58k. Additionally, within Planning and Regulatory Services (PRS), there is additional income (£351k) arising from planning applications for major developments in the borough, new licensing fees and higher than budgeted land charges fees due to improvements in the housing market. This is offset by significant printing and postage costs (£69k), caused by the high number of planning applications. Other budget pressures have been accommodated within the PRS underspend. These include cover for long term sickness (£62k), redundancy costs (£50k) and a shortfall in Proceeds of Crime income (£44k).

Human Resources and Organisational Development are forecast to meet their budget after draw down from reserves.

4.7 General Fund Housing Services

There is a forecast underspend of £52k which is primarily due to additional income from Dwellings Rent (£107), which is partially offset by the costs of an extra post in Regeneration and a contribution to reserves to fund a Housing Needs Survey required in 2014/15.

4.8 HRA

The HRA is forecast to come in on budget. There are various overspends and underspends across the service, including underspends on repairs and maintenance, special services (lower than anticipated utility bills) and the cost of capital; overspends on supervision and management, tenant charges and rents and rates; and reduced income from leaseholder charges. There is also an increase in the RCCO due to forecast underspends on utilities, transferred to capital as part of the HRA Business Plan

## 5.0 DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

As this report is primarily an update on the Council's financial position, there are no alternative options.

## 6.0 BACKGROUND

### 6.1 Policy Context

This report describes the Council's financial position as at the end of December 2013. Full Council agreed the 2013/14 budget on 25th February 2013.

**6.2 Equality Impact Assessment**
Equality impact assessments are carried out at budget setting time and included in the relevant reports to Cabinet. Such details are not repeated in this report.

**6.3 Sustainability**
As above

**6.4 Consultations**
Relevant consultations have been carried out in respect of the forecasts contained within this report involving, the Mayor, the Member for Finance, HMT, Heads of Finance and Assistant Directors of Finance.

**6.5 Risk Assessment**
The risks associated with the schemes Council's financial position are detailed in this report.

## 7. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

7.1 The Corporate Director of Finance and Resources' financial considerations are included throughout the report.

## 8. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

8.1 The Corporate Director of Legal, HR and Regulatory Services has seen the report and has no legal comments to make on the regular budget monitoring part of the report.

8.2 In relation to the proposed lease of the Portico Building, Laura Place E5 0RB set out in paragraph 2.3 above, Sections 123(2) and (7) of the Local Government Act 1972 provides that subject to certain exemptions a Local Authority shall not dispose of land for a consideration less than the best that can reasonably be obtained. The Interim Assistant Director for Strategic Property Services at paragraph 9.1 of this report confirms that the proposed disposal by way of grant of a 15 year lease at a peppercorn will meet with the exemption requirements relating to best consideration in terms of section 123 of the Local Government Act 19 72

8.3 The proposed disposal of 2 Newton Close and 115c Clapton Common referred to in paragraph 2.4 of this report must be for the best consideration that can reasonably be obtained in order to comply with Section 123 of the Local Government Act 1972. The report sets out how the Council will ensure that the best consideration that would reasonably be obtained will be achieved. The Interim Assistant Director of Strategic Property Services has confirmed in 9.2 below that he will ensure that these disposals will meet with the best consideration requirement of Section 123 of the Local Government Act 1972. Furthermore the Council has power under Section 1 of the Localism Act 2011 to enter into the legal documentation (the general power of competence).

## 9. COMMENTS OF THE INTERIM ASSISTANT DIRECTOR FOR STRATEGIC PROPERTY SERVICES

### 9.1 Portico Building

9.1.1 The proposed lease in respect of the Portico Building to Clapton Girls Academy is a commercial lease of more than 7 years and therefore constitutes a disposal. Where the Council disposes of an interest in property it is generally obliged, under s.123 of the Local Government Act 1972, to demonstrate that it has achieved best consideration. The building was valued at nil consideration in 2012 reflecting the cost of the works to be undertaken and restrictive education use. It was assumed a 5 year lease at a peppercorn rent would be agreed with the Academy as there were few other Education bodies who would take on such a lease liability. Terms have now been renegotiated and a lease of 15 years agreed at a peppercorn rent.

9.1.2 To satisfy the requirements of s. 123 of the Local Government Act 1972, the letting of Portico Building Clapton Girls Academy under a 15 year lease would need to be at a market rent of £45,000 per annum, taking into account the education use, the buildings listed status and outstanding backlog repairs.

9.1.3 The Local Government Act 1972: General Disposal Consent (England) 2003 enables local authorities to dispose of an interest in land at less than best consideration where the authority considers that this will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. This is subject to the condition that the undervalue does not exceed £2 million. The Council has accepted a peppercorn rent to reflect the fact the Academy provides an excellent education to the young people and community of Hackney and wishes to support the Academy in its success in the Borough. The school was awarded Outstanding by OFSTED in 2008 and 2013 and OFSTED states: “An outstanding school is highly effective in delivering outcomes that provide exceptionally well for all its pupils’ needs. This ensures that pupils are very well equipped for the next stage of their education, training or employment.” The adjoining site was transferred to the Academy in 2011, however the Portico Building was not included in the site transferred at that time.

9.1.4 Planning and English Heritage rules require all Freeholders/Leaseholders to maintain Historic Maintenance Reports for listed buildings and places obligations in the upkeep and maintenance of listed buildings. Entering into a new 15 years lease with the Academy will minimise the future repairing obligations to the Council and ensure the backlog repairs are undertaken and the premises kept in repair over the next 15 years by the Academy. The lease to Clapton Girls Academy will help to secure the promotion of the social well-being of the area and minimise future repairing liabilities to the Council for this listed property. The total undervalue, based on a 15 year lease will be £675,000 which is within the £2 million under value limit. The Council is therefore able to enter into this lease, albeit that this is not at best consideration.

**9.2 2 Newton Close and 115c Clapton Common**

The Interim Assistant Director of Strategic Property Services confirms that he will ensure the disposal of both 2 Newton Close and 115c Clapton Common will meet with the best consideration that can reasonably be obtained and to comply with the requirements of Section 123 of the Local Government Act 1972.

Cllr. Samantha Lloyd
Cabinet Member for Finance and Resources

Ian Williams
Corporate Director of Finance and Resources

**Appendices (not included here but available on Cabinet Agenda 24/3/2014)**
Appendix 1 Portico Plan
Appendix 2 Portico Heads Agreement
Appendix 3 Newham Close
Appendix 4 Clapton Common

**BACKGROUND PAPERS**
None

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