

**London Borough of Hackney  
Governance and Resources Scrutiny Commission  
Municipal Year 2016/17  
Date of Meeting Tuesday, 14th March, 2017**

Minutes of the proceedings of  
the Governance & Resources  
Scrutiny Commission held at  
Hackney Town Hall, Mare  
Street, London E8 1EA

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<b>Chair</b>	<b>Councillor Anna-Joy Rickard</b>
<b>Councillors in Attendance</b>	<b>Cllr Deniz Oguzkanli, Cllr Nick Sharman, Cllr Susan Fajana-Thomas (Vice-Chair) and Cllr James Peters</b>
<b>Apologies:</b>	<b>Cllr Ned Hercock</b>
<b>Co-optees</b>	
<b>Officers In Attendance</b>	<b>Ian Williams (Group Director of Finance and Resources)</b>
<b>Other People in Attendance</b>	<b>Councillor Geoff Taylor (Cabinet Member for Finance and Corporate Resources)</b>
<b>Members of the Public</b>	
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**Councillor Anna-Joy Rickard in the Chair**

**1 Apologies for Absence**

1.1 Apologies from Cllr Hercock.

**2 Urgent Items / Order of Business**

2.1 There was no urgent item and the order of business was as per the agenda.

**3 Declarations of Interest**

3.1 None.

#### 4 Minutes of the Previous Meeting

4.1 Minutes of the previous meeting were approved.

<b>RESOLVED</b>	Minutes approved.
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#### 5 Cabinet Question Time - Finance and Customer Services

5.1 The Chair welcomed to the meeting Councillor Geoff Taylor, Cabinet Member for Finance and Customer Services and Ian Williams, Group Director Finance and Corporate Resources from London Borough of Hackney.

5.2 Topic areas submitted in advance for Cabinet Question time were:

- Council tax
- Pensions
- Business rates
- Procurement.

5.3 The detailed questions under each heading are outlined on pages 19-20 in the agenda.

5.4 The Chair invited the Cabinet Member for Finance and Customer Services to open by providing a response to the questions submitted in advance. The following substantive points were made:

##### 5.5 **Council Tax**

5.5.1 The Council Tax Reduction Scheme (CTRS) has been operational for approximately 4 years. The scheme is scheduled to be reviewed in 2017.

5.5.2 Before 2012 the council tax benefits system operated on the basis that the local authority would make the reduction and the Government would refund the full cost of the deductions made.

5.5.3 Following austerity local authorities were given 90% of the budget and tasked with setting up their own CTRS. In addition councils were still required to give the same relief to pensioners.

5.5.4 Funding for the CTRS comes in the Council's main budget the Revenue Support Grant (RSG), so it is not easy to identify the amount the government has given to fund the CTRS.

5.5.5 Since austerity began the budget has reduced significantly. The budget is approximately half the amount from when the Council was initially tasked with setting up the CTRS. The cost of the scheme is still based on the original budget.

5.5.6 If the CTRS was viewed purely as a financial model it would be reduced. However making any reduction to the scheme will be a challenge because of the client group.

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- 5.5.7 The scheme needs to be reviewed and the cost reduced but the key challenge will be to not adversely affect the people in receipt of Council Tax (CT) benefits because they are vulnerable.
- 5.5.8 The CTRS review will include engagement with stakeholders so the council can better understand the key areas of need for the people on CTRS.
- 5.5.9 In relation to CT arrears the following points were made:  
Paying CT is not optional it is a requirement. There are some people who have to go without luxuries to ensure their bills are paid. But it was acknowledged there are some people who still find it hard to pay the CT and need assistance.
- 5.5.10 Hackney Council have developed processes that enable residents to make arrangements as early as possible. There are a range of options in place to help make the payments manageable, like a longer period to pay than the standard timeline; paying by direct debit to help manage their finances and a revised debt recovery process. The Council has added additional stages such as a letter, text messages etc to help provide assistance as soon as possible. It was pointed out the support mechanisms in place will only be successful if a person engages and admits they need support. If after all the stages the payment is not recovered the debt will be passed to a collection agency.
- 5.5.11 The Council tries to prevent from getting to the stage of using a debt collection agency because this process involves entering peoples home and removing their possessions. They also recognise that children could be present and this distressing. The Council has many stages of support in the process but rely on the person to contact the council. There is the view that by having some many stages in the process a person could think the council would forget about the debt, but this is not the case and the debt does need to be paid.
- 5.5.12 As part of the review of the scheme the Council will be looking at their use of enforcement agencies for the CTRS.
- 5.5.13 In summary the key message is CT is not negotiable people need to pay the bill and they can make arrangements for their payments.
- 5.6 **Business Rates**
- 5.6.1 The Government's rationale for 100% business rates retention, is it will encourage local councils to develop businesses within their local economy. It was reported there is no evidence to support this rationale.
- 5.6.2 The principles behind business rates retention are dependent on land values. If the land value is high this is positive because business rates will increase, however, if the land value is low existing businesses will still pay the same amount of business rates. Even if businesses are developed the rate will not increase. The assumption is by councils keeping business rates they will be in a position to develop more businesses, but this may not be the case.
- 5.6.3 The impact of 100% business rates retention on the borough is not currently known. The Council is not in the position to calculate the income it would receive under 100% business rates. This is due to having the GLA.

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- 5.6.4 The retention of business rates income by the council will not impact on businesses or the rate they pay. The rates payable are set by the revaluation exercise.
- 5.6.5 There will be various reliefs available to small business that can be applied to the business rates.
- 5.6.6 The view is the policy change will not necessarily affect businesses because there will be mechanisms of support set up for businesses.
- 5.6.7 For the voluntary and community sector there is a discretionary fund available, but this is less than a £¼ of a million. If the Council wishes to increase this fund it would need to take the funding from another part of the budget.
- 5.6.7 It was noted some charities have a mandatory relief rate of 80% and the Council can give them additional relief to make them 100% proof from business rates.
- 5.6.8 Not for profit organisation are eligible for rate relief too, but any relief given has to come out of the Council's budget.
- 5.6.9 There are other organisations the Council can give money too but there is no set criteria. Therefore the council does not use this discretionary power.
- 5.6.10 In summary there is a hardship fund available and this is assessed on a case by case basis but this covers a variety of organisations and the fund is limited.
- 5.7 Pensions**
- 5.7.1 The ratio of assets to liability improved between 2013-2016 and rose to 77%.
- 5.7.2 The biggest challenge to the Council's ability to pay pensions is the fact that people are living longer.
- 5.7.3 The pension fund is doing well and in a better position than in previous years. The investment return for the equity investment has been good.
- 5.7.4 Contributions to the pension fund have been better than expected. The taper has been lower than expected.
- 5.7.5 Pension increase has been lower than expected because CPI has been built in and fewer people are taking the 50/50 scheme.
- 5.7.6 It was noted when the fund is in a strong position this is the time to reduce the risk to the fund. The current policy is if the council can get the pension fund to the point of funding 83% of its liabilities they can look at de-risking the fund.
- 5.7.7 Given the factors described above the Council is giving some thought to moving the fund out of equities into better paying bonds for security. Bonds are considered to be safer because they do not increase and decrease in value to the extremes that equities can.

**5.8 Procurement**

- 5.8.1 The only provider of concierge services in the Borough is G4S. Members were informed if residents are reporting differences in services this is a difference in service provision by G4S not different providers.
- 5.8.2 Hackney Housing conducted a survey of concierge services and where the services were good people wanted to keep them and where they were poor they want to remove the service.
- 5.8.3 It was explained residents pay for concierge services by the block and if residents received a poor service they are likely want to withdraw from paying for the provision.
- 5.8.4 Approximately 2 years Hackney Housing reduced its concierge service by 25%. This reduction was applied to the contract for G4S.
- 5.8.5 The uptake of provision has led to a reduction in the overall contract of approximately 40% and this may be the reason for the differences being experienced.
- 5.8.6 The Chair explained through Councillors casework the question was raised to G&R to review.

**5.9 Questions, Answers and Discussion**

- (i) **Members raised the following comments and enquires:**
- (a) If the Council had a role in monitoring and checking the quality of concierge service.**
  - (b) How the Council monitored the provision of concierge services and;**
  - (c) When the contract was being re-tendered would the council take the information about poor service into consideration.**

The Cabinet Member for Finance and Customer Service advised the contract was due to be retendered next year. Outsourcing was a key activity for local government over the last 20 years. Members were informed the Council had learnt that outsourcing required robust contract management. Increasingly the Council had become conscious of having the right KPIs included in the contract. It was pointed out what people want from a service is not always measureable (e.g. a person that smiles and helpful). As a way of dealing with these soft (unmeasurable) performances the Council has implemented things like requiring all contractors to pay the London Living Wage to their staff. The Council is of the view this helps with staff morale, motivations, happiness and staff retention.

In regards to the re-tender of the contract, it was noted the Council will specify as much as possible in the document.

Members welcomed the review by the Council and pointed out other councils, in particular London Borough of Lewisham had transferred their bailiff service back in-house to reduce the problems with bailiff actions. The change has been reported to produce savings. Lambeth Council was cited as another example of a local authority taking a whole council approach to distinguish between those who are too poor to pay, won't pay and can't pay. This

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approach has been reported to be having a positive effect on the council tax collection rate.

- (ii) **Members urged the Council to invite the 2 councils mentioned above when the Council embarks on the review of the CTRS, to find out more about their work and their success in achieving savings.**
- (iii) **Members highlighted a recent report called [Taking control - the need for fundamental bailiff reform](#) - produced in partnership by a variety of advice agencies - highlights some concerns about the operating practices of bailiffs. It highlights the use of private bailiffs by councils and their practices being problematic.**
- (iv) **Members encouraged the Council to invite the organisations that produced the report to their stakeholder sessions when they were embarking on the review of the CTRS.**
- (v) **Members also highlighted another report by Child Poverty Action Group called [Still too Poor to Pay too poor to Pay](#) and encouraged the Council to invite this organisation to the stakeholder engagement session too.**
- (vi) **Members pointed out one of the key principles for the CTRS review was for it to be cost neutral. However the Council plans to increase its council tax and this will place a further burden on poorer households. Members enquired if some of the extra funds raised could be used to support or reduce the burden on poorer households?**

The Cabinet Member for Finance and Customer Services advised if the support is increased in one area that would impact another area (reduction) and the council would need to agree to this change. The aim for the CTRS review is to be cost neutral.

It was highlighted that the Council's RSG would have reduced by 50% by 2020.

- (vii) **Members welcomed The CTRS review and the focus on the use of bailiffs. The Members made the following comments and queries:**
  - (a) **It has been highlighted that councils seem to be quick to use bailiff companies that private organisations**
  - (b) **Bailiffs are known not to follow the guidelines when collecting a debt.**
- (viii) **Members referred to the services being provided by G4S on behalf of the Council. Members enquired how much consideration was given to a contractor's history when granting a council contract compared to another organisation with a good track record. Advising that G4S had been sanctioned by other public bodies for its operations in relation to their handling of prison services and over charging.**

The Cabinet Member for Finance and Customer Services advised in the procurement process the view may be that the council always selects the cheaper provider. Generally the procurement process can be split of 60/40 or

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even 80/20 between price and quality. It was explained that it is essential that when awarding a contract the Council is confident that the service specified could be provided. Every tender submitted is scored but also assessed for confidence that the service can be provided.

**(ix) Members enquired why the council was accepting tenders and considering tenders from organisations that have a poor track record of operation and have been sanctioned by other public bodies. Members asked about the Council's ethics policy for engagement with organisations that have a poor service provision history?**

The Cabinet Member for Finance and Customer Services advised the procurement process does not allow them to exclude an organisation based on another organisations reports of poor service.

**(x) Members probed further about the Council's policies and ethics in this instance.**

The Cabinet Member for Finance and Customer Services advised the Council is prohibited from considering ethics as part of the procurement process. It was pointed out under the local authorities' regulations and guidance, they cannot exclude an organisation from the tender process unless the company has been prosecuted. Therefore they can still apply and consideration must will be given to them in the tender process.

**(xi) Members enquired if the Council's previous experience can be taken into consideration as part of the procurement process.**

The Cabinet Member for Finance and Customer Services confirmed the council can take its own previous experience into consideration during the procurement process.

**(xii) Members enquired why the council tax collection rate was set so low and asked if the council can increase the targets and achieve them without creating more of a burden to poorer households?**

**(xiii) Members made the following comments and enquires:**

- (a) The net effect of the business rates reform given the scheme and policies have been published.**
- (b) Where the council should be looking for its income over the next 3-4 years**
- (c) How the expected income compares to the loss of Revenue Support Grant (RSG) funding from central government and how this was likely to impact on the composition of the Borough.**
- (d) The Council was facing a mirage of issues to manage and make decisions on. The Council will need to manage competing challenges like the need for higher rates because business rates will be the main sources of income and the need to keep smaller enterprises going to create diversity in the borough. It was also anticipated that these challenges would impact on services and the council's response would be guided by this too.**

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- (xiv) **Members commented there is scope for better use of Audit Committee given the complexity of challenges faced, highlighting it could be used to look at the broader issues related to performance and achievement. Members enquired if there could be a commitment to discuss this outside the meeting with the Chair of Audit Committee?**
- (xv) **Members enquired about the Council's strategy and policy around asset management for the VCS sector. Members pointed out there have been cases referred that involve organisations being given a property 20/30 years ago at very low rent. Now there are issues about the payment of rent over this term or the property is required for redevelopment. The concern being raised was about the council having a consistent or coherent policy in situations like this.**
- (xvi) **Members referred to the business rates review and the Government's provisions for businesses to access support. Members queried how the Council would be accessing the relief fund. Would access to the fund be via an application or will it be made available to all local authorities?**

The Cabinet Member for Finance and Customer Services advised for CT collection rates the budget set did not impact on the amount collected. The advantage of exceeding the target meant they would have a surplus and this could be used on other expenditure. If the council exceed the target it does not make a practical difference to the income collected.

The Group Director Finance and Corporate Resources pointed out the council has increased the collection target over the years. Hackney Council's target for collection was comparable to other like boroughs of similar composition and their in year collection rate had increased. It was highlighted Hackney has a very transient population and the revenues and benefits team spend a significant amount of time chasing for payment from people who have moved out of a property.

The Cabinet Member for Finance and Customer Services explained it was hard to predict the future income the council would receive following the withdrawal of RSG. It was pointed out over the last 7 years the council has been working to contain expenditure within the parameters of its income. It was also highlighted that a change in government policy can impact on the Council's expected income too. This was the case when the Government introduced the 1% rent reduction for social housing. This reduction impacted on the Council's expected income and their 30 year housing business plan.

The Cabinet Member for Finance and Customer Services agreed to discuss the use of Audit Committee with the Chair of Audit outside this meeting.

The Cabinet Member for Finance and Customer Services advised the Council does have a consistent approach for asset management. It was noted there has been changes in the council's approach and management over the last 30 years and over time VCS organisations have evolved too. The council is more careful and gives consideration to the use of its assets. Generally the council's asset management has improved and more able to assess the value of their assets, but equally their management of VCS organisations has improved too.



The Cabinet Member for Finance and Customer Services advised in relation to the business rates relief funding they are still waiting for confirmation of the details.

## 6 Implications of Brexit for Local Government

- 6.1 The Chair welcomed to the meeting Councillor Geoff Taylor, Cabinet Member for Finance and Customer Services and Ian Williams, Group Director Finance and Corporate Resources from London Borough of Hackney.
- 6.2 The two areas discussed under this item were:
- 6.3 Britain's exit from the European Union and the implications for local government  
The Commission asked the Council to provide an update on the implication of Brexit to councils. Looking at local: economy, labour market and Hackney Council's plans.
- 6.4 Further information on Income generation and commercialisation  
The Commission asked the Council to provide information about services that have the potential for income generation - beyond increasing fees and charges – and to provide an overview of the Council's approach and work on income generation for services across the organisation and the potential for commercial activity.
- 6.4 **Brexit report**
- 6.4.1 A 2 year negotiation period will commence when Article 50 is triggered at the end of March 2017.
- 6.4.2 The first task for central and local government is to understand the extent to which European Union (EU) legislation affects its operations. For example the majority of EU waste management law has been transposed directly into domestic law within the UK. This means that the relevant legislation and requirements on local authorities will not automatically or immediately be affected by the UK's exit from the EU.
- 6.4.3 A 2013 LGA report suggests that around half of all regulations affecting local councils originate from the EU but other commentators have put the figure at 70%. Given that many of these regulations have been implemented by Primary and Secondary legislation in the UK, they will not lapse in the event of leaving the EU. For example waste operations are largely governed by EU directives.
- 6.4.4 The former Secretary of State for DCLG was reported to have said "he argued successfully for English local government to be part of the negotiations on the terms of our exit... When we are transferring powers from the EU to Britain I think it is essential that Whitehall is not the default destination for them".

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- 6.4.5 The Council continues to work with colleagues in London Councils and the GLA with regards to London devolution following the budget announcement.
- 6.4.6 The UK economy is vulnerable due to its “twin deficits” – budget and current account. The current account was a record 7% of GDP in 4Q 2015, and when added to the budget deficit, the twin deficits amount to 10% of GDP, which in emerging markets is usually seen as the point at which investors become deeply concerned. There is a possibility that Brexit will catalyse those risks. The latest announcement from the Chancellor indicates the UK economy is showing signs of modest strength.
- 6.4.7 There is still business activity whilst there preparation for Brexit get underway. There are positive moves for the local economy like Amazon occupying the whole building it moved into and making the location its principle place of business.
- 6.4.8 The UK was due to receive approximately £5.3 billion in European Union structural funds in the 2014-2020 programming period and many local authorities have publicly voiced their concerns regarding the withdrawal of access to EU funding.
- 6.4.9 At this present time, projects currently funded by the European Structural and Infrastructure Fund (ESIF) will continue to be bound by their existing arrangements and some suggestions have been made that the UK government could step in to the position of the EU if and when the UK exits the EU, assuming it is within the current 2014-2020 Operational Programme.
- 6.4.10 Local authorities have relied on EU structural funding and the European Investment Bank (EIB) as a source of finance for local authorities. The European Investment Bank (EIB) has invested some €42 billion in the UK over the past ten years.
- 6.4.11 Local authorities must manage their buildings and procurement in line with energy efficiency rules based on EU law. The basis of these is the 2012 Energy Efficiency Directive which is transposed into UK law via a number of pieces of secondary legislation. The Directive establishes measures to help the EU reach its 20% energy efficiency target by 2020 and places a requirement on public authorities, which includes local councils, to ensure they purchase energy efficient buildings, products and services.
- 6.4.12 For Trading Standards the EU has extensively legislated in the realm of consumer protection and health and safety, with UK legislation therefore largely based upon EU Regulations.
- 6.4.13 For procurement Local government must comply with EU public sector procurement rules. The most significant requirement is for all public contracts over 209,000 euros to be published in the OJEU, thus making them accessible to suppliers from across the EU. In the short term, there will be no impact on the council’s procurement activities as the current rules are enshrined in UK law and will not lapse upon leaving.

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- 6.4.14 European regulations prevent the Government from providing state aid to companies of over £200,000 in any three-year period. Tax reliefs and exemptions also fall into the definition of state aid.

EU legislation has changed the landscape of workers' rights and whilst it is unlikely that any government would significantly reverse the core principles surrounding discrimination rights, TUPE, agency workers, holiday provisions etc.; in the medium term we should be prepared for changes and deviations from the current regime. This could benefit (or potentially adversely impact) local government.

- 6.4.15 May 2018 is the proposed deadline for implementation of the General Data Protection Regulation (GDPR) within the EU, and many local authorities are in the process of preparing for its introduction. The Information Commissioner's Office's current position is that organisations should assume the GDPR will apply in May 2018, as the UK will need to prove equivalent data protection standards to the GDPR if it wishes to trade within the single market.

- 6.4.16 In relation to affordable homes there is concern about the impact on the construction industry. The decision to leave the EU has prompted warnings across the construction industry about the impact of prolonged uncertainty on house prices and the cost of borrowing. It is an industry that is to some extent reliant on migrant labour; between 2007 and 2014, it was estimated that the proportion of EU migrants in the construction sector rose from 3.65% to 7.03%. Limits on free movement could, therefore, have an adverse impact on building costs and supply, at least in the short to medium term.

- 6.4.17 Access to local government housing. Changes to the free movement of EEA nationals may impact on their eligibility to apply for local authority housing. There is no automatic entitlement to council housing in the UK.

- 6.4.18 In relation to LGPS over the short term, the decision has resulted in considerable volatility, with impacts on currency, gilt yields and equity markets. The initial fall in gilt yields saw a significant increase in the Fund's liabilities, with the funding level falling back to 72% from 77%.

- 6.4.19 The Council focuses on low risk sterling institutions and has a very conservative approach to its investment. The Council's investment portfolio has no exchange rate risk so there is no direct impact of the decrease in value of the pound.

- 6.4.20 There are current discussion about how local authority is classified, if they will be seen as retail investors or a professional investor.

- 6.4.21 The most immediate and obvious impact on the Council to date has been on the costs of products and materials. The prices have increased as a result of the depreciation in the value of sterling.

## **6.5 Income Generation and Budget Update**

- 6.5.1 In response to the questions raised under matter arising from previous meetings the Group Director Finance and Corporate Resources provided 2

early examples of the work the council can do in relation to income generation activity. This involved acting in the role of a developer for the Borough.

- 6.5.2 The Council has two carried out mixed development schemes Tiger Way and Nile Street.
- 6.5.3 The officer highlighted the dilemma's approach, benefits and risks of undertaking this type of income generation activity.
- 6.5.4 Dilemma:
- The council is in need of additional school places as a result of the demographic change and the success of schools in the borough. There are policy contradictions, like the Government putting large amounts of funding into building free schools.
  - The current funding available for schools is not sufficient to build the schools required by the borough.
  - The pressures and impact locally of London's housing crisis
  - The amount of investment required in other community infrastructure, e.g. leisure centres.
- 6.5.5 Approach:
- Council's response was to take on the role of developer in order to maximise the land value for local residents and retain ownership of the land.
  - For developments like Nile Street and Tiger Way developers rarely identify the volume of affordable housing required. The Council in this role has combined housing needs with education facilities. The construction started on site November 2016.
  - The proposals for the Britannia leisure centre was subject to public consultation and the decision will be taken by Cabinet in April 2017.
- 6.5.6 Benefits:
- The profit acquired by the council from taking on the developers role is reinvested in community infrastructure e.g. affordable housing, schools and a leisure centre
  - By taking on the role of developer the Council retains ownership of the land
  - The Council has more influence over sales strategies, apprenticeships and can incorporate other ways into work programmes.
- 6.5.7 Risks:
- The Council takes on the risk of sales for the properties. This risk has been heightened post Brexit. They are currently finalising the marketing strategy for sales but taking into account the Council's ethos.
  - The capacity to deliver on a large number of highly complex schemes with significant expenditure levels.
- 6.5.8 Nile Street will be a purpose built pupil referral unit, 29 storeys, 175 residential units.
- 6.5.9 Tiger way will provide a 2 form entry primary school, 89 residential units, 11 and 14 storey pavilions.

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- 6.5.10 With the Council taking on the role of a developer it means they have taken on risk, construction, sales and project management for the development from start to finish but they have greater opportunity to drive out higher levels of affordable housing.
- 6.5.11 The Cabinet Member for Finance and Customer Services highlighted the council has been building up its capacity to undertake this role over several years. The council has created a team capable of successfully managing a development like Tiger Way.
- 6.5.12 Members asked to define what commercialisation means. It was explained as covering fees and charges; entrepreneurial; investment; shared services or trading company.
- 6.5.13 When local authorities look to trade there needs to be transparency and accountability with the charging regime. There are limitation as to what the council can charge for. The Council's markets operation was used as an example of an operation whereby the council can charge a levy but they cannot make a profit from the charges. Adopting this approach has taken the markets operations from running at a deficit to covering its costs. It was pointed out if the council does wish to apply charges it needs to conduct market research and provide services that are pitched at the right value. The Council's Building Control services was cited as an example of a service that has not achieved success in obtaining business from the open market.
- 6.5.14 Local government operates within a legislative framework that governs their trading and charging ability. The Local Authorities (Goods and Services) Act 1970 gave powers to enter into agreements with other designated public bodies.
- 6.5.15 The Local Government Act 2003 made provisions to trade in activities related to their functions with a view to profit making through a company. But councils would need to set up a trading company separated from the local authority for this activity.
- 6.5.16 The Localism Act 2011 sits alongside existing powers. Allows Council's to do more than under previous wellbeing powers and previous legislation. The act provided general power of competence, this is in recognition that local government is maturing. They have powers to do anything that an individual can do providing not expressly prohibited by other legislation. Includes power to charge for an activity or to undertake a commercial activity. For example the council could set up a housing company for private rented units. However the Council is not permitted to run any business operations of a private company through the Council's General Fund.
- 6.5.17 For fees and charges the council has specific powers to charge for services, e.g. section 19, Local Government (Misc Provisions) Act 1976 – charging for the use of leisure and recreational facilities.
- 6.5.18 The council has a general power to charge for discretionary services.
- Local Government Act 2003, but does not apply to mandated services or for those services a LA has a duty to provide

- Not to be used where charging is prohibited or other specific charging regime applies
  - Taking one financial year with another, income from charges should not exceed cost of provision.
- 6.5.19 For charging services it was noted the council cannot run the operation at a deficit for more than 3 consecutive years. For areas like Building Control services this has proved challenging.
- 6.5.20 In regards to trading the general power of competence to charge for services, this does not provide the power to make profit. Other powers that allow for commercial trading for profit:
- Local Government Act 2003
  - Localism Act 2011
  - Must be through a company
  - It must be ltd by shares, ltd by guarantee, provident or industrial societies.
- 6.5.21 Profits generated can go back to Council via dividends or service charges. Luton Borough Council was cited an example whereby the council receives dividends from its share in Luton Airport.
- 6.5.22 For trading if setting up a company the following considerations need to be taken into account:
- Commercial – e.g. cost of bidding for contracts, if appropriate. The cost if the bid is not successful.
  - Financial – e.g. potential tax liabilities. The company should be managed so it is not subject to heavy tax liabilities.
  - Business Case required to be approved
  - Legal constraints include: tax, state aid, structures; companies Act and MPM.
- 6.5.23 Examples of commercialisation in other boroughs:
- Essex Cares – Essex CC providing social care services
  - Solutions SK – Stockport Council provides range of services including Financial Management, catering, highways and waste management
  - Swindon Commercial Services – as above with recent addition of survey, design, installation and maintenance of domestic solar panels
  - Kent County Council – significant range.
- 6.5.24 The Hackney Learning Trust trading entity was cited as an example of a services not achieving the expected income from the traded services market.
- 6.5.25 In the budget announcement there was extra funding for social care. The Council is awaiting details of the conditions attached to this funding.
- 6.6 **Questions, Answers and Discussions**
- (i) **Members queried about the impact of Brexit on immigration controls and the effect on local government and the local economy. Members also enquired if local authorities should be considering the powers they need following Brexit.**

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The Cabinet Member for Finance and Customer Services advised London Councils was drafting up proposals to make requests for powers. This could be an opportunity for London to receive more powers but this would require making confident demands. In his view London needed to be bullish in its requests for powers.

- (ii) **Members commented on the potential of trade barriers if the UK leaves the single market and the impact of this on local businesses. There was also the potential of labour shortages. Members urged the Council to support local businesses to overcome the challenges Brexit could potentially bring.**
- (iii) **Members referred to immigration and enquired if the Council had information about the number of EU nationals working within the borough. Member's query related to the preparations by the Council, local partners (NHS) and businesses for Brexit and the potential impact on the local labour market.**
- (iv) **Members enquired if there were any projects within the borough that were beneficiaries of EU funding and queried how they will continue to be funded following Britain's exit from Europe.**

The Group Director Finance and Corporate Resources advised for the projects set up and currently in operation they will continue to be funded.

It was highlighted that Hackney acts as the accountable body for EU funding on behalf of the 6 Growth Boroughs. The Council has noticed that applications are being subject to more rigours assessment than previously.

The Cabinet Member for Finance and Customer Services advised in regards to the Council's direct employees he could not confirm if the Council recorded an employee's residential status with different countries.

As details emerge the Council will review the situation.

- (v) **Members commented there is evidence that house prices are falling and this has impacted house prices in central London. Members queried if the fall in house prices had impacted on the housing market in Hackney and the council's regeneration plans?**

The Group Director Finance and Corporate Resources explained in the role as a developer the council was very careful not to overestimate. The Council carried out bench marking and trend analysis and have been cautious when predicting the estimated income.

- (vi) **Members suggested the Brexit report should be circulated to all Councillors.**

<b>ACTION</b>	Report on implications of Brexit to local authority is circulated to all Councillors.
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- (vii) **Members made the following comment:**  
For the Council getting the role of a developer right this could be used to make a claim for a Community Land Act. This provided a practical demonstration of what can be achieved through collective gains of property wealth. This also highlighted the need for culture change in relation to the management of this type of activity. The role of councillors would be to understand the risks and benefits of this because investment in property was a long term gain.
- (viii) **Members compared the Council's work when acting in the role as a developer to the development at the old fire station site in De Beauvoir. This development had not produced affordable housing units. The developers have made a contribution to units in another location. This highlighted the difference in culture and social responsibility between the council and the private sector as a developer.**

The Group Director Finance and Corporate Resources pointed out the funding being made available to build a school was in circa of £20 million. It was noted to build a school to the standard and facilities like Urswick School would require funding in circa of £35 million.

- (ix) **Members referred to commercialisation and enquired when the Council would be in a position to make a decision about its approach to commercialisations and income generation.**

The Group Director Finance and Corporate Resources informed Members this was their initial progress - driving better value from their assets.

- (x) **Members enquired if the Council can start considering how it might use the London Housing consortium framework to assist with its role as a developer?**

The Group Director Finance and Corporate Resources advised they do use a number of frameworks and he was currently investigating if they can use the Housing Consortium framework.

The Cabinet Member for Finance and Customer Services highlighted an income of approximately 2/3<sup>rd</sup> of a million was needed to cover the cost of a 1% rise in council tax. Therefore effective entrepreneurial ship needs to be achieving this level of income to make a difference to the Council's budget.

- (xi) **Taking into the consideration the Council's experience and expertise from its role as a developer, Members enquired if the Council would consider providing the same housing scheme to other local authorities to generate income?**

The Cabinet Member for Finance and Customers Service explained the Council does have capacity to do these projects but it is not an endless capacity. The Council has built up expertise in this area but this is very costly.

- (xii) **In discussion it was noted there were limited sites across the borough they could develop. However acting as a project manager or carrying out the scheme for another borough would need a continuous stream of**



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**business for viability but it was worth the council considering this type of partnerships with other boroughs.**

The Group Director Finance and Corporate Resources explained the council does work with other councils in a variety of business areas but they need to ensure they do not dilute their capacity to do the work in the borough.

Members urged the Council to consider roles such as a project manager for large developments as this role could command a sizeable fee.

- (xiii) **Members wanted to establish what the Council had learnt from its experience of the two income generation examples mentioned. Members recapped on their experience from the process and pointed out there were a number of challenges.**

The Group Director Finance and Corporate Resources advised from the projects they had learnt they need to engage with the construction industry in the early stages of development to take on board their observations and feedback. At the earliest opportunity they should make sure Ward Councillors are informed and briefed. Be more open about the regeneration scheme. There are still be obstacles with the full engagements process for example the demand for school places can dictate the pace of development.

The Cabinet Member for Finance and Customers Service also added that communication was key. The Council should be upfront with residents about the long term view and future needs. It was the role of Councillors to express the needs of people who were not present at the time of the development but who may need to use the service / provision. If people were presented with this information it was likely that they would be less objectionable to the development and take future need into consideration.

- (xiv) **Members referred to the developments that have decision making boards and enquired if they experienced tension from having 2 arms of accountability. Members enquired who would oversee performance management and the management of the boards.**

The Group Director Finance and Corporate Resources advised they needed to make sure the relevant departments not involved in the project, but would be part of the process, were adequately resourced. E.g. the Planning department had sufficient staff to carry out the planning role for the scheme and that they were not just expected to agree to the scheme because it was being developed by the council. Recognising how to use their resources effectively, when to use the appropriate resource and skill sets and getting appropriate legal agreement.

The Cabinet Member for Finance and Customers Service acknowledged the scrutiny of this area of work was an interesting observation.

- (xv) **Members commented there was a job for Wards Councillors to meet with officers and ensure the view of Councillors and Ward Councillors were taken into consideration.**

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The Group Director Finance and Corporate Resources confirmed the current administration appeared to be willing for officers to talk to Ward Councillors at the early stage of development for the proposals. This could lead to the process being more beneficial for all parties.

(xvi) **Following this discussion Members noted:**

- **Commercialisation activity is important**
- **The council should concentrate on activities it was good at doing**
- **This would require culture changes and having the right expertise to support the activity**
- **Accountability to Councillors and Ward Councillors was important**
- **Municipal enterprise should be built in.**

(xvii) **The Chair suggested the Commission writes to the new Scrutiny Panel to ask them to continue the work G&R started on income generation and to monitor the council's progress in this area.**

<b>ACTION</b>	Chair of G&R to write to Chair of Scrutiny Panel and to request for income generation work to continue with scrutiny monitoring the progress of this area.
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The Cabinet Member for Finance and Customers Service reminded Members increasing fees and charges was not sufficient. As previously stated to make an impact on the Council's budget, the income generated needed to be £100,000s not £10,000s.

## **7 Governance and Resources Scrutiny Commission - 2016/17 Work Programme**

7.1 Members discussed the work programme and agreed the points below.

7.2 Following the short review looking at income generation the Commission will write to the Scrutiny Panel and suggest they continue with this work. The note will summarise what G&R has considered and the questions to ask the Council about in relation to its income generation strategy. The points noted were:

- Municipal enterprise needs to go beyond fees and charges and generate income in the £100,000s not the £10,000s (£500k is the equivalent to 1% increase in council tax). That this is a very important area for the council to continue to explore and this means looking at things that have material value.
- The council should concentrate the income generation activities it is good at doing.
- The Council needs to ensure it has the right culture and resources to support this work (e.g. to do Tiger Way and Nile Street the council had to build up an expert team in this)
- This will involve taking on more risk
- There needs to be scrutiny and accountability for this work when it is through joint boards.

- Making sure the lesson learnt from the early examples (Tiger Way and Nile Street) are incorporated in future projects.

- 7.3 Recommend the Scrutiny Panel continues to monitor temporary accommodation.
- 7.4 Invite Cllr Ann Munn, the current Chair of the Scrutiny Chairs Group and the Cllr Rebecca Rennison, Cabinet Advisor for Advice Service and Preventing Homelessness to formally note the work from G&R to be incorporated in the new overview and scrutiny structure.

<b>ACTION</b>	Invite Chair of Scrutiny Chairs Group and Cabinet Advisor for Advice Service and Preventing Homelessness to G&R meeting in April 2017.
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- 7.5 Members wanted to highlight the importance of covering Temporary Accommodation, Income Generation and ensuring the Council embarks on a culture change programme.
- 7.6 In the discussion about the draft devolution report the following comments were noted:
- 7.7 Comments from Cllr Sharman
- a) Double check if there are any statements that don't relate to each other
  - b) Too much emphasis on the economy and especially fiscal devolution - needs to emphasise more the impact on local people - able to define the place they live in more
  - c) Don't say that economic growth leads to local jobs as this is not always the case - depends who has access to the economy
  - d) Emphasise in the plan section that the council should define the objectives and outcomes it wants to see in each service area
  - e) Need to include in the body of the text that the challenge with devolution is postcode lottery - have to face the argument and win it
  - f) The variable geography point comes out well as a principle but not so much in the body of the text. Needs to be clearer in the text that devolution is not going to be neat because there will be different groupings for different service areas for devolution
  - g) The statement that London and the boroughs don't have sovereignty is wrong and the statement that LEPs are a mechanism to drive growth is wrong
  - h) There needs to be a principle of public accountability - how to make sure people can hold to account the NHS or the deficit of skills as they devolve.
- 7.8 Comments from Cllr Fajana-Thomas:
- a) Would the recommendation on public involvement to be clearer and clearly state this will enable services to be person centred. It is not just be about engaging with the people and informing them about the decisions, but doing co-production so they can be part of the devolution process
  - b) Would like the principle for public involvement to say 'ensuring public accountability through effective community engagement'.

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- c) Include reference to the voluntary and community sector in the devolution process
- d) Would like the point to be made that devolution is negotiation. Therefore it was important for Hackney to know what it wants to negotiate - this could be included in the wording for the first principle.

7.9 Comment from Cllr Oguzkanli

Double check the language so that the report makes it clear that we heard evidence from X explored Y and recommended Z, so the audience can understand where the recommendations originate from and that they are based on their experience as councillors with residents.

## **8 Any Other Business**

8.1 None.

Duration of the meeting: 7.00 - 9.15 pm