2018/19 OVERALL FINANCIAL POSITION, PROPERTY DISPOSALS AND ACQUISITIONS REPORT (MAY 2019)
KEY DECISION NO. FCR P93

CABINET MEETING DATE 2018/19	CLASSIFICATION:
15TH JULY 2019	OPEN

WARD(S) AFFECTED: ALL WARDS
CABINET MEMBER Councillor Rebecca Rennison Cabinet Member for Finance and Housing Needs
KEY DECISION Yes REASON Spending or Savings
GROUP DIRECTOR Ian Williams: Finance and Corporate Resources

1. CABINET MEMBER'S INTRODUCTION

1.1 This is the first Overall Financial Position (OFP) report for 2019/20 and is based on detailed May 2019 provisional outturn monitoring data from directorates. We are forecasting an overspend of £4,028k at year end.

1.2 This overspend will be substantially funded by the application of the unspent 2018/19 Council Tax and NNDR Collection Fund surpluses carried forward into 2019/20. It must be noted that there is no guarantee that these surpluses will continue in future years and so they must be regarded as one-off funding streams only.

1.3 An explanation of each directorate's forecast outturn position is detailed in the directorate commentaries below.

1.4 As with 2018/19, our projected overspend primarily reflects severe spending cuts by central government since 2010 and increasing cost pressures in services which remain underfunded by the Government. These include social care, homelessness and special educational needs (SEN). The government's failure to provide any additional funding to date to address the inherent increasing demands and cost pressures within these services, and to support wage increases for local government staff makes our financial position next year and in the following years, extremely challenging.

1.5 I commend this report to Cabinet.

2. GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES INTRODUCTION

2.1 The OFP shows that the Council is forecast to have a £4,028k overspend which is equivalent to 0.5% of the total gross budget. At year end, this overspend will be substantially funded by the application of the unspent 2018/19 Council Tax and NNDR Collection Fund surpluses carried forward into 2019/20. As there is no certainty that these surpluses will continue in future years they must be regarded as one-off funding streams that can be used in 2019/20 only.

2.2 There is also significant uncertainty about most other external funding sources post 2019/20. The LGA noted in various news channel interviews on 2nd July that “Councils are in the dark” over how much money that they will get from central government next year and called for urgent guarantees that they will get sufficient resources to provide key services like social care and child protection. It also called for guarantees that local government are given sufficient resources to ensure local services receive the funding they need to survive the uncertainty ahead. They also drew attention to the Better Care Fund and the need for ministers to confirm its continuance. As noted in previous reports, we regard the continuation of the Better Care Fund as a key requirement going forward as it is a very important source of our funding. We also hope that the one-off social care grants (such as winter pressures grant) are made permanent funding streams as these form an important revenue source and the service demands they are intended to meet are recurring.

2.3 Where there are service overspends of a recurrent nature, and/or funding shortfalls, we have dealt with this in the growth assumptions in our medium-term financial plan and will manage down the overspends by a phased application of additional resources to the relevant services. It is necessary to do this in a phased way to smooth out the impact on the rest of the budget and council tax.

2.4 **Proposed disposal by way of a 125-year lease of 3 – 10 Bradbury Street, Dalston.** Approval is sought to enter into a new 125 years lease of 3 – 10 Bradbury Street with the current tenant, Hackney Co-Operative Developments Community Interest Company (HCD). Cabinet approval is required because the term of 125 years exceeds the delegated authority of the Director of Strategic Property who has authority to approve leases and sub-leases for a term of up to 7 years only.

The Property is currently leased to HCD Limited, a not-for-profit organisation (an affordable workspace operator) on a long lease of 99 years commencing 9th May 1997 and expiring 8th May 2096 at a peppercorn rent. The unexpired term is 77 years and on a full repairing lease (the tenant being responsible for all repairs and outgoings). The tenant has planning consent and funding to carry out works to the property including refurbishment, extension and temporary relocation of the ground floor retail pods. The total project cost of works is expected to be £2,830,000 of which HCD has secured £1,800,000 from Unity Trust Bank (UTB), £824,000 from GLA (via the London Regeneration Fund) and the Council has agreed in principle to provide a loan of £200,000 to support the project.

As a condition of the loan from UTB, HCD is required to extend the existing lease which is considered to be too short to provide sufficient security for the loan of £1.8m. Based on a feasibility study by Gerald Eve for UTB, a minimum lease term of 125 years is required to achieve a minimum Gross Development Value of £5m i.e. the value of the completed scheme has to be at least £5m to provide sufficient security for the loan.

HCD's objectives align with Local Plan 2033 and the emerging Inclusive Economy Strategy. Their offer provides affordable workspace to start-up and early stage businesses in addition to a wide range of activities that supports and promotes social value. The Council's Area Regeneration Team supports this lease extension and the purpose of the exercise.

2.5 **Proposed Disposal of Land at Regan Way.** The Council is the owner of a small parcel of land extending to approximately 130 square metres adjacent to the rear of 149 – 157 Hoxton Street forming circulation area to the formerly Council owned garages at Regan Way. A planning permission for the development of the garages and part of the Council owned land has been applied for under planning reference 2018/4205 for the construction of six new flats. If permission is granted the scheme can only be implemented on the transfer of the Council owned land to the developer and construction of these flats will improve the immediate locality. The Council will use some or all of the receipt for the land for a project within the ward. It is proposed therefore that the land is transferred.

2.6 **Proposed Disposal of Land at Stamford Hill.** The Council is the owner of a small parcel of land extending to approximately 30 square metres near the junction of Amhurst Park and Stamford Hill, which forms the entrance stairs to a now redundant former public convenience. A planning permission for the development of the adjoining former public convenience and the Council owned land was granted under planning reference 2017/0574 on the 04/12/2017 for the construction of a new retail kiosk. This permission can only be implemented on the transfer of the Council owned land to the developer and construction of this kiosk will improve the immediate locality by bringing what is now an eyesore back into productive use. The Council will use some or all of the receipt for the land for a project within the ward. It is proposed therefore that the land is transferred.

2.7 **Proposed acquisition of up to 25-year Lease of Part First Floor, Block E Woodberry Down.** The Property forms part of the Ground and First Floors of Block E Woodberry Down. This asset was initially acquired by the Council with a view to letting the entire space to East London and City NHS. In August 2012, the proposed tenant withdrew its interest, so the Council considered a range of alternative use options. In February 2016 the Council granted a 15-year commercial lease to the Gym Group to convert the ground floor (except for the entrance to the first-floor space) and a small part of the first floor into a gym. The remainder of the first floor is being let to Hackney Cooperative Developments (HCD), one of LBH's approved list of workspace providers, to provide a business hub for a mixed portfolio of businesses at Woodberry Down, with a mixture of self-contained office units and open plan workspace. HCD will provide discounted occupational costs and business support services to tenants and will target local start-ups.

Consultation and engagement has been carried out with the Woodberry Down Community Organisation and the wider partnership who support this use of the property and welcome the proposals to provide business and training opportunities for the residents of Woodberry Down.

HCD are also required to lease back a small section of the first floor to the Council, so that the neighbourhood regeneration and housing teams and the partner organisation (Notting Hill Genesis Housing Association) can be accommodated there. This report proposes that the Council enter into a leaseback arrangement in respect of this part of the Property.

2.8 **Proposal for granting of two third party loans**

Requests for loans from two entities from within the borough have recently been requested. The granting of loans to third parties requires Cabinet approval.

- Rio Centre (Dalston) Ltd, which operates the Rio Cinema at 107 Kingsland High St, is seeking a £20k loan from the Council to convert the basement storage space into a workable bar and associated lounge area. These works have been completed using the tenant's own reserve funds. Rio Centre (Dalston) Ltd occupy the property under a sub-lease from 1986, expiring in 2037. The Council holds a similar headlease interest which is co-terminus with the tenant's sublease. It is proposed that the loan be repaid over the next 10 years and collected as an additional rent payment of £2,000 per year for 10 years. The value is sufficiently minimal to fall outside state aid requirements.

- **(To be read in conjunction with section 2.3 of this report)** Hackney Co-operative Developments (HCD) has requested a loan of £200k to meet part of the cost of refurbishing and extending 3-10 Bradbury Street to improve significantly the existing affordable workspace, and provide new affordable workspace, principally on a mezzanine floor. The total project cost of works is expected to be £2,830,000 of which HCD has secured £1,800,000 from Unity Trust Bank (UTB), and £824,500 from GLA (via the London Regeneration Fund). The refurbishment of 3 -10 Bradbury Street forms part of a wider Greater London Authority funded project to deliver more affordable workspace in the borough. The project will see investment in Hackney from the GLA totalling £1,024,000, split across two capital projects at Woodberry Down and Bradbury Street.

  The loan would be for five years at a commercial rate of interest to be determined by Group Director of Finance and Corporate Resources. Payments will be interest-only in the first year and then principal and interest payments in the final four years of the loan, on a reducing balance basis. There will be an annual review of the loan arrangements and progress. The loan is non-securitised. There will be a clause in the contract that states that, in the event of HCD failing before the loan is repaid, the balance of the loan and interest will be transferred onto the rent of the property, for the new tenant to repay.

  Whilst checks have been made on the strength of both companies around ability to repay the loans, in order to comply with the latest requirements of International Financial Reporting Standards (IFRS) 9, an “expected credit loss” calculation will be made for each loan to reflect risk, although any financial impact of recognising this (through the creation of a provision via a charge to revenue) on the principal values as outlined will be trivial.

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

TABLE 1: GENERAL FUND FORECAST OUTTURN AS AT MAY 2019

Revised Budgets £k	Service Unit	Forecast: Change from Revised Budget after Reserves £k
		£k
86,623	Children's Services	313
91,094	ASC & Commissioning	3,132
32,764	Community Health	-
210,481	**Total CACH**	**3,445**
36,338	**Neighbourhood & Housing**	**65**
14,957	**Finance & Corporate Resources**	**380**
8,938	**Chief Executive**	**138**
49,338	**General Finance Account**	**0**
320,052	**GENERAL FUND TOTAL**	**4,028**
	Application of One-Off Funding	-4,028
	Forecast End Year Position	**0**

3.0 RECOMMENDATIONS

3.1 To update the overall financial position for May 2019, covering the General Fund and the HRA, and the earmarking by the Group Director of Finance and Corporate Resources of any underspend to support funding of future cost pressures and the funding of the Capital Programme.

3.2 Authorise the disposal of <u>3 – 10 Bradbury Street</u> edged red on the attached plan (Appendix 1) by way of a surrender and re-grant of a long lease for a term of 125 years.

3.3 Authorise the Director of Strategic Property Services to agree all other lease terms.

3.4 Authorise the Director of Legal and Governance to affect the proposed disposal and to enter into any other ancillary legal documentation required to complete the disposal transaction.

3.5 To authorise the freehold disposal of the land at <u>Regan Way</u> edged red on the attached plan (Appendix 2)

3.6 To authorise the Group Director of Finance and Resources to agree the commercial terms for this disposal

3.7 To authorise the Director of Legal and Governance to prepare, agree, settle and sign the sale agreement and transfer and any other legal documentation required to complete the transaction.

3.8 To authorise the freehold disposal of the land at <u>Stamford Hill</u> edged red on the attached plan (Appendix 3).

3.9 To authorise the Group Director of Finance and Resources to agree the commercial terms for this disposal.

3.10 To authorise the Director of Legal and Governance to prepare, agree, settle and sign the sale agreement and transfer and any other legal documentation required to complete the transaction.

3.11 Authorise the acquisition of the leasehold interest of Proposed acquisition of up to <u>25-year Lease of Part First Floor, Block E Woodberry Down</u> for a term of up to 25 years.

3.12 Authorise the Director of Legal and Governance to prepare, agree, settle and sign the necessary legal documentation to affect the proposed transaction and to enter into any other ancillary legal documentation required to complete the proposed transaction.

3.13 Delegate authority to the Group Director of Finance and Corporate Resources to enter into a lease of 25 years, and to agree all other terms of the lease provided that the requirements of S120 Local Government Act 1972 are met.

3.14 To grant a loan of £20k to Rio Centre (Dalston), with repayments to be made at a rate of £2k a year, collected as additional rent payments.

3.15 To grant a loan of £200k to Hackney Co-operative Developments at a commercial rate of interest for a period of five years to be determined by the Group Director of Finance and Corporate Resources, with repayments to be interest-only in the first year and then principal and interest payments in the final four years of the loan.

4. REASONS FOR DECISION

4.1 To facilitate financial management and control of the Council's finances.

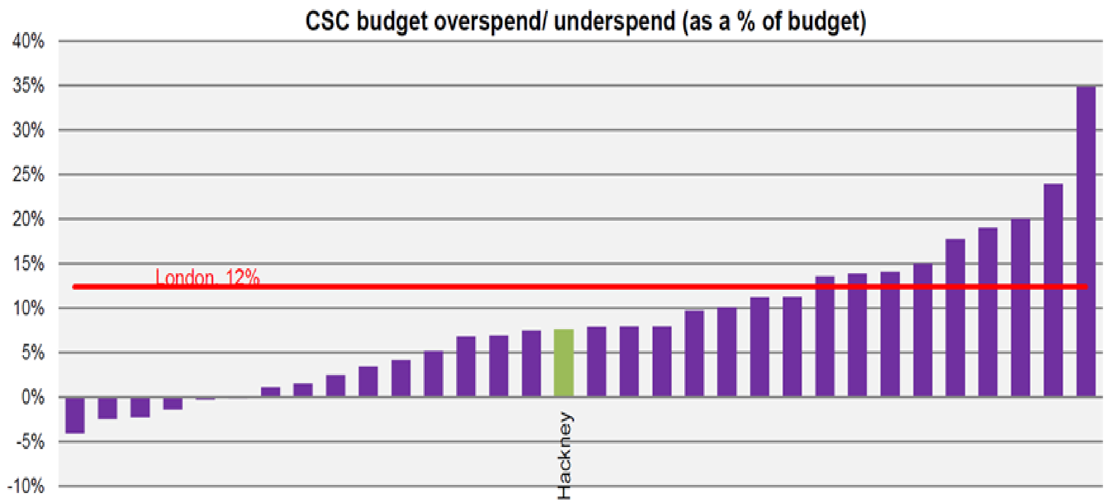
4.2 CHILDREN, ADULT SOCIAL CARE AND COMMUNITY HEALTH (CACH)

The CACH directorate is forecasting an overspend of £3,445k after the application of reserves and drawdown of grant.

Children & Families Service

Children & Families Service (CFS) is forecasting a £313k overspend against budget after the application of reserves and grants. This variance is after a £1,800k draw down from the Commissioning Reserve, set up to meet the cost of placements where these exceed the current budget. Additionally, £100k is drawn down from the Housing Costs reserve for families the Council is supporting who have No Recourse to Public Funds (NRPF).

The sustained pressure on CFS budgets is a position that is not unique to Hackney, as shown by the results of a survey on Children's Social Care spend carried out jointly by the Society of London Treasurers (SLT) and the Association of Directors of Children's Services (ADCS). The graph below shows how Hackney's year end position for 2017/18 (before the use of reserves) compared to other London boroughs for Children's Social Care. The main budget pressures in CFS are in relation to Corporate Parenting (which incorporates budgets for looked after children placements), the Children in Need service and the No Recourse to Public Funds (NRPF) Team.



The main budget pressures in CFS are in relation to Corporate Parenting (which incorporates budgets for looked after children placements) and the Children in Need service.

Corporate Parenting is forecasting to overspend by £168k after the use of £1,800k of commissioning reserves. This position also includes the use of £1,200k of non-recurrent social care funding that was announced in October 2018 budget. Spend on Looked After Children and Leaving Care placements (as illustrated in the table below) is forecasted at £18,800k compared to last year's outturn of £18,300k – an increase of £500k.

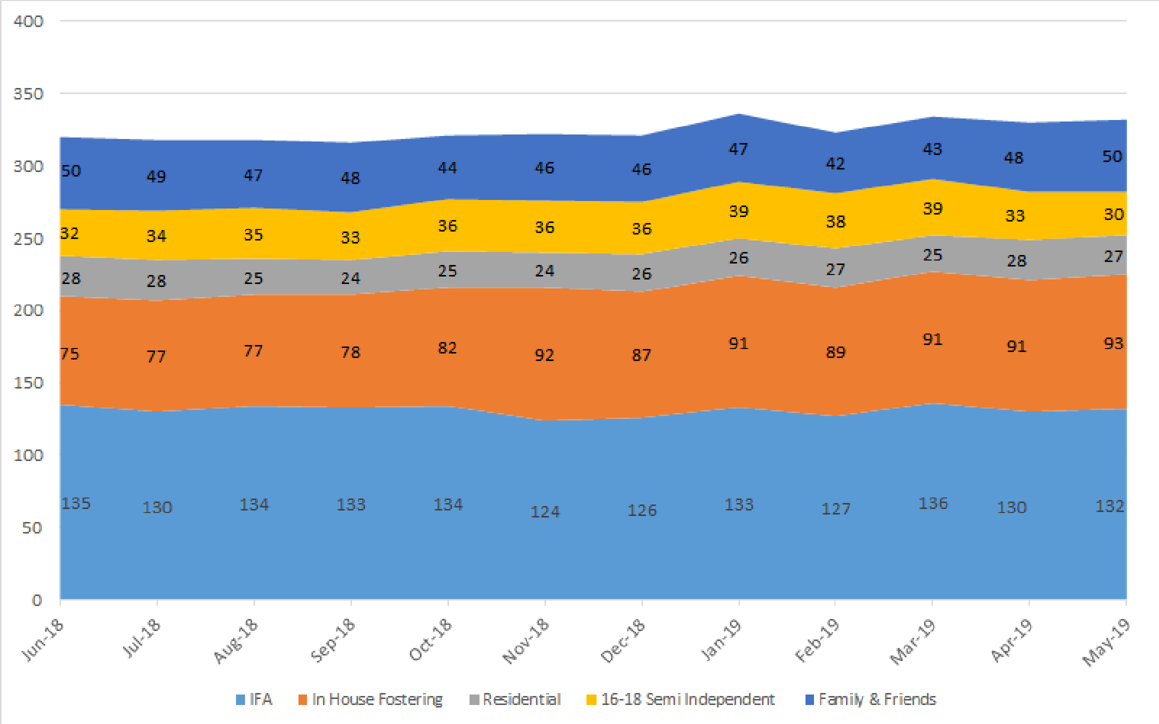
Table 1: Placements Summary

Service Type	Budget **£000**	Forecast **£000**	Forecast Variance **£000**	Budgeted Placements*	Current Placements	Management Actions
Residential	4,331	4,947	616	23	27	There are a number of initiatives in place to seek to contain these cost pressures, for example the Family Learning Intervention Project (FLIP), the Edge of Care workers, the Residential project and re-negotiation of high cost placements. The first two of these have been in train for some time. Tracking of the financial impact is undertaken on a case by case basis and this indicates significant costs avoided suggesting the cost pressure would be greater if these were not in place. We will continue to monitor residential placement moves and the resulting effect on other placement types across future periods. The impact of Mockingbird, the extended family model for delivering foster care with an emphasis on respite care and peer support, and new arrangements for implementing Supported Lodgings will also be reviewed going forwards.
Semi-Independent (Under 18)	1,570	1,671	101	29	30	
Other Local Authorities	-	198	198	-	4	
In-House Fostering	1,800	2,019	219	83	93	
Independent Foster Agency Carers	6,488	6,344	-144	136	132	
Residential Family Centre (M&Baby)	-	377	377	-	2	
Family & Friends	569	766	197	32	50	
Extended Fostering	-	12	12	-	2	
Staying Put	200	278	78	12	19	
Overstayers	290	457	167	11	24	
Semi-independent (18+)	1,370	1,739	369	50	103	
Total	16,618	18,808	2,190	376	486	

**based on average cost of placements. Residential budget also includes one-off social care funding of £1,200k)*

The table below shows the trend in LAC placements over the past 12 months.

Table 2: Headcount Data



As can be seen from the above since this time last year there has been a favourable movement in the ratio between Independent Foster Agency carers and in-house placements. This is driven primarily by the in-house foster carer recruitment which has seen some success and the matching officer post which has been in the structure since 2018. At around £50k per annum the cost of a child placed in independent foster care is double that of a placement with one of our own foster carers.

One of the main drivers for the cost pressure in Corporate Parenting continues to be the rise in the number of children in costly residential placements which has now sustained for the past year and the number of under 18s in high-cost semi-independent placements. Where children in their late teens are deemed to be vulnerable, and in many cases are transitioning from residential to semi-independent placements, they may still require a high-level of support and in extreme circumstances bespoke crisis packages.

Following growth in the base budget this year the No Recourse to Public Funds (NRPF) Team is forecast to break even after use of £86k of reserves. We are currently supporting 72 families who have no recourse to public funds. The main area of spend is Section 17 payments on accommodation and subsistence, with spend forecast at £1,600k in the current year which is in line with the budget. This position has improved significantly from the previous year, and the service continues to work to ensure that services are targeted at those in need.

Children in Need is forecast to overspend by £301k after use of reserves. The overspend is mainly due to staffing overspends relating to supernumerary social worker posts to meet service pressures, maternity cover, agency premiums associated with covering vacant posts and these items collectively total £301k. There is an overspend in LAC incidental costs in relation to support to children in care proceedings of £370k, which has been offset by the use of reserves.

Disabled Children Services is forecast to overspend by £65k. The overspend is attributed to £190k overspend in placements including homecare, direct payments and residential respite.

Overspends across the service are partly offset by underspends elsewhere in the Directorate Management Team and Safeguarding and Learning Services.

Directorate Management Team is forecast to underspend by £236k. This is due to maximisation of non-recurrent funding in the service.

Safeguarding and Learning Service is forecast to underspend by £66k. This is due to a vacant post that will not be filled this financial year.

Hackney Learning Trust

The Hackney Learning Trust (HLT) forecast is consolidated into the Children and Families position. As part of the delegated arrangements for HLT, any overspend or underspend at year end will result in a drawdown-from or contribution-to the HLT reserve and expenditure is reported ‘on budget’.

HLT are forecasting a significant drawdown on the HLT reserve (between £3.5m and £4.5m), mainly due to pressures in special educational needs. This is an early forecast that will be adjusted as data on any new demands on HLT services become known throughout the year.

Special educational needs (SEND) activities cost £9.5m in excess of agreed budgets 2018/19; and expenditure is currently expected to increase by a further £2.0m in 2019/20. Within the HLT forecast, the SEND overspend is mostly offset with savings made across other HLT departments. Costs associated with special educational needs have complex cost drivers and senior leadership across HLT and the wider Council continue to investigate ways where the Council might be able to bring expenditure under control. Recent reports submitted to HLT SLT estimate that HLT reserves will be fully utilised in 2019/20.

The SEND cost pressure is attributable to the increase in the number of Education and Health Care Plans (EHCPs) as the pupil population has grown significantly and there are growing demands on the system since the reforms introduced by the Children and Families Act 2014. The impact of these factors is that, in Hackney, the number of EHCP's have increased by more than 50% since 2011. Apart from SEN transport, SEN costs should be met from the High Needs block of the Dedicated Schools Grant. However, despite the significant rise in numbers and costs there has not been an adequate increase in this funding source.

Adult Social Care & Community Health

The forecast for Adult Social a £3,132k overspend. The position for Adult Social Care last year was an overspend of £4,083k and this has improved through adjustments for corporate growth items and non-recurrent funding. The revenue forecast includes significant levels of non-recurrent funding including iBCF, Social Care grant funding of £1,200k and Winter Pressures funding of £1,400k.

It is unclear what funding will be available in Adult Social Care post 2019/20 to support a sustainable adult social care funding solution. The non-recurrent funding was only intended to be a 'stop-gap' pending a sustainable settlement for social care through the Green Paper, however this is subject to ongoing delay. The implications of any loss of funding will continue to be highlighted in order that these can be factored into the Council's financial plans. This will include ensuring that it is clear what funding is required to run safe services for adults. Alongside this the service continue to take forward actions to contain these cost pressures. Some of these management actions are outlined in the table below.

<u>Care Support Commissioning</u> (external commissioned packages of care) contains the main element of the overspend in Adult Social Care, with a £2,200k pressure. The forecast includes £700k Winter Pressures grant to fund additional costs resulting from hospital discharges in 2018/19. It is expected that the remaining grant of £700k will be released through the year to offset additional pressures from hospital discharges.

Service type	2018/19 Budget	May 2019 Forecast	Full Year Variance to budget	Full Year Variance to Apr 2019	Management Actions
	£k	£k	£k	£k	
Learning Disabilities	15,000	15,987	987	987	- ILDS transitions/demand management and move on strategy - Multi-disciplinary review of care packages (delivered £395k) - Three conversations - Review of homecare processes - Review of Section 117 arrangements - Personalisation and direct payments - increasing uptake
Physical and Sensory	12,843	13,318	476	476	
Memory, Cognition and Mental Health ASC (OP)	7,710	8,328	619	619	
Occupational Therapy Equipment	840	850	110	110	
Asylum Seekers Support	170	203	34	34	
Total	36,462	38,688	2,226	2,226	

The Learning Disabilities service is the most significant area of pressure with a £987k overspend. £290k of this pressure arises from the estimated costs of new transition clients in the year. This is significantly less than last year due to the application of both budget growth and one-off funds in this area.

Work is ongoing with CCG colleagues to embed the joint funding model for high cost Learning Disability packages as business as usual. There is an agreement between both parties for all packages to be reviewed for joint funding. A process of quarterly reconciliation and financial reimbursement will be managed through the Learning Disability Section 75 review group on behalf of the Planned Care Workstream. The CCG have committed to ringfence £1,900k -£2,700k within their financial planning for 2019/20 and £1,900k has been factored into the forecast above. The partners also acknowledged that by implementation of the joint funding policy the amount paid for health need will be based on the assessment of patient/residents and that health need for individuals could be potentially less or more than the initial identified range. In light of this uncertainty, it will be important for partners to manage proactively the quarterly reconciliation in order to provide adequate lead in time to address any significant gap in financial forecasting.

Physical & Sensory Support is forecasting an overspend of £476k, whilst Memory, Cognition and Mental Health ASC (OP) is forecasting an overspend of £619k. The cost pressures being faced in both service areas have been driven by the significant growth in client numbers as a result of hospital discharges in 2018/19, which has been partially mitigated by one-off funding from the Winter pressures grant of £700k. Discussions have been held with the service in order to develop a set of management actions to mitigate the ongoing cost pressure as a result of increased clients being discharged from hospital with more complex needs.

Care Management & Adults Divisional Support is forecasting an overspend of £24k which is a significant decrease on the overspend of £700k reported in 2018/19. The decrease reflects the drive by the service and Learning Disabilities, in particular, to recruit permanent staff and reduce the use of agency staff.

The Mental Health service is provided in partnership with the East London Foundation Trust (ELFT) and is forecast to overspend by £494k.The overall position is made up of two main elements - a £720k overspend on externally commissioned care services and £226k underspend across staffing-related expenditure.

Provided Services is forecasting a £123k overspend which is largely attributed to:

- Housing with Care overspend of £206k. The forecast includes additional resources to respond to issues raised in the recent CQC inspection. The service is currently under strategic review to seek efficiencies and reduce costs without impacting negatively on service provision.
- Day Care Services are projected to underspend by £97k, primarily due to the current staff vacancies across the service.

Preventative Services. The forecast position is a £587k underspend which is primarily accounted for within the Median Road position. The Hospital Social Work Team forecast includes non-recurrent funds towards supporting staffing levels needed to ensure hospital discharge targets are met.

ASC Commissioning is forecasting a £851k overspend mainly due to ongoing challenges around Housing Related Support (HRS) service redesign (£801k); £33k due to increase in activity levels for the Phower contract (VSC) and £17k is linked to additional interim QA officer cost in commissioning team

HRS procurement plans are however on track to meet future savings through close working with Providers to manage expectations around delivery timelines. The savings target was revised to incorporate savings attributed to telecare charging.

The decision not to go ahead with telecare charging was taken after benchmarking against other local authorities which highlighted the planned charging proposals would only yield a small amount of additional income which would not be sufficient to meet the agreed savings target. New proposals around assistive technology are now being looked at and is expected to inform the charging model for service users going forward.

Public Health

Public Health is forecasting a breakeven position. There are pressures in the service due to the delay in implementation of the Public Health restructure and the review of physical activity for adults. However, this pressure is being managed within the overall budget and it is not anticipated to result in an overall overspend.

Sexual health service is delivering progress as expected to support the financial sustainability of the wider Public Health service. Current level of activity remains within budget and the competitive pricing achieved through the Pan London contract is beginning to show better value for money. There is also a progressive uptake of e-services alongside clinical service provision and both activities are subject to continuous review with commissioners to ensure sustainable future provision.

4.3 NEIGHBOURHOODS AND HOUSING

The forecast position for Neighbourhoods and Housing Directorate is a £65k overspend. The forecast includes the use of £1,200k of reserves, the majority of which are for one off expenditure/projects.

Planning is forecast to overspend by £86k which is due to a shortfall of income in the Building Control Service. The Head of Service has undertaken a high-level review of the service with a view to modernising and improving the Building Control offer. A new Building Control manager has been appointed and will be in post from July to improve the service and to achieve full cost recovery going forward.

Parking and Markets, Leisure, Green Spaces, Libraries, Directorate Management and Community Safety, Enforcement and Building Regulations are forecasting break-even positions.

Housing General Fund is forecast to be on budget at this stage.

Regeneration is forecast to underspend by £13k, due to a vacancy within the Area Regeneration team which is being recruited to shortly.

The Private Sector Housing Licensing scheme is due to make a surplus again this financial year and any favourable variance to budget will be moved to a reserve for use in future years when income levels will reduce. This is in line with the expected operation of the scheme.

The directorate forecast includes the use of £1,200k of reserves which are used for one off expenditure.

4.4 FINANCE & CORPORATE RESOURCES

The forecast is an overspend of £380k.

The overspend in Facilities Management (£410k) is primarily due to increases in business rates costs on council owned buildings in the borough which are partially offset by reserves. The largest increases are in Hackney Town Hall, Hackney Service Centre and Florfield Road.

In Property services, the cost pressure primarily results from: - providing additional staffing resources within the service to address essential works; and the re-classification of a significant revenue item as a capital receipt. The service is currently reviewing their operations to address the former and the allocation of overall budget, both capital and revenue, needs to be reviewed to address the latter.

Financial Management and Control are forecasting an underspend of £264k due to vacancies across all services

Directorate Finance Teams are projecting an underspend of £157k.which mainly relates to salaries and projected additional income from service fees

Revenues and Benefits and Business Support is reporting a forecast underspend due to a surplus on Net Cost of Benefits, while Registration and Audit and Anti-Fraud are forecast to come in at budget.

Housing Needs is forecast to come in at budget after the application of the Flexible Homeless Grant and Homelessness Reduction Act Grant. Whilst we will continue to receive the Flexible Homeless Grant, it is probable that this grant will reduce overtime and there may be other calls on the Grant. Further, since April 2018 when the Homelessness Reduction Act was introduced there has been a 33.4% increase in approaches for housing advice, which could result in significantly higher accommodation costs over time.

4.5 CHIEF EXECUTIVE

Overall the Directorate is forecasting to overspend by £138k after forecast reserves usage.

Within Communications, Culture & Engagement, there is a forecast overspend of £60k in relation to venues, primarily due to costs relating to Hackney House, which the council will no longer be responsible for after July 2019. The rest of Communications including Hackney Today, Design & Film are forecast to breakeven but there is a risk in relation to the publication of Hackney Today.

Legal & Governance are forecasting an overspend of £78k, which is primarily due unbudgeted Internal Printing Recharges estimated at £36k and £58k is for an unfunded Team Manager's post in Governance previously funded by HRA. Internal Legal is projecting an underspend of £16k in relation to minor under spends on salaries budget.

All other services are forecast to come in at budget.

4.6 HRA

The projected outturn on the HRA is at budget.

Income

Other charges for services and facilities is over budget which is mainly due to the extension of LBH collection of water rates on behalf of Thames Water. The income was negotiated to continue throughout 2019/20 after the budgets had been set.

Expenditure

The overspend on Repairs and Maintenance is mainly due to reactive repair costs and an increase in legal disrepair expenditure. There is an overspend on Supervision and Management costs while Special services is forecast to be overspent due to increased costs within estate cleaning, but this is expected to reduce in 2020/21 as the effects from restructuring of the service are realised.

5.0 DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

This report is primarily an update on the Council's financial position and there are no alternative options here.

On **3 -10 Bradbury Street**, the Council is not obliged under the terms of existing lease to extend the term. If the Council refuses the lease extension though, HCD is not likely to be able to meet UTB's loan conditions and may not be able to proceed with the refurbishment. This would mean that existing affordable workspace could not be brought into good condition and the additional affordable workspace would not be delivered. Failure to deliver the scheme would also threaten the existing operation, because the property does not currently meet Energy Efficient Regulation 2015, which means that new sub-leases cannot be agreed. HCD is considered to be an appropriate occupier, both in terms of their record as a tenant and impact within Hackney, and without the new lease, their existing operation would be at significant risk.

With regard to the **Regan Way** disposal, there is no other option if the development is to take place.

On the **Stamford Hill** disposal, there is no other option if the development is to take place.

With regard to the **Woodbury Down lease,** the Council could have taken space within the first-floor business centre on a more flexible short-term lease or licence, in line with other users of the centre. However, this would have meant the Council had less security over its long-term operations from the site, and less certainty over costs. This option was therefore considered less desirable than the long-term sub lease option.

With regard to the **Loan proposals**, there are no other practical options

6.0 BACKGROUND

6.1 Policy Context

This report describes the Council's financial position as at the end of May 2019. Full Council agreed the 2019/20 budget on 21st February 2019.

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 GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

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

8. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE

8.1 The Group Director, Finance and Corporate Resources is the officer designated by the Council as having the statutory responsibility set out in section 151 of the Local Government Act 1972. The section 151 officer is responsible for the proper administration of the Council's financial affairs.

8.2 In order to fulfil these statutory duties and legislative requirements the Section 151 Officer will:

(i) Set appropriate financial management standards for the Council which comply with the Council's policies and proper accounting practices and monitor compliance with them.

(ii) Determine the accounting records to be kept by the Council.

(iii) Ensure there is an appropriate framework of budgetary management and control.

(iv) Monitor performance against the Council's budget and advise upon the corporate financial position.

8.3 Under the Council's constitution although full Council set the overall budget it is the Cabinet that is responsible for putting the Council's policies into effect and responsible for most of the Council's decisions. The Cabinet must take decisions in line with the Council's overall policies and budget.

8.4 Paragraph 2.6.3 of FPR2 Financial Planning and Annual Estimates states that each Group Director in charge of a revenue budget shall monitor and control Directorate expenditure within their approved budget report progress against their budget through the Overall Financial Position (OFP) Report to Cabinet. This Report is submitted to Cabinet under such provision.

8.5 With regard to the **3 – 10 Bradbury Street** proposal, under the Hackney Mayoral Scheme of Delegation of January 2017, the disposal of leasehold land (other than by leases of less than seven years' term) is reserved to the Mayor and Cabinet and additionally Financial Procedure Rule 20.4 confirms that the acquisition or lease of land or disposal of land shall be agreed by Cabinet. Section 1 of the Localism Act 2011 ('the power of general competence) grants local authorities the ability to do anything that a private individual is empowered to do, subject to any restrictions which bound local authorities before the coming into force of that section or any later provisions expressed to apply to it. Section 123 of the Local Government Act 1972 enables the Council to dispose of land provided the best consideration reasonably obtainable is achieved but if best consideration is not achieved then only with the consent of the Secretary of State. The General Disposal Consent 2003 ("the 2003 Circular") was issued by the Secretary of State and permits an undervalue in respect of best consideration reasonably obtainable not to exceed £2 million where the proposed disposal has as its aim the promotion or improvement of the economic, social or environmental well-being of its area.

8.6 In the opinion of the Council's surveyors the premium that could have been charged for the extension of the term would have been less than £10,000. Accordingly, this disposal can occur by using the 2003 Circular by way of granting a longer lease term as necessary to enable the investment by private lenders and the GLA which has clear economic and social benefits to the area. In approving this disposal, consideration should also be given to the Council's over-arching fiduciary and best value duties concerning its responsible stewardship of assets and resources.

8.7 With regard to the **Regan Way disposal**, under the Hackney Mayoral Scheme of Delegation of January 2017, the disposal of an interest in land is reserved to the Mayor and Cabinet and additionally Financial Procedure Rule 20.4 confirms that the acquisition or disposal of freehold or leasehold land shall be referred to Cabinet. Section 1 of the Localism Act 2011 ('the general power of competence') grants local authorities the ability to do anything that a private individual is empowered to do, subject to any restrictions which bound local authorities before the coming into force of that Section or any later provisions expressed to apply to it.

As the land is held in the Housing Revenue Account, the consent of the Secretary of State is required by operation of section 32(2) of the Housing Act 1985, given either as a specific consent for that particular transaction or by the circumstances falling within those envisaged by the general consents that have been issued. Consent A3.1.1 of the General Housing Consents 2013 states that “A local authority may, subject to paragraph 3.1.2, dispose of land for a consideration equal to its market value.” The conditions in paragraph 3.1.2 relate to underlettings and local authority owned companies and so will not apply this proposed disposal. If the condition requiring market value is not fulfilled, then a specific consent of the Secretary of State will be required.

As in all property transactions upon which Cabinet is asked for a decision, consideration should properly be given to the Council’s over-arching fiduciary and best value duties concerning its responsible stewardship of assets and resources.

8.8 On the **Stamford Land disposal**, Under the Hackney Mayoral Scheme of Delegation of January 2017, the disposal of an interest in land is reserved to the Mayor and Cabinet and additionally Financial Procedure Rule 20.4 confirms that the acquisition or disposal of freehold or leasehold land shall be referred to Cabinet. Section 1 of the Localism Act 2011 (‘the general power of competence’) grants local authorities the ability to do anything that a private individual is empowered to do, subject to any restrictions which bound local authorities before the coming into force of that Section or any later provisions expressed to apply to it.

Section 123(2) of the Local Government Act 1972 states that except with the consent of the Secretary of State, a council shall not dispose of land under that section, otherwise than by way of a short tenancy, for a consideration less than the best that can be reasonably obtained. Accordingly, the requirement to receive the best consideration reasonably obtainable will determine the sale price as referred to in the comments of Interim Director of Strategic Property Services above.

As in all property transactions upon which Cabinet is asked for a decision, consideration should properly be given to the Council’s over-arching fiduciary and best value duties concerning its responsible stewardship of assets and resources.

8.9 With regards to the **Woodberry Down** proposal, Under the Hackney Mayoral Scheme of Delegation of January 2017, the acquisition of an interest in land is reserved to the Mayor and Cabinet and additionally Financial Procedure Rule 20.4 confirms that the acquisition or disposal of freehold or leasehold land shall be referred to Cabinet. Section 1 of the Localism Act 2011 ('the general power of competence') grants local authorities the ability to do anything that a private individual is empowered to do, subject to any restrictions which bound local authorities before the coming into force of that section or any later provisions expressed to apply to it.

Section 120 of the Local Government Act 1972 ("the 1972 Act") enables the Council to acquire by agreement any land for any purpose for which they are authorised by that Act or any other enactment to acquire land. The purposes authorised by section 120 of the 1972 Act are (a) any of the Council's statutory functions or (b) the benefit improvement or development of the Council's area. The proposed transaction fulfils both limbs as the permitted users who may share occupancy with the Council under the leaseback expressly include groups engaged in carrying out Housing Services or community functions.

8.10 The loans in recommendations 3.15 and 3.15 of this Report are made under the power of general competence in section 1 of the Localism Act 2011 which allows the Council to do anything that individuals generally may do. The provision of the loans is subject to the Council's Financial Procedure Rules (FPR) made pursuant to the Local Government Act 1972. FPR 7.5 states that "Group Directors shall also ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet or the Council, following consultation with the Group Director, Finance and Corporate Resources." Further FPR 16.4 states that "The approval of the Cabinet shall be sought before a Group Director provides assistance to industry by way of loan, grant or guarantee over £50,000 to any one body in any one financial year." Therefore, this Report is seeking the approval of Cabinet for the two loans

8.11 In addition to the above the Council will also need to consider the requirements of the law regarding State Aid. State Aid is aid granted through state resources which distorts of threatens to distort competition by favouring certain undertakings and is capable of affecting trade between Member States. If all four of these are present, then the aid is potentially illegal. If any of them are not present, then it will not be classified as State Aid and will not contravene the rules.

The loan to the Rio Centre (Dalston) Limited is of a value which is below the permitted de minimis aid level of E200,000 over a three-year rolling period and so the aid is deemed not to distort competition and can be provided under the de minimis regulation. In such circumstances the aid is permitted in advance, but written records should be kept to support this.

8.12 The loan to Hackney Co-operative Developments is provided at a market rate and therefore the aid is not State Aid as no advantage/favouring is given to the undertaking because the Council is acting as a normal operator in the market, i.e. the ‘aid’ is given on normal commercial terms. If there is no advantage to the undertaking there is no illegal State Aid as one of the four tests is not met and would therefore be permitted.

8.13 All other legal implications have been incorporated within the body of this report.

9.0 COMMENTS OF THE DIRECTOR FOR STRATEGIC PROPERTY SERVICES

9.1 With regard to **3 -10 Bradbury Street**, entering into a new 125-year lease with HCD will enable them to refurbish 1,267 sq. m. of existing affordable workspace and to provide 473 sq. m. of new affordable workspace on a mezzanine floor to the existing building. All businesses currently trading from the premises will be protected since they will be temporarily re-located and will then move back into the re-furbished property at the same rent that they are currently paying. HCD has a well-established track record in delivery of affordable workspace specifically in Central Dalston and, as part of their larger Dalston Works programme this project will support them in providing workspace for an additional 101 jobs, as well as training and support for 250 people and 30 new businesses a year. This supports the Council’s objective of retaining businesses within the Borough and I support the proposal to grant a new 125-year lease to HCD.

9.2 With regard to the **Regan Way disposal**, the sale price agreed must meet the best consideration requirements of s.123 of the Local Government Act 1972. This sale will be by private treaty, and Strategic Property Services will take all necessary steps to ensure compliance with this statutory obligation.

9.3 On the **Stamford Hill disposal**, the sale price agreed must meet the best consideration requirements of s.123 of the Local Government Act 1972. This sale will be by private treaty and Strategic Property Services will take all necessary steps to ensure compliance with this statutory obligation.

9.4 With regard to the **Woodbury Grove proposal**, the terms of the proposed leasehold interest provide the Council with the protection it needs in order to operate successfully from the Property in conjunction with relevant partner organisations. In effect the Council will pay zero rent for the space that it occupies, because the rent payable by the Council under the sub-lease will be exactly the same as the rent payable for this space by HCD to the Council under the superior lease. This will continue to be the case throughout the life of the lease, including following any rent reviews. The Council will of course receive rental income from HCD for the remainder of the first floor. As with all Corporate properties, the Council will be required to cover operational costs of occupying the Property, such as utilities, maintenance, service charges and business rates.

Appendices

1. Site Plan – Bradbury Way

2. Site Plan – Regan Way

3. Site Plan – Stamford Hill

4. Site Plan – Woodbury Grove

Report Author	Russell Harvey – Tel: 020-8356-2739 Senior Financial Control Officer russell.harvey@hackney.gov.uk
Comments of the Group Director of Finance and Corporate Resources	Ian Williams – Tel: 020-8356-3003 Group Director of Finance and Corporate Resources ian.williams@hackney.gov.uk
Comments of the Director of Legal	Dawn Carter-McDonald – Tel: 0208-356-4817 Head of Legal and Governance dawn.carter-mcdonald@hackney.gov.uk