Report title: Better Placed: Establishing a Joint Committee between Lambeth, Lewisham and Southwark Councils

Wards: All

Report Authorised by: Sean Harriss, Chief Executive

Portfolio: Councillor Lib Peck, Leader of the Council,

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Report summary

Lambeth, Southwark and Lewisham Councils have agreed to set up a Joint Committee to oversee current and future Community Budget programmes (Better Placed), and over time other joint work deemed appropriate. The Joint Committee is not a self-standing legal entity but part of its constituent authorities. Section 102 of the Local Government Act 1972 enables two or more local authorities to set up a Joint Committee (JC) to discharge their functions jointly. These arrangements must comply with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. The Joint Committee is needed to:

- share risk and facilitating joint decision-making in relation to the community budget pilot, Pathways to Employment;

- provide a mechanism that could be used to support joint decision-making in relation to future joint initiatives and local service transformation and co-commissioning arrangements; and,

- support devolution of responsibilities from Whitehall in relation to welfare and employment support, where appropriate.

Finance summary

None arising from this report.

Recommendations
That Cabinet notes this report and attached appendices and agrees to the establishment of a joint committee between the three boroughs of Lambeth, Lewisham and Southwark with the terms of reference set out in this report at Appendix 1 and the Memorandum of Understanding as laid out in Appendix 2.

To appoint the following councillors to the joint committee:

(1) The Leader of the Council; and,

(2) Cabinet Member for Jobs and Growth as his/her substitute

To agree to enter into a governance agreement with the London Boroughs of Lewisham and Southwark in accordance with the principles set out in this report, and to request that the approval of the terms of that agreement is delegated to the Director of Finance in consultation with the Director of Corporate Affairs.
1. **Context**

1.1 Employment levels are relatively high across the three boroughs, but there are still significant numbers of unemployed residents and welfare recipients, many of whom are individuals with complex needs. An enormous amount of detailed development work and research was undertaken by the three boroughs to understand these needs and why current approaches are not helping our residents. This was undertaken as part of the Community Budget programme, an initiative providing government support for local places to transform services (see: www.local.gov.uk/community-budgets/-/journal_content/56/10180/3692233/ARTICLE), of which Lambeth, Lewisham and Southwark became a pilot area in March 2013.

1.2 This work led to the development of a pilot employment project, Pathways to Employment, designed to test an integrated work and skills system with a single pathway for claimants with complex barriers to employment, by taking an individual from their universal credit/welfare application to employment using a key worker approach. The pilot is currently being delivered by the employment charity Tomorrow's People and funded through a blend of government grant, JCP flexible support fund and borough contributions. The three Councils’ intention was always to explore, through the pilot, the possibilities for greater integration and joint commissioning in order to achieve savings to the public purse, better outcomes for priority residents and demonstrate to central government that devolving responsibility to local areas can achieve better results.

1.3 The Community Budget pilot has been managed to date through an informal partnership agreeing joint action, but with Lambeth Council holding the contract for the Pathways to Employment pilot on behalf of the other boroughs. The governance structure is made up of a Leaders’ Group which provides political oversight and a Programme Board which is made up of senior officers from each of the Councils and senior leads from Jobcentre Plus, local colleges, the Skills Funding Agency, and Work Programme providers. At the moment there is no capacity for binding joint decision-making.

1.4 In Phase 1, the programme secured £150,000 of Transformation Challenge Award funding, awarded by the Department for Communities and Local Government, to launch the pilot project. For Phase 2, the funding secured is over £1.1m, and consequently there will be an increase in scale. Phase 2 will also potentially see additional sources of funding coming in (via a match funding bid to the European Social Fund) and further bids are being considered for new sources of income. The three boroughs require a governance structure that enables them to respond proactively to any further developments in the devolution agenda.

1.5 Initial advice from legal services teams has been that it would be advisable to put in place formal structures to manage the joint budget and contract. In addition, if there is a need, or ambition, in the future to pool budgets, to take on devolved responsibilities or consider further and permanent joint commissioning with other agencies and between the boroughs in other areas, it would be helpful to strengthen these arrangements and thereby take a more equal share in commitment and risk.

1.6 The boroughs’ intentions were always to explore, through the pilot, the possibilities for greater integration, joint commissioning and supporting the move towards greater
devolution. At the last Leaders’ Group, governance and the boroughs’ intention for joint working in the future were discussed. The leaders agreed that:

- the three boroughs have started a journey of transformation and want to see that continue;
- the programme needs to have sharper governance and leadership to oversee the pilot going forward;
- Lambeth, Lewisham and Southwark should be prepared to respond proactively to the devolution agenda; and,
- joint work must be grounded in tangible and practical action.

1.7 In order to strengthen the arrangements for the community budget programme going forward, to provide a platform for joint working and oversight in the future and to provide the right legal and financial oversight, it is recommended that the three boroughs should form a joint committee. This would:

- give the current governance arrangements the legal strength that is sought to progress with the pilot and enable the three boroughs to make joint decisions. Legal advice is that the current arrangements are insufficient for the next phase of the pilot;
- provide a sound legal basis for joint-decision making and allow transparency, whilst permitting each constituent local authority to retain autonomy and independence;
- symbolise the three boroughs’ stated intention to collaborate, which will be important as the devolution debate continues;
- act as a platform for lobbying for funding or for devolved responsibility to help advance a joint approach to employment, skills and welfare across the three boroughs; and,
- allow for flexibility, as the responsibilities of the joint committee could be amended over time.

1.8 The power to form a joint committee between two or more local authorities is found under section 101(5) of the Local Government Act 1972. There are many joint committees across the country, particularly for the oversight of Local Enterprise Partnerships and other growth-based initiatives.

1.9 The South London Partnership is in the process of setting up a joint committee. The Growth Boroughs (Barking and Dagenham, Greenwich, Hackney, Newham, Tower Hamlets and Waltham Forest) are set up as a joint committee and are about to publish a prospectus for devolution and Central London Forward is looking at establishing a joint committee.

1.10 Devolution is top of the political agenda at the moment nationally and in London. The Government has made clear that it requires strong governance to be in place to devolve responsibility or funding. For example, the Association of Greater Manchester Authorities (AGMA) reaffirmed their joint committee in 2008 which “provides streamlined decision-making; excellent co-ordination of services across the combined administrative area;
mutual co-operation; partnering arrangements, and added value in the provision of shared services.

1.11 These arrangements were established under section 20 of the Local Government Act 2000 and Regulations 4, 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (since replaced by the 2012 Regulations) and section 101(5) of the Local Government Act 1972. Other boroughs are considering where they want to invest and strengthen cross-borough working and sub-regional partnerships.

2. Proposal and Reasons
2.1 There a number of reasons for seeking to strengthen joint arrangements across the three boroughs:

- sharing risk and facilitating joint decision-making in relation to the community budget pilot;
- providing a mechanism that could be used to support joint decision-making in relation to future joint initiatives and local service transformation and co-commissioning arrangements; and,
- supporting devolution of responsibilities from Whitehall in relation to welfare and employment support, where appropriate.

2.2 The joint committee is executive in nature; every member appointed to the joint committee by an authority operating executive arrangements must be a member of that authority’s executive (Cabinet).

2.3 Joint committee meetings will be open to the public unless confidential or commercially sensitive information is being discussed and by exception access to the public is constrained to the extent permitted by law. How meeting papers and agendas are published will be decided by the authorities and is at the discretion of the committee, subject to any legislative requirements and the standing orders of the constituent authorities. These are detailed in the Terms of Reference and Memorandum of Understanding at Appendix 1 and 2.

2.4 As the functions which will be exercised by the joint committee will be executive functions, the participating authorities will need to ensure that they are subject to overview and scrutiny in the usual way. They would be subject to the call-in procedures under the Lambeth Constitution. Consequently, existing scrutiny arrangements would prevail.

2.5 At present the law does not permit local authorities to discharge their executive functions through a non-local authority body or through mixed bodies. Therefore, stakeholders and other partners can be co-opted on to the committee but in an advisory capacity only. Lambeth, Lewisham and Southwark could have Jobcentre Plus, for example, as a co-opted member.

2.6 To be quorate, there must be a representative from each borough at the meeting. The proposal for Lambeth is for the Leader of the Council to be the named member, with the
Cabinet Member for Jobs and Growth as deputy. In the absence of the leader, the presence of the deputy from the respective borough will allow for the meeting to remain quorate. Each authority will have one vote. The members will appoint a chair and this will rotate every 12 months unless members agree to retain the chair for another 12 month term. As Southwark will be servicing the meetings its is envisaged that meetings will take place at Southwark premises unless agreed otherwise by members of the board.

2.7 In setting up a Joint Committee, the Councils will require clear lines of accountability for certain functions of the Joint Committee. These are set out in the committee’s Terms of Reference at Appendix 1 (which may be subject to minor changes). It is proposed that Lambeth Council will be the accountable body for procuring and contracting with third parties.

2.8 Administration of the committee will be the responsibility of Southwark Council.

3. Finance
3.1 There are no direct financial implications arising from this report.

3.2 Funding has been secured for current Joint Committee activity and administration. Should the Joint Committee wish to commission further activity, this will need to be within the current approved budget, otherwise additional funding will need to be identified and secured.

4. Legal and Democracy
4.1 The three authorities may establish the joint committee as proposed in the exercise of their powers under section 101(5) and s102 of the Local Government Act 1972.

4.2 Joint committees are not a separate legal entity and cannot employ staff, hold assets or enter into contracts with third parties, but they are permitted, for the joint discharge of local authority executive functions.

4.3 Cabinet must approve the delegation of executive functions to another local authority.

4.4 Safeguards will need to be built in to protect the interests of all three participating authorities. It is therefore proposed that a governance agreement between the three authorities is entered into to deal with the following issues: this is set out in Appendix 1 and 2 in the form of a Terms of Reference and Memorandum of Understanding. There may be some minor changes before sign-off but the content of the documents will be substantially as set out in the Appendices.

4.5 The Terms of Reference which are set out at Appendix 1 to this report details:

- decision-making – it is hoped that decisions will be on the basis of unanimous agreement, and there will be provisions in the agreement setting out the intention to co-operate and act in the spirit of partnership. However the formal mechanism to
resolve deadlock is the casting vote of the chair, in accordance with the provisions of Schedule 12 LGA 1972, which applies to joint committees;

- any officers on the Programme Board making decisions must do so within the authority of their delegation from their respective Executives;
- a further proposed safeguard is that decisions taken by the Joint Committee must not be inconsistent with the budget and policy framework of each Council;
- in relation to any procurement decision or contract letting, this must be in accordance with the contract procedure standing orders of each authority unless agreed by the constituent Councils to the contrary; and,
- arrangements have been provided to deal with contracts with third parties in the Memorandum of Understanding, including how these will be let and managed and the resolution of liability and mutual indemnity arrangements.

4.6 No additional comments from Democratic Services.

5. Consultation and co-production
5.1 Consultation and coproduction will be undertaken as activity from the Joint Committee is commissioned.

6. Risk management
6.1 In establishing the Joint Committee the Council will be able to manage risks associated with the three borough joint working. A weak governance structure could lead to:

- the risks and liabilities of Lambeth being the lead contracting body for the Pathways to Employment programme are not shared sufficiently;
- there is no mechanism for the three boroughs to make formal joint decisions in relation to the community budget pilot through a democratically approved process; and,
- Lambeth not being fully engaged and ready to take forward activity arising from devolution.

6.2 The key risk associated with establishing the Joint Committee is that the committee leads to unnecessary bureaucracy that gets in the way of the partnership working already established. In order to mitigate this risk, Informal Joint Committee meetings will be established, adopting similar governance arrangements of Informal Cabinet meetings.

7. Equalities impact assessment
7.1 Equality Impact Assessments are not required for executive decisions.

7.2 Equality Impact Assessments for Joint Committee activity will be undertaken and scrutinised in line with governance and scrutiny arrangements of the respective councils.

8. Community safety
8.1 There are no community safety implications arising from this report or from the establishment of the Joint Committee.

9. **Organisational implications**

9.1 Environmental
None

9.2 Staffing and accommodation
None

9.3 Procurement
As Lambeth Council will be the lead accountable organisation for procurement activity officers will be responsible for ensuring that procurement legislation is adhered to. This will be achieved by following internal processes and procedures.

9.4 Health
None

10. **Timetable for implementation**

10.1 Should the establishment of the Joint Committee be approved by the three boroughs the following timetable will be implemented:

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<tr>
<td>October 2015</td>
<td>Cabinet agreement reached across the three boroughs</td>
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<td>November 2015</td>
<td>Memorandum of Understanding agreed and signed</td>
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<td>December 2015</td>
<td>First Joint Committee meeting</td>
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<td>April 2016</td>
<td>Review of Joint Committee</td>
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## Audit trail

### Consultation

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<th>Name/Position</th>
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<td>Councillor Jack Hopkins</td>
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<td>Councillor Lib Peck</td>
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### Internal Officer Board

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<td>Robyn Fairman, Head of Strategy</td>
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<td>Stephen Gaskell, Head of Strategy and Partnerships</td>
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<td>04/09/15</td>
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### Report history

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<td>Appendices</td>
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Appendix 1

Draft Terms of Reference

Joint Committee of the London Boroughs of Lambeth, Lewisham and Southwark

Purpose and function
The London Boroughs of Lambeth, Lewisham and Southwark have established a joint committee to discharge executive functions on behalf of the three boroughs, in so far as they relate to joint activities or areas of common concern in relation to growth, economic development and skills. Over time the committee may consider other areas. The committee will:

- provide oversight and decision-making of the Pathways to Employment pilot;
- work together to transform local public services in employment support;
- work collectively with employers, colleges and other stakeholders on jobs and skills, where appropriate;
- represent the collective interests of the constituent boroughs to national and local government and other bodies, where appropriate;
- joint bidding for funding, training and employment programmes e.g. EU funding and oversight of that funding;
- management and allocation of spending of funding and other financial resources allocated to the committee; and,
- take on additional responsibilities and funding delegated from Government where the Committee judges this to be in best interest.

The governance arrangements provide flexibility so that these functions can be added to or amended over time.

The joint committee does not have power to exercise non-executive functions on behalf of the three boroughs.

Membership
It is proposed that each Council appoint its Leader / Mayor to sit on the joint committee. Each Council should also appoint a named substitute (to be an executive member for those operating executive governance arrangements) to attend in the Leader / Mayor’s absence.

Partners and stakeholders will be invited to be part of/or send representatives to the meetings of the joint committee as appropriate; they will attend in an advisory capacity only.

Quorum
The quorum for meetings will be at least one member from each of the boroughs.

Voting
Each member of the joint committee will have one vote and all questions coming or arising before the joint committee shall be decided by a majority of the members of the joint committee present and voting (in accordance with paragraph 39 of Schedule 12 to the Local Government Act 1972).
Overview and scrutiny
Decisions of the joint committee are subject to scrutiny and ‘call in’ by each or any of the three boroughs.

Each of the three boroughs has established overview and scrutiny arrangements for the joint committee.

In the event that a decision of the joint committee or any sub-committee is ‘called in’ the Chief Executive (or an officer designated by the Chief Executive) for the relevant borough will attend the relevant scrutiny committee together with the member or their substitute nominated from that borough to be on the joint committee.

Administration
Administrative support for the meetings of the joint committee will be provided by Southwark Council and Eleanor Kelly (Chief Executive of Southwark Council) will be formally designated as clerk to the joint committee with responsibility for the provision of administrative support.

Lead Borough / Accountable Body Arrangements
Where necessary a lead borough shall be identified from amongst the parties to implement any necessary activities. Subject to any change from Joint Committee members, below details the roles and responsibilities of Joint Committee members:

- London Borough of Lambeth – lead accountable body for procuring and contracting with third parties;
- London Borough of Southwark – lead accountable body for administering the joint committee; and,
- London Borough of Lewisham – lead accountable body for bidding for and holding grant funding and managing Community Budget staff.

Any changes to this will be accepted by unanimous agreement by voting members.
Appendix 2

Draft Memorandum of Understanding

Supporting the Joint Committee of the London Boroughs of Lambeth, Lewisham and Southwark

BETWEEN:

(1) THE LONDON BOROUGH OF LAMBETH of Town Hall, Brixton Hill London SW2 1RW;
(2) THE LONDON BOROUGH OF LEWISHAM of Town Hall, Catford Road London SE6 4RU; and,
(3) THE LONDON BOROUGH OF SOUTHWARK of Town Hall, Peckham Road, London SE5 8UB.

Hereinafter called "the three boroughs".

1. Introduction
1.1. The London Boroughs of Lambeth, Lewisham and Southwark are establishing a Community Budgets / Better Placed Joint Committee to:

- share risk and facilitating joint decision-making in relation to the community budget pilot, including but not limited to the Pathways to Employment programme;
- provide a mechanism that could be used to support joint decision-making in relation to future joint initiatives and local co-commissioning arrangements; and,
- support devolution of responsibilities from Whitehall in relation to welfare and employment support.

2. Purpose
2.1. The purpose of this MoU is to clarify the relationship, roles and responsibilities of the three boroughs in establishing a Joint Committee.

3. Status of this Memorandum of Understanding
3.1. The Memorandum of Understanding is an operational document. It is not a formally binding legal agreement and the partnership is not a legal entity.

3.2. The Authorities enter into the MoU intending to honour all their obligations in a spirit of commitment to joint working and co-operation. The Partners individually and collectively agree to use all reasonable endeavours to comply with the terms and spirit of the Memorandum of Understanding.

3.3. Under the Memorandum of Understanding the Partners cannot employ staff, let contracts or commit financial resources on behalf of the constituent Partners without their formal agreement.
4. **Management and governance arrangements**
4.1. Administrative support for the meetings of the joint committee will be provided by the London Borough of Southwark on a lead borough basis and the Chief Executive of Southwark Council will be formally designated as clerk to the joint committee with responsibility for the provision of administrative support and to ensure that all access to information requirements are met.

5. **Meetings**
5.1. Joint Committee meetings will take place as required, likely to be twice a year.

6. **Funding and finance**
6.1. Any funding requirements will need to be agreed by the voting members and liabilities will be split equally unless otherwise agreed by unanimous decision of voting members.

6.2. London Borough of Lewisham will be responsible for administering and holding grant funding, and will be the accountable body for any such grant funding.

7. **Duration**
7.1. This MOU will take effect from October 2015 and will terminate on such date as shall be agreed by all the Parties. This is a non-statutory agreement and is subject to the applicable national and international laws of the states to which the Parties belong.

8. **Review, amendments, dispute resolution and termination**
8.1. The content of this MOU will be reviewed annually or at the request in writing of one of the Parties. Amendments can only be made on the agreement of the three boroughs.

8.2. Disputes and/or disagreements between the members of the Joint Committee will be referred to the chief executives of the authorities to deal with the matter directly.

8.3. Disputes and/or disagreements arising from officers in the boroughs in the JC will go to Directors and then to Joint Committee members.

8.4. The Parties will actively seek to develop co-operation, MOUs and other forms of agreement with other local authorities and regional stakeholders.

9. **Intellectual Property Rights**
9.1. Subject to the rights of third parties, the Partners will share equally the intellectual property rights to all data (except personal data), reports, specifications, designs, inventions or other material produced or acquired including copyrights in the course of their joint work. The Partners agree that any proposal by one Partner to permit a third party to utilise the documents and materials produced by the partnership shall be subject to the agreement of all other Partners. Any changes, amendments or updates made to the documents and
materials, if made under the terms of the Memorandum of Understanding, shall be jointly owned by the Partners.

10. **Freedom of Information Requests**
10.1. If any partner receives a freedom of information request in respect of shared work associated with the Memorandum of Understanding it will be shared at the earliest opportunity with the other relevant authorities in order to determine and achieve a consensus as to what information shall be released.

11. **Termination**
11.1. Any of the Partners may withdraw from the Memorandum of Understanding at any time. Any Party wishing to withdraw from the Memorandum of Understanding must obtain the approval of all members of the joint committee, who will give any such approval subject to conditions that will ensure an orderly winding down of that Partner’s responsibilities without detriment to the other Partners that would arise from premature withdrawal. No Partner may withdraw agreed funding which has already been committed by the Lead contracting party to third parties, or which would expose the lead accountable Partner to financial loss.

11.2. If the Memorandum of Understanding is terminated, the Partners agree that any reports, studies or any other information which has been jointly prepared by the Partners can be used by each of the Partners separately.

12. **Indemnities**
12.1. The three boroughs agree to indemnify against any costs, losses, liabilities and proceedings which the Lead Boroughs may suffer as a result of or in connection with its obligations hereunder provided and to the extent that such costs, losses, liabilities and proceedings over and above that which each borough to this Agreement is required to contribute and such extra costs are not due to any avoidable negligent act or omission (determined at law) of the Lead Borough or breach by the Lead Borough of its obligations hereunder.

12.2. Any Lead Borough appointed hereunder shall indemnify the other Parties against any costs, losses, liabilities and proceedings over and above that which each borough to this Agreement is required to contribute and such costs which the other Party or Parties may suffer as a result of or in connection with any breach of the Lead Borough’s obligations hereunder and/or any avoidable negligent act or omission (determined at law) in relation thereto.

12.3. Each borough to this Agreement shall inform the other boroughs at the earliest opportunity of any issue or matter or legal process or proceedings which may affect the three Boroughs obligations under this Agreement.

13. **Signatories**
Signed for and on behalf of Lambeth Council:
Name………………………………………………………………………………
Title………………………………………………………………………………
Signature ………………………………………………………………………
Date…………………………………………………………………………

Signed for and on behalf of Lewisham Council
Name………………………………………………………………………………
Title………………………………………………………………………………
Signature ………………………………………………………………………
Date…………………………………………………………………………

Signed for and on behalf of Southwark Council
Name………………………………………………………………………………
Title………………………………………………………………………………
Signature ………………………………………………………………………
Date…………………………………………………………………………