

Cabinet 18 December 2017

Report title: Lambeth Children's Homes Redress Scheme

Wards: All

Portfolio: Councillor Lib Peck – Leader of the Council

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Report summary

This report seeks Cabinet approval for a Redress Scheme to compensate survivors of sexual, physical and psychological abuse in Lambeth Children's Homes dating back to the 1930s up to the 1990s.

The proposed Lambeth Redress Scheme will enable survivors of abuse to receive the financial redress to which they are legally entitled without having to use the court system. Payments will be made far more swiftly than the court system allows and, by simplifying the redress process, a far larger proportion of financial redress stays with the survivors of abuse, rather than being taken up by legal fees. In short the scheme is designed to make sure survivors receive financial compensation more quickly, and keep more of that compensation, than any alternative form of redress.

The overriding principles of the proposed Scheme are that redress will be swift, transparent and compassionate – with independent oversight. Each survivor will have access to independent legal representation funded by the Council, and any appeal will be heard by an independent Panel. Survivors will not be ruled out of time while the scheme is in operation or made to re-live their experience in court. If the scheme is adopted it will be the first such scheme created by a local authority in England and Wales.

A key part of the Redress Scheme is the provision of a Harm's Way Payment, a development of the initial proposal of a Common Experience Payment. After several prosecutions of former staff at Children's Homes there is evidence that many children in those homes were put in harm's way and will have lived in fear of abuse. This innovative model of redress provides compensation to former residents of the homes who were put at risk through the failures of the Council and its officers.

Following representations made by the Shirley Oaks Survivors Association to full Council at the July 2017 meeting, the Scheme has been revised to provide a multi-disciplinary independent Panel to consider all appeals.

This scheme compares very favourably to similar schemes that have been developed elsewhere, including Jersey, the Republic of Ireland and Canada. No survivor will have to restate their experience of abuse in

court, applicants will receive a formal apology from the Council and the counselling service provided by Oxleas NHS Trust will continue.

The long-term mental and physical health effects of childhood abuse are well documented, and we know from the stories that people have told us that their experiences have remained with them their entire lives. Nothing can fully compensate people for those experiences but it is important for survivors that the abuse that happened to them is recognised and acknowledged, and that they receive an apology. Survivors of abuse also wish to know that children today will be better protected. It is also the case that because of the adversarial nature of the court process survivors of abuse can be re-victimised by having to recount their experiences. The aim of the Redress Scheme is to prevent re-victimisation whilst providing a range of reparations that hopefully will enable people to move on with their lives.

The Council had hoped that the issue of redress would be developed at a national level through the Independent Inquiry into Child Sexual Abuse (IICSA). However, with no hearing date for Lambeth currently confirmed to take place before March 2019 and uncertainty around when the Lambeth strand of the inquiry will be completed this is not possible. This Council will continue to make representations to the IICSA on the need for the rapid development of a national redress scheme. If approved by the Council the Lambeth Redress Scheme, by some way the most comprehensive redress scheme in the country, could form a model for any national redress scheme.

The Council is now receiving requests from survivors for information about the scheme on a near daily basis. If formally agreed by Cabinet, the scheme will be opened on 2 January 2018.

Finance summary

The Council has received independent actuarial advice in assessing the cost and value for money of offering a redress scheme compared to following a conventional approach to handling claims for historical abuse. It is estimated that the possible number of claims could be 3,000 and therefore a possible cost to the scheme of £100m. In addition there are anticipated to be complex claims arising of between 5% and 10% of the claims, which will have to be dealt with outside the scheme. It is estimated that this could result in an additional £40m of cost. A reasonable estimate is that 75% of claims will be made within the first year, resulting in the need for a provision of just over £75m in 2018/19.

It is not possible for the Council to fund the scheme from revenue as there are insufficient reserves and balances to cover such a large sum. In the first instance a request has been made to the Department for Communities and Local Government (DCLG) to make a capitalisation direction in order to use capital as revenue. This has been approved by the Secretary of State and will enable the cost of the scheme to be spread over a longer time period. Scheme costs will be closely monitored. The Medium Term Financial Strategy 2017/18 to 2019/20 recognised the need to fund expenditure in relation to historic child abuse. However, there is uncertainty about the total number of claims and the level of costs the Council will have to cover. It is possible that the cost of the scheme could be lower or higher than forecast. If the Scheme costs are higher - then the amount of capital required to fund the scheme will be greater than forecast and, therefore additional budget will be required to fund the borrowing, increasing the budget gap in future years. While the capitalisation direction is welcome, we will continue to lobby central government for them to meet the costs of redress directly, rather than allowing them to fall on local authorities.

Recommendations

1. Cabinet to approve and implement the Lambeth Children's Homes Redress Scheme as set out in Appendix A.
2. Cabinet to refer the increased budget requirement to Full Council for approval.

3. To note the grant payments made to Shirley Oaks Survivors Association (SOSA) via Urban Concepts Ltd to a value of £423,060.
4. To approve additional payments to cover their reasonable legal costs and work undertaken by SOSA up to the value of £420,000

1. **Context**

- 1.1 In 2012 Operation Yewtree, the investigation into the abuse of children, found widespread child abuse in many public institutions in the UK. The national publicity around child abuse led to many people coming forward who had been abused during time spent in Lambeth children's homes.
- 1.2 The Shirley Oaks Survivors Association (SOSA) was founded in 2014. Since March 2015 the Council has worked with them and has provided SOSA with financial support; to help them raise awareness amongst survivors with the production of campaign videos; to support survivors to access their social care records and counselling services; to fund their administration costs; and to fund legal advice for the Association during the drafting of the Scheme.
- 1.3 In July 2015 SOSA addressed Full Council to highlight the appalling treatment that their members suffered as children placed in care in Shirley Oaks Children's Home. The Leader of the Council, Councillor Lib Peck, apologised. The Council of today has been clear in accepting responsibility for abuse that occurred at Shirley Oaks and other children's homes and has also been clear in acknowledging that the Council of the past failed to protect many of its most vulnerable young people. The Council also accepted that it is the relevant statutory body to respond to claims for abuse suffered by residents of the home when they were managed by the Home Office and London County Council (the Council took over the running of the homes in 1965 with the creation of the London Borough of Lambeth in its current form). Since 2015 the Council has also processed hundreds of requests for people's social services files and supported the police in bringing fresh prosecutions.
- 1.4 On 27 November 2015 the IICSA identified Lambeth Council as one of a number of local authorities (including Nottinghamshire, Leicestershire and Rochdale) and other organisations including the Roman Catholic Church and the Anglican Church for investigation into the extent to which State and non-State institutions have failed in their duty of care to protect children from sexual abuse and exploitation. In March 2016 the Council was made a core participant in the IICSA and has so far provided over 112,000 pages of documentation to the Inquiry. More recently, on 6 November 2017 IICSA announced its timetable of hearings up to March 2019 which excluded Lambeth so the outcome of the Lambeth investigation is unlikely to be known for several years. In addition it had been anticipated that IICSA would consider the issues of compensation and that would inform the Council's approach, however, the Council feels it is important to address this difficult issue as soon as possible.
- 1.5 In anticipation of multiple claims for compensation for abuse it became clear that the Council needed to look at ways to resolve such claims quickly and compassionately. In June 2016 Cabinet resolved to delegate to the Chief Executive the authority to formulate a draft redress scheme on behalf of the organisation, in consultation with stakeholders including survivors and insurers.
- 1.6 Discussion on the provisions of the Scheme have been taking place with SOSA and also with SOSA's lawyers since December 2016. The Council agreed to fund SOSA's legal costs (for solicitors and barristers including leading counsel) to enable these discussions to take place. In February 2017 the Council provided SOSA's solicitors with the proposed draft Scheme. Their solicitors advised that they would require 6 weeks in which to review the Scheme and to respond with their comments on the operation of the Scheme. In March 2017, SOSA's solicitors provided a completely

revised and redrafted redress scheme. Since then the Council has been seeking to reach agreement with SOSA on a final scheme.

- 1.7 With regard to funding for the Scheme it is not possible for the Council to fund the scheme from revenue as there are insufficient reserves and balances to cover such a large sum. In June 2017 an application was made to the Department for Communities and Local Government (DCLG) to consider a capitalisation direction that would enable the Council to finance the scheme from capital and allow the costs to be spread over a longer period of time. The DCLG has required more information about the assumptions made in coming to the forecast cost of the scheme and the extent of the Council's capacity to fund the scheme from its own revenue and capital resources. Final confirmation of agreement for a capitalisation direction was received on 30 November 2017.
- 1.8 It should be noted that the purpose of the redress scheme is to ensure that the survivors of abuse in Lambeth's former children's homes can obtain speedy and compassionate access to redress without the need to go through the civil justice process and to avoid duplicating that process. Lambeth is not alone in having failed children in its care, however, it is the first local authority to have decided to develop a redress scheme to compensate survivors of non-recent abuse.
- 1.9 In July 2017 a report was presented to Full Council setting out the progress to date in seeking to develop a Redress Scheme.

2. Proposal and Reasons

- 2.1 Lambeth Council has been rightly criticised in the past for failing to act in response to allegations of child abuse. The current administration has recognised this and has made a commitment to implement a redress scheme which, whilst it will never undo the wrongs of the past, will represent a public acknowledgment of the past failures in the provision of care to vulnerable children and seek to help people who have been so badly affected by these failings in moving forward with their lives.
- 2.2 This report seeks approval for the Lambeth Children's Homes Redress Scheme attached at Appendix A. It sets out full details of the Redress Scheme and how it is proposed that applications will be received, processed and administered through the Scheme. It explains how the Scheme will benefit survivors and allow them access to appropriate and fair redress without the need to bring civil claims through the court system.
- 2.3 The report explains the efforts that have been made to develop a Scheme that is swift and compassionate and does not see individuals having to go through a lengthy court process. This means that survivors do not have to relive their suffering as they prepare and present their case. This approach also avoids significant amounts of survivors' redress payments being taken up by legal fees. This report also acknowledges the many conversations and discussions with SOSA, for which we are very grateful.
- 2.4 The Council needs to progress a redress scheme as quickly as possible given that some abuse dates from the 1930's and some survivors are nearing the end of their lives. Finalising the Scheme and moving quickly to compensate people is an urgent requirement to allow them to get on with their lives.
- 2.5 The Council has been in discussion with SOSA because of the large numbers of their members affected who were formerly in Lambeth's care at Shirley Oaks Children's Home. The Redress Scheme will, however, be open to former residents of all Lambeth Children's Homes as defined in the Scheme. Following the Supreme Court ruling in *Armes v Notts County Council [2017]* that

councils are vicariously liable for abuse by foster carers, the Redress Scheme has been extended to include children who were placed with foster parents directly from a Lambeth Children's Home. (see further paragraphs 2.12-2.15)

Summary of the Redress Scheme

2.6 All former residents of a Lambeth Children's Home who were living in and subjected to a harsh environment will be eligible to receive a Harm's Way Payment ("HWP") of up to £10,000. Payments will be stepped based on time spent in a children's home as follows:

- More than 6 months – Harm's Way Payment of £10,000
- Between 3 and 6 months – Harm's Way Payment of £5,000
- More than 1 week and up to 3 months – Harm's Way Payment of £2,500
- Less than 1 week – Harm's Way Payment of £1,000

A harsh environment is one which caused former residents to fear or apprehend that they would be subject to immediate physical abuse, and mistreatment or sexual abuse and/or neglect and/or cruelty. Where a Harm's Way Payment is paid and the person also applies for an individual redress/compensation payment the Harm's Way Payment will be treated as an interim payment for redress.

2.7 Any child who was resident in one of the Council's specialist residential children's units with physical or learning disabilities is entitled to a Harm's Way Payment of £10,000.

2.8 In addition the Scheme provides for an Individual Redress/Compensation Payment (IRP) for every child who has been physically, sexually or psychologically abused by staff, house parent, social uncle or aunt, or any other third party for whom the Council has vicarious liability in relation to a Lambeth Children's Home (and including Shirley Oaks Primary School).

2.9 The Scheme provides compensation up to a maximum sum of £125,000. Complex cases where compensation for loss of earnings could result in a higher award of compensation will be dealt with outside of the Scheme as these cases involve a more detailed forensic analysis of expert evidence to assess and ensure the appropriate level of compensation is made to applicants. However, these cases will be handled in the spirit of the Scheme to provide a swift and compassionate resolution to each case;

2.10 The Scheme provides for reasonable legal costs of completed applications to be paid for by the Council in the expectation that these are not deductible from the compensation awarded to an applicant by their solicitor. The Council will use its best endeavours to ensure survivors receive as much of the agreed compensation as possible and not their lawyers;

2.11 The estates of deceased former residents of a Lambeth children's home who were abused will be entitled to apply for an Individual Redress Payment;

2.12 The draft Scheme was reviewed in October 2017 following the Supreme Court ruling in the case of *Armes v Nottinghamshire County Council [2017]*. This case has clarified and established that the law will now impose a liability on local authorities, holding them vicariously liable, for any deliberate acts of abuse committed by foster carers.

- 2.13 This Redress Scheme is intended for those children who were placed in Lambeth's children's homes where it is accepted there have been institutional failings. As such a decision can be made on a balance of probabilities that children who attended the home were at risk of harm. It does not follow that the same logic automatically applies to all foster care placements.
- 2.14 In light of the court decision, the Scheme has been extended to children who were abused by foster carers if children were placed with the foster carers directly from a Lambeth children's home. The Council recognises that where there is a direct correlation between placement in a children's home and a move to foster care placement in which a child suffered abuse then those claims can be dealt with through the Scheme.
- 2.15 There are other instances that SOSA have highlighted which are not suited to be dealt with in the Scheme but where the Council will continue to meet its legal duties and liabilities by dealing with those claims in the usual way. The Council will have regard to any ongoing safeguarding issues which may be identified as a result of any allegations made.
- 2.16 The Council has had a free specialist and dedicated independent counselling support service for all survivors since 2015. The Council will fund the Counselling Service for the duration of the Scheme. If, at this stage, there continues to be a need for the counselling services by Eligible Applicants, the Council will consider whether the Counselling Service should be extended for a further period of time.
- 2.17 In addition when considering an application for an Individual Redress Payment the medical experts instructed will be asked to consider if any additional therapeutic input is required.
- 2.18 The Scheme provides for all those eligible to receive a written apology acknowledging what has happened to them and providing an acceptance of responsibility by the Council. In addition, a meeting with a senior Council representative will be offered to all those who enter the Scheme to ensure the Council has fully heard and understood the extent of the harm suffered by individuals. We recognise that survivors want to know that the lessons of the past have been learnt, and that children today do not face the same hazards. We know that for many people this is more important than compensation.
- 2.19 The Scheme provides for specialist advice and assistance providing support with housing concerns, welfare benefits, further education and employment advice.
- 2.20 The Scheme will be open for 2 years from the date of implementation.
- 2.21 The Council recognises that the area of redress is a changing area and needs to ensure some flexibility to allow for further legal developments, issues arising from the IICSA, financial issues and experience gained from claims processed. It is therefore prudent to retain the ability to vary the scheme upon advance notice and advertising of any proposed changes. The Council will review the initial progress of the Scheme on this basis after three months.
- 2.22 The Scheme provides for the payment of aggravated damages in line with common law principles. An award for aggravated damages seeks to compensate for distress and humiliation caused. This category of damages is awarded as compensation for an individual's mental distress where the manner in which the abuse has been committed, or the motive for the abuse, has upset or outraged the individual. This includes situations where abuse has been motivated by race or sexual orientation. The Tariff applied to this Scheme factors in an aggravating element into the damages awarded. See Appendix B for the Tariff and Bands for compensation.

- 2.23 The Scheme provides for determination by an independent Appeal Panel of the level of redress in the event that the parties are not able to reach an agreement. The independent multi-disciplinary Appeal Panel will be chaired by a retired Judge and made up of a range of independent experts eg: psychiatrists, psychologists, guardians and barristers.
- 2.24 The Scheme automatically waives any limitation period defence for those people who enter the Scheme, for the duration those applications remain in the Scheme.
- 2.25 In summary, the Redress Scheme will provide swift and compassionate recourse to appropriate compensation to the survivors of abuse, minimising the legal costs associated with these types of claims by streamlining the process and avoiding costly legal proceedings through the civil justice process. It seeks to do so while making sure that levels of compensation are in line with existing case law and operate within the existing legal framework for compensation claims to ensure no one receives less compensation than they would if they took their claim to court.
- 2.26 The Council considers that the Redress Scheme is the first of its kind. The provisions of the Redress Scheme compare very favourably to similar schemes which have been developed for example in Jersey, the Republic of Ireland and Canada. A comparison table of the Schemes is at Appendix C.

3 Finance

- 3.1 The council has received independent actuarial advice in assessing the cost and value for money of offering a redress scheme compared to following a conventional approach to handling claims for historical abuse. The actuary has estimated that the average cost of one claim through the scheme would equate to £30,000 to £35,000 whilst the cost through the conventional litigation route would be £100,000 due to additional legal costs that would be incurred. The Scheme is expected therefore to ensure that survivors receive redress in full without losing a significant amount through legal costs.
- 3.2 It is estimated that the possible number of claims could be 3,000 and, therefore, a possible cost to the scheme of £100m. In addition there is anticipated to be complex claims arising of between 5% and 10% of the claims which will have to be dealt with outside the scheme. It is estimated that this could result in an additional £40m of cost. The estimates of the number of claims through litigation is lower, 2,000, as full litigation is likely to deter claimants, with a total cost of £200m. The key difference being much higher legal fees for all parties. The actuarial advice received is that the Scheme is expected to be more beneficial to more survivors of abuse, at significantly lower legal costs to both survivors and the Council, than the litigation alternative. A copy of the Actuary's Summary Opinion is at Appendix D.
- 3.3 It is not possible to accurately predict the number of claims that the council is likely to receive. The experience of other bodies running redress schemes has seen the number of claims rise beyond the original estimate with increasing costs. It is possible that the cost of the scheme could be lower or higher than forecast. If the Scheme costs are higher, the amount of capital required to fund the scheme will be greater than forecast and, therefore additional budget will be required to fund the borrowing, increasing the budget gap in future years. It is also not possible to predict when the claims may come into the Council and, therefore, the current assumption is that not all claims will be registered within the first full year of the scheme being open. This means that it will not be necessary to make full provision in the first year. A reasonable estimate is that 75% of claims will be made within the first full year, resulting in the need for a provision of just over £75m in 2018/19.

- 3.4 The Council is not able to fund the Scheme from revenue as there are insufficient reserves and balances to cover such a large sum. Also, there is limited insurance cover for non-recent abuse claims. A request was made to the Department for Communities and Local Government (DCLG) to make a capitalisation direction in order to use capital as revenue. This will enable the cost of the Scheme to be spread over a longer time period. It is anticipated that the majority of the capital expenditure would be from borrowing through the Public Works Loan Board (PWLB) at fixed interest rates and repayment spread over 50 years. The current annual cost of capital is £46,600 per £1m borrowing. Over 50 years £100m of borrowing will cost £4.7m per annum and, if the total cost were to reach £140m, £6.5m per annum
- 3.5 The Council has received confirmation of the capitalisation direction on 30 November 2017 for not more than £100m. Two conditions have been set;
- any income received from insurers at any time by the London Borough of Lambeth, whether through payments or commutation of policy, from public liability insurance held for this purpose shall be treated by the authority as a capital receipt and;
 - the London Borough of Lambeth agrees to submit quarterly monitoring reports setting out the actual cost and forecast total cost of the redress scheme to the Secretary of State.
- 3.6 The DCLG understand that the Council cannot be certain of the full costs of the Scheme at this early stage. Through our regular monitoring with DCLG we will be able to identify at an early point if the costs are likely to exceed the agreed £100m and that approval to increase the amount will then be sought from the Secretary of State well in advance of our need to utilise any additional borrowing. We will also continue to lobby central government for them to meet the costs of redress directly, rather than allowing them to fall on local authorities.
- 3.7 It is anticipated that there will be a capital requirement this year and it is estimated to be no more than 10% of the total forecast cost of the scheme, £10m. The cost of this capital funding will be met through borrowing. The part year cost of any borrowing required in 2017/18 is estimated to be no greater than £0.47m which will be met from the current budget allocation for non-recent child abuse and an appropriate virement made. The full borrowing requirement of £100m is already reflected in the council's Treasury Management Strategy. The capital budget will need to be included in the Capital Investment Programme (CIP) for 2017/18 and future years.
- 3.8 The Medium Term Financial Strategy (MTFS) 2017/18 to 2019/20 recognised the need to fund expenditure in relation to non-recent child abuse and set up budgets of £2m in 2017/18 and a further £3.5m growth in 2018/19. These budgets were proposed cover the one-off costs associated with administration for the Independent Inquiry into Child Sexual Abuse (IICSA), setting up the redress scheme and the ongoing cost of borrowing. The council was expected to have presented to the inquiry this December, however there is currently no date set and therefore the council is proposing to stand down its team currently working on the preparation early in the new financial year which releases this budget.
- 3.9 There are also ongoing costs of administering Subject Access Requests (SARs) from potential claimants, the numbers of which have exceeded expected estimates. It is necessary for this activity to be funded in the new financial year and growth for a budget of £1.5m has been built into the MTFS. This means that the £5.5m growth in 2018/19 is sufficient to fund the borrowing costs estimated to be required in 2018/19.
- 3.10 The redress scheme has been developed with the assistance of the Council's external solicitors and counsels' advice and this has cost approximately £193k for the period December 2016 to end

September 2017. These costs have been met from the funding made available in the Council's budget. In addition the Council has agreed to fund SOSA's reasonable legal costs for which they are seeking £260k for the same period and which is subject to agreement.

- 3.11 The Council had made discretionary grant payments to SOSA to support the work done directly with survivors of abuse. SOSA is a membership organisation whose membership is drawn from people formerly in the care of Lambeth Council and/or resided in Lambeth children's homes. It has provided a voice for survivors of abuse. The organisation is not yet formally constituted as a charitable organisation. Its day-to-day expenditure is currently managed through Urban Concepts Communications Ltd a company that is run by two founding members of SOSA.
- 3.12 In 2015/16 grant payments totalling £137,401 were made and in 2016/17 grant payments totalling £285,659 will have been made to SOSA, paid to Urban Concepts Communications Ltd. The Council reserves the right to request a breakdown of the expenditure of the grants made to support SOSA.

4. **Legal and Democracy**

- 4.1 The Council has a legal power to establish a redress scheme under s. 1 Localism Act 2011 which introduced a "general power of competence" (GPOC) which gives the local authority "the power to do anything that individuals generally may do" and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area.
- 4.2 The GPOC in common with any other source of power must be exercised reasonably and properly. The Council must be mindful of its fiduciary duty to council tax payers and, therefore, needs to balance the needs of survivors against its public duty to ensure that claims are appropriately validated and that payments are reasonable and lawful.
- 4.3 The Council's auditors have a statutory duty under the Local Audit and Accountability Act 2014 to be satisfied that "the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources".
- 4.4 The Redress Scheme provides for the award of a Harm's Way Payment of up to £10,000 where there is evidence that residents were subjected to a harsh environment as defined under the Scheme. It would not be lawful for the Council to introduce a Scheme which simply allowed for payment of a Harm's Way Payment without provision of a threshold based on some form of evidence in order to validate payment.
- 4.5 As a public body the Council has a duty to exercise its powers properly and reasonably. In this context "properly" includes that legally irrelevant considerations are left out of account and all legally relevant considerations are taken into account. Importantly, where expenditure is involved, "reasonably" includes compliance with the fiduciary duty to council tax payers owed by a local authority and reaffirmed by the Court of Appeal in *Charles Terence Estates Ltd v Cornwall County Council* [2013] 1 WLR 466, at paragraphs 11 – 17. The fiduciary duty is a duty not to incur expenditure "thrifflously" and to act "in a fairly business-like manner" with "due regard" for the interests of council tax payers and holding a balance between those who contribute funds and those who receive payment.
- 4.6 It has been suggested that the Council could make blanket Harm's Way Payments based on residence alone. This would amount to an unlawful fetter of its discretion and would not be considered fair as between former residents in differing circumstances.

- 4.7 The Council has taken advice from leading counsel in the development of the Redress Scheme. The advice from counsel is that the Scheme delivers appropriate recompense for those who were subjected to abuse and that the Tariffs to be applied in assessing the level of award payable under the Scheme reflect the awards that the civil courts would make. There will be some complex cases which would not be suitable to deal with through the Scheme, however, as they require a much more detailed analysis of the loss of educational or employment opportunities these cases are better dealt with through the civil process.
- 4.8 This proposed key decision was entered in the Forward Plan on 14 August 2017 and the necessary 28 clear days' notice has been given. The report will be published for five clear days before the decision is considered by Cabinet. Should it be approved, a further period of five clear days, the call-in period, must then elapse before the decision becomes effective. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.
- 4.9 As the proposed decision is contrary to or not wholly in accordance with the budget approved by Council the decision will need to be referred to Full Council for approval of the increased budgetary requirements.

5. Consultation

- 5.1 It was clear from an early stage in the engagement with SOSA that the Council needed to work closely with survivors to develop a redress scheme which would address their experiences, as detailed in a report written by SOSA which highlighted the appalling scale of abuse which had taken place over a long period of time at Shirley Oaks Children's Home.
- 5.2 The Council has had many meetings with SOSA to identify the types of reparations that could be included in a redress scheme. It was also clear that the Council needed to work to develop a Scheme that survivors felt comfortable with and which they would access.
- 5.3 At the launch of the SOSA's interim report in December 2016 Council Leader Lib Peck said:
- "The testimonies we heard today at the launch of SOSA's report were incredibly moving. This report shines a light on a period of Lambeth's history that is very dark indeed. As the current leader of Lambeth Council I make a full and genuine apology for the abuse that people suffered due to failings in the care system. We've taken the decision not to be like past administrations and instead are working openly and constructively with SOSA."*
- 5.4 The Council has been in discussions with SOSA since October 2016 when it presented them with the first draft of the Scheme. In December 2016 the Council agreed to fund legal representation for SOSA in connection with seeking to agree the provisions to be included in the Scheme.
- 5.5 In February 2017 the Council's draft Redress Scheme was presented to SOSA's legal team and in March 2017 SOSA's lawyers presented their own draft scheme in response. Since then the Council has been seeking to reach agreement with SOSA on a final scheme.
- 5.6 The Council has also consulted with other key stakeholders in relation to the development of the Redress Scheme including the Council's external auditors, insurers and independent experts.
- 5.7 The process has been lengthy and some of the legal issues involved have been extremely complex. It has taken significantly longer to conclude the development of the Scheme despite the best effort of all parties. The consultation table at Appendix E sets out the progress that has been made explains which parts of the Scheme have been revised in response to the consultation. Where it has not been possible to agree to the terms requested the reasons are set out in the summary table.

6. Risk management

6.1 Risk relating to the production of the Scheme has been identified, managed and a project risk register maintained. If the Council does not develop a Redress Scheme there is increased risk of litigation with attendant legal costs under the civil justice process.

7. Equalities impact assessment

7.1 The Council has undertaken a full equalities impact assessment (EIA) in relation to the Redress Scheme and its implementation to ensure that the Council is complying with its obligations under the Equalities Act 2010. A copy of the Equalities Impact Assessment is at Appendix F.

7.2 On 4 October 2017 the EIA was considered at a meeting of the Council's Corporate EIA Panel. Feedback from the meeting was that the Redress Scheme had an overall positive impact for all equalities groups by virtue of both the principles that informed the development of the scheme and the proposed implementation plan. The overall objective of the scheme is to deliver a swift and compassionate process for making and resolving claims, to provide quicker access to justice and redress whilst minimising as far as possible the necessity for litigation which may well be adversarial in nature, complex and highly distressing for some individuals.

7.3 The EIA panel recognised the Redress Scheme has been designed to actively promote equalities in relation to access, process and outcome. Key mitigations that are integral to the scheme design include:

- Providing multiple channels by which individuals can lodge an application whilst respecting their right to privacy.
- Implementing a fair, transparent and proportionate process for applicants to lodge and provide information in support of claims. This includes provision of practical advice and support and payment of associated legal costs.
- Where possible and legally appropriate protecting the interests of individuals who receive a financial settlement and who may be vulnerable due to mental incapacity and/or physical frailty or disability.

7.4 The Council will monitor the overall impact on equalities throughout the lifetime of the Scheme.

8. Community safety

8.2 There are not considered to be any implications under s. 17 the Crime and Disorder Act 1998

9. Organisational implications

9.1 Environmental

None

9.2 Staffing and accommodation

The Scheme will be administered by the Redress Team in conjunction with the Council's external solicitors – Kennedys LLP. All members of the team have received training from the National Association for People Abused in Childhood (NAPAC). In addition they have undergone DBS checks as well as conflict checks to ensure they have not had previous dealings with any Council matters relevant to the applications. There will be a need to review resource requirements particularly in

relation to applications that prove difficult to verify from existing Council records which is likely to require additional resource.

9.3 Procurement

The Council has commissioned Oxleas Mental Health NHS Trust to provide independent counselling to survivors until March 2019. Under the Scheme applicants will be able to access the specialist and dedicated confidential counselling support service. This service will be funded by the Council for the duration of the scheme. If, at this stage, there continues to be a need for the counselling services by Eligible Applicants, the Council will consider whether the counselling service should be extended for a further period of time.

9.4 Health

The long-term mental and physical health effects of childhood abuse are well documented, and we know from the stories that people have told us that their experiences have remained with them their entire lives. Nothing can fully compensate people for those experiences but it is important for survivors that the abuse that happened to them is recognised and acknowledged, and that they receive an apology. Survivors of abuse also wish to know that children today will be better protected. It is also the case that because of the adversarial nature of the court process survivors of abuse can be re-victimised by having to recount their experiences. The aim of the Redress Scheme is to prevent re-victimisation whilst providing a range of reparations that hopefully will enable people to move on with their lives.

10. Timetable for implementation

| | |
|-------------------------------|------------------|
| Cabinet meeting: | 18 December 2017 |
| Decision published: | 20 December 2017 |
| Call in period (for Cabinet): | 29 December 2017 |
| Full Council meeting: | 18 December 2017 |
| Implementation: | 2 January 2018 |

| Audit Trail | | | | |
|---------------------------------------------------------|----------------------------------------------------|------------------|----------------------|-------------------------------|
| Consultation | | | | |
| Name/Position | Lambeth directorate / department or partner | Date Sent | Date Received | Comments in paragraph: |
| Councillor Lib Peck | Leader of the Council | 05.12.17 | 06.12.17 | |
| Helen Charlesworth-May Strategic Director | Adults and Health | 04.12.17 | 05.12.17 | Throughout |
| Jackie Belton, Strategic Director | Corporate Resources | 06.12.17 | 06.12.17 | |
| Christina Thompson, Director of Finance and Property | Corporate Resources, Finance and Property | 01.12.17 | 04.12.17 | |
| Andrew Pavlou, Principal Lawyer | Corporate Resources, Legal Services | 06.12.17 | 06.12.17 | Section 4 |
| Wayne Chandai, Democratic Services Manager | Corporate Resources, Democratic Services | 29.11.17 | 30.11.17 | |

| Report History | |
|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Original discussion with Cabinet Member | Ongoing |
| Report deadline | 07.12.17 |
| Date final report sent | 07.12.17 |
| Part II Exempt from Disclosure/confidential accompanying report? | No |
| Key decision report | Yes |
| Date first appeared on forward plan | 14.08.17 |
| Key decision reasons | Expenditure, income or savings in excess of £500,000 |
| Background information | Council Report July 2015 Cabinet report June 2016 Financial Planning and Medium Term Strategy Report 2017/18 to 2019/20 – Cabinet July 2017 Council report July 2017 |
| Appendices | Appendix A – Lambeth Children’s Homes Redress Scheme & Application Form Appendix B - Compensation Tariff and Bands Appendix C- Comparison of Schemes Table Appendix D - Actuarial Summary Opinion dated 1 December 2017 Appendix E – Consultation Summary Table Appendix F - Equalities Impact Assessment dated 5 October 2017 |