

<b>Housing Select Committee</b>		
Title	Lewisham Homes Management Agreement	
Contributors	Executive Director of Customer Services, Head of Law	Item 4
Class	Part 1 (open)	09 March 2016

## **1 Summary for Housing Select Committee**

- 1.1 Housing Select Committee has scrutinised proposals to extend the management agreement between the Council and Lewisham Homes, which expires in 2017, on a number of occasions. Throughout this process the comments of Committee have shaped the negotiations between officers of both organisations.
- 1.2 The negotiation process has now broadly concluded, and on 23 March officers plan to present a final draft of the updated agreement to Mayor and Cabinet. If approved this would see the management agreement extended for a further 10 years from the spring, and would set the framework for the on-going discussions at an individual service level about specific service transfers to Lewisham Homes where operational and financial economies can be achieved by doing so.
- 1.3 As part of the on-going work in response to the housing crisis and the wide-ranging effects of legislative change and welfare reform, some high level and early preparatory work has also been undertaken in relation to the possibility that Lewisham Homes might create a charitable community benefit society organisation, set up for the express purpose of providing affordable housing for the residents of Lewisham. This work is at an early stage, and much more detail would be required to substantiate both its creation and any subsequent transfers of land or buildings into that charity. Nonetheless it is highlighted here at this early stage so that both Committee and Mayor and Cabinet are aware of the rationale for exploring the option, and the next steps that will be taken in that regard.
- 1.4 From this point forward the report contains the draft report for Mayor and Cabinet for 23rd March. Committee is asked to review and comment on this draft so that final amendments can be made head of consideration by Mayor and Cabinet.

<b>MAYOR AND CABINET - DRAFT</b>			
<b>Title</b>	Lewisham Homes Management Agreement (DRAFT)		
<b>Key decision</b>	Yes	<b>Item no</b>	
<b>Wards</b>	All		
<b>Contributors</b>	Executive Director of Customer Services, Head of Law		
<b>Class</b>	Part 1	23 March 2016	

## **2 Summary**

- 2.1 On 14 January 2015 Mayor and Cabinet noted the timetable and scope of a project to extend the Lewisham Homes' Management Agreement after its expiry in June 2017. This project was to include a review of the potential ways in which Lewisham Homes might further evolve to help meet the Council's housing priorities to reflect the continued financial pressure on the Council and the wide ranging housing changes being brought forward in legislation such as the Housing and Planning Bill.
- 2.2 Lewisham Homes is a strongly performing ALMO. It is now drawing to the close of the £95m project to deliver the Decent Homes standard across 13,000 homes. This has helped to increase resident satisfaction with repairs from 59 per cent in 2007 to 72 per cent in 2015. Over the nine years of its existence, Lewisham Homes has increased satisfaction from 58 per cent to 71 per cent whilst its management fee has reduced from £22.5m to £18.7m.
- 2.3 Furthermore, in the past three years Lewisham Homes has successfully increased the range and scope of services it provides on behalf of the Council. It is leading the development of new Council homes on behalf of the Council, with nine homes complete, 75 on site and a further 102 homes approved by Mayor and Cabinet to start on site imminently. Since January 2015 it has led a programme of housing acquisition as one of a number of approaches to tackle the homelessness crisis affecting London, and in the past year has purchased 23 homes at a cost that means the Council can both offer better accommodation and save money, and has a further 25 homes in the purchase process.
- 2.4 Since the wider review of the management agreement of last year, two service transfers have already taken place to reflect an evolving approach whereby operational services are considered for transfer to Lewisham Homes, when doing so might enable those services to be both more responsive to tenants' needs, and to be delivered more efficiently. The first of these transfers has completed, and now sees all grounds maintenance services on Lewisham Homes estates provided directly by Lewisham Homes staff. The second will

complete in April of this year, and will see sheltered housing transferred and an enhanced service offered to residents.

- 2.5 A new Management Agreement is therefore an opportunity for the Council to formally record the direction that has already emerged over the past three years. This is an opportunity to review the purpose and function of the organisation, and the roles that it can most usefully play in supporting the Council to deliver its housing aims in the light of legislative, financial and strategic change. At the same time, by extending the duration of the existing agreement, this is an opportunity to put Lewisham Homes onto a sound strategic and financial footing, enabling it to plan for the medium term, and to recruit and retain the staffing capacity appropriate to the purpose that the Council has set for it over that period.
- 2.6 This report therefore sets out for Mayor and Cabinet the terms on which the management agreement is intended to be extended and lists the additional services that are currently under review for potential transfer from the Council to Lewisham Homes. Each of these services will be brought back to Mayor and Cabinet for a separate decision at the appropriate time, as will any final decisions about the establishment of a charitable community benefit society of Lewisham Homes, the rationale for which is also set out in this report.

### **3 Policy Context**

- 3.1 The proposed changes to Lewisham Homes' Management Agreement will be designed to help the Council deliver on a number of its key policy priorities. It supports the achievements of the Sustainable Community Strategy policy objectives:
- Ambitious and achieving: where people are inspired and supported to fulfil their potential.
  - Empowered and responsible: where people can be actively involved in their local area and contribute to tolerant, caring and supportive local communities.
  - Healthy, active and enjoyable: where people can actively participate in maintaining and improving their health and well-being, supported by high quality health and care services, leisure, culture and recreational activities.
- 3.2 It will also help meet the Council's Housing Strategy in which the Council commits to the following key objectives:
- Helping residents at times of severe and urgent housing need
  - Building the homes our residents need

### **4 Recommendation**

#### 4.1 Mayor & Cabinet is recommended to:

- Note the terms and scope for the proposed extension of the Management Agreement between the Council and Lewisham Homes as outlined in section 7
- Note the proposed revised Management Agreement and Schedules attached at Appendix 1
- Note the service areas which remain under consideration for a potential transfer to Lewisham Homes in the future, as set out in section 7 and that further reports will be brought back for consideration by the Mayor for each of these in due course;
- Note the high-level rationale for the establishment by Lewisham Homes of a community benefit society, to act as a vehicle to widen the Council's housing delivery options, and that a further report will be brought back to both Housing Select Committee and Mayor and Cabinet before that society is put into place.
- Note that the Housing Select Committee has scrutinised the proposals in this paper, and that its comments have been reflected in those proposals, as set out in section 9.
- Agree that Lewisham Homes' management agreement be extended for 10 years
- Agree that officers should seek approval for the extension from the Secretary of State
- Agree that the Executive Director for Resources and Regeneration be delegated authority to finalise the revised management agreement and schedules

## 5 Background

5.1 Previous government policy required Local Authorities to undertake a stock options appraisal to develop a strategy by which all their stock could meet the Decent Homes Standard. In order to bring in the investment needed to achieve this objective, the government provided three main ways to support local authorities who need additional funding to make their homes decent. These were:

- Setting up an Arms-Length Management Organisation (ALMO)
- Entering into a Private Finance Initiative (PFI) contract
- Transferring properties to a Registered Provider of social housing

5.2 The creation of Lewisham Homes as an ALMO was a major strand of Lewisham's Decent Homes strategy which was agreed by full Council on 29 June 2005 and approved by the Office of the Deputy Prime Minister (ODPM) in November 2005. The strategy also made use of the government's Private Finance Initiative and stock transfers to Housing Associations.

- 5.3 Lewisham Homes was established in June 2007 and currently manages 13,000 social housing tenancies and 5,000 leasehold properties within the borough, on behalf of the Council. The details of the arrangements between the Council and the ALMO for the delivery of the Housing Management service are set out in a Management Agreement that was established at the inception of the ALMO. This initial management agreement was for ten years and is due to expire in June 2017.
- 5.4 Lewisham Homes is a strongly performing organisation which has improved housing management services considerably in the short time that it has been charged with managing the Council's housing stock. This year it will manage more capital expenditure, and will continue to make more Council homes "decent".
- 5.5 By the end of March 2017, Lewisham Homes will have fully completed the Decent Homes works and the Council will be able to make greater use of its programme management and service delivery expertise in other service areas.
- 5.6 In recent years various amendments have been made to the management agreement to allow Lewisham Homes to take on additional services on behalf of the Council, including management of the Council housing IT systems, the delivery of the new build housing programme, grounds maintenance on estates, and potentially to provide an enhanced Sheltered Housing management service.
- 5.7 In addition to expanding its housing management services, Lewisham Homes has also been making excellent strides in developing the first new Council homes on behalf of the Council; the first of these homes have now been completed, and an update on progress is provided elsewhere on this agenda. It is also leading on acquiring new temporary accommodation on behalf of the council to help us manage the increasing housing need in the borough.

## **6 National policy and legislative change**

- 6.1 Since the General Election in May 2015 a large number of changes have taken place in the housing policy context. The Housing and Planning Bill was introduced into Parliament on 13<sup>th</sup> October 2015 and is expected to receive Royal Assent early in 2016. This bill contains a number of significant measures including:
- A requirement for local authorities to consider selling high value assets, and pay a set amount to the Treasury
  - 'Pay to Stay' for households in social housing who earn more than £40,000 a year in London
  - The Right to Buy extended to tenants of Housing Associations
- 6.2 In addition, the Welfare Reform and Work Bill includes further changes to welfare. Announcements in the budget and in the Comprehensive Spending Review introduce further changes including:

- A one per cent reduction in social rents
  - Further welfare reform including a reduction of the benefit cap
  - A shift towards new homes being provided for ownership rather than to rent.
- 6.3 The changes outlined above, alongside the on-going financial challenges faced by local authorities, means that the Council has to consider carefully how it adapts its strategy to meet these new challenges.
- 6.4 Since the establishment of Lewisham Homes, the Council has been reframing its Housing role so that it focuses more on the strategic aspects of housing demand, housing supply and housing need, whilst expanding the role of Lewisham Homes to become the main organisation undertaking operational housing management services on behalf of the Council. The principle behind the approach is to combine all services provided to residents under single management, in order to both drive up the level of responsiveness to specific local preferences, and to achieve operational and management efficiencies.
- 6.5 Given that Lewisham Homes is operating successfully, it is recommended to extend their scope to enable the Council to meet the increasing demand for housing as well as the policy and legislative changes required by government.

## **7 Proposed terms for management agreement extension**

- 7.1 This section outlines the terms that have been discussed and agreed in principle at an officer level between officers of Lewisham Homes and the Council, and which have been reviewed on a number of occasions during that process by the Housing Select Committee.

### Length of contract extension

- 7.2 It is proposed that the contract be extended by a period of 10 years, subject to the termination clauses set out below.

### Provisions for termination

- 7.3 On 16 September when Housing Select Committee first considered the proposal to extend the management agreement, it recommended that “with the level of uncertainty and associated risks at the present time, a ‘break clause’ should be considered so both parties can review the agreement at a later date.”
- 7.4 Under the proposed new terms the Council is entitled to terminate the Agreement at its discretion on the fifth anniversary of the Commencement Date.
- 7.5 It may also terminate in the following circumstances:
- where any tenants propose the formation of a tenant management organisation and in compliance with legislation a tenant management organisation is established which affects a substantial portion of the stock managed by Lewisham Homes;

- where Lewisham Homes is in material breach of its obligations and the breach is irremediable;
- where it is insolvent

#### Form of agreement

- 7.6 As part of the review, the management agreement document will be simplified and updated. However the requirements for Lewisham Homes to report its Business Plan and performance to Housing Select Committee and to Mayor & Cabinet will remain unchanged.

#### Scope of agreement

- 7.7 As outlined in 5.4, the revisions to the management agreement are designed to help enable Lewisham Homes to become the main organisation undertaking housing management services on behalf of the Council, Listed below are the services which have already been transferred or work is underway to transfer the service to Lewisham Homes. Further services of this kind may be considered for transfer in the future depending on the priorities of the Council and the performance of Lewisham Homes.

<b>Service</b>	<b>Proposed Date</b>
Professional Services Procurement in respect of managed budgets	1 April 2016
New Build Procurement in respect of managed budgets	1 April 2016
Commercial Aerial Leases	1 April 2016
Lumber Collection and Bulk Refuse	1 April 2016
Grounds Maintenance	1 April 2016
Private Sector Leasing	To be agreed
Pest Control	To be agreed
Enhanced Sheltered Housing	1 April 2016
Hostels	To be agreed
Community Centres on Housing Estates	To be agreed
Acquisition of properties for temporary accommodation	Since July 2015

- 7.8 Any additional proposed service transfer will be subject to a business case being drawn up by officers and further reports brought back for consideration by the Mayor in due course.

#### Timetable and next steps

- 7.9 If approved by Mayor & Cabinet, officers will approach the Secretary of State in order to receive the consent required to extend the agreement. It is anticipated that the new management agreement will commence in Spring 2016.

## **8 Community Benefit Society**

- 8.1 Mayor and Cabinet will be aware that the Council is bringing forward the development of new homes using a wide range of approaches. These range from direct development, managed by Lewisham Homes, through a range of partnerships including directly with residents themselves using the Community Land Trust model, to large scale long term investment projects in partnership with the private sector, such as that proposed at Besson Street. It also includes a programme of property acquisition, again led by Lewisham Homes and financed by the Council.
- 8.2 The on-going changes in the wider housing policy context, such as those contained in the Housing and Planning bill which will require Councils to sell “high value” void properties, reduce rents by 1 per cent for four years, and charge market rents to some higher earners, all affect the business model through which new homes are developed and managed. For instance the 1 per cent rent reduction has already led to the project to develop 51 new high quality homes for extra care at Campshill Road in Lewisham Central to be stalled.
- 8.3 This state of continual change means that it is right for the Council to continue to review all options regarding how it can continue to build and acquire new homes. As the Council’s main provider of all types of affordable housing, Lewisham Homes is exploring with the Council the potential to establish a charitable community benefit society for the express purpose of providing new affordable homes for the people of Lewisham. Officers are taking advice on the range of benefits that this approach may offer, drawing in the main on the fact that – because of the charitable nature of the organisation – the homes developed and owned by this organisation may be safeguarded for long term use as affordable housing regardless of the constantly changing policy environment.
- 8.4 The terms of the management agreement with Lewisham Homes do allow, in theory, for Lewisham Homes to create such an organisation. Were this approach to be pursued, then it could be used for instance as the vehicle through which Lewisham Homes acquires new properties on behalf of the Council. Additionally, the community benefit society could build new affordable homes on behalf of the Council when appropriate sites are identified, although this would always be subject to Council decision making, and rules surrounding best consideration when land transactions are considered.
- 8.5 Officers propose that further work be undertaken to review the options for the scale and scope of a potential charitable community benefit society for Lewisham Homes, to enable the board of Lewisham Homes, and subsequently the Mayor, to make all necessary decisions to enable its creation, if appropriate. It is anticipated that these decisions could be made in the summer/autumn of 2016.



## **9 Comments of Housing Select Committee**

- 9.1 The Housing Select Committee has been engaged in the negotiation and drafting process throughout the project to extend the management agreement between the Council and Lewisham Homes. The matter has been considered at three separate Committee meetings, at the start of the process in September 15 (check), when a draft heads of terms was available in January 2016, and then to review a draft of this report on 9 March. The comments of Housing Select Committee have been incorporated into this final draft.

## **10 Financial Implications**

- 10.1 Under the extended management agreement, Lewisham Homes will continue to be paid an annual management fee. The method of calculating that fee will be set out in the financial schedule of the agreement and will form a part of the HRA budget agreed annually as a part of the Council's budget setting process.
- 10.2 The finance schedule will also cover financial management and control requirements, relating to budget setting, monitoring and final accounts, and will set out arrangements for payments and the collection of income.
- 10.3 Funding for the transfer of new services will need to be contained within existing budgets, in both the General Fund and the Housing Revenue Account.
- 10.4 The proposal to give Lewisham homes the ability to establish a community benefit society is intended to give Lewisham Homes a tool under the management agreement to develop new ways of delivering new homes within the borough. To this extent, there are no financial implications in the recommendation relating to this proposal. A thorough assessment of the financial benefits and implications will need to be undertaken and reported back to members before the establishment of such a society and decisions on investment in and asset transfers to that society can take place.

## **11 Legal Implications**

- 11.1 Section 27 of the Housing Act 1985, provides the power to allow another person to exercise housing management on behalf of the local housing authority. This power enabled Lewisham Homes to be set up in 2007. The approval of the Secretary of State is necessary for such an agreement, and the variation or extension of a provision of a management agreement.
- 11.2 By virtue of Section 105 of the Housing Act 1985, there is a duty to consult secure tenants who are likely to be substantially affected by a matter of housing management i.e. which relates to the management of dwelling houses let by the Council under secure tenancies.

- 11.3 Lewisham Homes is a company limited by guarantee not having a share capital and is wholly owned by the Council. It has its own governance arrangements which are governed by its Articles which sets out its objects. Its decision making is through a Board comprising fifteen members consisting of three Council Board members, seven Board members representing tenants and leaseholders and five independent Board members. This conforms to the model for ALMOs recommended by DCLG. Subject to the provisions of the Companies Act 2006 and the directions of the London Borough of Lewisham in general meeting the business of Lewisham Homes is managed by its Board.
- 11.4 Lewisham Homes has its own Standing Orders and Financial Regulations which are approved by the Council and its accounts are subject to internal and external audit.
- 11.5 The proposed new Management Agreement requires Lewisham Homes, as the Council's housing manager for its housing stock, to comply with all statutory requirements to be observed and performed in connection with the services and to discharge all statutory functions of the Council delegated by the Council to it pursuant to section 27 of the Housing Act 1985 (as amended).
- 11.6 As set out in paragraph 6.6 the Council has currently delegated various functions to Lewisham Homes and plans to delegate further housing management functions to bring all of its housing management services under one operation. This is permissible under the legislation. The new Management Agreement will set out clearly the functions to be delegated.
- 11.7 The services proposed to be undertaken by Lewisham Homes under the new Management Agreement are largely regulated by statute and are subject to the regulatory framework of the Regulator, which is the HCA, where applicable. However, the new Agreement also provides for monitoring and overview by the Council. To achieve this, Lewisham Homes requires Lewisham Homes to submit a Business Plan which incorporates performance indicators as to its performance. Schedule 4 of the new Management Agreement sets out the requirements of the Business Plan which is subject to a three year substantial review and intervening annual reviews.
- 11.8 The Council has set out financial arrangements at Schedule 3 with which Lewisham Homes has to comply which provides for financial monitoring by the Council on a quarterly basis.
- 11.9 If Lewisham Homes fails to provide any of the services or is in breach of its obligations, the Council has a contractual right to set a remedial plan for improvement within set timescales and to terminate services or the whole Agreement if the plan is not met within these timescales.
- 11.10 There is a requirement for consultation and engagement with tenants and leaseholders through a Community Engagement Strategy, the form of which is annexed to the new Management Agreement. No variation of a tenancy is permitted without the Council's prior written consent

11.11 The usual protections are provided in the new Agreement including those relating to data protection and data sharing, Freedom of Information in compliance with statute, health and safety, insurance, and the handling of complaints. There is also an IT protocol governing the use of the Council's computer systems and or software.

11.12 Where further functions are delegated to Lewisham Homes, a process has to be followed which is set out at Schedule 7 which includes consultation with employees who may transfer and compliance with the Transfer of Undertakings Protection of Employee Regulations 2006 (TUPE).

11.13 There is a requirement for Lewisham Homes to co-operate and assist the Council in the discharge of functions which are reserved to the Council, for example its nomination and allocation rights.

## **12 Crime and Disorder Implications**

12.1 There are no specific crime and disorder implications arising from this report.

## **13 Equalities Implications**

13.1 There are no specific equalities implications arising from this report.

## **14 Environmental Implications**

14.1 There are no specific environmental implications arising from this report.

## **15 Background documents and originator**

15.1 There are no background documents to this report.

15.2 If you would like any further information on this report please contact Jeff Endean on 020 8314 6213