

<b>Mayor and Cabinet</b>			
<b>Report Title</b>	Lewisham Homes Acquisition Programme and Loan Agreement		
<b>Key Decision</b>	Yes	Item No.	
<b>Ward</b>	All		
<b>Contributors</b>	Executive Director for Customer Services		
<b>Class</b>	Part 1	Date:	26 June 2019

## 1. Summary

- 1.1 Mayor and Cabinet will be aware of the continuing challenge posed by the increase in homeless households in the borough. At the end of January 2019 there were 2,116 Lewisham households in temporary accommodation, of whom 629 households were in nightly paid accommodation. The remaining 1,487 households are currently placed in a variety of other forms of temporary accommodation, including hostels and properties leased from the private market.
- 1.2 In addition, the Council has a commitment to refugee families, with a strategic priority to aim to resettle a further 100 families in addition to those already in borough. As part of this, suitable accommodation has to be sourced or identified for the families to inhabit on arrival. This is a substantial increase on the first phase of the resettlement programme which saw sixteen families resettled in borough and requires a more comprehensive approach to housing procurement.
- 1.3 Further to the initial £20m loan for acquisitions, in January 2015 Mayor and Cabinet agreed that in order to increase the supply of quality, in-borough temporary accommodation a commercial loan of £20m should be extended to Lewisham Homes to enable it to purchase properties on the open market for use as temporary accommodation and to prevent homelessness. As of December 2018, Lewisham Homes has acquired 152 properties on the acquisition programme, and are continuing negotiations to acquire further properties.
- 1.4 Officers are now recommending that a further loan is extended to Lewisham Homes in order to extend the acquisition programme and continue to provide a better alternative to nightly paid accommodation and accommodation for refugee families being resettled as part of the corporate priority to become a borough of sanctuary.
- 1.5 This report provides an update on the current situation regarding homelessness and temporary accommodation, an update on further

initiatives and more detail on the operations of the acquisition programme and proposed further loan.

- 1.6 On 4 June 2019 this paper was presented to Housing Select Committee for pre-scrutiny who agreed it be taken forward to Mayor and Cabinet with the following recommendations.

## **2. Recommendations**

- 2.1 It is recommended that Mayor and Cabinet:

- Approve provision of a loan of up to £5m to Lewisham Homes, on the terms set out in this report, to enable the continuation of the acquisition programme to help manage homelessness demand and contribute to meeting the requirements of refugee families resettled in borough; and
- Delegate the authority to finalise the terms of the loan agreement to the Acting Chief Financial Officer.

## **3. Policy Context**

- 3.1 The contents of this report are consistent with the Council's policy framework. It supports the priorities set out in the Corporate Strategy 2018-2022:

- Open Lewisham
- Tackling the housing crisis
- Giving children and young people the best start in life
- Building an inclusive local economy
- Delivering and defending: health, social care and support
- Building safer communities

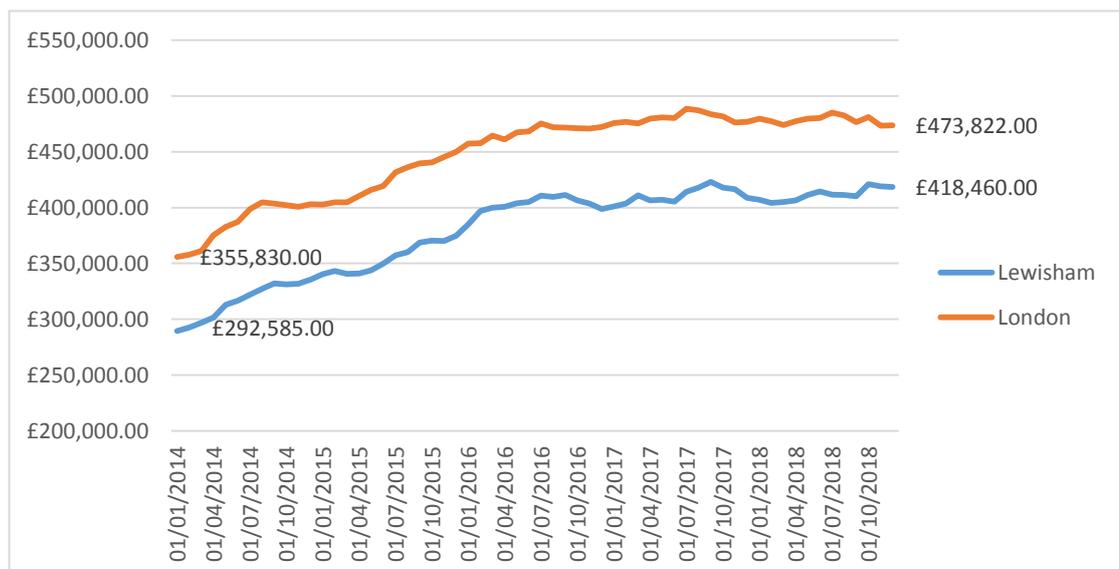
- 3.2 It will also help meet the Council's Housing Strategy 2015-2020 in which the Council commits to the following key objectives:

- Helping residents at times of severe and urgent housing need
- Building the homes our residents need
- Greater security and quality for private renters
- Promoting health and wellbeing by improving our residents' homes

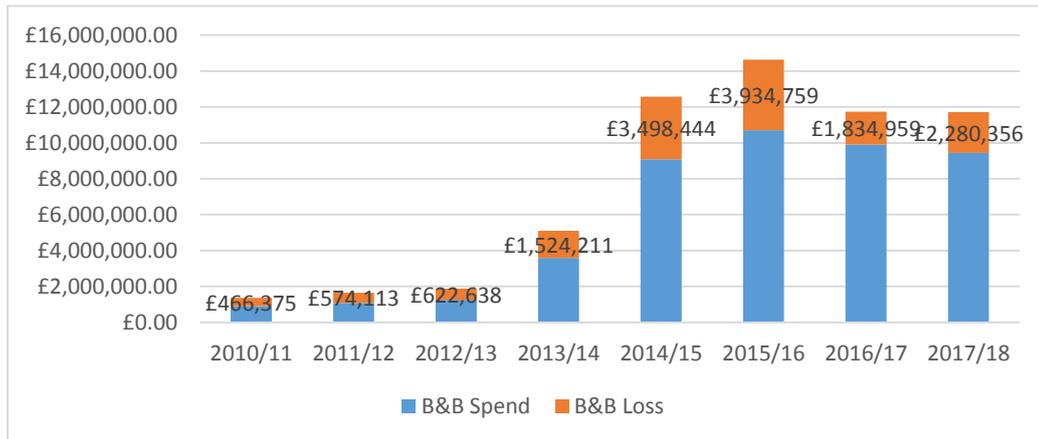
## **4. Homelessness in London and Lewisham**

- 4.1 The affordability pressures in the Private Rented Sector (PRS) in many parts of London have contributed to an increase in homelessness. In London as a whole, there were over 56,000 London households in temporary accommodation at the end of July 2018.

- 4.2 Over 15,000 households were accepted as Homeless in 2017/18 across London, 27% of all acceptances in England in 2017/18, and as the number of households requiring support is likely to increase across London and the borough, suitable properties become ever more desirable to authorities and the market.
- 4.3 In Lewisham, there has been a 40% increase in the number of homeless households in temporary accommodation since April 2014 and there are currently over 2,100 homeless households in temporary accommodation. The interventions outlined elsewhere in this report mean that this number has started to stabilise over the past 12 months, despite the challenges of the reduced supply of accommodation in the PRS and the increasing unaffordability of all tenures, and of increased demand caused by welfare reform.
- 4.4 The shortage of supply of both social housing and affordable private rented accommodation in Lewisham continues to lead to high demand on the Housing Needs Service There are a number of contributory factors to the level of homelessness in Lewisham and across London.
- 4.5 High property prices and rents provides incentives for landlords to seek higher rents than can be afforded by residents on lower incomes, or to sell their properties whilst prices are high. This is exacerbated by ongoing shortfalls in the new supply of all forms of housing, particularly affordable housing, and a significant decrease in the movement of tenants within existing stock.
- 4.6 The below chart shows the recent trend in house prices in Lewisham and London, detailing a rapid increase from 2014 to mid-2017 followed by a stagnation of prices.



- 4.7 Between 2010/11 and 2017/18 the number of Council and Housing Association properties available to let has decreased by 43%. The Council has almost 9,700 individuals and families on the Housing Register and this figure is increasing annually.
- 4.8 In 2017/18 the Council spent almost £25m on Temporary Accommodation, of which just under half was expenditure on Nightly Paid accommodation. Almost £2.3m of expenditure on Nightly Paid accommodation was a net loss to the council, as costs exceeded what could be recouped in Housing Benefit. The chart below illustrates the increase in the gross expenditure in



Nightly Paid accommodation, and net loss, since 2010/11.

## 5. The supply of temporary accommodation

- 5.1 The Council's in-borough temporary accommodation consists of a combination of hostels, which are owned by the Local Authority, Private Sector Leased (PSL) properties which are procured on long leases and Privately Managed Accommodation (PMA). Since September 2016, the operational management of the temporary accommodation portfolio has been transferred from the Council to Lewisham Homes.
- 5.2 The council seeks to procure properties where the rent is at or below the Local Housing Allowance (LHA), which is the maximum amount of rent which can be covered by housing benefit. However, procuring properties within LHA rates locally has become increasingly difficult.
- 5.3 This also aligns with resettlement accommodation, as the rents charged to refugee families are also set at LHA levels to accommodate coverage by housing benefit. For refugee families, the Council initially provides a 2-year Assured Shorthold Tenancy (AST), as though the Council has a duty to the families across the five year programme, they will be moved towards independence and may have changing housing needs, so this approach helps to ensure the most appropriate use of the housing available.
- 5.4 LHA rates were originally set at the 30<sup>th</sup> percentile of rents in an area, however as a consequence of a freeze on LHA, there is now a substantial gap between the 30<sup>th</sup> percentile of the market and the LHA applicable.

5.5 There are two LHA rates which apply in Lewisham, demonstrated in the below.

#### **LHA & Private Market rates in Lewisham**

	<b>Weekly Cost - 2 Bed</b>
<b>Inner SE London LHA</b>	£281.45
<b>Outer SE London LHA</b>	£210.17
<b>30th Percentile Private Market Rent</b>	£294
<b>Median Private Market Rent</b>	£312

5.6 The LHA applicable for 2-bedroom properties in Inner South East London is 4% below the 30th percentile of market rents and the LHA applicable for 2-bedroom properties in Outer South East London is 29% below the 30th percentile of market rents.

5.7 To address the risk to the supply of temporary accommodation outlined above, the Council has taken a number of measures including:

- Expanding the Council's hostel provision, with a review of long-term empty properties and the Council's asset register to identify suitable accommodation.
- PLACE/Ladywell – constructed using modern methods of construction to deliver new temporary accommodation on a vacant site much more quickly. This has been succeeded by plans for another similar development on Edward Street in Deptford and use of the technology to deliver more social homes on several other sites.
- Working with existing PSL landlords to promote the retention of PSL temporary accommodation.
- Participating in Capital Letters – a pan-London procurement scheme aimed at increasing temporary accommodation across London at best value.
- Increasing permanent housing supply, including the Council's previous 500 home programme and current commitment to deliver a further 1,000 homes.
- The Lewisham Homes acquisition programme, which is set out in more detail in section 7 of this report.

## **6. Refugee resettlement in Lewisham**

6.1 More than 400,000 people have died because of the Syrian conflict since 2011, according to the World Bank, with 5 million seeking refuge abroad and over 6 million displaced internally, according to UN agencies.

- 6.2 In response to the humanitarian crisis, the government said it would support the resettlement of 20,000 vulnerable Syrian refugees by 2020 through the Vulnerable Person's Resettlement Scheme. This work is coordinated by the Home Office and Ministry for Housing, Communities and Local Government.
- 6.3 At a meeting of Full Council on 21 September 2016, after representations from various community groups in favour of the programme, all councillors voted in favour of participating in the scheme. On 22 March 2017, Mayor and Cabinet voted to extend Lewisham's offer to include households from the Vulnerable Children's Resettlement Scheme (VCS). This includes non-Syrian refugee families in the region who have been highlighted as 'vulnerable' by the United Nations because of the needs of their children.
- 6.4 In the new Corporate Strategy, approved at Full Council on 27 February 2019, a commitment to resettle a further 100 families was formalised. Work to resource the expanded programme has now taken place and a new team is in situ to deliver the increased commitment.
- 6.5 Resettlement through the programme requires us as an authority to accept referrals from the Home Office and take responsibility for the families we accept from arrival at the airport. Housing must be provided at Local Housing Allowance rates for the five-year duration of the programme, but this can be of any tenure provided it is within the borough boundaries. Families will typically arrive with few possessions, so part of the housing provision involves ensuring a basic package of goods are ready for the family on arrival.
- 6.6 Additionally, resettlement support must be provided to move the family towards independence, and this focuses on tenancy sustainment and management; budgeting, including benefits management; ESOL and other employment, education and training; health and care needs.
- 6.7 It is the intention of the programme that families are supported to rebuild their lives, and to participate fully in the community they are resettled in, with refugee status and limited leave to remain granted for five years. While the families will be moved towards housing independence, homes need to be available for them on arrival and as they work towards establishing themselves in borough.
- 6.8 To address the supply for the families being resettled through the borough's 100 families programme, a number of supply approaches are being explored:
- Working with nightly-paid providers to obtain housing at LHA rates rather than their usual, higher, rent levels.
  - Working with the community to identify properties which are suitable for private rent, and which would not otherwise be in the market, for direct letting to the refugee families. This was a large source of housing for the first families resettled.

- Working to understand opportunities within the private rented sector (PRS), through engaging with landlords and supporting families to independent rent, which frees existing homes for future families.
- The possibility of acquisition as a supply source, either through wholesale purchase of blocks of housing as a Council or individual purchases as part of the Lewisham Homes acquisition programme, which is set out in more detail in the next section.

## **7. Lewisham Homes Loan and Acquisition Programme**

7.1 In January 2015, the previous Mayor and Cabinet agreed that as a new strand to the Council's strategy to increase its supply of temporary accommodation, Lewisham Homes should be enabled to acquire properties on the open market. To facilitate this acquisitions programme, Mayor and Cabinet agreed that a commercial loan of £20m should be extended to Lewisham Homes.

7.2 As of December 2018, Lewisham Homes had acquired 153 properties through this scheme, as set out below:

<b>Property size</b>	<b>Number</b>
1 bed	1
2 beds	113
3 beds	39
Total completed	153

7.3 The properties have been let at rents equivalent to the relevant Local Housing Allowance and let either to homeless households, or to prevent a household from becoming homeless. The rental income allows Lewisham Homes to manage and maintain the properties, and also make interest payments on the loan, thus providing an income for the Council in return for the capital committed.

7.4 Letting these properties to homeless households at Local Housing Allowance rates also enables the council to make a saving by reducing the need for expensive bed and breakfast accommodation.

7.5 The acquisitions programme has therefore been successful at increasing the supply of higher quality temporary accommodation available to the Council. It has also saved money by reducing the amount of nightly paid accommodation the Council would have had to procure, and the scheme also generates an income for the Council.

7.6 Officers are now recommending that a further £5m loan is extended to Lewisham Homes to continue the acquisition programme. This will enable further provision for homeless households including refugees being resettled in the borough as part of Lewisham's refugee resettlement programme.

- 7.7 The loan facility is recommended at this £5m level to provide a mechanism through which strategic acquisition and buy-backs can be achieved. The current market conditions do not support a larger programme at this time. It is recommended that the Lewisham Homes work within the general parameters set out in this report and the data available on TA and refugee demand and evaluate suitable properties against their own budget parameters.
- 7.8 Due to the prevailing conditions of the housing market set out in this report, with the cost of housing in Lewisham, and learning from the first two acquisitions programmes, it is anticipated that this loan would be extended at the lower interest rate and longer period of the second loan rather than the terms of the first. This allows Lewisham Homes to operate competitively in the market.
- 7.9 The expansion and continuation of the acquisition programme would provide a significant benefit to the Council, further reducing the need to use expensive and unsuitable nightly paid accommodation and providing much needed supply to accommodate those who need it most, from homeless families to refugees.

## **8. Financial Implications**

- 8.1 The proposal in this report is for the Council to loan Lewisham Homes up to £5m on an interest only basis with the principal to be repaid by Lewisham Homes at the term of the loan. This third loan will be provided on the same terms as the second £20m loan, to be agreed by the Acting Chief Financial Officer under the authority delegated by this report, and principally as set out below:
- The loan will be negotiated at prevailing interest rates available from the Public Works Loans Board (PWLB) on the day drawdown is requested, to recover the Council's costs;
  - The duration of the interest only, maturity loan is expected to be for up to forty years;
  - The loan will be drawn down and repaid in full at pre-agreed dates, in line with the terms of the Council's loan from the PWLB.
  - The loan will qualify as State Aid exempt because the finance is provided exclusively for Social Housing;
  - Properties purchased using the loan will only be eligible to rent at Local Housing Allowance rents (and therefore covered by Housing Benefits);
- 8.2 The risks to the Council of making such a loan are that Lewisham Homes is not able to maintain the interest payments or repay the principal on conclusion of the loan agreement. These are mitigated by the fact that, additional to the financing aspects of the loan, the Council should incur lower temporary accommodation costs as a result of being able to access these

properties (as compared to other available stock) and its position protected by the security of the properties acquired by Lewisham Homes with the loan.

- 8.3 As noted in the legal implications below, the proposal is consistent with the revised terms of the management agreement between the Council and Lewisham Homes. The risks to Lewisham Homes in accepting this loan, once the details are confirmed, will be for their Board to consider.

## **9. Legal Implications**

### Duties and powers

- 9.1 The Housing (Homeless Persons) Act 1977 places a duty on local housing authorities to secure permanent accommodation for unintentionally homeless people in priority need. Authorities' duties towards homeless people are now contained in Part 7 of the 1996 Housing Act (as amended) and are briefly summarised in 9.2 below.
- 9.2 When a household makes an application to a local authority for assistance with homelessness the authority is under a duty to carry out inquiries in order to satisfy itself as to what level of duty is owed to a homeless applicant. If an authority has reason to believe that a homeless applicant has nowhere to stay and is in priority need, then there is an immediate duty to make suitable temporary accommodation available pending further inquiries. The 'priority need groups' include households with dependent children or a pregnant woman and people who are vulnerable in some way e.g. because of mental illness or physical disability, having been in care, in the armed forces or subject to domestic violence.
- 9.3 Participation in the Syrian Vulnerable Persons Relocation Scheme (SVPRS) and related refugee schemes is voluntary and is a matter for decision by each local authority. The Home Office has issued clear requirements of authorities which decide to contribute to the programme, and any Local Authority which agrees to resettle refugees under the SVPRS must satisfy the Home Office that they have the relevant services and infrastructure in place.
- 9.4 In July 2017 the Home Secretary announced the expansion of the VPRS to include other nationalities that have fled Syria, acknowledging other groups that have also been displaced by the conflict. The expansion is with immediate effect, and the scheme will now cover vulnerable refugees in Middle East and North Africa (MENA) region.<sup>4</sup> Therefore, local authorities might receive non-Syrian nationals as well as Syrian nationals through the VPRS from July 2017.
- 9.5 The provision of the loan will enable Lewisham Homes to acquire more properties on the open market to provide temporary accommodation for homeless households. Lewisham Homes is a legal entity separate from the Council and can let tenancies in accordance with the assured tenancy regime set out in the Housing Act 1988 (the 1988 Act), in particular on an

assured shorthold tenancy basis. The consequence is that the tenants would be subject to the limited protections afforded by the 1988 Act to assured shorthold tenants, chiefly, a minimum six-month term, subject to termination on two months' notice. Rents can be charged at market levels although as indicated in the Report at paragraph 6.5, it is the intention of the Council and Lewisham Homes that the properties will be let at Local Housing Allowance level. Lewisham Homes' tenants would not have the benefit of the right to buy (RTB), notwithstanding the parent/subsidiary relationship between Lewisham Homes and the Council.

- 9.6 The power to permit Lewisham Homes to acquire and let these properties for temporary accommodation can be found in Section 1 of the Local Government Act 2011) which gives power to a local authority to do anything that individuals generally may do. Section 4 of the Localism Act provides that if a local authority is doing anything for a commercial purpose it must do so through a company. As Lewisham Homes is a company which is an existing wholly owned subsidiary of the Council Section 4 can be relied upon if the purpose was deemed to be for a commercial purpose.
- 9.7 The exercise of this discretionary power has to be reasonable. The Council could alternatively acquire these properties under S9 of the Housing Act 1985. However, importantly, this is only one element in a housing strategy to meet the needs of all homeless persons and is strictly for the much needed provision of high quality temporary accommodation for eligible homeless households pending their assessment for secure accommodation. In these circumstances and provided that this purpose is not strayed from it can be justified on the grounds of reasonableness.
- 9.8 Section 1 of the Local Government Act 2003 (the 2003 Act) provides a local authority with power to borrow money for any purpose relevant to its functions (or for the prudent management of its financial affairs). Given the requirements of Part 7 of the Housing Act 1996 the Council can rely upon the first "limb" of this Section 1. The borrowing needs to be within the prudential limits which the Council determines for itself in accordance with its duty under Section 3 of the 2003 Act and the Council is required to have regard to the Prudential Code for Capital Finance in Local Authorities (the Code) when carrying out these duties. This includes a requirement to have regard to its financial commitments and obligations to any companies or similar entities in which it has interests (such as Lewisham Homes).
- 9.9 In providing the proposed "on-lend" finance to Lewisham Homes the Council can rely upon the power in Section 24 of the Local Government Act 1988 which provides that a local housing authority has power to provide any person with financial assistance for the purposes of, or in connection with amongst other things the acquisition of any property which is or is intended to be privately let as housing accommodation. It requires Secretary of State consent to do so under Section 25 of the same Act. There is a general

consent available in these circumstances. It covers any financial assistance (other than the disposal of an interest in land or property).

#### State Aid

- 9.10 Issues of State Aid arise under EU law which prevent Member states from granting aid to an organisation which would result in it being anti-competitive in the market. This may arise where a loan is not on market terms. However, there is in any event an exemption to the State Aid prohibition for affordable housing. As stated in the body of this report, the precise terms upon which the Council's loan is to be provided are still to be agreed with Lewisham Homes. These matters will be agreed by the Executive Director for Resources and Regeneration under the authority delegated by this report. A final view on the state aid position and, if applicable, the application of the exemption, will be taken at this stage so as to ensure that there is no unlawful state aid.

#### Lewisham Homes Memorandum and Articles and the Management Agreement

- 9.11 Lewisham Homes Memorandum and Articles have been extended to enable acquisition of property, ownership of the same and letting such property as landlord for the purpose of temporary accommodation activity. The scheme of delegation in the Management Agreement between the Council and Lewisham Homes has also been amended to reflect this new function.

#### Nomination rights

- 9.12 The Council would have to be granted nomination rights in respect of the properties acquired by Lewisham Homes as the Council still retains the homeless function.
- 9.13 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.14 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 9.15 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a

protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.

9.16 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

9.17 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice> and <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

9.18 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

9.19 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

## **10. Equality Implications**

- 10.1 The improved supply of housing for homeless and refugee families is likely to have a positive equalities impact through the improved housing conditions and security provided by these homes.
- 10.2 There is a specific equalities perspective to the resettlement housing, where refugees resettled as part of the government's Vulnerable Persons Resettlement Scheme and Vulnerable Children's Resettlement Scheme are assessed as having specific needs which are usually around disability, gender or sexual orientation and are likely to be BAME, and these are protected characteristics under the Equality Act 2010. The provision of housing for these families is therefore likely to have a positive equality impact.

## **11. Environmental Implications**

- 11.1 There are no specific environmental implications to this report.

## **12. Background Documents and Report Author**

- 12.1 If you require further information about this report please contact Madeleine Jeffery on 0208 314 9484.