

| MAYOR AND CABINET | | |
|--------------------------|--|--------------------|
| Report Title | Hostels/PSL (Private Sector Leased) transfer to Lewisham Homes | |
| Key Decision | Yes | Item No. |
| Ward | All | |
| Contributors | Executive Director of Customer Services, Head of Law | |
| Class | Part 1 | Date: 13 July 2016 |

1 Summary

- 1.1 This report seeks approval for the transfer of the operational management of the council's homeless hostels and its Private Sector Leased (PSL) portfolio on or after 1 September 2016.
- 1.2 This recommendation reflects a wider review of the provision of housing management services. The principle behind the approach is to combine all housing management services under single management – Lewisham Homes – in order to make best use of specialist teams and to achieve operational and management efficiencies.
- 1.3 The management of Sheltered Housing, grounds maintenance and bulk waste on estates have already been transferred to Lewisham Homes for the same rationale. Strategic housing management functions – such as in this case the procurement of new Hostels/PSL – will remain with the Council to help it meet its statutory duties as regards to homelessness.

2 Policy Context

- 2.1 The contents of this report are consistent with the Council's policy framework. 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.

- 2.2 The proposed recommendations are also in line with the Council policy priorities:
- Decent homes for all - investment in social and affordable housing, improve housing conditions and tackle homelessness
- 2.3 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
 - Greater security and quality for private renters

3 Recommendations

- 3.1 The Mayor is recommended to:
- 3.2 Note the rationale for enabling Lewisham Homes to manage homeless hostels and the Private Sector Leased (PSL) portfolio.
- 3.3 Agree that Lewisham Homes take over the management of the homeless hostels and the Private Sector Leased (PSL) portfolio on or after 1 September 2016.

4 Background

- 4.1 Hostels and Private Sector Leased (PSL) properties form an important part of the Council's homelessness strategy, providing temporary accommodation for homeless households whilst they find more secure accommodation. The Council has 354 hostel units over 33 sites within the borough and 637 PSL units. The operational management of these properties is currently undertaken by Lewisham Council staff within the Strategic Housing division.
- 4.2 Whilst the operational functions would transfer to Lewisham Homes, the strategic management of Hostels and PSL – such as the procurement of new supply – would remain with the Council. This will ensure that the procurement strategy fits in with the demand for temporary accommodation as experienced by the Housing Needs service, and will help the Council to meet its statutory duties as regards to homelessness. The Council will also retain the management of the relationship with the owners of existing PSL properties.
- 4.3 The transfer of operational management – such as tenancy management and income management – to Lewisham Homes is reflective of a wider review of the provision of housing management services. The principle behind the approach is to combine all housing management services under single management, in order to make best use of specialist teams and to achieve operational and management efficiencies.

- 4.4 This principle is reflected in the review of the Management Agreement between the Council and Lewisham Homes, which expires in 2017. On 18 May 2016, Mayor and Cabinet approved a ten year extension to the management agreement.
- 4.5 The proposed number of posts to transfer is 21, although five of these posts are currently vacant and being covered by agency members of staff. All permanent staff would be subject to TUPE transfer. A full consultation process will be carried out for affected officers in accordance with TUPE regulations and as part of our standard process, prior to transfer taking place.
- 4.6 The posts which would be transferred to Lewisham Homes if Mayor and Cabinet approve the transfer are listed below.

| Post name | Number of posts | Grade of posts | Comments & Impact |
|---|------------------------|-----------------------|------------------------------|
| Technical surveyor | 1 | P02 | 1 agency |
| Hostel Caretaker Manager | 1 | P03 | |
| Senior Caretaker | 1 | S01 | |
| Caretaker | 11 | Sc4 | |
| Temporary Accommodation Housing Manager | 1 | P05 | Vacant |
| Temporary Accommodation Officer | 6 | S01 | 2 agency |
| TOTAL | 21 | | 17 FTE in post |

- 4.7 A total budget including staffing, materials and equipment of £1.040m will be allocated to Lewisham Homes if this proposal is agreed.

5 Proposed change, implications and timetable

- 5.1 Officers have worked with Lewisham Homes to define where responsibilities would lie if the transfer is approved. A table of the separation of responsibilities for LBL and LH can be found in appendix 1.
- 5.2 As part of the proposal, it is accepted by Lewisham Homes that the TUPE Regulations would apply to staff who are currently directly employed by the Council to deliver these services therefore their employment would transfer to Lewisham Homes. The precise arrangements for this transfer will be the subject of negotiations between the Council and Lewisham Homes.

6 Financial implications

- 6.1 Budgets for the mainstream Hostels service currently sit within the Housing Revenue Account (HRA), whereas budgets for the Private Sector Leasing Scheme & Newly Acquired Hostels sit within the councils General Fund Accounts.
- 6.2 The total 2016/17 direct budget allocation for Hostels is a net income of £0.535m made up of £2.549m income through rents and tenant charges and £2.014m on expenditure items such as staffing, repairs and running costs. Other costs such as Capital, Bad Debt and interest charges totalling £0.535m are accounted for corporately. The hostel service operating within the HRA account is therefore currently self-sufficient with expenditure being matched by income.
- 6.3 The Private Sector Leasing Service & Hostels General Fund currently generates an overall income stream for the housing needs group of £0.527m which is reinvested back into service provision. The budget comprises of £8.307m of rental charges to tenants and £7.780m of expenditure on landlord charges, staffing costs, repairs and running costs.
- 6.4 The total budget allocations for these services therefore totals £0.527m made up of £10.856m in income and £10.329m in expenditure.
- 6.5 Under the proposals of this transfer of services, some budgets such as rental income streams, repairs and energy costs, will remain with the councils overall budget structure but will be managed by Lewisham Homes and other budgets such as staffing, and other costs will transfer to Lewisham Homes.
- 6.6 A staffing budget of £0.791m will be transferred to Lewisham Homes to cover the staff costs of the 21 posts identified for TUPE transfer.
- 6.7 The following table provides a breakdown of the current budget by main heading and the envisaged responsibility.

| Area | LBL Retained | LBL Retained but Managed by LH | Transfer to LH | Total |
|------------------|--------------|--------------------------------|----------------|--------|
| | £'m | £'m | £'m | £'m |
| Rental Income | 0 | -9,556 | 0 | -9,556 |
| Service Charges | 0 | -1,218 | 0 | -1,218 |
| Tenant Charges | 0 | -90 | 0 | -90 |
| Income (Other) | -51 | 0 | 0 | -51 |
| Landlord Charges | 6,699 | 0 | 0 | 6,699 |

| | | | | |
|------------------|--------------|---------------|--------------|-------------|
| Staffing Costs | 424 | 0 | 799 | 1,223 |
| Repairs | 0 | 778 | 0 | 778 |
| Running costs | 346 | 31 | 241 | 618 |
| Energy | 0 | 345 | 0 | 345 |
| Capital | 0 | 364 | 0 | 364 |
| Bad Debts | 101 | 171 | 0 | 272 |
| Interest Charges | 89 | 0 | 0 | 89 |
| Totals | 7,567 | -9,175 | 1,040 | -527 |

6.8 The accounting arrangements will change slightly with budgets being moved within each fund to recognise this transfer of service, with Lewisham Homes' fee payment being increased as noted in the above table. However, the transfer will not affect the overall HRA or General Fund total budget allocations.

7 Legal Implications

- 7.1 A tenancy granted in pursuance of any function under Part 7 of the Housing Act 1996 [homelessness] is not a secure tenancy unless the local housing authority concerned notify the tenant that the tenancy is to be secure.
- 7.2 Under arrangements made by local housing authorities to whom homeless applicants have applied to for assistance under Part 7 of the Housing Act 1996, many homeless households are placed temporarily in the private rented sector in hostels, hotels or bed and breakfast accommodation. Where such accommodation is provided by way of interim accommodation pending the authority's decision on the household's application for accommodation or under one of the authority's other duties or powers to provide temporary accommodation, it does not attract the protection of even the minimum requirements of the Protection from Eviction Act 1977.
- 7.3 In addition a local authority may take a lease of vacant privately owned property for use as temporary accommodation for the homeless. This is known as private sector leased accommodation [PSL]. Here the occupier is entitled to basic protection from eviction namely the service of a formal Notice to Quit and the right not be evicted without a Court Order.
- 7.4 The local authority sublets the [PSL] accommodation to the homeless applicant [sub-tenant].
- 7.5 The Housing Act 1985 Schedule 1 paragraph 6 [Short term arrangements] exempts from secure status the [non secure] tenancy granted to the homeless person. In addition the Housing Act 1985 Schedule 1 paragraph 4 [Accommodation for homeless persons] states

that a tenancy granted in pursuance of any function under Part 7 of the Housing Act 1996 [homelessness] is not a secure tenancy unless the local housing authority concerned notify the tenant that the tenancy is to be regarded as a secure tenancy

- 7.6 If the recommendation is agreed, then the staff undertaking the Hostel and PSL management services will transfer to Lewisham Homes under TUPE if they spend most of their time undertaking this work.
- 7.7 Both staff and unions will need to be informed of the potential transfer in good time in accordance with Transfer of Undertakings Protection of Employment Regulations 2006. Appropriate consultation will also need to take place with unions and staff. The Council will also need to ensure it provides the required employee liability information to Lewisham Homes not less than 28 days before the relevant transfer.
- 7.8 The Equality Act 2010 (“the Act”) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.9 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. The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality

8 Crime and Disorder Implications

- 8.1 There are no crime and disorder implications arising directly from this report.

9 Equalities Implications

- 9.1 There are no equalities implications arising directly from this report.

10 Background documents and originator

- 10.1 If you would like any further information on this report please contact:

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Appendix 1

Responsibilities for functions post transfer:

| LBL responsibility | LH responsibility |
|---|---|
| Procuring new PSL, PMA and hostel units including initial safety checks (gas, electric etc) | Caretaking in hostel units |
| Liaison with owner of PSL property regarding handback of property at end of lease term | Rent collection – current and former tenants & nightly paid |
| Liaison with owner of PSL property if relationship is affected. To support continued positive relationship. | All repairs and void works to managed. |
| Liaison with owner of PSL properties and/or freeholders to obtain FRSSAs | Tenancy management and support |
| Nominating tenants for PSL and hostel units | Fire safety inspections and fire drills in hostel units |
| Clienting and monitoring of LH performance | Performance reporting |
| Rent and service charge setting (with input from LH) | Ensuring valid gas safety certificate for each property |