

MAYOR AND CABINET			
Title	Lewisham Homes Management Agreement		
Key decision	Yes	Item no	
Wards	All		
Contributors	Executive Director of Customer Services, Head of Law		
Class	Part 1	22 March 2017	

1 Summary

1.1 Mayor and Cabinet has previously considered reports regarding the future of Lewisham Homes, and agreed to extend its Management Agreement at its meeting on 18 May 2016. This report concludes this process by reporting back the findings of the consultation that was required by the Housing Act 1985, and setting out the final changes proposed to the form of the agreement.

2 Policy Context

2.1 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.

2.2 The proposed recommendations are also in line with the Council policy priorities:

- Strengthening the local economy – gaining resources to regenerate key localities, strengthen employment skills and promote public transport.
- Clean, green and liveable – improving environmental management, the cleanliness and care for roads and pavements and promoting a sustainable environment.

2.3 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

3 Recommendation

3.1 Mayor & Cabinet is recommended to:

3.2 Having considered the results of the section 105 consultation as set out in this report, agree that Lewisham Homes be extended by way of the revised Management Agreement which was approved by Mayor and Cabinet in May 2016.

3.3 Agree that officers should seek approval for the revised Management Agreement from the Secretary of State.

3.4 Delegate authority to the Executive Director for Resources and Regeneration with the advice of the Head of Law to finalise the revised Management Agreement and schedules.

4 Background

4.1 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

4.2 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.

4.3 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.

- 4.4 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 £18.4m.
- 4.5 In recent years, 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. A number of services have subsequently been delegated from the Council to Lewisham Homes in recent years, including sheltered housing, management of New Homes construction and grounds maintenance.
- 4.6 A revised 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.
- 4.7 On that basis Mayor & Cabinet agreed in May 2016 to extend the management agreement for a further 10 years. The key terms that were agreed at the time, following consultation and pre-scrutiny at HSC, were as set out below:

Length of contract extension

- 4.8 It was agreed that the contract should be extended by a period of 10 years, subject to the termination clauses set out below.

Provisions for termination

- 4.9 On 16 September 2015 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.”
- 4.10 Under the proposed new terms that were agreed at Mayor & Cabinet in May 2016, the council is entitled to terminate the Agreement at its discretion on the third anniversary of the Commencement Date.

4.11 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

4.12 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.

5 Results of consultation with secure tenants

5.1 In order to implement the decision agreed at M&C, it has been necessary to undertake formal consultation with tenants, to inform the application that needs to be made to the Secretary of State.

5.2 To this end officers have undertaken further consultation with secure tenants. This took the form of a consultation under Section 105 of the Housing Act 1985, which requires that the Council consults secure tenants who are likely to be affected by a matter of housing management. The method and results of the consultation are set out in more detail in Appendix 2.

5.3 A total of seven responses were received, four of which were from secure tenants. Only one of the responses received from secure tenants was specifically opposed to the proposal. One was clearly in favour, whilst the other two made suggestions as to how the oversight and operations of Lewisham Homes could be improved. It is proposed that officers work with Lewisham Homes to look at how the suggestions made as part of this process can be used to help improve services.

6 Comments of Housing Select Committee

6.1 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 in March 2016. The comments of Housing Select Committee have been incorporated into this final draft.

7 Financial Implications

- 7.1 The council currently pay Lewisham Homes a fee of £18.4m to manage the core housing stock and a further £2.1m to manage other services such as estate sweeping.
- 7.2 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.
- 7.3 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.

8 Legal Implications

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 It has its own Standing Orders and Financial Regulations which are approved by the Council and its accounts are subject to internal and external audit.
- 8.5 The proposed revised 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).
- 8.6 As set out in paragraph 4 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 revised Management Agreement will set out clearly the functions to be delegated.

- 8.7 The services proposed to be undertaken by Lewisham Homes under the revised 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 revised 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. Annex 1 to the schedules of the revised Management Agreement sets out the requirements of the Business Plan which is subject to a three year substantial review and intervening annual reviews.
- 8.8 The Council has set out financial arrangements at Schedule 6 with which Lewisham Homes has to comply which provides for financial monitoring by the Council on a monthly basis.
- 8.9 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.
- 8.10 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 revised Management Agreement. No variation of a tenancy is permitted without the Council's prior written consent
- 8.11 The usual protections are provided in the revised 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.
- 8.12 Where further functions are delegated to Lewisham Homes, a process has to be followed which is set out in the revised Management Agreement which includes consultation with employees who may transfer and compliance with the Transfer of Undertakings Protection of Employee Regulations 2006 (TUPE).
- 8.13 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.

9 Crime and Disorder Implications

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

10 Equalities Implications

- 10.1 There are no specific equalities implications arising from this report.

11 Environmental Implications

11.1 Any environmental implications arising from the services which are proposed to be transferred to Lewisham Homes will be dealt with in subsequent reports to Mayor and Cabinet covering these service transfers.

12 Background documents and originator

12.1 The following documents are attached to this report:

12.2 Appendix 1: Results of consultation with secure tenants

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

Appendix 1

1 Results of consultation with secure tenants

- 1.1 The proposals contained in this report follow on from the Housing Matters programme, through which officers undertook significant consultation with residents regarding the future management of the Council's housing stock from 2013 onwards. This consultation found that satisfaction with Lewisham Homes generally was high, whilst there was limited support for the possibility of a stock transfer to an existing Housing Association. For this reason, in January 2013 Mayor and Cabinet agreed that the option of a stock transfer to a Housing Association no longer be pursued.
- 1.2 Following on from this consultation, officers worked up proposals to retain Lewisham Homes but to evolve it so that it is able to continue to improve the services it provides to its residents, and to make it better equipped to help assist the Council in meeting its housing strategy and wider objectives. This has included service transfers such as Sheltered Housing. It also includes the establishment of Lewisham Homes' development function which builds new council homes, as well as initiatives such as the temporary accommodation acquisitions programme.
- 1.3 As part of finalising the proposals regarding the future of Lewisham Homes, officers undertook further consultation with secure tenants. This took the form of a consultation under Section 105 of the Housing Act 1985, which requires that the Council consults secure tenants who are likely to be affected by a matter of housing management.
- 1.4 This consultation ran from 16 December 2016 until 31 January 2017. Every secure Council tenant who lives in a property managed by Lewisham Homes received a notice regarding the consultation as part of the newsletter which was sent out on 16 December. Council officers also attended a meeting of Lewisham Homes' Resident Engagement Panel in December, which is attended by the most involved residents, including chairs of the Tenants and Residents Associations. 19 TRA Chairs and other involved residents attended this meeting. Responses to the consultation could also be submitted via the Council's website.
- 1.5 A total of seven responses were received, four of which were from secure tenants. These responses are summarised below.

Secure tenants

Response	Comments made	Summary
1	In these current uncertain times it is the most sensible solution.	In favour of the proposals
2	It would be nice to be assured that Lewisham Homes will take on board the opinions of their residents now and in the future. Consultation is an important communication tool and	Not opposed to the proposals, but would like to see improvements in the way Lewisham

	more needs to be done to ensure that all residents can access information freely and easily, and not just online.	Homes communicates with its residents
3	<p>Raises concerns around how Decent Homes works were managed on some estates and also with the level of caretaking.</p> <p>Says that responses to issues such as anti-social behaviour, bird feeding and fly-tipping can be slow.</p> <p>Not in favour of an extension of Lewisham Homes contract unless it will without a doubt includes clauses that penalise Lewisham Homes for failures such as the above.</p>	Not in favour of an extension of Lewisham Homes contract unless it will without a doubt includes clauses that penalise Lewisham Homes for failures such as the above.
4	<p>Raises concerns around how Decent Homes works were managed on some estates.</p> <p>Asks what steps the Council can take to verify tenant satisfaction, especially regarding Decent Homes works.</p>	Not in favour

1.6 Whilst for the purposes of s105 consultation the Council only has to take into account the views of secure tenants, responses to the consultation were also received from two leaseholders and also from one member of the public. For completeness, these are summarised below:

Leaseholders

Response	Comments made	Summary
5	Raises concerns about the performance of Lewisham Homes	Says would prefer the ALMO to a Housing Association
6	An assessment should be done of how effectively they have managed the sites. My experience of late is that collection of fly-tipping has lessened, leading to greater quantities of discard large items, some hazardous such as large mirrors and other glass items, are gathering at certain hot-spots on the estate.	Neither in favour or opposed

Members of the public

Response	Comments made	Summary
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7	Very good idea. I am not a tenant or leaseholder but know how important it is that Lewisham provides good social housing to the borough.	In favour
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- 1.7 As the proposed revised Management Agreement represents a continuity of the current service, and will not result in any significant changes to the way that housing management is delivered by Lewisham Homes, it is perhaps not surprising that there was a relatively low response rate to the consultation.
- 1.8 In addition, a large number of tenants (in particular the most involved tenants such as TRA chairs) had already been consulted on the broad principle of retaining Lewisham Homes from the Housing Matters consultations and therefore this proposal would not have been unfamiliar to them.
- 1.9 Only one of the responses received from secure tenants was specifically opposed to the proposal. One was clearly in favour, whilst the other two made suggestions as to how the oversight and operations of Lewisham Homes could be improved. It is proposed that officers work with Lewisham Homes to look at how the suggestions made as part of this process can be used to help improve services.
- 1.10 The results of the consultation should also be considered within the Council's wider Housing Strategy which seeks to ensure that tenants receive good levels of service whilst also commits the Council to do what it can to increase the supply of housing in the borough and help residents in housing need. Over the nine years of its existence, Lewisham Homes has increased resident satisfaction from 58 per cent to 71 per cent, whilst it also leads on a number of the Council's initiatives to increase the supply of both Council homes and temporary accommodation.
- 1.11 Therefore, following this consultation, this report recommends that the Council enters into a revised Management Agreement with Lewisham Homes.