

 <p><b>Brent</b></p>	<p align="center"><b>Cabinet</b> 27 June 2016</p>
	<p align="center"><b>Report from Strategic Director, Community Wellbeing</b></p>
<p>For Action</p>	<p align="right">Wards affected: All</p>
<p align="center"><b>BHP &amp; Future Housing Management Arrangements</b></p>	

Not for publication

Appendix 2 to this is exempt information under paragraph 3 of Schedule 12A to the Local Government Act 1972.

## 1. Summary

- 1.1. The government's Housing and Planning Act (2016) and other measures will have a significant impact on the council's housing stock including on its future size, financial performance and management over coming years.
- 1.2. The Council entered into a new 10 year Management Agreement with Brent Housing Partnership (BHP) in April 2013 for the management of the council's housing stock. This required BHP to provide services and achieve performance in accordance with an annually agreed Delivery Plan. In 2015/16 BHP failed to achieve the required outcomes and performance standards in a number of respects. BHP have put in place a recovery plan to address this which was originally intended to run until end June 2015 but it is proposed to now extend to end September 2016. The council is also formally notifying BHP under the Management Agreement of the need to remedy under-performance in the areas of most significant concern.
- 1.3. The management and performance of the stock investment programme in 2015/16 is a particular concern and the findings of a recent fact-finding audit commissioned by the council are provided and details of associated commercial matters and risks are set out including as appropriate in an exempt section to this report.
- 1.4. In view of the challenges presented by the government's reforms it is necessary to consider afresh the most appropriate arrangements for the management of the council's stock while taking account of BHP's performance under the Management Agreement.

- 1.5. This report outlines three main options open to the council which are to continue with provision by BHP, for the council to directly provide the service in-house or to enter into a partnership arrangement with another organisation to provide these services.
- 1.6. Cabinet are therefore asked to agree to commence a formal review of these housing management options. This review will include consultation with tenants and leaseholders to gain insight into satisfaction with the current service and priorities for future provision, and to inform the criteria for decision between the options.
- 1.7. It is proposed to bring a further report to Cabinet in October 2016 setting out the results of the review and associated consultation. This report will also advise on whether performance has been successfully remedied in the areas formally notified under the Management Agreement and also report on the progress made during the period of the BHP recovery plan. Cabinet will be asked to conclude on its preferred option for future Housing Management Services.

## **2. Recommendations**

That Cabinet:

- 2.1 Note the areas of performance to be formally addressed by BHP in accordance with the Recovery Plan
- 2.2 Agree that the Recovery Plan period extend until 30 September 2016 following which progress against the plan will be reported to Cabinet.
- 2.3 Note the position in respect of the commercial negotiations between BHP and Wates and delegate to the Strategic Director, Community Wellbeing in consultation with the Lead Member for Housing and the Chief Financial Officer agreement with BHP on the final terms of settlement with Wates within the parameters set out in the exempt section to this report.
- 2.4 Authorise that a formal review led by the Strategic Director Community Wellbeing be undertaken of the options for the future management of the council's tenanted and leasehold stock as outlined in this report with associated consultation with tenants and leaseholders and for the results of that review to then be reported to Cabinet.

## **3. Detail**

### **Government Housing Reforms**

- 3.1 Over the past five years the council has had to contend with major financial challenges as central government funding has fallen and this is due to further reduce over the next few years. Service pressures are, however, increasing as a result of demographic change, and other government reforms. These include the impact of a raft of welfare reforms, and in particular limitations to housing benefit against a backdrop of rising private market rents driven by inadequate new housing supply.

3.2 In response the council is developing a vision for Brent in 2020 which aims to maximise resources while managing service demands and, particularly through raising employment and skills levels, to enable residents to mitigate the impact of welfare changes. There is a high correlation between low employment and skills levels, poverty and social housing in Brent and council tenants include many vulnerable individuals. Outcome-based reviews (OBRs) are currently underway which will reshape delivery by the council and its partners in three priority areas including in relation to housing provision and tenancy sustainment for vulnerable people. These reviews are fundamentally rethinking and re-designing services in the context of resource constraints.

3.3 These challenges and the council's strategic response to them provide the context to the specific challenges and options arising from the government's housing reforms, and the need, as the OBRs demonstrate, to redesign existing service provision to optimise outcomes for residents and to best deploy reducing resources to these ends. Brent's housing stock also constitutes the great majority of land and property assets in the council's ownership which may be able to contribute to income generation and value growth.

3.4 The Housing and Planning Act received Royal Assent on 12 May 2016. The provisions of the bill are wide-ranging and a number of these, and associated reforms, will have a significant impact on Brent's council housing and its financial position in coming years.

3.5 The main relevant provisions, and their implications are:

#### **High-value Council Housing Disposal**

- i) The council will be required to consider the disposal of void higher-value properties and, from this year, pay a levy to government calculated on the receipts it is estimated that could be raised from the market disposal of these units. The levy will in turn fund RTB discounts following the extension of RTB to housing association tenants.
- ii) The definition of higher-value properties and the formula for the calculation of the levy for each authority will shortly be set out in regulations. Until these are published the impact on the council's housing stock is not known but a reasonable estimate at this point is that the levy could equate to disposal of 1 in 3 void properties, or around 70 units per annum.
- iii) The council will retain a portion of the receipt to provide replacement units, and a reduced levy and greater proportion of the receipt may be retained where the council commits to replace each unit sold with two units but, again, details on this are not currently known. The council's ability to provide replacement units directly itself will, however, be severely limited by the borrowing cap within the HRA.

#### **Pay to stay**

- iv) Council tenants with a household income of over £40,000 will be charged higher rents on a tapered basis up to full market rents and the government currently intends to bring in this measure from April 2017. It is not known how many Brent council tenants will be affected but a

London-wide estimate is that 10-15% of tenants would be, equating to around 800-1,200 Brent council tenants. Responsibility for administering this scheme will rest with each local authority and reasonable administration costs should be recoverable. The additional net rent raised will, however, be payable to government. It is expected that a number of affected tenants will opt to exercise their RTB rather than pay these higher rents.

### **Social Rent reduction**

- v) This measure in the Welfare Reform and Work Act (2015) prescribed a 1% reduction in council rents in April 2016 and for the following three years, with no assurance as to rent changes beyond 2020. This is a sharp departure from the previous rent guidance which provided for annual rent increases of CPI+1% or more. As a result rents will fall in each of the four years by around £0.5m and by 2019/20 rental income will be approximately £7.5m less than expected under the previous rent guidance.

3.6 Taken together these reforms will have a significant impact on the council's housing stock and finances. The size of the council's stock was already expected to reduce as a result of the regeneration and redevelopment of South Kilburn and through existing RTB activity. After taking account of the government's new reforms it is estimated that the number of Brent Council properties could fall from around 8,300 in 2015/16 to around 7,300 by 2020, a reduction of 12%. This loss will be offset to only a limited extent by the council's new-build programme.

3.7 The reduction in income as a result of the rent cuts and from the loss of units will put considerable pressure on the council's housing revenue account (HRA), and the reduced size of the council's stock will reduce economies of scale. These reforms will also reduce the ability of the council to directly meet housing needs.

3.8 The government has also set a new housing policy direction centred on increasing levels of home ownership. This includes a requirement for Starter Homes on all but the smallest sites which will significantly reduce the future ability to secure affordable rented housing through the planning system, and future grant funded programmes for such housing are also expected to be very limited if they exist at all.

3.9 In view of the impact of these reforms, and the wider changes to the housing landscape, it is necessary to review the strategic options for the management and operation of the council's housing stock. In doing so, central consideration will need to be given to which approach will best support the provision of high quality housing management services to tenants and leaseholds and the need to generate significant savings and efficiencies to offset falling income. Significant reform and re-design of existing services will be required to achieve these objectives. Additionally the review provides an opportunity to consider the wider contribution each of the alternative options can make to the council's Brent 2020 vision and wider objectives.

### **Brent Housing Partnership**

3.10 Brent Housing Partnership (BHP) currently provide housing management services to the council's c.12,000 tenanted and leasehold homes.

3.11 BHP was established in 2002 and in April 2013 the Council entered into a new 10 year Management Agreement. As well as responsibility for the full range of housing management services including rent collection, tenancy management, facilities estate management and leaseholder management, BHP are responsible for the management of responsive repairs and stock maintenance and improvement works. In 2013 BHP were also charged with responsibility for the development of new affordable homes on existing council estates on the council's behalf. They also manage some temporary accommodation for the council including regeneration properties at South Kilburn.

3.12 In respect of the core housing management services BHP receive a fee which is set annually as part of the HRA budget-setting process. In recent years the fee has been reduced by a small efficiency element and pro-rata to reflect reductions in stock numbers. These reductions have, however, been partly offset by increases to meet specific costs. The Management Fee for 16/17 is £7.458m a reduction of £191,000 on 15/16 reflecting a saving from efficiencies and stock loss of 11.5% offset by increased provision for pension and NI contributions and council recharges for services.

3.13 When the Management Agreement was reviewed the opportunity was taken to extend the provision of council services, in particular support services to BHP and £1.24m of the BHP Management fee is spent through SLAs on these council services.

3.14 Despite the efficiency savings that have been made BHP's fee is, compared with peer housing management providers (housing associations, councils and other ALMOs in London), at or above the average and well short of the cheapest quartile of peers. The government's housing reforms, and in particular the rent reductions to 2020 affect all social housing providers and universally others are seeking to make significant savings in response – intelligence from the sector suggests target savings of 25-30% in revenue costs, of which housing management costs are an element, is not untypical across the sector.

3.15 BHP receive additional fees in relation to the management of the stock investment programme, the development programme and for the management of temporary accommodation for the council. BHP also directly own a small portfolio of rented homes.

3.16 The Management Agreement BHP requires BHP to provide services and achieve performance in accordance with an annually agreed Delivery Plan. In 2015/16 BHP failed to achieve the required outcomes and performance standards in a number of respects. Overall satisfaction levels are notably below benchmark levels.

3.17 In response BHP put in place a Recovery Plan in January this year. This sets out a number of key actions and outcomes, and performance measures. It was originally intended for the Recovery Plan period to run until end June 2015. It is, however, appreciated that 6 months is a relatively short period in which to turn performance around, and indicators such as tenant and leaseholder satisfaction will necessarily lag behind improvements in performance. BHP have therefore requested that the turnaround period should be extended to 9 months, concluding at end September, to provide a sufficient period to both achieve the outcomes set and to demonstrate the organisation is on a clear trajectory of continuing improvement and it is proposed to agree to this.

3.18 Progress against the plan is being overseen by a Transformation Board made up of BHP Board members and officers and council officers. BHP have also brought in new interim directors for transformation and asset management to lead delivery of key areas of the Recovery Plan.

3.19 The council is also formally notifying BHP under the Management Agreement of the need to remedy under-performance in the areas of most significant concern. A summary of the Recovery Plan is provided at Appendix 1.

3.20 One major area of concern has been BHP's management of the stock investment programme and in particular the asset management contract with Wates Group. The council commissioned a fact-finding audit into this which reported in March and found deficiencies in BHP's management of the Wates contract and other programmed audits of fire and water servicing evidenced a more general weakness in contract management arrangements. A revised structure led by the new interim Director of Asset Management at BHP with strengthened compliance has been introduced with a first priority being implementation of the recommendations arising from the audits.

3.21 As a result of issues with the management and the operation of the integrated asset management contract Wates have advised significant additional costs that they consider they are in part entitled to claim for. BHP have commissioned an external advisor to assess the merit of Wates position and their assessment is expected in by the end of June. An account of the commercial issues and negotiations undertaken by the council and BHP with Wates is provided in an exempt appendix 2.

3.22 Over the first three months of the Recovery Plan period there has been progress in a number of areas and work is underway across all the priority areas identified in plan. One significant area of concern was the poor quality and responsiveness of customer service including dealing with repair requests, and the quality and timeliness of complaints and Member Enquiries responses. The customer service team has been reformed, a separate complaints function has been established, and the timeliness and quality of response to member enquires has improved markedly.

3.23 Progress, both against the Recovery Plan and more generally will continue to be driven forward by BHP with the council's assistance, over the remaining 3 months.

### **Strategic Housing Management Options Review**

3.24 A council-led review of future options for Housing Management services will be undertaken. The review will be chaired by the Strategic Director, Community Wellbeing and draw in external resource and expertise as necessary.

3.25 The purpose of the review is to evaluate how best to deliver housing management services to the council's stock given the housing reforms and wider context previously discussed and to support the achievement of positive outcomes more widely for residents. The criteria for the evaluation of the options will be refined through the review informed by tenant and leaseholder engagement but provisionally will include the extent to which each option:

- Assures the provision of modern, high-quality and continuously improving housing management services to tenants and leaseholders

- Achieves significant efficiencies and savings to contribute to the financial sustainability of the council's housing revenue account
- Maximises the value and performance of the council's housing stock through active asset management and new development.
- Contributes to improved outcomes for council tenants including in respect of employment and training, health and wellbeing and tenancy sustainment for vulnerable tenants.

3.26 Review of the current Housing Strategy (2014-19) has commenced in light of the government's reforms and work is also underway to assess the implications and options for the HRA Business plan, and these pieces of work will help to inform the housing management review.

3.27 The review will include engagement with tenants and leaseholders to establish their views and how they value the current services provided and their priorities for future service provision. Existing consultative arrangements will be utilised and in addition focus groups will be held to gain additional insight. Internal and external stakeholders will also be engaged through the review.

3.28 The views and service priorities elicited through the consultation will inform evaluation of the main alternatives for housing management services. These are:

- To continue with BHP on a reformed basis
- To bring the service in-house and directly provide housing management services
- To enter into a partnership with another organisation to provide these services

It is expected that the review will be completed by September and the results and recommendations arising from it will then be reported to Cabinet together with an assessment of progress made by BHP over the Recovery Plan period. An overview of each of these options is provided below.

### **Continuation with BHP**

3.29 Formally this is the most straightforward option but practically will require further and significant reform to assure continued progress, to generate significant cost reductions and to achieve wider outcomes. New operating arrangements and service structures will be needed to achieve this. Preliminary examination of a new Target Operating Model has recently been completed that may provide an initial basis for the development of these. In addition a reformed council client-side function will be required to provide strategic direction and greater assurance, and opportunities to generate additional efficiencies and savings through improved integration between the council and BHP will also be needed. The scope of services to be provided will also need to be considered including what contribution BHP could, in time, make in other areas to the council's objectives.

### **Bringing the Service Back In-house**

3.30 The majority of stock-holding councils provide housing management services directly. Simply bringing the service into the council will not in itself assure improved performance and while there may be some direct savings the challenge to generate significant further savings and improved outcomes would remain central. An in-house

service could be more fully integrated across a range of council services and functions and this could also support the achievement of wider outcomes but specific expertise and coherence in the service would need to be maintained

3.31 A number of councils with ALMOs have in recent years brought the service in-house. This would require termination of the existing Management Agreement. From the experience of other authorities a minimum period of 6 months would be needed and in a number of cases the process has taken a year. Consultation with tenants and leaseholders would be required in advance.

### **Service Provision through a Partnership**

3.32 A housing management partnership would be formed with another housing management provider with an existing high-quality housing management service in order to raise performance and generate significant economies and efficiencies. This could be a significant local housing association provider. The scope of the partnerships activities (e.g. whether it included affordable housing development) may also be a significant consideration in choosing a suitable partner and in the extent of interest from prospective partners.

3.33 There are two main routes by which this partnership could be established. The council could directly select a suitable partner in place of BHP and enter into the necessary legal arrangements with them to establish a jointly owned housing management company. Alternatively BHP could itself be converted into a partnership housing management organisation, jointly owned and governed by the council and the selected partner. Again consultation with tenants and leaseholders would be required in advance.

## **4.0 Financial Implications**

4.1 The HRA expenditure Budget is £56.9m. This budget is used for the management and maintenance of the HRA stock and for the repayment of the HRA debt. BHP Management Fee for the current year is £7.5m. This fee is for managing and maintaining the HRA properties on behalf of the Council.

4.2 The Housing and Planning Act will have a significant impact on Brent's council housing and its financial position in coming years. The implications for which are currently being scoped with more comprehensive analysis to follow once the details are published.

4.3 The three options outlined in this report for the management of the council's stock will each have differing implications in terms of the impact on the HRA and will need to be developed through the formal review process. However, it should be noted that all of the options will result in an initial cost of change, which will need to be factored into the each appraisals.

## **5.0 Legal Implications**

5.1 Consultation with secure tenants is covered under section 105 of the Housing Act 1985 which states that a local authority landlord has to maintain arrangements it considers are appropriate to enable its secure tenants who are likely to be substantially affected by housing management matters that are specified in section 105 of the 1985 Act (which includes the management of dwelling houses let by the Council under secure tenancies) to be informed of the local authority's proposals and to make their views known within a specified period. A local authority landlord needs

to take into account any representations made under these arrangements before making a final decision.

5.2 Delegation of housing management functions by a local authority requires consent from the Secretary of State under section 27 of the Housing Act 1985. In 2009, the Secretary of State issued a general consent which sets out circumstances in which delegation of housing management functions can be carried out without specific consent from the Secretary of State.

5.3 BHP is a subsidiary company of the Council. BHP's Constitution is made up of its Articles of Association and Memorandum of Association. BHP is a limited company, without share capital, which operates on a non-for-profit basis and the Council is the sole guarantor member.

5.4 The Council entered into the Management Agreement with BHP in April 2013 which expires after ten years with a review mechanism after seven years. There are provisions in the Management Agreement which enable the Council to notify BHP of any material breaches and give BHP a reasonable period of time to remedy such material breaches. There are provisions which allow the Council to vary the terms of the Management Agreement.

5.5 If a decision is to be made to bring the housing management services in-house, there will be staff transfer and TUPE implications. BHP is also a Registered Provider with its own small housing stock. Further legal advice will be provided as and when necessary in regard to these matters.

5.6 Paragraph 3.33 details that the council could directly select a suitable partner and enter into necessary legal arrangements with them to establish a jointly owned housing management company. Where such an approach is adopted, it will be necessary to ensure that any jointly owned management company is established and operated in compliance with Regulation 12 of the Public Contracts Regulations 2016.

5.7 If the alternative option detailed in paragraph 3.33 is favoured, namely that BHP is itself converted into a partnership housing management organisation jointly owned and governed with the selected provider, not only will it be necessary that any converted organisation is established and operated in compliance with Regulation 12 of the Public Contracts Regulations 2015 but it will also be necessary to ensure that the terms of any transfer of ownership to the selected provider can be justified on best value grounds.

5.8. Other legal implications are included within the body of the report.

## **6.0 Diversity Implications**

6.1 There are no equalities implications directly arising from the matters under consideration at this stage but an Equality Impact Assessment will be required as the options are developed.

## **7.0 Staffing/Accommodation Implications**

7.1 There are potentially significant staffing implications for the council in the event that the service was brought in-house. Further consideration will be given as the options are developed.

## **Appendices**

Appendix 1 – Summary of BHP Recovery Plan

Appendix 2 – Commercial Issues in respect of the Integrated Asset Management Contract between BHP and Wates Group Ltd. This is exempt information under paragraph 3 of Schedule 12A to the Local Government Act 1972.

## **Background Papers**

None

## **Contact Officers**

Jon Lloyd-Owen, Operational Director, Housing & Culture  
[Jon.lloyd-owen@brent.gov.uk](mailto:Jon.lloyd-owen@brent.gov.uk)  
020 8937 5199

Phil Porter, Strategic Director, Community Wellbeing  
[Phil.porter@brent.gov.uk](mailto:Phil.porter@brent.gov.uk)  
020 8937 5165

PHIL PORTER  
Strategic Director, Community Wellbeing