

	<h2>Housing Committee</h2> <h3>29th June 2015</h3>
<p style="text-align: center;">Title</p>	<p>Commissioning and Delivery of Housing Services and the Management of the Barnet Housing Stock</p>
<p style="text-align: center;">Report of</p>	<p>Cath Shaw Commissioning Director, Growth & Development</p>
<p style="text-align: center;">Wards</p>	<p>All</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Enclosures</p>	<p>Appendix 1 - Provisional Heads of Terms for new 10 year Management Agreement</p>
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<h2>Summary</h2>
<p>Following the report to Committee on 2nd February 2015, this paper provides a summary of the recently concluded challenge process for Barnet Homes. The aim of the review was to ensure that the organisation remains fit for purpose and that value for money housing services are provided that support the Council’s objectives.</p> <p>Approval is sought for the provisional Heads of Terms for a new 10 year management agreement, on expiry of the member agreed 2015/16 Delivery Plan, commencing 1st April 2016.</p>

<h2>Recommendations</h2>
<ol style="list-style-type: none"> 1. The Committee note the outcome of the review of housing services, provided by Barnet Homes and agree the provisional Heads of Terms for a new 10 year management agreement, commencing 1st April 2016 2. That authority for developing and finalising the Heads of Terms is delegated to the Commissioning Director, Growth and Development in consultation with the Chair of the Housing Committee

3. The authority for developing and agreeing the new 10 year management agreement with Barnet Homes is delegated to the Commissioning Director, Growth and Development in consultation with the Chair of the Housing Committee

4. The authority is delegated to the Commissioning Director, Growth and Development, in conjunction with the Chair of the Housing Committee and thereafter, in consultation with HB Public Law, to authorise sealing of the Management Agreement

1. WHY THIS REPORT IS NEEDED

- 1.1 The draft Housing Strategy (finalised Strategy presented as separate report to this Committee meeting) approved for consultation in October 2014, committed the Council to work with The Barnet Group to review the current housing management arrangements, both to assess value for money and to explore options for the future delivery of services to meet the Council's strategic needs.
- 1.2 The Policy and Resources Committee in February 2014 also approved officers to liaise and consult with The Barnet Group and Barnet Homes on the creation of longer term management arrangements for the Council's 15,000 council homes, approving the extension of the original management agreement for one year with the development of a Delivery Plan for 2015/16.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Council created Barnet Homes, as an Arm's Length Management Organisation (ALMO), to manage the Council's housing stock and deliver the Decent Homes Programme in 2004. The original management agreement for the delivery of housing services expired in March 2014. It is no longer fit for purpose as it does not reflect the commissioning model adopted by the Council and was created, primarily, to deliver the Government's Decent Homes programme. This was completed in 2011.
- 2.2 There is no longer a national prescribed process for the review of housing options or decision making in relation to ALMOs. However, a well performing, value for money ALMO enables the Council, as the shareholder, to have control over how it meets its housing responsibilities with direct accountability to the Council by the ALMO. It also enables the Council to put in place robust arrangements for the future delivery of its housing priorities aligned to its Housing Strategy.
- 2.3 The value of the management agreement over a 10 year life span will be in the region of £296m. This comprises c£260m from the Housing Revenue Account and c£36m for the housing options (homelessness) service, financed through the General Fund. The latter is a statutory council service which Barnet have commissioned Barnet Homes to deliver. In addition, a budget is agreed on a periodic basis for capital works to the Council's homes to support

the asset management strategy, with a varying annual expenditure averaging c£25m.

- 2.4 There will also be the opportunity for Barnet Homes to receive additional income through the development of new homes for affordable rent.
- 2.5 In preparation for the development of a new management agreement, as set out in the February 2015 report to Housing Committee, a comprehensive evaluation of the housing service, delivered through Barnet Homes, has been completed. This has incorporated an analysis of performance, including benchmarking of services against other providers; evidencing key strategy, policy and operating processes and documents; a review of governance; a financial appraisal and a series of challenge workshops with council officers and external housing specialists.
- 2.6 The review confirmed that services provided by Barnet Homes are overall of a good quality and provide value for money. High levels of tenant satisfaction are being achieved (81%) and it has good support from residents and councillors alike.
- 2.7 The provisional Heads of Terms for the new 10 year management agreement are attached as appendix 1. Where the challenge process identified service improvements and/or enhancements, they have either been agreed for delivery within this financial year, or are captured as a developmental outcome and/or performance target within the new management agreement.
- 2.8 Once members have agreed the provisional Heads of Terms they will be translated into a full legal management agreement/contract during the period July to October 2015.
- 2.9 The management agreement will need to be approved by the Barnet Homes Board. The Board have only had a limited opportunity to comment on the provisional Heads of Terms so far, although senior management within Barnet Homes have been engaged throughout. However, there is still a substantial piece of work to do in preparing the detailed content of the agreement and they will need to be fully involved in this process over the coming months.
- 2.10 One of the key changes from the previous arrangement is that the new management agreement will have a greater commercial focus and be clearly linked to performance indicators and outcomes. Whilst the Council is the shareholder of The Barnet Group and Barnet Homes, it is appropriate that Barnet Homes, with its own Board and business and financial plans, should operate with as much independence as possible, within the legal constraints of a Council / ALMO relationship (which necessitates overall local authority control). This also fits with the Council's commissioning model.

2.11 Key provisions within the new management agreement can be summarised as follows:

- a) Recommended savings package from the HRA over four years of £2.85m as opposed to £4.2m (see 1.6 below and separate attached report)
- b) The Council will provide Barnet Homes with the opportunity to act as development manager for all new properties for affordable rent on existing HRA land, with the exception of mixed tenure developments
- c) A new subsidiary of Barnet Homes, referred to hereafter as BH (RP) will be established as a Registered Provider for the purpose of developing those homes where it is agreed between the Council and Barnet Homes that they should be owned by BH (RP). In such cases the Council will provide a loan to Barnet Homes to undertake the development at a rate compliant with State Aid regulations
- d) The ownership of each new development site will be agreed as part of the Outline Business Case for the development. In deciding whether to offer developments to BH (RP), the Council will take account of:
 - the need to spend Right to Buy receipts in accordance with Government guidance/regulation
 - the available HRA headroom
 - General Fund borrowing capacity
 - the potential additional contribution that could be made by BH to mitigating homelessness costs if they were to own the development
 - the performance of BH (RP)
 - such other factors as may be relevant at that time
- e) Subject to LBB making available to BH (RP) land and borrowing capacity to build affordable housing owned by BH (RP), BH will subsidise an element of the running costs of the homelessness service. For each 50 units built up to a maximum of 500 units-BH will contribute £100,000 per annum. Any units over and above 500 in total will generate a further contribution of £1,500 per unit per year. This return is separate to any on lending benefit or General Fund reduction received. The parties can by mutual agreement decide to vary the amount of the contribution, or to direct the investment to other priorities.
- f) Barnet Homes' contribution to the cost of providing the Housing Options service will take effect from the point at which homes are programmed for completion, as per the programme plan agreed between LBB and BH.
- g) Barnet Homes will be paid a development agency fee of between 2% and 4% for all new properties the Council commissions them to build. The exact

percentage will be dependent on the individual scheme and agreed in writing in advance.

- h) Barnet Homes to operate as independently as possible within the constraints of Teckal and ALMO status (with the requirement for it to be a local authority controlled company)
- i) Development of shareholder agreements between the Council and The Barnet Group and between The Barnet Group and Barnet Homes
- j) The Barnet Group Board Chair to continue to be appointed by the Council against an agreed role profile and subject to a personal review and appraisal process
- k) Council members to be allocated two seats on TBG Board, who will be appointed at Annual Council, taking into account any particular skills or experience sought by the Board.
- l) Council Officer/s to have the right to attend all Board/s in a non-voting capacity
- m) The Council to be party to the recruitment of all Board Chairs and ratify all Board appointments
- n) Chairs of The Barnet Group and its subsidiaries, including Barnet Homes and BH (RP) to be members of the Strategic Partnership Board along with the Chief Executive of The Barnet Group, Chairs of relevant Council committees and relevant Council Chief Officers. The Strategic Partnership Board will meet twice yearly or more frequently if the Board agrees.
- o) The Barnet Group/Barnet Homes to undertake a skills audit bi-annually to ensure that the composition and membership of the Board is sufficient to provide robustness in understanding and decision making and to meet its obligations
- p) Level of delegated responsibility between the Council, the Barnet Group and Barnet Homes to be reviewed in order for the Council to have assurance in the security of its investments and to comply with HCA Governance Standards
- q) Barnet Homes may develop and set its own business strategy for any services not directly commissioned by the Council and have flexibility in the utilisation of its finances and any surpluses, notwithstanding it's commitment, as set out in e) above, as long as it fits with the overall agreed aims and objectives of the organisation and has been approved through the Council's annual business plan process
- r) BH will need to develop an Investment Strategy for approval by the Council's Policy and Resources Committee in February 2016 and will operate an open book approach to accounting with LBB. They must also agree any financial borrowing in advance

- s) Council permission will need to be sought to make any changes to the group structure or for any mergers and acquisitions, although the Barnet Group may create subsidiaries or incorporate smaller organisations in to the organisation that do not pose a risk to the Council without the need for approval
- t) Funding will be via a fixed management fee, adjusted to take account of the reducing number of tenanted properties over the next five year and the agreed level of efficiency saving. There will be a midpoint (5 year) review to project forward stock numbers over the subsequent five years and re-assess funding accordingly. A full review will be undertaken in year 9 to include determination of whether the agreement should be renewed or the Council wishes to exercise its right to put in place alternative means of providing all or some of the services
- u) It should be noted that the Housing Option Service, funded through the General Fund, constitutes a statutory responsibility for the Council and as a demand led service is liable to fluctuation. Barnet Homes, can, therefore seek in year changes in funding, based upon presentation of appropriate justification and evidence, subject to its commitment in e) having been met
- v) Barnet Homes will be required to create and recruit to a new role of Financial Director
- w) Barnet Homes will contract with the Council for the supply of specific services, through service level agreements (SLAs). As these SLAs reflect commitments between the Council and third party suppliers, Barnet Homes is committed to acquiring these services, through the Council, for the duration of the management agreement, unless expressly agreed otherwise.
- x) BH will undertake activities in accordance with the Community Development Strategy aimed at improving outcomes for tenants, promoting the sustainability of tenancies and reducing rent arrears.
- y) Responsibility for tenancy fraud will transfer back to the Council's Corporate Anti-Fraud Team (CAFT)
- z) Changes or variations to the management agreement will be managed through a prescribed change control and variation process. Changes and/or variations may be effected if there is a:
 - a. Change in law or statutory responsibilities
 - b. Change in stock numbers – to be determined through a midpoint review
 - c. Change in service provision through service re-design or any other substantial changes
 - d. Likely or proposed change in performance indicators or outcomes

- aa) The Council will have step-in rights under the terms of the management agreement for part or all of the services. There is also the option for Council to terminate the management agreement with 12 months' notice

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Committee's decision to continue to commission the Council's housing service through Barnet Homes have meant that alternatives, such as outsourcing and bringing the service in-house, have been discounted.
- 3.2 The review of Barnet Homes considered how services should be provided over the forthcoming years and the key decisions are set out in 2.10. As part of this process a number of options for delivery were considered and rejected. The two primary ones are set out in 3.3 and 3.4 below.
- 3.3 The review looked at the degree of control the Council should have in terms of the governance and management of Barnet Homes. It concluded that Council should not seek to be a 'hand on' shareholder but allow Barnet Homes as much autonomy as permissible to meet the requirements of Teckal and operating as an ALMO, to ensure that the Council benefits from the experience of the Barnet Homes and The Barnet Group Boards. This will be regulated through putting in place Shareholder Agreements between the parties.
- 3.4 The review also determined that Barnet Homes' role in terms of new development should be focused on development management for properties for affordable rent in single-tenure developments. It was felt that Barnet Homes had limited capacity and experience to deliver across mixed tenure sites, or to develop products for sale, at this point in time.

4. POST DECISION IMPLEMENTATION

- 4.1 Subject to Committee approval, a new 10 year management agreement will be drawn up during the period July to October 2015, with appropriate legal input, reflecting the provisional Heads of Terms stated in this report. The new management agreement will need to be approved by the Barnet Homes Board.
- 4.2 The management agreement and the achievement of objectives and targets contained within it will be monitored through a formal performance management framework, as outlined in the provisional Heads of Terms.
- 4.3 Officers will seek approval for the new 10 year management agreement from the Homes and Communities Agency (HCA), the social housing regulator, acting on behalf of the Secretary of State, as required under Section 27 of the Housing Act.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.2 As a not-for-profit company, fully owned by the Council, Barnet Homes provides the benefit of management concentrated on housing services; a commitment to resident involvement; strong links with the local area; a fixed geographical focus, and close partnership working with the Council and other stakeholders.
- 5.3 Barnet Homes has a successful track record of delivering improvements to the housing stock and housing services and of both increasing performance outcomes and customer satisfaction. Barnet Homes and the Barnet Group are in a pivotal position to manage and deliver services to contribute to the Council's strategic objectives.
- 5.3 The inclusion of the housing options service within the management agreement has enabled the provision of a more holistic and customer-focused housing service for those who are most in need, as well as support for young people and households to become more independent. A key element of the Council's Corporate Plan is to support families and individuals that need it.
- 5.5 Barnet Homes is involved in complementary policy agendas. Community development work is an important part of the housing portfolio, for example. Activities such as implementation of Welfare Reforms, work to promote digital inclusion, and support for 'Love Burnt Oak' contribute to better outcomes for tenants, more sustainable tenancies and reduced rent arrears and have an overall impact on other service areas within the Council and the local economy.
- 5.6 Barnet Homes are able to directly contribute the Council's priority to build more housing – and at a lower cost to the Council than could be expected through the open market. This opportunity is maximised within the management agreement, in line with the Housing Strategy, which provides Barnet Homes with the opportunity to deliver new homes for affordable rent on HRA land.
- 5.7 In addition, Barnet Homes have committed to re-investing surpluses generated through the development of new homes for affordable rent in to the Housing Options service to offset overspends on the General Fund.
- 5.8 Challenges include the need to continue to deliver efficiencies and value for money within a balanced Housing Revenue Account; to maintain and improve existing services; to support General Fund savings – in the face of increasing demand for Housing Options services - and to continue to foster the capacity and skills within the ALMO, over the life of the management agreement, to deliver the Council's housing priorities.
- 5.4 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**
- 5.4.1 Barnet Homes currently receive just under £27m from the HRA and £3.6m from the General Fund, annually, for their management and operational costs. These costs are within the Council's budget. Barnet Homes had been tasked with reducing costs by £4.2m from the HRA and £300k from the General Fund

over a five year period. Within this financial year they have delivered £240k efficiencies with the HRA and the full £300k from the General Fund. Council officers, as set out in a separate report to this Committee, are recommending that the overall HRA saving target is reduced to £2.85m and this is included as the target within the new management agreement, for delivery over a four year period.

- 5.4.2 Increases to cover inflation for the HRA management fee will be applied annually, if applicable, with agreement by both organisations. The management agreement will also provide the opportunity to increase funding, if the Council commissions additional services through Barnet Homes over the 10 year period, or to decrease funding if it decides to withdraw or revise any services (subject to notice periods), or if the funding regime for housing is changed through Government intervention or legislation. There will also be a midpoint review to make any necessary funding revisions as a result of a forecasted change in stock numbers.

5.5 Legal and Constitutional References

- 5.5.1 The Local Authority has duties to assist and accommodate certain homeless applicants under Part VII Housing Act 1996. It also has a duty to allocate properties under its allocations scheme (either into social housing or in to the private sector) under Part VI of The Act and to manage its social housing stock as a landlord. Such responsibilities are delegated to The Barnet Group.
- 5.5.2 The Constitution, Annexe A, Responsibility for Functions – Membership and Terms of Reference of Committees and Partnership Boards - sets out the responsibilities of the Housing Committee. It includes responsibility for Housing Strategy (incorporating homelessness strategy), work with Barnet Homes, Registered Providers and other social housing providers to ensure the optimum provisions of housing and associated facilities for those who require social housing and to approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.

5.6 Risk Management

- 5.6.1 A formal agreement needs to be in place for the delivery of housing services which must be approved by the Homes and Communities Agency (HCA), the social housing regulator, acting on behalf of the Secretary of State, as required under Section 27 of the Housing Act. There is a risk that the HCA will not approve the management agreement but this this is extremely unlikely.
- 5.6.2 There is a risk that Barnet Homes fail to meet delivery expectations and do not achieve the performance indicators and outcomes set out within the management agreement and / or they do not manage their income and expenditure effectively within the agreed budget envelope.
- 5.6.3 This risk is particularly pertinent to the Housing Options service, funded through the General Fund, as it constitutes a statutory Council responsibility. It is a demand led service and liable to fluctuation: Homelessness is rising

significantly across the country and particularly in London. Barnet Homes are able, therefore, to seek in year increases in funding based upon presentation of appropriate justification and evidence. However, agreed performance targets, delivery plans and preventative measures are in place to curtail any additional expenditure requirements as much as possible, including Barnet Homes' commitment to re-invest surpluses on new affordable housing development as stated in 2.11 e) to offset General Fund expenditure.

5.6.4 All risks will be mitigated through a robust governance framework and performance management framework.

5.7 Equalities and Diversity

5.7.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty, which requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people from different groups
- Foster good relations between people from different groups

5.7.2 The Barnet Group has an equalities strategy in place which fully supports the Council's equalities aims and principles. Equalities Impact Assessments are undertaken as and when required.

5.8 Consultation and Engagement

5.8.1 Consultation has been undertaken with Barnet Homes' management team with regard to the provisional Heads of Terms and with the Board at their meeting of 24th June 2015. Further consultation and negotiation will be required as part of the detailed development of the management agreement between July and October 2015.

5.8.2 Consultation was undertaken with tenants and leaseholder in autumn 2013 on the renewal of the management agreement by Aux Insight on behalf of the Council. This identified priorities for Barnet Homes. Consultation was also undertaken as part of the development of the Housing Strategy.

5.8.3 In developing the detailed management agreement a specific engagement and communication exercise with tenants and leaseholders is planned for late summer / early autumn.

6. BACKGROUND PAPERS

- 6.1 Barnet Homes Management Agreement 2004
- 6.2 The Council's Housing Strategy 2015 – 2020
- 6.3 Housing Committee 2nd February 2015: The commissioning and delivery of housing services and the management of the Barnet Housing stock
- 6.4 Cabinet resources Committee February 2014: Management Agreement with the Barnet Group
- 6.5 December 2013 report on consultation on the Renewal of the Management Agreement undertaken by Aux Insight on behalf of the Council