

MEETING

HOUSING COMMITTEE

DATE AND TIME

WEDNESDAY 8TH FEBRUARY, 2017

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

TO: MEMBERS OF HOUSING COMMITTEE (Quorum 3)

Chairman: Councillor Tom Davey
Vice Chairman: Councillor Shimon Ryde BSc (Hons)

Daniel Thomas	Ross Houston	Tim Roberts
Melvin Cohen	Adam Langleben	
Bridget Perry	Kath McGuirk	

Substitute Members

Maureen Braun	Charlie O-Macauley	Peter Zinkin
Arjun Mittra	Richard Cornelius	

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is 3rd February 2017 at 10AM. Requests must be submitted to Jan Natynczyk 020 8359 5129 Email: jan.natynczyk@barnet.gov.uk

You are requested to attend the above meeting for which an agenda is attached.

Andrew Charlwood – Head of Governance

Governance Service contact: Jan Natynczyk 020 8359 5129 Email: jan.natynczyk@barnet.gov.uk

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

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Decisions of the Housing Committee

20 October 2016

Members Present:-

AGENDA ITEM 1

Councillor Tom Davey (Chairman)
Councillor Shimon Ryde (Vice-Chairman)

Councillor Melvin Cohen	Councillor Kath McGuirk
Councillor Daniel Thomas	Councillor Bridget Perry
Councillor Ross Houston	Councillor Tim Roberts
Councillor Adam Langleben	

1. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 27 June 2016 were agreed as a correct record.

2. ABSENCE OF MEMBERS

None.

3. DECLARATIONS OF MEMBERS DISCLOSABLE PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS

The following declarations were received:

Councillor McGuirk – Non-pecuniary interest in agenda item 8 (Annual Performance Review of Registered Providers) – social housing tenant;

Councillor Langleben - Non-pecuniary interest in agenda item 8 (Annual Performance Review of Registered Providers) – Member of West Hendon Estate Committee;

Councillor Houston: Non-pecuniary interest in agenda item 6 (Members Items), 7 (Key Worker Housing), 8 (Annual Performance Review of Registered Providers) – Council appointed representative on Barnet Homes Board.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

5. PUBLIC QUESTIONS AND COMMENTS (IF ANY)

The Committee received written questions from Jasmin Parsons with regard to agenda items:

6. Members Items;
7. Key Worker Housing Strategy and Affordable Housing;
8. Annual Performance Review of Registered Providers.

Jasmine Parsons was also given the opportunity to ask supplementary questions and to make a public comment.

Officers were requested to provide Members with an update on adaptations on the West Hendon estate, both in terms of those completed and those due to be completed.

Officers were also requested to update Members on the health issues with regard to the West Hendon Estate.

RESOLVED that Officers be requested to provide updates to Members of the Committee in relation to the above.

6. MEMBERS ITEM

The Committee received the following Members Items:

<p>Cllr Ross Houston</p>	<p>Increasing the supply of private rented housing at affordable levels using the council's wholly owned company I request that the Housing Committee receives an update on plans by LB Barnet for Hillgreen Homes - the Council's wholly owned company - including whether it will be used for increasing the supply of private rented housing at affordable levels in Barnet.</p> <p>RESOLVED that the item be noted and Councillor Houston be advised that ARG is the most appropriate Committee to consider this matter.</p>
<p>Cllr Kath McGuirk</p>	<p>Not-for-profit lettings agency I request that the Housing Committee looks at London Boroughs like the London Borough of Islington, that have established not-for-profit lettings agencies, and considers the benefits and feasibility of the London Borough of Barnet doing the same.</p> <p>RESOLVED that a report on this matter be submitted to a future meeting of this Committee.</p>
<p>Cllr Adam Langleben</p>	<p>Best practice in delivering new housing through regeneration</p> <p>The Council's Housing Strategy sets out how regeneration schemes in Barnet will deliver over 29,000 new homes in the Borough by 2029. Increasing the supply of housing through regeneration has been controversial in Barnet, with already established communities in some cases feeling excluded from the process through lack of consultation and engagement, and feeling let down when agreed plans that affect them are changed.</p>

	<p>The impact of regeneration on community cohesion has also been raised in a Member's Item to Community Leadership Committee, and regular updates about community consultation on on-going projects are now being reported to the Assets, Regeneration and Growth Committee following a Member's Item on the issue there.</p> <p>In advance of the Mayor of London publishing London-wide best practice guidelines for regeneration, I request that the Housing Committee receives a report on:</p> <ul style="list-style-type: none"> • the impact of regeneration schemes in Barnet on the delivery of the Committee's commissioning plan, including whether regeneration in Barnet is meeting the aims of the Housing Strategy to truly deliver the maximum number of affordable homes possible in order to re-house existing tenants and residents • how regeneration has affected Barnet Homes' leaseholders and secure / non-secure tenants, • best practice in other London Boroughs, like the London Borough of Islington and the London Borough of Haringey, including their policy on re-housing existing tenants on a like-for-like basis in regeneration schemes, • how the process from start to finish can be improved by learning from mistakes made in the West Hendon estate regeneration. <p>I therefore request that the Housing Committee considers this Member's Item and further request a report at a future meeting in order to make any recommendations on these issues to the Assets, Regeneration and Growth Committee to assist in developing a London Borough of Barnet best practice check list for future regeneration projects.</p> <p>RESOLVED that a report be submitted to a future meeting of the Housing Committee on the matters detailed above, with the exception of the item on West Hendon Estate (Members to be provided with the reports produced by the West Hendon Partnership Board and Barrats, subject to the organisations agreeing that the reports can be published).</p>
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7. REFERRAL FROM FULL COUNCIL - KEY WORKER HOUSING STRATEGY AND AFFORDABLE HOUSING

The Committee received the referral.

RESOLVED that

- 1. The referral be noted;**
- 2. A report on Key Worker Housing be submitted to a future meeting of this Committee.**

8. ANNUAL PERFORMANCE REVIEW OF REGISTERED PROVIDERS (RPS)

The Committee received the report.

Members requested that:

1. The possibility of Barnet Homes sharing their good practices with other registered providers be investigated;
2. The issue of subsidised rents for residents moving across with regard to the West Hendon Estate be clarified;
3. The direction Genesis are taking be clarified;

Concerns were also raised about the low satisfaction rate of Family Mosaic.

Cath Shaw, Director for Commissioning and also a non-executive board member and Vice-Chairman of Family Mosaic reported that Family Mosaic had parted company with their repairs company and were now engaging new partners, to increase performance.

Finally Members queried if Notting Hill Should still be included on the list, as they no longer accepted incomes below £29,000.

Officers replied that they would not expect Notting Hill to remain on the list.

RESOLVED that

- 1. The report be noted;**
- 2. Officers be requested to brief Members of the Committee on the points raised in 1-3 above.**

9. LOW COST HOME OWNERSHIP IN BARNET

The Committee received the report.

Officers were requested to provide a briefing for Members of the Committee on the comparison of building costs in the area against increases in income since 2012.

It was also requested that the possibility of introducing a rent to buy scheme be investigated and included in the report back on Key Worker Housing.

RESOLVED that

1. **The report be noted;**

2. **Officers be requested to provide a briefing for Members of the Committee on the comparison of building costs in the area against increases in income since 2012;**

10. COMMITTEE WORK PROGRAMME REPORT

RESOLVED that

1. **The Work Programme be noted;**

2. **A report on Local Lettings be added to the Work Programme for consideration at the February 2017 meeting.**

11. ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT

None.

The meeting finished at 8.10pm

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	<h2>Housing Committee</h2> <h3>8 February 2017</h3>
Title	Members Items
Report of	Head of Governance
Wards	All
Status	Public
Enclosures	None
Officer Contact Details	Jan Natynczyk jan.natynczyk@barnet.gov.uk , 0208 359 5129

Summary

The report provides detail on the Members Items submitted for the Housing Committee to consider and for instructions to be provided to Officers.

Recommendation

That the Housing Committee’s instructions are requested in relation to the items submitted by Members of the Committee highlighted at section 1.1.

1. WHY THIS REPORT IS NEEDED

1.1. THE FOLLOWING MEMBERS ITEMS HAVE BEEN RECEIVED:

CLlr Ross Houston	<p>Performance of delivery units providing services under the remit of the Housing Committee</p> <p>I request that the Committee receives a report on the latest performance information for all delivery units providing services under the remit of the Housing Committee, including all relevant performance indicators and targets.</p>
CLlr Adam Langleben	<p>Mayor of London's draft 'Good Practice Guide for Estate Regeneration'</p> <p>At the October 2016 Housing Committee my Member's Item on best practice in delivering new housing through regeneration was considered and it was resolved that the Committee would receive a report on the issues raised at a future meeting.</p> <p>The Mayor of London, Sadiq Khan, has since published his draft guidance on good practice in estate regeneration, which he is consulting on until 14 March.</p> <p>I request that, in the absence of any Barnet report having yet emerged on this issue, the Housing Committee meeting on 8 February considers the issues raised in my October Member's Item together with the Mayor's draft guidance, and makes comments on the Mayor's document for submission to the consultation.</p>
CLlr Kath McGuirk	<p>Homelessness Strategy and rough sleepers</p> <p>According to recent DCLG data (25 January) the number of recorded rough sleepers in Barnet has more than tripled from 7 in 2010 to 22 in 2016, and it is widely accepted that these official figures underestimate the actual number of people who have to bed down in the open air or in buildings and other places not designed for habitation.</p> <p>I request that the Housing Committee receives an update on rough sleeping in the borough, the issues causing it and how the Homelessness Strategy is tackling the problem.</p>
CLlr Tim Roberts	<p>Merger of Family Mosaic and Peabody Housing Associations</p>

	I request that the Housing Committee is given an update on the merger of Family Mosaic and Peabody Housing Associations and how this will impact residents in Barnet.
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2. REASONS FOR RECOMMENDATIONS

2.1 No recommendations have been made. The Housing Committee is requested to give consideration and provide instruction.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 Not applicable.

4. POST DECISION IMPLEMENTATION

4.1 Post decision implementation will depend on the decision taken by the Committee.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 When matters raised through a Member’s Item are progressed, they will need to be evaluated against the Corporate Plan and other relevant policies.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 None in the context of this report.

5.3 Legal and Constitutional References

5.3.1 The Council’s Constitution Responsibility for Functions, section 6 illustrates that a Member, including appointed substitute Members of a Committee may have one item only on an agenda that he/she serves. Members items must be within the term of reference of the decision making body which will consider the item.

5.3.2 There are no legal references in the context of this report.

5.4 Risk Management

5.4.1 None in the context of this report.

5.5 Equalities and Diversity

5.5.1 Member’s Items allow Members of a Committee to bring a wide range of issues to the attention of a Committee in accordance with the Council’s

Constitution. All of these issues must be considered for their equalities and diversity implications.

5.6 Consultation and Engagement

5.6.1 None in the context of this report.

6. BACKGROUND PAPERS

6.1 Email to Governance Service.

	AGENDA ITEM 7 Housing Committee 8 February 2017
	<p style="text-align: center;">Title</p> <p>Referral from Chipping Barnet Area Committee – Petition Relating to 56 Bedford Avenue</p>
<p style="text-align: center;">Report of</p>	Head of Governance
<p style="text-align: center;">Wards</p>	All
<p style="text-align: center;">Status</p>	Public
<p style="text-align: center;">Enclosures</p>	None
<p style="text-align: center;">Officer Contact Details</p>	Jan Natynczyk Jan.natynczyk@barnet.gov.uk 020 8359 5129

<h3>Summary</h3>
At the meeting of Chipping Barnet Area Committee held in October 2016, the petition relating to 56 Bedford Avenue was referred to this Committee for consideration.

<h3>Recommendations</h3>
<ol style="list-style-type: none"> 1. That the Housing Committee note that this item was referred to this Committee by Chipping Barnet Area Committee; 2. That the Housing Committee give consideration to the petition.

1. WHY THIS REPORT IS NEEDED

- 1.1 Chipping Barnet Area Committee referred the following petition to this Committee for consideration:

56 Bedford Avenue	<p>56 Bedford Avenue became vacant in 2000, and since then has deteriorated. Partial works that were finally begun in 2015 have served only to expose the property increasingly to the elements. All work has stopped in November 2015 and there has been no corrective action to protect the property from its deterioration. There have also been reports of vermin and the property is increasingly threatening the health and safety of the locality.</p> <p>This petition asks the council to take whatever corrective action is necessary to restore the property at number 56 Bedford Avenue to fit and habitable state.</p> <p>Lead petitioner: Lloyd Zokay</p>
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2. REASON FOR REFFERAL

- 2.1 At the meeting of Chipping Barnet Area Committee, the petition detailed above was referred to this Committee. The Council's Constitution provides the ability for the Housing Committee to receive the referred petition.

3. REASONS FOR RECOMMENDATIONS

- 3.1 As set out above.

4. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 4.1 N/A

5. POST DECISION IMPLEMENTATION

N/A

6. IMPLICATIONS OF DECISION

- 6.1 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 6.2 Not in the context of this report.

- 6.3 **Legal and Constitutional References**

The Council's constitution permits referrals from Area Committees to the relevant Committee.

6.4 **Risk Management**

6.5 Not in the context of this report.

6.6 **Equalities and Diversity**

6.7 Not in the context of this report.

6.8 **Consultation and Engagement**

6.9 Not in the context of this report.

7. **BACKGROUND PAPERS**

7.1 None.

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	<p style="text-align: center;">Housing Committee 8th February 2017</p>
<p style="text-align: center;">Title</p>	<p style="text-align: center;">Referral from the Chipping Barnet Area Committee for a decision on options for dealing with 56 Bedford Avenue a long term empty property</p>
<p style="text-align: center;">Report of</p>	<p>Commissioning Director – Growth and Development</p>
<p style="text-align: center;">Ward</p>	<p>Underhill</p>
<p style="text-align: center;">Status</p>	<p>Public (with a separate exempt report)</p>
<p style="text-align: center;">Enclosures</p>	<p>None</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Belinda Livesey – Private Sector Housing Manager 0208 359 7438 Clive Dinsey – Environmental Health Officer 0208 359 2494</p>

<h2>Summary</h2>
<p>With the current pressures on the housing market, empty properties are a waste of housing resource. The Private Sector Housing Team endeavour to work with the owners of these properties to bring them back into residential use through advice and financial assistance. Where this is not possible the appropriate enforcement action is taken. This report reviews the case of a particular property where previous compulsory purchase action has failed. Work to the premises has been progressing very slowly. Local residents, frustrated by the on-going eye sore in their street, submitted a petition to the Chipping Barnet Area Committee who asked for a report to be submitted to this meeting for consideration.</p>

Recommendations

- 1. That the Committee note the information in the exempt report**
- 2. That in the event that sufficient progress is not made in renovating the property by March 2018 the Committee recommends that the Assets, Regeneration and Growth (ARG) Committee authorise the making of a Compulsory Purchase Order (CPO), under Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981 in respect of the property identified in the exempt report**
- 3. That, subject to the authorisation for the making of the Compulsory Purchase Order referred to in recommendation 2 above, the Order be submitted to the Secretary of State at the Department for Communities and Local Government for consideration and confirmation.**
- 4. That, in the event of the Secretary of State at the Department for Communities and Local Government returning the Order for confirmation by the Council, the Order be confirmed on behalf of the Council.**
- 5. Following confirmation of the Order, that ARG Committee approves the entry into a Cross-Undertaking with the owner of the relevant property not to implement the Order on the condition that the owner agrees to bring their property back into use within a reasonable time.**
- 6. In the event that a Cross-Undertaking is not entered into as referred to in recommendation 5. above, or the terms of the Cross-Undertaking are not adhered to by the owner, to recommend that the Assets, Regeneration and Growth Committee delegates authority to the Commissioning Director – Growth and Development to proceed with the compulsory acquisition of the property in question.**
- 7. That, following a compulsory acquisition of the property, an options paper on the onward disposal be brought to the Assets and Regeneration and Growth Committee for decision.**
- 8. That Housing Committee note that the financial costs of the Compulsory Purchase Order would be funded through the approved Capital Programme.**

1. WHY THIS REPORT IS NEEDED

- 1.1** Barnet currently has circa 2,000 properties recorded with Council Tax as being long term empty. Some of these properties are in a poor condition and represent an environmental blight on the local neighbourhood and waste of the Borough's housing stock.
- 1.2** The Private Sector Housing Team work with empty property owners to secure property improvement and reoccupation. This is done through a combination of offering, in the first instance advice, support and grant aid to owners. Where this fails the appropriate enforcement action is taken depending. This ranges

from minor enforcement action to improve and/or secure the property the properties to taking over of the property through Compulsory Purchase powers.

- 1.3 National and local experience of the Borough has shown that resolving to CPO a property focuses the minds of the current owners to either dispose of the property or bring it back into use without further need for intervention. In the majority of cases where the Compulsory Purchase process is started, the Council rarely reaches the situation where purchase becomes necessary. As such, this is a very cost effective tool in bringing empty properties back into use.
- 1.4 In this particular case however, previous CPO action failed and the Committee are being asked to consider the case further following the submission of a petition by local residents to Chipping Barnet Area Committee requesting action to be taken. The specific case details and property identification are contained in the accompanying exempt report.
- 1.5 Should the Council resolve to make the CPO ('the Order'); it will be submitted to the appropriate Government Minister for confirmation. Where an objection to an Order is made by an owner or occupier and is not withdrawn, then, unless satisfied that the objection is exclusively related to compensation, the appropriate Minister must arrange for either a public local inquiry or a hearing before an inspector, appointed by the Minister. The time limit for the exercise of a Confirmed Order is three years from the time the Order becomes operative.
- 1.6 National experience of the use of Compulsory Purchase powers has demonstrated that once CPO action has been initiated, an owner may belatedly come forward with proposals. In such instances, a local authority can enter into an undertaking (in the form of a legally enforceable agreement) with the owner to bring the property back into use within an agreed reasonable time-scale and not object to the making of the CPO or to withdraw any objection and allow it to be confirmed unopposed. This would mean that the Council cross-undertakes not to implement the CPO within the agreed time period, but if the owner fails to carry out works, then the Council (the CPO having been confirmed at this stage) can move to possession. This negates the need for an Inquiry and all the costs involved in the Inquiry process.
- 1.7 Once the Orders are confirmed, and if there are no cross-undertaking (or the terms of the cross-undertaking is not adhered to by the owner), the Order can be implemented either by way of Notice to Treat or by General Vesting Declaration (GVD). The Notice to Treat procedure would enable the Council to take possession of the property very quickly. However, it would not give the Council legal ownership of the property. Ownership can only be transferred when compensation has been paid. If the level of compensation is disputed and the matter is referred to the Lands Tribunal for settlement, it may take up to two years for the Council to obtain ownership. Throughout this period it would not be possible to sell the property for refurbishment. The GVD procedure, which is the preferred route, enables possession to be

obtained only three to four months after confirmation thus allowing prompt transfer and commencement of refurbishment without waiting for compensation issues to be settled. The owner can apply for 90% advance payment of the Council's valuation. The balance of the compensation (or the whole if no advance payment is claimed) is payable on completion of the transfer of ownership. Whether the Council proceeds by way of Notice to Treat or GVD, it will also have to pay interest on the compensation from the date of entry to the date of completion of the purchase. The rate of interest is prescribed by regulation made under the Land Compensation Act 1961.

- 1.8 Once the Order is confirmed, the property would be sold either with a mechanism to ensure that the house is brought back into repair and habitation, or following improvement with a mechanism to ensure that the property is occupied.
- 1.9 The property being considered has been empty for many years and is in a very poor condition which has frustrated local residents as evidenced by a petition signed by 152 people which demands that the Council takes action in respect of this property.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The property is considered to be a high priority for targeted enforcement work to bring it back into residential use because of the very slow progression of renovation works, its poor condition and the detrimental effect that it is having on neighbouring premises and the wider community.
- 2.2 This enforcement case has been costly to the Council and Re due to the number of years that it has been on going, and the lack of willingness by the owner to try and work with the Council and comply with relevant legislation.
- 2.3 The making of a further CPO, after allowing a timely period for completion of works and occupation by the owner, will be used as a last resort following extensive efforts by the Council to secure occupancy of the property.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 There are three other possible options for dealing with this property:

- Deal reactively with issues and ensure compliance with the relevant legislation – deal with any complaints from local residents in relation to new issues for example vermin and visit quarterly to ensure that progress continues to be made and the relevant planning and building control legislation are being met. This option would leave the owner to renovate her property, keep the drain on Council resources to a minimum whilst ensuring that the works are compliant with the relevant legislation. This option has not been recommended as it has not previously led to the property being brought back into beneficial occupation and use.
- Making of an Empty Dwelling Management Order – which is not considered economically viable due to the large amount of work required to make this property habitable..
- Do nothing – this is not felt to be appropriate due to the drain on Council and Emergency Services resources caused by long term empty resources, and the pressure on the existing housing stock. Additionally, local resident concern would continue and their local environment would continue to be affected by the property in question.

4. POST DECISION IMPLEMENTATION

4.1 Should the recommendation be approved the owner will be notified in writing. If insufficient or inadequate progress is made over the next 12 months an application will be made to the Secretary of State at the Department for Communities and Local Government for consideration and confirmation of a fresh CPO.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Corporate Plan 2015-2020 is based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:

- Of opportunity, where people can further their quality of life
- Where people are helped to help themselves, recognising that prevention is better than cure
- Where responsibility is shared, fairly
- Where services are delivered efficiently to get value for money for the taxpayer

5.1.2 The policy meets the Council's key Corporate Priorities detailed in the Barnet Corporate Plan 2015-2020 as follows:

- Increasing the available housing stock meeting minimum standards will help ensure that people can further their quality of life.

5.1.3 Barnet's Housing Strategy 2010-2025 key objective is to increase the housing supply, including family sized homes, to improve the range of housing choices and opportunities available to residents. This strategy contributes to this by improving the condition and sustainability of the existing housing stock.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The costs to the Council are divided into capital and revenue costs.

Capital

5.2.2 If a CPO were made the capital costs would be funded from the current capital programme. The estimated value of the property in 2008 when the original CPO was approved was estimated to be £354,000. In its present condition the estimated value of the property is thought to be around £550,000. The Council has a capital budget for Empty Properties to assist in bringing empty properties back into residential use. This funding would be used to support the purchase of properties and any property security, repairs or improvements that need to be done prior to sale. Current draft (subject to approval of Policy and Resources Committee on 23rd February 2017) capital budget figures are as follows:-

	£000
2016/17	1,500
2017/18	2,100
2018/19	1,000
2019/20	1,000

5.2.3 If the CPO is confirmed, the next stage will be to proceed, if necessary, with the acquisition of the property. Compensation will be payable to the owner based on the valuation on the date of possession, which could be higher or lower than the Council's valuation. At this time there is no way of knowing exactly whether or not the Council will be able to recover the compensation in full. In the current economic conditions it is anticipated that the risk to the Council could be high if property prices slide. There is, however, every chance that the pressure of initiating the Compulsory Purchase procedure will be sufficient to ensure that the property owner takes the appropriate action to either repair and reoccupy their property or to sell the property.

5.2.4 The Planning and Compulsory Purchase Act 2004 introduced an entitlement for non-occupying former owners of compulsorily acquired property to claim basic loss payments. The amount is 7.5% of the value of the person's interest in the land, subject to a maximum of £75,000. However, the Act provides that the entitlement to basic loss payment is lost if certain criteria are all met:

- One of the specified statutory notices/orders set out in subsections (4) and (5) of section 33D Land Compensation Act 1973 has been served on the owner;
- at the time the CPO is confirmed the statutory notice/order has effect or is operative; and
- The owner has failed to comply with any requirement of the statutory notice/order.

In this case, a Prohibition Order under the Housing Act 2004 is in place and there is no entitlement to a basic loss payment.

Revenue

- 5.2.5 Revenue Costs – For this CPO, the revenue cost of making the Order and associated administration has been provided by funds from the North London Housing Sub Region. These funds are currently held in the Council’s reserves- the Empty Property reserve under Re’s management, which currently has £243,000 available. The estimated costs of this case are £22,000. These funds would not cover the cost of any appeal. These would need to be covered through the capital programme.
- 5.2.6 The acquisition and immediate disposal of this property may result in nomination rights for the Council to meet the needs of accepted homeless families, if the property were sold to a Registered Social Landlord.

5.3 Legal and Constitutional References

- 5.3.3 Section 17 of the Housing Act 1985 (‘the 1985 Act’) empowers local housing authorities to compulsorily acquire land, houses or other properties for the provision of housing accommodation. Acquisition must achieve a quantitative or qualitative housing gain.
- 5.3.4 In 2015 the Department for Communities and Local Government issued the document: ‘Guidance on compulsory purchase process and the Crichton Down rules for disposal of surplus land acquired by, or under threat of, compulsion’. The guidance is clear that Compulsory Purchase powers only be used in the last resort and where there is a compelling case in the public interest. The action must not unduly interfere with the owner’s human rights. Historically the compulsory purchase of empty properties may be justified as a last resort in situations where there appears to be no other prospect of a suitable property being brought into residential use. Authorities will first encourage the owner to restore the property to full occupation. When considering whether to confirm a compulsory purchase order the Secretary of State will normally wish to know how long the property has been vacant; what steps the authority has taken to encourage the owner to bring it into acceptable use; the outcome; and what works have been carried out by the owner towards its re-use for housing purposes.
- 5.3.3 In reaching its decision, the Housing Committee should have regard to the relevant provisions of the Human Rights Act 1998, namely Article 1 to the First Protocol – ‘no one shall be deprived of his possessions except in the

public interest’, and Article 8 to the Convention – ‘the right to respect for private and family life, home and correspondence’.

5.3.4 It is considered that the potential exercise of Compulsory Purchase powers may be justified in due course by reason of being in the public interest, authorised by law and both necessary and proportionate towards meeting the Council’s Housing Strategy and the environmental, social and economic well-being of the area.

5.3.5 Local Authorities are given powers to dispose of housing land in accordance with *The General Consent for the Disposal of Land held for the purposes of Part II of the Housing Act 1985 - 2013* which came into force on 11 March 2013 which states:

A Local Authority may dispose of land for a consideration equal to its market value.

5.3.6 In the case of these empty properties held for housing purposes the relevant section of those general consents is A3.3.1 which states that a Local Authority may dispose of an unoccupied dwelling-house to a person who intends to use it as their only or principal home.

5.3.7 It should be noted that any transfer to the buyer will contain a restriction that the owner must, having carried out works (where appropriate), occupy the property.

5.3.8 The Council Constitution, Responsibility for Functions – sets out the terms of reference of the Housing Committee which includes “All matters related to regulation of private sector housing, including enforcement, licensing, empty properties and squatting”.

5.3.9 The Council Constitution delegates to the Assets, Regeneration and Growth Committee all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

5.4 Risk Management

5.4.1 There are three risks associated with the CPO of this property:

- Reputational risk and cost for the Council if a CPO is not confirmed by the Secretary of State following objection by the Owner
- Financial risks – these arise if the resale value of the property, once acquired, is less than the compensation paid for it at the time that possession is taken. This is possible in the current unpredictable housing market. To reduce the risk, it is essential that the property be disposed of as soon as possible after acquisition. The corollary is that the Council would benefit from any increase in value in an appreciating market, which could be used to offset the costs of acquisition. Any shortfall would have to be funded from Council resources.

- Risk of not dealing with empty properties – There is a risk both in the way Central Government assesses our strategic housing performance and in the way residents see the ability of the Council to intervene in the problems which beset them.

Due to the current financial climate an options paper on the onward disposal of the property will be brought back to the Assets, Regeneration and Growth Committee for a decision to be made at the appropriate and opportune time.

5.5 Equalities and Diversity

- 5.5.1 The Corporate Plan 2015-2020 sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible before final decisions are made.
- 5.5.2 The Equality Act 2010 sets out the Public Sector Equality Duty which requires public bodies to have due regard to the need to:
- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
 - foster good relations between persons who share a relevant protected characteristic and persons who do not
- 5.5.3 The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 5.5.4 The proposed action has been reviewed against the protective characteristics and it is considered that there will not be any specific adverse impact on any of the groups.
- 5.5.5 It is considered that requiring the improvement of this property has a positive impact for all local residents. This property is a blight on the area and the local community that can lead to residents having an increased level of area insecurity and fear of crime in their neighbourhood. Local residents have submitted a petition asking the Council to take whatever corrective action is necessary to restore the house to fit and habitable state.
- 5.5.6 Any regulatory activity will be carried out in accordance with the current Development and Regulatory Services Enforcement Policy to ensure the objective application of powers and responsibilities.

5.6 Consultation and Engagement

- 5.6.1 The Exempt report contains details of all consultation completed with the

owners of this property regarding the CPO process and grants available from the Council to assist with carrying out works to enable occupation of the property.

6 BACKGROUND PAPERS

- 6.1 [Cabinet Resources Committee Report, 28 April 2008, \(Decision item 1 exempt\) in relation to the making of Compulsory Purchase Orders \(CPOs\).](#)
- 6.2 Department for Communities and Local Government entitled Guidance on Compulsory Purchase Process and the Crichel Down rules for disposal of surplus land acquired by, or under threat of, compulsion' 2015.

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	<p>Housing Committee</p> <p>8 February 2017</p>
<p style="text-align: center;">Title</p>	<p>Annual Review of Council Dwelling Rents and Service Charges for 2017/18</p>
<p style="text-align: center;">Report of</p>	<p>Commissioning Director- Growth and 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>None</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Cath Shaw- Commissioning Director, Growth and Development - 020 8359 4716, cath.shaw@barnet.gov.uk Paul Shipway- Strategic Lead Housing - 020 8359 4924, paul.shipway@barnet.gov.uk</p>

Summary

The report seeks approval of proposals for changes to council dwelling rents and service charges, as well as a new service charge, to take effect from April 2017.

Recommendations

1. That the Committee consider and approve the proposed rent decrease in line with Government policy for existing Council tenants as set out in paragraph 1.6 to take effect from 1 April 2017.
2. That the Committee approves the proposed increases in service charges as set out in paragraph 1.8 to take effect from 1 April 2017.
3. That the Committee approves the introduction of a new service charge for door entry-phone systems installed from 1 April 2017 as set out in paragraph 1.11

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council is required to set council dwelling rents and associated service charges for council tenants on an annual basis. These are set out in a formal rent notice issued to all tenants before the start of the financial year.
- 1.2 The Local Government & Housing Act 1989 requires the Housing Revenue Account (HRA) to be maintained as a ring-fenced account and prescribe the debits and credits for it. The principal items of expenditure within the HRA are management and maintenance costs, together with charges for capital expenditure (depreciation and interest). This is substantially met by rent and service charge income from dwellings, garages and commercial premises.

Council dwelling rents

- 1.3 The Welfare Reform and Work Act requires that council dwelling rents are reduced by at least 1% a year (from the previous 12 months) for four years from April 2016, following which they are anticipated to increase by Consumer Prices Index¹ (CPI) + 1%.
- 1.4 When a dwelling is re-let to a new tenant then the rent will be reset at the formula rent level where it is below this level.
- 1.5 Where a dwelling rent is already above formula rent levels at the point it becomes empty, there will be no adjustment to the base rent when the property is re-let.
- 1.6 Once a property has been re-let, the rent will reduce by 1% a year at the start of the following financial year for the current tenant up to and including 2019/20.

The table below² shows examples of how average and formula rents will change in 2017/18 when the 1% reduction is applied.

Scenario	2016/17	2017/18 with 1% reduction applied
Current average rent (for existing tenants)	£111.65	£110.53
Average formula rent (for new tenant on re-let)	£119.47	£118.28

¹ CPI and RPI are both economic measures of inflation but they come up with different values because they use different items. For example, RPI includes council tax and mortgage interest payments and CPI does not. CPI generally comes up with lower figures than RPI and has become the main inflation measure used by the government.

² All charges in this table are shown on 48 week basis

- 1.7 New homes being delivered on the Council's land alongside those acquired with HRA funding for use as affordable housing will be subject to affordable rents set at 65% of average private sector market rents or the Local Housing Allowance (LHA) whichever is lower. In line with Government policy, the affordable rent that applies at the end of each financial year will be reduced by 1% at the start of the next financial year for the current tenant up to and including 2019/20.

Service Charges and Garages

- 1.8 Service charges and garage rents have been reviewed to ensure that costs are being recovered. The table³ below shows the changes that are recommended to take effect from 1 April 2017:

	2016/17	2017/18	Increase	% Increase
Grounds Maintenance	£2.71	£2.77	£0.06	2.2%
Lighting	£1.16	£1.21	£0.05	4.3%
Heating - Grahame Park	1 Bed- £12.20	1 Bed- £12.20	1 Bed- £0.00	0%
	2 Bed - £16.92	2 Bed - £16.92	2 Bed - £0.00	
	3 Bed - £18.27	3 Bed - £18.27	3 Bed - £0.00	
Heating – excluding Grahame Park	0%			
Digital Television	£0.84	£1.47	£0.63	75%
Weekly Caretaking	£6.61	£6.71	£0.10	1.5%
Quarterly Caretaking	£1.34	£1.36	£0.02	1.5%
Enhanced Housing Management and Alarm Service (sheltered housing)	2.2% increase applied to existing charges for these services.			
Garages	2.2% increase applied to existing rents for garages			
Door Entry Systems (New Charge)	£2.22 per week (for all new and replacement systems installed from 01/04/2017)			

- 1.9 The proposed changes reflect increases in the cost of providing the services described. In the case of heating charges, no increases are recommended as the cost of fuel has not increased during 2016/17.

- 1.10 The cost of providing access to digital television has been reviewed, and it has been identified that the current service charge does not reflect the cost of providing this service. It is therefore recommended that the charge is increase by 63 pence a week, which represents a significant percentage increase.

³ All charges in this table are shown on 48 week basis and rounded to the nearest penny

- 1.11 It is proposed that a new charge is introduced for new and replacement installations of door entry phone systems. This charge will cover the on-going maintenance costs. New and replacement door entry phone systems will not be installed without first consulting with tenants and leaseholders.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The proposed rent changes are in line with Government policy and the Council's Housing Strategy 2015 to 2025. The service charges have been reviewed to ensure that the revenue raised covers the cost of providing the services.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The proposed rent changes are in line with Government policy.
- 3.2 The Council could decide not to introduce a new charge for newly installed entry phone systems and fund these from existing HRA resources. However, this would be detrimental to the HRA and is not recommended. Other service charge changes are to ensure that costs are recovered.

4 POST DECISION IMPLEMENTATION

- 4.1 Following approval the Council will instruct Barnet Homes to issue a statutory notice of variation to council tenants.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Corporate Plan 2015 to 2020 strategic objective to ensure that Barnet is the place of opportunity, where people are helped to help themselves, where responsibility is shared and where high quality services are delivered effectively and at a low cost to the taxpayer. Reviews of rent levels and service charges help ensure that there are the resources in place to deliver housing services for council tenants.
- 5.1.2 The Housing Strategy 2015 to 2020 sets out how the Council and partners will deliver the additional housing that is required in the borough due to the growing population. The strategy details how more affordable housing will be provided to increase the supply of homes to meet housing need, including the use of affordable rents to provide more homes for rent on Council land. Income from rents will also be used to maintain the condition of the existing housing stock.
- 5.1.3 The Health and Wellbeing Strategy recognises that the condition of and access to local housing has an important role in the quality of life and health of both individuals and communities. Barnet's Joint Strategic Needs Assessment 2015 to 2020 highlights the fact that there is a long term shift in housing tenure towards renting and away from owner occupancy (either outright or with a mortgage) reflecting a sustained reduction in housing affordability and an imbalance between housing demand and supply.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Barnet Homes, the Council's Arm's Length Management Organisation will administer the rents and service charges for council tenants.
- 5.2.2 Income raised from the service charges will be used to recover the costs of providing the services within the Housing Revenue Account (HRA).
- 5.2.3 Existing council rents are on average 30% of private sector rents, so charging affordable rents at 65% of private sector rents for new council homes will raise additional income for the Housing Revenue Account that will contribute to the HRA Business Plan.

5.3 Social Value

- 5.3.1 There are no specific Social Value aspects to this report.

5.4 Legal and Constitutional References

- 5.4.1 The Localism Act 2011 introduced self-funding for council housing. The national subsidy system has been abolished and a new funding regime introduced giving local authorities more autonomy to set Council rents.
- 5.4.2 Pursuant to sections 102 and 103 of the Housing Act 1985, the Council is obliged to serve a statutory notice of variation on council tenants if it wishes to increase the rent. This will be done subject to the decision of this committee.
- 5.4.3 The Housing Act 1985 does not require that there be consultation in respect of rent payable under secure tenancies or for charges for services or facilities.
- 5.4.4 The Council's Constitution (15A Responsibly for Functions, Annex A) sets out the responsibilities of the Housing Committee including:
 - *Housing Strategy*
 - *Work with Barnet Homes, RSLs and social housing providers to ensure the optimum provision of housing and associated facilities for those who require social housing.*
The Housing Committee also has specific responsibility to
 - *To consider for approval fees and charges for those areas under the remit of the Committee.*

5.5 Risk Management

- 5.5.1 There is a risk that increasing the service charges will make it more difficult for tenants to pay and impact adversely on the Housing Revenue Account (HRA) Business Plan by making service charge collection more difficult. This is considered to be a low risk as the increase is low and for many tenants housing benefit will continue to cover the costs, including the costs relating to door entry systems.

5.6 Equalities and Diversity

5.6.1 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.

5.6.2 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The duty also applies to marriage and civil partnership, but only in relation to a limited extent.

5.6.3 Consideration has therefore been given to the report's relevance to equality issues in accordance with the public sector equality duty. This report is primarily to set rents and associated charges which will be applied to all Council dwellings and will therefore affect all Council tenants. As the increases are not of a personal nature, it is not considered that they target or disproportionately affect any group of people based any of the protected characteristics.

5.6.4 However, it is recognised that increases in rents and service charges may present particular difficulties for people on low incomes, but that rents and the majority of tenant service charges are eligible for housing benefit.

5.7 Consultation and Engagement

5.7.1 There has not been any specific consultation on the issues arising in this report. The commissioning priorities and budget plans for the Housing Committee were included in the Council's budget consultation that took place between 15 December 2016 and 19 January 2017.

5.8 Insight

5.8.1 No specific insight data has been used in this report.

6 BACKGROUND PAPERS

6.1 Relevant previous decisions are listed in the table below.

Item	Decision	Link
Cabinet, 25 February 2014- Business Planning 2014/15- 2015/16	Approved proposed increases in council dwelling rents and service charges, and the proposed increase in council garage rents, all effective from 1 April 2014	http://barnet.moderngov.co.uk/documents/s13295/Budget%20report%20Feb%20Cab%20v5.pdf
Cabinet Resources Committee, 25	Approved proposed increases in council dwelling rents and service	http://barnet.moderngov.co.uk/ieListDocuments.aspx?

February 2013	charges, and the proposed increase in council garage rents, all effective from 1 April 2013	CId=151&MId=6758&Ver=4
Cabinet, 25 February 2013 – Business Planning 2013/14 – 2015/16	Approved the Business Planning document for the Council's business plan 2014/15 including the Housing Revenue Account (HRA) Business Plan.	http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=120&MId=6751&Ver=4
Cabinet Resources Committee, 24 June 2013	Approved a programme for Barnet Homes to build 41 new affordable dwellings on behalf of the Council.	http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=151&MId=7457&Ver=4
Housing Committee, 19 October 2015	Approved Housing Strategy	http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=699&MId=8268&Ver=4
Delegated Powers Report, 18 December 2015	Approved rent setting policy for new council homes built on HRA land	http://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=6081
Housing Committee 1 February 2016	Approved rents and service charges for council dwellings from April 2016	http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=699&MId=8269&Ver=4

	<h2>Housing Committee</h2> <h3>8 February 2017</h3>
Title	Private Sector Housing Fees and Charges 2017/18
Report of	Commissioning Director – Growth and Development
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	Appendix A – Proposed Fees and Charges 2017/18
Officer Contact Details	Belinda Livesey – Group Manager (Private Sector Housing) 0208 359 7438 belinda.livesey@barnet.gov.uk

Summary
This report seeks to obtain approval for the proposed new and above inflation plus 2% fees and charges for 2017/18 to support the Commissioning Business Plan, and delivery of the front line service within the Private Sector Housing Team in Re

Recommendations
That the Housing Committee consider and approve the proposed fees and charges for 2017/18 as set out in Appendix A

1. WHY THIS REPORT IS NEEDED

- 1.1 Fees and charges are reviewed on an annual basis to ensure that the costs of chargeable services are covered and the Council is achieving value for money. This report sets out the proposed above inflation fee increases as well as new fees and charges for services within the Private Sector Housing Team in Re. Any fees and charges which are being increased by less than the rate

of inflation plus 2% are not included in this report as their approval method is via Delegated Powers Report.

2. REASONS FOR RECOMMENDATIONS

- 2.1 It is recommended that the Housing Committee consider and approve the proposed fees and charges for 2017/18, as it is considered good practice to review fees and charges annually to ensure that the costs of providing the services are recouped and identified income targets for private sector housing are achieved.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The alternative approach would be not to review the existing fees and charges, and not to add new ones where appropriate. This is not however considered to be good practice and would potentially expose the Council to the risk of not recovering the costs of the provision of the service, or potentially, over recover, where the charge is set at a cost recovery level.
- 3.2 Given the financial pressures currently faced by the Council the only viable option for continuing to provide services is to levy an appropriate fee or charge.

4. POST DECISION IMPLEMENTATION

- 4.1 If the Committee approves the recommendation then the fees and charges will be noted by the Policy and Resources Committee as part of the Council wide budget setting . Once the budget is approved by full Council the fees and charges will be posted on the Council's website and, where a statutory duty requires it, advertised in the approved publication and appropriate location. The new fees and charges will be implemented from 1st April 2017.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Corporate Plan 2015-2020 is based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:
- Of opportunity, where people can further their quality of life
 - Where people are helped to help themselves, recognising that prevention is better than cure
 - Where responsibility is shared, fairly
 - Where services are delivered efficiently to get value for money for the taxpayer

The Council's priorities include:

- High quality services maintained whilst reducing unit costs to the lowest amongst Barnet's statistical neighbours.

5.1.2 Fees and charges need to be reviewed to ensure value for money and cost recovery. This complies with the 2015-2020 Corporate Plan priority for Barnet to be in the lowest 25% of all Councils (Boroughs and County Councils) for expenditure per head of population. The Fees and Charges review is a means of ensuring that net costs are kept under control.

5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 **Finance & Value for Money:** With public and Member expectations increasing, the review of fees and charges ensures that sufficient resources are made available to manage and prioritise those expectations.

5.2.2 All fees and charges will ensure effective cost recovery for delivering the service; prices listed do not include VAT, which will only be charged where indicated. The charges are discretionary to cover the cost of delivery.

5.2.3 The Constitution requires that all new charges, and charges that are proposed to be increased by more than inflation plus 2%, are agreed by the relevant Theme Committee, and also reported to Policy and Resources Committee for noting.

5.2.4 It can be seen from Appendix 1 that a number of proposed HMO fees are made up of Fee1 and a Fee 2; as explained in para 5.4.8., Fee 1 is payable at point of application, Fee 2 is payable by successful applicants.

5.2.5 **Procurement:** At this time there are no procurement implications.

5.2.6 **Staffing:** At this time there are no staffing implications.

5.2.7 **Property:** At this time there are no property implications.

5.2.8 **IT:** At this time there are no IT implications.

5.2.9 **Sustainability:** At this time there are no sustainability implications.

5.3 **Social Value**

5.3.1 The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.

5.3.2 HMO licensing and housing enforcement action requiring the improvement of accommodation will deliver social, economic and environmental benefits for residents in relation to improvement in standards of the private rented sector.

5.4 **Legal and Constitutional References**

5.4.1 Local authorities have a variety of powers to charge for specific statutory services set out in statute. The Local Government Act 2003 also provides a

power to trade and a power to charge for discretionary services, the latter on a cost recovery basis. Discretionary services are those that a local authority is permitted to provide under statute but is not obliged to do so. The power to charge for discretionary services is not available to local authorities if there is a statutory duty to provide the service or if there is a specific power to charge for it or if there is a prohibition on charging.

- 5.4.2 Additionally, the Localism Act 2011 provides local authorities with a general power of competence that confers on them the power to charge for services but again these are subject to conditions/limitations similar to those noted above.
- 5.4.3 Where a local authority has a duty to provide a statutory service free of charge to a certain standard, no charge can be made for delivery to that standard. Should a request be made, however, for delivery above and beyond that standard, this may constitute a discretionary service for which a charge could be made.
- 5.4.4 There is a variety of legislation permitting charging for different services, some of which set prescribed fees and charges (or the range of charges for a given service), and others which allow discretion based on costs of providing the service.
- 5.4.5 Constitution, Responsibility for Functions, Annex A, sets out the terms of reference of the Housing Committee including:
- Promote the better integration of privately rented properties into the Borough's framework
 - Be responsible for all matters related to Private Sector Housing including Disabled Facility Grants
 - Be responsible for housing licensing and housing enforcement
- 5.4.6 The Council's Constitution (21, Financial Regulations) also states: "For the fees and charges within their remit, theme Committees, Planning Committee and Licensing Committee must approve changes to fees and charges that are above inflation by 2% or more, the introduction of new fees and charges, and changes to fees and charges outside the normal annual cycle. Changes to fees and charges approved by theme Committees, Planning Committee and Licensing Committee must be reported to Policy and Resources Committee for noting.
- 5.4.7 In the case of *Hemming v Westminster*, the Supreme Court sought an opinion from the European Court of Justice regarding how such fees should be levied. It identified two different approaches to charging fees:

- Whereby a council charged a fee upon application (covering the costs of authorisation procedures) and a subsequent fee to successful applicants (covering the cost of administering and enforcing the framework) - the 'type A' approach, or
- Where a council charged a single fee on application covering all costs, on the basis that the relevant proportion of the fee would be refunded to unsuccessful applicants – the 'type B' approach.

The Supreme Court found the type A approach of charging two fees is permissible under the Services Directive but considered that the type B approach of charging a single fee was more problematic.

The European Court of Justice published its ruling on the issue on 16 November 2016 ruling that the type B approach of fee setting is not compatible with the Services Directive, arguing that the Directive '*precludes the requirement for the payment of a fee, at the time of submitting an application for the grant or renewal of a authorisation, part of which corresponds to the costs relating to the management and enforcement of the authorisation scheme concerned, even if that part is refundable if that application is refused.*' Therefore, pursuant to the Hemming case, the Council needs to amend its fee structures to ensure that application fees relate solely to the cost of authorisation procedures (i.e. the costs associated with reviewing an application and granting / refusing a licence). Under the type A approach, on which the Supreme Court ruling still holds, successful licence applicants should subsequently be charged an additional fee relating to the costs of administering and enforcing the relevant licensing framework.

- 5.4.8 Where applicable, when an application is made an initial application fee must be paid by all applicants. This covers the costs of the application and authorisation procedures. A subsequent fee is then payable by successful applicants. This covers the cost of administering and enforcing the licensing framework. Unsuccessful applicants only need pay the initial fee.

5.5 Risk Management

- 5.5.1 The fees and charges proposed within this report are for various areas of work and are based on recovery of costs incurred by the Council. Efforts have been made to limit the charge increases and consideration has been given to the charges adversely affecting demand for the services as well as the need to recoup the cost of providing the service. There will nonetheless remain an element of reputational risk and challenge.

5.6 Equalities and Diversity

- 5.6.1 The Corporate Plan 2015-2020 sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the

potential equalities impacts and risks and identify any mitigating action possible before final decisions are made.

5.6.2 The Equality Act 2010 sets out the Public Sector Equality Duty which requires public bodies to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not

5.6.3 The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

5.6.4 The proposed fees and charges have been reviewed against the protected characteristics and it is considered that there will not be any specific adverse impact on any of the groups.

5.6.5 It is considered that HMO licensing and housing enforcement action requiring the improvement of accommodation has an overall positive impact for landlords, tenants, residents and businesses by virtue of the potential improvement to the quality and management of accommodation in the borough.

5.6.4 In addition there are potential benefits arising from the increased choice of high quality, well-managed affordable housing.

5.7 Consultation and Engagement

5.7.1 There was no specific consultation on the fees and charges in this report, a number of which are small increases on previous charges and others which are supplemental to existing services/fees and charges. As noted above, the fees and charges will be noted by Policy and Resources Committee and will be included within the Council wide budget consultation.

5.7.2 The final savings will be agreed by Policy and Resources Committee on 16th February 2017 and Full Council on the 3rd March 2017

6 BACKGROUND PAPERS

6.1

Appendix 1 – Proposed Fees and Charges from 1st April 2017/18¹

Description of charge	Unit	Subject to VAT	Current charge excluding VAT	Proposed Charge excluding VAT	Percentage change
Licence fee up to 5 units of accommodation (paper application) for 5 years	Per HMO	VAT not applicable	£1,008.00	£1,167 made up of: Fee1-£563 Fee 2-£604.	New charging mechanism due R (on the application of <i>Hemmings (t/a Simply Pleasure Ltd) and others</i>) v <i>Westminster City Council</i> [2015] UKSC 25
Assisted Licence fee up to 5 units of accommodation (paper application) for 5 years	Per HMO	VAT not applicable	£1,202.00	£1,276 made up of: Fee1-£672 Fee 2-£604	New charging mechanism due R (on the application of <i>Hemmings (t/a Simply Pleasure Ltd) and others</i>) v <i>Westminster City Council</i> [2015] UKSC 25
Licence fee up to 5 units of accommodation (on-line application - when available) for 5 years	Per HMO	VAT not applicable	£958.00	£1,147 made up of Fee1-£530 Fee 2-£617	New charging mechanism due R (on the application of <i>Hemmings (t/a Simply Pleasure Ltd) and others</i>) v <i>Westminster City Council</i> [2015] UKSC 25

¹ Any charge increase less than 3.8% (2% plus estimated 1.8% inflation) being dealt with via DPR.

Assisted Licence fee up to 5 units of accommodation (online application-when available) for 5 years	Per HMO	VAT not applicable	£1,153.00	£1,244 made up of Fee1-£627 Fee 2-£617	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>
Description of charge	Unit	Subject to VAT	Current charge excluding VAT	Proposed Charge excluding VAT	Percentage change
HMO Licensing Fee for a 1 year licence (paper application)	Per HMO	VAT not applicable	£655.00	£760 made up of Fee1-£563 Fee 2-£197	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>
HMO Licensing Assisted fee for a 1 year licence (paper application)	Per HMO	VAT not applicable	£849.00	£869 made up of Fee1-£672 Fee 2-£197	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>
HMO Licensing Fee for a 1 year licence (on line application)	Per HMO	VAT not applicable	£606.00	£ 727 made up of Fee1-£530 Fee 2- £197	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>

HMO Licensing Assisted fee for a 1 year licence (on line application)	Per HMO	VAT not applicable	£800.00	£824 made up of Fee1- £627 Fee 2- £197	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>
Description of charge	Unit	Subject to VAT	Current charge excluding VAT	Proposed Charge excluding VAT	Percentage change
Renewal fee up to 5 units of accommodation (paper application) for 5 years	Per HMO	VAT not applicable	£911.00	£998 made up of Fee1- £394 Fee 2- £604	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>
Assisted Renewal fee up to 5 units of accommodation (paper application)for 5 years	Per HMO	VAT not applicable	£1,106.00	£1,035 made up of Fee1-£431 Fee 2- £604	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>
Renewal fee up to 5 units of accommodation (on-line application, when introduced) for 5 years	Per HMO	VAT not applicable	£862.00	£977 made up of Fee1-£360 Fee 2- £617	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>

Assisted Renewal fee up to 5 units of accommodation (on-line application, when introduced)for 5 years	Per HMO	VAT not applicable	£1,056.00	£ 1,014 made up of Fee1- £397 Fee 2- £617	New charging mechanism due <i>R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25</i>
Description of charge	Unit	Subject to VAT	Current charge excluding VAT	Proposed Charge excluding VAT	Percentage change
Renewal fee up to 5 units of accommodation (paper application) for 1 year	Per HMO	VAT not applicable	New fee	£591 made up of Fee1- £394 Fee 2- £197	1 year licences were previously adopted for new licence applications but not renewals.
Assisted Renewal fee up to 5 units of accommodation (paper application)for 1 year	Per HMO	VAT not applicable	New fee	£628 made up of Fee1- £431 Fee 2- £197	1 year licences were previously adopted for new licence applications but not renewals.
HMO Licensing Renewal fee for a 1 year licence (on line application, when introduced)	Per HMO	VAT not applicable	New fee	£557 made up of Fee1- £360 Fee 2- £197	1 year licences were previously adopted for new licence applications but not renewals.
HMO Licensing Assisted Renewal fee for a 1 year licence (on line application, when introduced)	Per HMO	VAT not applicable	New fee	£ 594 made up of Fee1- £397 Fee 2- £197	1 year licences were previously adopted for new licence applications but not renewals.
Each extra unit of accommodation over 5 units (assuming a standard fee is for up to a 5 room HMO)	Per unit	VAT not applicable	£24.00	£25.00	4.17%

Fire risk assessment for standard HMO	Each	VAT applicable	New fee	Up to £400 for a standard HMO plus hourly rate up to £84 for revisits and/or additional advice.	New service to assist landlords in complying with their legal requirements. This is not a service previously provided by LBB or Re.
Description of charge	Unit	Subject to VAT	Current charge excluding VAT	Proposed Charge excluding VAT	Percentage change
HMO Licensing refunds	Each			Where a property is no longer licensable or a licence is revoked there is no refund as costs will already have been incurred. A refund will be considered if a property has not been inspected. £62.00 will be retained to cover the Council's administrative costs. After the inspection of the house the HMO inspection service fee or new HMO fee will be charged as appropriate. If any licensing paperwork has been issued there is no refund.	n/a

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**London Borough of Barnet
Housing Committee Work
Programme February 2017**

Contact: Jan Natynczyk 020 8359 5129 Email: jan.natynczyk@barnet.gov.uk

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
10 May 2017			
First Year Review of Additional Licencing of HMOs (depending on when designation starts)	For review	Commissioning Director, Growth and Development	Key
Empty properties compulsory purchase orders	To compulsorily acquire underused or ineffectively used property for residential purposes where there is a compelling case in the public interest for its acquisition to meet general housing need in the area	Commissioning Director, Growth and Development	Key
Approval of Changes to Local Tenancy Strategy	To approve changes	Commissioning Director, Growth and Development	Key
HRA Business Plan	To receive an update on the Business Plan.	Commissioning Director, Growth and Development	Key
Housing Committee Commissioning Plan	For consideration	Commissioning Director, Growth and Development	Key
Barnet Homes Annual Commitments Plan	To receive Plan	Commissioning Director, Growth and Development	Key

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
Local Lettings Policy	It was agreed at June 2016 meeting that a report on this matter be submitted to a future meeting	Commissioning Director, Growth and Development	Key
2017/18			
Not for Profits Lettings Agency	It was agreed at the October 2016 meeting that a report on this matter be submitted to a future meeting	Commissioning Director, Growth and Development	Key
Best Practice in Delivering New Housing through Regeneration	It was agreed at the October 2016 meeting that a report on this matter be submitted to a future meeting	Commissioning Director, Growth and Development	Key
Additional Licensing Scheme for Houses in Multiple Occupation (October 2017)	Annual report.	Commissioning Director, Growth and Development	Key
First Year Review of Additional Licencing of HMOs (depending on when designation starts)	For review	Commissioning Director, Growth and Development	Key

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By virtue of paragraph(s) 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

AGENDA ITEM 14

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By virtue of paragraph(s) 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

AGENDA ITEM 15

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