

	<h2>Housing Committee</h2> <h3>27 June 2016</h3>
<b>Title</b>	<b>Delegation of Part VII Housing Act 1996 function</b>
<b>Report of</b>	Commissioning Director, Growth and Development
<b>Wards</b>	All
<b>Status</b>	Public
<b>Urgent</b>	No
<b>Key</b>	No
<b>Enclosures</b>	None
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## Summary

The Council has delegated numerous Part VII Housing Act functions to Barnet Homes. At periods of high demand, such as when there is large scale rehousing of non-secure tenants from regeneration estates, it may be necessary to provide extra capacity for certain tasks. This report seeks authorisation to additionally delegate the homelessness review function under Section 202 of the Housing Act 1996 to RMG Limited (Residential Management Group).

Section 202 reviews require extensive knowledge of homelessness legislation and case law. Engaging the services of a specialist organisation will assist in meeting the statutory timescale to complete the reviews.

## Recommendations

- 1. The Committee approve the contracting out of Section 202 reviews to RMG Limited.**

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 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. A new Management Agreement for Barnet Homes to deliver a range of housing services, including homelessness and allocations, was implemented in April 2016 following a review and challenge process.
- 1.2 The Management Agreement sets out the services that are delegated to Barnet Homes. These include statutory Council duties such as those related to homelessness. This includes making decisions on applications made under the Housing Act 1996 Part VII.
- 1.3 In recent times, due to increasing demand generally, but also because of planned regeneration programmes from time to time, there is greater demand and resources required to complete homelessness review decisions under Section 202 of the Housing Act 1996 within the statutory time scales.
- 1.4 Barnet Homes has considered various options to meet the increased demand and maintain performance in meeting the statutory time scale; including recruiting extra specialist staff and offering additional pay for conducting reviews to existing experienced officers. These options have not been successful and there continue to be issues of capacity at times of high demand.
- 1.5 There are few external providers of the reviews service, with only two that the Council is aware of: Homeless Reviews Limited and RMG Limited. The latter provides the housing options service for Westminster City Council and Barnet Homes has requested authorisation to appoint RMG Limited.
- 1.6 If the recommendation in this report is approved, the Council and Barnet Homes will enter into a Service Level Agreement with RMG Ltd and ensure that all financial and contractual obligations are met.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The function of conducting Section 202 reviews under the Act can be carried out by other persons as authorised by the authority whose function it is.
- 2.2 There has been a significant increase in the reviews case load since January 2015 as a result of rehousing non-secure tenants from regeneration estates. This has resulted in an increase in appeals relating to the suitability of accommodation that has been offered in the rehousing process. The case load has increased and Barnet Homes has been struggling to meet the target. Increasing capacity through the use of a specialist appeals company will ensure that performance can be maintained.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 One option is to do nothing and to not contract out Section 202 reviews to RMG Limited but this would mean that it is difficult to maintain standards of service at times of high demand and in particular make it difficult for the Council to meet its statutory targets. This option is not recommended.
- 3.2 The reviews function is currently staffed by one experienced officer who is able to manage the reviews and appeals workload during periods of normal demand. It is evident however that the current resource is not sufficient during peaks in such work, such as when there is high activity with rehousing, which is on-going over the next five years with the regeneration of Barnet's housing estates.
- 3.3 The reviews and appeals function is very specialist and requires someone that has an in depth knowledge of homelessness law and has the ability to see the wider impact of their decisions on the council. The skill set requires not only knowledge but also a fine eye for detail and excellent written and verbal skills which are not readily available in the market place. Barnet Homes has tried to recruit through a specialist agency and has offered additional pay for conducting reviews to experienced officers in Housing Options. However, this has not proved successful and this option is therefore not recommended.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 The Council and Barnet Homes will enter into a contract/Service Level Agreement with RMG Limited to conduct reviews under Section 202, Part VII Housing Act 1996, specifying procedure and setting out performance levels and targets. These will be monitored to ensure that they are fit for purpose.
- 4.2 The requirement for extra capacity will be reviewed on an annual basis.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

- 5.1.1 The Council's Corporate Plan for 2015 to 2020 sets out the borough's priorities based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place where "responsibility is shared fairly" and "where services are delivered efficiently to get value for money for the taxpayer". Contracting out Section 202 reviews will ensure that reviews are delivered efficiently, even at times of high demand, and within the statutory timescale.
- 5.1.2 In addition the contracting out supports the Council's Housing Strategy 2015 to 2020 priorities to "provide effective and efficient housing services" and "early intervention and homelessness prevention".

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

- 5.2.1 Section 202 reviews will be funded on a review by review basis and in accordance with the terms and conditions set out in a Service Level Agreement between the Council, Barnet Homes and RMG Ltd. Costs to the Council will be met from the existing Management Fee paid to Barnet Homes.

There are no further resource implications for the Council.

5.2.2 There are few providers of the reviews service and Barnet Homes is only aware of two providers operating within the local area. One of these providers is not considered by Barnet Homes to have the requisite skills to undertake the work. RMG Limited is considered to offer a quality service and already provide similar services to Westminster City Council, the London Boroughs of Lambeth, Islington, Redbridge and Newham and St Albans City Council. The reviews will be funded out of the management fee paid to Barnet Homes and paid for on a case by case basis. The total value of this contract is deemed to be less than £10,000 and as such, in accordance with the Council's Contract Procedure Rules, the Council is required to use a reasonable means of selection. As this service is funded from the existing budget for Barnet Homes and it is a specialised area with limited competition, it is proposed to proceed on the basis of a single tender action.

### 5.3 Social Value

5.3.1 The Council and Barnet Homes considered social value considerations when identifying the requirements for the contracting out of homelessness reviews and appeals and there were no social value issues identified.

### 5.4 Legal and Constitutional References

5.4.1 The Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 enables the authority to contract out the Section 202 review function. Regulation 3 of the Order states:

*'Contracting out of homelessness function*

*Any function of an authority which is conferred by or under Part VII of the Act (homelessness) ..., except one which is listed in Schedule 2 to this Order, may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the authority whose function it is'.*

5.4.2 The Council's Constitution, Part 3 Responsibility for Functions, Appendix A sets out the terms of reference for the Housing Committee which include specific responsibilities for the Housing Strategy (incorporating Homelessness Strategy), working with Barnet Homes, RSLs and social housing providers to ensure the optimum provision of housing and associated facilities for those who require social housing, and to authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget in accordance with the responsibilities and thresholds set out in the Contract Procedure Rules.

5.4.3 Paragraphs 8.2 and 9 of the Council's Contract Procedure Rules set out the relevant requirements and method to enter in to a contract valued at up to £10,000.

### 5.5 Risk Management

5.5.1 The review function is a specialist area and requires an in-depth understanding of homelessness law. Appeals that arise out of review decisions, or delays in completing these, can be significant, including expensive legal costs and potential reputational damage. It is therefore

important that the Council secures suitably qualified people to carry out homelessness reviews.

5.5.2 It will be essential that the contract and performance is monitored and managed to ensure that reviews are completed satisfactorily and that statutory targets are met.

## **5.6 Equalities and Diversity**

5.6.1 The Equality Act 2010 sets out the Public Sector Equality Duty which requires public authorities **to have due regard** to the need to:

- eliminate discrimination, harassment, 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.

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

5.6.3 Homeless households are generally more diverse and deprived than the population as a whole. They are more likely to be younger, from a diverse range of backgrounds, and single families with children. It is not considered that the decision sought in this report would result in any adverse impact to any of the protected groups.

## **5.7 Consultation and Engagement**

5.7.1 No specific consultation and engagement has been required for this report.

## **5.8 Insight**

5.8.1 No insight data has been used in this report.

## **6 BACKGROUND PAPERS**

6.1 Housing Committee Housing Committee 29 June 2015, decision item 9- Commissioning and delivery of housing services and management of the Barnet housing stock.

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=699&MId=8264&Ver=4>

