



Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix 1 is not available for public inspection as relates to exempt information within the meaning of Schedule 12A to the Local Government Act 1972. It is exempt because it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Shared Housing Complex Needs scheme - The grant of leases or subleases to shared housing complex needs service supplier
Decision Maker:	Patrick Odling-Smee, Director of Housing
Cabinet Member:	Cllr Paul McGeary
SLT Lead:	Patrick Odling-Smee, Director of Housing
Report Author and contact details:	Katri Wilson Katri.wilson@havering.gov.uk Telephone 01708 434581
Policy context:	Places Theme:- The needs of our most vulnerable residents are identified and met. This proposal will designate some properties within our housing portfolio for the provision of intensive housing management and support for people with low to medium needs.

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Financial summary:	The Shared Housing scheme will run for approximately 10 years and will be cost neutral to the council. The £1,328m received from Penrose, will be paid to the Landlords for the lease of their properties.
Date notice given of intended decision:	28 th September 2022
Relevant OSC:	Places OSC
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION
<p>Recommendations:</p> <p>The Director of Housing is recommended to:</p> <ul style="list-style-type: none">a) Agree to the grant of leases and subleases of the properties listed at Appendix 1 in accordance with the heads of terms at Appendix 2(a) for the underlease and 2(b) for the head lease.b) Authorise the Assistant Director of Supported Housing to permit the supplier to occupy the properties on a Tenancy at Will whilst the lease is being prepared.
<p>Background</p> <p><u>Tender and services</u></p> <ol style="list-style-type: none">1. In a Key Decision dated 23 December 2021 approval was sought to award a contract solely on the basis of quality. To facilitate the delivery of the contract the Council propose to lease or underlease Shared Housing assets to a specialist housing provider to deliver intensive housing management.

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2. A tender process to source a specialist supported housing provider was completed and in a key decision dated 27 October 2022 , the Council agreed to award a 10 year contract to Penrose Options Ltd (“Supplier”).
3. The Supplier will deliver a specialist supported service to residents that have low to medium needs as assessed by the Housing Options Team. The service will be provided to residents who are experiencing drug, alcohol or mental health conditions and have presented themselves as homeless and for which the Council has established a statutory duty under the Housing Act 1996 part 7 to assist those residents.
4. The residents nominated to this service will receive intensive housing management and support to enable them to sustain independent living. It is intended that the residents will then be able to move on to fully independent accommodation in the community. Examples of intensive housing management and support that the Supplier will be required to deliver include :-
 - signposting to relevant services
 - advice on keeping healthy
 - advice on financial independence
 - assisting with tenancy sustainment
5. The Council’s sheltered housing team have identified the properties to be included in the scheme as set out at appendix 1. The properties identified for this scheme may be subject to change during the course of the services contract however, any variation will be subject to the approval of the Director of Housing and the terms of the service contract. .
6. During the term of the services contract, the residents will be placed in either a self-contained flat or bedsit for which they will hold a licence granted by the Supplier. The service is designed to be delivered across the seven properties with the Council either granting a lease or sublease (dependent on whether the Council is a freeholder or leaseholder of the relevant property) to the Supplier

Lease to the Supplier

7. The properties earmarked for this scheme are listed at Appendix 1 and include four Council owned properties and three Private Sector Properties. Where properties are privately owned, the Council has sought the approval of the Private Landlord to underlet the whole property and included a provision within the Private Sector Lease (PSL) to allow underletting. The Council will grant a sublease to the Supplier for a term not exceeding the head lease.
8. The residents will be placed within these properties to enable the Supplier to deliver the services and will operate in conjunction with the services contract. The leases to the Supplier will co-terminate with the services contract on 30 November 2032 or upon earlier termination of the services contract.
9. The leases to the Supplier will be granted in accordance with the Head of Terms at Appendix 2 (a) & (b) and will be contracted out of the Landlord and Tenant Act 1954 (Part II). The Supplier will be required to vacate the properties at the end of the term and will not have a statutory right to renew the lease.

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10. The leases will contain a schedule of condition or inventory recording the condition of the relevant property and contents at the start of the term.
11. Subject to the recommendations of this Executive Decision being agreed and entry into the leases or tenancies at will, the services will commence from the relevant properties on 1st December 2022 at the earliest.

AUTHORITY UNDER WHICH DECISION IS MADE

Havering Constitution

3.8.2 ASSISTANT DIRECTOR HOUSING

- (a) To exercise the Council's functions with regard to homeless persons.
- (b) To procure and/or manage temporary accommodation in support of the homeless function.

STATEMENT OF THE REASONS FOR THE DECISION

The decision is required to enable the Council to grant leases to the Supplier in accordance with the Head of terms at Appendix 2(a) and 2(b). The key decision dated 27 October 2022, the Council agreed to award the contract to the Supplier and this decision will give effect to the implementation and the delivery of these services to the residents.

The Supplier has expertise delivering this form of intensive housing management and support to this type of client group. In addition, the Supplier as a registered charity, can access an enhanced rate of housing benefit which more accurately reflects the full cost of providing a comprehensive housing management and tenancy support service. This is something that under current housing benefit rules, the Council is not able to claim. Specifically the enhanced housing benefit will fund services including:-

- Concierge
- Housekeeping/Cleaning
- Intensive housing management
- CCTV

Appendix 1 details the properties the Council intends to use for the purpose of delivering this service. As mentioned above, four properties are or will be Council owned. The Council will grant a lease to the Supplier. The other three properties identified for the scheme are Private Sector properties which will be subleased to the Supplier. The total number of rooms to be included in the scheme is 35.

Rents have been set in accordance with the local housing allowance. The local housing allowance is determined by the DWP and is calculated using the 30th percentile of average market rent per property type in a local area. This enables the Supplier to claim standard housing benefit provision for letting these properties as part of the overall service. This will then be paid over to the Council on a not for profit basis. The extra element of housing benefit

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received (known as the exempt/enhanced rate) will be retained by the Supplier to enable them to deliver the intensive housing management service for the residents. Details of the rents are set out at Appendix 1.

Rents for the under lease (the Council is not the freeholder)

Where the Council is granting an underlease to the Supplier, the core rent is the element that the Supplier will pay to the Council which in turn will cover the liabilities of the Head Landlord. The enhanced rate of housing benefit per room will be retained by the Supplier for the intensive housing management.

The rents for the underlease covers the liabilities of the Head Lease and are within the current Local Housing Allowance levels. This means that the Supplier will not experience difficulties in recovering the rent through Housing Benefit applications.

Rents for the Council owned leases

It is noted that the core rent will be retained by the Council and the enhanced housing benefit will be retained by the Supplier and cover the costs of the intensive housing management.

The overall approach to core rent levels has been outlined as part of the tender exercise and has largely been driven by the overall benefit levels in the local area.

Terms to be included in the lease to the Supplier is included in Appendix 2 (a) & (b).

Tenancies at Will

Keeping these properties empty whilst leases are drawn up and negotiations take place will result in the Council incurring financial costs. It is therefore in the Council's interests to enable the service to commence and mobilisation to take place as soon as possible. As an interim measure to mitigate against delays of this nature, it is recommended that the Director of Housing authorises for tenancies at will to be granted to the supplier in the interim so the service can commence in accordance with the timelines set out.

OTHER OPTIONS CONSIDERED AND REJECTED

1. The Council considered delivering the service directly to the client group however, this option was rejected. The Council's Supported Housing team were unable to secure the required level of funding from Housing Benefits due to existing national Housing Benefit regulations.
2. The Council could have placed the client group in hotels/B&B's. This option was rejected since it was expensive and could not deliver the intensive housing management and support required
3. The Council considered ceasing the service. This option was rejected as the Council has a legal obligation to assist this client group.

PRE-DECISION CONSULTATION

None

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NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Katri Wilson

Designation: Assistant Director of Housing

Signature:

Date: 16th November 2022

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Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has a wide “general power of competence” under Part 1, Chapter 1 of the Localism Act 2011, which gives it the same power to act as that of an individual subject to other statutory provisions limiting or restricting its use.

It is noted that four of the properties earmarked for the scheme fall under the HRA. As such the Council will seek to rely on the General Consents issued by the Secretary of State under s32 of the Housing Act 1985. The General Housing Consents covers situations where the consent of the Secretary of State is not required before a local authority disposes of council housing land and assets.

A3.1.1 A local authority may, subject to paragraph 3.1.2, dispose of land for a consideration equal to its market value.

The Council will also seek to rely on the s123 Local Government Act 1972 when granting the underlease to the Suppliers. Pursuant to the Act, the Council may dispose of land held by them in any manner they wish. However, it cannot dispose of land “for a consideration less than the best that can reasonably be obtained” unless the consent of the Secretary of State is sought. Since the lease term is over seven years, the Council cannot rely on the short term tenancy exemption under Section 123 (2).

It is noted that the overall approach to core rent levels has been outlined as part of the tender exercise in compliance with Public Contract regulations 2015 and has largely been driven by the overall benefit levels in the local area. In addition, the disposal of the under leases to the Supplier will facilitate the performance of the services contract.

The leases for each property will be contracted out of the security of tenure provisions (Section 24-28) of the Landlord and Tenant Act Part (ii). Therefore, the Suppliers will not have the automatic right to renew and will not be entitled to remain in the property at the end of the term. The lease will be coterminous with the service contract and also include a mutual mid-year termination provision.

The proposals in this report are thus compliant with the aforementioned powers.

FINANCIAL IMPLICATIONS AND RISKS

Seven properties have been earmarked for the Shared Housing Scheme. During the 10 years of the contract, the council will receive income of £1,328m. This sum will be paid over to the property owners for the lease of their properties, with £855k going to the private landlords and the remaining £473k paid to the HRA-

Under current stamp duty land tax regulations, there will be an additional tax liability that the council will have to pay of £33,630. This relates to the 3 properties that are being leased from private landlords. Funding is being sort to cover this cost.

In the event that a room remains void for over 2 weeks, the council has agreed to cover the rent payable to the private landlord in accordance with the Head Lease. The Assistant Director of Supported Housing has made a budget provision for this scenario.

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HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The proposal to either lease or sublease properties for this service does not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants. socio-economics, respectively.

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HEALTH AND WELLBEING IMPLICATIONS AND RISKS

This service has been specifically designed for residents with certain health and wellbeing needs. Many clients will have drug, alcohol or mental health conditions. The service specification will enable a service provider to obtain enhanced housing benefit payments to provide the various elements of intensive housing management and support to residents living in the accommodation included within the scheme. The service specification includes requirements to provide a range of activities to facilitate tenancy sustainment. The proposal to lease/sublease these properties will enable the new supplier to deliver the service.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The contract award identified aspects to environment and climate change. There are some elements in the service specification where the supplier is required to provide information and advice to residents. Examples include:-

- Effective energy management
- Recycling
- Healthy eating and household management

This proposal will enable the service to operate following the leasing/subleasing of properties to be included in the scheme

BACKGROUND PAPERS

Contract Award decision report – 17th October 2022

APPENDICES

Appendix 1	List of Properties	<i>Exempt</i>
Appendix 2(a)	Heads of Terms	<i>Open</i>
Appendix (b)	Heads of Terms	<i>Open</i>

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed



Name: Patrick Odling-Smee

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date: 17/11/22

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____