

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 2 & 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to information, *which* is likely to reveal the identity of an individual and information relating to the financial or business affairs of any particular person (including the authority holding that information) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Notice to Terminate the Voids Guarantee at the property mentioned in Appendix A
Decision Maker:	Mark Butler, Assistant Director of Regeneration and Place Shaping
Cabinet Member:	Councillor Paul McGeary, Cabinet Member for Housing and Property
ELT Lead:	Neil Stubbings, Strategic Director of Place
Report Author and contact details:	Laura Wheatley, Portfolio Manager Live Well & Age well Laura.wheatley@havering.gov.uk
Policy context:	The Council has a duty under the Care Act 2014 to shape the social care market to ensure service provisions are sustainable.
Financial summary:	The termination of the Voids Guarantee at the property mentioned in Appendix A under clause 2(7)c of the Lease will not result in any direct financial costs to the Council during the notice period or upon completion of the termination. However, following the expiry of the Voids Guarantee, the tenant may remain entitled to request void payments in

Non-key Executive Decision

	accordance with the Lease provisions, should any future circumstances arise that meet the criteria for payment. This arrangement ensures that while the Council's ongoing liability for voids will cease, contractual obligations concerning tenant entitlements are preserved.
Relevant Overview & Scrutiny Sub Committee:	Places Overview & Scrutiny Board
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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

People - Supporting our residents to stay safe and well

Place - A great place to live, work and enjoy

X

Resources - Enabling a resident-focused and resilient Council

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION
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Non-key Executive Decision

This decision paper seeks approval to serve a Voids Termination Notice (Notice) under clause 2(7)c of the head lease in respect of the Supported Living Unit at the property mentioned in Appendix A.

The Notice will terminate the Council's obligation to pay void payments for this unit and bring the financial and operational management of the property into alignment with other supported living schemes in the Borough.

The recommended action is for the property officer to exercise their delegated powers to instruct legal services to prepare and serve the Notice.

AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution Part 3.3 Scheme 3.3.5 (2 April 2024 - current)

8.1 To be the Council's designated corporate property officer, responsible for the strategic management of the Council's property portfolio, including corporate strategy and asset management, procurement of property and property services, planned and preventative maintenance programmes, property allocation, security and use, reviews, acquisitions and disposals, and commercial estate management

STATEMENT OF THE REASONS FOR THE DECISION

Background

The property mentioned in Appendix A forms part of the wider site known as The Grange, which comprises both a care home and a supported living unit. These properties are subject to a head lease dated 23 October 2007 between the Council and Cygnet Housing Association Ltd, now known as Swan (London) Housing Association Limited (Lease). The Lease commenced on 23 October 2007 for a term of 40 years and is contracted out of security of tenure.

In addition to the Lease, there is an ancillary document the Articles of Agreement, which, along with the Lease, governs the management of voids and the operation of the property.

Under clause 2(7)b (iii) of the Lease, the Council is obligated to pay the Bed Price Payment associated with a bed within the care home and/or supported living unit in the event of a Short-Term or Long-Term Void ("Voids Guarantee"). However, clause 2(7)c enables the Council to serve a Notice if it is unable to replace Service Users and determines it is no longer agreeable to providing the Voids Guarantee.

Reasons for Serving Voids Termination Notice

The Council proposes to serve notice to terminate the Voids Guarantee for the Supported Living Unit at the property mentioned in Appendix A under clause 2(7)c of the Lease, based on the following rationale:

1. Inability to Replace Service Users

All potential service users for supported living placements have their needs assessed comprehensively under the Care Act 2014 by qualified social workers. Following assessment, a personalised support plan is developed, which sets out each individual's care and accommodation requirements and makes recommendations regarding the type of placement required to meet their needs.

Non-key Executive Decision

In the context of supported living at the property mentioned in Appendix A, each service user holds an individual tenancy, making the property their own home. As the unit operates as a shared house, it is essential that incoming service users are a suitable match with existing residents, both in terms of care needs and social compatibility. This matching process, while necessary to safeguard the wellbeing and stability of all service users, can significantly limit the speed with which voids can be filled. The Council is frequently unable to source a suitable replacement service user within a timeframe that would prevent voids accruing, especially given the complex needs and preferences involved in supported living placements.

2. Precedent and Financial Protocols

The Council does not pay for voids in any other supported living schemes. In line with standard practice, payments for care services are based strictly on the assessed care needs of each individual. The Council does not pay management costs in such arrangements, as rent and tenancy-related expenses are met by the service users themselves via housing benefit entitlement. The current arrangement at the property mentioned in Appendix A, which obliges the Council to pay for voids irrespective of occupancy, is therefore both anomalous and financially unsustainable when compared to other supported living models operated within the Borough.

The Articles of Agreement and Lease do not provide any provisions to support the Council in reclaiming or avoiding liability for accrued voids. As such, the Council cannot rely on any existing contractual mechanisms within these documents to mitigate or eliminate its ongoing exposure to void payments.

3. Long-Term Sustainability

The continued payment of voids, especially in a setting where timely matching and placement of service users cannot be guaranteed, exposes the Council to ongoing financial risk. Serving a Voids Termination Notice will bring the property mentioned in Appendix A into alignment with all other supported living arrangements, whereby funding is linked to care needs and tenancy costs are met directly by service users through housing benefit.

Recommendation

It is recommended that the Council exercise its right under clause 2(7)c of the Lease to serve a Notice in respect of the Supported Living Unit at the property mentioned in Appendix A, Romford.

This action will:

- Cease the Council's liability for void payments on expiry of three months from the date of the notice ("Voids Termination Date") as defined in the Lease at Appendix A.
- Align financial practice with all other supported living schemes within the borough.
- Ensure future management of the unit is consistent with best practice and statutory requirements under the Care Act 2014.
- Enable the tenant to operate the Supported Living Unit under the permitted user clause (Supported Housing) as defined by the Lease.

Approval is sought to proceed with the serving of the Notice accordingly.

OTHER OPTIONS CONSIDERED AND REJECTED

Non-key Executive Decision

In reaching this recommendation, a number of alternative options were thoroughly considered but ultimately discounted for the following reasons:

Maintaining the Existing Voids Guarantee: Continuing to pay for voids under the current arrangement was considered but deemed unsustainable due to the ongoing financial liability incurred by the Council, particularly as this practice is out of step with all other supported living schemes in the borough. It would perpetuate an anomalous situation and expose the Council to unjustifiable long-term costs.

Attempting to Renegotiate the Lease: The potential to renegotiate the terms of the Lease with the tenant was explored but abandoned, as the tenant would likely want some form of incentive to renegotiate. Furthermore, entering into a protracted negotiation process would not guarantee a more favourable outcome for the Council and could delay much-needed alignment with established financial protocols.

Accelerating Placement Efforts: Efforts to expedite the matching and placement of suitable service users were reviewed. However, the unique requirements of supported living—particularly with regard to safeguarding and compatibility—fundamentally limit the speed at which voids can be filled. Therefore, this option alone was considered insufficient to address the ongoing accrual of voids.

Absorbing Void Costs as a Management Charge: The option of reclassifying void payments as a management or administrative charge was considered. This approach was discounted as it does not reflect the Council's established funding principles for supported living, nor does it provide a sustainable or equitable solution in comparison with other schemes.

After considering these alternatives, serving a Voids Termination Notice under clause 2(7)c remains the most appropriate and fiscally responsible course of action for the Council.

PRE-DECISION CONSULTATION

None

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

Name: Laura Wheatley

Designation: Portfolio Manager Live Well & Age Well

Signature:



Date: 16/09/2025

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The report seeks approval to serve the Notice pursuant to 2(7) c of the Lease. It is understood from review of the Lease terms that the only legal way to absolve the Council of the legal obligations to pay the voids guarantee would be to serve the Notice and bring this obligation to an end. If the Council do not determine this obligation by way of Notice and cease payments, it runs the risk of being in breach of contract and thereafter susceptible to a debt claim which has little to no basis for contention. It should be noted that there is no legal obligation to show that the Council cannot supply occupants and it is sufficient to serve Notice.

There is a general duty to ensure effective utilisation of local government resources. The reduction in financial liability in the above regard would equate to an effective utilisation as it minimises the financial liability associated with having to cover the costs of not utilising the bed space.

The Council has a general power of competence under Section 1 of the Localism Act 2011, which gives the power to do anything an individual can do, subject to any statutory constraints on the Council's powers. The recommendation in this report is in keeping with the aforementioned powers.

FINANCIAL IMPLICATIONS AND RISKS

This decision paper seeks approval to serve a Voids Termination Notice under clause 2(7)c of the head lease for the Supported Living Unit listed in Appendix A. There are no direct financial implications from amending the lease, and the change will align this provider with other supported living schemes in the Borough. Terminating the voids obligation will reduce future costs from materialising as a result of voids for the Council.

The lease is with the landlord, who receives rent directly from tenants through Housing Benefit, while the care and support services are delivered under a separate contract by a different provider. The Council does not pay any rent to the Landlord. If the voids guarantee is terminated and a unit remains unoccupied, the landlord may lose income. While no payments have historically been made for voids, there is a risk the landlord may seek compensation or renegotiate terms.

It is unclear whether exclusive nomination rights will be retained. If lost, there may be operational risks around tenant matching and placement, although there is capacity in the supported living market that should mitigate this. Legal advice has not indicated that nomination rights will be affected

There is a potential risk of a retrospective claim for voids incurred prior to the Notice being served. Any such claim would need to be reasonable and evidence-based, and this is not expected to be material but cannot be quantified at this time.

Non-key Executive Decision

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

The recommendations made in this report do not give rise to any identifiable human resources implications or risks.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Havering has a diverse community made up of many different groups and individuals. The council values diversity and believes it essential to understand and include the different contributions, perspectives and experience that people from different backgrounds bring.

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, gender, race and 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.

The Council seeks to ensure equality, inclusion, and dignity for all, in all situations. An EqHIA (Equality and Health Impact Assessment) is usually carried out and on this occasion, this is not required.

There are no equalities and social inclusion implications and risks associated with this decision.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The recommendations made in this report do not give rise to any identifiable environmental implications or risks.

HEALTH & WELLBEING IMPLICATIONS AND RISKS

The removal of void agreement will not have direct health and wellbeing impacts as no resident was staying and the void was hard to fill. Indirect benefit could come from the reduction in the opportunity cost by investing in other areas that improve health outcomes.

Non-key Executive Decision

BACKGROUND PAPERS

None

APPENDICES

Appendix A - Lease Agreement - Exempt

Non-key Executive Decision

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:

Mark Butler

Head of Service title

Assistant Director of Regeneration & Place Shaping

Date:

6th October 2025

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 _____