

<b>Subject:</b>	<b>Nomination Agreements</b>		
<b>Date of Meeting:</b>	<b>13<sup>th</sup> November 2013</b>		
<b>Report of:</b>	<b>Executive Director – Environment, Development &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Martin McCurdy</b>	<b>Tel:</b> 293786
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<b>Key Decision:</b>	No	Forward Plan No.	
<b>Wards Affected:</b>	All		

### FOR GENERAL RELEASE/ EXEMPTIONS.

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The purpose of this report is to seek a general delegated authority for the Executive Director – Environment, Development & Housing to enter into Nomination Agreements with Registered Providers (RP) for the purposes of providing accommodation for service users who may also need support.
- 1.2 Temporary Accommodation (TA) has a large leasing programme, which is a mix of general needs accommodation and a number of supported housing projects. Some of the existing accommodation provides homes for clients nominated through the Community Mental Health Team and other service users who have high care and support needs.
- 1.3 On-going demand for accommodation with or without support has implications for the council's budgets in terms of the liability for the lease, rent costs and where applicable for the management and support costs. It is unclear how the Government will treat TA following the implementation of the Welfare Reform programme through universal credit. However, Housing Benefit (HB) rates have been frozen since 2010 and funding which covers support is under pressure as part of the budget cuts to local authorities.
- 1.4 RPs have developed an alternative model. Under this model the RP provides and manages accommodation whilst the Local Authority (LA) nominates the tenant to the RP. This is an alternative to the LA leasing the accommodation directly and in the case of supported accommodation, to the LA also providing housing support.
- 1.5 This alternative model qualifies for a different rate of HB that will cover both the reasonable costs of the accommodation and (where appropriate) a substantial proportion of the cost of housing management and support.

- 1.6 Under this alternative model the LA will enter into a Nomination Agreement with the RP. If the LA fails to nominate a suitable household within an agreed timescale they will be liable for the subsequent rent loss.
- 1.7 The maximum time period for an individual Nomination Agreement is subject to further consideration so as to balance the need of the RP for certainty in order to finance the scheme with the need to limit the potential financial exposure of the Council in the event of future benefit changes. The financial implications for each individual Nomination Agreement will be assessed and approved by the Executive Director Finance to ensure there is no undue exposure.

## **2. RECOMMENDATIONS:**

- 2.1 That Housing Committee resolve that the Executive Director Environment, Development and Housing be authorised to enter into Nomination Agreements with Registered Providers on the basis set out in this report, subject to the approval of the terms of the individual Nomination Agreements by the Executive Director Finance and Resources to confirm value for money.

## **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The previous strategy for the procurement of accommodation for those in housing need was fragmented and dealt with by individual departments of the council. The department would place the service user in bed and breakfast accommodation at a high cost and would often not collect the housing benefit.
- 3.2 In 2004/5 the Housing Department agreed to procure this accommodation on behalf of all other departments of the council. Details of this service are set out under a Service Level Agreement (SLA) with the relevant departments. This best practice has helped to achieve best value, reduced the cost of procurement and administration and assisted in maximizing housing benefit income. The approach is in line with the commissioning strategies for Children's Services, mental health and learning disabilities.
- 3.3 In the light of the welfare reforms and the budget cuts being levied on the council for the foreseeable future, we are seeking to develop alternative models of provision to secure sufficient accommodation that is a cost effective option for the council. The alternative model proposed in this report covers the provision of both general needs type accommodation and supported accommodation.

- 3.4 Current TA rent levels are subject to a restricted rate of HB that has been frozen for some time. Where support is provided through floating support or on-site support, this is funded separately either by the council or by the Clinical Commissioning Group (CCG). Budget reductions and benefit reforms have led organisations to consider alternative models of delivery.
- 3.5 The alternative model is being developed by Registered Providers (RP) who will procure and manage accommodation, including providing support where applicable, on behalf of the local authority. In return the local authority will enter into a nomination agreement with the RP. This guarantees that the RP has tenants and hence rental income. However, if the LA fails to nominate service users within an agreed timescale then the LA will be liable to pay the rental loss for the period the property is empty.
- 3.6 The RP is able to claim a different rate of Housing Benefit than that which the LA can claim through the current TA leasing scheme. The HB is locally determined and (subject to the reasonableness of the tenants 'total eligible rent') is uncapped and currently paid direct to the RP. This reduces the financial risks to the LA of acquiring leases in the future where the amount we have to pay to acquire leases may rise substantially, while in contrast the rate of HB has remained static and in the future may fall with the result that rental income may not cover the costs incurred in acquiring a property.
- 3.7 Where the RP provides supported accommodation, this is currently excluded from universal credit. The 'total eligible rent' will cover both the reasonable cost of the accommodation, the additional management and the support. This model can significantly reduce the financial pressure on the local authority as we currently pay for these costs separately. If the additional management and support costs are incorporated (or an element of them) into the rate of HB, then this would mitigate the financial risks on the council. The only downside of this is that in cases where the Council becomes liable for voids, the amount to be paid to the RP will be higher, as it will include the management and support costs as well as the rent. However, as set out below, we consider the risk of the council becoming liable for voids to be minimal.
- 3.8 Under the term of the nominations agreement the council will nominate appropriate service users to the RP. Should the council not nominate a service user within an agreed timescale the council will be responsible for the void cost until they can nominate a suitable service user. The RP will directly or through appointed agents manage the property and the tenancy. The precise terms of the arrangement will be negotiated with individual RPs.
- 3.9 The process for selecting suitable RP's with whom to negotiate nomination agreements will follow the same process already established for commissioning as follows:
- An assessment of each service/contract against the Homeless Strategy or in the case of support provision, the Supporting People Strategy review

criteria to include: strategic relevance; quality; performance; value for money; outcomes; contribution to local priorities

- Extensive consultation with providers, commissioners and stakeholders on local priorities / needs for housing-related support services in the city
- Maximising all opportunities to deliver the same outcomes for service users by re-configuring and integrating services/contracts to maximise the social return on investment (e.g. merging contracts to deliver more flexible/responsive services to better meet service user support needs and delivering a pathway of services to promote independence such as maximising access to work / learning / training opportunities)

### **The Model**

- 3.9 The RP would purchase the properties or lease them directly from the freehold owner or superior leaseholder and will manage the accommodation. The service user will be the tenant of the RP not of the council. The RP will collect the rent/HB which will pay for the lease or purchase costs and for the management. The council would have a Nomination Agreement with RP and under its terms will nominate suitable service users to the RP. In cases where additional management and support is required by the service user, this will be provided by the RP either directly or contracted with a 3<sup>rd</sup> party.
- 3.10 Under the Nomination Agreement the council will be financially liable for the rent loss if we are not able to nominate a service user within an agreed timescale. This is a minimal risk given the projected levels of demand and is not dissimilar to current risks where we lease properties.
- 3.11 Where additional management and support is also to be provided, the Nomination Agreement would include a service specification setting out the level of care and support required by the service users and the service monitoring arrangements. The RP would provide the additional management and support to the service user or would sub-contract with a 3<sup>rd</sup> party to provide this support.

### **Demand**

- 3.12 Demand for accommodation for households becoming homeless and who also have a support need, is projected to increase.
- 3.13 1 in 5 of the population in the City has a support need, this is the highest figure in the South East. Population generally is projected to increase, which is exacerbated by the increase in student population. This increasing demand on a fairly stable supply of properties is pushing up the costs of accommodation. In contrast HB for TA has been frozen for several years. This means that there is the potential of a growing gap between what we have to pay to procure accommodation and the amount of rent we can charge tenants to pay for it. By developing this model, the RP can claim a

different rate of HB based on reasonable costs in the locality which are determined locally. This model will therefore mitigate the impact of frozen HB costs, welfare reforms and budget cuts.

#### 4. **CONSULTATION**

4.1 None

#### 5. **FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The 2013/14 gross budget for Temporary Accommodation to provide all types of accommodation with housing management is £16.097million which is offset by a budgeted income of £14.847million, mainly from Housing Benefits. This budget is expected to provide just under 1,500 rooms/properties throughout 2013/14.

By entering into Nomination agreements, the financial risks to the council from shortfalls in collection of Housing Benefits are mitigated by passing this to the Register Provider(s). However, the council will be liable for paying for rent loss to the Register Provider(s) if the council doesn't nominate a client within an agreed time and will need to be managed by the Temporary Accommodation team to contain these void costs.

A new Temporary Accommodation Framework is currently being developed to ensure value for money and contracts will be subject to individual negotiations and approval.

Finance Officer Consulted: Neil J Smith

Date: 29/10/13

##### Legal Implications:

###### Housing

- 5.2 Local authorities have a statutory responsibility to secure accommodation for eligible homeless applicants who are in priority need and not intentionally homeless. In securing accommodation for these housing applicants, local authorities are required by the Housing Act 1996 (the Act) to work in partnership with Registered Providers of accommodation.

In particular, section 170 of the Act provides that where a local housing authority so requests, [a private registered provider of social housing of] a registered social landlord shall co-operate to such extent as is reasonable in

the circumstances in offering accommodation to [people with priority under the local authority's allocation scheme].

Section 213 of the Act also provides that:

(1) Where a local housing authority—

(a) request another relevant housing authority or body, in England, Wales or Scotland, to assist them in the discharge of their functions under this Part, or  
(b) request a social services authority, in England, Wales or Scotland, to exercise any of their functions in relation to a case which the local housing authority are dealing with under this Part, the authority or body to whom the request is made shall co-operate in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.

In subsection (2) (1) (a) a relevant housing authority or body” means -

(a) in relation to England and Wales, a local housing authority, a new town corporation, a registered social landlord or a housing action trust;

The Regulatory Framework for Social Housing from 2012 published by the Home and Community Agency (HCA) also require Registered Providers to co-operate with local authorities' strategic function and their duties to meet identified housing needs. This includes assistance with local authorities' homeless duties, and through meeting obligations in nomination agreements.

Registered Providers of social housing therefore have a mandatory statutory and regulatory obligation to assist local authorities in the discharge of their duties under Part VII of the Housing Act 1996. This obligation is recognised and adopted by the HCA and the Government and forms a major part of the Government's "building a sustainable community" programme throughout the country.

## Procurement

The Public Contract Regulations 2006 (the 2006 Regulations) do not apply to the acquisition of rights in or over land, including nomination rights (which constitute an equitable interest in land for the purposes of the Law of Property Act 1925).

The process outlined will ensure that the Council complies with its legal obligations in terms of securing best value in the nomination agreements it enters into.

Where a proposed nomination agreement includes provision for housing management and/or support services, those services are classified as Part B services for the purposes of the 2006 Regulations and the EU Directive.

Part B services are currently subject to a 'light touch' procurement regime, which requires a process that is fair, transparent and non-discriminatory. It is considered that the process outlined above satisfies these requirements.

Lawyer consulted: Jill Whittaker

23<sup>rd</sup> October 2013

Equalities Implications:

- 5.3 The proposal to enter into nomination agreements will enable us to provide more settled and accessible accommodation which will reduce inequality for vulnerable people in the city.

Sustainability Implications:

- 5.4 This proposal will support the commissioning of accommodation locally and working in partnership with the private sector and registered providers to provide good quality accommodation to meet the corporate needs of the Council. This will enable people to become settled and for accommodation to be scattered around the city thereby contributing to mixed and sustainable communities.

Crime & Disorder Implications:

- 5.5 None.

Risk & Opportunity Management Implications:

- 5.6 The proposal will contribute to the council's strategic priorities of obtaining better use of public money and contribute towards reducing inequality by providing good quality accommodation suitable for meeting households' needs.

Corporate / Citywide Implications:

- 5.7 This proposal will expand the accommodation available to households as we will be working in partnership with the registered providers and with private sector, which is the largest sector of accommodation in the city, to provide long term housing solutions for the most vulnerable households.

## **6. REASONS FOR REPORT RECOMMENDATIONS**

- 6.1 The recommendations have been made so as to offer a new model of provision of accommodation with or without support with minimal financial risk to the council. This alternative model will ensure we obtain value for money as it will incur a minimal cost to the council and where appropriate a large proportion of the additional management and support costs will be covered by HB thereby mitigating potential pressure on other budgets.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

None

#### **Documents In Members' Rooms:**

None.

#### **Background Documents:**

None.