



Executive

Monday 16 July 2012 at 7.00 pm

Committee Rooms 1, 2 and 3, Brent Town Hall, Forty Lane, Wembley, HA9 9HD

Membership:

Lead Member Councillors:

Portfolio

Butt (Chair)	Leader/Lead Member for Corporate Strategy & Policy Co-ordination
R Moher (Vice-Chair)	Deputy Leader/Lead Member for Finance and Corporate Resources
Arnold	Lead Member for Children and Families
Beswick	Lead Member for Crime and Public Safety
Crane	Lead Member for Regeneration and Major Projects
Hirani	Lead Member for Adults and Health
Jones	Lead Member for Customers and Citizens
Long	Lead Member for Housing
J Moher	Lead Member for Highways and Transportation
Powney	Lead Member for Environment and Neighbourhoods

For further information contact: Anne Reid, Principal Democratic Services Officer
020 8937 1359, anne.reid@brent.gov.uk

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The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members.

Item **Page**

1 Declarations of personal and prejudicial interests

Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

2 Minutes of the previous meeting 1 - 6

3 Matters arising

4 Deputations (if any)

Environment and Neighbourhood Services reports

5 Parking contract - West London collaboration 7 - 16

This report sets out current plans for re-tendering of Brent's contracts for parking enforcement and notice processing via Cross Borough procurement. The report provides an update on the collaborative working to date and seeks approval for the procurement arrangements.

Ward Affected:
All Wards

Lead Member: Councillor J Moher
Contact Officer: David Furse, Procurement
Tel: 020 8937 1170 david.furse@brent.gov.uk

Regeneration and Major Projects reports

6 Wembley Area Action Plan 17 - 28

Having considered responses to consultation on the Wembley Area Action Plan Issues and Options document in September last year, it is now proposed to consult on the Council's Preferred Options. This is effectively a draft new Development Plan for Wembley. This report provides a summary of the main consultation responses, explains the contents of the draft Plan and recommends that this is made available for public consultation for 8 weeks commencing on August 13th.
(Appendix circulated separately)

Ward Affected:
Barnhill;
Preston;

Lead Member: Councillor Crane
Contact Officer: Ken Hullock, Policy and Research Team

Stonebridge;
Tokyngton;
Wembley
Central

Tel: 020 8937 5309 ken.hullock@brent.gov.uk

7 Tenancy strategy

29 - 74

This report sets out final proposals for the Tenancy Strategy and seeks approval from members for the policies that will form the content of the strategy document.

(Appendix circulated separately)

Ward Affected:

All Wards

Lead Member: Councillor Long

Contact Officer: Perry Singh, Housing
Needs/Private Sector

Tel: 020 8937 2332 perry.singh@brent.gov.uk

8 Future arrangements for the ownership and management of the council's housing stock

75 - 160

This report follows on from the decisions made by the Executive in July 2011 regarding the future ownership and management arrangements of Brent's housing stock. This report sets out the outcomes of the consultation process and makes recommendations about the future of Brent Housing Partnership in the light of consultation, summarises the findings of reviews and makes recommendations accordingly. Finally the report considers the next steps to be undertaken in the ongoing review of the management arrangements of the Council's housing stock.

Ward Affected:

All Wards

Lead Member: Councillor Long

Contact Officer: Andrew Donald, Director of
Regeneration and Major Projects

Tel: 020 8937 1049

andrew.donald@brent.gov.uk

9 Right to Buy: re-investing receipts in new affordable rented homes

161 -
176

This report sets out the proposed approach to be taken in response to changes to the Right to Buy (RTB) implemented with effect from 2nd April 2012 and in particular the new rules on reinvestment of the proceeds of RTB sales, which are intended to support one-for-one replacement of all homes sold.

Ward Affected:

All Wards

Lead Member: Councillor Long

Contact Officer: Eamonn McCarroll, Strategic
Finance

Tel: 020 8937 2468

eamonn.mccarroll@brent.gov.uk

Central Reports

- 10 Budget strategy update** 177 -
190

This report sets out the financial prospects for the Council for the next three years. It seeks Executive approval for the overall budget strategy based on the One Council Programme and the delivery of the Borough Plan.

Ward Affected: All Wards
Lead Member: Councillor R Moher
Contact Officer: Mick Bowden, Deputy Director of Finance
Tel: 020 8937 1460 mick.bowden@brent.gov.uk

- 11 Performance and Finance review 2011/12 Quarter 4** 191 -
196

The purpose of this report is to provide Members with a corporate overview of Finance and Performance information to support informed decision-making and manage performance effectively.
(Appendices circulated separately)

Ward Affected: All Wards
Lead Member: Councillor Butt
Contact Officer: Clive Heaphy, Director of Finance and Corporate Services, Phil Newby, Director of Strategy, Partnerships and Improvement
Tel: 020 8937 1424, Tel: 020 8937 1032
clive.heaphy@brent.gov.uk,
phil.newby@brent.gov.uk

- 12 National Non Domestic Rate relief** 197 -
208

The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NNDR) liability in whole or in part on the grounds of hardship. This report includes applications received for discretionary rate relief since the Executive Committee last considered such applications in April 2012. In addition 2 applications for hardship relief have been received.

Ward Affected: All Wards
Lead Member: Councillor R Moher
Contact Officer: Richard Vallis, Revenue and Benefits
Tel: 020 8937 1503 richard.vallis@brent.gov.uk

Children and Families reports - none

Adult and Social Care reports - none

13 Any Other Urgent Business

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.

14 Reference of item considered by Call in Overview and Scrutiny Committee - none

15 Exclusion of Press and Public

The following items are not for publication as they relate to the following category of exempt information as specified in the Local Government Act 1972 namely:

Information relating to the financial or business affairs of any particular person (other than the authority).

Appendices:

- National Non Domestic Rates (Item 12)

(report above refer)

Date of the next meeting: Monday 20 August 2012



- Please remember to **SWITCH OFF** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public.
 - Toilets are available on the second floor.
 - Catering facilities can be found on the first floor near The Paul Daisley Hall.
 - A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

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LONDON BOROUGH OF BRENT

MINUTES OF THE EXECUTIVE Monday 18 June 2012 at 7.00 pm

PRESENT: Councillor Butt (Chair), Councillor R Moher (Vice-Chair) and Councillors Arnold, Beswick, Crane, Hirani, Jones, Long, J Moher and Powney

Also present: Councillors Al-Ebadi, Cheese, Chohan and Hashmi

1. **Declarations of personal and prejudicial interests**

None made.

2. **Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 21 May 2012 be approved as an accurate record of the meeting.

3. **Matters arising**

None.

4. **Procurement of a WLA Home Support Framework**

Councillor Hirani (Lead Member, Adults and Health) introduced the joint report from the Directors of Adults and Health and Children and Families which sought authority to invite tenders for a Home Support Framework Agreement as required by Contract Standing Orders 88 and 89. Brent was proposing to act as the lead authority on behalf of the West London Alliance (WLA) and other participating local authorities and health partners. Councillor Hirani drew members' attention to the detail of the framework agreement including the identified areas for improvement which would be addressed for the next agreement. It was proposed to establish the framework agreement by 1 February 2014 and all boroughs have indicated the intention to purchase one or more of their homecare via the framework agreement if possible.

RESOLVED:-

- (i) that approval be given to the pre-tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 3.16 of the report from the Directors of Adult Social Services and Children and Families;

- (ii) that approval be given for officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in (i) above.

5. Cross Borough Procurement of Leisure Services at Vale Farm

The report from the Director of Environment and Neighbourhood Services set out the progress on the cross borough (Ealing, Harrow and Brent) procurement for leisure services, including Vale Farm Sports Centre and sought Executive approval to the tender evaluation criteria and governance model. Councillor Powney stated that the boroughs were coming together to get the best possible price for the service whilst maintaining quality and service standards through a collaborative procurement exercise. The Executive would be asked to make the final contract award decision later in 2012 for mobilisation in Brent in November 2013.

RESOLVED:-

- (i) that approval be given to the tender evaluation criteria set out in paragraph 3.28 of the report from the Director of Environment and Neighbourhood Services for the collaborative procurement delivering a contract for leisure services at Vale Farm Sports Centre;
- (ii) that the high level governance and shared service models set out in paragraphs 3.31-3.36 of the Director's report be noted.

6. The Weekly Collection Support Scheme

Councillor Powney (Lead Member, Highways and Transportation) advised that the Weekly Collection Support Scheme was a government challenge fund designed to support local authorities to introduce, retain or reinstate a weekly collection of residual waste and/or recycling. The report from the Director of Environment and Neighbourhood Services explained the Brent context, described a bid that had been submitted by officers and sought members' agreement to the submission of a full bid and acceptance of any grant offered. Councillor Powney explained that two options were being considered namely the introduction of a new food waste collection service from suitable flats and the annual distribution of food caddy liners for street level properties.

RESOLVED:-

- (i) that the purpose of the Weekly Collection Support Scheme be noted;
- (ii) that the outline bid submitted by officers be endorsed and officers proceed to the submission of a full bid;
- (iii) that it be agreed that should an offer of grant be made, that the council should accept it;
- (iv) that it be noted that this will commit the council to continuing the services funded by the bid for a period of five years in total (ie two years beyond the funding provided by the bid).

7. Community Infrastructure Levy

Government legislative changes mean the Community Infrastructure Levy (CIL) would replace S106 planning obligations as the vehicle for funding the infrastructure that supports growth and development. Authorities would collect CIL contributions from developers to pay for the infrastructure needs created by development, with S106 planning obligations restricted in the main to site specific matters. Councillor Crane reminded the Executive that the Draft Charging Schedule was approved in February, but developers had demonstrated that the method used by the council's consultants to calculate proposed commercial CIL rates required adjustment. Officers have completed a thorough review of commercial CIL rates and now recommend changes to some of the rates. These rates would be subject to a further consultation exercise.

RESOLVED:-

- (i) that the revisions to the BNP Paribas Real Estate Community Infrastructure Levy Viability Study (Appendix 1 to the report from the Director of Regeneration and Major Projects) be noted;
- (ii) that agreement be given to the revisions to the proposed Community Infrastructure Levy rates in the Draft Community Infrastructure Levy Charging Schedule (Appendix 2 to the report);
- (iii) that agreement be given to the revisions to the S106 Planning Obligations Supplementary Planning Document (Appendix 3);
- (iv) that ideas and requests for local S106 spend be made by members through the established ward working arrangements, for consideration by officers in liaison with the Lead Member for Regeneration and Major Projects.

8. **Risk management report**

Councillor R Moher (Lead Member, Finance and Corporate Resources) referred members to the Corporate Risk Register which was before them for approval. She reminded members that they had ultimate responsibility for risk management and the register would be approved annually. The register would be considered by the Corporate Management Team and also by the Audit Committee.

RESOLVED

that the content of the Corporate Risk Register be noted together with the risks as described and actions taken.

9. **Authority to award contract to implement an Oracle R12 financial system**

Councillor R Moher (Lead Member, Finance and Corporate Resources) introduced the report which was supplemental to a report presented to the Executive in April 2012 and which authorised the Director of Finance and Corporate Services to award two call-off contracts to Capgemini UK plc to support the implementation of a new Oracle R12 HR/ payroll system. She stated that the current system needed updating, the total Enterprise Resourcing Planning system would not be greatly more expensive and most other local authorities were also running the two systems

together. Clive Heaphy (Director of Finance and Corporate Services) added that the business case would be subject to the rigours of the One Council programme.

In response to questions about potential problems, members were assured that the proposed system was widely in use including in London boroughs and acknowledged that it would need strong project management to be successfully introduced. It was noted that legal action in the USA over patents was on-going.

RESOLVED:

that approval be given to the extension of scope of the call-off contracts to be awarded to Capgemini UK plc to include implementation of a Phase 2 Oracle R12 Financials/Procurement functionality subject to the Director of Finance and Corporate Services in consultation with the Director of Strategy, Partnerships and Improvement being satisfied with the final business case and that the final contract value is in line with the costs estimates in section 3.10 of the report from the Director of Finance and Corporate Services.

10. **Update on WLA Passenger Transport Framework**

The report from the Director of Finance and Corporate Services provided an update to the previous report to the Executive of 23 April 2012 which authorised the award of a Framework Agreement for Passenger Transport Services for Participating Boroughs in the West London Alliance. Councillor R Moher (Lead Member, Finance and Corporate Resources) advised that following representations it was established that a further company did meet the criteria and, following a review of scoring, was now recommended for appointment.

RESOLVED:

that agreement be given to the appointment of an additional supplier, Altwood Property Services, to Lots on the Framework Agreement for Passenger Transport Services as detailed in Appendix 1 of the report from the Director of Legal and Procurement.

11. **Delegated authority to award for newly built Civic Centre Telephony Services Contract**

Councillor R Moher (Lead Member, Finance and Corporate Resources) introduced the report which concerned the future provision of the council's Telephony Services particularly in the light of the forthcoming move the new Civic Centre. The new solution would allow all staff to be able to work flexibly and the successful vendor was expected to invest the necessary equipment to provide services. In view of the timescales the report requested approval of delegated authority to the Director of Finance and Corporate Services to award the Telephony Services contract.

The Executive also had before them an appendix to the report which was not for publication as it contained the following category of exempt information as specified in Schedule 12 of the Local Government (Access to Information Act) 1972:

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

RESOLVED:-

- (i) that the process to be followed for the procurement of a telephony services contract for the newly built civic centre be noted;
- (ii) that the Director of Finance and Corporate Services be authorised in consultation with the Director of Legal and Procurement to award the contract for telephony services following the evaluation of tender submissions in accordance with the approved evaluation criteria referred to in paragraph 3.13 of the report from the Director of Finance and Corporate Services.

12. Any Other Urgent Business


None.

13. Reference of item considered by Call in Overview and Scrutiny Committee

The meeting ended at 7.20 pm

M BUTT
Chair

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	<p style="text-align: center;">Executive 16 July 2012</p> <p style="text-align: center;">Report from the Director of Environment and Neighbourhood Services</p>
<p style="text-align: right;">Wards Affected: [ALL]</p>	
<p style="text-align: center;">Authority to Tender a Collaborative Cross Borough Procurement of Parking Services</p>	

1.0 Summary

- 1.1 This report sets out current plans for re-tendering of Brent's contracts for parking enforcement and notice processing via Cross Borough procurement. The report provides an update on the collaborative working to date and seeks approval for the procurement arrangements.
- 1.2 This report requests approval to invite tenders for the joint contract, as required by Standing Orders 88 and 89.
- 1.3 The Participating Boroughs have given their agreement that this requirement should be tendered by Brent as Lead Borough for this collaborative Procurement.

2.0 Recommendations

- 2.1 That the Executive note the feasibility work completed to date by Brent Council with assistance from the WLA participating members and also the high level governance model proposed.
- 2.2 That the Executive note that a joint contract for parking services will be a Collaborative Procurement run by Brent Council.
- 2.3 That the Executive approve an exemption from Contract Standing Order 89 (Pre-tender Consideration) to allow an advert to be placed and a pre-qualification process to be run without the approval of evaluation criteria, subject to approval of such matters at the September 2012 Executive.
- 2.4 That the Executive approves an exemption from Contract Standing Order 105 for the inclusion of a Best and Final Offers stage during the tender process.
- 2.5 That the Executive give approval to the pre-tender considerations for the proposed

Parking Services contract as set out in section 4 of the report.

- 2.6 That the Executive give approval to officers to invite tenders for a Parking Services contract.

3.0 Detail

- 3.1 In December 2011, the Executive approved the extension of the current parking contract with APCOA Parking Services (UK) Limited to July 2013 to cover the Olympic period so as to ensure business continuity. At the same time, officers advised of the possibility of collaboration with other West London Alliance (WLA) members and sought to explore this possibility.
- 3.2 The WLA have coordinated the collaborative working, initially establishing a Working Group consisting of the Parking Managers for Hillingdon, Hounslow and Ealing as well as a Procurement representative from Brent. Other members of the WLA were invited to participate however Barnet have recently tendered, Harrow are continuing with an in house provision and Hammersmith and Fulham and Westminster chose to focus on Tri Borough working.
 - 3.2.1 The Working Group scoped the variety of services that could potentially be included, collated the various inputs of personnel and equipment across the Parking service to provide a snapshot of the current arrangements across the four Boroughs. A Steering Group, consisting of senior management and/or Director from each of the four Boroughs was also then established and chaired by Brent's Director of Environment and Neighbourhoods.
- 3.3 Seven organisations that can provide a range of parking services and are considered to be market leaders in the Parking industry were selected to participate in soft market testing. The organisations were provided with the collated information, together with a range of questions addressing issues such as benefits of partnering, key areas for savings and potential issues relating to joint working. Soft market testing was undertaken by the Steering Group over two days in the first week of May.
- 3.4 The outcome of the soft market testing was initially mixed with some providers suggesting that there would be little in the way of efficiencies whilst others were very interested in the possibility of winning four contracts in one tender process and the savings this could generate. Further clarification was sought and it was estimated that a saving of 3% could be attributed to collaboration with further savings on purchase of equipment such as the Management Information System. Brent's current contract is in the region of £4.5 million so a potential saving of £135k per annum.

In addition, other synergies exist, such as the possibility of sharing a car pound with one or more WLA member which would reduce not only staffing levels but also fees attributed to rent and maintaining the facilities. Sharing the cost of the procurement exercise as well as sharing best practice across the boroughs is also a key benefit.

- 3.5 The method of packaging the contract was also discussed at the soft market testing and it was the general opinion that a single contract rather than a multi lot contract would offer the greatest economies of scale whilst avoiding the potential difficulties of having two suppliers for a single service. Traditionally Brent have let their parking contracts on a two lot basis, lot one covers the main aspects of parking enforcement with the supply of Civil Enforcement Officers (CEO) for on street operations, CCTV and Moving Traffic. Lot one also covers permit administration, running of the Parking

Shops and the Suspensions Office as well as Pay and Display Level One Maintenance and cash collection.

Lot two predominantly covers back office processing of Penalty Charge Notices (PCNs) and the handling of enquiries at the initial stage of the process and the supply of the Management Information System that supports the entire operation. Although originally tendered as separate lots, both contracts are currently let to the same company, APCOA Parking Services.

- 3.6 Brent currently handles appeals to an Adjudicator and formal representations via its in-house Parking Control Team, which also manages the contracted - out services as client. Officers are currently exploring the wider implications of outsourcing the formal representation part of the service; however advice is to be sought of Legal Services and consideration of the Statutory Guidance issued by the Secretary of State prior to making any formal decision on how to continue this service. Officers will provide further details in the subsequent report to members.
- 3.7 The partner boroughs are seeking their own internal approvals to participate in the process, however their continued participation will rest with their ability to keep to the schedule. Brent has offered to lead the procurement for the project because the time line is critical. The current contracts expire on 3 July 2013 and an additional 12 month extension, in addition to the original maximum term has already been sought to cover the Olympic period. Brent will therefore set out a clear timetable for the participating boroughs to adhere to which will include a minimum 3 month implementation period and if the participating Boroughs are unable to maintain this timetable, they may need to review their participation.

Procurement and tender evaluation

- 3.8 It is the intention to seek approval to tender for the contract in this report. However as there are a number of outstanding issues in relation to TUPE, the specification and the final scope of the contract, it is envisaged that a secondary report addressing these issues will be prepared for the September Executive. As Contract Standing Orders 89 requires the approval of certain pre-tender consideration before the tender process starts, and the evaluation criteria are not yet finalised, an exemption is being sought in relation to this provision of Standing Orders.
- 3.9 Hounslow currently operate both the on street enforcement and back office processes in house, Ealing and Hillingdon operate their back office process in house with an external provider for the on street operations. As a result there are a number of different TUPE scenarios, especially as Brent potentially has no existing council staff liable for transfer if the appeals and representations team remain in house. The TUPE position for each borough will be assessed. A method of tender evaluation will be required to ensure that no one Borough is left in a detrimental position. For this reason a memorandum of understanding or some other form of legally binding document will be prepared for this collaborative procurement.
- 3.10 In addition, the specification and scope of services has yet to be finalised and this may involve the adaptation of enhanced services reliant on technical advances, therefore committing to evaluation criteria at this stage could potentially cause issues later on in the process. The September Executive report will therefore contain details of any technological adaptations and final specification highlights as well as confirmation of the final scope of the contract with recommendations for the evaluation criteria.

- 3.11 Parking services are defined as Part B services under the Public Contract Regulations 2006 however the provision of ICT software, which accounts for only a small percentage of the total estimated cost, is Part A. Where the value of the part B element outweighs the value attributable to the Part A element, then the contract may be treated as a Part B service under the regulations on the basis of aggregation.
- 3.11.1 It is therefore intended to tender as a Part B service to allow for a degree of flexibility in how we manage the procurement process. There will be a two-stage approach with Pre Qualification followed by Invitation to Tender (ITT) for selected providers but with an additional Best And Final Offers (BAFO) stage. It is anticipated that the BAFO stage will seek the top scoring providers overall to review their initial proposals and re-engineer elements in order to drive through the most economical offer to the collaboration. This also requires an exemption from Contract Standing Orders as a departure from standard tendering requirements.
- 3.12 Based on feedback from the market testing, the minimum duration of a contract of this size, to allow for set up costs, pay back of Capital Investment and to be deemed sufficiently attractive to the market would be 5 years. In order to allow for a similar level of reinvestment to be made after the initial five year term, a further five year option is desirable and will ensure up to date equipment and adoption of latest technologies. The five years plus five year option has broad agreement between the participating boroughs; however final confirmation of the contract term will be contained in the September report.

Governance

- 3.13 The Executive report for Cross-Borough Procurement of Cultural Services in January 2012 set out proposals for a Lead Borough Model (weak) in Partnership model. In this model one borough will take the lead and chair all officer meetings.
- 3.14 For the purpose of the procurement, it is proposed to implement a similar model for this procurement and Brent have offered to lead the process with assistance from WLA; Brent will also provide Legal advice. Subject to agreement by all three Councils, each Council will be a party and signatory to the joint contract.
- 3.15 The approach in section 3.13 above has been drafted to allow for each borough's administration to have sovereignty over its strategic decisions for its parking service. Service performance and development would continue to be regularly monitored and discussed with the Lead Members and decisions to be taken to the Executive as required.

4.0 Pre Tender Considerations

- 4.1 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	Parking Enforcement Contract tendered on a single Lot basis with potential bidders invited to submit a BAFO following a negotiation stage. To include IT provision and car pound.

Ref.	Requirement	Response	
(ii)	The estimated value.	Estimated value for Brent of £4.5 million pounds per annum would equate to a maximum value of £45 million over the proposed full 10 year term of the contract. The annual value of the contract if all four Boroughs participated would be £15 million or £150 million over ten years.	
(iii)	The contract term.	The initial contract term will be for five years with a subsequent extension or extensions for up to five years in total.	
(iv)	The tender procedure to be adopted.	A two stage restricted tender process in accordance with the Council's Standing Orders with the exception of an additional BAFO stage.	
v)	The procurement timetable.	<p>Indicative dates are:</p> <p>Adverts placed</p> <p>Expressions of interest returned</p> <p>Executive approval for evaluation criteria</p> <p>Shortlist drawn up in accordance with the Council's approved criteria</p> <p>Invite to tender</p> <p>Deadline for tender submissions</p> <p>Panel evaluation/shortlist for BAFO</p> <p>Negotiation/BAFO</p> <p>Contract decision</p> <p>Report recommending Contract award circulated internally for comment</p> <p>Executive approval</p> <p>Mandatory minimum 10 calendar day standstill period – notification issued to all tenderers and</p>	<p>Early August 2012</p> <p>Mid September 2012</p> <p>19 September 2012</p> <p>October 2012</p> <p>Mid October 2012</p> <p>End of November 2012</p> <p>Mid December 2012</p> <p>Start of January 2013</p> <p>Mid February 2012</p> <p>Late February 2013</p> <p>11 March 2013</p>

Ref.	Requirement	Response
		<p>additional debriefing of unsuccessful tenderers (contracts covered by the full EU Regulations only]</p> <p>Contract start date 4 July 2013</p>
(vi)	The evaluation criteria and process.	<p>Shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines namely the pre-qualification questionnaire and thereby meeting the Council's financial standing requirements, health, safety and environmental standards, technical capacity and technical expertise. Although concessions may be need to be made on the application of the usual financial ratios and assessments as the high value of the contract means that even the biggest providers in the market cannot meet the equivalent turnover requirements, see Financial Implications below.</p> <p>The panel will evaluate the tenders to establish the Most Economic Advantageous Offer but will confirm the agreed evaluation criteria in September.</p> <p>Officers shall seek the approval of the Executive once the collaborative service specification has been finalised.</p>
(vii)	Any business risks associated with entering the contract.	<p>There are numerous risks associated with this procurement process, not least the challenges that collaboration raises and the inclusion of a negotiated stage to the tender process; however with assistance from the WLA and utilising the experience already gained from cross borough working it is not anticipated this will be an issue.</p> <p>Technological advancements in the industry mean that the specification must allow for variations of requirements with the adoption of technology. These risks will be reduced by employing a carefully managed and full procurement process, as set out in this Report and close consultation with Brent's Legal Team.</p>
(viii)	The Council's Best Value duties.	The Council has a duty under Best Value to secure cost-effective and efficient services that meet the needs of the Borough's customers.
(ix)	Any staffing implications, including TUPE and pensions.	<p>There is approximately 120 staff currently deployed by the incumbent Brent provider who may be entitled to TUPE. See section 9 of this report.</p> <p>In addition, there are a further 9 current Brent staff who may be subject to TUPE should the decision be made to include the representations team.</p>
(x)	The relevant	See sections 5, 6, and 7 of this report.

Ref.	Requirement	Response
	financial, legal and other considerations.	

4.2 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

5.0 Financial Implications

5.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 89.

5.2 The estimated value of this services contract is £45 million, this figure is based upon the current annual cost of £4.5 million in direct payments to the contractor, however it is envisaged that the new contracts, with the adaptation of technology, will increase efficiency and drive down the total cost of the service to give the council better value.

5.3 It is anticipated that the cost of this contract will be funded from existing resources.

6.0 Staffing Implications

6.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract at this stage.

7.0 Legal Implications

7.1 The proposed Parking Services contract is a High Value services contract (exceeding £500,000 over the life of the contract) and as such, in accordance with the Council's Contract Standing Orders, the Executive shall be required to review and agree the pre tender considerations in accordance with Contract Standing Order 89 once finalised, so as to enable Officers to invite expressions of interest, shortlist and subsequently invite tenders for the services contracts. Here an exemption is being sought in relation to one of the pre-tender consideration on the basis that evaluation criteria cannot yet be finalised, but will be presented to the Executive in September.

7.2 The services to be provided under the proposed combined IT notice processing and parking enforcement contracts are Part A and Part B services, respectively. Part A services are subject to the full application of the Public Contract Regulations 2006 (as amended) ("the EU Regulations"), whereas Part B services are subject to partial application of the Regulations namely; service requirements must be sufficiently advertised, non-discriminatory provisions shall be included in the technical specification and publication of an award notice. However, Officers are recommending that both elements of the service, which have historically within Brent been advertised as 2 separate Lots, should now be amalgamated and tendered as a single contract. Where a service specified in both Parts A and B are to be provided under a single contract, then the contract shall be treated as a Part B services contract if the value of the consideration attributable to the services specified in Part B is equal to or greater than that attributable to those specified in Part A. For the tender of the parking services contract, Officers have confirmed that the value of the

on street enforcement service (Part B) has a greater value than the IT Notice Processing (Part A), therefore as the service is to be provided under a single contract, it may be advertised as a Part B service contract, for the purposes of the EU Regulations. Although, Officers have confirmed a voluntary advert will be placed in the OJEU, in addition to the requirements of Standing Orders for a Part B contract.

- 7.3 In accordance with EU Regulations selection and award criteria must be notified to all bidders when invited to submit an interest and/or tender. Any sub-criteria and weightings the council proposes for the tender must be contained in the invitation to tender documentation so as to allow tenderers to be in full receipt of the information the council will use to evaluate their submissions. Accordingly, Officers are proposing, with agreement from the participating WLA members, to include an additional stage to the usual Two-Stage Tender Procedure contained in Contract Standing Orders by inviting selected top scoring bidders to negotiation with a view to submitting 'Best and Final Offers' to provide the Parking Services. Ordinarily, a Best and Final Offers stage, under the EU Regulations are reserved for procurements using the Competitive Dialogue procedure that are subject to the full application of the EU Regulations.
- 7.4 Once the final specification and scope of services have been agreed amongst the participating WLA members Officers shall seek the approval of the Executive in relation to the pre-tender considerations, namely the evaluation criteria and process.
- 7.5 Further, in relation to the proposed collaborative procurement governance model, it is currently anticipated that Brent and all participating WLA members will execute a single joint contract with the successful contractor. However, Officers are exploring other governance and procurement methodology models suitable for this collaboration and intend to update Members on the chosen route and governance arrangements in the September Executive report.
- 7.6 In addition, where a decision is made to outsource the in-house Representations team, due regard must be followed in relation to the application or otherwise of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). Where TUPE applies, the affected in-house staff must be consulted on prior to tender, on any proposed changes in the service in accordance with the TUPE regulations.

8.0 Diversity Implications

- 8.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

9.0 Staffing/Accommodation Implications

- 9.1 The parking services under these two contracts are currently provided to the Council by APCOA Parking Services (UK) Limited. If an alternative provider is chosen, this may require staff to transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations, 2006 from the current contractor to a successful contractor.
- 9.2 Brent lease the premises currently used by the enforcement contractor. No charge is made to the contractor for the use of those premises. The lease on those premises, including the car pound, expires in Spring 2013, and it is unlikely that the lease will be renewed. As a result, any potential enforcement contractor will be required to

provide premises from which to operate, together with car pound facilities although it is anticipated that these facilities will be shared with the other Boroughs.

- 9.3 A subsequent report to the Executive seeking authority to award the contracts will advise further on potential staffing and accommodation implications in the future.

10.0 Background Papers

- 11.1 Cross-Borough Procurement of Cultural Services Executive report January 2012.
Parking Contracts Extension executive report December 2011

Contact Officer(s)

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Executive

16 July 2012

Report from the Director of Regeneration and Major Projects

Wards affected:
Wembley Central, Tokyngton, Barnhill,
Preston, Stonebridge

LDF - Wembley Area Action Plan Preferred Options for Public Consultation

1.0 Summary

- 1.1 Having considered responses to consultation on the Wembley Area Action Plan Issues and Options document in September last year, it is now proposed to consult on the Council's Preferred Options. This is effectively a draft new Development Plan for Wembley. This report provides a summary of the main consultation responses, explains the contents of the draft Plan and recommends that this is made available for public consultation for 8 weeks commencing on August 13th.

2.0 Recommendations

- 2.1 That Executive agrees the Preferred Options of the Area Action Plan for public consultation commencing on 13th August.
- 2.2 That the Assistant Director, Planning & Development is authorised to make further editorial changes to the document prior to finally issuing it for public consultation.

3.0 Detail

Introduction

- 3.1 The reasons for producing the Area Action Plan (AAP) derive from the need to bring UDP policy, particularly the Wembley Regeneration Area chapter, first drafted in 2000 and adopted in 2004, up-to-date. It was a commitment made by the Council at the beginning of the LDF process in 2005 and is a logical step in drawing up the folder of Development Plan Documents (DPDs) that will make up the LDF and ultimately supersede the UDP. The AAP also consolidates detailed policy and guidance currently contained in a number of documents, including the Wembley Masterplan 2009, the Wembley link SPD 2011 and the Wembley West End SPD 200.

Current Stage

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Date July 16th 2012

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Date 11/6/12

- 3.3 So far the Council has had a preliminary round of public consultation, in September - November last year, on the planning issues for the Wembley area and on the options for dealing with these.

Summary of Responses at Issues and Options Stage

3.4 Seventeen organisations responded to the consultation in September - November 2011 generating 278 comments. This included bodies such as the GLA, TfL, and the Environment Agency as well as major developers/landowners in the area such as Quintain Estates and Development Ltd and P J Carey Ltd. Responses were received from the following organisations:

- Brent Green Party
- Maddox Associates (on behalf of Solum Regeneration)
- Quintain Estate & Development Plc
- Greater London Authority
- DP9 (on behalf of owners of Kelaty House)
- College of North West London
- Environment Agency
- Friends Families & Traveller Law Reform Project
- PJ Carey Ltd
- Natural England
- Sport England
- Thames Water Plc
- Environment Agency
- Metropolitan Police Authority (Agent CgMs)
- Transport for London
- London Brent Congregation of Jehovah's Witnesses

- 3.5 The detailed responses varied quite considerably, to an extent depending upon what their particular interests are. All of the representations can be viewed on Brent's website at:

http://brent.limehouse.co.uk/portal/waap_io

- 3.5 Some of the key points made in response to the consultation are summarised below:

Urban Design

- Shouldn't be prescriptive about public realm. (Quintain, DP9, College of NWL)
- Produce a tall buildings strategy for the entire Plan area (GLA, Green Party)
- Include a public art strategy in the Plan (All)

Business, Industry and Waste

- De-designate Strategic Industrial Land (SIL) immediately adjacent to key sites identified for regeneration which will include residential or other sensitive uses (GLA, Quintain)
- De-designate substantial part of the SIL to facilitate wider regeneration and environmental improvement (Brent Green Party, DP9, PJ Carey Ltd)
- There was general support for the promotion of low cost affordable workspace (All)

- There was both support for restricting further waste management uses (Brent Green Party, DP9) and for treating proposals on their merits (GLA, Quintain, Environment Agency)
- General support for removing or reducing the Business Park designation.
- General support for allowing purpose-built office development to be converted to residential or other non-commercial uses

Transport

- Minimum road improvements necessary to prevent unacceptable levels of traffic congestion (Brent Green Party, TfL)
- A balance between minimising car use and ensuring that the area is also attractive to those who wish to come by car (Quintain, DP9)
- Restrain car use by applying low maximum standards and direct resources towards improving public transport, walking and cycling (Brent Green Party)
- Seek a balance between the London Plan parking standards, the existing Borough standards and the need to ensure new development is served adequately (Quintain,DP9)
- General support for providing shared surfaces throughout the new urban quarter close to the Stadium

Housing

- General support for accepting Affordable Rent as part of the tenure mix in Wembley
- Designate sites suitable for more family housing in Wembley (Brent Green Party, GLA)
- Leave at Core Strategy target of 25% 3 or more bedrooms (GLA, DP9)
- Set quota or target for Extra Care housing in Wembley (GLA, Quintain)

Town Centres, Shopping, Leisure and Tourism

- Policy to control size and type of units in line with indicative town centre uses across Wembley (Brent Green Party, GLA)
- Policy which allows for take aways and fast food outlets to be located close to the stadium by zoning locations where they are acceptable (GLA)
- General support for encouraging landowners to allow for temporary creative uses using vacant brownfield sites
- A mix of retail uses is important to delivery of a sustainable offer in Wembley; zoning would need to be justified and not overly prescriptive (Quintain)

Social Infrastructure

- Provide a new primary school in the AAP area (all)
- Provide a new central health centre could be provided towards the end of the development period once there is sufficient demand for new provision (all)
- Provide Space for additional GPs could be provided by expanding existing GP practices in the Wembley area (GLA)
- Smaller, specialised community facilities (GLA and Metropolitan Police Authority)
- Provide less new community space but at a subsidised rate to increase affordability (GLA and London Brent Congregation of Jehovah's Witnesses) and funding from development such as S106/CIL and New Homes Bonus could be used to support and expand existing community facilities in Wembley (GLA, Brent Green Party and London Brent Congregation of Jehovah's Witnesses)
- Encourage shared space and multi-faith facilities (all)

Climate Change

- General support for the minimisation of carbon emissions from buildings
- Wembley District Energy Heat Network – support for compelling adjacent sites to connect to one another where feasible (Quintain, Brent Green Party) and require future proofing measures (Brent Green Party, GLA)
- Provide energy from waste by identifying sites appropriate for locating anaerobic digestion plants (all)
- Introduce a new policy to require developers proposing new waste processing facilities to carry out a feasibility study to investigate if heat could be provided to Wembley from biomass or biomass by-products and anaerobic digestion from municipal waste or other sources (all)
- Set a standard for electric car charging points in private car parks eg. one for every 30 cars (Brent Green Party) and identify the locations for electric car recharging units in Wembley (TfL)
- Set a target to increase the proportion of green cover in Wembley, using green space, green roofs and tree planting (all)

Open Space, Sports and Wildlife

- Set a series of additional criteria for the new park (Brent Green Party, Environment Agency) and specify that the new park be located adjacent to Engineers Way, orientated East to West (Greater London Authority, Natural England)
- Set no further requirements regarding the new park other than repeating the quantum of open space required by the Core Strategy (Quintain)
- Support for open space improvements and for new food growing space to be provided in the Wembley area (all)

- Support for improvements to sports facilities in the Wembley area including using S106/CIL and enabling new or upgraded sports facilities available for community use out of school hours (all)
- Support for increasing play provision by providing formal play areas in open spaces along with a more play friendly environment and public spaces (all)
- Support for improving wildlife and people's access to nature

Summary of Contents of Preferred Options

- 3.4 The Vision and objectives for the Plan have been shaped by the Core Strategy and the Wembley Masterplan. There are also key policies in the Core Strategy, particularly policy CP7 dealing with the Wembley Growth Area, which determine what the basic strategy for the area is. This includes targets such as the number of homes to be built (11,500 from 2007 to 2026) of which 50% should be affordable, a target of 10,000 new jobs and a range of new development including expansion of the town centre eastwards. All this is to be supported by new infrastructure including, for example, new schools, new health facilities, new public open space, a new community pool and a new combined heat and power plant if financially viable.

Key Policies

3. The following are a summary of the key policies in the Plan by topic. There are also a number of major site proposals which provide further detailed guidance for developers on individual sites.

Urban Design & Placemaking

- **Character & Urban Form** - Development should seek to reinforce and emphasise the distinctive character of each locality
- **A Legible Wembley** - The council will continue to focus on the three stations as the principle gateways into the Wembley area, whilst the enhancement of nodes around key junctions will be sought
- **Public Art** - Contributions towards public art will be sought from development within the area, particularly at key gateways or where new open spaces are proposed
- **Tall Buildings** - will be acceptable only in a limited number of locations within the Wembley area. These are shown in the Plan. A number of views to the stadium will be protected
- **Olympic Way** - Development must be carefully designed and scaled to respect the predominance of Wembley Stadium and its arch.

Business, Industry & Waste

- **Strategic Industrial Locations (SIL)** - de-designation of relatively small areas of land including on South Way (temp. Stadium car park) and the Euro Car Parts site

- **Wembley Stadium Business Park** - area reduced in size with waste management limited to east of the area
- **Offices** - Purpose-built offices promoted in area close to Wembley Park station

Town Centres, Shopping, Leisure And Tourism

- **Town centre boundary** - defined for area extending from Forty Lane to Ealing Road
- **Sequential approach to development** - is emphasised, with large foodstore directed to High Road location, preferably Brent House site.
- **Large-scale leisure/tourism/cultural development** – is appropriate east of Olympic Way
- **Hot-food takeaways** - No more within 400m of a school entrance and no more than 7% in any stretch of primary or secondary frontage (currently 7% in Wembley as a whole).
- **Vacant sites or buildings** - promoted for occupation by temporary, creative uses.

Transport

- **Improved access** - for public transport, pedestrians and cyclists, particularly along the Wembley Hill Road / Forty Lane corridor.
- **Improved highway access** - for car travel from the North Circular by improving the Stadium Access Corridor (via Great Central Way / South Way) and the Western Access Corridor (via Fifth Way / Fulton Way). Land take required for a number of improvements.
- **Buses** - incrementally provide improved penetration of the masterplan area by buses as development is built out.
- **Car parking** - encourage car parking in locations on the edge of the town centre. Parking standards to be tighter to facilitate level of development proposed.
- **Through traffic** - package of measures to discourage through traffic on Wembley High Road.
- **Pedestrian access** – to be improved between the Masterplan area and High Road.
- **Coach parking for stadium-** criteria based approach for locations including within 960 metres.

Housing

- **Affordable Rent** at up to 80% of market rent, including service charges and determined with regard to local incomes and house prices.

- **Family Housing** – at least 25% of new homes in Wembley should be family sized.
- **Supported Housing** – Existing supported housing protected. Extra care housing sought on sites where development is primarily residential, where residential amenity is good and where it is near to open space.
- **Private Rented Sector** – high quality, purpose-built, private sector rented accommodation will be encouraged through a flexible approach to the proportion of affordable housing and unit size mix.
- **Student Accommodation** – will form part of major mixed use development but will be capped at 20% of the projected increase in population

Social Infrastructure

- **Primary Schools** - Provision of school land on the Wembley Industrial Park site - identified in Site Specific Allocation. A further (minimum) two form entry school in the vicinity of the town centre.
- **Secondary Schools** - Contributions towards secondary provision will also be sought through CIL
- **GP/Dentists provision** - where other local capacity (e.g. Chalkhill Health Centre) is used up-long term provision as population grows
- **Community Halls** - provision as provided in the NW Lands (i.e. smaller areas at no rent) and use this as a basis of achieving space across the masterplan area
- **Creative workspace** - Cross reference to the created in NW Lands application & intention to provide more low cost creative workspace in mixed used developments across the area
- **Sports and play infrastructure** - Cross reference to that may sit in open space and housing chapters
- **Temporary uses** - reference to provision of meanwhile and temporary uses that will provide opportunities for social interaction

Climate Change

- **Decentralised Energy** - major developments will be expected to connect to, or contribute to, the Decentralised Energy System where feasible. Developments completed before the energy centre should be designed for future connection
- **Energy from Waste** - major energy from waste facilities will be allowed only east of Fourth Way. Smaller scale proposals to recover energy from waste generated locally will be supported subject to impact assessments
- **Greening Wembley** - development proposals must incorporate urban greening including green roofs, green walls, trees and soft landscaping

- **Flooding** – proposals within Flood Risk Zones must not reduce floodplain storage or increase maximum flood levels. All major proposals will be required to apply Sustainable Urban Drainage Systems

Open Space, Sports and Wildlife

- **Open Space Provision** - require a new park of 1.2ha adjacent to Engineers Way, orientated E-W and 3 parks of 0.4 ha. Support enhancement and improvements e.g. a new pedestrian bridge link across Met. /Jubilee lines to Chalkhill Open Space
- **Food Growing** - require major new residential development to provide space for food growing and encourage the use of vacant spaces for temporary food growing
- **Sports Facilities** - use development contributions to improve the provision of sports facilities and the council will make new or upgraded sports facilities available for community use out of school hours
- **River Brent and Wealdstone Brook** – adj. development sites to undertake opportunities to provide amenity space, biodiversity improvements and semi-naturalisation of Wealdstone Brook

Site Proposals

The following sites are included in the Plan with more detailed planning guidance for potential development:

Wembley High Road

- Wembley West End
- London Road
- Chiltern Line Cutting North
- Wembley High Road/Chiltern Line Cutting South
- Brent House & Copland School

Comprehensive Development Area

- Land at South Way
- Land west of Stadium
- North West Lands
- Stadium Retail Park
- Arena House
- Apex/Karma House
- Olympic Office Centre

- Wembley Retail Park
- Stadium main car park

Wembley Park Corridor

- Wembley Park station car park
- Torch/Kwik Fit
- Brent Town Hall
- Cottrell House

Wembley Eastern Lands

- Amex House
- Watkin Road
- Euro Car Parts
- First Way

Wembley Industrial Estate

- Second Way
- Drury Way
- Great Central Way

Public Consultation on the Preferred Options

- 3.5 Appendix 2 sets out in full the draft Preferred Options document. Executive is asked to agree this for public consultation, subject to officers making further minor changes such as improving the document's legibility with better images, illustrations, etc. It is proposed that the consultation starts on 13th August for 8 weeks.
- 3.41 This stage of consultation is seeking views on what is effectively a draft Plan. A publicity leaflet will be prepared and the consultation will be advertised. Residents' associations, etc. in the Wembley area will be targeted for consultation and the Wembley Area Consultative Forum will provide a mechanism for publicity/discussion. Also, there has been an opportunity to take advantage of a Community Roadshow scheduled for Wembley Central Square for one week commencing on 13th August. This will help ensure that the consultation is publicised to wide audience, particularly local residents and visitors to the town centre.
3. Those who wish to respond to the consultation will have the opportunity to do so in detail to separate parts of the document via the online consultation module, and to make written submissions including by e-mail. All comments received will be taken into account in revising the Plan before it is made available again and submitted for Examination.

Timetable for Preparing the Area Action Plan

3.42 The timetable for taking the Area Action Plan forward is set out below:

Consultation on Preferred Options	Aug. 2012
Pre- submission Consultation (Publication)	Dec. 2012
Submission	Mar. 2013
Examination Hearings	July 2013
Adoption	Dec. 2013

4.0 Financial Implications

- 4.1 The preparation and ultimate adoption of an Area Action Plan will provide a more up to date statutory Plan which carries greater weight in making planning decisions, which leads to fewer appeals and reduced costs associated with this. It also provides greater certainty for developers who are more likely to bring forward sites for development in the knowledge that schemes which comply with the requirements of the Plan have a good chance of receiving planning consent.
- 4.2 The costs of preparing the WAAP will be met mainly from Planning & Development budget. However, additionally there has been a need for studies, particularly dealing with transport matters, which providing evidence to support new policies and proposals. Much of this work has already been undertaken and funded. If further work is necessary, including the costs of consultation, then a business case for undertaking the work will be prepared. Any additional funding will be sought from existing budgets in Regeneration and Major Projects Department. To date the total cost of studies has been estimated at about £100,000.
- 4.3 Costs associated with public consultation are likely to be no more than £10,000 for each round of the two rounds remaining and there will be a cost of Examination in 2012/13 of about £60,000. The Examination will be funded by the Departmental Projects budget.
- 4.4 There will also be costs associated with road widening and junction improvements proposed in the Plan.

5.0 Legal Implications

- 5.1 The preparation of the LDF, including the Wembley AAP, is governed by a statutory process set out in the Planning and Compulsory Purchase Act 2004 and associated Government planning guidance and regulations. Once adopted the DPD will have substantial weight in determining planning applications and will supersede part of the UDP.

6.0 Diversity Implications

- 6.1 Full statutory public consultation is being carried out in preparing the DPD and an Impact Needs / Requirement Assessment (INRA), which assessed the process of producing the LDF, was prepared and made available in 2008. An Equalities Impact Assessment will be prepared to accompany consultation on the draft Plan.

7.0 Staffing/Accommodation Implications

Meeting Executive
Date July 16th 2012

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Date 11/6/12

7.1 The reduced level of staff available to work on the Plan means that it is not possible to bring it forward according to the timetable agreed by Executive in November. Future progress will be dependent upon priorities identified for limited staff resources.

8.0 Environmental Implications

8.1 The DPD deals with the development of the Borough's main regeneration area and thus will have a significant effect on controlling impacts on the environment including requiring measures to mitigate climate change. Sustainability appraisal will be undertaken at all stages of preparing the DPD.

9.0 Background Papers

Brent Core Strategy July 2010

Brent Site Specific Allocations Development Plan Document

Wembley Masterplan, June 2009

Wembley Link SPD, July 2011

Wembley AAP, Issues & Options, Sept 2011

Contact Officers

Any person wishing to inspect the above papers should contact Ken Hullock, Planning & Development 020 8937 5309

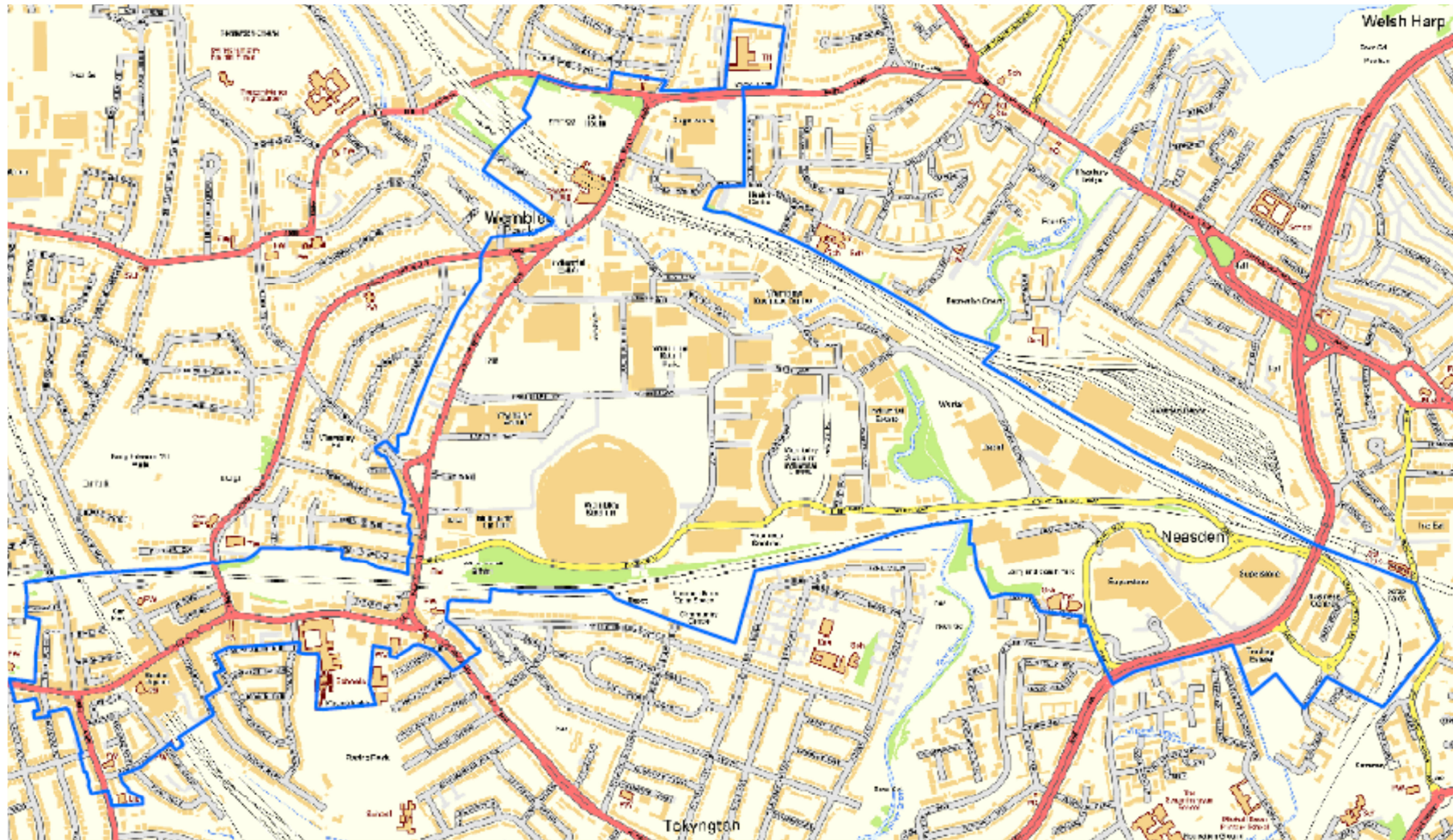
Andy Donald


Director, Regeneration & Major Projects

Appendix 1 – Area Action Plan Boundary

Appendix 2 – Wembley Area Action Plan – Preferred Options

Appendix 1 – Area Action Plan Boundary



	<p style="text-align: center;">Executive 16 July 2012</p> <p style="text-align: center;">Report from the Directors of Regeneration and Major Projects and Strategy, Partnerships and Improvement</p>
<p>Tenancy Strategy</p>	

1. Summary

- 1.1 This report sets out final proposals for the Tenancy Strategy and seeks approval from members for the policies that will form the content of the strategy document.

2. Recommendations

- 2.1 Members agree the overall approach to development of the Strategy as set out in this report.
- 2.2 Members agree the policy positions set out in section 8 of this report.
- 2.3 Members agree that the final policy should be implemented with effect from 1st October 2012, allowing time for the Council to seek sign-off from the Mayor as noted in paragraph 7.3 and that the Director of Regeneration and Major Projects should be given delegated authority, in consultation with the Lead Member for Housing, to revise this date should there be any reason for delay.
- 2.4 In particular, Members elect and agree for the Council to grant introductory tenancies and flexible tenancies to new Council tenants as set out in paragraphs 8.3.10 of this report and to limit the rights to succession of Council tenancies to new Council tenants as set out in paragraph 8.3.12 of this report and grant delegated authority to the Director of Regeneration and Major Projects to implement these policy changes in liaison with Brent Housing Partnership and Hillside Housing Trust.

- 2.5 Members note that a further report will be presented to the Executive for approval regarding changes to the Council's Allocation Scheme after consultation has taken place.
- 2.6 Members note the content of the Equality Impact Assessment set out in Appendix 3 to this report.
- 2.7 Members note that the Strategy will be reviewed one year from its implementation and at three year intervals subsequently. If any need for significant alteration is identified, a report will be presented to members accordingly.

3.0 Background

3.1 *Local Decisions: a fairer future for social housing (Nov 2010)* set out proposals for reform. For the purposes of this report the key points are:

- The Affordable Rent regime for the funding of new social housing, which allows Registered Providers to charge rents of up to 80% of market levels with a minimum tenancy term of two years.
- Fixed term local authority tenancies, also for a minimum two-year fixed term.
- Changes to rules governing succession to tenancies
- A duty on councils to publish a Tenancy Strategy.
- More flexibility on waiting lists and allocations.
- Ability to discharge homelessness duties in the private rented sector without the consent of the applicant.

3.2 Concurrent changes to the welfare system aim, among other things, to incentivise work. Housing Benefit caps have been introduced and Universal Credit will apply an overall income cap in 2013. While the welfare changes are part of a national scheme, local authorities will have freedom over many of the housing proposals - in principle at least – in line with the principles of localism.

3.3 Changes affecting Registered Providers (i.e. mainly housing associations and hereafter referred to as "RPs") have already been introduced as primary legislation was not required, with the current HCA funding round based on the new regime, allowing providers to develop new homes at up to 80% of market rents and let them and a proportion of relets on tenancies of a minimum of two years. Section 6 below looks at the response of RPs and other local authorities so far.

- 3.4 The Localism Act 2011 provides that a local housing authority must prepare and publish a strategy setting out the matters to which the registered providers of social housing for its district are to have regard in formulating policies relating to—
- (a) the kinds of tenancies they grant,
 - (b) the circumstances in which they will grant a tenancy of a particular kind,
 - (c) where they grant tenancies for a term certain, the lengths of the terms, and
 - (d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

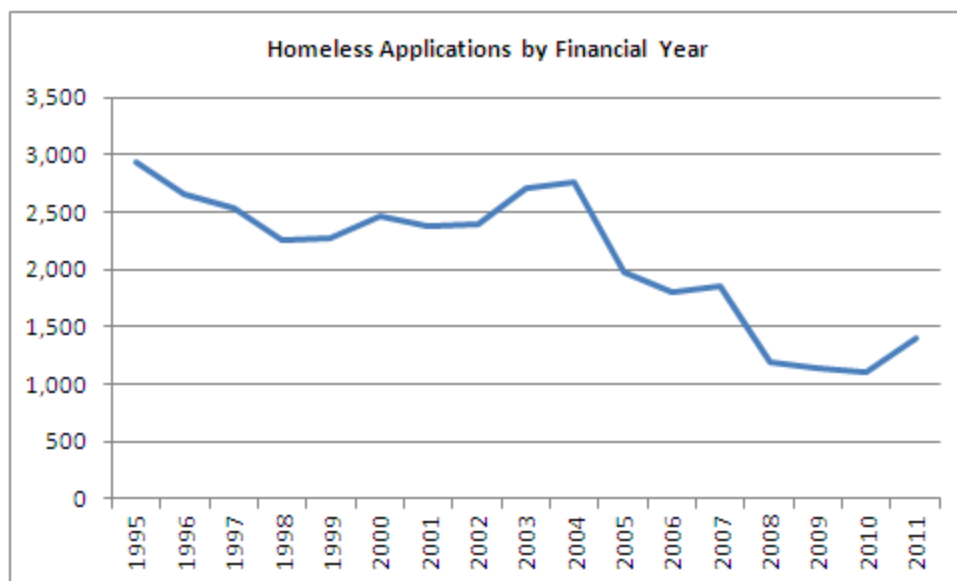
The tenancy strategy must summarise those policies or explain where they may be found.

- 3.5 The legal requirements for the strategy are therefore limited and reflect the primary intention that it should provide guidance to other providers on the council's expectations around tenure: it does not need to contain any reference to rent levels, the application process, lettings or how homelessness applications will be dealt with. However, a strategy limited to tenure alone would lack context and be unhelpful either to providers who develop and manage homes in the area or in assisting housing applicants to understand the council's approach. In particular, the approach to tenure is linked to the council's policy on rents and the way in which applications for housing are prioritised. Brent's strategy will therefore cover additional areas, which will also be reflected in revisions to the overall Housing Strategy, the Homelessness Strategy and the Allocations Scheme. It is also important to stress that while Registered Providers must "have regard to" the tenancy strategy, it is not binding on them. Similarly, the council is free to set out its expectations for other providers while pursuing a different course in its own stock.

- 3.6 It is important to note that these changes do not affect existing tenants, who retain all their existing rights and will continue to pay rent at current levels. This will apply to tenants who transfer to a new social rented home, unless they explicitly choose to move to a home on an Affordable Rent or a fixed-term tenancy. The only possible exception to this rule concerns the planned introduction of an income limit beyond which tenants will be expected to pay a higher rent (discussed in more detail at paragraph 8.4.10 below).

4. Brent Context

- 4.1 The following paragraphs summarise some key issues concerning supply and demand.
- 4.2 Current projections show that the level of unmet demand in the Borough is over 11,000 households. However it should be noted that this figure excludes demand from households on the Housing Register who are in Band D (and therefore under the Council's Allocations Scheme, have no identified housing need). Including these households would give a level of unmet demand within the Borough of 18,000 households. Around 871 lettings into permanent social housing tenancies (council and housing association) are expected by the end of 2011/12 – this meets around 7% of the current total demand from Bands A to C.
- 4.3 The graph below shows how the number of homeless applications has varied since 1995/96. Applications began to decrease in 2005/06, when the Council first implemented an in-house housing advice service. The success of this team in either preventing homelessness or providing alternative accommodation (generally in the private rented sector) is demonstrated through the marked drop in statutory homeless applications received from 2005 to 2010. However this downward trend has been reversed in 2011/12, with a 35% increase in homeless applications as at the end of February compared to the same period in the previous year.



- 4.4 This increase in demand, following the downward trend of the past five years, is largely attributable to changes in Local Housing Allowance (LHA). Changes came into effect from 01/04/11 for all new tenancies agreed from that date onwards. Existing tenancies were subject to transitional protection for up to twelve months (until the anniversary of their claim). Whilst some landlords accepted a decrease in rental income as a result of the implementation of the caps, others have not done so. If households cannot meet the rental shortfall from their own funds,

landlords will then seek to evict them. As a result, some landlords have either left the market or let their property to other types of households – for example those in employment or shared accommodation. The introduction of LHA caps and the four bed cap limit has had a significant impact on the Council’s ability to procure properties for direct lettings, particularly for larger sized properties. In 2010/11, the Council procured a total of 548 private sector properties for direct lettings, thereby actively preventing homelessness. However in 2011/12, from April to January, the total has dropped to 207 properties. Officers expect the total to be around 250 properties by the end of the financial year, a reduction of around 54%.

4.5 The changes have also resulted in an increase in homeless approaches, as landlords have taken action to evict tenants who cannot afford to meet the shortfall between the rent and the LHA cap, and other households have found themselves unable to secure private rented accommodation. Numbers in temporary accommodation have increased by 4% during 2011/12, an increase of 117 households. As at the end of February 2012, there was a total of 3,136 households in temporary accommodation

4.6 The table below summarises actual lettings performance to date against the projections that were originally agreed. At the time of writing, lettings figures for performance until the end of February 2012 are available.

Lettings Variance from Targets - April -February To Month = 11

		Targets 2011/12	Pro Rata Target	Actuals 2011/12	% Var
<i>Target Group</i>	Homeless	370	339	439	29%
	Register	274	251	256	2%
	Transfer	227	208	181	-13%
	Total	871	798	876	10%

4.7 A total of 968 lettings is anticipated during 2012/13. The majority of these lettings will become available through re-lets within existing social housing stock. However the Council expects a total of 283 properties to be delivered through the new build programme – 137 of these for estate based regeneration schemes (South Kilburn) and 146 through other general needs schemes. The table below summarises the distribution of these lettings across the different bedroom categories.

BRENT AND HOUSING ASSOCIATION - Projected Lettings 2012/13

	BSR	1 BED	2 BED	3BED	4 BED+	Total
Brent	20	140	175	65	15	415
RSL	20	165	260	80	28	553
Total	40	305	435	145	43	968

5. Policy Direction

- 5.1 In part, the changes are a short-term response to economic conditions: the Affordable Rent regime seeks to deliver an ambitious target for new homes while cutting public sector investment to support deficit reduction. There is no guarantee that the regime will remain in its present form beyond the current funding round and many providers and funders doubt that it is sustainable given the additional borrowing and associated risk involved, quite apart from issues of affordability. The Minister has indicated recently that a further Affordable Rent round is likely in 2014 but no detail has been given on possible subsidy levels.
- 5.2 Other changes focus on the long term and reflect an ideological questioning of assumptions about the purposes of social housing and welfare and, perhaps most importantly, the links between housing and employment and the way that the welfare system supports tenants and encourages mobility between different housing sectors. The principle that work should pay is at the heart of the housing reforms as well as the welfare changes. Thinking does not divide cleanly along party lines, as demonstrated by support from the junior coalition partner and indications from the opposition of a broadly similar approach to policy development, albeit with differences over the pace and scale of change. Fundamentally, the current policy direction raises some direct but not necessarily simple questions: what is social housing for, who should have access to it, for how long and how much should they pay?
- 5.3 Owner-occupation remains a key driver of both the economy and social policy, although low pay and high prices have excluded many from its benefits; crudely, owner-occupation is the tenure of choice while social housing carries the stigma of failure. Under-investment, loss of stock through the Right to Buy and, in London especially, high demand fuelled in part by migration from within and outside the UK, have created a severe shortage of affordable housing. In Brent, despite success in attracting investment, the proportion of social housing within the overall stock has hardly changed in the last thirty years, while the private rented sector has grown significantly, filling the supply gap but at very high rents. While Right to Buy sales have fallen in recent years, the recent implementation of a massive rise in discounts may alter this trend. Indications so far show a rush of new applications since April 2012, with numbers for that month alone equalling the annual total for 2011/12 in London, although not all of these will result in a sale. Although the new system promises to replace any stock lost, this is a national target and it is uncertain whether replacement would be on a like-for-like basis in terms of property size or location, so the impact may not be entirely neutral. Put simply, London boroughs might gain from the relatively high price of property, with a proportion of receipts to be re-invested in new provision (at Affordable

Rents) but demand may be limited for the same reason, with households unable to afford to buy or obtain a loan even with the improved discount.

- 5.4 One result of shortage is that access has been increasingly restricted and disproportionate numbers of lettings have gone to the most vulnerable and to homeless households. It has been argued that shortage coupled with allocation through a hierarchy of need has led to “residualisation” of social housing, making it part of the welfare safety net for the poorest and most vulnerable rather than one option among a range tailored to a household’s needs at any given time. In part, the current reforms reinforce this trend, for example in the approach to higher earners, but they are also, perhaps contradictorily, predicated on an assumption that the current system is unbalanced and unfair and should look back to a time when working households on low wages could reasonably expect to get access to social housing. This requires a reshaping of definitions of need and the direction of some households away from social housing. The fundamental barrier is supply.
- 5.5 The previous government increased expenditure on new social housing after a long period of stagnation and the current government has committed to delivering similar numbers of new homes, albeit at much higher rents. In terms of simple numbers, even the current relatively ambitious targets will only, at best, keep pace with growing demand and prevent the gap getting any worse. New supply on its own will not meet need, especially in London where demand is highest and the supply of land is limited and expensive. This has led all parties as well as those with a professional interest in housing to ask how the existing stock might be used more effectively to supplement new building and, as an added factor, how social housing can be used to promote wealth, independence and social mobility.
- 5.6 Tenure and its relationship with employment and labour market mobility has been a concern of previous policy responses, with little obvious success beyond the introduction of new forms of intermediate tenure such as shared ownership, usually centred on so-called key workers, but it is central to the current changes. In the same way that welfare reform is intended to incentivise work, access to housing and, crucially, the ability to pay for it will be linked strongly with employment status. Encouraging employment and labour mobility in current conditions will be challenging but all parties recognise a need to support employment and employability among existing and future tenants. In Brent, it is arguable that levels of deprivation, concentrated on clusters of social housing and unchanged over many years despite significant intervention, have been perpetuated by allocations policy, both in terms of who gets access and the tendency for established tenants not to move on, or in many cases not to be able to move on because of restricted access to transfer opportunities. It is also worth noting that these households

are often major consumers of other council and public services, increasing pressure on school places, SEN, personal social services and so on. This underlies the growing emphasis among all parties on the link between housing and employment, whether in terms of supporting existing tenants into jobs or building in incentives for those with a job or prospects of employment who may want access to social housing. Social housing is seen as a type of welfare provision, time-limited in the way that benefit support is, with an expectation that tenants will move between tenures as their circumstances change.

- 5.7 The Affordable Rent regime is now a reality and new homes in Brent are being delivered at higher rents – although well below the 80% maximum in many cases – and usually let on fixed terms. While social housing will still need to meet need, it is also an asset that can be managed and used to take forward broader aims around regeneration, employment and community sustainability.
- 5.8 Adopting fixed-term tenancies alongside permanent options provides the opportunity to use stock more flexibly and meet need in a more targeted way; for example, fixed-terms might assist in tackling under-occupation by enabling a move to a smaller home at an appropriate point, also freeing up larger homes to tackle overcrowding. More widely, if fixed terms achieve increased churn within the stock, options to house more households in need and people not currently given priority may open up.
- 5.9 Brent's position in relation to its neighbours and other London boroughs may be a factor impacting on future supply and demand and the use of the social housing stock. Emerging approaches are covered in more detail in section 6 but other key points to note include:
- Housing Benefit changes are making much of inner London unaffordable. Brent has a large and growing private rented sector and movement out of inner London may increase demand, not just for housing but for other services such as schools. Demand management is therefore not only concerned with housing.
 - Similar affordability issues arise in parts of Brent and there is already evidence of increased homelessness as a result. A policy approach that sets Brent significantly out of line with other London boroughs may impact on demand and consequently on costs associated with homelessness and other services.
 - Brent has been successful in securing funding for new homes in the past. An approach to Affordable Rent that limits ability to deliver could impact on supply while neighbouring boroughs use the new regime more effectively.

- 5.10 The private rented sector is central to the reform agenda and while there are risks, the evidence is mixed and there are opportunities to be exploited. In London, rents have been rising while benefits are capped and there is evidence that some landlords are inclined either to withdraw from the HB market or shift into renting to single people in houses in multiple occupation or even to adopt more extreme and illegal options as evidenced by the “beds in sheds” phenomenon . This may impact on the supply of private housing for use as temporary accommodation and to support discharge of permanent homelessness duties, both of which have resource implications. Most London authorities will opt to discharge homelessness duties through the private sector, but supply is uncertain. Councils are already placing households outside their boundaries and pressure to do this will increase. On the other hand, there are indications that developers struggling to sell new homes in a stagnant market may be willing to consider renting, at least in the short term, and build-to-let may provide a boost to supply and improve quality in the sector. Similarly, it may be that buy-to-let will become more attractive in a market driven by high demand, although this market has so far been dominated by smaller properties.
- 5.11 In the short term, there is a risk that temporary accommodation usage will increase and add to budgetary pressures and the strategy needs to take account of the need to mitigate the impact of welfare reform in particular. Officers are already working directly with affected households and landlords, seeking rent reductions or alternative accommodation to prevent homelessness. More widely, a range of other options might be used, including using s106 agreements to purchase fixed-term nomination rights, re-introduction of incentive payments to landlords, and use of supply (either private or public sector) outside the borough. Opportunities to boost supply will be a central concern of a revised housing strategy, to be developed in 2012.
- 5.12 The reforms offer the opportunity for a new approach to allocations and demand management. Although restricting eligibility for the Needs Register by excluding those with no realistic hope of an offer has no real impact on demand, it could produce administrative savings and, less tangibly, assist in managing expectations. Coupled with the potential to reduce allocations to homeless households and increase turnover from use of fixed-term tenancies, this could enable a new approach to identifying priorities. Emerging responses have focused on the needs of lower income working households and those needing to move for work purposes, those living in inadequate or overcrowded housing but not threatened with homelessness, existing social tenants who are under-occupying or overcrowded and those with a long-term local connection. In addition, discussion has identified the opportunity to re-balance the household mix on existing estates, for example by introducing

more working households. In essence, the aim is to develop a genuinely local approach that meets identified priorities, rather than following objectives set at the national level.

- 5.13 It is also worth noting that the increased risks attached to the new funding regime may harden attitudes among partners in terms of the perceived risk of housing a high proportion of the most vulnerable households. This may put pressure on existing local authority nomination arrangements and encourage housing associations to insist on lettings plans for new developments that aim to ensure a sustainable household mix.
- 5.14 As noted above, welfare reform is integral to the policy debate around housing. Most importantly, working households will avoid most of the impact of welfare changes, providing a further incentive for the council and partners to focus on employment opportunities for those living in or seeking housing in Brent across all tenures. Work is currently underway to develop Brent's employment offer and proposals for change in that area will support the policies set out in this report. While employment opportunities are constrained and it is important to be realistic about what can be achieved, it is essential to recognise that obtaining work will be the most effective way to mitigate the impact of housing and welfare reform.
- 5.15 It should be stressed that the current "reasonable preference" criteria, which set out the categories of people who must be given some priority in the allocation of social housing, are retained. This means that, for example, statutorily homeless households and people with a serious illness or disability, among other groups, will continue to be treated as having reasonable priority. At the same time, the numbers of households taking up fixed term tenancies or homes in the private rented sector will be a small, although growing, proportion of the whole spectrum of demand. This means that there will not be a sudden and large-scale growth in the opportunities available to other groups and expectations about the immediate impact of change should be proportionate. Over the longer term, a two-tier system will operate for many years, with the proportion of homes let on fixed terms at Affordable Rents growing each year.
- 5.16 A final point in setting the context is the expectation from government that local authorities and other providers will implement a comprehensive system of advice and support, covering housing options for those with no priority as well as for those whose tenancies are, or might be, brought to an end following a fixed term. Employment support will be an essential part of any package designed to support tenants or prospective tenants at all stages. At no point during consultation or at any other time has the government explicitly recognised the resource implications of this. Many providers have indicated that they have given little thought to the issue, although recent guidance from the regulator may mean that they have to do so now.

5.17 Given the local context and the national policy direction, as well as the emerging response of other London boroughs and providers, the council needs to formulate an approach that will maximise opportunities to reshape the way in which social housing is used, to manage demand effectively, to achieve financial savings and to meet local needs in a way that takes forward wider priorities. The strategy should aim to provide a framework that:

- Continues to meet existing need through provision of appropriate housing.
- Makes best use of the existing social stock across all providers.
- Makes best use of the private rented sector, intermediate and sub-market renting and shared ownership.
- Promotes economic and social regeneration and social mobility, particularly through employment.
- Supports new housing development in all sectors.
- Encourages providers to pay full regard to the affordability issues in Brent and to bring forward solutions, both within and outside the scope of the current programme, that mitigate the impact of higher rents as far as possible.
- Seeks to meet need that is currently unmet through a revised approach to prioritisation and letting.
- Is transparent, fair and easy to understand.
- Promotes a consistent approach to the letting and management of social housing in the borough.

5.18 The strategy will govern the council's approach to the use of its own stock, managed by Brent Housing Partnership, while RPs are required to "have regard to" the strategy in formulating their own approaches. While the strategy is not binding on partner organisations, it should be clear about the direction in which the council wants to go and our expectation that partners will work in a way that is consistent with our objectives. At the same time, it will be necessary to recognise that the majority of the fifty-plus providers in Brent also work in other boroughs and other regions and will be trying to tailor their activity to the varying priorities of numerous authorities. Absolute conformity is not realistic, but broad consistency should be.

6. Partner Responses

6.1 Registered Providers have been working with the Affordable Rent regime since April 2011. To agree contracts under the 2011-15 New Homes Programme with the HCA and in anticipation of a revised Tenancy Standard,

providers have already developed interim policy positions on the use of fixed term tenancies and affordable rents. The table below provides some examples, which reflect approaches across the sector, of the position taken by providers operating in Brent.

- 6.2 Under the Act, the remit of the social housing regulator is narrowed and its functions have transferred from the Tenant Services Authority to the Regulation Committee of the Homes and Communities Agency. The Regulator has now issued a revised Tenancy Standard. This allows providers to use fixed-term tenancies with a minimum term of two years (although five years is the expected minimum in practice and use of shorter terms will need to be justified) in place of Assured Tenancies if they wish, and to charge Affordable Rents. The Tenancy Standard requires providers to publish Rent and Tenancy policies that are consistent with it, covering the same ground as local authority Tenancy Strategies as required by the Act. Providers are required to have regard to a Local Authority's Tenancy Strategy when developing these policies.

Provider	Introductory Tenancies	Fixed-Term Tenancies	Affordable Rent
Catalyst	12 month for all	5 year for all, except supported housing	1 and 2 beds – lowest of 80% market, LHA Cap or £250 / week 3 beds – Social rent Social rent for sheltered and supported
Genesis	No. However 1 year break clause can be triggered by e.g. ASB, non-payment of rent	5 years for 1 and 2 beds, 10 years for 3 bed+	North of Brent: 80% 1 beds 70% 2 beds South of Brent: 70% 1 beds 60% 2 beds 3 bed + target rent +5-10% to cover service charges
L&Q	12 month for all	5 year fixed term	Average of c.60% of market rents 40-80% depending on location and values
Notting Hill	12 to 18 months for all	5 year fixed term	Up to 80% of market rents for 1 and 2 beds For new-build will take account of Tenancy Strategy 3 beds at Social Rents

Network	Not known	5 year fixed term but apparently only for AR	1 and 2 beds – lower of 80% of market rent and LHA rate 3 beds – Social rents
Paradigm	Yes	5 year fixed term for all	All bed-sizes – the lower of 80% of market rents and LHA rates; account will be taken of the UC cap at a future point

- 6.3 The majority of providers have adopted the opportunities available, inevitably with regard to Affordable Rent given the structure of the new funding regime, while their enthusiasm for the introduction of fixed-term tenancies was less predictable. As in the examples above, most providers have recognised the need to keep rents as low as possible for larger homes, with the impact of higher rents seen most starkly in one and two bedroom properties. This is broadly in line with the direction that the Tenancy Strategy will encourage them to take, although see below for further discussion on affordability, from which it is clear that, even with maximum effort to keep rents down, some households will find it difficult or impossible to afford them. Most providers are adopting five year fixed terms, usually preceded by an introductory tenancy, as the default position, with an assumption that the majority of these tenancies will be renewed at the end of the term. Consultation indicated that few providers had considered how the review system would work in practice, despite the fact that they are already issuing fixed-term tenancies. While it cannot be assumed that this is the position in all RPs, it is a cause for concern, although publication of the revised Tenancy Standard should result in a clearer picture, while the Tenancy Strategy itself will stress the need for a considered approach.
- 6.4 Local authorities are obliged to publish their tenancy strategies within 12 months of the passing of the Act, that is by November 2012. So far, very few authorities have published a final strategy although a number have set out their intentions in consultation documents, through the adoption of specific policies or release of policy statements. Many others have remained largely silent so far.
- 6.5 The Localism Act is permissive, giving considerable freedom as to whether or not to adopt the flexibilities on offer. So, for example, a provider or local authority can continue to offer Assured or Secure Tenancies in the way they always have. In theory, it is also possible to continue to develop new housing that is not subject to the Affordable Rent regime, although in practice the options are extremely limited since they would require development without any input of grant from the HCA. A small number of local authorities (including Southwark and Islington) have indicated that they will not support Affordable Rent provision in their areas but will use free or low-cost local authority land, S106 receipts and other capital as an alternative to subsidy. This is not a realistic option in Brent for the scale of new provision needed and it is questionable whether even those authorities who have alternatives would

be able to sustain them in the long term. Similarly, some local authorities have indicated that they will not make use of fixed-term tenancies in their own stock and, by implication, will discourage their partners from doing so. Other authorities have indicated that short-term tenure will be their default option – much in line with the provider approach summarised above – and that they will offer full support to development of Affordable Rent options and use of tenure flexibility by their partners.

- 6.6 As with the national policy position, approaches to Affordable Rent and tenure options do not divide on simple party political lines and, in most cases, responses so far reflect a pragmatic approach that looks at local priorities and what is deliverable in practice. The greatest publicity has been generated around areas that are, as noted above, not strictly within the ambit of the Tenancy Strategy but without consideration of which a strategy would lack meaningful context. The main focus for recent debate has been use of the private sector to discharge homelessness duties, in particular where that means using out of borough property, and the ways in which local authorities aim to re-balance allocations policies.
- 6.7 All London boroughs currently use the private rented sector as a source of temporary accommodation and, where the household consents, as a permanent means to discharge homelessness duties. So far, no borough has indicated that they will not consider using the private sector to discharge duty compulsorily. Controversy has arisen not so much because of this change in itself, but over the location of private sector offers, with a number of boroughs seeking solutions out of London. It should be stressed that this is driven by the cost of renting in London and inability to secure accommodation that will not fall foul of benefit caps rather than by any policy decision to remove homeless households from the capital. One consequence of the benefit changes is that certain households will effectively be forced to move to cheaper areas while indications are that those needing very large accommodation will face difficulty finding affordable accommodation anywhere once the Universal Credit Cap comes into effect. The government has now published a draft order covering the suitability of offers to homeless households and has proposed that the question of location will be covered in new secondary legislation that will strengthen existing guidance. Although it is too early to make a final judgement, initial reaction to the proposals has been that they will make little real difference to the factors local authorities must already take into account when considering an offer outside their boundaries. It must be expected that the matter will be tested in the courts but the crucial factor influencing an authority's decision will be whether any affordable accommodation is available in the area.
- 6.8 Among those boroughs that have stated their position, the majority have indicated that they will be reviewing the basis on which they operate their waiting lists and allocate accommodation. In most cases, this means that access to waiting lists will no longer be open and that additional priority will be given based on a range of factors, differing from authority to authority but usually including consideration of length of residence, employment (including in the armed services), income status and other factors that might be seen as

giving an applicant some additional merit, such as involvement in community service.

- 6.9 Indications in West London are that most boroughs are considering five- year tenancies followed by a review, usually with some exemptions, particularly around under-occupying tenants where a move can facilitate best use of the stock and mitigate the impact of the so-called bedroom tax, under which Housing Benefit will be restricted for those with extra bedrooms. In such cases, offering a fixed term in exchange for a permanent tenancy could be a significant barrier. Some boroughs are excluding sheltered and extra care sheltered accommodation from fixed term tenancies. Although Brent does not own any such accommodation, it is recommended that the strategy should urge partners to exclude such tenancies. All boroughs are reviewing residency criteria with qualifying periods varying from two to ten years with five years as the most common option.
- 6.10 All boroughs are looking to incentivise employment, with most doing this through moving applicants to a higher band on the Locata choice-based lettings system, although some are looking at particular elements of their waiting lists and particular target groups. Most boroughs are proposing an overall income bar to accommodation, currently based on the government's earlier proposal of £60,000, although the recent consultation paper proposes a wider set of options. At present, it appears that the cap will not be imposed nationally as had first been expected but that local authorities will be able to choose whether or not to apply it, although if they do it will apply to existing as well as new tenants. Anyone in social housing earning over the cap would be obliged to pay a higher rent, with the consultation paper suggesting that this might be equivalent to the Affordable Rent limit of 80% of local market rents.
- 6.11 Of those local authorities that have published proposals, the neighbouring boroughs of Ealing and Hammersmith and Fulham offer a good example of the contrasting stances being taken. Ealing's draft strategy stresses the council's preference for lifetime tenancies, while recognising that providers will be offering fixed terms and suggesting some exceptions. On succession, providers are simply encouraged to set out their own approaches clearly while the document is silent on the council's approach in its own stock. Guidance is provided on desired rent levels, in a similar way to that suggested in this report although with rather less detail and providers are simply asked to set their own rules on conversion of existing social rent homes to Affordable Rent on re-let, although conversion is discouraged in larger homes.
- 6.12 Hammersmith and Fulham have taken a bolder approach. The council faces similar issues around affordability and is proposing an approach to rent levels broadly in line with both Ealing and Brent, encouraging providers to keep rents for larger properties affordable. On tenure and allocations their approach differs significantly. Only applicants within the reasonable preference criteria will be eligible, while additional preference will be given to those making a "community contribution", including working households and ex-military personnel as well as those engaged in volunteering, among others. Five-year and, in some cases, two-year tenancies will be the norm. A local

connection requirement of five years residence will be applied and those failing to meet it will not be eligible for the first three of the four proposed priority bands. Only one statutory succession will be permitted, although with discretion to extend this in certain circumstances. The council will move from choice-based lettings to “assisted choice”, through which a maximum of two offers will normally be made, with discretion to extend to three offers. Finally, the council will encourage applicants to seek market options – private renting, purchase or shared ownership – and will therefore, in most circumstances, exclude households with an income over £40,200 from its register.

7. Consultation

- 7.1 The Act requires only that local authorities consult with Registered Providers in preparing their strategies. Officers were clear from the start that consultation on potentially far-reaching change should be wider than this and take in other partner organisations as well as tenants and residents. A full report of the outcomes from consultation is in production and will be published alongside the final strategy.
- 7.2 The most significant aspect of consultation has been the consistency of responses across different interest groups. On the one hand, these reflect serious concern about affordability and, on the other, a desire to take full advantage (with some reservations) of the flexibilities available on tenure and in other areas while recognising that existing needs cannot be ignored. In many cases respondents called on the council to go much further than is proposed in this report. While this response might have been expected from Registered Providers, who have been obliged to adopt a position at an early stage, it is interesting that their views have been endorsed by other groups in most respects. A summary of key points raised in consultation is provided in Appendix 1.
- 7.3 Members are asked to note that the Council’s Tenancy Strategy must demonstrate conformity with the Mayor’s Housing Strategy. The GLA has indicated that this process will take around eight weeks. Once the Council’s Tenancy Strategy is approved by the Executive, it will be submitted to the GLA for consideration. At the same time it will be posted on the council’s website and sent to those who took part in the consultation exercise to allow an opportunity for further comment
- 7.4 Once finalised, it will be important that the changes are communicated effectively. Officers are developing a communications strategy to ensure that those affected by the changes and partner organisations who may work with those affected are fully aware of the new approach.

8. Tenancy Strategy

- 8.1 This section considers the available options and their implications and recommends the preferred policy position to be reflected in the final strategy.

8.2 Affordable Rents

- 8.2.1 In the current programme, grant funding for new supply is only available for Affordable Rent properties, which with the reduced capital subsidy requirements, will enable a larger number of affordable homes to be built. Although alternative funding methods are being explored and there may be some opportunities to deliver additional new homes, no practical alternative has been identified that could work successfully in Brent to deliver the number of new homes required, principally because the council does not have significant landholdings or capital at its disposal.
- 8.2.2 The current system also relies on the ability of Registered Providers to re-let a proportion of existing social rented properties at Affordable Rents to provide cross-funding. The additional revenue generated is pooled for the provider's programme and is not ring-fenced for development within the borough. If (for whatever reasons) development activity is restricted in Brent there could be an imbalance between the resources raised through conversion and their expenditure on new affordable rent homes in the borough.
- 8.2.3 The delivery of the contracts agreed by providers with the HCA (which will now be overseen by the GLA) cannot be assumed. Contracts include only a limited number of named schemes with further schemes to be identified. Where contracted delivery targets are not met the GLA may choose to renegotiate arrangements or reallocate funding to another provider. A higher or lower proportion of contracted development could take place in the borough, depending on site availability, viability and rent levels.
- 8.2.4 Providers have made a number of assumptions about rent levels in agreeing their delivery contracts. Guidance on rents has now been issued by the HCA as part of the Regulatory Framework, which provides a little further detail but essentially confirms the original proposals: rents may not exceed 80% of market levels and regard should be had to Local Housing Allowance (LHA) rates. The GLA estimates that rents across London will average around 65% of market rents, largely due to efforts to keep levels down for larger homes. If rents are held down beyond this in Brent, higher rents may be required elsewhere with more conversions, or development activity will be limited in the borough. If in practice rents are significantly lower generally then a higher proportion of conversions (or disposals) will be required to fund the programme. If rents are set too high these properties will not effectively be available to many of those in housing need in the borough, and may become unaffordable where there is a change of circumstances (e.g. loss of employment). Some affordability considerations are considered in more detail below, while a full analysis (which forms part of the Evidence Base for the Strategy) is attached at Appendix 2.
- 8.2.5 The LHA limits do not apply to Affordable Rent properties, although this may change in the future. These rates are the maximum private sector rents that will be supported by Housing Benefit. If Affordable Rent levels are higher than LHA rates they would be less affordable than the most affordable properties in the private rented sector available to those on benefits.

8.2.6 The total weekly household benefit a workless household may receive is expected to be capped at £500 from 2013 (£350 for a single person). The cap is a national one and will have a disproportionate impact in London where private sector rents are higher than in the country as a whole. After taking account of living cost benefits it will directly limit the housing costs that can be afforded. For families and in particular larger families the position is most acute as their living cost benefit needs are higher so they have less scope to meet housing costs while their accommodation needs and costs are typically greater. Allowing for inflation to 2013, a workless two adult household with one dependant would have living cost benefits of a maximum of £254 per week in benefits to spend on their housing. A two adult, two child household would have living cost benefits of only £187 to meet their housing costs.

8.2.7 Private sector rents in Brent are high and particularly so in the south of the borough. The table below gives median private sector rents and LHA Rates for a two-bed property in the north and south of the borough, with corresponding Affordable rent levels at 80% and 65% of the LHA rate.

	100%	80%	65%
Median Rents (GLA)			
Wembley	231.00	184.80	147.84
South Kilburn	370.00	296.00	240.50
LHA Rates			
NWL	219.00	175.38	131.74
INL	290.00	232.00	174.00

8.2.8 A median rent property in South Kilburn let at 80% of market rents would be unaffordable to either household described, and would be unaffordable at 65% of market rents to the two-adult two-child household. A property in Wembley at 80% of market rents would be barely affordable for such a household.

8.2.9 Earned incomes are relatively low in Brent with median incomes around £26,000. While housing benefit support is available, rents at a high proportion of earned incomes may undermine work incentives. A rent threshold of 35%-40% of earned income is a widely accepted benchmark for affordability.

8.2.10 Several providers are proposing to set relatively high Affordable Rent levels for 1 and 2 bed properties to enable rents for 3 bed and larger homes to be set at a level closer to social rents, reflecting the potential impact of the Universal Credit cap. This may create perceived unfairness with 3 bed rents being lower than for 1 and 2 bed properties. The analysis above also

suggests that for some two-bed households rents set at or above 65% of market levels may be unaffordable in some areas of the borough.

8.2.11 Setting or adjusting rents in relation to individual household's initial and changing circumstances could be a way of assuring affordability in practice. Where there is a change in circumstance (e.g. loss of employment) it may be possible to adjust rents to maintain affordability but there are legal, administrative and business plan implications that need to be considered, and there may be a risk of creating perverse incentives and perceived inequity between different households paying different rents. Although a small number of providers have indicated an intention to explore this option, it is unlikely that the majority will. Different providers are currently contemplating a range of approaches in relation to affordability and to rent-setting. This will mean that similar AR properties in the same area of the borough could have markedly different rents

8.2.12 Although annual increases in Affordable Rents will be calculated on the same basis as for existing target rents (with a limit of RPI plus 0.5%) during the term of a tenancy, where a property is relet, *including* to an existing tenant on a fixed term, rents will be re-based against then prevailing market rents. If market rents have risen over the period this may undermine affordability for an existing household when the intention would be to renew the tenancy. One express intention of the Housing Benefit changes is to drive down private sector rents. So far, there is no evidence for this and rents have continued to rise. If the longer-term response is a fall in rents, tenants may benefit from periodic re-basing of rents; conversely, provider business plans may be affected adversely.

8.2.13 The council is obliged to have regard to the Mayor's Housing Strategy. The GLA do not favour councils specifying rent levels that providers must comply with. If the council nevertheless did so it would need to be satisfied that there is no risk of legal challenge, and consider what consequences might arise from the GLA's difference of view in terms of future support to the borough. Although there is no clarity about the potential impact of failure to achieve general conformity with the Mayor's strategy, there is a risk that it could impact on support and funding for development, since this is entirely within the Mayor's control and is likely to be his most obvious lever in any dispute.

8.2.14 If rents are set too high they may be unaffordable and unavailable to many of those in the higher priority groups under the Allocations Scheme. They are also likely to be unattractive to such households when viewed as an alternative to social rented housing. This may mean that lower priority households on the waiting list gain a greater share of access, at the expense of higher priority groups. If a provider sets rents higher than others the effect may be to disproportionately channel those in lower priority and need to their lets. AR could be viewed instead as a positive alternative to the private rented

sector and be deliberately targeted at those in low-paid employment to increase work incentives. Councils may create AR properties in the future, but only with the agreement of the HCA/GLA. Brent has not applied to do so at this time.

8.2.15 On the other hand, with many lets by other social landlords at higher rents, council lets may disproportionately be to those in the greatest need. Providers may find it difficult to let AR properties efficiently where rents are high through Locata and may wish to market such properties through shared ownership zone agents, or through direct advertising, although this is likely to conflict with existing nominations protocols and the Tenancy Strategy will discourage such approaches except in limited circumstances. There is already some evidence that AR properties are being rejected by applicants on cost grounds and further research is being undertaken to clarify this. This may not be surprising at this early stage and it is possible that attitudes will change as Affordable Rent becomes more common, but the fact remains that Affordable Rent levels will always be high compared to existing rents.

8.2.16 In this context, a considered approach to Affordable Rent is essential. First, it must encourage and support new development to meet need. Second, within the constraints discussed above, this development must be affordable to households with priority on the council's needs register, defined in line with the various measures of affordability set out in Appendix 1 and summarised below. While the council cannot control rent levels, the strategy should give clear direction, recognising that the council has some leverage and should be prepared to use whatever influence it has to ensure compliance. For example, the council can influence rents for new properties through giving (or withholding) support to bids, or through the planning system. More widely, the council might offer additional partnership and joint working opportunities to those providers who demonstrate consistency with rents guidance. For existing units being converted to AR there may be less control, except where existing nomination agreements provide for it. Having said this, the evidence (detailed in Appendix 2) clearly suggests that the strategy should discourage conversions of larger homes to AR and any disproportionate level of conversions for property of any size. Across the country, it is expected that between one in four and one in two of all relets will be converted.

8.2.17 In the longer term, the introduction of Affordable Rent prompts other questions, some of which are considered elsewhere in this report but are worth noting here. It is a new product that, in terms of cost, is positioned closer to intermediate or sub-market options than it is to traditional social housing. This is partly driven by the costs of development with restricted subsidy, but the obvious question is who it is for if it is not affordable to large numbers of those with high priority in the current system? This may mean that the target groups for this type of housing may be different, for example working households. It may also mean that letting this type of property becomes difficult within an entirely choice-based system such as Locata and that lettings may need to be more targeted.

- 8.2.18 Consideration also needs to be given to local approaches to lettings where it is necessary to let Affordable Rent properties within an area where lower rents predominate or where a new development consists wholly or mainly of Affordable Rent homes. Lettings plans have already been used to support an appropriate mix of households within developments – for example in terms of age, employment status and household size. The introduction of Affordable Rent adds a dimension to this question. Targeting Affordable Rent homes at working households is one way to achieve a more balanced mix of incomes in neighbourhoods and it may be that some new schemes will need to be let with affordability as a factor in addition to need.
- 8.2.19 The strategy will also need to provide some definition of what is meant by low-paid employment. There are several possible ways to approach this and it is an issue that will be considered as part of the work currently underway to develop the council's employment offer, but at this point it is proposed that median incomes in the borough should provide the benchmark. The following paragraphs summarise the proposed approach to Affordable Rent.
- 8.2.20 The Council will require that affordable rented housing in the borough can meet the needs of households eligible for social housing, including availability at a cost low enough for them to afford. Unless affordable rented housing is actually affordable for people living in Brent rent levels will be unsustainable and fail to either meet local housing needs or to secure a steady rental stream that can support new development. The Council's position on housing affordability is informed by research on the relationship between local rents and incomes across the borough a summary of which is attached as Appendix 2.
- 8.2.21 Affordable rents should not exceed 40% of net incomes in Brent if they are to be affordable. For non-working households, the overall benefits cap limits claims to a maximum of £26,000 per annum or £18,200 for single person households. For non-working households rents should thus not exceed £200 per week or £140 per week for single person households if they are to be affordable. For working households, CACI data for the borough shows that average gross household income for the borough in 2011 was £30,352 per annum. Assuming a household with two equal earners, average net household income for the borough is estimated at £28,340.
- 8.2.22 Beyond the basic principle of income affordability, when setting affordable rents in Brent consideration should be given to a number of factors including the geographical variance in rent levels across the borough, Local Housing Allowance rates, the make up of different households including the impact of dependents on household income, and the context of welfare reform with the introduction of the overall benefits cap and the universal credit.

8.2.23 The affordable rent levels below are expressed as a percentage of market rents, inclusive of service charges

	LB Brent North ¹	LB Brent South ²
1 bedroom 1 person	up to 80%	up to 80%
1 bedroom 2 person	up to 80%	up to 80%
2 bedroom 3 person	up to 80%	up to 80%
2 bedroom 4 person	up to 70%	up to 70%
3 bedroom or more	Target rent +5 to +10%	Target rent +5 to +10%

¹covers the North West London Broad Rental Market Area within LB Brent

²covers the Inner North London and Inner West London Broad Rental Market Areas within LB Brent

8.2.24 Affordable Rents set at these levels currently meet housing affordability criteria in Brent in most cases; however some moderation will be required in higher value areas, and in particular the Brondesbury Park, Kilburn and Queens Park wards, or where a property has a high market rent valuation. Affordability for larger family sized properties of 3 bedrooms or more is known to be severely constrained, particularly for non-working households, and the council sees little scope for affordable rents to exceed target rents for such larger family sized properties.

8.2.25 A reasonable RPI-linked formula for annual rent increases should be proposed at the time that affordable rented homes are made available for letting. The council has already committed to maintaining current target rent levels in regeneration areas and there is no intention to revisit this decision.

8.2.26 The council supports Registered Providers re-letting of up to 50% of smaller 1 and 2 bedroom properties at affordable rents to help deliver new affordable supply, whilst at the same time maintaining a stock of social rented housing. The council is not in favour of re-letting larger family sized properties of 3 bedrooms or more at affordable rents.

8.2.27 The council will review guidance on Affordable Rent annually

8.2.28 Policy Options

Preferred options are in **bold**

Affordable Rent

- To oppose AR development in the borough through the Tenancy Strategy, bid support and potentially through the planning system, and to seek to restrict conversion of existing properties to AR.
- To allow AR development in the borough with the aim being to maintain a reasonable level of new supply, but to minimise the conversion of existing units because of the acute need for social rented accommodation.
- **To allow AR development in the borough to maintain a reasonable level of new supply and to promote a proportionate level of conversion of existing units to provide cross-funding of the development programme in Brent.**
- To maximise AR development in the borough, through a high level of conversions, high rents and where possible the contribution of local authority land.

Rent Levels

- To provide guidance on the principles that should be observed in setting AR rents.
- **To specify the affordability thresholds to be complied with by providers when setting rents, with exceptions subject to agreement in line with the proposals set out above.**
- To specify maximum rent amounts in the borough, or parts of the borough, that may be charged, with provision for exceptions on a scheme basis.

And

- Providers to take reasonable account of relevant factors including LHA rates and local incomes in setting rents, or
- **Providers to ensure that the rent for any AR property is at maximum the lower of some or all of the following thresholds, with exceptions being granted by the council in limited circumstances on a scheme-by-scheme basis.**

- LHA rates, or 80% of LHA rates
 - Strict affordability under the UC Cap, after taking account of living cost benefits
 - 35% of median earned income
 - 80% of the market rent for the property; or
- Providers to operate AR rents within a range (which is capped by the above thresholds), with the property-specific rent being set after taking account of the circumstances of the prospective tenant.

And

- **AR Rent will normally remain fixed for the duration of the fixed-term, but with an agreed protocol for review where a change in circumstances risks loss of the accommodation.**
- AR Rents will be automatically adjusted (for example six-monthly or annually) where there is a change of circumstances that worsens affordability, e.g. a loss of employment, or a substantial increase in salary.
- **Rents will be re-based at the end of a fixed-term against market rents but in line with the affordability thresholds outlined above.**

Target Groups

- For access to be exclusively through the Locata choice-based lettings system, except where otherwise agreed with the council.
- **In limited circumstances, providers to have the option to market AR properties more widely, initially or after a fixed period on Locata, by agreement and in accordance with an agreed protocol.**
- To seek to let AR properties to the same priority groups as currently access social rented properties.

- **To generally let AR properties to the same priority groups as now but to target through area lettings plans or other mechanisms wider groups and in particular those in low-paid employment.**
- To deliberately target AR properties generally to wider groups and in particular those in low-paid employment.

Mobility

- **To agree provisions between the council and providers that enable existing social rent tenants to transfer to AR properties at social rents (and with security of tenure) with a corresponding conversion of their existing property to AR or a compensatory conversion of a void social rented unit.**

Development Support

- **In order to reinforce the council's Tenancy Strategy, to enter into partnership agreements with providers by which they commit to comply and in exchange enjoy a preferred status, e.g. in relation to bid support, access to council development land opportunities, etc**
- To encourage providers to have regard to the Tenancy Strategy informally through regular liaison, bid support (or not)

8.3 Fixed-term and Flexible Tenancies and Succession

8.3.1 As noted above, providers have adopted fixed-term tenancies with enthusiasm, with the majority indicating that the default option will be a five-year tenancy, preceded by a one-year Introductory Tenancy. This approach has been broadly welcomed judging by responses to consultation. Attitudes among local authorities, or at least the relatively small number that have stated their intentions clearly, are more mixed and range from extensive use of five-year or, in some cases, shorter terms to retention of Secure Tenancies in all cases within their own stock and discouraging use of fixed terms by their partners. The Tenancy Strategy will need to adopt a position that steers the use of the council's own stock and, as far as possible, encourages a consistent approach by partners.

8.3.2 Adopting shorter-term tenancies alongside permanent options provides the opportunity to use stock more flexibly and meet need in a more targeted way, providing social housing when and for the period it is needed rather than in perpetuity. This would allow the council to make maximum use of the stock to

meet need and to support wider economic regeneration priorities. Fixed term tenancies will increase the availability of properties to the extent that such tenancies are not renewed, potentially assisting in addressing under-occupation and overcrowding, both of which are significant issues in the social housing stock, although as noted earlier the extent to which this will open up access to social housing should not be exaggerated.

- 8.3.3 On the other hand, it is arguable that use of fixed-term tenancies reduces tenants' security and may impact on their commitment to their neighbourhood and community, and to the upkeep of their homes and that a high level of non-renewal may impact adversely on community stability and cohesion. While the perception of reduced security should not be under-estimated, it should be stressed that the majority of providers have indicated that, while their default position when letting to a new tenant may be to offer a fixed term, the expectation is that the majority of these would be renewed and that the reality is that most tenants could expect to remain in their homes as long as they need to.
- 8.3.4 It might also be argued that existing security of tenure means that tenants are able to enforce their rights and require landlords to meet obligations under the tenancy agreement without the fear that it may jeopardise their tenancy. Although it might be countered that responsible social landlords would not take punitive action against a tenant who complains, the fear of such action should not be overlooked, especially when the Localism Act has additionally restricted the access of tenants to the Housing Ombudsman and the Regulator's focus has shifted towards financial issues.. Landlords may need to develop variant housing management approaches for these tenants that take account of their limited security of tenure, including their structures and arrangements for resident engagement, and specifically the representation of such tenants.
- 8.3.5 Landlords will be able to set policies that provide for a fixed-term tenancy to not be renewed where there are substantive breaches of the tenancy agreement and this will provide (periodically) an alternative and simpler remedy to such breaches than the use of possession proceedings. It will, however, be important that such a test is objective and an important consideration is whether the threshold should be lower than that which would otherwise trigger possession proceedings, as otherwise tenants with different security of tenure could find themselves being treated unequally for the same breach.
- 8.3.6 Landlords will need to set out clear policies and procedures that will govern decisions on whether to renew these tenancies or not, and will need to ensure compliance with them or risk legal challenge. Landlords will need to develop procedures and allocate resources to determine no less than 6 months before the end of the fixed term whether the tenancy is to be renewed. Depending on the criteria for renewal this could have significant resource implications. Appeal arrangements should also be considered as should whether to include

the involvement of, or reference to an external party (which could include the council for registered provider tenants).

- 8.3.7 Where a tenancy is not being renewed the landlord will want to ensure that appropriate advice and assistance is available so that the tenant can find suitable accommodation. The council has expertise in this area but Registered Providers generally will have limited experience. The council may need to expand its service, or assist social landlords in developing a complementary service. Given the cost implications, consideration would need to be given to how such a service might be funded, although it should be stressed that, since most tenancies will be granted for at least five years, this is not an immediate issue.
- 8.3.8 Where tenancies are not renewed the council may find itself owing a homelessness duty to the household, which could put further pressure on resources and on available private rented accommodation within which to discharge the duty. If homeless households continue to enjoy a reasonable preference under the Allocations Policy this may mean that such households are offered a further secure or assured tenancy, and may also mean that such households are over time effectively transferred from the responsibility of other social landlords to the council as landlord.
- 8.3.9 If fixed-term tenancies are widely used by Registered Providers but are not used or are used much less widely by the council there is a risk that those with greater needs (and higher priority under the CBL system) will become concentrated in the council's stock.
- 8.3.10 Bearing in mind the caveats noted above with regard to renewal, it is recommended that the council should adopt a five-year fixed term as the norm, preceded by an Introductory Tenancy. This would ensure consistency with other providers, at least in terms of tenure, and would maximise opportunities to use the stock flexibly and efficiently. There should be a presumption that the tenancy will be renewed subject to identified exceptions. In particular, it provides the opportunity to link shorter terms with employment and willingness to engage with employment support and support to secure alternative housing such as shared ownership, allowing housing and priority for rehousing to be used as part of a spectrum of incentives. Key priorities for the council should include improvement in income, improvement in quality of life and supporting moves towards self-support and fixed term tenancies could contribute substantially to these goals.
- 8.3.11 During consultation, a number of respondents, mainly from voluntary sector organisations, argued for the use of two-year terms in certain circumstances. In particular, it was argued that they could be a valuable stepping-stone for young people who are being supported by statutory or voluntary agencies (for example those working with young offenders or care leavers), enabling them to have a secure home while undergoing education or training and looking to move into work. Although officers consider a five-year term to be appropriate in most cases, it is accepted that a shorter tenancy, linked to a specific

support programme, could be a valuable option and that provision should be made within the strategy to allow this type of tenancy.

8.3.12 The Localism Act changes the rules on succession in social housing tenancies following the death of the tenant. Where a tenancy was created before 1 April 2012, existing rights to succession remain. A spouse or registered civil partner, a co-habiting partner or other family members who have lived at the property for at least twelve months will be able to take over the tenancy, although in some cases, for example where there would be under-occupation, the council can offer suitable alternative accommodation. Where a joint tenant dies, the other joint tenant becomes the sole tenant. Where a tenancy was created on or after 1 April 2012, only a spouse, civil partner or a person who lives with the tenant as if they were a spouse or civil partner will have a statutory right to succession and such a succession can happen only once. Providers and local authorities are free to continue to operate their current succession policies or to implement the Act for tenancies created after 1st April 2012.

8.3.13 Policy Options

Fixed-term tenancies

- To oppose the use of fixed-term tenancies except to the required extent in Affordable Rent properties, (or to limit their use to larger properties to address under-occupation).
- To allow their use, but with some or all the following either excluded or subject to conditions:
 - Supported and sheltered housing
 - Those with disabilities or long-term illnesses
 - The elderly, but possibly limited to smaller homes because of under-occupation concerns.
 - For families with children (possibly with some age restrictions)
- **To support their general introduction (with limited exceptions) and to allow providers to determine their own policies in respect of specific groups and circumstances, provided that these are broadly consistent with the council's priorities.**

Flexible Tenancies (Local Authority)

- To not use Flexible Tenancies within the council's stock.
- **To use Flexible Tenancies on the same basis as is proposed for other social landlords.**

Tenancy Term

- Two years normally, with a longer-period for specified groups /circumstances
- **Five years normally, but with shorter and/or longer periods for specified groups / circumstances.**
- A longer standard-term, for example 10 years, with shorter and/or longer periods for specified groups / circumstances.
- **That introductory or starter tenancies of 12 months be used for all new tenants, and in concert with fixed-term tenancies as relevant. This should also apply in the council's own stock.**

Renewal

The following should be included:

- To reinforce the requirements of the Tenancy Standard that there are clear criteria and procedures governing the assessment and decisions on renewal.
- To require that there is a right of appeal, which may include the council's involvement or consideration of the council's views.
- For all providers to commit to a standard protocol for liaison with the council where a tenancy is not being renewed, and a required standard of advice and assistance that will be provided by the landlord. The protocol may include provision for the council to be consulted in advance of a notice being served, either generally or in respect of specific vulnerable groups.

Additional requirements could include:

- **Commitment to a standard set of criteria for decisions on renewal, developed jointly by the council and providers.**
- That the basis for non-renewal for reasons of tenancy breach be broadly equivalent to that which applies to the bringing of possession proceedings.
- **That where the changed circumstances of a household would warrant a secure or assured tenancy at first let that the new tenancy be permanent.**

Criteria for renewal

- For renewal to be limited to those who would enjoy high priority for social housing under the Allocation Policy then in force.
- **For renewal to be the presumption, and non-renewal the exception. Non-renewal would be limited to some or all of the following:**
 - Under-occupation, but with the offer of alternative social housing
 - Serious tenancy breach
 - High household income
 - The absence of any priority under the Allocations Policy

Succession

- To retain existing succession rights to ensure equality between tenants regardless of the date the tenancy started
- To allow only one succession in tenancies commencing after 1st April 2012
- **To allow only one succession but with discretion to grant a further succession in certain circumstances**

Further provisions:

- **Mobility – For existing tenants to be able to retain their security of tenure where they bid successfully through CBL for a new property.**

- Tenure Protection – That where a tenant loses their security for a time because of the breach of a suspended possession order (e.g. not meeting rent arrears repayment terms) that on remedying the breach the tenancy is re-established as a fully secure or assured tenancy.
- For providers to make use of the council’s housing options and advice service to assure a high standard of advice and assistance to tenants to ensure that other housing options are explored where relevant, and that those facing non-renewal are able reasonably to secure suitable alternative accommodation. (Providers may need to subscribe and pay for use of this service)

8.4. Homelessness and Allocations

8.4.1 The success of the council’s homelessness prevention strategy and services has significantly reduced the number of homeless acceptances in recent years. Welfare reforms, and in particular the introduction of the Universal Credit Cap, could give rise to a significant increase in homelessness. The welfare reforms may significantly increase demand for social rented housing as, under the Universal Credit Cap, a significant proportion of existing private rented accommodation may become unaffordable for workless households.

8.4.2 Homeless applicants currently enjoy reasonable preference under the Allocations Scheme and will continue to do so. Over half of social rented lettings in 2009/10 were to homeless households, and only a quarter to other groups on the waiting list, although this figure has fallen, mainly due to the preventative work noted above, and is predicted to be at around 40% for 2012/13. Debate on reform has been emotive and frequently based on inaccurate preconceptions. Most obviously, there is a perception that homeless households are able to “jump the queue” and, by inference, that a proportion of applications are at best dubious and at worst fraudulent.

8.4.3 Such arguments are not helpful and tend to divide applicants into deserving or undeserving categories but there remains a question as to whether an episode of homelessness should override separate assessment of housing need on an equal basis for all waiting list applicants. While the law is clear in giving homeless households a statutory right to assistance, it is legitimate to ask whether this should always mean a permanent offer of social housing, where there are other groups with housing needs who do not currently have this opportunity, including a larger number of existing tenants who would like to transfer to larger homes but get few opportunities in the current system..

8.4.4 The council has, following case law developments, been discharging its main housing duty to homeless applicants in the private sector, and thereby reducing its temporary accommodation needs for some years, provided the household consents. The Localism Act now permits

discharge into the private sector without consent. If Brent were to do this much more extensively it would provide a larger proportion of affordable lettings to waiting list and transfer applicants. Consultation indicated strong support for this option across all interests.

8.4.5 Whether private rented accommodation, with market rents, limited security of tenure and variable quality of management is adequate to meet the needs of some vulnerable homeless households, who may require the support and security of a social tenancy, is questionable but it is clearly a suitable option in many cases and may often be preferable in terms of the type of accommodation available, such as houses with gardens. However, welfare reform and other factors are limiting the availability of private rented accommodation in which to place households. If private sector discharge becomes the norm the council may need to place households outside of the borough or outside of London. The key consideration for Brent and other local authorities is likely to be supply and how to secure it and how far outside borough boundaries might be reasonable, although each case would need to be treated on its merits and any offer would need to comply with guidance on reasonableness which, as noted earlier, has now been published in draft form by CLG and does not appear to add significantly to existing practice. Despite practical difficulties there are strong arguments in favour of more extensive use of the private sector to discharge duty and clear support from a range of partners and interest groups.

8.4.6 More widely, there are 18,000 households on the waiting list currently and a large number have no realistic prospect of obtaining a social rented property; the latest Supply and Demand report indicates that effective unmet demand stands at 11,000 households. Current arrangements do not create realistic expectations and are inefficient in providing a basis for the allocation of the limited supply available. The reforms offer an opportunity to review the way applications are prioritised and to identify factors that might result in additional priority, in line with the council's housing and wider policies as well as factors that might mean that a household is excluded from the waiting list or granted no priority. The current reasonable preference categories are retained, so the primary issue is to identify whether additional priority groups can be identified.

8.4.7 As noted above, emergent policies are varied and have identified a range of factors. These include:

- Excluding households not resident within borough boundaries or with some other strong local connection.
- Excluding households that, following assessment, are adjudged to have no or very low priority – for example those in Band D on the Locata scheme.
- Additional priority based on length of residence.
- Additional priority, sometimes for specific schemes or areas, on the basis of employment status.

- Excluding households with earnings or other resources such as savings above a certain level.
- Additional priority based on “merit” – for example those considered to be contributing to their communities through volunteering or contributing to meeting other council objectives such as fostering or adoption or taking on caring responsibilities.
- Additional priority for those leaving the armed forces.

Whatever their initial attractions, some of these options may be difficult to administer or evidence and care should be taken to avoid factors that are potentially subjective. The following paragraphs outline the issues.

- 8.4.8 The council could exclude those not resident in the borough, but it may be appropriate to provide access to those working or with carer responsibilities or other connections in the borough, although if Brent sets a policy that is significantly more generous than other boroughs it may experience a higher level of demand. The council could give some priority in relation to a household’s length of residence in the borough and consultation indicated support for this idea, particularly where it would enable inter-generational support, for example assisting those with caring responsibilities for a parent or relative. It could, however, be to the disadvantage of new migrants to the area. The equalities implications would need to be carefully considered and assessed.
- 8.4.9 Applicants in Band D of the Locata system have no realistic chance of securing social housing and have no identified housing need. For this reason, it is recommended that applicants who would fall into Band D should be excluded from the list. For practical purposes it may be simplest to apply this criterion to new or renewed applications rather than existing ones, so that the numbers in Band D decline over time.
- 8.4.10 Employment status should be taken into account, both in terms of achieving additional priority and in terms of renewal of any fixed term tenancy, alongside the established criteria for assessing housing need. As noted earlier, this may be a particular factor when considering specific neighbourhoods or schemes and the allocation of Affordable Rent stock within them. Some authorities have, as noted earlier, adopted an income limit. It is not proposed that Brent should do so at this stage; rather, income should be a factor taken into consideration when providing advice and support on future housing options either to housing applicants or existing tenants. Policy in this area will be guided by the current consultation on the government’s proposed income limit and will be the subject of a report later in the year.
- 8.4.11 It is not proposed that additional priority should be granted for community service or other “merit-based” criteria, although housing need arising from caring responsibilities or fostering and adoption responsibilities should be recognised within the Allocations Scheme. Similarly, evidence shows that

Brent has very low numbers of applications from ex-military personnel and it is not proposed that any additional priority should be granted over and above the provisions already introduced by government to ensure that such households have the right to register for housing.

8.4.12 Finally, reference has already been made to the impact of changes in rents and tenure on the operation of choice-based lettings. The government has been explicit in stating that tenants should continue to have choice and that where schemes are in operation they should continue. Brent remains committed to its membership of Locata but it is legitimate to ask whether choice should remain unlimited in present circumstances. This is partly a question of ensuring that homes are let quickly to people who genuinely want them, which would also ensure that those who do want to bid for a property are not prevented or delayed from doing so by someone who is likely to refuse the offer. This would also assist in minimising void periods and the number of refusals on any given property. It is proposed that households should be able to bid as many times as they wish but that they should only be able to refuse an offer following a successful bid up to three times, after which in the case of homeless households any duty would be considered to be discharged and, in the case of other applicants, further bids would be blocked for a specified period.

8.4.13 It is worth noting that the current Allocations Scheme already takes account of a number of factors that are in line with the proposals above. These include:

- Date of qualification (equivalent to length of residence) is taken into account when prioritising households within each demand group.
- Although there are no penalties for refusing an offer through Locata, cases where a household is making large numbers of unsuccessful bids, failing to make bids within a reasonable time or refusing offers will be reviewed and could lead to loss of priority.
- Offers made to homeless households or to meet other statutory duties can already be made outside the Locata system.
- Households with sufficient financial resources to secure their own accommodation will not be made offers, although no fixed income limit is applied.

8.4.14 For these and other cases decisions are made by an officer panel and it proposed that this system should continue and be extended as necessary to consider exceptions to the policies outlines in this report.

8.4.15 The proposed policy changes in relation to the Council's Allocation Scheme will require further statutory consultation as required under section 166(A)(13) of the Housing Act 1996, in particular with Registered Providers with which the Council has nomination agreements. The new and amended Allocation

Scheme will be presented to the Executive for approval later in 2012 as indicated in paragraph 2.5 of this report and after the necessary statutory consultation has taken place.

8.4.16 Policy Options

Waiting List

- To maintain the current eligibility criteria for the waiting list, but providing greater clarity on the housing prospects of individuals.
- **To restrict access to those with some housing need who are resident in Brent, or working in Brent for a defined minimum period, or with other significant connections.**
- To restrict access to those resident in Brent who have significant housing needs.
- To have no (or the statutory minimum waiting list), provide guidance on priority for new lettings and to advertise affordable (and private) lets on an open public basis, with applications being assessed on the basis of the Allocations Policy.
- **To abolish Band D of the current Locata banding system**

Allocations

- To maintain the current priority groups and their relative weightings.
- **To give greater priority to those in low-waged employment, and potentially to give these households particular additional priority for Affordable Rent properties.**
- **To allow a maximum of three bids within the Locata system**

Homelessness

- **To discharge the s.193 housing duty through an offer of suitable accommodation in the private sector as standard, with exceptions**

limited to those households who are assessed as requiring a high level of support.

- As above but with some or all of the following groups excluded from private sector discharge in most cases:
 - Care-leavers
 - Those with disabilities or long-term illnesses
 - Those who have experienced domestic violence or harassment
 - The elderly
 - Families with school-age children who are unable to afford accommodation in the private rented sector under the UC Cap.

- To only use private sector discharge in limited circumstances

And

- **To remove any additional priority in the Allocations Policy from homeless households following the discharge of the duty in the private sector;** or

- To maintain a degree of priority for homeless households after discharge of the main duty.

Other

- To develop Locata to provide a broader access point to social rented, affordable rent, and private rented accommodation.

9. Equalities Implications

- 9.1 The equalities impact assessment for the strategy is attached at Appendix 3. At this stage, the assessment is predictive and it will be essential to reconsider diversity issues at the first and subsequent reviews of the strategy. Although it is impossible to be precise about the implications of policy change, it is clear that some groups will be affected disproportionately by some changes and that these impacts may be both positive and negative across and within different protected characteristics. For example, some BAME groups are over-represented among those with large families and among

homeless applicants. Although the adverse impacts in these areas are largely due to welfare reform, some proposals for local policy, such as discharge of duty into the private sector and the possibility of using property outside the borough, are likely to impact disproportionately on certain groups and mitigation measures will need to be identified. At the same time, this same group may be assisted by the opening up of additional opportunities through more effective asset management and the continuing focus on delivering larger homes and keeping the rents for these properties affordable. Similarly, impacts for some other groups with protected characteristics are likely to be positive; for example, housing opportunities for younger, older or disabled people may be expanded.

10. Financial Implications

- 10.1 At this stage, it is not possible to identify precise financial implications but expenditure will be governed by existing budgets for homelessness and temporary accommodation and, with regard to tenure and related issues, within existing HRA budgets. The main areas where budget implications arise are considered below.
- 10.2 As noted in this report and in the Supply and Demand report presented in April 2012, there has been an increase in homelessness demand across London, driven largely by the changes to Housing Benefit and additional costs are anticipated as a result. The proposals in this report are intended in part to mitigate the impact of Housing Benefit and other welfare reforms and reducing homeless applications and acceptances, both through the work already being undertaken around homelessness prevention and through the changes set out here is a key policy aim. However, it is not possible to predict with any real accuracy how far the changes proposed will reduce reliance on temporary accommodation.
- 10.3 In the longer term, this report notes that there will be increased demand for services providing advice and support to housing applicants and tenants on fixed-term tenancies. Again, it is difficult to be precise about the potential costs, or indeed whether such services would deliver savings over time. It should be stressed that existing provision will continue to meet the need for advice and support to homeless or potentially homeless applicants and those needing advice on housing options. Over time, it is expected that demand for advice and support from tenants whose fixed terms are up for review will increase. However, the numbers involved will be relatively small at first and no tenant will be affected immediately since the first fixed terms have only been available to Registered Provider tenants since last year and are not yet available to council tenants and will not reach expiry until four years from now in the vast majority of cases. Further, many of these tenancies will be renewed. Officers will also enter into discussions with providers on the ways in which advice and support services might be delivered and funded in the future.
- 10.4 For the current financial year, it is not expected that the proposals in this report will have any immediate financial impact. As noted above, the intention

is that the impact of the changes, including any financial implications, will be monitored closely with a view to an annual review of the council's approach that will be reported to the Executive.

11. Legal Implications

Tenancy Strategy

- 11.1 Under section 150(1) of the Localism Act 2011, a local housing authority (which includes Brent Council) must prepare and publish a tenancy strategy setting out matters to which the registered providers of social housing are to have regard in formulating policies relating to the following
- (i) the kinds of tenancies they grant;
 - (ii) the circumstances in which they will grant a tenancy of a particular kind;
 - (iii) where they grant tenancies for a term certain and the lengths of the terms; and
 - (iv) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.
- 11.2 A local housing authority must have regard to its tenancy strategy in housing management functions (section 150(3) of the Localism Act 2011).
- 11.3 A local housing authority must publish its tenancy strategy before the end of 12 months after 1 April 2012, which is when section 150 of the Localism Act 2011 came into force (section 150(4) of the Localism Act 2011).
- 11.4 A local housing authority must keep its tenancy strategy under review and may modify or replace it from time to time (section 150(5) of the Localism Act 2011).
- 11.5 Under section 151 of the Localism Act 2011, before adopting a tenancy strategy (and before making a modification to it reflecting a major change of policy), the local housing authority must do the following:
- (i) send a copy of the draft tenancy strategy (or proposed modification) to every private registered provider of social housing for its district and give the private registered provider a reasonable opportunity to comment on those proposals;
 - (ii) consult other such persons as the Secretary of State may proscribe by regulations (to date, no such regulations have been made);
 - (iii) for a London borough council, consult the Mayor of London.
- 11.6 When preparing or modifying its tenancy strategy, a local housing authority must have regard to the following:
- (i) its current allocation scheme under section 166A of the Housing Act 1996;
 - (ii) its current homelessness strategy under section 1 of the Homelessness Act 2002; and
 - (iii) in the case of a London borough council, the London housing strategy which is prepared by the Mayor of London.

Succession to Council tenancies

- 11.7 Section 160 of the Localism Act 2011 has inserted section 86A of the Housing Act 1985 which allows a person to succeed a secure tenancy if (s)he occupies the dwelling-house as his/her only principal home at the time of the tenant's death and is the tenant's spouse or civil partner. It allows persons who are not the tenant's spouse or civil partner (where a tenant's spouse or civil partner has not occupied the property as his/her only or principal home at the time of the tenant's death) to succeed to a secure tenancy where there is an express term in the tenancy agreement which allows for this and the succession is in accordance with such a term. Once the Council brings this clause into effect, for new tenancies that are granted by the Council, only the tenant's spouse or civil partner can succeed a secure tenancy and this will need to be stated in the tenancy agreements.

Homelessness

- 11.8 Under section 148 of the Localism Act 2011 amended section 193 of the Housing Act 1996 so that it allows local housing authorities to discharge their duty to homeless persons to provide them with temporary accommodation by offering them a private sector rented tenancy which is approved by the local authority and is for a fixed term for at least 12 months. Previously, local authorities could only discharge their homelessness duty in this manner if they obtained the written consent of the homeless applicant and following this change, such consent will no longer be necessary.
- 11.9 Section 149 of the Localism Act 2011 (which inserts section 195A of the Housing Act 1996) provides that the main homelessness duty will recur (regardless of whether the homeless applicant has a priority need of accommodation) if the applicant becomes unintentionally homeless again within two years of accepting a private sector rented tenancy and then re-applies for accommodation.
- 11.10 The Government is currently consulting on the suitability requirements of private sector properties which are used to discharge local authorities' homeless duties, including the physical condition of properties, health and safety, houses in multiple occupation, landlord behaviour and good housing management. Consultation is also taking place on the issue of location in relation to the suitability of accommodation offered under Part 7 of the Housing Act 1996. It is expected that the Government will bring the secondary legislation into effect later this year and it will be known as the Homelessness (Suitability of Accommodation)(England) Order 2012.

Allocations

- 11.11 Section 147 of the Localism Act 2011 has inserted section 166A of the Housing Act 1996. A local authority must allocate housing accommodation under Part 6 of the Housing Act 1996 in accordance with its allocation scheme. The Localism Act 2011 gives local authorities more flexibility in framing its allocation schemes but it also gives the Secretary of State the

power to make regulations to specify factors which a local housing authority must not take into account in allocating housing accommodation. Section 160ZA of the Housing Act 1996 (as inserted by section 146 of the Localism Act 2011) allows local authorities to decide what classes of persons are qualifying persons for the purposes of allocating housing though this is subject to some limitations and restrictions prescribed by the Government.

- 11.12 Before making an alteration to its allocation scheme reflecting a major change of policy, a local housing authority in England must send a copy of the draft scheme or proposed alteration to every private registered provider of social housing and registered social landlord with which they nomination arrangements and afford those persons a reasonable opportunity to comment on the proposals as set out in section 167(13) of the Housing Act 1996. The Council will carry out this consultation and the proposed changes to the Council's allocations scheme as set out in this report will be presented to Members of the Executive for approval after the statutory consultation has taken place. When modifying its allocation scheme, a local housing authority must have regard to its current homelessness strategy under section 1 of the Homelessness Act 2002, its current tenancy strategy under section 150 of the Localism Act 2011 and for a London borough council, the London housing strategy, which is prepared by the Mayor of London.
- 11.13 More detailed legal implications regarding the changes to the law on housing allocations will be set out in the report to the Executive seeking approval of the new amended allocation scheme.

Flexible Tenancies

- 11.14 Section 154 of the Localism Act 2011 has inserted sections 107A to 107E of the Housing Act 1985 and they came into force on 1 April 2011.
- 11.15 Flexible tenancies apply to secure tenancies if a landlord in England grants a fixed term certain of not less than two years and before the grant of the tenancy, the landlord under the tenancy has served a written notice on the person whom becomes the tenancy stating that the tenancy would be a flexible tenancy. This also applied to family intervention tenancies. A flexible tenancy can also be created under section 137A of the Housing Act 1996 (as amended by section 155 of the Localism Act 2011) following introductory tenancies if the landlord serves a written notice on the tenant before entering into the introductory tenancy stating the following: (a) that on ceasing to be an introductory tenancy, the tenancy would be become a secure tenancy which would be a flexible tenancy for a term certain of the length specified in the notice (b) specifying a period of at least two years as the length of the term of the flexible tenancy; and (c) setting out the other express terms of the tenancy.
- 11.16 Under section 107B of the Housing Act 1985, where the Council offers to grant a flexible tenancy or serves a notice under section 137A of the Housing Act 1996 stating that on the coming to an end of an introductory tenancy, it will become a flexible tenancy, a person receiving such an offer or notice can

request a review of the Council's decision about the length of the term of tenancy.

- 11.17 Section 107D of the Housing Act 1985, as inserted by section 154 of the Localism Act 2011, sets out the requirements in which a landlord must carry out when deciding to recover possession of a property upon the expiry of the fixed term of a flexible tenancy. The three conditions are:
- (1) the flexible tenancy has come to an end and no further secure tenancy (whether or not it is a flexible tenancy) is for the time being in existence other than a secure tenancy that is a periodic tenancy;
 - (2) the landlord has given the tenant not less than 6 months' notice in writing:
 - (a) stating that the landlord does not propose to grant another tenancy on the expiry of the flexible tenancy;
 - (b) setting out the landlord's reasons for not proposing to grant another tenancy; and
 - (c) informing the tenant of the tenant's right to request a review of the landlord's proposal and of the time within which such a request must be made;
 - (3) the landlord has given the tenant not less than 2 months' notice in writing stating that the landlord requires possession of the dwelling-house (and such a notice may be given before or on the day on which the flexible tenancy comes to an end).
- 11.18 Under section 107D of the Housing Act 1985, the court may refuse to grant an order for possession following the expiry of a flexible tenancy if: (a) the tenant has in accordance with section 107E of the Housing Act 1985 requested a review of the Council's proposal not to grant another tenancy on expiry of the flexible tenancy; and (b) the court is satisfied that the landlord has failed to carry out the review in accordance with provision made by or under that section or that the decision on the review is wrong in law.
- 11.19 Under section 107E of the Housing Act 1985, a tenant has the right to request a review of the landlord's decision to seek an order for possession of a dwelling-house let under a flexible tenancy and such a request must be made before the end of the period of 21 days beginning with the day on which the notice under section 107D(3) of the Housing Act 1985 (as described in paragraph 11.13 above, under condition (2)) is served. On receipt of such a review request, the Council must review its decision and the review must consider whether the decision is in accordance with any policy of the Council as to the circumstances in which it will grant a further tenancy on the coming to an end of an existing flexible tenancy. The landlord must notify the tenant in writing of the decision on the review. The review must be carried out and the tenant notified before the date specified in the notice of proceedings (as set out in paragraph 11.13 above, condition (3)) as the date after which the proceedings for the possession of the dwelling-house may be begun.

Introductory Tenancies

- 11.20 Under the Introductory Tenancy regime, Council tenants are "introductory" tenants for a trial period of one year before they become secure tenants. Some local authorities use this regime so that they can apply to the Court for

mandatory possession orders (where the relevant legal and procedural requirements have been complied with as set out below) where there are tenants in the first twelve months of their Council tenancy who have breached their tenancy terms and conditions, mainly in relation to anti-social behaviour and rent arrears and other serious breaches of the tenancy terms and conditions. Introductory tenants have fewer rights than secure tenants. An introductory tenancy does not include the Right to Buy, or the right to take in a lodger or sublet part of the property, or the right to carry out a mutual exchange or transfer to another property. Also, the route to obtain possession of the property is different where the County Court has less discretion in introductory tenancies about whether to make a possession order. After twelve months, an introductory tenant will become a secure tenant unless the Council or its managing agent has served a notice terminating the introductory tenancy within twelve months. Furthermore, the Council or its managing agent can extend the trial period of the introductory tenancy for a further six months if it serves a notice of extension on the tenant at least eight weeks before the original one year expiry date.

11.21 If the Council or its managing agent wants to extend the trial period from 12 months to 18 months, it must serve a notice of extension on the tenant at least 8 weeks before the 12 month expiry date pursuant to section 125A of the Housing Act 1996 ("the 1996 Act"). The notice must set out the reasons for the decision and inform the tenant of his right to request a review of the landlord's decision and of that time within which such a request must be made. The tenant has the right to request a review of the landlord's decision under section 125B of the Housing Act 1996 within 14 days of being served with the notice to extend the introductory tenancy for a further six months. The procedure for carrying out the review is set out in the Introductory Tenancies (Review of Decisions to extend a Trial Period)(England) Regulations 2006. The review has to be carried out and the tenant notified of the review decision before the end of the original 12 month expiry date of the introductory tenancy.

11.22 If the Council or its housing management agent wants to terminate the introductory tenancy before the term of the tenancy expires, it must serve a notice on the tenant under section 128 of the Housing Act 1996 stating that the court will be asked to make an order for possession of the property, stating the reasons for the landlord's decision to apply for an order for possession and specify a date (no earlier than which a the tenancy can be brought to an end by a notice to quit) after which possession proceedings can be commenced in the County Court. The notice must also inform the tenant of his right to request a review of the landlord's decision to seek an order for possession and of the time in which such a request can be made and that if the tenant needs help or advice about the notice and what to do about it, he should take it immediately to a Citizen's Advice Bureau, a housing aid centre a law centre or to a solicitor.

11.23 An introductory tenant has the right to request a review of a decision to seek a possession order of a property let under an introductory tenancy under section 129 of the Housing Act 1996 and the request must be made within 14 days of being served with the notice of proceedings. The tenant has the right to request an oral hearing and has the right to make written representations, whether or not there is an oral hearing. The procedure for carrying out the review is set out in the Introductory Tenants (Review) Regulations 1997. If the review upholds the decision, the landlord can apply to the court to terminate the demoted tenancy and seek an order for possession. The review must be undertaken by a person who was not involved in the original decision. If the original decision was made by an officer, then any review of that decision by another officer may only be carried out by an officer occupying a more senior position within the landlord's organisation than the officer who made the original decision. The landlord must give the tenant notice of the date of the review, which must not take place less than five days after the tenant's request for a hearing (unless the tenant consents otherwise) or if there is no hearing, not less than five days after the tenant receives notice of his right to make written representations. However, if the review does not turn out in the tenant's favour, it is possible for a tenant to seek a judicial review of the review decision by applying to the Administrative Court on grounds of either *Wednesbury* unreasonableness (i.e. no reasonable review officer would have made such a decision) or irrationality or procedural irregularity in the way the review was conducted or in the alternative and more likely, to rely on a public law proportionality defence in the possession proceedings similar to that set out in the Supreme Court case of *Manchester City Council v Pinnock* [2010] UKSC 45 on grounds that it is not proportionate to seek an order for possession in the circumstances. However, subject to any proportionality public law defence that may be submitted, the court cannot refuse a landlord's application for a possession order of a property which is subject to an introductory tenancy unless it takes the view that the procedure in sections 128-129 of the Housing Act 1996 (and the regulations laid by the Secretary of State pursuant to section 129 of the Housing Act 1996) have not been followed and that the Council has elected to operate an introductory tenancy regime under section 124 of the 1996 Act.

11.24 In order to adopt introductory tenancies for new Council tenants, the Council must elect to operate an introductory tenancy regime pursuant to section 124(1) of the Housing Act 1996. In practical terms, this means that the Council's Executive must approve and elect to operate an introductory tenancy regime for new Council tenants and this can be done by way of a report to a meeting of the Council's Executive to seek the Executive's approval, which is being carried out in this case. Otherwise, the introductory tenancy regime will not have any legal effect and this can be used as a defence in possession

proceedings for properties pursuant to an introductory tenancy and could be used in judicial review proceedings to seek a declaration that the Council's introductory tenancy regime is unlawful.

Equalities – Public Sector Equality Duty

- 11.25 The public sector equality duty, as set out in section 149 of the 2010 Act, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic.
- 11.26 The “protected characteristics” are: age, disability, race (including ethnic or national origins, colour or nationality), religion or belief, sex, sexual orientation, pregnancy and maternity, and gender reassignment. Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.
- 11.27 Having “due regard” to the need to “advance equality of opportunity” between those who share a protected characteristic and those who do not includes having due regard to the need to remove or minimise disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and to encourage those who have a protected characteristic to participate in public life. The steps involved in meeting the needs of disabled persons include steps to take account of the persons' disabilities. Having due regard to “fostering good relations” involves having due regard to the need to tackle prejudice and promote understanding.
- 11.28 The Council's duty under section 149 of the Equality Act 2010 is to have “due regard” to the matters set out in relation to equalities when considering and making decisions on the provision of localised council tax support for the area of Brent. Due regard to the need to eliminate discrimination, advance equality and foster good relations must form an integral part of the decision making process. When the decision comes before the Executive, Members of the Executive must consider the effect that implementing a particular policy will have in relation to equality before making a decision. An Equality Impact Assessment will assist with this.
- 11.29 There is no prescribed manner in which the equality duty must be exercised, though producing an Equality Impact Assessment is the most usual method. The Council must have an adequate evidence base for its decision making. This can be achieved by means including engagement with the public and interest groups and by gathering detail and statistics on who claims Council

tax benefit and who benefits from certain discounts and exemptions which may be under consideration for changing.

11.30 Where it is apparent from the analysis of the information that the policy would have an adverse effect on equality, then adjustments should be made to avoid that effect and this is known as “mitigation”.

11.31 The public sector equality duty is not to achieve the objectives or take the steps set out in section 149 of the Equality Act 2010. The duty on the Council is bring these important objectives relating to discrimination into consideration when carrying out its public functions (in this case, designing a localised scheme for Council tax support within Brent). The phrase “due regard” means the regard that is appropriate in all the particular circumstances in which the Council is carrying out its functions. There must be a proper regard for the goals set out in section 149 of the 2010 Act. At the same time, when the Members of the Executive make their decision on what scheme to adopt for localised council tax support, they must also pay regard to countervailing factors which it is proper and reasonable for them to consider. Budgetary pressures and economic and practical factors will often be important. The amount of weight to be placed on the countervailing factors in the decision making process will be for Members of the Executive to decide when it makes its final decision

Background Papers

Local Decisions: A fairer future for social housing; CLG, Nov 2010

Localism Act: Nov 2011

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**Executive
16 July 2012**

Report from the Director of Regeneration and Major Projects

Wards affected:
ALL

Future arrangements for the ownership and management of Brent's housing stock

1.0 Summary

- 1.1 This report follows on from the decisions made by the Executive in July 2011 regarding the future ownership and management arrangements of Brent's housing stock. At this meeting the Executive decided to retain the Council's housing stock, and mandated officers to consult tenants and residents on a single preferred option to manage the Council housing stock through Brent Housing Partnership (BHP) as an Optimised Arms Length Management Organisation. This report sets out the outcomes of the consultation process and makes recommendations about the future of Brent Housing Partnership in the light of this.
- 1.2 The Executive in July 2011 also made a decision to undertake two further reviews of BHP in order to inform the consultation and refine the ongoing role of BHP. The first of these reviews explored how the necessary efficiency savings could be made within BHP in order to move towards top quartile performance in terms of both value for money, and the second considered the future governance arrangements for BHP. Both of these reviews have been undertaken collaboratively between the Council and BHP, and have been considered by the existing BHP Board. Both were completed prior to the consultations taking place, and this report summarises the findings of these reviews and makes recommendations accordingly.
- 1.3 Finally the report considers the next steps to be undertaken in the ongoing review of the management arrangements of the Council's housing stock.

2.0 Recommendations

- 2.1 That the Executive notes the consultation process that was undertaken regarding the future management arrangements of the Council's housing stock as set out in section 4 of this report.
- 2.2 That in the light of the outcomes of the consultation, the Council agrees to enter into a long term management agreement with Brent Housing Partnership to manage the Council's housing stock. A further report will be brought to the Executive in August 2012 setting out the detail of the management agreement.
- 2.3 That the Executive notes the findings of the efficiency review of Brent Housing Partnership as set out in Section 5 of this report, and in particular the arrangements currently being entered into for shared back office services in advance of co-location in the new Civic Centre.
- 2.4 That the Executive approves the findings of the governance review, as set out in Section 6 of this report.
- 2.5 That the Executive notes that a further report will be considered in the autumn of 2012 setting out the 30 year HRA business plan and a rolling 4 year strategy for investment in the Brent housing stock.

3.0 Context

- 3.1 In July 2011 the Executive considered a report which set out proposals for the future ownership, investment and management of the Council's housing stock both in the light of wide ranging review of local government's powers and responsibilities in relation to social housing, and the end of the existing Management Agreement between the Council and BHP which is due to expire in September 2012.
- 3.2 The following decisions were made:
 - *That in the light of the recent Housing Revenue Account settlement, the Council retains ownership of its existing housing stock.*
 - *That in the light of the recent Independent Review of Housing Management, the Council consults tenants and residents on a preferred option to manage the housing stock through Brent Housing Partnership, as an Optimised Arms Length Management Organisation focusing strongly on housing management.*
 - *That a new management agreement between the Council and Brent Housing Partnership is drafted, with full heads of terms to be completed by October 2011.*

- *That in considering how best to optimise BHP, a full review is undertaken of the following functions (to be completed by October 2011), with a view to delivering improvements and efficiencies:*
 - *human resources*
 - *finance processing*
 - *communications*
 - *legal*
 - *procurement*
 - *contract alignment*
 - *rent accounting*
 - *rent collection*
 - *aids & adaptations*
- *That a joint governance review is undertaken between the Council and Brent Housing Partnership (to be completed by October 2011), which will review both the BHP Board structure and the relationship between the Council and BHP, with a view to ensuring that BHP is fit for purpose for the duration of the proposed new management agreement.*
- *That following the outcome of the consultation as set out in paragraph 2.2 above and after the reviews set out in paragraphs 2.4 and 2.5 above have been carried out, a report is presented to the Executive in early 2012 regarding a final decision on the future role of BHP and the management of the Council's housing stock after the current BHP Management Agreement expires in September 2012.*

- 3.3 This report outlines progress against these decisions. Section 4 sets out the tenant and resident consultation process that has been undertaken, and reports on the response to this. Section 5 sets out efficiency review that has been undertaken, and section 6 considers the governance review.
- 3.4 Heads of Terms for the new management agreement have not yet been drafted and discussed with BHP. This will be prioritised over the coming months, and resources have been identified within the HRA to undertake this piece of work.
- 3.5 In the period since the July 2011 report the government has fully implemented its reforms of the Housing Revenue Account (HRA), effectively giving local authorities responsibility for an independent and self financing housing business, free of central government subsidy, with all of the attendant risks and responsibilities. This will require the Council to prepare a long term business plan for its housing stock, and for the first time will provide the Council with some real choice in terms of stock investment and asset management. A full report setting out a thirty year business plan and rolling four year investment plans will be presented to the Executive during the autumn of 2012. These new responsibilities will require the Council to develop a much closer relationship with BHP and will require greater clarity roles and responsibilities for decision making and delivery between the two organisations. This will be considered further in Section 6 below as part of the governance review.

4.0 Outcomes from the Consultation Process

- 4.1 Following the Executive decisions in July 2011, the Council in partnership with BHP undertook a full consultation on the proposal to retain the housing stock and manage it through an 'optimised ALMO'. The consultation had three main strands:
- Circulation of an explanatory leaflet to all tenants and leaseholders setting out the proposals, and inviting comments over a 12 week period. The consultation closed at the end of March 2012.
 - Publication of a summary of proposals on BHP's website over the same period, again inviting comments.
 - A series of six public consultation meetings over the course of February and March 2012, attended by the Lead Member for Housing and senior members of staff from the Regeneration & Major Projects department and BHP. Four of these meetings were held in the evenings at various locations across the Borough, with the remaining two happening during the day at BHP's offices at Chancel House.
- 4.2 Overall, the response rate from tenants and residents was extremely low – perhaps not surprising since in objective terms the proposals are for their homes to continue to be owned by the Council and managed by BHP. Overall only 10 people contacted the Council in writing, email or by phone.
- 4.3 At the public consultation meetings the Lead Member for Housing explained the nature of the optimised ALMO and invited attendees to identify whether they agreed with the proposed approach, to identify what their current strengths are of BHP, to identify any improvements they would like to see, and to express any concerns they may have about the future arrangements.
- 4.4 A summary of the consultation responses is attached at Appendix 1. Generally there was strong support for arrangements which would lead to the continuation of BHP managing the Council's housing stock. A number of people emphasised BHP's customer relationship skills as a benefit, but this was balanced by a number of people raising concerns about communication, complaint managements and follow up to general enquiries.
- 4.5 In terms of the future arrangements, concerns were expressed about transparency of decision making, especially in relation to the major repair programme and rents. A small number of consultees were anxious that BHP would become more like a housing association, or lose its identity as a consequence of the move to the Civic Centre.
- 4.6 A small number of leaseholders raised concerns about the cost of charges and repairs undertaken by BHP. This is a perennial debate, and during the consultation it was difficult to separate out the general situation from specific

complaints relating to leaseholders own individual properties and circumstances. No specific views were expressed as to whether the new arrangements would either exacerbate or improve the situation with respect to the issues raised.

4.7 Given the low level of responses it would be wise to be cautious about drawing definitive conclusions. A few respondents did express disappointment that only one option was being presented to them, although the style of the consultation was in fact more discursive and respondents were encouraged to bring forward alternative proposals and suggestions. None were received.

4.8 On this basis members are recommended to move ahead with the proposal to enter into a long term agreement with BHP for the management of the Council's housing stock. If this decision is made then officers will begin work on drafting and negotiating a new management agreement between the Council and BHP, and report back to the Executive before the expiry of the existing agreement in September 2012.

5.0 BHP Efficiency Review

5.1 The July 2011 Executive Report set out very clearly the rationale for the proposed 'optimised ALMO' approach to the management of the Council's housing stock. A significant contributing factor to this recommendation was the opportunity afforded by the forthcoming co-location of BHP and the Council in the new Civic Centre to drive efficiency savings, which in turn would help the optimisation process – the ultimate aim is for BHP to be in the top quartile of housing management providers both in terms of service quality and value for money.

5.2 In the intervening period the Council and BHP have collectively undertaken an efficiency review. The review had the following objectives:

- To deliver top quartile financial performance in relation to both London ALMOs and other London housing providers
- To achieve a minimum 13.6% reduction in the housing management budget over a 5 year period
- To achieve a minimum of 10% budget reduction for all other special services including repairs and maintenance over a 5 year period, based on 2.5 percentage point increments from year 2 onwards
- To maximise the efficiencies associated with the co-location of the ALMO with the Council in the new Civic Centre from 2013 onwards
- To achieve these efficiencies without having a negative effect on service quality and customer satisfaction

5.3 The initial areas for review were agreed between the Council and BHP board members, and included:

- human resources
- finance processing
- communications
- legal
- procurement
- contract alignment
- rent accounting
- rent collection
- aids & adaptations
- IT
- anti-social behaviour
- health and safety

5.4 The confidential report attached at Appendix 2 sets out the findings and recommendations from the efficiency review. In summary it was agreed that BHP would bring forward the required level of 'back office' savings (13.6%) over a four year period, rather than the original target of five years. A majority of these savings will come from integrating aspects of BHP's finance team (particularly the finance processing functions) with the Council's finance team. Smaller savings will be explored through shared legal and health & safety functions. Other back office aspects will be revisited once the move to the civic centre has taken place, particularly those associated with IT.

5.5 Implementation of the finance integration is underway, and BHP are undertaking the necessary processes under the Managing Change Policy. The end outcome will be a loss of some 15 back office posts from within BHP.

5.6 The second area for efficiencies relates to special services, including repairs and maintenance. An initial target of 10% over a five year period has been identified, with a proposal to deliver these in 2.5% increments beginning in year 2. This will require BHP to build upon the efficiency work already begun (eg. the Lean Fundamental System Thinking Review in the repairs team has delivered 13% savings over the last two years), as well as explore and embrace further opportunities. By way of example, BHP are committed to bundling their grounds maintenance contracts with the Council's proposed new environmental tender package.

5.7 The efficiencies generated will be within the Housing Revenue Account, and will in turn free up further resources within the new 30 year business plan and four year investment plan to be considered by the Executive in the autumn of 2012.

6.0 Governance Review

6.1 The new financial freedoms associated with HRA reform come with attendant and significant risks and responsibilities. This will require there to be absolute clarity on where responsibility for decision making lies on any particular issue, and to some extent this will require a re-casting of the relationship between the Council and BHP. Historically the relationship between BHP and the

Council has been good, but over the course of the original review of the future ownership and management of the Council's housing stock it was clear that in recent years the relationship has become more fragile in some areas.

- 6.2 Both the Council and the BHP Board therefore signed up to an independent review of the governance arrangements for BHP. This was undertaken by Navigant Consulting (who also did the original review of the ownership and management of the housing stock) and reported in November 2011, in advance of the public consultation. The report is attached at Appendix 3, and was the subject of considerable consultation, discussion and debate within BHP.
- 6.3 It is important to recognise that the review is not intended to be critical of previous practices, working arrangements or individuals involved in housing management. Rather its focus is on considering how the governance of BHP, and its relationship with the Council, can evolve so as to both embrace the new context for housing management and best practice from across different sectors.
- 6.4 The review explored four broad areas: the relationship with the Council, resident involvement, the BHP Board and arrangements for performance management. A summary of the main recommendations is set out below:

Relationship with the Council

- The new Management Agreement to restate the strategic purpose and responsibilities of BHP.
- A Partnership meeting between the council, including the Lead Member, and BHP, including the Chair and sub-committee chairs, to be held quarterly.
- Regular meetings between the BHP Chair, Chief Executive and the lead council director to be instituted.
- The Council's Overview and Scrutiny function to be exercised over BHP.

Resident Involvement

- A Resident and Community Champion portfolio-holder to be elected from the Board.
- Board Members to make a report to the resident talk-back forums.
- A Residents Advisory group to be established to provide advance scrutiny of Board reports.

The BHP Board

- To comprise thirteen members: 6 residents (4 tenant and 2 leaseholder representatives); 3 independents, 3 council nominees and the Chair.
- A three-year term for resident and independent members, and a maximum of three continuous terms.
- Council nominees could include non-Councillors if desirable, and to be subject to appraisal before appointment.
- The Board's Chair to be externally appointed, with selection by the Council and BHP Board, and to serve for a term of three years, and for a maximum of three continuous terms.
- Payments to Board members to be restricted to resident and independent representatives.
- Individual and collective board appraisals to be annual and the use of external assessment/facilitation to be considered.
- Board members to sit on a maximum of two sub-committees, with the membership of each sub-committees limited to six.
- A forward agenda of matters for decision to be set by the board, and published for the year ahead.
- A public register of all decisions to be maintained.

Performance Management

- The Board and its service delivery sub-committee to be responsible for the development of the draft Delivery Plan, and proposed targets
- The council to be engaged in the development of the Delivery Plan, and its agreement through the Partnership meeting structure.
- The Board to take lead responsibility for driving performance and to receive a quarterly exception / action report on performance.

6.5 It is proposed that the Council and BHP adopt these recommendations in full with immediate effect. In doing so the major changes relate to a reduction of the size of the Board to accord with best practice and guidance in relation to good governance, a commensurate reduction in the number of Council nominations to the Board from four to three, and to cease payment of the Council representatives on the Board to bring the Board more in line with other governance organisations to which the Council nominate representatives.

6.6 The current chair of the BHP Board has indicated that she will be stepping down once a replacement chair has been identified, and it is proposed that the recruitment process for the new Chair and Vice Chair roles begins

immediately. This will allow the new Chair to oversee the signing off of the new management agreement.

6.7 Interim senior management arrangements have been in place at BHP for in excess of two years now. It is important that this situation is rectified. It is also important that the new Chair of BHP is closely involved in agreeing the permanent management arrangements and in the recruitment of the senior officer posts. It is therefore proposed that the permanent management arrangements are finalised as soon as possible after the appointment of the new Chair and Vice Chair.

6.7 In terms of next steps, the following timescale is proposed:

July 2012: Executive Decision to proceed with 'optimised' ALMO
July 2012: Begin recruitment process for new Chair and Vice Chair
July 2012: Begin drafting of revised management agreement
Sept 2012: New Chair and Vice Chair in place and Management Agreement agreed
Sept 2012: Permanent management arrangements finalised and full implementation plan for governance review established

7.0 Financial Implications

7.1 The HRA reforms were fully implemented in April 2012. The Council now has full responsibility for managing an independent and self financing housing business, free of government subsidy, with all of the associated risks and responsibilities.

7.2 The proposal to enter into a long term management agreement with BHP will mean that a management fee, in line with the proposed management agreement, will be agreed with BHP. The management fee will be charged to the HRA and is met within HRA resources.

7.3 A management fee for 2012-13 has been agreed with BHP and takes account of the efficiency review and savings set out in this report. The 2012-13 management fee includes part year savings of £550k, with BHP in addition meeting some of the new structure implementation costs (such as redundancy).

7.4 Under the proposals set out in this report, Brent Housing Partnership Ltd will continue to be a local authority company controlled and wholly owned by the London Borough of Brent, with no share capital and limited by guarantee. Brent Housing Partnership Limited is required by law to prepare annual statutory accounts. These accounts will show BHP's income (including the management fee income) offset by its management and administrative costs. Local Authorities are required to produce group accounts which include interests in subsidiaries, associates and joint ventures. Brent Housing Partnership are included in Brent's Group Accounts.

7.5 Officers are currently working on an updated 30 year HRA Business plan and

rolling strategy for investment in Brent's Housing stock. That business plan will take account of the efficiencies set out in the report. The updated HRA business Plan will be reported to the Executive in the Autumn 2012

7.6 Payments to Board Members are organised by, and financed by BHP.

8.0 Legal Implications

8.1 ALMOs (Arms Length Management Organisations) were created with the encouragement of the then Office of the Deputy Prime Minister (ODPM) as it enabled Councils to create a company which they owned to manage their housing stocks and obtain extensive funding from the ODPM which Councils would not normally get by way of grant for the properties of the housing stock to achieve the Decent Homes standard by 2010. This target has already been reached for all the Council properties save for South Kilburn and Barham Park in which there will be regeneration schemes taking place which will involve the demolition of properties.. Also, ALMOs allow greater involvement from tenants and leaseholders in the management of the Council's housing stock as they are entitled to be members on the ALMO's Board. The Department for Communities and Local Government ("CLG") has stated in its "Review of Arms Length Housing Management Organisations" paper of June 2006 that separating a local authority's housing management function from its strategic role can enable tenants to benefit from a better housing service while the local authority can concentrate on its wider strategic function.

8.2 The BHP Management Agreement, which delegates the Council's housing management functions to its ALMO, Brent Housing Partnership (BHP), was entered into on 1 October 2002 for an initial term of five years. On 10 April 2006, the Executive decided to extend the term of the Management Agreement for a further five years and it is due to expire on 30 September 2012.

8.3 BHP is a subsidiary company of the Council. BHP's Constitution is made up of its Articles of Association and Memorandum of Association. BHP is a limited company, without share capital, which operates on a non-for-profit basis and the Council is the sole guarantor member. The BHP Board currently consists of seven resident members (including tenants and leaseholders), four independent members and four Brent Councillor members.

8.4 Under section 105 of the Housing Act 1985, the Council as a local authority landlord has a duty to consult with those of its secure tenants who are likely to be substantially affected by matters of housing management, which includes the management, maintenance and improvement of dwelling houses let by the Council under secure tenancies and the provision of services in connection with such dwelling houses. The consultation requirements under section 105 of the Housing Act 1985 must enable the secure tenants likely to be affected to be informed of the Council's proposals and to make their views known to the Council within a specified period. There is no requirement under section 105 for a ballot to take place as the Council's proposal does not involve a change in ownership of the Council's housing stock. Leaseholders of Council-owned properties will also be involved in the consultation process. Section

105 of the Housing Act 1985 still applies as the Secretary of State has not laid down regulations pursuant to section 27BA of the Housing Act 1985 regarding consultation requirements relating to housing management.

- 8.5 Pursuant to section 27 of the Housing Act 1985, a local authority may delegate its housing management functions by means of a management agreement subject to consent from the Secretary of State for Communities and Local Government. In 2009, the Secretary of State laid down a General Consent under section 27 of the Housing Act 1985 entitled “The General Approval for Housing Management Agreements 2009” but it should be added that this General Consent does not cover proposed housing management agreements which are for more than five years. Officers will make enquiries in the forthcoming weeks to clarify whether the Department for Communities and Local Government and the Tenants Services Authority respectively have any comments or issues regarding the Council’s proposal for a long term management agreement. In any event, it will be necessary for the Council to apply to the Secretary of State for consent pursuant to section 27 of the Housing Act 1985 if the Executive decides to choose the optimised ALMO option for BHP in respect of the delegation of the Council’s housing management functions in early 2012. This is because the said 2009 General Consent only covers three scenarios which involve: (i) complying with tendering conditions set out in the said General Consent and complying with the Public Contracts Regulations 2006; (ii) agreements dealing with small numbers of houses; (iii) agreements with Tenant Management Organisations.
- 8.6 Under sections 247 and 249 of the Housing and Regeneration Act 2008, the enforcement powers of the Regulator of Social Housing (which at present is the Tenants Services Authority) include the power to impose a requirement to put the management of social housing to tender or to require the transfer of management functions to a specific provider. From April 2010, any management agreement must include a break clause which enables to management agreement to be determined and the management functions transferred (this is pursuant to the Housing Management Agreements (Break Clause)(England) Regulations 2010 – S.I. 2010/663).
- 8.7 In April 2011, BHP was granted Registered Provider status by the Tenants Services Authority. BHP has gradually been developing its role as a provider of housing in addition to being a housing management organisation. It is effectively becoming a social landlord in its own right on a piecemeal basis after acquiring Granville New Homes from the Council in 2009 with the assistance of loan funding from the Council, acquiring properties under the Settled Homes Initiative to provide housing to homeless households (with the assistance of grant funding from the Homes and Communities Agency and loan funding from the Council) and small scale developments such as Aldbury Avenue and Ander Close with the assistance of grant funding from the Homes and Communities Agency. In these developments, BHP owns properties and grants tenancies as a landlord in its own right. The issue of whether BHP should continue its development role as a social landlord in its right in the future is addressed in this report.

9.0 Diversity Implications

- 9.1 An Equalities Impact Assessment has been carried out and is attached at Appendix 4. Analysis has not revealed any adverse impacts for tenants with protected characteristics. Rather, the efficiencies and performance improvements expected as a result of the changes, together with stronger governance, are expected to deliver benefits for all tenants.

10.0 Staffing/Accommodation Implications (if appropriate)

- 10.1 It has already been established that BHP will surrender their lease in Chancel House and will move into the Civic Centre in 2013.
- 10.2 The efficiency savings proposed in the report may have staffing implications for staff within both BHP and the Council. Staff and Trade Unions will be fully consulted on any changes proposed, in line with the Council's Managing Organisational Change policies.

Appendices

Appendix 1: Summary of Public Consultation Responses

Appendix 2: BHP Efficiencies Review, December 2011

Appendix 3: BHP Governance Review, November 2011

Background Papers

Review of Brent Housing – stock ownership, investment and management – Navigant Consulting, April 2011

Contact Officers

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ANDY DONALD
Director of Regeneration and Major Projects

FUTURE MANAGEMENT OF BRENT COUNCIL'S HOMES

Summary of Public Consultation Meetings

- 1 Four evening meetings were held for residents together with two daytime meetings for resident representatives. A note of the meetings detailing questions asked and comments made are set out as an appendix. The notes of the first meeting also contain the presentation made by Janice Long which was repeated for each subsequent meeting.
- 2 A total of 66 residents attended the meetings
- 3 The notes record 73 questions and comments although some of these had multi parts to them and not all were directly relevant to the consultation.
- 4 The nature of the proposed "optimised Almo" was explained and residents were asked for their views, specifically:
 - Did they support this approach
 - If not why not
 - What are the current strengths of BHP
 - what would they like to see improved
 - were there any concerns about the future arrangements

The attached appendices show that:

- Support for the optimised Almo was strong – with 18 positive statements recorded, praising BHPs services. There were additional expressions of support following some of these statements – with one meeting applauding the speaker.
- No specific statements were made as to why the Optimised Almo should not be supported. However two residents felt that it appeared to be a fait accomplis (54 & 66) and others would have expected more information on other options (14 & 48)
- Residents mentioned the following strengths of BHP:
 - service improvements (3)
 - repairs service was much improved (18)
 - quick response to requests for assistance (29 & 59)
 - good staff who listened to people (35)
 - BHP brought a personal touch in dealing with people (36)
 - Strong presence where major works undertaken (57)

- Areas for improvement included:
 - Communication with residents in street property (8)
 - Control of work undertaken by contractors (9 & 44)
 - Complaints procedures should be simplified with clearer contact points (43, 44, 68) and better follow up of general queries (65 & 68)
 - Stronger liaison with leaseholders (53) with more information on future work programmes (69)

- Concerns about the future arrangements
 - Feedback was requested on the points raised at the consultation meetings (70)
 - Details of the business and asset management plan were requested to be made available to residents as soon as possible (40, 62 & 70)
 - The need for finances to be transparent (63)
 - Would BHP become more like a housing association (38)
 - Would BHP lose its identity when moving to the Civic Centre (49)

5 Comments and questions were also raised that were not strictly in response to the questions posed at paragraph 4 above. However these were also noted and covered:

- Future rents and the process for rent setting (1, 2, 4, 5)
- What factors would influence future budgets (6, 7)
- Whether new properties would be built (11, 30)
- The need for better insulation (21)
- A resident wanted BHP and the Council to employ more local people (25)
- Problems with dogs (27) and rodents (24)
- Shopping facilities (32)
- Impact of housing/welfare benefit reforms (37)

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BRENT HOUSING PARTNERSHIP BOARD

Meeting: Andy Donald	Date: 13 December
Report Author: Gerry Doherty	Title:
Contact Officer: Gerry Doherty	Classification: For Information
Contains Private and Confidential Information:	YES/NO

Introduction to Assessment

1 Process

- 1.1 A working group was set up chaired by Eamonn Mccarroll, Assistant Director of Finance (Brent) including Gerry Doherty, Chief Executive BHP, Ian Warner Interim Director of Finance and Danie Van Zyl BHP Management Accountant. Four meetings were held over the course of October and November. Managers from BHP prepared reports (see attached appendix) on the arguments for retaining particular areas of service within BHP which were discussed and debated in detail during the working group meetings. Several meetings were also held with Brent's Director of IT, Stephan Conoway to look at what efficiencies are possible in IT.
- 1.2 Process review meetings have been held with Celia Henry and Eamonn Mccarroll to examine in detail how Brent's Finance Processing Team could streamline BHP's Finance Processing. BHP's meetings have also been held with Sue Emery from Brent's Health Safety and Licensing Team. Senior Management team discussed alternative strategies for making further efficiencies including individual post deletions. The proposed findings of the working group were presented to a special board meeting on Saturday 19th November 2011. (Presentation slides are included in appendix B)
- 1.3 Further discussions with Brent are to be undertaken in January 2012, in relation to efficiencies that are possible on the existing service level agreements and the current non BHP HRA expenditure. A separate review is to be undertaken by Brent to consider options for the Aids and Adaptations Services in Brent.

2 Objectives of the Review

- 2.1 The following were the objectives of the Efficiency Review;
 - To deliver top quartile financial performance in relation to both London ALMOs and other London housing providers
 - To achieve a minimum 13.6% reduction in the housing management budget over a five year period

- To achieve a minimum 10% budget reduction for all other special services including repairs and maintenance over a 5 year period, based on a 2.5 percentage point increments from year 2 onwards
- To maximise the efficiencies associated with the co-location of the ALMO with the Council in the new Civic Centre from 2013 onwards.
- To achieve these efficiencies without having a negative effect on service quality and customer satisfaction.

3 Areas for Review

3.1 The Council's Executive and BHP's board have specifically agreed a number of areas for review and consideration of optimisation, based on a joint working group between the two parties;

- Finance Processing
- Health and Safety
- Legal
- Human Resources
- IT
- Communications
- Contract Alignment
- Procurement
- Aids and Adaptations
- Rent Collection and Rent Accounting
- Anti social behaviour

Finance	
Current Arrangements	Proposals
<p>BHP currently manages all functions in relation to finance processing and management accounting. The Director of Finance has specific responsibilities under BHP's Standing orders and reports to the Finance and Audit Sub Committee.</p>	<p>The working group felt that as BHP is a separate company and is responsible for managing significant budgets on behalf of the Council, i.e. operational, services, capital plus BHP owns over 240 properties for which has loans with the Council at approximately £40-50 million that it needs to retain appropriate financial independence and expertise going forward. However, this is an area where with shared services with the Council could lead to significant efficiency savings especially in the area of Finance Processing. Meetings are being held with BHP's Interim Director of Finance and Brent's Assistant Director of Finance to review BHP's processes. It is estimated that sharing services with Brent could lead to a net reduction in five finance posts with BHP.</p> <p>It is also proposed to delete the post of a BHP Financial Controller. Currently BHP has an interim Director of Finance in post. It is proposed to either continue with an interim Director of Finance or recruit to a fixed term contract of 12 to 18 months so that further consideration of greater integration with Brent Finance to maximise the opportunities of moving to the civic centre.</p>

4 Findings: and Proposals

Health and Safety	
Current Arrangements	Proposals
<p>BHP currently has a dedicated Health and Safety Officer in post.</p>	<p>Health and Safety of both BHP staff and Brent tenants is of paramount importance to BHP. There are monthly strategic H+S meetings with the SMT and quarterly H+S meetings held with other managers. A quarterly progress report is prepared for each BHP Service Delivery Committee and H+S is one of BHP's top 10 risks in the risk management update report which is presented at all board meetings. H+S is integral to the culture at BHP from the top to the bottom of the organisation. However, this does not mean responsibilities for this area fall on the shoulders of the dedicated H+S Officer. Gerry Doherty has therefore had meetings with Sue Emery, Brent's Health Safety and Licensing and agreed that BHP would shared services with Brent. It is proposed that Brent would employ an H+S Officer who would then spend 50% of their time within BHP's offices prior to the move to the civic centre.</p>

Legal	
Current Arrangements	Proposals
<p>.BHP currently employs a dedicated officer with legal expertise to manage Brent's commercial property portfolio, deal with BHP disrepair cases, Leasehold Valuation Tribunals and other miscellaneous legal type works.</p> <p>The vast majority of legal work undertaken for BHP is however currently undertaken by Brent' Legal Department under a service level agreement.</p>	<p>.It is proposed that the dedicated officer in BHP would be shared with Brent Council working 2 to 3 days per week in each location prior to the move to the civic centre.</p> <p>Further meetings are to be held with Brent legal to discuss what efficiency savings are possible under the current service level agreement.</p>
Contract Alignment	
Current Arrangements	Proposals
<p>It is acknowledged that there has little contract alignment / joint procurement with Brent and BHP in recent years. However BHP is a founder member of the London Area Procurement Network (LAPN now changed to CYNTR). This organisation was set up by the participating ALMO's to jointly procure services to make significant efficiency savings through joint procurement. BHP has used these arrangements to deliver some decent homes contracts and the recently completed digital TV aerial upgrade programme which undertook works in over 4000 properties.</p>	<p>It is agreed that BHP and Brent in future should take all available opportunities for exploring joint procurement. BHP has been in the first wave of Brent's new printer programme. Currently officers are working with Brent on joint procurement of Insurance Services, parking control services and tree management. Meetings have taken place to explore opportunities for joint procurement of grounds maintenance services.</p>
Procurement	
Current Arrangements	Proposals
<p>BHP currently has three dedicated procurement officers</p>	<p>BHP undertook a re-structure in 2010 which resulted in net efficiency savings of 9%. As part of this review, BHP's procurement team was reduced from 5 officers to 3 officers. Effective and timely procurement of services is critical to BHP's aim of delivering top quartile performance and maintaining customer satisfaction. The Navigant review of BHP confirmed that the scale of the contracts that BHP procures is sufficient to achieve economies of scale in the market place. The procurement not only</p>

	undertakes procurement of services but they carry out high level clienting of contracts and intervene with specialist advice and support for front line managers. BHP's team have also been highly successful in earning additional income for BHP by selling their services to other registered providers. It is therefore proposed that BHP retains its own dedicated procurement team but BHP and Brent work closer together in future to jointly procure services.
Human Resources	
Current Arrangements	Proposals
BHP currently employs two HR officers and one administrative assistant. BHP receives high level support via a service level agreement with Hounslow Homes, HR Manager. BHP also uses the support of Brent Council's employment lawyers as and when necessary.	<p>BHP staffs are now on different terms and conditions to Brent employees having TUPE transferred from Brent in 2002. The HR team are responsible for organising BHP training requirements, union liaison and consultation and developing all BHP's policies in areas such as sickness management, Incapability and Disciplinary. BHP also has a Personal and Remuneration Sub Committee which meets quarterly to receive HR update reports.</p> <p>It is proposed to reduce the number of HR posts from 3 officers to 2 officers. BHP is to retain its HR function currently and there would be further consideration of shared services with Brent following the move to the civic centre.</p> <p>BHP is also to consider joining with the Councils arrangements for providing agency /temporary staff through its partner organisation MATRIX.</p>
IT	
Current Arrangements	Proposals
BHP currently has two dedicated IT related staff. One member of staff is responsible for maintaining BHP's website and providing	Meetings have been held with Brent's Head of IT Stephan Conoway to discuss benefits of optimisation. It was felt that

<p>training and support on “how to” user support to use the Councils IT systems such as Northgate. The other officer post is the Head of IT and Business Support. This role is responsible for clienting / liaising with Brent’s IT in relation to the current service level agreement. 50% of BHP’s IT budget is spent via the service level agreement as unlike other ALMO’s BHP is reliant on the councils core IT system i.e. NORTHGATE. The other 50% of the budget is spent on directly procured IT services in response to service level reviews and improvements in processes.</p>	<p>there was limited scope for further integration at this time as BHP are currently using all the Councils core systems and BHP requires ongoing website support, “How to” user support and project management of new IT systems. BHP’s IT strategy report (appendix attached) identifies all the areas where BHP aims to develop IT over the forthcoming 12 months.</p> <p>It is therefore proposed that BHP / Brent revisit the issue of further optimisation following the move to the new civic centre.</p>
<p>Communications</p>	
<p>Current Arrangements</p>	<p>Proposals</p>
<p>BHP has currently one dedicated Communications Officer.</p>	<p>It is proposed that BHP retains the dedicated communications officer post and this is reviewed following the move to the new civic centre.</p> <p>BHP’s communications officer produces all of BHP’s public material including regular tenant newsletters, BHP pamphlets and leaflets etc. The officer leads an editorial group of residents who produce the quarterly newsletters, there is also a Youth Editorial Board. BHP produces detailed ward update newsletters for all councillors on a quarterly basis which have been well received. This officer is also leading on new areas of service such as new media i.e. Twitter and Facebook. Another area this officer is responsible for is organising and facilitating bi monthly meetings where BHP Chair and CEO hold meetings / surgeries with Brent residents.</p>
<p>Rent Collection and Rent Accounting</p>	
<p>Current Arrangements</p>	<p>Proposals</p>

<p>BHP currently has dedicated rent collection officers and rent accounting teams.</p>	<p>The working group felt that rent collection / rent accounting was a fundamental /integral part of a housing management organisation. The challenges posed by the recent benefit changes and future changes to welfare plus the tough economic conditions currently pose one of the biggest challenges to both BHP and the Council in the next couple of years. The working group did not feel that there were sufficient similarities between the challenges of collecting council tax and rent to warrant an optimisation between the two teams.</p> <p>BHP's rent collection teams will need to work more closely with other Brent teams in order to face the challenges ahead including Regeneration, Housing Benefit and Adult Social Care. BHP is identifying new techniques and practices to collect rent including visiting tenants who are in arrears at the same time as they are having repairs undertaken etc. Due to the financial consequences of under collecting rent following the move to a self funding HRA this is an area where it may be necessary to add additional resources to meet the expected tougher rent collection climate following the introduction of direct HB payments in April 2013.</p>
<p>Anti Social Behaviour</p>	
<p>Current Arrangements</p>	<p>Proposals</p>
<p>BHP currently has a dedicated team of five officers undertaking Anti Social Behaviour Casework.</p>	<p>The working group looked at opportunities for optimising this area with the Council. Currently LBB has three dedicated strategic anti social behaviour officers covering all of the borough. BHP has legal responsibilities to tackle ASB so that residents have the ability to safely enjoy their homes. The ASB team have recently been through a Systems Thinking Lean Fundamental Review Process. This looked at scope</p>

	<p>there was to streamline processes. The project recommended more face to face contact between residents reporting low level ASB but there was very little system improvements that could be identified to deal with complex ASB cases often involving residents who are extremely vulnerable e.g. mental health issues etc. These cases often involve multi agency working between BHP, Housing, Legal, Adult Social Care etc. BHP is proposing that the dedicated ASB function remains within BHP but the service is developed to work with other RSL's in the borough and further work is undertaken to establish whether a multi agency team could be formed following the move to the new civic centre.</p>
Aids and Adaptations	
Current	Proposals
<p>BHP currently has no dedicated aids and adaptations staff. Works are managed via BHP's Major Works Team.</p>	<p>Responsibility for undertaking Aids and Adaptations in Brent's Housing Stock transferred from Brent Private Housing Services to BHP in 2009. This saved the council approximately £600,000 in the budget. BHP employed no additional staff to undertake these works and duties were therefore added to existing staff responsibilities. BHP procured a partnership contract with a special aids and adaptations contractor called Effectable. In BHP's view the service has dramatically improved since BHP assumed responsibility with the time taken to undertake works being significantly reduced plus the average cost of works being slashed. The Council is to undertake a further review of PHS adaptations service in order to consider in depth the way forward generally for aids and adaptations services in Brent.</p>

5 Summary

5.1 The Navigant review recommended that BHP save a minimum 13.6% over five years to be among top quartile financial performers. BHP is proposing to save a minimum of this amount over **four years** instead of five based on the following split;

- 2012- 2013 8-10%
- 2013- 2014 3%
- 2014 – 2015 3%

5.2 Senior Management Team members have identified 15 posts (see schedule below) across the organisation that would be deleted in 2012. These reductions together with the efficiencies achieved with shared services with the council could result in savings (minus redundancy costs) of between 8 -10%.

Current BHP Staff Budget 2011/2012

Approved 2011/2012 budget **7,096,566**

<u>Positions</u>	<u>With On-cost</u>	<u>No of positions</u>
Director of Finance (Half a post)	54,783	0.5
Financial Controller (Half a post)	37,171	0.5
Directorate Support Officer	33,280	1.0
Interim People Services Manager	54,458	1.0
Corporate Services Officer	42,374	1.0
In-House Solicitor (Half a post)	25,565	0.5
HR Officer	41,866	1.0
Estate Officer	37,206	1.0
H&S Officer (Half a post)	20,933	0.5
Project Manager	85,335	1.0
ASB Admin Officer	37,206	1.0
Major Works Administrator	39,120	1.0
Voids Administration Officer	31,087	1.0
Sub Total	540,386	11.00
New draft budget before Finance	6,556,180	
Saving %	8%	
		<u>Number of positions</u>
Finance Rent Officer	<u>5</u> 33,001	<u>4</u> 33,001
		<u>3</u>

Finance Officer P/L	34,277	34,277	34,277
Finance Officer P/L	34,277		
Finance Officer P/L	34,277	34,277	34,277
Finance Officer G/L	37,206	37,206	37,206
Sub Total	173,038	138,761	105,760
Number of positions	16	15	14
Saving %	2%	2%	1%
Total Saving	713,423	679,147	646,145
New Draft budget	6,383,143	6,417,419	6,450,421
Combined saving %	10%	10%	9%

5.3 Officers feel that this approach is currently the best way of maximising efficiency savings whilst protecting the quality of services received by Brent tenants. By undertaking a significant re-structure starting in February 2012, BHP as an organisation will regain stability and a degree of certainty going forward after several years of uncertain prospects.

5.4 Permanent recruitment has been suspended for several years in BHP and as a result there is a relatively high number of temporary staff employed i.e. 30 plus. This will therefore give some opportunity for redeploying staff from deleted posts. As BHP has consistently saved between 2 -3% each year since its inception in 2002, BHP should be able to make further efficiency savings in the next two years through a continuing process of not filling vacant posts, reducing the amount of temporary staff and systems thinking process improvements.

5.5 A formal report recommending a re-structure will be presented to a special BHP board meeting on Thursday 20th January 2012.

6 Other Efficiencies

6.1 BHP is aiming to achieve a minimum of 10% budget reduction for all other special services including repairs and maintenance over a 5 year period, based on 2.5 % increments from year 2 onwards.

- 6.2 With this in mind officers are focussing on achieving greater efficiencies as soon as possible. The Lean Fundamental System Thinking review of repairs undertaken in 2009 is increasing efficiency in this area. The estimated savings forecasted between 2010/2011 and 2011/2012 are 13%.
- 6.3 The Repairs and Voids team procured new sub contractor arrangements this year and managed to drive down costs by an average of 6.2%
- 6.4 BHP's Gas Servicing Contracts which account for 25-30% of the repairs budget are being re tendered in 2012 which gives BHP opportunity to drive down costs.
- 6.5 A formal report recommending a re-structure will be presented to a special BHP board meeting on Thursday 20th January 2012.

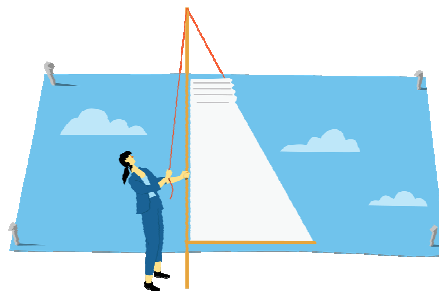
Brent Housing Partnership Governance Review

Findings and Recommendations

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Introduction to the Governance Review

Brent Housing Partnership (BHP) was established in 2002 as an Arms Length Management Organisation to provide services to the council's tenants and leaseholders under a Management Agreement with the Council. It was awarded a top, 3* rating on inspection in 2003 and has continued to demonstrate a high level of service performance when compared against its peers.

A significant part of the rationale for the establishment of BHP was to provide access to additional funding for capital investment to meet the Decent Homes standard. This was achieved in 2007. Since then BHP has continued its primary focus on providing quality housing management services, and delivering the remaining capital works programme. It has in addition undertaken, on a limited scale, other activities including management under contract of temporary accommodation and acquisition of a small amount of stock.

The Management Agreement is due to expire at the end of August 2012. In light of this an Independent Housing Review was commissioned by the council to consider the best approach to the delivery of efficient and high-quality housing management services, as well as the wider context of stock ownership options and investment. The review, undertaken from late 2010 to early 2011, coincided with the announcement by Government of a raft of reforms to the social housing sector. Perhaps chief amongst these is the plan to move to Housing Revenue Account (HRA) self-financing from April 2012. This will end the current national subsidy system, and associated capital funding arrangements. It will instead provide for a one-off financial settlement with the council then largely freed to plan and manage its housing stock and finances over the long-term. This will require rigorous business planning and a strategic approach to asset management.

Brent Council's prospective financial settlement and business plan position is relatively positive but some investment backlog is likely to arise in the short to medium term. It is recognised that the efficiency and cost of the housing management service will be an important factor in improving the business plan position.

A wide range of potential housing management options were appraised and following the review the council has concluded that its preferred approach, subject to resident consultation, is to put in place an 'Optimised ALMO'.

It is intended that this approach will build on the successful record of BHP but mark a clear and progressive departure from it. BHP's primary focus will remain housing management with a strong accent on driving continuous improvement in service quality, raising performance to the next level whilst delivering cost savings and efficiencies. One aspect of this is the planned integration of a number of BHP's support services with the council's corporate arrangements linked to BHP's planned co-location with the council in the new Civic Centre in 2013. BHP will also be responsible for long-term capital investment within the context of the council's overall strategic asset management approach.

BHP has since its inception generally enjoyed a strong and positive relationship with the council but, it is acknowledged by both parties that this has come under some pressure more recently, in part because of the review of BHP's future role. It is intended that the relationship between the council and BHP will be



both reaffirmed and reformed to provide renewed and mutual commitment, clarity of roles and responsibilities, and clear lines of accountability.

To support this, a number of developments are in train. A new Management Agreement, which is expected to be for an extended term, is to be drawn up, and an efficiencies review has been undertaken. As part of this process the council has, in partnership with BHP, commissioned this independent Governance Review to ensure that future governance structures and arrangements are fit for BHP's renewed purpose and success.

Methodology

The approach adopted for this Governance review has, in outline, been to establish how the current governance arrangements are structured and operate, to canvass a range of views about the effectiveness of the current arrangements, to research good practice on governance in the social housing sector and more widely, and to devise revised arrangements that are appropriate to the context and challenges BHP faces as it moves forward.

A desk-top review was undertaken of a wide range of documentation in relation to the current Governance structures including the constitution, Memorandum and Articles of Association and Scheme of Delegation, the operation of the Board and its sub-committees, and arrangements for appraisal.

Interviews were conducted individually with all Board members framed by a questionnaire sent in advance. The interviews were designed to elicit members' view and insights on the strengths and weaknesses of the current arrangements, including the Board's role in providing strategic leadership and control, performance direction, oversight and improvement, the relationship with the council and other stakeholders, and suggestions of areas for reform and improvement.

To examine the relationship between the governance arrangements and BHP's wider resident involvement structures a focus group was held with resident representatives.

BHP is owned and ultimately controlled by the council and the relationship between the two is of central importance. To elicit the perspective of the council on this relationship and BHP's governance individual interviews were conducted with the Council Leader and Lead Member, the Council's Chief Executive, the Director of Finance, the Director of Regeneration and Major Projects, and the Borough Solicitor's Department.

The BHP Chief Executive and his senior management team were interviewed. They play a central role in the governance of BHP through the scheme of delegation, and provided a range of information and insights throughout the review.

Good practice guidance in public sector organisations generally and among social housing providers including both ALMOs and housing associations was reviewed. Governance arrangements in a selection of London ALMOs were also researched to establish customary and good practice among BHP's peers.

Drawing on the above an assessment was undertaken of the current Governance arrangements and their effectiveness and areas for potential improvement were identified, and proposals developed for their reform. These were then presented to the BHP Board for comment and to the Council, following which the recommendations were finalised.

Brent Housing Partnership's Governance Arrangements

Background

Brent Housing Partnership (BHP) was established by Brent Council, with the consent of the ODPM, in October 2002. It has a separate legal identity and is a company limited by guarantee and is wholly-owned by the council as the sole shareholder. A Management Agreement between the Council and BHP was established for a term of 10 years (subject to the option of mid-term review) which expires at the end of August 2012.

Prior to its establishment a Shadow Board operated. The Board at the outset comprised 18 members drawn equally from three groups: 6 resident representatives (four tenants and two leaseholders); 6 council nominees; and 6 independents selected for their relevant experience and expertise. Six sub-committees were established under the Board.

In 2006 the Council's Internal Audit service undertook a review of BHP's Corporate Governance and made a number of recommendations for improvement. A follow-up Audit was undertaken in April 2008 which confirmed that these (with only minor exceptions) had been satisfactorily implemented.

In 2007 the Board commissioned a Governance Review which was undertaken by the Chair, three other Board Members and BHP's Chief Executive and Company Secretary. From the review a number of changes were instituted, with the agreement of the Council:

- Board Membership: The board was reduced in number to fifteen and, to further promote resident empowerment, the number of resident representatives was increased to seven. The number of council nominees and independents were reduced to four each.
- Vice-Chair: The position of vice-chair was established, elected by the Board.
- Remuneration: Payment in the amount of £5,000 for all board members (and a higher level for the Chair). Board Members had previously been entitled to out-of-pocket expenses.
- Sub-Committees: The sub-committee structure was revised and the number reduced from six to three:
 - Service Delivery
 - Finance and Audit
 - Personnel and Remuneration

Subsequently two further sub-committees for New Homes and Development were established corresponding to new areas of activity by BHP.

BHP had intended to undertake a further Governance Review in 2010/11 but this was not progressed in light of the pending review of housing management options by the Council, and the subsequent commissioning of this review.

In 2010 BHP, with the approval of the council, became a Registered Provider with the Tenant Services Authority.

Current Arrangements

The overall governance framework of BHP is outlined in the original ALMO documentation and has been subject to limited revision since. BHP's powers and objectives are set out in the Memorandum & Articles of Association.

The Management Agreement sets out the responsibilities delegated by the Council to BHP and the arrangements for council oversight. An Annual Delivery Plan, agreed by the council, sets the main activities and targets to guide BHP's operation for the year. There are regular meetings between the BHP Chief Executive and responsible Council Director and regular performance monitoring meetings are held between the council and BHP.

The Board

Primary responsibility for BHP's governance resides in the organisation's Board. The Board meets quarterly and in public, with relevant senior officers in attendance. A Board awayday is usually held annually to provide an opportunity to consider matters of strategic direction and the future delivery plan.

The Board is made up of fifteen non-executive Directors: seven residents, of which five are council tenants and two leaseholders; four independents; and four Council Members.

The appointment process for residents is by application, interview and election and for the independents by application and interview. Council Members are nominated by the council and automatically appointed to the Board.

The length of tenure for Resident and Independents Board Members' is six years. A number of resident and independent members have served successive terms and some Board Members have been in place since the inception of BHP.

The Board member's job description set out the objectives and key tasks that each member is expected to perform including attendance at Board meetings, awaydays and undertaking necessary training.

The Board Chair is appointed annually following BHP's AGM from the Board's membership, on the basis of a simple show of hands. The current Chair has been in post for 11 years. Appraisal of the Chair's performance has been undertaken this year for the first time with each Board member completing an individual assessment and the findings collated by the Company Secretary but the process had not been completed at the time of this review.

Board appraisal and training

Board appraisals were carried out in 2006, 2007 and 2011. A self-assessment is carried out by each member and this is followed by an interview with the Chair and Head of Corporate Services. The appraisal form has sections on personal performance, previous training, skills & knowledge, knowledge

of BHP, and an assessment of their personal contributions. An annual training programme is developed, informed by the appraisals, and an extensive programme has taken place each year.

Sub-committees

The majority of the Board's work occurs in its sub-committees:

- Service Delivery (including Community Fund)
- Finance & Audit (including Ethics & Standards)
- Personnel & Remuneration; and
- Board Members Remuneration.

BHP is understood to currently be considering creating a separate Equality & Diversity sub-committee.

Apart from the Board Members Remuneration panel, each committee has the same minimum membership of three and they meet quarterly. As part of the Board Members' job descriptions, Board members are expected to hold membership of at least one sub-committee. There is no membership limit for the sub-committees or for the number of sub-committees a member can sit on. Each sub-committee's remit is set out in its Terms of Reference.

The Service Delivery sub-committee has the largest membership with nearly two-thirds of Board members. The committee's main responsibility is to monitor the service performance of the organisation.

The Finance & Audit sub-committee also covers the responsibilities of the previous Ethics & Standards committee. It is responsible for approving annual budgets and overseeing internal and external audit programmes.

The Personnel & Remuneration sub-committee holds responsibilities for staffing issues including the appointment and dismissal of the CEO.

The Board Members Remuneration sub-committee's meets annually to review the Board member payments and has the responsibility to suspend or cease payment if necessary.

Standing Orders and Scheme of Delegation

The Standing Orders are to be read alongside the Memorandum & Articles, Articles of Association and the Management Agreement which set out the powers and responsibilities of BHP in relation to the Council and its legal responsibilities.

The Standing Orders and Financial Regulations are in two parts – Governance and Contracts. The Governance section sets out the Board and Chief Executive Officer's delegated responsibilities and the position of the Board, sub-committees, individual Board members, and of the senior management team and staff. The contract section covers the procurement process and contract financial rules.



Code of Conduct

The Board's Code of Conduct is divided into four parts – General Provision; Interests; Register of Board Member's interest; financial; and the 10 General Principles of Conduct. The code is supported by a very comprehensive '*Procedure for dealing with complaints and allegations against Board Directors*'.

Governance and Good practice

Introduction

Governance is centrally concerned with the process of decision-making and the process by which decisions are implemented. These processes include the organisational leadership, direction, control and accountability that enables an organisation to fulfil its purpose and achieve its outcomes with this to be carried out in an effective, efficient and ethical manner. Analysis of governance focuses on the formal and informal structures that have been set in place to arrive at and implement decisions. There is no one set of encompassing principles but common principles include accountability, leadership, and the conduct of stakeholder relationships.

There is a range of relevance guidance available on good practice, some of it of general application and some specific to the social housing sector. Such guidance should not be seen as representing a prescriptive requirement but provides a basis against which to appraise and develop arrangements relevant to the local context of BHP and Brent.

As new issues have come to the fore good practice codes have been revised and developed to address concerns. The Good Governance Standard for Public Services (2004) builds on the Nolan principles on the conduct of individuals in public life. The UK Corporate Governance Code (2010) provides guidance primarily for organisations listed on the stock exchange but is recognised as having wider application as a guide to good practice. The Charity Commission publish a code for the voluntary and community sector which sets out the seven principles of good governance in the 3rd sector.

Governance has had a high priority in the social housing sector and played a key role in the former Audit Commission inspection regime. All social housing providers are regulated by the Tenants Service Authority (from 2013 the Homes and Communities Agency) who require landlords to comply with its National Standards. Councils and ALMOs are, however, not covered by the Governance standard, but may have reference to it.

Within the social housing sector, the majority of guidance has been developed in relation to the operation of housing associations. This guidance has considerable relevance to ALMOs and other housing management providers. Members of the National Federation of Housing (NHF) have to adhere to their Code of Governance, which is an acknowledged source reference for good practice. The NHF also publishes guidance on Excellence in Standards of Conduct, on achieving high standards of business conduct and probity, on Excellence in service delivery and accountability, and on Leadership and Control, a guidance manual for Board Members.

The framework for Governance within ALMOs was set by the ODPM when this model for housing management was first introduced and the government has since published a number of reviews of structure and performance across ALMOs, including of governance arrangements. The National Federation of ALMOs, as well as national benchmarking organisations provide for the dissemination of new and good practice across ALMOs nationally.

Governance arrangements within individual ALMOs have evolved over time to reflect local circumstances and the developing priorities and concerns of council's and their arms-length providers. Across London, where the ALMO model is still widely operated, there remains a high degree of commonality in relation to the overall governance arrangements but with local variation in terms of Board Membership, sub-committee structures, arrangements for performance oversight and in respect of more detailed matters. More recently a number of '1st generation' ALMOs have, like BHP, undergone a review of their future purpose and approach and more varied governance arrangements are correspondingly being considered. For example in Barnet the ALMO's governance will be integrated within a new Local Authority Trading Company, and in Hounslow the governance arrangements will operate within the context of a tripartite partnership between the council, the ALMO and the borough's federation of tenants and residents associations. Review of arrangements among other providers does not provide a template for Brent and BHP but provides examples of both customary and developing practice against which to consider the future arrangements for Brent and BHP.

A summary table of governance arrangements across a number of London ALMOs and a selection of case study examples is provided in the appendix.

Review of Current Governance Arrangements

This chapter provides a summary of the assessment of BHP's Governance, and the views and perspectives gained through the review. Particular consideration is given to the assessment of the relationship between BHP and the council, the arrangements for driving the performance of BHP and the role of residents in governance.

Overview

The Board's view is that BHP is well governed. There is awareness that an Optimised ALMO will bring changes and a possible new direction for BHP. Board members show a willingness to accept this and make appropriate changes.

BHP has demonstrated its willingness to improve its governance arrangements: A governance review was undertaken in 2007, and in 2010 it assessed its compliance against the Financial Council's UK Code of Corporate Governance. A further internal governance review was planned for 2010 but postponed in the context of the Independent Housing Review commissioned by the Council.

The Board members are both proud and protective of BHP and its achievements but a lack of external challenge and testing may have led the Board (and organisation) to become inward-looking. The Board has enjoyed a high level of continuity, and is cohesive and highly consensual. The contribution of resident representatives on the board is highly valued.

The current arrangements deliver a sufficient level of governance for BHP to operate and there are no major issues or omissions that would have immediate adverse effects. There are generally adequate systems and processes in place for the Board to carry out its responsibilities. There are, however a number of key documents that have not been updated since BHP's inception and there are areas where process and implementation could be improved. Some of the governance systems have not, in practice, been tested, and it is important that they are capable of dealing with all eventualities.

There were limited suggestions for improvement, adaptation or reform more generally from Board Members to improve the organisation's governance. Board members expressed uncertainty about the nature of the future relationship with the council and the role of the Board and the organisation, and the consequential reforms to governance that may be required. The BHP Senior Management Team provided a number of insights and suggestions as to how the governance arrangements might be refined and improved.

Council Members and Senior Officers interviewed had a positive view of the service provided by BHP and a clearer view of how the relationship between the council and BHP could be reframed and improved. This requires BHP to build on its existing strengths but also recognise the case and opportunity to change. There is common purpose between the council and BHP: Excellence in the provision of housing management services, but a tension between the two over the nature and extent of change required to achieve this. There is a need for greater alignment between the council and BHP's perspectives.

The relationship between BHP and the council has in the past depended to a significant extent on that between key officers. More robust structures and arrangements are needed to give clear strategic direction by the council and provide for accountability by BHP to it. These will also provide the clarity for BHP's future governance arrangements to work most effectively. Arrangements are needed that foster closer and more effective relationships between the parties but do not ultimately depend upon them.

Both the council and BHP are concerned to put in place arrangements that drive service development, improvement, efficiency and the highest level of performance. Arrangements are needed that properly involve the council in setting performance objectives and that hold BHP accountable for them, and that provide for BHP's Board to drive performance within the organisation.

Both parties highly value the contribution of resident representatives on the Board and future governance arrangements need to build on this. Reforms to resident involvement structures are in train and these provide a positive context to increase resident's role in scrutiny.

Strategic Direction and Leadership

It is essential that the Board sets the strategic aims and objectives for the organisation and provides effective leadership in putting them into effect. The Board should lead and control BHP, and direct, scrutinise and evaluate its activities. The Constitution of BHP makes clear that formal responsibility for the organisation's strategic leadership resides with the board, with operational management delegated to the officers of BHP.

The strategic role of the Board needs to be understood within the context of the Council's responsibility for setting the overall strategic framework for BHP. The council needs to provide clarity about the central purposes of BHP and the strategic context of council policies and objectives. Within this framework the Board needs to determine how to best achieve its purposes and required outcomes.

On the whole Board members perceive the leadership of the Board to be strong. Members consider that the Board provides effective challenge to officers at Board and Sub-committee levels and a number of members cited the Chair as being strong and effective. Many board members identified high resident satisfaction as a reflection of the Board's effective leadership. A few members stated the board had led in developing BHP and innovations in its approach.

It was noted in the previous Housing Review that the Board's strategic and leadership roles may be under-developed. This has in part related to a lack of clarity about its future focus following the achievement of the Decent Homes standard in 2006. In recent years there has been a lack of clarity from the council about the strategic purpose of BHP, and the organisation has struggled in that context to set a clear forward strategy. It is also the case that to a significant extent the organisation has been officer-led to date. This naturally reflected that need for the organisation and Board to initially establish itself and develop its capacity, but there is a need for the Board to take a greater role in leading and directing the organisation in the future. The renewal and restatement of BHP's purpose by the council, and recommitment to BHP's future through a revised Management Agreement provide a positive context for this.

To provide effective leadership it is recommended that the Board's membership is reformed to provide for an independently-recruited chair with the skills and experience to provide leadership to the Board. It also recommended that the size of the Board is reduced to improve its efficiency and effectiveness.

The Board needs to be more directly involved in developing BHP's Delivery Plan and in setting and driving performance. Policy and service development needs to be directed by the Board. This can in part be facilitated by setting a forward agenda of matters for consideration and decision, and by providing opportunities for consideration of different options and approaches in advance of decisions being taken. New partnership arrangements with the council will also facilitate Board member's strategic engagement as well as strengthening the relationship, joint working and common purpose between the Board and the Council.

Resident Scrutiny and Involvement

The involvement of residents in the governance and decision-making process was strengthened by the TSA's move to co-regulation and the introduction of National Standards in 2010, which include a standard on Tenant Involvement and Empowerment. BHP has demonstrated its commitment to greater resident involvement by making it one of its core values and including it as a strategic objective in its 2011- 2012 Delivery Plan.

In the 2007 governance review, BHP increased the percentage of resident members on the Board when it revised the board membership and has resident Board members sitting on all sub-committees. The Resident Board members are seen as accessible and have strong links with the community and regularly attend a variety of residents' committees and events throughout the year. The Chair and CEO carry out regular residents' surgeries that Board members are encouraged to attend.

The overall view is that relationship with residents and resident activists is good. The general view is that resident activists are able to engage in the process which was supported by the views expressed by the residents' focus group. Resident satisfaction is on an improving trend.

The Board Scrutiny Panel replaced the Residents Advisory Panel in 2008 and is made up of ten residents including two members from the Tenant Management Organisations. The panel meets to give their views on the non-confidential Board reports. The feedback is presented in a written form at the Board meeting to be considered alongside the reports. The quality of the feedback is good and the feedback provides a useful insight for the Board, especially for non-resident members, on the views and opinions of residents.

The panel does not, however, provide a scrutiny role and is effectively a consultative committee. It is not clear how the panel can affect policy and decision-making as they meet the day before the Board meeting and the Board papers are already finalised.

It is recommended that a new Advisory Panel is formed to act as a standing advisory group to the Board and to undertake advance scrutiny of draft Board reports with the comments of the advisory group being included in the final Board reports.

BHP has recognised that it needs to overhaul its resident involvement structures. The formal involvement structures are seen as being ineffective in obtaining meaningful engagement with residents as they are bureaucratic and inaccessible for residents who are not part of recognised residents groups, and are not well attended. It has been agreed with the council to replace the four Area Housing Boards with a programme of 'talk-back' forums across the borough which should facilitate a higher level of resident participation. It is recommended that Board Members attend and provide reports to these forums on the Board's work. The effectiveness of these new arrangements should be monitored after a reasonable period of operation.

There is an opportunity to further strengthen relationships between the Board and the community through the creation of a new position of Resident and Community Champion within the Board with a portfolio responsibility to promote communication between the Board and residents, and between BHP and the wider community.

Performance Management

Effectively managing performance is integral to how the Board delivers the objectives set out in the Management Agreement and the annually agreed actions and standards in the delivery plan. The Board along with the Council should be clear about the framework of performance reporting so that each can be confident that there is a strong performance management culture throughout the organisation.

The Delivery Plan is currently prepared by the senior management team, and it is not clear how effectively the Board are involved in its development. The Delivery Plan is then agreed with the Council. It is recommended that the Board is more closely involved in the development of the Delivery Plan and that the council is also engaged in the process.

Board members responses with regard to managing performance were very limited. It was felt that performance was good with the Service Delivery sub-committee playing the primary role in monitoring and driving performance. The Board appears to play a limited role in driving and evaluating performance and targets.

The Board's role in driving performance needs to be strengthened. The Board needs to take direct responsibility for monitoring and review of performance to ensure the organisation is on track. Mid-year review would enable the organisation to refocus resources on areas where improvement is needed.

The next section provides a more detailed assessment of the current arrangements and recommendations for their reform, and the rationale for such changes.

Findings: Assessment and Recommendations

Strategic Direction and Leadership	
Current Arrangements	Assessment / Commentary
<p>The Board is formally responsible for the leadership and governance of BHP, setting its strategic direction within the terms of the Management Agreement with the Council.</p>	<p>The majority of Board Members felt that the Board is effective in leading the organisation. The Board was described as acting in a strategic way, both challenging officers and itself. A number of members cited the Chair as being strong and effective. Many board members identified high resident satisfaction as a reflection of strong leadership.</p> <p>It is the case, however, that the leadership role of the Board could be strengthened. BHP has to a significant extent been officer-led since its inception and in the context of a newly-formed organisation this was understandable and to some extent necessary. The uncertainty about BHP's future and role in recent years may have inhibited increased strategic leadership of the organisation. Whilst the Board (and its sub-committees) provide challenge it is not clear that the Board directs and drives performance as fully as it might.</p> <p>The Optimised ALMO will require strong leadership to meet future strategic challenges, business change, and deliver demanding performance and efficiency improvements.</p>
Customary / Good Practice	Recommendation and Rationale
<p>Good governance requires that the Board leads and controls the organisation, determines strategy, and directs, scrutinises and evaluates the organisation's activities.</p>	<p>Clarity and definition are required about BHP's future role, its responsibilities and its accountability to the council. The drafting of the new Management Agreement will be critical to this.</p> <p>Specific recommendations are made below about new partnership arrangements with the council, the development of the Delivery Plan, performance reporting and more generally about the Board's operation. These are collectively designed to strengthen the Leadership role of the Board.</p>

Relationship with the Council	
Current Arrangements	Assessment / Commentary
<p>The existing Management Agreement defines and governs the relationship between BHP and the Council, including the scope of authorised activities.</p> <p>Some activities have been undertaken outside the scope of the Agreement (e.g. housing acquisition) that have been subject to specific authorisation by the council.</p> <p>There are regular liaison meetings between BHP and the council – at a senior level and by client monitoring officers.</p>	<p>The relationship between the council – and in particular the housing directorate and BHP – has generally been positive in the past but it is recognised that uncertainty about BHP’s role and future, and the associated options review, have led to strain more recently. The council’s decision, subject to resident consultation, to move forward with an ‘Optimised ALMO’ has eased the position but there is a deficit of mutual trust and confidence, and this has to a degree become embedded in the culture of each organisation.</p> <p>There is agreement about the primary purpose of BHP: excellence and efficiency in Housing Management. There is, however, a lack of clarity about how the council’s strategic role relates to the Board’s strategic oversight and the degree of delegation and operational autonomy BHP should enjoy.</p> <p>The council has historically relied on the strength of senior relationships, within a fairly informal structure, for oversight and direction. There is concern that these arrangements may not be sufficiently robust when tested. Client monitoring has generally been light-touch, reflecting confidence in the performance of BHP but potentially lacking sufficient rigour and challenge.</p>
Customary / Good Practice	Recommendation and Rationale
<p>It is standard practice for the relationship between a council and its ALMO to be governed by a Management Agreement. The existing Management Agreement is based on the template agreement and guidance produced by ODPM.</p> <p>Regular liaison and oversight meetings are also standard practice in other ALMOs.</p>	<p>The Heads of Terms of a new Management Agreement are shortly due to be drawn up with a new agreement, for an extended term, due to be in place by or in advance of the expiry of the current Agreement in August 2012. The process of devising the new Agreement provides an opportunity for the parties to collaboratively clarify and define the relationship between the parties. The process of devising the new agreement should be prefaced by a statement of the vision, purpose and principles that underlie BHP’s renewed role and relationship with the council.</p> <p>Future arrangements for direction, oversight and accountability need to be more robust, and foster strong relationships, rather than depend on them. The following structure is</p>

	<p>proposed (see also performance setting and monitoring):</p> <p>Partnership Meetings – Held biannually or quarterly (with one annually held as part of the BHP Board Away day). The meeting would be designed to drive common purpose and understanding between the parties, and the Board and Council. These meetings would agree the forward Delivery Plan and targets, review progress against the Delivery Plan and performance. Attended by senior officers, the Lead Member, the Board Chair and sub-committee Chairs.</p> <p>Strategic Review meetings – To be held every month to six week between the BHP Chair, CE and the lead council director to support strategic coordination and performance oversight by exception.</p>
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Business: Delivery plan, target setting, performance setting	
Current Arrangements	Assessment / Commentary
<p>Delivery plan / business planning process: An annual delivery plan is developed by BHP each year and agreed by the Board.</p>	<p>The majority view of the Board is that it sets the overall strategic direction and priorities for BHP in consultation with senior officers. It was stated that the delivery plan and business plan were fully discussed at the Board awayday.</p> <p>It is not evident from the documents reviewed how the delivery plan is developed.</p>
<p>Target setting and managing performance: Annual targets are agreed with the council and form part of the annual Delivery Plan.</p> <p>The Service Delivery sub-committee oversees the organisation's performance excluding financial targets. KPI reports are presented quarterly to the committee. A high-level quarterly exception report is present to the Board.</p>	<p>Board members responses with regard to managing performance were very limited. They stated that performance was good and the responsibility of the Service Delivery committee. The Board appears to play a limited role in driving and evaluating performance.</p> <p>It is understood that proposed service targets and the supporting rationale are developed by BHP officers and discussed and agreed by the Board, either at the Board Away day or at a special meeting.</p> <p>The Board now receives an exception report after it was requested at a Board Away Day. The exception reports to Board do not fully inform the Board on which KPIs or areas of performance are failing and what actions are proposed.</p>

Customary / Good Practice	Recommendation and Rationale
<p>Delivery Plan / Business Planning process: The NHF states that corporate and business plans are the means by which the board sets the direction of the organisation and monitors performance. An effective business planning process is required. The board should receive briefing papers to identify strategic options and choices about priorities. Draft plans are presented to the board before they are worked up in detail so the final documents are consistent with the board’s direction, fully understood by the board and will enable the board to facilitate performance monitoring.</p>	<p>Board Members should be more closely involved in the development of the Delivery Plan. It is suggested that the Service Delivery Sub-committee oversee the drafting of the Delivery Plan and target-setting. The council should also be properly engaged in the process. The Board should consider and approve the draft Delivery Plan, performance and efficiency targets.</p> <p>The Draft Delivery Plan should be agreed at a Partnership meeting with Council Officers and the Lead Member (this could be incorporated into the Board awayday). This will strengthen the relationship, joint working and common purpose between the Board and the council.</p> <p>A mid-year review of the Delivery Plan should be carried out by the Board and through a Partnership meeting with the council.</p>
<p>Target-setting and managing performance: Both the TSA and central government have streamlined their requirements for target setting and monitoring, allowing future focus on a smaller suite of key indicators.</p> <p>The NHF states that managing performance effectively requires a reporting system that provides the information necessary to assess performance, which is a balance of performance data and audit & inspection, along with regular review and corrective actions if objectives are not being achieved.</p> <p>Housing organisations have taken the opportunity to revise and refresh their performance systems. Customer insight techniques and customer mapping process have been adopted to provide organisations with a complete view of the customer’s experience to complement evidence from target indicators.</p>	<p>BHP and the Council should agree a range of priority indicators to assess the performance of the service. Medium-term (3 year) and next year targets should be set.</p> <p>A performance score-card and exception / action performance report should be a standing item for discussion and decision at each quarterly board meeting. Detailed performance review should continue to be examined by the Service Delivery and Finance sub-committees.</p> <p>Regular officer-level monitoring meetings should continue with the council, and consideration should be given to council officer involvement in and attendance at Service Delivery sub-committee meetings, and at internal BHP performance review meetings. Quarterly monitoring information should be provided to the council to facilitate internal performance reporting.</p>

Business: Risk management	
Current Arrangements	Assessment / Commentary
<p>Management of risk: All risks were previously managed by the Audit and Finance Committee but recently risk for different issues have been delegated to the relevant sub-committee, with A&F having the overview.</p>	<p>The overall view is that the Board manages risk well. It has done extensive work on this and been trained on fire, health & safety and gas servicing risk. Risk management is driven by a number of board members who have a strong background in this area.</p> <p>There was little reference to managing financial risk by the majority of Board members. Board members may find the presentation and format of financial information presented difficult to interpret.</p>
Customary / Good Practice	Recommendation and Rationale
<p>The Financial Reporting Code states that although the board may make use of committees to assist its consideration of audit, risk and remuneration, it retains the responsibility for, and should make the final decisions.</p>	<p>There is a need to strengthen the Board's understanding of financial risk management. A revised format for the reporting of financial information including risk management information should be considered.</p> <p>A risk register should be presented regularly to the Board. All final decisions on areas of audit and risk should be taken at the full Board.</p>

Resident Involvement and representation	
Current Arrangements	Assessment / Commentary
<p>There are seven resident members on the Board, the largest constituent group.</p> <p>The current involvement structures operate through four area housing boards, but it is intended to replace these with a programme of talk-back forums across the borough.</p> <p>The Scrutiny Panel was set up in February 2008 and its membership consists of ten resident members (two from each of the four Area Housing Boards and one each from the two Tenant Management Organisations.)</p> <p>The panel meets the day before the Board meeting to consider and give their views on the non-confidential reports. The feedback is presented in a written form to the Board members at the Board meeting to be considered alongside the reports.</p>	<p>The contribution of resident board members is highly valued and seen as effective.</p> <p>The new involvement structure, which is based on a successful model operating elsewhere, has the potential to more effectively involve residents generally in the work of BHP.</p> <p>As the panel is asked to comment on Board reports the day before the Board meeting, there is no opportunity to revise or adapt reports to represent their views before they are presented to the Board. The Board does not have the time to fully consider the comments in advance of the reports being discussed.</p> <p>The minutes and level of discussion of the panel are good but represent that of a consultative group rather than a scrutiny panel.</p> <p>The membership basis of the panel will fall away with the planned abolition of the Area Housing Boards.</p>
Customary / Good Practice	Recommendation and Rationale
<p>Scrutiny Panel: Involving residents in a consultative and scrutiny role is good practice and an expectation of the TSA's standards.</p>	<p>It is proposed that resident members remain the largest constituent group on the reformed board.</p> <p>A new position of resident and community champion (or similar) should be created within the board, with responsibility for developing further relationships between the board and residents, and with the wider community.</p> <p>Board members should attend the Talk-back forums and provide a report on the Board's</p>

	<p>activities and the work of BHP.</p> <p>The current scrutiny panel arrangements are not satisfactory and will not remain relevant under the new involvement arrangements.</p> <p>It is suggested that a new Advisory Panel is formed and, provisionally, that its membership is drawn from TRAs and the TMOs, and from residents generally at the talk-back forums. It would act as a standing advisory group to the Board and undertake advance scrutiny of draft Board reports with the comments of the advisory group being included in the final Board reports.</p> <p>Scrutiny of BHP's performance and service should be within the remit of the council's overview and scrutiny function. Consideration could be given to resident involvement, with councillors in such scrutiny activities.</p>
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Board: Composition, Appointment and Tenure	
Current Arrangements	Assessment / Commentary
<p>Composition: The Board currently comprises 15 members drawn from three constituencies:</p> <p>7 residents (5 tenants, 2 leaseholders) – currently one vacancy</p> <p>4 Independents</p> <p>4 Council nominees – all councillors drawn from 2 largest parties</p>	<p>Existing members were satisfied with the board size with a minority favouring a small reduction in independents or councillors, retaining residents as the largest group. From the council side it was questioned whether it was appropriate for councillors to sit on the board, with the alternative suggested of recruitment from other partner organisations.</p>
<p>Tenure: Under current arrangements resident and Independent representatives typically sit for a six year term. Councillors are nominated annually. There are no term limits.</p>	<p>The arrangements provide for a high-level of stability and continuity but limit the introduction of new members, their perspectives and expertise. This risks a lack of challenge to established practices and thinking. Of the current members three residents and three independents have been on the board since its inception in 2002. For resident members an incumbency factor may inhibit new residents from being elected to the Board.</p>
<p>Appointment: The appointment process differs for each constituent group:</p> <p>Residents – <i>Assessment and election basis</i> - application process, interview by a panel of (non-resident) Board Members and election process.</p> <p>Independents – <i>Assessment basis</i> - open recruitment and application process and interview by a panel of Board Members.</p> <p>Councillors – <i>Nomination basis</i> – nominated by the two largest political parties and agreed by full Council.</p>	<p>Members were satisfied with the appointment process for residents and Independent Board members. The process is robust and ensures that skills and knowledge gaps can be addressed through the appointment process.</p> <p>Concerns were raised that there is no provision for assessment of Councillors nominated to the board.</p>

<p>Co-optees: There are apparently no arrangements for co-optees to be appointed to the Board.</p>	<p>Some members identify a skills shortage in finance, sustainability and business transformation.</p> <p>Due to the current lengths of Board members tenure and the low turnover of Board members, it will be difficult to ensure when new issues arise that the right level of technical expertise or knowledge are present with the Board. This will make the Board reliant on the objectivity of officers or paid advisors to fill such gaps. This issue is made more acute during times of change and rapid development. Appointment of non-voting co-optees can bring an objective approach to the discussion and decision-making. The co-optee's role is to provide expertise and support to the Board without affecting the balance or make-up of the Board. The appointment is time-limited to meet the identified need.</p>
<p>Customary / Good Practice</p>	<p>Recommendation and Rationale</p>
<p>Composition: ALMO Boards historically have typically had 15 (or more) members. A number have or are moving to smaller numbers to improve efficiency. Housing Association guidance and practice is to have a maximum of 12 board members.</p> <p>The UK Code of Governance states that the board should be of sufficient size that the requirements of the business can be met and that changes to the board's membership and that of its committees can be managed without undue disruption. The Board should not be so large as to be unwieldy.</p>	<p>To reduce the board to 13, comprising six residents (including two leaseholders), three independents, three council nominees and an appointed Chair (see below). This will retain the capacity of the board to undertake its activities and service the sub-committee structure whilst improving efficiency.</p> <p>The council should consider nomination of individuals from partner organisations and of senior council officers who could bring complementary experience of public service delivery and other expertise. The absence of councillors on the board may clarify lines of accountability between BHP and the council. The council should, however, retain the discretion to nominate Council Members.</p> <p>A resident and community champion portfolio position should be established with the board.</p>
<p>Appointment: In comparable ALMOs the appointment process for residents varies and the process can be by election, through interview or a combination (as carried out at BHP).</p> <p>Some ALMOs and Housing Associations request that councillors and council</p>	<p>No changes are proposed for resident and Independent member appointments. As now, a local connection in the recruitment of Independents should be seen as desirable not mandatory.</p> <p>For council nominees (whether councillors or not) there should be a requirement for prior</p>

<p>nominees require that council nominees (including councillors) are assessed to ensure they have the requisite skills and experience.</p> <p>Good practice in Housing Associations is that all board appointments are made through open recruitment, application and an interview process. Many LSVTs, however, carry out the appointment of residents and councillors as with ALMOs.</p> <p>Appointment of Independents should be based on skills and competency and not require a local connection.</p>	<p>assessment and approval by a Board member panel to ensure that the individuals nominated bring the requisite competencies to the Board.</p>
<p>Tenure: In comparable (ALMO) organisations a three-year term is more typical. Term limits operate in a number of ALMOs.</p> <p>NFA guidance mandates that a maximum term of office is set and recommends a limit of two or three consecutive terms and a maximum continuous membership of nine years. This is to ensure that long-standing practices and thinking are appropriately challenged.</p> <p>The UK Code of Governance states re-election should be at intervals of no more than three years and any continuous service beyond six years for a director should be subject to particularly rigorous review, and should take into account the need for progressive refreshing of the board. Directors who have served longer than nine years should be subject to annual re-election.</p>	<p>A three-year term should be introduced from 2012 for all board members, with a maximum of three continuous terms, with members then being required to stand down for 1 year. This strikes a balance between continuity and expertise and refreshed views and perspectives. Term limits will facilitate new members joining the board. It is proposed that the current term only is taken into account in the future operation of term limits.</p>
<p>Co-optees: In comparable ALMOs and housing associations, some allow membership for non-voting co-optees who are usually appointment on an annual basis.</p>	<p>The articles of Association to be revised to allow for time-limited co-optees with non-voting rights to become members of the Board. These positions can enable the Board to quickly fill skill or experience gaps needed during periods of change without waiting for a vacancy to arise (e.g. business transformation or financial expertise).</p>

Board: Appointment of the Chair	
Current Arrangements	Assessment / Commentary
Appointment: The Chair is elected from the Board's membership	The majority of Board members were satisfied with the current arrangements.
Tenure: The Chair is elected annually.	An annual process can potentially cause a lack of stability. In BHP's case there has been long-term stability as the same person has held this office since the inception of the Shadow Board. A lengthening of the Chair's tenure beyond a year would assure a level of stability and continuity but it is suggested that this is time-limited to ensure the opportunity for change and renewal.
Process: Self-nomination at the Board meeting immediately following the AGM. Election of the Chair is by a simple show of hands.	The arrangements may promote a level of trust and respect within the Board but are likely to inhibit challenge and competition for the position. The present Chair has held the position for nine years and been returned unopposed for some years. Board members stated that they would not vote for the current Chair if it was felt that they were not carrying out their duties satisfactorily.
Customary / Good Practice	Recommendation and Rationale
The general practice in Housing Associations (especially where a payment is made) is to appoint the Chair through an open recruitment process. Appointments are based on a competency and skills assessment. Among ALMOs it is usual for the Chair to be appointed from within the Board.	<p>Appointment of the Chair should be by open recruitment. The role and responsibilities of the Chair are critical to the successful leadership of the Board and the organisation. Open recruitment will provide access to a wider pool of candidates and provide for the selection of a candidate with the highest calibre of requisite skills and experience.</p> <p>Recruitment will be open to existing Board members and external candidates who could be existing BHP residents, councillors or members of the public.</p>
Tenure: In comparable ALMOs the Chair is elected on an annual basis at the first meeting after the AGM. In Housing Associations a typical term is three to	A three-year tenure is recommended if external appointment of the chair is adopted, with a limit of three consecutive terms, striking the balance between continuity and renewal.

<p>five years.</p>	
<p>Process: Where an election takes place then a secret ballot is the normal process.</p>	<p>Appointment would be made on a skills/competency basis through an application and interview process. The short-listing process should be managed by a panel consisting of BHP Board and council representatives. The final selection could be undertaken by the panel but, on balance it is recommended that the full BHP Board make the final selection through interview from the candidates shortlisted. In this way the council can have confidence in the abilities and approach of the candidates shortlisted with the final selection providing assurance of the board's confidence in the appointed chair.</p>

Board: Roles and responsibilities	
Current Arrangements	Assessment / Commentary
Job description: The job description sets out the objectives and key tasks.	The job description is very specific and long.
Person specification: This identifies the Experience & Knowledge, abilities, skills and personal qualities required to be a board member.	It is understood that the person specification has not been reviewed since the inception of the ALMO.
Customary / Good Practice	Recommendation and Rationale
<p>Job descriptions are regularly reviewed and updated to reflect changes in objectives, legislation and good practice.</p> <p>Some ALMOs have separate job descriptions for Residents, Independents and Councillors that reflect the different skills and knowledge that is expected and required from the different groups.</p>	To update the job description and reduce the number of objectives and key tasks to reflect the Board member's main responsibilities.
Person specification: It is good practice to base the person specification on behaviour and competencies.	To develop a competency and skills based person-specification. The <i>Guide for Elections of Tenant Representatives to the Board of BHP</i> to be revised to correspond to the Board member's person specification.

Board: Operations and sub-committees	
Current Arrangements	Assessment / Commentary
<p>Board Operations: The Board meets quarterly and has an annual awayday. The Board meetings are held in public and board papers are made public in advance. The Board agenda is mainly led by officers, together with a number of standard reporting items.</p>	<p>The frequency and administration of board meetings is viewed as appropriate. The Awayday provides an important opportunity to develop Board relationships and cohesion. A greater strategic orientation and focus to the Awayday agenda is needed.</p> <p>Some board members have concerns that there is insufficient opportunity to consider policy options fully with policy approval required at first consideration.</p>
<p>Sub-committee structure: There are currently six sub-committees although it is intended to disband the New Homes and Development sub-committees. This will leave four sub-committees: Service Delivery (including Community Fund), Finance & Audit (including Ethic & Standards), Personnel & Remuneration and the Board Members Remuneration Panel</p> <p>The establishment of an Equalities and Diversity sub-committee is under consideration.</p>	<p>The majority of Board members were satisfied with the structure and remit of the sub-committees. The committees are seen to be productive and provide a sufficient level of challenge and discussion. The levels of delegation and referral back to the Board were seen as appropriate.</p> <p>Board members identified some areas that may require strengthening: leaseholder services and business transformation</p>
<p>Membership and frequency: Of the four sub-committees which will continue to exist (apart from the Board Members Remuneration panel), each committee has the same minimum membership of 3 (quorum of 2), and meet quarterly. The Board Members Remuneration Panel has a minimum membership of 4 (quorum 3) and meets annually. There is no upper limit to membership.</p>	<p>Board members were satisfied with the membership and frequency of meetings.</p> <p>There is no limit to the number of sub-committees Board members can sit on. In consequence some sub-committees have most of the board as members. This is potentially unwieldy and inefficient.</p> <p>A recent change is that all sub-committee papers will be made available to all board members. It is not apparent if this is to provide information only or that non-members will be allowed to provide comment. If the latter this may undermine the efficiency of the structure.</p>

Customary / Good Practice	Recommendation and Rationale
<p>Quarterly board meetings are standard. The Board should take the leading role in setting the forward agenda, with the assistance of officers.</p>	<p>The Board should set a 12-month forward plan of matters for consideration and decision by the Board and its sub-committees. This may usefully be set at the annual board away day and would be reviewed and revised as necessary at each board meeting. This will reinforce the Board's role in driving the organisation's agenda and help to manage the Board's and sub-committees' workloads.</p> <p>For complex or strategic issues a procedure for a two-stage process should be adopted. In the first stage options papers would be presented to the board for consideration and discussion. Consultation with the council through the Partnership meeting could also be undertaken. In the second stage at a subsequent meeting a final report for Board decision would be presented. This will promote the Board's role in formulating and directing policy. Where such matters require more rapid resolution than the timing of board meetings allows the matter could be first considered through a relevant sub-committee, a working group a one-off board seminar or workshop.</p>
<p>Sub-committee structure: The current trend is to reduce the number of sub-committees and supplement the work of the Board with time-limited working groups.</p>	<p>To expand the Personnel and Remuneration committee remit to include lead responsibility for Equalities & Diversity matters, reflecting the connection between the two. The Board should however hold lead responsibility for Equalities and Diversity matters.</p> <p>The reduced number of sub-committees with limited membership size should be capable of being serviced by the reformed Board.</p>
<p>Membership and frequency: Custom and practice is for sub-committees to meet quarterly.</p> <p>It is common practice to limit the size of each sub-committee. Membership of sub-committees should be between a third and a half of the main Board as larger membership may negate the purpose of delegating the responsibilities to the sub-committees.</p>	<p>To restrict individual membership to two sub-committees and reduce the size of committees to a maximum of six (with a quorum of three).</p> <p>To consider greater use of time-limited non-voting co-optees and independent advisors on sub-committees to increase the skills and knowledge-base where required.</p> <p>To establish a culture of (time-limited) working groups, which where relevant would include council and BHP officers, or representatives from other stakeholders and partners. These would tackle specific issues and projects. This will reduce the workloads</p>

	<p>of the sub-committees and ensure the right level of expertise and skills is present.</p> <p>A Business Transformation working group with Board, Officer and Council representation could prove useful in relation to back-office service integration and Civic Centre co-location.</p> <p>To provide an online depository where Board members can access papers and introduce a protocol on how non-members of sub-committees may contribute to discussion outside of the Board meetings e.g. through the Chair of the sub-committee.</p>
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Board: Board expenses and remuneration	
Current Arrangements	Assessment / Commentary
<p>An annual payment of £5,000 to Board members and £7,000 to the Chair were introduced in 2007/8. This was done in part to aid recruitment of independent members and to replace a complicated expense claim process and reduce bureaucracy.</p> <p>Where it is felt that the payment may have an adverse effect on a Board member's benefits then the Board Remuneration committee can choose not to award the payment. Board members can also choose not to receive the payment.</p> <p>Currently eight of the fourteen members take the payment, with only one resident member claiming. The members who do not receive payment are able to claim out of pocket expenses.</p> <p>The payment system is monitored by the Board Remuneration committee who ensures that it is not misused. The removal or suspension of payment can be made due to non-attendance at Board meetings.</p>	<p>The overall opinion is that board payment has not had an impact on the effectiveness of the Board. Some, however, thought it had improved commitment and attendance by some board members at sub-committees.</p> <p>Some Board members believe that the arrangements potentially improve the quality of Independents. Some members stated that board members should be compensated for the work they do.</p> <p>As the majority of the Board has remained the same since payment was introduced, its impact on board recruitment and the quality of board applicants has not been tested.</p> <p>Due to the potential impact on benefits, in effect a two-tier system operates with most resident Board members unable to receive the same level of compensation for their time as others within the board.</p> <p>The appropriateness of councillors receiving payments (in addition to payments received pursuant to their councillor duties) was queried by both council and board member interviewees.</p>

Customary / Good Practice	Recommendation and Rationale
<p>Payment: Only around 15% of ALMOs make payments to Board Members although a larger proportion makes payment to the Chair only. The standard approach is either to pay out of pocket expenses or in a small number of cases Board members receive an annualised allowance. In such cases Council members do not receive this allowance.</p> <p>Board payment in the housing association sector is more common with around half of Associations making payments. There is guidance on the appropriate level of payments. Where Housing Associations wish to make Board payment, TSA approval is sought and where there are no financial concerns it is granted.</p> <p>There is limited evidence that board payment has improved Board performance in the sector. A recent research study found that Housing Associations that pay board members rated the board's performance more highly than organisations that didn't.</p> <p>NHF recommend an independent review of Board payment should take place on a triennial basis.</p>	<p>The status of Councillors as Board members is an official function as a Council Member and may be regarded as included in the allowance received as a councillor. It is recommended that board payment should only be offered to the resident and Independent Board members.</p> <p>Board remuneration should otherwise continue and may play a part in the recruitment and commitment of independent members during an important time of renewal and development and within the context of a smaller board.</p> <p>There is no simple solution to the effective two-tier operation of the system. Though unsatisfactory it does not support a case for dispensing with payments. The introduction of Universal Credit may simplify (and improve) the impact on benefits and this should be examined.</p> <p>An independent review of Board payment should take place on a triennial basis.</p>

Governance documents	
Current Arrangements	Assessment / Commentary
<p>Code of Conduct: The Board has a Code of Conduct which is divided into four parts: General Provision; Interests; Register of Board Member's interests; and 10 General Principles of Conduct. The Code was revised in August 2008. The code is supported by the 'Procedure for dealing with complaints and allegations against Board Directors.'</p>	<p>All Board members were satisfied with the Code of Conduct and stated that it is effective and understood by all. The Code has only been tested once previously when a board member was removed.</p> <p>The Chair and Director of Corporate Service provide advice and guidance to Board members to ensure that they are operating within the Code.</p>
<p>Disciplinary Arrangement: The process is set out in detail in the <i>Procedure for dealing with complaints or allegations against Board Director</i>. A copy is provided to new Board members as part of the induction process.</p>	<p>The <i>Procedure for dealing with complaints or allegations against Board Director</i> is a comprehensive document but although referred to there is no appeal process included.</p>
<p>Protocol on relationship between Board members and staff: The protocol sets out the roles and expectation of both parties. The protocol also provides advice for staff.</p>	<p>The protocol covers the standard sections for this area.</p>
<p>Standing Orders and financial regulations: The Standing Orders and Financial Regulations are in two parts: Governance and Contracts. The Governance section sets out the position with regard to the Board, sub-committees and individual members; staff and the senior management team; and the scheme of delegation. The contract section comprehensively covers the procurement process and financial rules.</p>	<p>The contract section of the Standing Orders and financial regulation is comprehensive and robust. The governance section is adequate.</p> <p>Sub-committee members are supported by the minute-taker of the sub-committee who advises them when decisions need to be referred back to the Board.</p>
<p>Schedule of Delegation: This forms part of the Standing Orders on Governance. It sets out the delegated responsibilities of the Board and identifies matters delegated to the sub-committees. It also sets out the responsibilities delegated to the Chief Executive Officer.</p>	<p>Board members stated that the Schedule of Delegation is robust and effective. It was agreed (by most) that members understood the schedule and knew what decisions and authority were delegated to the Board, sub-committee and Executive. One member stated that they did not know that the schedule existed.</p>

	<p>Further clarification between the Board and council's lines of authority is required and would reduce any confusion.</p> <p>There is a need to improve how Board members are informed of decisions outside the committee structure including the outcome of decisions deferred to the Chair's and CEO.</p>
Customary / Good Practice	Recommendation and Rationale
<p>Code of Conduct. The NHF has a Code of Conduct for Board members, which its members use in its entirety or as a basis for their own code. Where Housing Associations have their own Code of Conduct, they include a clause to state that their Board members have to adhere to the NHF's Code.</p> <p>Comparable ALMO all have a Code of Conduct. Their content varies but sections cover behaviour, register of interests, publicity, gifts & hospitalities. Good practice provides for attendance at meetings, use of IT, training and take-up, the use of facilities and the Nolan Standards.</p> <p>It is good practice for the entire Board to revisit the Code of Conduct annually and reaffirm their commitment to it.</p>	<p>A comparison between the NHF Code and BHP's Code should be carried out and any omissions to be addressed.</p> <p>The Code to be an annual agenda item and each Board member to sign the Code to demonstrate they understand and agree to adhere by it.</p>
Disciplinary Arrangements: It is standard that there is a procedure for dealing with complaints or allegations against Board members.	The procedure needs to include a clear appeals process.
Protocol on relationship between Board members and staff: It is standard for housing organisations to have a protocol which set out the expected behaviour and relationship between the Board and officers. It is good practice to include a section regarding existing relationships.	<p>The section on <i>When things go wrong</i> refers to the procedures for dealing with complaints against staff or the Board by the other party.</p> <p>Additional sections to be included on declaring existing and new relationship and how to deal with issues that are not raised as complaints to reduce the potential for areas of conflicts.</p>
Standing Orders and financial regulation including the Schedule of Delegation:	For clarity and ease of reference it would be preferable to separate out Financial

<p>Good practice requires that there should be a clear division of responsibilities between the running of the board and the executive responsibility for the running of the company’s business. No one individual should have unfettered powers of decision.</p> <p>All positions and committees which have delegated and decision-making powers should be covered including where decisions are delegated within the wider involvement structure.</p> <p>A Register of Decisions at all levels is used to supplement the schedule and support the auditing process.</p>	<p>regulations from the overall Standing Orders.</p> <p>A copy of the Council’s Schedule of Delegation should be included as part of the Board’s Standing Orders. The Schedule of Delegation should be expanded to state the delegated responsibilities of:</p> <ul style="list-style-type: none"> - The Company Secretary - Director or Chief Finance Office - Sub-committees - Chair - Vice-Chair - Summary of functions of key staff <p>Clarify and state clearly who is responsible for:</p> <ul style="list-style-type: none"> - Dismissal and suspension of the CEO - Restructuring <p>The Board role in awarding contracts of high value</p> <p>A Register of Decisions should be established that records Board, CEO, Chair, sub-committee and officer’s decisions. This will provide transparency and accountability within the decision-making process.</p>
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Board appraisal and training programme	
Current Arrangements	Assessment / Commentary
<p>Board appraisal: Board member’s individual appraisals are carried out through a self-assessment and an interview with the Chair and Head of Corporate Services.</p> <p>The appraisal form has sections on personal performance; previous training; skills & knowledge; knowledge of BHP; and their personal contributions, Members indicate their level and whether they require further development.</p> <p>It is not apparent that the Board’s collective performance is regularly appraised.</p>	<p>It is understood that it is intended that appraisals are conducted annually but were in practice carried out in 2006, 2009 and 2011.</p> <p>The quality of completed appraisals varies. The appraisals are based on self-assessment and so are largely reliant on individuals being aware of their skills and knowledge.</p>
<p>Chair’s appraisal: The appraisal of the Chair is carried out by the entire Board. Each Board member completes an individual assessment that outlines different aspects of the chair performance on a scale of 1 -5. They are asked to provide supporting evidence for their score. The findings are then collated by the Company Secretary and reported anonymously to the Chair.</p>	<p>The first appraisal of the Chair took place this year.</p> <p>The appraisal is based on the Board’s perception and does not include any external assessment.</p> <p>The process is underway and results are not available so assessment of the quality of the process cannot be provided.</p>
<p>Annual training programme: The annual training programme draws from areas identified for development through the appraisal process and from consideration of new areas of skill and knowledge required by the Board.</p>	<p>The Board stated that the training programme was comprehensive and that board members were encouraged and supported to carry out training.</p> <p>Since 2008/9, it is not clear that the training programme is tailored to meet individual needs with all training sessions targeted to all Board members.</p>

Customary / Good Practice	Recommendation and Rationale
<p>Board appraisal: It is good practice that Board appraisals take place annually and the Financial Reporting Council's Code recommends that externally facilitated board evaluations take place at least every three year as external facilitation can add value by introducing a fresh perspective and new ways of thinking. The aggregated results of the appraisals should be shared with the whole board.</p> <p>NHF guidance is that an annual appraisal of the Board's performance is conducted.</p>	<p>To ensure that Board appraisals take place each year. Outcomes of the appraisals to be shared with the full board.</p> <p>Carry out periodic reviews of the appraisal system to test it effectiveness.</p> <p>Introduce periodic external assessment of Board members using a competency-based assessment to obtain an objective assessment of the Board's skills and knowledge.</p> <p>A skills audit to be carried out when the new board is appointed in 2012 to establish the base-line from which the 2013/14 training programme can be developed.</p> <p>On an annual basis, Chairs of sub-committees to be responsible for the evaluation of their committees.</p> <p>On an annual basis a collective Board Appraisal to be conducted, which may be externally facilitated.</p>
<p>Chair's appraisal: NHF's <i>Leadership and Control</i> states that it is good practice for the chair to undergo appraisal. It recommends this is done on 360 degree basis with all the board and senior officers having the opportunity to comment confidentially to an objective third party.</p>	<p>Appraisal of the Chair should take place annually. An external assessment should be included to provide objectivity to the process. The opportunity for peer review (e.g. another ALMO or housing association Board chair) could also add value.</p>
<p>Training programme: The majority of organisations provide Board members with access to training and conferences to develop their skills and knowledge. Good training programmes are tailored to address skills gaps.</p> <p>To encourage participation different methods of training are used including e:learning; modular; DVD and professional certification courses. Some</p>	<p>Introduce e-learning tools and methods to increase involvement in training sessions.</p> <p>Future training programmes to include sessions tailored to develop individual needs and fill the skills and knowledge gaps on the Board.</p>

organisations include attendance at training in the code of conduct and job description.	
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Summary of Main Recommendations

Relationship with the Council

- The new Management Agreement to restate the strategic purpose and responsibilities of BHP.
- A Partnership meeting between the council, including the Lead Member, and BHP, including the Chair and sub-committee chairs, to be held quarterly.
- Regular meetings between the BHP Chair, Chief Executive and the lead council director to be instituted.
- The Council's Overview and Scrutiny function to be exercised over BHP.

Resident Involvement

- A Resident and Community Champion portfolio-holder to be elected from the Board.
- Board Members to make a report to the resident talk-back forums.
- A Residents Advisory group to be established to provide advance scrutiny of Board reports.

The BHP Board

- To comprise thirteen members: 6 residents (4 tenant and 2 leaseholder representatives); 3 independents, 3 council nominees.
- A three-year term for resident and independent members, and a maximum of three successive terms.
- Council nominees to include non-Councillors, and to be subject to appraisal before appointment.
- The Board's Chair to be externally appointed, with selection by the Council and BHP Board, and to serve for a term of three years, and for a maximum of three successive terms.
- Payments to Board members to be restricted to resident and independent representatives.
- Individual and collective board appraisals to be annual and the use of external assessment/facilitation to be considered.
- Board members to sit on a maximum of two sub-committees, with the membership of each sub-committees limited to six.
- A forward agenda of matters for decision to be set by the board, and published for the year ahead.

- A public register of all decisions to be maintained.

Performance Management

- The Board and its service delivery sub-committee to be responsible for the development of the draft Delivery Plan, and proposed targets
- The council to be engaged in the development of the Delivery Plan, and its agreement through the Partnership meeting structure.
- The Board to take lead responsibility for driving performance and to receive a quarterly exception / action report on performance.

Implementation

The Council will shortly consult with residents on its preferred option to renew the Management Agreement with BHP for an extended term.

The current Management Agreement expires at the end of August 2012. The next nine months are an extremely important period during which the foundations of an enhanced relationship with the council and of a renewed purpose for BHP need to be laid.

The Council and BHP plan to draw up a Heads of Terms for a new Management Agreement by no later than April 2012, with detailed drafting to then follow. It is important both parties have a strong sense of ownership and commitment to the revised Agreement. It may therefore be advantageous to undertake the external recruitment of the Board Chair at an early point to enable their involvement in the setting of the final Management Agreement arrangements.

The introduction of the new Management Agreement will mark a fresh start, and a new Board should be recruited to begin its work at that time. Preparations for the election of resident representatives will need to begin in the spring of 2012 and detailed consideration needs to be given to how to encourage new candidates. All the independent representatives will be standing down (and may re-apply) and early preparations will similarly be needed to recruit individuals and the council and BHP should in advance give careful consideration to the requisite skills and expertise that BHP will require over the next years.

The new partnership arrangements between BHP and the council could be instituted in advance of the new Management Agreement's operation to allow a short period for them to establish themselves effectively.

Drafting of new governance documentation, including revisions to the Scheme of Delegation and Standing Orders will be required in due course.

Appendix 1 - Schedule of Committees

The following table summarises the proposed schedule of BHP and joint BHP / Council Boards and Committees

Status	Committee	Frequency	Membership / in attendance	Report to	Remit
BHP Committees					
Existing	Brent Homes Partnership Board	Quarterly	Board members BHP officers		Strategic Leadership and Direction: High-level Performance Data Delivery plan
Revised	Board Advisory Panel	Quarterly	Resident Reps	BHP Board	Advance comment on non-confidential Board reports
Existing	Service Delivery Committee	Quarterly	Board member BHP officers	BHP Board	KPI data Delivery plan Policy & Development
Existing	Finance & Audit Committee	Quarterly	Board members BHP officers	BHP Board	Financial report Annual Accounts Internal & External audits
Revised	Personnel & Remuneration Committee	Quarterly	Board Members BHP officers	BHP Board	Personnel matters Equalities and Diversity
Existing	Community Panel	Quarterly	Board members	Service Delivery Committee	Dispensing annual budget of £30k
Existing	Ethics Committee	Ad-hoc	Board members BHP officers	Finance & Audit Committee	Allegations against Board members
Existing	Board Remuneration Committee	Annual	Board members	BHP Board	Board members payment

Status	Committee	Frequency	Membership / in attendance	Report to	Remit
Joint BHP / Council					
Existing	Board Away Day	Annual	Board members BHP senior officers LBB Officer	Board	Delivery Plan development Strategic Direction Financial and risk
Proposed	Partnership Meetings	Quarterly or Biannual	Board and sub-committee Chairs BHP senior officers LBB Senior Officers Portfolio Holder	Board / Council	Delivery Plan Strategic issues Performance by exception
Revised	Strategic Review Meeting	Six-weekly	BHP Chair and CE LBB Director	Partnership Meeting BHP Board	Delivery Plan Performance Key issues

Appendix 2 - Good Practice Guidance

The Good Governance Standard for Public Services, 2004 Independent Commission on Good Governance in Public Service chaired by Sir Alan Langlands. The guide is for organisations providing publicly-funded services. The standard builds on the Nolan principles (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) and is a guide for organisations that sets out six core principles.

The UK Corporate Governance Code (revised 2010) is the Financial Reporting Council's Code that sets out the broad principles of governance that companies listed on the stock exchange are required to have due regard to, but is recognised as having wider application. The Code includes examples of good practice on board leadership and effectiveness, remuneration, accountability and relations with shareholder.

Guidance on Board Effectiveness (March 2010) is published by the Financial Reporting Council and relates to the sections on the leadership and effectiveness of the Board in *The UK Corporate Governance Code*.

Excellence in governance: Code for members and good practice guide. (July 2010) is the National Housing Federation's Code of governance for its members that provides advice and guidance on delivering excellent governance, accountability and transparency in decision-making. The code is based on nine principles of good governance and sets out the 12 key aspects of board behaviour and approach. The guide provides extensive good practice guidance.

Excellence in Standards of Conduct: Code for members (January 2010) is the National Housing Federation's Code of Conduct for its members that provides guidance and support in achieving high standards of business conduct and probity. Members are expected to adopt it in its entirety or adapt it to suit their particular needs.

Excellence in service delivery and accountability: Code for members (2009) is the National Housing Federation Code on delivering high standards of customer care and engagement. It provides advice and guidance and includes sections on accountability and governance.

Leadership and Control: a governance manual for board members (March 2011) is produced by the National Housing Federation. The manual provides information on legislation and good practice in all aspects of governance.

Good Governance: a code for the voluntary and community sector (revised 2010) published by the Charity Commission, the code sets out the seven principles of good governance for voluntary and charity trustee boards.

The Regulatory Framework for Social Housing in England from April 2010, Tenant Service Authority sets the six standards of the regulatory framework including a governance standard. Adherence to this standard is required for housing associations/registered providers but not for Local Authorities and their ALMOs.

Although primarily for organisations in Scotland, ***Governance Matters***, commissioned by the Scottish Housing Regulator in 2008 provides good practice on Code of Conduct, equalities and transparency in decision-making.

Relevant reports:

The ***ALMO Board member remuneration survey (2010)*** was commissioned by the National Federation of ALMOs to provide ALMOs with information on remuneration in the sector. Comparisons with housing associations are also provided in the report.

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Inside Housing's Boardview Governance survey (February 2011) provides an evaluation on the satisfaction levels of board members, chief executives and company secretaries with the different aspects of governance in their own organisations.

Appendix 3 - Selected Case Studies

Homes for Islington (HFI)

Homes for Islington was established in 2004 and is responsible for management of over 26,000 homes. It was last inspected in 2008 and awarded an 'excellent', three-star rating with excellent prospects for improvement. After carrying a review of the ALMO as its current management agreement was to expire, Islington Council recently decided to bring the ALMO back in-house in its drive to achieve cost-cutting efficiencies.

The HFI Committees must have at least one resident, Independent and Council Board member. The Board may establish Working Groups as necessary. In the past this has included a Governance Review Working Group and a Communications Working Group.

HFI has three Portfolios, managed by a Board Champion: Resident Involvement & Community Engagement, Efficiency & procurement and New Build Project Board.

Council Board members are appointed by the Council. HFI and Islington Council have adopted a protocol whereby the Council will seek to address skills and competence requirements notified by HFI's Board. In the past the Council has appointed both Councillors and senior members of the executive to HFI Board.

HFI operates an annualised allowances scheme and is subject to annual review. Council Board members are not eligible to claim from the scheme as they are expected to claim expenses relating to HFI business through the Councillors' Expenses Scheme.

There is a culture of mutual participation in the activities of both organisations. Regular meetings are held between HFI senior management and the Council's CEO and senior management. These cover areas such as performance assessment, business planning, HFI input in to Council strategies, considerations of future direction of housing services, capital monitoring and financial planning, monitoring of capital programme delivery, service reviews, addressing of operational issues.

The Performance Management committee provides ongoing scrutiny of performance by HFI and its contractors of customer-facing services and recommend changes to improve the way in which the organisation delivers customer-facing services.

Derby Homes

Derby Homes is responsible for management of over 14,000 homes. At last inspection it was awarded an 'excellent', three-star rating with excellent prospects for improvement. The ALMO's Management Agreement is to be renewed in March 2012 for a further ten years with a five-year break clause, which will be subject to a tenant vote.

The Derby Homes Board has six Board Champions (for each of the five TSA standards and Health & Safety). Potential resident board members have to be proposed by six residents, complete an eligibility test and attend a board meeting as an observer to qualify for election. A resident will either serve in the position of the Chair or the Vice-Chair.

Derby Homes has strengthened the role of residents in the governance structure. In 2010 it created a City Board, which leads on housing management, repairs and customer service. It sets and monitors local PIs and prioritises the capital programme. The City Board membership is made up of 17 resident activists and 12 board members plus three non-voting co-optees.

Monthly monitoring meetings are held between Derby Homes' senior management and the council's senior housing team. The Board agrees the five-year plan and sets the targets in the annual Business Plan. It monitors performance through quarterly reports of the top 23 KPIs using a traffic-light system.

Hounslow Homes

Hounslow Homes was established in the first wave of ALMOs in 2002 and is responsible for the management of 16,500 homes. It was last inspected in 2005 and awarded an 'excellent' 3-star rating. It completed its Decent Homes programme in 2006.

Currently the Board has fifteen members made up equally of residents, councillors and independents including the Chair. Three sub-committees currently operate: Finance, Personnel, and Best Value and Scrutiny, and ad hoc working groups supplement this.

In 2010 Hounslow Council carried out a Test of Opinion and residents favoured the continuation of the ALMO over the alternative choice of a return to direct management by the council and the council has subsequently taken the decision to retain the ALMO. A set of principles have been developed and agreed as a framework for Hounslow Homes future governance and a new Management Agreement is currently being developed.

In Hounslow the Hounslow Federation of Tenant and Resident Associations (HFTRA) is well-established and are involved in developing the new arrangements, and a tripartite partnership will operate between the HFTRA, the Council and Hounslow Homes in the delivery of an improved service to residents. The Board will continue to have 15 members but with independent and council representatives reduced to four each, and seven resident members.

Barnet Homes

Barnet Homes was established in 2005 and is responsible for the management of over 11,000 tenanted homes and 4,000 leasehold properties. It was last inspected in 2008 and awarded a 'good', two-star rating with promising prospects for improvement. The current Management Agreement expires in 2014 but is to be extended.

The council proposes to establish a Local Authority Trading Vehicle (LATV) in 2012. The envisaged structure will have a holding company with two subsidiaries: Barnet Homes, and an Adult Social Care organisation, to which Barnet Homes will provide support services.

The governance arrangements for the new company and its subsidiaries has not been finalised. It is anticipated that an externally recruited independent chair will head the board of both the holding company and that of Barnet Homes. Councillors will sit on the holding company board but may no longer sit on the Barnet Homes Board. The size of the Barnet Homes board will be

reduced to nine members. It is also expected that the LATV and Barnet Homes will have a common Chief Executive.

When Barnet Homes was established it had a board of 15, with equal representation from residents, council nominees and independents. The council nominees were a mix of councillors and others nominated by the council (e.g. magistrates). The board has since been reduced in size to make it more workable and there are now ten members: 3 residents (including one leaseholder), 3 council nominees (including two councillors) and 4 independents. The board also has a (non-voting) co-opted member who brings regeneration expertise. There is no assessment process for council nominees.

Board members are appointed for a term of 3 years. There has been a significant level of turnover and no original board members remain. The Board chair is elected by the Board annually and the incumbent was first elected in 2006 and is a resident (leaseholder). The Board meets seven times per year and has an awayday every six to twelve months. In 2010 the sub-committee structure was rationalised and there is now only one sub-committee with responsibility for Audit and Risk which meets quarterly.

There is a strong relationship between Barnet Homes and the council, and the work of the Board is viewed positively. The council's Chief Executive meets regularly with the ALMO CE and Barnet Homes is seen as playing an important role in supporting the council's activities. Client monitoring meetings are held regularly to review performance and in addition council client officers regularly attend Barnet Homes' internal performance review meetings. Barnet Homes provides reports to the council's Overview and Scrutiny arrangements and Barnet Homes officers contribute at other relevant meetings, e.g. regarding strategic housing matters.

The Board is responsible for performance direction and oversight and receives a quarterly performance report. Resident scrutiny is concentrated on performance oversight through a Performance Advisory Group (PAG). This was established in 2009 with open recruitment and interviews, and a subsequent training programme (e.g. on constructive challenge and benchmarking). Membership is for two years. The PAG meets five times per year and reviews the quarterly performance report, service standards, and procurement activities and may commission reports on areas for attention or improvement. A summary of PAG's views is circulated and the Chair of PAG presents their views to the Board. Resident Involvement more generally is through a 'hub' model with open meetings held quarterly in different parts of the borough.

Appendix 4 - Summary of Comparable ALMOs

	Barnet	Hackney	Derby	Islington
Stock	11,255	22,912	14,140	26,340
Audit Commission inspection rating	2005 – Good service Promising prospects	2009 -Good service Promising prospects	2002– Excellent service Excellent prospects	2008 - Excellent service Excellent prospects
Board composition	Total – 11 members 3 residents 3 LA reps(2 Councillors and 1 Council nominee) 4 independents 1 co-optee (regeneration)	Total – 13 members 5 Residents 4 Councillors 4 Independent	Total – 15 members 4 Tenants 1 Leaseholder 5 Independents 5 Councillors	Total – 14 members 6 Residents 4 Councillors 4 Independents
Board Tenure	Three-year term Max of three consecutive terms Allowed to reapply after one full term	Three-year terms	Three-year terms	Four-year terms, Residents and Independents appointed every two years on rotation
Committees	Audit & Risk In 2010 - disbanded Business & Resources and Standards & Asset Management committees	Service Improvement Audit & Finance	Governance services Resources, Remuneration & Regeneration Audit Committee Board members sit on the Derby Homes City Board with elected residents	Asset Management Audit, Ethics, Resources Management Performance Management

	<i>Barnet</i>	<i>Hackney</i>	<i>Derby</i>	<i>Islington</i>
Recruitment process				
• Residents	<i>Assessment, interview and election</i>	<i>Election</i>	<i>Eligibility and elections</i>	<i>Election</i>
• Independents	<i>Interview</i>	<i>Interview</i>	<i>Interview</i>	<i>Interview</i>
• Council nominees	<i>Council nomination</i>	<i>Council nomination</i>	<i>Council nomination</i>	<i>Council nomination</i>
Remuneration	<i>A set allowance paid quarterly</i>	<i>Out of pocket expenses</i>	<i>Out of pocket expenses</i>	<i>Annualised allowances</i>
Chair	<i>Resident (Leaseholder)</i>	<i>Resident</i>	<i>Independent</i>	<i>Resident</i>
Selection process	<i>Annual vote</i>	<i>Annual vote Written statement required</i>	<i>Annual vote</i>	<i>Annual vote by secret ballot</i>
Vice-chair	<i>Annual vote</i>	<i>Annual vote</i>	<i>Annual vote</i>	<i>Annual vote</i>

	Lewisham Homes	Enfield Homes	Ascham Homes	Hounslow
Stock	18,553	16,125	10,365	13,490
Audit Commission inspection rating	2010 – Good service promising prospects	2009 -Good service promising prospects	2010 – Fair service Uncertain prospects	2005 - Excellent service Excellent prospects
Board composition	Total – 15 members five independent seven residents three councillors	Total – 18 members Six residents Six councillors Six independents	Total – 16 members Seven residents (including one TMO rep) Five independents Four councillors	Total – 15 members 5 Residents 5 Councillors 5 Independents
Board Tenure	Three years	Three years	Three years	Three years
Committees	Audit - eight Board members , rep from LBL Internal audit Remuneration- four Board member, meets when required Ethics–three Board members, meets when required Performance Panel – no fixed membership as not a formal committee	Finance & Audit Performance Management Both committees have a maximum of six Board Members. The Chairs are appointed by the main Board. Human Resources Working Group meets when necessary. Five committees were amalgamated into two in March 2011.	Governance & Remuneration Audit Scrutiny Audit has an Independent Chair appointed by the Board Committees were reviewed and reduced from five to three in 2010	Personnel Best Value & Scrutiny Finance Board member sit on working groups and HM forums with residents and councillors

	<i>Lewisham Homes</i>	<i>Enfield Homes</i>	<i>Ascham Homes</i>	<i>Hounslow</i>
Recruitment process				
• Residents	<i>Applications and interview</i>	<i>Applications and interview</i>	<i>Applications and interview</i>	<i>Election</i>
• Independents	<i>Applications and interview</i>	<i>Applications and interview</i>	<i>Applications and interview</i>	<i>Applications and interview</i>
• Council nominees	<i>Nominated by the Council</i>	<i>Nominated by the Council</i>	<i>Nominated by the Council</i>	<i>Nominated by the Council</i>
Remuneration	<i>Out of pocket expenses</i>	<i>Out of pocket expenses</i>	<i>Out of pocket expenses</i> <i>Chair paid £5,000</i>	<i>Out of pocket expenses</i>
Chair	<i>Leaseholder</i>	<i>Tenant</i>	<i>Independently appointed for three years</i>	<i>Resident</i>
Selection process	<i>Annual vote</i>	<i>Annual vote</i>	<i>Advert and interview</i>	<i>Annual vote</i>
Vice-chair	<i>Annual vote</i>	<i>Annual vote</i>	<i>Annual vote</i>	<i>Three vice chairs – from each of the constituent groups</i>

Appendix 4: Equalities Impact Assessment

Department: Regeneration and Major Projects	Person Responsible: Andrew Donald
Service Area: Housing	Timescale for Equality Impact Assessment :
Date: 25 th June 2012	Completion date: 25 th June 2012
Name of service/policy/procedure/project etc: Future Arrangements for the Management of the Council's Housing Stock	Is the service/policy/procedure/project etc: New x <input type="checkbox"/> Old <input type="checkbox"/>
Predictive x <input type="checkbox"/> Retrospective <input type="checkbox"/>	Adverse impact <input type="checkbox"/> Not found x <input type="checkbox"/> Found <input type="checkbox"/> Service/policy/procedure/project etc, amended to stop or reduce adverse impact Yes <input type="checkbox"/> No x <input type="checkbox"/>
Is there likely to be a differential impact on any group? Yes <input type="checkbox"/> No x <input type="checkbox"/>	Please state below:
1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/ Asylum Seekers Yes <input type="checkbox"/> No <input type="checkbox"/>	2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities Yes <input type="checkbox"/> No <input type="checkbox"/>
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability Yes <input type="checkbox"/> No <input type="checkbox"/>	4. Grounds of faith or belief: Religion/faith including people who do not have a religion Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Grounds of sexual orientation: Lesbian, Gay and bisexual	6. Grounds of age: Older people, children and young People

Meeting
Date

Version no.
Date

Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Consultation conducted			
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		
Person responsible for arranging the review: Andrew Donald		Person responsible for publishing results of Equality Impact Assessment: Andrew Donald	
Person responsible for monitoring: Perry Singh		Date results due to be published and where: To be agreed	
Signed: Tony Hirsch		Date: 25 th June 2012	

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

1. What is the service/policy/procedure/project etc to be assessed?

The current management agreement with Brent Housing Partnerships ends in September 2012 and, following a review of existing arrangements undertaken following the decision of the Executive in June 2011 to retain ownership of the stock, a report is being submitted to the July meeting of the Executive recommending future arrangements.

2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

The council's housing stock is managed by an Arms Length management Organisation (ALMO), Brent Housing Partnership. BHP is responsible for management and maintenance of the stock, delivering services to council tenants and leaseholders. The new arrangements are designed to ensure that BHP continues to deliver a high standard of service and that robust structures for future partnership working and governance are supported by a revised management agreement.

3. Are the aims consistent with the council's Comprehensive Equality Policy?

Yes

4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/faith/sexual orientation/health etc? What are the reasons for this adverse impact?

No

5. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make you judgement separately (by race, gender and disability etc).

In making an assessment that there are no identifiable adverse impacts, consideration has been given to the nature of the policy change proposed in the context of the services provided and the make up of the households resident in the council stock, as well as to the results of the consultation process noted in section 7 below.

The changes proposed are concerned primarily with the governance, structure and financing of BHP and will not materially alter the services provided to tenants and leaseholders in any negative way. Rather, they are intended to improve efficiency and service delivery to all residents, as well as providing robust mechanisms to support improved tenant and resident

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Date

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Date

involvement in the future management of the stock.
6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)
No
7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?
Yes. Extensive consultation was carried out with tenants and leaseholders, through public meetings, letters to all residents and publication of the proposals on the council's website. The report to Executive details the outcomes from consultation. The response was low, although this is probably explained by the fact that tenants were essentially being asked to maintain the status quo alongside improvements designed to strengthen the relationship between the ALMO and the council. Those responses that were received were overwhelmingly positive.
8. Have you published the results of the consultation, if so where?
Yes. In the report to Executive.
9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?
No
10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.
N/A
11. If the impact cannot be justified, how do you intend to deal with it?
N/A
12. What can be done to improve access to/take up of services?
N/A
13. What is the justification for taking these measures?
N/A
14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.
Monitoring of governance and other arrangements will be led by the Director of regeneration and Major Projects. It should be noted that this is separate from monitoring of service delivery to tenants and leaseholders, which will be carried out by the Housing Service and form part of the management agreement.
15. What are your recommendations based on the conclusions and comments of this assessment?
No further action necessary.
Should you:

1. Take any immediate action?
2. Develop equality objectives and targets based on the conclusions?
3. Carry out further research?

16. If equality objectives and targets need to be developed, please list them here.

N/A

17. What will your resource allocation for action comprise of?

N/A

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment: Tony Hirsch


Full name (in capitals please): TONY HIRSCH
25.6.12

Date:

Service Area and position in the council: head of Policy and Performance, strategy, Partnerships and Improvement

Details of others involved in the assessment - auditing team/peer review:

Once you have completed this form, please take a copy and send it to: **The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD**

	<p style="text-align: center;">Executive 19 July 2012</p> <p style="text-align: center;">Report From the Director of Regeneration and Major Projects</p>
<p>Right to Buy: reinvesting receipts in new affordable rented homes</p>	

1. Summary

- 1.1 This report sets out the proposed approach to be taken in response to changes to the Right to Buy (RTB) implemented with effect from 2nd April 2012 and in particular the new rules on reinvestment of the proceeds of RTB sales, which are intended to support one-for-one replacement of all homes sold.

2. Recommendations

- 2.1 The Director of Regeneration and Major projects to be granted delegated authority to enter into agreement with the Department of Communities and Local Government to retain Right to Buy receipts pursuant to section 11(6) of the Local Government Act 2003.
- 2.2 The Director of Regeneration and Major projects to be granted delegated authority to make Right to Buy receipts available to Registered Providers of Social Housing under a competitive bidding process to deliver replacement low cost rented accommodation in accordance with the Council's Contract Standing Orders.

3. Background

- 3.1 Since its introduction in 1980, RTB has functioned on a system of discounts based on a percentage of the property value plus additional percentage points based on length of residence, limited by caps and available to those who have been public sector tenants for a qualifying period of five years (increased from 2 years by Housing Act 2004 – this will not change). Current discount rates are:
- For houses, 35% of value plus 1% for each year beyond the qualifying period up to a maximum of 60%
 - For flats, 50% plus 2% for each year beyond the qualifying period up to a maximum of 70%.

The application of caps limits the level of discounts significantly. Until April 2012, discounts were capped as summarised below:

- £16,000 in most of London (Barking and Dagenham and Havering had a £38,000 cap)
- £38,000 in the South East
- Caps in other regions varied but were all higher than the London limit

3.2 The other key feature of the system, and the main reason why stock lost to RTB has not been replaced, is that 75% of RTB receipts were paid to the Treasury with 25% retained by local authorities.

3.3 *Laying the Foundations: A Housing Strategy for England* formally announced the government's intention to raise caps, together with a commitment to replace sales on a one-for-one basis. The announcement was given a cautious welcome since it appeared to address a key weakness and propose an approach that most housing organisations had argued for since 1980. A consultation paper followed in December 2011 and final arrangements are now in place, with effect from April 2012 (although they will apply to any tenant who had already made a RTB application prior to that date).

3.4 The discount cap will be £75,000 across England, an increase on the £50,000 proposed in consultation. This represents a 400%+ increase in the cap applicable in most of London. The capital receipt will be allocated as follows (and in this order):

- To meet transaction and admin costs. There will be a new flat rate to cover the cost of the sale - £2,850 in London – and this includes a new allowance to cover the cost of withdrawn applications.
- To compensate Local Authorities and Treasury for the capital receipts projected and included in the HRA Self Financing Settlement.
- For additional RTB sales that were not included in the HRA Self Financing settlement, local authorities will be able to deduct the necessary amount to cover HRA debt from the receipt but will not be required to use it to repay loans.
- For the remaining balance, Local authorities will retain receipts provided they sign up to an agreement with government that they will limit use of receipts to 30% of the cost of replacement homes, which will be let on Affordable Rents
- Buy Back provision is retained, allowing funding of up to 50% of the cost of re-purchasing a former council home.
- The cost floor is retained and extended from 10 to 15 years.

3.5 Further detail on the financial implications is set out in section 5, while some more general points are covered here. It is difficult to be precise, but the huge increase in the cap will encourage RTB applications, which have been at a low level in recent years. In the last three years, only 15 homes have been sold following over one hundred applications. In contrast, across London

(including Brent) as many applications were received in April 2012 as in the whole of the previous year. The government's recent announcement that it will consult on the imposition of a household income cap of £60,000 in social housing, beyond which tenants will be obliged to pay a market rent, can only add to demand.

- 3.6 However, high property values, low average incomes and a more cautious approach from lenders will still mean that purchase is beyond many Brent tenants and it is difficult to gauge how many of the new applications will proceed to sale. The application of a single cap for the whole country means that the impact will vary significantly dependent on local property values.
- 3.7 The other main plank of the reform is one-for-one replacement. The consultation paper set out three possible models:
- Local Delivery – where receipts for replacement are left with the council for reinvestment locally
 - National Delivery – where receipts for replacement are brought together and then allocated through the Greater London Authority in London and by the Homes and Communities Agency in the rest of England
 - Combined approaches – with some central direction on use but leaving substantial local control.
- 3.8 The third, “local model with agreement” option has been adopted and its key features are:
- After deduction of costs (council and government) based on what might reasonably have been expected from income from the existing RTB scheme, remaining receipts are available to fund replacement homes.
 - Councils will be able to enter into an agreement with government that the authority retains these receipts provided it can show that it is able to fund replacement with a contribution restricted to 30% of the cost of the new homes.
 - Councils not entering into an agreement will return the receipt for redistribution by the HCA (the GLA in London).
- 3.9 In summary, this option has been adopted because, first, there is no confidence that a local delivery model will meet the one-for-one replacement target, mainly due to lack of enthusiasm from some authorities, while a national model does not fit with the localism agenda. However, the key point to note is that one for one replacement is a *national* target: homes lost in an area will not necessarily be replaced in that area. Again, this is primarily the result of variations in value: a home sold in London will generate a reasonably large receipt, whereas one sold in Sunderland will not. On this point at least, London may do better than other regions.
- 3.10 There are two other questions about the replacement plan. First, replacement homes will be developed within the Affordable Rent regime. Although the ability to meet 30% of the cost means that funding for replacement is more

generous than the overall regime, which provides between 15% and 20% of cost, rents will still be much higher. Second, there is some doubt, in all regions, as to whether the approach will deliver genuine like-for-like replacement, especially in the case of larger homes. So, although the sale of a three bed property may generate a receipt large enough to fund replacement, it may mean replacement by a smaller property and, in many cases, a property in a different and usually cheaper area.

- 3.11 Both the consultation and the final proposals provided that receipts should be used within two years or be returned to the central pool. In response to lobbying by councils and other housing providers, the government has conceded that this period should be extended to three years. It is possible that boroughs committed to funding replacement may benefit from additional funding redistributed from those that do not engage or fail to meet the three year deadline. In London, this will be controlled by the Mayor although the mechanism for redistribution is not clear at this stage.
- 3.12 Given the high levels of demand in Brent, the council will want to both retain any receipts generated by sales in the borough and maximise opportunities to take advantage of unused receipts from other boroughs or regions to support local development of new homes. The following section looks in more detail at how such receipts could be employed.

4. Delivering One for One Replacement Locally

4.1 Registered Provider Route

- 4.1.1 After consideration of existing Right to Buy (RTB) commitments, attributable HRA debt and transaction costs, local authorities will be able to use the net receipts from RTB sales to deliver replacement low cost rented accommodation. Local authorities who want to take advantage of this opportunity must sign an agreement with CLG that receipts will be spent on low cost rented accommodation within 3 years and that receipts are limited to 30% of the total development costs of the replacement homes. Development costs include land on private sites but only construction costs (plus on costs) on local authority owned land; development costs can also include property acquisition on the open market.
- 4.1.2 Under the Affordable Homes Programme 2011-15 Registered Providers are delivering new build affordable rented homes in London with grant at levels of approximately 15-20% of development costs, with remaining costs met from borrowing against the rental income stream from the new homes and cross subsidy from Registered Provider resources. Therefore to deliver new homes on the basis of a higher level of subsidy at 30% of development costs is clearly a feasible proposition.
- 4.1.3 One straightforward method of using net receipts from RTB sales to deliver replacement low cost rented accommodation is to invite Registered Providers to bid for receipts against value for money and housing priority and quality

criteria. Such an approach would be analogous to the Local Authority Social Housing Grant programme the Council ran from the mid 1990s to mid 2000s. Criteria could include broad housing priorities such as delivering larger family accommodation across the borough, or more specifically restrict the use of receipts to unlocking strategic developments, including on Council-owned sites, or to priority projects such as securing social rented decant accommodation for regeneration schemes. Receipts could be used alone or potentially bundled together with other forms of public subsidy, such as GLA affordable housing grant, as part of a funding package. As a last resort, Registered Providers could be allowed to purchase street properties. In all cases the Council would be able to place a charge on the land to ensure the subsidy could be recycled should the housing involved be disposed at some later date.

- 4.1.4 Due to the punitive rate of interest at 4% over base rate payable on receipts not spent on low cost rented accommodation within 3 years, officers recommend delegated authority be granted to spend RTB receipts in what is a straightforward and tested manner so that a clear route to delivering replacement low cost rented accommodation is readily available to the Council.

4.2 Alternative Options

- 4.2.1 Changes that allow local authorities to retain RTB receipts for new housing are just one of a range of new financing options available to the Council to bring forward regeneration and development. New Homes Bonus, Community Infrastructure Levy, Housing Revenue Account (HRA) borrowing headroom, business rates retention and tax incremental financing are all examples of examples of finance that the Council can use to bring forward regeneration and development initiatives across the borough. Consideration of each of these financial elements in isolation probably limits the ability of the Council to leverage external public and private sector funding and investment and the potential socioeconomic benefits delivered through these resources.
- 4.2.2 The Council's Regeneration and Major Projects Department therefore propose to undertake an options appraisal of how emerging and traditional sources of funding and finance available to the Council can be best used to bring forward regeneration and development. As well as appraising the opportunities and impacts of combining different funding and financing streams, an assessment will be made of the pro and cons of different potential delivery routes, partners and vehicles. Alternative options for the use of net RTB receipts to deliver low cost rented accommodation will be appraised and if the benefits outweigh the Registered Provider route outlined above, then a report to progress the better option will be taken forward to that effect.
- 4.2.3 Options to be explored will include the Council retaining RTB receipts to develop new Housing itself – and this option will also be looked at as part of the options review of the HRA Business plan, which will be reported to the

Executive later this year. Under this option, any expenditure not covered by the 30% retained receipt would need to be funded by the HRA and would count against the HRA borrowing headroom that has been created as part of the new HRA Self Financing regime. This would need to be affordable within the HRA business plan and would compete against demands for addressing the repairs backlog, investment in existing stock and repayment of HRA debt. It should again be noted that whilst the retained RTB can be used for development costs including the purchase of land in order to provide a site for social housing, the provision of any land already owned by the authority will not count.

- 4.2.4 The RTB guidance also makes clear that RTB receipts cannot be passed to a body in which the Council holds a controlling interest (such as BHP, the Council's ALMO), and this is because debt incurred by such a body is likely to be classified as public sector debt (and the Government has put caps on public sector debt). This would not, however, preclude the use of a Special Purpose Vehicle in which the Council holds less than a controlling interest, presuming of course the Council is able to reconcile the control and risk of such arrangements. Of course, if the Council was to set up a Special Purpose Vehicle for housing purposes, the approval of the Executive will be required.

4.3 Timing

- 4.3.1 An initial spike in RTB receipts is anticipated with the observed increase in RTB applications since introduction of the more generous RTB cap, however several months monitoring will probably be required before an accurate medium to longer term forecast of RTB receipts can be made. As noted, there are also existing commitments and the RTB receipt pot must be allowed to build to a sufficiently large sum prior to implementing any delivery option.

5. Financial Implications

- 5.1 Tenants must have been public sector tenants for 5 years before they qualify for Right to Buy. The national scheme for Right to Buy discounts comprises two elements; the discount rate, and the cap. The discount rates have not changed. They continue to be:-
- For houses: 35% of the property's value plus 1% for each year beyond the qualifying period up to a maximum of 60%;
 - For flats: 50% of the property's value plus 2% for each year beyond the qualifying period up to a maximum of 70%.

In practise, most Right to Buy discounts are limited by caps. Up to March 2012 the cap in Brent was £16,000. From April 2012, the cap was increase to £75,000. This increase is expected to lead to an increase in the number of Right to Buy sales.

- 5.2 Under the Local Government Capital Finance System to March 2012, the capital receipts from the sale of Right to Buy dwellings were subject to the

capital receipts pooling arrangements. These pooling arrangements set out, subject to certain permissible deductions, that 75% of the receipts are paid to HM Treasury and the remaining 25% are retained by the Local Authority.

5.3 The pooling arrangements ceased from April 2012. Under the new arrangements for RTB capital receipts, they are to be used as follows:-

- To meet admin costs (£2,850 per completion)
- Council and HM Treasury assumed costs - this is a priority allocation for RTB receipts and relates to sales that were assumed in the Housing Revenue Account Self Financing settlement for the years 2012-13 to 2014-15. This transitional arrangement seeks to protect councils and the Treasury for the RTB sales that would have been expected before the decision to increase the cap. The following table sets out the number of RTB dwellings for Brent that were included in the HRA self financing settlement, and the maximum sum assumed that would be distributed under this category:-

	2012-13	2013-14	2014-15
Dwellings assumed	9	11	12
Retained by Brent	£383k	£448k	£503k
Pooled to Treasury	£919k	£1,041k	£1,143k
Total Receipts	£1,302k	£1,489	£1,646k

This means that, for example, in 2012-13, the first £1.302m of receipts (after admin costs) will be distributed to Brent and HM treasury as above. The £383k to be retained by Brent is in line with the sum included in the Capital programme.

- HRA attributable debt - For additional RTB sales that were not included in the HRA Self Financing settlement, local authorities will be able to deduct the necessary amount to cover HRA debt from the receipt but will not be required to use it to repay loans
 - Balance for replacement affordable homes (either return the sum for use by the Greater London Authority, or incur the expenditure locally).
- 5.4 Under the new scheme for RTB receipts, it is intended that the balance for replacement affordable homes is used such that it funds no more than 30% of the cost of the new dwelling.
- 5.5 If it is decided not to retain the receipts to fund replacement affordable homes to the GLA, then these receipts will be submitted quarterly, and there will be no further cost to Brent.
- 5.6 If it is decided to retain the receipts to fund replacement affordable homes, then the receipts will be retained and spent by Brent. A timescale of 3 years has been set for spending these receipts. In the event that it is not spent within 3 years, then the receipts will need to be returned to the Secretary of State with interest (4% above base).

5.7 It is difficult to forecast the likely receipts that will be generated as a result of increasing the RTB cap, and it follows that it is difficult to forecast the receipts that will be available for replacement dwellings. The completed sales in the last three years were 6 in 2009-10, 5 in 2010-11, and 4 in 2011-12. As a result of increasing the cap, the number of RTB applications has increased significantly, with over 100 applications received before the end of May 2012. This is expected to lead to an increase in completions. As set out above, the receipts from the first approx. 9 sales in 2012-13 will be used to meet Council and HM Treasury assumed sales, and will not therefore generate resources available for replacement dwellings. RTB sales in excess of around 9 in 2012-13 will be available for replacement homes after HRA attributable debt has been deducted.

It is difficult to estimate the annual sum available for replacement homes under the new arrangement for RTB capital receipts. For illustrative purposes, we have modelled the impact of the sale of a pre 1945 low rise flat, with a market value of £188k. This would result in £55k being available for replacement dwellings. If this illustration were typical, then 10 additional sales would generate £550k, and 100 additional sales would generate £5.500m.

6. Legal Implications

6.1 From April 2012, the cap on the discounts for purchases of Brent Council properties by Council tenants under the Right to Buy Scheme has been raised from £16,000 to £75,000.

6.2 The Department for Communities and Local Government (DCLG) also announced that the receipts from the additional Right to Buy sales which this would generate (after the deduction of certain permissible amounts) would be used to fund replacement stock on a one-for-one basis.

6.3 In order for local housing authorities to keep these additional receipts from the Right to Buy sales for the purposes of refunding housing stock, it will be necessary for them to enter into an agreement with the Secretary of State for Communities and Local Government pursuant to section 11(6) of the Local Government Act 2003 (as inserted by section 174 of the Localism Act 2011).

6.4 As part of the agreement, the Secretary of State for DCLG will agree to:

- i. allow the local authority to retain additional net Right to Buy receipts to fund the provision of replacement stock, limited to 30% of the cost of replacement homes.
- ii. allow the local authority three years (from the commencement of the agreement) to invest those receipts before asking for the money to be returned.

6.5 In return, the local authority has to agree with DCLG:

- i. that Right to Buy receipts will not make up more than 30% of total spend on replacement stock, and
- ii. to return any used receipts to the Secretary of State with interest.

- 6.6 It is worth emphasising that the agreement will not require a local authority to complete the building of any home within three years. All that is required is that the local authority should have incurred expenditure sufficient that Right to Buy receipts form no more than 30% of it.
- 6.7 In order for the Council to keep additional Right to Buy receipts received in the first quarter of 2012-13, DCLG has asked local authorities to return signed agreements by 27 June 2012. Officers do not expect Brent Council to receive any additional Right to Buy receipts between April and June 2012. Officers expect to receive additional Right to Buy receipts after June 2012 and approval of the Executive will be required for the Council to enter into an agreement with DCLG which would allow the Council to keep additional Right to Buy receipts to fund the replacement stock. Such approval is being sought from the Executive in this report.
- 6.8 If the Council does not enter into an agreement with DCLG to keep additional Right to Buy receipts, the net additional Right to Buy receipts (after deducting certain permissible amounts) will be forwarded to the Secretary of State who will pass them onto the Greater London Authority to invest in replacement stock.
- 6.9 Although the Director of Regeneration and Major Projects has delegated authority under paragraph 10 in the Table in paragraph 2.5 of Part 4 of the Council's Constitution to make grants and provide financial assistance subject to a number of restrictions and limitations, the recommendation to seek the delegated authority required under paragraph 2.2 above is necessary as it is likely that may of the proceeds will be in excess of £5000 per [property. In relation to paragraph 2.3, there is a limitation requiring grant criteria to be approved by the Executive or person with appropriate authority (as set out in paragraph 10(a)(iv) in the Table in paragraph 2.5 of Part 4 of the Council's Constitution) and this is why this report seeks the approval of the Executive to give delegated authority to the Director of Regeneration and Major Projects to draw up grant criteria for the allocation of the Council's Right to Buy receipts to Registered Providers of Social Housing.

7. Diversity Implications

- 7.1 Officers do not consider that there will be any adverse impact on those persons which have one or more of the nine protected characteristics as set out in section 149 of the Equality Act 2010 in relation to the recommendations set out in section 2 of this report. An impact assessment is attached at Appendix 1.

8. Staffing Implications

- 8.1 There are no immediate staffing implications arising from this report.

Background Papers

Laying the Foundations: A Housing Strategy for England; CLG, 2011

Reinvigorating the Right to Buy and one for one replacement Consultation, CLG 2011

Contact Details

Andy Donald

Director of Regeneration & Major Projects

andrew.donald@brent.gov.uk

Appendix 1: Equalities Impact Assessment

Department: Regeneration and Major Projects	Person Responsible: Eamonn McCarroll
Service Area: Housing	Timescale for Equality Impact Assessment :
Date: 25 th June 2012	Completion date: 25 th June 2012
Name of service/policy/procedure/project etc: Right to Buy: Changes to discounts and investment of receipts	Is the service/policy/procedure/project etc: New x <input type="checkbox"/> Old <input type="checkbox"/>
Predictive x <input type="checkbox"/> Retrospective <input type="checkbox"/>	Adverse impact <input type="checkbox"/> Not found x <input type="checkbox"/> Found <input type="checkbox"/> Service/policy/procedure/project etc, amended to stop or reduce adverse impact Yes <input type="checkbox"/> No x <input type="checkbox"/>
Is there likely to be a differential impact on any group? Yes <input type="checkbox"/> No x <input type="checkbox"/>	Please state below:
1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/ Asylum Seekers	2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities

<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>4. Grounds of faith or belief: Religion/faith including people who do not have a religion</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>5. Grounds of sexual orientation: Lesbian, Gay and bisexual</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>6. Grounds of age: Older people, children and young People</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Consultation conducted</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Person responsible for arranging the review: Eamonn McCarroll</p>	<p>Person responsible for publishing results of Equality Impact Assessment: Eamonn McCarroll</p>
<p>Person responsible for monitoring: Brent Housing Partnership</p>	<p>Date results due to be published and where: To be agreed</p>
<p>Signed: Tony Hirsch</p>	<p>Date: 25th June 2012</p>

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

1. What is the service/policy/procedure/project etc to be assessed?

Right to Buy: discounts and reinvestment of receipts.

2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

The government has introduced changes to the operation of the Right to Buy for council tenants. These include an increase in the cap on discounts from £16,000 (in London) to £75,000 and new rules for the use of receipts that are intended to support one-for one replacement, at the national level, of properties sold.

The council is required to decide whether and how it intends to use receipts to develop replacement homes in Brent and a report to July 2012 Executive informs members about the changes and makes recommendations about the use of receipts intended to secure additional supply in the borough.

3. Are the aims consistent with the council's Comprehensive Equality Policy?

Yes

4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/faith/sexual orientation/health etc? What are the reasons for this adverse impact?

No

5. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make you judgement separately (by race, gender and disability etc).

The changes impact only on existing council tenants who have the right to buy. Ability to exercise the right depends on ability to fund a purchase and is therefore entirely dependent on the tenant's income or other resources, while the increased discount may bring purchase within the reach of a larger range of households. Although there are some groups who may be more likely to be on lower incomes, for example older people, these groups would have faced difficulty exercising the right to buy within the previous system. The changes therefore provide more opportunities, albeit ultimately restricted by resources.

6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)

No

7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?

No

8. Have you published the results of the consultation, if so where?
No
9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?
No
10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.
N/A
11. If the impact cannot be justified, how do you intend to deal with it?
N/A
12. What can be done to improve access to/take up of services?
Take up is expected to increase owing to the raised discount and surrounding publicity
13. What is the justification for taking these measures?
Legislative requirement
14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.
Take up will continue to be monitored by Brent Housing Partnership and sales form part of statutory returns to the DCLG.
15. What are your recommendations based on the conclusions and comments of this assessment?
No need for any further action
Should you:
<ol style="list-style-type: none"> 1. Take any immediate action? 2. Develop equality objectives and targets based on the conclusions? 3. Carry out further research?
16. If equality objectives and targets need to be developed, please list them here.
N/A
17. What will your resource allocation for action comprise of?
N/A

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment:

Full name (in capitals please): Tony Hirsch
2012


Date: 25th June

Service Area and position in the council: Strategy, Partnerships and Improvement, Head of Policy and Performance

Details of others involved in the assessment - auditing team/peer review:

Once you have completed this form, please take a copy and send it to: **The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD**

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	<p style="text-align: center;">Executive 16 July 2012</p> <p style="text-align: center;">Report from Director of Finance and Corporate Services</p>
All Wards	
Budget Strategy 2013/14 to 2015/16	

1.0 Introduction

- 1.1 This report sets out the financial prospects for the Council for the next three years.
- 1.2 It seeks Executive approval for the overall budget strategy based on the One Council Programme and the delivery of the Borough Plan.

2.0 Recommendations

- 2.1 To note the latest forecast for the Council's revenue budget for 2013/14 to 2015/16 at Appendix A and the assumptions used to derive this.
- 2.2 To endorse the overall budget process set out in the report.
- 2.3 To note the proposed budget timetable.

3.0 Baseline Position 2013/14 to 2015/16

- 3.1 The Budget Report to Council on 27 February 2012 included a financial forecast as part of the Medium Term Financial Strategy, which included the following main assumptions:

3.2 Spending assumptions

- Service area budgets rolled forward at 2012/13 levels into future years;
- An allowance for pay inflation of 1% in 2013/14 and 2014/15 and 2% in 2015/16;
- No general inflation for prices in 2013/14 and future years;
- In addition an allowance has been made for providing additional monies to fund the pension fund deficit with additional contributions of £0.5m per annum from 2013/14.
- No savings assumptions are as yet built into service area budgets for 2013/14 onwards;

- Provision for cost pressures in service area budgets of £2,196k in 2013/14, £1,193k in 2014/15 and £650k in 2015/16. These assumptions will be subject to further review during the budget process
- The medium term forecast for central items included:
 - o *Debt charges (capital financing charges net of interest receipts)*: These were forecast to grow from £25.563m in 2012/13 to £26.603m in 2013/14, £28.104m in 2014/15 and £29.668m in 2015/16;
 - o *Levies (Principally the fixed cost element of West London Waste)*: These were forecast to grow from £2.579m in 2012/13 to £2.803m in 2013/14, £3.043m in 2014/15 and £3.293m in 2015/16;
 - o *Freedom Pass/concessionary fares*. These have risen significantly over the last few years and the budget for 2012/13 is £14.771m. The current assumption for future years was that prices will rise by 4% and there would be a 1.5% increase in usage. In addition because of the volatility of this budget in the past an additional contingency of £500k had been allowed for in 2013/14 to reflect any additional increases in transport costs. Therefore, provision has been made for an additional £1.360m (2013/14), £887k (2014/15) and £936k (2015/16).
 - o *New Homes Bonus*. The assumption was that this would increase by £1.4m per annum.
 - o *Redundancy and Restructuring Costs*.. These costs were anticipated to reduce over the medium term as higher redundancy and severance costs in the earlier years are replaced with the actuarial strain costs of meeting the costs of early retirements which are spread over three years.

3.3 Resource assumptions

- Formula grant of £152.086m in 2013/14, £138.958m in 2014/15 and £136.383m in 2015/16 (based on national assumptions from the Autumn Statement 2011);
- Other unallocated grants to remain at 2013/14 levels
- Council tax base increase of 0.8% in 2013/14 and 0.7% thereafter;
- Council tax collection of 97.5% in each year;
- Council tax increases of 3.5% in 2013/14 and 2.5% in the following two years.

3.4 The assumptions above produced a gap to be bridged for the period 2013/14 to 2015/16 as follows:

Table 1: Estimated Budget Gap at 27 February 2012

	2013/14 £m	2014/15 £m	2015/16 £m
Net Savings Required	9.3	11.6	5.3
Savings Identified	11.3	6.2	1.5
Budget Gap/(Surplus):			
Annual	(2.0)	5.4	3.8
Cumulative	(2.0)	(3.4)	(7.2)

4.0 Updated Position

- 4.1 There are a number of key developments that will affect our projections and these are set out below. However it should be noted that in a number of these there is still uncertainty around the final arrangements so the figures are still subject to change.

Council Tax Support

- 4.2 The move away from council tax benefit will not only have an immediate effect (as a result of implementing the new council tax support scheme from April 2013) but will also lead to a permanent reduction in the council tax base. Therefore the previous assumptions about the additional resource from council tax increases will be reduced.
- 4.3 The current forecast includes council tax increases of 3.5% in 2013/14 and 2.5% in the two years that follow. Due to the lower tax base total council tax income from will be £2.3m lower by 2015/16. It is not yet known what level of increase will be set b the Secretary of State to trigger a local referendum.
- 4.4 The possibility of further Council Tax Freeze Grants from CLG cannot be ruled out at this stage. If such a grant is offered, the Council would need to decide whether to accept it (and continue the erosion of its tax base) or reject it.
- 4.5 Although proposals are being developed for the council tax support scheme to meet the shortfall in funding in 2012/13, the Council would need to meet the cost of further increases in entitlement for council tax discounts in later years. An additional £0.5m per annum has been allowed at this stage based on initial modelling work.

Business Rates Retention

- 4.6 The current figures assume that impact of the new business rate retention scheme will be neutral to the Council's finances. Recent announcements have changed the likely nature of the scheme with the government continuing to hold a significant role in the funding of authorities by retaining 50% of

business rates and continuing to distribute revenue support grant on an annual basis. The GLA will also share in any growth or fall in rates and this could potentially be up to 25% of the total.

- 4.7 Until the detailed design of the new scheme is known it is not possible to assess its likely impact. However it is expected that key issues for the authority will include:
- Revaluation appeals by business rate payers (will lead to unfunded drop in income)
 - Loss of businesses through economic decline
 - Growth in base rates from baseline
 - Collection rates

Cost Forecasts

- 4.8 The provision for costs relating to the One Council Programme included an enabling fund of £5.5m per annum. By tapering down this requirement over the medium term this reduces the budget to £1.5m by 2015/16.
- 4.9 An initial review of service area budgets has identified a net increase in the period to 2015/16 of £0.7million. The most significant item is the extent to which current costs relating to adult social care transitions exceed the existing budget. Growth forecasts in future years will remain restricted in the expectation that the new integrated transitions service will enable successful management of demand in this area.

Savings

- 4.10 A review of savings has identified the following significant issues to be incorporated into the updated position:
- Deferring the delivery of expected savings on health integration (£2.2m) and planning fees (£800k) by one year
 - Reduction in anticipated savings from the realigning corporate and business support one council project (£2m)
- 4.11 There are also risks around the delivery of some savings that have not been factored in to the figures at this stage including procurement savings and waste and recycling.

Central Items

- 4.12 Additional income from the New Homes Bonus (£0.7m by 2015/16) has been allowed for to reflect the latest information regarding properties on the valuation register.

- 4.13 The capital financing budget forecast has been reduced to reflect the ongoing savings secured by taking out long-term fixed rate borrowing at the current low rates.

Revised Gap

- 4.14 A summary of all the changes above is set out in Appendix 1. In broad terms the pattern of the residual gap remains unchanged:

	2013/14 £m	2014/15 £m	2015/16 £m
February 2012	-2.0	3.4	7.2
Net Movement	1.8	-0.9	0.3
June 2012	-0.2	2.5	7.5

Members are reminded that this forecast is based on the Council a new Council Tax Support scheme and that should the Council not support this, the gap would increase by around £5.2m in each year.

4.15 *Capital Programme*

Appendix 2 sets out the current Capital Programme assumptions and the consequential impact on borrowing costs have been factored into the main financial forecasts. Clearly capital money is not free – it has a revenue impact and hence the strategy for future years will be to support programmes which are externally funded and those which deliver revenue savings equal to or greater than the debt costs. Conversely schemes requiring unsupported borrowing and which have net debt costs must be reduced to a minimum or eliminated.

5.0 Proposed Budget Strategy and the One Council Programme

- 5.1 The Council’s budgeting process has changed significantly to meet the challenges of delivering services with reducing resources. The One Council programme, along with a fundamental review of service provision across the Council have been the key drivers for delivering the savings required.

- 5.2 Over the next few years the delivery of the savings from the One Council programme will continue to be a vital ingredient of the Council’s strategy of protecting front-line services whilst cutting costs.

- 5.3 In addition there are a number of emerging national and local issues for the Council to address over the next four years.

5.4 Other Measures

Apart from the main projects within the One Council Programme there are a number of other actions that will need to be undertaken to help deliver a balanced and robust budget over the medium term.

- (i) Ensuring that each Service Area does not overspend its current year's budget and that where potential overspends are identified, virements to cover this are identified at the time.
- (ii) Ensuring that One Council savings are delivered as forecast and again, where slippage occurs, identifying compensating savings;
- (iii) All central items to be robustly controlled.
- (iv) *"Inescapable Growth"* to be minimised and funded from within existing budgets if at all possible.
- (v) Borrowing within the capital programme limited as a maximum to currently assumed levels and with priority given to funding from other sources.
- (vi) Engage in reviews relating to local government funding and lobby on areas affecting resources available to Brent
- (vii) Consider various options around levels of Council Tax.

6.0 Timetable

6.1 Appendix 3 sets out a draft outline timetable for the 2013/14 budget.

7.0 Financial Implications

7.1 These are contained in the body of the report. There are no direct costs or other direct financial implications arising from this report.

8.0 Legal Implications

8.1 A local authority must budget so as to give a reasonable degree of certainty as to the maintenance of its services. In particular, local authorities are required by the Local Government Finance Act 1992 to calculate as part of their overall budget what amounts are appropriate for contingencies and reserves. The Council must ensure sufficient flexibility to avoid going into deficit at any point during the financial year. The Chief Financial Officer is required to report on the robustness of the proposed financial reserves.

8.2 Under the Brent Member Code of Conduct members are required when reaching decisions to have regard to relevant advice from the Chief Finance Officer (the Director of Finance and Corporate Services) and the Monitoring Officer (the Borough Solicitor). If the Council should fail to set a budget at all or fail to set a lawful budget, contrary to the advice of these two officers there may be a breach of the Code by individual members if it can be demonstrated that they have not had proper regard to the advice given.

8.3 In accordance with the Local Government Finance Act 1992, where a payment of Council Tax that a member is liable to make has been outstanding for two months or more at the time of a meeting, the member must disclose the fact of their arrears (though they are not required to declare the amount) and cannot vote on any of the following matters if they are the subject of

consideration at a meeting: (a) any decision relating to the administration or enforcement of Council Tax (b) any budget calculation required by the Local Government Finance Act 1992 underlying the setting of the Council Tax or (c) any recommendation, resolution or other decision which might affect the making of the Annual Budget calculation. These rules are extremely wide in scope so virtually any Council decision which has financial implications is one which might affect the making of the budget underlying the Council Tax for next year and thus is caught. The former DoE (now DCLG) shared this interpretation as it made clear in its letter to the AMA dated 28th May 1992. Members who make a declaration are not entitled to vote on the matter in question but are not prevented by the section from taking part in the discussion. Breach of the rules is a criminal offence under section 106 which attracts a maximum fine of £1,000.

9.0 Diversity Implications

9.1 Impact assessments will be carried out in advance of formulation of budget proposals.

10.0 Staffing Implications

10.1 None directly as a result of this report.

11.0 Background Information

11.1 Report to Full Council, 27 February 2012 – 2012/13 Budget and Council Tax.

12.0 Contact Officers

12.1 Clive Heaphy, Director of Finance and Corporate Services, Town Hall, Forty Lane, Wembley Middlesex HA9 9HD, Tel. 020 8937 1424.

CLIVE HEAPHY
Director of Finance and Corporate Services

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Summary MTFs update

	2013/14	2014/15	2015/16	Comment
	£m	£m	£m	
Cumulative Budget Gap/(Surplus) at Council Feb 2012	-2.0	3.4	7.2	
Council Tax Support - baseline	0.9	1.6	2.3	Originally assumed 3.5%, 2.5%, 2.5% increases in council tax. This generated £9.3m of additional resource over 3 years. Due to lower tax base this following CTB changes this would reduce by approx 25%.
Council Tax Support - future growth		0.5	1.0	Potential impact of caseload increases in future years
Business Rates - Revaluation appeals				Lost income from any successful valuation appeals would fall upon the council.
Business Rates - share of growth from baseline				Latest information that 50% of growth returned to govt and up to 25% to GLA.
One Council - Costs	-3.0	-4.0	-4.0	Reduction in enabling fund requirement
Savings	4.3	2.0	2.0	Revised and profiled savings assumptions
Service area - costs	1.0	0.7	0.7	Primarily related to transitions of children to adult social care
New Homes Bonus	-0.4	-0.7	-0.7	Updated forecasts on grant generated by new homes
Capital Financing	-1.0	-1.0	-1.0	Savings from securing long-term borrowing at low rates
Latest Cumulative Gap/(Surplus)	-0.2	2.5	7.5	

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CAPITAL PROGRAMME 2013/14 AND FUTURE YEARS

General Fund

Programme Details	2013/14	2014/15	2015/16
	Capital Programme £000	Capital Programme £000	Capital Programme £000
RESOURCES: GENERAL FUND			
Capital Grants and other contributions			
Government Grant - SCE (C)	(19,235)	(20,307)	(10,411)
Devolved Formula Capital	(570)	(570)	(570)
Other External Grant	(20,306)	(12,281)	(6,330)
Capital Receipts in Year - Right to Buy Properties	(400)	(400)	(400)
Corporate Property Disposals	(970)	(728)	(728)
Other Receipts	(5,945)	(7,687)	(21,192)
Additional Contributions	(6,942)	0	0
S106 Funding	(15,781)	(8,523)	(7,940)
Borrowing			
Unsupported Borrowing	(6,730)	(6,972)	(6,972)
Unsupported Borrowing (Self Funded)	(1,718)	(200)	(200)
Invest to Save Schemes			
External Grant Funding	(50)	(50)	(50)
Total Resources	(78,647)	(57,718)	(54,793)
EXPENDITURE: GENERAL FUND			
Regeneration and Major Projects			
<u>Business Transformation</u>			
Civic Centre	1,518	0	0
<u>Children and Families</u>			
School Schemes	33,781	26,828	10,981
<u>Corporate</u>			
Property Schemes	610	610	610
PRU Schemes	12,827	7,627	21,132
S106 Works	15,781	8,523	7,940
Total Regeneration and Major Projects	64,517	43,588	40,663
Children and Families			
Devolved Formula Capital	0	0	0
Total Children & Families	0	0	0
Environment Neighbourhoods			
TfL Grant Funded Schemes	4,000	4,000	4,000
Leisure & Sports Schemes	535	535	535
Highways Schemes	3,550	3,550	3,550
Parks & Cemeteries Schemes	165	165	165
Total Environment & Neighbourhoods	8,250	8,250	8,250
Adults Social Services			
Ringfenced Grant Notifications for Adult Care	650	650	650
Total Adults Social Services	650	650	650
Housing			
PSRSG and DFG council	4,780	4,780	4,780
Total Housing	4,780	4,780	4,780
Corporate			
ICT Schemes	400	400	400
Central Items	50	50	50
Total Corporate	450	450	450
Total Service Expenditure	78,647	57,718	54,793
Surplus carried forward	0	0	0
Deficit to be funded	0	0	0

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DRAFT SERVICE AND BUDGET PLANNING TIMETABLE FOR 2013/14

Date	Action
11-12 July	First service and budget planning away-day
August/ September	Work on formulating draft budgets
September	First stage budget meetings between F&CS and service areas
September	Report to Executive on Performance and Finance Review 2012/13 – 1 st Quarter
October/ November	Continue to develop proposals for achieving medium term budget targets
7-8 November	Second service and budget planning away-days - issues to be considered as part of First Reading debate
November	Budget and Finance Overview & Scrutiny Committee receives and discusses 1 st reading debate papers
19 November	Full Council. First reading of Policy Framework and Budget
December	Schools Forum meets to agree funding formula and budget issues
10 December	Report to Executive on Performance and Finance Review 2012/13 – 2 nd Quarter
December/ January	Budget and Finance Overview & Scrutiny Committee collects evidence
Up to January	Consultation with residents, businesses, voluntary sector, partner agencies and trade unions on budget proposals.
Mid December	Confirmation of the following year's funding from central government
Mid December	Release of the Mayor's consultation draft GLA budget
14 January	Executive reviews budget position and sets Collection Fund surplus/deficit
22 January	General Purposes Committee agrees Council Tax base
January	Budget and Finance Overview & Scrutiny Committee collects evidence and discusses 1 st interim report
January	Greater London Assembly considers draft consolidated GLA budget
End of January	PCG agree budget proposals to be presented to February Executive.
Early February	Schools Forum meets to agree the recommended Schools Budget
February	Budget and Finance Overview & Scrutiny Committee receives budget proposals prior to the Executive. Discusses second interim report.
11 February	Executive considers and announces administration's final budget proposals, agrees fees and charges for the following year and agrees savings/budget reductions for the HRA budget report as

DRAFT SERVICE AND BUDGET PLANNING TIMETABLE FOR 2013/14

Date	Action
	well as the overall average rent increase.
Mid February	GLA budget agreed
Late February	Budget and Finance Overview & Scrutiny Committee receives the outcome of Executive's budget report and agrees a final report
25 February	Full Council agrees budget

 <p>The logo of Brent Council, featuring a central coat of arms with a shield, a crown, and two lions, surrounded by the words 'BRENT COUNCIL' in a circular arrangement.</p>	<p>Executive July 2012</p> <p>Report from Director of Strategy, Partnerships & Improvement and Director of Finance & Corporate Services</p>
<p>Wards Affected: ALL</p>	
<p>Performance and Finance Review, Quarter 4, 2011-12</p>	

1.0 Introduction

Brent's Borough Plan 'Brent our Future' is a four year strategy document which sets out the Administration's priorities over the coming years. These priorities form the core of our Corporate Planning Framework, which is broadly based around three overarching strategic objectives:

1. To create a sustainable built environment that drives economic regeneration and reduces poverty, inequality and exclusion.
2. To provide excellent public services which enable people to achieve their full potential, promote community cohesion and improve our quality of life.
3. To improve services for residents by working with our partners to deliver local priorities more effectively and achieve greater value for money from public resources.

The unprecedented 28% reduction in central government funding over the next four years continues to intensify pressure on Council services, and difficult economic conditions have directly affected levels of employment

across the borough. The scale and pace of national policy changes, particularly in relation to Housing Benefits and the implementation of the new Universal Credit, is expected to fuel increased demand for services, which will have an enduring effect on the borough. However despite these challenges, the Council remains committed to preserving services and protecting the most vulnerable residents.

The purpose of this report is to provide Members with a corporate overview of Finance and Performance information to support informed decision-making and manage performance effectively.

2.0 Recommendations

The Executive is asked to:

- a. Note the Finance and Performance information contained in this report and agree remedial actions as necessary.
- b. Consider the current and future strategic risks associated with the information provided and agree remedial actions as appropriate.
- c. Challenge progress with responsible officers as necessary.

3.0 Executive Summary - Performance

Adult Social Services

The Council's drive to give service users more choice and control continues and the numbers receiving self-directed support is increasing at a steady pace. However the timeliness of Social Care packages and assessments is still below target and needs to be improved. Carers needing needs assessments and clients needing reviews are also significantly under target. The end of year results for some of the national indicators are currently being calculated for the annual return to the Department of Health and will be available for quarter 1 2012/13.

Children and Families

The shortage of school places continues to be a cause for concern but we have finally secured funding to help address this issue. The sustained pressure in Children's Social Care looks set to continue for the foreseeable future and we are currently developing a co-ordinated set of projects through the One Council programme to develop more preventative strategies in order to improve outcomes in this area.

Environment and Neighbourhood Services

Recent changes to the Waste Collection contract have increased recycling rates across the borough and current trends show considerable improvement on previous years. However the increase in street litter is a cause for concern and will be subject to discussions with the contractor to see if this can be improved within the confines of existing contractual constraints.

Regeneration and Major Projects

The difficult economic climate continues to take its toll and unemployment rates in the borough remain high compared to the rest of London. The Welfare benefit changes have also put pressure on our Housing service, with numbers of households in temporary accommodation increasing every week.

However despite this, the Wembley regeneration area continues to progress, with a new Hilton Hotel opening shortly and several other hotels to follow. We will be hosting three Olympic events as part of the 2012 London Games and the UEFA Champions League Final returns next year. A new multiplex cinema will open in 2013 along with the first designer outlet centre within the M25, providing a very welcome boost to the borough's retail offer. New shops, restaurants, and bars/cafes will transform the Wembley area into one of the capital's premier visitor attractions bringing desperately needed jobs and investment to local people.

One Council Programme

This project programme has generated more than 30 separate improvement and efficiency projects that are now delivering the bulk of the Council's required savings. In 2011/12 approximately two thirds of the £42 million savings required were delivered through this programme and our intention is to at least match this next year. In our capacity as a lead authority in the West London Alliance Brent is also actively progressing a series of large-scale procurement projects which will help to provide better services at lower cost to the tax-payer.

4.0 Executive Summary - FINANCE

4.1 The Council's revenue budget position for the quarter 4 is as follows:

Item	Budget £000	Forecast Outturn £000	Variance £000
Adult Social Services	88,949	88,949	0
Children & Families	53,115	53,115	0
Environment & Neighbourhood Services	36,596	36,648	52

Regeneration & Major Projects	33,996	33,089	(907)
Finance & Corporate Services / Central Services	31,358	31,013	(345)
Service Area Total	244,014	242,814	(1,200)
Central Items	23,875	24,986	1,111
Total Council Budget	267,889	267,800	(89)

The Council submitted a set of accounts for 2011/12 to the District Auditors by the statutory deadline of 30th June 2012. The accounts show an improvement in outturn of £89k on the position reported in quarter 3 and included in the forecast outturn as part of the budget setting report to Council in February. The figures in the accounts are in draft form and subject to audit and the final accounts will be approved by the Audit Committee on 27th September 2012.

- Departmental budgets under spent by £1.2m which was an improvement of £1.38m from the quarter 3 forecast of £180k overspend with the main area of under spending being Regeneration and Major Projects.
- This has been partly offset by the recognition of additional costs within central items of £1.291m since quarter 3. This means that Brent is now reporting general fund balances of £10.169m at the 31st March 2012 an overall improvement of £89k better than the latest budget.
- Overall the main overspending pressures identified during the year that have come through in the outturn are adult social care transitions (£580k), and children's social care legal costs (£184k), after allocation of centrally held funds.
- Regeneration and Major Projects under spend was £907k due to slippage and under spends on various projects.
- Although Children & Families and Adults Social Care have broken-even at year end there have been spending pressures during the year. Adult Social Services have seen additional costs of £1.1m within its day centres from staffing and transport expenses which have been met from under spends in other budgets and additional PCT income. Children and Families have had spending pressures across its placement and safeguarding budgets of around £1m which have been offset mainly by savings within early years and children's centres.
- Environment and Neighbourhoods main pressures during the year have been delays in implementing the library transformation programme, overspending within waste and recycling and safer streets which have been met by over achievement of income targets in Transportation and Transport Services.

- Central Services has an under spend of £345k for quarter 4 an improvement of £231k from the forecast overspend of £114k in quarter 3 primarily due lower than expected staff costs and higher income figures within Strategy, Partnerships & Improvements.
- The £1.2m under spending on departmental budgets together with the various balances on central items have allowed the Authority to fund the replenishment of the £2.7m transformation reserve and create a new reserve of £3.0m to fund employment initiatives. The main variances enabling this to happen are an under spend on capital financing costs which has arisen from taking advantage of low rates on short term financing arrangements and a saving of £2.0m in the redundancy and restructuring budget.
- The outturn on the schools budget for 2011/12 improved from around £1.5m to breakeven. These means that the schools deficit remains in the region of £5.7m with the agreement with the Schools Forum to bring the schools budget deficit back into balance by the end of 2014/15.
- The under spend of £89k means that subject to audit our overall general fund non earmarked balances will be £10.169m at the start of 2012/13.

4.2 The Council's capital budget position for Quarter 4 is as follows:

Item	Qtr 3 Budget Position £000	Outturn £000	Variance £000
Adult Social Services	1,200	300	(900)
Children & Families	0	0	0
Environment & Neighbourhood Services	16,305	14,368	(1,937)
Regeneration & Major Projects	117,229	90,059	(27,170)
Housing – General Fund	5,146	4,318	(828)
Housing - HRA	14,668	10,835	(3,833)
Finance & Corporate Services / Central Services	1,926	4,545	2,619
Total Capital Programme	156,474	124,425	(32,049)

The Council's quarter 4 actual shows a decrease in 2011/12 capital expenditure of £32.049m from the amended Quarter 3 figure. Full details of the variances to the previously reported figure are given in the attached Finance Appendix. For 2012/13 £40.086m will be carried forward into the programme which includes the £32.049m and an additional £8.033m of resources from increased levels of grant funding or funded through additional levels of self funded borrowing, where the revenue costs are met through identified savings or are met from within existing budgetary provision. As such

the Council's Capital Programme has remained in balance without detrimental impact upon revenue budgets.

5.0 Financial implications

These are set out in the attached appendix.

6.0 Legal implications

The capital programme is agreed by Full Council as part of the annual budget process. Changes to or departures from the budget during the year (other than those by Full Council) can only be agreed in accordance with the Scheme of Transfers and Virements contained in the Council's Constitution. Any decisions the Executive wishes to take and any changes in policy which are not in accordance with the budget and are not covered by the Scheme of Transfers and Virements will need to be referred to Full Council.

The Director of Finance and Corporate Services is satisfied that the criteria in the scheme are satisfied in respect of virements and spending proposals in this report.

7.0 Diversity implications


This report has been subject to screening by officers and there are no direct diversity implications.

8.0 Contact officers

Cathy Tyson (Assistant Director, Strategy, Partnerships and Improvement)
Brent Town Hall, Forty Lane, Wembley Middlesex, HA9 9HD 020 8937 1030

Mick Bowden (Deputy Director, Finance and Corporate Services) Brent Town Hall, Forty Lane, Wembley Middlesex, HA9 9HD 020 8937 1460.

PHIL NEWBY Director of Strategy, Partnerships & Improvement	CLIVE HEAPHY Director of Finance & Corporate Services
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	<p style="text-align: center;">Executive 16 July 2012</p> <p style="text-align: center;">Report from the Director of Finance and Corporate Services</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p style="text-align: center;">National Non-Domestic Rate Relief</p>	

1.0 Summary

- 1.1 The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NNDR) liability in whole or in part on the grounds of hardship.
- 1.2 This report includes applications received for discretionary rate relief since the Executive Committee last considered such applications in April 2012. In addition 2 applications for hardship relief have been received.

2.0 Recommendations

- 2.1 Members are requested to agree the discretionary rate relief applications in Appendices 2 and 3, and to reject the hardship applications in Appendix 4.

3.0 Details

- 3.1 Details of the Council's discretion to grant rate relief to charities, registered community amateur sports clubs and non-profit making organisations are contained in the financial and legal implications sections (4 and 6).
- 3.2 Appendix 1 sets out the criteria and factors to consider for applications for NNDR relief from Charities and non-profit making organisations. This was agreed by the Executive in February 2008.

- 3.3 Appendix 2 lists new applications from local charities that meet the criteria. It also shows the cost to the Council if 100% discretionary relief is awarded, which is the Council's normal policy.
- 3.4 Appendix 3 lists new applications from non local charities that meet the criteria. It also shows the cost to the Council if 25% discretionary relief is awarded, which is the Council's normal policy.
- 3.5 Appendix 4 details applications for hardship relief.
- 3.6 The criteria for awarding discretionary rate relief focuses on ensuring that the arrangements are consistent with corporate policies and relief is directed to those organisations providing a recognised valued service to the residents of Brent. Further detail is set out in Appendix 1. Any relief granted in 2012/13 will be for a three-year period which follows the policy previously agreed by the Executive.
- 3.7 Charities and registered community amateur sports clubs are entitled to 80% mandatory rate relief and the council has discretion to grant additional relief up to the 100% maximum.
- 3.8 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum.

Hardship Relief

- 3.9 When considering applications under section 49 of the Local Government Finance Act 1988 for relief on the grounds of hardship, members need to consider whether hardship will be caused if the payments due are not reduced or remitted and, if so, whether it would be reasonable to reduce or remit liability having regard to the interests of its Council Tax payers, as they will be funding 25% of any relief granted.
- 3.10 Local authorities tend to use this power very sparingly. If relief under this section was readily granted this could place an unreasonable burden on council tax payers.
- 3.11 There is no definition of the meaning of hardship in this context. Guidance indicates that all circumstances, not just financial circumstances, should be taken into account in considering whether payment would cause hardship. So, for example, illness, injury or old age may be relevant in determining whether hardship will be suffered by a ratepayer who is a private individual.
- 3.12 Members may wish to consider a policy of only granting hardship relief in exceptional circumstances, for example severe illness, injury, old age, or other personal circumstances, rather than on financial circumstances only

4.0 Financial Implications

4.1 Discretionary Rate Relief

- 4.1.1 Charities and registered community amateur sports clubs receive 80% mandatory rate relief, for which there is no cost to the Council. The Council has the discretion to grant additional relief up to the 100% maximum, but has to bear 75% of the cost of this from the Discretionary Relief Budget.
- 4.1.2 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. The Council has to bear 25% of the cost of any relief granted.
- 4.1.3 The Council, where it has decided to grant relief, has followed a general guideline of granting 100% of the discretionary element to local charities and 25% of the discretionary element to non-local charities.
- 4.1.4 It has also granted 25% of the whole amount requested (which is entirely discretionary) to non-profit making organisations. This general policy was endorsed for continuation by the Executive in February 2008.
- 4.1.5 The total 2012/13 budget available for discretionary spending is £91,000 (same as for 2011/12). £101,548 has already been committed in respect of applications approved for 2012/13 this increase in expenditure being due to the increase in Business Rates for 2012/13. If Members agree relief as set out in Appendices 2 and 3, it would result in a further spend of £2,702 for 2012/13, this would bring the total spend for 2012/13 to £104,250. Whilst this is an overspend of £13,250 the final figure for 2012/13 may well be further adjusted to reflect new applications received during the financial year as well as any adjustments to liability, e.g., vacations, reductions in rateable value.

4.2 Financial Implications – Hardship Rate Relief

- 4.2.1 The Council bears 25% of the cost of any hardship relief granted. The remaining 75% is offset against the National Pool.
- 4.2.2 There is no specific budget for hardship relief. The cost of any relief granted would have to be met by local Council Tax payers and from the budget for discretionary charity relief

5.0 Staffing Implications

- 5.1 None

6.0 Legal Implications - Discretionary Rate Relief

- 6.1.1 Under the Local Government Finance Act 1988, charities are only liable to pay 20% of the NNDR that would otherwise be payable where a property is used wholly or mainly for charitable purposes. This award amounts to 80% mandatory relief of the full amount due. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. Under the Local Government

Act 2003, registered Community Amateur Sports Clubs also now qualify for 80% mandatory relief.

- 6.1.2 The Council has discretion to grant relief of up to 100% of the amount otherwise due to charities, Community Amateur Sports Clubs, and non-profit making organisations meeting criteria set out in the legislation. These criteria cover those whose objects are concerned with philanthropy, religion, education, social welfare, science, literature, the fine arts, or recreation.

Guidance has been issued in respect of the exercise of this discretion and authorities are advised to have readily understood policies for deciding whether or not to grant relief and for determining the amount of relief. Further details of the Brent policy are shown in Appendix 1.

- 6.1.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 allow Brent to grant the relief for a fixed period. One year's notice is required of any decision to revoke or vary the amount of relief granted, if in the case of a variation, it would result in the amount of rates increasing. The notice must take effect at the end of the financial year.

- 6.1.4 The legal advice is that the operation of blanket decisions to refuse relief across the board might be ultra vires and that each case should be considered on its merits.

6.2 Legal Implications - Hardship Rate Relief

- 6.2.1 Under Section 49 of the Local Government Finance Act 1988, the Council can reduce or remit any amount a person is liable to pay by way of NNDR, if it is satisfied that the ratepayer would otherwise sustain hardship and if it is reasonable to do so having regard to the interests of Council Tax payers. Council Tax payers are affected by decisions under this section because 25% of the cost of exercising this power has to be funded by the Council.

- 6.2.2 Case law relating to similar provision in earlier legislation indicates that this discretion should be exercised on the basis of adequate financial information from applicants for relief to enable the Council to assess the capacity of the ratepayer to pay the amounts due.

- 6.2.3 Government guidance indicates that exercise of discretion in favour of a ratepayer should be exceptional and identifies a number of factors to be taken into consideration in exercising this discretion. The guidance also states that while it would not be proper for the authority to have a blanket policy, as all applicants should be considered on their merits, however, rules may be adopted for the consideration of hardship issues.

7.0 Diversity Implications

- 7.1 Applications have been received from a wide variety of diverse charities and organisations, and an Impact Needs Analysis Requirement Assessment

(INRA) has been carried out on the eligibility criteria. All ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief. Ratepayers who have previously applied for relief are sent annual discretionary application forms. Details of all the applicants are shown in the Appendices.

8.0 Background Information

- 8.1 Report to Executive 11th February 2008 – National Non-Domestic Relief and Hardship Relief

9.0 Contact Officers

- 9.1 Paula Buckley, Head of Service Improvement - Brent House, Tel. 020 8937 1532
- 9.2 Richard Vallis, Revenues & IT Client Manager – Brent House, Tel 020 8937 1503

CLIVE HEAPHY
Director of Finance and Corporate Resources

ELIGIBILITY CRITERIA FOR APPLICATIONS FOR NNDR DISCRETIONARY RELIEF FOR CHARITIES & FROM NON PROFIT MAKING ORGANISATIONS

Introduction

The following details the criteria against which the Local Authority will consider applications from non profit making organisations. In each case the individual merits of the case will be considered.

- (a) Eligibility criteria**
- (b) Factors to be taken into account**
- (c) Parts of the process.**

(a) Eligibility Criteria

- The applicant must be a charity or exempt from registration as a charity, a non-profit making organisation or registered community amateur sports club (CASC).
- All or part of the property must be occupied for the purpose of one or more institutions or other organisations which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- The property must be wholly or mainly used for the purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

(b) Factors to be taken into account

The London Borough of Brent is keen to ensure that any relief awarded is justified and directed to those organisations making a valuable contribution to the well-being of local residents. The following factors will therefore be considered:

- a. The organisation should provide facilities that indirectly relieve the authority of the need to do so, or enhance or supplement those that it does provide
- b. The organisation should provide training or education for its members, with schemes for particular groups to develop skills
- c. It should have facilities provided by self-help or grant aid. Use of self-help and / or grant aid is an indicator that the club is more deserving of relief
- d. The organisation should be able to demonstrate a major local contribution.
- e. The organisation should have a clear policy on equal opportunity.
- f. There should be policies on freedom of access and membership.

- g. It should be clear as to which members of the community benefit from the work of the organisation.
- h. Membership should be open to all sections of the community and the majority of members should be Brent residents
- i. If there is a licensed bar as part of the premises, this must not be the principle activity undertaken and should be a minor function in relation to the services provided by the organisation.
- j. The organisation must be properly run and be able to produce a copy of their constitution and fully audited accounts.
- k. The organisation must not have any unauthorised indebtedness to the London Borough of Brent, including rate arrears. Rates are due and payable until a claim for discretionary rate relief is heard

(c) Parts of the process

No Right of Appeal

Once the application has been processed, the ratepayer will be notified in writing of the decision. As this is a discretionary power there is no formal appeal process against the Council's decision. However, we will re-consider our decision in the light of any additional points made. If the application is successful and the organisation is awarded discretionary rate relief, it will be applied to the account and an amended bill will be issued.

Notification of Change of Circumstances

Rate payers are required to notify any change of circumstances which may have an impact on the award of discretionary rate relief.

Duration of award

The current policy awards relief for one year only and the applicant has to reapply on an annual basis.

The new policy will award relief for a period of two years if the application is made in 2008/09 and for three years if made in 2009/10. However, a confirmation will be required from the successful applicants that the conditions on which relief was previously awarded still apply to their organisation. This will help ensure that the Council's rate records remain accurate.

Withdrawal of relief

One years notice has to be given by the Council for the withdrawal of relief

Unlawful activities

Should an applicant in receipt of discretionary rate relief be found guilty of unlawful activities for whatever reason, entitlement will be forfeited from the date of conviction.

	Type of Charitable/Non-Profit Making Organisation	Current Policy
		Discretionary Relief Limited to
1	Local charities meeting required conditions (80% mandatory relief will apply)	20% (100% of remaining liability)
2	Local Non-profit-making organisations (not entitled to mandatory relief)	25%
3	Premises occupied by a Community Amateur Sports Club registered with HM Revenue & Customs. (80% mandatory relief will apply)	20% (100% of remaining liability)
4	Non-Local charities (80% mandatory relief will apply)	25% (of remaining liability)
5	Voluntary Aided Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
6	Foundation Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
7	All empty properties	NIL
8	Offices and Shops	NIL
9	An organisation which is considered by officers to be improperly run, for what ever reason, including unauthorised indebtedness.	NIL
10	The organisation or facility does not primarily benefit residents of Brent.	NIL
11	Registered Social Landlords (as defined and registered by the Housing Corporation). This includes Abbeyfield, Almshouse, Co-operative, Co-ownership, Hostel, Letting / Hostel, or YMCA.	Nil
12	Organisations in receipt of 80% mandatory relief where local exceptional circumstances are deemed to apply.	Up to 20% (100% of remaining liability)

LOCAL CHARITIES

Financial year: 2012-13

	100% Relief to be awarded	2012-13 Charge	Bill net of statutory relief	Cost to Brent at 75%
	<u>New Applications</u>			
32942960	Willesden District Scout Council (community centre, r/o 22 Village Way, moved from 247 High Road))	£2335.80	£467.16	£350.37
32941778	Tricycle Theatre (269 Kilburn High Road)	£7099.00	£1419.80	£1064.85
Total		£9434.80	£1886.96	£1415.22

NON-LOCAL CHARITIES

Financial year: 2012-13

Non-Local Charities (25% relief awarded)		2012-13 Charge	Bill net of statutory relief	25% relief awarded	Cost to Brent at 75%
	<u>New Applications</u>				
32933735	Aid for All (97 Kilburn High Road)	£28048.82	£5609.76	£1402.44	£1051.83
Total		£28048.82	£5609.76	£1402.44	£1051.83

Financial year: 2011-12

Non-Local Charities (25% relief awarded)		2011-12 Charge	Bill net of statutory relief	25% relief awarded	Cost to Brent at 75%
	<u>New Applications</u>				
32933735	Aid for All (97 Kilburn High Road – 21/12/2011 – 31/03/2012)	£6258.82	£1251.76	£312.94	£234.70
Total		£6258.82	£1251.76	£312.94	£234.70

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