



Full Council
20 April 2017

**Report from the Strategic Director,
Community Wellbeing**

For Decision

**Wards affected:
ALL**

**Housing Management Options Review –
Outcome of Formal Consultation**

1.0 Summary

1.1 In November 2016 the Cabinet agreed that the preferred option for future housing management service provision to the Council's tenants and leaseholders is that it should become an in-house service, subject to consultation

1.2 This report sets out the outcomes from the formal consultation exercise undertaken.

1.3 The primary means of consultation, a survey, which was sent to every tenant and leaseholder, found that for every respondent who expressed support for the continuation of the service through Brent Housing Partnership Ltd (8.1% in total), 6 respondents supported the Cabinet's preferred option (49.1% in total). The majority of the other respondents did not express a view, did not mind or were undecided.

2.0 Recommendations

2.1 Council considers the outcome of the formal consultation regarding the proposal that the housing management functions and other delegated roles exercised by Brent Housing Partnership Ltd. be exercised by the Council thus requiring termination of the management agreement.

2.2 Council considers new arrangements for scrutiny for this function which will constructively engage residents.

2.3 Council notes that the main points of its discussion of the report will be referred to Cabinet to take into account when considering the consultation responses.

3.0 Introduction

3.1 In June 2016, the Council's Cabinet decided to carry out a review of how its own housing management services is delivered. Set out below is a summary of the outcome. The full Review of Housing Management Options Report and a summary are available on the Council's web-site. (www.brent.gov.uk/housingreview)

3.2 Housing is an executive function of the Council and therefore the statutory rules require that the final decision on the future operation of the Council's housing management

service, at present administered by Brent Housing Partnership Ltd (BHP), has to be made by Cabinet. However, it is considered to be a matter which has major significance and it is in this context that the views of members will be reported to Cabinet when it makes its final decision on 24th April 2017.

4.0 Background and Context for the Review

4.1 BHP, the Council's Arms-Length Management Organisation (ALMO) was established by the Council in 2002 principally because it provided a vehicle to obtain funds to undertake the works necessary to meet the Decent Homes Standard. In addition, the Council sought to improve the quality of services provided to tenants and leaseholders

4.2 Two main considerations prompted this review. First, the Housing and Planning Act (2016) and other government measures will impact on how the properties are used, managed and financed. Second, there have been concerns over the performance of BHP.

4.3 The review looked at three options:

1. To continue with BHP on a reformed basis
2. To bring the service back in-house
3. To enter into partnership with another organisation to provide the service

4.4 Consultation on the review included:

- targeted telephone survey of representative group of 600 tenants and leaseholders focus groups of tenants and leaseholders,
- interviews with young tenants and vulnerable people,
- a workshop for resident association and other resident representatives,
- a meeting with board members,
- workshops with BHP staff; and
- briefing sessions with Members of the Council.

4.5 The Council owns almost 11,500 homes, mostly flats on small and medium-sized estates, with around 7,700 tenants and 3,700 leaseholders. Around 43,000 people live in these homes - over 1 in 8 of Brent's population. Around a third of tenants are over 60, 4% have a disability and 8% have a vulnerability of some kind. The Council is responsible for management and maintenance services and has delegated these to BHP since 2002, under a Management Agreement. BHP is a company with a Board of 13 people comprising residents, Councillors and independent persons with an independent chair. BHP provides all landlord services, directly or through contracts, including:

- Tenancy Management – e.g. lettings, rent collection, resident engagement, Right to Buy and the oversight of two Tenant Management Organisations.
- Leaseholder Management – e.g. service charges and major works.
- Property services – e.g. estate management, repairs and major works
- Development services – the delivery of a new-build programme on existing estates

BHP Performance

4.6 Following performance concerns, a jointly agreed Recovery Plan was put in place by BHP from January to October 2016. Progress has been made in several areas, such as the planned maintenance programme and responses to customer service requests. Whilst in relation to other benchmarked housing providers the service is largely in the mid-range, some areas for ongoing improvement remain including customer satisfaction with repairs, the quality of homes, anti-social behaviour and resident involvement. Consultation with tenants and leaseholders showed particular concern over repairs and maintenance, anti-social behaviour and the quality of homes.

The Options

4.7 The options considered in the Review needed to respond to the weaknesses in the current service while generating efficiencies and savings to respond to the financial pressures arising from the government's reforms as well as other changes such as the expansion of digital technologies. The options also needed to be consistent with Brent Council's Housing Strategy priorities. All the options, briefly explained below, have some common features and common aims as well as significant differences:

- i. A **Reformed BHP** would not simply continue as before. Changes to service delivery would be required and governance would be through a smaller, skills-based board and a strengthened client-side function within the Council. Better customer engagement and resident involvement would be needed and a new leadership team would be recruited.
- ii. An **In-house service** would provide for integration with the Council and its services, with governance through the Council's corporate management to Cabinet. Loss of the board would require alternative arrangements for oversight by residents and Members.
- iii. The **Partnership** option represented a more significant change. This would have involved the setting up a form of Joint Venture or housing services company with a partner organisation. The details of how this would work would have had to be agreed.

Evaluation of the Options

4.8 The options were examined to assess how far they were able to:

- Assure provision of modern, high-quality housing management services
- Achieve significant efficiencies and savings
- Get the most out of the value and performance of the Council's housing stock
- Contribute to improved outcomes for tenants
- Contribute to delivering the Council's priorities

4.9 It was found that each option could meet these tests, but each has strengths and weaknesses. The Review found that the best prospect for savings would be either the In-house or Partnership option, while the In-house option provides for the most effective strategic and operational control.

4.10 While each option could work, the Review also looked at how each could be put in place. The Reformed ALMO is the most straightforward option as it does not require consultation. For the In-House option, it would be necessary to consult tenants and leaseholders before seeking final approval from Cabinet. The Partnership or Joint Venture option would also require consultation but, if agreed, would then take time to set up, with an assumption that this could not be done before April 2018.

Preferred Option

4.11 The In-House option offers the best opportunity to make savings and provides the strongest levels of control. This option also better positions the housing service within the Council's wider agendas to secure improved outcomes for residents. It will be necessary to look at how this option will address Member and resident engagement and there are various options that could be pursued. For example a Members and residents committee may overcome the loss of the ALMO Board under the In-House option.

4.12 In conclusion, taking into account the challenging financial landscape, and all other factors outlined above, it was recommended that the In-House option be chosen subject to consultation – it is this proposal that this report deals with.

5.0 Other Councils

Out of the 32 London Boroughs, 20 set up ALMOs and of those there are only 8 still in existence – the rest have had the housing management service taken back in-house to be managed directly. There is a similar picture elsewhere in England however. The map at Appendix 2 illustrates this picture in London.

6.0 Formal requirements to consult

6.1 In accordance with Section 105 of the Housing Act 1985, the Council is required to consult with and have regard to the views of tenants before making a final decision on a matter of housing management. The proposal to bring the service back in house falls within that requirement and therefore the Council has undertaken a process including a ‘test of opinion’ of Council residents which meets that requirement.

6.2 The process was devised to comparatively meet the consultation undertaken prior to the establishment of the ALMO in 2002. This follows guidance from the Department of Communities and Local Government, namely, ‘Review of Arms Length Housing Management Organisations’ issued in June 2011 which set out that a test of opinion on changes to the Local Authorities housing management arrangement should be as good as that which was undertaken before the setting up of the ALMO. According to available information the following were the key elements of the consultation undertaken at that time, prior to the establishment of BHP:

- A sample survey of residents (i.e. not all residents were asked for their views)
- A number of meetings were held across the borough for residents to hear the proposals and raise queries

6.3 The survey of all residents plus the 9 meetings that have been held as the central aspects of the recent consultation undertaken exceed the minimum standards required.

7.0 Raising awareness and understanding

7.1 The process for consultation has been planned to cover a 3 month period which began in mid December 2016 and was completed on 17 March 2017. It was recognised that before asking for the opinion of tenants and leaseholders on the Council’s proposal there needed to be an information giving stage.

7.2 Accordingly, considerable effort has been put into seeking to raise the understanding of the issues which the council considered within the review. In summary the ways this has been done are:

- **Newsletters** – there have been 2 of these which were sent to all tenants and leaseholders. The first, which focussed upon the performance issues, the need to make savings and why improvements are necessary, was sent in December 2016. The second, which focused on taking the service forward was sent in February 2017. Copies of these are on the website.
- **Website** – this has been available since the beginning of the consultation period in December – the link is www.brent.gov.uk/housingreview. This has provided ready access to all the key documents, the review report and the report that went to the Cabinet last November. Copies of the newsletters plus information on the consultation process have also been available through this link.
- To facilitate ease of access and for people to be able to raise queries, a dedicated phone line to the Contact Centre has been publicised along with a direct email address– housingpartnerships@brent.gov.uk and a freepost address set-up through the Royal Mail.

- Early during the survey consultation period (see below) an email was sent to all those tenants and leaseholders for whom such records are held and a text message was sent to those whose mobile numbers are held.

8.0 Consultation with residents (tenants and leaseholders)

8.1 Principally this has taken 2 forms:

- a. Drop-in events – there were 9 of these (see below)
- b. A survey of all tenants and leaseholders undertaken independently by ERS.

8.2 Drop-in events

A series of drop-in events were held during the last 2 weeks of the consultation (7 March – 16 March 2017) with the aim of providing people who had queries to be able to raise these and discuss any concerns they may have regarding the proposal. These events were both daytime and evening and held at 6 different centres across the Borough. The events were promoted through:

- The website
- 200 Posters being erected on estate/block noticeboards
- A leaflet sent out with the survey forms by ERS and also in the reminder to respond sent by ERS.

8.3 Altogether there were 299 persons attending these sessions of which 68% were tenants and 32% leaseholders. Appendix 4 provides more details of how many attended which event but the sessions were able to accommodate both persons who had individual issues they wished to raise regarding their tenancy and also persons who were keen to engage in a small group style discussion. Amongst those participating in facilitating the group discussions was the Leader of the Council, Cllr. Butt, the Cabinet Member for Housing, Cllr. Farah and the Chief Executive, Carolyn Downs – each of whom attended 3 of these sessions.

8.4 Of those attending there were 53 persons who expressed an interest in becoming involved in working with the Council on improving the service of whom 23 are leaseholders. Apart from the discussion groups – which were wide ranging in relation to the service and its future – there were 97 persons who took the opportunity to raise issues related to their tenancy or lease which have been followed up by BHP since these sessions.

8.5 The ERS Survey of all tenants and leaseholders

The purpose of this, the most significant exercise, was to allow all 11,451 residents (tenants and leaseholders) to have the opportunity to give their feedback and opinions in relation to a single question which was:

- *What are your views about the Council's proposal to move the housing management service back under its direct operation?
This would mean the service would no longer be provided by Brent Housing Partnership (BHP).*

8.6 The survey commenced around 17 February 2017 and concluded at midnight on 17 March 2017. Persons were able to respond by: post; online; over the phone and by SMS text. Those who had not responded by the middle of the four week period were sent a duplicate of the questionnaire by ERS as it is recognised that people can mislay such documents despite being keen to complete them.

8.7 In addition to those residents responding themselves through the above methods, the Council asked ERS to contact directly 600 residents (500 tenants and 100 leaseholders) in order to ensure that the outcome was reasonably representative of the population, location and tenure of the Council's properties. This was carried out simultaneously to the rest of the survey. However none of those respondents have been double counted.

8.8 **The level of response**

Altogether 2937 residents completed the survey which is a response rate of 26%. If the 600 telephone surveyed responses are discounted this gives a net response rate of 20.4%.

8.9 This level of response compares favourably to:

- Hackney – 18%
- Hounslow – 24%
- Waltham Forest – 5.4%
- Wigan – 0.76%

These councils, which all had ALMOs, had conducted surveys of a similar nature to the one undertaken by Brent.

Summary of ERS's findings

8.10 The full report from ERS is attached at Appendix 1.

8.11 The purpose of this consultation was to gauge opinions and gather feedback from tenants and leaseholders, evaluate their attitudes towards the proposal and identify any concerns they might have. This is usually referred to as a test of opinion.

8.12 Overall, 49.1%, which is nearly half of all respondents, support (34.4%) or tend to support (14.7%) the Council's proposal to move the management of its housing services under its direct operation:

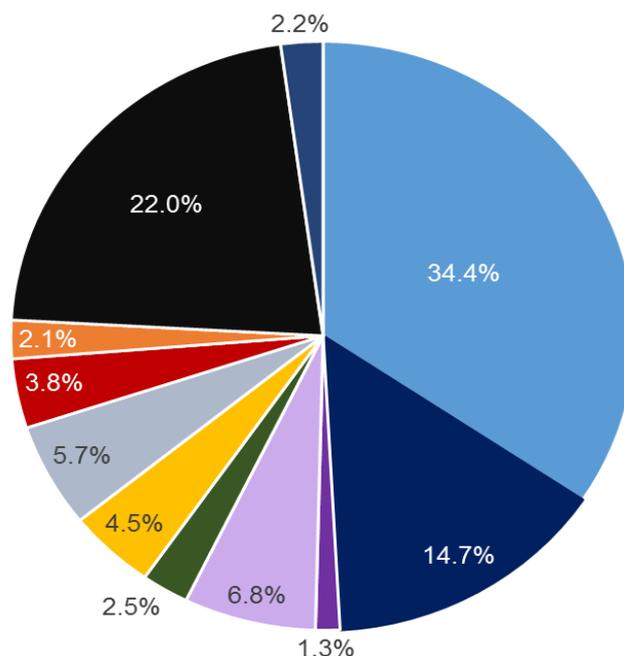
- Leaseholders were more likely to favour the proposal, with 55.6% supporting the decision with or without some equivocations, compared to 47.3% of tenants. Most of these respondents said they have had negative experiences with BHP and/or believe that moving the housing stock under the Council's direct control could improve the service, overall performance and reduce costs.
- By contrast only 8.1% (6.1% leaseholders and 8.8% tenants) supported or tended to support the retention of BHP. These respondents commented on the high quality of service received from BHP, had not experienced any issues and thus are not in favour of any change.

8.13 22% did not express any views – of the remaining 21%:

- a very small proportion (2.5%) do not mind either way;
- some did not provide an explicit inclination towards one or the other provider (5.7%);
- some are unsure (4.5%);
- some felt they needed more information to form an opinion (3.8%); and
- there are those who do not support either option (2.1%).

Survey Outcome – responders views on the Council’s proposal

- Support the proposal
- Tend to support the proposal
- Tend to support BHP but with some equivocation
- Support BHP’s retention
- Do not mind either way
- Unsure/undecided
- Commented on the service but did not provide an explicit view
- Need more information to come to a view
- Do not support either option
- No comments or views expressed
- Other



8.14 During the consultation, many respondents commented on the service provided by BHP. The most common areas of improvement concerned query response times, communication and customer service, maintenance and repairs, security and safety and the use of contractors.

9.0 Other consultation undertaken

9.1 A meeting was held with the Brent Network of Residents’ Associations on Saturday 11 March which was attended by 28 tenant and leaseholder representatives. This gave them an opportunity to hear what the Council is proposing and for them to raise any queries they had. It also was utilised for them to update their ‘hopes and fears’ on the Council’s proposal which was originally produced as part of the review process. This is attached as Appendix 5.

9.2 Meetings have also been held with the 2 Tenant Management Organisations (TMOs):

- Watling Gardens TMO (180 properties);
- Kilburn Square Co-op (249 properties).

These 2 bodies pre-date the establishment of BHP and have a contract under a modular management agreement to undertake the management of the properties they have responsibility for. Their supervision has been carried out on the Council’s behalf by BHP. It is not envisaged that their continuity will be affected by the Council’s proposal.

9.3 With regards to the Council’s proposal and their relationship with BHP the following were matters raised but not necessarily by both TMOs:

- Communications with them and with residents in general
- Recognition of their role and existence when there are issues which affect their estates
- The potential for working together in partnership is not being realised
- Lack of progress on finalizing their revised management agreements

- Over the last few years their view is that BHP's quality of service "went down hill"

10.0 Employee Engagement

- 10.1 There have been regular staff briefings during the formal consultation phase of this project. In addition BHP staff were given the opportunity to play a part in the consultation events and their contribution was valuable.

11.0. Conclusion and next steps

- 11.1 The level of responses to the survey was very good and the considerably greater support amongst tenants & leaseholders for the Cabinet's preferred option compared with the support for the status quo is considered to be significant and decisive. However, independently of the consultation, joint work has already begun to improve the service now, plan for a more fundamental transformation of the service and a smooth period of transition if the Cabinet decides to adopt its preferred option when it meets on 24 April 2017.
- 11.2 The BHP Board retains accountability for the service, but additional forums have been put in place to advance joint working to improve the service now, and to plan for the future. It also ensures that there is a collaborative and inclusive approach and that we communicate a single message to employees.
- 11.3 The Housing Operations Transformation Board, chaired by the Council's Chief Executive and involving senior managers from both organisations is leading the:
- delivery of 'quick wins' that are already improving the service;
 - design and implementation of the transformation of the housing management service. The BHP Board and the Council agree this needs to happen whatever the decision, and so work has already started working with staff to design the new operating model. Residents will also be involved in this process over the summer;
 - preparation for transition if the decision is made to bring the service back in house, ensuring we are prepared for the practical legal, financial and HR issues that will need to be managed.
- 11.4 The Resident and Member Panel, chaired by the Cabinet Member for Housing, Cllr Farah, is an advisory group that brings together Councillors and the resident BHP Board members to focus on:
- commenting and advising on the work done to deliver the consultation, providing and encouraging constructive challenge
 - commenting on the Housing Operations Transformation, and
 - if the decision is made to bring the housing operations service into the Council, this group will be part of the process of developing a housing scrutiny function and improving the wider resident engagement approach.
- 11.5 Cross cutting both of these groups are two key issues:
- Resident engagement. BHP conducted a review late in 2016 in order to start the process of improving resident engagement. This work has now been taken on by the Housing Operations Transformation programme. This will ensure that resident feedback and engagement is at the heart of the new operating model, and that we engage positively and constructively with residents to establish new structures that are not merely consultative but genuinely involve consumers of the service in the improvements they wish to see, and
 - Scrutiny. Working with the Resident and Member Panel, and with other stakeholders, through April a proposal for a new housing scrutiny function will be developed and brought to the Annual General Meeting of the Council in May 2017 for implementation thereafter.

12.0 Financial Implications

- 12.1 The Housing Revenue Account (HRA) budget is £56.1m and is used for the management and maintenance of the HRA stock and for the repayment of the HRA debt. The HRA is a ring fenced account. The BHP Management Fee for the current year is £7.5m. This fee is for managing and maintaining the HRA properties on behalf of the Council. Core management costs, including this fee are £12.5m per annum.
- 12.2 The Housing and Planning Act 2016 will have a significant impact on Brent's Council housing and its financial position in coming years. The implications for which are continuously being reviewed with more comprehensive analysis to follow once the details are published by Government.
- 12.3 Based on current assumptions and changes in the Housing and Planning Act, an efficiency savings target of circa £3.6m would be required to balance the HRA if the current assumptions on changes materialise.
- 12.4 The savings to the HRA upon the initial implementation of the in-house housing management service are estimated to be £1m pa. These are provisional figures and will be refined as planning for the implementation of the selected option is progressed.
- 12.5 The decision to bring the housing management service in-house alone is not sufficient to cover the gap without wider transformation. This, then, reinforces the need for further transformation in the service.

13.0 Legal Implications

- 13.1 Consultation with secure tenants is covered under section 105 of the Housing Act 1985 ("the 1985 Act") which states that a local authority landlord has to maintain arrangements it considers are appropriate to enable its secure tenants who are likely to be substantially affected by housing management matters that are specified in section 105 of the 1985 Act (which includes the management of dwelling houses let by the Council under secure tenancies) to be informed of the local authority's proposals and to make their views known within a specified period. A local authority landlord needs to take into account any representations made under these arrangements before making a final decision.
- 13.2 As for the general requirements of consultation, they are set out in the case of *R v Brent LBC ex parte Gunning* (1986) 84 LGR 168, which has been approved by the Court of Appeal and the Supreme Court, and they are as follows: (i) consultation must be at a time when proposals are at a formative stage; (ii) that the proposer must give sufficient reasons for any proposal to permit intelligent consideration and response; (iii) adequate time must be given for consideration and response; and (iv) the product of consultation must be conscientiously taken into account in finalising any statutory proposals.
- 13.3 Delegation of housing management functions by a local authority requires consent from the Secretary of State under section 27 of the 1985 Act. In 2009, the Secretary of State issued a general consent which sets out circumstances in which delegation of housing management functions can be carried out without specific consent from the Secretary of State.
- 13.4 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 not-for-profit basis and the Council is the sole guarantor member.

- 13.5 The Council entered into the Management Agreement with BHP in April 2013 which expires after ten years with a review mechanism after seven years. Whilst there are provisions in the Management Agreement which enable the Council to terminate it in cases of default, there are no express provisions allowing for termination on notice. The parties can however agree early termination of the Management Agreement.
- 13.6 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. BHP owns a number of properties in its own right and grants its own tenancies in respect of properties it owns since BHP acquired Granville New Homes from the Council in 2009 with the assistance of loan funding from the Council and acquired 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.
- 13.7 If a decision is to be made to bring the housing management services in-house, there will be staff transfer and TUPE implications. Further legal advice will be provided as and when necessary in regard to these matters. Guidance given by the Department for Communities and Local Government (“DCLG”) in December 2011 advises that consultation on proposing to bring the housing management functions from the Arms Length Management Organisation (“ALMO”), which is BHP in this case, back to the Council should be as comprehensive as that undertaken when deciding to transfer those functions from the Council to an ALMO. Although DCLG would need to be notified, formal section 27 consent would not be required as this involves a decision to return the Council’s housing management functions back to the Council.
- 13.8 As BHP is a limited company, it enters contracts as a separate corporate entity to the Council. Therefore, if a decision is made to bring housing management services in-house, there would be a need for contracts entered into by BHP to be novated or assigned to the Council. This would require BHP contracts either to contain provision allowing BHP to novate/assign the contract as of right or else for BHP and the Council to negotiate with contractors the novation /assignment of contracts. During the consultation period, full details of BHP contracts should be collated to establish novation/assignment provisions and to understand the liabilities under the contracts that would transfer to the Council

14.0 Human Resources Implications

- 14.1 The decision to bring BHP’s housing management functions into the Council has clear implications for staff. Key during any transition and transfer is regular and frequent consultation and communication with all staff. A series of communication/consultation meetings has already taken place with staff and trade union representatives and this approach will continue. In addition, BHP staff have been involved with workshops to contribute to and comment on proposed changes in the target operating model necessary to transform the housing management functions. The Council and BHP will continue to work together to ensure that staff remain informed, are consulted and feel supported as the transition and transfer processes take shape and are implemented. This is vital to promote staff engagement and ensure business continuity during the transition and transfer. The same consultative approach will be adopted for integration of functions into the council once the transfer has taken place.
- 14.2 The transfer of staff that are currently employees of BHP will be covered by the TUPE regulations and the council will continue to ensure it adopts its consultative approach and follow all its relevant processes. There is already a joint board of the Council and

BHP, chaired by the Chief executive of the Council overseeing all aspects of the transition and transfer including those issues affecting staff.

15.0 Scrutiny's Proposals

15.1 Scrutiny considered the options on 19 October 2016, they made 3 recommendations for an 'in house' option:

- There be a dedicated scrutiny sub-committee established to review and provide oversight to housing services management and wider housing. This sub-committee would contain co-opted members from appropriate resident associations
- If Cabinet was to agree on the in-house option, that there be complete transparency of the Housing Revenue Account, complete with a business plan to ensure that the Housing Revenue Account is ring-fenced
- Response to the Scrutiny recommendation that: 'There be an effective communications strategy drawn up by the Council to ensure resident engagement and to also articulate with clear evidence why Cabinet has chosen its preferred option for housing management going forward

15.2 The work being undertaken to transform the service incorporates developmental activity aimed at significantly raising the engagement of residents and to identify new governance structures which will facilitate involvement towards decision making in relation to the housing service.

15.3 As regards the work in the future on the Housing Revenue Account there will be every opportunity within these new structures for engagement on those issues and business plan formulation will be a key part of those activities. Within that context there will be ample opportunity to keep the Housing Revenue Account ring fence under scrutiny.

15.4 From the above and other references elsewhere in this report, all of the proposals of the Council's Scrutiny Panel are being positively pursued. The full Council's views on how the scrutiny function could operate for the future is particularly sought.

Appendices

1. Housing Management Consultation – report of Electoral Reform Services (ERS)
2. Map of London ALMOs – 2009 & 2017
3. List of all consultation events with dates and locations
4. Details of attendances at the consultation events
5. Outcome of workshop session with Brent Network of Resident Associations

Background Papers

1. Review of Housing Management Options – October 2016

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