



Cabinet
12 September 2018

**Report from the Strategic Director
of Resources**

**Contingency planning for the Council's Benefits Service:
Authorisation of Third Parties to determine Housing Benefit,
Council Tax Benefit and Council Tax Support Claims**

Wards Affected:	All
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	David Oates Head of Customer Services Operations Email: David.Oates@brent.gov.uk Tel: 07867 184130

1.0 Purpose of the Report

- 1.1 This report seeks agreement for the provision of cost-effective resilience for Brent's Benefits Service against peaks in workload and staff turnover during a period of potential instability caused by the rollout of the full Universal Credit service, due to start in November. This will enable a small proportion of Benefits work to be undertaken by a third party, which will mitigate the risk of the Service not being able to respond to demand, and ensure that residents get benefit decisions in a timely way. Cabinet is therefore asked to authorise for decisions on Housing Benefit, Council Tax Benefit and Council Tax Support claims to be made by a third party service provider within the scope of the recommendations set out in Section 2.0 below and as further set out within this report.

2.0 Recommendation(s)

It is recommended that:

- 2.1 Authority be given to permit a third party service provider to make decisions relating to Housing Benefit (HB), Council Tax Benefit (CTB) and Council Tax Support (CTS) claims and associated Council Tax matters concerning discounts and liability, for the purposes set out within this report where the

appropriate approvals have been obtained in compliance with Council standing orders and financial regulations.

- 2.2 Delegated authority be given to the Strategic Director of Resources in consultation with the Lead Member to authorise a third party service provider to make decisions relating to Housing Benefit, Council Tax Benefit and Council Tax Support claims and associated Council Tax matters concerning discounts and liability for any other specific and ad-hoc purposes that may arise subsequent to the circumstances set out within this report subject to the appropriate approvals being obtained in compliance with Council standing orders and financial regulations.

3.0 Detail

- 3.1 The Universal Credit (UC) full service is scheduled to rollout in Brent from November 2018, with full working-age Housing Benefit claim migration to the Department for Work and Pensions (DWP) potentially not being completed until March 2023. There is a significant risk to the Benefit Service during this time in that assessment staff may seek alternative employment, requiring the service to engage temporary staff on an ad hoc basis to meet demand. We may lose capacity within the service faster than demand decreases and the time and cost of engaging temporary staff to cover is unlikely to provide the best level of service to residents. This is a particular risk given the high level of uncertainty and change which the UC programme has already been subject to.
- 3.2 Brent Customer Services (BCS) has already seen an increase in assessor turnover in recent months and we would like to be able to access a framework agreement to procure assistance with claim processing and mitigation against this risk. A framework arrangement with an offsite provider enables a contingency plan which can respond in a more timely and cost-effective manner to demand peaks or resource shortages, than traditional alternatives to these pressures, e.g. the direct employment of agency staff, and thus provides further protection for Housing Benefit claimants to continue to receive a responsive service from the Council.
- 3.3 Benefit determinations by third parties are subject to a minimum 10 per cent quality assurance check which provides further reassurance for the accuracy of any work undertaken in this way.
- 3.4 This type of arrangement is already used in a number of other London boroughs including, for example: Tower Hamlets, Waltham Forest and Greenwich.
- 3.5 Housing Benefit and Council Tax Benefit claim decisions are a function generally reserved for Local Authorities. However, the Deregulation and Contracting Out Act 1994 and the Contracting Out (Functions of Local Authorities: Income-Related Benefits) Order 2002 provide that such a function may also be exercised by such persons as the authority may authorise.
- 3.6 Additionally, Council Tax Support claim decisions and Council Tax matters are a function reserved for Local Authorities. However, under the Local Authorities (Contracting Out of Billing, Collection and Enforcement Functions) Order 1996,

as amended, such a function may also be exercised by such persons as the authority may authorise.

3.7 Under the Brent constitution, such an authorisation referred to in paragraphs 3.2 and 3.3 above, is a matter reserved for Cabinet decision and in order to facilitate the use of third party assistance to process Benefit claims and make decisions regarding these, prior Cabinet approval is required.

3.8 The recommendations set out within this report do not extend to an approval to access and use the relevant framework agreement referred to in paragraph 3.2 above, which is instead subject to separate delegated authorities to specified officers under the Brent constitution.

4.0 Financial Implications

4.1 There are no financial implications arising from the recommendations proposed within this report, as these concern a general permission for third parties to make decisions concerning Housing Benefit, Council Tax Benefit and Council Tax Support. The call off of any services required from the framework agreement referred to in paragraph 3.2 above will have financial implications that will be considered as part of the contract award approval process under Officer delegated powers.

5.0 Legal Implications

5.1 The provisions regarding Housing Benefit and Council Tax Benefit decision making are regulated by virtue of the Deregulation and Contracting Out Act 1994 and the Contracting Out (Functions of Local Authorities: Income-Related Benefits) Order 2002.

5.2 The provisions regarding Council Tax Support decision making and Council Tax matters are regulated by the Local Authorities (Contracting Out of Billing, Collection and Enforcement Functions) Order 1996, as amended,

5.3 These provide in general terms that aside from some specified statutory obligations reserved exclusively for a Local Authority, decisions on claims relating to Housing Benefit, the former national Council Tax Benefit scheme and Council Tax Support and Council Tax matters, may be exercised by such persons as the authority may authorise.

5.4 Brent Council's constitution provides that the authorisation of such persons to make decisions on claims as referred to in paragraph 5.3 above is a matter that is reserved for Cabinet decision.

5.5 Article 4 of the Contracting Out (Functions of Local Authorities: Income-Related Benefits) Order 2002 requires that an authorisation involving decisions on claims must include a requirement for the authorised person to provide the Local Authority with a random sample of not less than 10 per cent of decisions on claims and that the authorisation is subject to the inclusion of that requirement.

5.6 The statutory provisions concerning claim decisions referred to within this section of the report must therefore be subject to Cabinet approval. Additionally, the provisions of paragraph 5.5 above must be included within any authorisation given to a third party supplier for the purpose of making decisions on Housing Benefit and Council Tax Benefit claims. Such a requirement is not however needed for Council Tax Support claims.

6.0 Equality Implications

6.1 There are no equality implications arising from the recommendations set out within this report.

7.0 Consultation with Ward Members and Stakeholders

7.1 As this report affects all wards, consultation with specific ward members has not been conducted. As service delivery will remain unchanged for Brent residents, consultation with Brent stakeholders has not been conducted.

8.0 Human Resources/Property Implications (if appropriate)

8.1 There are no HR implications arising from the recommendations set out within this report.

Report sign off:

Althea Loderick
Strategic Director of Resources