



Cabinet
7 December 2020

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

Authority to Enter into a Contract with Capital Letters

Wards Affected:	All
Key or Non/Key Decision:	Key
Open or Part/Fully Exempt:	Open
No. of Appendices:	One: Appendix 1: Equality Analysis
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 This report requests approval to enter into a contract with Capital Letters (London) Limited, a lettings company owned by a consortium of London Authorities for the provision of accommodation for homeless households, as required by Contract Standing Orders 88.
- 1.2 Although the Council has been working with Capital Letters since October 2019, as this is a High Value Contract with an estimated spend of £3.5M over four years, it has been proposed that the Council should enter into a contract with Capital Letters to formalise arrangements for the provision of services on a longer-term basis.

2.0 Capital Letters performance since Brent joined

- 2.1 Of all the Member boroughs, Brent has received the highest number of properties from Capital Letters since joining in October 2019. A total of 374 homes been made available to Brent residents, 320 of which have already been let, with the remainder in the process of being let.
- 2.2 There are clear financial benefits for Brent being a member of the Capital Letters, due to the subsidy received for each property let, the funding for which was top sliced from the Flexible Homelessness Support Grant (FHSG). If the

Council were not members, we would not be able to access this subsidy. A saving of £386,400 was achieved in the first year of membership and forecast savings of £403,200, £288,000 and £192,000, per annum for the next three years' membership, as set out in table 3 below.

- 2.3 Capital Letters has increased membership from the original cohort of 13 boroughs, to 20. Enfield, Hackney, Newham and Camden joined earlier this year and Havering, Harrow, and Greenwich with joining in October.

3.0 Recommendations:

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- 3.1 Approve the Council entering into a contract with Capital Letters (London) Limited for the procurement of private rented accommodation for the prevention and relief of homelessness at an average cost of £2,500 per property sourced by the company.

4.0 Detail

- 4.1 When a household approaches the Council in housing need, the Housing Options team makes a formal assessment against a number of criteria as prescribed in homelessness legislation. If it is not possible to prevent homelessness, and the household has met the legislative criteria, there is a statutory duty to secure suitable accommodation for the household.
- 4.2 The demand for affordable housing in Brent continues to be one of the major challenges that the Council faces with high demand being primarily driven by households being evicted from the Private Rented Sector due to affordability. Additionally, as illustrated in Table 1, the implementation of the Homelessness Reduction Act (HRA) 2017, has led to an increase in the number of households seeking the Council's assistance for housing.

Table 1: Number of households seeking the Council's assistance for housing

	HNS Approaches	Variance
April – Dec 17	2447	0%
April – Dec 18	4020	64%
April – Dec 19	4494	83%

- 4.3 In the first year post HRA 2017, there was a 64% increase in the number of homelessness presentations during April to December 2018 compared to the same period in 2017. In the second year there was an 83% increase compared to the same period prior to the implementation of the HRA 2017.
- 4.4 The growing number of applications and the Council's obligations under housing legislation means that the Council has to explore ways on increasing the number of properties available to it to discharge the Council's duties to homeless households.

- 4.5 Due to the historic lack of supply of social housing available in Brent, accepted homeless households have to wait for many years in temporary accommodation (TA) before an offer of social housing is available; for example the average waiting time for a 3 bed household is 16 years. The Council has been using the power to meet new demand from homeless households with accommodation in the Private Rented Sector (PRS). However, there is an insufficient supply of PRS accommodation that is affordable in Brent and, as a result, some accepted homeless households are still placed in temporary accommodation or in PRS accommodation outside of Brent.
- 4.6 There are approximately 2000 homeless households currently living in temporary accommodation in Brent. Many are living in PRS properties leased by Housing Associations through the Housing Association Leasing Scheme (HALS) However, the number of HALS units have been steadily decreasing due to owners not renewing the lease when it ends because they can get higher rent levels by letting privately, resulting in the family becoming homeless again.
- 4.7 Network Homes' temporary accommodation portfolio (the majority of which were HALS) has also been recently transferred to Brent, following Network Homes' decision to exit the TA market. Approximately 375 properties were transferred.
- 4.8 With demand from homeless households increasing since the implementation of the Homelessness Reduction Act 2017, the pressure to acquire good quality and affordable accommodation has also increased. The Housing Needs Service, working with Housing Supply and Partnerships, have a plan to reduce the need for Temporary Accommodation by delivering 1000 units of affordable housing a year, including 1000 new council houses over the next 5 years. However, there will always be a need for some good quality private sector accommodation, and while this will in the medium term be delivered through council provision, there continues to be a need for affordable accommodation and this collaboration with other London boroughs to establish and operate Capital Letters (London) Limited (Capital Letters) will help to increase the supply of PRS accommodation and stop families having to go into poor quality and expensive nightly paid accommodation.
- 4.9 A further ambition of the Council is to create a property portfolio that will be wholly owned and managed by the Council. To this end the Council has established the i4B (Invest for Brent) scheme. i4B is a management company working on behalf of the Council to purchase properties in the Private Rented Sector. This scheme is a vehicle which allows the Council to reduce its reliance on privately leased temporary accommodation. The aim is to support the Council to meet the demand for households living in Temporary Accommodation by providing homes that are affordable and accessible.

Capital Letters

- 4.10 On 15 October 2018 Cabinet approved Brent Council joining Capital Letters as a Member.
- 4.11 Capital Letters is a Government and London Councils sponsored company which seeks to increase the supply of affordable Private Rented Sector accommodation in Brent by working collaboratively and avoiding competition between London Councils for the same privately owned properties.
- 4.12 Capital Letters is supported by the Ministry of Housing, Communities & Local Government (MHCLG) using top sliced Flexible Homelessness Support Grant (FHSG), to alleviate the costs to boroughs of providing accommodation and to encourage greater efficiency. The funding has provided extra staffing, IT and other resources to increase supply and improve the service offered to both tenants and landlords. It has also been used to subsidise the cost to boroughs for newly procured properties. These are costs Brent would have to pay anyway, if the subsidy was not on offer. Also, by top slicing the FHSG, MHCLG are effectively reducing the amount of funding available to boroughs who are not members of Capital Letters.
- 4.13 Due to the lack of affordable accommodation across London, boroughs compete with each other to secure the limited supply that is available. This will often lead to Brent securing accommodation in a neighbouring borough, and that borough securing accommodation in Brent thus displacing two households from their “home” borough. It also means that owners who own a portfolio of properties across several boroughs are required to deal with different systems and schemes operated by the different boroughs.
- 4.14 By removing unhelpful competition between London boroughs and duplication of effort, and by developing an organisation to represent all the London boroughs, it is intended to offer a simpler and more straightforward interface for landlords, managing agents and developers anywhere in London who are able to provide properties for those households most in need of accommodation and help them to remain in their own borough.
- 4.15 Capital Letters collaboratively procures new properties on behalf of London boroughs supported by the MHCLG top-slice and on a pan-London basis. In addition to the top-slice, the pan-London procurement is anticipated to have a deflationary effect on procurement and allow a more rational allocation of supply across London, allowing Brent households to remain in or closer to the borough.
- 4.16 20 London boroughs have now joined Capital Letters including: Brent, Hammersmith and Fulham, Ealing, Westminster, Haringey, Waltham Forest, Redbridge, Tower Hamlets, Barking & Dagenham, Southwark, Lewisham, Bexley, Croydon, Camden, Enfield, Hackney, Newham, Havering, Harrow and Greenwich.

- 4.17 In addition to Councils' membership, Capital Letters has been designed with two tiers of Governance. The senior body for all Governance decisions is the Boroughs' Representative Body. This is comprised of a representative elected Member from each of the Councils who share the ownership of the company and is responsible for formulating the strategy and business plan of Capital Letters. The second tier is the Board of Directors who hold responsibility for the operational delivery of strategic objectives, set by the Boroughs' Representative Body. Brent's Lead Member for Housing and Welfare Reform, Councillor Eleanor Southwood, is currently elected to the Boroughs' Representative Body and Laurence Coaker, Head of Housing Needs, currently sits on the Board of Directors.

Benefits

- 4.18 Prior to joining Capital Letters, the Council paid an average incentive fee of £3400 per property. During the last 12 months of membership, the average incentive paid to landlords per property has decreased from approximately £3,400 to £2,000 due to the MHCLG subsidy which members can take advantage of.

- 4.19 Subsidy amounts per property are as follows:

Table 2: Subsidy amount per let

Year 1	£1400
Year 2	£1050
Year 3	£750
Year 4	£500

- 4.20 During the first year of membership, we let 276 properties (an average of 23 properties per month based on past performance) through Capital Letters. This would have ordinarily cost the Council £938,400 (276 x £3400 per let), however we will pay £552,000 (276 x £2000 per let) thereby achieving a saving of £386,400 in Year 1.

- 4.21 During Years 2, 3 and 4 we anticipate we will let 384 properties through Capital Letters (based on 4 officers procuring 8 properties each per month). Anticipated savings for Years 1 to 4 are as follows:

Table 3. Savings achieved through Capital Letters

	Year 1	Year 2	Year 3	Year 4
Cost of incentives without the subsidy (£3400)	£938,400	£1,305,600	£1,305,600	£1,305,600
Cost of incentives with the subsidy	£552,000	£902,400	£1,017,600	£1,113,600
Saving achieved through Capital Letters' membership	£386,400	£403,200	£288,000	£192,000

- 4.22 Table 2 highlights the savings that is estimated the Council will make over 4 years through its membership of Capital Letters.

Rationale for the contract value

- 4.23 The value of the contract is calculated over 4 years with an estimated value of £3.5M. This value has been calculated using the number of properties let to Brent in Year 1. For subsequent years it is based on Capital Letters' ambition of achieving a procurement rate of 400 properties per year (8 properties per month per officer). The Service Level Agreement with Capital Letters Limited is on-going as long as the Council is a member of Capital Letters Limited and therefore the contract has been valued on a 4 year period as per CSO 90 due to the agreement having no end date.

Staff secondment to Capital Letters

- 4.24 There are two types of membership, A and B which have been discussed in detail in the Cabinet report submitted in 2018 . As an "A" Member, the Council needs to ensure that at least 50% of the total number of properties procured to support the discharge of its statutory responsibilities for homeless households is procured by the Capital Letters. This is to ensure that "A" member boroughs do not continue to procure the majority of their properties through in-house teams, effectively competing against Capital Letters.
- 4.25 As a result, four members of staff who were responsible for procurement of PRS accommodation in London were seconded into Capital Letters on 1st October 2019 and have continued with the procurement activities they were previously undertaking for Brent.

5.0 Approval for Contract

- 5.1 The 20 London boroughs that are members of Capital Letters have been in discussion with Capital Letters with a view to formalising arrangements for the provision of services to the boroughs on a longer-term basis. A Service Level Agreement has been negotiated, setting out the parties respective obligations, to include provision regarding the secondment of the four Brent employees. It is proposed that this Service Level Agreement continue whilst the Council continues to be a member of Capital Letters subject to the provisions for early termination as set out in the Service Level Agreement.
- 5.2 The Members' Agreement deals with the constitutional aspects of the company and the Service Level Agreement outlines the service that will be provided by Capital Letters. The principles of what service is expected by boroughs from Capital Letters is outlined in the Members' Agreement. The Service Level Agreement outlines the terms and conditions upon which Capital Letters will delivering a service to Brent in procuring accommodation.
- 5.3 The offer from Capital Letters is bespoke. They provide a menu of products tailored to local priorities. Since membership, the Council has agreed with

Capital Letters a service that increases the number of private rented accommodation (PRS) supply to assist the Council in discharging its prevention and relief duties.

6.0 Financial Implications

- 6.1 The value of the services provided within the contract is £3,585,600, including the subsidy provided by MHCLG. The costs of seconded staff have not been included as the staff are being paid by the Council rather than by Capital Letters.
- 6.2 It is anticipated that the cost of this contract will be funded from within the existing Housing General Fund budget.
- 6.3 Whilst the costs of the contract are not insignificant, they are lower than would otherwise be the case, due to the MHCLG subsidy provided for the first 4 years of Capital Letters' operations. The collaborative approach adopted by this pan-London arrangement also helps to reduce the uplift in costs which would otherwise occur if landlords were able to market their properties to multiple competing Councils.

7.0 Legal Implications

- 7.1 Capital Letters was established as a private company limited by guarantee and is wholly owned by the 17 London member boroughs who constitute limited liability members of the company. The governance arrangements of the company are set out in the Articles of Association of the company and Members Agreement. Critical matters are reserved to the Members and this is set out in the Members Agreement.
- 7.2 Brent is an "A" Member of Capital Letters. One of the conditions of being an "A" Member is that Brent must ensure that at least 50% of total procurement of dwellings to support the discharge of its statutory responsibility for homeless households or those at risk of homelessness (excluding nightly paid properties or properties outside the London area) is to be procured by Capital Letters. Any failure to achieve such percentage could lead to termination of the "A" member's membership.
- 7.3 It is proposed that Brent and the other boroughs enter into a Service Level Agreement or contract with Capital Letters for the duration of the Council's membership of Capital Letters (subject to early termination provisions) to procure a supply of accommodation and management services. This is a High Value Contract under the Council's Contract Standing Order based on the estimated value of the services which is approximately 3.5M. The contract value is calculated on the estimated cost of provision of services over a four year period in accordance with CSO 90. The estimated contract is in excess of the PCR 2015 threshold for services and as such would ordinarily need to be competitively procured. However, Regulation 12(7) of the PCR 2015 now specifically includes provision regarding joint arrangements between contracting authorities. Regulation 12(7) provides that an agreement concluded between two or more contracting authorities shall not be deemed to

be a public contract (and thus subject to procurement) where all of the following apply:

- (a) the contract establishes or implements a co-operation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
- (b) the implementation of that co-operation is governed solely by considerations relating to the public interest; and
- (c) the participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.

7.4 Given the nature of the arrangements between the 17 London boroughs in respect of Capital Letters, the conditions outlined in Regulation 12(7) of the PCR 2015 would appear to be met and the award of the contract would not be in breach of PCR 2015.

7.5 The award of the contract is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts and as such, Cabinet approval is required for the award of the contract.

7.6 Paragraph 4.25 above refers to the fact that staff have been seconded to work at Capital Letters since October 2019, to continue with the procurement activities they were previously undertaking for Brent. If the arrangement with Capital Letters is now to become longer term then it is more likely that TUPE will come to apply in respect of these staff. As such HR advice should be sought in respect of necessary steps which will need to be taken in respect of this position.

8.0 Equality Implications

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

8.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

8.3 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary. Cabinet is referred to the contents of this report for information, in particular the Equality Analysis at Appendix 1 and paragraph 8.2 of the report.

9.0 Any Other Implications (HR, Property, Environmental Sustainability - where necessary)

9.1 The HR concerns regarding any extension to the Secondment arrangements are covered in 7.6 above.

Report sign off:

Phil Porter

Strategic Director of Community Wellbeing