



## Officer Key Decision

### Report to the Director of Finance

## FWH 2021/23 SLA Agreement

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Part Exempt, paragraph 3 - relating to the financial or business affairs of any particular person (including the authority)
<b>No. of Appendices:</b>	<ol style="list-style-type: none"> <li>1. Appendix 1 – SLA no signatures</li> <li>2. Appendix 1 – Schedule 3 – Exempt</li> <li>3. Appendix 2 – Payment Process</li> <li>4. Appendix 3 – SLA in excel format.</li> </ol>
<b>Background Papers:</b>	N/A
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Sadie East Head of Transformation <a href="mailto:Sadie.East@brent.gov.uk">Sadie.East@brent.gov.uk</a>

### 1.0 Purpose of the Report

- 1.1 To obtain Director of Finance approval for the proposed 2021/23 SLA Agreement with the First Wave Housing for a term of two years.

### 2.0 Recommendation(s)

- 2.1 To approve entry into a Service Level Agreement with First Wave Housing for a two year term to provide company support and landlord support in accordance with Appendices 1 – 3 of the Report.

### 3.0 Background

- 3.1 The SLA is the formal agreement between the Council and First Wave Housing (FWH) that outlines the services the Council will provide to support FWH's operations. The document outlines the services provided, service standards, and management costs. The Services include the following:

- Corporate Services – This relates to work carried out by the Transformation team and Finance team to support the companies. It also includes services such as Internal Audit, Insurance, and Commercial Legal Support. These are revenue costs.
- Landlord Services – This is the work carried out by Brent Housing Management. This is split into housing management services such as rent collection and tenancy management, and property management services such as voids, repairs, and compliance work. These are revenue costs.

3.2 FWH has adopted an approach of using Council Services where possible. The logic for this has been that the Council can provide a comprehensive range of services to a good standard. Furthermore, the SLA agreements benefit the Council as funding remains within the Council group structure

3.3 FWH's current SLA agreement with the Council ran between 2017/18 to 2020/21. FWH wishes to renew the arrangement and FWH officers have met with service area leads to review the SLA and draft a new SLA for 2021/23. This has involved reviewing current performance, service standards, and costs. This informed a new draft SLA agreement that was presented to Board in December 2020.

3.4 The FWH Board reviewed and agreed the final SLA in March 2021. The proposed 2021/23 SLA has also been agreed with Council SLA leads. This report presents the proposed new SLA for 2021/23 to the Director of Finance for formal Council approval.

#### **4.0 2021/23 SLA**

4.1 The proposed 2021/23 SLA can be seen in Appendices 1, 2 and 3.

- Appendix 1 – The specification- this outlines the governance arrangements for managing the SLA such as processes for amending the SLA and dispute resolution. The specification then goes on to outline all of the services included in the SLA. This section details lead officers, service standards, KPIs, and costs. This contains signatures from Council SLA leads confirming they are happy with the specification.
- Appendix 2 – The payment process document for the SLA. This outlines invoicing and recharging arrangements
- Appendix 3 – This is essentially the SLA in a tabular format. In practice, this is the document that will be used for the day to day management of the SLA.

#### **5.0 Summary of 2021/23 SLA**

5.1 Table 1 below provides a summary of the revenue costs of the 2021/23 SLA. These are the costs that the 2021/22 Business Plan was based on. Costs were agreed with SLA leads by analysing staffing costs and time spent working on FWH.

Table 1 – 2021/23 SLA annual revenue management costs compared to the current SLA

Service	Current SLA		Annual 21/22 Costs	
	Total	Unit Cost	Total	Unit Cost
Corporate Costs	£244,000	£813	£226,416	£688.19
Landlord Costs	£340,560	£1,135	£377,570	£1,148
<b>Total</b>	<b>£584,560</b>	<b>£1,949</b>	<b>£603,986</b>	<b>£1,836</b>

5.2 It should be noted that management costs for the current SLA were agreed in December 2017 and do not account for inflation

5.3 The SLA allows for a review of costs on an annual basis to ensure that costs accurately reflect the services provided. Any cost changes will need to be agreed by both the FWH Board and Council.

5.4 The following sections outline key changes between the current SLA and proposed SLA.

## **6.0 Corporate Services**

6.1 There are no major changes in the corporate services that are provided under the SLA or service standards. However, there have been changes to costs in this area. Corporate Services have increased from £162k to £226k.

6.2 This is primarily driven by increases in costs for the finance team from £22k to £77k. This increase in funding better reflects the resource used by Finance on FWH.

6.3 A new role has also been created in the Transformation team. This incurs an additional £24k of cost for FWH.

## **7.0 Landlord Services**

7.1 There have been changes in both service standards and costs for landlord services. Costs have increased from £291k to £361k.

### 7.2 Housing Management

7.2.1 In the previous SLA, housing management services were covered under one line in the SLA. This has been amended, there are separate lines for all of the different services provided by Housing Management. Each line also has a service cost.

### 7.3 Estate Services

7.3.1 The previous SLA did not include management costs for Estate Services at Granville New Homes. This has added a cost of £40k to the SLA.

#### 7.4 Leasehold Support

7.4.1 Under the new SLA, FWH will receive an enhanced leasehold service. This includes:

- The monitoring of all leasehold properties including service charge information, section 20 notices, compliance, and lease information.
- Greater scrutiny of service charges and s20 notices .
- An annual review of all leasehold properties to ensure information is accurate.
- Improved financial reporting on third party freehold service charges.

#### 7.5 Utilities

7.5.1 At present, Utilities does not have their own section in the SLA. A line has been added to the 2021/23 SLA for utilities management arrangements. This will require BHM to:

- Produce a full meter list for FWH properties;
- Ensure utility bills are logged and suitably challenged; and
- Ensure that utility bills are recharged to tenants correctly.

7.5.2 The cost for this service is £8k.

#### 7.6 Repairs

7.6.1 FWH will now pay a fixed management fee for repairs. The SLA introduces enhanced requirements on: monthly reports on repair costs, monthly reports on repairs, monthly quality inspection reports, and reporting on customer satisfaction.

#### 7.7 Capital Programme

7.7.1 Management fees for capital works will be charged as 7% of the cost of works.

7.7.2 The SLA introduces the following service standards: annual stock condition surveys, annual five year capital investment plans, and monthly capital monitoring meetings.

#### 7.8 Re-let voids

7.8.1 FWH will pay a fixed fee for re-let void costs. The SLA introduces the requirement for: monthly void performance meetings, bi annual reviews of the void standard, monthly invoicing, and new KPIs around void costs.

### **8.0 Future Management Arrangements**

8.1 Future Management Arrangements for SLA

- 8.2 SLA meetings will be increased from a quarterly to monthly basis. SLA meetings will:
- Review services provided against service standards;
  - Performance against KPIs;
  - Current issues; and
  - Current risks
- 8.3 The Board will be provided with a monthly update report on SLA meetings. Outlining key issues and actions discussed
- 8.4 Future annual SLA reviews will take place between September and December. These reviews will look at performance and costs. During this period it is proposed that a Board member enter an initial review meeting and then a final closing meeting.

## **10.0 Financial Implications**

- 10.1 The SLA costs of £587k have been included in the FWH 30 year business plan along with an annual inflation allowance assumed at CPI. The headline costs represent an increase of £122k over the previous SLA. These costs allow for an increase in management support and finance support to FWH, They also include an increase in the costs of estate services of £45,000, which were not costed at actual service levels in the previous SLA.
- 10.2 The increase will be offset in part by a switch from interim support to internal staff support for the strategic management function of FWH.
- 10.3 The FWH business plan includes a commitment to benchmark FWH costs against other landlords. This work will be used to inform the annual business plan review and budget for 2022/23.

## **11.0 Legal Implications**

- 11.1 Companies such as FWH, established and solely owned by a council parent, are regarded as “contracting authorities” in their own right for the purposes of the Procurement Regulations 2015 (“PCR”). As a result, services or works over the relevant PCR financial threshold that FWH commissions from another organisation, *even those commissioned from its own parent*, have to be competitively tendered. There are however exemptions under the PCR that can potentially be used to avoid the need to competitively tender and FWH seeks to rely on such exemption in offering to contract with the Council.
- 11.2 This ability to contract with the Council is reliant on the “Teckal” exemption under Regulation 12 of the PCR. This situation would be classed as reverse Teckal. i.e. a Council owned company awarding a contract to the Council which would fall outside the PCR 2015.
- 11.3 The Council has the ability to agree to provide services to a third party in a range of circumstances. Section 1 of the Localism Act 2011 provides local

authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the 'general power of competence'. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others.

- 11.4 s93 of the Local Government Act 2003 introduced the power to charge for discretionary services provided this is done on a cost recovery basis. This can be done directly by the council.
- 11.5 The provision of goods, works or services by the Council to a third party is governed by Contracts Standing Orders<sub>87</sub> that provides:
- (a) The Local Authorities (Goods and Services) Act 1970 ("the 1970 Act") provides that local authorities may enter into contracts to provide goods and services to public bodies defined as such by the 1970 Act. Section 96 of the Local Government Act 2003 provides that local authorities may do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions provided this power is exercised through a company within the meaning of Part 5 of the Local Government Act 1989. The general power of competence in the Localism Act 2011 may also authorise the provision of goods, works and services by the Council.
  - (b) Before entering into arrangements under any of these provisions, officers must comply with the relevant requirements of Financial Regulation in Part 2 of the Constitution.
  - (c) Authority to enter into arrangements under any of these provisions must be agreed by the Cabinet (or if appropriate the General Purposes Committee) where:
    - (i) the contract value would exceed £1m per annum; or
    - (ii) the gross cost to the Council of providing the relevant goods, services or works under the contract is estimated to exceed £1m per annum calculating the full costs over the term of the contract (including any period of extension(s) anticipated by the contract);
    - (iii) where a company is to be set up for the purposes of the arrangements.
  - (d) In all cases advice shall be sought from the Director of Legal, HR, Audit & Investigations and the Director of Finance prior to entering into any such arrangement and/or prior to seeking approval by the Cabinet.
- 11.6 The Council has the statutory power to enter into the proposed Service Level Agreement with FWH and given the proposed value of the arrangements as set out in Appendix 2, the Director of Finance has delegated authority to approve the Recommendation 2.1 to enter into a Service Level Agreement with FWH.

## **12.0 Equality Implications**

- 12.1 The public sector equality duty, as set out in section 149 of the Equality Act 2010, 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, 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. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 12.2 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.
- 12.3 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.
- 12.4 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

## **13.0 Consultation with Ward Members and Stakeholders**

- 13.1 Given the Recommendation in this report is to provide Council services to FWH its own Teckal Company, there has been no consultation with Ward Members and Stakeholders.

**Report sign off:**

**SADIE EAST**  
Head of Transformation