

	<p style="text-align: center;">Executive Committee Monday 15th March 2010</p> <p style="text-align: center;">Report from the Director of Housing and Community Care</p>
<p>For Action/Information * delete as necessary</p>	<p style="text-align: right;">Wards Affected: ALL</p>
<p style="text-align: center;">Report Title: Supplementary Report relating to Housing and Social Care Non HRA PFI Project – Authority to Award Phase 2 of Contract</p>	

Forward Plan ref: H&CC-09/10-28

1.0 SUMMARY

- 1.1 This report is supplementary to the main report in relation to the Housing and Social Care Non HRA PFI Project which is also on the 15 March Executive Committee Agenda. The purpose of this report is to propose two additional recommendations which have come to light subsequent to the preparation of the main report and result from a request by the funders of the PFI scheme. Recommendation 2.5 of the main report requests authority to be given to the Director of Finance and Corporate Resources to issue certificates under the Local Government (Contracts) Act 1997 in respect of 3 amendment documents to give effect to the award of Phase 2 of the contract and recommendation 2.6 requests authority to indemnify the Director of Finance and Corporate Resources in respect of the giving of those certificates.

2.0 RECOMMENDATIONS

The funders have requested that an additional Contract Act Certificate be given in respect of the proposed Procurement Deed and the Executive is therefore asked to agree the following additional recommendations:

- 2.1 Agree that the Director of Finance and Corporate Resources can issue, on behalf of the Council, a Certificate under the Local Government (Contracts) Act 1997 in respect of the Procurement Deed to be entered into between the Council, Brent Co-Efficient and Hyde Housing Association.
- 2.2 Agree that the Director of Finance and Corporate Resources will be fully indemnified by the Council in the event of any claim against him arising from

the provision of any certificate he may issue in accordance with recommendation/decision in 2.1 above.

3.0 BACKGROUND

The Executive is referred in particular to paragraph 6.3 – 6.7 of the legal implications in the main report in relation to the Housing and Social Care Non HRA PFI Project. These paragraphs set out the procurement issues which will result in the publication by the Council of a voluntary transparency notice (paragraph 6.5) and the agreement by the Council, Brent Co-Efficient and Hyde in relation to the Procurement Deed. The Procurement Deed will set out the agreement of the Council, Brent Co-Efficient Limited and Hyde in the event that a court declares that the award of Phase 2 ineffective.

4.0 FINANCIAL IMPLICATIONS

There are no additional financial implications to those set out in the main report.

5.0 LEGAL IMPLICATIONS

The Procurement Deed is a certifiable contract in accordance with the terms of the clause 4(4) of the Local Government (Contracts) Act 1997. The effect of a Contract Act Certificate is to provide comfort to the other parties to the contract that even if the contract is declared void or ultra vires then a certificate issued under the Local Government (Contracts) Act 1997 will have the effect of rendering such contract intravires.

6.0 DIVERSITY IMPLICATIONS

There are no additional diversity implications to those set out in the main report.

7.0 STAFFING/ACCOMMODATION IMPLICATIONS

There are no staffing/accommodation issues arising in this report.

8.0 BACKGROUND PAPERS

Background papers are available from Manjul Shah, Head of Affordable Housing, 7th Floor, Mahatma Gandhi House, 34 Wembley Hill Road, Wembley, Middlesex HA9 8AD.

9.0 CONTACT OFFICERS

Assistant Director of Housing – Maggie Rafalowicz

MARTIN CHEESEMEN
Director of Housing and Community Care