

London Borough of Bromley

Part 1 - Public

Agenda
Item No.

Decision Maker: Executive

Date: Wednesday, 12 September 2018

Decision Type: Non-Urgent Executive Non-Key

Title: Bromley Private Sector leasing Scheme and Council owned temporary accommodation management services – contract extension

Contract Officer: Lynnette Chamielec, Head of Allocations and Accommodation
Tel: 0208 313 4009 E-mail: lynnette.chamielec@bromley.gov.uk

Chief Officer: Ade Adetosoye, Executive Director

Ward: Borough wide

1. REASON FOR REPORT

- 1.1 Bromley's formal contract for the procurement and management of private sector leased properties and management of council owned temporary accommodation which forms an important part of the Council temporary accommodation portfolio is due to expire on 31st March 2019.
 - 1.2 The contract allows for a two year extension. Permission is now sought to extend the contract by 2 years. This report outlines the proposed extension of the contract.
-

2. RECOMMENDATION(S)

Members of the Executive are asked to:

- 2.2 Note and comment on the contents of this report and the current action being taken to reduce the overall costs and improve the supply of TA.

The Executive are asked to agree to the following recommendations:

- 2.3 Agree to the proposal to utilise the extension option in the existing contract with Orchard and Shipman from 1st April 2019 to 31st March 2021 at an estimated gross value of £2.2m per annum. Of this sum approximately £1m relates to the management fees for

accommodation with the remainder passed directly to private landlords for the private rental charges.

- 2.4 Agree the Housing Division utilises the extension period to review the market in order to undertake a robust tendering process prior to the extension period expiring.**
- 2.5 Note the Housing Division will continue to pursue cost effective block contracts for TA both in private sector leasing and nightly paid accommodation (NPA).**
- 2.6 In consultation with Director of Commissioning, Director of Finance, Director of Corporate Services and the Portfolio Holder delegate authority to the Deputy Chief Executive and Executive Director Education, Care and Health Services to enter into block booking contracts and lease arrangements where offered to the Council where such arrangements provide a saving against current nightly paid rates.**

Corporate Policy

1. Policy Status: existing policy
 2. BBB Priority:
-

Financial

1. Cost of Proposal: N/A. As per existing contract.
 2. Ongoing Costs: Recurring Cost. £zero
 3. Budget Head / Performance Centre: Temporary Accommodation
 4. Total current budget for this head: £6.5m
 5. Source of funding: RSG
-

Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement.
 2. Call-in: Call-in is applicable.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): More than 5,000 households approach with housing difficulties which could lead to homelessness each year. There are currently about 1,575 households in temporary accommodation to whom the Council owes a statutory duty, of which 958 are in costly forms of nightly let accommodation. Orchard and Shipman currently manage approximately 200 units as part of the Council's temporary accommodation portfolio
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The number of people living in TA and the cost of providing this resource continues to rise. A continuing disparity between local housing allowance levels and the incomes of low to moderate wage earners in comparison to local market rents is continuing to widen and is putting an increased number of households at risk of homelessness. Without a significant increase in the development of genuinely affordable accommodation there is no prospect of any reduction in the requirement for TA over the next few years.
- 3.2 In order to ensure a sufficient supply of Temporary Accommodation (TA) to meet statutory housing responsibilities, TA is procured through a mixture of routes including property purchase, leased, block and spot contract arrangements.
- 3.3 The Council spends more than £6.5m (net) procuring temporary accommodation for homeless households every year and demand for this service is forecast to increase. Temporary accommodation (TA) is procured through a mixture of property purchase, leased, block and spot contract arrangements.
- 3.4 Orchard and Shipman currently operate the Councils private sector leasing scheme procuring and managing units from the private rented sector for use as temporary accommodation. They also manage the Bromley owned temporary accommodation stock. The Council originally entered into contractual arrangements with Orchard and Shipman by using a framework agreement set up via a competitive tendering process undertaken by Midlothian Council in 2011.
- 3.5 In January 2016 the Executive Committee agreed to enter into a new contract with Orchard and Shipman for the procurement and management of private sector leased properties and management of Council owned TA for a period of 3 years from 1st April 2016 with the option to extend for a further 2 year period.

4. SUMMARY OF YOUR BUSINESS CASE

The primary justification for extending the contract is to ensure retention of the existing PSL units, the majority of which are self-contained properties located within the borough boundaries and which are used primarily to house those in local employment and those with high support needs which must be met locally. These properties have been procured independently by Orchard and Shipman and subsequently made available to the Council to nominate to as temporary accommodation in order to allow us to meet our statutory duties in respect of homelessness. The Council has no direct relationship with these properties or property owners and in the event that the contract with Orchard and Shipman ceased they would retain access to these units and the Council would be forced to find alternative placements for its clients. Orchard and Shipman would be able to source alternative tenants for this accommodation either by way of private agreement or via another Local Authority.

In addition through combining the contract to incorporate the leased and LBB owned accommodation management with one provider efficiencies have already been achieved.

The Council also works closely with other London Authorities, recent tenders that have taken place for similar Schemes have not been successful as other Providers have largely withdrawn from the market which would suggest that there is insufficient interest in pursuing new schemes of this nature at this time. Should the extension be agreed would propose to review the undertakings and joint ventures being explored across London prior to the extension expiring.

4.1 SERVICE PROFILE / DATA ANALYSIS

- 4.1.1 In order to meet the continued demand for TA the Council secures units in several ways. The most advantageous and cost effective arrangements are Registered Provider temporary lets and housing association leasing arrangements as these operate on a nomination only basis with no requirement for additional funding or underwriting and the most costly are spot purchased nightly paid units which currently have an annual average net cost of £7,400 per unit.
- 4.1.2 The Council's approved temporary accommodation procurement policy seeks to secure a sufficient supply of accommodation, where possible utilising all forms of TA, with spot purchased nightly paid units only being used when no other alternative supply can be sourced.
- 4.1.3 The table below shows the numbers of properties used for general needs TA split by source. For the purpose of this report specialist supported accommodation which may be used as TA as part of a housing pathway is not included.

Scheme Type	# Placements
Oak/Theori (individual private sector leases – nominations only)	10
Hyde/NHHG (individual housing association private sector leases- nominations only)	4
Nightly Paid Accommodation (NPA)	958
Clarion (AST – nominations only)	208
Dabora Conway (individual private sector leases)	7
Orchard & Shipman(PSL)	106
Orchard & Shipman (LBB owned)	105
More Homes Bromley (Owned)	136
Mears (leased unit)	34
A2 Dominion (PSL- nominations only)	10
	1,575

- 4.1.4 In addition to existing pressures that have resulted in the current rise in the use and cost of temporary accommodation, the following trends appear likely to continue in the future:
- **Continuing property and rental price increases against frozen benefit and temporary accommodation subsidy levels reducing access/supply of private rented and temporary accommodation units:** this will reduce access to the market, increase the number of households accommodated by the Council and increase the funding gap needing to be subsidised.
 - **Increased homeless approaches,** particularly from the lowering of the benefit cap and low-to-moderate income working households being priced out of the market.

- **Continued decrease in available social housing** combined with increased concern from housing associations regarding affordability and increased refusals for nominations and/or requests for rental guarantees or rent in advance to take statutory homeless households.
- **Increased rent arrears resulting from universal credit roll out.**
- **Increasing legal challenges around temporary accommodation** including the type, location (particularly outside of London) and length of stay. Currently around 61% of TA placements are outside of the borough's boundaries.

4.1.5 In order to meet the demand for TA the Council will continue to seek the procurement and retention of accommodation that enables it to deliver its statutory responsibilities in respect of homelessness whilst ensuring that it delivers the best possible value for money achievable in this difficult market and ensuring that formal contractual arrangements will be agreed in accordance with Contract Procedure Rules.

4.1.6 The table below provides a simple demonstration of predicted increases based upon current supply and demand. This includes assumptions on the Mears property purchase units and pilot modular homes scheme, but does not factor in any risk around a further reduction in lettings or upsurge in numbers approaching following the rollout of universal credit this year.

	2018/19	2019/20	2020/19
TA at start of year	1,522	1,837	2,185
of which in NPA	909	1,168	1,412
New statutory acceptances	665	698	700
Total	2,187	2,535	2,885
Move-on from TA	350	350	350
Total In TA	1,837	2,185	2,535
Of which NPA	1,128	1,390	1,683

4.2 OPTIONS APPRAISAL

4.2.1 If the Council does not take any procurement action the costs of temporary accommodation will continue to increase and the risk of challenges because of the location and type of accommodation offered will increase. Therefore "no action" is not an option.

4.2.2 Given the current pressures in relation to homelessness and temporary accommodation and limited availability of supply, it is critical that the current temporary accommodation stock including those units procured and managed by Orchard and Shipman are maintained and that the focus on preventative measures is maximised wherever possible.

4.2.3 The Council will continue to work with its existing Private Sector Leasehold (PSL) Providers and to develop relationships with emerging providers in order to reduce the ongoing cost of nightly paid TA. The Council needs to be able to make decisions very quickly to take up opportunities which are offered to it as offers from new providers are often made with very short notice. As such the report requests in consultation with Director of Commissioning,

Director of Finance, Director of Corporate Services and the Portfolio Holder delegated authority to the Deputy Chief Executive and Executive Director of Education, Care and Health Services to enter into such arrangements when opportunities to come forward offering a saving against the cost of nightly paid accommodation.

- 4.2.4 An extension of the current arrangements will not be sufficient to meet the level of demand for temporary accommodation. Additional housing supply is necessary to meet our statutory duty and start to reduce the level of costly temporary accommodation placements which have to be secured through the private rented sector on a nightly rate basis. There are a range of additional measures currently being considered with options papers being reported to Members for consideration as these options present themselves.

4.3 PREFERRED OPTION

- 4.3.1 As per 4.2 above the preferred option is to extend the current contract held with Orchard and Shipman for two years.
- 4.3.2 Orchard and Shipman are meeting key performance targets; these include those relating to arrears recovery; which is in excess of 98%, void turnaround; which averages 25 days and unit management, which includes targets relating to repairs and cyclical safety checks.

5. MARKET CONSIDERATIONS

- 5.1 There is high and increasing demand for the provision of temporary accommodation across London and the South East and as such competition for available accommodation is increasing.
- 5.2 Restrictive subsidy and welfare reform changes have meant that leasing schemes have become less economically viable and an increasing number of housing associations have withdrawn from the temporary accommodation market, leaving an increased reliance on providers such as Orchard and Shipman and those only willing to offer accommodation at an inflated nightly paid rate.
- 5.3 Despite active procurement activities from Providers such as Orchard and Shipman this has resulted in a loss of 85 PSL units between January 2016 and July 2018 as landlords are able to achieve a significantly higher rental yield via alternative routes such as utilising a nightly paid provider or renting their accommodation directly to the market.
- 5.4 Existing leases and those currently being negotiated remain within the temporary accommodation subsidy arrangements in that rental revenue covers the costs of the lease payments to the property owner and management services from Orchard and Shipman.
- 5.5 The audit report commissioned on temporary accommodation in October 2015 recommended that where arrangements were operating successfully that consideration should be given to maintaining those arrangements and associated contracts in order to cover and protect the current leases and ability to take on new properties in accordance with existing arrangements. As the leased arrangements are made directly with the private landlords any withdrawal from such a scheme would mean the loss of those units.

6. STAKEHOLDER ENGAGEMENT

Regular feedback is sought from tenants to ensure the service performs. We continue to liaise with all our partners with regards to the procurement of temporary accommodation.

7. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 7.1 The contract has a two year extension option built into the contract and it is proposed to utilise this extension option.

8. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 8.1 The retention of these units and ability to enter into arrangements when PSL, HAL or block booking arrangements present themselves will allow the Council to continue to place the most vulnerable households close to specialist services and schooling and minimise the cost of providing essential support services such as SEN transport. The units also enable the Council to maintain close access to employment for those that work locally.

9. POLICY CONSIDERATIONS

- 9.1 The housing objectives are set out in the relevant business plans and Homelessness Strategy. These objectives are compliant with the statutory framework within which the Council's housing function must operate.
- 9.2 The Council has a temporary accommodation procurement and placement policy (elsewhere on this agenda) which seeks to ensure compliance with the statutory framework for the provision of temporary accommodation meeting the requirements for suitability whilst seeking value for money in all placements.
- 9.3 The Council's temporary accommodation procurement and placement policy takes account of statutory guidance together with case law requirements to fulfil the Council statutory duty for the provision of temporary accommodation. This has been reviewed to reflect market.

10. PROCUREMENT CONSIDERATIONS

- 10.1 The Executive Committee of the Council agreed the continued use of Orchard and Shipman to manage and overview various Tenancy Arrangements and Statutory responsibilities at its meeting in January 2016, which also included reference to the possible need to further extend the original contract to meet the Council's Housing responsibilities and the endorsement of this approach following an Audit Review in October 2015.
- 10.2 As the Contract in place has made provision for the extension identified, and given the need to also extend this arrangement to align with the Bellegrave and Manorfields leasing arrangements, there would seem little value in requiring the Contract to be subject to further competitive tendering at this time, although this will need to be actively considered and appropriate tender action commenced, in the near future."

11. FINANCIAL CONSIDERATIONS

- 11.1 The cost of the Private sector leasing scheme and Council owned temporary accommodation management services are cost neutral as the cost of management and payment of rents is recovered through the rental stream charged to tenants.

11.2 This scheme mitigates the need for further nightly paid accommodation. The increasing costs of this have been reported to Members previously and are contained within the main body of the report.

11.3 The table below provides a breakdown of the nightly paid bed and breakfast costs

	Average Yearly Charge	Average Yearly Income	Average Yearly Net Cost
1 Bed	£13,107	£7,264	£5,843
2 Bed	£16,178	£8,785	£7,393
3 Bed	£19,433	£10,475	£8,957
4 Bed	£23,668	£15,989	£7,678

11.4 The majority of families in nightly paid accommodation require two bedrooms with the next most needed type of accommodation being one and three bedroom accommodation.

11.5 The average cost per unit is around £7,400 p.a. although this is forecast to increase in the next few years. This is the amount mitigated by using this contract

11.6 The number of homelessness is currently 1,522 of which some are placed in temporary accommodation or private landlords. However it is the nightly paid which is the major cost pressure of which there are currently 1,128 households.

14. LEGAL CONSIDERATIONS

14.1 All local authorities have a statutory duty under the Housing Act part VII (as amended by the Homelessness Act 2002) to secure suitable temporary accommodation for priority homeless households.

14.2 Under section 193 of the Act local authorities are bound by statute to secure that suitable accommodation is available for those applicants who have been accepted as having a 'main' homelessness duty. This will usually initially be filled by continuing the temporary arrangements entered into for the interim duty.

14.3 The Council also uses temporary accommodation style arrangements to fulfil the statutory duty towards other client groups for example those with no recourse to public funds and some leaving care clients.

14.4 There is clear guidance within the homelessness legislation and case law regarding suitability of temporary accommodation. This includes details of standards of accommodation, nature, style, affordability and location. Recent case law has clearly set out the expectation that local authorities should as far as possible secure accommodation within the locality. Where this cannot be done there needs to be a clear audit trail which demonstrates how accommodation was procured in the nearest possible location. In addition, full risk assessments must be undertaken regarding out-of-borough placements. Lack of accommodation in itself is not sufficient to justify a placement which does not meet the suitability criteria. Failure to meet the above requirements brings the risk of legal challenge resulting in order with specific placement requirements and compensation orders.

14.5 The proposed extension to the contract terms is permitted within the terms of the current contract. The proposed extension can be approved under Rule 23.7 and 13.1 of the Council's Contract Procedure Rules

Non-Applicable Sections:	Personnel, IT and GDPR, HR
Background Documents: (Access via Contact Officer)	
	Version CP@5/16