

PART 1 - PUBLIC

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Decision Maker: **Executive**

Date: **8<sup>th</sup> December 2010**

Decision Type: Urgent Executive Key

**TITLE: PROPOSED PRIVATE SECTOR LEASING SCHEME**

Contact Officer: David Gibson, Assistant Director (Housing & Residential Services) Tel 0208 313 4794 email david.gibson@bromley.gov.uk;  
Sara Bowrey, Head of Housing Needs  
Tel: 020 8313 4013 E-mail: sara.bowrey@bromley.gov.uk

Chief Officer: Terry Rich, Director of Adult & Community Services

Ward: BOROUGHWIDE

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1. Reason for report

This report proposes entering into a contract with Orchard & Shipman to operate as the Council's management agent for leasehold properties for households to whom the local authority would owe a statutory duty to secure accommodation under the provisions of the homelessness legislation, in the light of the withdrawal from leasing by the Council's existing RSL leasing agents.

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**2. RECOMMENDATIONS**

2.1 The Executive are asked to agree :-

- i) to contract with Orchard & Shipman through the Mid-Lothian procurement agreement for the procurement and management of leasehold properties sufficient to enable the Council, to discharge its statutory housing obligations
- ii) Performance against this arrangement should be overseen by the Adult & Community Services PDS Committee as part of the existing 6 monthly performance monitoring reports.

## Corporate Policy

Existing policy: It is already policy to work with Housing Associations to lease properties for the Council's use to meet its housing needs and statutory duties. This report seeks authority to extend the partners used and also commission through a different mechanism.

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## Financial

1. No cost    All proposals detailed in this report can be contained within existing Budgets and will either reduce expenditure or upward pressure on existing budgets
  2. N/A
  3. Budget head                                    Housing Needs - Bed & Breakfast
  4. Total budget for this head    £328k (net of Housing Benefit Subsidy)
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## Staff

1. Number of staff (current and additional) – only the time of around six staff working as part of their normal duties and workload is involved with the proposals in this report
  2. If from existing staff resources, number of staff hours –
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## Legal

1. Statutory requirement: The work of the Housing Needs Service is governed by a strict legislative framework in relation to homelessness and allocations (The Housing Act 1996 & Homelessness Act 2002) which sets out the key duties of the Local Housing Authority. This is accompanied by a Statutory Code of Guidance to which all Authorities must have regard in discharging their functions.
  2. Call-in is applicable
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## Customer Impact

Estimated number of users/beneficiaries (current and projected) - 4,000+ households per year approach Housing Advice & Options service of whom 1900 face imminent homelessness.

## 1. COMMENTARY

1.1 The Council has a statutory responsibility to offer advice & assistance to prevent homelessness, or assist in securing alternative accommodation wherever possible. Where prevention is not possible the Council has a statutory rehousing responsibility to a number of prescribed groups of households including the provision of interim accommodation until long term settled accommodation can be secured. The Council currently discharges these statutory duties in a number of ways including:

- Advice & assistance to prevent the impending homelessness e.g.: negotiations with landlords, arrears reduction packages etc.
- Assistance to secure alternative accommodation either to prevent homeless acceptance or in discharge of the homelessness rehousing duty e.g.: deposit guarantees, finder's fees, housing association leasing (HAL) schemes & temp to settled (T2S) etc.
- Discharge of interim (temporary accommodation) rehousing duty via e.g.: hostels, nightly paid accommodation and HAL schemes,
- Permanent/settled rehousing through the housing register.

### **Why the need to commission a Private Sector Leasing provider?**

- 1.2 A significant part of the way in which the Council has successfully managed the provision of temporary accommodation to both prevent homelessness and to discharge the Council's statutory duties in cases of actual homelessness, has been through the procurement of and use of leasehold properties.
- 1.3 Since the 1980's a portfolio of up to 500 properties (more regularly 300 to 350 in recent years) have been leased for this purpose, ranging from 3 to 5 years. Leases have been mainly held by two Housing Associations acting as the Council's agent.
- 1.4 However, recent changes to Housing Benefit subsidy rules have resulted in the housing association leasing schemes (HALS) ceasing to be financially viable for RSLs and already one of the Council's main partners has decided to pull out of the market. A second has indicated that they face a substantial financial risk if they continue. Whilst work is currently being undertaken to mitigate this financial pressure, this has impacted upon the level of procurement during the year which risks reducing the available supply of properties.
- 1.5 The impact of these changes would result in either significant increased costs to the Council for securing leased properties as RSL's would need to be compensated for the financial risks incurred, or a loss of leasehold properties could result in the Council having to find more expensive nightly booked (B&B type) accommodation to meet statutory need.
- 1.6 It is therefore proposed to procure a Private Sector Leasing solution aimed at securing a supply of leasehold properties available to the Council within the Housing Benefit cap rates.
- 1.7 The proposed PSL scheme offers the ability to quickly procure at competitive rates to meet needs and duties, thus reducing the volatility of temporary and emergency accommodation costs. As O&S already operate in a number of other and neighbouring boroughs, commissioning would also reduce the risk of procurement from other authorities within our

borough and also increase our presence in the market, thus attracting and maintaining relations with larger property portfolio holders.

### **Why Orchard & Shipman?**

- 1.8 A benchmarking exercise has been undertaken with a number of other local authorities and officers also looked at what providers are currently in the market place. With the need to be prepared for LHA/HB subsidy changes which start to come into affect from April next year and, in particular, the current rising number and cost of bed & breakfast placements, it is imperative that a swift solution is found to the potential loss of leasehold properties. A provider able to implement a scheme in the borough quickly has been a major consideration. Further, there are a reduced number of housing associations operating HAL schemes and no others offering long term leasing (which can be used as discharge of duty) currently operating in the area other than the ones the Council already uses.
- 1.9 O&S are a national property services group with over 35 years experience, specialising in housing management solutions both in the private and public sector. They are accredited by the Homes & Community Agency and Tenants Services Authority (the sector regulator and inspector). During the last 7 years they have become one of the largest private sector managing agents of private sector leased accommodation on behalf of local authorities, as well as owning & developing a significant private residential portfolio across London, the South East & Scotland.
- 1.10 O&S have a track record with a number of boroughs of being able to procure and provide a quality service on a cost neutral basis to the local authority. One key benefit echoed across authorities using O&S has been the fact that they are able to attract large portfolio landlords at very competitive rents.
- 1.11 When Mid-Lothian commissioned a PSL scheme, their contract was set up as a framework agreement. The tender process and subsequent contract included the provision for any other local authority to participate in the agreement and use the approved contractor for the purpose of procuring and managing a PSL scheme by contracting either Mid-Lothian or the appointed contractor, namely Orchard & Shipman. A number of other Councils have already contracted with O&S under this agreement – e.g. Westminster; Croydon, Hillingdon, Brighton, Southwark, South Gloucestershire.
- 1.12 Properties will be procured by O&S who directly hold the lease with the Landlord and O&S then offer a sub-lease to LBB. No properties are procured at levels above the LHA subsidy cap. O&S take all tenancy and property management and maintenance responsibility on behalf of the LA.
- 1.13 The initial term proposed would be for 5 years with standard break clauses for non-performance, changes in need, etc.

## **2. Financial Implications:**

- 2.1 The current budget for bed & breakfast is £328k net of housing benefit subsidy received from the Department for Work & Pensions.
- 2.2 This proposal forms one of the key elements to mitigating the potential financial pressures arising from increased demand and LHA subsidy and Housing Benefit changes.

- 2.3 Taking the initial procurement of 50 properties, the alternative net cost to the Council of placement into nightly paid accommodation (amount not met by HB subsidy) would equate to approx £3k per week (£156k per annum) as at Nov 2010.
- 2.4 The scheme operates on a cash neutral basis for the local authority. However, any costs which may subsequently arise can be contained within the overall budget.
- 2.5 The only financial risk to the authority is a penalty clause to underwrite the rental amount in the event that the authority fails to successfully nominate a tenant within the agreed timescale of 10 working days. In this event, the Council would have to pay the rental charge between when the property is ready to let and when the property is actually let. The current HAL scheme agreement has a target of 5 days and this target has always been achieved.
- 2.6 There are some internal procedure matters to be considered, including the processes for maintaining the relevant records to ensure that housing benefit is appropriately recorded and claimed. Final details have yet to be finalised and there may be some minor resource implications which will need to be met from within the overall temporary accommodation budgets. No properties will be procured through this agreement until the relevant procedures have been agreed and implemented and resource implications identified.

### **3. POLICY IMPLICATIONS**

- 3.1 The Adult & Community Portfolio Plan contains statements of Council policies and objectives in relation to housing and associated matters along with progress that members expect to make during the financial year and beyond. These are compliant with the statutory framework, within which the service must operate.
- 3.2 The proposals in this report assist in achieving targets in Building a Better Bromley as well as the achievement of other corporate priorities and targets e.g. budgetary control and efficiencies.

### **4. LEGAL IMPLICATIONS**

- 4.1 The Council has a number of statutory obligations in relation to housing as listed on page 2 of this report.
- 4.2 These include the provision of housing advice and assistance to prevent homelessness or divert from homelessness, assessment of homeless applications, to make temporary and permanent housing provision for those applicants to whom the Council has a statutory rehousing duty and supporting such households to sustain accommodation.
- 4.3 The occupiers of the properties would not have secure tenancies with the Council.
- 4.4 The Head of Procurement is making final checks on the Council's use of the Midlothian procurement agreement in order that the Council can enter in to a contract with Orchard & Shipman. Their tendering and contract award process complied with all necessary EU procurement requirements but no contract will be entered in to if any concerns arise from the final checks.

<b>Non-Applicable Sections:</b>	Personnel
Background Documents: (Access via Contact Officer)	Homelessness Strategy – Sara Bowrey. Housing & Residential Services Division Half Year Performance report to November 2010 ACS PDS Committee – Committee

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