

WELWYN HATFIELD COUNCIL  
CABINET – 6 DECEMBER 2016  
REPORT OF THE EXECUTIVE DIRECTOR

RE-INTEGRATION OF THE HOUSING SERVICE INTO WELWYN HATFIELD BOROUGH COUNCIL

**1 Executive Summary**

- 1.1 Following on from Cabinet's recent decision in principle to wind-up Welwyn Hatfield Community Housing Trust ('the Trust') and bring the housing service back into Welwyn Hatfield Borough Council ('the Council'), and in light of the positive response to this proposal during a recent tenant consultation exercise, this report requests that Cabinet gives formal approval to proceed.
- 1.2 This report proposes the method by which the Trust will be wound-up, this being a members' voluntary winding-up and provides a summary of the key tasks required in order to achieve a smooth and successful transition of the housing service back to the Council.
- 1.3 Anticipated costs for the re-integration project are presented in this report, together with an assurance that the costs of winding up the Trust and bringing the housing back under the control of the Council will be met from existing budgets.
- 1.4 This report also asks Cabinet to give delegated authority to the Executive Director in consultation with the Chief Executive and Deputy Leader, to proceed with the re-integration project, to include appointing a registered insolvency practitioner and acting on the advice of the Council's and the Trust's legal advisors, authorising all necessary legal documentation to effect the re-integration.
- 1.5 Looking beyond the re-integration process new governance arrangements will need to be put in place to ensure that the performance of the housing service is appropriately monitored and to provide a forum for discussing service development and new initiatives. This report recommends that the Tenants Panel are included in these new arrangements and that independent housing professionals are involved if possible, on an advisory basis.
- 1.6 Further, at the request of the Chairman of the Trust's Board and on the basis of the legal advice as received by the Council, Cabinet is asked to authorise the revised Board quorum as a minimum of five Board Members

**2 Recommendation(s)**

- 2.1 It is recommended that Cabinet:
- 2.2 Notes the outcome of the tenant and leaseholder consultation exercise.

- 2.3 Gives approval for Welwyn Hatfield Community Housing Trust to be wound-up.
- 2.4 Gives approval for the housing service as currently delivered by the Trust to be brought back into the Council and thereafter operate as a Council department.
- 2.5 Notes the proposed project timetable for bringing the housing service back into the Council and winding up the Trust.
- 2.6 Gives delegated authority to the Executive Director, in consultation with the Chief Executive and Deputy Leader, to proceed with the various elements of the project as outlined in this report. This will include the appointment of a registered insolvency practitioner and ensuring that required legal requirements are in place as necessary to wind-up the Trust and transfer all assets and liabilities to the Council.
- 2.7 Agrees that future governance arrangements relating to the housing service may include tenant and independent representatives, in addition to Members and officers, within a model to be explored further by the Executive Director and reported back to Cabinet for consideration and approval in the New Year 2017.
- 2.8 Gives approval for the quorum of the Trust's Management Board to be revised to a minimum of five Board Members.

### **3 Explanation**

- 3.1 In September 2016 Cabinet proposed that the housing service currently delivered by the Trust should be brought back into full council control, with the aim of continuing the programme of delivering efficiencies in light of increasingly challenging operating environments for both organisations.
- 3.2 The Council subsequently engaged in discussions with the Trust's Board and both organisations then took independent legal advice to identify the most appropriate winding-up method and consider the risks which both organisations could be exposed to during the process. Advice was also taken by the Council on how best to proceed with the tenant consultation exercise relating to the future of the housing service.
- 3.3 The Trust's Board has expressed its commitment to working closely with the Council to ensure a successful re-integration and the Chair and Vice-Chair have indicated that they would be keen to continue to work with the Council as independent advisors in any new governance arrangements. The Chair of the Board is an experienced housing finance professional with significant experience in local authority housing departments and is currently working as a consultant to help local authorities develop new approaches to housing management and development of new homes. The Vice-Chair of the Board has housing development and regeneration experience and has been making a valued contribution to the Hatfield Regeneration Project Board. As such their continued involvement in an advisory capacity would be of great benefit to the housing service moving forward.
- 3.4 Re-integration project task group
  - 3.4.1 A new officer-led task group has identified all the various strands of this project, in accordance with the legal advice provided to the Council. These are

documented in a project plan and reviewed on a fortnightly basis. A summary of key tasks, with timescales for their completion is attached as Appendix 1.

3.4.2 The intention is for the housing service to be delivered by the Council from 1 February 2017. This is the date by which it is intended that the TUPE (staff transfer) process would have completed and contracts novated to the Council. The legal formalities around the winding up of the Trust will take place once the service has been re-integrated.

### 3.5 Tenant and Leaseholder consultation

3.5.1 A consultation exercise targeted towards 9960 tenants and leaseholders was launched mid-October 2016 and ended on 11 November 2016. The exercise was planned in consultation with the Trust's Board and meets with DCLG requirements, as set out in its guidance '*Review of Arms Length Housing Management Organisations*' (2006) and *Updated Guidance for councils considering the future of their ALMO Housing Management Services* (2012). The exercise was promoted through the tenants' and leaseholders' magazine, 'Your Voice' and on the Trust's and the Council's websites. The exercise comprised:

- An electronic survey accessed through the Trust's and the Council's websites
- A hard copy survey with reply-paid envelope in 'Your Voice'
- A focus group meeting with the Tenants Panel, facilitated by the Executive Director

A copy of the survey questionnaire is attached as Appendix 2 to this report.

3.5.2 A total of 139 responses were recorded, with 106 containing a response to the question of whether the Trust should remain or whether the housing service should be brought back into the Council. When asked whether they supported the proposal to bring the housing service back into the Council the headline responses were as follows:

Support the proposal:	67%	(71 people)
Does not mind:	21%	(22 people)
Object to the proposal:	12%	(13 people)

A report has been prepared to provide more detail on the findings from the consultation and include a summary of comments made by respondents. The report is attached as Appendix 3 to this report.

The outcome of the survey shows that a significant majority of tenants and leaseholders who responded do not object to the recommendation to bring the housing service back into the control of the council.

## 4 Legal Implication(s)

4.1 The processes for closing the Trust by way of a members voluntary winding-up and re-integrating the housing service back into the Council require a number of legal formalities. These include:

- Heads of Terms to be approved by the Trust's Board and the Council, followed by

- Transfer agreement in respect of the assets and liabilities of the Trust being transferred to the Council
  - Formal notice served on the Trust by the Council to end the Management Agreement
  - TUPE process
  - Novation of contracts
  - Changes to leases as required
  - Legal wind-up of the Trust
- 4.2 Both the Trust and the Council will receive separate legal advice throughout the process to ensure that all legal requirements are met.
- 4.3 An insolvency practitioner will be procured by the Council to carry out the legal process in respect of the closure of the Trust.

## **5 Financial Implication(s)**

- 5.1 The costs for the winding-up of the Trust and re-integration of the housing service are estimated to be £119,000. This sum includes the independent legal advice provided to the Trust's Board and a contingency of £15,000. The costs will be split between the Trust and the Council and will be funded from existing 2016-17 budgets. A breakdown of costs is attached as Appendix 4 to the report.
- 5.2 This one-off project cost will be recouped through year-on-year efficiency savings generated through the integration of the housing service back into the council. Examples of where ongoing savings will be made are through the costs which the Council currently bears through its client function in relation to the Trust and through a reduction in governance and Management Board support costs.
- 5.3 The Trust's pension liabilities will transfer to the Council, with the cost of employer contributions continuing to be charged to the Housing Revenue Account. Any past service deficit will be managed in the same way as the Council's past service deficit and decisions will need to be taken about whether or not to contribute an upfront lump sum contribution to the pension fund. The fund will be subject to the scheduled triennial valuation exercise and we are expecting to receive reports on the position of the fund around the end of November/beginning of the December. This will be reported to Cabinet as part of the wider report covering the Council's pension liabilities.

## **6 Risk Management Implications**

- 6.1 As part of the legal process a Due Diligence Survey will be completed by the Council to ensure that it meets its requirements as Transferee. This will be overseen by the legal advisors and will ensure that all risks are identified and mitigated.
- 6.2 The key risk to service delivery is that contractors do not wish for their contracts to be novated and as such will no longer provide their services for the Council. Early discussions have begun with contractors and this has not been indicated as being an issue. However this will be monitored during the lead-up to the re-integration process.
- 6.3 There is a reputational risk to the Council in the form of negative media coverage. The conclusive outcome from the tenant consultation exercise as detailed in this report will help mitigate this risk. The re-integration project

includes a communications strategy, which will ensure that the correct messages are being communicated. This includes providing assurance that the service outcome for customers will be unaffected. Further the Chair of the Trust's Board has confirmed that he will communicate a positive message about ongoing mutual cooperation and a shared commitment between the Trust and the council in respect of 'business as usual' for the service.

## **7 Security and Terrorism Implication(s)**

7.1 None directly arising from this report.

## **8 Procurement Implication(s)**

8.1 The novation of contracts is a key task in this process, as described above. The Council's Procurement Manager has been involved throughout to ensure that the interests of the Council are served fully.

## **9 Climate Change Implication(s)**

9.1 None directly arising from this report.

## **10 Link to Corporate Priorities**

10.1 The subject of this report is linked to the Council's Corporate Priorities "Meet the borough's housing needs"

## **11 Equality and Diversity**

11.1 There are no initial concerns on the basis that service provision to customers will remain unchanged and staff will transfer to the Council on their existing terms and conditions of employment. In accordance with Council policy an Equality Impact Assessment will be carried out and the outcome communicated to Cabinet on 10 January 2016.

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Date	17 November 2016

### **Attachments:**

Appendix 1: Summary of key project tasks

Appendix 2: Tenant consultation questionnaire

Appendix 3: Tenant consultation findings report

Appendix 4: Summary of project costs