

MUNICIPAL YEAR 2015/2016 REPORT NO. 60

MEETING TITLE AND DATE:

Cabinet – 16 September
2015

REPORT OF:

Director of Health Housing
and Adult Social Care and
Director of Finance
Resources and Customer
Services

Agenda – Part: 1

Item: 12

**Subject: Large Volume New Supply of
Temporary Accommodation**

Wards: all

Key Decision No: 4187

**Cabinet Members consulted: Cllr Ahmet
Oykener, Cabinet Member for Housing and
Housing Regeneration & Cllr Andrew
Stafford, Cabinet Member for Finance and
Efficiency**

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1. EXECUTIVE SUMMARY

- 1.1 The private sector rental market in London continues to show significant pressure as demand pressures continue and costs increase. The recent trend in homelessness demand and temporary accommodation continues in an upward trajectory. Because of the high demand for properties needed, it has not always been possible for the Council to use providers from existing framework agreements and spot purchasing from unaccredited providers has taken place.
- 1.2 This report seeks Cabinet approval to start accommodation provider market engagement to explore the opportunity to secure large volume temporary accommodation supply, in partnership with 3 other Boroughs - Waltham Forest, Redbridge and Newham - who are experiencing the same challenges.

2. RECOMMENDATIONS

- 2.1.1 Cabinet is recommended to -
 - approve both targeted and general marketing to draw interest from the provider market for temporary accommodation supply in partnership with the London Boroughs of Waltham Forest, Newham and Redbridge as set out in paragraph 3.9.
 - delegate the decisions on individual contracts, to the Director of Health Housing & Adult Social Care, Director of Finance, Resources and Customer Services with the Cabinet Lead Member for Housing and Estate Regeneration and the Cabinet Lead Member for Finance.

3. BACKGROUND

- 3.1 All Local Authorities have a statutory duty under the Housing Act 1996 Part VII (as amended by the Homelessness Act 2002), where appropriate, to provide emergency temporary accommodation for homeless applicants pending investigations into their application. This is known as the 'Interim duty'.
- 3.2 Local Authorities also have other statutory powers and duties to provide help and assistance, including on occasion the provision of accommodation, to other categories of people. Often this means providing accommodation to some of the most vulnerable members of the community including for example people with mental health issues, physical disabilities and learning disabilities.
- 3.3 Under the Housing Act, Local Authorities are also bound by statute to ensure that suitable accommodation is secured for applicants who have been accepted as entitled to housing following the full assessment of their circumstances. This is referred to as the 'main homelessness duty' and will usually be initially fulfilled by continuing the temporary accommodation arrangement initially entered into, for the duration of the interim housing duty.
- 3.4 Families are charged rent by the Council for the accommodation provided to them. In the majority of cases, the rent is met by housing benefit, however the Government puts limits on the maximum housing benefit subsidy local authorities can claim for temporary accommodation. The difference between the charge paid by the authority to the provider and the rent charged to tenants is the "true cost" to the local authority for that unit.
- 3.5 Over the past five years there has been a significant shift in the private rented market in London away from lettings to benefit-dependent households and towards the letting of properties to 'professionals' i.e. those able to pay their rent without recourse to benefits. Rents have increased, and the gap between these rents and the Local Housing Allowance – now set at only one-third of market rents – is deterring property owners from letting to families on benefits and/or low incomes. This has led to an increasing number of evictions of these families and in turn to an increase in homelessness approaches made to the Council's Homelessness Advice and Options services, i.e. customers presenting in a situation of actual homelessness.
- 3.6 The temporary accommodation provision for Enfield Council is currently spread across a mixed portfolio of long term agreements and highly flexible short term agreements. The most cost effective element of the Council temporary accommodation is the longer term Private Sector Leased (PSL) and Private Leased Annexe (PLA) accommodation, with contracts commonly secured of two to five years. This has historically given great stability to the portfolio, both in terms of numbers of units and price, and reduced the overhead borne by both the providers, and the Council, of spot purchasing accommodation.

- 3.7 However, more recently the housing market has been predominantly bringing forward Nightly Paid Accommodation (NPA). This is the least cost efficient accommodation for the Council, as it is highly volatile in terms of only being able to secure the accommodation on a short term basis, with an inherent overhead cost of procurement as the Council has to spot purchase each unit.
- 3.8 As part of the strategic approach to the cost containment of the provision of temporary accommodation, the Community Housing Services Leadership Team is seeking to rebalance the portfolio. As part of a tactical approach, the team intends to improve the stability of the portfolio by increasing the amount of accommodation procured with longer leases, as well as improved supply chain management by piloting a dynamic purchasing system also in partnership with the east London boroughs of Waltham Forest, Redbridge and Newham. In this context the term 'dynamic purchasing system' is in strict accordance with the definition set out in the Public Contracts Regulations and should not be confused with the use of a similar term coined by the West London procurement partnership.
- 3.9 This report sets out the intention to continue to build upon the joint work with the London Boroughs of Waltham Forest, Newham and Redbridge, to develop a stable supply of longer term leased properties at volume. The intention is to lease this accommodation on a long-term basis i.e. 5-10 years, at a lower rate than is currently paid for nightly paid accommodation. These three partner boroughs already have a track record of successful collaboration, having previously established a framework for temporary accommodation. By broadening the scope of this collaborative approach by including Enfield, the joint offer to the provider market will be strengthened.
- 3.10 Working together to secure larger volumes of supply will also greatly ease the day-to-day pressure of procuring accommodation for homeless households.
- 3.11 Whilst being open to accommodation brought forward by the market in each of the respective boroughs, there is a strong likelihood that this market exercise will also bring forward financially viable accommodation near to London. Principles regarding out of borough procurement will be adhered to by each of the individual Councils, only in exceptional circumstances and when there is an evidenced absence of alternative accommodation available locally, will households be nominated to this accommodation.
- 3.12 Additionally, care will be taken to ensure that an individual assessment of the household is undertaken to ascertain if there is an essential need to remain in the relevant borough. This will be through a process compliant with legislation, case law and Council policy.
- 3.13 **Appendix 1** provides a graphical representation of how the procurement process would happen; showing that the councils would place an OJEU Contract Notice to being the competitive dialogue procurement process in line with starting both targeted and general

marketing activities – these will be in the form of identifying investors who would be looking to invest in the development of supply, through to leaflet drops within the boroughs with the intention of attracting local landlords to offer the council their property(ies).

- 3.14 Once the market brings forward an offer to the council(s), it will be evaluated and dealt with via the appropriate process and governance arrangement as set out below;
- as a property transaction through the appropriate property services process and governance
 - directing to the pilot dynamic purchasing system for use as regular supply (the term ‘dynamic purchasing system’ is in strict accordance with the definition set out in the Public Contracts Regulations)
 - through a Competitive Dialogue process to negotiate terms.
- 3.15 In the first joint volume procurement exercise of the four partner boroughs of Enfield, Waltham Forest, Newham and Redbridge, the intention is to bring both greater flexibility in the offers that can be sought from the market, combined with the intention to lease significant volumes of accommodation across the partnership.
- 3.16 It is likely that the need for temporary accommodation will fluctuate and potentially reduce over the period of any long-term arrangement with a third party. To de-risk this aspect of any long term leasing arrangement, the procurement arrangement will have to be flexible enough to allow for potential discharge of the homelessness duty into a private sector let, possible use as alternative Council housing provision rather than temporary accommodation or the use of the provision as temporary accommodation to other organisations outside of the borough partnership, who may be under pressure to house their residents.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Continue As-Is: The Council is establishing a dynamic purchasing system (agreed by Cabinet March 2015) to increase the supply of properties under contract and reduce the cost of temporary accommodation arrangements; however, this alone is not anticipated to ease all of the pressure on the temporary accommodation budgets.
- 4.2 Do nothing: As the authority has a statutory duty to place homeless applicants into emergency accommodation, there will always be a need to secure some level of temporary accommodation from private agents/landlords. To ensure effective supply the Council needs to take innovative approaches to create and / or identify cost efficient temporary and permanent housing solutions.

5. REASONS FOR RECOMMENDATIONS

- 5.1 The continued pressure to provide temporary accommodation for those facing housing emergencies and homelessness, is placing significant financial pressure and ongoing risk to the Council’s finances.

- 5.2 This report sets out the intention to take the Council requirements to the market to seek solutions intended to manage the current risk posed by the high reliance on short term contracts for the provision of accommodation.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

Temporary accommodation expenditure remains volatile and there has been a significant increase in the number of families placed in more expensive nightly paid accommodation (NPA). The underlying cost pressure due to increased number of homelessness households still remains, and the provision of temporary accommodation is a high risk area for the general fund budget

- 6.2 The projected cost pressure of temporary accommodation if the Council takes no mitigating actions ie the worst case scenario is £7.6m. This has been identified as the potential cost pressure in 2015/16. However a cash limit adjustment of £2.6m was agreed for 2015/16 and, although the high risk remains, the budget monitor is projecting a balanced position for this financial year. It is therefore important to start accommodation provider market engagement, in order to explore the opportunity of managing the cost pressures by securing large volumes of temporary accommodation on a longer / more cost efficient leasing arrangement.

- 6.3 It is planned to meet the administrative cost of this initiative from within existing resources, any savings will be modelled into future years budget forecasting.

The average net saving (based on average NPA cost across the NPA portfolio) for moving individuals from nightly paid accommodation to longer term leased properties is £3,250 per property per annum. If the Council can secure up to 250 units, the opportunity to move out of these high-cost placements will open up. Dependant on the number of placements, the savings profile would be as follows:

Number of units	Potential annual savings compared to NPA
	£000
50	(162)
100	(325)
200	(650)
250	(812)

- 6.2 Using a different savings model focused on the 250 highest cost (net loss) NPAs, the potential average net saving of moving these households into more affordable longer term leased properties is £6,828 per property per annum. If the Council can secure up to 250 units, activity focused on these highest cost placements, the savings profile would be as follows:

Number of units	Potential future Savings
	£000
50	(341)
100	(683)
200	(1,366)
250	(1,707)

7.0 Legal Implications

The Housing Act 1996 places a range of duties on local authorities to house homeless people who meet the relevant statutory criteria under the Act. These duties, once owed, must be performed and the local authority cannot rely upon the lack of suitable housing accommodation as a reason not to perform their duty. The duties are mandatory which means the local authority must provide accommodation regardless of any difficulties the local authority has with the availability of securing suitable accommodation.

- 7.1 Under the Act local authorities also have a duty, “so far as reasonably practicable”, to accommodate homeless people within their district. The recent judgment in the case of *Nzolameso v City of Westminster* [2015] UKSC 22 clarifies the way that local authorities must now approach out of borough accommodation placements. The judgment reinforces the duty on local authorities to carefully consider the Homelessness Code of Guidance and the Homelessness (Suitability of Accommodation) (England) Order 2012. The judgment also confirms that authorities must have regard to their obligations under the Children Act 2004. This requires local authorities to ensure that their (housing) functions are discharged having regard to the need to safeguard and promote the welfare of children. Furthermore, the judgment says that local authorities should have, and keep up to date, a policy for procuring sufficient units of temporary accommodation to meet the anticipated demand during the coming year and a policy for allocating those units to individual homeless households. What this means in practice is it will no longer be enough for the local authority to cite the scarcity of accommodation within borough as the only reason to offer accommodation out of borough. The authority will now need to show that it has carefully considered and applied the Guidance, 2012 Order and the Children Act to the household’s circumstances before the offer is made.
- 7.2 In addition to the duties described above the Council has the general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may generally do provided it is not

prohibited by legislation. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way.

- 7.3 In conducting the market engagement described in this report it must comply with the Public Procurement Regulations 2015. In addition, and to extent applicable the Council must comply with its Constitution, in particular the Contract Procedure Rules (CPR).

The Council must comply with its obligations with regards to obtaining best value under the Local Government (Best Value Principles) Act 1999.

In entering into any lease of premises for a term of over one year the Council must ensure compliance with Section 4 of its Property Procedure Rules.

All legal agreements arising from the matters described in this report must be approved by the Assistant Director of Legal and Governance Services.

8.0 KEY RISKS

The market for temporary accommodation is highly volatile and is likely to remain so as the housing market responds to the implementation of both further welfare reforms and as central Government housing legislation is implemented and beds down.

The CLG is currently reviewing the provision of the Homelessness Grant to all Councils.

The West London Dynamic Purchasing System (West London DPS) is offering two flat rate payment rates for leased accommodation one for accommodation in London and one for accommodation outside of London. It is the acknowledged view of the West London consortium and of officers at Enfield Council that this approach does not recognise variations in cost and availability of accommodation across the different housing markets in London and beyond. As a result there is a significant risk of further accommodation price inflation.

9.0 IMPACT ON COUNCIL PRIORITIES

9.1 Fairness for All

A stable home is a key contributor to the health and wellbeing of local households. The current shortage of affordable homes, combined with great volatility in the private rented sector, is resulting in pressure on housing advice and homelessness services. The increase in the use of, and reliance on short term emergency and temporary accommodation, is a risk both to the health and wellbeing of local families housed in unstable short term leased accommodation, but places risk on the local authority finances due to the over reliance on spot purchased

accommodation. The proposals contained within this report seek to place greater stability on the supply of accommodation and improve quality.

9.2 Growth and Sustainability

The use of emergency and temporary accommodation in Enfield has increased in recent times. The proposals contained within this report seek to place greater stability on the supply of accommodation and improve quality.

9.3 Strong Communities

A stable home is a key contributor to the health and wellbeing of local households. The current shortage of affordable homes, combined with great volatility in the private rented sector, is resulting in pressure on housing advice and homelessness services. The increase in the use of, and reliance on, short term emergency and temporary accommodation, is a risk both to the health and wellbeing of local families housed in unstable short term leased accommodation.

10.0 EQUALITIES IMPACT IMPLICATIONS

There has not been an EQIA completed to accompany this report. The monitoring of both homelessness demand and use of accommodation is part of the annual housing equalities monitoring and reporting arrangements.

11.0 PERFORMANCE MANAGEMENT IMPLICATIONS

The number of households in temporary accommodation and the cost of procurement of emergency and temporary accommodation are both priority performance indicators and performance measures for the Council. Both are kept under constant review.

12. PUBLIC HEALTH IMPLICATIONS

A stable home is a key contributor to the health and wellbeing of local households. The current shortage of affordable homes, combined with great volatility in the private rented sector, is resulting in pressure on housing advice and homelessness services. The increase in the use of, and reliance on short term emergency and temporary accommodation, is a risk to the health and wellbeing of local families housed in unstable short term leased accommodation

Background Papers

None