

Cheltenham Borough Council

Cabinet – 18 June 2013

Housing Options Review

Accountable member	Councillor Peter Jeffries, Cabinet Member Housing and Safety
Accountable officer	Grahame Lewis, Executive Director
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>Housing Options delivers the Council’s statutory duties towards households who are homeless or in housing need, as required under the Housing Act 1996. The service performs well and the staff work with and provide support to some of the most vulnerable people within the community of Cheltenham. Last year the Council adopted its new Housing and Homelessness Strategy in response to welfare reforms. The strategy outlines the outcomes the Council wishes to achieve to prevent homelessness in the Borough.</p> <p>The council has undertaken a review of the Housing Options service to make sure that it was fit for purpose and also to consider how the service may be commissioned in the future. A report was presented to Cabinet in December 2012 setting out two potential commissioning options available; in-house provision or, alternatively, to transfer the service to a registered provider, in this case the Council’s Arms Length Management Organisation (ALMO), Cheltenham Borough Homes (CBH).</p> <p>The housing options team undertook a systems thinking review following which there was a redesign of the way in which they deliver the service to meet the challenges arising from welfare reform. This ensured that the current service was delivering the desired outcomes as set out in the Housing and Homelessness Strategy. Once this was completed, work has been undertaken to consider the implications of transferring the service to CBH and also to develop a service specification based on the redesigned provision which will deliver the outcomes as set out in the Housing and Homelessness Strategy.</p> <p>CBH has an excellent performance record and therefore there are limited risks in transferring the service to them. CBH have already had experience of transferring services to them when the estate cleaning service moved to them in 2009. The current Housing Options Team will transfer to CBH under the Transfer of Undertakings (protection of employment) Regulations 2006 (TUPE) and therefore there will be continuity of service delivery but also over time there will be opportunities to align delivery and look at potential service improvements which will further enhance this important service for some of our most vulnerable residents. The council will continue to provide its strategic housing function along with its responsibilities relating to housing enabling and Supporting People and those aspects which cannot be delegated to CBH as set out in the legal implications of this report.</p> <p>The intention is to transfer the service with effect from 1 December 2013 under a contract for services which will expire on 31 March 2020, so that it aligns to the existing housing management agreement that the council has with CBH.</p>

Recommendations	<p>1. To transfer the Housing Options service (as specified in appendix 2) to CBH by 1 December 2013 under a contract for services to expire on 31 March 2020.</p> <p>2. To delegate authority to the Director of Commissioning in consultation with the Cabinet Member for Housing and Safety to finalise the specification and contract for services.</p> <p>3. Note that the Council’s Housing Options staff whose roles fall within the scope of the list of services outlined in appendix 2 will transfer to CBH on the date the services transfer in accordance with the Transfer of Undertaking (Protection of Employment) Regulations 2006.</p>
Financial implications	<p>The financial implications are set out in section 4 of the report</p> <p>Contact officer: Paul Jones, Head of Finance, GO shared services, 01242 775154 paul.jones@cheltenham.gov.uk</p>

<p>Legal implications</p>	<p>Part VI and VII of the Housing Act 1996 contain the provisions on the council's functions in relation to allocation of housing and homelessness prevention and the legal determination of applications. By virtue of the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 the Council will be able to authorise CBH to exercise those functions contained in Part VI and Part VII of the Housing Act 1996 with the exception of:</p> <p>Adopting or altering the allocation scheme including the principles on which the scheme is made and consulting with Registered Providers.</p> <p>Section 179(2) and (3) - power to give assistance to any person providing advisory services about homelessness and the prevention of homelessness by the means specified in the Section which include assistance by way of grant, loan and use of council premises or assets.</p> <p>Section 180 – power to give assistance to voluntary organisations concerned with homelessness or matters relating to the homeless by the means specified in the Section which include assistance by way of grant, loan and use of council premises or assets.</p> <p>If the service is contracted out to CBH the Council will still have a duty as the local housing authority to comply with Sections 1 – 3 of the Homelessness Act 2002 (carrying out reviews and publishing new homelessness strategies within five years of publication of the current strategy) and also to keep the Council's tenancy strategy under review and publish any modifications under Sections 150-151 of the Localism Act 2011.</p> <p>The effect of provisions of the Deregulation and Contracting Out Act 1994 is that the Council will still remain statutorily responsible and accountable for the discharge of the functions that have been contracted out. Unless an exemption relating to criminal proceedings or failure to fulfil contract conditions applies, the acts of the contractor are, in effect, the acts of the Council.</p> <p>As CBH is a company wholly owned by the Council, the Council can engage the company to carry out the Housing Options services without having to undertake a competitive EU procurement process by relying on the 'Teckal' case. This case provides an exemption to compliance with the EU procurement rules.</p> <p>If CBH is to undertake this service no changes to its Articles of Association will be necessary as they already permit CBH to provide services of any description for Cheltenham Borough Council. As there will need to be detailed provisions about the services to be contracted out it is advisable to enter into a separate contract for services with CBH rather than amend the current management agreement.</p> <p>Contact officer: Donna Ruck, Solicitor, donna.ruck@tewkesbury.gov.uk, 01684 272696</p>
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HR implications (including learning and organisational development)	<p>The proposed Transfer of Undertaking (Protection of Employment) Regulations 2006. (TUPE) would potentially impact 9 or 10 current employees (depending on the timings of a transfer). However Cheltenham Borough Homes status as an admitted body for the pension scheme, and having no plans for a major restructure post transfer the actual impact on the transferring employees would be minimal as they would retain all their terms and conditions including pension rights..</p> <p>Contact officer: Richard Hall, HR business partner, GO shared services. 01594 812634 richard.hall@fdean.gov.uk</p>
Key risks	See appendix 1
Corporate and community plan Implications	<p>The outcomes for tackling homelessness are contained within the Council's Housing and Homelessness Strategy adopted by Cabinet on 17 July 2012. The commissioning review is an action within CBC's Corporate Plan.</p>
Environmental and climate change implications	
ICT implications	
Property implications	

1. Background

- 1.1 Housing Options delivers the Council's statutory duties towards households who are homeless, threatened with homelessness or in housing need, as required under the Housing Act 1996. If a person is homeless or at risk of losing their home, Housing Options advise on what options exist to enable householders to stay in their own home. The team also advise on what other housing options may exist for householders. Their priority is preventing homelessness. The team also carry out the assessment of homelessness applications and are responsible for determining an individual's homelessness status within the terms of the law and using best practice guidance.
- 1.2 The Housing Options Team deliver a number of preventative services to its customers to help them avoid becoming homeless in the first instance. These services include guidance and support to increase financial capability which may help householders to remain in their current accommodation or secure private rented accommodation. The service also signposts applicants to other services/agencies where appropriate and provides advice and guidance on adaptations to existing accommodation, again, where this may assist an applicant remaining in their existing home.
- 1.3 The Housing Options Team also operate Gloucestershire Homeseeker which is the Gloucestershire's Choice Based Lettings system for letting social housing. It is a partnership formed between the 6 Gloucestershire district councils and many of the housing associations and social landlords, also known as registered providers.

2. Strategic Context

- 2.1 The strategic context for the review is clearly set out in the Housing and Homelessness Strategy 2012-17. The Localism Act 2011, and the social housing reform contained within it, brought about changes to the statutory homelessness duties and social tenure reform. The Welfare Reform Act

2012, legislated for the biggest change to the welfare system for over 60 years. Most significant are changes to the Local Housing Allowance (LHA) scheme which began in May 2011 leading up to the introduction of Universal Credit in 2013.

2.2 Prior to the significant changes brought about through legislation, Cabinet had already determined that it wished to consider how Housing Options services should be commissioned so that it could effectively meet the challenges of welfare reform and in recognition that it had already made significant savings in the housing area with the reduction of two senior housing management posts. Therefore the business case for transferring the service is about service resilience and more co-ordinated use of resources than any short term aim of delivering savings.

2.3 Although the Housing Options service is a statutory function, the council will face further budget pressures through the life of the MTFs. CBH is a top performing ALMO and has the capacity and resources to ensure that the employees within the Housing Options service have access to the necessary support and that they will be operating within a single focused organisation which may lead to efficiency savings in the longer term.

2.4 The rationale for considering transferring the service to CBH include:

- Alignment of Housing Options and CBH Neighbourhood Services may increase the potential to develop solutions of mutual benefit based where there is a shared understanding of the needs of both services and also the fact that both services are Cheltenham centric.
- Increasing tenant, leaseholder and resident relationships, by creating a more seamless service from provision of housing advice to the offer of a tenancy.
- Aligned priorities, e.g., both Housing Options and CBH are working separately to build financial capability of households following the implementation of welfare reforms.
- Existing tenancy management resources/expertise which may assist with the development of new initiatives, e.g., Social Lettings Agency for the private rented sector.
- Greater service resilience in terms of advice and assistance due to wider pool of internal expertise.
- Ability to use resources more effectively enabling CBC to use its strategic housing capacity to develop more effective working relationships with all registered providers and private sector landlords to assist in mitigating the impacts of welfare reform and its wider housing agenda.
- Development of a single focus for all housing related activity for delivery of CBC housing functions. Over time the council may look to passport other housing related services to CBH if there is an appropriate strategic fit.
- CBH have a track record of delivering services which add social value by improving the economic, environmental and social well being of an area.

3. Commissioning Housing Options – Service Outline

3.1 Vision

3.1.1 The Council's Housing & Homelessness Strategy 2012-17 states that our vision is, 'for residents to be able to access and maintain suitable, affordable accommodation within communities that are safer, stronger and healthier.'

3.1.2 The Housing Options service will play a key role in supporting this vision by focussing on a number of outcomes identified within the housing strategy.

3.2 Outcomes and aims

3.2.1 The primary outcome of the service is to prevent homelessness. There are also a number of secondary outcomes which will support our overall approach to tackling homelessness. These outcomes are as follows

Primary Outcome:

- To prevent homelessness

Secondary Outcomes:

- To reduce unmanageable debt
- To prevent future debt arising
- To maximise incomes
- To improve access into the private rented sector for low income households

3.2.2 Officers from CBC are liaising with CBH over the development of a draft specification which will form the basis of the contract. Set out at appendix 2 are functions which will transfer to CBH. As a commissioned service, Cheltenham Borough Council will seek to ensure that the Housing Options service maintains its own identity in order to preserve impartiality. We will also wish to ensure that it remains flexible and innovative in its approach to responding appropriately to new and emerging housing need (e.g. as a result of the Welfare Reform).

3.3 Priorities for service delivery

3.3.1 CBH have confirmed that they recognise that the current service is effective and therefore in transferring services it is important that the service continues to deliver high quality support to the most vulnerable in our community.

3.3.2 It is recognised that the provision of preventative services is more cost effective than tackling issues at the point of crisis. This approach will continue with the transfer of the service to CBH as it is beneficial both for individual residents and for communities at large. An area of particular importance is to continue to develop our ability to alleviate homelessness by accommodating households in the private rented sector.

3.3.3 Welfare Reform means that there is a greater risk for our most vulnerable residents to fall into debt and become homeless. It will be expected that a clear emphasis on improving the financial inclusion and capability of individuals, alongside advice provision about their benefit entitlement, will continue to be a critical component of the service's early intervention homelessness prevention work. CBH have invested resources in this area and there will be an opportunity to share best practice and ensure advice etc is targeted as appropriate.

3.3.4 The role of the Housing Options service is to ensure the range of homelessness duties are adhered to, in accordance with the homelessness legislation. In order to preserve impartiality, the roles within housing options will continue to remain clear and distinct from housing/estate/arrears management functions, with the final decision on questions of dispute between housing options and housing management functions resting with the Council.

3.3.5 All households will be given assistance, where required, and will be assessed for eligibility, prioritisation, and their circumstances verified in accordance with Gloucestershire Homeseeker Allocations Policy.

3.3.6 Partnership arrangements within the Housing Options service will remain in place whilst they remain of benefit to the operational delivery of this service

- 3.3.7 The Council will be able to retain adequate access to the operational team in order to ensure that operational/strategic links remain intact and that communication remains effective between this Service and the retained housing-related elements within the Council
- 3.3.8 The Service will continue to engage with its service-users and find new ways to engage better, with a view to bringing about continued service improvement.

4. Financial and HR issues

- 4.1 It is proposed that £346,000 of the current 13/14 homelessness budget will be used to pay the contract sum for CBH to deliver the housing options service. This balance will be pro rated based on the agreed date of transfer.

The key balances within the annual £346,000 budget to transfer are split as follows:-

	£'000
Salaries (including employers NI and pension contributions)	240
Operational costs e.g. storage and net B&B costs	37
Accommodation - rent, service, and admin costs	30
Costs relating to deposit/loan & the Sanctuary schemes	20
Other overheads	19
	346

- 4.2 Not all of the costs of the service fall on the general fund as the housing options service already charges a proportion of its time to the housing revenue account (HRA) and this process of charging time to the HRA will continue in the future.

In 2013/14, a recharge of £102,000 has been budgeted. The recharge is based upon the proportion of staff time dedicated to supporting CBC residents/allocations to CBC property versus time spent supporting non CBC residents/allocations to non CBC property.

The basis for the recharge will be reviewed annually to ensure that it truly reflects the operation of the service.

- 4.3 CBH has confirmed that it will deliver the service within the existing agreed budget. This is on the basis that until the welfare reforms are fully embedded it is hard to anticipate how savings will be delivered. However, CBH will review the service over time and identify opportunities to deliver savings for the MTFs where possible.

CBH will endeavour to deliver future growth in service on a cost neutral basis. Where extra costs are necessary, sign off will be sought from CBC prior to any commitment to expenditure.

- 4.4 It has been agreed that the budget will be reviewed annually. Any savings/overspends against budget during the year will be passed back via the recharge mechanism at the year end. Hence, CBH will remain in a cost neutral position. CBH will liaise regularly with CBC on year to date progress to ensure that CBC are fully aware of significant variances if and when they arise.
- 4.5 The council will continue to have a Housing and Communities Manager who will monitor performance of the contract and deliver the councils strategic responsibilities for housing and homelessness. They will manage and oversee the use of the Communities and Local Government's Homelessness Prevention Fund, along with the range of homelessness prevention services commissioned by different providers through the provision of this fund. This will enable

the council to use its funds more flexibly and undertake joint commissioning with other districts or the county council (through supporting people) as appropriate. This post will oversee the work of the housing enabling officer and will continue to have strong links to the planning team within the built environment division.

- 4.6** The 10 employees within the Housing Options team will transfer to CBH under TUPE arrangements. The council is experienced in undertaking such a process through previous arrangements such as Onelegal, Go shared services, and the more recent ICT shared services.
- 4.7** Upon TUPE of staff from CBC to CBH, a pension deficit liability will crystallise within CBC's pension fund. As this liability will initially crystallise as a lump sum liability, CBC will need to liaise with the Gloucestershire County Council Pension Fund and the actuaries to agree a repayment plan going forwards. It should be noted that there may be a potential to recharge some of the deficit contributions into the HRA. An appropriate basis for any recharge will need to be established.
- 4.8 Governance issues**
- 4.9** The council has a management agreement with CBH for the services it provides in relation to the management of the council's housing stock. It is proposed however that given that the majority of the Housing Options service is in relation to general fund statutory functions that the Council enters into a separate contract with CBH. The monitoring of this contract can be carried out through the existing management agreement and liaison meetings.

5. Implementation

- 5.1** If Cabinet approve the transfer of the service to CBH then the service specification and contract will need to be finalised. CBH also need time to ensure that the service is integrated effectively within their own management structures. Staff within the Housing Options Team will be fully involved in shaping the implementation timetable to ensure that there is a smooth handover to CBH. It is anticipated that implementation will take five months and therefore the new service can be operational from 1 December 2013.

6. Alternative options considered

- 6.1** The Cabinet report in December set out the alternative options for service delivery and at the time concluded that the only viable delivery options were in-house and delivery through CBH. The council could choose to keep its housing options functions in house but given that the council has identified savings in its MTFs by reducing the number of senior managers, the more services which are kept inhouse reduces the ability to make such savings. It would also not align with the vision of having CBH as our housing service provider of choice.

7. Consultation and feedback

- 7.1** A small officer project team, comprising the Housing and Communities Manager and members of the Housing Options team, plus other officers, conducted the work within phase one of the review. Subsequently a project team headed by the Executive Director, Grahame Lewis and including representatives from CBH was set up to finalise the business case for the transfer of the service to CBH. . Consultation has taken place with the Cabinet Member for Housing and Safety.
- 7.2** CBH have taken their own legal advice in relation to the proposals and there were no issues of concern which have been raised.
- 7.3** The Housing Options Team and CBH management have been informed of the review and will be consulted further during the implementation stage.

7.4 The strategy committee of CBH will be meeting on 5 June and any comments they have will be fed back to cabinet at its meeting on 18 June. A briefing paper has also been issued to all CBH board members.

8. Performance management –monitoring and review

8.1 The service will be monitored through the contract arrangements that we currently have in place for CBH. This includes regular liaison meetings both at officer and cabinet member level. The service will be kept under review to ensure that it is delivering the outcomes which the Council wish to be delivered and that it is innovative and flexible to adapt to changes which may arise due to legislation, welfare reform or demographics.

9. Equality impact assessment

9.1 CBH have a well defined equalities policy and processes in place and the housing options service will be delivered in accordance with these policies. There are no equality issues resulting from the transfer of employees.

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Appendices	1. Risk Assessment 2. Functions to be contracted to CBH
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the Housing Options service is not commissioned so that there is a requirement for innovation and creativity in service delivery then opportunities may be missed to increase the effectiveness of homelessness prevention services	Martin Stacy	30.04.13	3	4	12	Reduce	<p>The specification or service plan will require the provider to demonstrate the ability to innovative and implement creative solutions to improve and enhance the homelessness prevention service in consultation with the Council</p> <p>The Council will retain strategic elements of the homelessness service and determine spending priorities from the CLG homelessness prevention fund. This will be conducted in consultation with CBH.</p>	01.12.13	Housing and communities manager	Commissioning

2	If the Council and the Housing Options Service fail to maintain effective channels of communication, then strategic-operational links and understanding may be lost, to the detriment of maintaining quality service delivery and effective strategic direction.	Martin Stacy	30.4.13	3	4	12	Reduce	<p>The specification service plan will require the provider to permit the council access to the Housing Options Team so that strategic-operational linkages are not lost.</p> <p>Matters of relevance will also be considered during quarterly monitoring activities</p>	01.12.13	Housing and communities manager	Commissioning

3	<p>If the Housing Options services once commissioned is not able to respond quickly to changing Government priorities and emerging local needs then this may mean the service is not able to respond to households in housing need</p>	Martin Stacy	20.9.12	3	4	12	Reduce	<p>The specification or service plan will require the provider to demonstrate how they are able to accommodate flexibility within their service delivery arrangements</p> <p>The Council will continue to hold CLG homelessness prevention fund and will determine spending priorities in accordance with its wider strategic aims. These priorities will be determined in consultation with CBH.</p> <p>CBH have already demonstrated that they can be flexible to deliver against changing priorities</p>	01.12.13	Housing and communities manager	Commissioning
4	<p>If Housing Options is transferred to CBH, then any operational improvements may focus more on delivering improved services to tenants,</p>	Martin Stacy	30.4.13	3	4	12	Reduce	<p>The specification service plan will require the provider to consult with the Council on service delivery changes.</p>	01.12. 13	Housing and communities manager	Commissioning

	which could inadvertently be to the detriment of other service users and non-CBH (tenant) related homelessness prevention services							Strategic elements and spending priorities will be retained with the Council and determined in consultation with CBH.			
5	If Housing Options is transferred to CBH then some residents may be unwilling to seek advice because they could feel the service may not treat them on an equal basis because of their previous tenancy/household history	Martin Stacy	4.10.12	2	4	8	Reduce	A distinctive housing options branding of the service and a clear separation of neighbourhood (housing) management functions may help overcome this perception. However there are no legal implications for the service being delivered by CBH and indeed before the set up of CBH the service was successfully managed in it's entirety by the Council as a joint homelessness and housing management function,.	01.12.13	Housing and communities manager	Commissioning
6	If Housing Options is transferred to CBH then the Housing Options Service's ability to	Martin Stacy	30.4.13	1	6	6	Reduce	Information could still be obtained indirectly via Housing Benefit	01.12.13	Housing and communities manager	Commissioning

	access Housing Benefit data directly through data sharing arrangements will be lost as a result of data protection legislation.						staff, although this will be a slower mechanism. Data sharing protocol to be established			
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Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close