

# THE FUTURE OF HILLINGDON HOMES

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<b>Cabinet Portfolio</b>	Social Services, Health and Housing
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<b>Papers with report</b>	None

## HEADLINE INFORMATION

<b>Purpose of report</b>	To consider the future of Hillingdon's arms length management organisation (ALMO), Hillingdon Homes and to agree a recommendation that, subject to tenants' test of opinion, the council housing service will be bought back in-house.
<b>Contribution to our plans and strategies</b>	This proposal contributes to the council's principles to ensure the services provided to residents continue to improve. In addition, VFM and efficiency principles will be met.
<b>Financial Cost</b>	<p>The total cost of completing the test of opinion and bringing the council housing service back into the council may cost in the region of £300k, to be met from the Housing Revenue Account (HRA) balances.</p> <p>It is expected that there will be year on year savings made within the HRA that will significantly exceed the cost of this proposal in the event that the council housing service is bought back in-house.</p>
<b>Relevant Policy Overview Committee</b>	Social Services, Health and Housing
<b>Ward(s) affected</b>	All.

## RECOMMENDATION

That Cabinet agrees:

1. To instruct officers to carry out a tenant and leaseholder test of opinion on dissolving Hillingdon Homes and bringing the council housing services back in-house.
2. To instruct officers to report back to Cabinet for a final decision on the future of Hillingdon Homes as soon as possible once the test of opinion has been completed.

## **INFORMATION**

### **Reasons for recommendation**

The Council's Arms Length Management Company (ALMO), Hillingdon Homes, was set up in April 2003 following a positive outcome to a tenant and leaseholder test of opinion. This enabled the council and residents to receive around £60m towards the cost of achieving the decent homes standard. Hillingdon Homes has been successful in the delivery of that goal, two years ahead of the Government target. In addition services have continuously improved and tenant and leaseholder satisfaction have increased. However, now these targets have been achieved, the future of the ALMO needs to be reviewed along with how best to continue to improve the services provided to tenants and leaseholders. In doing so the following needs to be recognised:-

- Nationally improving performance of all social housing providers,
- Changes in flexibilities and freedoms promised by the government for ALMOs have not materialised,
- At the same time freedoms around borrowing and new build have been extended to local authorities,
- The scale of the impact of the economic recession on the national public finances and the requirement for reduced future public spending has become apparent in the national Budget published in April 2009. There is an economic recession and the council needs to plan carefully for severely restricted budgets in the foreseeable future.

In the light of the above it is considered to be in the council's and customers' best interests (subject to the consultation process with tenants and leaseholders) to take the service back into the council. This will enable savings to be made by eliminating the cost of governance of the ALMO and further improvements to services by closer alignment to the delivery of services and improvement programmes within the council.

To bring the council housing services back in-house there first needs to be a Cabinet decision to carry out a test of tenant and leaseholder opinion. The outcome of that will inform a final decision that then needs to be agreed formally by Cabinet.

### **Alternative options considered**

1. To continue with the provision of council housing services through Hillingdon Homes.

### **Comments of Policy Overview Committee(s)**

2. Policy Overview Committee has noted the report on the Forward Plan and may wish to comment on any future Cabinet reports on this matter.

### **Supporting Information**

3. By returning the landlord service to direct control the council will be pursuing its objective of increasing the speed of improvement to the landlord service.
4. While the ALMO vehicle has enabled the council to achieve the decent homes standard and improved satisfaction ratings from tenants and leaseholders, there is no over-riding strategic value in continuing to maintain this method of operation. It is also increasingly evident that the vehicle in itself has not been significant in the achievement of excellent standards of service.

There would also be significant financial benefits to tenants by returning to the council. See section in this report headed "Savings and Costs" below.

5. It is therefore proposed that, subject to a tenant and leaseholder test of opinion, the landlord services and staff are returned to the direct management of the council. Upon return, senior managers of the landlord service and the council's Adult Social Care, Health and Housing Department (ASCHH) will agree an improvement programme that will enable the council to achieve a service rated as excellent by residents.

#### Strategic value of the ALMO vehicle

6. When Hillingdon Homes was established by the council, the three major advantages perceived by local authorities in relation to ALMO development were (a) the decent homes funding, (b) more tenant and leaseholder involvement on the Board and (c) a set of additional freedoms and flexibilities the government wished to explore for councils with ALMOs. Now that the decent homes funding has been fully utilised, Hillingdon's council housing has met the national decent homes standard. The involvement of tenants and leaseholders on the Board of Hillingdon Homes has occurred, along with the involvement of council elected members and independent board members. Any future plans for the council housing services will look to build on the advantages of this involvement. The "freedoms and flexibilities" for ALMOs that were promised by Government have, however, failed to appear.

7. The review of council housing finance has now been published by the Government. One option allows local authorities to buy out of the national HRA subsidy system and finance the maintenance and management of housing stock via rent (and other income), re-investing according to local need. It is not expected that the review will lead to any new specific benefits regarding ALMOs.

8. Although originally there was potential to exploit the ALMO as a delivery vehicle of the council, the case for retaining the ALMO has now been weakened. Local authorities have been offered many of the freedoms that were previously offered only to ALMOs, for example, bidding for Homes and Communities Agency (HCA) social housing grant to develop housing. In addition, the government has now announced that local authorities are able to retain the rental income from homes they buy, build or bring back into use, to invest in new housing. This had previously been a major advantage of the ALMO.

9. In general terms it is also clear that the ALMO vehicle has not been a sufficiently useful model in furthering the wider objectives of councils. Where initiatives of this nature have been developed (e.g. the development of Hillingdon Homes Direct to procure private sector housing for the council) the government's financial regulations meant it was unable to compete on equal terms with Housing Associations and was therefore not financially sustainable.

10. In short, there is no longer a strategic imperative to continue with the ALMO as a vehicle for the delivery of landlord services. It would be simpler, more efficient and potentially far more effective for the landlord service to benefit from the council's Improvement Programme.

#### Performance

11. As a vehicle, evidence suggests that ALMOs can deliver high levels of performance. ALMOs are at the top of the national housing management performance league. Locally, Hillingdon Homes performs well when measured against the national Best Value indicators for housing management, particularly when benchmarked against London comparators. For the

year ending 2007/08, 86% (12 out of 14) of Hillingdon Homes' performance indicators were in the top quartile for London authorities with no indicators in the bottom quartile.

12. While Hillingdon Homes has delivered good performance and cannot be deemed to have failed under any definition, it is clear that the ALMO vehicle has not locally been an advantage in terms of overall performance. The inspection of the service prior to the ALMO being established resulted in the award of 2 stars with promising prospects for improvement. In 2006, the service achieved a repeat two star rating from the Audit Commission but with the additional rating of "excellent prospects for improvement". A three-star inspection result in 2006 would have provided clear evidence that the ALMO vehicle had contributed to the achievement of excellence.

13. Maintaining the ALMO as a stand alone vehicle involves a strong duplication of effort in a number of areas, most significantly, governance, strategic direction, performance management and communication functions.

14. In the absence of an ALMO, the council will have complete control over the in-house housing management service and will be able to introduce an improvement programme to meet the council's corporate standards and ultimately further develop services to residents.

15. Returning the landlord service to the council's direct management would allow Hillingdon to maximise the potential of the contact centre as well as greater integration with adult social care. It is likely this will deliver substantial benefits to the tenants and leaseholders of the council.

#### The process

16. The formal method for dissolving the ALMO requires the council to operate the break clause in the management agreement with Hillingdon Homes by serving notice of intention to do so by 31<sup>st</sup> October 2010 at the latest.

17. On 1<sup>st</sup> May 2008, Cabinet agreed to extend the management agreement with Hillingdon Homes for a second period of 5 years subject to agreeing a variation to the contract to insert a break clause. The clause allows the council to terminate the agreement after 3 years with notice being served no less than six months prior. The purpose of this clause was to enable the council to judge the performance of Hillingdon Homes on a more frequent basis and enable it if it so wished to bring the contract to an end. Alternatively it also enabled the council to respond to a changing housing landscape during the lifetime of the 5 year contract.

18. The agreement is due to expire on 30<sup>th</sup> April 2013 unless the break clause is activated. In order to use the break clause to end the agreement on 30<sup>th</sup> April 2011, it is required to provide Hillingdon Homes with no less than six calendar months notice in writing. The notice must therefore be served on or prior to 31<sup>st</sup> October 2010. It should be noted that if the council fails to give notice by 31<sup>st</sup> October 2010 the contract will continue until the agreed end date of 30<sup>th</sup> April 2013.

19. The most recent guidance to local authorities on ALMOs was contained in the government's *Review of Arms Length Management Organisations* published in June 2006. This stated the following:

- Returning the landlord service to direct "in-house" control is one of the options open to a local authority in considering the future of its ALMO

- The DCLG believes that, in order to avoid uncertainty to tenants, the existing ALMO arrangements should remain in place unless an alternative can be shown to have demonstrable benefits for tenants.
- Any option for the future structure of an ALMO (presumably including dissolution) would need to consider financial sustainability, the long term viability of the HRA and the strategic direction of the local authority.

20. Although not prescribed it is likely that local authorities wishing to dissolve their ALMO would need to prepare a business case to the government in terms of cost, service delivery and tenant support, demonstrating in the process that the change would not adversely affect tenants.

21. At present the Secretary of State is not required to consent to the transfer of landlord functions from the ALMO to the council.

### Tenant consultation

22. Under section 105 of the Housing Act 1985 local authorities are required to consult with their tenants on any significant change in management arrangements. The government guidance from June 2006 also confirmed government expectations of tenant consultation in the circumstance where a local authority is considering any major change regarding its ALMO.

23. The government expects any consultation on a significant change to the local authority's management arrangements with the ALMO to be as comprehensive as that undertaken before the setting up the ALMO. For Hillingdon, this would involve public meetings and an official "test of opinion". Tenants were also offered the opportunity to appoint a "tenants' friend", an independent advisor whose fees were paid by the council but whose remit was to assist the tenants to understand the options being presented to them.

24. The government also confirmed that a tenant ballot is not a legal requirement. Local authorities have a variety of consultation mechanisms open to them including questionnaire surveys, telephone surveys and votes at meetings. The guidance is that a combination of options, rather than one single option, may be the most comprehensive way of ascertaining residents' views.

### Savings and Costs

25. Financial considerations are also a driver in testing resident opinion for the return of the landlord service to the council. Significant savings are likely to arise which can be used to fund service improvements. Potential savings from the costs of governance of the ALMO are likely to be in excess of £300k per year

26. In the event of the tenant test of opinion confirming that the services should be bought back in-house officers will complete a full service review of the ALMO. Further savings would be expected to result that take advantage of rationalisation opportunities that would be available to a single entity, including reduction in duplicated control mechanisms and general economies of scale.

27. These potential savings will be offset by the one off costs of returning the service to the council, and any redundancies that may occur in the first year. Other costs will include legal advice, tenant consultation, staff consultation and costs associated with the TUPE transfer of staff.

28. The cost of legal advice is difficult to assess exactly at this stage. External costs are likely to be limited with most of the work being completed internally. The winding up of an ALMO has not occurred before and it is therefore difficult to estimate the cost.

29. Tenant and staff consultation costs are likely to be minimal. Tenant consultation may cost around £20k and it is expected that an external organisation would be appointed to complete this task as when the ALMO was set up. Staff consultation costs will be partially absorbed but will be lead by the project manager (see below).

30. TUPE costs are also likely to be minimal if, as envisaged, the terms and conditions for Hillingdon Homes' staff have not deviated significantly from those of the council. However, this would need to be investigated in more detail.

31. The cost of carrying out the work to bring Hillingdon Homes back into the council is likely to be similar to the costs incurred when Hillingdon Homes was established several years ago. The costs will be for a full time project manager employed for up to six months and the cost of the legal officer involved in the winding up of the company will be approximately £100k.

32. Finally, there could be accommodation costs. However, as Hillingdon Homes' staff are occupying accommodation at Ruislip there may not be any significant net costs and potential for savings is minimal (particularly as it is unlikely that space within the civic centre is available to accommodate returning staff). At this stage a neutral financial impact has been assumed.

33. The overall costs and savings will impact on the HRA and accordingly, the net costs, likely to be less than £300k in the first year will be met from HRA Balances. It is expected there will be efficiencies made within the HRA that will significantly exceed the cost of this proposal in the event that the Council housing services is brought back in-house.

## **Financial Implications**

34. The financial impact of bringing the ALMO back into direct Council control are set out in the 'Savings and Costs' section above. In summary, the council will incur one-off costs of disbanding the ALMO including legal and project management costs as well redundancy costs. These are expected to be offset by on-going savings and over a relatively short period of time should result in overall net savings. Immediate savings should arise from governance and obvious duplications in support service functions. Further savings are also expected to arise from a more in depth service review which will aim to take advantage of opportunities presented by taking the current ALMO operation into account in a holistic review of common services including the contact centre.

35. The initial on-off costs, offset by any immediate savings are expected to be under £300k. These can be met from HRA balances.

## **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

### **What will be the effect of the recommendation?**

35. The recommendation will result in a consultation exercise with tenants and leaseholders asking them if they would prefer to have council housing services delivered by Hillingdon Homes or for the service to be bought back in house.

36. If the result supports bringing the service back in house there will be associated reductions in costs and anticipated improvements in the service delivered to residents.

### **Consultation Carried Out or Required**

37. A formal test of opinion must be carried out for all council tenants. In addition, and to mirror the process completed when the ALMO was set up, we would also include leaseholders in this process.

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

38. The proposal to wind-up Hillingdon Homes Ltd as the provider body for housing management services and bring these services in-house, represents a significant financial decision for the Council. At this stage the decisions recommended are to consult on this proposal which will incur costs as set out in the report which will be met from the accumulated Housing Revenue Account reserves. The expected financial benefits, costs *and risks* are summarised in the report and cover a broad range of issues including governance, tenant involvement, access to external finance and issues of operational efficiency and effectiveness. Hillingdon will be leading the way in undertaking this process and consequently there is an opportunity to establish best practice that other authorities may wish to follow in the future.

### **Legal**

39. There will be a number of very significant legal issues involved in the disbanding of Hillingdon Homes and the transfer of the management of the housing stock back to the Council. Some of these issues have already been alluded to in the body of this report and they will be fully summarised in the further report which will be brought back to Cabinet if tenants are in favour of bringing the services which Hillingdon Homes manages back in-house.

40. With regard to this report, the Borough Solicitor is setting out as follows a more limited set of legal comments which primarily relate to the tenants' test of opinion. The starting point is section 105 of the Housing Act 1985. This provides that a landlord authority shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to be informed of the authority's proposals in respect of the matter and to make their views known to the authority within a specified period of time. The authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements. Clearly, any proposal to disband Hillingdon Homes will fall within the scope of this statutory provision.

41. Although there is no comparable legal requirement imposed on the Council to consult with its leaseholders, it would be good practice for it to do so as they will be similarly affected by the proposals to disband HH. Indeed, leaseholders were consulted by the Council prior to Hillingdon Homes being formed back in 2003.

42. A full ballot was not conducted before Hillingdon Homes was set up but the Council had satisfied the Government that there was tenant support for the ALMO option which was demonstrated through a bona fide consultation process. Holding a ballot is not a legal requirement and there are a variety of other consultation mechanisms available including questionnaire surveys, telephone surveys and votes at meetings.

43. Finally, when the Council embarks on its consultation exercise, it must have regard to the case of R v Brent London Borough Council, ex parte Gunning from which the following principles emerged:

The essence of consultation is:

[a] that it must be undertaken at a time when the proposals are at a formative stage.

[b] it must include sufficient reasons for the particular proposals to allow those consulted to give intelligent consideration and an intelligent response.

[c] it must give adequate time to allow those consulted to give intelligent consideration and an intelligent response.

[d] the product of consultation must be conscientiously taken into account when the ultimate decision is taken.

## **BACKGROUND PAPERS**

NIL