

## PRIVATE SECTOR LEASING SCHEME

<b>Head of Service:</b>	Rod Brown, Head of Housing & Community
<b>Report Author</b>	Arjan de Jong
<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision?</b>	<b>No</b>
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	Appendix 1 - Council's Rent Setting Framework

### Summary

This report seeks to extend the maximum number of Private Sector Leased properties for the provision of temporary accommodation for homeless households which the Council manages, to a maximum of 25 and to permit the renewal of current PSL leases when they end.

### Recommendation (s)

#### The Committee is asked to:

- (1) Agree to expand the PSL scheme for the provision of temporary accommodation from the current maximum number of 15 to 25.
- (2) Nominate and Authorise the Head of Housing and Community to enter into individual Private Sector Leases for residential property for use as temporary accommodation, in consultation with the Head of Property & Regeneration, for a period of not more than 5 years from the date when the lease is entered into.
- (3) Nominate and Authorise the Head of Housing and Community, in consultation with the Head of Property & Regeneration and Chief Finance Officer, to renew any lease entered into under the PSL scheme for a further period, of not more than 5 years from the date when the current lease period is due to end.

#### 1 Reason for Recommendation

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- 1.1 To mitigate the cost to the Council of providing temporary accommodation. The PSL scheme has had a positive impact on reducing nightly paid accommodation expenditure since it was set up in 2016.

## 2 Background

- 2.1 The Housing Act 1996 (as amended by Homelessness Act 2002 and the Homelessness Reduction Act 2017) places a duty on local housing authorities to secure accommodation for unintentionally homeless people in 'priority need'.
- 2.2 The PSL scheme was established, having been approved by the Strategy & Resources Committee in January 2016, in order to provide in-borough temporary accommodation and help reduce costs associated with placing households in expensive out of borough nightly paid accommodation (NPA).
- 2.3 Under the existing private sector leasing scheme, properties are leased from a private sector landlord, for typically three to five years. The property is then let and managed by the Council with the rent to the landlord guaranteed for the period of the lease. The Council uses the properties as temporary accommodation for homeless households and grants non-secure tenancies/licences.
- 2.4 The Council is responsible for managing the properties including minor repairs, rent collection, voids and tenancy management. Landlords are responsible under the terms of the lease for carrying out major repairs and gas safety.
- 2.5 Landlords receive a lower rental income than might be available at market levels as the Council removes the risks and costs of letting, such as agents' fees, management & voids costs and will be guaranteeing the rent. The operation costs associated with running the scheme are funded by the margin between the rents charged to the tenant and rents paid to the landlord and the costs avoided from nightly-paid emergency temporary accommodation.
- 2.6 The property size procured through the scheme are 2, 3 & 4-bedroom properties as this represents the highest nightly paid accommodation expenditure. PSL temporary accommodation procurement is a more cost-effective financial model than expensive nightly paid accommodation (NPA). On average each PSL represents cost avoidance of £15,000 per year, compared with placing the household in nightly paid accommodation. In addition, the PSL properties are in-borough and therefore less likely to cause upheaval for the household.
- 2.7 The importance of the scheme is therefore to reduce the costs associated with nightly-paid emergency accommodation and has the additional bonus of providing good quality local homes for the homeless families to whom we have a duty.

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- 2.8 The scheme will focus on families with children and is aimed at homeless households the Council has accepted a duty to, and are already occupying, nightly-paid temporary accommodation.
- 2.9 At the end of the lease period the property is either returned to the landlord in the same condition with vacant possession, or a further lease is agreed, and the contract re-negotiated.
- 2.10 In accordance with the recommendation approved at the September 2016 meeting, an update of the implementation of the PSL Scheme was reported back to this Committee in September 2019.

## 3 Proposal

- 3.1 Since the scheme's inception the number has steadily risen to the current figure of 11 properties. During this time the majority of properties have had their leases renewed for a further period at the end of the initial lease. There have also been several properties returned to the landlord, for a variety of reasons, and others have been added to the stock.
- 3.2 The properties have been managed by the temporary accommodation team, in addition to other temporary accommodation, including nightly paid accommodation. The maintenance has been overseen by the estates section, via existing contractors, and has been funded via a maintenance and dilapidations fund of £1500 per property over the term of the lease, which will continue.
- 3.3 When a property is identified as suitable for the PSL scheme the negotiations on lease terms with the landlord are conducted in accordance with the Council's Rent Setting Framework (appendix 1). This framework was agreed by Strategy and Resources Committee in April 2018 and sets out the criteria to be used by the Private Sector Lease Officer during negotiations.
- 3.4 Given the success of the scheme and the ongoing cost of housing people in temporary accommodation, it is proposed to authorise the expansion of the number of PSL properties up to a maximum of 25, with the focus on larger family sized properties.
- 3.5 The proposal limits the number at 25 as this is considered the maximum number of properties which the Council is able to maintain and manage within existing resources. If the scheme reaches 25, it is anticipated that officers would return to the Strategy & Resources Committee to further expand the scheme.

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- 3.6 The lead officer overseeing the suitability of acquiring new properties will be the Head of Housing & Community Services, in consultation with the Head of Property & Regeneration. New properties to be considered under the PSL Scheme shall be identified by the Private Sector Leasing Officer in discussion with the property owner and in consultation with the Housing Solutions Manager. This report seeks to nominate and authorise any decisions following those efforts to be made by the Head of Housing & Community Services, in consultation with the Head of Property & Regeneration.
- 3.7 To meet the requirements of the PSL scheme a rent setting framework was set up in April 2018 to enable the Private Sector Leasing Officer to enter into rental negotiations with landlords for their properties whilst being able to remain responsive to the demands of the scheme and rental market.
- 3.8 In addition, officers are seeking authority to renew existing leases under the PSL scheme for a further period, of not more than 5 years, when the current lease period has ended.
- 3.9 The Council has undertaken a media campaign to encourage landlords to join the PSL scheme and promoted the scheme at the recent Landlord's Forum. As a result, there has been increased interest in the scheme of which officers would like to take advantage.
- 3.10 The scheme complements our Rent Deposit Scheme, where landlords manage the property themselves. Landlords not interested in the PSL scheme will be directed to the Rent Deposit Scheme and vice versa.

## **4 Risk assessment**

### Legal or other duties

- 4.1 Equality Impact Assessment
  - 4.1.1 Minimising homelessness will have a positive impact on inequalities.
- 4.2 Crime & Disorder
  - 4.2.1 None for the purposes of this report.
- 4.3 Safeguarding
  - 4.3.1 Assisting homeless households to access safe and secure accommodation will have a positive impact on safeguarding.
- 4.4 Dependencies

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4.4.1 The temporary accommodation budget is closely monitored and reported monthly to the Chair and Vice Chair Community & Wellbeing and at half yearly intervals to the Community & Wellbeing Committee.

4.5 Other

4.5.1 None for the purposes of this report.

## 5 Financial Implications

5.1 On average each PSL generates a cost saving of c£15,000 per year, compared with placing the household in nightly paid accommodation. This saving represents the margin between rents charged to the tenant, rents paid to the landlord and the costs avoided by not having to use more expensive nightly-paid emergency temporary accommodation.

5.2 The temporary accommodation team will oversee the management of these properties within existing staff resources in addition to other properties within the temporary accommodation portfolio.

5.3 As the Council is only responsible for minor repairs, there should be negligible impact on the Council's VAT position.

5.4 **Section 151 Officer's comments:** Financial implications are set out in the body of the report.

## 6 Legal Implications

6.1 The Council's duties and powers in relation to homelessness are principally contained within the Housing Act 1996 (as amended), the Homelessness Act 2002 and the Homelessness Reduction Act 2017.

6.2 The Right to Buy (RTB) does not apply to families being accommodated in these properties. The RTB attaches to Secure Tenancies and the tenancies being offered in these circumstances are granted in pursuance of our functions under Part VII of the Housing Act 1996, and as such tenancies are specifically not "Secure Tenancies" in accordance with s79(2) of, and para 4 of Schedule 1 to, the Housing Act 1985 (and certain other properties).

6.3 The Council has an Asset Management Plan which, amongst other things, sets out the criteria to be applied when Council properties are to be acquired or disposed of.

6.4 The proposal set out in this report seeks to depart from the provisions of the plan. This is considered necessary in order to enable the Council to act quickly and efficiently in an active rental market across the borough.

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- 6.5 **Legal Officer's comments:** Under section 74 of the Local Government & Housing Act 1989, a local housing authority has a duty to keep a housing revenue account in respect of houses provided under Part II of the Housing Act 1985 (and certain other properties).
- 6.6 It is noted that the advice provided to this Committee in 2016 stated that "If any of the dwellings are regarded as being held for the purposes of Part II, then the duty to have a HRA applies". The report prepared by officers as set out above note that the PSL Scheme is said not to contain any Part II properties.
- 6.7 As noted within Schedule 1, paragraph 6 of the Housing Act 1985, provided that all properties, past, present and future, that fall within the Council's PSL Scheme meet the following criteria, it is not believed that the requirement to seek a direction prior to each purchase applies as they will not be properties "...held for the purposes of Part II". The PSL properties acquired under lease must be let as follows:
- A tenancy is not a secure tenancy if—
- (a) the dwelling-house has been leased to the landlord with vacant possession for use as temporary housing accommodation,
  - (b) the terms on which it has been leased include provision for the lessor to obtain vacant possession from the landlord on the expiry of a specified period or when required by the lessor,
  - (c) the lessor is not a body which is capable of granting secure tenancies, and
  - (d) the landlord has no interest in the dwelling-house other than under the lease in question or as a mortgagee.
- 6.8 As noted within both the 2016 report and this report, the accommodation has been or will be acquired by way of short-term lease, for the purpose of providing temporary accommodation for homeless persons where the Council has a duty to provide them with accommodation. This is clearly within the Council's powers.
- 6.9 It is also intended that any properties acquired for this purpose are brought into use as housing accommodation at the earliest opportunity, and this is in accordance with the Council's obligations.
- 6.10 As any properties acquired under this scheme will be directly managed by the Council, the Council will need to ensure it complies with its obligations in terms of the general management regulation and control of housing, under the Housing Act 1985 and any other relevant legislation.

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- 6.11 The Council has approved an Asset Management Plan, which sets out criteria for acquisition and disposal of property. This report proposes a departure from the provisions of that plan and the delegations which members have previously agreed. If this report is agreed, it is essential that the Asset Management Plan is amended to take into account the proposed approach.

## 7 Policies, Plans & Partnerships

7.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Managing resources – this proposal provides an alternative less expensive solution to temporary accommodation other than nightly paid temporary accommodation.

7.2 **Service Plans:** The matter is included within the current Service Delivery Plan.

7.3 **Climate & Environmental Impact of recommendations:** Please check that the Environment and Sustainability Officer has been consulted if relevant.

7.4 **Sustainability Policy & Community Safety Implications:**

7.5 **Partnerships:**

## 8 Background papers

8.1 The documents referred to in compiling this report are as follows:

### **Previous reports:**

- The establishment of a private sector leasing scheme for the provision of temporary accommodation for homeless households - Strategy & Resources Committee 27 January 2016
- Rent Setting Framework for Private Sector Leasing (PSL) Scheme Strategy and Resources Committee 17<sup>th</sup> April 2018.

### **Other papers:**

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