

<b>Cabinet</b>  22 February 2023	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Karen Swift, Director of Housing and Regeneration	<b>Classification:</b> Unrestricted
<b>Future of Housing Management Services – Strategic Review and Consultation</b>	

<b>Lead Member</b>	<b>Councillor Kabir Ahmed, Cabinet Member for Regeneration, Inclusive Development and Housebuilding</b>
<b>Originating Officer(s)</b>	Nicola Klinger, Programme Lead – Housing Management Strategic Review
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	Yes
<b>Forward Plan Notice Published</b>	03/11/22
<b>Reason for Key Decision</b>	Significant impact on communities living or working in two or more wards
<b>Strategic Plan Priority / Outcome</b>	Homes for the future Invest in public services A council that listens and works for everyone

### Executive Summary

The Council is proposing to bring housing management services back in-house, under the direct control of the Council.

The current Management Agreement between Tower Hamlets Homes (THH) and the Council ends on 31 March 2024. The Council must take a decision on whether to end or extend the management agreement no later than six months prior to this date.

Additionally, the Council's Strategic Plan 2022-26 sets out in **Priority 2: Homes for the future** commitment to consulting residents on the future of housing management services, including Tower Hamlets Homes. The consultation concluded on 18 December 2022, finding that residents were supportive of proposals to bring services back in-house.

Having reviewed the options for the future of housing management services, the Council has assessed that bringing services back in-house (and thereby ending the Management Agreement) will provide an opportunity to join up services, increase accountability to residents and the Regulator of Social Housing (RSH), and enable the Council to take a strategic approach to delivering good quality homes.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Consider the results of the consultation on the future of services for people living in council homes, as set out in 3.6.
2. Authorise the transfer of housing management services back in-house for the reasons set out in the report and authorise the relevant Corporate Directors following consultation with the Mayor to undertake the following:
  - i. Serving notice to terminate the Management Agreement with Tower Hamlets Homes.
  - ii. Approval of organisational structures including amending or adding structures to accommodate staff and services transferring into the Council.
  - iii. Staff consultation and administration of the transfer of staff under TUPE (Transfer of Undertakings Protection of Employment) regulations.
  - iv. Transfer of budgets and financial processes.
  - v. Resolution of contract novation and other legal issues.
  - vi. Establishment of new governance arrangements.
  - vii. Co-production of a tenants and leaseholders' engagement strategy.
  - viii. Such other actions as are reasonably incidental and necessary to allow for the Council's Housing Management function to be delivered "in house" such as the appointment of consultants and other resources to support the move back in house.

## **1 REASONS FOR THE DECISIONS**

- 1.1 The current Management Agreement between Tower Hamlets Homes (THH) and the Council ends on 31 March 2024 (with a possible extension of a further four years). The Council must take a decision on whether to extend the Management Agreement no later than six months prior to this date.
- 1.2 Having reviewed the options for the future of housing management services, the Council has assessed that bringing services back in-house will:
  - provide an opportunity to join up services.
  - increase accountability to residents and the Regulator for Social Housing (RSH).
  - enable the Council to take a strategic approach to delivering good quality and new homes.
- 1.3 Given that no more additional Decent Homes funding is available, the Council did not find a significant reason to justify sustaining an Arms-Length Management Organisation (ALMO) model.
- 1.4 Between 24 October and 18 December 2022, the Council consulted residents on the future of housing management services. A mixed

methods approach was used to collect views on if the Management Agreement with THH should be extended or if services should be brought back in-house under direct control of the Council. 86.21% of tenants and leaseholders agreed with the Council's proposals to bring services back in-house.

## **2 ALTERNATIVE OPTIONS**

- 2.1 The Council could choose to extend the Management Agreement with Tower Hamlets Homes for four years. In this option, there would not be a period of transition or cost associated with bringing services back in-house (at least for the four-year period). The Council would, however, need to be assured that it could provide best value under these arrangements, and that it is able to be directly accountable to residents and the Social Housing Regulator (notwithstanding services being at arms-length) as set out in the Building Safety Act 2022 and Social Housing Regulation Bill. Results from the consultation and strategic review do not demonstrate that this would be the best option to achieve this, or that tenants and leaseholders are of the opinion that this approach is preferred.
- 2.2 The Council could also have chosen to explore potential changes in ownership of its council homes or considered the creation of a new vehicle (for example undertaking a stock transfer or establishing a Registered Provider). It could also have considered entering into a Private Finance Initiative (PFI) contract. However, it was decided in the initial options appraisal (and prior to the consultation) that these were not viable options due to these being against the Council's Strategic Plan and Housing Strategy, including its new build programme.

## **3 DETAILS OF THE REPORT**

### **3.1 Background**

- 3.1.1 Following an assessment of its stock conditions, the Council took a decision in 2007 to set up an Arms-Length Management Organisation (ALMO) which enabled it to lever additional government funding to assist with the delivery of the Decent Homes Standard. In July 2008, Tower Hamlets Homes (THH) was established and delivered the Decent Homes programme of works. This was completed in 2017.
- 3.1.2 THH is wholly owned by the Council. It has its own executive board which manages the day-to-day activities of the company. THH manages c21,000 (11,516 social rented homes and 10,316 leasehold/freehold properties) on behalf of the Council.
- 3.1.3 The Management Agreement defines the relationship between the Council and THH. It sets out the obligations of each party, including the services to be provided by THH and the management fee that they will be paid by the Council for providing them.

- 3.1.4 The original Management Agreement ran for 10 years, expiring in 2018 at which point the agreement was extended until 2020.
- 3.1.5 Following a review by Altair in 2020 and consultation with residents (which found 30% of leaseholders and 54% of tenants were in favour of extending the Management Agreement), the Management Agreement was extended for an additional four years to 2024, with a possible extension of a further four years (to 2028).
- 3.1.6 In May 2022, the Council reviewed the options for providing housing management services to prepare for the current Management Agreement ending on 31 March 2024. The review concluded that the preferred approach would be to bring services back in-house.
- 3.1.7 This is consistent with a nationwide trend of bringing housing management services back in-house following completion of Decent Homes programmes, with 46 ALMOs brought back in-house since 2010.
- 3.1.8 16 of the 20 ALMOs set up in London have been brought back in-house. The four remaining ALMOs are Tower Hamlets Homes, Lewisham Homes, Barnet Homes and Sutton Housing Partnership. A decision was taken in December 2022 to bring Lewisham Homes back in-house by the end of December 2023.
- 3.1.9 Between 24 October and 18 December 2022, the Council ran a consultation on two options for the future of housing services – bringing services back in-house under the direct control of the Council or extending the Management Agreement.

## **3.2 National policy context**

- 3.2.1 In November 2020, the Government published “The Charter for Social Housing Residents” White Paper following on from the Grenfell tragedy in 2017. The reforms set out in the White Paper fundamentally seek to redress and balance the relationship between landlords and social housing tenants; to ensure transparency and accountability which in turn provides assurance that residents in social housing are safe, listened to, live in good quality homes, and have access to redress when things go wrong.
- 3.2.2 The Grenfell tragedy in 2017 has focused discussion around how to ensure buildings are safe and fit for purpose as well as how residents can influence landlords and shape how services are delivered and complain and seek redress when unhappy about issues. These discussions have culminated in the Building Safety Act (2022) and the Fire Safety Act (2021). The Council is the “accountable person” for building safety under the new post-Grenfell regulations. Both pieces of legislation will place extra duties on councils with regards to the homes that it owns.

## **3.3 The role of the Regulator of Social Housing**

- 3.3.1 At present, the Social Housing Regulation Bill is progressing through Parliament and should receive Royal Assent by July 2023. The Bill will

change the role of the Regulator by removing the 'serious detriment' test which currently limits the Regulator to a reactive role as opposed to a proactive role in ensuring consumer standards are met in social housing.

- 3.3.2 Once enacted, the Regulator will be empowered to proactively ensure social landlords are compliant with consumer standards (which are expected to be reviewed and added to) and will seek assurance of compliance through a new inspection regime. As the Council holds over 1,000 units of stock, it is expected that its housing management function will be assessed at least once every 4 years. While the nature of these inspections is unclear (a desktop review or Audit Commission style inspection), it is anticipated that these inspections will commence sometime in 2024.
- 3.3.3 The focus is on ensuring that homes are safe but also that local residents are engaged and involved in decision making and supporting wider neighbourhood development in their areas. The approach is designed to mark a sea change in current delivery methods.
- 3.3.4 In order to ensure oversight of the housing management functions of the Council and therefore assurance to our council tenants of our commitment to provide safe, good quality homes and keep their concerns at the forefront of the delivery of these services, it is prudent at this juncture to return the housing management function back in-house under direct control of the Council.

#### 3.4 **Financial context**

- 3.4.1 The Housing Revenue Account (HRA) is a ringfenced account which means that costs and income must remain within it and any surpluses or deficit cannot be transferred to the general fund. The HRA cannot subsidise or be subsidised by the general fund and must remain in balance.
- 3.4.2 Under the terms of the Management Agreement, THH is responsible for the provision of services to tenants and leaseholders. THH manage repairs and improvements to homes and provides services on estates, such as caretaking and gardening. The Council pays THH to provide these services in the form of a management fee.
- 3.4.3 The management fee paid to THH represents the largest and most significant expenditure item within the HRA, utilising approximately a third of the total income collected in the form of tenant and leaseholder rents and service charges. The proposed 2023 – 24 management fee is £35.5m.
- 3.4.4 In addition to the provision of services to tenants and leaseholders, the HRA funds repairs to homes, major works programmes and building of new homes. THH is responsible for the capital programme relating to the existing stock and manage this outside of the Management Agreement.

3.4.5 There is significant financial pressure on the HRA. High inflation and interest rates resulting from the war in Ukraine and cost of living crisis is placing significant pressure on revenue budgets and requirements to fund improvement works to the existing stock to ensure compliance with standards set out in the Building Safety and Fire Safety Acts. This, along with investment in a new homes programme to meet the local housing demand is placing significant pressure on the capital budgets and the overall delivery of a balanced HRA budget.

3.4.6 THH currently manages its own budgets. By bringing the services back in-house, the Council will gain greater control over how these budgets are spent. It is also expected that there will be budget savings in both the HRA and general fund resulting from in-sourcing THH, and these savings will need to be costed should a decision to in-source be taken.

### 3.5 **Contribution to strategic outcomes**

3.5.1 The Council's Strategic Plan 2022-26 sets out in **Priority 2: Homes for the future** a commitment to consult with residents on the future of housing management services, including Tower Hamlets Homes. This report sets out the result of the consultation and proposes that housing management services should be brought back in-house, in line with tenants and leaseholders' opinions.

3.5.2 **Strategic Plan Priority 5: Invest in public services** sets out the Council's aim to bring outsourced public services back into public hands and introduce an 'insourcing first' policy. This report proposes that housing management services should be brought back in-house under the direct control of the council.

3.5.3 Further, in keeping with **Priority 8 of the Strategic Plan: A council that listens and works for everyone**, the feedback from the consultation informs the recommendation to seek approval for this decision on the future of housing management services and will be used and feed into the work which will take place to shape and improve housing management services.

### 3.6 **Consultation methodology and results**

3.6.1 Between 24 October and 18 December 2022, the Council ran an 8-week consultation on the future of services for people living in council homes.

3.6.2 The consultation aimed to test the opinion of stakeholders (predominately council tenants, leaseholders and freeholders) on two options:

- To bring housing management services back in-house under the direct control of the Council
- To extend the Council's management agreement with THH

3.6.3 A mixed method approach was used which included collecting stakeholders' views and feedback via a survey, drop-in events, a dedicated email address,

information webinars and a focus group with THH’s Board. The consultation was extensive, exceeding previous consultations on establishing the ALMO or extending the Management Agreement.

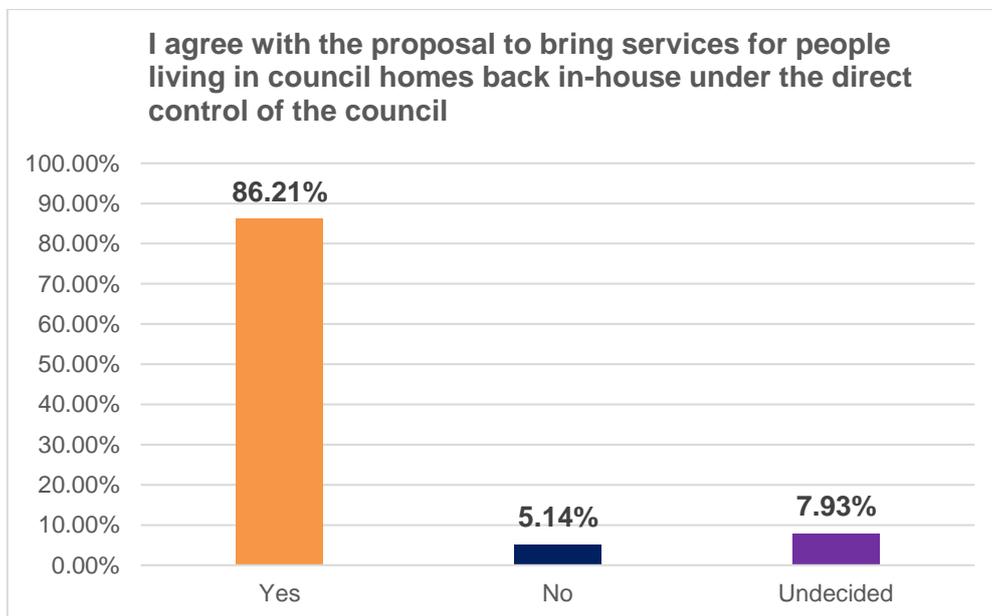
3.6.4 All tenants and leaseholders were posted an information pack, survey with unique reference code and calendar of events. Stakeholders were able to contact the consultation team via a dedicated email address and the survey and information – including in Easy Read and translated versions – were available online, at Idea Stores, at drop-ins and via mail (on request). The consultation was publicised across all Council and THH communications channels (including newsletters, social media and website). A reminder letter was sent to all residents and posters were placed on estates.

### 3.6.5 Survey responses

3.6.5.1 3,190 people participated in the survey<sup>1</sup>. This represents 12% of tenants and leaseholders.

3.6.5.2 86.21% of participants (2,750 participants) agreed that housing management services should be brought back in-house under direct control of the council, with 5.91% of participants (161 participants) disagreeing with this option and 7.93% undecided (253 participants).

**Figure 1 - Responses to “I agree with the proposal to bring services for people living in council homes back in-house under the direct control of the council”**



3.6.5.3 Though more tenants participated in the survey than leaseholders (64% of participants were tenants while 31% of participants were leaseholders), tenants and leaseholders’ opinions were similar, with 89.42% of tenants

<sup>1</sup> An additional 183 responses were received however these were discounted due to use of an invalid or duplicated unique reference code.

and 85.97% of leaseholders agreeing that services should be brought back in-house.

- 3.6.5.4 92% of residents found the information provided to them useful and easy to understand, while 96% understood that their rent, service charge and tenancy or lease agreement will not be affected due to the proposals.
- 3.6.5.5 There was representation across all protected characteristics in terms of survey participation and responses from all groups followed the general response trend when asked about the proposal to bring services back in-house. A full analysis of survey responses is set out in Appendix 1.
- 3.6.5.6 While the consultation is a “test of opinion” and not a ballot, the results demonstrate that residents overwhelmingly support the return of housing management services to the Council.
- 3.6.5.7 1,444 people completing the survey expressed an interest in being further involved in the future of housing management services. The Council will continue to engage with residents on proposals for the future of housing management services and consider and develop mechanisms by which residents have opportunities to shape and co-produce services.

3.6.6 Response rate

- 3.6.6.1 A 12% response rate is consistent with the average response rate for other local authorities who have recently consulted on bringing their ALMO back in-house (e.g., London Borough of Haringey and Manchester City Council).
- 3.6.6.2 The response rate meets research and statistical principles required to assure the Council that the survey results are reasonably valid and reliable, and that the sample of 3,190 participants are representative of all tenants and leaseholders.
- 3.6.6.3 This is calculated by determining the following:

**Table 1 – Population size, confidence interval and confidence level**

Population size	26,796	Total no. of tenants, leaseholders and freeholders able to complete the survey
Confidence interval	3	The margin of error used to establish the range of values that a result would fall within if the population was sampled again. The standard value for this is 3. In this case, a confidence interval of 3 would predict that 83-89% (86% plus or minus 3) of participants would support the proposals to bring services back in house if the survey was repeated.
Confidence level	95%	The probability that the set of values (as established by the confidence interval) is also

		true for the population. 95% is a standard rate for survey data.
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- 3.6.6.4 The sample size of survey participants required to ensure that confidence can be gained from any response to a question is 1,026 participants.
- 3.6.6.5 Therefore, it can be concluded the sample size of 3,190 was considerably higher than what is required according to research and statistical principles to be sure that if the survey was repeated the same results would be replicated, with between 83% and 89% of participants supporting proposals to bring services back in-house.
- 3.6.6.6 Further, the confidence interval for a sample of 3,190 (population size 26,750 and confidence level 95%) is 1, meaning that the Council can be reasonably sure that, should the same survey be conducted with tenants and leaseholders, between 85% and 87% would support the proposal to bring services back in-house under the direct control of the Council.

### 3.6.7 Qualitative responses

- 3.6.7.1 Over 150 people provided qualitative feedback (via drop-ins, information webinars, emails or written response by completing and returning a postal survey) during the consultation. The majority of respondents agreed with the proposal to bring services back in-house. Residents believe that the Council would provide a better service, clearer communication, and better value for money. Residents suggested improvements to resident engagement, response to complaints (quickly and satisfactorily resolving complaints and issues) and accountability. Improved services (especially relating to repairs and responding to issues) and resident engagement were high priorities for residents. A full analysis is detailed in Appendix 1.
- 3.6.7.2 Tenants and Residents Associations (TRAs) were involved in the consultation, providing feedback at drop-in sessions, information webinars and via written responses. A full summary of feedback from TRAs and their members is detailed in Appendix 1.
- 3.6.7.3 A focus group was run with the THH Board. A full summary is detailed in Appendix 1. The Board will continue to work closely with the Council to ensure residents receive the best services and are not negatively impacted by any transition period.

## 3.7 **Strategic Review**

- 3.7.1 The strategic review of the future of housing management services sought to establish the best option for providing housing management services within the current local, national, and financial contexts. This included completing a cost-benefit analysis (Appendix 2).

3.7.2 The review found that the best way to deliver housing management services would be to bring them back in-house under the direct control of the Council.

3.7.3 The key findings of the review were that:

- Direct management of services would enable the Council to be more accountable to residents and the Regulator of Social Housing by streamlining governance structures and by the Council directly engaging with its tenants and leaseholders.
- Direct and immediate savings would be generated by removing the costs of running a separate company and directly managing services. This saving will be reinvested into housing management services, improvement of homes and new homes.
- By bringing services back in-house, the Council will have increased control over budgets and expenditure relating to housing management functions. The Council will be better able to scrutinise and, where appropriate, reprioritise expenditure to ensure that savings are made where possible and investment is made where needed.
- There are opportunities to improve the customer journey and experience by joining up services (for example parking services and community safety services). This includes integrating services, co-locating services, cross-training frontline staff and developing joint initiatives. This will be supported by staff moving together to the Whitechapel Town Hall.
- There are opportunities to integrate services (particularly back office and support services) and contracts to remove areas of duplication to create efficiencies.
- An integrated housing management function within the Council would ensure that there is a core function dedicated to housing management (this being a key strength of the ALMO model that could be lost if services were dispersed across the Council).
- Housing services (including housing management, housing supply and homelessness) could be enabled to work together strategically and target areas for improvement.

### **3.8 Implementation**

3.8.1 Implementation of a decision to bring housing management services back in-house will require work to be completed in the following areas:

- Develop and agree proposals on organisational structures for insourcing of services, including potential service integration or restructure projects to commence following a transfer.
- Formally serving notice to terminate the Management Agreement with Tower Hamlets Homes.

- Staff and Trade Union consultation and the transfer of staff under TUPE regulations.
- Review of THH contracts and contract novation or termination where required.
- Transferring budgets, financial processes and Service Level Agreements (SLAs).
- Establishment of governance and resident engagement arrangements
- Winding up of the company (this can occur any period after the transition and must follow of the process set out in the Companies Act, 2006)
- Programme of integration/shared services projects (post-transfer)
- Communication and engagement with staff and residents to continue until the transition has been fully implemented.

### 3.8.2 Joint Steering Group

3.8.2.1 A Housing Management Joint Steering Group has been established which oversees the programme and where appropriate makes recommendations to stakeholders. Key officers from both THH and LBTH attend the group with key services represented. The programme lead and programme workstreams groups report into the Joint Steering Group and it is the intention that this group continues to steer the programme with input from key stakeholders including Members, THH Board Members, residents and the Corporate Leadership Team.

### 3.8.3 Tenants and Leaseholders Housing Forum

3.8.3.1 To inform proposals, design of a new operating model and services and to advise on resident engagement and accountability, the Council have set up a Tenants and Leaseholders Housing Forum (TLHF). Officers will work with the TLHF to co-produce engagement strategies, service designs and plans to develop areas important to residents.

### 3.8.4 Risk Management

3.8.4.1 A full risk register has been developed which is monitored by the programme lead and Joint Steering Group. The key risks during the transition period are a disruption in service delivery and loss of staff and expertise. Mitigations include careful planning of the transition period and analysis of potential impacts on services, ensuring frequent communications and clarity for staff and residents, and an early decision on future organisational structures to ensure planning is effective and any period of uncertainty for staff is minimal. THH and LBTH officers, Members and THH Board Members are committed to fully supporting staff and residents throughout the transition period and following stages.

## **3.9 Resident engagement**

3.9.1 Developing mechanisms to ensure that there are high levels of engagement between residents and the Council is a key focus in designing an in-houses service, including ensuring that residents can scrutinise services and hold

the Council accountable.

### 3.9.2 Work is being undertaken to:

- Understand how current arrangements between THH and residents can be retained and transferred to the Council.
- Use residents' suggestions and feedback during the consultation and engagement events to strengthen engagement between residents and the Council.
- Provide different ways for residents to engage with the Council at different levels (from receiving a newsletter to participating in governance structures and creating an umbrella organisation for tenant and resident associations).
- Consider examples and case studies from other local authorities and social landlords.
- Develop new mechanisms through which residents and other stakeholders (e.g., Members and independents) can continue to scrutinise and steer services in an in-house model.
- Work directly with tenants and leaseholders through the Tenants and Leaseholders Housing Forum, Residents Panel and TRAs to co-produce a new engagement strategy.

## **4 EQUALITIES IMPLICATIONS**

- 4.1 At this point, a total of three Equality Impact Checklists have been completed before bringing this report to Cabinet. The first was undertaken prior to the consultation commencing and a full Equalities Impact Analysis was completed to ensure that all protected characteristics had an opportunity to respond to the consultation and that the Council mitigated as much as possible any obstacles which may have prevented residents from responding. Two further Equality Impact Checklists have been completed in recognition of the initial impacts of the proposed decision to bring housing management services back in-house – the first for residents and the second for THH staff who will inevitably have concerns regarding the security of their employment. It was assessed that there would be no disbenefit to any group of residents or staff members.
- 4.2 If approval of the recommendations within this report is granted, full Equality Impact Assessments will be undertaken and completed prior to any decisions being made by Cabinet on what the new structure of the integrated housing management service looks like.

## **5 OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,

- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

5.2 No other statutory implications have been identified.

## **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report is seeking approval to transfer the housing management services back in-house and terminate the management agreement with THH following a consultation exercise with stakeholders (primarily tenants and leaseholders). One-off base budget growth totalling £261k has been approved, £72k in 2022/23 and the remaining £189k for 2023/24 in order to facilitate the project.
- 6.2 There will be savings from in-sourcing THH. These are likely to be in both the general fund and HRA as a result of service synergies that will arise after the services are brought in-house. At present is not possible to identify the amount of savings and this work will commence should a decision to in-source be approved.
- 6.3 It is not anticipated that growth would be required when the services are brought back in-house and the costs of providing the services directly will be contained within the management fee currently paid to THH. THH staff are already members of the Council's pension scheme and as a result all overheads are already met by the HRA through the existing management fee.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 The Council has the legal power to undertake the actions detailed in this report.
- 7.2 Housing Law and the law relating to Best Value required the Council to consult with the relevant stakeholders whilst the decision-making process was at a formative stage. The Council was to then properly consider the results of the consultation prior to making any decision as to the future delivery of the Housing Management Function. This has been completed and the report and decision comply with the relevant law on consultation allowing this decision to be taken.
- 7.3 As regards Best Value the Council has a wide discretion to choose a mode of delivery of its functions which is compliant with the Best Value duty. The details of the future delivery of this legal function given in this report also comply with this legal duty
- 7.4 It is likely that the Transfer Of Undertakings (Protection of Employment) Regulations 2006 will apply to many of the roles within Tower Hamlets

Homes. Therefore, lawful and appropriate consultation in accordance with the regulations will be completed prior to the transfer of the housing management function back to the Council

- 7.5 Many of the contracts (particularly relating to building repair and maintenance) were concluded in the Council's name albeit that the delivery of those contracts was managed by Tower Hamlets Homes Limited. Therefore, these contracts will not need to be changed legally as the Council is already a party to them. However, where the contracting party was Tower Hamlets Homes Limited rather than the Council these contracts will need to be legally transferred to the Council after Tower Hamlets Homes has been dissolved.
- 7.6 The Council will need to undertake the necessary legal formalities in accordance with Companies Law to formally dissolve the company on the assumption that there will be no further requirement for it following the transfer of the duties relating to the housing Management function.
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None

### **Appendices**

- None.

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

None

### **Officer contact details for documents:**

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