

<p>Cabinet</p> <p>6th December 2016</p>	
<p>Report of: Graham White, Acting Director of Law Probity & Governance & Aman Dalvi, Director of Development & Renewal</p>	<p>Classification: [Unrestricted]</p>
<p>Homelessness Scrutiny Challenge Session Action Plan</p>	

Lead Member	Cllr Sirajul Islam
Originating Officer(s)	Muhibul Hoque, SPP Officer (LPG) & Mark Baigent, Acting Service Head Strategy & Regeneration (D&R)
Wards affected	All Wards
Key Decision?	No
Community Plan Theme	A Great Place to Live

Executive Summary

This report submits the report and action plan in response to the recommendations of the Scrutiny Challenge Session on Homelessness.

Recommendations:

The Mayor in Cabinet is recommended to:

Note the report of the Scrutiny Challenge Session on homelessness as set out in Appendix 1.

Approve the action plan which sets out the Council's response to the recommendations of the Scrutiny Challenge Session in Appendix 2.

1. REASONS FOR THE DECISIONS

1.1 This report outlines the findings and recommendations from the scrutiny challenge session on homelessness (Appendix 1) which was part of the OSC work programme for 2015/16 municipal year. The report was approved at OSC on 7th June. The Council's responses to these recommendations are outlined in the action plan in Appendix 2 and both documents are now due for consideration by Cabinet.

2. ALTERNATIVE OPTIONS

2.1 Cabinet may decline not to agree the action plan. This is not recommended as the report outlines work undertaken by Councillors and officers to identify

areas of improvement and the Council's response which identifies actions it will take to implement these recommendations.

3. DETAILS OF REPORT

3.1 As part of its work programme for 2015/16 the Overview & Scrutiny Committee agreed that it would hold a challenge session on homelessness which was led by Councillor Helal Uddin (Scrutiny Lead Development & Renewal).

3.2 The scrutiny challenge session took the format of an evening meeting which was held at the Town Hall. The session was attended by:

Cllr Helal Uddin	Chair, Scrutiny Lead for Development & Renewal
Dr Phillip Rice	O&S Co-opted member, Church of England Diocese
Cllr Marc Francis	Councillor, Bow East Ward
Cllr Khales Uddin	Councillor, Bromley North Ward
Cllr Sirajul Islam	Cabinet Member for Housing & Deputy Mayor
Janet Slater	Service Manager Housing Options
Lorraine Douglas	Service Manager Housing Options & Procurement
Martin Ling	Strategic Housing Manager
Kath Dane	Street Population Co-ordinator
Muhibul Hoque	Strategy Policy & Performance Officer
Gary Messenger	Head of Strategy & Partnerships, Homeless Link
Susmita Sen	Chief Executive, Tower Hamlets Homes
Keith Greer	Regional Manager, Homelessness Unit, Salvation Army
Lisa Iglesias	Head of Strategy & Service Development, Praxis

3.3 The challenge session and one to one interviews with service managers in the Housing Options Service (the Service) considered four core issues:

- a) The use of bed & breakfast accommodation (B&B) by the Council for families with dependent children and pregnant women over the six week statutory period;
- b) The long term viability of moving away from B&B placements;
- c) The impact of the Council's prevention work as well as the action plan related to the homelessness statement (including the achievements of this action plan, the monitoring arrangements and the lessons learned); and
- d) How the customer satisfaction of homeless applicants could be improved further, regardless of whether the Service owes a statutory duty.

3.4 This report considers the evidence gathered in the scrutiny challenge session on homelessness and in-depth interviews with Council officers in the Service. The report reviews the specific policy documents which govern the Service's aims and objectives in this area. It considers why the borough has been in the

top ten authorities for the use of temporary accommodation over the course of the year, as well as scrutinising how it plans to meet the demand for accommodation. It also examines the Council's use of Bed & Breakfast placements over the statutory six week limitation period for families with dependents/pregnant women.

3.5 The report makes a series of recommendations which:

- strengthen the protection given to homeless households;
- considers the wider publicity of the Council's homelessness policies;
- plan for the demand and supply of accommodation more effectively;
- improve transparency and accountability;
- further enhance the customer experience of homeless applicants;
- clarify the Service's approach to how it will deliver its objectives;
- work with partners to tackle the issues raised.

3.6 A comprehensive action plan has been developed responding to the seventeen recommendations set out in the scrutiny challenge session report in Appendix 1, this includes 25 actions the Service will take to meet the recommendations (attached in Appendix 2).

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 Following a Homelessness Scrutiny Challenge session that took place on 7th June 2016, this report asks the Mayor in Cabinet to approve the proposed Action Plan that has been prepared in order to meet the Committee's recommendations.

4.2 As outlined in the Overview and Scrutiny report, as a result of the combination of the increasing numbers of applications to the homelessness section, the scarcity of available temporary accommodation and the high levels of rent charged to the council, significant service pressures are being faced. Due to the difficulties in procuring suitable accommodation within the borough, it is necessary to place families in temporary bed and breakfast accommodation as well as the increasing need for properties to be provided outside Tower Hamlets.

4.3 The gross budget of the Homeless Service for 2016-17 is £35.4 million, with the major cost element being the £27.4 million budget for the rent payable to landlords for the supply of temporary accommodation. The main source of income derives from the rents and charges that are levied to customers.

4.4 The majority of the rental income is however met through benefits payments, so the financial implications within the service budget cannot be looked at in isolation. Although the council has a statutory duty to pay benefits, the level of subsidy that is recouped from the DWP is capped. The high rent levels charged by suppliers of temporary accommodation are leading to budgetary pressures within the Housing Benefits budget due to this variance between the statutory benefits paid out and the Government subsidy received.

- 4.5 The council is likely to face additional service and budgetary demands if the Homelessness Prevention bill, which is presently being considered by Parliament, is adopted as legislation. Although specific detail is not currently available, the bill proposes that local authorities will be statutorily responsible for new duties to prevent homelessness, and although any financial impact is not quantifiable at this stage, it could create significant additional pressures on the council's Medium Term Financial Strategy.
- 4.6 The Homelessness Strategy is incorporated within the various Housing Strategy documents that were considered by the Mayor in Cabinet in November before being referred to full Council for adoption. The actions proposed in this report will contribute towards improvements in service delivery and whilst at this stage there are no specific financial consequences arising directly from the recommendations, ultimately the Housing Strategy and its constituent elements will underpin key decisions in relation to service provision and must be considered within the context of the council's funding gap and the Medium Term Financial Strategy.

5. LEGAL COMMENTS

- 5.1 The Council is required by section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements that ensure the committee has specified powers. Consistent with this obligation, Article 6 of the Council's Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive in connection with the discharge of any functions. It is consistent with the Constitution and the statutory framework that the Scrutiny Challenge Session Report and recommendations in it be submitted to Cabinet for consideration.
- 5.2 This report provides details of an Overview and Scrutiny challenge session and subsequent report titled "Homelessness Scrutiny Challenge Session Report" which makes 17 recommendations. This Report is at Appendix 1.

- 5.3 In response to the recommendations, an action plan has been prepared and which is at Appendix 2. In all but 3 of the recommendations (3, 9 and 12), actions have been proposed. There are a total of 25 actions and all appear to be capable of being carried out within the Council's powers.
- 5.4 Generally regarding homelessness, the Council has a duty under Part VII of the Housing Act 1996 ('the 1996 Act') to secure that accommodation is available for eligible applicants who are homeless, in priority need and not intentionally homeless. When the local authority receives a homeless application, it has a duty to assess the applicant's circumstances to decide what help, if any, they are entitled to and make enquiries. On completion of its enquiries, if the local authority decides to accept a full housing duty it must continue to accommodate the applicant in suitable temporary accommodation until such time when that duty comes to an end.
- 5.5 Recommendation 6 at page 19 of the Homelessness Scrutiny Challenge Session Report states that the Mayor should not authorise officers to discharge the main homelessness duty through a PRS offer.
- 5.6 The Council may discharge its housing duty by making
- i) an offer of suitable accommodation under S193 of the Housing Act 1996;
 - ii) an offer of suitable accommodation by way of allocation through Part VI Housing Act 1996; or
 - iii) an offer of an assured shorthold tenancy with a private landlord (a private sector offer)
- 5.7 The adoption of a policy not to permit the use of private sector offers will amount to a fettering of the council's discretion. The council must deal with applications on a case by case basis and the adoption of a blanket policy could potentially be subject to a judicial review.
- 5.8 When discharging the duty, the Homelessness (Suitability of Accommodation) Order 1996 specifies that the accommodation must be suitable, which includes taking into account whether or not the accommodation is affordable.
- 5.9 Section 208(1) of the 1996 Act requires the council to provide accommodation in its own area 'so far as reasonably practicable.' The clear intention is that councils should not simply decant homeless persons into areas for which other authorities are responsible. In areas of acute affordable housing shortage a local authority may decide that it is not reasonably practicable to accommodate people in its own area. The Council can use its own housing stock to secure temporary accommodation under Part 7 in performance of its homeless duties. Such offers of accommodation will not create a secure or introductory tenancy (Housing Act 1985, Sch1, para 4).
- 5.10 Councils must also take into account specific consideration of the matters set out in the Homelessness (Suitability of Accommodation) (England) Order 2012 ('the **2012 Order**') and in particular, paragraph 2 of the 2012 Order which requires consideration of:

- the distance of the accommodation from the district of the authority;
 - the significance of any disruption caused by the location of the accommodation to the caring responsibilities or education of household members; and
 - the proximity and accessibility of support which are currently used and which are essential to the well-being of the applicant or household members.
- 5.11 The Supplementary Guidance on the homelessness changes (Localism Act 2011 and Suitability Order 2012) further advises to secure accommodation as close as possible to the applicants previous address so established links are retained with schools, doctors, social workers etc
- 5.12 Following the Supreme Court's decision in the case of *Nzolameso* local authorities are expected to address more specifically, in evidential terms, why it cannot offer accommodation within the Borough and the steps it has taken to secure accommodation closer to the Borough. It is crucial that suitability decisions be more specific, both in evidential terms and the reasoning behind it, to demonstrate compliance with the statutory duty to secure accommodation within Borough insofar as reasonably practicable. If not practicable the local authority should seek to place applicants as close as possible to where they were previously living. There may well be good reason (i.e. other households with more urgent medical or social needs) why it has not been reasonably practicable to offer accommodation within Borough. The Judgement advised that, ideally, local authorities should have, and keep up to date, a policy for procuring sufficient units of temporary accommodation to meet the anticipated demand during the coming year.
- 5.13 Whilst the Council had in place written procedures, as a result of this Judgement and given the number of out of borough placements, as well as the expectation that benefit-capped households were likely to be moved further away in order to access (relatively) affordable accommodation, these procedures were incorporated into a Policy to meet this new best practice indication.
- 5.14 The *Homelessness (Suitability of Accommodation Order) England* Order 2003 states that B&B accommodation is not to be regarded as suitable for an applicant with family commitments i.e applicants who are pregnant or whom a pregnant woman or dependent children reside or might reasonably be expected to live with either. Where only B&B accommodation is available for occupation by an applicant with family commitments the applicant should not occupy the B&B accommodation for a period, which exceeds 6 weeks. Where B&B accommodation has been used in an emergency situation, applicants should be moved to more suitable accommodation as soon as possible. There is a risk of challenge by way of judicial review claim in the High Court if the 6 week period is exceeded.
- 5.15 The Homelessness Reduction Bill, which was presented to Parliament in June 2016 had its second reading on 28 October 2016 and is likely to increase the

Council's obligations. The objective of the Bill is to enable and encourage local authorities to intervene at an earlier stage to prevent homelessness; and to improve the provision of support to anyone who is eligible and homeless, regardless of priority need or intentional homelessness.

- 5.16 When considering its approach to homelessness, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010; the need to advance equality of opportunity; and the need to foster good relations between persons who share a protected characteristic and those who do not.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The recommendations and actions outlined in the report (Appendix 1) and action plan (Appendix 2) explore ways the council could use existing resources better e.g. through better informed planning and strategy development, considering how it can reduce expensive costs in relation to temporary accommodation and improve outcomes for the community especially those that are homeless. These all contribute towards the delivery of the One Tower Hamlets priorities and objectives.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Several of the recommendations and actions aim to achieve better value for the Council within the resources available. Examples include, investigating the potential to develop long term temporary accommodation options which would reduce the current high expenditure related to the Nightly Paid Market for temporary accommodation.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no direct greener environment implications arising from the report or recommendations.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There are no direct risk management implications arising from the report or recommendations.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no direct crime and disorder reduction implications arising from the report or recommendations.

11. SAFEGUARDING IMPLICATIONS

- 11.1 There are no direct safeguarding implications arising from the recommendations and actions.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- 1 – Homelessness Scrutiny Challenge Session Report
- 2 – Homelessness Scrutiny Action Plan

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

- List any background documents not already in the public domain including officer contact information.
- None

Officer contact details for documents:

- N/A