

Cabinet 6 th December 2016	 TOWER HAMLETS
Report of: Aman Dalvi: Corporate Director Development & Renewal	Classification: Unrestricted
LBTH/THH Management Agreement Extension	

Lead Member	Cllr Sirajul Islam
Originating Officer(s)	Mark Baigent: Interim Head of Strategy, Regeneration, Sustainability and Housing Options
Author/s	John Kiwanuka: Housing Client Manager
Wards affected	All
Key Decision?	Yes
Community Plan Theme	Great Place to Live

Executive Summary

Following consent from the Secretary of State for Communities and Local Government (DCLG), under Section 27 of the Housing Act 1985, the Council delegated housing management functions to Tower Hamlets Homes (THH) an Arm's Length Management Organisation (ALMO). The ALMO is a "Company Limited by Guarantee" and wholly owned by the Council. ALMOs were one of four ways of securing the additional funds needed to bring the condition of the housing stock up to a modern standard and to deal with any backlog repairs.

The council delegated housing services to THH for a management fee under the original Management Agreement (MA) for ten years from 7th July 2008, with a break clause after five years. As a result, THH has been responsible for most of the landlord functions previously undertaken by the Council's Housing Department. This includes income collection, tenancy management, estate services, day to day repairs, major works, planned maintenance, leaseholder services, resident participation, customer services, service development and training.

Since its commencement, THH has achieved the two star threshold of performance required to access Government funding. The Council subsequently bid for and secured £108 million grant from the Department for Communities and Local Government (DCLG) needed to bring the condition of the stock up to a modern standard. In addition, service charge debt and the management fee have been reducing year-on-year whilst resident satisfaction has steadily increased. However, the MA between the Council and THH will expire on 7th July 2018 unless it is extended. Therefore, the council is minded to extend its MA with THH. This report seeks Cabinet approval to extend the Council's MA with THH for **two** years to 7th July 2020.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Extend the Council's Management Agreement with Tower Hamlets Homes (THH) for two years to 7th July 2020.

1. REASONS FOR THE DECISIONS

- 1.1 Since 7th July 2008, Tower Hamlets Homes (THH), a 100% council owned organisation has provided the council's housing services under a Management Agreement. The council's Management Agreement with the THH is due to expire on 7th July 2018.

2. ALTERNATIVE OPTIONS

- 2.1 The council can bring THH back in house which some local authorities have done; or tender the service THH currently provides. However, this would require an extensive options appraisal of housing management alternatives; it would also need to mitigate the potential for a decline in performance as staff morale suffers in the transitional period. It would also deplete in-house management capacity at a time when senior management resources in THH are already fully engaged with the THH Transitional Change Programme (see section (6) which the Council fully supports.
- 2.2 The decision of whether to extend the management agreement or to take an alternative approach is highly dependent on the local context. The decision is driven by the wider housing strategy of the borough, the nature of the local housing market and the need for councils to deliver services more efficiently. THH is a key Council partner in mitigating some of the risks to the HRA over the next few years particularly, in relation to the revised rent legislation within the Welfare Reform and Work Act, and policies included in the Housing and Planning Act.

3. DETAILS OF REPORT

- 3.1 Council housing across the country faces massive changes. The major reductions have had an impact. The statutory framework which underpins public housing has also been subject to major change affecting Government's funding and local authority operations. Previous government policy required Local Authorities to undertake a stock options appraisal to develop a strategy by which all their stock could meet the Decent Homes Standard.
- 3.2 As a result, the Council established Tower Hamlets Homes (THH) an Arm's Length Management Organisation (ALMO) following consent from the

Secretary of State for Communities and Local Government (DCLG), under Section 27 of the Housing Act 1985. The Council delegated housing management functions to THH. Although almost half of the Council's historic housing stock has been transferred to housing associations, the Council still owns some 21,488 properties (including around 9,277 leasehold), leaving it with one of the larger housing stocks in London.

- 3.3 Since 7th July 2008, Tower Hamlets Homes (THH), a 100% council owned organisation has provided the council's housing services under a Management Agreement. The council's Management Agreement with the THH is due to expire on 7th July 2018.
- 3.4 The Management Agreement defines the relationship between the Council and THH which sets out the obligations of each party. The key features are as follows:
- the functions to be delegated to and carried out by the ALMO;
 - the standards to which they are to be carried out;
 - arrangements for reporting on and monitoring performance;
 - requirements for involvement of residents in decision making;
 - staff to be transferred under the provisions of the TUPE Regulations;
 - the financial relationship and obligations of each party;
 - arrangements for liaison and consultation between the authority and the ALMO;
 - the ALMO's role in helping to deliver the authority's housing strategy, including taking an active role in the Local Strategic Partnership LSP and Local Area Partnerships LAP's ensuring that the authority, as ALMO shareholder, can achieve its objectives;
 - the length of the agreement which was initially proposed for 10 years, renewable, with;
 - provision for a detailed review after 5 years looking at performance, resident satisfaction, decent homes progress and compliance with all aspects of the management agreement and delivery plan;
 - actions to be taken where there is non-compliance or failure; and
 - arrangements for variation and termination which the Council can do at any time subject to liaison with DCLG.
- 3.5 Under s105 of the Housing Act 1985 local authorities are required to consult with their tenants on any significant change in management arrangements. The DCLG considers a number of scenarios under which tenants should always be consulted and these include:
- transferring management of some or all of the ALMO managed stock;
 - winding up an ALMO during its existing contract;
 - not renewing an ALMO's contract;
 - making substantial changes to the services provided by the ALMO

- 3.6 Additionally, the DCLG considers that there are occasions when it would be good practice to consult with tenants, but such decisions should be made having considered local circumstances:
- extending an ALMO's contract;
 - extending or making changes to an ALMO's remit (i.e. the range of services it delivers and locations covered).
- 3.7 The DCLG recognises the ballot as the preferred mechanism for the majority of authorities in testing their tenants' opinions in respect of changes to management arrangements; it is not a legal requirement. Council tenants were fully involved in the decision to set up THH, both as part of the options appraisal process and the consultation on the ALMO option itself. Although the consultation did not involve a full ballot, the Council was obliged to demonstrate clear support for the ALMO option. On this occasion the council is extending the THH's MA for only two years to 7th July 2020.
- 3.8 Therefore, the scope of the consultation has not been as broad as in the decision to set up THH which required an extended consultation because of the significant change in housing management arrangements at the time. However, a wider consultation with residents on how they view the housing services should be delivered will be conducted before the Management Agreement expires in 2020 (should the extension be agreed).
- 3.9 In line with good practice, the Council consulted with residents through focus groups with tenants and leaseholders. These sought views on current THH performance and established resident priorities for THH to focus on during the period of the extended MA.
- 3.10 The Mayor also wrote to all tenants and leaseholders informing them why he is minded to extend the Council's MA with THH. This was followed by a series of focus group sessions referred to below.

4. FOCUS GROUPS - RESULTS AND ANALYSIS

- 4.1 Officers conducted three focus group sessions on the 3rd, 4th, and 5th of October 2016 to discuss the proposal to extend the MA. The three focus groups comprised of one session with leaseholders, and two sessions with tenants. A total of 34 residents attended across the three sessions. Officers delivered a presentation on the history of THH, the reasons for setting up THH, THH's performance to date, the political and financial environment within which the council operates, and concluded with the Mayor's letter to residents regarding the extension of the MA. Residents were also asked to give their priorities on areas they wished THH to focus on during the remaining term of the MA.
- 4.2 A number of priority areas identified were common across the three groups. Residents, partly as a result of experiences arising from the Decent Homes programme, wanted to know how and where the DH funds were invested. As

a result, residents asked for better contract management on major works schemes with warranties secured and effectively managed.

- 4.3 Effective warranty management would prevent repairs due to component failure under warranty being picked up as responsive repairs which residents said were prevalent. Residents also wanted the repairs service to be more robust and efficient, with more clarity on the roles and responsibilities of THH and the repairs contractors.
- 4.4 Furthermore, residents had concerns about accessing services due to inconsistencies in the advice they receive from THH operatives. Residents consistently spoke of the need for THH to institute an effective resident engagement process that is transparent and inclusive.
- 4.5 Management of ASB complaints by THH was also highlighted as a priority, along with better management of sub-letting and absentee landlords. Accountability and transparency also featured highly on the list of residents' priorities, particularly regarding services and communication from THH.
- 4.6 Residents also want THH to be held more accountable for service failures, and for the council to scrutinise THH's performance further, and to engage with residents. Detailed results from the three focus group sessions subdivided into common and multiple priority themes are attached at **appendix 1**.
- 4.7 The council shall address residents' priorities with THH through the governance and monitoring programme.

5. THH's PERFORMANCE MANAGEMENT AND SERVICE IMPROVEMENT

- 5.1 THH was established to access funding towards the cost of improving the stock to the Decent Homes Standard, and to improve management and maintenance standards in order to unlock that funding. THH currently manages 21,488 council homes of which 11,870 are tenanted, 9,277 leasehold, and 341 freehold. The details of the arrangements between the Council and the ALMO for the delivery of the Housing Management service are set out in a Management Agreement.
- 5.2 The housing service run directly by the Council was deemed a poor performer, over a number of years. However, an Audit Commission inspection in November 2010 assessed the housing service provided by THH as a good 'two star' service with promising prospects for improvement. The Council was subsequently awarded £94.5 million towards its Decent Homes works. In addition, subsequent to the successful delivery of the council's decent home backlog programme in 2015, the GLA awarded the council a further £13.27million grant for the remaining backlog non-decency in its stock. THH is a sound organisation, whose performance has led to improvement in housing management services across the board.
- 5.3 THH has delivered Decent Homes improvement works with a value approaching £200 million. Consequently, 13,509 of Council homes comprising

of 10,972 and 2,537 tenanted and leasehold properties respectively have been improved, and 8,329 made decent. Additionally, THH delivered a range of local deliverables ranging from apprenticeships, work experience, to supporting the local economy. The GLA's backlog non-decent target of 10% has been achieved as the backlog non-decency outturn for 2015/16 was 9.11%. However, the gross non-decency including newly arising need for 2015/16 was 13.11%.

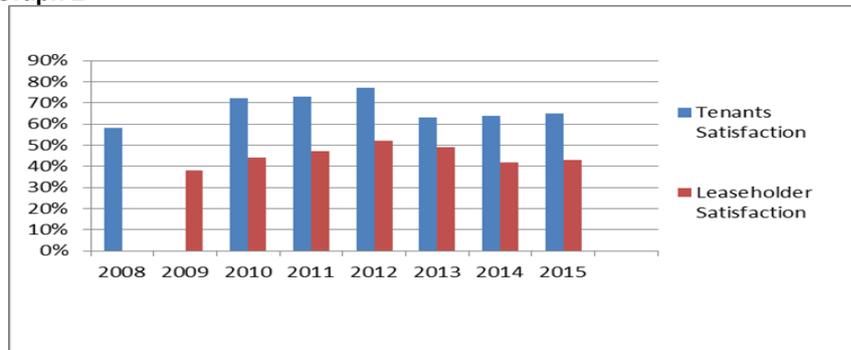
- 5.4 There have been performance improvements in a range of service areas provided by THH, the management fee has been no exception. The fee has reduced from the start of THH as shown in graph 1 below.



- 5.5 THH receives a management fee from the Council for the services it provides managing the housing stock. For the 2016-17 year the fee amounts to £33.376m. THH also purchases services from the Council under Service Level Agreements and the total budget for these services amounted to £6.576m for the current year. THH is responsible for the management of certain Council HRA budgets. These are termed delegated budgets - the total delegated revenue expenditure budget amounted to £24.208m and delegated income budgets total £88.512m. The capital budget for investment in existing Council housing stock amounts to over £50m for 2016-17 and this is also managed by THH.
- 5.6 THH has achieved the savings targets set out in HRA annual budgets and medium term financial plans. For example, as part of the 2016/17 budget cycle, THH delivered gross management fee savings of £2.475m. The refreshed HRA Business Plan and Medium Term Financial Outlook was considered by Cabinet on 26 July 2016 and Cabinet agreed a net HRA revenue savings target of £6m over the period of the medium-term financial plan, and THH will be key to the identification and realisation of those savings.
- 5.7 Service charge debts have also been reducing year-on-year. Although the satisfaction of both tenants and leaseholders with THH's services has been mixed as shown in graph 2 below, it is in the mid quartile for tenant, and top quartile for leaseholders. Leasehold and tenant satisfaction have followed a

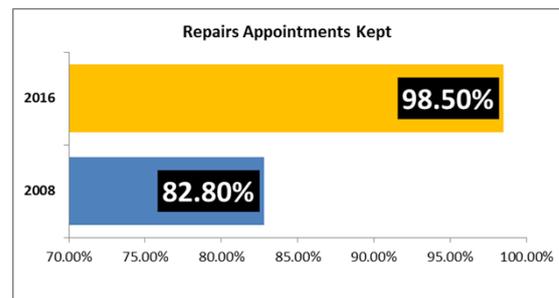
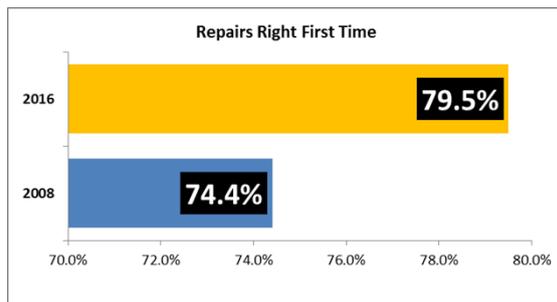
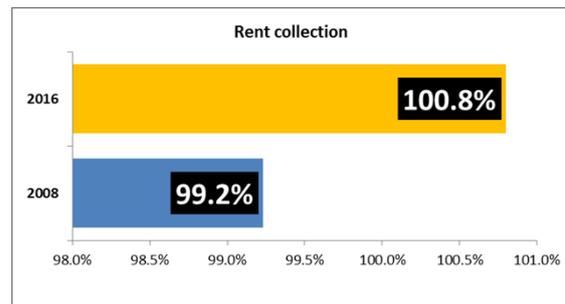
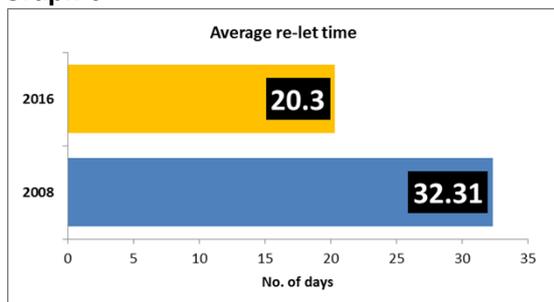
similar trend. The trend was positive from 2008 right to 2012, but tapered off thereafter - more progressively for the leaseholders than the tenants.

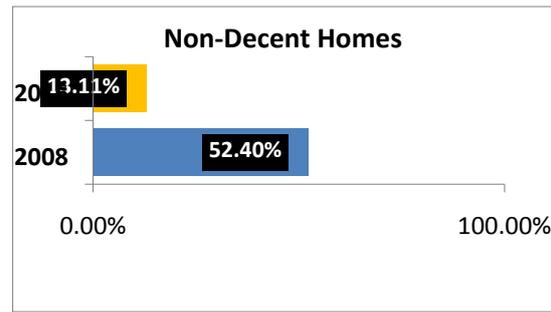
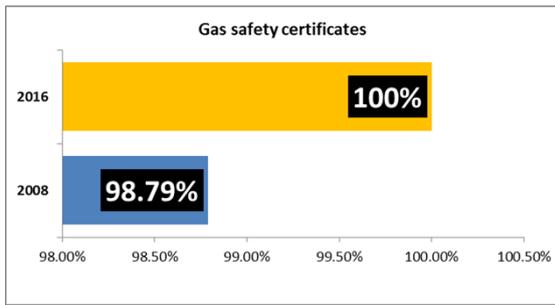
Graph 2



5.8 Overall, housing services have improved since the creation of THH. Repairs first time have averaged 88%, satisfaction with repairs 85%, rent collection 99.6% whilst average re-let times are now 20.3 days - it was 35 days when THH went live. THH is a key council partner in delivering the Council’s house-building programme. The comparison is from June 2008 on the eve of the commencement of the ALMO in July 2008 and the current position in August 2016 is shown in graphs 3 below. However, there is always room for improvement.

Graph 3





- 5.9 Therefore, the council together with THH have to work even more efficiently to deliver a quality services to residents given the challenging political and financial environment. Considering that the DHs backlog programme has ended, it is vital for the council through THH to recharge leaseholders for the significant capital investment to their homes to ensure that the already burdened HRA is not pressurised further.
- 5.10 Similarly, the end of the backlog programme will allow the council to make greater utilisation of THH’s capacity, capital programme management, and service delivery expertise in other services to improve delivery of services to residents and investment in their homes. The capacity must be utilised effectively to ensure that THH addresses the resident priorities highlighted in section 4 above.
- 5.11 To this end the new management team at THH has embarked on a comprehensive Transformational Change Programme to further improve services across the range of landlord functions.

6. THH TRANSFORMATIONAL CHANGE PROGRAMME

- 6.1 Work on this project began in early 2016 looking at what residents were telling the ALMO about service shortcomings. The work involves reviewing process and structures and developing a set of principles and guidelines for service review. The key objectives of the transformational agenda are to ensure a cohesive and more responsive organisation. The aim is to transform THH into an organisation whose services are more aligned to the needs of residents and the aspirations of the Council. For example, more focus and resources on the effective management of antisocial behaviour.
- 6.2 Into this change programme was factored the Council’s savings requirement for THH of £6m over five years from the Housing Revenue Account (HRA) in light of the pressures on the HRA from recent social housing legislation and the aspiration of the Council to refurbish and build more Council homes.
- 6.3 This project is designed to conclude in twelve months. The outcome for tenants and leaseholders will be a more accountable and responsive service. This will ensure that more residents’ needs are addressed first time, including repairs and responses from the Housing contact centre. The goal is to have

the overall measured performance in the top quartile across London housing providers by 2020.

7. THE NATIONAL OUTLOOK FOR ALMOs

- 7.1 All local authorities which established ALMOs with ten year management agreements are at the stage where they have either recently or will soon decide the future of the ALMO. Currently there are 41 ALMOs managing just over 570,000 homes which represent around 30% of the total council stock nationally.
- 7.2 With the end of Decent Homes funding, some Councils including Hackney, Lambeth, Newham, Hounslow, and Waltham Forest have taken the decision to bring their housing stock back into the Council's direct control. A number of other authorities have extended their ALMO Management Agreements, typically for a period of five to ten years with some extending by 15 year or 30 years.
- 7.3 These include Barnet, Lewisham, Blackpool, Barnsley, Brent, Derby and Solihull. In addition, some local authorities have established brand new ALMOs including East Kent and Welwyn Hatfield. Cheltenham and Bassetlaw have extended their management agreements for 30 and 15 years respectively. A number of councils have transferred their stock to the ALMO for example Bolton and East Durham.
- 7.4 An increasing number of councils are now seeing their ALMO as a flexible vehicle to deliver a wider range of services to local communities. This includes 30% of ALMOs now managing a total of 1,113 properties in the private rented sector, 36% of ALMOs providing services to tackle joblessness and 55% offering money advice. In total 37 ALMOs have plans to build new homes in 2015 and over the course of the next five years ALMOs were planning to deliver at least 9,000 for their parent council¹.
- 7.5 The decision of whether to extend the management agreement or to take an alternative approach is highly dependent on the local context. The decision is driven by the wider housing strategy of the borough, the nature of the local housing market and the need for councils to deliver services more efficiently.

8. COMMENTS OF THE CHIEF FINANCE OFFICER

- 8.1 This report seeks the approval of the Mayor in Cabinet to extend the council's management agreement with Tower Hamlets Homes (THH) for two years, to 7th July 2020. As outlined in the report, under the terms of the management agreement THH manages the housing stock on behalf of the council and receives a management fee to enable it to carry out these functions.

¹National Federation of ALMOs, <http://www.almos.org.uk/include/getDoc.php?fid=7253&did=6230>

- 8.2 There are no specific financial implications arising from the decision to extend the management agreement by two years. The THH management fee is agreed each year as part of the HRA budget process, and if the decision is taken to extend the management agreement, this process will continue for an additional two years.
- 8.3 At £33.376 million for the 2016/17 financial year, the THH management fee forms the largest single expenditure item within the HRA budget. The 2017/18 management fee will be approved by the Mayor in Cabinet in February 2017. As detailed in paragraph 5.6, the Mayor in Cabinet has agreed a savings target within the HRA of £6 million over the period of the medium-term financial planning period (2017/18 to 2021/22). THH is currently working on a transformational change programme in order to respond to this financial challenge (see section 6), and further details will be reported to Cabinet in due course.
- 8.4 The report recommends a two-year extension to the existing management arrangements, but alternative options for the delivery of housing services are possible – these are outlined in section 2. As stated in the report however, these would require an extensive appraisal of the alternative delivery models that, in the relatively limited time available, could impact upon the delivery of the existing THH Transitional Change Programme and the ability to realise the required level of savings.
- 8.5 All costs involved in the consultation process in relation to the extension of the management agreement have been met from within existing Housing Revenue Account budgets.

9. LEGAL COMMENTS

- 9.1 The Council has various statutory functions and obligations in respect of the provision of housing and associated services.
- 9.2 The Council is obligated under Section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. This is the Council's Best Value Duty. The Council must ensure that the provision of the services by its ALMO meets this duty.
- 9.3 Under section 111 of the Local Government Act 1972 the Council also has the power to do anything incidental to the exercising of any of its functions. Entering into a contract for the performance of a part of its function is incidental to that function. Therefore, in the performance of any of its Housing functions the Council has the power to enter into any contract for the delivery of services relating to that function.
- 9.4 The Council is required either by the application of the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016 to apply a

competitive tendering process to its purchases of services. Also, where both sets of regulations do not apply to the purchase (usually due to the value being below the prescribed threshold) the Council must still comply with its general duties of fairness, openness and non-discrimination imparted by the Treaty For The Operation Of The European Union. Tendering is also a common way of showing compliance with the Best Value Obligation.

9.5 Therefore, it is usual that the Council cannot elect to purchase services from one supplier without competition. However, Regulation 12 of the Public Contracts Regulations 2015 provides an exception. This is where the Council purchases services from an organisation where:

9.5.1 the Council exercises over that organisation a control which is similar to that which it exercises over its own departments; and

9.5.2 more than 80% of the activities of that organisation are carried out in the performance of tasks entrusted to it by the Council; and

9.5.3 there is no direct private capital participation in the organisation

9.6 Therefore, provided that the conditions detailed above are fulfilled (and this appears to be the case) then the Council may purchase further services from Tower Hamlets Homes. From a legal perspective, whether the further services are purchased via an extension to the existing contract (whether or not the extension was included in the original agreement) or by entering into a new contract with Tower Hamlets Homes has no impact.

9.7 In accordance with section 105 of the Housing Act 1985, the Council has a duty to consult secure tenants who are likely to be substantially affected by any matters of housing management. For the purposes of this section, a matter is one of housing management if in the opinion of the authority, it relates to (a) the management, maintenance, improvement or demolition of dwelling houses let by the authority under secure tenancies, or (b) the provision of services or amenities in connection with such dwelling-houses. The extension of the ALMO management agreement would be considered to be a matter of housing management upon which secure tenants should as a matter of good practice (in line with guidance from the Department of Communities and Local Government) be consulted upon. As set out at section 4 of the report, the Council has consulted with all secure tenants and invited their comments on the decision to extend the ALMO agreement. This consultation fulfils the Council's statutory duty under section 105 of the Housing Act 1985.

9.8 It is likely that an extension to the existing arrangement on similar terms will have no impact with respect to the Council's Duties under the Equality Act 2010. However, it would be prudent to ensure that the Council can demonstrate that it has considered this issue and to take any other steps it considers reasonable to understand whether or not there are impacts on people with "protected Characteristics" as defined by the legislation

10. ONE TOWER HAMLETS CONSIDERATIONS

- 10.1 Equalities Impact Assessment (EIA) has been considered and there are no specific equalities implications arising from this report. The two year extension of the council's MA with THH will have no impact on the Council's Duties under the Equality Act 2010. Following the decision services to residents will remain the same as before. It is the council's duty to ensure that THH deliver efficient and effective services; accessible to all; and meets different people's needs. Officers conducted three focus groups sessions on the 3rd, 4th, and 5th of October 2016 to discuss the proposal to extend the MA. Residents were asked to give their priorities on areas they wished THH to focus on during the remaining term of the MA – appended at appendix1. Resident will be consulted more extensively, and an Equalities Impact Assessment (EIA) undertaken, when the term of the MA expires in July 2020.

11. BEST VALUE (BV) IMPLICATIONS

- 11.1 For THH to deliver successfully it will need to be run effectively and managed robustly by its own staff, with appropriate client managing by council officers. HRA business plan savings have been identified as part of the council's budget setting process and THH will be responsible for delivering £6m of the HRA's savings over a four year period. THH should provide a value-for-money solution, by reducing management costs over time and enhancing performance in key areas such capital programme delivery, and contract management. THH's has already embarked on transforming its services under the transformational agenda.

12. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 12.1 There are no specific greener environment implications arising from this report.

13. RISK MANAGEMENT IMPLICATIONS

- 13.1 It will be noted that the costs involved in a decision to continue the existing arrangements would be minimal. A decision to revert to in house management would involve costs associated with the reorganisation of the service and possible redundancies. A decision to transfer the stock to a new landlord would have potentially significant financial implications for the Council, which would need to be thoroughly evaluated before a decision was made.

14. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 14.1 There are no specific crime and disorder implications arising from this report.

15. SAFEGUARDING IMPLICATIONS

15.1 There are no specific safeguarding implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- State NONE if none. NONE

Appendices

- Appendix 1 Results and analysis of the focus groups

Background Documents – There are no background documents to this report.

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