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Notice of Meeting:

Cabinet

Meeting Location:

The Liz Cantell Room, Ealing Town Hall,
New Broadway, Ealing, W5 2BY

Date and Time:

Wednesday, 18 May 2022 at 6.00 pm

Contact for Enquiries:

Email: democraticservices@ealing.gov.uk

Telephone: 020 8825 6253

Interim Chief Executive:

Paul Martin

Members:

P Mason (Chair)
J Anand
Blacker
D Costigan

S Donnelly
B Mahfouz
S Manro
K Nagpal
A Raza
L Wall

Portfolio

Leader of the Council
Cabinet Member for Thriving Communities
Cabinet Member for Healthy Lives
Deputy Leader and Cabinet Member for
Climate Action
Cabinet Member for Inclusive Economy
Cabinet Member for Decent Living Incomes
Cabinet Member for Good Growth
Cabinet Member for A Fairer Start
Cabinet Member for Tackling Inequality
Cabinet Member for Genuinely Affordable
Homes

AGENDA

1 Apologies for Absence

2 Urgent Matters

Item 07 – Budget Update Report
Item 08 – Urgent Matter

Reason for Urgency

Impractical to comply with the forward plan requirements.

Pursuant to rule 15(1) of the Access to Information Rules, the monitoring officer was satisfied that it was appropriate for both decisions to be taken in any event.

3 Matters to be Considered in Private

4 Declarations of Interest

5 Minutes

(Pages 3 - 14)

To approve as a correct record the minutes of the meeting held on 6 April 2022

6 Appointments to Sub Committees and Outside Bodies

7 Budget Update Report

(Pages 15 - 32)

8 Urgent Matter - Regulator of Social Housing Voluntary Referral and Notice

(Pages 33 - 72)

9 Date of Next Meeting

The next meeting will be held on 15 June 2022 at 7pm.

Exclusion of the Public and Press

Published: Tuesday, 10 May 2022

CABINET

**Wednesday 6 April 2022 at 7pm
Minutes**

PRESENT:

Councillors: Mason (chair), J Anand, Blacker, Costigan, Donnelly, Mahfouz, Manro, Nagpal, Raza and L Wall

ALSO PRESENT:

Councillor Shaw, Chief Whip, was also present.

In accordance with paragraph 2.6(a) of the Constitution, Councillors Malcolm and Stafford addressed the Cabinet with regard to the following items:

Item 7 - Acquisition of Housing Units - Acton (Councillor and Stafford)

Item 8 - Commissioning Broadway Living (BLRP) to Deliver New Homes for the Borough in Line with the BLRP Business Plan, Including the Transfer of Assets and Associated Loan Funding (Councillor Stafford)

Item 9 - Update on Energy Efficiency Funding – Grants Related to Tackling the Climate Crisis (Councillor Stafford)

Item 11 - Council Performance Report Quarter 3 2021/22 (Councillors Malcolm and Stafford)

1. Apologies for Absence

There were none.

This meeting was held in a hybrid format with members and officers able to join the meeting remotely.

However, regulations did not allow for members attending virtually to be counted as present in the attendance section of the minutes, and their attendance would not count as attendance in relation to section 85(1) of the Local Government Act 1972.

Members attending virtually would be able to speak but would not be able to vote.

Councillors joining remotely:

Cllr Malcolm

2. Urgent Matters

There were none.

3. Declarations of Interest

There were none.

4. Matters to be Considered in Private

Items 7, 8 and 10 contained confidential appendices but were not taken in private as it was not necessary to discuss the confidential information provided.

5. Minutes

Resolved:

The minutes should be read in conjunction with the agenda for the meeting. They are subject to approval and signature at the next meeting of this Committee.

That the minutes of the Cabinet meeting held on 9 March 2022 be agreed and signed as a true and correct record.

**6. Appointments to Sub Committees and Outside Bodies
Resolved**

There were none.

**7. Acquisition of Housing Units - Acton
Resolved**

That Cabinet:

- i) approves, in principle, the acquisition of 31 Housing Units in East Acton (“the Units”) on the commercial basis set out in Confidential Appendix 2 of the report – Draft Heads of Terms, subject to final acquisition due diligence and determination of any required Section 106 variation.
- ii) delegates authority to the Director of Community Development, following consultation with the Chief Finance Officer and Director of Legal and Democratic Services to agree the final terms for acquisition and complete an acquisition of the Units subject to financial viability and on the basis of the Draft Heads of Terms.
- iii) approves the acquisition of up to the amount as noted within Section 8 of the confidential Appendix of the report and based upon the TA financial modelling undertaken and assumptions made.
- iv) approves, to enable the acquisition to the value in Section 8 of confidential Appendix 1 of the report, use of uncommitted funding within the existing approved Temporary Accommodation Acquisitions Framework and additional funding £3.365m prudential borrowing and up to £1.772m use of additional Homelessness Prevention Grant.
- v) agrees that any commuted sum that may be payable by virtue of any variation to the s106 agreement be applied towards the acquisition.

Reason for Decision and Options Considered

Current Position

The Council had an ambitious target of delivering 2500 Genuinely Affordable Homes (GAH) in the 4 years between 2018 and 2022. Cabinet was provided with an update on the programme at its meeting on the 22nd September 2021.

Paragraph 3.6 of that report stated ‘In addition to the programme driven by the Council’s land holding, there were a number of opportunities presented by private developers seeking interest from the Council to become the affordable housing partner and purchase homes currently or imminently under construction. Schemes such as Westgate House, previously reported and consisting of 26 social rented homes, was now let and occupied. Further schemes would be assessed and if appropriate presented to Cabinet for the necessary approvals for inclusion into the housing programme.

The Council had been approached by a private sector developer who had 31 affordable and intermediate rental units due to complete in July 2022.

In addition to the provision of Genuinely Affordable Homes the Council retained a duty to provide emergency temporary accommodation to those with established need.

While the number of households in temporary accommodation had stabilised in more recent years (the council has successfully reduced the number of households coming into the system through enhanced homelessness prevention and indeed, MHCLG statistics indicated that Ealing was one of the best performing local authorities in the

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country, achieving the 3rd highest number of preventions across London between January 2018 and March 2019) the cost of providing temporary accommodation was an ongoing financial pressure for the council.

The Council undertook an Outcome Review of the Housing and Homelessness Function in 2018. That in depth review proposed four key interventions:

- 1) Reducing demand for TA through enhanced homelessness prevention work;
- 2) Increasing the supply of cost-neutral hostel/modular accommodation as an alternative to Bed & Breakfast accommodation;
- 3) Increasing the supply of cost-neutral longer-term accommodation, sitting outside of TA subsidy arrangements, as an alternative to units procured through the Private Sector Leasing (PSL) scheme.
- 4) Increasing moves into permanent accommodation.

As part of the Council's appraisal of the 31 units presented, supporting the third of those key interventions, namely the provision of cost-neutral longer-term accommodation, featured in the options appraisal.

Options Considered

Option 1: Units purchased in the General Fund

Ordinarily, housing units owned and managed by the Council must be accounted for within the Housing Revenue Account. There were, however, instances where this would be neither desirable nor appropriate and indeed the Council currently accounted for housing units within its General Fund. The following tested the options available to acquire the units in question and account for them within the General Fund.

1A – Rents charged at the current London Affordable Rent (LAR) and London Living Rent (LLR) rents (existing planning permission)

The scheme was currently consented as a mix of LAR (19) and LLR (12) units and it was considered the units might be acquired 'as-is' within the General Fund. There would not, therefore, be a requirement to seek an amendment of the existing section 106 agreement.

The modelling suggested a purchase on this basis had the potential to be commercially viable. However, as stated earlier, housing units owned and managed by the Council must ordinarily be accounted for within the Housing Revenue Account. Although the Council can account for Temporary Accommodation Units within the General Fund this would not extend to holding affordable and intermediate units to meet housing need under Part II of the Housing Act 1985 which would need to be held within the HRA.

This option was, therefore, considered to be undeliverable.

1B – Units acquired for the purposes of Temporary Accommodation (TA) and charged at the lower of LHA rents and 80% Market rents

If reverting to considering the use of the units for the purposes of TA this may be possible if an amendment to the existing section 106 agreement could be secured to change the tenure from LAR and LLR to Discount Market Rent with a view to charging the lower of Local Housing Allowance (LHA) or 80% of market rents. The prospect of securing such an amendment to the section 106 agreement was considered possible, however the loss of the LAR units on the site may be viewed negatively. This was offset to a degree by the Council's proposed use of the units as temporary accommodation in response to

evidenced housing need. Assuming the required amendment to the Section 106 agreement proved deliverable there was a risk that a commuted sum payment would be required. This was being further explored.

Subject to there being no such commuted sum payment, this was considered to be the optimal option and was therefore recommended.

1C – Units acquired for the purposes of Temporary Accommodation (TA) and charged at TA model rents

Given the rents chargeable under the Council's existing Temporary Accommodation Rent Setting Procedure were higher, in the main, than LHA or 80% DMV rents in this location it was not considered likely that the amendment to the section 106, required to deliver this option, would be granted. Detailed modelling was, therefore, not undertaken for this option and it was discounted.

Option 2: Units purchased and held in the Housing Revenue Account (HRA)

As stated above, units owned and managed by the Council would ordinarily be accounted for within the Housing Revenue Account. The following tested the options available to acquire and then account for the units within the Council's HRA. The adopted HRA assumptions were used to model the acquisition

2A – charged at current LAR and LLR rents (existing planning permission)

The modelling of this option supported an acquisition ceiling price that was considered likely to be acceptable to the vendor.

However, while it was possible to add LAR units to the Housing Revenue Account the inclusion of LLR units would mean the introduction of what was, essentially, a shared ownership product and one which the Council was unfamiliar with operating. The fact that it was a shared ownership product meant a significant proportion of the value assigned to it relied on the tenants staircasing into ownership from year 10. There were real concerns about the likelihood of tenants being able to staircase as the LLR product assumed and therefore real concerns that the value associated with those LLR products would have been materially overstated in the modelling.

As a result, while this option was not discounted, it was considered to be sub-optimal.

2B – charged at the lower of LHA rents and 80% Market rents

Given the disparity between 80% of Market Rent and the LAR and initial LLR rents this option produced an acquisition ceiling price (prior to any commuted sum payable for the required amendment of the section 106 agreement) that was considered likely to be acceptable to the vendor. However, it was not considered possible to hold 80% DMR products within the HRA and so this option had been discounted.

2C – charged at TA model rents

As with option 2B it was not considered possible to hold TA rent products within the HRA. Detailed modelling was, therefore, not undertaken for this option and it was discounted.

2D – charged at LAR

This option assumed that the existing LAR units remain as LAR but that the LLR units were also operated as LAR. This had the effect of substantially lowering the overall rental income achieved by the scheme.

Given the overall reduction in rental income the modelling produced a supported acquisition ceiling price well below that which might be considered acceptable by the vendor and has therefore been discounted.

Option 3: (Hybrid option) Units purchased and held in both the HRA and the General Fund

Given that;

Any loss of LAR units from the scheme would be viewed negatively by the planning authority (creating risk of refusal or a large commuted sum liability)

Operating an LLR product either in the HRA or General Fund was not considered a desirable outcome

The principal Temporary Accommodation Need was for 2- and 3-bedroom units a hybrid option had been modelled as follows;

15 x 1-bed units held in the HRA and offered at LAR rents

3 x 2-bed and 13 x 3-bed units held in the General Fund for the purposes of Temporary Accommodation with rents set at 80% of Market Rent.

It was considered that this maintained a mix of genuinely affordable homes (LAR) and intermediate rental homes (previously LLR, now Temporary Accommodation at 80% of Market Rent).

The Hybrid model was borderline in respect of financial viability and permits a ceiling acquisition price at a level considered unlikely to be acceptable to the vendor.

As with option 1B there would be a requirement to amend the Section 106 agreement to proceed with this option

Assuming the required amendment to the Section 106 agreement proved deliverable there was a risk that a commuted sum payment would be required. This was being further explored.

As a result, while this option was not discounted, it was considered to be sub-optimal.

The Recommended Option

It was recommended that the Council pursue the acquisition on the basis of option 1B.

This would require an amendment to the existing Section 106 agreement which in turn would require the support and engagement of the vendor. This had been assured and the Heads of Terms reflected that assurance. The Council's offer was to be conditional on securing the Section 106 amendment. The amendment may include the payment of a commuted sum to reflect a change of affordable housing tenure. It was proposed that any such payment be reinvested in the project.

All 31 units would be accounted for in the General Fund and used for the purposes of Temporary Accommodation with rents set at the lower of the Council's existing Temporary Accommodation Rents or 80% of Market Rent.

The entirety of the block would therefore be under the ownership (leasehold) and management of the Council bringing significant management efficiency benefits.

This was subject to final due diligence being undertaken prior to any acquisition, which would include but was not limited to a full building acquisition survey and fire assessment.

8. Commissioning Broadway Living (BLRP) to Deliver New Homes for the Borough in Line with the BLRP Business Plan, Including the Transfer of Assets and Associated Loan Funding Resolved

That Cabinet:

- i) agrees to commission Broadway Living RP to take forward the Tranche 2 schemes for housing development of circa 753 new homes as set out in Appendix A, these are;
- Land at Lexden Road
 - Former Northolt Grange Community Centre
 - Land at Park View Road
 - Land at Sussex Crescent
 - Perceval House (3 phases)
 - Land at Mandeville Road (Newmarket Estate)
 - Broomcroft Avenue (Yeading Estate)
 - Canberra Drive (Yeading Estate).

These schemes will be subject to ongoing Council assessment and due diligence for viability and suitability of the schemes and a final decision by Cabinet or the Housing Delivery Cabinet Committee (HDCC) to proceed with the schemes and authorise their disposal to BLRP with associated loan funding.

- ii) approves the revised Financial Plan attached as Confidential Appendix B for Tranche 2 as summarised in Section 4 below which sets out the following;
- Notes the existing funding allocation within the Council's General Fund capital programme of £400 million for the Broadway Living RP Capital Loans programme.
 - Notes £103.587 million which has previously been agreed and allocated to the first tranche of schemes.
 - Recommends approval for £205.737 million loan funding requirements for Tranche 2 schemes, split £192.216 million for development/investment loans relating to rent and shared ownership developments and £13.521 million for market/commercial loans relating to market sale developments.
- iii) approves the individual scheme funding allocations as set out in Confidential Appendix B of the report, together with an additional £12.268 million to provide capacity to respond to any scheme variations during the development phase.
- iv) delegates authority to the Chief Finance Officer (following consultation with the Portfolio Holders for Genuinely Affordable Homes, Good Growth and Inclusive Economy and the Executive Director of Place) to agree such further scheme variations to those set out in Appendix A of the report, as may be appropriate that sit within the financial approvals set out in 1.2 & 1.3 of the report.
- v) delegates authority to the Chief Finance Officer (following consultation with the Portfolio Holders for Genuinely Affordable Homes, Good Growth and Inclusive Growth, the Executive Director of Place and the Director of Legal and Democratic Services) to negotiate and enter into any necessary scheme specific funding arrangements with BLRP for the schemes listed in Appendix A of the report, consistent with the overarching Funding Facility Agreement and budget allocation to enable Broadway Living RP to acquire the sites.

- vi) notes the existing £36.675 million budget allocation of which £17.459m relates to the first tranche of schemes approved in July 2021 and £9.5 million is forecasted to be required for the second tranche of schemes within the Council's General Fund capital programme, to cover the pre-transfer costs of sites in the BLRP Business Plan from the Council to BLRP and the re-provision of existing Council services.
- vii) recommends that the balance of the £17.459million allocated to but not required by Tranche 1 should be made available to Tranche 2, should the optimal tax position require that the Council take on the initial construction works prior to disposal to BLRP for certain schemes.
- viii) approves the transfer of 24 homes in BL's ownership, under long leases from the Council, at Surry Crescent and Eastcote Lane and the associated loan funding to BLRP as set out in the approved Financial Plan for Tranche 1.
- ix) delegates authority to the Executive Director of Place and the Chief Finance Officer to take the necessary steps to complete the transfer of sites at Surrey Crescent and Eastcote Lane and provision of loan funding to BLRP respectively following consultation with the Director of Legal and Democratic Services.
- x) delegates authority to the Chief Finance Officer (s151) following consultation with the Executive Director of Place to issue working capital loans to BLRP to support its operations for the financial year 2022/23 up to the value of £500,000. BLRP's operating budget estimate for 2022/23 is set out in Confidential Appendix B of the report.

Reason for Decision and Options Considered

This report was seeking approval for the second tranche of housing development schemes to be taken forward by BLRP. This tranche comprised eight schemes which would deliver up to 753 new homes.

Broadway Living Ltd (BL) was set up by the March 2014 in order to progress the delivery of council housing and affordable housing in particular. The Council subsequently delegated authority to the Executive Director of Place in October 2018 to set up and register a new housing company Broadway Living Registered Provider (BLRP) to complement and supplement delivery of homes through the Council's housing company Broadway Living (BL). At that time the Council carefully considered the other options for increasing the supply of homes in Ealing, especially a high percentage of affordable homes, including keeping the development services internal to the Council or outsourcing and working with another partner or developer.

The Council as the sole shareholder, landowner and funder had commissioned BL and BLRP to take forward a programme of housing as set out in the agreed BLRP Business Plan, which included the transfer of Council owned land to BLRP at "best consideration" and Council loan funding alongside GLA grant needed for the development of new homes.

In working with Broadway Living there was the potential to significantly increase the Council's house building development programme and to provide social benefits of high quality, more energy efficient, secure homes at affordable rents and financial benefits to the Council in reducing the need for temporary accommodation, reducing demand on social care and other support services.

Working with BL had also contributed to delivery of the Council's current target of 2,500 genuinely affordable homes and Tranche 2 will contribute to future Council targets.

The schemes set out in Appendix A were being developed in line with planning policy, were aiming to be zero carbon developments, where any carbon offset proposals were delivered in the local vicinity. Overall, the schemes would play a vital role in increasing the supply of affordable homes in the Borough. On each site options in terms of housing mix, design and development had been considered and assessment would be ongoing as more detailed scheme development including design and local engagement was undertaken. A further report would be brought to Cabinet or Housing Delivery Cabinet Committee for final decisions on the schemes, including the terms of site disposal and loan funding once the detailed work has been completed.

9. Update on Energy Efficiency Funding – Grants Related to Tackling the Climate Crisis

Resolved

That Cabinet:

- i) approves additional capital expenditure of £8.375m being incepted into the 2022/23 capital programmes for the Phase 1 for the Home Upgrade Grant, to be funded wholly from that grant. Noting also that the Council will act as accountable body for the delivery Partnership with a requirement for spend by 31 March 2023, or agreed amended timescales.

Reason for Decision and Options Considered

The Ealing Climate and Ecological Emergency Strategy (CEES) set a date of 2030 to be a net zero carbon borough. Each of the grant funding schemes below contributes to this commitment.

Phase 1 of the Home Upgrade Grant

The council's climate strategy (CEES, January 2021) committed to developing resources for residents to improve privately owned housing stock within the borough.

The Sustainable Warmth competition brought together two fuel poverty schemes (Local Authority Delivery Phase 3 and Home Upgrade Grant Phase 1) into a single funding opportunity for Local Authorities (LAs). The two schemes that made up the Sustainable Warmth competition had a shared goal to contribute to the aims set out in the Sustainable Warmth: protecting vulnerable households in England strategy. Both schemes aimed to support low-income households in England, living in energy inefficient homes by installing energy efficiency and low carbon heating upgrades with a delivery timeframe of January 2022 to March 2023.

As agreed by Cabinet on 16 June 2021, the council led the consortium bid for the Sustainable Warmth competition. Ealing would continue to lead a partnership delivery approach to home retrofits, as Cabinet agreed in June, for future phases of the programme. All council costs were covered by the grant in their entirety (see Admin & Ancillary in table below). For this phase of delivery, the partnership is between 13 London boroughs: Barnet, Brent, Camden, Ealing, Hammersmith & Fulham, Harrow, Hillingdon, Hounslow, Lambeth, Kensington & Chelsea, Newham, Richmond, and Wandsworth.

After an initial award for only the Green Homes Grant: Local Authority Delivery Phase 3 in December 2021, the funder had now made a funding offer to include the Home Upgrade Grant.

This grant was targeted at "off gas grid homes" with an aim of upgrading homes to a target energy efficiency rating of EPC C – or EPC D where this was not possible. The grant provided between £10,000 to £25,000 per home to make upgrades to improve

energy performance, depending on the starting EPC band and the starting heating fuel type.

Ealing's successful funding award had now been extended to include the Home Upgrade Grant.

A project board, consisting of representatives from each partner borough, as well as staff from the West London Alliance, representing senior management of the participating boroughs, would meet fortnightly to discuss communications strategies, cases which required additional resources outside the scheme, and to monitor lessons learned and best practice.

The partnership would continue to use the existing Greater Southeast Energy Efficiency Hub (GSEEH) Managing Agent Framework and Access Agreement, by extending the council's current contract with WarmWorks as managing agent, who were delivering our £10.78m Phase 2 programme. WarmWorks was a joint venture partnership between Everwarm, Energy Savings Trust, and Changeworks and were procured using the GSEEH's Managing Agent Framework for the GHG:LAD Phase 2. WarmWorks would continue to sub-contract management of the call centre and pre-screening for referrals to Groundwork London.

Of the 212,492 fuel poor households in the 13 boroughs we had already identified 71,697 as both living in EPC E, F, or G rated properties and either being in receipt of housing benefit, council tax discount, or as having income under £30,000, indicating they will be eligible for either the HUG or LAD scheme. 8,699 low-income tenants in private rentals have also been identified.

By March 2023, the full programme (GHGH:LAD Phase 3 and HUG Phase 1) aimed to retrofit up to 1915 homes across the partnership, and would target up to 140 privately rented properties and 190 socially rented properties. As with the GHG:LAD Phase 3 programme, it was anticipated that residents of Ealing would benefit from a roughly proportional amount of the HUG grant funding, approximately £560k.

10. Internals Refurbishment Framework Agreement - Award of Contract (2088 Year 4) Resolved

That Cabinet:

- i) notes the outcome of the mini-competition evaluation process, authorised by the Director of Safer Communities and Housing (March 2017 and Cabinet of July 2021) detail as contained within the Mini Competition Evaluation Report as attached in Confidential Appendix A of the report.
- ii) authorises the award of two Joint Contracts Tribunal (JCT) measured term contracts for the fourth annual programme of internal refurbishment works to R Benson Property Maintenance Ltd and Greyline Builders Ltd for Year 4 works under mini-competition for this framework.
- iii) authorises inviting and evaluating tenders under a mini-competition on the internal refurbishment framework Year 5 Lot 1, for the fifth year's programmed works, within the agreed framework, utilising the suppliers approved within the framework contract.
- iv) notes that the cost to deliver these required internal improvement works of £7m for 12 months from 1 April 2022 within Year 1 Lot 4 for the two contracts will be funded from within the approved HRA Capital Housing improvement scheme budget to align with the HRA 30-year capital forecast.

Reason for Decision and Options Considered

On 12 September 2017 Cabinet delegated authority to the Director of Safer Communities and Housing upon completion of the tender process (for the procurement and setting up of an internal refurbishment framework) to:

- a) Award framework contracts in line with the evaluation criteria.
- b) Run mini-competitions within the framework call-off procedures for the duration of the framework, and
- c) Award call off contracts upon completion of annual mini-competitions.

Pursuant to the Cabinet delegation to award framework contracts the Director of Safer Communities and Housing on 16 July 2019:

- a. Appointed the top 4 ranked contractors to the Lot 1 framework contract for the annual programme of installation works. The contractors; ENGIE Regeneration Ltd, Greyline Builders Ltd, Masher Brothers Ltd and R. Benson Property Maintenance Ltd, this enabled them to bid for annual programmes of works under the mini-competition.
- b. Appointed the top 6 ranked contractors to the Lot 2 framework contract for ad-hoc works. The contractors; Diamond Build PLC, ENGIE Regeneration Ltd, Greyline Builders Ltd, Masher Brothers Ltd, R. Benson Property Maintenance Ltd and T Gilmartin Ltd.

Pursuant to the Cabinet delegated authority to run mini-competitions, in July 2021 the Director of Place Delivery Environmental Services authorised inviting and evaluating tenders under a mini-competition of the Council's internal refurbishment framework Lot 1 (which commenced on 9th September 2019) for the fourth year's programmed works (period 2022-2023) utilising approved suppliers from within the agreed framework contract.

The quantity of Year 4 programme of works had increased significantly; programmes originally planned for Years 1 and 2 were aborted due to the COVID pandemic. The current Year 3 programme was also delayed due to the pandemic; with works not commencing until September 2022. The combined effect of the pandemic and the Council's decision to re-categorise replacement on age from 30 to 20 years for Kitchens and from 40 to 30 years for Bathrooms had impacted on the quantity of required internal works for Year 4 programme. As a result of the higher quantity of works the Year 4 programme had been divided on a geographical basis between two framework contractors to enable completion of works by 31st March 2023.

This report was seeking authority to award two JCT measured term contracts to the most advantageous tenders following a mini-competition.

The existing Framework agreement expired in September 2022; in order to obtain best value for the Council it was vital to maximise the remaining time available under this Framework. This report also sought approval to invite and evaluate tenders under a mini-competition for the fifth annual programme Year 5 Lot 1. Year 5 mini-competition would be required to be issued in July 2022 and awarded by Cabinet in September 2022 (prior to expiry of the current Framework) to maintain continuity of delivery of the internal works programme.

Following completion of the Decent Homes works, replacement kitchens and bathrooms had historically been delivered via a variety of small and medium sized value contracts, including major voids and repairs contractors, the use of this framework ensured a

consistent and planned approach as part of the HRA Capital Investment Programme to align with the overall Housing strategy.

In preparation for the procurement of this contract, a mini competition exercise for Lot 1 Year 4 was undertaken (15/02/2022 and 01/03/2022), the documents issued on the portal for this mini competition indicated a contract value in the region of c£7m.

Following evaluation of bids submitted on this framework (ENGIE Regeneration Limited and Masher Brothers Limited opted out of submission due to insufficient resource to meet delivery requirements). It was recommended R. Benson Property Maintenance and Greylane Limited be selected as the new delivery providers, full details were as contained within the mini competition evaluation report as attached in Confidential Appendix A of the report. The Evaluations report set out the mini-competition procurement process and how each bid was evaluated against the agreed pre-determined criteria and weightings in accordance with the Invitation to mini-competition and instructions to contractors.

The requirement for planned internal refurbishment improvement works was identified through stock condition survey data (SCS). The stock condition survey (SCS) data of 2021 as provided by Michael Dyson Associates (MDA) was reviewed and validated by the Housing Property and Asset Management Team. Kitchen and bathroom replacements were previously undertaken in 2004 when the Decent Homes programme started, in addition to these internal refurbishment improvement works a backlog of Occupational Therapist (OT) wetrooms would also be undertaken. Further validations would take place jointly between Ealing and the new providers to confirm requirements for the programme. Assets had been identified using a mixture of on-site validation surveys and information from the asset management database.

Following expiry of this framework Ealing would procure a new long term JCT measured term contract (proposed 5 years) to enable continuity of the delivery of internal kitchen and bathroom replacement works without a break until March 2029.

11. Council Performance Report Quarter 3 2021/22

Resolved

That Cabinet:

- i) notes the contents of the report;
- ii) notes the progress made against the Council Plan performance indicators to the end of the third quarter of 2021/22 (October – December 2021)
- iii) records its thanks and appreciation to Councillor Millican and Councillor Rooney, who were both stepping down at the next election, for the time, energy and focus which they had contributed to the Corporate Parent Committee over a number of years.

Reason for Decision and Options Considered

The purpose of this report is to provide Cabinet with a summary of the council's performance at the end of Quarter 3 2021/22. The report also lists the indicators whose performance information will not be available this year due to the impact of the Covid19 pandemic.

12. Date of Next meeting and Record of Thanks

Resolved

That Cabinet

- i) notes that the next meeting of Cabinet would be held on 15 June 2022 at 7pm.

The minutes should be read in conjunction with the agenda for the meeting. They are subject to approval and signature at the next meeting of this Committee.

- ii) thanks officers for their guidance and sound advice given with rigour and professionalism throughout the year
- iii) thanks Councillor Mason for his leadership of Cabinet.
- iv) thanks officers and Linda Zimmerman (Democratic Services) who had supported Cabinet in its administration and its meetings during this tumultuous period with new technology to enable meetings to be broadcast.

Councillor Peter Mason, Chair

Date

The duration of this meeting was 7pm to 7:45pm



Report for: **DECISION**

Item Number:

Contains Confidential or Exempt Information	No
Title	2022/23 BUDGET AMENDMENT
Responsible Officers	Ross Brown. Chief Finance Officer (Section 151)
Authors	Kieran Read, Director Strategy and Engagement Shabana Kausar, Assistant Director Strategic Finance
Portfolio	Councillor Peter Mason, Leader of the Council Councillor Steve Donnelly, Cabinet Member for Inclusive Economy
For Consideration By	Cabinet
Date to be considered	18 May 2022
Implementation Date if Not Called In	6 June 2022
Affected Wards	All
Area Committees	All
Keywords/Index	2022/23 Budget, Capital addition, Council Plan, Investment

Purpose of Report

A Labour administration has been returned following the recent local elections. A Council Plan will be developed, reflecting the priorities in the Labour manifesto, and presented to Council in the summer for agreement. Delivery of the manifesto priorities over the four-year council term will require the prioritisation and redirection of resources. These decisions will be considered through the annual budgeting process to ensure resources are aligned to delivery priorities.

This report makes an early commitment of resources from within the existing MTFS agreed by Cabinet and Council to enable delivery against a number of priority commitments for the administration. For 2022/23 the value of the investment is up to £3.114m capital and £2.726m revenue. Over the four-year life of the administration the cash value of the commitments is up to c£23m.

1. Recommendations

1.1. It is recommended that Cabinet:

- 1) Approve £3.001m revenue growth allocation approved by Cabinet in February 2022 towards the priorities set out in section 3 of this report and appendix 2.
- 2) Notes and agrees the new General Fund capital programme additions totalling to £11.588m (section 3, paragraph 4.3 and appendix 1) and approves the following:
 - a) Additional capital funding requirement of £11.588m to be funded from mainstream borrowing with associated revenue financing cost to be met from the revenue growth fund as set out in section 4.
 - b) Delegates authority to the Chief Finance Officer (Section 151) to release budget to be incepted into the capital programme (thereby giving authority to spend) upon approval of a detailed business case and option appraisal in accordance with the frameworks set out in the approved Capital and Treasury Management strategies.
- 3) Authorises the Executive Director or Director with responsibility to carry out and take into account necessary due diligence, consultation, and equality analysis assessment for each proposal prior to taking the final decision on whether to implement.

2. Reason for Decision and Options Considered

2.1. Following on from the approval of the 2022/23 General Fund budget by Cabinet in February 2022 and Council in March 2022, this report seeks approval for £3.001m of funding originally set aside as for potential in-year uncertainty/volatility to be allocated against delivery of key activities and outcomes supporting council priorities. The Council will continue to consider the necessary funding requirements for delivering its priorities as part of the annual medium term financial strategy (MTFS) and budget process.

2.2. The Council has continued to invest in services that experience significant and continued demand pressures, with prioritisation being given to the most vulnerable groups. Against the current backdrop of the cost of living crisis exacerbated by the rising inflation and energy prices, council services continue to operate in a challenging resource environment where small demand change can lead to material budget variances. Thus, the reason for the Council wanting to redirect some of the growth towards supporting services to the most vulnerable such as the care sector. The proposed investment for a total of up to £14.589m (capital £11.588m and revenue £3.001m) is complementing the

c£15m of revenue investment already built into the 2022/23 general fund budget.

- 2.3. It is necessary to consider the appropriateness of budget allocations relatively early on in the financial year and in doing it is important to view the total budget allocations in the round taking into account those amounts set-aside and already contained in the MTFS for pressures such as pay and contractual inflation. When viewed as a whole, it is reasonable to make the funding referred to in the report available given one of the most challenging cost pressure areas is in adults social care, which the majority of the funding being released contributes towards addressing.

3. Investment for Council Priorities

- 3.1. The council will develop a council plan for the period 2022-26 aligned to the priorities in the Labour manifesto and reflecting other requirements on the council including demand pressures and statutory requirements. This will be presented to Council in summer 22 and will identify key year one deliverables and update the key performance indicator suite to be monitored by Cabinet.

- 3.2. Alongside the MTFS the Council Plan is the council's key strategic planning framework. The administration's policy agenda is ambitious, and delivery will require the prioritisation of resources over the four-year period. This report allocates investment from within the existing MTFS to key priorities for early delivery during 22/23 against the three administration key priorities:

- Creating good jobs
- Tackling the climate crisis
- Fighting inequality

- 3.3. The 2022/23 allocations against each priority are summarised below. The investment in these priorities is intended to facilitate early delivery on key priorities as well as the ongoing delivery through existing core budgets which will be set out in the Council Plan. Taken together these represent total investment during the life of the administration of up to £23m enabling delivery over the four-year administration term.

3.4. Creating good jobs

Manifesto Pledge	Activity/Outcome	2022/23 Commitment (£M)	
		Capital	Revenue
Deliver our Plan For Good Jobs, achieve “Good Business Charter” accreditation; increase the number of accredited “Good Businesses”, Living Wage Employers in Ealing to 200 and work to achieve our status as a Living Wage Place, and tackle the need for local people to have to rely on in-work benefits through increasing pay and deliver at least 12,000 new qualifications and training programme graduations for people looking to upskill.	Invest £2m to increase pay rates and move towards LLW compliance for homecare workers as part of a staged programme to move to full LLW compliance.	0.000	2.000

3.5. Tackling the climate crisis

Manifesto Pledge	Activity/Outcome	2022/23 Commitment (£M)	
		Capital	Revenue
Launch our Active Travel Charter setting out how we will deliver active travel in the borough and invest at least £10m to increase cycling, walking, running, and scooting and reduce polluting vehicles through active travel schemes, rapidly expand our popular School Streets programme to 50 of our schools, delivering schemes only where we have the support of local residents.	Establish School Streets programmes at an additional 4 schools delivered during 2022/23	0.356	0.049
Make our streets and open spaces beautiful and resilient through planting another 50,000 trees, work towards increasing the proportion of the borough covered by tree canopies to 25% by doubling the number of trees we plant each year, ensuring every town has access to wild fruit, and keeping them clean and clear of fly tips and graffiti.	Increasing tree canopy to deliver on manifesto commitment over 4 years	0.750	0.044

Manifesto Pledge	Activity/Outcome	2022/23 Commitment (£M)	
		Capital	Revenue
Rapidly expand the number of bike hangers to at least 150 where communities want them, and electric vehicle charging points to at least 2,000 across the borough, invest £35m in improving our roads, tracks and pavements, and continue to implement controlled parking zones where a clear majority of residents want them.	Deliver a programme of road improvements to improve safety and support walking and cycling	1.250	0.099
Rapidly expand the number of bike hangers to at least 150 where communities want them, and electric vehicle charging points to at least 2,000 across the borough, invest £35m in improving our roads, tracks and pavements, and continue to implement controlled parking zones where a clear majority of residents want them.	Deliver 104 bike hangers to deliver the commitment of at least 150. In addition, the cost of a Bike Hanger permit will reduce from £6 per month to 70 pence per month.	0.208	0.029

3.6. Fighting inequality

Manifesto Pledge	Activity/Outcome	2022/23 Commitment (£M)	
		Capital	Revenue
Deliver on our commitment to tackle race inequality in our borough and launch the independent citizen's tribunal to hold the Council, Police and other organisations accountable for the promises we make to end it.	Establish civic leadership development programme in line with race equality commission recommendation.	0.000	0.050
Deliver on our commitment to tackle race inequality in our borough and launch the independent citizen's tribunal to hold the Council, Police and other organisations accountable for the promises we make to end it.	Deliver schools action plan in response to race equality commission recommendations	0.000	0.150

Manifesto Pledge	Activity/Outcome	2022/23 Commitment (£M)	
		Capital	Revenue
Continue to take tough action to prevent violence against women and girls, end female genital mutilation, and extend support through the Women’s Wellness Zone network established in the borough. We will also remain committed to enforcing our public space protection order at Mattock Lane, ensuring women have access to family planning free from intimidation, and we will also invest more than £1m in making public spaces safer and well lit.	Extend street lighting to increase the feeling of safety for our residents including in response to the recent consultation on women and girls’ safety.	0.550	0.169
We will bring even greater diversity to our festivals and events, ensuring that there is something for everyone in our borough, bringing communities from all backgrounds together, involving community organisations and deliver a major festival to celebrate the Queen’s Platinum Jubilee.	Deliver an inclusive Platinum Jubilee programme including Big Lunch and Proms in the Park, Beacon lighting, grants for street parties and dressing the borough.	0.000	0.136

4. Financial Implications

4.1. As set out in the sections above, the report is seeking approval from Cabinet to purpose the revenue growth allocation set aside for managing any in-year risks; approved by Cabinet and Full Council in February and March respectively.

4.2. Financial Summary

4.2.1. The table below sets out a summary of how the 2022/23 revenue growth will be repurposed across the various council priority areas including the new capital investment requirements.

Table 1: Summary of Revenue Budget Growth Amendment and Additional Capital

Priority Area	2022/23 (£M)		2023/24 (£M)		2024/25 (£M)		2025/26 (£M)		2026/27 (£M)		Total 2022/23 to 2026/27 (£M)	
	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue
Climate Change	3.114	0.390	3.288	0.248	2.978	0.201	2.208	0.112	0.000	0.000	11.588	0.951

Priority Area	2022/23 (£M)		2023/24 (£M)		2024/25 (£M)		2025/26 (£M)		2026/27 (£M)		Total 2022/23 to 2026/27 (£M)	
	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue
Thriving Communities	0.000	0.136	0.000	(0.136)	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Decent Living Income	0.000	2.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2.000
Tackling Inequality and Crime	0.000	0.200	0.000	0.000	0.000	0.000	0.000	0.000	0.000	(0.150)	0.000	0.050
Growth Allocation (repurpose)	3.114	2.726	3.288	0.112	2.978	0.201	2.208	0.112	0.000	(0.150)	11.588	3.001

4.3. Capital Programme Additions

4.3.1. As set out in the table above an additional £11.588m of growth is being requested to be approved in this report for investment towards delivering council's climate change priority. Details of the capital additions are set out in Appendix 1.

4.3.2. There is a recognition that in principle agreement for some of the additions requires the service lead to undertake a detailed business case and option appraisal. To ensure that the capital investment is spent in line with capital spending legislative framework (as set out in the Capital and Treasury Management Strategies), Cabinet are asked to approve the incorporation of the additions into the capital programme and provide delegation to the Chief Finance Officer (Section 151) to release budget (thereby giving authority to spend) upon approval of a detailed business case and option appraisal and if required subject to approval by Full Council of the Treasury Management and Capital strategies.

4.3.3. The additional capital growth will be funded from mainstream borrowing with the cost of financing estimated to be £0.951m over a five-year period.

Table 2: Cost of Financing Summary

Revenue Budget Allocation (£M)	2022/23	2023/24	2024/25	2025/26	2026/27	Total 2022/23 to 2026/27
Climate Change	0.270	0.268	0.240	0.172	0.000	0.951
Total Cost of Financing	0.270	0.268	0.240	0.172	0.000	0.951

4.3.4. Subject to the detailed assessment and following consultation with the Chief Finance Officer, officers will explore opportunities to minimise cost of borrowing.

4.4. Revenue Budget Impact

4.4.1. As set out in the table 1 above £3.001m is being sought to be repurposed from

of which £0.951m is funding the cost of borrowing for capital investment totalling c£12m and the remaining £2.050m is being used to support delivery of key priorities as detailed in section 3 above and in Appendix 2.

Table 3: Revenue Growth summary

Revenue Budget Allocation (£M)	2022/23	2023/24	2024/25	2025/26	2026/27	Total 2022/23 to 2026/27
Climate Change	0.270	0.268	0.241	0.172	0.000	0.951
Subtotal: Cost of Financing	0.270	0.268	0.241	0.172	0.000	0.951
Climate Change	0.120	(0.020)	(0.040)	(0.060)	0.000	(0.000)
Thriving Communities	0.136	(0.136)	0.000	0.000	0.000	0.000
Decent Living Income	2.000	0.000	0.000	0.000	0.000	2.000
Tackling Inequality and Crime	0.200	0.000	0.000	0.000	(0.150)	0.050
Subtotal: Service Growth	2.456	(0.156)	(0.040)	(0.060)	(0.150)	2.050
Total Revenue Allocation	2.726	0.112	0.201	0.112	(0.150)	3.001

5. Legal

5.1. The Council has a legal duty to set a balanced budget.

5.2. Some savings proposals will have more detailed legal or practical implications. Where this is the case, these detailed implications will need to be considered before a final decision is taken on whether to implement the proposals or to implement them in a revised format.

5.3. In regard to the Council's employment law duties

5.3.1. Directors, including the Executive Directors and the Chief Executive, have the delegated authority to delete vacant posts and create new posts within their service, within budgetary constraints. Executive directors have the delegated authority (following, in relation to proposals to delete filled posts, consultation with the relevant cabinet Portfolio Holder and with the Chief Executive) to approve reorganisations and restructuring of their own departments, which may or may not lead to redundancies, including approving deletions of filled posts. That is why Cabinet is not being asked to approve as part of this report any of the staffing change proposals that will be required in order to deliver the budget proposals. Executive Directors must, when taking any decisions on staffing change proposals, follow the law and principles set out in this section and in section 18 below (Equalities, Human Rights and Community Cohesion).

5.3.2. Under s188 of the Trade Union and Labour Relations Act 1992, the Council has a legal obligation to consult if there are proposals to dismiss 20 or more employees (within 90 days of each other).

- 5.3.3. Employees have the right not to be unfairly dismissed. The Council's policies and practices reflect this right. Contractual arrangements for matching and redeployment will be applied to minimise the need for compulsory redundancies.
- 5.3.4. The Council has a legal obligation to make redundancy payments to any employees with more than 2 years' service who are dismissed by reason of redundancy. This arises from the Employment Rights Act 1996 and contracts of employment.
- 5.3.5. Employees whose posts are deleted are contractually entitled to pay protection in certain circumstances.

6. Value for Money

- 6.1. Managing within budget and the achievement of efficiency savings are key responsibilities of budget managers, identified as such in their performance objectives, which have helped promote the Value for Money (VFM) culture. Proposals included within this report will continue to deliver VFM through the council's financial and policy frameworks such as contract procedure rules and social value.

7. Sustainability Impact Assessment

- 7.1. Any sustainability impacts will be taken into account before final decisions are taken on whether or not to implement each proposal. All capital budget proposals are required to set out how the proposal contributes towards carbon emission reduction.

8. Risk Management

- 8.1. Under Section 25 of the Local Government Act 2003, the S151 Officer is required to provide his statutory advice to Council, in the annual budget report his view of the robustness of the budget estimates, which for 2022/23 was provided by the S151 officer in February 2022 to Cabinet and March 2022 to Full Council. Budget estimates are exactly that, estimates of spending and income at a point in time. At the time of setting the 2022/23 budget the S151 officer provided Full Council with reasonable assurance that the budget has been based on the best available information and assumptions at the point in time.
- 8.2. Council is faced with an uncertain financial climate over the short to long term which presents a high risk to the authority and there remains potential for further, as yet unrecognised, risks such as impact of rising inflation and energy prices, social care demand. It is important that the Council continues to maintain its spending within budget, puts in place corrective action or spend measures to contain spend within the resources available. Taking into account

the budget risks and uncertainties, and assuming that the recommendations set out above are agreed, the Council's contingency and balances are still considered prudent. However, Cabinet's attention is drawn to the need for close monitoring of the budget and, in particular, the achievement of savings. It will be essential for the Senior Leadership Team (SLT) to continue to exercise a firm financial management throughout the year to ensure that expenditure is contained within budget and targets for service improvements and savings delivery are met.

8.3. Given the uncertainties of the economic environment and the anticipated scale of the expenditure reductions required in the medium to long term, there are inevitably significant risks involved in delivering balanced budgets over the medium term. Key strategic risks will be;

- included in the Corporate Risk Register;
- regularly reported to Audit Committee;
- reviewed through quarterly budget updates reports to Cabinet of 2022/23 financial position; and
- reviewed through updated Budget and MTFs Strategy reports to Cabinet.

9. Community Safety

9.1. Not applicable.

10. Links to Strategic Objectives

10.1. The Council's MTFs, budgets, capital programme and capital strategy are designed to deliver the Council's strategic priorities. The proposed budget amendment for 2022/23 will continue to address the delivery of national and local priorities.

11. Equalities, Human Rights and Community Cohesion

11.1. Budget proposals have been developed and impacts considered in line with the principles set out under S149 Equality Act 2010 and Human Rights Act 1988, including the need to protect elderly, disabled, children and young people who are the most vulnerable residents of the borough.

11.2. Implementation of each of the proposals will follow the Council's processes, policies and local terms and conditions to ensure fair selection, assimilation, and recruitment and to ensure on-going monitoring of diversity.

11.3. Equalities Analysis Assessments (EAAs)

11.3.1. Where proposals will have equalities implications an EAA is required. EAAs are tools that help the Council make sure its policies, and the ways it carries

out its functions, do what they are intended to do and for everybody. If an EAA is required, it will be prepared and taken into account prior to the final decision on whether or not to proceed with the proposal being taken.

12. In Regard to the Council's Public Law Duties

- 12.1. When making decisions the Council must act reasonably and rationally. It must take into account all relevant information and disregard all irrelevant information and consult those affected, taking into account their views before final decisions are made. It must also comply with its legal duties, including those relating to equalities as referred to above. Many proposals will impact upon third parties and where this is the case there may be a requirement for the Council to consult those affected before a final decision is taken on whether or not to implement the proposal or to amend the proposal prior to implementation.

13. Staffing / Workforce and Accommodation Implications

- 13.1. Not applicable.

14. Property and Assets

- 14.1. The Capital investment proposals set out in this report for approval in principle reflect the need to make efficient use of the Council's property and assets at an affordable cost to support the delivery of Council priorities.

15. Consultation

- 15.1. Consultation may be required in relation to some of the budget proposals set out in this report. Where this is the case, the consultation will be undertaken in accordance with legal requirements and within a timetable appropriate to the individual circumstances of the proposal in question, including with recognised trade unions and affected individuals. The outcomes from each consultation undertaken will be taken into account before a final decision is taken on whether or not to proceed with the proposal in question, either as presently proposed or in an amended form.

16. Timetable for Implementation

- 16.1. Upon approval of the budget amendment, council officers will undertake the necessary steps to agreeing the detailed implementation plans with their relevant Portfolio Holders and put in action the steps required to implementing the agreed priorities within the approved budget.

17. Appendices

- Appendix 1 – Capital Additions

- Appendix 2 – Revenue Growth

18. Background Information

- 2022/23 Budget Strategy and Council Tax Resolution – Council 1 March 2022
- Budget Strategy and MTFS 2022/23 to 2024/25 – Cabinet 9 February 2022

Consultation

Name of consultee	Department	Date sent to consultee	Date response received from consultee	Comments appear in report para:
Internal				
Ross Brown	Chief Finance Officer	Continuous	Continuous	Throughout
Paul Martin	Acting Chief Executive	Continuous	Continuous	Throughout
Judith Finlay Lucy Taylor	Executive Directors	Continuous	Continuous	Throughout
Helen Harris	Director of Legal and Democratic Services	06/05/2022	10/10/2022	Throughout
Councillor Peter Mason	Leader of the Council	Continuous	Continuous	Throughout
Councillor Steve Donnelly	Cabinet Member for Inclusive Economy	Continuous	Continuous	Throughout

Report History

Decision Type: For Decision		Urgency Item? No	
Authorised by Cabinet Date:		Report Deadline:	Date Report Sent:
Member:			
Report no:	Report authors and contact queries: Kieran Read, Director Strategy and Engagement, 020 8825 6395 Shabana Kausar, Assistant Director Strategic Finance, 020 8825 7549		

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2022/23 General Fund Capital Programme Additions

Growth Bid Ref.	Priority Area	Directorate	Department	Scheme Name	Funded By	2022/23 (£M)	2023/24 (£M)	2024/25 (£M)	2025/26 (£M)	2026/27 (£M)	Total (£M)
MP-2201	Climate Change	Place	Place Delivery	Extend street lighting	Mainstream	0.550	1.080	0.770	0.000	0.000	2.400
MP-2202	Climate Change	Place	Community Development	Increasing tree canopy	Mainstream	0.750	0.750	0.750	0.750	0.000	3.000
MP-2203	Climate Change	Place	Place Delivery	Road improvements	Mainstream	1.250	1.250	1.250	1.250	0.000	5.000
MP-2204	Climate Change	Place	Place Delivery	Expand the number of bike hangers to at least 150.	Mainstream	0.208	0.208	0.208	0.208	0.000	0.832
MP-2207a	Climate change	Place	Place Delivery	School Streets active travel charter	Mainstream	0.356	0.000	0.000	0.000	0.000	0.356
Total Capital Additions						3.114	3.288	2.978	2.208	0.000	11.588

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2022/23 General Fund Budget Growth

Growth Bid Ref.	Priority Area	Directorate	Department	Description	2022/23 (£M)	2023/24 (£M)	2024/25 (£M)	2025/26 (£M)	2026/27 (£M)	Total (£M)
MP-2215	Decent Living Income	Adults & Public Health	Adults	London Living Wage for Care workers	2.000	0.000	0.000	0.000	0.000	2.000
MP-2217	Tackling Inequality and Crime	Children's & Schools	Schools	Deliver on our commitment to tackle race inequality - Schools	0.150	0.000	0.000	0.000	(0.150)	0.000
Subtotal: Children's and Adults					2.150	0.000	0.000	0.000	(0.150)	2.000
MP-2216	Tackling Inequality and Crime	Chief Executive	HR	Deliver on our commitment to tackle race inequality	0.050	0.000	0.000	0.000	0.000	0.050
MP-2218	Thriving Communities	Chief Executive		Deliver Platinum Jubilee programme	0.136	(0.136)	0.000	0.000	0.000	0.000
Subtotal: Chief Executive					0.186	(0.136)	0.000	0.000	0.000	0.050
MP-2201	Climate Change	Place	Place Delivery	Extend street lighting	0.120	(0.020)	(0.040)	(0.060)	0.000	0.000
Subtotal: Place					0.120	(0.020)	(0.040)	(0.060)	0.000	0.000
MP-2201	Climate Change	Corporate Budget	Treasury Management	Cost of Financing relating to Capital Scheme: Extend street lighting	0.049	0.096	0.069	0.000	0.000	0.214
MP-2202	Climate Change	Corporate Budget	Treasury Management	Cost of Financing relating to Capital Scheme: Increasing tree canopy	0.044	0.044	0.044	0.044	0.000	0.176
MP-2203	Climate Change	Corporate Budget	Treasury Management	Cost of Financing relating to Capital Scheme: Road improvements	0.099	0.099	0.099	0.099	0.000	0.396
MP-2204	Climate Change	Corporate Budget	Treasury Management	Cost of Financing relating to Capital Scheme: Expand the number of bike hangers to at least 150.	0.029	0.029	0.029	0.029	0.000	0.116
MP-2207a	Climate change	Corporate Budget	Treasury Management	Cost of Financing relating to Capital Scheme: School Streets active travel charter	0.049	0.000	0.000	0.000	0.000	0.049
Subtotal: Corporate Budgets					0.270	0.268	0.241	0.172	0.000	0.951
Total Revenue Budget Growth Allocation					2.726	0.112	0.201	0.112	(0.150)	3.001

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Report for:
ACTION

Item Number: 8

Contains Confidential or Exempt Information	YES Appendix A and B
Title	Regulator of Social Housing Voluntary Referral and Notice
Responsible Officer(s)	Lucy Taylor, Executive Director of Place
Author(s)	Darren Henaghan, Interim Director of Housing
Portfolio(s)	Genuinely Affordable Homes
For Consideration By	Cabinet
Date to be Considered	18 May 2022
Implementation Date if Not Called In	1 June 2022
Affected Wards	All
Keywords/Index	Social Housing,

Purpose of Report:

On 25th February 2022, the Council wrote to the Regulator of Social Housing (RSH), the body that provides independent oversight of all registered social housing providers including local authorities and Housing Associations and made a voluntary self-referral for a potential breach of the Home Standard.

The RSH assessed the evidence provided as part of the self-referral and confirmed that the Council has indeed breached the Home Standard. As a result, the RSH published a Regulatory Notice on 11th May 2022.

This report describes the reasons why the Council is subject to this Notice from the RSH, the Council's intended response and a request that the Council's Chief Executive enter into a Voluntary Undertaking for the RSH detailing how full compliance and the discharge of the Notice will be achieved.

The report fulfils the requirements of the duty of the Monitoring Officer to report to Cabinet on a formal basis to report to Cabinet where there has been a failure to comply with the Council's statutory obligations.

1. Recommendations:
That CABINET:

- 1.1. Notes the receipt and contents of the Regulatory Notice dated 11 May 2022**

- 1.2. Authorises the Chief Executive, following consultation with the Director of Legal and Democratic Services (monitoring officer), to enter into a Voluntary Undertaking with the Regulator of Social Housing.**
- 1.3. Notes that a further report will be brought to Cabinet by November 2022 informing it of the outcome of the response to the Regulatory Notice.**
- 1.4. Notes that the report fulfils the requirements of the duty of the Monitoring Officer to report failings by the Council of statutory obligations.**

2. Reason for Decision and Options Considered

Background

- 2.1 On 25th February 2022, the Council wrote to the Regulator of Social Housing (RSH), the body that provides independent oversight of all registered social housing providers including local authorities and Housing Associations, and made a voluntary self-referral for a potential breach of the Home Standard.
- 2.2. The Home Standard sets expectations for registered providers of social housing to provide tenants with quality, safe accommodation and a cost-effective repairs and maintenance service. The RSH's role is to set these consumer standards and to intervene where failure to meet the standards has caused, or could have caused, serious harm to tenants.
- 2.3 As part of the 2021-22 Council internal audit programme, two audits, Confidential Appendices A and B, were completed to assess the adequacy of the Council's controls in place in relation to housing health and safety and fire safety compliance. The two audits concluded no assurance for fire safety, and limited assurance across other areas of health and safety statutory compliance.
- 2.4 In respect of fire safety, the Council has a statutory duty to regularly assess the risk of fire and to take precautions to prevent harm. Similarly, alongside specific statutory duties in relation to gas, electrical, asbestos and water safety, the Council has a duty under the Health and Safety at Work etc Act 1974 to not expose our tenants, and others, to risks to their health and safety.
- 2.5 The fire safety audit found that the Council did not have effective controls in place in relation to its responsibilities for fire safety. At the time of the audit, a significant number of Council properties were recorded as not having an in-date Fire Risk Assessment (FRA) and there was no process to record and track FRA remedial actions. While the Council has recently improved, and we are able to provide assurance that all properties requiring an FRA have one in place, we are unable to state that all remedial works have been completed and monitored.
- 2.6 Similarly, the internal audit identified failings across gas, electrical, asbestos and water safety, including that there was no evidence of monitoring of remedial works.

- 2.7 The RSH assessed the evidence provided as part of the self-referral and confirmed that the Council has indeed breached the Home Standard. As a result, the RSH published a Regulatory Notice on 11th May 2022 (Appendix C). The Notice remains 'live' for 12 months or until full compliance is achieved.

Next Steps

Recovery

- 2.8 Since identifying the issues the Council has embarked on a rapid recovery programme overseen by a weekly Housing Safety Executive Board chaired by the Interim Chief Executive. The Board's focus is to aid the recovery to compliance through work to verify data and strengthen systems and processes.
- 2.9 To assist the recovery process the Chief Executive also commissioned an external review of our position on housing health and safety. This work included a review of the information available on our current and projected situation on Health and Safety Compliance and through interviews with key staff, to identify weaknesses and understand any legacy issues that may be hindering performance. This work, completed by ARK consultancy, has now been completed and is attached as Appendix D.
- 2.10 This external review has now been used to strengthen the recovery plan where appropriate and ARK themselves have been retained to provide assistance and oversight to the recovery programme.
- 2.11 The Council's approach is to be entirely transparent with tenants and leaseholds about the need to improve standards. In March a special edition of Housing News was sent to all tenants and leaseholders telling them that the Council had voluntarily referred to the RSH, and is being completely transparent about the need to improve safety standards. The Spring edition of housing news provides a further building safety update to all tenants and leaseholders and alongside a statement placed on the Council's website, provides information to the public about the regulator's findings.

Understanding the fundamental causes that led to the current situation.

- 2.12 A further report currently being completed by Altair housing consultancy is underway and will forensically investigate the circumstances leading to the current poor performance and make recommendations on the competence and capability at an individual level that may have contributed to this situation. It will also examine the extent to which escalation of performance weaknesses took place to the Senior Leadership Team and beyond that to elected Members.

Working with the Regulator of Social Housing

- 2.13 The recovery plan sets out the scope and timeline for improvements required to satisfy the RSH that the Council is meeting the regulatory standard and that the Regulatory Notice served can ultimately be removed. To aid recovery the

Council has procured additional contractor resources to refresh the leadership of the Housing Service and deliver compliance work.

- 2.14 The role of the RSH is set out in the Housing and Regeneration Act 2008 (as amended). In broad terms the RSH is responsible for the economic regulation of registered housing providers and for setting and monitoring consumer standards such as how tenants' homes are maintained and kept safe, how issues such as anti-social behaviour are tackled and how tenants are empowered to get involved in the decisions that affect them and their homes.
- 2.15 All Council housing providers are subject to the consumer standards and the RSH will intervene if these are breached and there is a significant risk of serious detriment to tenants or potential tenants. The RSH is duty bound to perform its functions in a way that minimises interference and is proportionate, consistent, transparent, and accountable.
- 2.16 The RSH expects the Council to have systems such as audit, risk management and performance monitoring in place that allow the early identification of problems and take effective action to resolve them.
- 2.17 Where appropriate the Regulator expects providers to self-refer. The Council's approach has been to acknowledge failure and take responsibility for self-improvement. In this instance it is very likely that the RSH will seek to work with the Council to achieve the necessary corrective actions.
- 2.18 Section 125 of the Housing and Regeneration Act 2008 allows a social housing provider to present to the Regulator a Voluntary Undertaking. This report seeks authority from Cabinet to enter into such an agreement. If Cabinet agrees, the Council will approach the Regulator with a summary of the detailed compliance recovery action plan and make a binding undertaking that the Council will meet all obligations in the plan. The RSH will consider the content of this and will decide if the Voluntary Undertaking is sufficient to address the breach identified and if the terms of the Undertaking are satisfactory. If the RSH agrees the Voluntary Undertaking will be entered into by the Chief Executive.

3. Financial

3.1 Financial impact on the budget

- 3.1 The recovery programme described in this report was identified in the Housing Revenue Account Business Plan 2022-23 agreed by Cabinet in February and any financial implications will be contained within the relevant revenue and capital allocations over the period of the Plan.
- 3.2 A blend of permanent recruitment and temporary resilience will be used to achieve the outcomes in the plan. Working closely with the RSH has no adverse cost implications and will be contained within the agreed budgets as noted above.

4. Legal

- 4.1 The description of working with the RSH above in paras 2.14 to 2.18 is correct. Initial legal advice informed the Council's decision to make a self-referral to the RSH in February 2022.
- 4.2 In respect of fire safety, the Council has a statutory duty under the Regulatory Reform (Fire Safety) Order 2005 to regularly assess the risk of fire and to take precautions to prevent the risk of fire. In this regard the regulator has learned that a number fire risk assessments (FRAs) were overdue. The Council self-reported they were unable to provide information on outstanding FRA remedial actions.
- 4.3 Where the RSH finds that a breach of the Home Standard has led to, or could lead to, serious detriment to residents, it will likely lead to the RSH issuing a Regulatory Notice. This is in effect a public notice of their findings. This is what has happened, and the Regulatory Notice was formally published on 11 May 2022.
- 4.3 On publishing a Regulatory Notice, the RSH does not automatically have to use its enforcement powers. Instead, the Council may give the RSH a voluntary undertaking in respect of any matter concerning social housing. The RSH may prescribe a procedure to be followed in giving a voluntary undertaking. The RSH approach to voluntary undertakings is set out in its Statutory Guidance. When exercising a regulatory or enforcement power the RSH must have regard to any voluntary undertaking offered or given. The regulator may make a decision about whether to exercise a regulatory or enforcement power wholly or partly on the extent to which an undertaking has been honored.
- 4.4 The RSH will seek assurance that the Council can meet its voluntary undertakings and will be able to reach full compliance within the agreed milestones.
- 4.5 In the event the RSH were to find that the Council has failed to honor an undertaking it may issue an enforcement notice stipulating:
- (i) the grounds on which it is given;
 - (ii) the action the RSH wants the Council to take in response to the notice, including how to publish the notice;
 - (iii) when the action is to be taken (which may be immediately on receipt of the notice);
 - (iv) the provisions as to appeal against the notice, withdrawal of the notice and sanctions.
- 4.6 If the RSH were to make an enforcement notice against the Council it must send a copy to the Homes and Communities Agency ('the HCA'), the Greater London Authority and the Secretary of State.
- 4.7 Failure to comply with an enforcement notice may ultimately lead to issuing a penalty notice against the Council or take steps to have the Council prosecuted for the offence by reference to which the enforcement notice was given.

4.8 In reviewing progress against any voluntary undertaking, the Council should continually review how its providers are performing. If the Council delegates services to sub-contractors (as it does and is explained above in this report), the RSH will regulate the Council based upon the services provided by the sub-contractors.

4.9 The Monitoring Officer has a duty, under s.5A of the Local Government and Housing Act 1989, to report to Cabinet where there has been a failure to comply with the Council's statutory obligations. As the report sets out, the RSH has identified the Council has failed in its statutory duties as a provider of social housing. Given the notice issued by the RSH, which highlighted the serious risk of detriment to residents, the duty as Monitoring Officer is triggered. The Monitoring Officer has not considered it necessary to report to a specially convened meeting of Cabinet given that firstly, the Leader, Portfolio Holder, Executive Director Leadership team all confirmed their intention to hold this meeting; and secondly, triggering this duty may delay the Council taking further action to resolve the identified problems until the Monitoring Officer's report was considered, which would not be in the public interest.

4.10 The report itself fulfils the requirements of the duty of the Monitoring Officer to have reported on a formal basis. It is the duty of Cabinet to determine whether they are satisfied with the procedures being put in place to secure future compliance with the Council's statutory obligations, taking into account the information and advice within this report.

5. Value for Money

5.1 All external resilience and competency resource is procured in line with the Council frameworks for supply.

6. Sustainability Impact Appraisal

6.1 The HRA funds building safety, planned repairs and reactive maintenance work to improve the sustainability of our housing stock, including improvements in thermal efficiency to reduce carbon emissions. The activities outlined in this report form part of a broader Council ambition to scale up retrofitting and upskill the local workforce, which will underpin the growth of the green economy.

7. Risk Management

7.1 There are two options for the Council in working with the Regulator:

Option 1 – Provide for the RSH a Voluntary Undertaking setting out clearly how the Council intends to undertake all necessary work to reach full compliance against the Home Standard and the timeframe for this.

Option 2 – Continue to carry out work against a recovery plan without offering a Voluntary Undertaking.

7.2 The Council's approach to this situation has been to be transparent and seek to work with the Regulator to rebuild. Cabinet should be assured that health and safety compliance will return to acceptable standards even without a Voluntary Undertaking, and it should be noted that it is the preferred approach of the RSH is to work with providers to resolve issues rather than take enforcement action.

7.3 Nevertheless, the RSH does have a range of enforcement tools that may be used to ensure compliance against each of the regulatory standards, and if the Council cannot demonstrate a willingness to work in partnership with the RSH or their response is considered inadequate, the RSH may take enforcement action. Therefore, offering a Voluntary Undertaking to the regulator is the recommended option.

8. Community Safety

None.

9. Links to the 3 Key Priorities for the Borough

The Council's administration has three key priorities for Ealing.

- **Creating good jobs** - rebuilding our economy, returning good well-paid jobs to our Borough, and delivering the next generation of genuinely affordable homes.
- **Tackling the climate crisis** - greening our Borough, cleaning our air, and ensuring the Borough we build is sustainable.
- **Fighting inequality** - relentlessly tackling poverty and inequality that blights too many lives and disproportionately holds back all too many people from achieving their dreams and aspirations.

The recovery actions will allow Council tenants to continue to live in homes which are safe, well maintained, and suitable for their needs.

10. Equalities, Human Rights and Community Cohesion

An Equalities Impact Assessment is not needed to support the decision to work closely with the RSH and implement the proposed recovery plan.

11. Staffing/Workforce and Accommodation implications

None

12. Property and Assets

This report concerns a recovery plan for building safety and fire safety compliance performance related to Council housing assets.

13. Any other implications

None

14. Consultation

None

15. Timetable for Implementation

- Initial referral to Regulator of Social Housing 22 February 2022
- Regulatory Notice Published 11th May 2022
- Submission of Voluntary Undertaking for consideration by the RSH – June 2022

16. Appendices

- Confidential Appendix A – Housing Health and Safety Compliance 2021-22
- Confidential Appendix B – Fire Safety 2021-22
- Appendix C - London Borough of Ealing Regulatory Notice Regulator of Social Housing May 2022
- Appendix D - ARK Consultancy Limited (ARK) Review of Ealing Council's Position on Housing Health and Safety April 2022

17. Background Information

Regulator of Social Housing - Statutory guidance Approach to intervention and enforcement - Updated 16 December 2019

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885100/Guidance_on_the_regulator_s_approach_to_intervention_enforcement_and_use_of_powers_FINAL.pdf

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Lucy Taylor	Executive Director of Place	5.05.2022		
Helen Harris	Director, Legal and Democratic Services	5.05.2022		
Ross Brown	Chief Finance Officer	5.05.2022		
Mike Pinder	Assistant Director – Audit and Investigation	5.05.2022		
Cllr Peter Mason	Leader / Cabinet Member for:	9.05.2022		
Cllr Lauren Wall	Cabinet Member for Genuinely Affordable Homes	9.05.202		
Cllr Stephen Donnelly	Cabinet Member for Inclusive Economy	9.05.2022		
External				

Report History

Decision type:	Urgency item?
Key decision	Yes Special urgent key decision required following the publication of the RSH Notice received on 11 May 2022. The Decision cannot be deferred due to the urgency to agree action with the RSH and make arrangements to continue the necessary corrective actions.
Report no.:	Darren Henaghan –Director of Housing henaghand@ealing.gov.uk

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Regulatory Notice April 2022

Registered Provider

London Borough of Ealing
Registration number: 00AJ

Regulatory Finding

The regulator has concluded that:

- a) London Borough of Ealing (LB Ealing) has breached part 1.2 of the Home Standard; and
- b) As a consequence of this breach, there was the potential for serious detriment to LB Ealing's tenants.

The regulator will work with LB Ealing as it seeks to remedy this breach.

The Case

As a registered provider, LB Ealing is required to comply with the consumer standards, including the Home Standard. The Home standard requires registered providers to have a cost-effective repairs and maintenance service and to meet all applicable statutory requirements that provide for the health and safety of tenants in their homes.

Following a self-referral, the regulator has concluded that LB Ealing does not have assurance that it has complied with statutory health and safety requirements across a range of areas namely fire, gas, electrical, asbestos

and water safety. Internal audits completed in 2021-22 concluded no assurance for fire safety, and limited assurance across other areas.

In respect of fire safety¹, LB Ealing has a statutory duty to regularly assess the risk of fire and to take precautions to prevent the risk of fire. The fire safety audit found that LB Ealing did not have effective controls in place in relation to its responsibilities for fire safety. At the time of the audit, a significant number of Council properties were recorded as not having an in-date Fire Risk Assessment (FRA) and there was no process to record and track FRA remedial actions. While LB Ealing has improved the position with respect to FRAs, it is now in the process of validating its fire safety data in order to provide assurance that all properties requiring an FRA have one in place and remedial works are being appropriately monitored and completed.

Alongside specific statutory duties in relation to gas, electrical, asbestos and water safety, LB Ealing also has a duty under the Health and Safety at Work Act 1974 to conduct its undertakings in such a way that third parties (including tenants) are not exposed to risks to their health and safety. The internal audit identified failings across these areas of health and safety compliance, including that there was no evidence of monitoring of remedial works in relation to electrical, asbestos and water safety. During our engagement LB Ealing was unable to provide complete assurance on data accuracy for health and safety.

Taking all this information into account, the regulator has concluded that LB Ealing has breached the Home Standard, and that, as a consequence, there was the potential for serious detriment to tenants.

Since identifying these issues, LB Ealing has begun a recovery programme, including data validation work and implementation of a new housing management system. LB Ealing is also working with external consultants to strengthen its systems and processes and return to compliance.

The Regulator's Findings

The regulator considered the case as a potential breach of part 1.2 of the Home Standard and has concluded that LB Ealing did not have an effective system in place to allow it to meet its statutory health and safety responsibilities across a range of areas, and to demonstrate that it was compliant across these areas.

Complying with statutory health and safety requirements is a fundamental responsibility of all registered providers because of the potential for serious harm to tenants. LB Ealing has demonstrated to the regulator that it

¹ Regulatory Reform (Fire Safety) Order 2005

understands the work it needs to undertake to ensure it meets these requirements. However, taking into account the seriousness of the issues, the durations for which tenants were exposed to risk, and the number of tenants potentially affected, the regulator has concluded that the Council has breached the Home Standard and that there was a risk of serious detriment to tenants during this period.

Section 198A of the Housing and Regeneration Act 2008 (as amended) states that the regulator's regulatory and enforcement powers may be used if a registered provider has failed to meet a consumer standard. In order to use regulatory or enforcement powers, as well as the failure to meet the standard, there should also be reasonable grounds to suspect that the failure has resulted in a serious detriment to the provider's tenants (or potential tenants) or that there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

As LB Ealing is putting in place a programme to rectify these failings and assured the regulator that it fully understands the work that is needed to rectify these failures, we will not take enforcement action at this stage. The regulator will work with the Council as it continues to address the issues which have led to this situation, including ongoing monitoring of how it delivers its programme.

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EALING COUNCIL

Review of Ealing Council's Position on Housing Health and Safety

April 2022

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1 INTRODUCTION

- 1.1 This report from ARK Consultancy Limited (ARK) sets out the findings arising from the Council's request for an urgent review of the health and safety arrangements in place as they apply to the Council's housing stock and housing related assets.
- 1.2 The brief ARK was required to comply with, made clear that the current situation falls short of the Council's expectations and duties as a major landlord. The brief also made clear that the need for improvement is recognised as part of the Future Ealing Delivery Programme. It is against this backdrop that a review to establish why this situation has arisen for the council and the full extent of the improvement required was commissioned and undertaken during March 2022.
- 1.3 As part of the review ARK examined information provided by the Council and interviewed key staff responsible for the operational management, oversight and delivery of housing related health and safety together with a member of the senior management team within the Council's wider (corporate) health and safety capability.
- 1.4 ARK wishes to place on record its gratitude for the openness and honesty it was afforded by staff and for the cooperation it received throughout the review process.

2 ABOUT ARK

- 2.1 ARK is an award winning multi-disciplinary specialist housing consultancy practice. Established in 1990, we operate throughout the United Kingdom. Our clients include over 500 local authorities, ALMOs', housing associations, support and care providers, charities, developers, contractors and a range of other statutory and voluntary agencies.
- 2.2 ARK provides a wide range of property asset management support and advisory services to social housing landlords, who own and manage from a few hundred to tens of thousands of homes, as well as to other asset owning organisations, including charities, local authorities (general fund assets), other public bodies and private clients.
- 2.3 ARK has recently successfully completed reviews responding to a similar brief to Ealing's for other clients, in some cases in response to regulatory intervention. These were completed by the same team responsible for undertaking this review.

3 ARK'S METHODOLOGY

3.1 ARK's tried and tested methodology for this type of strategically important 'rapid review' was deployed.

3.2 To complete the review, ARK:

- Reviewed stock profile information and where possible reconciled this with the range of health and safety regimes ARK would expect to be in place for the Ealing property typography.
- Asked Ealing to complete ARK's **Building Safety Matrix** which aims to confirm the full extent of regularised health and safety activities (what, where, how often and by whom).
- Reviewed relevant policies and procedures.
- Reviewed systems used to programme and manage property related health and safety activities (including remedial works).
- Reviewed data capture, management and validation arrangements (including those accessed through third-party (contractor) systems and portals).
- Reviewed performance monitoring and performance management arrangements.
- Established the extent to which activities that positively attract additional assurance through specialist third party audits are in existence.
- Reviewed the operational management of the team or teams that collectively manage housing (and related assets) safety risks.
- Met key staff assigned to the advancement, design and management of the health and safety activities highlighted in the completed Building Safety Matrix.
- Attended site to review how IT systems are used to support, manage and track health and safety activities.
- Confirmed the extent to which procurement activities are formalised and support appropriate risk mitigation.
- Attempted to establish whether the Council:
 - knows all of its assets and has asset details recorded in an assets register
 - has a robust understanding of legal and best practice responsibilities?
 - has compliant contracts in place for all compliance areas
 - monitors compliance activities in a single corporate system (the single version of the truth)
 - obtains assurance through independent validation and verification
 - has robust and transparent reporting and early warning/escalation systems in place

- 3.3 At the end of this stage ARK established:
- Key weakness with the current arrangements.
 - The extent to which there are robust formalised regimes in place for all known safety risks that require statutory inspection or testing (not just the 'big six').
 - Whether policies and procedures support these regimes.
 - The extent of any departures from legal requirements or commonly accepted industry best practice.
 - Weaknesses in the current approach to maintaining accurate records and in prioritising and tracking remedial works.
 - The capacity and capability of the organisational teams with responsibility for health and safety related property management.
 - The availability and accuracy of key information and performance measurement/management arrangements.
 - A set of recommendations and priorities for action.
- 3.4 ARK was not able to verify the full extent of any backlogs of inspections or remedial works or the adequacy of recovery plans as this information was not available. This is a key issue that does need to be addressed as a matter of urgency.

4 EXECUTIVE SUMMARY

- 4.1 From the work undertaken by ARK it is clear that the Council is committed to addressing the weaknesses it has identified in the way it oversees, manages and executes its legal and moral health and safety responsibilities as a provider of social housing.
- 4.2 In some areas the Council is ahead of its contemporaries in keeping tenants safe with the longstanding voluntary arrangement to undertake electrical safety checks every five years and installing smoke detectors that can be monitored and maintained remotely by Council staff being two cases in point. There are however significant, basic and fundamental weaknesses in current arrangements that result in the Council not having in place a robust system in place to manage tenant safety risks or discharge its health and safety risks effectively across the housing portfolio.
- 4.3 Apart from the two examples provided above it will be noted that there is little reference to good practice and where the Council has suitably controlled risk. Although we found several areas of good practice and a positive and proactive approach to keeping residents safe, this was not widespread and focussing on strengths rather than weaknesses was not part of the review. In any event good practice examples were not sufficiently material to affect the conclusions we have arrived at.

- 4.4 It should be noted that management recognises and accepts the weaknesses highlighted in this report and has already taken the first step to recovering the compliance position by recruiting a suitably experienced Director of Housing as the 'single controlling mind' with the responsibility for the oversight, management, coordination and timely delivery of all compliance activities pertaining to those property and land assets that sit on the Council's Housing Revenue Account.
- 4.5 ARK considers this appointment to be a major step forward. There is now a sense of urgency, frankness and transparency about the scale of the compliance challenge and what needs to be done to create and deliver a sustainable solution.
- 4.6 ARK is also aware that the Council's Chief Executive will now be chairing a working group that will oversee a recovery plan and will be ensuring that substantial resources that have recently been made available are deployed effectively. This is further evidence that the importance of compliance is now appropriately understood and supported.
- 4.7 Our review has identified five broad themes and associated weaknesses that cumulatively point to the magnitude of the recovery that is needed to put the Council in a position that it can be assured that statutory housing related health and safety related tests, checks, inspections and resultant remedial works are undertaken in a timely manner and accurately recorded in core corporate systems.
- 4.8 Providing that sufficient human and financial resource is deployed to address the weaknesses highlighted within the report, the immediate challenge and absolute priority of accurately quantifying and eradicating compliance backlogs (inspections and remedial works) is capable of being achieved in a matter of a few months, providing there is appropriate engagement with, and procurement of, competent service providers operating in the compliance market. It would however be unrealistic to view the IT/IS, data management and cultural challenges as short-term fixes and a minimum of a year is not, in ARK's considered opinion, an unrealistic timeframe for fully addressing the current challenges in these areas.
- 4.9 The five themes we have identified are:
1. Leadership, management and compliance team capacity
 2. Use of Information technology and data management/integrity
 3. Contract management/procurement
 4. Performance monitoring and management
 5. Culture
- 4.10 We have structured our report around these themes and for each, provide a commentary together with recommendations. We conclude the report by identifying what we consider to be the contributory factors and root causes to the current position that should be avoided if the risk of repetition in the future is to be averted.

5 FINDINGS

THEME 1: LEADERSHIP, MANAGEMENT AND COMPLIANCE TEAM CAPACITY

5.1 WEAKNESSES

- Previous absence of strategic direction or vision for compliance management.
- No single point responsibility/leadership (compliance champion).
- Absence of annual plans and targets for teams and individuals.
- Absence/management of a cogent recovery plan that aims to eradicate existing backlogs of inspections and remedial works.
- Incomplete/out of date policies and procedures.
- Performance reports limited in scope and detail.
- Areas of compliance (outside of the big 6) not given sufficient focus.
- Structure of compliance fragmented, and responsibility spread over several teams and Directorates.
- Insufficient resource deployed in key areas resulting in staff 'firefighting'.
- High staff turnover and significant reliance on temporary staff.
- Weaknesses in previous audits not always addressed in a timely manner (or at all).
- Staff training not up to date.

5.2 COMMENTARY

- 5.2.1 The modern compliance environment in housing organisations is dynamic and challenging. For it to be managed successfully it requires a 'single controlling mind' that articulates corporate vision, plans and policies to subordinates from where the work actually starts. Compliance managers then support this through the effective coordination of compliance activities and in ensuring performance standards and targets are being met.
- 5.2.2 ARK found there to be the lack of the 'golden thread' that translates Council objectives into departmental, team and individual targets. Compliance leads openly admit to being driven by meeting what they perceive to be the legal requirements that protect the Council, rather than Council standards and priorities as they are not aware what these are. Team and individual staff member performance is not systematically discussed with team members and as a consequence opportunities to develop, motivate and support team members are being missed. A high turnover of staff and use of short-term interim managers has undoubtedly contributed to this position.

- 5.2.3 Policies do not exist for key activities (e.g., lift maintenance) and where they do exist, they are not subjected to planned periodic review. The absence of 'policy leads' also means that changes in legislation or emerging best practice are not considered in a timely manner.
- 5.2.4 Where they exist, procedures were often found to be incomplete or out of date.
- 5.2.5 From ARK's review of the property register provided by the Council, it is clear that there is a high degree of awareness of the full range of compliance activities that need to be undertaken and the frequency by which they are undertaken. ARK reviewed this information, reconciled it with the property register and found the 37 compliance activities (ranging from gas appliance servicing to playgrounds, lightning conductors, car park barrier testing etc) to be entirely consistent for the types of property on the register. A weakness however is in not being totally confident of which properties require such compliance regimes, particularly where this information is not captured as part of ongoing surveys (e.g., adaptive lifts/hoists, car park barriers etc).
- 5.2.6 ARK would also expect management to ensure there is reporting on all (37) compliance areas, but this is not currently the case. Performance reports are primarily limited to the 'big six' FLAGEL activities. (Fire, legionella, asbestos, gas, electrics and lifts). Consequently, neither senior management nor Cabinet have full visibility of compliance requirements or performance against them.
- 5.2.7 Whilst ARK found the team members it interviewed to be extremely competent and committed to keeping customers safe, the team is undoubtedly lacking the capacity (resources) to organise and plan compliance activities and simultaneously ensure that quality standards and other Council duties are being discharged effectively. By way of example, the responsibility for managing the gas safety requirements of circa 10,000 homes is placed with a single gas safety manager. This means that 100% of the Council's gas safety compliance capacity is placed with a single person who will be at work for no more than 10 months in any given year. For the remaining 2 months the Council's capacity in this high-risk area is 0%.

5.3 RECOMMENDATIONS

- The Council establishes a vision for compliance management – now being addressed given the recent recognition of the importance and the commissioning of this review.
- A robust and time bound recovery plan is developed and agreed for the eradication of compliance backlogs and progress is reported to senior management on at least a monthly basis. (Although there is a comprehensive improvement plan in place, this does not assess resource requirements nor identify what needs recovery and how this will be reported).

- The Council recruits a suitably experienced 'single controlling mind' who is capable of providing the direction necessary to deliver compliance activities effectively. We consider the very recent appointment of the new Director of Housing to address this point.
- Single point responsibility for the compliance management of HRA property and land assets is placed within an adequately resourced and experienced housing compliance team.
- A new suite of policies and procedures is developed, communicated to staff who need to apply them.
- Reporting arrangements are extended (for all compliance areas) and strengthened to allow the facilitation of early identification of issues requiring corrective action.
- A formal register of compliance policies (for all key areas) is established and is used as the basis for formal (periodic) review.
- A fundamental review of staffing requirements is urgently undertaken and acted upon.
- Compliance team leadership is required to formally report (at least monthly) on all compliance areas.
- Steps are taken to ensure that audit reports are acted upon and 'closed off' in a timely manner.
- Staff development and training needs are established and acted upon.
- Team and individual team member objectives and targets are established and reviewed regularly.
- Steps are taken to establish the high-risk areas where additional (specialist) third party support on the adequacy of compliance arrangements is needed.

THEME 2: USE OF INFORMATION TECHNOLOGY AND DATA MANAGEMENT/INTEGRITY

5.4 WEAKNESSES

- Corporate Open Housing Integrated Management System (OHMS) is not systematically used to record compliance requirements or activities (no single version of the truth).
- Attribute information is incomplete/missing (e.g., adaptive lifts).
- Excessive use of spreadsheets increases the risk of manual entry errors and prevents reconciliation, validation and reporting of property records, attributes, programmes and performance.
- Programmes/reporting are not reconciled to core lists.
- In some areas OHMS is totally bypassed.
- Repairs/compliance records on OHMS are incomplete.
- Contractor records are not interfaced with OHMS.

5.5 COMMENTARY

5.5.1 The ability to meet statutory health and safety requirements relies on the Council having good quality data about its tenants and its stock and being able to demonstrate the data is sufficiently extensive and accurate. Good quality data held in a single corporate repository allows social landlords to better assess and manage risks and provides a 'single version of the truth'.

5.5.2 In common with many other social landlords, the Council uses the proprietary Capita Open Housing Integrated Housing Management System (OHMS) for recording and actioning housing management and maintenance activities and the Council has recently decided to invest in the OHMS Compliance Module to further integrate and manage landlord compliance activities. This, which is an important and positive decision, has yet to be implemented but is planned for 2022/23.

5.5.3 As a minimum this will allow the Council to:

- Record compliance regimes required at block and property level.
- Identify last and next inspection dates across all programmes and compliance activities.
- Track remedial actions through to completion.
- Provide codified reasons why properties are not on programmes.
- Have a single chronology of compliance activity at block and property level.
- Interface compliance data held on contractor systems.
- Produce performance and exception reports

5.6 RECOMMENDATIONS

To ensure that the system is used as designed, and delivers the outcomes and outputs required, it is recommended that the Council:

- Ensures key compliance information is systematically captured as part of the ongoing stock condition survey programmes.
- Ensures the asset architecture (parent and child hierarchy) of the OHMS property database allows information to be recorded where it is needed e.g., property/block/scheme level.
- Remedial work is prioritised, ordered and tracked through to completion using OHMS.
- Validates useful information contained on any spreadsheets prior to any migration to the compliance module.
- Removes the option of staff recording compliance information (including programmes) on individually held spreadsheets.
- Is explicit with contractors on what information is required to be interfaced with OHMS and how this is to take place.

- Mandates that programme and performance reports are principally derived from data sources and fields within OHMS.
- Ensures staff are adequately trained on how to use the OHMS system and compliance module.
- Undertakes periodic reconciliation exercises to validate the accuracy of information held on OHMS with external databases held by statutory/regulatory bodies or agents thereof (e.g., gas supply information held by XoServe on behalf of Cadent).
- Considers appointing a dedicated project manager as a matter of urgency to manage the transition and full implementation of the new OHMS compliance module.

THEME 3: CONTRACT MANAGEMENT/PROCUREMENT

5.7 WEAKNESSES

- The planning horizon for procurement insufficient to optimise VfM.
- The contract register not systematically updated.
- Approved contract extensions are not always formalised.
- The rationale for contractor selection awards is not always clear.
- Contractor capacity to respond to changing workload.
- Timeliness of contractor payments.
- Compliance procurements are not formally reviewed prior to retender (i.e., asset lists, standards and specifications).
- Hard targets for removing backlogs are not in place or communicated to the supply chain.
- Contractor performance reviews are not systematically undertaken or recorded.

5.8 COMMENTARY

5.8.1 Predicting and planning for procurement activities and ensuring they exploit the Value for Money advantages that can flow from taking a long-term approach to forming contractual relationships and managing these relationships effectively are key components of service delivery success and compliance risk management and mitigation.

5.8.2 From ARK's review of the Council's contract register used to record and track compliance related contracts and agreements it is clear that it is not used to review procurement priorities and to plan future market engagement exercises. It is also clear that where contract extensions are approved these are not systematically converted into formalised variations to the original contract. The absence of this formality places an additional and unnecessary contractual and service risk on the Council.

5.8.3 ARK also noted that contractor performance reviews are not systematically undertaken or recorded and used as an opportunity to ensure contractual obligations and performance standards are met or recovered where underperformance is an issue.

5.9 RECOMMENDATIONS

ARK recommends that the Council:

- Strengthens its procurement capability and develops a procurement strategy that acts as the framework within which procurement decisions are taken. (There are consortia options available that can reduce procurement workload and speed up PCR 2015 compliant contract awards).
- Maintains an accurate and up to date contracts/agreements register and uses this to manage the procurement cycle.
- Extends the planning horizon for procurement exercises so as to ensure there is sufficient time to make informed decisions about procurement options and routes.
- Assesses and aligns the capacity of the supply chain with the increase in work necessary to eradicate current compliance backlogs.
- Introduces a systematic approach to undertaking and recording the outcomes of contractor/supplier performance reviews.
- Introduces a systematic approach to collecting, recording and verifying contractor insurances and competencies/certificates (e.g., Annual GasSafe registration renewals for engineers working in Council properties).

THEME 4: COMPLIANCE PERFORMANCE MONITORING AND MANAGEMENT

5.10 WEAKNESSES

- There is an underdeveloped approach to monitoring and managing performance at compliance activity level.
- Performance reporting focus is limited to small number of compliance areas (the big six).
- Performance reports are silent on the extent of any problems and backlogs and timelines for addressing them.
- Escalation procedures not in place to ensure there is adequate visibility and organisational focus on addressing health and safety critical problems that are likely to impact on customer safety and/or statutory compliance.

5.11 COMMENTARY

5.11.1 The current approach to reporting to senior management and Cabinet on compliance activities is currently limited to Fire Safety, Legionella, Asbestos, Gas Safety, Electrical Safety, Lift Safety (the FLAGEL big six). This means that the Council's governing body, senior management and operational management do not have complete visibility of the full 30+ compliance regimes that are undertaken within the housing stock and related assets.

5.11.2 ARK also found that performance is being measured by reference to individually held spreadsheets rather than corporate systems. This means that measurement criteria can be interpreted by officers rather than set by the Council and allows for the potential that performance figures can be misreported.

5.11.3 The absence of a robust, simple and systematic escalation processes across all compliance areas means that departures from agreed performance standards are not being predicted, captured and corrected promptly or reviewed by appropriate management levels. Using gas safety as an example such an escalation process typically involves:

- LGSRs' overdue by 31 days to 60 days being formally reviewed at Head of Service level.
- LGSRs' overdue by 61 days to 90 days being formally reviewed at executive level.
- LGSRs' overdue by 91 days plus being formally reviewed by the organisation's governing body or committee thereof.

5.12 RECOMMENDATIONS

ARK recommends that:

- The Council's governing body review and strengthen the control environment applicable to the housing compliance environment.
- Agreement is reached on what performance reports are to be received by whom and at what frequency.
- Performance definitions and measurement criteria are established for all compliance areas (beyond the big 6).
- The Council's governing body receive assurances that weaknesses identified in internal audit reports and other surveillance reports are actioned and signed-off in a timely manner.
- The Council's governing body and senior management consider seeking periodic additional external expert assurance in those areas considered to present the greatest health and safety risk to tenants (e.g., Gas safety, fire safety).

THEME 5: PREVAILING CULTURE

5.13 WEAKNESSES

- Lack of vision, team direction, stability and cohesion.
- Core values are unclear.
- Individualistic approach to compliance management.
- Silo working prevalent and mistrust between departments.
- Staff feel unempowered to raise concerns or suggest improvements. (management has hitherto been reluctant to hear about concerns or consider ideas).
- Little learning from the 'front line'.
- Attention to detail lacking in key areas.
- Continuous improvement not embedded or part of the day job.
- Performance feedback routines not embedded.

5.14 COMMENTARY

5.14.1 Within the social housing environment, an underperforming compliance capability is often a symptom of a misfiring culture, a culture where trust is often damaged and there is a lack of clarity about the organisation's values, direction of travel and what success looks like.

5.14.2 ARK found that staff employed on housing compliance activities within LB Ealing related to and recognised these issues as real for them. Staff reported that they were constantly buffeted by what they felt were constant changes in management and operational structures (often driven by cost cutting demands) and this had been translated into a feeling of being overwhelmed by an ever-increasing workload. Staff also commented that they were unclear about the goals they were working towards and had consequently developed their own sense of what it was they should be aiming for and had established their own personal modus operandi for delivering services.

5.14.3 ARK found that the team is operating with significantly fewer resources than is necessary for the area business they are responsible for. The manifestation of this is that staff focus on completing the transactional tasks that keep the service moving and other equally important activities are relegated or ignored.

5.14.4 Staff also reported that they felt disempowered and considered that a succession of cost cutting rounds had fostered a blame culture within the Council. This in turn had impacted on the perceived willingness of management to receive bad news or engage in meaningful dialogue about service challenges and problems. Ark recognises that this position has recently changed (partially with the commissioning of this review) and that the staff now need to be reengaged in the operational changes that are needed.

5.14.5 ARK considered the openness, honesty and frankness of staff contributions to be in effect a 'cry for help'. It is absolutely clear that the team is operating under significant stress in a complex and ever-changing compliance environment and the team is in effect 'revving in neutral'. This position is undoubtedly impacting on sickness absence and is unsustainable in the long term.

5.15 RECOMMENDATIONS

It is recommended that the Council:

- Establishes a vision and values for the compliance capability.
- Establishes clear goals and performance feedback mechanisms.
- Ensures the compliance team benefits from appropriate levels of support.
- Ensures learning and innovation becomes part of the team's DNA.
- Ensures effective teamwork and collaboration is encouraged.
- Shapes the size, structure and skillset of the team around the **compliance** needs of the housing stock and related assets.

6 ROOT CAUSATION

6.1 Our involvement in similar reviews has highlighted to us the risk of trying to identify and focus on individual human errors and this is particularly relevant to this review where many of the issues we identified are not recent.

6.2 It is absolutely the case that there has not been a single contributory factor that has resulted in the current challenges but a series that cumulatively has allowed the service to drift and lose focus.

6.3 We consider these to be weaknesses in:

- Governance
- Leadership, management, and capability
- High turnover of staff and over reliance on short term temporary staff
- Data management and data integrity
- Performance monitoring and management
- Procurement
- The control environment
- IT/IS (and in particular, OHMS configuration and use)
- Staffing structures and staff responsibilities.

6.4 Each of these has been considered within the body of this report

7 CONCLUSIONS

- 7.1 The compliance challenge being experienced by LB Ealing is not minor in either its scale or importance and a concerted effort will be needed to address weakness in current arrangements.
- 7.2 The findings of our review have been accepted by management and steps are already underway to implement the recommendations contained in this report. Expressed as headline priorities for action these are:
1. Set a cogent and clear vision for the (compliance) service.
 2. Establish a robust control environment for compliance activities.
 3. Strengthen the leadership and management of the 'property community'.
 4. Take urgent steps to quantify and eradicate compliance backlogs (inspections and remedial works). Ark would have hoped to have identified these but the information was unavailable; without this being quantified, the scale of recovery needed is not yet fully clear.
 5. Take urgent steps to ensure property data is accurate and up to date.
 6. Take urgent steps to clearly define the asset data structure within OHMS and establish data reconciliation and validation protocols that use OHMS for organising and managing compliance activities (*the single version of the truth*). Consider appointing a dedicated project manager to implement the new module.
 7. Establish an operational structure that has the leadership, knowledge, skills and capacity necessary to provide a modern effective compliance operation.

ARK Consultancy Limited
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