

CABINET

11 December 2018

Title: Pan London Procurement of Temporary Accommodation Hub – Capital Letters	
Report of the Cabinet Member for Regeneration and Social Housing	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Director: Mark Fowler, Director of Community Solutions	
Accountable Strategic Leadership Director: Claire Symonds, Chief Operating Officer	
Summary <p>Capital Letters is a collaborative approach to the procurement of Temporary Accommodation (TA) across London. Currently the procurement of TA is done on a borough by borough basis which often leads to Councils out bidding each other, creating a false housing market.</p> <p>There are a number of advantages of Capital Letters including access to more properties, a more co-ordinated approach to procurement and potential access to a £34m funding stream from the Ministry of Housing, Communities and Local Government (MHCLG). The estimated aggregate financial benefit of the proposal to the London boroughs collectively is up to £116m, plus potential savings on changing how placements are made and reduced repeat homelessness through tenancy sustainment. The company would build on the Inter Borough Accommodation Agreement (IBAA) which has led to reduced spending through rate-sharing and the application of a cap on rates paid for certain accommodation. The company would work within this system and provide further opportunities to rationalise and secure efficiencies in the procurement of accommodation for homeless households.</p> <p>This report outlines the proposal in detail and recommends that the Council joins the company as a ‘wave 1’ organisation with a voting seat on the board of Capital Letters.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree, in principle, to the Council’s participation in “Capital Letters”, a Company Limited by Guarantee to be established by the London boroughs, in accordance with the strategy set out in the report; and(ii) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Regeneration and Social Housing and the Director of Law and	

Governance, to make the final determination on the Council's participation and, if appropriate, enter into all the legal agreements, contracts and other documents on behalf of the Council required to implement any aspect of the arrangements, including the appointment of the Council's Company Member Representative and operational arrangements for staff secondment.

Reason(s)

To assist the Council to achieve its priorities of growing together and maximising wider benefit to the community to ensure that no-one is left behind.

1. Introduction and Background

- 1.1 The immediate background to this work is the increasing burden of homelessness and the resulting provision of TA and prevention placements. In March 2017 there were 77,240 households in TA nationally, an increase of 60 per cent since March 2011. Seven out of ten of these households are placed by London boroughs. The cost of providing TA in 2015/16 (£845 million) accounted for more than three quarters of the total cost of providing homelessness services nationally (£1.15 billion).
- 1.2 Capital Letters is a proposed joint endeavour between a group of London boroughs to reduce the costs of temporary accommodation and deliver improved outcomes for homeless families, by jointly procuring and managing accommodation across London.
- 1.3 London Housing Directors and the officer team at London Councils have been working on a model which will enable better outcomes for homeless and at-risk households as well as for Councils. The proposal is to establish a not for profit company, called "Capital Letters".
- 1.4 The establishment of Capital Letters is being supported by MHCLG using top-sliced Flexible Homelessness Support Grant, to alleviate the costs to boroughs of providing accommodation and to encourage greater efficiency, provide extra staffing, IT and other resources to increase supply and improve the service offered to both tenants and landlords.
- 1.5 MHCLG funding is expected to be used in the following three ways:
 - Contribution to Private Sector Leases (PSL),
 - Private rented placement incentive payments,
 - Central cost contribution, e.g. for additional procurement staff, tenancy sustainment staff, IT and premises for the company.
- 1.6 By providing an organisation to represent a large group of London boroughs, it is intended to offer a simpler and more straightforward interface for landlords, managing agents and developers anywhere in London who are able to provide properties for those families and other households most in need of accommodation.

2. Proposal and Issues

- 2.1 Capital Letters will grow in phases, with an initial number of boroughs joining in the first year, followed by phase two a year later, and eventually including, if not all, then the clear majority of London boroughs. There are also two types of company membership, A and B. The distinction is noted in Appendix A and details of the proposed timescale for phasing is in Appendix B.
- 2.2 There are a number of reasons why Barking and Dagenham would want to be a wave 1 authority but a seat on the board of directors is the main factor to direct the company in future years. Wave 1 of the business is anticipated to start operations in April 2019. The MHCLG subsidy per borough will be greater in the first year. This is important in terms of the proportion of centrally funded staff compared to borough funded staff, which should provide a greater uplift to procurement numbers for the boroughs in the first wave. The MHCLG subsidy per property will also be greater in the first year and boroughs joining in the first year will receive an additional year's subsidy from MHCLG compared with boroughs joining later.
- 2.3 The Councils involved in the set-up of the company will also have much more control over the way it is set up and shaped than those who join after the company has been established.
- 2.4 If Barking and Dagenham do not join, Capital Letters will still have properties it has procured in our borough. Although Capital Letters will abide by the agreed IBAA rates, there is nevertheless a significant risk that landlords and agents will prefer to work with Capital Letters than within individual boroughs because of the profile it will have when launched, and because of the more streamlined ability to let properties across London with one organisation than with a number of different boroughs, all with slightly different terms and conditions and different personnel.
- 2.5 If Capital Letters is successful then it will be possible for Barking and Dagenham to secure more private rented and leased properties in London within or close to the borough, reducing the amount of families housed in TA in Thurrock and surrounding boroughs. It would be better to secure these benefits sooner rather than later.
- 2.6 Capital Letters will collaboratively procure new properties on behalf of London boroughs supported by the MHCLG top-slice and on a pan-London basis. In addition to the top-slice, the pan-London procurement allows a more rational allocation of supply across London, allowing households to be housed closer to placing boroughs. Member boroughs will also be able to transfer existing leased properties into Capital Letters, which as a private landlord will be eligible for 100% Local Housing Allowance (LHA) from the Department of Work and Pensions, which on average across London is £35pw higher than the current rate for borough-let temporary accommodation, which is currently 90% of 2011 LHA levels. Boroughs will also be able to convert often expensive nightly paid accommodation where appropriate.
- 2.7 Properties are expected to be a mixture of Private Rented Sector properties let by the property owner to households nominated by the boroughs, and properties leased directly from landlords or from managing agents.

- 2.8 Capital Letters will be established as a not-for-profit Company Limited by Guarantee, wholly owned by the member boroughs. Boroughs must become members of the company in order to participate in and benefit from its activities and access the additional MHCLG funding.
- 2.9 By the end of the third year of operation it is envisaged that Capital Letters will have a staff complement of around 270 officers and an annual income of £238m. By this stage it will have secured almost 20,000 additional properties to help prevent and tackle homelessness and will have an estimated 13,000 properties either fully or partially under its management.
- 2.10 For Barking and Dagenham, officers propose seconding 1 member of staff in order to procure an estimated 100 properties per year, including c.60 leased properties for use as temporary accommodation for accepted homeless families and c.40 private tenancies for prevention of homelessness. At this level of involvement, officers estimate a potential saving of around £160,000 in year 2 of operation. Further detailed analysis will be needed to finalise the agreed outputs for the first year (2019/20) and provide a clearer targeted savings figure.
- 2.11 Participating boroughs who become full members of Capital Letters will initially second staff from their procurement and management teams performing this function to Capital Letters¹. This will allow the existing skills, expertise, local knowledge and client relationships held by those officers to be absorbed into Capital Letters.
- 2.12 The activity of seconded staff continuing with the procurement activities they were previously undertaking for their borough will be supplemented by approximately 20 additional staff employed directly by Capital Letters. It is anticipated that this will lead to 4,300 additional properties within Greater London being procured in the first three years.
- 2.13 Boroughs will be allocated at least as many properties over the first year as were procured by the staff it seconds in the previous year. Any additional properties would be allocated to the participant boroughs in proportion to the staff resources they have contributed through secondment or funding of staff recruited directly by Capital Letters. Subject to meeting borough minimum allocations, and fair distribution of additional properties, all properties should be allocated as close to host boroughs as possible, also taking into account the provisions of the homelessness suitability order as they apply to individual households. This should mean that a smaller number of households have to move a long distance from their home borough than is currently the case. Proposed allocation policy principles are set out in Appendix C.
- 2.14 The company will be funded by a combination of MHCLG grant, rents from tenants and top up payments from member local authorities. These are the payments that are already made by local authorities, for example through Discretionary Housing Payments (DHP) or other existing budgets when Local Housing Allowance (LHA) rates do not cover full rent. They will be made lower for local authorities as a result of the MHCLG subsidy, so the net impact for Barking and Dagenham should be a real reduction in expenditure per property.

¹ Boroughs do not have to second staff, although most are likely to. If a borough would prefer to have another way of placing a minimum of 50% of their relevant procurement through Capital Letters that is acceptable.

- 2.15 The company will be established as a private company limited by guarantee, owned and managed by the boroughs who constitute limited liability members of the company. The liability is limited to £1. It will also be Teckal compliant in relation to public procurement regulations, which means that as a company member Barking and Dagenham will be able to use the company's services without undertaking a competitive procurement process.
- 2.16 The activity of the company will be supported by a digital Property Listing Platform (PLP). A specification for this IT system has been developed by London Ventures, in consultation with the Capital Letters working group. Soft market testing has identified a number of providers who would be able to develop a product which meets the specification requirements. Initially, one borough will lead on the procurement of this PLP on behalf of the company.
- 2.17 The timescale for programme delivery assumes the new company is established and trading by April 2019, with a first wave of boroughs joining by then and a second wave of boroughs joining in April 2020.
- 2.18 A minimum condition of being an A member of Capital Letters is that at least 50% of the annual supply of new non-emergency accommodation for homeless households for that borough is provided by Capital Letters in the first year. This is a minimum requirement; many boroughs will put through a higher percentage of their supply.

3. Options Appraisal

- 3.1 There is the option not to join the company in the first phase. This would result in a lost opportunity to access MHCLG grant funding, alleviate the costs of providing temporary and prevention accommodation, increase the procurement of leased temporary accommodation, reduce the use of expensive nightly paid accommodation and enable the placement of many households closer to home.
- 3.2 Rather than A membership in the first phase, the Council could alternatively join the company as a B member. This would still enable the Council to receive services from Capital Letters but would mean that the Council has less influence over the strategic direction of the company. It would also mean Barking and Dagenham would not have access to additional MHCLG subsidy for newly procured properties. The distinction between A and B membership is noted in the Articles of Association, with the relevant section copied below in Appendix A.
- 3.3 The third option is to not join Capital Letters at all, this would carry risk as other Capital Letter authorities will continue to procure properties within Barking and Dagenham and potentially mean that we find it increasing difficult to procure TA properties.

4. Consultation

- 4.1 These proposals have been discussed with Members of the Cabinet and were considered at the Homes Portfolio Meeting on 18 September 2018 and 8 November 2018. They were also presented to the Community Solutions Board on 19 November 2018.

- 4.2 Subject to the Cabinet agreeing the proposals in principle, the detailed proposals will be presented to the Corporate Strategy Group for endorsement prior to the Chief Operating Officer taking any decisions under the delegated authority sought in this report.

5. Financial Implications

Implications completed by: Katherine Heffernan, Group Finance Manager.

- 5.1 The financial implications for the council are not known at this stage. However, there is no direct financial commitment from the Council to set up the Capital Letters programme.
- 5.2 The proposals provided by Capital Letters indicates that the entity is funded by a top-sliced Homelessness Flexible Support Grant. However, at this stage funding for the project after Year 1 is not yet confirmed. Should funding not be available in Year 2 from the Government or another funding source, any members can leave the entity with 30 days' notice.

6. Legal Implications

Implications completed by: Dr. Paul Feild Senior Governance Lawyer.

- 6.1 The proposal in this report is that the Council joins and participates in a Company limited by guarantee for the purpose of acquiring temporary accommodation letting to enable the Council to satisfy its obligations under homeless legislation. The liability of the Council will be restricted to £1, though if it were to make losses the members could, if they so choose, decide to keep it running.
- 6.2 The Council has the power to enter the arrangement join as a Member by the general power of competence given by section 1 of the Localism Act 2011. This enables the Council to have the power to do anything that individuals generally may do. Section 1(5) of the Localism Act provides that the general power of competence under section 1 is not limited by the existence of any other power of the authority which (to any extent) overlaps with the general power of competence. The use of the power in section 1 of the Localism Act 2011 is, akin to the use of any other powers, subject to Wednesbury reasonableness constraints and must be used for a proper purpose. In addition, in pursuit of the Councils homelessness prevention duties Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, this would enable it to join Capital Letters as a member.
- 6.3 The arrangements as described are that the services will be delivered by a Teckal structured company which means that the arrangements are not subject to the procurement regime of the Public Contract Regulation 2015. This is enabled by Regulation 12 which covers arrangements between public authorities, subject to a limit of no more than 20% of its services activity being available on the open market. Checks will need to be carried out to ensure the final form of the arrangements for participation for the Council are compliant.

- 6.4 As set out in the report the proposal is that the Council becomes an “A” member which will be one of the foundation members. It appears this will enable access to a proportion of DHCLG grant, which is understood to be minded to allocate £34m over three years, top sliced from the Flexible Homeless Support Grant (FHSG) towards the scheme. The consequences being that there will be less Grant for those not members of Capital Letters. If “A” membership is chosen then there will be an obligation to ensure that at least 50% of the total procurement for the Council to support the Councils discharge of statutory responsibilities for homeless households or those at risk of homelessness (excluding nightly paid properties or properties outside of the London area) is to be procured by Capital Letters.
- 6.5 Once a member of the Capital Letters the Council can, if it so chooses, opt to leave if it gives 6 months written notice.

7. Other Implications

- 7.1 **Risk Management** – This paper is to gain approval for joining Capital Letters in the first instance, risks are minimal at this stage. However, there are two risks that should be noted:
- Agents providing TA accommodation may not wish to be part of Capital Letters and therefore the Barking and Dagenham supply of TA reduces.
 - Capital Letters procure more TA in Barking and Dagenham for the whole of London and in turn this produces an increase in demand of support services, school placements.
- 7.2 **Contractual Issues** – These will be clarified once the entity is set up in full.
- 7.3 **Staffing Issues** – Capital Letters works on the premise that LBBB will second as many housing procurement officers as it sees fit, there is an option to second for 1,2 or 5 years with Capital Letters having the right to end this secondment for lack of performance. There is a second option where LBBB do not second any staff but Capital Letters charge an administrative levy on each property procured by Capital Letters. The secondment option also gives the member of staff security of still being managed by LBBB, the other point to note is this person can still work from their current location while procuring for Capital Letters.
- 7.4 **Corporate Policy and Equality Impact** - The proposed Pan-London procurement company will not have any material impact on the local need for temporary accommodation and prevention or the level of service purchased on behalf of the Council in this market. Apart from the benefits to the Council in terms of price, procurement efficiency and availability of accommodation, the key benefits for service users will be in relation to the quality and location of accommodation, as well as the provision of tenancy sustainment support. Given the well understood negative impact of temporary accommodation and homelessness on a wide range of social and well-being outcomes, and the profile of service users in terms of groups of people with protected characteristics, the services delivered by the proposed procurement company will have a positive impact in promoting the Council’s statutory and strategic policy outcomes for equalities.
- 7.5 **Safeguarding Adults and Children** – This proposal will not have a negative impact on the safeguarding of adults and children, however where a family has

Care and Support interventions and rely on temporary accommodation they may not be placed in LBBB but in surrounding boroughs, this is the same now and Capital Letters should not increase this arrangement.

- 7.6 **Health Issues** – There are limited health issues with this proposal, however this could have a positive impact as the residents housing journey could be more efficient with a higher number of properties available, this is merely anecdotal but it is not envisaged that this could have a negative health impact.
- 7.7 **Crime and Disorder Issues** – There are no implications
- 7.8 **Property / Asset Issues** – This proposal has limited property and asset issues as the assets in discussion are not direct assets owned by the council. All properties are owned by private landlords and managed by private letting agents in Barking and Dagenham and other London Boroughs.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- Appendix A: Extract from Articles of Association
- Appendix B: Timescales
- Appendix C: Allocations