

CABINET

27 January 2015

Title: Emergency Homelessness Accommodation	
Report of the Cabinet Member for Housing	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
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Accountable Director: Steve Tucker, Director of Housing	
Summary The objective of this report is to present plans to minimise the usage of Bed and Breakfast (B&B) and nightly let temporary accommodation. This report describes the measures in place and the initiatives proposed to minimise demand for emergency spot purchased nightly let accommodation. It also presents the strategy for procuring B&B and nightly let accommodation by March 2015.	
Recommendation(s) The Cabinet is recommended to agree: (i) To waive the requirement to tender interim contracts for the provision of spot purchase of B&B and other nightly let temporary accommodation in order to ensure the Council is fulfilling its statutory housing duties, pending a procured contract being implemented; (ii) The undertaking of a procurement exercise of a contract for emergency homelessness accommodation for a term of up to four years, with the option to extend for one year, in accordance with the strategy as set out in this report; and (iii) To delegate authority to the Director of Housing, in consultation with the Chief Finance Officer and the Head of Legal and Democratic Services, to approve the entering into of contract(s) for a term/s of up to four years, with the option to extend for one year, upon conclusion of the procurement exercise.	

Reason(s)

To ensure the Council is able to fulfil its statutory housing duties to homeless households pending the procurement and implementation of a tendered contract for B&B and nightly let emergency accommodation. This approach will support the vision and priorities for Barking and Dagenham, specifically:

- Building civic responsibility and helping residents shape their quality of life
- Protecting the most vulnerable, keeping adults and children healthy and safe

1. Introduction and Background

1.1 The Council has a statutory duty to assist households presenting as homeless where they are eligible for assistance and in priority need. This statutory requirement includes a duty to secure temporary accommodation for specific categories of homeless households. The Council also has a duty to secure accommodation for households within these categories pending an assessment for re-housing. The Council exercises its powers and fulfils its duties by procuring three types of accommodation:

- **Private Sector Leased (PSL) Accommodation.** PSL accommodation is licensed by the Council from a private sector landlord through a managing agent. The Council collects the rent from the household who occupy on licence while other management functions are provided by managing agent.
- **Nightly Let Accommodation.** Nightly let accommodation constitutes self-contained accommodation provided on a nightly basis on pre-agreed charges and used as and when required for as long as required. The Council pays charges for the occupant only for the agreed nights of occupation and collects the charges from the occupier. Nightly lets are more expensive than PSL accommodation but do not breach the maximum six week stay for families applied to B&B. The accommodation is fully self-contained with full provision of facilities and is used if necessary for households with children.
- **Bed and Breakfast (B/B) Accommodation.** Non-self contained accommodation provided on a nightly basis at pre-agreed charges used as and when required. The Council pays charges for the occupant only for the agreed nights of occupation and collects the charges from the occupier. Households with children are only housed in B&B accommodation in emergency situations. All families are required to be moved with six weeks maximum to self contained accommodation.

Historically the Council was able to meet the demand to accommodate homeless households within the private rented sector (PSL) scheme which was initially tendered in 2010 and following a retender exercise a new contract was awarded on 1 December 2014. The situation has changed dramatically since 2010 when following significant changes to both the housing market in East London and housing benefit legislation, available rented accommodation in the Borough has consistently been taken by other London Boroughs at a premium as our rent levels are on average amongst the lowest in London. With reduced supply and increased

demand, the Council for the first time became dependent upon spot purchasing emergency accommodation to fulfil its statutory homeless duties.

- 1.2 Emergency accommodation – B&B and nightly lets – is spot purchased on demand. In respect of B&B there are very limited options within the borough of providers who possess the capacity or capability to deal with homeless households. There have been numerous occasions when there has been no availability of B&B accommodation in this or neighbouring boroughs and where there has been no alternative but to take accommodation outside of London.

The gross cost for this type of accommodation in 2012/13 was £4.25m. The figure for 2013/14 was able to be reduced to a gross cost of £3.43m. In spite of this reduction, costs at these levels remain unsustainable.

Homelessness trends in the borough are relentlessly upwards and therefore a strategy to manage emergency accommodation needs is required.

- 1.3 The use of Bed and Breakfast accommodation (B&B) has escalated dramatically; in 2010 there were less than 10 single persons in B&B at any given time. By August 2012 there were 226 households in B/B, 116 of which were families who had been in occupation for more than 6 weeks, placing the Council in breach of statutory homeless duties. At 15 September 2014 there were 64 households in B&B accommodation.

- 1.4 A wide range of initiatives have been put in place to address this unprecedented supply and demand crisis:

- Two former Council residential homes (Brocklebank and Riverside House) have been successfully converted to use as high quality hostel accommodation to add to the long standing facility at Boundary Road, providing a current total of 3 hostels owned and managed by the Council. This approach delivers the benefit of reducing expenditure on other emergency accommodation, generating income for the Council and providing safe and better quality emergency accommodation for households experiencing homelessness.
- The Council utilises decanted and general needs flats as temporary accommodation.
- Further initiatives have been introduced to strengthen the Councils homeless prevention approach, these include; a review of resources on the front line, including welfare reform, tenants training, adopting a robust approach to performance and casework management, revising the rent deposit scheme and incentivising landlords to work with the council.

- 1.5 In common with all London Boroughs we have acquired 'Nightly Let' properties. The use of this type of accommodation has become essential to avoid the Council being judicially reviewed for having families in B&B for over 6 weeks and when there has been no available B&B accommodation available in the borough or neighbouring authority areas. All of the above measures have enabled the Council to reduce the use of B&B which in turn resulted in Government funding to support the initiatives.

The current temporary accommodation portfolio placements at the time of writing the report (December 2014) are as follows:

Bed and Breakfast	77
Nightly lets	111
Council owned hostels	102
Mother and Baby unit	15
PSL's	794
HMO's	41
Council stock	249
Total	1389

- 1.6 B&B and nightly let accommodation is currently spot purchased on demand. In respect of B&B there are very limited options within the borough of providers who have the capacity or wish to deal with homeless households. Where accommodation is provided outside the borough boundary, the placement is subject to the accommodation teams placements procedure criteria, considering:
- Size
 - Location
 - Affordability
 - General health and well-being factors
 - Education
 - Employment
- 1.7 Barking and Dagenham is not unique in its approach to acquiring B&B and nightly let accommodation by way of spot purchasing on demand. The Corporate Procurement Team has contacted a number of London Boroughs and it is evident from feedback and from the various Temporary Accommodation forums attended by Officers from the Council that no boroughs have tendered for this type of accommodation successfully.
- 1.8 The Council's principal focus has been to reduce dependency upon B&B accommodation. Notwithstanding the emerging impact of welfare reform and the increasing demand, we have exceeded our targets in cutting B&B usage. We continue to explore every opportunity to expand the Council's hostel portfolio whilst constantly reviewing supply and demand of temporary accommodation.
- 1.9 Overall our approach has been to seek to minimise the trauma of homelessness on individuals and households. Additionally we have sought to minimise the impact upon and the cost to the Council. An example would be the fact that converting and utilising Brocklebank and Riverside House have formed part of an income generation strategy for the Council as well as contributing to a significant reduction in the numbers of homeless households who may otherwise end up in B&B accommodation. We aim to continue with this strategy of impact reduction and are currently looking at other options to increase the volume of council hostel stock from April 2015.

2. Proposal and Issues – Proposed Procurement Strategy

The proposed strategy for Emergency Homelessness Accommodation is twofold:

- To maximise the use of alternative accommodation such as Council owned and converted accommodation (e.g. Riverside and Brocklebank) and other existing council stock.
- To block purchase accommodation outside of Barking and Dagenham thereby also allowing us to negotiate downwards the rates of in-borough accommodation we would still use.

- The contract shall be advertised in the OJEU, on the London Contracts finder and the Councils website.
- The tender shall be managed by the Elevate procurement team using the Bravo solutions e-procurement portal. The contract shall therefore be further advertised to suppliers registered with Bravo solutions.

This approximate tender timetable shall apply:

Draft Specification and contract documents	1 February to 31 March 2015
Issue OJEU Notice	25 March 2015
Issue tender documents	1 April 2015
Tender return date	15 May 2015
Tender Evaluation	18 – 22 May 2015
Award of contract	25 May 2015
Contract begins	5 June 2015

The timetable may be brought forward or delayed dependent on how long it takes for the specification and contract documents to be drafted.

2.1 Shifting Demand

- 2.1.1 Demand management forms a key priority underlying the proposed procurement strategy. It is evident from preparations to retender the PSL contract that key nightly let providers intend to submit tenders for the PSL contract which should improve our bargaining position to convert existing nightly lets to PSLs. This will also reduce the demand for both B&B and nightly lets and shift more homeless households to cheaper PSL provision.
- 2.1.2 Additionally the Service intends to build on the success of managing increasing demand by implementing an effective prevention model in the Council's Homeless Strategy and a business approach to expanding Council owned and managed temporary accommodation to enhance supply.

2.2 Alternative Supply – Out of Borough Accommodation and B&B Strategy

Out of Borough Accommodation

- 2.2.1 The Accommodation Services Team in the Housing Advice Service is currently researching a wide range of B&B suppliers out of London. Generally there is a need to expand our use of out of Borough temporary accommodation on a wider basis

due to the lack of providers and properties within the borough. The Council also needs to increase the options available to both the Accommodation Team and to those customers who are no longer able to afford to live within the area.

2.2.2 Over Three hundred customers are already placed out of borough in self contained properties and the Accommodation Team has a set criteria and process for assessing the suitability of placements. Consideration is regularly given (but not restricted) to:

- Customers with Children in key stages of education (i.e. GSCE's)
- Customers with high level support needs and connections to services within the area
- Customers who are known to Barking and Dagenham's Children's Services where it has been agreed that there is a risk in placing them outside of the borough
- Out of borough placements are in general being made to areas where customers are able to return to the borough with a maximum of one hour's journey.

2.2.3 With regards to bookings made in emergency accommodation, i.e. B&B accommodation, there is currently only one viable provider within the borough. Chain hotels in the area are reluctant to accommodate our clients. These circumstances have caused a monopoly situation with inflated prices and, in some instances, poor standards.

2.2.4 Providing accommodation out of borough may help to reduce the waiting time of customers remaining in bed and breakfast. Should bed and breakfast placements also take place out of borough a similar criteria to that as highlighted above would be used to determine suitable placements. However it should be recognised that these placements are for emergency accommodation and usually for shorter periods of time and therefore some out of borough placements may be made to customers who fall in these categories where the situation is unavoidable.

2.2.5 With the implementation of the new allocations policy and discharging of the homeless duty into the private sector, it would be possible to look at areas further afield for those customers who have no essential need to remain in the borough, or can no longer afford properties within London or the surrounding areas.

B&B Strategy

2.2.6 Initial indications show that a potential saving of around 66% could be achieved on 80% of bookings. Initial discussions have taken place with alternative providers outside of the borough and indications are such that prices similar to the above are entirely achievable through a mix of negotiation and tendered contract.

2.2.7 It is proposed that higher savings could be achieved as part of the tendered contract through the use of block booking accommodation - managed correctly on short term arrangements where the risk to the Council would be minimal, subject to out of borough placements policy being approved and pending the outcome of a tendered contract... Block booking a small number of rooms within several different sites could give greater flexibility. Based on current numbers and demand within the

service block booking 40-50 rooms for the remainder of the 2014/15 financial year is likely to represent the required number of rooms.

2.2.8 It is likely that if a procurement exercise was carried out that the current providers of this type of accommodation would reduce their rates in line with others to enable them to continue to supply us with accommodation.

2.2.9 There is a risk whilst carrying out any procurement exercise relating to B/B that our current providers may withhold their accommodation, therefore it is essential that adequate provision is available during this time, and this may involve utilising a short time arrangement with the chain hotels within the borough.

2.3 Reducing cost

Currently, the main barrier to renegotiating reduced prices with our current in borough provider of emergency accommodation is a lack of alternative supply. Once the Council has a satisfactory quantity of alternative supply available we will be in a much stronger position to negotiate current rates prior to formally tendering for provision.

2.4 Outline specification of the works, goods or services being procured.

This contract is for the supply of B/B Accommodation for the placement of LBBD residents to whom the Council has a homeless duty.

2.5 Estimated Contract Value, including the value of any uplift or extension period.

As we have yet to assess a full year impact of the benefit cap, (the most recent of the Welfare Reform measures introduced in August 2013) it is not easy to estimate the demand and therefore the value of the contract. Based on current volumes the yearly gross cost to the Council would be approximately £3m and the net cost would be £2.2m based upon a 4 year contract with no further reduction in demand the contract value will be in the order of £12m.

2.6 Duration of the contract, including any options for extension.

Due to the shifting demand for the service it is always hard to commit to a fixed level of provision and also the exact term of the contract – effectively the contract is to authorise the spot purchase of accommodation to meet fluctuating daily demand. Based upon current service volumes and data a four year contract with an option to extend a further year represents the best option. A 3-6 month review of such a block booking would be adequate on the basis of a four year contract with an option to extend a further year.

2.7 Is the contract subject to the (EU) Public Contracts Regulations 2006? If Yes, and contract is for services, are they Part A or Part B Services.

The levels of spend would make this contract subject to the EU Public Contracts regulations. This contract would be a Part B service, although historically it is extremely uncommon for Authorities to advertise this service via OJEU.

2.8 Recommended procurement procedure and reasons for the recommendation.

It is recommended that the Council continue to fulfill the need for this service on the current arrangements. It is recommended that a full OJEU tender exercise is completed using the Open Procedure. This will reach the widest amount of potential providers and ensure that the contract is fully compliant with procurement regulations.

2.9 The contract delivery methodology and documentation to be adopted.

At present there is no agreed documentation and this will need to be developed in consultation with LBB legal.

There are two clear options for service delivery:

- A. Block booking with providers
- B. Fixed schedule pricing but no commitment to volume

It is likely that block bookings will provide better Value for money compared to a more variable demand model. A block contract will only be justifiable if demand for B&B remains high – current indications are that demand will indeed remain high across the next 2-5 years at least. We would seek prices on both options.

2.10 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.

There are likely to be savings against the current unit costs. The benchmarking that has been conducted has shown that the borough can reduce its B&B rates by shifting supply to alternative out of borough providers.

2.11 Criteria against which the tenders are to be selected and contract is to be awarded

It is intended that assessments will be weighted more highly towards cost. The exercise will look to reduce service delivery costs and therefore it is clear that cost competitiveness is crucial. However, vital quality criteria will also need to be met as a minimum to ensure the supply is of a suitable standard. We propose a 70/30 price/quality assessment ratio – accommodation quality and standards will need to meet legislative and LBB policy requirements.

B&B accommodation is not governed by fixed LHA rates as is PSL; therefore price competition can be achieved. Depending on the volume of supply that can be sourced, an e-auction may be used to reduce costs further.

2.12 Waiver

Due to the exceptional circumstances and in the interest of the Council overall a waiver is sought by Cabinet to permit the ongoing payment of B&B and other nightly let accommodation to enable the council to fulfill its statutory homeless duties, pending the procurement of an appropriate contract for this service as described in

the report. A waiver is sought under Ground 6.6.8 of the contract rules on the basis that a genuinely exceptional situation exists

2.13 How the procurement will address and implement the Council's Social Value policies.

It will ensure that we -

- Build responsibility and help residents shape their quality of life
- Protect the most vulnerable, keeping adults and children health and safe

3. Options Appraisal

3.1 Alternative options to the recommendations in this report are:

- Do nothing and continue to spot purchase on demand. Unfortunately this option would be non compliant with the Councils corporate procurement strategy as well as continuing with a situation of high costs.
- Minimise use of bed and breakfast by placing all homeless households directly into Council owned stock. This would leave the Council open to challenge for allowing one group (homeless households) to dominate the housing allocations scheme. It would also have a devastating impact on other vulnerable groups in housing need and would halt the estate renewal programme because of the impact on decanting.

4. Consultation

4.1 Consultation has taken place across the housing service, with the Procurement Board, with CMT and with senior and Cabinet Members. Officers have also consulted with the Council's current managing agents on their ability to provide the necessary properties. Officers have also trialled the placements with a limited number of customers to ensure that placements are suitable and to deal with any issues that have arisen.

4.2 Corporate Procurement Comments

Implications completed by: Francis Parker – Procurement Category Manager

4.2.1 The corporate procurement team has worked alongside housing colleagues in the formulation of this strategy. Due to the lack of alternative B&B supply within Barking and Dagenham, the only effective option available to increase supply options and achieve cost savings would be to seek alternative providers outside of the Borough.

4.2.2 Research has shown that other local borough councils are considering similar strategies and that the suggested approach is likely to achieve significant cost savings.

5. Financial Implications

Implications completed by: Martin Sharp, Principal Accountant, Housing Finance

- 5.1 The current budget for Temporary Accommodation includes provision for various forms of Temporary Accommodation including Private Sector Leased properties, council owed hostels and Bed and Breakfast accommodation as well budget provision for HRA decants and general needs properties currently used for Temporary Accommodation.
- 5.2 The net budget for Bed and Breakfast placements is £2.2m being by far the highest cost form of Temporary Accommodation, particularly as there is currently only one in-borough provider. The implementation of this policy will help to ensure the net cost of Temporary Accommodation can continue to be contained within the existing budgeted level.
- 5.3 The use of bed and breakfast accommodation has reduced significantly in the current financial year but the availability of alternative in-borough accommodation is becoming increasingly limited therefore the use of some out of borough accommodation is paramount to maintain the current on-budget position.
- 5.4 The on-going financial monitoring of Temporary Accommodation expenditure and income by accommodation type is vital to ensure any expenditure incurred is in line with the budgeted provision and all income is recovered in a timely manner.

6. Legal Implications

Implications completed by: Daniel Toohey, Principal Solicitor, Corporate and Commercial Law and Lindsey Marks, Principal Solicitor for Safeguarding

- 6.1 The first recommendation of this report is that Cabinet grant a waiver, on a temporary basis, of the requirement to conduct a procurement exercise for the provision of nightly let temporary accommodation. This will allow the continued provision of this service pending the procurement of a long term contract(s). Paragraph 2.12 of this report states that the waiver is being sought on the basis that there are exceptional circumstances why the waiver should be approved. Background details of the circumstances are detailed in Paragraph 1 of the report.
- 6.2 Rule 28 of the Council's Contract Rules, stipulates that contracts over the value of £50,000 must be competitively tendered. Rule 6.3 however provides that the waiver of a Contract Rule may be granted by Cabinet on grounds noted in the Rules. Contract Rule 6.6.8 allows for a waiver to be granted should there be exceptional circumstances for doing so. This recommendation for a waiver can therefore be approved should Cabinet be satisfied that there are exceptional circumstances for granting it. .
- 6.3 This report further requests that Cabinet authorise that a procurement exercise be undertaken for nightly letting of temporary accommodation, in accordance with the strategy set out in this report.
- 6.4 This provision is classified under Part B of the Public Contracts Regulations (the Regulations) and as such does not fall within the strict rules of the Regulations. The

procurement of the contract should however be undertaken in accordance with the EU public procurement principles of transparency, non discrimination and equal treatment of bidders.

- 6.5 Paragraph 2 of this report sets out the procurement strategy for advertising the contract, evaluating the bids and awarding the contract. It also details the procedure by which the procurement will be undertaken and the timetable for concluding the process. Adhering to this strategy should ensure the Council meets the requirements of the public procurement principles noted above.
- 6.6 The final recommendation sought in this report is that Cabinet authorise the Director for Housing, in consultation with the Chief Finance Officer, to approve the contract with the successful bidder. In accordance with Contract Rule 47.15, Cabinet can indicate whether it is content for a Chief Officer to award the contract, following a procurement process, in consultation with the Chief Finance Officer.
- 6.7 The Childcare Act 2006 requires local authorities to improve the outcomes for all young children, reduce inequalities, and to ensure that there is sufficient high quality integrated early year's provision and childcare for parents locally. Local authorities are expected to work with local private, voluntary and independent sector providers to meet local needs – and to manage the market. The aim is for every child, whatever their background or their circumstances, to have the support they need to:
- Be healthy
 - Stay safe
 - Enjoy and achieve
 - Make a positive contribution
 - Achieve economic well-being
- 6.8 The Childcare Act 2006 also requires local authorities to provide information on childcare and other services, facilities or publications which may benefit parents, prospective parents, children or young people. Where appropriate, they must also provide additional advice and assistance to parents on childcare in their area through a brokerage service for parents finding it difficult to identify suitable care.

7. Other Implications

- 7.1 **Risk Management** - There is a risk that the Council will be judicially reviewed for opting to place homeless households out of borough in more cost effective B&B. This risk will be mitigated by an equalities impact assessment and consideration given to the suitability order of temporary accommodation when reviewing the placements policy and by ensuring that the circumstances of each individual household are considered in making placements.
- 7.2 **Corporate Policy and Customer Impact** - Vision and Priorities: Providing residents with suitable accommodation is a key part of the Council's vision and priorities. In so far as possible, the Council will endeavour to house residents within the borough thereby allowing the one borough, one community vision to be realised. However, the shortage of suitable housing means that in order to fulfil its statutory duties the Council has to consider out of borough placements. The priorities identified in the Corporate Delivery Plan place an emphasis on increasing housing development in order to allow the Council to meet its housing obligations. The plan

also identifies a number of priority projects around new housing developments as well as implementation of London Inter Borough Accommodation Agreement preventing boroughs from paying rates higher than local LBBD agreed rates thereby limiting the number of external placements within the borough.

Equalities: The Equality Act 2010 sets out the Public Sector Equality Duty (PSED). In discharging this duty the Council must have 'due regard' to a number of equality considerations and the potential impact on groups with protected characteristics under the Act. An Equality Impact Assessment has been carried out for the temporary accommodation placements policy and relevant parties have been consulted during this process. In addition to the impact on groups identified in the EIA, the Council must consider the individual equality impact of each case before making a placement decision. The Placement procedure developed by the Council is compliant with this and makes provision to deal with individual needs arising from each case. It will be important to review the implementation of this policy, ensuring its impact continues to remain compliant with the Equality Act 2010.

- 7.3 **Safeguarding Children** - Where families have children appropriate attention must be paid to the impact of a move to outside of the Borough on their schooling continuity, friendships and security. Whenever possible, schooling should not be disrupted.
- 7.4 **Health Issues** - The health, safety and wellbeing of homeless households is and will be a prime concern in the emergency accommodation procurement. Any relevant health issues will be taken into consideration when an out of borough B/B placement is made. Concerns regarding any health issue will be mitigated by the equalities impact assessment and consideration given to the suitability order of temporary accommodation when reviewing the placements policy and by ensuring that the circumstances of each individual household are considered in making placements.
- 7.5 **Crime and Disorder Issues** There are potential positives in this policy for crime and disorder reduction as this could, in specific instances, be a supportive system to safeguard some victims who may need a move outside of the borough for their own safety. However, this could also adversely impact on offenders who may be moved outside of the borough and therefore be more difficult to manage and give access to interventions. For either process, systems should be in place to manage these moves along with offender and victim management services.

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

List of appendices: None