

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet
2.	Date:	23rd February 2011
3.	Title:	The Future of Council Housing in Rotherham
4.	Directorate:	Neighbourhoods and Adult Services

5. Summary

This report summarises the responses to the test of opinion carried out to understand the views of tenants and leaseholders on the options available to manage and maintain the council's housing stock.

The overwhelming majority of tenants have supported the view that it is in their best interests for the council to directly provide housing management services in the future. The report outlines the steps that need to be taken if a decision is taken to bring the services back in house.

6. Recommendations

That Cabinet:

- **Note the outcome of the tenants and leaseholders 'test of opinion' survey.**
- **Agrees that the management of Council Housing should return to the direct control of the Council.**
- **Receive a further report on the steps required to close down 2010Rotherham Ltd.**
- **Receive a further report setting out organisational arrangements as a result of bring back services in-house.**

7. Proposals and Details

7.1 Background

At its meeting on the 3rd November 2010, Cabinet considered a comprehensive report, detailing the outcome of a financial options appraisal undertaken by Pricewaterhouse Cooper and other related matters entitled "The Future Management of Council Housing in Rotherham". This report set out the background and rationale for returning Housing Management Services to the Council. The main issues highlighted in the report were:

'The Council's Arms Length Management Organisation (ALMO), 2010 Rotherham Ltd, was set up in May 2005 following a positive outcome to a tenant consultation and gave Rotherham the only means to access around £218m towards the cost of delivering the Decent Homes standard across its 21,000 properties.....

The (PwC) report notes that the ALMO was set up and chosen as an option by tenants because of a strong economic argument. Now that Decent Homes Funding is coming to an end, this economic argument no longer exists, and there are strong arguments in favour of a return to in-house provision. Chief amongst these arguments are the compelling economic benefits of generating significant savings from administration, management, and other back office functions and transferring them into frontline housing related services which directly improve the lives of tenants, leaseholders and residents living in some of Rotherham's most deprived and challenging neighbourhoods.'

Cabinet accepted the arguments put forward in the report and recommended:

- 1 That the findings of the independent options appraisal undertaken by PwC be noted.*
- 2 That the future of Rotherham's arms length management organisation (ALMO), 2010 Rotherham Ltd. be considered further.*
- 3 That, subject to further consideration of the outcomes of a comprehensive programme of consultation, including a tenants' test of opinion survey, a report be submitted to the Cabinet on the possible reinstatement of the direct management of housing services by the Council.'*

The test of opinion has now been completed.

7.2. Tenants and Residents Consultation

In accordance with Section 105, of the Housing Act 1985, the Council is required to consult with, and have regard to, the views of tenants before taking a final decision on a matter of housing management. This proposal falls within that requirement and therefore the Council undertook a comprehensive approach to consulting with tenants and leaseholders on the future for management of council homes.

Although it was not under any legal obligation to do so, the Council decided to include leaseholders in the same consultation processes as a matter of good practice. The test of opinion was undertaken during January and February 2011.

The process for consultation included:

- Two newsletters issued to all tenants and leaseholders. Both newsletters included questionnaires for the postal 'test of opinion'. This resulted in 1934 and 2228 returns respectively.
- There was a telephone poll undertaken designed to obtain the views of a random sample of 15% of tenants and leaseholders, using the same questionnaire as included in the newsletter. Care was taken to avoid duplication and double counting. This resulted in 3428 completed questionnaires.
- Overall, 7590 questionnaires were completed.
- The establishment of a Council website/email contact and telephone hotline for any tenant enquiries about the proposal.
- There were a series of 7 area based road shows held around the Borough with all council tenants and leaseholders invited to inform them of the options and give the opportunity for discussions and to ask questions. These were supported by Rotherfed, Tenants and 2010Rotherham Ltd.
- Presentations were given to RotherFed's Executive Board and the RotherFed Borough Wide Forum.

The financial options appraisal undertaken by PwC demonstrated that stock transfer, sale or other forms of shared ownership would not be in the best interests of Rotherham's tenants or residents. Of the remaining two options, PwC recommended that returning services to the direct management of the Council was the most appropriate way forward from a financial perspective. This recommendation formed the basis of the consultation process which sought the views of residents in relation to the Councils preferred option of returning the service to the direct management of the Council. It was felt that as such this approach represented an honest attempt to seek the views of tenants on the genuinely viable options. Both the written questionnaire and the telephone poll used the consultation exercise as an opportunity to ask respondents for their priorities for service improvement.

In response to a question about whether the council should in the future deliver housing services directly, the results were as follows:-

	Yes %	No %	Don't know %	TOTAL
Questionnaire 1	1837 94.98%	54 2.8%	43 2.22%	1934
Questionnaire 2	2121 95.2%	41 1.84%	66 2.96%	2228
Telephone poll	3217 93.84%	130 3.79%	81 2.45%	3428

Overall, there were 7590 completed questionnaires. This represented a return of approximately 36%. Care was taken to avoid double counting; however in a sample of this size and complexity, a small margin of error can be expected. Well over 90% of respondents expressed a preference to see the service return to the direct management of the Council.

7.3 The Way Forward

Should the Council decide to bring back housing management services, the management agreement will be allowed to lapse. However the timescales for organising such a rapid return are exceedingly short and there is the possibility that there will be a need to hold the agreement over for a short period. In view of these extremely challenging timescales some contingency planning has taken place by officers from both the Council and 2010Rotherham Ltd.

This work is being led by the Director for Housing and Neighbourhoods but has specific support from identified managers from other professional disciplines including finance, human resources and legal services.

One of the critical issues that needs to be addressed includes the future organisational form that services will take should they be integrated back into the Council. This will not only propose a new operating model but also deal with such issues as the appropriate application of TUPE and associated pay and condition issues.

A further issue relates to the potential winding up of the company which must be carried out in compliance with legislation and good practice whilst protecting the company and the council interests. It may be that there is a role for some form of steering group post return of services, to support the Council during this period of transition, and to reassure tenants that their interests are at the heart of the process.

There will also be a need to have a clear process for communicating with tenants and leaseholders and advising them of any potential service changes. Of over-riding concern is that services to tenants and leaseholders are not impacted negatively by the return process. This means that all efforts must be made to achieve a smooth return of services, providing residents and staff with timely and effective communications throughout the process.

Subject to a proper financial appraisal of the transactional costs of integrating services and the need to fully comply with all appropriate legislation including TUPE requirements; it will be important for staff retention and morale purposes to offer as much certainty as possible regarding the process and timescales for reintegrating services. Losing critical staff could unduly affect the quality of service and effective transition.

It is proposed to bring a further report to cabinet within the next four weeks, identifying the timescales for the return of services and the proposed organisational arrangements for the management of this service post return.

8. Financial Implications

Advice received from PwC suggested that the financial benefits achieved by returning housing management services to the control of the council would be in the region of £1m p.a. post exit costs. Returning the service provides the Council with the opportunity to assimilate and absorb functions and by so doing remove costs from back office and management functions. This will allow any Housing Revenue Account

savings to be reinvested into those services which matter most to tenants (and hence the question in the questionnaire) and which have a more immediate effect on tenants' perceptions of the quality of service. However rationalising existing structures and reductions in staffing levels will potentially result in redundancies. This would incur associated costs of redundancy pay and release of pension benefits.

If a decision is taken to bring 2010 Rotherham Ltd back in-house the company will not be recognised as a 'going concern' and the cumulative trading losses will have to be met by the Council.

In the event of wind-up, the implications of the required accounting treatment in the Council's accounts of the ALMOs accumulated pensions deficit is currently being clarified.

It is incumbent on the Directors of 2010 Rotherham Ltd to undertake a due diligence test with regard to the wind-up of the Company to identify whether there are any further liabilities which are at present unknown.

Some legal advice has been provided in-house, however 2010 Rotherham Ltd has engaged an external contractor for a small amount of legal assistance. It has also been necessary to engage specialist financial advice to undertake due diligence activities. Consequently it is expected that the costs associated with the consultation, legal and financial aspects of preparing for transfer will cost in the region of £40k.

Costs associated with the actual transfer will be considerable more and will be heavily influenced by the final proposed shape of the organisation and any staff exit costs. Greater clarity on this will be provided in the next report.

9. Legal Implications

In June 2006, Communities and Local Government (CLG) published guidance for Local Authorities looking at the future management of their ALMOs entitled *Review of Arms Length Housing Management Organisations*. In terms of tenant consultation, the guidance states that:

- 'local authorities are required to consult with their tenants on any significant change in management arrangements;
- The department believes that tenants should be similarly involved in any future decision to change their management arrangements, and
- We would expect any such consultation to be as comprehensive as that undertaken to set up the ALMO

Further consultation needs to take place with the Department for Communities and Local Government. However the Department has indicated that the decision to end the ALMO arrangements rests with the Council, providing that a process as rigorous as that which set up the ALMO has been followed. Despite a significant fall in stock numbers during the intervening 7 years between the two consultation exercises there has been a similar commitment to testing the opinion of residents, with common features of both being roadshows, newsletters, hotlines and questionnaires.

10. Risks and Uncertainties

There are financial risks associated with this proposal; the indicative expected efficiencies of circa £1m p.a. need to be subject to further detailed scrutiny. In addition as described above, there will be costs associated with the transfer. These will relate to exit costs for Council and ALMO staff, and there may be issues associated with equalisation of pay between the two organisations, which could also cause financial pressures. TUPE arrangements will apply.

A failure to adequately consult the workforce both in terms of the ALMO and Council functions which may be impacted upon, could lead to challenges and disruption of employment relations. Legal challenges could also be faced from ALMO employees whose jobs are deemed not to be transferring from the ALMO to the Council. Equally, any decisions to allow ALMO employees to transfer to the Council and compete for positions in revised structures could also face challenge from existing Council employees. Differentials in pay between transferring ALMO employees and Council employees must be assessed and dealt with to avoid equal pay challenges, though taking such action could lead to legal challenge where this results in reductions in pay. Further information on these issues will be provided in a subsequent report.

There is a risk of the decision being challenged. However the Board of 2010Rotherham Ltd have indicated their acceptance that the Council has the right to make the decision regarding transfer and along with senior management at the ALMO have been supportive of the process to date. There is also a risk that tenants may challenge the decision, again however Rotherfed have been helpful, for example assisting with the road shows, and there is clearly a strong degree of support for the changes from tenants as a whole.

The main risks now appear to be around the potential for service disruption and declining performance standards during any period of uncertainty. There is a real risk that managers within the service will seek security elsewhere. This risk is compounded by the potential for significant pay differential between the contracts of existing ALMO staff and potentially lower grading of posts post transfer. This risk is the subject of considerable attention as the new organisational form is being considered and developed and mitigating actions will be required to reassure the workforce and avoid the service becoming unstable.

11. Policy and Performance Agenda Implications

The proposals in this report have the potential to make a significant impact on the Council's performance agenda, particularly in relation to housing and the support that is offered to some of the most vulnerable neighbourhoods in the borough.

12. Background Papers and Consultation

- Options Appraisal for the Management of Council Housing in Rotherham, PriceWaterhouse Cooper LLP, October 2010
- 2010 Rotherham Ltd Management Agreement

- The Future Management of Council Homes. Cabinet paper 3rd November 2010

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