

You are requested to attend a meeting of the Tenant Services Management Board to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 19 September 2011 at 18:00.

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## Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Tenant Services Management Board held on 23 August 2011 (now attached).
- 3 Public Question Time.
- 4 Declaration of Interests  
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 Housing Revenue Account Reform Project – Baseline Financial Position –oral update from Cathy Osborn (Savills)  
Reporting Officer: James Barrah
- 6 Housing Revenue Account Reform Project – Borrowing Options – report of the Strategic Finance Officer (attached)  
Reporting Officer: Maggie Hammond
- 7 Housing Revenue Account Reform Project Dashboard and SWOT Analysis - report of the Community Services Manager (attached)  
Reporting Officer: James Barrah
- 8 Halcon North Project – oral update from the Growth and Development Manager  
Reporting Officer: Tim Burton
- 9 Installation of Solar PV Panels on the Housing Stock – report of the Strategic Director (attached)  
Reporting Officer: Kevin Toller
- 10 Fire Safety in Flats – report of the Tenant Services Development Officer (now attached)  
Reporting Officer: Tracy Vernon
- 11 Annual Report 2010/11 – oral update from the Tenant Empowerment Manager

Reporting Officer: Martin Price

12 Dates of TSMB Meetings 2012

Reporting Officer: Martin Price

Tonya Meers  
Legal and Democratic Services Manager

14 October 2011

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

If a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors or Tenant Services Management Board Members begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk)



Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

**For further information about the meeting, please contact Democratic Services on 01823 356382 or email [d.durham@tauntondeane.gov.uk](mailto:d.durham@tauntondeane.gov.uk)**

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**Tenant Services Management Board Members:-**

Mr D Etherington (Chairman)  
Mr M Edwards (Vice-Chairman)  
Councillor R Bowrah, BEM  
Councillor S Brooks  
Mrs J Bunn  
Mrs E Drage  
Mr D Galpin  
Mrs J Hegarty  
Mr K Hellier  
Mrs P Marshall  
Mrs T Urquhart

**Minutes of the meeting of the Tenant Services Management Board held on Tuesday 23 August 2011 at 6pm in the John Meikle Room, The Deane House, Belvedere Road, Taunton.**

**Present:** Mr Etherington (Chairman)  
Mr Edwards (Vice- Chairman)  
Councillor Bowrah, Councillor Brooks, Mrs Bunn, Mrs Drage, Mr Galpin, Mrs Hegarty, Mr Hellier, Mrs Marshall and Mrs Urquhart.

**Officers:** Shirlene Adam (Strategic Director), Stephen Boland (Housing Services Lead), Steven Clarke (Estates Officer), Martin Price (Tenant Empowerment Manager), Christine Thompson (Supported Housing Manager), Tracey Vernon (Tenant Services Development Officer), Lesley Webb (Housing Enabling Lead) and Keith Wiggins (Democratic Services Officer).

**Others:** Nigel Stuart-Thorn

(The meeting commenced at 6.03pm)

**41. Minutes**

The minutes of the meeting of the Tenant Services Management Board held on 21 July 2011 were taken as read and were signed.

**42. Declaration of Interests**

The following members declared a personal interest as a Council house tenant:

- Mrs Bunn
- Mrs Drage
- Mr Edwards
- Mr Etherington
- Mr Galpin
- Mr Hellier
- Mrs Marshall
- Mrs Urquhart

Councillor Brooks declared personal interests as a Council house tenant and as a Member of Somerset County Council.

**43. Halcon North Project**

The Strategic Director explained that the Halcon North project was still progressing and proposal documents were still in draft form.

The project aimed to regenerate the area of Halcon North through a change in physical and social environment, by providing green space, community facilities and improvements in housing quality and choice.

The supporting documents previously circulated showed that the preferred option was to deliver the redevelopment in partnership with a Housing Association.

The Council's appointed consultants (Savill's) had indicated their view that there was an affordability gap of eight million pounds between the cost of developing the preferred option and the return on the project. They had been asked to undertake a further delivery appraisal to see what might be deliverable in current market conditions.

The Council intended to take Savill's new report to the Community Scrutiny Committee on 3 October and then take decisions at Executive on 10 October.

During the discussion of this item, members of the committee made the following comments and asked questions. Responses are shown in italics:

- Are building costs rising? ;
- Will the Council ask questions of Plymouth and other authorities who may have undertaken similar regeneration projects? *Yes;*
- Why were the estimates for "retrofit" as high as £60,000 per property?;
- The vast majority of Council tenants still want their homes to remain under Council control;
- Why don't the Council now re-consider the Local Authority New Build option? *The new Housing Revenue Account flexibility would still struggle to fund any significant Council project on its own;*
- What percentage of housing will be designed for the elderly or those with disabilities? *The Council continues to consult with disabilities groups and any individuals assigned to accommodation would have their personal needs assessed;*

**Resolved** to request that a draft update report be provided to the next committee meeting and be circulated to the three Halcon ward councillors.

#### **44. Housing Revenue Account (HRA) Reform Dashboard**

Considered project progress dashboard report previously circulated, concerning planned reforms to council housing finance in England and the management of those changes by the Council.

The changes would mean that, rather than the negative subsidy the Council currently paid back to the Government from its rents (approximately £7million per year), the Council would be allocated a share of the national housing debt directly. Draft debt settlement figures issued by the Government suggested the Council's share of the debt would be £87million. The Council would be required to pay this debt amount back in March 2012.

The dashboard showed that eight of the ten key project activities were on target and had met all project milestones.

**Resolved** that the update be noted.

#### **45. The Respect Charter**

Considered report previously circulated, concerning the merits of Taunton Deane Borough Council signing up to the Respect Charter, the successor to the Respect Standard for Housing.

Taunton Deane Borough Council did not sign up to the Respect Standard, as the self assessment process showed a number of areas that required improvement before sign up. Officers believed that due to service improvement the Council was now better placed to achieve the aims of the Respect Charter.

The Charter aimed to be outcome-focused and not prescriptive or process-driven. Its purpose was to improve anti-social behaviour services.

Over 100 organisations including 15 councils had signed up to the charter since June 2011.

Members of the committee heard that overall noise remained the biggest cause of complaints locally. Relationships with the Police were good and they now had officers specifically targeting anti-social behaviour.

Members discussed a number of local issues and were advised to always report their concerns to the police.

**Resolved** to support the recommendation that Taunton Deane Borough Council apply for accreditation to the Respect Charter.

#### **46. Formalisation of Tenant Involvement in developing Supported Housing Services**

Considered report previously circulated, concerning the work undertaken by Taunton Deane Borough Council to involve tenants in developing housing related support services..

The report updated members on the progress of formalising the role of the Service Development Group and their terms of reference.

**Resolved** that the report be noted.

#### **47. Annual Report to Tenants 2010/2011**

The Tenant Empowerment Manager explained that the Council intended to produce another Annual Report to tenants, as the previous year's report had been well received.

The report was intended to be produced by October and be distributed with the Tenant's Talk newsletter.

The format of the report was being considered, with the intention of making it something useful for the entire year.

Members discussed how best to promote and inform tenants of the work of the board.

**Resolved** to support the production of an annual report.

#### **48. Tenant Participation Advisory Service (TPAS) Annual Conference**

Members of the board who attended the TPAS Annual Conference gave an account of the conference and the workshops and seminars.

The majority of those attending were Housing Association tenants. Members heard the event was shorter and held in a better format than previous years and was well worthwhile attending.

(The meeting ended at 7.55pm)



## **Declaration of Interests**

### **Tenant Services Management Board**

Taunton Deane Borough Council Housing Tenants – Councillor Brooks,  
Mrs Bunn, Mrs Drage, Mr Edwards, Mr Etherington, Mr Galpin, Mrs Hegarty,  
Mr Hellier, Mrs Marshall and Mrs Urquhart

Member of Somerset County Council – Councillor S Brooks

# Taunton Deane Borough Council

## Tenant Services Management Board – 19 September 2011

### Housing Revenue Account Reform Project – Borrowing Options

#### Report of the Strategic Finance Officer

#### 1. Executive Summary

- 1.1 The HRA through the Localism Bill will move to a system of “self-financing”
- 1.2 There will be a need to borrow a significant sum to “buy” ourselves out of the current system.
- 1.3 This report gives details of the various options open to TDBC to borrow funds for the HRA.

#### 2 Background

- 2.1 The Localism Bill includes a move to a system of “self-financing” for the Housing Revenue Account (HRA)
- 2.2 TDBC will have to “buy” its way out of the current system in which we pay negative subsidy to the Government of approximately £7m. To do this TDBC will have to pay in excess of £87m to the Government.
- 2.3 TDBC does not have £87m in its reserves or bank account to do this. The only option is to borrow the funds to pay the Government.

#### 3 Borrowing Options

- 3.1 There are many options for borrowing the £87m. The various options are described below. The pros and cons for each option are given in appendix A.
- 3.2 Internal Resources  
This is using funds that TDBC holds in reserves. It is cheaper to do this as borrowing costs are currently higher than the returns on investing our money. We would need to ensure that if these reserves were used they were not required in the short to medium term. If General Fund reserves were used we would need to establish a reasonable rate of interest that was equal to or below the cost of external funds that the HRA and a method of allocating these costs between the HRA and General Fund would need to be established.

### 3.3 Public Works Loan Board (PWLB)

The PWLB is a statutory body operating within the UK Debt Management Office and is responsible for lending money to local authorities and other prescribed bodies, as well as for collecting the repayments. Following the Comprehensive Spending Review the cost of borrowing from the PWLB rose to gilts + 100 basis points (1%). The PWLB is relatively easy to borrow from, is flexible and still competitive when compared to bank lending..

### 3.4 Local Authority Loans

This is borrowing and lending between local authorities. Those authorities with money to invest lend money to other authorities. The rates are greater for the lenders than they would get in the market and lesser for the borrower than the open market. It is however expected that following the many HRA payments to Government and the effect of grant cuts continue to be felt there will be far less funds available from this source which would in turn increase the interest rates.

### 3.5 Short Term Loans

Commercial Paper - Commercial paper is a money market security issued (sold) by large banks and corporations to get money to meet short term debt obligations and is only backed by a promise to pay the amount on the maturity date specified on the note. As it is not backed by collateral, only those with an excellent credit rating will be able to sell their commercial paper at a reasonable price. The main characteristics of commercial paper are:

- It is unsecured.
- It is short term borrowing instrument (maturity and full repayment usually within a year of issue).
- It is usually less liquid than bonds - there is no real secondary market

This market is not yet readily available to local authorities although it is expected that a market will evolve as we get nearer to the self financing settlement date.

### 3.6 Bonds

Private Placement – This is like a bi-lateral loan agreement (could be a pension fund) and would be for amounts in excess of £50m.

Club Issue – This is where a group of borrowers form a club to go to market once to borrow for all within the club, hopefully benefiting from lower interest rates. This is complex from both sides and some investors do not like clubs. There is a lot of admin involved in setting up the club and bond. The rates may not beat the PWLB rates. This was a popular method of raising finance in the 1980's.

Public Issue – This is an issue on the market and is normally for in excess of £150m and therefore is not open to TDBC.

### 3.7 Bank Loans

LOBO - LOBO stands for Lender Option Borrower Option. It is typically very long-term - for example 40 to 60 years - and the interest rate is fixed.

However, in the LOBO facility the lender has the option to call on the facilities at pre-determined future dates, such as every 5 years. On these call dates, the lender can propose or impose a new fixed rate for the remaining term of the facility and the borrower has the 'option' to either accept the new imposed fixed rate or repay the loan facility. There is a loss of flexibility with LOBO loans and in most cases interest rates will only rise in the long term.

Bank Facilities – since the credit crisis banks have had to look after their balance sheets. Where significant long term loans are made there must be a provision on the balance sheet for any default. This charge is passed onto the borrower and the rates are therefore not attractive as they are higher than the PWLB. There are limited number of banks that may be able to offer rates less than the PWLB but these will be short term loans 1-5 yrs.

## **4 Rates of Borrowing**

- 4.1 The rates of interest that will be payable on any loan does depend upon many factors such as length of the loan, amount of the loan and the source of borrowing.
- 4.2 The borrowing rates within this report show gilts plus a number of basis points (100<sup>th</sup> of 1 percent).
- 4.3 A gilt is a UK Government liability in sterling, issued by HM Treasury and listed on the London Stock Exchange. In exchange for lending the Government money interest is paid to the lender. It is this interest rate that is used as a base in any of the borrowing rates mentioned in this report.
- 4.4 PWLB fixed interest rates are based on gilt yields, and are published twice a day, at 9:30am, for start of business, and 12:30pm. Variable interest rates are determined at about 11 a.m. each day and are based on the general collateral repo rates for one, three and six months, as appropriate, as fixed by the British Bankers' Association on the day.
- 4.5 Many things affect the gilt yields including, inflation assumptions and other market assumptions along with actual figures when published such as growth figures.
- 4.6 The Greater London Authority issues a bond recently for £600m. The rate of interest on this bond was gilts + 80 basis points with a cost of 3 basis points, therefore a saving of 0.17% on PWLB rates. Given the size of bond we may issue on our own, or an issue as a club (leading to a greater interest rate payable) any issue would probably not beat the PWLB rate (when including costs such as legal costs and the need to have a least one credit rating).

## **5 Recommendations**

- 5.1 Members are asked to note the contents of this report.

Option	Pros	Cons	Recommendation
Internal Resources	Cheap as we do not have to pay borrowing costs No credit rating required	Loss of investment income Some reserves are earmarked and needed in the short term Other reserves may be needed at short notice Internal resources will not provide the full funding requirement.	Could pursue this option for a small % of borrowing requirement
PWLB	Relatively easy to borrow from Flexible More competitive than bank lending but potentially more expensive than bond finance. PWLB has offered a flexible borrowing option for the 1st year of the borrowing requirement	Following the CSR borrowing from PWLB is more expensive	Still an attractive borrowing option
Local Authority Loans	Borrowing costs less than the market Credit ratings not required	Following HRA reform payments it is expected that there will be less funds available Quite often this is short term borrowing option.	Pursue for the short term funding requirement if a source can be found
Short Term Loans	More competitive than banks	Credit rating required Short term only	Could pursue this option as long as the rate offered is attractive taking into account the need for a credit rating.
Bonds - private placement	Could be cheaper than PWLB	Usually for around £50m minimum	Not to pursue this option
Bonds - Club issue	Could be cheaper than PWLB	Credit rating required Very complex to set up	Not to pursue this option
Bonds - Public issue	Could be cheaper than PWLB	Credit rating required Normally for over £150m	Not to pursue this option
Bank Loan	Easy to set up	Expensive following banking crisis Loss of control with LOBO	Not to pursue this option

**AGENDA ITEM: 7a**



**HRA Reform Project Dashboard – August 2011  
Phase 1: Policy & Priority & Development of Outline Business Case**

Status Of Project		Last Report	This Report	Comments
<b>HRA Reform – Phase 1</b>		<b>G</b>	<b>G</b>	
Status by Key Project Activities for Phase 1	Workstream Lead	Last Report	This Report	Comments
<b>1. Treasury Management</b>	Maggie Hammond	<b>G</b>	<b>G</b>	
<b>2. Data Checking</b>	Fiona Gudge	<b>G</b>	<b>G</b>	
<b>3. Financial Control &amp; Reporting</b>	Paul Fitzgerald	<b>A</b>	<b>G</b>	
<b>4. Affordable Housing</b>	Martin Daly	<b>A</b>	<b>G</b>	
<b>5. Policies/Best Practice</b>	Martin Price	<b>G</b>	<b>G</b>	
<b>6. Income Management</b>	Stephen Boland	<b>G</b>	<b>G</b>	
<b>7. Business Plan</b>	Stephen Boland	<b>G</b>	<b>G</b>	
<b>8. Stakeholder Engagement</b>	Martin Price	<b>G</b>	<b>G</b>	
<b>9. Assets</b>	Phil Webb	<b>G</b>	<b>A</b>	Issues with data quality within Codeman system, data quality validation exercise under way.
<b>10. Baselineing/Benchmarking</b>	Stephen Boland	<b>G</b>	<b>G</b>	

Key	
<b>Red</b>	Unsatisfactory progress – milestones & timescales not being met corrective action or re-plan required
<b>Amber</b>	Issues against some milestones but remedial action will keep project under control overall
<b>Green</b>	All milestones being met & project on target/completed

Key Accomplishments LAST Period
<p><b>Treasury Management –</b></p> <ul style="list-style-type: none"> <li>List of borrowing options report was shared with the project team.</li> <li>Maggie Hammond attended a meeting with Investment Bankers, Goldman Sachs who shared their thoughts on borrowing options for the HRA.</li> </ul> <p><b>Financial Control &amp; Reporting –</b></p> <ul style="list-style-type: none"> <li>HRA coding structure is on track but full implementation may be delayed 1-2 weeks as widespread agreement to proposed changes cannot be completed until after the holiday period.</li> <li>SAP codes have now been mapped to national reporting requirements, which will strengthen internal usefulness of reporting and enable quick and cheap headline – level benchmarking.</li> <li>HRA coding structure has been tested against SAP reporting facilities and is proving robust and quick to produce.</li> </ul> <p><b>Affordable Housing –</b></p> <ul style="list-style-type: none"> <li>Obtained sufficient information to GIS map some potential HRA assets that are ‘earmarked’ for housing association redevelopment in</li> </ul>

the next 2 years.

**Income Management –**

- Policies research undertaken.

**Stakeholder Engagement –**

- HRA Reform project consultation has been linked to HRA Business Plan consultation

**Baselining/Benchmarking –**

- Data collection Form (DCF) 100% complete and submitted to Housemark on time.

**Business Plan –**

- Cathy Osborn provided briefing sessions on the project and business plan to Councillors and Community Scrutiny.

**Key Activities NEXT Period**

**Treasury Management –**

- Enhance list of borrowing options report to give further details of some options and clarity over costs.
- Circulate the borrowing options report to the Tenant Services Management Board and Members Change Steering Group.

**Treasury Management –**

- New HRA coding structure to be tested with users to identify any further development required, which can be quickly implemented within 1-2 weeks.
- HRA balance sheet will be reviewed against national developments in 'component accounting' in preparation for 11-12 reports.

**Affordable Housing –**

- Obtain views on mapped HRA assets about sites from Capital Asset Manager, Economic Development Specialist, Development Management Lead and Project Taunton to consider open market/best value considerations, and potential for alternatives income generating uses (e.g., open market housing, employment, retail, leisure etc) as well as site utilization and local knowledge about the sites that have been GIS mapped.
- Obtain sufficient information from Enabling Lead to GIS map missing HRA assets on Oxford Inn, small areas of HRA land, and two (unnamed) HRA schemes totaling 56 units of accommodation, together with any further information not yet supplied on HRA assets for redevelopment.

**Income Management –**

- Begin formulating draft policy documents and circulate early drafts to project group in September.

**Business Plan –**

- Undertake a stock validation survey.
- Stakeholder engagement events to be held on the 15<sup>th</sup> September 2011.

**Stakeholder Engagement –**

- Introduce project briefings via the Core Brief and Frequently Asked Questions.

**Baselining/Benchmarking –**

- Housemark to provide a report in November 2011 on data submitted.

**Issues**

**Treasury Management -**

- If information in the list of borrowing options, including rates, changes significantly it has an impact on the financial business plan.

SWOT analysis carried out with HRA reform project board 2<sup>nd</sup> August 2011

Strengths	Weaknesses
<p><b>Resident perspective and involvement.</b></p> <ul style="list-style-type: none"> <li>• High tenant satisfaction levels (Top Quartile)</li> <li>• Some service standards and local offers agreed with tenants.</li> <li>• Tenants views – good standard of investment delivered to date</li> <li>• Tenant Services Management Board established and working effectively and linked to Council decision making.</li> <li>• Strong demand for properties</li> <li>• Good track record of tenant consultation has produced clear information on tenant priorities</li> </ul> <p><b>Process</b></p> <ul style="list-style-type: none"> <li>• Rent collection (low arrears levels)</li> <li>• New ASB arrangements producing positive results</li> </ul> <p><b>Stock investment</b></p> <ul style="list-style-type: none"> <li>• Decent Homes standard achieved</li> <li>• Percentage expenditure on emergency/urgent repairs low</li> </ul> <p><b>Staff</b></p> <ul style="list-style-type: none"> <li>• Performance score card and staff performance management systems</li> <li>• Committed workforce</li> </ul> <p><b>Governance</b></p> <ul style="list-style-type: none"> <li>• Strong governance – good level of member understanding before decision making</li> </ul> <p><b>External</b></p> <ul style="list-style-type: none"> <li>• Good reputation as local housing provider among tenants and other stakeholders</li> </ul> <p><b>Other Council actions linked to housing</b></p> <ul style="list-style-type: none"> <li>• Priority area strategy targeting resources at areas of high deprivation</li> </ul>	<p><b>Resident perspective</b></p> <ul style="list-style-type: none"> <li>• Satisfaction that views taken into account (2<sup>nd</sup> quartile) – recognise need to improve wider tenant empowerment.</li> <li>• More performance information to tenants needed.</li> </ul> <p><b>Process</b></p> <ul style="list-style-type: none"> <li>• Information systems – multiple different systems that not always used to full capacity or integrated. Issues particularly with accounting systems.</li> <li>• Void turnaround time (and financial control)</li> <li>• Debt management</li> <li>• Complaint response times</li> <li>• Leasehold management</li> </ul> <p><b>Stock investment</b></p> <ul style="list-style-type: none"> <li>• Difficulty accessing information on stock condition.</li> <li>• Thermal efficiency – very low SAP ratings on 250 homes.</li> <li>• Investment standard not agreed (although priorities identified)</li> <li>• Lack of information on need for disabled aids and adaptations</li> </ul> <p><b>Staff</b></p> <ul style="list-style-type: none"> <li>• Staff competencies and training and development plans to ensure career progression.</li> <li>• Staff sickness</li> <li>• Office accommodation – more space needed</li> </ul> <p><b>External</b></p> <ul style="list-style-type: none"> <li>• Lack of information on how performance compares to other providers</li> </ul> <p><b>Other Council actions linked to housing</b></p> <ul style="list-style-type: none"> <li>• Lack of internal capacity to resource major regeneration projects</li> </ul>
Opportunities	Threats
<b>Resident perspective</b>	<b>Process</b>



**SWOT analysis carried out with HRA reform project board 2<sup>nd</sup> August 2011**

<ul style="list-style-type: none"> <li>• Tenant support</li> </ul> <p><b>Process</b></p> <ul style="list-style-type: none"> <li>• Information on demand v supply available from CBL records can inform future development plans.</li> <li>• HRA Self financing – opportunities for long term planning and some freedoms and flexibilities (within financial constraints)</li> <li>• Tenure/rent flexibility may present opportunities for improved use of assets, estate management and investment opportunities.</li> </ul> <p><b>Stock investment</b></p> <ul style="list-style-type: none"> <li>• HRA Land ownership for potential development.</li> <li>• Options appraisal of non traditional homes with limited life may present opportunities for improved land use, increased number of homes to higher quality.</li> <li>• Technical advances in sustainable energy provide opportunities for funding and for improvements in housing stock and cost in use for residents.</li> </ul> <p><b>Staff</b></p> <ul style="list-style-type: none"> <li>• Creation of HRA business plan provides opportunities to focus on future direction of service and opportunities to ensure all staff are clear of their role in delivering business plan objectives.</li> </ul> <p><b>Other Council actions linked to housing</b></p> <ul style="list-style-type: none"> <li>• DLO review identified potential efficiencies.</li> <li>• Halcon North regeneration project.</li> <li>• Priority Area strategy</li> </ul>	<ul style="list-style-type: none"> <li>• Future demographic change increases the need for affordable housing and services for elderly and vulnerable tenants.</li> <li>• Rent policy – long term stability required</li> </ul> <p><b>Stock investment</b></p> <ul style="list-style-type: none"> <li>• 1/5 stock of non traditional construction – need to prepare for end of life of those homes with limited life.</li> </ul> <p><b>Staff</b></p> <ul style="list-style-type: none"> <li>• HRA Self financing – new risks and new staff competencies required</li> </ul> <p><b>Governance</b></p> <ul style="list-style-type: none"> <li>• Political composition of the Council presents risk of instability. Certainty required for 30 year business plan difficult with 4 year election cycle.</li> <li>• Level and complexity of change presents challenges for officer and member training/understanding.</li> </ul> <p><b>External</b></p> <ul style="list-style-type: none"> <li>• Welfare benefit reform</li> <li>• HCA grant funding reductions</li> <li>• External economic environment</li> <li>• Supporting people</li> </ul> <p><b>Other Council actions linked to housing</b></p> <ul style="list-style-type: none"> <li>• Budget review project and likely impact of shrinking General Fund on the HRA.</li> </ul>
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# Taunton Deane Borough Council

## Tenant Services Management Board -19 September 2011

### Installation of Solar PV Panels on the Housing Stock

#### Report of the Strategic Director

(This matter is the responsibility of Executive Councillors Mrs Jean Adkins and Ken Hayward)

#### 1. Executive Summary

This report is in draft, and is being prepared for the Community Scrutiny Committee on 11<sup>th</sup> October 2011. It considers in detail options for the installation of solar PV on suitable council owned homes. The Tenants Services Management Board are requested to consider the report and present any views on the report and its recommendation. These views will then be incorporated into the report before it is considered by the Community Scrutiny Committee.

#### 2. Background

##### 2.1 Solar PV and the Feed in Tariff (FIT)

Feed in Tariffs became available in Great Britain from the 1<sup>st</sup> of April 2010. The overall aim of the scheme is to encourage the deployment of additional small scale low carbon electricity generation. The scheme offers a minimum payment for all electricity exported to the Grid. These payments are in addition to the fuel bill savings made by using the electricity generated on site.

The primary financial benefits are:

1. The Generation Tariff – the set rate paid by the energy supplier for each unit (KWh) of electricity generated – The Energy Savings Trust (EST) estimates this benefit to be valued at approx £700 per annum for a typical 2KWp installation.
2. The Export Tariff - a payment of 3p/KWh received from the energy supplier for each unit exported back to the grid. The EST estimates an income of around £25 per annum for a typical 2KW installation.
3. Energy Bill Savings – The typical benefit to tenants/residents, dependant on their consumption profile, is expected to be between £90 and £120 per year.

##### 2.2 Advantage Southwest (ASW)

TDBC had recognised early on the potential benefits of installing Solar PV to its properties and has already identified 720 suitable properties that meet the criteria for maximising the benefit of solar PV installation namely a south/southwest facing and a recently refurbished roof.

Through its membership of Advantage Southwest we were actively participating in a consortia based approach being led by ASW. This approach aimed to establish a framework for the provision of a “rent-a- roof scheme” available to all of its members.

Unfortunately this project was abandoned primarily due to differing expectations of risk transfer between PV providers and landlords and, in particular, issues around the consequences of right to buy and property demolition.

### 2.3 The reduction in the feed in tariff (FIT)

The generation tariff for PV retrofit is currently 41.3 pence per kWh produced.

The current FIT only applies to properties with Solar PV fully installed prior to the 31/3/12. For the period of the 1/4/12 – 31/3/13 the tariff applicable to new installations will fall to 39.6 pence per kWh. Once an installation has joined the scheme the FIT is fixed for 25 years.

TDBC’s own estimation of the effect of this known reduction in the FIT will have on the income to the PV Provider is given in the table below.

	electricity generated per kW installation	Av. size of array	number of houses	generation tariff. p/kWh	tariff fixed for x years	TOTAL	Loss in %
Installations completed before 31/03/12	950	2	720	0.413	25	£14.125K	
Installations completed after 31/03/12	950	2	720	0.396	25	£12.928K	
Loss if installations start from April 2012						£581K	4%

The reduction in the income received by the Solar PV provider is expected to be around 4%. However given the falling costs of PV equipment and increased competition among installers similar returns may be still be possible against the reduced FIT.

What is not known is the effect on the FIT from April 2012 of the Governments current review of the scheme.

At the time the scheme was designed it was made clear that early reviews would need to take place. Early in 2011 a fastrack review of the FIT scheme was carried

out as a response to evidence that larger projects were being deployed much more quickly than first envisaged. As the spending envelope for the scheme is limited it was felt that the amount available for small schemes would be threatened and consequently the FIT for larger schemes was reduced to reflect the increasing return on investment being experienced.

The Governments Comprehensive Spending Review has stipulated the need to make a 10% savings to the scheme in 2014. This review of the FIT scheme will provide an opportunity to make adjustments in the light of market developments, such as the rapid fall in the global module costs witnessed since the start of the scheme and increasing rates of return being achieved.

## **2.4 The Offer Received by TDBC**

Since the cessation of the ASW project TDBC had been approached by a national PV provider with a specific lease based “rent a roof” proposal.

The offer was based on a single upfront payment per property in return for the rights to the FIT tariff. The payment increased with the size of the installation/property but based on a typical 2.07KWp installation the offer presented a payment of £330 per property. This represents a one off up front payment to TDBC of approximately £238k for the 720 identified properties. This would increase to £288k for 2.11KWp installations and £324k for 2.3KWp installations

The contract period for this, as is the case with similar schemes is 25 years. The income receivable under the FIT by the Solar PV is expected to be in the region of £14m over this period. Therefore the upfront payment represents approximately 1.75% - 2.25% of the projected FIT income received by the provider.

It was not possible to assess the transfer of risk under this particular proposal due to the requirement to sign a confidentiality agreement.

## **3. Strategic Procurement Service Review**

At this point the Strategic Procurement Service was approached to advise on the relative value for money of the offer received and the procurement implications for accepting the offer or any similar proposal.

### **3.1. Market Summary**

Since the launch of the Feed in Tariff in April 2010, there has been substantial mobilisation in the solar photovoltaic (PV) market. There continues to be a high level of interest from registered providers and local authorities seeking to procure PV installations on their housing stock. The primary drivers are to secure the benefits of reducing fuel poverty (allowing tenants to take advantage of free electricity generated by the panels), carbon reduction and the potential for an attractive financial return through the “feed in tariff” (FIT)

In terms of the supply and installation of Solar PV equipment large scale DIY consortium deals are already securing available market capacity. The costs of the PV units are reducing and competition between installers in driving down installation costs. Estimates on return on investment vary but are typically quoted as having fallen to between 7 and 11 years for a large scale project.

## 3.2 Differing Models

The rapid growth of the PV market has led to a range of different solutions and models. The most appropriate route will depend on the approach to risk, availability of funding and resourcing levels. There are two basic types of model – rent a roof, and DIY.

### 3.2.1 "Rent a Roof" models

There are a number of variations to the "rent-a roof" deals in the marketplace.

Under "rent-a-roof" arrangements, the PV provider installs the panel at nil cost for the landlord, and allows any free electricity generated by the panels to be used by the resident. Recently more sophisticated schemes have developed whereby the landlord gets an up-front premium/installation fee (either alone or in combination with an annual 'roof rental' fee). As an alternative, PV providers may propose sharing FITs, or assigning the benefit of the FIT after they have repaid debt and made a sufficient return. Other models are set up as community enterprises utilised to distribute the income from the FIT into community projects.

These schemes are applicable where an organisation is not able to invest or have sufficient staffing resources to deliver such a project.

These solutions are often regarded as being lower risk to the landlord in that the full risks of the project are handed to the PV Provider. However, the financing arrangements that sit behind such schemes often rely on a significant risk transfer to landlords.

Primarily there are two differing approaches

**“Lease based”** Under this model, the LA grants a formal lease of roof space to the PV provider usually for a period of 25 years.

- The grant of a lease by an LA is a disposal of land. This causes potential issues:
  - S32/43/123 consents will be required. Whilst these consents should be easy to obtain they will still take time and administrative effort.
  - Stamp Duty Land Tax (SDLT) will be payable by the PV Provider - which will probably mean a reduction in rental payable
  - The lease will need to be registered with the Land Registry; Land Registry requirements on the registration of these sorts of leases remain uncertain (for example individual plans for each roof may need to be prepared) and there are of course Land Registry fees to pay. From a commercial perspective, these costs could make the PV Providers offering in a competitive market less attractive.

**“Licence based”**. Under this model, the LA simply grants a licence of roof space to the PV Provider to enable the PV Provider to install maintain and operate the PV system - an arrangement not dissimilar to a licence to maintain and operate advertising hoardings or cashpoints in supermarkets.

- All of the aspects that an LA and PV Provider would need to operate the PV system are capable of being drafted in a licence (for example the right of installation, the right to run wires over the social housing dwelling, the right of access (on notice) to repair and the right to install the inverter etc.).
- The grant of a licence is not a disposal - so statutory consents are not required.
- SDLT is not payable, nor is the licence registrable at the Land Registry- so there are project cost savings that can be passed on to a LA.

Most schemes are managed through a Special Purpose Vehicle (SPV) funded by a bank or pension fund comprising the lender, an installer and often a utility company.

To date there is little evidence of large scale adoption of these models although projects such as those being implemented in Stoke on Trent and North Tyneside illustrate acceleration in the number of projects progressing to the installation phase.

One of the primary reasons why a number of early projects have not been concluded is the different expectations of risk ownership/transfer between the PV providers and landlords. However, some models are now being developed that present a more balanced approach to the sharing of risk and benefits. Standard forms of licence and lease agreements are now available for purchase from legal firms supporting activity in this area.

To fully understand the risks and benefits to TDBC that the different types of “rent-a-roof” models present would require a detailed analysis. This analysis would need to understand the implications from property, landlord, resourcing and procurement angles.

Given the differing models available in the market, a procurement exercise allows landlords to compare proposals on a like for like basis driving best value through the procurement process.

### **3.2.2 "DIY" models**

Registered providers who have access to funding and local authorities, who can access prudential borrowing, can procure and install PV systems themselves. Most examples of Solar PV installations to date fall into this category. The rewards are much greater as the FIT can pay around £700 - £800 per property per year for 25 years.

In such cases the procurement of the PV equipment and/or the installation contractors is subject to OJEU as such contracts are defined under the European Procurement Regulations as either works or supplies contracts.

Assuming an average cost of £10k per property, TDBC would need to borrow over £7m to fund a DIY installation on 720 homes. This is not considered feasible.

### **3.2.3 Consortia approaches**

Consortia approaches have been or are being set up for both "rent-a-roof" and DIY structures. Such joined up working offers volume to the market and efficiencies to members. In respect of early projects similar problems around risk transfer between the PV Provider and the Landlord have led to projects being either abandoned or delayed.

### **3.3 Compliance with Procurement Regulations**

Many potential PV Providers put forward the argument that the procurement of "rent-a-roof" type schemes" are not subject to The Public Contracts Regulations 2006 (amended 2009). This argument is usually presented on one of two grounds:

**Argument 1** - Such transactions are "Service Concessions" and therefore are exempt from the Public Contract regulations.

**Argument 2** - That lease based schemes are land transaction based schemes comprising the grant of leases and ancillary property rights and therefore do not anticipate the use of a "Service Concession"

It is our view that any form of "rent-a roof" type scheme" including lease based schemes meets the definition of a "Service Concession". This has been verified by a legal firm who specialise in providing support in this emerging market and is view adopted by other local authority procurement units that have been consulted.

Directive [2004/18/EC](#) defines Service Concessions as contracts of the same type as a public service contract except for the fact that the consideration for the provision of services consists either solely in the right to exploit the service or in this right together with payment.

Service Concessions are not subject to any detailed rules in the Directive. However although full compliance with the OJEU procurement process may not be required the Treaty prohibits any discrimination on grounds of nationality and establishes rules on the free movement of goods, the freedom of establishment, and the freedom to provide services. Ordinarily, to avoid the risk of a legal challenge in the award of a Service Concession, such a requirement would be advertised as a voluntary OJUE Notice thereby meeting the requirements for non discrimination.

However there is some evidence that some authorities may be taking the view that the risk of a challenge for not placing such a voluntary notice is fairly small particularly when considering the status as a Service Concession and the pressure of the FIT deadline is taken into account.

Service Concessions are however still subject in particular to Articles 28 to 30 and 43 to 55. These articles govern the manner in which any procurement would be carried out and are based on the principles of equality of treatment, transparency, proportionality and mutual recognition. These principles are enshrined into public sector procurement best practice and govern how all procurement should be carried out and consequently the application of the OJEU regulations should not just be seen as applicable only in respect of facilitating trade with other EU member states. These principles should be embedded into any procurement exercise.

Similarly TDBC standing orders and the “best value” rational would require a solution procured through open market competition. The aim being not just to secure the largest potential income but to consider the varying degree of risk associated with each offer and the added value of any other benefits each proposal might bring.

The two projects given as examples given in 3.2.1 above – Stoke on Trent and North Tyneside - were both awarded following full OJEU procedures. Although recognized as Service Concessions by the respective authorities both chose to carry out full OJEU procurement processes.

### **3.4 Available Frameworks**

Initially it was hoped that a specific framework for the provision of a “rent-a-roof type” scheme existed. Such a framework would offer an OJEU compliant solution under which a single supplier is presented or a further mini competition is required.

This is the model that was being developed by Advantage Southwest. Where such projects have been undertaken the regional approach is typical. A similar procurement is being run by “Efficiency North” but would not cover properties in the SW region.

A number of frameworks exist, such as those put in place by North Somerset and Procurement for Homes for the provision of the actual Solar PV equipment, but these are designed to support the “DIY” delivery model.

The Yorkshire Purchasing Organisation (YPO) has recently put in place a framework for sustainable technologies. This framework contains a Lot for Solar PV provision. Although this framework was not set up specifically for “rent-roof-schemes” it is understood that similar schemes are being procured through the framework although generally these relate to installations on commercial property rather than large scale domestic installations.

The YPO Framework includes 15 Solar PV providers for the southwest area. These include some of the known national contractors who are actively delivering domestic solar PV installations to local authorities. Since its launch in August a large number of enquiries and projects have been channelled through the framework primarily due to the need to meet the March FIT deadline.

This framework is OJUE compliant and potentially offers a reduction in the timescale within which TDBC could approach the market. However, contractors have confirmed that installation capacity is being rapidly exhausted. Further enquiries would need to be made to establish if enough of the framework contractors would be interested in the TDBC requirement to ensure a procurement under the framework would deliver a satisfactory result.

### **3.5 General Research**

During our research it became clear that the market for “rent-a-roof” schemes is still developing.

The number of UK based potential providers is around 30.



Early indications based on the income received by other organisations suggested a target income level of around 3-4 times that which had been offered to TDBC. Similar figures had been achieved by other organisations in more northerly locations.

Publications within “inside housing” had also emphasised the need for Landlords to consider alternative proposals in order to maximise the income stream and other potential benefits.

During the research a number of indicative proposals were presented to TDBC. It should be noted that in all cases, including the original proposal received by TDBC, that no detailed analysis of the respective terms and conditions has been carried out.

### **Indicative Offer 1**

Leased Based approach

- Annual air concession fee expected to be approx £120 per property per year over 25 years equating to an approx total income of £2.16m.
- Free electricity to tenants.
- Return = approximately 15% of the FIT
- This offer was based on a similar proposal which is currently being presented to a neighbouring authority.

### **Indicative Offer 2**

Leased Based approach

- Annual lease payment per property approx £84 per property over 25 years – equating to approx £1.5m over 25 years
- Free electricity to tenants
- Return approx 11% of FIT

### **Indicative Offer 3**

- Licence based approach
- Free electricity to tenants
- Licence payment of £19.23 per KWp (£41.34 based on 2.11KWp) per property per year. Approx total = £744,120 (approx 5% of the FIT)
- Licence payment linked to RPI
- A 50% share of the net pre-tax profit (variable with cost and income) estimated by the landlord to be £72.26 pa (2.11KWp system) equating to £1,300,680
- Total potential income £2.04m
- Return approx 14.5%

In all cases more detail is required to verify the potential income streams and to determine the full commercial terms.

Several offers have cited other benefits of their proposals. At this stage it is not clear if any of these additional benefits would have a negative affect on the potential income streams.

- Local employment (They will recruit local workforce first to do the installations. There might be potential for an element of up-skilling / training provision)
- Tenant management (If we want, they do all the liaison work with the tenants for us, i.e. writing letters, making contact, dealing with queries / complaints etc)
- Tenant workshops (They teach tenants how to make best use of free electricity)
- Failure reporting (each installation is monitored remotely. Failures will be detected immediately)
- Replacements (Company covers all replacement costs for failing units)
- Monitoring (TDBC will have access to a portal where we can see exactly how the installer is getting on with the job)
- Free loft insulation to 400mm to any properties that are part of the project.
- Most of these companies will regard the 720 south & south/west facing properties that have been identified is regarded as a starting point. More properties could have solar PV installed later or the cooperation could be extended to provide solar thermal and air source heat pumps.

### **3.6 Practical issues and consents**

Aside from the procurement issues, there are a number of other issues that will need consideration, including:

- It is clear that the implementation of a “rent-a-roof” project for 720 properties would be extremely complex requiring legal support in terms of property, social housing and procurement. The resource input and legal costs would need to be considered against the potential income stream. These costs have not been established but would inevitably reduce the benefits of any offer.
- Lenders consents will be required to undertake the work.
- Tenancy Agreements will need to be changed for those tenants on whose dwellings the panels are installed to ensure that adequate rights are in place.
- Experience elsewhere is suggesting that around 3% of tenants are unlikely to take up the offer of solar PV installation. This could reduce the number of properties to 698, with a corresponding drop in income received.
- Right to buy – one of the stumbling blocks with many of the schemes so far has been in dealing with right to buy situations. Proposals within the latest available “rent a roof” schemes are indicating that the PV provider would take on the risk of RTB’s reducing their return. Undoubtedly this would be factored in to the offer made to TDBC. On the other side of the RTB coin, the value of homes will be increased as a result of the installation of solar PV.

- Members will recognise that not all tenants will benefit from the installation of solar PV and the availability of free electricity. It is expected that the income generated from solar PV could be used for other types of renewable energy installation over coming years – such as air source heat pumps – in properties which would be more suited to these alternatives.
- Any installation will require liaison with individual tenants and a contract management resources during the implementation. Some of the PV providers are able to offer significant aspects of this as part of their service, reducing the demand on TDBC resources.
- The extent to which property rights are granted to a PV provider under a 'rent-a-roof' model.
- Lender consents and possibly Section 172/Section 133 consents.
- For lease based models, clawback or overage agreements will also need to be considered.
- Maintenance issues for asset management of stock with PV installations – particularly if the PV installer becomes unable to repair or maintain the installations.
- The capacity of any chosen partner to carry out the installations within the time frame.
- The financial status and the long term commitment of many of the new SPV's entering the market.
- Clarity of Insurance responsibilities between the various parties.
- Clarity on the risks of any changes to the FiT level being borne by the installer.
- There are many models in the market place with potentially onerous indemnities and compensation mechanisms if certain events cause the PV provider to lose the FiTs. These events may or may not be within the landlord's control. The risks need to be carefully considered to determine whether or not they present an acceptable risk profile when considered alongside the financial return that is being offered. Such risks relate to claims for loss of the FiTs in the event of, for example tenants, cancelling their supply agreements on vacation of a property, loss of income while a property is empty, the loss following and "right to buy". Property shading and distribution capacity have been cited as other reasons for reductions in the actual number of suitable properties.
- VAT and Tax treatment of the roof rents

It is anticipated that many of this issues would be resolved during a procurement process.

#### **4 Benefits to Tenants**

PV systems can have positive financial benefits to tenants, as they get to use the electricity generated. It should be remembered that electricity not used cannot be stored, but is exported to the grid. The amount that a tenant benefits, therefore, will be dependant on the amount of the free electricity they can use, which is likely to be related to how much they are at home during the daytime.

It is also important to appreciate that tenants will not get 100% of their electricity requirements free of charge.

The possibility of the value of the free electricity being generated being spread across all tenants has been explored and there is no way currently in which this could be done. The beneficiaries of the free electricity therefore will be the tenants of the particular property.

If the income from the project is reinvested in other renewable energy schemes, more and more tenants will benefit.

#### **4 Consideration of the Options**

It is clear that the potential income from the implementation of a rent-a-roof type scheme is much greater than the initial proposal received by TDBC. Under the current FIT levels the target share of the FIT should be in the region of 10-12 % rather than the 1.75 - 2% initially offered.

It is recognised that given the planned reduction in the level of the FIT (31 March 2012), and the unknown consequences of the comprehensive spend review that TDBC will need to act quickly to give a realistic opportunity of maximising PV installations in the available timescale.

A licence based approach is more suitable for the reasons given in 3.2.1

The complexities of implementing such a project, the related legal support, and the general resource requirements that will be regarded to deliver could easily erode the benefits of any scheme that delivered low % return.

Notwithstanding the increasing market activity and timescale pressure, it is crucial that TDBC does not expose itself unnecessary risk or sign up to deals which do not offer best value.

To take advantage of the current FIT rates, it is important to move very quickly. Many PV providers are saying that they need to be mobilised by October.

There is insufficient time to run a full OJEU compliant procurement and achieve any significant numbers of installations before the end of March 2012. There are, however, two approaches to the procurement that could be adopted by TDBC. In either case the timescales are very challenging, and there are no guarantees that all 720 properties could be installed by the end of March 2012.

- A TDBC run competitive procurement exercise in isolation. If the authority carries out its own procurement the risk of a challenge from not complying with the full requirements of the EU procurement regulations would remain. This would be partially mitigated by ensuring an openly advertised tender through a media such as "Inside Housing" and ensuring that the

procurement is, in all other respects, managed as if it were OJEU procurement.

- A mini competition through the YPO framework. The use of the YPO framework would remove the risk of challenge but may limit the size of response due to the available capacity of the Contractors.

Either way the authority should aim, as far as possible, to specify what it wishes to achieve rather than invite offers and to try to evaluate the variations in proposal that might otherwise be received

Whichever route is chosen there are two potential ways in which it could be approached. In both cases legal assistance would be required to support the development of the Tender and Contract documents and in evaluation the proposals received.

- a. The first is to treat this as an accelerated competitive dialogue process under which TDBC would send out a base PV licence (or a lease if TDBC considers it more appropriate) and to then require providers to provide a mark up which will be assessed alongside other scoring criteria (e.g. licence fee, quality of written submissions etc.).
- b. The second is to simply list "non-negotiable" elements of our proposals and ask bidders to bid based on those assumptions (e.g. licence rather than lease etc.)

## **5. Conclusion**

On the basis of the above analysis it is considered that if the Council wishes to install solar PV on appropriate homes which it owns the following route is most appropriate - subject to a satisfactory assessment that there will be enough interest from contractors, to carry out a mini procurement process using the YPO framework based on a "rent a roof" style scheme operated through licence rather than lease.

## **4. Finance Comments**

## **5. Legal Comments**

## **6. Links to Corporate Aims**

This proposal is directly linked to the Council's Climate Change Corporate Aim, particularly in the Council's capacity as civic leader, and also in having a major impact on the community-wide response to climate change.

## **7. Environmental Implications**

The installation of solar PV on up to 720 council owned homes will have a significant impact on reducing the carbon footprint of the borough. It will also assist in making the Borough more energy resilient.

## **8. Community Safety Implications**

The installation of solar PV on domestic property is normally considered to be permitted development and does not require planning consent. There is a risk that installations could become targets for vandalism

## **9. Equalities Impact**

The criteria for installations depends entirely upon the roof orientation of the building and takes no account of any equality factors relating to individuals or groups. This is because of the technological limitations of the equipment. It is anticipated that therefore installations will be of benefit to a wide part of the community, with no discrimination on equality grounds. It is likely that some homes currently in fuel poverty will be positively affected. It is also hoped that the income derived from the project can be utilised to widen the application of renewable energy technology across the Council's housing stock, benefitting more of our tenants.

## **10. Risk Management**

Risks are identified in the report.

## **11. Partnership Implications** – the project will be implemented with the full involvement of the Tenant Services Management Board.

## **12. Recommendations**

The Tenant Services Management Board is asked for its views on the proposal that subject to a satisfactory assessment that there will be enough interest from contractors, to carry out a mini procurement process using the YPO framework based on a “rent a roof” style scheme operated through licence rather than lease. These views will be presented to the Community Scrutiny Committee on 11<sup>th</sup> October 2011.

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# Taunton Deane Borough Council

## Tenant Services Management Board – Monday 19<sup>th</sup> September 2011

### Fire Safety Policy for Flats

#### Report of the Tenant Services Development Officer

(This matter is the responsibility of Executive Councillor Mrs Jean Adkins)

#### 1. Executive Summary

This report sets out the advantages and disadvantages of adopting a 'zero tolerance' approach when managing council owned blocks of flats in order to reduce the risk of fire and to safeguard tenants.

Early discussions with the Group Commander of Devon & Somerset Fire & Rescue Service indicate that they are totally supportive of a zero tolerance policy within communal areas of flats. The Tenant Services Management Board is requested to consider the report and to provide any views on this approach. These views will then be considered prior to a final Fire Safety Policy being produced.

#### 2. Background

Comprehensive fire safety research has been undertaken following an arson attack at a block of flats in Dorchester Road, Taunton. The attack resulted in 6 families being made homeless and a significant redevelopment project undertaken to totally refurbish the block and relocate the affected families.

The fire was started when the contents of recycling receptacles in communal areas were set alight and the results of the arson attack can be seen on Page 2 of this report.

Further research was undertaken on blocks of flats with a similar layout and design to that of Dorchester Road. The inspection of blocks identified significant fire hazards attributable to the storage of personal items within the communal hallways. Photographic evidence of residents conduct when using communal hallways demonstrate the serious fire risks for tenants and residents and the requirement for considering a 'zero tolerance' approach to storage in communal hallways.







### 3. Zero Tolerance Proposals.

In 2011 the Local Government Association, (LGA)<sup>1</sup> produced a comprehensive report setting out the pros and cons of “zero tolerance” or “managed use” for blocks of flats when dealing with health and safety of tenants.

The report highlighted that by removing the presence of combustible materials and ignition sources this dramatically reduces the potential for accidental and deliberate fires to start in the common parts.

It also ensures escape routes are free of obstructions for the evacuation and provides clear access for fire-fighters.

There is a tendency for some residents to treat the common areas of blocks of flats as an extension of their own home. As a consequence, personal belongings stored in corridors and stairway landings include:-

- Rubbish bags.
- Wheeled bins.
- Buggies and prams.
- Mobility scooters, bicycles and motor cycles.
- Lockers and cabinets.
- Washing machines, tumble dryers and other goods awaiting disposal.
- Unwanted bedding and mattresses.
- Upholstered seating.
- Children’s toys and play furniture.

The inappropriate actions of residents in this regard could also be exposing landlords and others who manage the common parts to liability under fire safety law.

A further problem is one of abuse, such as dumping unwanted belongings and rubbish in the common parts. Not only can this result in people potentially putting their own lives at risk, it could also endanger the lives of others.

The actual potential for significant smoke production and fire development when combustible materials are ignited varies enormously, depending upon the inherent properties of the material, including its ease of ignition, the quantity present and its configuration.

Not all of the items commonly found are either easily ignitable or likely to give rise to a serious risk if ignited in isolation.

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<sup>1</sup> LGA. (2011) *Fire Safety in Purpose-Built Blocks of Flats* {WWW}. Available at: <http://www.lga.gov.uk/lga/tio/18055650> [Accessed 08/08/11].

This suggests that it might be possible to allow some items to be present without unduly exposing residents to risk. However, the difficulties landlords and others responsible for the common parts face is how to manage use of the building in this way.

Unrestricted use of common parts is clearly not acceptable. It will, therefore, be necessary to adopt one of the following alternatives:

i) **“Zero tolerance”**

ii) **“Managed use”**.

A **“zero tolerance”** approach is one in which residents are not permitted to use the common parts (other than for access and egress) or to store or dispose of their belongings or rubbish in them. No exceptions would apply. It would ensure that the common parts are effectively “sterile” i.e. free of combustible material, ignition sources and obstructions.

The alternative is **“managed use”**. This is an approach that allows strictly defined use of common parts, limits the items allowed to control fire load and ease of ignition and includes strict conditions on where such items can be kept. For example, a **“managed use”** policy might permit residents to place pot plants and door mats outside their front doors, and to store bicycles, prams and mobility scooters in places that are out of the way and not likely to cause obstruction.

<b>Zero Tolerance 'Advantages'</b>	<b>Managed Use 'Advantages'</b>
1. It is the simplest policy to adopt.	1. By making the common areas 'homely', it fosters a sense of pride and value in the block, which can impact positively on anti-social behaviour
2. It removes not only the risk from accidental fires, involving items in the common parts, but also denies fuel for the arsonist.	2. It benefits elderly and disabled people in particular, by allowing them to store mobility aids at the point of access
3. There is no ambiguity regarding what is allowed and therefore residents know exactly where they stand.	3. It removes the need for dedicated residents stores or communal facilities, such as mobility scooter parking areas.
4. It is easier for landlords to 'police' when carrying out inspections.	4. It allows the specific risk factors in the building to be taken into account.
5. Enforcing authorities usually favour this approach.	
6. It is simpler to audit by those carrying out fire risk assessments.	
7. It arguably reduces the liability on landlords	
<b>Zero Tolerance 'Disadvantages'</b>	<b>Managed Use 'Disadvantages'</b>
1. By not taking into account the specific circumstances, this policy might not be risk proportionate.	1. It is more difficult to adopt as it requires a clearly defined policy with a list of do's and don'ts.
2. It unduly penalises those who could manage their common parts effectively.	2. There is more scope for misunderstanding, requiring more education of, and communication with, residents.
3. It denies residents an opportunity to personalise and improve their living environment.	3. While it might be possible to minimise accidental fires with an appropriate "managed use" policy, deliberate ignition may still be a significant concern.
	4. By allowing valuables to be left on view, it can encourage crime and subsequently increase the risk of deliberate ignition.
	5. It is more difficult for landlords to "police", and for enforcing authorities and fire risk assessors to audit.
	6. It is likely to require more frequent inspections by landlords.
	7. Failure to adopt the policy effectively could result in liability for landlords should a situation occur that places residents at risk of serious injury or death in the event of fire.

The most appropriate approach will depend upon the specific circumstances and whatever approach is taken should be considered within the overall context of the fire safety measures in the building. It should be considered as part of the fire risk assessment for the block.

**A 'zero tolerance' policy should:**

- Be adopted by way of 'default'.
- Always apply when there is doubt over the ability of residents to apply a 'managed use' policy.
- Be adopted where flats open directly onto stairways unless 'managed use' is considered acceptable by the fire risk assessment.
- Be considered for all single stairway blocks, except possibly low rise.
- Always apply where the escape stairway is of timber construction.
- Always apply where the building needs to be evacuated immediately i.e. where the standard of fire protection does not support a 'stay put' policy.

While it may be easier for landlords to take the 'zero tolerance' approach, it should be recognised that residents may be put at significant inconvenience and resort to infringements of the policy through frustration. Consideration of the needs of residents in ways that encourage them to follow the constraints of such an approach can contribute significantly to fire safety. Providing suitable communal storage facilities and, for example, charging rooms for mobility scooters, can greatly assist.

**When adopting a 'managed use' policy, landlords and other Responsible Persons should:**

- Carry out a specific risk assessment.
- Never apply the policy without consideration of the specific circumstances in each building.
- Consider whether residents are disposed towards keeping 'rules' and avoid 'managed use' where this is not the case.
- Ensure that there are clearly defined do's and don'ts that residents can easily follow.
- Only apply it where there is a suitable standard of fire protection – particular care should be taken when applying it to situations such as single stairway buildings and 'dead end' corridors.
- Limit it to buildings in which the main elements of structure are made of concrete, brick and other non-combustible materials.
- Never adopt it where there are unsuitable surface finishes and linings.
- Take notice of instances of anti-social behaviour and avoid "managed use" where there is particular concern regarding the potential for deliberate ignition.
- Only apply it to buildings which have effective security, e.g. access control.
- Never allow storage of combustible material – where appropriate, make arrangements for residents to have communal facilities for storage.
- Never allow items to be left awaiting disposal - even short term presence poses a risk.

- Only allow basic furniture and not upholstered seating.
- Never allow motorcycles, mowers and other gardening equipment containing petrol and other fuels.
- Never allow charging of mobility scooters, batteries or other electrical equipment in common parts. Consider providing dedicated rooms for charging, suitably fire separated from the rest of the block.
- If storage cabinets are appropriate, only permit lockable metal cabinets to be used and never timber or plastic sheds or lockers.
- Never allow residents to store hazardous chemicals, gas containers or flammable liquids in storage cabinets or dedicated storerooms/cupboards.
- Only allow scooters, bicycles, prams, etc if there are suitable areas, that will not pose an obstruction, where they can be kept.
- Avoid allowing decorative lighting to be used – despite the low voltage involved, use of temporary lighting by residents can result in poor wiring practices.

Regular inspection is a key component of maintaining good housekeeping. Landlords should ensure that every opportunity is taken to monitor the situation in a block. This should apply to the common parts, including stairways, lobbies, corridors, escape balconies etc. It should also apply to plant rooms, landlord's stores, riser cupboards, TRA lounges and facilities and other communal rooms.

#### 4. **Mobility Scooters**

A policy written by the Devon & Somerset Fire & Rescue Service on Mobility scooters and powered wheelchairs make it clear that these items **should not be parked or stored in protected corridors or staircases**. Their presence introduces a serious hazard/risk (ignition source, fire loading and obstruction) into what might formerly have been regarded as a safe environment.

The hazards/risks associated with mobility scooters and powered wheelchairs highlighted above must be taken into account when considering the fire safety arrangements within any premises, particularly those premises to which the Regulatory Reform (Fire Safety) Order 2005 applies. The Responsible Persons will need to take these hazards and risks into account in the fire risk assessment.

In conjunction with the “zero tolerance” proposals outlined in this report, it is recommended that a working group should be set up to specifically research the issue of mobility scooters further, including :-

- Petrol-driven carriages, scooters and wheelchairs should not be kept or refuelled within premises;
- Battery-powered scooters and wheelchairs may be kept within premises, but should only be recharged or parked/stored in designated areas which do not obstruct occupants' means of escape.
- The presence of mobility scooters and powered wheelchairs in premises to which the Regulatory Reform (Fire Safety) Order 2005 applies, must be taken into account in any fire risk assessment.

## 5. Recycling

Recycling initiatives to encourage householders to avoid waste and use resources sustainably are being successfully applied to residents of blocks of flats. However, collection schemes often involve materials being set out in corridors, lobbies and stairways within the common parts. This has given rise to a new and potentially serious fire hazard.

Bags of clothes for charity and boxes/bags of newspapers and plastic containers represent a significant fire load. The material is in a form in which it can be easily ignited and lead to rapid fire spread and produce copious amounts of smoke.

While only transitory, such material is nevertheless wholly inappropriate. It cannot be considered acceptable even where “managed use” policies apply. Landlords should put in place alternative arrangements for recycling that do not rely on collection from within the common parts.

## 6. Finance Comments

Any financial implications and future decisions will have to be fully costed.

## 7. Legal Comments

Legal obligations for TDBC, Leaseholders and tenants would have to be investigated once a final policy is approved.

## 8. Links to Corporate Aims (Please refer to the current edition of the Corporate Strategy)

## 9. Environmental Implications

The policy should have a positive impact on recycling and the removal of rubbish.

## 10. Community Safety Implications

The recommendations from this report will form part of the overall policy on security and safety in TDBC flats.

## 11. Equalities Impact

A full Equalities Impact Assessment will be required in line with the fire policy.

## 12. Risk Management

The recommendations will form part of the wider fire policy risk analysis.

## 13. Partnership Implications (if any)

Any proposals are discussed with the Devon & Somerset Fire & Rescue Service

## 14. Recommendations

On the basis of the research undertaken the TSMB are asked to provide their views on the “zero tolerance” approach for all TDBC blocks of flats and to support this option. A consultation exercise regarding the use and storage of mobility scooters is also proposed prior to the completion of the Fire Safety Policy.

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