

## BABERGH DISTRICT COUNCIL

<b>From: Jan Osborne – Cabinet Member for Housing</b>	<b>Report Number: BCa/17/14</b>
<b>To: Babergh Cabinet</b>	<b>Date of meeting: 10 August 2017</b>

### HOME OWNERSHIP REVIEW

#### 1. Purpose of Report

- 1.1 To update members on the progress to implement the Home Ownership Review Action plan compiled by Housing Quality Network. (HQN)
- 1.2 To apprise members of the opportunity to improve service delivery, reduce operating costs, increase income and achieve a cost neutral operating model for Home Ownership Services.
- 1.3 To obtain authorisation to proceed with recommendations set out in Section 2 of this report.

#### 2. Recommendations

- 2.1 Cabinet are asked to APPROVE the following recommendations:
- 2.2 Introduction of a new lease agreement with revised terms to support moving closer to a cost neutral service and strengthened legal obligations. Assistant Director of Housing to have delegated authority to revise the lease terms and conditions based on internal legal practice and advice.
- 2.3 To implement a 'flat rate' Management Fee Structure of £279.00 per anum for new Leaseholders
- 2.4 Existing BDC Leaseholders to be excluded from the increased Management Fee until such time the lease can be reviewed and a revised charging mechanism implemented.
- 2.5 To implement a fee structure for 27 types of administration charges set at the current sector average (As set out in Appendix One)
- 2.6 Administration charges are increased annually on 1<sup>st</sup> April by CPI, as at the 30<sup>th</sup> September, of the previous year, and a market review every 3 years.
- 2.7 To approve a 15% Major Work fee of the total contractor costs for the planned works project.
- 2.8 To approve a revised operating model which projects a saving of £20,258, or 24% of existing structure costs.

### **3. Financial Implications**

- 3.1 The Home Ownership team provide leasehold services to 103 BDC and 40 MSDC leaseholders at a current cost of £81,954 including Corporate overheads. Current income to offset against the operating cost is just over £4,000 per annum.
- 3.2 It is intended the Home Ownership service should become cost neutral to ensure those Leaseholders who have purchased their property and continue to benefit from services provided by the Council are not subsidised by income received from general needs tenants rents. The current subsidy by general needs tenants could be spent achieving the organisations strategic priorities.
- 3.3 Section 10 of this report details how savings of up to £20,258 or 24% can be achieved on the operating costs as well as increasing income to achieve a cost neutral service.

### **4. Legal Implications**

- 4.1 New policy and procedures being implemented ensure compliance with statute and regulations for the recovery of service charges. Achieving compliance will reduce demand upon the legal service as appeals and tribunals will be avoided.
- 4.2 The new legal shared service has actively been involved in the Right to Buy (RTB) and Leasehold process. The joint working has led to improved process and consequential efficiencies alongside ensure robustness to defend any claim from a Leaseholder.
- 4.3 To implement a new management fee structure for future BDC RTB sales a new lease is required. This provides an opportunity to update and review the leases for both Councils to ensure they are fit for purpose and reflect legislative changes. The leases were last reviewed in 2007.
- 4.4 It is intended to ensure legal compliance, prevent challenge in the form of appeals and tribunals, and to ensure a progressive relationship with leaseholders that we may seek the opinion of Leasehold Tribunal service when considering changes to the service including charging to mitigate against future risks. Further legal advice will be sought as we progress the management fee structure.
- 4.5 The new lease will apply to future RTB sales only. Existing leaseholders will keep the existing lease. Paragraph 10.4.13 explains in detail how existing Leaseholders could change to the new lease on a resale of the property.

### **5. Risk Management**

- 5.1 Key risks are set out below:

<b>Risk Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigation Measures</b>
Lack of clear and concise communications explaining why change is required may cause reputational damage	2 (Unlikely)	2 (Noticeable)	Increasing existing charges may lead to negative publicity, a comprehensive communication plan will ensure we proactively manage all communications with leaseholders

Leaseholders may express dissatisfaction with service and challenge quality and or cost of service.	2 (Unlikely)	2 (Noticeable)	One aim of the review has been to improve VFM and increase satisfaction within the service for leaseholders by providing a more efficient and effective all round Leasehold service
Leasehold operating costs increase and we are unable to recover these costs	1 (Highly Unlikely)	1 (Minimal)	The recent review of the service, and changes to the current structure will ensure costs do not increase beyond reasonable adjustments e.g. pay rises, cost of materials etc.
Inability to account for costs may result in legal challenge by leaseholders and potential refunds if successful.	2 (Unlikely)	2 (Noticeable)	Significant amounts of time and investment are being put in to ensuring we only charge for costs that we can account for, and for which we are permitted to charge within the lease agreement which is an improvement on existing systems and structures.
Delay in agreeing the new lease may result in legal challenge by a leaseholder.	3 (Probable)	1 (Minimal)	<p>Work is actively taking place between the Home Ownership team and the legal team to ensure we introduce a new lease which is robust, compliant and is developed using best practice.</p> <p>Any challenges will be discussed with the Assistant Director for Law and Governance.</p>
An extremely small staffing resource with leasehold experience limited to one officer who is likely to leave this year	4 (Highly Probable)	2 (Noticeable)	Introduce a revised staffing structure now, and mitigate through training and development of staff members before any further retirements take place

## 6. Consultations

- 6.1 It should be noted Legal, Finance and Accountancy, Public Realm and Building/Property Services are actively involved and supporting delivery of the Home Ownership action plan. Updates on the progress that has been made have been presented to the Joint Housing Board.

6.2 Informal discussion has taken place with Senior Leadership Team SLT in April, until the report has been agreed formally, within the current governance model, any further consultation with stakeholders: leaseholders cannot commence.

6.3 A structure of consultation will be developed to support any changes to either existing leaseholders or potential new leaseholders in the future. There are plans to hold an event to attract leaseholders to engage with us by providing them with information whilst at the same time discussing any planned changes.

## **7. Equality Analysis**

7.1 New policies will have an equality impact assessment to ensure no discrimination in relation to any of the protected characteristics.

## **8. Shared Service / Partnership Implications**

8.1 As per paragraph 4.2, Legal Services have actively been involved in the project. The shared service brings the benefit of a consistent legal approach across both Councils. Alignment of the leases to the same terms for future resales provides clarity and simplicity to operational staff who need to refer to the lease before completing tasks such as ordering repairs and recovering costs.

8.2 Joint working with Suffolk Coastal, Waveney and Ipswich Council shared audit service has strengthened BDC & MSDC approach to verification of Right to Buy applications.

## **9. Links to Joint Strategic Plan**

9.1 The successful delivery of this project will meet several of the Councils' strategic priorities:

- a) Better service delivery model
- b) Better use of our existing Housing Assets
- c) Manage our housing assets effectively
- d) Financial stability
- e) More efficient public access arrangements
- f) Digital by design
- g) Strengthened and clear governance to enable delivery within statute law

## **10. Key Information**

10.1 The current stock profile for both Councils is summarised in Table 1.

**Table 1: Stock Profile**

	<b>BDC</b>	<b>MSDC</b>
No. of General Needs	3393	3235
No. of Shared Ownership	3	14
No. of Leaseholders	103	40
Total No. of Properties	3499	3289

These figures are correct as at when the report was written

10.2 Leaseholders represent a small percentage of the stock but require a reasonably significant amount of resource to manage daily activities and contact due to current operating practices. Economies of scale would only be produced by a significant increase in leaseholders. Current operating costs are shown in Table 2.

### 10.3 **Reducing Operational Costs and Improving Service:**

10.3.1 The Home Ownership Review and Action plan actions achieve a cost neutral Leasehold service, reduce operating costs alongside increasing income, legal compliance and improving the service. It will be important to demonstrate to Leaseholders the Council is working with them to ensure any potential increase in management fee is justifiable and clear.

10.3.2 The current operational structure includes 3 permanent staff working on Leasehold Services. One member of staff retired in May 2017 and a further expected staff turnover provides an opportunity to review the structure and consider alternative appointments at a grade consistent with existing staff and the sector average.

10.3.3 The Home Ownership project is reviewing operating practices and is implementing new methods to improve efficiency. It is anticipated that this will increase productivity and efficiency as we introduce simplification, technology and provide clarity of roles. Operating practices have been reviewed with consideration to the "All Together Programme" and move to Endeavor House.

10.3.4 Much of the leasehold work is currently undertaken by one person and this provides a risk. The proposed future structure shares leasehold work across 2 employees removing the single point of failure.

Table 2 shows current costs and table 2a shows projected costs in a revised operating structure that can be achieved through natural staff turnover in the next 12 months. Savings of up to 24% can be achieved.

**Table 2: Current Cost of Leasehold / Home Ownership Service**

<b>Job Role</b>	<b>Salary inc on costs £</b>	<b>% of time spent on Leasehold Mgt</b>	<b>Cost Based on % Leasehold - £</b>
Assistant Director	72,554	5	3,627
Corporate Manager	58,172	10	5,817
HRA Officer (Leasehold)	30,524	90	27,471
HRA Officer (Right to Buy)	34,856	20	6,971
Surveyor	36,348	75	27,261
Involvement Officer	36,348	5	1,817
Corporate on Cost* (based on 3 FTEs)			9,000
<b>Total cost of the leasehold service</b>			<b>81,964</b>

**Table 2a: Projected Cost of Leasehold / Home Ownership Service**

<b>Job Role</b>	<b>Salary inc on costs £</b>	<b>% of time spent on Leasehold Mgt</b>	<b>Cost Based on % Leasehold - £</b>
Assistant Director	72,554	5	3,627
Corporate Manager	58,172	10	5,817
HRA Officer (Leasehold)	34,856	50	17,428
HRA Officer (Right to Buy)	34,856	50	17,428
Administration Support	22,173	20	4,435
Clerk of Works	34,856	20	6,971
Corporate on Cost* (based on 2 FTE's)			6,000
<b>Total cost of the leasehold service</b>			<b>61,706</b>

**\*Corporate on costs including e.g. HR, Finance, ICT etc. equates to approximately £3,000 per FTE staff member.**

10.3.5 Operational savings have been achieved by removal of the Surveyor Job Role and introduction of a Clerk of Works. Historically the BDC Surveyor undertook work better aligned to the HRA Officer for consistency and efficiency.

10.3.6 The Involvement Officer role represented a small part of their work and this has been assumed into the HRA Officer Role. The All Together programme is expected to reduce corporate costs in the long term, further helping to achieve a cost neutral operating cost.

#### **10.4 Increasing Income Options:**

10.4.1 The leases currently allows for the Council to charge for certain items to provide services to Leaseholders. Those chargeable items include – administration charges, management fee and major works fee.

10.4.2 Administration Fees should be defined to reflect the additional effort required to provide information, complete a lease transaction taking place or where a resident is in breach of the lease. At present, both Councils only charge an administration fee on 3 transactions.

10.4.3 Benchmarking with Councils and Housing Associations reveals a potential for 27 different administration fees with an estimated annual income of approximately £7k. Appendix 1 details the proposed administration fees based on the average cost from benchmarking within the social housing sector. The Council is RECOMMENDED to implement the 27 fees set at the sector average. A further recommendation is these fees are increased annually on the 1<sup>st</sup> April by CPI as at 30 September.

10.4.4 Major Works - The lease makes provision for a charge to oversee major work projects and the prescribed S.20 consultation. This fee is typically a '%' of the contract value. Currently both Council's charge 10% and the industry average is 12% and the highest 15%. It is RECOMMENDED to increase the major works fee from 10% to 15%. This fee covers the cost of managing the contract to deliver the improvements to the flat, the required statutory consultation and income collection.

10.4.5 Major works such as replacement doors, windows, roofing and painting would be subject to a 15% fee. In 2016/17, approx. £36k of major works were completed in BDC only. With a new 5 year planned programme being developed the value of major works completed will increase. The Council is RECOMMENDED to approve a major work fee of 15%.

**Table 8: Potential Major Works Income**

<b>Value of Major Works</b>	<b>10% Fee - £</b>	<b>15% Fee - £</b>
£36,000	3,600	5,400
£50,000	5,000	7,500
£75,000	7,500	11,250

10.4.6 Management Fee - Under the terms of the Council leases, a management fee is charged to reflect the cost of providing a management service to leaseholders purchasing a flat. Typically, this includes the cost of providing, managing and monitoring services provided on estates, the operational costs of running the estate and contact with leaseholders. Appendix 2 details the roles undertaken which would be defined within the management fee.

10.4.7 The BDC and MSDC current leases contain different clauses in relation to the management fee. For BDC this will restrict increasing the management fee for existing leaseholders as the lease term sets this at 10%.

The structure and calculation of the management fee can be determined by the Council and 3 options exist:

- a) Flat Rate – The most common method sees leaseholders all pay the same management fee regardless of how heavily the service is used.
- b) Percentage Uplift on Services – This is the current arrangement for both Councils. The cost of providing the services to the estate has a percentage uplift applied – currently 10%
- c) Tailored to Each Estate – The management fee is set depending on the likely effort and input required for each estate.

**Table 4: Advantages and Disadvantages of each Charging Mechanism**

<b>Method of Charging</b>	<b>Advantages</b>	<b>Disadvantages</b>
Flat Rate	<ul style="list-style-type: none"> <li>✓ Clear &amp; easy to administer</li> <li>✓ Fixed cost giving the customer greater certainty on the cost</li> <li>✓ Greater certainty the Council can operate a cost neutral service without subsidy from tenants</li> </ul>	<ul style="list-style-type: none"> <li>❖ Maybe seen as unfair by some who do not use the leasehold service much</li> <li>❖ Justification to leaseholders may be challenged by those not using the service as much</li> </ul>

Method of Charging	Advantages	Disadvantages
Percentage Uplift	<ul style="list-style-type: none"> <li>✓ Seen potentially as a fair system – more services provided on an estate = a higher service charge with bigger % uplift</li> <li>✓ Existing Leaseholders currently benefit from a very low charge due to the Council's excellent value for money</li> </ul>	<ul style="list-style-type: none"> <li>❖ Not recommended as an appropriate method of charging leaseholders as the % will vary year on year, provides no certainty on cost to the leaseholder.</li> <li>❖ Landlord maybe encouraged to charge more / provide services to receive a larger % management fee.</li> <li>❖ No current benchmark on what is considered acceptable amount. 15% is the norm.</li> <li>❖ If used at BDC &amp; MSDC, the cost of providing existing services is exceptionally good value and a very large % uplift would be required to achieve an income that reflects cost of service provision.</li> </ul>
Tailored to Estate	<ul style="list-style-type: none"> <li>✓ Seen potentially as a very fair system</li> </ul>	<ul style="list-style-type: none"> <li>❖ Requires a far greater level of understanding to determine where officers spend their time</li> <li>❖ Requirement to introduce a time recording mechanism to calculate cost per estate, increasing administration and consequential costs</li> <li>❖ Increased chance Leaseholders will compare with neighbouring estates and challenge fairness of charges.</li> <li>❖ The small number of leaseholders at BDC &amp; MSDC it is likely that little variance will occur.</li> </ul>

10.4.8 The Council is **RECOMMENDED** to adopt the Flat Rate Management Fee option. The current lease terms differ between BDC and MSDC and the following solution is proposed to meet existing legal obligations within the leases.



**Table 5: Current Lease Terms and Proposal**

<b>Current Lease Term</b>	<b>Transition</b>	<b>Outcome</b>
BDC – “An amount equal to 10% for all other items included in the service charge”	Implement a new lease with a new clause to allow a management fee based on a flat rate that reflects the cost of providing the service	Current management fee income is c£19.00 per Leaseholder p/a. For new leases this will increase to reflect the cost of service provision. Existing leases will remain on a 10% management charge
MSDC – “Costs and expenses of the landlord”	Change the method of calculation from a percentage uplift on services provided to a flat rate that reflects the cost of providing the service	Current management fee income is c£28.00 per leaseholder p/a. For existing and new leases this will increase to £279.00 to reflect the cost of service provision

10.4.9 Flat Rate Fee Management Fee for BDC & MSDC - Table 6 shows the income required (£43,786) from the management fee based on the new reduced operational costs, ground rent income and new increased income from administration fees and major works fee.

**Table 6: Flat Rate Management Fee Options**

	<b>Expense £</b>	<b>Income £</b>	<b>Difference £</b>
Project Future Cost of Leasehold Service	61,706		
Ground Rent - £10 p/a per Leaseholder		1,420	
BDC Existing Leaseholders		2,000	
New Administration Fees		7,000	
New Increased Major Works Fee (see table 8)		7,500	
<b>Total</b>	<b>61,706</b>	<b>17,920</b>	<b>43,786</b>

10.4.10 Due to the existing lease term for BDC leaseholders, current leaseholders will remain on a percentage uplift. The flat rate would apply to new BDC leaseholders. It is recommended the Council assumes the existing BDC leaseholders are paying the same flat rate management fee when calculating the overall management fee to be charged. This will ensure MSDC leaseholders are not paying an increased management fee to subsidise the BDC leaseholders who must remain on 10% management fee.

10.4.11 The Council is RECOMMENDED to approve Option 3 and introduce a new management fee that almost achieves a cost neutral service. Table 7 details the 4 options.

**Table 7: Flat Rate Fee Options**

<b>Flat Rate Management Fee Options</b>	<b>Total Income - £</b>	<b>Difference to Achieve Cost Neutral Service £</b>
Option 1 - £138 (lowest in sector)	20,286	23,500
Option 2 - £221 (sector average)	32,487	11,299
Option 3 - £279 (highest in sector)	41,013	2,773
Option 4 - £297.86	43,786	Nil

- 10.4.12 Benchmarking has taken place within the social housing sector only. Benchmarking with the private sector was deemed to provide unfair comparisons due to the commercial sector seeking to make a profit and charge higher amounts. The Council's social value and purpose acknowledges leaseholders and the contribution to the community and is not therefore seeking to exploit higher charges to make a profit.
- 10.4.12 Existing BDC leases prevent a change from the 10% management fee. In the coming years, we expect Leaseholders to apply for a lease extension as the remaining lease term drops below 90 years. This does provide Babergh Council with an opportunity to negotiate with the Leaseholder and agree to the new lease in exchange say, for the Council paying their legal costs. This will be explored with Legal Services and if practicable will over time reduce the subsidy as existing leaseholders agree to the new lease.
- 10.4.13 The Council has explored the buying back of more ex-Council stock as existing leaseholders sell the property. The purchase of the flat and returning to the Council stock for renting not only increases rental stock, should the property be sold again through the RTB, the new leaseholder will be on the new lease and flat rate management fee. Whereas, if the ex-Council property is sold to a private purchaser, they will benefit from the existing lease and 10% management fee. Consultation with Louise Rawsthorne (Assistant Director – Investment and Commercial Delivery) has taken place and she has agreed that they may consider the process of 'buy back' on a case by case basis.
- 10.5 Implementation:  
The increased fees will be supported by a communications plan to ensure leaseholders are well informed as to what they have been paying for and why such increases are justifiable and correct for the future.
- 10.5.1 The proposed implementation is
- Administration Fees** – Implementation for both Council's from 1 January 2018.
  - Major Works Fee** Increase from 10 to 15% - Implementation for both Councils from 1 January 2018
  - BDC Management Fee** – Option 3 for all new leaseholders with immediate effect following the new lease being approved.
  - MSDC Management Fee** – Option 3 for all new leaseholders with immediate effect and a phased implementation for existing from 1 April 2018. Table 9 shows 3 options and a 3-year phasing is recommended for the 40 MSDC Leaseholders.

**Table 9: Phasing of MSDC Management Fee**

	Current	Year 1	Year 2	Year 3
Immediate	£28.00	£279		
2 Year Phasing	£28.00	£128	£279	
3 Year Phasing	£28.00	£100.00	£200.00	£279.00

10.5.2 A communications plan is attached as Appendix 3 showing who and how relevant parties will be communicated with to explain the new fees.

## **11. Appendices**

Appendice	Title	Location
Appendix One	Administration & Major Works Fee Benchmark Data	Attached
Appendix Two	Management Fee – Expected Roles	Attached
Appendix Three	Communications Plan	Attached

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