

<b>Meeting:</b>	Employee Consultative Forum
<b>Date:</b>	8 July 2003
<b>Subject:</b>	Proposal to set up an Arms Length Management Organisation (ALMO) to manage the Council's permanent housing stock
<b>Key decision:</b>	No
<b>Responsible Chief Officer:</b>	Head of Housing and Environmental Health Services
<b>Relevant Portfolio Holder:</b>	Planning and Housing Portfolio Holder
<b>Status:</b>	Part 1
<b>Ward:</b>	All
<b>Enclosures:</b>	Table showing the timescales for setting up the ALMO

1. **Summary/ Reason for urgency (if applicable)**

- 1.1 To advise the Forum of the proposals to set up the ALMO and to outline the mechanisms in place to ensure full involvement of the staff in the process.

2. **Recommendations**

2.1 **To note the report.**

**REASON:** (Not applicable as this report is for noting only)

3. **Consultation with Ward Councillors**

- 3.1 Members' information briefings have been held; the most recent being on the 1 April 2003.

4. **Policy Context (including Relevant Previous Decisions)**

- 4.1 This proposal is an integral part of the Housing Services strategy. Cabinet, at its February 2003 meeting, agreed the application to the ODPM for a place on the third round ALMO programme, to bid for additional funding available from 2004/05.

## 5. **Relevance to Corporate Priorities**

- 5.1 We will improve the quality of health and social care in Harrow by enabling choice and access to good quality housing.

## 6. **Background Information and options considered**

- 6.1 The Government has told local authorities that they must take steps to close any investment gap to bring their housing stock up to a required standard, called Decent Homes, by 2010.
- 6.2 The options available to them are to transfer the stock to a Registered Social Landlord (RSL), set up an Arms Length Management Organisation (ALMO), consider a Private Finance Initiative (PFI), or Prudential Borrowing (available from 2004).
- 6.3 The Council carried out a Housing Options Appraisal in 2000, and has recently commissioned a review. It is clear that the stock transfer, the PFI, and the prudential borrowing options do not provide appropriate solutions for Harrow, and there is an investment gap that needs to be addressed.
- 6.4 The ALMO is the alternative option, which enables the Council to remain the owner of its housing stock, and the tenants remain Council tenants. The Council sets up an Arms Length Company, limited by guarantee, where the Council is the only shareholder. The company is managed by a Board of Directors who are drawn from council nominees, residents of the Council's homes, and independent members. No one group must be in the majority.
- 6.5 The Council has to apply to the Secretary of State to delegate its housing management function to the ALMO, under a legally binding management agreement. It is usual for the management agreements to be for either an initial period of 5 years, with a possible extension for a further 5 years or alternatively for 10 years with a break clause after 5 years.
- 6.6 The ALMO option is intended for good performing authorities. The option attracts additional funds which the Council has to bid for to close the investment gap if the Office of the Deputy Prime Minister (ODPM) firstly accepts the Council's proposal to set up an ALMO and then the ALMO obtains at least a 2\* or good rating at an inspection approximately 6 months after becoming operational.
- 6.7 The Cabinet in February 2003 supported an application to ODPM for the current third round ALMO programme, which required the submission of the application by 16 May 2003. This was submitted on time, and the outcome will not be known until July 2003. However, it is important that the work to set up the ALMO continues, to ensure that the required timescales can be achieved. A timetable is enclosed with this report for information.
- 6.8 **Implications for staff**
  - 6.8.1 Guidance issued by the ODPM states that where the delegation of functions to an ALMO amounts to a transfer of an undertaking to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (TUPE) applies,

contracts of employment (apart from terms relating to occupational pension schemes) of relevant staff and all the local authority's rights, powers, duties and liabilities under or in connection with those contracts will transfer to the ALMO. The guidance further states that Authorities should also take account of Cabinet Office Guidance on *Staff Transfers in the Public Sector*. This stipulates that, unless there are exceptional reasons for doing otherwise, contracting out exercises involving public sector staff should be conducted on the basis that TUPE applies.

- 6.8.2 With regard to pensions, the Local government Pension Scheme (Amendment) Regulations 2002 (SI2002 No.206) which came into force on 6 March 2002, added ALMOs to the list of scheme employers under the LGPS, so enabling transferring staff to stay in the scheme, and new ALMO staff to join it.
- 6.8.3 There has been some uncertainty in relation to continuity of employment should a member of staff leave the ALMO and join another local authority employer. The ODPM guidance states that the Department of Trade and Industry, and the ODPM, have received clear legal advice that ALMOs are already within the scope of the Redundancy Modification Order. This is relevant because it determines if a period of employment with an ALMO counts as continuous with previous and subsequent periods of employment with other bodies covered by the RMO for the purposes of determining an employee's entitlement to compensation in the event of redundancy. It is indirectly relevant because inclusion within the Order has been used as a criterion for determining some of the terms and conditions of employment for staff of local authorities and related bodies. The guidance does advise that at this stage only the Courts can give definitive interpretations of the law, and therefore staff seeking employment with another employer covered by the RMO should ask that employer to clarify their position before committing themselves.
- 6.8.4 The guidance does make it clear that the Secretary of state will have regard to the arrangements for safeguarding the interests of staff when considering the Section 27 delegation requests. It also states that it does expect to see ALMOs employing staff directly rather than through secondments, as a general principle.
- 6.8.5 The ALMO will need to determine what trade unions will be recognised within the new organisation. ODPM guidance suggests that if the current recognition agreements transfer, existing local authority trade union representatives may be required to assist the ALMO during a transitional period, even though they themselves may not have transferred. This is a matter that will need to be considered further. However, in discussion with Unison, it has been agreed in principle that the model of the Employees Consultative Forum should be replicated within the ALMO's constitution to provide a forum for discussion between the Board of the ALMO and the recognised trade union(s).

## 7. **Consultation**

- 7.1 It is clearly very important for staff to be supported throughout the process of moving to the new organisation, and to have access to as much information and advice as possible.
- 7.2 All staff within Housing Services now know whether they will be working within the ALMO or remaining with the Council in the future. There have been a

number of specific staff meetings and these are ongoing, as well as the ALMO being a standing agenda item at regular team meetings.

- 7.3 In addition, regular meetings with Unison representatives, staff members and managers have been established, and facility time agreed to give Unison 3 days a week to enable a representative to focus on the ALMO and associated matters.
- 7.4 The Departmental Personnel Manager is currently preparing the documentation around the TUPE transfer, and it is the intention to formally notify staff who will be transferring in July, thus allowing four clear months for the process.
- 7.5 Legal advice is that TUPE does potentially apply to some non-housing staff because of the element of their work that currently relates to tenant services. However, it is necessary to identify those staff who may be affected, and this work is currently in process. Any additional new information will be provided verbally to the meeting on this issue.
- 7.6 In view of the considerable change facing the staff involved, it is proposed to explore the engagement of an Employee Care Scheme which will be available for staff use over this period, thus providing them with independent advice and support at any time.
- 7.7 In addition to the ongoing dialogue between managers and staff members, written information is available on the shared folder of the housing site, with hard copies provided to those without regular IT access. A notice board has been dedicated to the ALMO information in each of the housing office locations.

## 8. **Finance Observations**

- 8.1 None specific to employee matters. There is budget provision in the housing revenue account to meet the estimated set up costs of the ALMO.

## 9. **Legal Observations**

- 9.1 Included in the report.

## 10. **Conclusion**

- 10.1 In conclusion, the Council is committed to working with its staff and their representatives in setting up the ALMO, and ensuring that the staff's interests are paramount throughout the process.

## 11. **Background Papers**

- 11.1 ODPM guidance on Arms Length Management of Local Authority Housing – 2003 edition
- 11.2 Cabinet report – February 2003

## 12. **Author**

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