

FUTURE CONTRACT FOR DERBY HOMES

Report of the Chief Executive

1. SUMMARY

This report sets out the decision of the Council Cabinet to offer Derby Homes a 10 year extension of the contract to manage Council housing management and maintenance services.

2. RECOMMENDATION

To note the report.

3. MATTER FOR CONSIDERATION

- 3.1 The Council Cabinet on 23 November 2010 considered the attached report and agreed to offer Derby Homes an extension of its contract, subject to consultation with tenants. Councillor Ingall, Cabinet Member for Housing and Advice, proposed an amendment to the report that Derby Homes be offered an extension for 10 years.
- 3.2 There was all party support for this proposal.
- 3.3 A questionnaire has been drafted which I expect will ask tenants whether they agree with this decision. This is expected to be distributed together with the next edition of Derby Homes News in the second week in December with a return date for questionnaires of mid January 2011. The results of the consultation will then be reported to 15 February 2011 Council Cabinet meeting. Hopefully this will then confirm the decision.

The areas listed below have no implications directly arising from this report

- Consultation
- Financial and Business Plan
- Legal and Confidentiality
- Personnel
- Environmental
- Equalities Impact Assessment
- Health & Safety
- Risk
- Policy Review

If Board members or others would like to discuss this report ahead of the meeting please contact the author, or the Chief Executive, phil.davies@derbyhomes.org - Tel 01332 711010

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Background Information: None.

Supporting Information: None.



THE FUTURE FOR THE HOUSING MANAGEMENT AND REPAIRS SERVICE

SUMMARY

- 1.1 Since April 2002, Council housing in Derby has been managed on behalf of the Council by its Arms Length Management Organisation – Derby Homes. In June 2010, the Council also transferred the management of the Housing Repairs Service to Derby Homes.
- 1.2 Derby Homes' contract with the Council expires in March 2012 and the Council needs to consider whether or not to renew the contract.
- 1.3 This report considers the options available to the Council for the future of the Housing Management and Repairs Service and evaluates the options against the criteria of:
 - cost
 - quality
 - efficiency
 - tenant engagement
 - member engagement / democratic accountability.

RECOMMENDATION

- 2.1 To agree to renew Derby Homes' contract in 2012 for a period of five years, subject to testing the views of the majority of tenants by way of a consultation questionnaire.
- 2.2 To receive a further report detailing the outcome of the consultation exercise.
- 2.3 Subject to a positive response from tenants, to authorise the Strategic Director of Adults, Health and Housing, in consultation with the Cabinet Member for Housing and Advice Services, to make any changes to the contract to reflect the inclusion of the Repairs Service and make it fit for purpose for the five year period from 2012 to 2017, and to include an agreement for Derby Homes' Head Quarters to move to the refurbished Council House and integrate its customer contact handling into the Council's Customer Contact Centre and any agreed business efficiency targets.

REASONS FOR RECOMMENDATION

- 3.1 The Options Appraisal has not provided evidence of a compelling case to change the current arrangements.

- 3.2 Before making a final decision, it is important that Cabinet is aware of the tenants preference.
- 3.3 If renewed, the current contract needs to be amended to include the Repairs Service, along with any other minor amendments considered necessary.

SUPPORTING INFORMATION

- 4.1 In 2000, the Government set a target for all local authorities to bring their Council houses up to a “Decent Homes” standard before 2010. Councils were given three options by which this was to be achieved:
- using the Council’s own resources
 - stock transfer
 - creation of an Arms Length Management Organisation – ALMO.
- 4.2 In 2001, the Council undertook an Options Appraisal and consulted with tenants via a ballot. The tenants voted overwhelmingly in favour of creating an ALMO and, in April 2002, Derby Homes was formed. To receive the necessary funding from the Government to achieve the Decent Homes standard, ALMOs had to be assessed by the Audit Commission as three star, excellent organisations. Derby Homes achieved this rating within its first year of operation and, as a consequence, was able to draw down £100m for investment in the stock. Derby Homes achieved the Decent Homes target by December 2006. The Management Agreement between the Council and Derby Homes was for five years and, in 2007, was renewed for a further five years. In June 2010, as part of the overall restructure of the Council, the Housing Repairs Service was transferred to the management of Derby Homes. This report considers the future arrangements for both services.
- 4.3 Derby Homes’ current Management Agreement with the Council for the management of Council dwellings expires in April 2012. To ensure the Council exercises due diligence, a joint Working Party on the future of Derby Homes has been established, with a view to recommend to the Council Cabinet the best option for the future Housing Management and Repairs Service. Any recommendation needs to take account of the wider context of arrangements for the funding of Council housing.
- 4.4 In February 2009, the Council and Derby Homes jointly commissioned consultants – Tribal – to undertake a financial appraisal of options available for the future of Council housing. In November 2009, Tribal issued its report and recommendations to the Council and Derby Homes. Essentially, the Tribal report considered the financial modelling for Stock Retention – either with or without the ALMO – and for Stock Transfer. In December 2007, the then Minister for Housing, Yvette Cooper, announced a review of the Housing Revenue Account Finance and Subsidy System. The current Government appears ready to implement the changes from the review and dismantle the subsidy system. The Tribal report included assumptions in relation to the dismantling of the subsidy system.

4.5 The Tribal report concluded that:

- Under existing subsidy arrangements, stock retention would be unsustainable in terms of funding the required capital investment needs of the housing stock.
- The proposals to dismantle the subsidy system indicates that a system of self financing would provide Derby with sufficient resources to retain its housing stock and deliver the Decent Homes Standard investment programme.
- Stock transfer is unlikely to be either a viable option for the Council, or gain the consent of the Secretary of State, since it would transfer the burden of financing outstanding debt to the Council's General Fund – circa £117m.

The Tribal report is silent on the options of retaining the ALMO to manage the stock, or returning the management to the Council.

- 4.6 Unless there is a significant policy change with Government, stock transfer, as detailed above, is not an option for Derby. Therefore, this paper focuses on an assessment of the options of retaining Derby Homes as an ALMO or returning the service to the Council. It also considers whether or not there is a case for greater tenant empowerment by the creation of a Tenant Management Organisation – TMO.
- 4.7 The option for the creation of a TMO for all or part of the stock could happen whether Housing Management remained with Derby Homes or was returned to the Council. A TMO is a means by which Council – or housing association – tenants and leaseholders can collectively take on responsibility for managing the homes they live in. The resident members of the TMO create an independent legal body and usually elect a tenant led Management Committee to run the organisation. The TMO then enters into a legal Management Agreement with the landlord. TMOs can take different forms and sizes. Many are tenant management co-operatives – using co-op rules. Others take the form of not-for-profit companies. Some TMOs manage just a handful of homes, while others manage large estates of two to three thousand properties. The creation of TMOs is usually led by tenants themselves, often as a result of poor performance from their landlord. However, in Derby, Housing Management Services have been assessed by the Audit Commission on three separate occasions since 2002 and each time have been found to be excellent and tenant satisfaction with the overall service continues to be high.
- 4.8 Therefore, this report concentrates on the two remaining options of retaining Derby Homes or returning the service to the Council. The TMO option can be considered again in the future for particular areas of Derby, should the tenants wish it.
- 4.9 The criteria used to evaluate the two remaining options are:
- cost
 - quality
 - efficiency
 - tenant engagement
 - member engagement/democratic accountability.

- 4.10 At its meeting of 6 September 2010, the Adults, Health and Housing Commission received a presentation on the advantages and disadvantages involved in the two options of retaining Derby Homes or returning the service to the Council. At that meeting, the Commission also considered the criteria to be used for evaluating the options, listed in 4.9 above. The Commission requested that the evaluation process also take account of how each option helps to sustain decent homes and successful estates for the next 30 years.
- 4.11 The Joint Working Party developed a number of questions pertinent to the agreed criteria – as detailed in Appendix 2 – and, at its meeting of 18 October 2010, the Adults, Health and Housing Commission received a presentation detailing these questions and the answers that have been developed. This meeting was attended by approximately 10 tenant representatives, from various tenant groups, who were invited by the Commission to express their views on the options available. The tenants present expressed satisfaction with Derby Homes and unanimously supported the option of renewing Derby Homes' contract.

CONCLUSION

- 4.12 This Options Appraisal has not provided evidence of a compelling case to change the current arrangements for the Housing Management and Repairs Service. It is clear that the tenants value the opportunity to participate in the governance arrangements of Derby Homes. Therefore, the saving of £380k detailed in paragraph 4.11, when considered in light of some of the negative impact of returning the service to the Council, leads to the conclusion that the existing arrangements of delivering these services remain with the ALMO – Derby Homes.

OTHER OPTIONS CONSIDERED

5. As mentioned in paragraphs 4.2 to 4.8, the options of stock transfer and a Tenant Management Organisation were considered, but dismissed at this time.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s) Other(s)	Olu Idowu – Head of Legal Services (General) David Enticott – Head of Finance for Adults, Health and Housing n/a Mark Menzies – Director, Housing and Advice Services
For more information contact: Background papers: List of appendices:	Mark Menzies, 01332 255238, e-mail mark.menzies@derby.gov.uk None Appendix 1 – Implications

IMPLICATIONS

Financial

- 1.1 Derby Homes' management fee is currently budgeted at £11.6m for 2010/11 and £11.8m for 2011/12. Derby Homes' repairs budget is currently set at £10m for 2010/11 and £10.2m for 2011/12. These figures are before the savings set out in the report which would bring down the cost of the management fee by £1m a year over the next four years. The savings achieved in the repairs cost are intended to be reinvested in the repairs service or into additional capital works within the HRA. All costs and savings apply exclusively to the HRA and cannot be applied to the Council's general fund.
- 1.2 The HRA reforms proposed for 2012/13 will have an impact on the Council's ability to finance HRA services including capital, repairs and the management fee into the future. It is anticipated at this stage that there will be a long term benefit, but there could be a short term pressure from the new arrangements. Any savings made from the current plans will help to sustain the HRA's financial position within that new settlement. The retention of Derby Homes as a entity separate from the Council may allow for greater flexibility within future housing policy, but this is not clear at this stage.

Legal

2. The current Services Agreement, at paragraph 61.2, states *"the Council shall be entitled (but without any obligation whatsoever) to extend the Term for one or more further periods of up to five years by giving notice to this effect to the Organisation no later than six calendar months before the date the Agreement would otherwise expire."*

Personnel

3. None directly arising.

Equalities Impact

4. Derby Homes provides excellent management and repairs services to the Council's tenants, many of whom are vulnerable.

Health and Safety

5. None directly arising.

Carbon commitment

6. Derby Homes has previously signed up to the Council carbon commitment.

Value for money

7. The Options Appraisal has identified that with the details of Derby Homes Financial Plan, the organisation provides value for money.

Corporate objectives and priorities for change

8. Derby Homes deliver services that link to:
 - making us proud of our neighbourhoods
 - leading Derby towards a better environment
 - giving excellent services and value for money.

QUESTIONS DEVELOPED BY THE JOINT WORKING PARTY

COST**1.1 *Will the option increase productivity and reduce unit cost?***

Derby Homes has achieved £0.5m efficiencies for each of the past four years. This has released funds to reinvest in the service to improve productivity. Derby Homes' financial plan includes a commitment to making £2.2m cost savings over the next four years. This includes the recommendations from PricewaterhouseCoopers, following the DECATS assessment of Derby Homes. This financial plan will be implemented whether or not the service returns to the Council and, if Derby Homes is retained, can be enforced by the fee mechanism. Therefore, the issue is whether additional savings can be found by returning the service to the Council. An assessment of direct savings by dismantling the governance and client/contractor roles has identified a potential £380k saving. It is clear that there would be potential for additional savings by merging Derby Homes' call centre with Derby Direct and from merging back office functions. However, at this stage, this hasn't been quantified.

In terms of unit costs – cost of managing a single house – a £380k saving reduces the unit cost from £1,037 per annum to £1,008 – a reduction of £29 per annum – equivalent to 3%. It should be noted that any savings made to management costs have to be retained within the HRA ring fence and, therefore, do not assist the Council's general fund budget position.

1.2 *Will the option secure external investment/generate additional funding in the future?*

It is not clear whether either option will generate additional funding. The review of the HRA subsidy system, as consulted, will deliver additional funding to the city whichever option is implemented. However, currently it is the future funding available for new affordable housing which is unclear and, therefore, it may be prudent to retain a separate delivery vehicle – Derby Homes – to keep options open.

1.3 *Will the option enable other teams within the Council to be more efficient and reduce costs?*

There are some areas of work where duplication exists between Derby Homes and the Council. These include performance and financial monitoring and, in part, have been taken account of in the potential saving of £380k per annum, as mentioned in 4.11 above.

1.4 *Will the option produce any capital receipts for the Council?*

The view of the Joint Working Party is that the options will have a neutral impact on capital receipts.

1.5 *What is the track record of cost and budget control?*

Derby Homes is almost entirely funded by the Management Fee it receives from the Council and has lived within that fee limit each year since its creation. However, there would be no reason why the service couldn't be run within these limits by the Council.

1.6 *How well does this option help to sustain decent homes, successful estates and asset management plans for Council housing over the next 30 years?*

This question relates more to the review of the HRA and, therefore, the total HRA funds available than to the difference between the two options. However, as detailed above, a return to the Council will generate a minimum of £380k saving per annum, which can then be reinvested in the stock or estate improvements as the Council sees fit.

It should be noted that, since the Repairs Team transferred from the Council to Derby Homes in June this year, a number of actions have been taken to reduce the costs of the service and other efficiencies are planned. There is a risk that returning Derby Homes to the Council could disrupt these plans.

QUALITY

1.7 *What is the track record of satisfaction and what will the impact be on tenant satisfaction?*

At the time Derby Homes was created in 2002, tenant satisfaction with the Council was 78%, this was top quartile in the National Comparison table. This level of satisfaction increased to 82% during the period that Derby Homes was delivering the Decent Homes programme, but then has dipped over the last couple of years and is currently 77% (STATUS 2008). In response to this decrease Derby Homes introduced a mini status survey to identify trends that were affecting satisfaction with services. In 2009 wave 1 of the mini status saw satisfaction increase to 82% and in wave 2 this dropped slightly to 81.6%. Derby Homes has continuously compared itself with other housing providers and continues to be a member of the HouseMark benchmarking club.

1.8 *What is the impact on tenants' choice?*

Since the creation of Derby Homes, a number of fora have been developed to allow tenants to input into the delivery of services. These have clearly improved the tenants' voice, but could easily be continued should the service return to the Council.

1.9 *What is the impact upon equality and diversity?*

Derby Homes works within the Equality Framework for Social Housing, a model developed by I&DeA. The Council is currently working towards Code 4 of the Equality and Human Rights Commission (formerly CRE).

Therefore, clearly both organisation are committed to equality and diversity and so the impact of either option is neutral.

1.10 *Will it provide a joined up and seamless service for tenants?*

The current arrangements do not allow for a seamless service for tenants in relation to the wider Council services since, clearly, any tenant requiring a Council service cannot do this via Derby Homes. However, as a separate organisation, Derby Homes are able to provide a greater focus and expertise on their services.

It should be noted that, should Derby Homes be retained, they have agreed to move their Head Office into the refurbished Council House as soon as possible. This will facilitate an opportunity for Derby Homes to work alongside the Council's new Customer Service Centre and, as such, deliver a more seamless service.

1.11 *Will it deliver continuous improvements?*

Both the Council and Derby Homes have a proven track record of delivering excellent housing services and continuous improvement. Therefore, it is difficult to judge whether one option or the other would be preferred, but it would be fair to say that if the service was to be returned to the Council there may be a period of uncertainty and disruption, which may lead to a reduction in improvement in the short-term.

1.12 *Does it provide quality assurance?*

Derby Homes has achieved a number of quality assurance awards, including ISO 9001, Charter Mark, Investors in People, ROSPA Gold and a Disability Recruitment Accreditation award. The retained housing service of the Council also has a number of quality assurance awards, including Charter Mark, Investors in People and Quality Mark. Therefore, there is no evidence to suggest that quality would suffer as a consequence of returning the services to the Council.

1.13 *Does it aid long-term planning for Finance, Housing Need and Asset Management?*

High level planning for Finance and Housing Need is already led by the Council and, therefore, will not be impacted on by either option. Asset Management of Council housing is jointly led on between the Council and Derby Homes and there is little risk of any change to this with either option.

1.14 *What is the customer view of each option?*

This has not been tested to any great extent so far and would require an extensive consultation process. It can be seen from the satisfaction levels, detailed in paragraph 4.18, that the majority of tenants are satisfied with the management services provided by Derby Homes. There is evidence that some of the more active tenants would wish to see Derby Homes retained and, as mentioned in paragraph 4.11, the tenant representatives at the meeting of the Adults, Health and Housing Commission held on 18 October 2010 expressed their preference for Derby Homes to be retained. Before any final decision is taken, it is proposed to test the opinion of wider tenants' views.

1.15 *What would be the effect on Derby's reputation in housing?*

Derby's housing service, at both the Council and Derby Homes, has enjoyed a national reputation for excellence for a number of years. There is a risk in returning the management services to the Council that this reputation could be damaged. This is because such a decision may be seen to be signalling either poor performance by the ALMO, or a relationship breakdown between the ALMO and the Council.

1.16 *What is the quality track record of each option?*

Both Derby Homes and the retained housing service have a proven – Audit Commission assessment – of providing excellent services. However, it is true to say that, as a general rule, ALMOs out perform Councils in the delivery of housing management services.

EFFICIENCY

1.17 *Is it tax efficient, in terms of Corporation Tax and Capital Gains?*

Both Derby Homes and the Council are exempt from these taxes and, therefore, there is no difference between the options.

1.18 *What is the impact upon VAT paid to the Council?*

The Council is not allowed to reclaim VAT where its charges are exempt from VAT, unless it is less than 5% of all the VAT the Council incurs.

The VAT on the Derby Homes management fee dilutes the VAT on the Council's exempt activities and helps keep the Council below 5%. If the limit is breached the Council would be blocked from reclaiming all its VAT on exempt activities such as leisure services and crematoria, which would cost the Council upwards of £1m a year.

Although the Council has so far managed to stay below 5%, if it invests directly in the leisure strategy it would come under threat. The scale and timing of expenditure on the leisure centre strategy is poised to tip the Council over the limit, in which case retaining Derby Homes' fee will be of considerable value. However, if the private sector were to build and operate the leisure facilities with some form of subsidy from the Council, the VAT problem could disappear, and the financial benefits from collapsing Derby Homes back into the Council could be achieved without compromising the 5% limit.

1.19 *Will it deliver excellent procurement and economies of scale?*

Bringing the service back into the Council could lead to procurement efficiencies, as a consequence of economies of scale. However, Derby Homes' focus on housing related procurement has led to procurement efficiencies.

1.20 *Will it provide efficiency of governance?*

This is an area where duplication exists, since policy decisions made by Derby Homes' Board require subsequent consideration by the Council. Bringing Derby Homes back into the Council would remove these duplications.

1.21 *Which option provides better environmental efficiency?*

Returning the service to the Council will allow for better integration into environmental policy of the Council. However, Derby Homes does have a good track record of developing energy efficiency measures in the housing stock and has signed up to the Council's energy efficiency targets.

1.22 *Are risks well managed?*

Both organisations have robust processes for managing risk.

1.23 *What level of changes does each option bring?*

Clearly, retaining Derby Homes and renewing the contract will lead to minimal disruption. There would be a risk of significant disruption from returning the service to the Council, which may result in reduced performance and staff morale for a short period of time.

TENANT ENGAGEMENT

1.24 *What impact will there be on tenant engagement and influence?*

Many of the current tenant engagement structures would be retained if the service was to be returned to the Council and, therefore, tenant influence would still exist. However, there would be a substantial reduction in tenant power, as tenants currently have an equal voice on Derby Homes' Board.

1.25 *What impact will there be on tenant communication?*

The existing framework for communicating with tenants would be maintained for either option.

1.26 *What is the impact on the regulatory framework?*

Council housing is currently regulated by the Tenants Service Authority – TSA – this would continue with either option.

MEMBER ENGAGEMENT AND DEMOCRATIC ACCOUNTABILITY

1.27 *What will be the governance arrangements for each option?*

Derby Homes has a Board made up of five Councillors, five tenants and five independent members. It is this arrangement that shares power between the tenants, Council and independents. The independents bring external experiences and skills and a business like approach, whilst tenant Board members bring experience as customers. With the ALMO model, the Council retains the overall policy making decisions via Council Cabinet. The ALMO is wholly owned by the Council and the Council holds the only vote. Should the service be returned to the Council, the Board would no longer exist and decision making will be taken by Cabinet/Cabinet Member.

1.28 ***How does this option allow Council members to engage?***

With the ALMO model, as previously mentioned, there are five Councillors nominated to the Board. Ward Councillors have opportunities to engage with Derby Homes staff on relevant Neighbourhood Boards. Derby Homes has service standards for responding to Councillor enquiries, which mirrors the Council standards. Returning the service to the Council would pass direct control to the Cabinet, but would give back bench Councillors more influence via the Council's governance arrangements.

1.29 ***How does this option help deliver the Council/Derby City Partnership strategies?***

Returning the service to the Council could strengthen partnership arrangements, but Derby Homes does have a good track record of engagement with partners and generally does help to deliver these strategies.

1.30 ***How does this option fit with Government's agenda for the Big Society?***

Tenants having some power in relation to their management arrangements would seem to fit well with this agenda.

1.31 ***Will this option lead to a loss of focus on Council housing and tenants services?***

The controls that exist in relation to performance management and monitoring ensure a clear focus on Council housing and tenants services, as well as continuous improvement. This focus would remain with either option.