

Item No. 13.	Classification: Open	Date: 12 February 2013	Meeting Name: Cabinet
Report title:		Leathermarket JMB – Partial Self-financing of the Housing Revenue Account	
Ward(s) or groups affected:		Grange	
Cabinet Member:		Councillor Ian Wingfield, Deputy Leader of the Council and Cabinet Member for Housing Management	

FOREWORD – COUNCILLOR IAN WINGFIELD, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING MANAGEMENT

The funding regime for local authority social housing changed fundamentally in April 2012 with the commencement of self-financing, we now have greater security and freedom for planning longer-term and determining our financial priorities, which will be informed through consultation on the housing commission proposals. This involves engaging with residents; listening to their concerns and reflecting their aspirations and the council's desire to provide a level of service that we can jointly take pride in.

It is with this in mind that this paper is placed before this meeting. As the Council enjoys a greater ability to determine its financial priorities so it is important to ensure that local communities can, where appropriate, enjoy the same level of control as to how funds are invested.

Self-financing at a local level means that residents can contribute towards the future of their homes and communities. What is being proposed is an exciting initiative which puts Southwark firmly at the forefront of devolving control to local communities, enabling them to make real decisions on the matter that most concerns them, their homes.

RECOMMENDATIONS

1. To note the progress made towards the innovative and ground breaking proposal to establish the first 'self financing' Tenant Management Organisation (TMO) in the country thereby increasing significantly the levels of empowerment of Council residents in this area.
2. To agree to the implementation of this proposal from April 2013.
3. To agree to the Council entering into a new Modular Management Agreement (MMA) with Leathermarket JMB that includes additional terms to enable the payment of an allowance to the JMB to equate to the sums levied by way of rent, service charge and garage rent and to agree robust monitoring mechanisms to ensure that public funds are protected.

BACKGROUND INFORMATION

4. TMOs were first established under statute with the 1994 Right to Manage Regulations, introduced as part of the Leasehold Reform, Housing and Urban Development Act 1993, although Southwark has a history of supporting residents to form companies to provide housing services to their homes much older than this with the first group becoming established in 1982. However, traditional tenant management provides for the group to be paid an allowance, equivalent to the sum the Council would incur, to provide an agreed range of services. The essence of this proposal is to become the first local authority in the country to empower residents to take full control of the housing services to residents.
5. The Leathermarket Joint Management Board (JMB) is a tenant managed organisation which currently provides a housing management service to 1476 tenanted, leasehold and freehold properties on behalf of the Council. They do so under the Right to manage regulations 1994 and a management agreement dated 9th October 1996 (varied in May 2008 to allow direct employment of staff). The JMB is a company limited by guarantee controlled through a Board of Directors. The Directors are nominated by the five Tenant & Residents' Associations within the area covered by the management agreement, and are endorsed at the Company's Annual General Meeting. The JMB is a highly efficient and effective organisation which has high levels of governance and a long track record of providing both responsive services and stock investment programmes.
6. In September 2010 the JMB approached the Council with a proposal to 'ring-fence' the rental income generated from the area managed by the JMB in order that they may better manage and maintain the stock designated to them under the terms of the management agreement and to allow the full implementation of a 30 year asset management strategy. This will devolve control to residents of the JMB to a far higher level than any other TMO in the country whilst allowing the Council to retain ownership of the stock. Such a development will enhance the co-operative principles under which the JMB were founded, by allowing residents to take greater control over their future.
7. An interim report was made in February 2011 and the following recommendation was agreed – *“That a detailed financial appraisal be undertaken of the implications (both to the council and the JMB) of ring fencing Leather market's income stream to the TMO. This appraisal to be completed within the next six months so that, if agreed, the ring fencing would be implemented in 2011/12.”*
8. The JMB undertook a continuation ballot in October 2011, as required under the terms of their management agreement, whereby all residents are given the opportunity to state whether or not they wish for the JMB to continue managing their homes. The results of the ballot were extremely positive with the JMB achieving an overall vote in favour from 90.9% of residents on a 67.8% turnout. All recommendations within this report were subject to a successful vote in favour of the JMBs continued management. The level of support shown for the JMB gives them a very strong mandate to continue delivering housing services.
9. A further report was made to Cabinet in May 2012 providing details of the proposal and recommending a period of shadowing during the financial year 2012-13 to assess the impact on the HRA, development of a new form of

management agreement based on the format provided for TMOs under the Right to Manage regulations and the future work required to develop this proposal towards implementation.

Current environment

10. There has been little change in the current environment from that reported to Cabinet in May 2012. At that time it was stated that this proposal should be viewed as part of the current political context both within Southwark and nationally. The range of new rights for communities and groups of residents introduced by the current coalition government in its legislative programme, included:

- the Localism Act 2011 which includes
 - The Community Right to Challenge
 - The Community Right to Bid for assets with community value
 - Neighbourhood forums
- Health and Social Care Bill 2011, and
- Academies Act 2010.

The overall aim being to reduce the role of the public sector as a direct service provider and to increase the diversity of provision through the increased use of private, voluntary and community sectors.

11. In addition the Open Public Services White Paper in July 2011 outlined the governments aim to "make a dramatic difference by treating citizens as grown-ups – by giving them greater choice and control; genuine information on outcomes; and a stronger role for their communities." One of the main tenets of the proposed reform is to decentralise services to the lowest appropriate level which this proposal meets emphatically.

12. Specifically within the social housing sector proposals for new regulations on 'community led' stock transfer were published for consultation on 15 March 2012 with the aim of reducing the ability of local authorities to prevent transfer of its housing stock to community owned companies. The way forward on this route forward however remains unclear.

13. In August 2012 revised Right to Manage regulations were published by Government with the intention of reducing the time taken to development TMOs and to encourage the formation of more TMOs nationally. Southwark is an acknowledged leader in the field of tenant management with officers regularly meeting with officers at the Department of Communities and Local Government to advise on developments in this area. Southwark has recently developed guidance for local authority landlords on the implementation of the Right to Manage and provides support and assistance to other local authorities in this field of work.

14. It is against this background that the current unique and ground breaking proposal for the Leathermarket JMB has been developed. As previously stated, Southwark has long been recognised as being at the forefront of the development of tenant management nationally and this proposal reinforces this standing. Officers of the Tenant Management Initiative team (TMI) within the Specialist Housing Services Division have worked closely with the Directors of the Leathermarket JMB over the past 2 years to develop this proposal to the

current position.

15. The JMB have specifically rejected the option of a community led stock transfer as there is no demand for a stock transfer from residents within the JMB area. However, there is no doubt that they have sufficient resources and are of sufficient size to undertake such a transfer should this view change. A ballot of three TMO managed estates¹ within the neighbouring borough of Lambeth resulted in a positive result last year and the resulting community owned organisation, LATMOS, assumed ownership of the estates in April 2012. The ability to undertake 'self-financing' therefore meets the aims of the JMB and ensures that the estates under their management remain under Council ownership. In taking this step a new 'Southwark' model is developed to meet the needs and aspirations of local residents.
16. Officers met with representatives from the Department of Communities and Local Government (DCLG) and the Homes and Communities Agency (HCA) on 19 November 2012 and both organisations expressed their support for this model as it is proposed. DCLG are keen for a template to be established to allow other TMOs to use this vehicle as a means to deliver greater local control for TMOs who have 'grown up' and for whom the parameters allowed under the Right to Manage have become restrictive. Southwark have been requested to develop a new template management agreement for other groups considering this proposal and will provide a detailed guide for other groups to follow.
17. At a local level a the report submitted by the Housing Commission makes favourable reference to the development of self-financing TMOs on a number of occasions, citing "*...a more devolved housing management structure based in part on the new self-financing tenant management organisations (TMOs) model*" as a means of improving both performance and customer care for residents in the borough. This is certainly justified given the results of both the STATUS surveys in 2010 and equivalent in 2012 and the Continuation ballot of JMB residents in 2011.
18. To support this a Standardised Tenant satisfaction Survey (STATUS) conducted for TMO residents in 2010 showed that TMOs deliver satisfaction levels far in excess of those being achieved by Southwark managed stock. This survey showed that satisfaction with the TMOs as a manager satisfaction levels were 23% (14 percentage points) higher than the comparable Southwark performance in 2008 (76% compared to 62%). This has been achieved at no additional expense to the council as a review of TMO allowances completed in late 2011 showed that TMO allowances were approximately 2% less than that being spent by area teams in providing a similar range of services. These results were reinforced in November 2012 when the results of the satisfaction survey conducted by the Housing and Community Services Department showed a similar result. Satisfaction with the Council as a landlord was 63% whilst TMOs achieved a satisfaction level of 76%.
19. Achievement of this level of satisfaction ranks TMOs in Southwark amongst the best performing Councils in London.
20. The re-financing of the Housing Revenue Account (HRA) has provided the council with additional freedoms to explore the possibilities of achieving the delivery of a housing service in a different way. The removal of a national HRA

¹ Lambeth Alliance of Tenant Management Organisations (LATMOS)

enables Southwark to further empower local residents to shape and deliver local housing services. The report from the independent Housing Commission underlines the role that self-financing for TMOs in Southwark can play in achieving the Fairer Future objectives.

KEY ISSUES FOR CONSIDERATION

21. The current proposal is to increase the allowances paid to the JMB to equate to the income generated through rent and service charge within its area less the cost of retained services and the debt apportioned to these properties. This will have the effect of making the JMB financially self-contained and not wholly reliant on allowances paid to it under the terms of the current management agreement which has led to dispute and disagreement in the past. As the council will need to fund its management, major repair costs and debt repayment from the income generated from rents under the HRA reforms, so will the JMB under the self-financing initiative.
22. There are significant advantages to the Council in agreeing to this proposal:
 - It will give a major boost to the cause of resident control and enable the JMB to implement its Asset Management Strategy, the objective of which is to maintain and improve the stock in the JMB area over a 30-year period. The strands of the strategy are:
 - i. Deliver the warm, dry and safe programme
 - ii. Address health and safety issues, especially with regard to the risk of fire
 - iii. Progress from reactive to planned replacement of building components
 - iv. Address residents' aspirations for a modern and secure home and environment.
 - Responsibility for the achievement of the Decent Homes Standard (and the maintenance thereof for 30 years) will be passed to the JMB
 - Current debts on the property will be paid by the JMB. These are estimated to be £15.71m from April 2013.
 - Retention of the housing stock by the Council. There are no proposals for any transfer of assets to the JMB at present.
 - Continued access to JMB managed stock for the allocation of tenancies.
23. The JMB originally estimated that approximately £16m needs to be invested in the housing stock under its control in order bring it up to an acceptable standard to residents. The level of decency achieved in the JMB managed stock is expected to reach 79% by the end of the current financial year. This compares to a decency level of approximately 60% in the rest of the housing stock, which is expected to reach the warm, safe and dry standard at the end of the five year investment programme in 2015/16. The figures do not include any future investment needs arising as components require replacement over the life of the business plan and the JMB have prepared a full 30 year business plan which has been externally validated. The Business Plan estimates that the investment needed to reach and maintain the decent homes standard for 30 years is approximately £69m. The JMB estimate that self-financing will enable them to undertake this level of investment and repay the outstanding debt on the stock.
24. The JMB has worked effectively with the Council over a number of years to strengthen its management of finances, and the delivery of major and responsive

repairs. Officers are satisfied that the JMB now has the directors, management and staff capability to take on greater financial responsibility. The proposed JMB self financing will have the added bonus of simplifying the financial interface between the Council and JMB, which has proved contentious in the past. As part of the agreement the JMB and Council a rigorous audit process will be specified and enhanced levels of monitoring will be established over and above that in place for other TMOs in Southwark.

25. This is an innovative model which gives residents greater control and has attracted interest on a national level in its potential to deliver a far greater level of tenant empowerment without the contentious issue of stock transfer. It should be noted that:

- Tenants remain secure tenants of the Council.
- Tenancy conditions and rent levels will be the same as other Council tenants.
- No money has to be diverted from asset management to pay for tenant advisors, financiers, lawyers and consultants.
- As tenants are not losing their security of tenure or legal relationship with the Council there is no requirement for a ballot.
- The Council retains its nomination rights to all new tenancies.

26. Officers of the JMB, Tenant Management Initiative team and the Finance & Resources Department have worked closely with officers of the JMB since April 2011 to ascertain the potential impact on the Housing Revenue Account (HRA) should the proposals proceed. This work has incorporated the following elements:

- Detailed calculations into the separation of the JMB account from the Council's HRA.
- The JMB to put additional financial structures and contractual arrangements in place to manage this level of financial independence.
- A planned change to the HRA to take place.
- Parallel work with the Council regarding the HRA review proposed by government.
- A period of shadowing in 2012/13 to assess the impact of self-financing on the council's ability to manage and maintain the rest of the housing stock in Southwark.

JMB income under self-financing

27. The report in May 2012 outlined the various affects that self-financing would have on both the JMB income and expenditure and these are addressed again in the following paragraphs.

Rent income

28. In terms of the annual income to the JMB this assumes a rent collection rate of 98% of rent due in the current year and allowing a loss due to voids/bad debts of only 2%. This may be an ambitious target given the forthcoming welfare reforms in 2012/13. Similarly, the 100% collection targets for garage rents and store sheds may also not be achieved. This represents a risk for the JMB to consider in their financial planning. In the current financial year the JMB have achieved a rent collection rate of 100.92% for the first six months.

Service charge income

29. The leasehold service charge collection element is included as this currently contributes towards the services provided in the JMB area for both JMB and retained service provision. The JMB have asked the Council to continue to calculate invoice and collect the service charges for the JMB area and a Service Level Agreement (SLA) is being developed to enable this.

Additional revenue income

30. The Council receives revenue income from various advertising and communications sites across the borough and has previously operated an agreement whereby such income is targeted at the estates which generate the income for the benefit of local residents. The JMB currently benefits from this agreement due to various communication installations situated across the housing stock under its management. It is proposed that the JMB continue to receive the income from these installations. However, under the proposed new financing regime it is appropriate that an agreement is reached over the ability of the council to access any revenue generated by council officers.
31. In predicting the future income of the JMB over 30 years and inflation rate of 2.6% has been used for 2013/14 and 2.5% p.a. thereafter. A methodology of the current rent plus inflation (Retail Price Index) at 2.5%, plus half of one percent plus two pounds per week has been assumed throughout the life of the business plan.
32. Consideration has been given in the Business Plan to decline in tenanted stock numbers due to the Right to Buy (RTB) and a figure of approximately 2.6 units per annum has been used.
33. Leasehold service charge income has been factored into the income received by the JMB and is estimated at approximately £0.5m per annum for the early years of the Business Plan. It is estimated that leaseholder contribution to the overall investment over 30 years will be in the region of £11m in total.

Expenditure

Office rental

34. No charge is currently levied against the JMB for the rental cost of their offices. Under the formula used to calculate the allowances paid to TMOs such costs are met in full and therefore the net benefit to the Council is nil. Under the proposed change office costs would form part of the re-chargeable services to be met from the JMB income and the office has therefore been assessed as to the likely sum the Council could expect to receive if it were let commercially. Discussions are continuing with the JMB in this area as the JMB feel that a commercial rent should not be used given the nature of community activities undertaken by the organisation. Consideration is currently being given to a lease arrangement whereby full repairing liability is devolved to the JMB for the structure in return for a lower rental charge.

Retained Council services

35. Since Cabinet considered the paper presented to the May meeting further work has been undertaken to identify and apportion correctly the services to be retained by the Council. These services have been broken down into three groups:
- Compulsory (e.g. rent setting, housing options etc)

- Discretionary (e.g. tenants fund, etc.)
- Overheads (e.g. SLAs, complaints service etc).

The net effect of these charges are nil in the short term but the JMB may decide to assume greater responsibility for some aspects of the identified functions resulting in a lower payment to the council. This is true for all TMOs who have the right to take on additional functions as the organisations develop greater experience and capacity.

Debt repayment

36. The impact of reforms of the HRA with regard to housing debt levels from April 2012 will see the debt per tenanted property in Southwark fall to an estimated £14,809. This will result in a total debt for the JMB managed area of approximately £15.77m. An annual repayment figure has been calculated using a consolidated interest rate of 6.9% per annum and assuming a 30 year capital repayment period. No provision has been made within the figures for the JMB to access future council borrowing for investment purposes.

Minimisation of Risk

37. It is not intended that this change will result in ring-fencing of the rental income to its greatest extent which would result in the Council losing ownership of rent and service charge proceeds to the JMB thereby reducing headline income. In the medium term the Council has a need to refinance expiring loans as well as it being possible that additional borrowing could be undertaken for capital expenditure. The need to re-finance to reduce current repayment costs was highlighted by the Housing Commission report. Loans can be provided by the Public Works Loan Board or from the bonds market. For the latter the Council would need a credit rating and the security of the HRA's rent income stream will be an important influence in that.
38. In order to avoid the Council seeming to lose some of its rent proceeds, it is proposed that the JMB in future receive an allowance according to a calculation starting with a rent element. The JMB would also be responsible for financing capital expenditure at the level of the depreciation charge to revenue – a notification arrangement would be required to record expenditure as authority capital in order to access the depreciation financing from its interim resting place in Major Repairs Reserve.
39. Any agreement would probably need to be for a time-limited period, e.g. five years, with either side also able to give notice each year. The format of the new management agreement will utilise the modular format, as approved for TMOs, but with additional clauses taken from the approved format for ALMO agreements, which again have already received consent from government. It was previously thought that there may need to be a separate section of the agreement to cover other sources of capital funding, e.g. access to Decent Homes backlog grant and responsibility to raise capital receipts but this is no longer the case given the progress made by the JMB towards achieving the decent home standard.
40. The timing of the request coincided with the start of whole HRA self-financing in April 2012. Authorities will no longer receive subsidy and will be settled with a debt level considered to be affordable over 30 years, taking into account the annual surplus of income over expenditure for the dwelling stock. The debt level for Southwark has been calculated at £14,809 per property. However, debt charges on this may be difficult to afford in early years as rents are well below

target and hence below the level they will be towards the middle and end of the 30 year calculation period. The Business Plan prepared by the JMB, and independently validated, makes provision for repayment of both interest and capital over a 30 year period. This may provide additional income for the Council in the short term as there are no plans to make any capital repayment in the initial years of the Council's own self-financing arrangements.

41. The overall HRA position settled on the authority at the start of self-financing is a loss before savings measures, turning round to a gain in subsequent years due to increasing rent income. As the proposal ring-fences part of the HRA, the situation for the JMB would be similar to that of Southwark's HRA overall, i.e. effectively part of the HRA's initial loss and eventual gain transfers to the JMB, who would find difficulty in breaking even without cost reductions in early years. This might limit initially the amount of investment funding able to provide via depreciation charges to revenue. Subsequently, as the position improves the wider HRA would not benefit from future rent surpluses on the Leathermarket stock.
42. In May 2012 Cabinet were advised that before deciding on the changes proposed, the following effects needed consideration;
 - a) transfer of control over rent proceeds and likely long-term annual surpluses relating to the Leathermarket stock to the JMB and effect on control over these as investment resources;
 - the council needs to be satisfied that it is extending financial arrangements and responsibilities to a viable body that will act responsibly.
 - the Council needs to be satisfied that JMB control of their part of the HRA and any future surpluses does not disadvantage the remaining HRA. The JMB have stated that they are prepared to enter into appropriate agreements with the council as to the future use of any surpluses recognising the potential need of the wider HRA if excessive levels of surpluses are accrued. They have also stated their intention to seek to develop vacant land within their estates to provide new social housing units for the benefit of Southwark residents
 - b) Transfer of long –term investment responsibilities
 - the Council needs to be satisfied that the JMB is able to plan and manage large-scale contracts. To address this, the JMB have engaged appropriate consultants to work with them to develop known investment needs and to prepare a 30 year investment programme which will ensure that the needs of the estate are met over this period. This has been independently verified.
 - c) Complex arrangements involved in a new management agreement, including loan repayment and capital financing conditions and the need for the Council to continue to account for Leathermarket rent and capital expenditure.
 - the Council needs to be satisfied that any complexities arising from the new arrangements are able to be managed and are justified by other benefits. This will be addressed through the treatment of rental income in the same manner as is currently the case and adjusting the allowances paid to the JMB to reflect the rental income.

43. In terms of viability, the JMB has few assets and is largely dependent on allowance income. However, the proposed allowance arrangements should provide adequate cash flow and enable it to keep costs within its income.
44. In terms of acting responsibly, the JMB operates with full-time staff overseen by a Board dependent on local voluntary input. There is a risk of the Board becoming indurate and of misappropriation, mitigated by the Council's Tenant Management Initiatives Team undertaking monitoring and the JMB being subject to external annual accounts audit and the Council's internal audit. Although there is a reduced level of financial sanction that could be applied by the Council in the short-term if the JMB delayed settling billing transactions, the proposal for the Home Ownership team within Specialist Housing Services to continue to undertake the collection of service charges will mean that the option of set-off under the terms of the management agreement will remain.
45. The partial self-financing proposal is expected to result in increasing surpluses being generated for the JMB as rents rise and in initial years there should be enough investment need in the JMB stock to take up the surpluses. Subsequently surpluses which would otherwise be available to the HRA for borough-wide use would be under the control of the JMB. The JMB might have a number of options for using surpluses, e.g. replacing or improving stock, new build or additional debt repayment. However, options for the JMB might be narrower than if the Council had control, e.g. it has far fewer housing powers and local land for new build might be limited or expensive, and may follow different priorities. The JMB might wish to further add to surpluses by reducing payments to the Council for central services, creating difficulties for the Council as it may have fixed costs or staffing responsibilities.
46. The Business Plan prepared by the JMB indicates that surpluses would begin to accrue until year 12 (2024/15) of the programme and would eventually reach approximately £30m by the end of the 30 year period. It is proposed that during the early years of this project officer's work with the JMB to establish a partnership for the use of surpluses to generate additional social housing within the JMB area.

Resources

47. The aim of the self-financing initiative is that there should be a nil cost to the Council in all areas. The JMB will continue to contribute to services funded through the HRA e.g. street wardens. In terms of the resources required to monitor and manage the requirements of the management agreement, this will be met through the existing resources of the TMI team in Specialist Housing Services. It is not anticipated that the devolvement of additional responsibilities to the JMB will result in additional cost to the Council.
48. The HRA budget for 2013/14 was agreed by Cabinet on 29 January 2013 but it has not yet been possible to complete the apportionment to the JMB of central HRA service costs for that year, nor a final depreciation charge under new arrangements. Work is continuing to finalise these figures, which will affect the council services recharge to the JMB in 2013/14 and its average expected capital programme. For 2012/13, the shadow operating period, a broad comparison with the allowance is shown in the provisional figures below. Thus the shadow operation is broadly neutral. Future variances in allowance would relate to the JMB properties and not affect the wider HRA.

2012/13 allowance	2.3m
<u>Shadow allowance</u>	
Rent and service charges element	6.5m
Council services deduction	(1.4m)
Debt charge contribution	(1.2m)
Depreciation/ Capital Expenditure	(1.6m)
Net shadow allowance	2.3m

Consultation

49. The JMB is a resident led organisation and these proposals have emanated from within their governance structure of five TRAs nominating directors for the main JMB board. Door step conversations were held about the self financing proposals during the continuation ballot in late 2011. In this formal ballot of all residents they achieved a 68% turnout (1195 votes cast) with 92% of eligible votes in favour of the continuation of the JMB in managing their homes and 88% of eligible votes stating that they provided a satisfactory housing service to residents.
50. Since this time most work has been conducted through the JMB board as a result of the shadowing arrangement approved by Cabinet in May 2012. A well attended AGM in October 2012, with over 50 residents present, saw overwhelming support for the proposal and the following consultations have been undertaken by the JMB: 2011/12 performance report to JMB members; 2012 leaseholder meeting; Verbal update reports to the JMBs 5 TRA's at their monthly meetings and AGM; Coverage in May 2012 in Southwark News/ South London Press and SE1 free sheet/ web site.
51. In addition the Council and the JMB jointly commissioned PPCR to undertake a doorstep survey of residents in January 2013 to gauge both awareness and support for the proposals. The Homes and Communities Agency and DCLG have confirmed that they do not require a formal ballot on the proposal but wish to ensure that residents are supportive of the proposal. The results of this survey are attached at Appendix 1 to this report. It is very encouraging to note that there is widespread support with little active opposition to the proposal. Understandably a number of residents are non-committal at this stage.
52. PPCR are a consultancy specialising in the involvement of communities to help give local people more control over their homes, neighbourhoods and services they receive. Their focus was twofold:
- The increase the membership of the TRAs within the area of the JMB; and
 - To gauge awareness levels of the current proposals and the support within the communities concerned.
53. All residents have received written information on the proposals and were invited to a drop-in session at the JMB offices on 10 January 2013. Both council officers and JMB resident directors were present to answer enquiries from residents. The findings from the drop-in session are appended to this report at Appendix 2.
54. A paper on this proposal was presented to meetings of the Home Owners Council and Tenants Council in January 2013 where it was received and noted.

No substantive issues were raised

Community impact statement

55. The introduction of this initiative will impact on all residents within the area of benefit of the Leathermarket JMB. Through the reversal of the way in which the financing of the JMB is undertaken much greater control and accountability will be devolved to a local level. There will be an associated increase in the levels of financial control in order to enable the JMB to deliver the investment programme and debt repayment.
56. The JMB is a not for profit company which was established explicitly to promote the involvement of local people in the delivery of services. Through their governance structure they actively involve local people in the decision making process. They engage widely within the local community and bring together residents of Southwark's housing stock on housing and other issues of shared or mutual interest.
57. Consideration has been given to the public sector equality duty and the increased level of responsibility being devolved to the JMB will not negatively impact on this duty. All JMB managed homes will remain council tenancies and all allocations to JMB homes remain the responsibility of the Council and therefore will be unaffected by this change. The JMB have a published equality policy and procedure which is monitored on an annual basis by the council.
58. This proposal is expected to have a neutral impact on Council tenants in Southwark.
59. The increased level of financial control devolved to the JMB will not impact on other council residents in the borough as the proposal will also see a commensurate increase in the devolved level of financial commitments to the JMB from the council. In the early years of the proposal this will effectively mirror the increased levels of income to the JMB. Over the course of the 30 year business plan it is expected that there will be increased levels of finance, over and above that required for investment purposes, available to the JMB. Although the Council has not undertaken a business planning process to this level of detail, the expectation of achieving warm, safe and dry standards by 2015 would enable a reasonable expectation that it too would achieve income levels in excess of the investment demands made upon its resources.
60. The impact of the Council response to the independent Housing Commission report on the future use of rental income is not yet known and has therefore not been considered as part of this proposal. The JMB have, however, already drawn up outline proposals to invest surpluses over and above the investment needs in the provision of additional social housing units within their area of benefit. Any such properties so developed would be made available to the Council to meet local housing demand.

Next Steps

61. In order to progress this proposals, and to ensure that there are adequate safeguards in place for the Council, it is proposed that the following steps be taken;

- Development of a 'hybrid' management agreement, based on the Modular Management Agreement for the Right to Manage and the standard agreement for ALMOs
- Implementation of the new financing of the JMB from April 2013.

62. A draft management agreement has been prepared by officers within the TMI team and Legal Services as outlined above together with the required Schedules and Annexes containing the supporting documentation as required by government for this type of agreement.

Conclusion

63. This is an exciting and innovative proposal to devolve greater control and empowerment to residents of Southwark which will act as a national template and allow a TMO to have an income equating to the rent and service charges generated from the stock. In return, to agree an undertaking to make debt repayments as well as providing all stock maintenance and investment within their area of benefit. Central government have expressed their support for this model and see it as benefitting other resident led organisations across the country.

64. The development of this proposal is in accordance with the Housing Department Business Plan (objective 7 - Involve tenants and leaseholders in the improvement of service delivery) and the Six Corporate Strategic Principles (Transforming public services through the sharing of service delivery with local organisations).

SUPPLEMENTARY COMMENTS FROM OTHER OFFICERS

Director of Legal Services

65. Section 27 of the Housing Act 1985 enables a local housing authority to delegate its housing management responsibilities to another, with the approval of the Secretary of State. Regulations require local housing authorities to cooperate and enter into management agreements with tenant management organisations (TMOs). Where a management agreement is entered into, the council remains the landlord of the tenants of the dwellings concerned and the council's legal obligations as a local housing authority and landlord are generally unaffected.

66. As indicated in the report, the council's housing management responsibilities in respect of 1476 tenanted, leasehold and freehold properties were delegated to the Leathermarket Joint Management Board (JMB) under a management agreement in 1996. The management agreement that is currently in place follows the standard Modular Management Agreement for Tenant Management Organisations that received general approval from the Secretary of State.

67. The report seeks cabinet agreement to the council entering into a new management agreement that includes additional terms that will enable Leathermarket JMB to become 'self financing'. As these additional terms depart from the standard Modular Management Agreement options covered by the general approval, the new management agreement will require the specific approval of the Secretary of State prior to it being agreed.

68. The report indicates that officers do not consider the recommendations will have

an impact on residents outside of those within the JMB area. Cabinet members are referred to paragraphs 49 - 54 of the report that set out the consultation that has taken place with affected tenants. Cabinet members must conscientiously take into account the outcome of consultation when taking a decision on the recommendations in this report.

69. Cabinet members attention is also drawn to the Public Sector Equality Duty in section 149 of the Equality Act 2010. The PSED requires the council to consider all individuals when carrying out any of their functions. It requires the council to have due regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct; advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination strand. The report sets out consideration that has been given to the PSED in the community impact statement from paragraph 55.
70. Advice is being sought from Legal Services as to the terms of the new management agreement and in relation to the approval of the same by the Secretary of State.
71. The decision to agree to the council entering into a new Modular Management Agreement (MMA) with Leathermarket JMB may be taken by the cabinet pursuant to its powers under Part 3C of the constitution.

Strategic Director of Finance and Corporate Services

72. The strategic director notes the proposal to base the JMB's allowance on the proceeds of rental income less the cost of council's services less contribution to self-financing debt charges. This should broadly equate to the resources needed to meet the JMB's costs, as provided up to now in its revenue and capital allowances. Future variations in allowance would relate to the JMB properties and not affect the wider HRA.
73. The strategic director also notes the risk management arrangements discussed in paragraphs 37 - 46 and in particular the proposals for the council to retain ownership of rent proceeds, although forming a main element of the allowance, and to time-limit the agreement, with notice able to be given within the agreement period.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Report to Cabinet 15 May 2012. The document is available on this web page: http://moderngov.southwark.gov.uk/eListDocuments.aspx?CId=302&MId=3823&Ver=4	Home Ownership Team 160 Tooley Street London SE1 2QH	Martin Green 020 7525 1418

APPENDICES

No:	Title
Appendix 1	Results of PPCR Doorstep Survey
Appendix 2	Resident Drop-In Event

AUDIT TRAIL

Cabinet Member	Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	
Lead Officer	Martin Green, Head of Home Ownership	
Report Authors	Lee Page, Manager, Tenant Management Initiatives	
Version	Final	
Dated	12 February 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
	Officer Title	Comments Sought
	Director of Legal Services	Yes
	Strategic Director of Finance and Corporate Services	Yes
	Cabinet Member	Yes
	Date report sent to Constitutional Team	31 January 2013