

MAYOR AND CABINET		
Report Title	Lewisham Homes ALMO -Section 27 Application	
Key Decision	Yes	Item No. 5
Ward	All	
Contributors	Interim Executive Director for Regeneration, Executive Director for Resources, Executive Director for Customer Services, Head of Law.	
Class	Part 1	Date: 8 November 2006

1.0 Summary

- 1.1 Lewisham's Decent Homes strategy which sets out the Council's investment plan to achieve decent homes was signed off by the ODPM in November 2005.
- 1.2 Lewisham is pursuing a mixed investment solution and proposes two PFIs, six stock transfers, and an Arms Length Management Organisation (ALMO) named 'Lewisham Homes' to improve and manage 12,475 tenanted properties and take over the management of 5,074 leasehold properties.
- 1.3 Mayor and Cabinet agreed in November 2005 to endorse the submission of the ALMO application to the DCLG.
- 1.4 Lewisham submitted a bid for £145M to the 6th and final round of the ALMO funding programme in July 2006.
- 1.5 Lewisham Council proposes to enter into a Management Agreement with Lewisham Homes for a fixed period which requires Secretary of State approval under S27 of the Housing Act 1985. Lewisham Homes ALMO plans to go live in January 2007.
- 1.6 In July 2006 Mayor and Cabinet agreed that it would consider Lewisham's Section 27 application detailing Lewisham Homes' Service Improvement Plan, specific ALMO services, retained Council functions and financial implications of the ALMO proposal in Autumn 2006.
- 1.7 This report asks Members to endorse Lewisham's section 27 application to seek Secretary of State approval to enter into a Management Agreement with Lewisham Homes ALMO, to take on housing management responsibilities for 12,475 tenanted and 5,074 leasehold properties. It asks Members to agree the terms of the draft Management Agreement between the Council and Lewisham Homes; and the draft Delivery Plan for January – March 2007 and note further that the final Management Agreement, Delivery Plan and Lewisham

Homes Memorandum and Articles of association will be bought back to Mayor and Cabinet for agreement in December 2006, following further consultation with the Lewisham Homes Shadow Board.

2.0 Recommendations

- 2.1 To note that on 9 November 2005 Mayor and Cabinet agreed that Lewisham should submit an application for a borough wide ALMO and that Lewisham submitted an ALMO funding application for £145M to the DCLG in July 2006 for 12,475 tenanted and 5074 leasehold properties, and further that following the decision on Hyde St John's properties taken on 18th October the number of properties in the ALMO is now 12,623 tenanted and 5074 leasehold.
- 2.2 To agree to endorse the Section 27 application, draft attached as appendix 1, and agree to delegate authority to the Executive Director of Customer Services to make minor amendments to finalise the document before it is submitted to the Secretary of State.
- 2.3 To approve the details of the draft Management Agreement between Lewisham Homes and Lewisham Council as detailed in paragraph 8 and attached as appendix 2 for submission with the section 27 application and to note that the final proposed Management Agreement will be submitted to Mayor and Cabinet for decision in December 2006.
- 2.4 To approve Lewisham Homes' draft Delivery Plan detailed in paragraph 8.17 and attached as annex 1 to the Management Agreement appendix 2 for submission with the Section 27 application and to note that the final Delivery Plan for January – March 2007 will be submitted to Mayor and Cabinet for decision in December 2006.
- 2.5 To note the proposed interim staffing and housing management arrangements for non-ALMO housing stock as set out in paragraph 9.
- 2.6 To note that the outcome of the consultation, with residents whose properties will be managed by ALMO until they transfer to the investment vehicle proposed for their area, will be tabled at the meeting this evening.
- 2.7 To note the proposed staff transfer and TUPE arrangements as set out in paragraph 10.
- 2.8 To note the ALMO timetable set out in paragraph 14 and the proposal for Lewisham Homes to 'go live' on 22nd January 2007.
- 2.9 To note that should the proposed stock transfers and the PFI detailed in paragraph 9.12 fail to happen the staff and housing stock will remain in the ALMO.
- 2.10 To note that a further report will come to Mayor and Cabinet in December setting out the results of the test of opinion and submitting the final Management Agreement, Memorandum and Articles for

Lewisham Homes and the Delivery Plan for January – March 2007 for agreement.

3.0 Background – Decent Homes Strategy

- 3.1 Lewisham's Decent Homes strategy setting out its investment plans to achieve decent homes was fully signed off by Government Office for London (GoL) in November 2005.
- 3.2 Since this time Lewisham has been progressing the development of a mixed investment solution which includes two PFIs, six stock transfers, and an ALMO for almost half of the Council's housing stock.
- 3.3 Mayor and Cabinet was updated in November 2005 on the progress of the investment vehicles to achieve decent homes and agreed that Lewisham submit an application for ALMO funding to achieve decent home and future management for 12,475 Lewisham properties.

4.0 Lewisham's ALMO Application

- 4.1 Following Mayor and Cabinet approval in November 2005 and supplementary DCLG guidance in June 2006, Lewisham submitted an ALMO funding application to the DCLG in July 2006 for 12,475 tenanted properties. The application is seeking ALMO funding of £145M to implement a programme of works to bring the properties up to the required Decent Homes Standard.
- 4.2 The ALMO bid is widely supported by residents, the Council, Members, Partners and stakeholders including the Lewisham Homes shadow board who played a critical role in developing the application to reflect local priorities and respond to residents' ambitions for their homes.
- 4.3 A decision on whether the ALMO is accepted onto the ALMO funding programme is expected in the autumn 2006.

5.0 Lewisham's Section 27 Application

- 5.1 Under Section 27 of the 1985 Housing Act local authorities wishing to transfer housing management responsibilities to a separate entity must first seek Secretary of State approval. To assist the Secretary of State assess ALMO applications the DCLG provides a detailed section 27 questionnaire for local authorities to complete and submit.
- 5.2 In considering applications from local housing authorities for approval under section 27 to enter into agreements with an ALMO the Secretary of State will wish to be satisfied that authorities and the ALMO will deliver improved housing management services that 'are responsive to tenants' needs, offer good value for money and make significant contributions to meeting the Government's decent homes targets'.

- 5.3 Subject to the Secretary of State's approval of the Section 27 application (which is expected in December 2006) it is anticipated that Lewisham Homes ALMO will 'go live' on 22nd January 2007.
- 5.4 A draft of Lewisham's Section 27 application is attached as appendix 1. The application confirms the following key points of Lewisham's ALMO proposal:

6.0 Section 1: Housing Stock

- Lewisham Homes ALMO will manage 17,697 dwellings, 12,623 tenanted and 5,074 leasehold properties
- It will be a single ALMO with four area boards
- 44% of the stock (5,489) that the proposed ALMO will manage meets the decent homes standard.

This section of the application explains that the smaller stock transfers: Lewisham Park, New Cross, Foreshore, as well as the Brockley PFI and the two regeneration schemes at Heathside and Lethbridge, and Milford Towers will remain managed by the Council until the properties are transferred or the contract starts.

However it will not be productive for the Council to retain management of the stock which is identified for other investment solutions. It is therefore proposed that all housing staff involved in management of stock identified above to transfer under TUPE to Lewisham Homes.

The Council also has support services staff that will be affected by the investment proposals. It is proposed that as many as possible will remain with the Council providing services under Service Level Agreements from 22nd January 2006.

6.2 Section 2: Delegation of Functions

The functions to be delegated to Lewisham Homes include all those set out in the DCLG's guidance including:

- Stock investment decisions
- Repairs ordering
- Rent collection, dealing with arrears, debt counselling
- Consulting and informing residents on matters which are the ALMO's responsibility
- Promoting resident involvement, including involving residents in monitoring and reviewing service standards
- Enforcement of tenancy conditions
- Leasehold management, and leaseholder consultation on major works
- Managing lettings, voids and under-occupation

- Estate management, caretaking and the provision of housing related support services under the Supporting People programme.

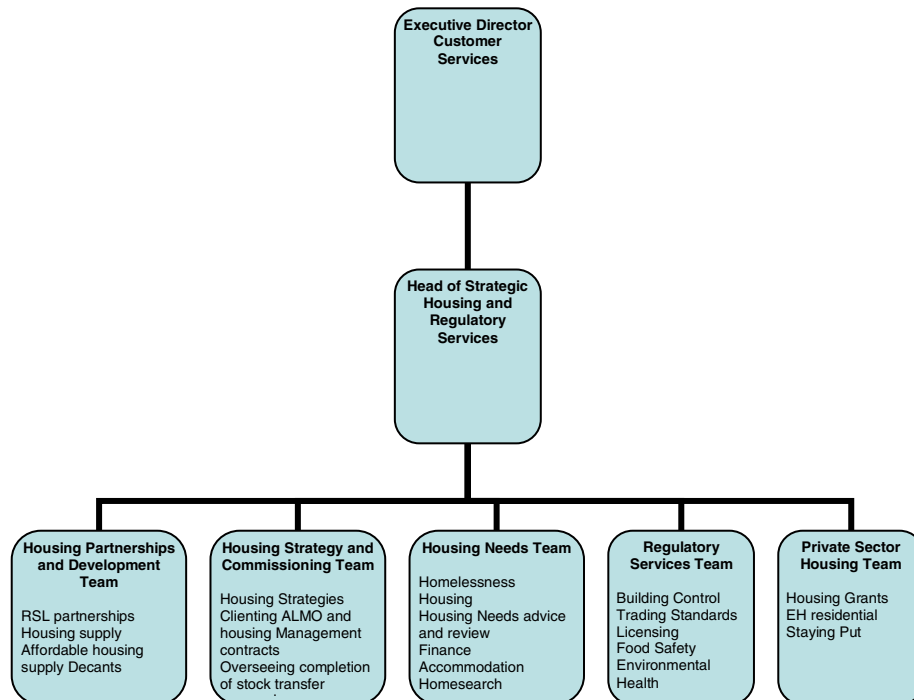
6.3 Section 3 The Council’s Future Role

Lewisham’s strategic housing role will be carried out within the Customer Services Directorate within a newly formed Strategic Housing and Regulatory Services Section.

Monitoring Arrangements

- 6.3.1 The Strategy and Commissioning Client Team within the above section will be responsible for monitoring Lewisham Homes. The team are working with Lewisham Homes to develop its initial Delivery Plan and to establish robust monitoring arrangements. Performance indicators and targets have been set for Lewisham Homes based for the initial period on those already developed by the Council. Thereafter they will be reviewed each year jointly with the Council to ensure that they are appropriate and challenging and clearly reflect delivery against Lewisham Homes key aims.
- 6.3.2 The diagram below sets out the recently implemented new structure which will carry out the Council’s strategic housing function.

diagram 1



6.4 Section 4 Best Value Reviews and Inspections

A summary of the outcome of recent Best Value inspections is provided as well as details of proposed future ALMO inspections. An ALMO inspection is planned for March 2008. At this date it is anticipated that Lewisham Homes will achieve at minimum a 2* service rating.

6.5 Section 5 Tenant Issues

This section summarises Lewisham's comprehensive consultation strategy in the borough concerning the ALMO investment option. It also sets out the high level of support from residents for the ALMO:

- **58%** of residents support setting up an ALMO – only 6% opposed
- **78%** of residents supported an ALMO to deliver improvements to their home
- **74%** supported an ALMO to improve opportunities for tenant participation
- **78%** supported an ALMO to improve the housing service.

6.6 Section 6 The ALMO Board

The composition for the ALMO Board: 7 resident members (2 leaseholders, 5 tenants) 3 Councillors and 5 independents. It sets out the current skills and training required to ensure the board is effective.

6.7 Section 7 Group Structure

Lewisham Homes is a single ALMO with one board taking responsibility for the whole organisation.

6.8 Section 8 Documentation

This section confirms that the management agreement between the Council and Lewisham Homes and the Articles of Association (the constitution) do not significantly differ from the model agreements provided by DCLG.

6.9 Section 9 Staff Issues

This section deals with staff issues and confirms it is anticipated that approximately 400 staff will initially work for the Lewisham Homes ALMO at the proposed transfer date of 22nd January 2007. It confirms that all identified staff will be transferring from the Council and will be directly employed by the ALMO.

In addition the ALMO will take on the responsibility of managing housing staff who are presently working directly or linked with the housing management of other investment proposals in the borough, i.e. estate regeneration, smaller stock transfers and the Brockley PFI. It is

anticipated that this will be a short term arrangement until the respective investment solutions are in place. Staff will TUPE transfer to the ALMO. These staff will then transfer to the RSL or PFI management consortium under TUPE arrangements if there is a successful transfer or until the establishment of the PFI consortium.

This section also sets out the level of consultation with staff about the ALMO proposal as well as potential TUPE arrangements.

6.10 Section 10 Future Plans and the Decent Homes Target

This section summarises the latest forecasts of expenditure through existing Council capital and additional ALMO funding.

7.0 Consultation

7.1 ALMO guidance requires that an application for section 27 consent needs to demonstrate that the proposed ALMO has the support of the majority of tenants that would be affected and in accordance with Tenant Compact principles will continue to be consulted about the ALMO's operation and performance. There is no requirement to hold a ballot.

7.2 In section 5 of the section 27 application Lewisham sets out the comprehensive consultation process carried out in the borough concerning the ALMO investment proposal. The outcome of the independent test of opinion carried out in May 2005 amongst residents in the proposed ALMO area, is also summarised, which shows the high level of support for this decent homes investment option:

- **58%** of residents support setting up an ALMO – only 6% opposed
- **78%** of residents supported an ALMO to deliver improvements to their home
- **74%** supported an ALMO to improve opportunities for tenant participation
- **78%** supported an ALMO to improve the housing service.

7.3 A further test of opinion is proposed in November / December 2006 to confirm the level of resident support before Lewisham Homes goes live in January 2007.

8.0 The Management Agreement

8.1 The Lewisham Homes ALMO is a company limited by guarantee which will be wholly owned by Lewisham Council. The housing stock does not transfer to an ALMO, but the Council enters into a Management Agreement with it for a fixed period. This will require approval under S27 of the Housing Act 1985. Statutory responsibility remains with the Council. Where Section 27 Consent is granted by the Secretary of State this will need to be renewed at least every five years. Prior to making an application to renew the section 27 consent, further tenant

consultation will need to take place.

- 8.2 The Management Agreement defines the relationship between a local authority and an ALMO and sets out the obligations of both parties. A draft of the proposed Management Agreement between the Council and Lewisham Homes is attached as appendix 2 . The Agreement is based on a model provided by the DCLG and does not vary significantly apart from the strengthening of the section on the arrangements for Ombudsman investigations (section 33.6.6 – 33.11) as well as clearly setting out the terms for termination or expiry of the contract (section .65.9.1 – 65.11.3).
- 8.3 The schedules and annexes attached to the Management Agreement are currently being developed. Some cannot be completed until shortly before the ALMO goes live as they need to contain up-to-date staffing information. The remaining annexes and schedules should be completed by December.
- 8.4 Members are asked to note that at this stage in the ALMO application process it is quite usual for local authorities to submit the Management Agreement with the schedules and annexes incomplete. DCLG will expect this information to follow in advance of the ALMO going live in January 2007.
- 8.5 Critically at this stage however the Secretary of State / DCLG will be looking for Lewisham Council to demonstrate that it has clearly defined the delegation of functions to the ALMO; determined the practical arrangements to regulate the relationship between the Council and Lewisham Homes; developed effective monitoring arrangements; and established clear service standards for the ALMO to achieve.
- 8.6 The schedules and annexes to the Management Agreement are detailed below. In summary, two of the schedules have been drafted to date: Annex 1 The Initial Delivery Plan has been drafted to cover the first three month period of the ALMO from 22nd January 2007 until the end of the financial year 2006/7. In addition Annex 3 the Delegation Agreement has been drafted which demonstrates to the Secretary of State /DCLG that Lewisham has clearly defined the functions to be delegated to the ALMO.
- 8.7 It is anticipated that most of the outstanding schedules and annexes to the Management Agreement will be completed and submitted to DCLG in December 2006 following further consultation and development of the document with Lewisham Homes and following Mayor and Cabinet Approval.

Schedules to the Management Agreement

8.8 Schedule 1 - Contracts to be administered

- 8.9 **Schedule 2 - Council's assets** Sets out the assets (vehicles and equipment) that will transfer to Lewisham Homes
- 8.10 **Schedule 3 - Premises and other property information** that will transfer to Lewisham Homes
- 8.11 **Schedule 4 - part I -Transferring Employees** to Lewisham Homes
- 8.12 **Schedule 4 - part II – Car Leases** Provides details of transferring staff who currently have a Car leased from the Council
- 8.13 **Schedule 4 – Part III – Car loans** Provides details of transferring staff who currently have a Car Loan from the Council
- 8.14 **Schedule 5 – Computer systems and software used by the Council**
- 8.15 **Schedule 6 - Financial arrangements** – Provides details of the Financial arrangements between the Council and Lewisham Homes
- 8.16 **Schedule 7- Form of Lease/Licence for premises** - Provides details on the leases and licences for premises transferring to Lewisham Homes
- 8.17 **Annex 1 The Initial Delivery Plan**
- 8.17.1 The draft Initial Delivery Plan is attached as annex 1 of the Management Agreement. Lewisham Homes' initial Delivery Plan covers the first three month period from when the ALMO goes live on 22nd January 2007 until the end of the financial year 2006/07. The plan is being developed with the Council, Lewisham Homes Shadow Board and the interim Chief Executive of Lewisham Homes. The attached draft will accompany the Section 27 application as requested by the Secretary of State.
- 8.17.2 Future plans will involve broader consultation ensuring that residents and other key stakeholders are fully engaged in the process and will be agreed and endorsed by the Board of Lewisham Homes and Mayor and Cabinet.
- 8.17.3 The delivery plan sets out Lewisham Homes performance management principles developed with Lewisham Council. It sets out the monitoring arrangements to assess how effectively the ALMO is achieving its performance targets and is implementing its Service Improvement Plan to ensure the organisation achieves at a minimum a two star housing service by March 2008.
- 8.17.4 The first year's Key Performance Indicators and targets will be those already developed by the Council. Thereafter, these will be reviewed each year by the Council to ensure that they are appropriate and challenging, and clearly reflect delivery against Lewisham Homes key aims.

8.17.5 Full details on the proposed management structure for Lewisham Homes is set out in the Delivery Plan.

8.18 Annex 2 The Delivery Plan Format - Sets out a suggested format format for future delivery plans.

8.19 Annex 3 The Delegation Agreement

8.19.1 This sets out in detail the housing functions that are to remain with the Council and those that will transfer to Lewisham Homes ALMO including activities that are not set out in the guidance that might be delegated.

9.0 Management arrangements for staff and stock in other investment options.

9.1 On 19 July 2006 Mayor and Cabinet Members were advised that the Council will need to make interim management arrangements for properties not included in the ALMO such as proposed stock transfers major regeneration schemes and the Brockley PFI. These arrangements would have to maintain service standards and contain costs up to the point where stock transfers occur or PFI contracts commence. Members were advised that this issue would be covered in a report to Mayor & Cabinet prior to the commencement of the ALMO management agreement.

9.2 Having fully considered the financial and practical arrangements the Council and Lewisham Homes consider that the most cost effective and practicable management arrangements for the non ALMO stock up until the point when stock is transferred to the respective RSL, or the PFI contract commences, is for Lewisham Homes ALMO to take on the management of the stock and responsibility for the staff for the following transfer and PFI proposals:

Stock transfers:

- Lewisham Park
- New Cross
- Foreshore
- Orchard Estate & Village Court
- N.E Lewisham
- Brockley PFI
- Heathside and Lethbridge Regeneration scheme
- Milford Towers Regeneration scheme

9.3 The interim management arrangements are proposed on the grounds of quality and value for money. Staff who are on the list to transfer to the options detailed above will do so on a temporary basis until the

schemes commence. Lewisham Homes will provide management supervision to these staff at very little additional cost. Lewisham Homes will be able to provide residents in the areas with a full service on lettings, tenancy matters, repairs management and estates management.

- 9.4 The alternative is for the Council to put in place a separate management structure for transferring staff. These staff members would be able to provide only a limited range of services. The Council would have to contract with Lewisham Homes to provide all other services to tenants. It would not be practical to employ extra staff for an interim period to cover all the other services.
- 9.5 The Council has a duty to ensure value for money in its services. It will be more economical for staff in Lewisham Homes to provide the same range of services to tenants which the Council currently provides. To employ temporary additional staff would be expensive and not very effective.
- 9.6 Consultation with residents about the interim management arrangements

Lewisham has consulted with residents as required under section 105 of the Housing Act concerning the proposed change of management arrangements for tenants from January 22nd 2006 when the ALMO takes on interim management responsibility until they are transferred to the proposed investment vehicle for their area.

- 9.7 To date residents from Lewisham Park, New Cross stock transfers, Brockley PFI and Heathside and Lethbridge regeneration scheme have responded favourably and accepted the proposed interim management arrangements. Meetings for the remaining areas are taking place over the coming days and officers will present a summary of the consultation feedback from residents at the meeting.
- 9.8 The ALMO management fee will include payment for the service provided in the transfer, PFI and regeneration areas.
- 9.9 The following table sets out the anticipated timescale for the interim management arrangements and details the number of properties and staff involved. No central support staff are anticipated as transferring under TUPE in respect of these interim management arrangements and it will be necessary for central support services to negotiate service level agreements with the ALMO in respect of services to these properties.

Investment vehicle	Number of properties	Transfer/contract commencement anticipated	Number of staff involved
Brockley PFI	2044 (includes 658 leaseholders)	April 2007	12 staff in total 4 vacant posts
Lewisham Park Stock transfer	204 (includes 40 leaseholders)	spring 2007	1 caretaker
Foreshore stock transfer	63 (includes 39 leaseholders)	summer 2007	0
New Cross stock transfer	1838 (includes 543 leaseholders)	autumn 2007	10 staff in total 3 vacant posts
Heathside and Lethbridge Regen Scheme	678 (includes 109 leaseholders)	transfer to new build properties anticipated from 2008 @ approx 120 per year until 2012	6 staff
Milford Towers	276 (includes 20 leaseholders)	Regen scheme linked to redevelopment of Catford Town Centre timescale approx 2010/11	
total	5,103		29

- 9.10 Although the management proposal will involve Lewisham Homes ALMO taking on the interim management of 5,103 properties, as the table shows it is anticipated that the majority of the stock and staff will transfer out of the ALMO by late autumn 2007.
- 9.11 At this stage Members are asked to note that two further small stock transfer proposals have developed in the borough; the first in N.E. Lewisham covering 591 properties at Newstead Road Estate, Leybridge Court, Merridale, and Dorville Road Estate and a further at Orchard Estate and Village Court covering 199 properties. Members agreed at Mayor and Cabinet on 18th October 2006 that officers should pursue these further stock transfers. However as they are at a very early stage of development these properties remain as part of the ALMO bid until they are further advanced and the Council is assured of the level of support and funding for these investment options.
- 9.12 If any of the transfers, regeneration schemes or the Brockley PFI fails to happen the contingency plan agreed by Members is that the staff and property will remain with the ALMO. Further work is taking place to finalise the Brockley PFI deal and it is likely that some of the leasehold properties (approximately 68) may remain with the ALMO rather than

go into the PFI. However this will be confirmed when the report signing off the Brockley PFI is bought to Mayor and Cabinet in due course.

10.0 Staff Transfer, TUPE and Consultation

- 10.1 It is anticipated that approximately 400 staff will initially work for the Lewisham Homes ALMO at the proposed transfer date of January 2007. All identified staff will be transferring from the Council and will be directly employed by the ALMO.
- 10.2 In addition as set out in paragraph 8, the ALMO will take on the responsibility of managing staff who are presently working directly or linked with the housing management of other investment proposals in the borough, i.e. estate regeneration, smaller stock transfers and the Brockley PFI. Staff will TUPE transfer to the ALMO, which represents the most practicable short term management solution. These staff will then, following approval from the Secretary of State transfer to the RSL or PFI management consortium under TUPE arrangements following the successful transfer of the properties or the establishment of the consortium.
- 10.3 Staff transferring from the Council to Lewisham Homes will do so under TUPE with their employment rights protected. Staff will transfer with existing Council terms and conditions including pay structures.
- 10.4 The terms and conditions for new staff recruited by the ALMO will initially be comparable to those of employees transferred from the Council.
- 10.5 The Council and Lewisham Homes have held a substantial number of consultation and briefings events with Lewisham staff and further events will be held throughout the change management process.
- 10.6 The Shadow Board met all staff due to transfer at a market place event in September 2006. The Shadow Board are committed to developing good working relationships with staff and will establish regular meetings both formal and informal to encourage this.
The Interim Chief Executive is leading a series of staff engagement sessions for staff transferring to Lewisham Homes. These sessions began in May 2006 and will continue throughout the process. A series of consultation forums are underway for staff groups. The feedback from these sessions will be used to develop the 'inclusive', 'can do' culture of Lewisham Homes and will further inform the Change Management Plan.

11.0 Achieving 2* housing services

- 11.1 Lewisham Homes ALMO must secure a minimum 2* service rating from the Audit Commission to ensure that funding is released.
- 11.2 Lewisham Council has used evidence from the 3 previous Audit Commission inspections and 2 indicative inspections to identify areas

for improvement. Lewisham Homes shadow board is clear that effective leadership is needed to deliver the required improvements in performance.

- 11.3 A new senior management structure has been agreed by the shadow board which will provide the capacity and leadership needed to deliver significant improvements in the services provided to tenants and residents. The Shadow Board has appointed recruitment consultants to assist with the search for a high calibre Chief Executive for Lewisham Homes to lead the drive for excellence.
- 11.4 A Service Improvement Plan based on achieving at minimum a 2 star status has been developed and is being considered by the Shadow Board of Lewisham Homes. It will form part of the annual Delivery Plan with the Council and both Lewisham Homes Board and the Council will monitor progress against the Improvement Plan.
- 11.5 If the ALMO application is accepted onto the programme and Lewisham Homes achieves at minimum a 2* service rating the Government will release ALMO funding and it is anticipated that the decent homes work programme will commence in the autumn of 2008.

12.0 The ALMO Shadow Board

- 12.1 The ALMO Shadow Board was established in December 2005 and has played an active and influential role in the development and formation of Lewisham Homes policies and approach. They have agreed the vision of 'A new way of delivering great housing services for thriving neighbourhoods'. This has its roots in the Shadow Board's desire to drive forward service improvements and provide better quality Services.
- 12.2 The Shadow Board have been instrumental in formulating the following key areas:
- Vision and Values
 - Name for the ALMO – Lewisham Homes
 - Code of Conduct
 - Job descriptions for Chair and Vice-chair
 - Board training requirements
 - The split of functions between the ALMO and the Council
 - The senior management structure for Lewisham Homes
 - The review of existing contracts.
- 12.3 The Board are adhering to their Work Plan and are on target to go live in January 2007. There will be monthly Board meetings between September and December 2006 to enable the Shadow Board a chance to debate and agree a number of key decisions including:
- Service Improvement Plan
 - Performance Management regime
 - Memorandum and Articles

Management Agreement and Delivery Plan
 Risk Management Strategy
 Tenant and Resident Involvement Framework
 Service Level Agreements.

13.0 Test of Opinion

13.1 In May 2005 Research Support and Marketing carried out a test of opinion to evidence support for a borough-wide ALMO in Lewisham. The results showed –

- **58%** of residents support setting up an ALMO – only 6% opposed
- **78%** of residents supported an ALMO to deliver improvements to their home
- **74%** supported an ALMO to improve opportunities for tenant participation
- **78%** supported an ALMO to improve the housing service.

13.2 Subject to being accepted onto Round 6 of the ALMO programme, a further test of opinion will be carried out in November/December 2006 to assess again the level of resident support before Lewisham Homes goes live in January 2007. The Council will need to demonstrate to the Secretary of State that the ALMO proposals have the support of the majority of tenants in order for the Council to obtain Section 27 Consent for the management agreement with Lewisham Homes.

14.0 ALMO Timetable

Test of Opinion	May 2005
Shadow board selection	Dec 05
Audit Commission indicative inspection	May 06
Formal ALMO application	July 2006
Acceptance on programme	Autumn 06
Section 27 application	Autumn 06
2nd Test of Opinion	November 06
ALMO goes live	January 2007
Audit Commission inspection to confirm minimum 2* rating	March 08
Funding released/Works start	Autumn 08

14.1 Detailed above is an ambitious timetable reflecting the determination of both the Council and the Shadow Board of Lewisham Homes to urgently drive forward service improvements and provide better quality services for its residents.

15.0 Financial Implications

Cost reduction strategy – HRA and general fund

- 15.1 Setting up an Arm's length management organisation is one part of the Council's decent homes strategy. The new vehicles – stock transfers, PFIs and the ALMO – will require cost savings to be made in the Housing revenue account and general fund.
- 15.2 A report to Mayor & Cabinet on 18 October gave the forecast for the HRA budget for 2007/08. The initial forecast shows a deficit of £3.2m plus a potential additional cost related to the transfer of the St John's estate of £1.9m. The report also summarised the effect on the HRA of stock transfers and PFI contracts starting during 2007/08. Assuming that transfers and PFIs proceed according to the current timetable, there will be an additional cost of up to £3.3m in the HRA and up to £2.8m in general fund in 2007/08. The costs in a full year are up to £4.9m in the HRA and up to £3.9m in general fund.
- 15.3 The Council has a legal duty to set a balanced budget for both the Council's General Fund and the HRA. The budget process for 2007/08 will require substantial savings in both the HRA and the General Fund that arise due to the downsizing of the organisation as the Council loses direct management responsibility for its housing stock. IN addition to its duty to set a balanced budget the Council must ensure that Lewisham Homes will be financially viable.
- 15.4 The HRA budget process will identify savings to be implemented as various options are ready to proceed. In the event of successful transfer ballots or the commencement of PFI contracts, the savings will be implemented.
- 15.5 The pressures that are attributable to the Council's General fund will be addressed in the 2007/8 and 2008/9 budget processes. As for the HRA the General fund will only require the full year effect of the savings to be achieved from 2008/9 onwards.

Effect on the Housing Revenue Account

- 15.6 The HRA budget has provision for salaries and wages for in-house staff and contract payments covering staff costs for housing management partners. The budget covers the costs of support services provided to the Housing service. When the ALMO commences its management agreement, the Council will pay the ALMO a contract fee covering salaries, wages, office running costs and service level agreements (SLAs).
- 15.7 Setting up the ALMO allows the Council to access funds for decent homes work and will bring benefits to service performance and customer satisfaction. There is an additional cost of around £0.2m to the HRA arising from the need to have strong clienting of the management agreement and ALMO performance.
- 15.8 The ALMO will have to set a budget which allows for the necessary number of appropriately skilled staff to deliver the requirements of the management agreement. The HRA budget process for 2007/8 will

ensure that the ALMO staffing structures are affordable within the budgeted resources available.

Responsibilities of the ALMO and the Council

- 15.9 The ALMO will manage the Repairs & maintenance and other client budgets on behalf of the Council. As part of the Management Agreement, the ALMO will have performance standards on quality of service and cost control on client budgets.
- 15.10 Certain HRA budgets will continue to be managed directly by the Council –
- Housing client (responsible for monitoring and payments to ALMO)
 - Monitoring and payments on PFI schemes
 - Housing management of hostels.
- 15.11 The ALMO will manage certain properties on an interim basis on behalf of the Council as detailed in paragraph 8 above. In the event of a positive ballot on the Phoenix area, the ALMO will provide some specialist financial and technical support in the period before the properties transfer. The ALMO management fee will include payment for the service provided in the transfer, PFI and regeneration areas.

ALMO set-up costs

- 15.12 Costs of setting up the ALMO are estimated at £641,000. This is made up of –
- | | |
|----------------------------|----------------|
| Costs incurred in 2005/06 | £ 205,000 |
| Estimated costs in 2006/07 | <u>436,000</u> |
| Total | 641,000. |

The costs are made up of –	£
Staff salaries and consultants costs	376,000
Communications	82,000
Stock condition and technical consultancy	98,000
Independent tenants' advisor	60,000
External legal advice	15,000
Shadow board costs	<u>10,000</u>
Total	641,000

The set-up costs are a charge to the HRA. The costs in 2005/06 were met from reserves. There is sufficient provision in HRA budgets in 2006/07 to meet the costs estimated above.

16.0 Legal Implications

The Decent Homes Standard

- 16.1 The Government requires local housing authorities to meet the decent homes standard for its housing stock by 2010. Though this is not a statutory requirement, if Councils who cannot afford to bring their own

stock up to the Decent Homes Standard need government funding to bring their stock up to standard then they must conduct an appraisal of the available options. The Government required authorities to consider PFI, stock transfer and ALMO in this appraisal. As set out in the body of the report, the ALMO is one of the options the Council has adopted and on which it is awaiting notification from DCLG that it has been accepted into round 6 of the ALMO funding programme.

ALMO

- 16.2 An ALMO is an arms length body, usually a company limited by guarantee, which is wholly owned by the Council. It has a board of directors on which the council, tenants and independent representatives sit. In Lewisham Homes the ratio of representatives is 3,5 and 5 respectively. The housing stock does not transfer to an ALMO, but the Council enters into a management agreement with it for a fixed period. This will require approval under S27 of the Housing Act 1985. Statutory responsibility remains with the Council. Where Section 27 Consent is granted by the Secretary of State this must be renewed periodically at least every five years. Prior to making an application to renew the section 27 consent, further tenant consultation will need to take place. Failure to renew Section 27 consent will mean the management agreement will be ultra vires.
- 16.3 An ALMO is managed by a board of Directors. The Board should include tenants, local authority nominees and independent members with relevant experience of social housing, regeneration, social cohesion, finance or other ALMO responsibilities. Tenant board members should be elected by other tenants. Guidance indicates no group should be in the majority. The independent members could be appointed after invitations to express and interest or advertising.
- 16.4 The ODPM's 2004 guidance states that tenants should have been closely involved throughout the appraisal process leading up to the choice of an ALMO option and this has been the case.
- 16.5 A local authority seeking ALMO funding and the Secretary of State's consent to enter into a management agreement (with the ALMO) must demonstrate that tenants have been fully involved in the development of an ALMO bid, and in accordance with the Tenants Participation Compact principles, will continue to be consulted about the ALMO proposals.
- 16.6 Applications for places on the ALMO programme must show that the ALMO proposals have the support of the majority of tenants. Whilst this can be achieved through a ballot, the Secretary of State is prepared to accept other clear evidence of their support.
- 16.7 The local authority is expected to identify and enter into dialogue with hard to reach groups of tenants. This is particularly important for groups, including some BME groups in particularly disadvantaged neighbourhoods.

Section 27 Consent

- 16.8 Section 27 of the Housing Act 1985 gives local housing authorities the power to delegate their housing management functions subject to first obtaining Secretary of State consent. Contracting with the ALMO is such a delegation and therefore requires consent.
- 16.9 The ODPM issued guidance to local housing authorities on obtaining Secretary of State consent. The Council will need to satisfy the Secretary of State that it and the ALMO:
- 16.9.1 Have complied and are likely to continue to comply with the key principles in the ODPM's ALMO Guidance; and
 - 16.9.2 Will deliver improved housing services that are responsive to tenants' needs, offer good value for money, and make significant contributions to meeting the Government's decent homes targets.
- 16.10 In the event the Council delegates any non housing management functions to the ALMO it would need to be satisfied that it has the necessary power to do so.

Consultation

- 16.11 The ALMO guidance requires that any application for Section 27 consent needs to demonstrate that the proposed ALMO has the support of the majority of the tenants that would be affected and in accordance with Tenant Compact principles will continue to be consulted about the ALMO's operation and performance. There is no requirement to hold a ballot.
- 16.12 On the 19th July 2006 the Members decided prior to the ALMO being concluded there should be a second test of opinion.
- 16.13 It is proposed that some housing stock listed in 8.2 should be managed by the ALMO in the interim pending transfer. Consultation should occur with the introductory and secure tenants of those properties about these interim management arrangements. No decision can be taken about the future management of these properties until the consultation responses are available and have been taken into account in the formal decision making process.

Procurement issues

- 16.14 All procurement arising out of the stock options appraisal process will need to be undertaken in accordance with the Council's Contract Procedure Rules and the EU procurement regime.
- 16.15 Housing Management Services are Part A services for the purposes of the EU Public Services Regulations and any housing management

contract must therefore be tendered in accordance with the Regulations.

- 16.16 There is no requirement to undertake a procurement exercise where the contract is awarded in house. Where a contract is awarded to a separate legal entity, such as an ALMO, this is not a typical in house award. There are however, certain circumstances where the in house exemption can be extended to situations where a contract is let to a separate legal entity.
- 16.17 In relation to the ALMO, the current position under E.U. law is that provided a local authority controls the company in a manner that is similar to the control it exercises over its own departments and the majority of its work is for that authority it will be regarded as being “in-house” delivery. As the ALMO will be 100% controlled by the authority the European tendering requirements do not apply. If the ALMO were to allow the private sector to have a stake, even a small one, or if it began to carry out activities for other organisations apart from the Council and those activities were of more than marginal significance then it could be subject to the E.U. tendering processes
- 16.18 Proposals set out in the DCLG’s paper “Review of Arms Length Management Organisations” in June 2006 proposed that ALMOs may have a broader role in the future including taking on greater range of activities to other organisations and changing ownership arrangements. Such developments may contravene European case law and careful consideration would need to be given if such changes were contemplated.
- 16.19 A decision was taken by the Mayor on 19 July 2006 that any future change to the status of the ALMO should be subject to a ballot of tenants.
- 16.20 Where the ALMO in its own right decides to let a contract for housing management or works, then the E.U. Regime will apply to such a letting subject to the E.U. value thresholds.

TUPE/HR Implications

- 16.21 In externalising all housing management responsibilities to a contractor the Transfer of Undertakings (Protection of Employment) Regulations 1981 (“TUPE”) will apply as between the Council and the new service provider.
- 16.22 For any housing management responsibilities that may already have been externalised, TUPE will apply as between the current service provider and the new service provider on any further re-tendering exercise or when the properties are included in the ALMO or other local investment solution identified for that area. The Council is committed to assist parties to comply with their TUPE obligations.

16.23 Certain central support functions may not transfer under TUPE and the ALMO would need to enter into an SLA with those services if it is to continue to use those services.

16.24 It is possible that in any restructuring associated with the separation of landlord and strategic function redundancy situations may arise and in such circumstances the Council's normal redundancy procedures should be followed.

Race Relations Amendment Act 2000

16.25 Members will need to have due regard to the Councils' general duty under the Race Relations Amendment Act 2000, including the need to assess the likely effects of policies prior to introduction, and how the policies will promote equality of opportunity and good race relations, and do not lead to direct or indirect discrimination. Part of this duty is the requirement to carry out impact assessments on whether any policy will detrimentally affect any particular ethnic group. The results of the impact assessment have to be published and the effect of the policy monitored.

Disability Discrimination Act 2005

16.26 Members will need to have due regard to the Councils' general duty under the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005, including the need to eliminate unlawful discrimination, harassment, to promote equality of opportunity, and positive attitudes towards disabled persons, and to encourage participation by disabled persons in public life.

Homelessness duties

16.27 Where decisions are being made in respect of the future provision of housing within the borough, Members should bear in mind the Council's specific duties under the homelessness legislation and the general duties under Section 3 of the Homelessness Act 2002 requiring the Council to develop a strategy for:-

- preventing homelessness in their district;
- securing sufficient accommodation is and will be available for people who are or may become homeless;
- securing satisfactory provision of support for people in their district who are or may become homeless; or
- who have been homeless and need support to prevent them becoming homeless again

Council responsibilities for decision-making

16.28 The Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations made under it specify certain decisions which may not be made by the Executive, some which are reserved to full Council, and some in which the Executive

may have only a limited role. These requirements are also reflected in the Council's Constitution.

16.29 The Regulations also stipulate that the approval, of any plan or strategy for submission to the Secretary of State for approval is not an Executive function but, except to that extent, the function shall be the responsibility of the Executive.

16.30 In coming to a decision on the recommendations in this report Members will need to take into consideration the financial implications to the HRA and General fund of the setting up of the ALMO and the other decent homes vehicles as contained in the separate report referred to in paragraph 14.2 above.

17.0 Equalities implications

17.1 A full equalities impact assessment (EIA) on the stock options appraisal process has been carried out to assess the possible negative and positive impact on all equality groups in Lewisham. This will be published and the effect of the policy will be monitored. The EIA will also be presented to shadow boards and steering groups leading the process in each area so that the findings can be taken into account.

17.2 Most equalities groups are over-represented in Lewisham Council housing for a range of social and economic reasons. Overall our assessment is that the decent homes agenda, and the borough's strategy in meeting decent homes targets does promote equal opportunities and has an overall positive impact on equalities groups in Lewisham in the longer term when improvement works are completed. However, there are a potentially a number of adverse impacts for some equalities groups while the improvement works are being carried out.

17.3 To address the potentially negative impact on some equality groups during the implementation of the improvement works the Council's capital schemes procedure notes, standard contract preliminaries and framework agreement are being reviewed to ensure that equalities awareness is built into the process in respect of:

- contact and consultation with residents;- ensuring our consultation processes take account of minority and traditionally hard to reach group
- disruption during works (e.g. maintaining access, restoring utilities, providing temporary facilities, security etc);
- contacting and utilising support services for vulnerable tenants;
- code of conduct.

18.0 Environmental Implications

Works carried out to bring homes up to the Decent Homes standard by any of the delivery vehicles (stock transfer/PFI/ALMO) should lead to

greater energy efficiency, reduced maintenance costs and lower fuel bills for residents.

19.0 Conclusion

The submission of the Section 27 application to the Secretary of State is a key milestone in the progress towards the establishment of Lewisham Homes ALMO. Member's endorsement of the terms of the Management Agreement between Lewisham Homes and the Council confirms a strong partnership arrangement to deliver a high quality housing management service and the prospect of significant funding to bring Lewisham Homes' properties up to the Decent Homes Standard.

Background Papers

title document	Date	Location
HRA report	Mayor and Cabinet 18 October 2006	Adam Barrett 5 th Floor Laurence house
Almo Application	Mayor and Cabinet 19 July 2006	Dave Baptiste 5 th Floor Laurence house
Lewisham's Decent Homes Strategy	Mayor and Cabinet 9 November 2005	Dave Baptiste 5 th Floor Laurence house
Decent Homes Strategy	Full Council 29 June 2005	Dave Baptiste 5 th Floor Laurence house
Decent Homes Strategy	Mayor and Cabinet 8 June 2005	Dave Baptiste 5 th Floor Laurence house
Housing Stock Option Appraisal - Overarching strategy	Full Council 15 December 2004	Dave Baptiste 5 th Floor Laurence house
Housing Stock Option Appraisal - Process	Mayor and Cabinet 27 April 2004	Dave Baptiste 5 th Floor Laurence house

For more information on this report please contact Dave Baptiste Development on 0208 314 9131