

South Essex Homes Limited

Board Meeting

Date: Wednesday 4 December 2019

Time: 5.00pm Venue: Tickfield Centre

Board Agenda

	Item	Lead Person	Indicative Timing
1.	Welcome and Introductions		
2.	Apologies for Absence		
3.	Declarations of Interest		
<u>PUBLIC AGENDA</u>			
4.	Minutes & Matters arising from the Board Meeting on 2 October 2019	Roger Eastwood	10 mins
5.	Chair's Remarks <ul style="list-style-type: none"> Board Away Day items 4 February 	Roger Eastwood	10 mins
6.	Residents – Voice Your View	Simon Putt	5 mins
7.	Governance & Stewardship	Simon Putt	10 mins
8.	Company Assurance Report as at 31 October 2019 including draft Management Fee bid	Daniel Lyons	15 mins
9.	Partnership Agreement – progress update	Chris Vaughan	5 mins
9a.	SBC update for SEH Partnership and Member Agreement	Tim Holland	5 mins
10.	Health & Safety Compliance and Fire Safety Update	Mario Ambrose	10 mins

11.	Audit & Risk Committee meeting – Minutes from 16 October 2019	David Joyce	10 mins
17.	Date of Next Meeting – 19 March 2020		

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South Essex Homes Limited

Minutes of Board Meeting

Date: 2 October 2019

Time: 5:00 pm

Committee Room 3

Present: Roger Eastwood - Chair of the Board; Meg Davidson - Vice-Chair of the Board; Barbara Lambert; Phyllis Ward; Michael Oxley; Chris March; Sacha Jevans, David Joyce, Peter Wexham; Margaret Borton; Chris Silvey

In Attendance: Mike Gatrell - Chief Executive; Paul Longman – Group Manager; Chris Vaughan, Director of Business Development; Simon Putt – Group Manager; Sarah Lander – Assistant Director Operations; Glyn Halksworth, Head of Housing, SBC; Tim Holland, Interim Head of Housing, SBC; Daniel Lyons – Financial Services Manager; Carol Cooper – Board Support

Minutes of Board Meeting

Action

	PUBLIC AGENDA	
1.	Welcome and Introductions	
1.1	RE welcomed everyone to the Board Meeting.	
2.	Apologies for absence	
2.1	Apologies for absence were received from Rosalind Lane, George Sutherland, Mario Ambrose and Beverley Gallacher	
3.	Declaration of Interest	
3.1	SP declared an interest in item 2.1.4 in report Agenda Item 4.	

<p>4.</p> <p>4.1</p> <p>4.2</p> <p>4.3</p> <p>4.4</p> <p>4.5</p> <p>i)</p> <p>ii)</p> <p>iii)</p> <p>iv)</p>	<p>Governance & Stewardship</p> <p>RE gave an oral update on item 2.1.1 – tenant board vacancy. RL has agreed to stand down from today. The Board accepted Chris Silvey on to the Board as a tenant board member, effective 2 October 2019 for a term of 3 years.</p> <p>SP advised that as a result of RL’s departure this would leave a vacancy on the Personnel and Remuneration Committee and also a vacancy for a safeguarding champion. SP suggested that Officers send out an expression of interest for the Safeguarding Champion’s role, the Board agreed to this suggestion. SL agreed to provide an outline of the safeguarding champion role to be circulated to board members in view of the current vacancy.</p> <p>BL passed on RL’s thank you for the flowers sent by the EMT on behalf of the Board.</p> <p>SP left the room in order for the Board to discuss point 2.1.4. MG gave background regarding the change in company secretary role. The Board accepted the recommendation.</p> <p><u>Recommendation:</u></p> <p>The Board agreed an oral update and recommendation from the Chair of the Board on behalf of the Recruitment Selection Panel to appointment a Tenant Board member for a term of office for three years commencing 2 October 2019 in accordance with the Articles of Association.</p> <p>The Board noted that Margaret Borton be appointed to the Audit & Risk Committee.</p> <p>The Board noted that Margaret Borton be appointed to the position of Health and Safety Scrutineer.</p> <p>The Board agreed the appointment of the Group Manager for Corporate Resources and Income Management as the Company Secretary for South Essex Homes.</p>	<p>SP/SL</p>
<p>5.</p> <p>5.1</p> <p>5.2</p>	<p>Minutes and Matters Arising from the Board Meeting held on 10 July 2019</p> <p>The Minutes of the meeting of 10 July 2019 were agreed as a true and accurate record of the meeting.</p> <p>MB asked for further explanation regarding the annunciation system pilot in tower blocks. SL gave the Board an update on the situation.</p>	

6.	Chair's Remarks	
6.1	RE informed the Board that Cllr Ian Gilbert, the new Leader of the Council and Alison Griffin, Chief Executive of Southend Borough Council had agreed to attend the half day strategy meeting on 4 February 2020.	
6.2	RE updated the Board that a preliminary meeting with the Chair of the Board of Southend Care had taken place to discuss ways in which we can work collaboratively.	
6.3	RE advised the Board regarding a customer voice leaflet that had been produced by Housemark which explained how ALMOs and Housing Associations used feedback from customers to improve their service. This will be added to the Diligent Resource Centre and forwarded to Board members who do not have access to Diligent. MG advised this was a topic which could usefully be discussed with the resident security forum.	CC
7.	Health & Safety Compliance and Fire Safety update	
7.1	SL updated the current situation regarding PAT testing.	
7.2	MG reported that the Health & Safety Compliance and Fire Safety update Report will in future be discussed with Health & Safety Scrutineer, Margaret Borton prior to its inclusion in the Board pack	
7.3	BL raised a question regarding key safes and how these are viewed by insurance companies in terms of whether contents would be covered or not SP to check position with existing Insurance provider and provide update.	SP
7.4	DJ requested clarification regarding the procedure whereby access is gained to carry out health and safety checks (ie gas and electricity). SL to clarify the position.	SL
7.5	DJ requested clarification regarding as to how often the law requires SEH to test for Legionella. PL confirmed that the company we use for the testing abides by the guidelines. SL to confirm in writing to DJ	SL
7.6	MG confirmed that Graham Hart had started in the role Fire Safety Manager on 1 October 2019 on an 18 month contract.	
8.	Partnership Agreement – progress update	
8.1	CV updated on the discussions with SBC and Altair regarding the current situation with the Partnership Agreement. The programme is currently on schedule to be recommended to Council Members at their 5 November meeting.	

8.2	GH also assured the Board that appropriate diligence had been taken by SEH officers so that the Partnership Agreement works for both SEH and SBC. Both CV and GH confirmed that considerable progress had been made recently.	
8.3	SBC had sent communication to all tenants regarding the Partnership Agreement under Section 27 and TH confirmed that responses from tenants had been in single figures with no negative responses.	
9.	Residents' Voice Your View	
9.1	No Residents' Voice Your Views had been received.	
10.	Company Assurance Report as at 31 August 2019	
10.1	DL updated the Board that only 6 complaints out of the 64 reported were Stage 2.	
10.2	The Board members asked for an update on void progress in view of the figures in the report. Officers explained it is subject to close scrutiny and a further update will be at the next Board meeting.	
10.3	MB requested clarification regarding the kitchen and bathroom programme. It was explained that Morgan Sindall had been slow to start the works but it has been confirmed that the works are still on track to be completed by the deadline of March 2020	
10.4	MO sought clarification as to whether there were penalty clauses in the Morgan Sindall contract. PL confirmed that if KPIs are not achieved in year 1 of the contract then they would lose year 10, this would apply for subsequent years too.	
10.5	MB required clarification as to whether complaints specifically attributed to Morgan Sindall would be reported in KPIs. MG explained we keep a record of all complaints and we can provide information where Morgan Sindall were the cause.	
10.6	GH stated that the Council were aware that Brexit may lead to tenant arrears as it may cause food and fuel poverty. He suggested that SBC and SEH should work together on a campaign to inform tenants of ways that SBC can help.	SP
10.7	<u>Recommendations</u>	
i)	The Board noted the update on financial information as at August 2019	
ii)	The Board noted the Key Performance Indicators position as at August 2019	
16.	Date of next meeting – 4 December 2019	

Matters Arising from Board meeting held 2 October 2019

4.	Governance & Stewardship	
4.2	<p>SP advised that as a result of RL's departure this would leave a vacancy on the Personnel and Remuneration Committee and also a vacancy for a safeguarding champion. SP suggested that Officers send out an expression of interest for the Safeguarding Champion's role, the Board agreed to this suggestion. SL agreed to provide an outline of the safeguarding champion role to be circulated to board members in view of the current vacancy.</p> <p>Included in Governance and Stewardship Report</p>	SP/SL
6.	Chair's Remarks	
6.3	<p>RE advised the Board regarding a customer voice leaflet that had been produced by Housemark which explained how ALMOs and Housing Associations used feedback from customers to improve their service. This will be added to the Diligent Resource Centre and forwarded to Board members who do not have access to Diligent.</p> <p>Added to Diligent and circulated to other Board members</p>	CC
7.	Health & Safety Compliance and Fire Safety update	
7.3	<p>BL raised a question regarding key safes and how these are viewed by insurance companies in terms of whether contents would be covered or not SP to check position with existing Insurance provider and provide update.</p> <p>SP confirmed that he has checked with the insurance company and they confirm that if key safes are fitted that the insurance is valid and the contents would be covered.</p>	SP
7.4	<p>DJ requested clarification regarding the procedure whereby access is gained to carry out health and safety checks (ie gas and electricity). SL to clarify the position</p> <p>In relation to gas checks we use statutory regulations and apply for a warrant. Other situations whereby access is required for H&S, such as electrical, we rely on the tenancy conditions and legal action we can take which can include possession or injunction.</p>	SL
7.5	<p>DJ requested clarification regarding as to how often the law requires SEH to test for Legionella. PL confirmed that the company we use for the testing abides by the guidelines.</p>	SL

	<p>The law requires that organisations carry out a risk assessment every 2 years to define how regularly tests have to take place for Legionella. We have a process in place to carry out monthly temperatures tests on water tanks in sheltered schemes. In addition we carry out quarterly sample tests. The new contractor IWS is also commencing 6 monthly tests on water tanks in tower blocs.. The temperature tests will shortly be carried out remotely rather than requiring an operative to attend at site.</p>	
<p>10.</p> <p>10.6</p>	<p>Company Assurance Report as at 31 August 2019</p> <p>GH stated that the Council were aware that Brexit may lead to tenant arrears as it may cause food and fuel poverty. He suggested that SBC and SEH should work together on a campaign to inform tenants of ways that SBC can help.</p> <p>SP confirmed that he has spoken with Glyn Halksworth in the first instance and then had a conversation with Emma Cooney the Director Regeneration and Business Development , who has invited him to attend the next Brexit Core Group update meeting . This will ensure that South Essex Homes are part of discussions moving forward and enable us to work in partnership with the Council to keep tenants informed about changes that may impact on them from BREXIT and identify the potential impact on rent arrears.</p>	<p>SP</p>

South Essex Homes Limited

Report of Company Secretary
to
The Board
on
4th December 2019

Report prepared by: Simon Putt
Tel: 01702 212624

Agenda
Item No.

7

Governance and Stewardship

A Public Agenda Item

1 Purpose of Report

- 1.1 To obtain agreement from the Board on governance related issues.

2 Recommendations

- 2.1 The Board are recommended:-

- 2.1.1 To agree that Chris Silvey be appointed to the Personnel and Remuneration Committee.
- 2.1.2 To consider appointing to the position of Safeguarding Champion
- 2.1.3 To note the annual analysis of Board Member attendance

3 Background

3.1 Board Appointments

- 3.1.1 There is a vacant position on the Personnel and Remuneration Committee, which occurred when Rosalind Lane left on the 2 October 2019. The Board is asked to discuss and consider a replacement for the vacant position, noting that Chris Silvey has expressed interest in filling the vacancy.
- 3.1.2 The position of Safeguarding Champion was previously occupied by Rosalind Lane, the Tenant Board Member, whose term on the Board finished on the 2 October 2019. At the Board meeting on the 2 October 2019 Board Members asked Officers to circulate a note to seek expressions of interest for the role. No expressions of interest have been received from Board members at the time of writing this report. The Board are asked to discuss and consider a replacement to this vacant position.

3.2 Chair's Action

3.2.1 The Chair and the Vice Chair of the Board agreed one Chair's Action for the period from 2 October 2019 until 17 November 2019. At the New Business Committee meeting held on 8 November 2019, discussion was held concerning prospective contract(s) and the continuation of negotiations.

3.2.2 Given the deadline for the contract submission, and the critical importance of this area of activity, approval of the Chair and Vice Chair to progress the contract negotiations was sought and approval given.

3.3 Board Member Attendance 2019/20

3.3.1 In accordance with Article 15.1.8 of the Articles of Association, each Board member is expected to attend a minimum 60% of Board/Committee meetings during the year.

3.3.2 Board Attendance for 2019/20 for the year to date is 87% which is significantly within the minimum criteria.

4 **Equality and Diversity**

4.1 All equality and diversity issues identified from the proposals contained in this report have been considered and are in accordance with the South Essex Homes' Equality and Diversity Policy.

5 **Risk**

5.1 Any risks identified from the proposals contained in this report have been considered by the Executive Management Team. The Board have identified risks associated with the governance of the organisation within statutory regulations.

6 **Financial Implications**

6.1 Not applicable for this particular report.

7 **Resident Consultation**

7.1 Not applicable for this particular report.

8 **Background Papers**

8.1 Minutes of the New Business Committee meeting held on 8 November 2019

South Essex Homes Limited

Report of Director of Business Development

To

The Board

On

4th December, 2019

Report prepared by: Daniel Lyons
Tel: 01702 212605

**Agenda
Item No.**

8

Company Assurance Report

1 Purpose of Report

- 1.1 To provide the Board with a high level statement of assurances relating to the financial and operational performance of the company.

2 Recommendations

- 2.1 That the Board are recommended to:-
- 2.1.1 Note the update provided on financial information as at October 2019.
- 2.1.2 Note the Key Performance Indicators position as at October 2019.
- 2.1.3 Agree the revised target for SEH KP7 – Void turnaround time of 19 days as recommended by the Audit and Risk Committee
- 2.1.4 Agree the Management Fee Bid, Service Charge increases, Heating Charge Increases and proposed Repairs Budget for 2020/2021 for submission to Southend Borough Council as recommended by the Audit and Risk Committee.

3 Financial Update

3.1 Introduction

- 3.2 This report sets out the actual expenditure on the operating budget and revenue repairs budget to 31st October 2019.

3.3 Expenditure for 2019/20

Description	Budget for year £000	Budget to 31 st October £000	Actuals at 31 st October £000	Variance £000
Turnover	10,666	5,466	5,518	52
Operating costs & Interest	10,663	5,373	5,233	140
Profit / (Loss)	3	93	285	192

The Revenue Repairs Budget	5,385	3,104	3,043	61
The Capital Programme	7,495	2,552	2,866	(314)

3.4 The Operating Budget

The main variances on the Operating Budget are detailed below;

Training and Staff Advertising - £14k favourable

A review of potential training requirements is currently under review with the input of our HR support service and should result in more effective use of the training budget over the next few months.

Utilities - £27k unfavourable

Prices and usage of gas and electricity vary from year to year depending on the weather and contract price increases. Any costs relating to energy usage are recharged to tenants in subsequent years by way of service charge increases.

Telephones - £19k unfavourable variance

We continue to incur costs associated with Broadband lines within Sheltered Schemes. Southend Borough Council ICT have been asked to investigate and progress this line of work but due to reorganisations within the ICT department at Southend Borough Council this has not yet progressed as we would hope. This has now been escalated further with the hope that a satisfactory outcome will be achieved.

ICT Costs - £66k favourable variance

This budget includes a number of one off items where we will incur expenditure this year, the funding of these was reliant on the Council agreeing a business case which has been produced and submitted to them.

3.5 Revenue Repairs

The Revenue Repairs Budget is under spent by £57k to date

Within the overall Revenue Repairs Budget heading, the Responsive Repairs area is overspent by £138k, which is due to some large one off costs being incurred in the first part of 2019/20 as well as some legacy works carried over

from the Kiers contract in 2018/19. We should see this overspend against budget reduce as the year progresses.

The Voids area of the Repairs Budget is currently underspent by £232k. A prudent budget was set for this area based on previous years spend. As we are being billed based on a price per void at an assumed level of voids, when a reconciliation is done between billed voids and void works actually carried out this figure may change. We are still anticipating an underspend at year end in this area.

3.6 Capital Programme

There is an over spend of £315k shown against the Capital Programme to date.

However, the cost incurred in 2019/20 include around £700k of creditors brought forward for works completed in 2018/19 but not invoiced in that year. The Council reimburses South Essex Homes for invoices paid and settled in year and so these costs will be settled during 2019/20.

We expect the programme to be completed as budgeted for the remainder of the year.

4 Key Performance Indicator Exceptions

4.1 The performance report for the period April 2019 to October 2019 is shown at Appendix 1. The following Key Performance Indicators have not met the monthly or annual performance target to date;

SEH KP4 – Collection rate for rents

SEH KP 7 – Void Turnaround time

SEH KP12a – Responsive Contractor repairs completed in target times

SEH KP19 - % non decent homes

SEH KP24 – Working Days Lost due to Sickness Absence

4.2 Rent collection shown in KP4 was below target in October 2019, the overall year to date figure is 99.42% this is above the target of 98.60%. There has been no reduction in recovery activity, and every effort has been made to reach the target, nevertheless the overall arrears performance (KP5) is within target.

4.3 Void turnaround time has met its target of 17 days for October but the year to date performance is still behind the target at 23.9 days. There were a large number of Voids carried over from 2018/19 and assigned to the new contractor, the new contractor was slow to mobilise enough resources to deal with this backlog along with the properties becoming void in 2019/20 and so turnaround time was adversely affected. Voids are now starting to see a decrease in turnaround and the contractor is starting to perform better. The total number of voids has now reduced which is making it more manageable for the contractor. Even though performance has improved it is unlikely that the target of 17 days will be met.

- 4.4 Performance for responsive repairs completed in target time in KP12a failed to meet target in October. Morgan Sindall's performance continues to suffer as they deal with a backlog of responsive repair jobs which have been caused by various issues including the legacy of the cessation of the Kier contract and more recently IT problems. They are working through their recovery plan to deal with this backlog of work and regular dialogue and monitoring is in progress internally at a senior management level with the Director of Morgan Sindall Property Services.
- 4.5 The majority of Decent Homes failures for this year are for electrical rewires. A standalone tender is currently progressing to address these properties. All other works are progressing and we are on target to meet full Decent Homes standard by year end.
- 4.6 There has been a slight increase in the number of working days lost due to sickness in October with days lost to short term increasing to 76 days (from 58 days in September). Days lost to long term sickness has also increased to 55 days in October (44 days in September). The 2 reasons for absence with the highest increase for October were Gastrointestinal problems accounting for 24 days (10.8 days in September) and Musculoskeletal problems (including back pain) accounting for 47 days (29 days in September).

For the year to date the 4 most common reasons for sickness absence are;

Mental health – 194 days
Musculoskeletal – 178.5 days
Tumours/Cancer Related – 99 days
Gastrointestinal – 89 days

- 4.7 This area of corporate performance is monitored closely by the Personnel and Remuneration Committee at each meeting, as well as on a monthly basis by the Executive Management Team.

5 Semi Annual review and Target Setting

- 5.1 From the exceptions noted in section 4 it can be seen that there are several performance indicators which are not currently at the required level of performance set by the Board for this financial year.
- 5.2 At this point in the year the management team review and consider the appropriateness of the targets set with regards to the current environment that South Essex Homes operates in.
- 5.3 The four Performance targets that are currently missing targets are as set out above. For each of these we need to consider the likelihood of these performance targets being met considering where we are in the year and the performance to date.
- 5.4 For SEH KP4, collection rate for rents, we have no concern that the annual target will be met at this stage.

- 5.5 The responsive repairs completed in target times, SEH KP12a, is currently missing the annual target by some margin (target of 97% compared to performance to 31st October of 91.59%). It is not proposed to alter this target for this current financial year though. There are 2 reasons for this. Firstly, the contractor has this target of 97% as part of their contractual terms for the first year of the contract, in order for this to be monitored at this contract level this target should remain. Secondly, this target is still able to be met if we continue to work alongside the contractor to ensure improved performance once the backlog of work in progress clearance has been finished.
- 5.6 The % of non-decent council homes, SEH KP19, is a measure where we should always strive to obtain 100% decency. There are currently a large number of electrical rewires outstanding and we have a contractor in place to deal with this backlog. Historically, it has always been hard to obtain access for these works as there is a high level of refusal due to the time taken to undertake the work and the disruption to the tenants involved. We will work hard to ensure that these properties remain a priority and that we endeavour to obtain the required access to undertake the works. However, it is likely that we will encounter difficulties with this and although we will put in measures to limit this as much as possible it may be that access becomes a bigger issue for a small number of properties. This may impact on our ability to meet the annual target but at this stage we are not recommending that the target is adjusted.
- 5.7 A number of properties were held up in the voids process during the change in contractor and this subsequently increased substantially the number of properties needing to be turned around for the first 5 months of the year. This backlog of properties has meant that the contractor working on these properties has not been able to meet the targets during these periods. Although we are now seeing increased performance from the Contractor the level of performance to date means that the annual target will not be met. If this target of 17 days is met for the last 7 months of the year then we are likely to be seeing an annual figure for this KPI of around 20.5 days. In order to set a challenging but realistic target it is recommended that we alter this target to 19 days. This will still see our contractor and South Essex Homes being stretched to exceed the current target of 17 days for the remainder of the year but it is not unrealistic.

6 Management Fee Bid 2020/21

- 6.1 The Company's operating budget is supported by several sources of income, with the main fees supporting South Essex Homes' operating budget being the Management Fee and the Service Charge Income. Additionally, the Company supplements and incorporates within its operating budget approximately £600k of Careline Income and from its other external work income, approximately £200k.
- 6.2 Appendix 1 sets out the proposed Management Fee bid to Southend Borough Council for 2020/21, the proposed Repairs Fee bid for 2020/21 as well as the proposed increases to tenants Service Charges and Heating Charges.
- 6.3 The major and substantial change to the management costs of South Essex Homes are the changes in pay costs associated with the annual increments staff are contractually entitled to as well as the cost of living increase agreed in

advance by employers and unions each year and approved by the Board. The Local Government Employers have not yet agreed an award for 2020/21 and so the Board have not yet been asked to approve the pay award for South Essex Homes' staff for 20/21. This has been assumed to be at 2% but the submission to Southend Borough Council will make note that this part of the bid will be subject to change depending on these agreements.

- 6.4 For 2020/21 the cost of implementing increments across the company is £37k and the cost of the anticipated cost of living increase would be £120k. These combined give total pay pressures of £157k. Of these pay pressures South Essex Homes is able to recover some from increasing service charges to tenants in areas such as Estate Services and Sheltered Housing. These mean that we will be able to offset £56k of increased income in these areas. This leaves £101k of pay pressures that we are asking the Council to increase funding for.
- 6.5 Essex Pension Fund is currently in the process of finalising their triennial valuation of the pension fund. This is likely to lead to changes to the Employer Pension Contribution Rate for staff employed directly by SEH. It is not known the outcome of this but it is expected that there could be an increase in contribution rates, a one off pension deficit reduction payment or both. As South Essex Homes is informed by Essex Pension of these changes we will begin negotiations with Southend Borough Council over the level of additional funding that we will require to offset this. Essex Pension Fund have indicated that a position will be known between December and February.
- 6.6 Southend Borough council have in previous years agreed that any cost increases associated with SLA's would be met through increased Management Fees as well as any additional expenditure which is incurred as a result of a Southend Borough Council decision or legislative change. For 2020/21 it is proposed that South Essex Homes bid for the following additions to the Management Fee;
- 6.7 SLA Inflationary Increases (2%) - £19k – These are the usual 2% increases to all SLA's fees which are billed by Southend Borough Council. As these are increased charges associated with decisions by Southend Borough Council these increases are usually met through increased Management Fee.
- 6.8 Support Services Assistants - £90k – During 2019/20 it was agreed by Southend Borough Council that they would fund additional temporary resource to assist in the increased hostel provision in the Borough. It is proposed that this is continued and then reviewed again each year during the budget setting stage to assess the provision of hostel spaces at that time.
- 6.9 Professional Support to Residents under PIE framework - £23k - Further to the support provided by the Support Services Assistants discussed above there was also an ongoing need for regular professional supervision that will provide a framework of PIE (Psychologically Informed Environment) to support staff and residents. This work would be carried out by external partners. This would be reviewed annually with the intention to train members within the team to help sustain the initiative dependent on occupancy levels.

- 6.10 Technology Improvements (Staff hardware) - £57k – It has become clear over the last year that the current hardware (laptops and PC's) are becoming unfit for purpose. We are therefore asking for a hardware renewal programme to start in 2020/21 with the aim to replace all hardware on a 3 year rolling programme. This will ensure that the service provided to the Council's tenants is able to be maintained.
- 6.11 Increased Provision for Property Security - £273k – There are on -going and increasing ASB/safety issues in all Council owned tower blocks and sheltered schemes in the borough wide. Ward members have indicated a need and support this security initiative that in turn supports the overall ambitions of the Southend 2050 vision, in particular 'Safe and well'. In pursuit of keeping tenants and their homes secure and to reduce the recently heightened fear of crime thereby making them feel safe in their own homes local ward councillors suggest that, the current SEH neighbourhood patrol service is extended to cover the full 24 hour period. The service design will include regular patrols, detailed evidence gathering, control of unauthorised access, and an important element of active fire prevention through frequent enforcement presence and immediate incident response. A full business case will be prepared outlining all elements of service design, benefits to be delivered, final costs, and documented support from both Members and Tenants.
- 6.12 Continued annual updates to Northgate Housing - £3k – Northgate Housing is the system that South Essex Homes currently utilises on behalf of the Council to manage the Council's tenancies. Currently South Essex Homes do not take advantage of the annual software upgrades released by Northgate Housing and therefore when upgrade becomes mandatory it is a much larger piece of work to upgrade the system. This allows for us to employ 3 days consultancy per year to put in place these upgrades as they are released and will enable staff to benefit from any new functionality.
- 6.13 Civica Frontline Project - £9k – In order to better deliver services from frontline staff it is important that frontline staff have the ability to work remotely when out in the borough. Civica is the software chosen by Southend Borough Council to deliver services from frontline staff to tenants. These funds will enable the ongoing support of this initiative by funding the data usage from staff member's devices as well as the annual maintenance of the Civica 360 software that will be needed.
- 6.14 Facilitating and enabling the delivery of the new partnership agreement and members agreement - £89k – It has been recognised in ongoing discussions with SBC that the new partnership agreements terms will require greater input from South Essex Homes than has been needed in the past. There are three elements to this bid.
- There will be greater emphasis on the information supplied to Southend Borough Council and the continued monitoring of this relationship
 - There will be a requirement for an on-going rolling satisfaction survey of residents
 - With increased focus from the regulator of social housing, as set out in the consumer standards, and the government's green paper on housing, engagement with residents is becoming vitally important.

The £89k bid will allow for sufficient resources to be utilised, maintaining these 3 areas of our business.

Proposed one off increases to the Management Fee

- 6.15 South Essex Homes would request that the Council give consideration to additional one off increases to the Management Fee for 2020/21.
- 6.16 Upgrades to Apex Software - £10k – The Apex software is currently used as our Asset management database to manage the Councils Assets (housing stock). There is a requirement that additional service modules are purchased and developed to better enable the service delivery within our Property Services team.
- 6.17 Website Development - £30k – The South Essex Homes website is in need of development. These funds would enable a better, more modern website better suited to the needs of our tenants to be developed and incorporate the mandatory changes required under the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018.
- 6.18 Civica Frontline Project - £40k – In order to better deliver services from frontline staff it is important that frontline staff have the ability to work remotely when out in the borough. These funds would enable the setup of this system including the purchase of Civica 360 software and the purchase of devices that the teams could use remotely to better work with tenants.
- 6.19 Tenancy Conditions review - £20k - The Council's tenancy conditions are now due for an update, these funds will enable full consultation with residents over any proposed changes to the conditions as well as funds to develop and write the new set of conditions.
- 6.20 Exploring new Green Initiatives - £20k – South Essex Homes is committed to ensuring that the services we deliver to tenants are 'environmentally friendly'. This fund will enable initial work to be undertaken to establish where South Essex Homes could put in place measures that would see a greater shift towards green measures and contribute to the Council's wider Southend 2050 vision.
- 6.21 Digital Switchover of Sheltered Housing – The infrastructure within Sheltered Schemes for delivering services such as door entry and alarm services is still an analogue system. By 2025 all the network will become digital meaning that any equipment will need to be replaced with a digital alternative. It is not yet known how much these measures are likely to cost and where changes will be needed but South Essex Homes will ask the Council to consider this as a future project that will need funding from the Council's Capital programme.

7 Service and Heating Charge Increases 2020/21

- 7.1 The Service charges and Heating charges are based on actual costs incurred by South Essex Homes and all income collected is paid to South Essex Homes in addition to the Management Fee in order to deliver services.

7.2 All the elements of the service charges have been considered and the proposal is to increase service charges by an average of 6.36% for 2020/21. The main reasons for this increase relate to increases in employee costs and overall increases contract prices including electricity.

7.3 The Heating Charge levied on Sheltered and Hostel tenants for the provision of heating in individual properties is always based on actual usage and actual costs for the year from November to October preceding the year the charge is levied in. For the 2020/21 heating charge the costs being charged are for the period November 2018 to October 2019. For 2020/21 it is proposed that the charge in Sheltered Housing is increased by an average of around 17%, based on the previous actual costs.

8 Repairs Budget Proposal 2020/21

8.1 The Repairs Budget has been fully reviewed in light of current contract prices and new contracts that will impact on the budget. Appendix 3 sets out the proposed repairs budget for 2020/21 that will be submitted to Southend Borough Council.

9 Diversity and Equality Opportunities

9.1 There are no direct Equality and Diversity implications arising from this report.

10 Financial Implications

10.1 The financial implications are incorporated in the body of the report.

11 Resident Consultation

11.1 Residents are indirectly involved in budgetary control as they are involved in reviewing our performance on a regular basis.

12 Background Papers

12.1 None

13 Appendices

13.1 Appendix 1 – Key Performance Indicator Report

13.2 Appendix 2 – Management Fee Bid 20/21

13.3 Appendix 3 – Repairs Budget 20/21

October 2019 performance report Board

October 2019 performance report



PI Status		Long Term Trends		Short Term Trends	
	Alert		Improving		Improving
	Warning		No Change		No Change
	OK		Getting Worse		Getting Worse
	Unknown				
	Data Only				

Code	Short Name	2018/19	September 2019	October 2019	2019/20	Long Term Trend Arrow	Current Target	Traffic Light Icon	Latest Note
		Value	Value	Value	Value				
SEH KP 4	Collection rate for rents	99.33%	100.25%	98.10%	99.42%		98.60%		There is always monthly fluctuation in rent collection figures. In October the rent collection was below the target. However, the overall year to date figure is 99.42% which is above the target of 98.60%. There has been no reduction in recovery activity, and every effort has been made to reach the target. Overall arrears performance (KP5) is within target.
SEH KP 5	Current rent arrears as % of rent due	1.91%	1.99%	2.05%	2.05%		2.60%		This indicator represents the current arrears as a percentage of the total rent collectable for the year. I am pleased to report that we are on target this month, which has been as a result of the combined efforts of the frontline teams working together to tackle rent arrears at an early stage, and to support tenants in

Code	Short Name	2018/19	September 2019	October 2019	2019/20	Long Term Trend Arrow	Current Target	Traffic Light Icon	Latest Note
		Value	Value	Value	Value				
									sustaining their tenancies. The target has been changed for this year in agreement with SBC to take into account the continuing roll out of Universal Credit, and the significant impact this is having and will continue to have on the arrears position.
SEH KP 7	Void turnaround time	13.9	20.6	13.5	23.9	↑	17.0	🟢	This month's performance has improved and contractors are now set up with deal with volume of voids.
SEH KP12a	Responsive contractor repairs completed in target times	93.99%	83.87%	84.52%	91.59%	↓	97.00%	🔴	Morgan Sindall performance continues to suffer as they deal with a backlog of responsive repair jobs which have been caused by various issues including the legacy of the cessation of the Kier contract and more recently IT problems. They are working through their recovery plan to deal with this backlog of work and regular dialogue and monitoring is in progress internally at a senior management level with the Director of MSPS.
SEH KP12b	Gas contractor repairs completed in target times	99.48%	99.68%	100.00%	99.94%	↑	100.00%	🟢	
SEH KP17	Gas safety certificates	100.00%	100.00%	100.00%	100.00%	↑	100.00%	🟢	
SEH KP19	% non-decent council homes	1.6%	5.3%	5.1%	5.1%	↓	2.6%	🔴	Majority of DH failures for this year are for electrical rewires. A standalone tender to address these is currently underway. All other works progressing in line with planned works and works identified from Surveyors.
SEH KP24	Working Days Lost Due to	11.76	0.68	0.85	5.00	↓	0.75	🔴	There has been a slight dip in performance in October with days

Code	Short Name	2018/19	September 2019	October 2019	2019/20	Long Term Trend Arrow	Current Target	Traffic Light Icon	Latest Note
		Value	Value	Value	Value				
	Sickness Absence								<p>lost to short term increasing to 76 days (from 58 days in September). Days lost to long term sickness has also increased to 55 days in October (44 days in September). The 2 reasons for absence with the highest increase for October were Gastrointestinal problems accounting for 24 days (10.8 days in September) and Musculoskeletal problems (including back pain) accounting for 47 days (29 days in September).</p> <p>For the year to date the 4 most common reasons for sickness absence are;</p> <p>Mental health – 194 days</p> <p>Musculoskeletal – 178.5 days</p> <p>Tumours/Cancer Related – 99 days</p> <p>Gastrointestinal – 89 days</p>
SEH KP25 (F2)	Total Complaints responded	76	23	21	107	↑			Stage 2 complaints – 9 year to date
SEH Local R13	Current rent arrears (in cash)	£612,231	£652,682	£669,760	£669,760	↓			This is the base figure used in the calculation of KP5, so please see comments under this indicator above
SEH Local R13a	Former tenants arrears	£413,647	£399,157	£408,739	£408,739	↑			Write offs total - £84,128 year to date
SEH Local R14	FTAS as a percentage of debit	0.98%	0.99%	1.03%	1.02%	↓	1.20%		The Former Tenant Arrears is a constantly moving figure in that any termination, be it an eviction or a tenant terminating their tenancy voluntarily will create a former tenant debt, therefore it is quite difficult to predict the levels of new

Code	Short Name	2018/19	September 2019	October 2019	2019/20	Long Term Trend Arrow	Current Target	Traffic Light Icon	Latest Note
		Value	Value	Value	Value				
									debt. Nevertheless we are currently achieving the target this year, and there is no reason at this stage in the year why we shouldn't achieve the target
SEH Local V3	Void loss as % of debit	1.26%	1.68%	1.64%	1.79%	↓			
SEH Local V8	Percentage of property void & relettable	0.99%	1.19%	1.20%	1.20%	↓			

Management fee Bid 2020/21

	£'000	
2019/20 Core Management Fee	5,738	
Pay Pressures		
Pay Increments	37	
Nationally Agreed Cost of Living (assumed at 2% but unknown at present)	120 *	
Pension Contribution Rate Increase	0 **	
SLA Inflationary Increases (2%)	19	
Sub Total	5,914	
Estate Services, Sheltered and Careline pay increases absorbed through charging	(56)	
2020/21 Core Management Fee Bid with inflationary increases	5,857	2.08%
Proposed service improvements - continuing additions to the Management Fee		
Support Services Assistants to Support Increased Hostel Provision	90	
Professional Support for Residents under PIE framework	23	
Technology Improvement - Staff hardware - 3 year rolling programme	57	
Increased Provision for Property Security	273	
Continued updates for Northgate Housing	3	
Civica Frontline Project	9	
Facilitating and enabling the delivery of the Partnership Agreement	89	
2020/21 Core Management Fee Bid with continuing additions	6,401	11.56%
Proposed one off additions to the Management Fee		
Upgrades to software - Apex	10	
Website Development	30	
Civica Frontline Project	40	
Tenancy Conditions Review	20	
Exporing new Green Initiatives	20	
Digital switchover of Sheltered housing infrastructure	x	
2020/21 Management Fee Bid with one off funding	6,521	13.65%
* £60k for every 1% change in Pay award		
** £34k for every 1% change in employer pension rate		

Repairs Budget Bid 2020/21

	£'000	
2019/20 Repairs Fee	5,384	
Proposed changes to the Repairs Fee		
Planned and Cyclical Repairs Budget Adjustments	361	
Resposive Repairs and Voids Budget Adjustments	(87)	
Sub Total	5,657	
Proposed one off increases to the Repairs Budget		
2019/20 Repairs Fee Bid after one off items	5,657	5.08%

Service Charges 2020/21

2019/20 Total Tenant Weekly Service Charge	61,684
2020/21 Total Tenant Weekly Service Charge	65,609
Average Service Charge Increase	6.36%

Heating Charges 2020/21

2019/20 Total Weekly Sheltered Heating Charge	3,968
2020/21 Total Weekly Sheltered Heating Charge	4,630
Average Sheltered Heating Charge Increase	16.69%
2019/20 Total Weekly Hostels Heating Charge	700
2020/21 Total Weekly Hostels Heating Charge	737
Average Hostels Heating Charge Increase	5.17%

Revenue Repairs 2020/21 Budget

		2019/20 Budget Annual £	2018/19 Actual Spend Annual £	2019/20 Actual Spend To 31/10/2019 £	2019/20 Forecast Annual £	2020/21 Budget Annual £	Change in Budget 19/20 to 20/21 £
Planned Repairs							
Planned & Cyclical Repairs							
R0004	Emergency Lighting Non - Contract	36,000	40,612	20,435	40,870	41,000	5,000
R0006	Miscellaneous Gas Charges	94,000	90,456	40,673	87,065	98,000	4,000
R0007	Electrical Services after Test	16,500	32,370	26,846	53,692	54,000	37,500
R0008	Water Testing	24,000	40,578	9,627	19,254	30,000	6,000
R0009	Lift Maintenance Non - Contract	20,000	10,737	8,030	16,061	17,000	(3,000)
R0013	Sheltered Appliances	17,000	15,866	7,081	12,139	13,000	(4,000)
R0014	Emergency Lighting Service Contract	22,000	21,207	22,277	36,979	38,000	16,000
R0015	Gas Servicing Contract	768,380	751,660	498,848	855,470	855,000	86,620
R0016	Electrical Testing Service Contract	52,000	52,101	21,128	48,073	55,000	3,000
R0017	Fire Alarms Service Contract	7,000	6,271	5,012	6,563	7,000	0
R0018	Lift Maintenance Service Contract	56,000	53,260	41,936	65,204	65,000	9,000
R0019	Laundry Equipment	24,000	17,197	9,538	16,351	17,000	(7,000)
R0021	T V Aerials Reactive Contract	35,000	43,718	17,665	30,283	31,000	(4,000)
R0022	Asbestos Surveys	20,000	2,400	590	1,011	20,000	0
R0023	Door Entry Systems	110,000	104,686	71,243	118,753	120,000	10,000
R0025	Security Systems	14,000	15,489	2,799	8,892	9,000	(5,000)
R0026	Fire Alarms Non - Contract	13,000	17,486	13,540	23,211	25,000	12,000
R0027	Stairlift Maintenance	23,000	19,922	10,627	18,217	19,000	(4,000)
R0028	Asbestos Works	75,000	57,161	30,657	52,555	80,000	5,000
R0030	Landlord Services	47,000	47,472	31,956	54,782	55,000	8,000
R0032	Portable Equipment Electrical Testing Coni	10,000	13,142	0	10,000	15,000	5,000
R0034	Windows Maintenance Electrical	7,000	4,872	11,393	15,604	20,000	13,000
R0036	Lightning Protection Service Contract	5,000	480	0	4,250	5,000	0
R0038	Carousel Maintenance	7,000	1,798	2,880	5,402	6,000	(1,000)
R0040	Fire Safety Improvements	4,000	1,735	8,153	10,000	12,000	8,000
R0049	Trees	55,000	49,812	31,655	54,266	55,000	0
R0051	Bulk Refuse Removal	10,000	6,105	3,900	6,686	7,000	(3,000)
R0052	OAP Decorations	20,000	15,692	15,505	20,000	20,000	0
R0053	Condensation Works	0	0	0	0	0	0
R0063	Automatic Barrier Maintenance	15,000	13,738	5,295	10,590	11,000	(4,000)
R0066	Fire Door Servicing	0	0	0	0	220,000	220,000
	Japanese Knotweed	0	0	0	0	7,500	7,500
R0070	Tenant Co-ordinator Vouchers	200	180	0	0	200	0
Total Planned & Cyclical Repairs		1,607,080	1,548,202	969,289	1,702,222	2,027,700	420,620
Planned Decs							
R0001	Planned Decs	250,000	179,500	112,290	250,000	350,000	100,000
Total Planned Decs		250,000	179,500	112,290	250,000	350,000	100,000
Major Works							
R0064	Major Planned Works	0	0	0	0	0	0
R0067	Decorating Vouchers	38,000	37,113	19,580	33,565	34,000	(4,000)
R0071	Structural Advice	2,000	0	2,309	4,617	5,000	3,000
Total Major Works		40,000	37,113	21,888	38,182	39,000	(1,000)
Anti-Social Behaviour							
R0057	Anti - Social Behaviour	3,000	2,363	0	3,000	3,000	0
Total Anti-Social Behaviour		3,000	2,363	0	3,000	3,000	0
Community Development							
R0056	Resident Led Projects	5,000	4,000	0	5,000	5,000	0
R0058	Sanctuary Scheme	20,000	10,954	5,389	20,000	20,000	0
Total Community Development		25,000	14,954	5,389	25,000	25,000	0
Sheltered and Careline							
R0020	Warden Call Contract	30,000	0	29,851	29,851	30,000	0
Total Sheltered and Careline		30,000	0	29,851	29,851	30,000	0
Tenancy Services							
R0031	Pest Control	18,000	17,222	15,775	27,043	30,000	12,000
R0033	Removals	3,000	1,370	380	651	1,000	(2,000)
R0048	Environmental Improvements	16,000	18,424	8,037	13,777	16,000	0
R0050	Gardening	1,000	520	0	0	1,000	0
R0059	Security	5,000	4,245	5,358	9,186	10,000	5,000
R0060	Signage	3,000	1,418	357	714	1,000	(2,000)
R0061	Suited Keys	500	0	161	323	500	0
Total Tenancy Services		46,500	43,198	30,069	51,694	59,500	13,000
Repairs & Systems Expenditure							
R0062	Adams Elm Pond Maintenance	4,000	0	1,381	2,762	4,000	0
R0068	Fire Damaged Properties	40,000	42,570	29,093	58,187	40,000	0
R0069	Repairs & Systems Running Costs	59,000	77,202	9,099	18,198	0	(59,000)
R0097	Contribution to Bad Debts (Repairs)	25,000	70,808	23,019	46,038	25,000	0
Total Repairs & Systems Expenditure		128,000	190,580	62,592	125,185	69,000	(59,000)
Repairs Income							
R9130	Insurance Claims	(15,000)	(87,192)	(2,926)	(5,852)	(15,000)	0
R9811	Miscellaneous Repairs Income	(1,000)	(4)	(5)	(10)	(1,000)	0
R9820	Rechargeable Repairs Works	(20,000)	(38,259)	(14,913)	(29,826)	(20,000)	0
R9845	Former Tenant Recharge Income	(10,000)	(20,240)	(4,139)	(8,278)	(10,000)	0
Total Repairs Income		(46,000)	(145,695)	(21,983)	(43,966)	(46,000)	0
Contingency							
R0041	Other Planned Non - Contract	0	0	0	0	0	0
Total Contingency		0	0	0	0	0	0
Total Planned Repairs		2,083,580	1,870,214	1,209,385	2,181,168	2,557,200	473,620
Responsive Repairs							
Responsive Repairs							
R0098	Responsive Repairs	2,100,000	2,184,964	1,336,029	2,100,000	2,250,000	150,000
Total Responsive Repairs		2,100,000	2,184,964	1,336,029	2,100,000	2,250,000	150,000
Responsive Voids							
R0099	Responsive Voids	1,200,000	1,152,399	468,151	1,000,000	950,000	(250,000)
Total Responsive Voids		1,200,000	1,152,399	468,151	1,000,000	950,000	(250,000)

Staff plus materials

Total Responsive Repairs

3,300,000	3,337,363	1,804,180	3,100,000	3,200,000	(100,000)
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Total Revenue Repairs

5,383,580	5,207,576	3,013,565	5,281,168	5,757,200	373,620
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South Essex Homes Limited

Agenda
Item No.

9

Report of Director of Business Development

to

The Board

on

4 December 2019

Report prepared by: Chris Vaughan

Partnership and Member Agreement – Update Report

Public Agenda Item

1 Purpose of the Report

- 1.1 To provide an update on the current position in respect of the Partnership Agreement, Member Agreement, and commercial activity.
- 1.2 To open debate about the new agreements and the impact in all areas of business giving specific attention to Teckal.

2 Recommendations

- 2.1 The Board accept in principle and subject to finalisation the contract offered by Southend Borough Council for the provision of Housing related services 'The Partnership Agreement'.
- 2.2 The Board accept in principle and subject to finalisation the Member Agreement.
- 2.3 The Board agrees to utilise the 4th February 2020 away day to determine the content of the 2020-2025 SEH Business Plan.

3 Background

3.1 Partnership Agreement & Member Agreement

- 3.2 The Council agreed a temporary extension, from April 2016, to their contract with South Essex Homes in respect of the management of council social housing. The extension has allowed the Council time to work through their exact requirements, adjust their strategy, and determine how they wish to pursue deeper integration. Throughout this same period South Essex Homes have negotiated terms and conditions that ultimately provide a better balance between the Council's requirements and South Essex Homes/South Essex Property Services' needs.

- 3.3 The outcome to date includes a detailed legal 'style' document that outlines the primary conditions under which the partnership will operate. There is some more work to be completed around the final detail but the Council are sufficiently confident in the progress so far to take the confirmation of agreement through their Shareholder Board, Cabinet and shortly to full Council for ratification.
- 3.4 While the Council continue to take the agreement, through their democratic governance process, the Boards of South Essex Homes and South Essex Property Services, also need to consider and endorse the recommended contract terms and conditions.
- 3.5 The Member Agreement is a separate document designed to support the Shareholder Board. This Agreement has entered the negotiations at a very late stage and whilst a positive move for the Council, requires some more work on final detail from both sides to finalise.
- 3.6 The final Partnership agreement will contain detailed KPIs and the South Essex Homes response (business plan) will form the delivery plan connecting the three strands, 2050 Ambition, Business KPIs and Member Agreement. It is proposed that the South Essex Homes' away day meeting planned for 4th February 2020 will be utilised to allow the Board to establish their vision for the organisation, in the light of the new agreements, and to determine the content of 2020-2025 Business plan. The Council's Chief Executive and the Leader of the Council have agreed to join the Board for a period during the away day, in order to assist in developing a shared vision for South Essex Homes going forward.
- 3.7 Copies of the reports to the Council's Shareholder Board and Cabinet, along with a detailed précis of both proposed new agreements, are attached as appendices to this report.

4 Detail

4.1 Partnership Agreement

- 4.1.1 The concept behind the new Partnership Agreement remains very much aligned with the original Management Agreement of 2005. The Council were advised that, because it is a new Agreement, under the Housing Act it requires the consent of the Secretary of State to renew. Renewal and application to the Secretary of State requires that tenants are consulted prior to contract agreement. The Council have completed that exercise and the outcome was overwhelmingly positive. The process of seeking permission from the Secretary of State is considered in this instance to be a matter of process rather than scrutiny and the Council will pursue this in due course.
- 4.1.2 Whilst the contracts are in essence the same, there are a number of fundamental issues that should be considered at both South Essex Property Services and South Essex Homes Board level. These being the -
- inclusion of South Essex Property Services within the overall contract
 - creation of a Shareholder Board and Member Agreement
 - extended requirement for consultation and approval in terms of a number of business activities
 - inclusion of clauses requiring the Council to consider both South Essex Property Services and South Essex Homes in all relevant commercial opportunities

- proposed Open Book methodology
- establishment of a joint South Essex Homes/Southend Borough Council group to agree expenditure of reserves (allowing the retention of working capital)
- establishment of a joint South Essex Property Service/Southend Borough Council group to agree expenditure of reserves (allowing the retention of working capital)
- 80/20 income limitations in line with Teckal arrangements
- CPI uplift included

4.1.3 The Executive Team have been part of detailed negotiations for the new agreement and have worked through the content terminology and phrasing included within the document. The Team have carefully balanced the value of all statements allowing for positive control to be retained by the Council in respect of performance, a tighter contract monitoring regime, and a far more open access to the Council 'commercial' workload. Our expectations are that the proposed contract will facilitate a closer relationship between both parties that will ultimately result in a deeper trust and more flexible service enabling both companies to contribute positively to the Southend 2050 ambition.

4.2 Member Agreement

4.2.1 The Member Agreement is, effectively, a supporting agreement which facilitates and enables the Council to operate their wholly owned companies under the oversight of their Shareholder Board. It is understood that the Agreement will be applied to all of the Council's existing, and any future, subsidiary companies. In many ways the Member Agreement mirrors the Partnership Agreement while extending similar principles across the whole business of both South Essex Homes and South Essex Property Services. While on the surface it might appear both restrictive and controlling, on closer inspection it does enable the businesses to continue trading in line with their published business plans. The obligation is upon us (South Essex Property Services/South Essex Homes) to include all possibilities within those plans, no matter how 'outline', but this should be viewed as a positive business development opportunity.

4.2.2 The risks here are embedded in the level of control to be exercised by the Shareholder Board and the additional layer of bureaucracy. However, our experience to date is one where the Shareholder Board have been particularly supportive and appreciative of our business models and efforts. There will be more dialogue about the Member Agreement but it is fair to say that the Council wish to protect themselves from a potential reputation damaging act whilst ensuring both businesses thrive and contribute to the objectives of the Council.

4.3 Impact of Partnership Agreement

4.3.1 The positive impact of our new agreement will, over time, become more apparent as the Council transfer more business to both South Essex Property Services and South Essex Homes under the Teckal arrangement. However, the Council consider Teckal to apply only to work associated directly with the Council. As a consequence the Council have included in the Partnership Agreement that both companies must remain Teckal compliant. Compliance is demonstrated in two ways (paraphrased)

- A minimum of 80% of business turnover is obtained directly from SBC (The Council)

- The Council can demonstrate that the company is controlled by the Council in a same or similar way to the control exercised by the Council over its 'in-house' departments

4.3.2 The Partnership Agreement and the clauses therein seek to demonstrate that this level of control exists and that, through the measure of turnover, financial targets remain in line, in compliance.

4.3.3 The issue of Teckal is a critical point for consideration and, therefore, a meeting of the joint South Essex Homes/South Essex Property Services New Business Committee was convened to give, inter alia, early consideration to this issue. The Committee agreed that options for a way(s) forward be reviewed, appropriate external advice be taken and that the Committee reconvene to agree a way forward. The initial options considered by the Committee were;

- Refrain from agreeing new business outside of the Council until South Essex Property Services specifically grows sufficiently to maintain balance (restrictive)
- Draw some of the Council business into South Essex Homes regardless of the nature of that business, possible subcontracting with the agreement of the Council (needs agreement of the Council)
- Create a clean company similar to South Essex Property Services or a Hybrid shell and place all the Council business in that company (needs agreement of the Council)
- Create a non-compliant company and place all non-Council business in that company (needs agreement of the Council)

5 Risks

5.1 We have developed an initial risk assessment covering both the Partnership and Member Agreements. That simplified assessment will require broader input from the wider South Essex Homes/South Essex Property Services Teams and the New Business Committee. At the present time risks raised indicate that the most prevalent and impactful risks are associated with relationship maintenance and business control throughout the operation of the contract. However, there are strong mitigations that can be put in place primarily involving South Essex Homes/South Essex Property Services being proactive, driving monitoring agendas, delivering excellent services continuing to always work with the Council as a meaningful client in a professional commercial style.

5.2 The full risk assessment will be complete at the point of contract finalisation.

6 Conclusions

6.1 We are at the point where agreement is imminent and the decision to sign contracts rests with the Boards of both companies. We are, and have always been, under the control of the Council, albeit at some distance. The Council, who are highly supportive, wish to see more, both in the sense of transparency of operation and in terms of contribution.

6.2 South Essex Homes and South Essex Property Services should, through these new arrangements, see this as further opportunity to enter into a period of positive and accelerated growth. Compliance with the requirements of the Council is a pre requisite and both companies need to consider the value of agreeing to those requirements, although it should be said that for all practical purposes, 'no

agreement' is not a real option. The real option here is to accept our position and to take advantage of the opportunity offered albeit with a little more finessing of the arrangements in detail.

7 Diversity and Equal Opportunities

7.1 There are no direct Equal Opportunities or diversity issues which arise from this report.

8 Financial Implications

8.1 The agreements specifically refer to the mechanism through which the management fee(s) is determined and paid.

8.2 Insofar as references to South Essex Property Services are concerned, this is taken to relate to works undertaken directly for the Council.

8.3 It should be noted that, following negotiations, the agreements allow for an annual CPI uplift to the management fee, something which had not been included in the previous management agreement.

9 Resident Consultation

9.1 Residents have already been consulted by the Council, as a pre-requisite of them obtaining the Secretary of State's consent to the new agreements.

10 Background Papers

10.1 Draft, detailed, Partnership and Member Agreements

11 Appendix

11.1 Reports to Southend Borough Council's Shareholder Board (4 November 2019) and Cabinet (5 November 2019), including précis of the key points continued in the Partnership and Member Agreements.

Southend-on-Sea Borough Council

Report of Director of Housing Development

To

Shareholder Board

On

4th November 2019

Report prepared by: Glyn Halksworth, Director of Housing
Development

Agenda
Item No.

South Essex Homes Housing Partnership Agreement and Member Agreement

1. Purpose of Report

- 1.1 To update the Shareholder Board on work undertaken between Southend Council (the Council), its specialist advisors and South Essex Homes (SEH) to draft new agreements to govern the relationship between the Council and SEH and to seek agreement to adopt these.

2. Recommendations

- 2.1 That the Shareholder Board agrees to the newly drafted Partnership and Member Agreements being adopted to govern the relationship between the Council and South Essex Homes and refer these for approval by Cabinet accordingly.

3. Background

- 3.1 South Essex Homes (SEH) was originally set up as an Arms-Length Management Organisation (ALMO) on 24th October 2005 in order to provide the housing management and related services related to Southend Council's housing stock.
- 3.2 When the original agreement was drawn up, SEH was a single purpose organisation. The agreement therefore covered not only the core housing management services required, but also the overall relationship between the Council as sole shareholder and the Company. Since then however the company has expanded its remit to provide additional services to other areas of the Council and to other organisations, both in its own name and through its commercial subsidiary South Essex Property Services (SEPS). These additional services are subject to their own contractual arrangements.
- 3.3 The new agreements have been drafted with expert advice from Trowers and Hamlins LLP and Altair and propose to replace the single existing

- management agreement with two separate agreement, a Partnership Agreement and Member Agreement.
- 3.4 The new form of Partnership Agreement will be more output-based than the current Management Agreement. This reflects not only the need to update the provisions but also the fact that the relationship between the Council and SEH is a mature one and is to be based on partnership principles. The agreement now also includes SEPS as a party in order for there to be a single point of contractual reference.
 - 3.5 The Member Agreement is intended to encapsulate the parent/subsidiary relationship between the Council and SEH. SEPS is not a party to this agreement (as it is not a direct subsidiary of the Council) however clauses contained within the Agreement allow for assurance that business decisions that might be reached in respect of SEPS are consistent with the interest of the Council.
 - 3.6 The Agreements are more fully outlined in Appendix 2, itself the Appendix to the Cabinet paper that will be placed before Cabinet on 5th November.

4. Appendices

- 4.1 Appendix 1 – Cabinet report, 5th November, **South Essex Homes Partnership & Membership Agreement Renewal**
- 4.2 Appendix 2 - **Report on the proposed new Partnership Agreement between Southend-on-Sea Borough Council and South Essex Homes and South Essex Property Services and the Member Agreement between Southend-on Sea Borough Council and South Essex Homes**

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Deputy Chief Executive (People)

To

Cabinet

On

5th November 2019

Report prepared by:
Glyn Halksworth – Director of Housing Development

South Essex Homes Partnership & Membership Agreement Renewal

Relevant Scrutiny Committee: Policy and Resources Scrutiny Committee
Cabinet Members: Councillor Ian Gilbert

Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 To update members on the progress in drafting new agreements Partnership and Management Agreements for South Essex Homes in order to replace the existing Management Agreement.

2. Recommendations

- 2.1 That Cabinet endorses to the Agreements being adopted.

3. Background

- 3.1 The arrangement South Essex Homes has been in place since 24th October 2005 and, as part of the *Housing, Homelessness and Rough Sleeping Strategy 2018-28* that was endorsed at the November Cabinet on 6th November 2018 and adopted by The Council on 13th December 2018, it was agreed that a new Housing Management Partnership Agreement with South Essex Homes would be developed. The current Partnership Agreement has been in place since 1st April 2016 and, following an extension agreed by Cabinet, ran until 31st March 2019, following Cabinet's agreement to a three year extension of the original agreement. A subsequent extension was granted at Cabinet in March 2019 and the existing Management Agreement remains in force.
- 3.2 Southend Borough Council has contracted Trowers and Hamlin LLP, a specialist housing legal advisory firm, and Altair, a specialist housing consultancy, to support the development of the new agreements required to ensure that the appropriate governance is in place between the Council and South Essex Homes

- 3.3 Following a series of negotiations involving officers of South Essex Homes, Southend Borough Council and the aforementioned expert advisers, drafting of the new agreements has now concluded. In accordance with the requirements of the Housing Act 1985, a section 27 notice was also issued to tenants of South Essex Homes notifying them of the intention to renew the management agreements and providing the opportunity for them to comment or feedback on this. Only 9 response were received. An overview of the key points covered in the new agreements is provided at appendix 1.
- 3.4 In drafting the new agreements it was identified as beneficial to have both a Partnership Agreement and a Member Agreement. The Partnership Agreement will be more output-based than the current Management Agreement. This reflects not only the need to up-date the provisions but also the fact that the relationship between Southend-on-Sea Borough Council and South Essex Homes is a mature one and is to be based on partnership principles. The agreement now also includes South Essex Property Services (SEPS) as a party in order for there to be a single point of contractual reference. The Member Agreement is intended to encapsulate the parent/subsidiary relationship between the Council and South Essex Homes. SEPS is not a party to this agreement (as it is not a direct subsidiary of the Council).
- 3.5 The Agreements are each proposed for a term of 5 years from the date of signing, with options to extend for further terms of 5 years written into the agreements.

4. Other Options

- 4.1 As it is not a statutory requirement to renew the existing Management Agreement and to replace it with the proposed Partnership and Member Agreements, the existing Agreement could be further extended if required. The proposed approach is feel to better reflect the needs of both organisations,

5. Reasons for Recommendations

- 5.1 The recommendation is made on the understanding that the new draft Agreements better reflect the mature nature of the relationship between both parties than the existing Management Agreement, and better capture the required outputs. Moreover, it is believed that the new agreements better equip both parties to ensure that the partnership is able to progress and deliver high quality housing management and related services to existing tenants. This will be achieved through better client management of South Essex Homes by Southend Council, and will support the delivery of better value for money and better 2050-orientation. The re-organisation of the relationship that these Agreements describe will additionally allow joint exploration of opportunities available to South Essex Homes and South Essex Property Services to take on new work in keeping with the 2050 outcomes.

6. Corporate Implications

6.1 Contribution to the Southend 2050 Road Map

Having a new set of Agreements in place will contribute to a number of 2050 outcomes, including the Safe and Well outcomes of “**We are well on our way to ensuring that everyone has a home that meets their needs**” and “**We act as a green city with outstanding examples of energy efficient and carbon neutral buildings**”.

Southend’s *Housing, Homelessness & Rough Sleeping Strategy* aims to provide ‘decent high quality, affordable and secure homes for the people of Southend’ and the new Agreements will contribute to this.

6.2 Financial Implications

Budgets for South Essex Homes are set as part of the HRA Budget papers separately agreed by cabinet. These new Agreements and their associated oversight, including open-book, will contribute to this budget setting and enable longer-term planning.

6.3 Legal Implications

Legal requirements to issue a s.27 notice have been met, as indicated at 3.3 above. Drafting of the Agreements has been undertaken by Trowers and Hamlin LLP, in agreement with Southend Council’s own legal services team.

6.4 People Implications

There are no people implications identified although it is intended that the joint work to deliver the agreement will lead ensure a retained focus on the delivery of high quality housing management and tenant facing services.

6.5 Property Implications

The Agreements relate substantially to the management of the Council’s housing stock and will seek to ensure this is delivered safely and efficiently at all times.

6.6 Consultation

Consultation has taken place with tenants as indicated at 3.3 and 6.3. As the Agreements do not materially alter the services that will be provided, rather they ensure that these are delivered that this is effectively overseen by robust client management, further tenant consultation is not required.

6.7 Equalities and Diversity Implications

No equality assessments are required as no services are being changed.

6.8 Risk Assessment

Risk register and issue logs will be used as part of the client management of the delivery of the Agreements.

6.9 Value for Money

All spend in relation to the delivery of the Agreements will be overseen through the open book process agreed therein.

6.10 Community Safety Implications

Management of antisocial behaviour is a fundamental part of housing management and covered within the Partnership Agreement and associated performance monitoring.

6.11 Environmental Impact

Environmental efficiency of the council's housing stock is a key work area that will be pursued through the delivery of the Partnership Agreement. Key projects will be jointly identified for delivery within the term of these agreements.

7. Background Papers

Cabinet Report, *Housing, Homelessness and Rough Sleeping Strategy*, 6th November 2018

Cabinet Report, *South Essex Homes Housing Management Partnership Agreement*, 12th March 2019

8. Appendices

Appendix 1 *Report on the proposed new Partnership Agreement between Southend-on-Sea Borough Council and South Essex Homes and South Essex Property Services and the Member Agreement between Southend-on Sea Borough Council and South Essex Homes, Trowers & Hamlin LLP*

Report on the proposed new Partnership Agreement between Southend-on-Sea Borough Council and South Essex Homes and South Essex Property Services and the Member Agreement between Southend-on Sea Borough Council and South Essex Homes

The new form of Partnership Agreement will be more output-based than the current Management Agreement. This reflects not only the need to up-date the provisions but also the fact that the relationship between Southend-on-Sea Borough Council (the **Council**) and South Essex Homes is a mature one and is to be based on partnership principles. The agreement now also includes South Essex Property Services (**SEPS**) as a party in order for there to be a single point of contractual reference. This section of the report summarises the main provisions of the draft Partnership Agreement so not every single clause is referenced. All capitalised terms have the same meaning as defined in the Partnership Agreement, unless otherwise stated.

1 Clause 1 - Partnership

1.1 The Council, South Essex Homes and SEPS (the **Parties**) agree to adhere to the principles set out in the Partnership Protocol. This is set out at Schedule 1.

1.2 Under the Partnership Protocol the parties agree to work together based on shared values of openness, respect, honesty, trust, negotiation and accountability. A number of key principles for the relationship are specified, including contracting on arm's length terms, establishing clear lines of delegation, operating on a 'no surprises basis', promoting a positive attitude, working together to solve problems, valuing each other, celebrating success jointly, mutual support and sharing information.

2 Clause 2 – Partnership Plan

2.1 South Essex Homes will develop and deliver a Partnership Plan in relation to the Housing Management Services. The Partnership Plan will detail the outputs to be achieved by South Essex Homes, the Key Performance Indicators, the business plan for South Essex Homes, The strategy to deliver the Council's key goals and the financial resources required to carry out the Partnership Plan.

3 Clause 4 – Tenant Involvement

3.1 South Essex Homes will encourage tenant involvement, including having strategies for "hard to reach" groups. The Partnership Plan will include sufficient resources to ensure commitments to tenants can be met.

4 Clause 5 – Value for money

The parties acknowledge the fundamental importance of delivering value for money and will operate on an open-book basis.

5 Clause 6 – Partnership Plan reviews

5.1 The annual sections of the Partnership Plan, namely the Business Plan and the performance plan, will be presented to the Council by South Essex Homes by 31 December each year. The Business Plan will be prepared on three year rolling basis but presented annually for approval. The sections on stock maintenance and improvement will also be prepared on a three yearly basis but will also be reviewed annually as part of the Partnership Plan review mechanism. This mechanism will involve a meeting between

the Council and South Essex Homes within 20 working days of the Partnership Plan having been submitted followed by notification by the Council as to whether the Partnership Plan is approved or requires amendments. Ultimately the matter can be referred to dispute resolution if agreement cannot be reached. The dispute resolution mechanism is contained in Schedule 6 and includes 4 stages which can also be fast tracked to a referral to an expert for consideration. Please note however that the final say will always be with the Council, who can take into account the views of the expert but is not bound by it. This preserves, in an obvious way, the Council's control over South Essex Homes and of SEPS (via its ownership of South Essex Homes).

6 Clause 10 – Housing Management Services

6.1 South Essex Homes will carry out the housing management services to the reasonable satisfaction of the Council and in accordance with the Partnership Plan, the KPIs, and reasonable instructions from the Council, all relevant legislation and all requirements of health and safety legislation and best practice.

7 Clause 11 – Stock maintenance and Improvement

7.1 South Essex Homes will assist the Council in delivering the Stock Maintenance and Improvement Programme by administering or letting third party contracts. The Programme will be reviewed by the Parties as part of the Partnership Planning process and, will take account of any changing standards (such as energy efficiency), future stock condition surveys and legal and regulatory requirements. As with the other Services, the Stock Maintenance and Improvement Programme will take account of any variation in the works element of the Fee.

8 Clause 12 - Maintenance Works Contracts

8.1 South Essex Homes will carry out and/or let and administer such Works Contracts as the Parties deems necessary to deliver the Maintenance element of the Stock Maintenance and Improvement Programme following the expiry / termination of the current arrangement.

8.2 In the procurement of any Maintenance Works Contracts South Essex Homes must comply with all applicable European Union and other regulations and take reasonable steps to adhere to best procurement practice and achieve value for money. The Council agrees that the cost of complying with this clause is an additional cost for South Essex Homes which will be reflected in the Fee.

9 Clause 13 – Improvement Works Contracts

South Essex Homes will carry out and/or administer or let the Works Contracts to deliver the Improvement element of the Stock Maintenance and Improvement Programme.

10 Clause 14 – KPIs, monitoring and Liaison

10.1 The housing management KPIs and the SEPS Services KPIs will be reviewed by the parties annually with a view to agreeing new KPIs for the following years. The new KPIs will reflect the service standards achieved by other providers in comparable circumstances and reflect the resources made available by the Council.

11 **Clause 15 – Additional income generation and use of surpluses**

11.1 South Essex Homes can pursue and exploit opportunities for income generation, either by itself or through SEPS, with third parties, providing that:

11.1.1 they are consistent with South Essex Homes' and SEPS' objects;

11.1.2 they can be legally pursued by a wholly owned subsidiary;

11.1.3 South Essex Homes' and SEPS' ability to perform its obligations under the Partnership Agreement are not adversely affected;

11.1.4 any such activity would not result in the opportunities / income generation being equal to or greater than 20% of South Essex Homes' and SEPS's individual annual turnover (securing their respective 'Teckal status'); and

11.1.5 any such arrangements are approved by South Essex Homes'/SEPS' boards and recorded at the next meeting between South Essex Homes and the Council.

11.2 The Council will always bear South Essex Homes and SEPS in mind when looking to undertake new relevant projects.

11.3 South Essex Homes will be entitled to use any available reserves in accordance with the agreement of the Council as part of the Partnership Plan approval process.

12 **Clause 16 - Assisting in the Council's new build programme**

South Essex Homes will work with and support the Council to maximize opportunities for carrying out new development with the HRA.

13 **Clause 19 – Personnel and Clause 50 - Employees**

13.1 South Essex Homes and SEPS will employ sufficient staff to enable them to carry out their respective services and that they are appropriately qualified and supervised, At the end of the agreement the Council is entitled to offer employment to anyone employed by South Essex Homes in connection with the housing management service.

13.2 South Essex Homes will inform the Council of any significant changes it may make to its staffing structure and in particular will promptly tell the Council of any funding requirements resulting from restructuring the workforce.

14 **Clause 20 – Appointment of Representatives**

Each party will appoint a senior person as it representative empowered to act for it under the agreement. All parties still need to list their named representatives in the agreement.

15 **Clause 23 – Access to Information**

On the provision of appropriate notice and in accordance with the Data Protection Laws, South Essex Homes and SEPS agree to give the Council access to data and information used for the provision of the services which are stored on its computer systems.

16 **Clause 24 – Data Protection Law**

The Parties agree to comply with the requirements of the Data Protection Law. This includes the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679. The provisions of clause 24 remain applicable following the expiry or termination of the Partnership Agreement.

17 **Clause 28 - Insurances**

South Essex Homes and SEPS must maintain such insurance policies as the Council may from time to time reasonably require.

18 **Clause 29 – Regulation**

The Partnership Agreement confirms that South Essex Homes will co-operate fully with relevant statutory and regulatory bodies in respect of any assessment of the provision of housing management services and the Council's own service.

19 **Clause 45 – Fee**

19.1 South Essex Homes will be entitled to receive the Housing Management Fee calculated in accordance with Schedule 3.

19.2 The Fee can be varied in accordance with the procedure set out in clause 45.3. Discussions to vary the fee should commence no later than 1 July each year and the discussions should be based on the Schedule 3 Fee Principles. Any variation in the Fee should be commensurate with a corresponding variation in the Services provided. If a variation to the Fee cannot be agreed or is disputed, the dispute resolution clause applies. The Fee should be paid monthly in advance, and it is CPI index linked on an annual basis.

20 **Clause 47 – SEPS Services Fee**

SEPS will be entitled to receive the Housing Management Fee calculated in accordance with Schedule 4. The SEPS service may be varied which would then result in a South Essex Homes shall send the current Business Plan to the Council when available (and at least once per calendar year) and invite the Council to provide comments on the proposed Business Plan.

20.1 The Council will respond to South Essex Homes on the proposed Business Plan as soon as reasonably practicable (but within three months). South Essex Homes then should consider and, if appropriate, adopt an updated and revised Business Plan. The adoption / variation / amendment of the Business Plan requires the consent of the Council.

20.2 If a proposed Business Plan has not been approved and adopted by South Essex Homes as stipulated in accordance with the process set out in clause 16, then the relevant current Business Plan continues in operation until a new / amended one is agreed. If a Business Plan cannot be agreed, this would be subject to the dispute resolution process set out at clause 40.

21 **Clause 52 - TMOs**

21.1 In the event that any tenants propose to form a Tenant Management Organisation under the Right to Manage, the Council shall be legally responsible for dealing with all aspects of

such a proposal, and South Essex Homes agree to provide such assistance as the Council may require. If the Right to Manage is exercised, the Council may instruct South Essex Homes to make arrangements to transfer responsibility for the Services in relation to the Right to Manage Dwellings to a TMO.

22 **Clause 54– Term**

The Partnership Agreement will expire on the fifth anniversary of the Commencement Date unless it is terminated earlier under clause 56 or extended under clause 54.2. Clause 54.2 allows the Council to extend the term of the agreement for one or more further periods of up to five years.

23 **Clause 55 - Variations**

The Council may at any time vary the Services by giving notice to South Essex Homes of SEPS as appropriate. This will be six months' notice for matters requiring tenant consultation under s105 of the Housing Act 1985 or 3 months' otherwise. Dispute resolution will apply in the event of disagreement over the variation. The parties will work together to agree the necessary variation to the relevant fee.

24 **Clause 55 - Termination**

The Council is entitled to terminate the Management Agreement if South Essex Homes, in respect of the housing management services, or SEPS, in respect of the SEPS services, commits a material breach which is not remedied in a reasonable period of time or has a director or senior manager convicted of dishonesty (and that reasonably calls into question the ability to deliver the services), applies for insolvency or similar and related winding up/liquidation matters.

25 **Clause 59 – Freedom of Information**

This clause acknowledges that both the Council and South Essex Homes are subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. Both parties agree to co-operate with the other in meeting their respective obligations under this legislation.

26 **Clause 58 – Whistleblowing**

This clause provides that South Essex Homes must ensure that it has a Whistleblowing procedure which specifies a senior manager responsible for ensuring the independence and probity of the whistleblowing process. South Essex Homes confirms that the Council is authorised as a person to whom its staff may make a qualifying disclosure under the Public Interest Disclosure Act 1998.

27 **Schedule 1 – Partnership Protocol**

See clause 1.2 above.

28 **Schedule 2 – Scheme of Delegation**

This schedule identifies the delegation of housing management services to South Essex Homes under the general headings including, tenancy management, empty properties,

asset management, estate management, tenant involvement and capital programme amongst others.

29 **Schedule 3 – Financial Arrangements**

This sets out the principles on which fee discussions will be based and states that the Management Fee consists of:

- A core Management Fee that relates to the Services determined by the Council
- Payments relating to repairs and some capital works, as detailed below.

Repairs and Capital Works

These sums will be payable on account for the provision of repairs and capital works:

- The whole of the Housing Repairs Account Budget determined by the Council.
- Part of the Housing Capital Programme that the Council's cabinet determines should be allocated to South Essex Homes.

Any capital payments will be made on account. A full reconciliation will be undertaken at the end of the financial year so that all actual costs relating to the relevant activities are chargeable to the relevant Council account.

The actual costs will include overheads and any redundancy costs payable in relation to any of the Employees undertaking capital contracts.

Payment Arrangements

The Management Fee and all interim payments will be payable by twelve equal monthly instalments.

This schedule has not yet been finalised so is subject to any changes that might be agreed.

30 **Schedule 4 – The SEPS services fee**

This schedule will be used to encapsulate the way the fees for the various services provided by SEPS are calculated. At present it is not populated.

31 **Schedule 5 – The Premise**

This schedule will list the various properties that South Essex Homes occupies and on what basis. The agreement will also need to ensure that tied accommodation continues to be leased to South Essex Homes so that security of tenure is not granted to the various tenants.

32 **Schedule 6 – Dispute Resolution**

The Partnership Agreement contains a dispute resolution procedure designed to facilitate agreement between the parties. There is also a fast track dispute resolution process whereby the Parties can proceed straight from a meeting of the Representatives of the

Parties to consideration by an Expert but as stated above the Council is the final determiner of disputes.

33 **Schedules 7-10 Services and KPIs**

These schedules will set out the actual services that are being provided by South Essex Homes and SEPS and the different KPIs that will apply.

Main Terms of the Member Agreement

The Member Agreement is intended to encapsulate the parent/subsidiary relationship between the Council and South Essex Homes. SEPS is not a party to this agreement (as it is not a direct subsidiary of the Council) but pursuant to clause 3.6, South Essex Homes is required to ensure that none of the matters that would require the Council's consent if done by South Essex Homes are carried on by SEPS without getting the Council's written consent first.

1 **Clause 2 – Business**

1.1 The parties (being the Council and South Essex Homes only in this agreement) agree to adhere to the principles set out in the Schedule 5 Partnership Protocol (the same as is set out above for the partnership Agreement). The Business of South Essex Homes is described as being:

1.1.1 to carry out all housing management activity in relation to the Council's housing stock;

1.1.2 to perform the other functions and activities as set out in the Partnership Agreement;

1.1.3 to carry out such other activities from time to time as are permitted and/or contemplated within the Partnership Plan,

together with any activities reasonably incidental to the above.

1.2 The Business Plan approval / review process is the same as set out in clause 16 of the Management Agreement, which is explained above at paragraph 15.

1.3 South Essex Homes agrees not to acquire any property either within or outside the Council's administrative area or carryout any business that is not in the Business Plan without the Council's consent.

2 **Clause 3 – Conduct of South Essex Homes' Affairs**

2.1 This clause sets out certain governance arrangements of South Essex Homes. The Directors must meet no less four times each year at not more than three monthly intervals.

2.2 All matters of management of South Essex Homes are vested in the Directors, except for those matters which require consent of the Council. These matters are set out in Schedule 1. The Directors can appoint and/or remove a chief executive officer for South Essex Homes (with consent of the Council).

- 2.3 Directors will determine the manner in which the Business is carried out in accordance with the Business Plan, the Member Consent matters, alignment with the Council's own procedures and strategic objectives and the contents of the Member Agreement.
- 2.4 The chair of the South Essex Homes board (or another Director) can discuss the affairs, finances and accounts of South Essex Homes with designated officers and executives of the Council.
- 2.5 South Essex Homes agrees to maintain effective and appropriate control systems in relation to the financial, accounts and record keeping functions of South Essex Homes. South Essex Homes also agrees to report to the Parent board within ten business days of each Quarter with such information as may reasonably be required to demonstrate South Essex Homes' delivery of the Services. This will include details of performance against KPIs and formal complaints. The parties will agree the format of these reports, and the review process will be notified by the Council to South Essex Homes.
- 2.6 As stated above, clause 3.6 brings the activities of SEPS under the control of the Council by requiring that South Essex Homes (as the parent of SEPS) ensures that none of the matters listed in Schedule 1 can be carried out without the consent of the Council

3 **Clause 4 – Group Policies**

This clause is still subject to discussions as to whether it will be included and will have greater application if a Group Structure (involving the establishment of other companies owned by the Council) is set up. The purpose of this clause is to enable the Council to propose, where relevant, a degree of consistency amongst subsidiary companies of which the Council is parent. The Council would have power to adopt policies and standards (after consultation with the Group Members) which relate to all Group Members. These will ensure compliance with statutory and regulatory requirements which are applicable to the Group or any Group Member. They may also cover financial and business probity and efficiency, good governance practice, risk assessment and each Group member carrying on its business in accordance with its own corporate plan. Matters of operational policy will not be the subject matter of Group Policies. Agreed Local Variations will be permitted to the Group Policies where there are reasonable grounds for this.

4 **Clause 5 – Covenants**

- 4.1 South Essex Homes covenants to the Council that it will adhere to the terms set out in Schedule 2. These covenants are as follows:
- 4.1.1 Only to acquire land or assets or carry out additional service from those set out in the Management Agreement if any such acquisition and/or service provision is in accordance with the Business Plan and the Council has given consent.
 - 4.1.2 It will conduct its Business in a manner commensurate with the Council's strategic objectives.
 - 4.1.3 To comply with the Financial Regulations, Contractual Standing Orders, Board Member Expenses Policy and an Executive Performance Appraisal Framework.

5 **Clause 6 - Subsidiaries acceding to this Agreement**

This clause links with the form of Deed of Accession set out at Schedule 3. It is a mechanism by which new Group Members accede to the Member Agreement as if it had always been a party to it, agreeing to abide by all of its terms.

6 **Clause 7 – Termination**

6.1 The Member Agreement can be terminated in the following circumstances:

- 6.1.1 the written agreement of the Parties;
- 6.1.2 when a resolution is passed by the Member or creditors of South Essex Homes, or any order made by a court or other competent body or person instituting a process that shall lead to South Essex Homes being wound up and its assets being distributed among the creditors, the Council or other contributors;
- 6.1.3 South Essex Homes ceases to carry on its Business;
- 6.1.4 South Essex Homes is convicted of a criminal offence;
- 6.1.5 the termination of the Partnership Agreement;
- 6.1.6 the Council giving not less than 90 days written notice to South Essex Homes of the date on which all or part of the Member Agreement will terminate.

7 **Clauses 8 to 17 – Various**

7.1 These clauses provide as follows:

- 7.1.1 Nothing in the Member Agreement creates a partnership between the Parties or makes one Party an agent of the other.
- 7.1.2 The application of the Contracts (Rights of Third Parties) Act 1999 is excluded.
- 7.1.3 The rights of each Party to the Member Agreement are not affected by completing, rescinding, failing to rescind, or failing / delaying exercising a right or remedy available to it. Waiver of a breach of a term of the Member Agreement, or a default under it, does not constitute a waiver or another breach or default of the Member Agreement.
- 7.1.4 Any rights or powers of the Council under the Management Agreement which shall or may be exercised after the termination or expiry of the Management Agreement (and are expressed as such) survive and remain in full force and effect notwithstanding termination or expiry. Any obligations of South Essex Homes provided for in the Management Agreement which remain to be discharged after the termination or expiry of the Management Agreement remain in full force and effect notwithstanding termination or expiry.

- 7.1.5 The Member Agreement can only be varied as set out in the Member Agreement and any variation must be in writing, and signed on behalf of each Party.
- 7.1.6 If any provision of the Management Agreement is declared invalid or unenforceable then the other provisions of the Management Agreement remain in full force and effect. The Parties are to negotiate a replacement term in good faith which can be substituted for any provision found to be illegal or unenforceable.
- 7.1.7 In the event of any ambiguity or discrepancy between the provisions of the Management Agreement, the Articles, and the Member Agreement, the terms of the Management Agreement will prevail.
- 7.1.8 Consents, notices, approvals or agreements to be given by the Council must be given in writing. Where the Member Agreement provides that a matter is subject to the consent, approval or agreement of a Party, it shall be in the absolute discretion of the Party concerned as to whether (and if so, on what terms and conditions) the consent, approval or agreement is made.
- 7.1.9 Notices under the Member Agreement should be sent in writing (personally, by post or email) to the named persons and addresses set out in clause 15.
- 7.1.1 The Member Agreement is governed and construed according to English Law and the Parties submit to the exclusive jurisdiction of the English Courts.

8 **Schedule 1 – Member Consent Matters**

- 8.1 Please refer to the full list of Member Consent Matters, which are 28 in total. The following are some of the included matters:
- 8.1.1 varying South Essex Homes' Articles;
 - 8.1.2 permitting the registration of any person as a member of South Essex Homes other than the Council;
 - 8.1.3 adopting or amending its Business Plan;
 - 8.1.4 appointing or removing a management director or chief executive;
 - 8.1.5 make any borrowing; or
 - 8.1.6 passing any resolution for its winding up or present any petition for its administration (unless it has become insolvent); or
 - 8.1.7 engaging in any business other than as contemplated by the Business Plan or defray any monies other than in good faith for the purposes of or in connection with the carrying on of such business; or
 - 8.1.8 forming any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not); or

- 8.1.9 amalgamating or merging with any other company or business undertaking;
or
- 8.1.10 making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading) or give any guarantee (other than in the normal course of trading) or indemnity (other than in the normal course of trading); or
- 8.1.11 dismissing any Director; or
- 8.1.12 acquiring any land or assets not set out in the current Business Plan.

9 Schedule 2 – Covenants

These are set out above at paragraph 4.

10 Schedule 3 - Deed of Accession

This is discussed above at paragraph 5.

11 Schedule 4 – Group Policies

There are none at this stage.

12 Schedule 5 - Partnership Protocol

This is the same as set out at paragraph 1 above for the Management Agreement.

This report has been prepared for the Council only and is not to be shared with or relied upon by third parties without our prior written consent. We understand that this report will be shared with South Essex Homes Housing.

Trowers and Hamlins LLP

28 October 2019

South Essex Homes Limited

Report of Southend on Sea Borough Council Housing
To

The Board of South Essex Homes

On
4th December 2019

Report prepared by:
Tim Holland – Interim Head of Housing Supply

Agenda
Item No.

9a

South Essex Homes Partnership & Membership Agreement Renewal

A Public Agenda Item

1. Purpose of Report

- 1.1 To update South Essex Homes Board on the Councils progress in drafting new Partnership and Management Agreements between Southend-on-Sea Borough Council and South Essex Homes in order to replace the existing Management Agreement.

2. Recommendations

- 2.1 The Board are recommended:-
- 2.2 To note progress

3. Background

- 3.1 The arrangement between Southend-on-Sea Borough Council and South Essex Homes has been in place since 24th October 2005. As part of the *Housing, Homelessness and Rough Sleeping Strategy 2018-28* that was endorsed by Cabinet on 6th November 2018 and adopted by The Council on 13th December 2018, it was agreed that a new Housing Management Partnership Agreement with South Essex Homes would be developed. The current Partnership Agreement has been in place since 1st April 2016 and, following an extension agreed by Cabinet, ran until 31st March 2019, following Cabinet's agreement to a three year extension of the original agreement. A subsequent extension was granted at Cabinet in March 2019 and the existing Management Agreement remains in force.
- 3.2 Southend Borough Council has contracted Trowers and Hamlin LLP, a specialist housing legal advisory firm, and Altair, a specialist housing consultancy, to support the development of the new agreements required to ensure that the appropriate governance is in place between the Council and South Essex Homes

- 3.3 Following a series of negotiations involving officers of South Essex Homes, Southend Borough Council and the aforementioned expert advisers, drafting of the new agreements has now concluded. In accordance with the requirements of the Housing Act 1985, a Section 105 consultation notice was also issued to tenants of South Essex Homes notifying them of the intention to renew the management agreements and providing the opportunity for them to comment or feedback on this. Only 9 response were received. An overview of the key points covered in the new agreements is provided at appendix 1.
- 3.4 In drafting the new agreements it was identified as beneficial to have both a Partnership Agreement and a Member Agreement. The Partnership Agreement will be more output-based than the current Management Agreement. This reflects not only the need to up-date the provisions but also the fact that the relationship between Southend-on-Sea Borough Council and South Essex Homes is a mature one and is to be based on partnership principles. The agreement now also includes South Essex Property Services (SEPS) as a party in order for there to be a single point of contractual reference. The Member Agreement is intended to encapsulate the parent/subsidiary relationship between the Council and South Essex Homes. SEPS is not a party to this agreement (as it is not a direct subsidiary of the Council).
- 3.5 The Agreements are each proposed for a term of 5 years from the date of signing, with options to extend for an unspecified number of further terms of 5 years written into the agreements.

4. Equalities and Diversity Implications

- 4.1 No equality assessments are required as no services are being changed. An equality assessment was carried out for the S105 consultation with tenants.

5. Risk

- 5.1 Risk register and issue logs will be used as part of the client management of the delivery of the Agreements.

6. Financial Implications

- 6.1 Budgets for South Essex Homes are set as part of the HRA Budget papers separately agreed by the Council's Cabinet. These new Agreements and their associated oversight, including open-book, will contribute to this budget setting and enable longer-term planning.

7. Legal Implications

- 7.1 Legal requirements to issue a Section 105 notice have been met, as indicated at 3.3 above. A Section 27 application to the Secretary of State is currently being drafted.
- 7.2 Drafting of the Partnership and Member Agreements has been undertaken by Trowers and Hamlin LLP, in agreement with Southend Borough Council's own legal services team.

8. Resident Consultation

- 8.1 Consultation has taken place with tenants as indicated at 3.3 and 6.3. As the Agreements do not materially alter the services that will be provided, rather they ensure that these are delivered that this is effectively overseen by robust client management, further tenant consultation is not required.

9. Background Papers

- 9.1 Cabinet Report, *Housing, Homelessness and Rough Sleeping Strategy*, 6th November 2018
- 9.2 Cabinet Report, *South Essex Homes Housing Management Partnership Agreement*, 12th March 2019

10. Appendices

Appendix 1 *Report on the proposed new Partnership Agreement between Southend-on-Sea Borough Council and South Essex Homes and South Essex Property Services and the Member Agreement between Southend-on Sea Borough Council and South Essex Homes, Trowers & Hamlin LLP*

Report on the proposed new Partnership Agreement between Southend-on-Sea Borough Council and South Essex Homes and South Essex Property Services and the Member Agreement between Southend-on Sea Borough Council and South Essex Homes

The new form of Partnership Agreement will be more output-based than the current Management Agreement. This reflects not only the need to up-date the provisions but also the fact that the relationship between Southend-on-Sea Borough Council (the **Council**) and South Essex Homes is a mature one and is to be based on partnership principles. The agreement now also includes South Essex Property Services (**SEPS**) as a party in order for there to be a single point of contractual reference. This section of the report summarises the main provisions of the draft Partnership Agreement so not every single clause is referenced. All capitalised terms have the same meaning as defined in the Partnership Agreement, unless otherwise stated.

1 Clause 1 - Partnership

1.1 The Council, South Essex Homes and SEPS (the **Parties**) agree to adhere to the principles set out in the Partnership Protocol. This is set out at Schedule 1.

1.2 Under the Partnership Protocol the parties agree to work together based on shared values of openness, respect, honesty, trust, negotiation and accountability. A number of key principles for the relationship are specified, including contracting on arm's length terms, establishing clear lines of delegation, operating on a 'no surprises basis', promoting a positive attitude, working together to solve problems, valuing each other, celebrating success jointly, mutual support and sharing information.

2 Clause 2 – Partnership Plan

2.1 South Essex Homes will develop and deliver a Partnership Plan in relation to the Housing Management Services. The Partnership Plan will detail the outputs to be achieved by South Essex Homes, the Key Performance Indicators, the business plan for South Essex Homes, The strategy to deliver the Council's key goals and the financial resources required to carry out the Partnership Plan.

3 Clause 4 – Tenant Involvement

3.1 South Essex Homes will encourage tenant involvement, including having strategies for "hard to reach" groups. The Partnership Plan will include sufficient resources to ensure commitments to tenants can be met.

4 Clause 5 – Value for money

The parties acknowledge the fundamental importance of delivering value for money and will operate on an open-book basis.

5 Clause 6 – Partnership Plan reviews

5.1 The annual sections of the Partnership Plan, namely the Business Plan and the performance plan, will be presented to the Council by South Essex Homes by 31 December each year. The Business Plan will be prepared on three year basis. The sections on stock maintenance and improvement will also be prepared on a three yearly basis but will also be reviewed annually as part of the Partnership Plan review mechanism. This mechanism will involve a meeting between the Council and South Essex Homes

within 20 working days of the Partnership Plan having been submitted followed by notification by the Council as to whether the Partnership Plan is approved or requires amendments. Ultimately the matter can be referred to dispute resolution if agreement cannot be reached. The dispute resolution mechanism is contained in Schedule 6 and includes 4 stages which can also be fast tracked to a referral to an expert for consideration. Please note however that the final say will always be with the Council, who can take into account the views of the expert but is not bound by it. This preserves, in an obvious way, the Council's control over South Essex Homes and of SEPS (via its ownership of South Essex Homes).

6 Clause 10 – Housing Management Services

6.1 South Essex Homes will carry out the housing management services to the reasonable satisfaction of the Council and in accordance with the Partnership Plan, the KPIs, and reasonable instructions from the Council, all relevant legislation and all requirements of health and safety legislation and best practice.

7 Clause 11 – Stock maintenance and Improvement

7.1 South Essex Homes will assist the Council in delivering the Stock Maintenance and Improvement Programme by administering or letting third party contracts. The Programme will be reviewed by the Parties as part of the Partnership Planning process and, will take account of any changing standards (such as energy efficiency), future stock condition surveys and legal and regulatory requirements. As with the other Services, the Stock Maintenance and Improvement Programme will take account of any variation in the works element of the Fee.

8 Clause 12 - Maintenance Works Contracts

8.1 South Essex Homes will carry out and/or let and administer such Works Contracts as the Parties deems necessary to deliver the Maintenance element of the Stock Maintenance and Improvement Programme following the expiry / termination of the current arrangement.

8.2 In the procurement of any Maintenance Works Contracts South Essex Homes must comply with all applicable European Union and other regulations and take reasonable steps to adhere to best procurement practice and achieve value for money. The Council agrees that the cost of complying with this clause is an additional cost for South Essex Homes which will be reflected in the Fee.

9 Clause 13 – Improvement Works Contracts

South Essex Homes will carry out and/or administer or let the Works Contracts to deliver the Improvement element of the Stock Maintenance and Improvement Programme.

10 Clause 14 – KPIs, monitoring and Liaison

10.1 The housing management KPIs and the SEPS Services KPIs will be reviewed by the parties annually with a view to agreeing new KPIs for the following years. The new KPIs will reflect the service standards achieved by other providers in comparable circumstances and reflect the resources made available by the Council..

11 **Clause 15 – Additional income generation and use of surpluses**

11.1 South Essex Homes can pursue and exploit opportunities for income generation, either by itself or through SEPS, with third parties, providing that:

11.1.1 they are consistent with South Essex Homes's and SEPS's objects;

11.1.2 they can be legally pursued by a wholly owned subsidiary;

11.1.3 South Essex Homes's and SEPS's ability to perform its obligations under the Partnership Agreement are not adversely affected;

11.1.4 any such activity would not result in the opportunities / income generation being equal to or greater than 20% of South Essex Homes's and SEPS's individual annual turnover (securing their respective 'Teckal status'); and

11.1.5 any such arrangements are approved by South Essex Homes's/SEPS's board and recorded at the next meeting between South Essex Homes and the Council.

11.2 The Council will always bear South Essex Homes and SEPS in mind when looking to undertake new relevant projects.

11.3 South Essex Homes will be entitled to use any available reserves in accordance with the agreement of the Council as part of the Partnership Plan approval process.

12 **Clause 16 - Assisting in the Council's new build programme**

South Essex Homes will work with and support the Council to maximize opportunities for carrying out new development with the HRA.

13 **Clause 19 – Personnel and Clause 50 - Employees**

13.1 South Essex Homes and SEPS will employ sufficient staff to enable them to carry out their respective services and that they are appropriately qualified and supervised, At the end of the agreement the Council is entitled to offer employment to anyone employed by South Essex Homes in connection with the housing management service.

13.2 South Essex Homes will inform the Council of any significant changes it may make to its staffing structure and in particular will promptly tell the Council of any funding requirements resulting from restructuring the workforce.

14 **Clause 20 – Appointment of Representatives**

Each party will appoint a senior person as it representative empowered to act for it under the agreement. All parties still need to list their named representatives in the agreement.

15 **Clause 23 – Access to Information**

On the provision of appropriate notice and in accordance with the Data Protection Laws, South Essex Homes and SEPS agree to give the Council access to data and information used for the provision of the services which are stored on its computer systems.

16 **Clause 24 – Data Protection Law**

The Parties agree to comply with the requirements of the Data Protection Law. This includes the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679. The provisions of clause 24 remain applicable following the expiry or termination of the Partnership Agreement.

17 **Clause 28 - Insurances**

South Essex Homes and SEPS must maintain such insurance policies as the Council may from time to time reasonably require.

18 **Clause 29 – Regulation**

The Partnership Agreement confirms that South Essex Homes will co-operate fully with relevant statutory and regulatory bodies in respect of any assessment of the provision of housing management services and the Council's own service.

19 **Clause 45 – Fee**

19.1 South Essex Homes will be entitled to receive the Housing Management Fee calculated in accordance with Schedule 3.

19.2 The Fee can be varied in accordance with the procedure set out in clause 45.3. Discussions to vary the fee should commence no later than 1 July each year and the discussions should be based on the Schedule 3 Fee Principles. Any variation in the Fee should be commensurate with a corresponding variation in the Services provided. If a variation to the Fee cannot be agreed or is disputed, the dispute resolution clause applies. The Fee should be paid monthly in advance, and it is CPI index linked on an annual basis.

20 **Clause 47 – SEPS Services Fee**

SEPS will be entitled to receive the Housing Management Fee calculated in accordance with Schedule 4 with the details of schedule 4 yet to be developed.

21 **Clause 52 - TMOs**

21.1 In the event that any tenants propose to form a Tenant Management Organisation under the Right to Manage, the Council shall be legally responsible for dealing with all aspects of such a proposal, and South Essex Homes agree to provide such assistance as the Council may require. If the Right to Manage is exercised, the Council may instruct South Essex Homes to make arrangements to transfer responsibility for the Services in relation to the Right to Manage Dwellings to a TMO.

22 **Clause 54– Term**

The Partnership Agreement will expire on the fifth anniversary of the Commencement Date unless it is terminated earlier under clause 56 or extended under clause 54.2. Clause 54.2 allows the Council to extend the term of the agreement for one or more further periods of up to five years.

23 **Clause 55 - Variations**

The Council may at any time vary the Services by giving notice to South Essex Homes of SEPS as appropriate. This will be six months' notice for matters requiring tenant consultation under s105 of the Housing Act 1985 or 3 months otherwise. Dispute resolution will apply in the event of disagreement over the variation. The parties will work together to agree the necessary variation to the relevant fee.

24 **Clause 55 - Termination**

The Council is entitled to terminate the Partnership Agreement if South Essex Homes, in respect of the housing management services, or SEPSs, in respect of the SEPS services, commits a material breach which is not remedied in a reasonable period of time or has a director or senior manager convicted of dishonesty (and that reasonably calls into question the ability to deliver the services), applies for insolvency or similar and related winding up/liquidation matters.

25 **Clause 59 – Freedom of Information**

This clause acknowledges that both the Council and South Essex Homes are subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. Both parties agree to co-operate with the other in meeting their respective obligations under this legislation.

26 **Clause 58 – Whistleblowing**

This clause provides that South Essex Homes must ensure that it has a Whistleblowing procedure which specifies a senior manager responsible for ensuring the independence and probity of the whistleblowing process. South Essex Homes confirms that the Council is authorised as a person to whom its staff may make a qualifying disclosure under the Public Interest Disclosure Act 1998.

27 **Schedule 1 – Partnership Protocol**

See clause 1.2 above.

28 **Schedule 2 – Scheme of Delegation**

This schedule identifies the delegation of housing management services to South Essex Homes under the general headings including, tenancy management, empty properties, asset management, estate management, tenant involvement and capital programme amongst others.

29 **Schedule 3 – Financial Arrangements**

This sets out the principles on which fee discussions will be based and states that the Management Fee consists of:

- A core Management Fee that relates to the Services determined by the Council
- Payments relating to repairs and some capital works, as detailed below.

Repairs and Capital Works

These sums will be payable on account for the provision of repairs and capital works:

- The whole of the Housing Repairs Account Budget determined by the Council.
- Part of the Housing Capital Programme that the Council's cabinet determines should be allocated to South Essex Homes.

Any capital payments will be made on account. A full reconciliation will be undertaken at the end of the financial year so that all actual costs relating to the relevant activities are chargeable to the relevant Council account.

The actual costs will include overheads and any redundancy costs payable in relation to any of the Employees undertaking capital contracts.

Payment Arrangements

The Management Fee and all interim payments will be payable by twelve equal monthly instalments.

This schedule has not yet been finalised so is subject to any changes that might be agreed.

30 **Schedule 4 – The SEPS services fee**

This schedule will be used to encapsulate the way the fees for the various services provided by SEPS are calculated. At present it is not populated..

31 **Schedule 5 – The Premise**

This schedule will list the various properties that South Essex Homes occupies and on what basis. The agreement will also need to ensure that tied accommodation continues to be leased to South Essex Homes so that security of tenure is not granted to the various tenants.

32 **Schedule 6 – Dispute Resolution**

The Partnership Agreement contains a dispute resolution procedure designed to facilitate agreement between the parties. There is also a fast track dispute resolution process whereby the Parties can proceed straight from a meeting of the Representatives of the Parties to consideration by an Expert but as stated above the Council is the final determiner of disputes.

33 **Schedules 7-10 Services and KPIs**

These schedules will set out the actual services that are being provided by South Essex Homes and SEPS and the different KPIs that will apply.

Main Terms of the Member Agreement

The Member Agreement is intended to encapsulate the parent/subsidiary relationship between the Council and South Essex Homes. SEPS is not a party to this agreement (as it is not a direct subsidiary of the Council) but pursuant to clause 3.6, South Essex Homes is required to ensure that

none of the matters that would require the Council's consent if done by South Essex Homes are carried on by SEPS without getting the Council's written consent first.

1 Clause 2 – Business

1.1 The parties (being the Council and South Essex Homes only in this agreement) agree to adhere to the principles set out in the Schedule 5 Partnership Protocol (the same as is set out above for the partnership Agreement). The Business of South Essex Homes is described as being:

1.1.1 to carry out all housing management activity in relation to the Council's housing stock;

1.1.2 to perform the other functions and activities as set out in the Partnership Agreement;

1.1.3 to carry out such other activities from time to time as are permitted and/or contemplated within the Partnership Plan, together with any activities reasonably incidental to the above.

1.2 The Business Plan approval / review process is the same as set out in clause 16 of the Partnership Agreement, which is explained above at paragraph 15.

1.3 South Essex Homes agrees not to acquire any property either within or outside the Council's administrative area or carry out any business that is not in the Business Plan without the Council's consent.

2 Clause 3 – Conduct of South Essex Homes's Affairs

2.1 This clause sets out certain governance arrangements of South Essex Homes. The Directors must meet no less four times each year at not more than three monthly intervals.

2.2 All matters of management of South Essex Homes are vested in the Directors, except for those matters which require consent of the Council. These matters are set out in Schedule 1. The Directors can appoint and/or remove a chief executive officer for South Essex Homes (with consent of the Council).

2.3 Directors will determine the manner in which the Business is carried out in accordance with the Business Plan, the Member Consent matters, alignment with the Council's own procedures and strategic objectives and the contents of the Member Agreement.

2.4 The chair of the South Essex Homes board (or another Director) can discuss the affairs, finances and accounts of South Essex Homes with designated officers and executives of the Council.

2.5 South Essex Homes agrees to maintain effective and appropriate control systems in relation to the financial, accounts and record keeping functions of South Essex Homes. South Essex Homes also agrees to report to the Parent board within ten business days of each Quarter with such information as may reasonably be required to demonstrate South Essex Homes's delivery of the Services. This will include details of performance against KPIs and formal complaints. The parties will agree the format of these reports, and the review process will be notified by the Council to South Essex Homes.

2.6 As stated above, clause 3.6 brings the activities of SEPS under the control of the Council by requiring that South Essex Homes (as the parent of SEPS) ensures that none of the matters listed in Schedule 1 can be carried out without the consent of the Council

3 **Clause 4 – Group Policies**

This clause is still subject to discussions as to whether it will be included and will have greater application if a Group Structure (involving the establishment of other companies owned by the Council) is set up. The purpose of this clause is to enable the Council to propose, where relevant, a degree of consistency amongst subsidiary companies of which the Council is parent. The Council would have power to adopt policies and standards (after consultation with the Group Members) which relate to all Group Members. These will ensure compliance with statutory and regulatory requirements which are applicable to the Group or any Group Member. They may also cover financial and business probity and efficiency, good governance practice, risk assessment and each Group member carrying on its business in accordance with its own corporate plan. Matters of operational policy will not be the subject matter of Group Policies. Agreed Local Variations will be permitted to the Group Policies where there are reasonable grounds for this.

4 **Clause 5 – Covenants**

4.1 South Essex Homes covenants to the Council that it will adhere to the terms set out in Schedule 2. These covenants are as follows:

4.1.1 Only to acquire land or assets or carry out additional service from those set out in the Partnership Agreement if any such acquisition and/or service provision is in accordance with the Business Plan and the Council has given consent.

4.1.2 It will conduct its Business in a manner commensurate with the Council's strategic objectives.

4.1.3 To comply with the Financial Regulations, Contractual Standing Orders, Board Member Expenses Policy and an Executive Performance Appraisal Framework.

5 **Clause 6 - Subsidiaries acceding to this Agreement**

This clause links with the form of Deed of Accession set out at Schedule 3. It is a mechanism by which new Group Members accede to the Member Agreement as if it had always been a party to it, agreeing to abide by all of its terms.

6 **Clause 7 – Termination**

6.1 The Member Agreement can be terminated in the following circumstances:

6.1.1 the written agreement of the Parties;

6.1.2 when a resolution is passed by the Member or creditors of South Essex Homes, or any order made by a court or other competent body or person instituting a process that shall lead to South Essex Homes being wound up

and its assets being distributed among the creditors, the Council or other contributors;

6.1.3 South Essex Homes ceases to carry on its Business;

6.1.4 South Essex Homes is convicted of a criminal offence;

6.1.5 the termination of the Partnership Agreement;

6.1.6 the Council giving not less than 90 days written notice to South Essex Homes of the date on which all or part of the Member Agreement will terminate.

7 Clauses 8 to 17 – Various

7.1 These clauses provide as follows:

7.1.1 Nothing in the Member Agreement creates a partnership between the Parties or makes one Party an agent of the other.

7.1.2 The application of the Contracts (Rights of Third Parties) Act 1999 is excluded.

7.1.3 The rights of each Party to the Member Agreement are not affected by completing, rescinding, failing to rescind, or failing / delaying exercising a right or remedy available to it. Waiver of a breach of a term of the Member Agreement, or a default under it, does not constitute a waiver or another breach or default of the Member Agreement.

7.1.4 Any rights or powers of the Council under the Partnership Agreement which shall or may be exercised after the termination or expiry of the Partnership Agreement (and are expressed as such) survive and remain in full force and effect notwithstanding termination or expiry. Any obligations of South Essex Homes provided for in the Partnership Agreement which remain to be discharged after the termination or expiry of the Partnership Agreement remain in full force and effect notwithstanding termination or expiry.

7.1.5 The Member Agreement can only be varied as set out in the Member Agreement and any variation must be in writing, and signed on behalf of each Party.

7.1.6 If any provision of the Partnership Agreement is declared invalid or unenforceable then the other provisions of the Partnership Agreement remain in full force and effect. The Parties are to negotiate a replacement term in good faith which can be substituted for any provision found to be illegal or unenforceable.

7.1.7 In the event of any ambiguity or discrepancy between the provisions of the Partnership Agreement, the Articles, and the Member Agreement, the terms of the Partnership Agreement will prevail.

7.1.8 Consents, notices, approvals or agreements to be given by the Council must be given in writing. Where the Member Agreement provides that a matter is

subject to the consent, approval or agreement of a Party, it shall be in the absolute discretion of the Party concerned as to whether (and if so, on what terms and conditions) the consent, approval or agreement is made.

7.1.9 Notices under the Member Agreement should be sent in writing (personally, by post or email) to the named persons and addresses set out in clause 15.

7.1.1 The Member Agreement is governed and construed according to English Law and the Parties submit to the exclusive jurisdiction of the English Courts.

8 **Schedule 1 – Member Consent Matters**

8.1 Please refer to the full list of Member Consent Matters, which are 28 in total. The following are some of the included matters:

- 8.1.1 varying South Essex Homes's Articles;
- 8.1.2 permitting the registration of any person as a member of South Essex Homes other than the Council;
- 8.1.3 adopting or amending its Business Plan;
- 8.1.4 appointing or removing a management director or chief executive (please note that this is subject to confirmation);
- 8.1.5 make any borrowing (please note that this is subject to confirmation); or
- 8.1.6 passing any resolution for its winding up or present any petition for its administration (unless it has become insolvent); or
- 8.1.7 engaging in any business other than as contemplated by the Business Plan or defray any monies other than in good faith for the purposes of or in connection with the carrying on of such business; or
- 8.1.8 forming any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not); or
- 8.1.9 amalgamating or merging with any other company or business undertaking; or
- 8.1.10 making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading) or give any guarantee (other than in the normal course of trading) or indemnity (other than in the normal course of trading); or
- 8.1.11 dismissing any Director (please note that this is subject to confirmation); or
- 8.1.12 acquiring any land or assets not set out in the current Business Plan.

9 **Schedule 2 – Covenants**

These are set out above at paragraph 4.

10 **Schedule 3 - Deed of Accession**

This is discussed above at paragraph 5.

11 **Schedule 4 – Group Policies**

There are none at this stage.

12 **Schedule 5 - Partnership Protocol**

This is the same as set out at paragraph 1 above for the Partnership Agreement.

This report has been prepared for the Council only and is not to be shared with or relied upon by third parties without our prior written consent. We understand that this report will be shared with South Essex Homes.

Trowers and Hamlins LLP

28 October 2019

South Essex Homes Limited

Report of the Assistant Director, Operations
to
The Board
on
4th December 2019

Report prepared by: Kerry Sinclair

Health and Safety Update

A Public Agenda Item

1 Purpose of Report

- 1.1 To provide the Board with an update of matters relating to Health and Safety within the Company.

2 Recommendation

- 2.1 That the regular progress information provided by the Regulation Compliance Officer is noted.

3 Background

- 3.1 Details of Health and Safety progress until 30th October 2019 are provided in Appendix 1.
- 3.2 Fire Safety continues to be an extremely high priority for us. A summary of fire safety works and activities that we have and continue to implement in high-rise blocks can be found in the Resource Centre in Diligent for the assurance of the Board. Officers have also been considering the likely impacts for South Essex Homes following the Grenfell Inquiry Report and are developing a draft action plan in anticipation of any changes in legislation or regulation. Officers will also report back to future Board meetings on progress against actions to ensure compliance with recommendations arising from the Grenfell Inquiry.

4 Diversity and Equal Opportunities

- 4.1 Health and Safety legislation is equality impact assessed at source.

5 Risk

- 5.1 The report of the Board's Health and Safety Scrutineer to each Board meeting, which sets out the regular work of the Company's Regulation Compliance Officer, serves to ensure our compliance with the Health and Safety at Work Act 1974 and mitigates the risk of prosecution of the

Company, employees and Board.

6 Financial Implications

6.1 The reporting and monitoring process will not attract any additional costs.

7 Union Consultation

7.1 Information is shared through Staff Forum and Performance Information.

8 Background Papers

8.1 Grenfell Tower Inquiry: Phase 1 Report

9 Appendices

9.1 Appendix 1 – Health and Safety Update until 30th October 2019

Corporate Compliance Position StatementAs of 30th October 2019

Key Regulations	List of Control measures South Essex Homes has in place in order to comply with Health and Safety Legislation.
The Regulatory Reform (Fire Safety) Order 2005	<p>The schedule for fire risk assessments for 2019/20</p> <p>Progress for 2019/20 (up to 30th October 2019):</p> <ul style="list-style-type: none"> ○ Sheltered Housing Scheme: 23 out of 23 completed (100%) ○ Tower Blocks: 13 out of 13 completed (100%) ○ Hostels: 9 out of 9 completed (100%) ○ Medium & Low Rise Blocks: 112 out of 149 completed (75%) ○ Others: 81 out of 85 completed (95%) ○ Progress is on target to complete this financial year <p>South Essex Homes complies</p>
Electricity at Work Reg. 1989	<p><u>Annual Portable Appliance Testing</u> (PAT Testing): 2019/2020 programme is being administered by the Caretaking Team. Progress for 2019/20 (up to 30th October 2019):</p> <ul style="list-style-type: none"> ○ Sheltered Housing Scheme: 23 out of 23 completed (100%) (7 individual properties still require access. A small number of these are likely to extend past a year between testing mainly due to residents in respite. This is currently being pursued via Sheltered Housing to arrange access. However, the Regulations do not specify a set frequency between tests.) ○ Offices: 3 out of 3 completed (100%) ○ Community Rooms: 6 out of 6 completed (100%) ○ Hostels: 8 out of 8 completed (100%) <p>This year's programme will commence 5th November.</p>

Corporate Compliance Position StatementAs of 30th October 2019

	South Essex Homes partially complies
	<p><u>Electrical Testing</u></p> <p>We continue to take all measures to ensure that every property including those that have proved difficult to access has a valid test certificate during this financial year. The current position regarding valid electric test certificates is:</p> <ul style="list-style-type: none"> ○ Completed Test Certificate within last five years: 4,546 ○ No current certificate or no access: 1,387 ○ Properties with no recorded details: 45 <p style="text-align: right;">Total Properties requiring Certificates: 5,978</p> <p>The Electrical Testing programme, following a delayed start, is now on site. Concerns over the contractor's (AJS) ability to achieve the necessary output and deliver the programme as required has resulted in the need to secure an additional separate resource.</p> <p>We recognise that this is a priority for the organisation and have implemented a programme which schedules in all of the properties without current checks during this financial year.</p> <p>As we are reporting this monthly, figures will naturally fluctuate month by month and while we have 130 certificates from AJS and 30 on the way from Aaron, due to the nature of the original programs, AJS have been targeting the properties due this year. The ones that are overdue have primarily been given to Aaron as the extra contractor and at publication we await paperwork before we can declare the service complete. Additionally we have sold a number of properties which were compliant and have started to capture the SBC buyback properties which at present do not have any paperwork that we can record.</p> <p>While there will be some properties which are genuinely difficult to access, the Property Services and the Tenancy Services Teams will liaise to identify those and take rigorous and appropriate legal action which may include seeking an injunction.</p>

Corporate Compliance Position StatementAs of 30th October 2019

	South Essex Homes partially complies
Legionnaires Legionnaires Disease, The Control of Legionella Bacteria in water systems. Approved Code of Practice and Guidance (L8)	<p>Monthly monitoring of sheltered schemes continues to programme. Six monthly testing of high rise blocks has commenced. Automated remote monitoring is currently being installed. This will provide advanced control and aid prevention once commissioned.</p> <p>South Essex Homes complies</p>
Control of Asbestos Regulations 2012 (CAR)	<p>Regulations state that organisations need to ensure that asbestos is managed and that they also monitor the condition of any asbestos materials. To mitigate the risk of non-compliance, we respond to repair issues when identified utilising licenced contractors and all staff undergo regular Asbestos Awareness training. Other methods of embedding a routine re-inspection regime are under consideration such as visual inspections being carried out by all visiting officers and caretakers on an ongoing basis. This would need to be underpinned by information and appropriate technology being available to staff (potentially use of the Photobook app which has started to be used by Caretaking Staff). In-house recording of void asbestos re-inspections is updated on Apex and this will represent typically 10% of stock annually. Additional survey data undertaken as a result of ongoing capital works is recorded on Apex. Asbestos removal works are also recorded on Apex to ensure the Asbestos Register is maintained.</p> <p>South Essex Homes complies</p>
The Lifting Operations Lifting Equipment Regulations 1998 (LOLER)	<p>Independent Insurance Inspections are undertaken at six monthly intervals. Monthly inspections at tower blocks and bi-monthly inspections in sheltered schemes are undertaken the lift maintenance contractor. The above meet the requirements of the current EN81 and LOLER lift Regulations and Standards.</p> <p>South Essex Homes complies</p>

Corporate Compliance Position StatementAs of 30th October 2019

Gas Safety (Installation and Use) Regulations 1998 (GSIU)	All properties have a valid LGSR certificate. South Essex Homes complies
Construction (Design and Management) Regulations 2015	This function is provided both in-house and externally. All required Property Services staff undertook an externally delivered CDM course in February 2019 and these staff also attended further training via a CITB course in May 2019. Therefore South Essex Homes fully comply with the CDM regulations. South Essex Homes complies

Minutes of Audit & Risk Committee Meeting

Date: Wednesday 16 October 2019

Time: 5.00pm Room: Committee Room 6

Present: David Joyce – Chair Audit & Risk Committee; Michael Oxley; Chris March; Phyllis Ward

In attendance: Chris Vaughan – Director Business Development; Simon Putt – Group Manager, Corporate Resources & Income Management; Carol Cooper – Board Support Officer; Rebecca Gill – Audit Manager; Andrew Barnes – Head of Internal Audit

		Action
1.	Welcome and Introductions	
1.1	DJ welcomed everyone to the meeting.	
2.	Apologies for Absence	
2.1	Apologies were received from Margaret Borton	
3.	Declarations of Interest	
3.1	There were no declarations of interest.	
4.	Report of Whistle Blowing Incidents	
4.1	There were no whistle blowing incidents reported.	
5.	Minutes and Matters Arising from the meeting held on 19 June 2019	
5.1	The Chair confirmed that the Committee required an executive summary for each report to be prepared going forward.	SP
5.2	The minutes were agreed as a true and accurate record.	

<p>6.</p> <p>6.1</p> <p>6.2</p> <p>6.3</p> <p>6.4</p> <p>6.5</p> <p>6.6</p>	<p>Performance Management Update Report</p> <p>DJ asked that if access is refused what are landlords' rights regarding reporting this? DL had explained that these properties can be excluded from the Decent Homes Standards report but MA has asked for them to be included to maintain the momentum.</p> <p>DJ requested clarification as to how KPIs were set? SP explained the process and confirmed that discussions were held with the Council regarding the specific KPIs they required, and these together with other targets were then recommended to Board.</p> <p>Former tenant arrears. SP confirmed that former tenant arrears as at the end August £67k were write-offs, which accounted for 0.46% of the outstanding debt. DJ commented that although the report indicates that FTA are decreasing, that removing the affect of the write-offs, they are actually increasing in line of what is probably expected.</p> <p>MO asked for it to be noted that sickness levels were reducing and that this was positive.</p> <p>Recommendation:</p> <p>The Audit & Risk Committee noted the exceptions to the Key Performance Indicators as at 31 August 2019.</p> <p>The Audit & Risk Committee agreed to recommend the revised target for SEH KP7 – void turnaround time of 19 days – to the Board</p>	
<p>7.</p> <p>7.1</p> <p>7.2</p> <p>7.3</p> <p>7.4</p>	<p>Budget Position and Management Accounts as at 31 August 2019</p> <p>DJ had asked DL that if there were an underspend in the Revenue Repairs budget at the end of the financial year then who would benefit? DL had explained that as this was SBC's money then it would be SBC.</p> <p>DJ had asked DL outside the meeting to clarify the position regarding outstanding capital works. DL confirmed that the works were expected to meet the programme at no extra cost.</p> <p>DJ had asked DL outside the meeting about the bank balances. DL had confirmed that the balance shown was for the current account only. The Committee requested that all bank balances are reported to the Audit & Risk Committee.</p> <p>DJ had asked DL outside the meeting about the situation regarding the revised budget. DL confirmed that a report will be prepared for Cabinet and after this has been agreed the revised budget will be available.</p>	<p>DL</p>

7.5	<p>Recommendations:</p> <p>The Audit & Risk Committee reviewed and considered South Essex Homes' financial performance based on information as at 31 August 2019</p>	
7.6	<p>The Audit & Risk Committee noted the exceptions to the Internal Audit recommendations</p>	
8.	<p>Counter Fraud and Investigation Directorate Update</p>	
8.1	<p>AB updated that the previous Counter Fraud Team, shared by Thurrock and Southend BC and been dissolved and that the Thurrock Team would no longer be providing this service to Southend Borough Council. 4 members of staff will be returning to SBC and delivering the counter fraud service which will now be managed by Andrew Barnes, Internal Audit Manager.</p>	
8.2	<p>AB clarified that there will be no direct impact to SEH from the changes.</p>	
9.	<p>Internal Audit Quarterly Performance Report</p>	
9.1	<p>DJ asked if AB was aware of any further risks that the Committee were not considering. AB confirmed that there is a risk watch list which is circulated at the beginning of the year. AB confirmed that IA reviewed the list regularly. AB confirmed that if there were any concerns, then they would be raised at regular catch up meetings with officers.</p>	
9.2	<p>AB clarified that only 1 stakeholder had taken part in the feedback on the internal audit survey. The Committee asked that the number of recipients be made clear in reports in the future.</p>	AB
9.3	<p>DJ asked for clarification regarding the Contract Procurement rules. AB confirmed that SEH have always used the same procedures as the Council, it is just the new portal that they have started using, ProContract. Using ProContract will make the procurement process more transparent.</p>	
9.4	<p>DJ asked for clarification regarding the Fire Safety Audit and whether any of SBC's tower blocks had cladding. RG said there were 2 that had been identified and that the risks were being investigated.</p>	
9.5	<p>The Committee asked for an update to the Fire Safety report to be prepared by MA for the next Committee meeting to reassure them that we are fully investigating the situation regarding fire safety and tower blocks and that appropriate action is being taken.</p>	CV/MA

9.6	DJ asked for an update as to Directors and Officers public liability insurance, in particular how much cover is in place. He also requested a comparison as to what other ALMOs/Councils have in place. CV confirmed that DL would supply this information at the next Committee meeting.	DL
9.7	AB agreed to investigate to see if SEH's insurance for officers/directors is comparable to other similar organisations.	AB
9.8	Recommendation: The Audit & Risk Committee noted the report	
10.	Date of next meeting – 20 February 2020	

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