

Committee : Cabinet

Date: 22 June 2021

Subject: Capital Letters

Lead officer: Steve Langley, Head of Housing

Lead members: Councillor Martin Whelton, Cabinet Member for Housing, Regeneration and the Climate Emergency

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Recommendations:

- (a) To approve the decision to become a member of Capital Letters (London) Ltd.
- (b) To note that the main reason for joining Capital Letters is to increase housing supply for vulnerable homeless households, given the acute shortage of social housing nominations.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report sets out the reasons for joining the Pan London Capital Letters (London) Ltd, which will collaboratively procure new properties on behalf of London boroughs, supported by the Ministry of Housing, Communities & Local Government (MHCLG).
- 1.2 The housing pressures on low-income households in Merton and in London generally have never been greater and it is necessary to develop new and innovative pathways to increase housing supply. Officers have been working on new models which would enable better outcomes for homeless / at risk households. The result of which is Capital Letters.
- 1.3 This pressure has been increased because of Covid 19 and the anticipated increase in homelessness applications following the ban on evictions being removed (31st of May 2021), the furlough scheme ending and redundancies / job losses potentially increasing.
- 1.4 We can also expect demand for suitable private rented sector accommodation increase from other statutory agencies, thus creating a very competitive housing market. These agencies include the Home Office and its partners as they seek to procure suitable dispersed accommodation

- (known as Operation Oak) for vulnerable Asylum seekers living in unsuitable hotel accommodation. We need to be able to respond to this competition collectively with other London Boroughs so as to maximise our prospects of obtaining supply and it is felt that Capital Letters is the vehicle to achieve this objective.
- 1.5 Tackling homelessness is a key priority at all levels, locally, sub-regionally, regionally and nationally. Overall, the amount of social housing in England has reduced by about 270,000 units over the past 20 years. The number of homes owned by local authorities has more than halved from just under 3.5 million 20 years ago. This is due to Right to Buy sales, Large Scale Voluntary stock transfers to housing associations. Merton transferred its housing stock in March 2010.
 - 1.6 Even more than before a more coordinated effort is required from councils to source an improved supply of suitable accommodation for homeless/threatened with homeless households.
 - 1.7 The size of the private rented sector has doubled since 2002 and accounts for about 4.7 million (one in five) homes.
 - 1.8 While some social housing is being built, there is insufficient new housing to meet housing need nationally.
 - 1.9 Merton has no social housing stock and is reliant upon housing associations and agreed nomination rights to meet housing need. Whilst Merton holds no stock it remains responsible to meet housing need, including the most acute form, i.e. homelessness.
 - 1.10 There continues to be a high demand for accommodation, where at 31st March 2021, there were 9125 households waiting on the Council's Housing Register and 197 households in expensive temporary accommodation. At the same time only 191 housing association homes were made available for letting through agreed nomination rights to housing associations in the period April 2020 to March 2021.
 - 1.11 There is a greater reliance on the private rented sector in Merton for both temporary and permanent housing solutions and a key challenge in Merton is affordability. The Local Housing Allowance (LHA) rates are the maximum amount of Housing Benefit that can be claimed by tenants who rent a home from a private Landlord. Some people need to apply for the housing element of Universal Credit instead. Private rents in Merton are above the LHA rates and tenants must make up the shortfall from their other income.
 - 1.12 Waiting for an offer of a social housing tenancy in Merton is increasingly not a realistic option and we are likely to end our homelessness duty with an offer of a private rented sector property. Despite all efforts to secure more

properties in Merton, households often have to be housed elsewhere, where housing is more affordable.

2. CAPITAL LETTERS AS A HOUSING SOLUTION

2.1 Company Structure and Governance

- 2.1.1 Capital Letters is a company limited by guarantee, wholly owned by the London Boroughs, of which there are currently 20 members. There are no shareholders or dividends, and all surpluses are reinvested in the company. Participating boroughs are limited liability members.
- 2.1.2 The company was registered at Companies House in December 2019, supported by London Councils and the London Housing Directors Group, with funding from government of £37.8 million.
- 2.1.3 Capital Letters is a “Teckal” company. The company is controlled by participating authorities but could be awarded contracts and services without the requirement for a competitive tender process involving external parties in accordance with the Public Contracts Regulations 2015, although the Council must ensure compliance with its own internal contract standing orders requirements.
- 2.1.4 The activity of the company is being supported by a digital Property Listing Platform (PLP). The system is operational and allocating properties to existing member boroughs.
- 2.1.5 The Law firm Trowers and Hamlin have drafted the Articles of Association which is included as an appendix to this report.
- 2.1.6 Joining Capital Letters would hopefully enable Merton to secure more private rented properties in London or as close to the borough as is practicable, thus reducing lengthy waits in nightly paid accommodation and possibly the need to make such placements in the first instance, although this is unlikely to be the outcome in the first instance.
- 2.1.7 Member Boroughs also have the option (if they so choose) of transferring some or all of their existing private sector leased properties into Capital Letters, which as a private Landlord is eligible for 100% LHA from the DWP, which is higher than the rate for borough let temporary accommodation which is currently 90% of 2011 LHA levels.
- 2.1.8 Merton has one private sector leased dwelling at Hall Place, 5 Church Road, Mitcham which is an 81 room homeless hostel.
- 2.1.9 If Merton were to become a member of Capital Letters, then detailed discussions would need to take place regarding transferring that arrangement either through the novation of the existing contract or by a new contract between the owners (Rooms and Studios) and Capital Letters. However, implementation of these changes may be complex, and much will

- depend on our preferences, the preferences of the owners and existing legal arrangements. This would need to be part of a separate conversation after Merton joins Capital Letters if that is the agreed way forward.
- 2.1.10 The decision to transfer Hall Place is not a key consideration for joining Capital Letters and unless the Council could be assured of its ability to continue to have 100% access to vacant units at this site this would not be pursued. Currently this option is not recommended for further consideration.
- 2.1.11 The Council would continue to be responsible for undertaking affordability and suitability assessments, in accordance with the provisions of the Housing Act 1996 Part 7. This includes the allocation of households to the properties that Capital Letters Procure.
- 2.1.12 There is no membership fee required to join Capital Letter. However, as set out in the report the Council will continue to be responsible for the costs of placements into the Private Rented Sector and Landlord incentives paid to Capital Letters. However, the payment of incentives to Landlords is already a common practice for Merton and forms part of its homelessness prevention strategy. Section 2.4 of this report sets out the incentive schedule for Capital Letters in more detail.

2.2 Details and Current Operating Environment

- 2.2.1 When a household approaches the Council in housing need, the Housing Needs team makes a formal assessment against a number of criteria as prescribed in homelessness legislation. If it is not possible to prevent homelessness, and the household has met the legislative criteria, there is a statutory duty to secure suitable accommodation for the household.
- 2.2.2 The demand for affordable housing in Merton continues to be one of the major challenges that the Council faces with high demand being primarily driven by households being evicted from the Private Rented Sector (PRS).
- 2.2.3 Since the implementation in April 2018 of the Homelessness Reduction Act 2017, there has been an increase in the number of homelessness presentations. The growing number of applications and our obligations within the legislation means that we must explore ways of increasing the number of properties available to us to discharge our duties to homeless households.
- 2.2.4 Due to the lack of supply of social housing the Council is using the power to meet new demand from homeless households with accommodation in the Private Rented Sector (PRS). Because there is an insufficient supply of PRS accommodation that is affordable in Merton. Some homeless households are therefore still placed in temporary accommodation, or in PRS accommodation outside of Merton.
- 2.2.5 Different types of temporary accommodation are used in Merton to house homeless households including bed and breakfast accommodation (B&B),

- homeless hostels, private sector leasing (PSL), and nightly paid accommodation.
- 2.2.6 There are currently 9125 households on the housing register, waiting for social housing in Merton. Of these, 197 homeless households are living in temporary accommodation at the end of March 2021. The Council is therefore exploring various initiatives to increase housing supply, which will be set out in its housing investment strategy (housing strategy).
- 2.2.7 But as long as there is such a mismatch between the demand and supply of social housing, we also need to take steps to ensure the supply of suitable, affordable private rented accommodation.
- 2.2.8 Capital Letters will sit alongside any new initiatives that are developed and focus on the procurement of private rented sector offer (PRSO) properties in or nearer to Merton for the prevention and relief of homelessness and to end a main homelessness duty.
- 2.2.9 This means that Capital Letters will complement rather than be in competition with existing Council initiatives, as some procurement will continue to be handled in-house after joining Capital Letters. Of the 197 households in temporary accommodation at the end of March 2021, 65% are accommodated using temporary accommodation nightly paid agreements.

2.3 Why a change is needed - Demand and Supply

- 2.3.1 There is a desperate shortage of housing which is affordable to Merton's population. This initiative seeks to increase supply for a number of households in need of help and is expected over time to reduce the costs the Council incurs in procuring expensive nightly paid accommodation. However, Capital Letters is not intended to be the silver bullet to resolve the Council's housing shortage but can be seen as one of a number of initiatives being developed as a way of increasing housing supply for vulnerable households within the private rented sector.
- 2.3.2 Whilst the Council is exploring alternative options on how best to increase housing supply many of these will take some time to reach fruition. The Council will shortly publish a new Housing Strategy which will set out a housing vision and objectives to be achieved over the next five years, including how best to work with partner housing associations to increase affordable and suitable accommodation and how best to use its own housing assets and land availability.
- 2.3.3 Homeless households are spending an increasingly long period of time in Temporary Accommodation waiting for social housing. Depending on the size of the property required, some of these waits can be lengthy.

- 2.3.4 Recently, the housing pressures on low-income households in London have perhaps never been higher as a result of COVID-19. This includes the 'everyone in' principle and the associated work on eliminating rough sleeping. In addition, there is an anticipated increase in homelessness now that the ban on evictions is removed, the extended Section 21 notice period reducing from 6 months to 4 months, the furlough scheme ending, and redundancies potentially increasing.
- 2.3.5 Due to this high level of demand for affordable accommodation, the significant financial impact and its likely continuation, even more than before a more coordinated effort is required from councils across London to source an improved supply of suitable accommodation to meet demand.
- 2.3.6 Capital Letters is one of the initiatives which will help to increase the supply of private rented accommodation, reduce the cost of this accommodation, and reduce the need for households to be accommodated out of the borough. This pan-London initiative should achieve economies of scale and reduce the competition between boroughs for this type of accommodation.
- 2.3.7 It is hoped that Merton will benefit significantly from the numbers of properties to be procured by Capital Letters, thus reducing homelessness costs. Additionally, the procurement of private rented sector properties offers the opportunity to discharge housing duty.
- 2.3.8 The activity of the company is being supported by a digital Property Listing Platform (PLP). The system is operational and allocating properties to existing member boroughs.
- 2.3.9 Capital Letters is a company limited by guarantee, wholly owned by the London Boroughs, of which there are currently 20. The company is registered at companies House in December 2019, supported by London Councils and the London Housing Directors Group, with funding from government.

2.4 Incentives

- 2.4.1 A fundamental part of Capital Letters is that they work in partnership with members to reduce costs, act as a market disruptor, seek to provide efficient services and dampen landlord's expectations of incentive payments. They have agreed a standard incentive package with all members which is applied pan-London and is also adopted by their in-house teams if they continue to procure in addition to Capital Letters. This is an integral part of their business as Capital Letters officers, known as negotiators, procure "blind" – they don't need to know which borough a particular property will be offered to as their system's algorithm determines this. They focus on negotiating the best deal within the agreed incentives package envelope. Incentive rates are kept under regular review to ensure they remain appropriate for the environment. Any changes are developed in partnership with members.

2.4.2 Capital Letters incentives package 2020/21

The table below shows the incentive payments the Council will need to pay to Capital Letters on a successful letting.

1 year	2 years
1 bed *£1000	*£2000
2 bed = £2000 + (discretionary £1000) = £3000 max	Existing £4000 + (discretionary £500) = £4500 max
3 bed = £2500 + (discretionary £1000) = £3500 max	Up to max of £5000 as per current agreement (£4000 + discretionary £1k)
4 bed = £3000 max	Up to max of £4500 - decreased incentive from 5k

*Pan London Agreed Rates as of 23/06/2020

2.4.3 The main financial benefit to Merton is from the top slice from MHCLG for 2 bed units and above on a two-year AST. Assuming a cost of £4K incentive to secure a dwelling, the Council would receive £750 back in top slice from MHCLG budgets. The table set out in section 7 seeks to provide the detail on costs and benefits for 100 properties split across 1, 2 and 3 bedroom homes. The table further demonstrates that the Council would need to pay out £360K in incentive payments but would receive back £120K top slice from the MHCLG budget. This is only available to the Council if we are a member of Capital Letters.

2.4.4 Capital Letters is supported by a grant from MHCLG, allocated from the 'Homelessness Prevention Grant. £37.8 million was initially allocated until 2021-22 and spread over 4 years. Capital Letters are in discussions with MHCLG about extending the grant. The grant from MHCLG is used to support three key areas of activity:

(a) Grant for member boroughs to contribute towards the cost of private rented sector (PRS) placement incentives for landlords. It is common for councils to offer an incentive payment for new landlords. In Merton, incentive payments can range from £1,000 to £4,000 depending on the bedroom size and type of property. Each property procured by Capital Letters and let by the Council will attract a grant payment.

(b) Grant for member boroughs to contribute towards top up payments made to landlords for Private Sector Lease (PSL) properties – currently £15 per week for each 3-year lease procured by Capital Letters. There is often a shortfall between the cost of leasing a property and the amount that can be claimed back through Housing Benefit. In Merton's case this would apply

only to its private sector lease dwelling at Hall Place, which at the present time is not recommended.

(c) Central costs to enable the company to operate including corporate service staffing costs (Executive Team, HR, Finance etc) and for additional procurement staff (to increase property procurement), tenancy sustainment staff, IT and premises.

2.4.5 The author of this report proposes that funding is sought for 2 new posts within Capital Letters using the MHCLG Homelessness Prevention Grant by transferring funds on an annual basis to Capital Letters for the company to directly recruit to these posts. For the first year up to £102k to be transferred to cover the cost of the salary and all on-costs/overheads. Capital Letters increase salaries in April each year based on the rate approved by the Board. The new staff will be directly employed by Capital Letters on their terms and conditions.

2.4.6 This cost should be offset by reductions in the costs of procurement which benefit from the MHCLG top-sliced grant contribution available to Capital Letters. The Council's current in-house Team which consists of 3 officers will continue to procure emergency accommodation, allocate to Hall Place, and some private rented sector offer (PRSO) properties where an existing landlord that they already work with prefer to have a direct relationship with the Council and not capital letters. They will also continue to facilitate the relationship between landlords and homeless households who find their own private rented accommodation as a housing solution. Officers will continue to provide housing management for those households in temporary accommodation, such as Hall Place which includes the administration of rent accounts, housing benefit entitlements etc. They would also continue to be responsible for undertaking affordability and suitability assessments and for allocating households to the properties that Capital Letters procure.

2.4.7 Over the last three financial years, the in-house Team secured the following number of total private rented sector offers (PRSO) which was used for the prevention and relief of homelessness and to end a main homelessness duty:

	2017/18	2018/19	2019/20	2020/21
RDS Lettings	70	45	41	71

2.4.8 Whilst there is an opportunity to second one member of our staff to Capital Letters, and therefore reduce the need for 2 officers to be recruited at Capital Letters, then a more detailed consultation would need to be had with the officer and trade union. We would also need to consider how the gaps

in continuing to deliver a service in house as previously described would be maintained.

- 2.4.9 Merton had not sought to join Capital Letters earlier as it wanted evidence of its concept and current performance. This has been achieved. Capital Letters commenced operations in June 2019, although it took a while to establish the detailed operational arrangements. The period until March 2020 was spent developing working processes and procedures. As a result, Capital Letters is now fully operational, with all processes and procedures in place and a functioning IT system which means that Merton would benefit from the opportunity immediately on joining.

The following boroughs have become members of Capital Letters:

Barking & Dagenham
Bexley
Brent
Camden
Croydon
Ealing
Enfield
Greenwich
Hackney
Hammersmith & Fulham
Haringey
Harrow
Havering
Lewisham
Newham
Tower Hamlets
Redbridge
Southwark
Waltham Forest
Westminster

- 2.4.10 The target for each Housing Negotiator employed by Capital Letters is 100 properties per year, although this is pro rata depending on when they commence employment with Capital Letters. In principle this performance would yield 200 placements for Merton, subject of course to the availability of suitable homes. Therefore, membership of Capital Letters will enable Merton to secure more PRS properties than historically procured, as set out in paragraph 2.4.7. In addition, these properties will be within or close to Merton in London. The properties will be used for the prevention and relief of homelessness or to end a main homelessness duty. This will reduce the need to place families in temporary accommodation or in PRS accommodation further away or outside London.

2.4.11 Capital Letters set an annual target for each member based on the number of staff contributed at the start of the financial year (or pro rata for part-years). The boroughs also confirm what type of properties and bedroom size they require for each year. This is then divided into a monthly rolling target. Properties are procured by Housing Negotiators “blind” (i.e., they don’t know which Borough the property will be offered to); the properties are inputted into the computer system and the algorithm determines which Borough the property will be offered to. The first criteria is based on geography – which borough is the property located in; they also use an estimate of one hour travel on public transport during peak time to determine location. The second criteria is the fulfilment of the borough’s monthly target. If the target has been met, then the property is offered to a neighbouring borough.

2.4.12 Capital Letters’ Area Managers meet with each member monthly to review performance and target achievement. If a monthly target is not met, it rolls over into the next month, which then prioritises the Borough for allocations. The algorithm can also be manually overridden to ensure members receive their fair allocation of properties and/or to meet specific needs such as adapted properties.

2.4.13 Capital Letters also provides a tenancy sustainment service, for tenancies which are arranged directly by them. This is an integral part of the offer, enabling households to successfully maintain their tenancies, thus avoiding repeat homelessness, whilst also giving landlords confidence about the security of their income and condition of the property.

2.4.14 If Merton decides that it will join Capital Letters, then the subsidy from the MHCLG grant and the associated tenancy sustainment service should result in cost reductions, especially when extrapolated over a significant number of placements, and improve outcomes for homeless households.

Capital Letters Performance and Future Business Plans

2.4.15 Council Officers have consulted with Capital Letters and can confirm that currently:

- 55 Housing Negotiators have been employed by Capital Letters.
- 10 Tenancy Sustainment Officers and 2 Area Managers recruited
- 1806 properties offered to member boroughs.
- 1131 properties have been let.

Capital Letters have an ambitious 3-year corporate strategy, where they say that by 2022/23, they will have:

- Recruited 150 staff.
- Extended membership to 25 London boroughs
- Procured 26,000 properties.
- Supported 8,000 people to sustain their tenancies.
- Achieved 4,000 homes in management.

3 ALTERNATIVE OPTIONS

3.1 There is the option not to join the company.

This would result in a lost opportunity to access MHCLG grant funding and thus alleviate the costs of providing accommodation, to increase the procurement of accommodation and move away from expensive nightly paid temporary accommodation and to enable the placement of households closer to Merton.

Boroughs who do not join Capital Letters will still have properties procured by Capital Letters in their area. Although Capital Letters abides by the agreed Inter Borough Accommodation Agreement (IBAA) rates, there is nevertheless a risk that landlords and agents will prefer to work with Capital Letters rather than within individual boroughs because of the profile it has, and because of the more streamlined ability to let properties across London with one organisation rather than with a number of different boroughs.

3.2 There is the option to deliver the service in house by increasing the housing team.

Over the last three years the Council's in house team have been successful in increasing housing supply by 227 properties. These properties have assisted the Council in discharging its statutory housing duties, now referred to as ending the prevention and relief duties as set out in the Homelessness Reduction Act 2017. Whilst this performance is very positive and demonstrates officer commitment to preventing homelessness, the current operating model is unlikely to be sufficient to meet the challenges that will most definitely emerge into the future i.e., increased levels of homelessness.

If the Council were of the opinion that it would prefer to further develop the service in house, then it would need to increase the levels of staffing available to the team and recognise that even with the increased levels of staffing the resilience required to deliver and compete in an ever changing housing market could prove challenging.

For these reasons this option is not recommended. The table below sets out the additional costs if we were to increase staffing capacity within the current team and aim to deliver a service equivalent to Capital Letters.

To secure 100 - 1/2/3 bed properties in/out of the borough for example it will cost as follows:

Proposal	£
Housing Manager ME15 FTE X 1	62,670
Housing Negotiators ME9 FTE X2	80,160
Rent Deposits	360,000
Non- Pay Items	21,000
Total	523,830

4. CONSULTATION UNDERTAKEN OR PROPOSED.

- 4.1 Capital Letters has been developed in conjunction with and supported by MHCLG, GLA, London Councils, the 33 London Boroughs, including the London Councils' Housing Directors Group and London Councils' Leaders Group.
- 4.2 Consultation with homeless households is not planned at this current time. Capital Letters would only procure within London, in areas where the existing housing Procurement officers are already active, meaning there should be minimal effect on service users.

5. TIMETABLE

- 5.1 The Capital Letters' governance process requires boroughs to secure internal approval to join the company so the Borough Representative Body can confirm their membership. However, the actual date of implementation will be designed to suit London Borough of Merton's internal timescales and operational arrangements.

6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

It is difficult to accurately forecast the exact cost reduction for the use of temporary accommodation because any calculation involves a significant number of assumptions, unknowns and variables i.e. we have no way of knowing how many homeless households will apply to the Council and be eligible for a statutory placement into temporary accommodation. On the demand side of the equation it is unknown how many properties of which size and type will become available in any given month. This uncertainty has always existed to some degree but the Covid 19 pandemic has added a number of unknowns into the picture which include the lifting of the ban on evictions and the "everyone in" principle.

However, what we can be clear about is the main financial benefit of joining the company is to access MHCLG funding and increase the number of properties sourced to reduce the need for High-Cost Temporary Accommodation, thereby

saving money in the General Fund. For the sake of clarity, the funding from MHCLG would be a top slice of £750 for every completed letting for dwellings of 2 bedrooms or more, thus recirculating rent deposits back into the homelessness prevention budget.

Temporary accommodation is expected to cost the Council £5m gross in 2020/21 and approximately £2.1m net, reflecting housing benefit income, and client contributions and personal payments. The actual costs of providing temporary accommodation is not covered by the subsidy through central government's subsidy formula.

There continues to be considerable pressure on the temporary accommodation budget. This pressure is likely to continue through increased activity in homelessness episodes because of legislative changes, Covid-19 and the "everyone in" principle and the reduction in housing association homes available for nomination.

The tables that follow below sets out how the MHCLG top slicing would work if 100 properties were to be relet via Capital Letters. It can be seen from the table that the Capital Letters programme is self-funding and there should be no net cost to the Council.

Option to Secure 100 Properties							
Number of Beds	1 Bed Properties		2 Bed Properties		3 Bed Properties		Total
Cost per lease agreement	£2,000		£4,000*		£4,000*		
No. of Lease Agreements	20		30		50		100
Financial Benefit per lease	NIL		£750		£750		
	Year 1	Year 2	Year 1	Year 2	Year 1	Year 2	Total
LBM's Costs-Incentive Payments	40,000	-	120,000	-	200,000	-	360,000
LBM Gain-MHCLG Top Slice portion back to the LBM	Nil	Nil	(22,500)	(22,500)	(37,500)	(37,500)	(120,000)
(Surplus)/Deficit	40,000	-	97,500	(22,500)	162,500	(37,500)	240,000

*- excluding the additional discretionary payments.

NOTE: With the proposed two officers cost at £102k and a target of 100 properties each, the MHCLG top slice would be in the region of £240k, with a net benefit to the Council of circa £140k.

7. LEGAL AND STATUTORY IMPLICATIONS

Where the Council determines under the provisions of the Housing Act 1996 Part VII (as amended) that a person/household is eligible for assistance, homeless, in priority need and not homeless intentionally, it has a duty to secure suitable accommodation (unless it refers the applicant to another authority under the local connection provisions): s193(2), s206(1).

The suitability of accommodation is governed by s210 of the 1996 Act, the Homelessness (Suitability of Accommodation) Order 1996 (SI 1996/3204) and by the Homelessness Code of Guidance for Local Authorities. 3.8. When discharging their housing duties under Part VII, an authority must, so far as reasonably practicable, secure that accommodation is available for the applicant's occupation in their own district: s208(1) of the 1996 Act. 3.9.

The Localism Act 2011, in force in England on 9 November 2012, introduced provision for the Council to discharge its housing duty to statutory homeless households by offering a tenancy in the private rented sector. Any private rented sector offer must be suitable and must comply with the provisions of the Homelessness (Suitability of Accommodation) Order 1996.

Where a Local Authority is under a duty to perform a function then within prescribed parameters the Local Authority can arrange for the function to be delivered by a third-party contractor or a company established by the Local Authority or within which the Local Authority has an interest. A company can be established where a number of Councils are members/shareholders.

Traditionally section 111 Local Government Act 1972 is relied upon as the power for establishing companies and entering into contracts. This is the power to *“do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions”*. The Localism Act 2011 also introduced a general power of competence for local authorities to do anything that an individual may do, which would include the formation of companies.

Capital Letters as per the main body of the report is a duly established Local Authority Trading Company with governance arrangements in place to admit new 'members'. As the company has been set up under Regulation 12 of the Public Contracts Regulations (a Teckal Company), if the Council is admitted as a new

member to the company, this will enable the Council to obtain services from it without the need to procure or go out to the market.

The Council may therefore join the existing Local Authority members of Capital Letters as a limited liability member subject to entering relevant arrangements and executing prescribed legal documents to formalise its membership. Further legal advice may be required with regards the contents of articles of association that are attached to this report.

8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- a. The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- b. The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and.
- c. Foster good relations between those who have protected characteristics and those who do not.

'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Merton residents in respect of socio-economics and health determinants.

The provision of high-quality private sector accommodation close to family and support will have a positive impact on the quality of life for households with protected characteristics.

Health and Wellbeing

The implementation of Capital Letters will benefit the health and well-being of vulnerable residents. Capital Letters seek to secure affordable better quality private rented properties on the open market. There will be an emphasis to rehouse households in Merton which will reduce the upheaval for children and their school placements.

Housing Officers will support the health and well-being agenda to ensure that the former homeless household will have access to health services (including mental health) recognising the impact that homelessness and the Covid 19 pandemic can have a long-lasting effect.

9. CRIME AND DISORDER IMPLICATIONS

None for the purposes of this report.

10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

There are a number of risk implications in joining Capital Letters which would need to be considered, alongside actions mitigating those risks.

The Council is proposing to use the company to secure PRS properties for the prevention and relief of homelessness or to end a main homelessness duty. This is a proportion of the overall homelessness function activity which will still be undertaken in-house and this risk has been mitigated by retaining Procurement staff in Housing Needs Service to ensure that existing supply can be maintained.

If Capital Letters does not work, the Council can cease to be a Member of the Company by serving six months' written notice to do so.

The company encounters financial difficulties and ceases to operate: The Company has been established as a private company limited by guarantee, owned and managed by the boroughs who constitute limited liability members of the company. The risk to the Council is minimal as the liability is limited to £1. The company is required to have sufficient funds to cover their credit and any redundancy costs if they cease to operate. The company is also Teckal compliant, meaning that it complies with Contracts Regulations and European Law. The rights over the properties and responsibilities towards the households would need to be negotiated with Capital Letters and the legal owners of the properties and this would be done in accordance to the framework of the homelessness legislation and the Councils duty to the household.

11. APPENDICES – the following documents are to be published with this report and form part of the report

1. Articles of Association



Articles of
Association - Capita

12. BACKGROUND PAPERS

N/A

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