

# ARUN DISTRICT COUNCIL

## REPORT TO HOUSING & WELLBEING COMMITTEE ON 17 MARCH 2022

### REPORT

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| <b>SUBJECT:</b> | <b>Local Management Agreement - proposal for Nightingales sheltered scheme, Findon, BN14 0TW</b> |
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| <b>REPORT AUTHOR:</b> | <b>Sasha Hawkins</b> , Resident Engagement Officer<br><b>Karen McGreal</b> , Business Improvement Manager |
| <b>DATE:</b>          | <b>1 February 2022</b>  |
| <b>EXTN:</b>          | 01903 737656  |
| <b>AREA:</b>          | Residential Services  |

### EXECUTIVE SUMMARY:

This report seeks Committee approval for the formulation and implementation of a Local Management Agreement between Nightingales Tenants Association and the Council.

The Local Management Agreement will allow Nightingales Tenants Association formed by residents at Nightingales, sheltered housing scheme, Findon to directly manage the following services that are currently undertaken by the Council, cleaning, grounds maintenance and minor repairs.

A Local Management Agreement is an alternative to the Association proceeding with a Tenant Management Organisation under the Right to Manage legislation.

### RECOMMENDATIONS:

**It is recommended that the Housing & Wellbeing Committee**

- a) approve the proposal to enter into a Local Management Agreement with the Nightingales Tenants Association.
- b) gives delegated authority to the Group Head of Residential Services to sign and enter into a Local Management Agreement.

### 1.0 BACKGROUND:

1.1 Nightingales is a sheltered scheme in Findon that comprises of 31 properties.

1.2 The tenants of Nightingales set up Nightingales Tenants Association (NTA) in September 2020 as they wished to explore the options for having more control over

the services they receive at the scheme. A copy of the NTA constitution can be found at Appendix 1.

1.3 There are currently 28 members of the tenant's association.

1.4 The two options currently available to tenants to take over responsibility for managing housing services are:

- Forming a Tenant Management Organisation.
- Entering into a voluntary Local Management Agreement with a local authority.

### **1.5 An overview of Right to Manage and Tenant Management Organisations**

1.5.1 Local authority tenants have had a statutory Right to Manage since 1994. By forming a Tenant Management Organisation, and following Right to Manage Regulations, tenants can take over responsibility for managing housing services, such as repairs, caretaking, and rent collection from their landlord.

1.5.2 The Right to Manage regulations provide a clear process for aspiring Tenant Management Organisations to take over management responsibility for local services. The key stages in the Right to Manage process are as follows:

- The tenants explore options for managing services, engage residents and decide that tenant management is the right option for them (although not part of the statutory Right to Manage process this stage is recommended)
- A vote is held which authorises the Tenant Management Organisation to serve a Right to Manage proposal notice on the local authority.
- The Tenant Management Organisation and local authority develop proposals for the services to be managed and budgets to be transferred, drawing on the authority's support.
- The competence of the Tenant Management Organisation is assessed by an independent approved assessor.
- Providing the group is deemed competent, affected residents are balloted to confirm community support, ahead of detailed work by the Tenant Management Organisation and local authority to finalise arrangements for transfer.
- An agreement is prepared and signed transferring management responsibility to the Tenant Management Organisation.

1.5.3 It can take between 2-3 years and sometimes longer for the transfer of responsibility to complete and the TMO to take over the running of services.

### **1.6 Local Management Agreements**

1.6.1 Alternative approaches are also available for tenants wishing to managing services. Tenants can manage local services where the contract value is below the EU

procurement threshold, by drawing up a Local Management Agreement with their landlord. Alternatively, arrangements may be put in place whereby tenants manage services whilst the local authority retains control of budgets.

1.6.2 An LMA is a voluntary arrangement between a local authority and a tenant's group (outside of the Right to Manage regulations) which involves delegating responsibility to a tenant's group for the delivery of limited service/s. It is a much quicker and simpler process than developing a TMO.

1.6.3 Tenants can choose to provide a service themselves as a group, employ someone to do it, or engage a contractor or supplier. It is designed for relatively small-scale services, for example.

- Cleaning of communal areas and window cleaning
- Communal gardening and grounds maintenance
- Minor repairs.

1.6.4 LMA's are particularly suited to:

- Services in shared spaces used by all residents, or a significant majority of them
- Situations where residents believe they can provide the same or a better standard of service at a lower cost
- Cases where there are particular issues or circumstances that affect the local service, compared to other estates or areas.

## **1.7 Nightingales Tenants Association Local Management Agreement Proposal**

1.7.1 After consultation with their members the NTA decided to exercise their Right to Manage under the 2012 Right to Manage regulations to form a Tenant Management Organisation. A ballot was carried out between 30-31 October 2020 as required by legislation and 21 out of 23 members voted in favour of this.

1.7.2 A written proposal notice was then served on the Council on 4 November 2020 and in line with the statutory guidance was accepted on 4 December 2020. It was at this point the timeline for the Right to Manage process commenced. This process is still ongoing and is currently in the development stage with an approved assessor appointed by the Department for Levelling Up Housing and Communities (DLUHC).

1.7.3 The DLUHC lead advisor suggested to NTA that they might wish to consider a Local Management Agreement as an alternative to a Tenant Management Organisation. This is due to the small number of properties that will be managed, and the likelihood of limited allowances being given.

1.7.4 The NTA has put forward a proposal to enter into an LMA with the Council to take over management of the following services:

- Interior and exterior block cleaning

- Ground's maintenance
- Routine repairs to occupied dwellings and communal areas
- Routine electrical repairs to occupied dwellings and communal areas

1.7.5 A copy of their outline plan is attached as Appendix 2 and sets out the scope of the works, how they intend to carry out these works, the benefits for tenants and how the services will be monitored.

1.7.6 It is anticipated that the LMA once agreed will be for an initial term of 3 years. It will contain overall targets/objectives to show whether it has made a difference or not. These will relate to the original reasons for setting up the LMA and will be set by the NTA in partnership with the Council. They will be reported against at regular agreed intervals to the Council and Housing and Wellbeing Committee.

## **1.8 Consultation**

1.8.1 Under Section 27 (a) Housing Act 1985 (As Amended) the Council is required to consult on the proposed Local Management Agreement with all tenants who would be impacted.

1.8.2 Consultation was carried out from 12 January 2022 to 2 February 2022. All tenants were written too and asked for their views on the proposed local management agreement.

1.8.3 There were 30 responses out of a possible 36, of which 23 were in favour and 7 were against. A summary of the consultation outcome is attached as appendix 4.

## **1.9 Next Steps**

1.9.1 If the proposal is agreed the Council will support the NTA in creating a detailed plan for the services they wish to undertake, tendering for contractors and offering training and support to ensure the group have the correct skills and competencies to take over management of these services. The NTA will also incorporate as a Community Interest Company (CIC) prior to entering into the LMA.

1.9.2 The Council and NTA will then draw up an agreement with the input of legal advice setting out how the NTA will provide the cleaning, ground, and minor repairs service for the benefit of all tenants at Nightingales for a period of three years. It is envisaged that the Local Management Agreement will commence in 2022, the month is yet to be determined. The agreement will be reviewed every 12 months by both parties.

1.9.3 The Council will provide funding to the NTA equivalent to the current costs of providing these services. This has been calculated as the proportion of contract costs that is relevant to the scheme. Residents can choose to use any surpluses to the benefit of the area, and it is the aim of the NTA to provide the services at a cheaper cost than the council and reinvest the surplus back into the scheme.

1.9.4 As the Council will still ultimately be responsible for services provided under Local

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| <p>Management Agreement, it can step in if things do not go well. The LMA will give the Council permission to inspect the quality of work and systems at any reasonable time. The Council will advise the NTA in writing if there are any shortfalls in service delivery and be given one month to take corrective action.</p>  |            |           |
| <p>1.9.5 In the event the NTA disbands before the end of the LMA term or in any way otherwise fails to meet its responsibilities or provide the services set out in the agreement, the Council will assume all the rights, responsibilities, and liabilities of the NTA in respect of the Local Management Agreement.</p>   |            |           |
| <p>1.9.6 Either party can end the agreement at any other time, by giving the other at least three months' notice in writing.</p>  |            |           |
| <p>1.9.7 The Council will ensure that the terms set out in Schedule 1 of the 2012 general approval decision instrument under S27 Housing Act 1985 issued by the Regulator of Social Housing are complied with before entering into any management agreement.</p>  |            |           |
| <p>1.9.8 If the LMA proposal is approved by committee the NTA will withdraw their Right to Manage notice.</p>   |            |           |
| <p><b>2.0 PROPOSAL(S):</b></p>  |            |           |
| <p>2.1 To approve the outline plan put forward by NTA to enter an LMA with the council for three years, allowing us to work with the NTA to develop a detailed plan and management agreement prior to implementation.</p>   |            |           |
| <p><b>3.0 OPTIONS:</b></p>  |            |           |
| <p>3.1 Approve the LMA proposal, allowing the Council to work with the NTA to draw up a detailed plan and management agreement for them to take over the grounds, cleaning, and minor repairs service.</p>  |            |           |
| <p>3.2 Refuse the LMA proposal. The NTA will then proceed with the TMO under the Right to Manage regulations to take on a wider range of services. This is not considered a favourable option as the NTA have stated their preferred option is an LMA, so they do not have to consider taking on services that they do not wish to manage. Further to this a TMO is very resource intensive for both the NTA and Arun District Council whereas an LMA is much quicker and simpler process for both parties.</p> |            |           |
| <p><b>4.0 CONSULTATION:</b></p>   |            |           |
| Has consultation been undertaken with   | <b>YES</b> | <b>NO</b> |
| Relevant Town/Parish Council  |            | ✓         |
| Relevant District Ward Councillors  |            | ✓         |
| Other groups/persons (please specify)<br>Tenants of Nightingales  | ✓          |           |

| 5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES:<br>(Explain in more detail at 6 below) | YES | NO |
|--|-----|----|
| Financial  | ✓   |    |
| Legal  | ✓   |    |
| Human Rights/Equality Impact Assessment  |     | ✓  |
| Community Safety including Section 17 of Crime & Disorder Act  |     | ✓  |
| Sustainability   |     | ✓  |
| Asset Management/Property/Land   |     | ✓  |
| Technology   |     | ✓  |
| Other (please explain)   |     |    |

**6.0 IMPLICATIONS:**

6.1 **Legal** – The Council will devolve some of its housing management responsibilities to Nightingales Tenants Association using the 2012 general approval under S27 of the Housing Act. This will not affect resident’s tenure and they will remain tenants of Arun District Council and their tenancy agreements will remain unaffected.

6.2 **Financial** – there are no direct financial implications as the allowances will come from existing budgets. The Council will transfer an annual allowance to the NTA for the costs of providing the cleaning, grounds, and repairs services, equivalent to the current budget allocated. The NTA’s accounts will be monitored on a regular basis and an annual financial statement will be provided by the NTA for the Council to inspect and audit.

**7.0 REASON FOR THE DECISION:**

7.1 LMAs are proven models of community control that can boost tenant satisfaction and involvement. It also supports the principle of The Social Housing White Paper in ensuring the voice of the tenant is heard and can influence and engage in how their homes are managed and run.

**8.0 BACKGROUND PAPERS:**

8.1 Appendix 1 – NTA consultation

8.2 Appendix 2 – Outline plan provided by Nightingales tenants association

8.3 Appendix 3 – Local management agreement toolkit

8.4 Appendix 4 – Summary of constitution