

Cabinet 26<sup>th</sup> June 2017

<b>Heading: Further essential background and detail on property guardians</b>	
<b>Ward: All</b>	(if applicable)
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**Purpose:**

This report sets out the background and detail on the recommendation to Cabinet to replace the commercial property guardian scheme for the council's non-housing vacant buildings with alternative security arrangements.

**Why the council uses guardians**

1. The council has used guardians since 2011 to protect empty non-housing properties awaiting sale or redevelopment. The current practice is to first offer these properties to Third Sector agencies for temporary accommodation for homeless households and some are managed by St Mungos or Chapter 1 for this purpose. Those that have been rejected by the Third Sector for this use are then offered to guardian companies.
2. Guardians provide security for the building by occupying the building. It is a common arrangement used by many public and private sector organisations across the UK and Europe to protect against vandalism and squatters. The vulnerability of the council's empty buildings has been demonstrated in recent months with council properties being squatted in the few days between guardians vacating the premises and sale or demolition, leading to legal costs for eviction and delay in redevelopment of the site.
3. Guardian occupation is an alternative to the unsightly boarding-up of windows and doors or demolition and the detrimental image both of these options present in local neighbourhoods. It also provides a social benefit in the form of flexible low cost accommodation for circa 150 people.

4. It is a lower cost and more effective alternative to securing the building with physical barriers, installing alarms and regular security visits, all of which provide a lower level of protection than guardian occupation. The council spends on average less than £100 per month on minimal maintenance at each building because the guardian companies are liable for nearly all of the running costs. This equates to circa. £20,000 per annum cost to the council for the current 17 buildings secured by private sector guardian companies. By comparison, it is estimated that it would cost the council in excess of £1m per annum to secure these buildings using traditional security measures.
5. There are a further 8 buildings being used by Third Sector organisations on a meanwhile use basis to provide temporary accommodation for people who are homeless.

### **The guardian companies**

6. The council uses two main private sector guardian companies to secure its empty buildings using guardian occupiers; Camelot and Ad Hoc. They are both well-established service providers in this field, have been in this business for many years and operate across the UK with private and public sector clients. Between them nationally, every year, they manage hundreds of buildings occupied by over 1000 guardians.
7. The council contracts with one or other of the companies for them to provide guardian occupiers to secure the empty council premises. The council does not pay the guardian companies for the security service. Nor do the guardian companies pay the council for the use of the premises. The council currently has 7 buildings managed by Camelot and 10 buildings by Ad Hoc.
8. The contract allows the council to give the guardian company up to five weeks' notice for vacant possession. Each contract is stand-alone specific to the property, and they are not all exactly the same. There is no written agreement directly between the council and the guardian occupiers.
9. Eight buildings are managed by Third Sector organisations to provide accommodation for people who are homeless. This is not considered to be the same as the guardian scheme which is a security service. For this reason, there is no proposal to discontinue these arrangements with the Third Sector.

### **The guardian occupiers**

10. The current circa 150 guardian occupiers are provided by the guardian companies who vet them for suitability. They must be in employment and over 18 years with no children.
11. Vacancies are advertised alongside other places to rent on national lettings websites and on the companies' own websites. Guardian occupiers pay a below market rent to the guardian companies. This is typically £260/month. They live in basic rooms with shared facilities within buildings not necessarily designed for this use.
12. The guardians enter into a licence agreement with the guardian company. The agreement allows unfettered access to the rooms by the guardian companies. The licence also gives

both parties 3-4 weeks' notice to quit.

### **The buildings**

13. The council's aim is to divest itself of its surplus buildings as soon as possible. However, the council sometimes has to hold onto some properties for longer to remove impediments to re-development, to gain planning permission or negotiate access, etc. The council currently has 17 vacant buildings being protected by property guardians until they can be redeveloped:

<b>Camelot managed (7)</b>	<b>Ad Hoc managed (10)</b>
Brentry EPH, (2 buildings)	St Ursula's, Stoke Bishop
St Peters EPH, Manor Farm	Rockwell EPH
Coombe EPH,	Lockleaze Police Station
Lockleaze Day Centre	Redhouse, Withywood
Speedwell Fire Station	Whitehouse Centre,
Broomhill EPH	Sea Mills Infant School
Rustic Lodge, Blaise Castle	Salcombe Road Office
	Sinnott House, Brislington
	1 Airport Cottages, Hengrove
	Sea Mills Training Centre The Crescent

### **The issues affecting the current guardian scheme**

14. In autumn 2016, the council gave notice to Camelot for vacant possession of the Broomhill former elderly care home so it could be demolished for redevelopment to build new homes. Camelot in turn gave notice to the occupants to vacate the premises.

15. Protests and complaints to the council followed, alongside a legal challenge to the courts on the occupancy status of the guardians. Negative media coverage about the scheme has been extensive. In summary the complaints and challenges relate to:

- a) Allegations from guardians about the condition of the buildings.
- b) Complaints about the treatment of guardian occupiers.
- c) Delays in applying for HMO (House in Multiple Occupation) Licences where required.
- d) The occupation status of guardian occupiers.
- e) Planning permission.

Some of these issues are under investigation by the council.

16. Most significantly, on 25th February 2017 the County Court in Bristol ruled that one of Camelot's guardian occupiers at the council owned Broomhill former EPH is a tenant rather than a licensee. The guardian companies maintain that this one court case does not set a precedent and that they are making adjustments to their practices to protect themselves from future claims of a de facto tenancy from guardian occupiers. They also point out that they have successfully defended similar legal challenges to the occupancy status of guardian occupiers elsewhere.
17. However, since the court case other guardian occupiers at three different properties are claiming protection from eviction rights as if they are tenants with an Assured Shorthold Tenancy. The consequences of this are that the council is unlikely to get its buildings back at short notice which will delay redevelopment proposals. For example in the case of Broomhill the eviction process has led to over 12 months delay to a scheme to redevelop the site for new affordable housing.
18. An assured short-hold tenancy gives tenants the right for:
- a) 2 months' written notice to quit: and
  - b) the leave date must be at least 6 months after the tenancy began.
19. If the tenant does not leave on the due date then it could take up to an additional three months for a possession notice to be granted. In exceptional circumstances, it could take many months to remove any occupiers that remain after the due legal process has completed.

### **Conclusion**

20. Doing nothing to secure the buildings, allowing the building to be squatted and not taking action to remove them is not considered a viable option. This approach could lead to unwelcome liabilities for the council and give squatters acquired occupation rights. It might also lead to complaints from the residents in neighbouring properties. The legal process to remove squatters is also costly.
21. Likewise, the council taking back the properties with the guardian occupiers in-situ is not considered an option because in this event the council would then place itself in a more onerous position in terms of gaining repossession than that of a guardian company.
22. Against the backdrop of local issues and the legal judgment on the operation of guardian type schemes, council officers from different disciplines across the council have considered the cost and benefits of various options for securing its empty buildings. The conclusion is that the council should take a managed shift away from the property guardian scheme and instead use alternative means to secure its empty buildings. This is to avoid an ongoing risk of holding-up redevelopment of the sites caused by delay in gaining vacant possession of the buildings.
23. The proposed alternative to the guardian scheme is that vacated buildings will be demolished, sold, redeployed or where suitable transferred to a Third Sector organisation under a mean-while use agreement for temporary housing accommodation. Where this is

not possible then security measures will be put in place to protect the empty buildings. Because of the current prevalence of squatting in Bristol this will often require a security guard to be constantly present in high risk buildings.

24. This preferred option entails a managed withdrawal from all the guardian schemes currently operating in 17 of the council's buildings. The managed approach to doing this is to act first on guardian contracts on buildings with a legacy of issues to end them as soon as possible by giving up to 6 months' notice to the guardian companies involved. Guardian contracts on buildings with a lower level of risk will be allowed to run until the council needs the buildings back for redevelopment. This could be as long as two years in some case.
25. In order to minimise the costs of alternative security precautions to the buildings in place of the guardian scheme the intent is to demolish, sell or repurpose the buildings as soon as they become vacant. In the case of buildings that are earmarked for demolition, these will transfer to a demolition contractor who will become responsible for security. Where buildings are to be sold or transferred to a temporary 'mean-while' use, then this will be coordinated to happen when they become vacant. One building to be retained by the council will require long-term security and the cost of these alternative security measures is estimated to be £9,000 pa until another use for the building can be found.
26. The costs above assume that the council gets vacant possession of the buildings on a date agreed with the guardian company for each building. The cost of security will be much higher if a guardian company were to return the building to the council early and before it is ready to organise their demolition, sale, redeployment or transferred to a mean-while use. This risk is recorded on the risk assessment.