

<b>REPORT TO:</b>	<b>CABINET</b> <b>22<sup>nd</sup> June 2022</b>
<b>SUBJECT:</b>	<b>Re-procurement of Responsive Repairs Contract</b>
<b>LEAD OFFICER:</b>	<b>Susmita Sen – Corporate Director of Housing</b> <b>Stephen Tate – Director Housing – Estates and Improvement</b>
<b>CABINET MEMBER:</b>	<i>Councillor Lynne Hale, Cabinet Member for Homes</i>
<b>WARDS:</b>	<b>All</b>

#### **SUMMARY OF REPORT:**

The re-procurement of the responsive repair contract will allow the Council and residents to re-shape the responsive repairs service and to appoint new contractors to ensure housing repairs are carried out effectively and in a timely manner. The procurement will help ensure that the new contract offers a good quality service and good value for money.

#### **FINANCIAL IMPACT:**

- The current responsive repairs contract is based on a price per property (PPP) model and in future will be based on Average Order Value (AOV) model, which might result in varied budget requirements.
- Furthermore, current markets challenges of labour shortages, supply chain issues and increased materials and fuel costs will adversely impact on any tenders received.

#### **KEY DECISION REFERENCE NO.:**

#### **RECOMMENDATIONS:**

The Executive Mayor in Cabinet is recommended to:

**1.1** The Executive Mayor in Cabinet is recommended by the Contracts and Commissioning Board (CCB) to approve the procurement strategy detailed in this report *for up to three contractors to deliver the responsive repairs services and optional planned programme with an initial contract term of 6 years and 8 months with a break option at that point and a total maximum contract duration of 10 years and 8 months (plus a 1 year defects liability period) at an anticipated total contract value of £262.9m. The service is recommended to be split up as follows:*

**1.1.1** *One cross borough contract providing gas related services at an estimated value of £41.9m; and*

- 1.1.2** Two contracts providing the remainder of the responsive repairs service at an estimated value of £221.0m, including optional planned works of up to £64m which shall only be instructed following further approval; in accordance with relevant governance processes.
- 1.2** The Executive Mayor in Cabinet is recommended to approve that the contact centre be insourced and provided in-house subject to the outcome of an affordability analysis
- 1.3** The Executive Mayor in Cabinet is recommended to delegate to the Chair of CCB, in consultation with the Deputy Mayor, the Corporate Director for Housing and the Corporate Director of Resources & S.151 officer the ability to change procurement process from Competitive Procedure with Negotiation (CPN) to the Restricted Procedure prior to issuing the advert in the event that there are further delays to the timetable. Any such change shall be reported within the following Investing in Our Borough Report to Cabinet.
- 1.4** The Executive Mayor in Cabinet is asked to note that the break option shall follow the same governance process as a permitted extension under the Tenders and Contracts Regulations
- 1.5** The Executive Mayor in Cabinet is recommended to delegate to the Chair of CCB, in consultation with the Deputy Mayor, the Corporate Director for Housing and the Corporate Director of Resources & S.151 officer the decision on the appropriate contract value of each of the two responsive repairs areas, once analysis on the optimum area sizing has been completed.

## **1. BACKGROUND**

- 1.1** Following discussions with the Council's incumbent responsive repairs provider the contract will end August 2023. The Council is procuring new contracts to replace this service. To mitigate the risk of appointing a single provider and to attract local and SME contractors the Council is proposing to split the contract up into four parts as follows:
- Contact Centre – to be insourced
  - Area 1 Responsive repairs excluding gas
  - Area 2 Responsive repairs excluding gas
  - Gas related services.

The Contracts will be initially let for 6 years and 8 months; with a total contract duration of 10 years and 8 months. This will be advertised as a contract for a duration of 10 years and 8 months with a 'break option' after 6 years and 8 months. In addition, there will be a no-fault termination clause. The 10-year 8-month period will help ensure the opportunity is attractive to the market without restricting the Council's ability to terminate the Contract at an earlier point in time. The governance process for permitted contract extensions under the Tenders and Contracts Regulations shall be followed in relation to the break

option. In addition, there will be a 1-year defect liability period, up to 1 year beyond the contract end date.

The total value of £262.9m consists of capital and revenue as follows. The estimated cost of the initial 6-year 8-month period is £111.1m Revenue (responsive and gas contracts) and £8.7m Capital (boiler replacement programme). A further £32.0m of optional planned Capital works may be delivered under this arrangement, subject to further approvals; and subject to standard governance approvals. If the maximum contract length is utilised the estimated total cost over the 10-year 8-month period is £185.1m Revenue (responsive and gas contracts) and £13.9m Capital (boiler replacement programme). A further £64.0m has been allocated for optional planned Capital works within the general repairs and maintenance contracts; which shall only be instructed following further approval; in accordance with relevant governance processes.

## **2 DETAIL**

### **2.1 Introduction**

Axis was procured in 2013 and have been delivering the following since 2014:

- Operation of the Contact Centre for repairs related contacts
- Responsive repairs
- Domestic boiler gas servicing and repair
- Voids i.e., bringing properties up to standard when a tenant vacates and a new tenant moves in
- Communal Boiler repairs and servicing was added to the scope following signing of the contract.

The Contract value is in the order of £15.7m Revenue and £1.3m Capital Per Annum. There are currently 16,914 HRA dwelling (tenanted and leasehold) that are in scope of this repairs service. In addition, there are also 600 properties outside of the HRA that are currently repaired through this contract (this includes Croydon Affordable Homes and Croylease properties).

The Contract has a 'no fault' termination clause under which either the Council or Axis are allowed to terminate the contract without consequence subject to providing sufficient notice. The notice periods within the contract are 12 months for the Council to terminate and 18 months for Axis. The basis for this was to allow the Council sufficient time to re-procure in such circumstances. Axis will cease providing the service at the end of July 2023.

As part of the scope of the gas procurement it is being proposed to extend the scope of gas boiler installations to include the planned programme. The current Axis contract includes an Ad-Hoc boiler installation programme of around £300k per annum, including the planned programme will add a further £1m to the annual spend. Including the planned programme within this contract will remove it from the existing planned contract that is delivered by Clairglow but which is scheduled to end September 2023.

Incorporation of planned domestic boiler replacements into the servicing and repairs contract is the industry standard as it ensures single point responsibility, consistency of product and installation and transfers responsibility and cost of maintenance to the party installing the boilers.

## **2.2 Proposal to re-procure service and in-source the contact centre**

There are two main ways the service can be delivered, that are considered further below:

- Direct Labour Organisation
- Outsource Contract(s)

Appendix 1 sets out the detail including strengths and weaknesses of DLO versus an Outsourced Contract. Considering the high level of risk associated with establishing a DLO and the relatively short timeframe until the current contract ends, the Council recommends that this approach is not considered at this time for the majority of the services, other than the contact centre.

## **2.3 In-Sourcing of the Contact Centre**

The Contact centre is currently managed by Axis. This model has meant that there is a gap in the Council's knowledge, as the Council is unaware of issues that arise from residents at the first point of contact and the Council is not aware of complaints until they are escalated. It also means the Council does not have the direct relationship with the tenants when faults occur.

This report recommends in-sourcing the contract centre; the analysis of this is set out in Appendix 2. This is primarily due to the decision to split the works into 3 packages. This shifts the balance in favour of in-sourcing as otherwise the 3 contact centres would be managed by different contractors.

The in-sourcing will be subject to an affordability analysis; which will take place over the next few months, which is being undertaken by a new project subgroup that has been formed to look at the contact centre insourcing. In the event it is not deemed affordable by the relevant decision maker, the option to outsource to a separate call centre contractor will be explored following the relevant governance procedures in accordance with the Council's Tenders and Contracts Regulations.

## **2.4 Proposed Packaging of lots**

As the in-sourced contact centre is not being procured the remainder of the report will focus on the areas that are being re-procured. To mitigate the risk of appointing a single provider and to attract local and SME contractors the Council is proposing to split the contract up into three parts as follows:

- Area 1 Responsive repairs excluding gas

- Area 2 Responsive repairs excluding gas
- Gas related services

The rationale for this decision is set out in Appendix 3.

It is not anticipated that the two areas will be equal in size. This procurement strategy is to encourage smaller and local SMEs to bid, whilst making the larger area more attractive to larger organisations. The optimum split depends on both size and geographic convenience and work on this is still being carried out. Therefore, this report is recommending Executive Mayor in Cabinet to delegate to the Chair of the contracts and commissioning board (CCB), in consultation with the Deputy Mayor, the Corporate Director for Housing and the Corporate Director of Resources and S.151 Officer the decision on the appropriate contract value of each of the two responsive repairs areas, once analysis on the optimum area sizing has been completed.

## **2.5 Procurement Procedure**

The Council are proposing two different procurement routes, one for the responsive repairs and one for the Gas related services.

The proposed procurement route for responsive repairs is Competitive Procedure with Negotiation (CPN). The proposed procurement route for Gas services is the Restricted Procedure. This allows the Council to benefit from face-to-face negotiation for the more complex responsive repairs element, and benefit from the quicker and simpler restricted process for the gas services element. The soft market testing gives the Council confidence that the market supports this approach. Further details on the rationale and advantages and disadvantages of the procurement routes are set out in Appendix 4.

There is a risk in relation to the tight timetable with the Competitive Procedure with Negotiation (CPN) proposed. Should the timetable slip, there is potential to change this recommended procurement route to a Restricted Procedure. This report recommends that this decision be delegated to the Chair of the contracts and commissioning board (CCB), in consultation with the Deputy Mayor, the Corporate Director for Housing and the Corporate Director of Resources and S.151 Officer. The reason for this delegation request is that in the event of a delay, it will allow the procurement route to be switched which is a minor change to the Procurement Strategy without needing to go back to Executive Mayor in Cabinet. The timescales for Cabinet approval would otherwise mean this is not a viable option for the Council and would remove the switching from CPN to Restricted as a backup option in the event of a delay.

## **2.6 Contract Terms and Conditions**

The recommended contract form is the TPC 2005(Amended 2008) Contract that will be prepared by our external legal advisors. This is the same standard form of contract that the current repairs contract is based on. Soft market testing indicated the market was equally comfortable with both TPC 2005 and the JCT Measured Term Contract. However, the additional partnering element of the TPC 2005 and officers' familiarity with this form of contract were the overriding factors for this recommendation. The contract will be amended, where appropriate, to ensure it has sufficiently robust provisions to help manage contractor performance.

## **2.7 Evaluation**

### **2.7.1 Tender Evaluation**

The recommended evaluation criteria are as follows:

- Responsive repairs – 60% quality: 40% price
- Gas Servicing 50% quality 50% price.

All of the contractors in the market engagement exercise supported a high-quality rating and in the overwhelming majority of cases said that the weighting determined their decision to bid rather than the price or quality bid submitted.

The 'message' the Council sent by their choice of ratio was mentioned by many of the contractors with highly weighted price ratios less attractive.

Gas contractors were generally of the same opinion but less sensitive to weighting. In addition, for Gas servicing where the commercial model is more established the risks of a poor-quality service are lower. For these reasons the report is recommending 50% quality and 50% price for gas servicing.

For responsive repairs the high importance of service quality and strong contractor preference for a high-quality weighting means that this report recommends a ratio of 60% quality/40% price.

### **2.7.2 Price**

The price weighting will be 40% for the responsive repairs element and 50% for the gas servicing element. Tenderers/bidders will be required to submit pricing based on a pricing schedule and schedule of rates across a range of service requirements outlined in the specification. The Bidder(s) which submit the lowest Total Contract value will receive the maximum price score. The councils premier supplier program (provides discounts for early payments); will be evaluated as part of the price evaluation.

Abnormally low bids will be interrogated further, and the Council reserves the right to reject these bids.

### 2.7.3 Quality

The quality weighting will be 60% for the responsive repairs element and 50% for the gas servicing element. Method Statement Questions will be made up of a range of questions to evaluate supplier's technical merit, experience, staffing and capability and providers will be required to demonstrate how well they can meet or exceed the Council's requirements. To ensure an extensive evaluation of Quality, a broad range of questions relating to service capability, service standards, performance monitoring, quality assurance practices and social value will be published in the Tender. A weighting will be applied to each Method Statement question and will be scored 0-5 against defined criteria.

The sub criteria for the quality weighting is being determined in conjunction with the specification production.

As part of the overall scoring there will be 10% marks available for social value.

The evaluation panel will be a cross Council team led by the Housing Repairs function and supported by colleagues across finance, procurement, Croydon Digital Services, Economic Development and others. In addition, the Council's term partnering consultant Echelon will support the evaluation. There will also be resident representatives invited to the panel.

Panel members will evaluate the parts of the bid that match their expertise. Officers will score individually and then consensus scoring will be sought through moderation meetings.

### 2.7.4 Delivering the wider Mayoral priorities through social value

The Executive Mayor of Croydon was elected on a programme of change with a mandate to "restore pride in our borough to once again make it a great place to live, work and stay." The Mayor's Manifesto sets out the commitments made across a number of key areas which are set out in the cabinet paper on the 22<sup>nd</sup> June 2022.

The total cost of the repairs contract over the life of the contract is significant and brings with it opportunities to improve housing, and also support the wider Mayoral priorities. Economic regeneration, for example could be supported through providing job and training opportunities for Croydon residents as well as working with local Croydon businesses. Working with community groups could support the younger Croydon resident as well as improving health and wellbeing outcomes for the wider population. Also the Mayor's climate change and carbon emissions targets could be supported.

Following consultation with residents via a panel of representatives and in line with the new Mayoral priorities, four specific areas of focus for social value have been identified. These are:

- Promote Local Skills and Employment – *providing apprenticeships, a focus on local employment, skills and development.*
- Support local businesses particularly SMEs – *supporting local businesses*

*through prioritising local supply chains.*

- Support communities to be more resilient – *supporting community initiatives and promoting wellbeing*
- Deliver climate change outcomes – *supporting the Council drive to rapid reductions in carbon emissions to become a carbon neutral council by 2030*

10% of the total available marks allocated will be for social value using a balance of quantitative and qualitative analysis:

- To evaluate the values submitted by the bidder against each individual measures and outcome.
- To evaluate a supplier's method statement of how they will achieve these commitments.

The winning bidders' social value promises will be incorporated into the contract as firm commitments and included as part of their contract monitoring, KPIs and regular reviews to make sure that the contractor delivers on all their social value intentions. To make sure this occurs in a successful manner the contract monitoring will be appropriately resourced and managed at contract award, mobilisation and during contract operation, alongside other contract monitoring requirements.

### **2.7.5 Standard Selection questionnaire**

Both CPN and Restricted both have an initial Standard Selection Questionnaire (SSQ) to shortlist a suitable pool of tenderers. This will include ensuring tenderer's financial viability, for the scale of contract. In addition, there will be project specific questions related to bidders' experience to help shortlist to a suitable number of bidders.

### **2.7.6 Negotiation Period**

The Council will set out in the FTS (Find a Tender Service) notice the right for the Council to award the contract after evaluation of initial tenders, without requiring negotiation and final tenders. In the event the Council receives satisfactory bids it may choose to award at initial tender stage.

In the event that the Council does proceed to negotiation a shorter negotiation period is proposed over a 3–4-week period with only 1 or 2 days per bidder. This will focus on refining key areas of the bids.

## 2.8 Procurement Timeline

### 2.8.1 Timetable for Responsive Repairs

Activity	Proposed Date
Procurement Board	26 May 2022
Executive Mayor in Cabinet Decision	22 June 2022
PCR Contract Notice and Selection Questionnaire (SQ published)	29 June 2022
SQ return deadline	29 July 2022
SQ evaluation	1 August - 19 August 2022
Invitation to Submit Initial Tender (ISIT) issue	6 September 2022
ISIT return deadline	18 October 2022
ISIT evaluation	19 October - 7 November 2022
Competitive Negotiation	15 November - 6 December 2022
Invitation to Submit Final Tender (ISFT) issue	26 December 2022
ISFT Return Deadline	25 January 2023
ISFT evaluation	26 January – 13 February 2023
Cabinet meeting/Mayor Decision	9 March 2023
Standstill period concludes	21 April 2023
Contract award	9 May 2023
Mobilisation/TUPE	9 May 2023 – 31 July 2023
Contract commencement	1 August 2023

### 2.8.2 Timetable for Gas Servicing

Activity	Proposed Date
Procurement Board	26 May 2022
Executive Mayor in Cabinet	22 June 2022
PCR Contract Notice and SQ published	7 July 2022
SQ return deadline	8 August 2022
SQ evaluation	9 August - 22 August 2022
Invitation to Tender (ITT) issue	5 September 2022
ITT return deadline	7 October 2022
ITT evaluation	18 October - 23 November 2022
Cabinet meeting/Mayor Decision	28 December 2022
Standstill period concludes	20 February 2023
Contract award	28 February 2023
Mobilisation/TUPE	1 March 2023 – 31 July 2023
Contract commencement	1 August 2023

It is envisaged that the contract award decision will either be taken by the Executive Mayor.

## 2.9 Leaseholders Consultation

As some of the work content will be recharged to Leaseholders these contracts require consultation and are Long-Term Qualifying Agreements (LTQA's) for

the purposes of Section 20 of the Landlord & Tenant Act 1985 (as amended by the Commonhold & Leasehold Reform Act 2002).

## **2.10 Project Management Approach**

The project has set up a Programme Board with support from the Project Management Office (PMO) to manage the overriding procurement and associated workstreams. The purpose of the Board is to oversee and assure the delivery of the project as follows:

- Ensure that appropriate governance is in place for the management of the project,
- Provide direction for matters escalated to the board
- Review and ensure appropriate mitigation for significant risks
- Review and monitor delivery of the project plan

The Programme Board will meet every month. It will be chaired by the Director of Housing with representatives from departments across the Council. The internal control body for the Programme Board is the Capital Board. Recommendations agreed at the Programme board are taken through the council's governance structures for formal approval - Capital Board, Procurement Board, Cabinet or Mayor decision as appropriate.

The Programme Board will escalate to CMT and or Capital Projects Board or via other Council process as it sees fit, where tolerances are breached, or become likely to be breached, in one or more of the following areas:

- Project budgets - overspend by 10% or £100k; whichever is the lower
- Timescale – where a project is going to exceed its funding deadline or not deliver within its target deadline or slip to next financial year Scope, where significant change of scope or quality is proposed or agreed benefits are at risk of non-delivery
- Risks or issues to highlight whether a programme or project is at risk of being unable to operate within its agreed budget plus contingency or to deliver the agreed outputs/outcomes.
- It is the Corporate Director of Housing's responsibility to make the Board aware of corporate & external risks. Risk will be a standing item on the Board agenda. The Board will agree whether an item should be added to the risk register.

Reporting to the board is a number of workstreams that will carry out the tasks these workstreams are as follows:

- Engagement
- Finance
- Procurement
- Croydon Digital Services
- HR

Officers from the following areas will make up the core board members: Housing, Procurement, Project Management Office, Finance, Communications, Legal, CDS, Equalities, and HR. Consultancy support will be provided by Echelon.

### 3 Risks

Risks for each workstream are captured and updated for the monthly board meetings as part of the highlight reporting system. The risks below are those that have an Amber RAG status, there are no red RAG status risks at present. There are a number of green RAG status risks that have also been identified, but not included in this report.

<b>Risk</b>	<b>Description and Impact</b>	<b>Mitigation</b>	<b>RAG status</b>
Project Risk	<p><b>Engagement</b></p> <p>Staff do not feel that they have buy in to the new contracts – impacting performance and effectiveness</p>	<p>Staff engagement workshop undertaken</p> <p>This will remain an ongoing risk, with an ongoing mitigation to keep staff informed and engaged.</p>	
Project Risk	<p><b>Procurement</b></p> <p>Delay to procurement timeline; due to competing resources and complexity of procurement. E.g., timeline is already under pressure in relation to finalising officer recommendations, and Procurement Strategy Report, this compresses the time for documentation production.</p>	<p>Key focus in May to finalise decisions and progress governance and documentation preparation.</p> <p>Backup plan to change from CPN to Restricted Procedure as this is a quicker procurement route, noting that this route may generate its own risks in that the final outcome may be sub-optimal.</p>	
Project Risk	<p><b>CDS</b></p> <p>Key housing software called NEC go live is delayed beyond November 2022</p>	<p>Additional resources in place to ensure timeline does not slip paired with more focused project management.</p>	
Project Risk	<p>Organisational capacity to deliver – the project from a Service level (delivery resource).</p>	<p>Recruiting additional resource to PM from a delivery perspective.</p>	

### 4 Contract Management and Performance Monitoring

#### 4.1 Contract Management

Contract management has been enhanced with the reintroduction of regular contract management reviews with weekly performance reviews established, monthly contract review and quarterly core meetings. At these meetings, KPIs and resident satisfaction are reviewed, and remedial actions agreed. As the existing contract winds down, there is a concern that performance will

deteriorate. To mitigate this, alternative contractors are being secured through established frameworks to provide backup and to ensure service delivery.

The contract management team consists of 6 qualified surveyors and technical inspectors who will be actively monitoring the contractor for quality and delivery. In addition to regularly measuring empirical performance statistics, regular resident satisfaction data will be collected via independent surveys and reviewed at the regular contract monitoring meeting. The service is looking to strengthen the team further with accredited contract management training and the addition of more qualified surveyors to enhance the contract management capability.

## **4.2 Performance Monitoring**

Soft market testing indicated that contractors prefer incentives to performance deductions. In addition, incentives/penalties generally do not change how a contractor prices their bids. The majority of bidders stated that penalties do not improve how the contract performs. However, some contractors did state it improves how they perform. Some negative comments were also raised e.g., it encourages an adversarial approach between the two parties and prioritisation of hitting the KPIs with financial implications over genuine improvement.

The Council is therefore proposing a range of KPIs to measure contractor performance and customer satisfaction; however, it is proposing a limited incentivisation/ performance deduction to a few key areas such as void turnaround times and overall customer satisfaction. Typical Performance Indicators that will be incorporated are:

- Resident Satisfaction
- Complaint levels
- Performance against Social Value commitments
- Health & Safety
- Repair & Void completion times
- Appointments made & kept
- Quality Management
- Revisits/recalls

## **5 CONSULTATION**

There has been consultation as part of the commissioning strategy process with the following:

- Residents
- Contractors
- Members
- Staff within the Housing Team

## 5.1 Resident Consultation

Croydon is committed to working with our tenants and leaseholders to ensure they have opportunities to be involved in and influence policies, decisions, monitoring performance and developing service standards in the housing service.

Listening to residents about their views and priorities for a high performing repairs service that provides value for money sits at the heart of our approach to procuring a new provider and monitoring their performance in delivering the service..

Engagement has already taken place to establish residents' views about their experience of the council's repairs services, currently provided by Axis, and what's important to them in reprocuring a new provider. Our approach is set out below.

- A scoping meeting was undertaken with the Chair and Vice Chair of the tenants and leaseholder panel at the end of January 2021. The purpose of the meeting was to listen to concerns and expectations for resident involvement for the repairs procurement. This meeting set the context for future engagement.
- A first meeting with residents February took place on 23 February with residents that are members of the council's housing Performance Monitoring Group. They were asked to summarise their key priorities for the new repairs service contract and invited to join the newly formed re-procurement working group. 10 of our residents signed up and are a mix of tenants/leaseholders who live on estates across Croydon, in both flats and houses. There is a male/female split, ethnic diversity, and some have a disability.
- We reviewed the involvement of residents following the meeting in February and recognised we needed to continue to diversify those involved. This was achieved by recruiting nine new residents proactively contacting underrepresented residents on our involvement database and other active panels to increase diversity of participants.
- A second resident meeting of Re-Procurement Resident Working Group took place on 16 March hosted on MS teams and 16 residents participated. The group were split into three groups in three key areas; 1. social value and resident engagement 2. key decisions and 3, DLO (direct labour organisation).
- Feedback from these sessions was collated and has directly shaped the recommendations presented in this report.

Engagement with our resident does not stop here. It will continue throughout the procurement of the new provider, with residents supporting the council to make the final decision.

Residents will continue to be involved as the new provider starts delivery of the new service, as part of the ongoing scrutiny and contract management of the service.

## **5.2 Contractor Soft Market Testing**

The Council issued a Prior Information Notice (PIN) via London Tender Portal on 17<sup>th</sup> March 2022 inviting contractors to complete a questionnaire. The Council received back responses from 4 main contractors and 4 gas contractors. Following this, discussions were held with these contractors to explore their responses in more depth. In addition, 4 SME contractors were invited to submit responses and further discussions were held to ensure the Council received a wide range of market views.

The results of the soft market testing are an important consideration for this procurement strategy; and individual points have been incorporated into the relevant parts of this report.

The main outcomes views from the market are as follows:

- All of the large contractors consider they are best placed to run the Contact Centre, most SMEs preferred it to remain with the Council although in all cases they will need to provide a facility as it is an essential part of the service
- Contract length and Council attitude are a major consideration for Contractors when considering an opportunity; long term arrangements and collaborative approach are preferred
- Major contractors appear to consider Competitive Procedure with Negotiation (CPN) is the best procurement approach; smaller contractors had a wider range of views, but CPN was generally received positively
- Gas contractors prefer the restricted or open procurement route and had minimal experience of CPN
- Major contractors tend towards collaborative contract forms whereas gas contractors prefer traditional arrangements. All contractors sought contracts and councils who were not adversarial
- While contractors consider an incentivisation based commercial arrangement is preferable to a mixture of incentives and penalties they are willing to consider both
- While Social Value responses are mixed there appears to be reasonable alignment with the Council's expectations and these have been used to inform the social value priorities in section 3.7.4.

### 5.3 Members

There was consultation with Members from the two main political parties prior to the May elections. These included three Member-Officer workshops held with Members of the previous Administration between February and April 2022. The workshops facilitated those Members steering the direction of travel for the future service and procurement strategy.

A 'deep-dive' workshop to discuss procurement options with the Executive Mayor and Deputy Mayor was held on Monday 23<sup>rd</sup> May, from which the options were further refined.

### 5.4 Staff within the Housing Team

The Housing Management team met with the Estates and Improvement Team to go through the strengths and weakness of the current contract, the proposed re-procurement process and procurement strategy and how the strengths and weakness of the current contract can be addressed in the new contract. The general feedback was that the balance between contractor and council contract management team needed review, particularly in areas around tenants' complaints and sub-contracting.

The Estates and Improvement Team will continue to be consulted throughout the procurement, including specification production, evaluation of tenders and negotiation meetings. As part of this we have successfully recruited volunteers from within the team to be involved in the re-procurement process.

## 6 PRE-DECISION SCRUTINY

This report is going for pre- decision scrutiny on 14<sup>th</sup> June

## 7 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

### 1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3-year forecast		
	<u>2022/23</u>	<u>2023/24 (8 months equivalent)</u>	<u>2024/25</u>	<u>2025/26</u>
	£'000	£'000	£'000	£'000
<b>Revenue Budget available</b>				
Expenditure				
Income	<u>No impact</u>	<u>10,466</u>	<u>15,953</u>	<u>16,264</u>

## Effect of decision from report

### Expenditure

• <u>Responsive</u>	<u>No impact</u>	<u>8,880</u>	<u>13,536</u>	<u>13,800</u>
• <u>Gas</u>	<u>No impact</u>	<u>1,586</u>	<u>2,417</u>	<u>2,464</u>

### Income

<b>Remaining budget</b>	<u>No impact</u>	<u>0</u>	<u>0</u>	<u>0</u>
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## Capital Budget available

### Expenditure

• <u>Gas (boiler replacements)</u>	<u>No impact</u>	<u>867</u>	<u>1,300</u>	<u>1,300</u>
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## Effect of decision from report

### Expenditure

• <u>Gas (boiler replacements)</u>	<u>No impact</u>	<u>867</u>	<u>1,300</u>	<u>1,300</u>
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<b>Remaining budget</b>	<u>No impact</u>	<u>0</u>	<u>0</u>	<u>0</u>
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Note –the contract values in relation to the split between the two areas for the two responsive repairs lots is proposed to be taken by delegated decision as set out in section 3.4

Note – this excludes the optional planned capital works as this is not scheduled to commence earlier than 2026/27.

## 2 The effect of the decision

The current responsive repairs contract is based on a price per property (PPP) model and in future will be based on Average Order Value (AOV) model, which might result in varied budget requirements.

Our initial cost analysis versus the budgets held within the Business Plan indicate increases to current income budget levels required of c£2.5m (19%). The increase consists of the unwinding of the remaining discount of the original contract (5%) and the assumed inflationary increase of the contract value from 20/21, which has not yet undergone an Open Book Review (14%).

An assumption has been made for 21/22, 22/23 and 23/24, based on the Office for Budget Responsibility forecasts (3.1%, 7.5% and 3.4% respectively), in an attempt to re-base the contracts at levels more representative of the current market conditions.

There is no impact on the current year budgets and the Business Plan for 22/23 will be updated in order to incorporate the new contract values and the future income and expenditure budgets will be set accordingly.

### **3 Risks**

Current market challenges of labour shortages, supply chain issues and increased materials and fuel costs will adversely impact on any tenders received. An assumption has been made on the future estimated contract costs. While it is acknowledged that there is a risk that demand and financial costs may increase this has been mitigated by, (1) including inflationary and higher rates cost into the model and (2) tracking the previous 4 years of average activity on which to base the demand.

### **4 Options**

To recommend the strategy for the procurement of the responsive repairs.

### **5 Future savings/efficiencies**

The value for money concept will be followed the procurement strategy would also lead to cost avoidance and duplication of some jobs and repairs orders.

**6** (Approved by: Orlagh Guarnori, Head of Finance Housing)

### **7 COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

The Executive Mayor in Cabinet has the authority to approve the recommendations in this report in accordance with the Mayoral Scheme of Delegation

The proposed procurements will need to comply with the requirements of the Public Contracts Regulations 2015 ("PCR"). This report recommends using two different procurement procedures, Restricted Procedure (Regulation 28 of the PCR) and Competitive Procedure with Negotiation (Regulation 29 of the PCR), and the Council will need to comply with the relevant provisions for those procedures. Appendix 4 sets out the details in relation to the choice of procedure.

The Council must consider social value at pre-procurement (commissioning) stage in accordance with the Public Services (Social Value) Act 2012. The social value considerations are set out at paragraph 3.7.4.

The Council must comply with the general Duty of Best Value to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness (Section 3 of the Local Government Act 1999).

The recommended procurements shall also comply with the Council's Tenders and Contracts Regulations, which form part of the Council's Constitution.

As explained at paragraph 3.9 of this report, the proposals require statutory consultation with Leaseholders in accordance with Section 20 and 20ZA of the Landlord and Tenant Act 1985 (as amended by section 151 of the

Commonhold and Leasehold Reform Act 2002) and the Service Charge (Consultation Requirements) (England) Regulations 2003.

The Council is being advised by external consultants and external legal advisors.

Approved by: Kiri Bailey head of commercial and property law on behalf of the Director of Legal Services.

## **8 HUMAN RESOURCES IMPACT**

The main HR impact of this report is that TUPE will apply. TUPE will apply firstly if the proposed in-sourcing of the contract proceeds. In this instance the incumbent supplier's staff working in their contact centre would be transferred across to Council This is considered outside the scope of this procurement and will therefore, be considered separately.

The second way that TUPE will apply is that staff will transfer from the incumbent supplier to the successful suppliers. This is a direct transfer from contractor to contractors. The Council is not responsible for this transfer but will facilitate the provision of TUPE information as part of the tender process to allow contractors to be able to accurately price the contract.

The TUPE process will be managed in line with current legislation. If any other HR issues arise these will be managed under Croydon Council's Policies and Procedures.

Approved by: *Jennifer Sankar, Head of HR Housing Directorate & Sustainable Communities, Regeneration and Economic Recovery for and on behalf of the Dean Shoemith, Chief People Officer*

## **9 EQUALITIES IMPACT**

This is a high-profile service and the consideration of equalities is key for both how the Council contracts the service and how contractors perform the service.

The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore, have due regard to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

All Council contracts must meet the requirements of the Equality Strategy 2020-2024 as detailed in the Equality Strategy Delivery plan. Procurement requirements include the following:

- All Council contractors must contribute towards delivering our equality objectives
- Contractors are inclusive and supportive of vulnerable groups
- Ensure that every strategy, delivery plan, council contract and staff appraisal have an equality objective linked to it.
- That contractors be requested to adopt Croydon's Equality and George Floyd Race Matters Pledges
- Standardised equalities data is captured by services and used to make decisions

There have been allegations of racial discrimination from tenants about the service provided previously. It is imperative that tenants are treated in a fair and equitable manner and complaints are monitored by protected characteristic to ensure that no tenants are discriminated against in relation to Equality Act 2010.

A recent survey indicated that residents from the Black and mixed category were less satisfied with the level of service. The department are required to investigate the reasons for this and provide actions to address the issue.

The department should also develop a plan to increase the number of tenants that have not disclosed their protected characteristics noting that residents who have not disclosed have the greatest level of dissatisfaction.

Equality monitoring of the contract should be undertaken and reported to the Housing Improvement Board.

A clear plan to improve the collection of equality data should be undertaken and monitored by the Housing Improvement Board.

In providing a service to residents, it should be noted that it is not unlawful discrimination to treat a disabled person more favourably than a non-disabled person.

It may also be necessary to provide additional support to parents of disabled children to enable them to ensure that the service meets the need of a disabled child.

Services may be delivered in a different manner to some individuals such as those who do not have English as a first language. This does not equate to favourable treatment under the Act.

In the event of a change in contractor the incumbent staff will be protected by TUPE regulations. This will ensure the contractor's staff are not made

redundant due to the change of provider and protects their Terms and Conditions.

This contract will require the contractor to pay their staff the London Living Wage which meets the Council's core priority, to tackle ingrained inequality and poverty in the borough, following the evidence to tackle the underlying causes.

However, there will not be fundamental changes to the service scope therefore the direct impact on equality is limited. An Equalities Assessment has been carried out and signed off.

In the event of a change in contractor the incumbent staff will be protected by TUPE regulations. This will ensure the contractor's staff are not made redundant due to the change of provider and protects their Terms and Conditions. This contract will require the contractor to pay their staff the London Living Wage which meets the Council's core priority, to tackle ingrained inequality and poverty in the borough, following the evidence to tackle the underlying causes.

The Council will encourage the successful contractor to adhere to and sign up to the George Floyd Race Matters Pledge and Equalities Pledge as the Council's standard in equalities *Approved by: Denise McCausland, Equalities Manager*

## **10 ENVIRONMENTAL IMPACT**

The main environmental impacts from this contract are as follows:

- Energy use and associated carbon dioxide emissions, from both running buildings, and contract vehicles
- Water use in buildings
- Use of natural resources –products and materials used
- Pollution to air, land or water from vehicle use
- Waste -disposal of construction waste
- Transport – congestion from contract vehicles

Whilst there is an environmental impact of running this service as there will not be fundamental changes to the service scope there should not be adverse changes compared to the status quo.

In addition, the re-procurement will be designed in a way to encourage bidders to offer solutions that minimise environmental impact in a way that offers value for money. The social value section will include environmental impact and enable the Council to specify relevant environmental criteria that are most relevant to the project.

## **11 CRIME AND DISORDER REDUCTION IMPACT**

Ensuring homes are well maintained and fit for purpose, helps support Croydon and prevents any increase in crime and disorder.

## 12 REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

Following discussions with the Council's incumbent responsive repairs provider the contract will end August 2023. This requires the Council to find a new solution for the responsive repairs and gas servicing work for the Council's housing stock.

To mitigate the risk of appointing a single provider and to attract local and SME contractors the Council is proposing to split the contract up into four parts as follows:

- Contact Centre – to be insourced
- Area 1 Responsive repairs excluding gas
- Area 2 Responsive repairs excluding gas
- Gas related services

The Contracts will be initially let for 6 years and 8; with a total contract duration of 10 years and 8 months. In order to make this offer as attractive to the market as possible this will be advertised as a contract duration of 10 years and 8 months with a 'break option' after 6 years and 8 months. Our technical consultants have advised that the market will look more favourably and there is likely to be a commercial benefit by advertising a 10-year 8-month contract rather than a 6 year 8-month contract with a 4-year extension; even if there are break clauses in the longer contract. In addition, there will be a no-fault termination clause.

The 10-year 8-month period will help ensure the opportunity is attractive to the market without restricting the Council's ability to terminate the Contract at an earlier point in time. The rationale for this contract length is to ensure its long enough to be attractive to the market and ensure the contractors are able to offer best value to the market. Conversely, we do not want to commit to a too long a period to ensure market is tested at appropriate intervals to ensure value for money.

We are recommending leaving the majority of the work contracted out initially because we do not consider it feasible to insource the whole of the responsive repairs and voids service as a single activity before the Axis contract finishes. This is due to the relatively short timeframe until the current contract ends.

As this report is proposing to split the works into 3 packages this shifts the balance strongly in favour of in-housing the contact centre as otherwise there would be 3 contractor contact centres. For this reason, it is proposed to bring the contact centre back in house.

Overall due to the complexity, length of contract and value of the responsive repairs element it was felt that Competitive Procedure with Negotiation (CPN) would deliver the best outcome for the Council and the ability to meet the contractors to allow refinement of bids. The Gas Servicing is a more traditional service with less uncertainty. In addition, the soft market testing suggested

Gas services suppliers would prefer the Restricted Process. For these reasons the Restricted procedure is recommended for Gas Services.

The evaluation will be 60% quality: 40% price for the responsive repairs element and 50% quality 50% price for Gas Servicing.

### **13 OPTIONS CONSIDERED AND REJECTED**

The options considered and rejected for this procurement are do nothing, in-sourcing of the entire responsive repairs and gas servicing contract, procure via the open procedure, procure via a compliant framework, procure via the restricted procedure and procure via the Competitive Procedure with Negotiation (CPN). Appendix 5 sets out the pros and cons of these options.

### **14 DATA PROTECTION IMPLICATIONS**

#### **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**YES**

The personal data will relate to information on tenants' personal information this will include name, address, contact details and other key details. This is required to allow contractors to contact tenants to gain access to properties

#### **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

**YES**

A Data Protection impact assessment will be completed with the successful contractors.

*Approved by: Stephen Tate, Director of Housing – Estates and Improvement*

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#### **CONTACT OFFICER:**

Stephen Tate  
Director Housing – Estates and Improvement  
Estates and Improvement  
Tel: 020 8726 6000

## **APPENDICES TO THIS REPORT**

### **Appendix 1 DLO vs Outsourced**



Appendix 1 DLO vs  
Outsourced RRS V0.

### **Appendix 2 In Source of Contact Centre**



Appendix 2 In  
Source of Contact C

### **Appendix 3 Proposed Packaging of Lots**



Appendix 3  
Proposed Packaging

### **Appendix 4 Procurement Procedure**



Appendix 4  
Procurement Proced

### **Appendix 5 Options considered and rejected**



Appendix 5  
Options considered

## **BACKGROUND PAPERS**