

Decision Maker: PORTFOLIO HOLDER FOR RENEWAL, RECREATION AND HOUSING

Date: For pre-decision scrutiny by the Renewal, Recreation and Housing Policy Development & Scrutiny Committee on 15 June 2023

Decision Type: Non-Urgent Executive Non-Key

Title: CONTRACT VARIATION – PHASE 2 OF THE HOUSING REVENUE ACCOUNT POLICIES AND ALLOCATION POLICY

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Chief Officer: Director of Housing, Planning, Property and Regeneration

Ward: All Wards

1. REASON FOR REPORT

- 1.1 The Council transferred its housing stock to Clarion Housing Association (formerly known as Broomleigh) in 1992. In July 2020 the Council approved the re-opening and setting up of a Housing Revenue Account (“HRA”) for the provision of affordable housing and has recently been developing housing on Council-owned land. The Council was registered as a provider of social housing by the regulator on 29 September 2020 (Reg no:5103).
- 1.2 The Director of Housing, Planning, Property & Regeneration awarded a Contract via an exemption from tendering to Campbell Tickell for the provision of consultancy services to develop the initial housing policies at a value of up to £60k. A contract variation was agreed in November 22 to include the review and adaptation of The Council’s allocations policy at a value up to £31k.
- 1.3 Campbell Tickell have successfully delivered the initial phase of the HRA policy development and have commenced the review of the Council’s allocations policy as detailed above. Officers have identified the additional specific housing policies required as a stock holding authority and are seeking approval to vary the existing contract to include the second phase of the housing policy work. This is to support the ongoing development of the HRA and ensure the Council maintain compliance with the Regulator of Social Housing and Housing Ombudsman.
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2. RECOMMENDATION(S)

- 2.1 The Portfolio Holder for Renewal, Recreation and Housing is requested to:
- 1) Approve the Contract Variation to Campbell Tickell for the provision of consultancy services to continue the development of the various housing policies and work relating to the allocation policy at a value up to £42,500 with a cumulative contract spend of £133,500
 - 2) Recommend that Executive agrees to set aside funding for this variation when considering the 2022/23 Revenue Outturn report at its meeting in July 2023.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The Council's house building programme is focused on affordable housing and seeks to ensure that vulnerable adults and young people are supported to remain in their own homes wherever possible or to secure alternative suitable and sustainable accommodation solutions.

Transformation Policy

1. Policy Status: N/A
2. Making Bromley Even Better Priority:
 - (1) For children and young People to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
 - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
 - (3) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
 - (4) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.

Financial

1. Cost of proposal: Estimated Cost: £42,500
2. Ongoing costs:: Not Applicable
3. Budget head/performance centre: Operational Housing
4. Total current budget for this head: £8,334k
5. Source of funding: To be agreed as part of the 2022/23 Revenue Outturn

Personnel

1. Number of staff (current and additional): Not Applicable
2. If from existing staff resources, number of staff hours: Not Applicable

Legal

1. Legal Requirement: Statutory Requirement
2. Call-in: Applicable: Portfolio Holder decision.

Procurement

1. Summary of Procurement Implications: See Section 4 of report.

Property

1. Summary of Property Implications: The documents are served to ensure the properties are well managed and maintained.

Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: None

Customer Impact

1. Estimated number of users or customers (current and projected): The council has a housing development programme with 60 units delivered to date. Associated policies set out the strategic approach to the housing register which is currently 2800 families, the wider tenancy strategy will impact all social housing stock in the borough.

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Council was registered as a provider of social housing by the regulator on 29 September 2020 (Reg no: 5103). Under section 74 of the Local Government and Housing Act 1989 (the 1989 Act) a local housing authority is required to keep a Housing Revenue Account in accordance with proper practices. The keeping of the HRA is governed by Schedule 4 of the 1989 Act. In line with Government issued Direction (14 March 2019) the Council can hold up to 200 units of accommodation outside of the Housing Revenue Account (HRA) i.e. remain within the General Fund.
- 3.2 Under the Housing & Regeneration Act 2008 and the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 despite the initial 60 properties being held in the General Fund and regardless of the management and accounting arrangements in place for the social housing stock, as the Council is the landlord, they will be regulated as a registered provider.
- 3.3 As a Local Authority Registered Provider under the Regulations we are required to comply with only one of the four Economic Standards in respect of the Rent Standard and all four of the Consumer Standards
- a) Home Standard
 - b) Tenancy Standard
 - c) Neighbourhood and Community Standard
 - d) Tenant Involvement and Empowerment Standard.
- 3.4 To satisfy the law and regulations there are a number of policies, procedures and management structures that the Council need to put in place as a social housing provider, including but not limited to a Tenancy Strategy including tenancy agreements; setting out leaseholder and access liabilities, Rent Setting including rent payments and arrears, Allocations including mutual exchanges/successions and assignments, Gas, Fire and Health & Safety, Asset Management including repairs and maintenance in addition to Neighbourhood management and how we will deal with Anti-Social Behaviour and complaints.
- 3.5 The Council does not have capacity to carry out this piece of work and following a Request for Quote process in September 2021 the Director of Housing, Planning and Regeneration awarded a Contract via an exemption from tendering to Campbell Tickell for the provision of consultancy services to develop various housing policies at a value of up to £60k as required for further development of the housing policies.
- 3.6 The Council's Consultancy Contract (Outside of IR35) was sent to Campbell Tickell, and this was entered into by both parties on 1st November 2021 until 30th April 2022. Due to the complexities of this work and the delays in the property build process the Director of Housing, Planning and Regeneration, and the Director of Campbell Tickell have agreed in writing two "No Cost Variations" to extend the contract end date to 30th November 2022.
- 3.7 A contract variation was agreed in November 22 at a value of up to £30,075 to include the review and adaptation of the allocations policy. Officers have identified the additional specific housing policies required as a stock holding authority and would like to vary the existing contract to include the second phase of the housing policy work. At the time of the appointment and despite officers acting in good faith, the full scope of the project was not fully identified and therefore has remained underfunded. Additional funding is required to support the ongoing development of the HRA and ensure compliance with the Regulator of Social Housing.
- 3.8 Section 22 of the Contract allows for both parties to agree to a contract variation to carry out work which is substantially similar. The work to continue a review of our existing policies and

that of the Allocations Policy is very similar and forms part of the wider piece of work the Council are doing to ensure that we are not only compliant with the Housing Regulator in terms of our HRA but also that we maximise our housing assets to meet our statutory housing duties.

Summary of Business Case

3.9 The Council have been seeking opportunities to increase the supply of affordable housing and reduce the cost of Temporary Accommodation to meet its statutory housing duties.

- a) Entered into first Joint Venture with Mears– More Homes Bromley LLP – June 2016
- b) Meadowship Homes LLP – Phase 1 with O & S (Pinnacle) – August 2021
- c) Building our own stock (5 Schemes in progress to date)
- d) Beehive Scheme (Macquarie were involved in) (Feb/July 2021)
- e) Meadowship Homes LLP Phase 2 with O & S (Pinnacle) – August 2022

In addition to other Council Schemes through Nomination Agreements with Housing Associations, Schemes like Bellegrove & Manorfields, Private Sector Leasing Schemes.

3.10 When Officers looked at the market to award the first contract with Campbell Tickell for the provision of consultancy services to develop various housing policies for the HRA and compliance with the Housing Regulator as a Social Housing Provider, we approached 3 companies (Altair, Campbell Tickell and Saville's) for quotes in addition to Bloom Procurement, Matrix, Future Sector Consultancy in addition to Browne Jacobson Solicitors.

3.11 Altair and Browne Jacobson were unable to support the Council as they did not have an "off the shelf" suite of documents that could be utilised which meant they had to start from scratch involving more cost and time. Futures and Matrix did not have a suitable skill set to meet the Council's needs and Bloom did not respond.

3.12 Based on further discussions and quotes from Saville's and Campbell Tickell, Campbell Tickell provided a more comprehensive and practical approach to the delivery of the work in addition to a more competitive price and therefore better value for money for the Council.

3.13 To remain compliant with the regulatory requirements and ensure delivery to our residents, the Council, now a stock holding authority, are required to produce various housing policies and strategies to uphold the Consumer and Economic Standards of the Regulator. Failure to meet these standards could lead to the Regulator exercising its powers and ultimately de-registration which will mean we will not be able to meet our housing needs.

3.14 Given the work that Campbell Tickell have already undertaken and their familiarity with our existing and new policies and procedures, to maintain continuity and to ensure that changes are reflected throughout the suite of documents, to ensure compliance and maximisation of the use of our assets to meet our statutory housing duties, Officers consider it better value for money to continue to utilise Campbell Tickell for phase 2 of the policy work this will also reduce any duplication of work and allow the progress made so far to continue.

3.15 This is a continuation of the HRA policy work which will be delivered alongside the review of the Allocations policy. Campbell Tickell anticipate the timeframe to incorporate both will be around 8 -10 months and will include the following items:

- a) Tenancy Process and all associated standard documents
- b) Rent setting processes
- c) Stakeholder Consultation
- d) Compensation Policy and Process
- e) Development Manual
- f) Complaints Process to incorporate the Housing Ombudsman

- g) Vulnerable Tenant Protocol
- h) Right to buy Process
- i) Aids and Adaptations Policy and Process
- j) Domestic Abuse Policy
- k) Anti-social behaviour Policy

- 3.16 Officers are mid delivery of the HRA policy work and due to progress to consultation on matters approved at Executive. With units already in management and tenancies approaching the first anniversary, action will be required by the Council. It is therefore imperative that the above be urgently addressed to ensure officers are well informed of responsibilities of the Council and aware of procedural steps required to deliver best service to our residents.
- 3.17 To complete the work identified by April 23 and to not negatively impact the overall project delivery, Officers are seeking approval to vary the existing contract to ensure we continue to uphold the Council's obligations as a Social Landlord and mitigate the risks in paragraph 3.13 above.
- 3.18 Due to the complexities, understanding and knowledge whilst on boarding new sites, additional time was incurred from the outset. Officers are now better informed as to the work required and with the experience have completed a thorough review of all items required, identified a clear project delivery plan and dedicated resource to ensure this is delivered within agreed budget and timescales.

Service Profile / Data Analysis / Specification

- 3.19 More than 5,000 households' approach with housing difficulties which could lead to homelessness each year. There are currently approximately 1500 Bromley households in Temporary Accommodation these are predominantly located outside, the borough. This includes c.1,100 households in costly nightly paid Temporary Accommodation. It costs the Council an average of £7,100 per annum, per household in Nightly Paid accommodation, this in turn puts a strain on LBB's budgets which impacts on other services.

4. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 4.1 **Estimated Value of Proposed Action:** Contract Variation £42,500 - with a cumulative contract spend of £133,500.
- 4.2 **Other Associated Costs:** N/A
- 4.3 **Proposed Contract Period:** To expire April 24

5. IMPACT ASSESSMENTS (INCLUDING VULNERABLE ADULTS AND CHILDREN)

- 5.1 As part of the work Campbell Tickell will be carrying out on the review of the Allocations Policy, will be to carry out an exercise to assess the impact of any changes to our live waiting list and undertake an Equality Impact Assessment.

6. TRANSFORMATION/POLICY IMPLICATIONS

- 6.1 The Council has a number of statutory rehousing duties. This Contract will support the Council to ensure a sufficient supply of accommodation to meet its statutory rehousing duties through the HRA.
- 6.2 The Council has a published Homelessness Strategy, which sets out the approved strategic policy in terms of homelessness. This includes temporary accommodation and settled housing provision to reduce the reliance on nightly paid accommodation. The Council already works

with a range of providers in the provision of affordable housing and the option of an HRA increases the range of options available to maximise access and supply to affordable housing provision.

7. IT AND GDPR CONSIDERATIONS

- 7.1 An information sharing agreement is in place and the project will be managed in line with all GDPR requirements.

8. PROCUREMENT CONSIDERATIONS

- 8.1 This report seeks to vary the Council's Contract with Campbell Tickell (CBD ID 5145) for the provision of additional consultancy service at a value of £42,500. The current contract ended 28th April 2023 and permission was sort and agreed to extend the contract to December 2023.
- 8.2 This contract was originally awarded via exemption from competitive tendering in September 2021, receiving 2 variations at no cost to extend and a further variation to cover additional work required. This was and remains a below threshold opportunity, and therefore is only subject to Part 4 of the Public Contract Regulations 2015.
- 8.3 Approving this variation of £42,500 would increase the cumulative contract value to £133,500. The Council's requirements for authorising a variation are covered in CPR 23.7 and 13.1. For a contract of this cumulative value, the Approval of the relevant Portfolio Holder, and in Agreement by the Chief Officer, Assistant Director Governance & Contract, the Director of Corporate Services and the Director of Finance must be obtained. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 8.4 Following the Approval, the variation must be applied via a suitable Change Control Notice, or similar, agreed with the Provider.
- 8.5 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content

9. FINANCIAL CONSIDERATIONS

- 9.1 This report requests a variation to the existing contract of up to £43k which will take the whole life value to £134k.
- 9.2 Although funding has not yet been identified for this variation, the Portfolio Holder is asked to recommend that Executive agrees to set aside funding when considering the 2022/23 Revenue Outturn report due to be considered at the meeting in July 2023.

10. PERSONNEL CONSIDERATIONS

- 10.1 In the event that this contract is awarded there are no HR/Staffing implications.
- 10.2 The contract between the Council and Campbell Tickell constitutes a commercial fee arrangement and they will be completing the project from beginning to end and only involving the Council to provide the required Council information and data.
- 10.3 HR have therefore confirmed that this is a business-to-business relationship between the Council and Campbell Tickell and therefore outside of the scope of IR35.

11. LEGAL CONSIDERATIONS

- 11.1 Part 6 of the Housing Act 1996 and other associated legislation and guidance, requires the Council to develop housing allocation schemes which give reasonable preference to certain categories of applicants. This Paper recommends that the consultants who have been developing this scheme have their contract varied in order to continue with this and associated other work at a value of up to £42,500 which would show a cumulative contract spend of £133,500.
- 11.2 This contract is a services contract within the definition of the Public Contracts Regulations 2015 (the Regulations). As the cumulative value of the contract is below the current threshold a fully regulated procurement is not required. However the procurement must still comply with the public procurement principles of equality, transparency and non-discrimination which must be applied in a manner proportionate to the subject matter and context of the purchase.
- 11.3 The Council's Contract Procedure Rule 23.7 details the procedure required where there is a variation for an "Extension Beyond Term". For a variation of this value, it can be approved by the Portfolio Holder. There must be sufficient budgetary provision for the Contract and/or where it is permitted under the Council's Capital Programme Procedures. The reasons why these services are best provided by the current contract are given within the main body of this report.
- 11.4 Once this report is approved, a formal variation to the contract should be made and Legal Services should be instructed to assist with this.

Non-Applicable Headings:	Market Considerations, Social Value, Stakeholder engagement, Strategic Property, Ward Cllr Views.
Background Documents: (Access via Contact Officer)	Contract Award Report to produce Policies for the Council's Housing Revenue Account (Officer Report) September 21 Contract Variation to include the review and production of the Council's Allocation Policy (Officer Report) November 22