

Report No:

London Borough of Bromley

PART 1

Decision Maker: **EXECUTIVE**
With Pre-Decision Scrutiny from Executive, Resources & Contracts PDS on 3rd July 2023

Date: **5 July 2023**

Decision Type: Non-Urgent Executive Key

Title: **Appointment of Ascot Services to run the Facilities Management at Churchill Court**

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

Ward: Bromley Town/All Wards

1. REASON FOR REPORT

- 1.1 This report (and the accompanying Part 2 report) provides Members with a recommendation to make a direct award via exemption to competitive tendering to Ascot Services to run the Facilities Management at Churchill Court for an interim contract of up to two years. The proposed direct award is to ensure necessary service provision is in place from the point of exchange and completion for Churchill Court, noting that a full and compliant procurement process for the longer-term service requirements will commence and be completed as soon as reasonably possible.

2. RECOMMENDATION(S)

- 2.1 Members are recommended to note the contents of this report.
- 2.2 To agree to make a direct award via exemption to competitive tendering to Ascot FM for the services detailed in this report for a period of up to two years from 28 July 2023 at an upper estimate of £1.562M per annum (whole life upper estimate of £3.125M).
- 2.3 To delegate to the Director of Housing, Planning, Property and Regeneration the authority to conclude negotiations with Ascot Services to determine the scope and estimated contract value for this interim contract award and, if needed, to vary the scope of the services as the Council relocates from the Civic Centre to Churchill Court over the period of the contract term – noting the capped FM cost at 2.2.

- 2.4 To delegate to the Assistant Director of Legal Services the authority to finalise and engross the contract as negotiated at 2.3.
- 2.5 To note that, during the term of the interim contract, a full and compliant procurement process for the Facilities Management requirement will be undertaken as soon as reasonably possible for a new contract to commence within the interim period if possible (and no later than 28 July 2025). This will be subject to formal Member decision on the procurement strategy in due course.

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal:
 2. Ongoing costs:
 3. Budget head/performance centre:
 4. Total current budget for this head:
 5. Source of funding:
-

Personnel

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

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
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Procurement

1. Summary of Procurement Implications: Not applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
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Ward Councillor Views

As this is a Council HQ building it impacts on all Wards.

3 COMMENTARY

- 3.1 Members will be aware that since September 2022 the Council has been pursuing the acquisition of Churchill Court, the former Corporate Head Quarters of the Direct Line Insurance Group, in Bromley Town Centre.
- 3.2 Authority to purchase this building was given by Full Council in December 2022. Contracts for the purchase exchanged in May with completion now due for 28 July 2023.
- 3.3 As Members will recall Churchill Court provides accommodation which is larger than the Council's needs and already houses a number of income producing tenants. Part of the overarching business case for the purchase was that surplus space not required for Council purposes could be leased to third party companies or organisations.
- 3.4 Consequently, the Council needs to be in a position where it can deliver both Hard and Soft FM services to its staff and other tenants within Churchill Court from the 28 July when it in effect becomes the owner and Landlord of the asset.
- 3.5 The Council is in the process of ascertaining and costing exactly what works will be needed to adapt Churchill Court to meet the needs of the Council as its new Civic Centre and how its staff will relocate from the existing Civic Centre site. The phasing of required construction works and subsequent phasing of occupancy and, ultimately, full relocation to Churchill Court are still to be determined. This uncertainty and the many potential variables also affects the consideration of a timeline by when a full procurement process for the Facilities Management requirement can reasonably progress.
- 3.6 In addition, a series of lettings to third party tenants has also commenced – such as Direct Line, a Health & Well Being Centre and other NHS backed organisations – which will produce revenue income for the Council.
- 3.7 A further report as to the costs of the staff move and associated works to alter Churchill Court for Council purposes will be taken to the Executive and is scheduled for Autumn 2023. The commercial negotiations will have been finalised at this point and consequently that report will provide members with a detailed overview of the various income streams associated with the third party lettings at Churchill Court.
- 3.8 Given the short time frames between identifying the site availability to completion of the acquisition, it was not reasonably possible to carry out a procurement process for the Facilities Management requirement in the short time frame between securing Churchill Court at Exchange of Contracts to completion. A reasonable timescale to proceed to procurement via a compliant route cannot yet be determined due to the myriad uncertainties and variables set out above. As the project progresses - including knowledge and discovery of the building hard and soft facilities management requirements, confirmation of timescales for commencement and completion of required construction projects, the phasing of occupancy and the commercial arrangements and phasing of third party tenancies – a timeline for a compliant procurement process will be determined and implemented, subject to Executive decision.
- 3.9 Ascot Services are currently contracted by Direct Line Group to manage their national portfolio including Churchill Court. They are they highly recommended by Direct Line Group and Officers have established that Ascot Services have established a comprehensive QHSE Management system in compliance with the requirements of ISO 9001:2015 (Quality), ISO 45001:2018 (Health & Safety) and ISO 14001:2015 (Environmental). This is reviewed annually as part of their registration with the British Standards Institute (BSI), to ensure that they are continually developing and improving year on year.

- 3.10 Ascot Services predominantly work in the corporate market but are more than capable of delivering the services required by the Council. Options to award a suitable interim contract via a direct award mechanism through a compliant framework were explored but no suitable frameworks were available for the London region.
- 3.11 Therefore Officers approached Ascot Services with a potential view to a direct award of a short term contract via exemption to competitive tendering, due to the knowledge of the site infrastructure with the view that it would be advantageous to use the incumbent service provider in the short term due to their site knowledge which will be far greater than ours given their existing service provision from the building which we do not even own yet.
- 3.12 It is critical that a service provider is in situ from day one of the Council becoming the legal owner of the building and this is based on the legal and practical need to provide services both to the tenant from completion of the sale and to the wider building from a statutory compliance, safety and security perspective during the construction and partial occupation phase, justifying the requirement for a Direct Award to be made to the incumbent provider as the only viable solution to meet this legal requirement
- 3.13 The duration proposed for this contract is up to a maximum of 24 months. This timeframe is required for the following reasons:
- The Council becomes legally responsible for the building and the tenants who are in occupation from day one on practical completion of the purchase. However, the Council will not have full working knowledge of the property from day one, nor will the Council have full visibility on its operating model for the building longer term.
 - The Council is required to undertake significant construction works at the Property to provide a fully functioning Civic Centre to deliver its services from, with these works unable to be procured and finalised until after practical completion. The building will therefore be occupied in part by the Council's construction contractors until works are completed which is anticipated to be by mid-2024
 - It is only following completion of these works in mid-2024 that consideration of the phasing of full occupation of the new Civic Centre will take place and full understanding of the operation of the building and the Council's emerging operating model understood.
 - The exact services required from the provider will be continuously changing during the initial 18 months following purchase as construction works are undertaken and phased occupation of the site progresses resulting in various FM services being scaled up and down according to the occupational requirements at a given time which cannot be prepared for in advance.
 - It will not be possible to provide a scope of required services to support the retendering of the longer term contract requirement until after practical completion of the construction works and completion of the phased move of Council staff into the newly remodelled building in mid-2024.
- 3.14 The high-level timescale below provides for the indicative route to market testing and subsequent award for no later than July 2025.

Activity	Date Range	Milestone
Completion of purchase		28/07/23
Ascot Services Go Live (Ramp Up)	From 28/07/23	

Preparation of Procurement Strategy and Timeline	From 28/07/23	Planning can commence but a full strategy and timetable will be dependent upon timelines to be determined for construction and phased occupancy
Commencement of Procurement	To commence in 2024	Executive decision on Procurement Strategy
Award Period	Estimated in 2024/2025	Executive decision on Contract Award
Mobilisation	Estimated in 2024/2025	Go Live no later than 28/07/25

These dates are indicative, and the intention would be to take to market as quickly as possible.

- 3.15 Part 2 of this paper provides a document from Ascot Services detailing their offering and the associated costs based on a full occupancy steady state model. These have been negotiated and evaluated against the Council's requirements by the Council's Head of FM who has concluded that the sums quoted – referencing the Commercial Budget section of the attachment, but provided below for ease of reference - represent good value and are in line with industry standards.
- 3.16 As Members will observe within the Part 2 paper the annual budget cost for Ascot Services is £1,562,952. This sum is based on full occupation of Council offices, and the provision of common part service provision to tenanted areas. As Churchill Court will see a phased occupation then the estimated costs identified will not apply until full occupancy is achieved, estimated to be in 2024 at the earliest.
- 3.17 In essence the Council needs to provide some services from day one of its ownership – mainly to facilitate the occupation of Direct Line as a tenant and to ensure that the building does not fall into a state of disrepair by continuing regular life safety testing and responding to faults as identified. In addition, the building needs to be secured and access to it controlled.
- 3.18 The profiling of this phased occupation is still being planned by the Move Project Team and will be reported in the Autumn Executive Report. However, whilst the annual budget sum of £1,562,952 has been quoted in this report, the actual costs in Year 1 will be considerably lower as much of the building during the first year will be the subject of alteration and improvement works and therefore parts of the building will not be operational but occupied by the Council's selected construction contractors. This is detailed further in Part 2 of this paper.
- 3.19 Consequently it is recommended that the Director of Housing, Planning, Property and Regeneration is delegated the authority to conclude negotiations with Ascot Services to determine the scope and phasing of the required service and in the subsequent year to vary the requirement as needed as the Council relocates from the Civic Centre to Churchill Court over the period of the contract term in order to ramp up the service provision as required at Churchill Court in order to ensure that the Council only utilises services as required.
- 3.20 In awarding the contract, flexibility will be sought to allow early termination with reasonable notice if it is possible to proceed to procurement and award a contract for the longer term Facilities Management within the two year period, including any required mobilisation.

4 IMPACTS ON VULNERABLE ADULTS AND CHILDREN

- 4.1 There is not considered to be an impact on Vulnerable Adults and Children because of this decision – other than the provision of a new Civic Centre in the Town Centre will greatly improve the accessibility offering to all residents.

5 POLICY IMPLICATIONS

- 5.1 It is essential that the Council manages its assets to meet the Council's aims and objectives.

6 FINANCE IMPLICATIONS

- 6.1 The paper requests members to approve a direct contract award to Ascot for the facilities management responsibilities at Churchill court.
- 6.2 The cost of the contract is £1.56m per annum with the initial award being for a period of 2yrs until a full tender process is undertaken, the full term cost of the contract is £3.12m.
- 6.3 Due to both Churchill court and the old civic centre being operational during this initial period there is a budget gap of £1.24m that will be created by the award of this contract, which will require funding.
- 6.4 Please refer to part 2 of this paper for the full financial implications.

7 PROCUREMENT IMPLICATIONS

- 7.1 Further procurement commentary is provided in the accompanying Part 2 report.
- 7.2 This report seeks to award a contract to Ascot Services for a duration of up to two years at an estimated upper annual value of £1.562M.
- 7.3 This is a services contract and the value of this procurement falls above the thresholds set out in Part 2 of the Public Contracts Regulations 2015 and is subject to Part 2 of the Regulations.
- 7.4 The rationale for the exemption is set detailed in the report. It is also noted (and recommended) that a compliant procurement process for the longer term requirement is commenced as soon as reasonably possible (noting the variables and uncertainties set out in the report that will affect the timeline by which it is reasonably possible to proceed).
- 7.5 This action is permissible under the general waiver power of the Council (CPR 3.1). The Council's specific requirements for authorising an exemption are covered in CPR 13 with the need to obtain the Approval of the Executive following Agreement by the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for a contract of this value. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 7.6 As the contract value is over £30k including VAT, an award notice will need to be published on Contracts Finder.
- 7.7 As the value is above the thresholds set out in the PCR 2015, the justification cited in this report is considered to be permissible under Regulation 32 (2) (c) of the same.

7.8 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.

8 LEGAL IMPLICATIONS

8.1 This report asks Members to directly award an FM contract, by way of exemption from competition to Ascot Services for a duration of up to two years at an estimated upper annual value of £1.562M.

8.2 The Council has not yet completed on the purchase of the Churchill Court property. Once the Council does become the legal owner, occupier and landlord of the building, there is a range of specific legal duties which requires the Council to undertake maintenance of that building. Failure to ensure this building is maintained to a level to avoid risks to its staff, tenants and members of the public can lead to both criminal and civil liability.

8.3 This is a services contract whereby there is, *prima facie*, a legal requirement to procure these "above threshold" services through a regulated competitive procedure as provided for by the Public Contracts Regulations 2015 (the "Regulations"). The reasons why these services cannot currently be procured in this way are explained throughout parts 1 and 2 of this report.

8.4 Officers propose using Regulation 32(2)(c) of the Regulations to directly award this contract and legal comments are provided in Part 2 of this Report in this regard.

8.5 The Council's CPRs have been adhered to as evidenced above in the Procurement Implications.

8.6 Officers must continue to liaise closely with Legal Services in order to ensure the Regulations are followed and the contractual documentation is concluded expeditiously.

Non-Applicable Sections:	HR,
Background Documents: (Access via Contact Officer)	