

MINUTES OF MEETING Cabinet Member Signing HELD ON Thursday, 28th March, 2024, 2pm

PRESENT:

Councillor Peray Ahmet - Leader of the Council

ALSO ATTENDING: Benita Edwards, Jahedur Rahman and Boshra Begum

9. FILMING AT MEETINGS

The Leader referred to the notice of filming at meetings and this information was noted.

10. APOLOGIES FOR ABSENCE

There were no apologies for absence.

11. URGENT BUSINESS

There were no items of urgent business.

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. DEPUTATION / PETITIONS / QUESTIONS

There were no deputations, petitions or questions.

14. VARYING CONTRACTS AWARDED TO LAW FIRMS TO CARRY OUT HOUSING DISREPAIR CASEWORK

The Leader acknowledged the surge in housing disrepair cases, that currently averaged 49 a month with around 1000 open cases in total. Due to this high volume, many cases have been outsourced to law firms, although some continue to be managed in-house.

Legal Services has recently been allocated a budget of £700k for the period 2024/25 in order to build a temporary inhouse specialist Legal Disrepair team within the Litigation Team. On 12 March 2024, the Director gave authority for the creation of that team comprising up to ten additional members of staff on fixed term contracts.

It is envisaged that Legal Services will need additional capacity until such time as the Housing Authority's plans to manage all unissued disrepair cases and complete repairs on new and backlog cases at the earliest opportunity are implemented and delivered. As such, an additional budget for the purpose of maintaining a temporary inhouse Legal Disrepair team, may be required for the period 2025/26.

Legal Services would initially be hiring agency workers due to the lengthy recruitment process for fixed-term contracts, with plans to transition these workers to fixed terms as per Council policies. A recruitment drive for fixed-term positions is set to launch in April 2024, aiming to form a temporary team of a Senior Lawyer, eight Senior Legal Assistants, and an Admin Assistant. If capacity allows, the Legal Disrepair team might also bring some outsourced cases back in-house.

The leader expressed satisfaction, noting that the report effectively outlined the strategies for future prevention, indicating a clear plan was now in place.

Further to considering the exempt information, the Leader of the Council,

RESOLVED

1. To approve (in accordance with CSO 10.02.1(b)), the variation of the contracts awarded to Ashfords LLP, Birketts LLP and TLT LLP in October 2022, so as to increase the maximum value of each contract by the amounts set out in the Exempt Report;
2. To delegate Authority to the Assistant Director for Legal and Governance to further increase the maximum value of each contract as may be required from time to time provided that the cumulative amount awarded under this paragraph and paragraph 2(a) above does not exceed £2.4M.
3. To note that, subject to budget remaining available from the £2.4M allocation, Legal Services may run a further procurement exercise (or make a direct award) with a view to awarding further contracts to one or more law firms in 2024.
4. To note that recommendations 2(a), (b) and (c) shall not be implemented until such time as the Cabinet or Leader have approved a virement to the HRA budget covering the £2.4M costs of the law firms.

Reasons for decision

The Council is aware that it has significant problems with its housing stock. In cases where the Council has failed to satisfactorily address disrepair that has been reported, tenants and leaseholders of such housing are entitled to escalate their concerns through legal channels by issuing a pre-action letter and / or issuing legal proceedings. Typically, where legal action is pursued, this will involve the tenant/lessee instructing solicitors who will issue a pre-action letter. If the Council does not respond to the letter with 20 working days and/or has not rectified the disrepair within an agreed timescale then the tenant/ lessee may issue legal proceedings seeking an order requiring that: the repair works are carried out, and that the Council pays damages as well as legal costs, court fees and interest. For that reason, there is

a need to ensure that the Council has sufficient legal resources to tackle the high volume of housing disrepair claims.

The Legal and Housing Services are building in house capacity to deal with more of the disrepair cases inhouse but in the meantime there is still a need to instruct external Solicitors and therefore a key decision is required to approve the extension of the contract values for the three law firms. That will enable them to continue to work on existing and new housing disrepair cases.

Alternative options considered

Doing nothing was considered. However, it is not an option because it is necessary that the law firms continue to work on the cases referred to them and for the Council to continue to pay their fees. If the law firms were to cease work, those cases will not be addressed on behalf of the Council, which would most likely result in the tenants/lessees obtaining judgment against the Council. Further, in cases where the court has issued an Order against the Council and the Council fails to comply with its terms, there is a risk that a penal notice could be added to the Order, which could lead to senior officers being required to attend court and (in the worst case scenario) being sentenced to a term of imprisonment. In addition, where the Council fails to comply with Orders and pay compensation or costs in time, solicitors acting for the claimants may seek to enforce the Orders and may instruct bailiffs to attend the Council offices. For these reasons, it is essential that the law firms continue to act for the Council so as to protect its interests.

Insourcing has been considered as an option and capacity is currently being developed by both the Legal and Housing Teams, so that more of the new disrepair cases can be dealt with inhouse. However, there is a need to extend the contracts of the three firms in the meantime.

Take steps to reduce or eliminate housing disrepair cases reaching the stage where pre-action letters and / or legal proceedings are issued, thereby obviating the need for lawyers to be instructed. Achieving this outcome would entail the Council as Housing Authority taking steps to address and remedy all repairs reported by tenants and leaseholders within a reasonable time and, in cases where a pre-action letter is issued, ensuring that works are carried out promptly to avoid legal proceedings being issued.

It is envisaged that the Housing Authority could respond to claims at the pre-action stage to reduce the reliance on legal services as well as carry out a higher proportion of repairs more speedily. This is the optimal scenario which the Housing Authority is working to achieve through implementation of the Housing Services Improvement Plan, recruitment and procurement of additional buildings repairs contractors. This is not a quick fix and so until such time as the Housing Authority is able to deliver on its plans, there will remain a need for a legal resource to manage housing disrepair claims.

15. EXCLUSION OF THE PRESS AND PUBLIC

To exclude the press and public be from the meeting as it contains exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 3 and 5, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

16. EXEMPT - VARYING CONTRACTS AWARDED TO LAW FIRMS TO CARRY OUT HOUSING DISREPAIR CASEWORK

As per item 14.

17. NEW ITEMS OF EXEMPT BUSINESS

None.

CHAIR:

Signed by Chair

Date