

Report for: Cabinet Member for Housing and Planning

Item number: To be added by the Committee Section

Title: Award of contract for a programme of surveys to undertake Fire Risk Appraisals of External Walls (FRAEWs) for residential properties and provide reports

Report authorised by: David Joyce – Director of Placemaking & Housing.

Lead Officer: Scott Kay – Head of Residential Building Safety

Ward(s) affected: All

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration.

- 1.1.** This report seeks approval from the Cabinet Member for Housing Services, Private Renters, and Planning, for the provisional award of a contract, subject to Stage 2 s20 consultation, for a programme of surveys to undertake Fire Risk Appraisals of External Walls (FRAEWs) for residential properties and provide reports.

2. Cabinet Member Introduction

- 2.1.** NA.

3. Recommendations

The Cabinet Member is asked:

- 3.1.** To approve the provisional award of a contract to Contractor A, subject to Stage 2 Leaseholder consultation, for carrying out a programme of surveys for Fire Risk Appraisals of External Walls (FRAEWs) for residential properties and provide reports, including EWS1 and Building Safety Case reports where required, over a period of 3 years from commencement, which subject to award is estimated to be 1st November 2024, for a maximum value of £1,799,956.00.
- 3.2.** To note the details of the procurement and approve the sum in exempt report.

4. Reasons for decision

- 4.1.** The Building Safety Act 2022 places a statutory duty upon accountable persons to assess the building safety risks for occupied higher-risk buildings Sections 83. Additionally, the Fire Safety (England) Regulations 2022; regulation 5 - Design and materials of external walls, confirms that for high-rise residential buildings risk assessments as required under the Regulatory Reform Fire Safety Order 2005 (FSO) must include details of the level of risk posed by the design and the material of the buildings external wall system as well as the mitigating measures in relation to that risk.
- 4.2.** The Council must also ensure that its residential buildings should adequately resist the spread of fire across their external wall systems, through specification of suitable remediation works.
- 4.3.** The survey and resulting reports will support the Council's property data and building safety cases and allow our fire risk assessments to comply with the requirements of the Building Safety Act and the Regulatory Reform Fire Safety Order 2005. Without this, FRA's may not in future, be considered fit for purpose.
- 4.4.** Although Haringey's residential high-rise buildings do not have rainscreen cladding similarly to that involved in the Grenfell disaster, fire can occur in external walls in flammable insulation materials within the walls and/or through cavities where there are not sufficient barriers inserted to prevent the spread across and upwards behind the wall finishes.
- 4.5.** The Council is currently unable to confidently confirm or evidence that all buildings would limit the spread of fire due to a lack of detailed and reliable as-built records and subsequent works records, for many of its buildings. This is not unusual for older buildings within the social housing sector, given the lack of computer records at the time. Staff have undertaken extensive investigations and research to locate relevant documents which have identified and support the need for this additional survey programme.
- 4.6.** The only way to establish the external wall make-up and potential fire risk of existing buildings without the above information is to undertake intrusive and extensive surveys of the buildings' external wall systems from the external finish through to the surface of the internal walls.
- 4.7.** This requirement applies to buildings of any height, where a Fire Risk assessment is required. This information will not be available from a stock condition survey, nor will it be immediately evident from a thermal imaging or Building Information Modelling (BIM) survey, as these are non-intrusive and require subsequent desk top analysis, extrapolation, and assumption.

5. Alternative options considered.

- 5.1.** Do nothing. This would leave the residents subject to living in buildings where there could be fire safety issues that go unrecorded and unremedied if we do not undertake these surveys. In addition, the Council would not be compliant with both the Building Safety Act and the Fire Safety Act.
- 5.2.** Undertake the surveys in-house. This option is not viable due to the specialist skills, certifications and insurances required to carry out and report on the findings of these surveys.
- 5.3.** Include within the stock condition surveys. This is also not an option due to the advanced nature of that survey programme and the need to undertake intrusive examinations of all aspects of the external façade which is outside to the scope of a Stock Condition Survey.

6. Background information

- 6.1.** One contractor has been identified from a fully compliant procurement process that was supported by our Strategic Procurement team and managed through the Dynamic Purchasing System.
- 6.2.** Following initial market engagement and interest, four contractors submitted bids for the work and the bids were assessed and evaluated based on 50% quality, 10% Social Value and 40% price.
- 6.3.** The following table sets out how the bids received were assessed on both cost and quality.

Tenderer	Quality	Social Value	Price	Score
Contractor A	40.00 %	8.00%	40.00%	88.00 %
Contractor B	36.00 %	3.27%	36.00%	75.27%
Contractor C	26.00 %	7.53%	33.00%	66.53%
Contractor D	35.00 %	0	19.00%	54.00

- 6.4.** The anticipated profile of expenditure will be confirmed in the winning bidder's draft programme once appointed. The surveys and resulting works will be funded via the Capital Fire Safety Budget, as they will include remedial works to

the external wall systems that ensures and enhances the structural integrity of the building and compliance with current regulations.

Leasehold Implications

- 6.5.** Stage 1 Notice of Intention to enter into this contract was served on 27 November 2023, requesting observations by 5 January 2024. No observations were received. Provisional award to the contractor will allow Stage 2 consultation under Section 20 of the Landlord and Tenant Act 1985, following which a final award can be made taking into account the outcome of that consultation.
- 6.6.** Leaseholders will be charged appropriately for their contribution to the surveys. There is confirmed to be 1117 leaseholders in blocks of 11 metres and above along with additional number of leaseholders in blocks that have yet to be confirmed within the programme. Such charges will be subject to the survey costs for each individual building. This will be determined prior to the surveys being carried out and outlined in the section consultation issued to the residents, based on a build-up of tendered rates. These surveys will result in the production of EWS1 reports that may then enable those leaseholders to progress purchases, sales and or remortgages as required. The overall calculated projected leaseholder contribution is £527,579.90 as detailed in Appendix 1.

7. Contribution to strategic outcomes

- 7.1** This project will help to achieve theme 5 of the Corporate delivery Plan. A borough where everyone has a safe, sustainable, stable, and affordable home.

8. Carbon and Climate Change

- 8.1** The Climate Change Action Plan set out how the borough will become net zero carbon by 2041. The proposed survey supports that objective, through improving our understanding of the insulation provision and qualities of our external wall systems. By doing so we will identify any required improvements and thereby the sustainability, suitability and continued use of those buildings as safe and sustainable homes for residents. This in turn allows for targeted improvements in thermal insulation and reducing carbon emissions that may otherwise go unchecked.

9. Statutory Officer Comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

9.1 Finance

The total cost of the contract is £1.8m and this represents the cheapest tender price.

This sum to be spent in the 2024/25 financial year can be contained within the fire safety capital programme budget.

The remainder will be contained within the fire safety capital programme MTFS

This project will affect leasehold properties. It is anticipated that some contribution will come from Leaseholder to the cost of this project.

It is estimated that such contribution will be circa £527,579.90

Further finance comments are contained in the exempt report

9.2. Procurement

9.3. Strategic Procurement (SP) note that this report relates to the approval to award a contract to Contractor A to undertake Fire Risk Appraisals of External Walls Reports (FRAEWs) for residential properties and provide reports.

9.3.1. SP note that a competitive tender was launched via the LCP's Professional Services DPS. The adopted procurement is in line with Contract Standing Order (CSO) 9.04.1(b) and Regulation 34 of the Public Contract Regulations.

9.3.2. The Tenderers' bid submissions were evaluated in accordance with the scoring methodology contained within the published Invitation to tender document.

9.3.3. SP support the recommendation to approve the award in accordance with CSO 9.07.1(d)

9.4. Legal

9.4.1. The Assistant Director for Legal and Governance (Monitoring Officer) has been consulted in the preparation of the report.

9.4.2. The Council, as a landlord of residential buildings, has a statutory responsibility to ensure that they are properly maintained and meet fire safety standards. Legislation relevant to fire safety is the:

- Building Safety Act 2022;
- Fire Safety Act 2021 (FSA), enacts the Grenfell enquiry's Phase 1 recommendations via amendment to the Regulatory Reform (Fire Safety) Order 2005;
- Regulatory Reform (Fire Safety) Order 2005 (FSO) bringing external wall systems (including doors, windows and balconies) and flat fire entrance doors into the scope of the FSO, whilst placing additional duties on Responsible Persons regarding the inspection and testing of life safety systems, such as flat fire doors; firefighting, lifts and smoke control systems.

The procurement and contract awarded will enable the Council to meet its obligations under the above legislation. The procurement will comply with the Council's Contract Standing Orders ("CSOs") CSOs 7.01(b) and 9.01.2(f), 9.04, and 9.07.1(d).

9.4.3. This report recommends approval of the award of a Call-off Contract to Capital PCC, for carrying out a programme of surveys for Fire Risk Appraisals of External Walls (FRAEWs) for residential properties and provide reports, including EWS1 and Building Safety Case reports where required, over a period of 3 years from commencement [1st November 2024 subject to award], for a maximum value of £1.8m. The call-off process was completed by a mini-competition in accordance with the [London Construction Programme (LCP) Professional Services DPS] under [the Fire Services category].

9.4.4. This Call-off Contract value does not exceed the current UK Works threshold of £5,372,609, as set out in the Public Contracts Regulations 2015 ("PCR"), as amended by Procurement Policy Note (PPN) 11/23 (New Thresholds – published 19 December 2023); therefore, the procurement exercise was not subject to the full remit of the PCR.

However, the chosen procurement process was required to be conducted in accordance with the treaty principles of equal treatment, non-discrimination, transparency and proportionality.

9.4.5. There is no overriding legal obstacle preventing the award of this contract under CSOs 7.01(b), 9.01.2(f), 9.04, and 9.07.1(d), for contracts over £500k and the contents of this report should be noted.

9.4.6. The Cabinet Member is reminded that when considering its approach to contracting, the Council must have due regard to the need to eliminate unlawful conduct under, section 149 of the Equality Act 2010, to have due regard to the aims of the Public Sector Equality Duty at the time the decision is taken. The aims of the Duty are:

- i. eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act;
- ii. advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- iii. foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity.

This report relates to the following aim of the equality duty: -

- To advance equality of opportunity between people who share a protected characteristic and people who do not share it;
- To foster good relations between people who share a protected characteristic and people who do not share it.

The Council's tenants and leaseholders include residents that have protected characteristics as set out in the Public Sector Equality Duty.

The completion of the Works set out in this report will benefit all tenants including those with protected characteristics.

The award of this contract would not discriminate against any tenant benefitting from this service, ensuring equality in access and delivery.

9.4.7. Pursuant to the Council's standard form residential long lease, leaseholders will be required to contribute towards the cost of the services supplied under this contract. The contract is a qualifying long term agreement ("QLTA")¹

9.4.8. The Council must consult residential leaseholders of the Council before entering into a QLTA (s20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003). The first stage of consultation requires Notice of Intention to enter into such a contract, and details of compliance with those provisions is set out in the Leasehold Implications section above.

9.4.9. The second stage of consultation – by Notice of Proposal - requires disclosure of the proposed contract awardee (among other information) to the leaseholders; hence the necessity for a provisional award to be made. Once Stage 2 is complete, a final award will be made taking account of any observations made in response to the Notice of Proposal.

9.4.10. The Assistant Director for Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing the Cabinet Member from approving the recommendations in the report

9.5. Equality

9.5.1. The Council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advance equality of opportunity between people who share protected characteristics and people who do not.

¹ An agreement for the provision of works or services for a duration exceeding 12 months

- Foster good relations between people who share those characteristics and people who do not.

9.5.2. The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

9.5.3. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

9.5.4. The decision is regarding the implementation of a survey that will both help to improve safety and through targeted investment, potentially make the properties more affordable to live in for all tenants and leaseholders.

9.5.5. The survey is a major housing related safety initiative which will impact mainly on those people living in our high-rise higher risk buildings in the borough. By seeking to improve conditions in these properties, the programme will have a positive impact on BAME residents, older residents, and women by ensuring those who have established homes and communities within these buildings and neighbourhoods are not required to re-locate or find alternative accommodation, that may not provide the same level of support and cultural identification.

9.5.6. By maintaining rented affordable housing, and therefore not requiring affordable home ownership due to the need for re-development, the strategy may have a negative impact on those who aspire to homeownership but are unable to access market housing, who are more likely to be younger. Affordable home ownership will however still be delivered in Haringey through the Housing Strategy, and a commitment for a 2024 intermediate housing policy for shared ownership that was added after consultation should help mitigate this impact.

9.5.7. People in housing need and those living in social housing are disproportionately disadvantaged across multiple areas and have more than one protected characteristic, in particular, in terms of race, socio-economic status, sex, and disability. The programme prioritises safety to maintain the housing needs of these groups and will therefore have a positive impact on those who share these protected characteristics.

9.5.8. Improving our landlord services regarding safety for our tenants, primarily in these buildings who are more likely to be BAME, Women, Older and of a low socioeconomic status. This may result in improvement works that many reduce the cost of living in such properties.

10. Use of Appendices

10.1. Appendix 1 Projected cost of fire risk appraisal of external walls with leaseholder contribution.

11. Local Government (Access to Information) Act 1985

11.1. NA

Appendix 1

Projected cost of fire risk appraisal of external walls with leaseholder contribution

	Cost	LH CONTRIBUTION
7 storeys or more or at least 18m+		
Tendered rate £17,249.00 x 44 = £758,965.00	£758,965.00	
LH recovery = £206,646.00		£206,646.00
EWS1 requested <7 storeys		
Tendered rate £14,000.00 x 8 = £112,000.00	£112,000.00	
Total LH recovery = £TBC		TBC
11m to 18m <7 storeys		
Tendered rate £13200.00 x 42 = £554,400.00	£554,400.00	
Total LH recovery = £187,542.90		£187,542.90
<5 storeys requiring FRAEW c100 > 5 – storey		
Tendered rate £4670 x 100 = £467,000.00	£467,000.00	
LH recovery = £133,391.00 based on 28.56% Average LH occupancy		£133,391.00
Overall total	£1,892,365.00	£527,579.90

Total number of leaseholders = 1117