

Report for: The Leader

Item number: 4

Title: Waiver and Award of the Statutory Homelessness Reviews Function to Housing Reviews Limited (HRL)

Report authorised by: Dan Hawthorn – Director of Housing and Growth

Lead Officer: Alan Benson
Head of Housing Strategy and Commissioning

Ward(s) affected: All

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

1. Describe the issue under consideration:

- 1.1. To request Leader’s approval to waive Contract Standing Orders (CSO) 8.03 (requirement to obtain the quotation) as allowed under 10.01.2 (d) the value of the contract is below the applicable threshold pursuant to the Regulations and (ii) (being in the overall interest of the Council); and to award a contract to Housing Reviews Limited to conduct reviews of allocation and homelessness decisions under Parts VI & VII of the Housing Act 1996.
- 1.2. Subject to approval being granted the contract will be awarded for a period of 6 months, commencing from 1st November 2017 to 31st May 2018 with an option to extend for a further period of up to 6 months based on same terms and conditions of the contract.

2. Cabinet Member Introduction

- 2.1. Local authorities are required to conduct reviews of certain decisions as set out in the Housing Act 1996. Seamless delivery of this function is essential to minimise the risk of further legal challenges to the council, to manage costs and to protect the reputation of the council and quality of services delivered to residents. It is important that there is no disruption to the delivery of this function and therefore, the recommendations of this report are required to allow a continuation of current services.

3. Recommendations

- 3.1. It is recommended that the Leader:
- 3.1.1. waives the requirement of CSO 8.03 as permitted under CSO 10.01.02 (d)(ii) (the estimated total value of the contract being £40,000 including any anticipated extension).

- 3.1.2. approves the award of a contract for the conduct of reviews of allocation and homelessness decisions to Housing Reviews Limited (HRL) for a period of 6 months from 1 November 2017 to 31 May 2018 with an option to extend for a further period of up to 6 months.

4. Reasons for decision

- 4.1. The Council has statutory responsibilities under Parts VI and VII of the Act that it can either carry out itself or delegate to third parties under the terms of the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996.
- 4.2. The current contract expires on 31st October 2017; so an award of a contract to HRL for 6 months is required to avoid disruption in the review process. This will also allow for all reviews contracted to HRL to be determined while a programme of transformation is undertaken. Failure to do so would pose a significant risk to the Council.
- 4.3. The rates for conducting reviews will be fixed for the duration of the contract and the contractor will be paid in arrears upon completing a review.
- 4.4. The cost of employing HRL to carry out the Housing Review function was £11,592 in 2016, but is expected to rise to around £17,500 per annum in 2017/18 due to the enactment of the Homelessness Reduction Act. The cost of carrying out the function within the Council would be approximately £50,000 per annum. Employing the external provider will therefore deliver significant savings to the council.

5. Alternative options considered

- 5.1. If HRL is not formally awarded the contract, it will not be authorised to carry out reviews on behalf of the Council. Any reviews conducted by HRL would be open to legal challenge.
- 5.2. Procurement through an open tender process was considered. However this would not enable the efficiencies and improvements that could be gained through a strategic commissioning exercise with partners. An open tender process may also result in an increase in the price of contracts without corresponding value for money benefits.

6. Background information

- 6.1. The duties of local housing authorities to a person who applies as homeless is governed by Part 7 of the Housing Act 1996. The authority must make such inquiries as are necessary to satisfy themselves whether the applicant is eligible for assistance and what, if any, duty is owed to them. The applicant has the right to request a review of any such decision and decisions relating to the suitability of accommodation offered to them in discharge of the duty owed. If the applicant is dissatisfied with the decision on review, they may appeal to the county court on a point of law. The review of the decision must

be conducted by someone who is independent of the original decision and (if an officer) senior in terms of rank or grade to the officer making the original decision.

- 6.2. The Council previously had a dedicated officer on a PO4 grade to carry out these reviews. As part of budget savings in 2012/13, the Housing Reviews and Service Improvement Officer post was deleted from the staffing structure. The Corporate Committee Report advised that deletion of the post would provide a significant saving and that Community Housing Services would use the provisions of an external provider to undertake some of the statutory reviews, while others would be absorbed into the service using existing resources. The arrangement continued when the homelessness function was contracted out to Homes for Haringey on 29 September 2014.

7. Contribution to strategic outcomes

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1. Procurement

- 8.1.1. The recommendations are in line with the procurement code of practice.
- 8.1.2. The Service Commissioner to ensure that the Provider holds appropriate level of insurance covers through out the contract period.
- 8.1.3. Given that the Local Authority has statutory duty to provide this service under the Housing Act 1996, as amended by the Homelessness Act 2002, Strategic Procurement supports this waiver and award recommendation.

8.2. Finance

- 8.2.1. The contract value is expected to increase from £11,592 to £17,500 in 2017/18. The Housing Demand team has a budget of £15,000. It is anticipated the balance of £2,500 will be funded from underspends in the staffing budget.

8.3. Legal

- 8.3.1 The Assistant Director of Governance has been consulted in the preparation of this report and makes the following comments.
- 8.3.2 The Council has statutory functions under Parts VI and VII of the Housing Act 1996 in relation to allocation of social housing and assistance of the homeless; they include the function of carrying out reviews of decisions under those parts under s202 of the Housing Act.
- 8.3.3 By the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 ("the Order") the Council is permitted to contract out those functions (including the review function) to a third party,

provided that any such contract is (i) for no more than 10 years, and (ii) subject to revocation forthwith by the Council.

- 8.2.4 The terms of the contract as intended to be extended comply with the Order. The contract is non-exclusive; Homes for Haringey officers continue to be authorised to carry out reviews pursuant (currently) to the management agreement dated 7 September 2011 as varied with effect from 29 September 2014 and extended from 1 April 2016.
- 8.2.5 By Article 10.06 power to authorise contracting out of Council executive functions is reserved to the Leader, or to Cabinet with the Leader's agreement. The Part VI and VII review functions are executive functions.

8.4. **Equality**

8.4.1 The Council has a Public Sector Equality Duty 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 those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies 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.

- 8.4.2 Residents in receipt of Haringey services are typically vulnerable and in need of help. Residents from all protected groups are vulnerable to becoming homeless, which includes women and girls, older people, children & young people, BAME communities and disabled people. One way that they are protected is through the statutory decision making responsibilities given to Local Authorities. By authorising the extension of the contract with HRL, the Council is ensuring that these residents continue to receive the services they are entitled to, which protect and assist them.
- 8.4.3 Cabinet took into consideration the Council's public sector equality duty when on 15th March 2016 it (with the Leader's agreement) authorised entry into the new Management Agreement including contracting out of all the Council's permitted homelessness and allocations functions. This includes eliminating discrimination, harassment and victimisation based upon the protected characteristics when delivering the function. The present decision raises no new equalities considerations.

9. **Use of Appendices**

9.1. None

10. **Local Government (Access to Information) Act 1985**

10.1. Not Applicable