

Report for: Cabinet 9 October 2018

Title: Extension of the Contract with Housing Reviews Limited for Statutory Homelessness Reviews Function

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. The report seeks approval for an extension of the contract with Housing Reviews Limited (HRL) to undertake reviews of allocation and homelessness decisions under Parts VI & VII of the Housing Act 1996 (“the Act”). The current contract is due to expire on 30 November 2018.
- 1.2. Subject to approval being granted, the contract will be extended for a period of 12 months, from 1 December 2018 to 29 November 2019, with a 6 month break clause. The maximum value of the contract extension will be capped at £50,000. The purpose of this extension is to ensure seamless provision of this statutory duty, at the end of the life of the current contract.

2. Cabinet Member Introduction

- 2.1 The Council has to make the necessary enquiries to be sure that a homeless applicant is eligible for assistance and what, if any, duty is owed to them. These decisions of the authority are open to review. The Homelessness Reduction Act (HRA) now adds additional points at which a review could happen. For the review process to be fully effective there should be seamless delivery of this function. This will ensure the quality of service to applicants, as well as minimising the risk of legal challenges, managing costs and protecting the reputation of the Council. This report therefore recommends extending the current Housing Reviews Contract while officers monitor the impact of the Homelessness Reduction Act and explore other suitable options.

3. Recommendations

It is recommended that Cabinet:

- 3.1. In accordance with Contract Standing Order (CSO) 10.02, approves an extension to the Council's current contract with Housing Reviews Limited for the reviews of allocation and homelessness decisions for a period of 12 months, from 1 December 2018, with a 6 months break clause. This will be at an estimated cost of £20,000, based on current contract rates, but subject to maximum costs of up to £50,000 being incurred if more reviews than currently estimated prove to be required during the contract extension.
- 3.2. Notes that the requested extension will give officers time to track and fully review the impact of the Homelessness Reduction Act 2018 (HRA) on demand for Housing Reviews and develop a service delivery model that will achieve the best possible outcomes in terms of quality and value for money. During the extension period, officers will explore the option of Homes for Haringey or the Council delivering the function internally as well as other suitable options, such as developing a shared delivery solution with other boroughs.

4. Reasons for decision

- 4.1. The Council has statutory responsibilities with regard to reviews under Parts VI and VII of the Act. It can either carry out these reviews itself, or delegate them 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 30 November 2018; so an extension of the contract to HRL for 12 months is required to avoid disruption in the review process. This will also allow for all reviews contracted to HRL to be determined while Officers begin appraising options. Failure to do so would pose a significant risk to the Council.
- 4.3. The rates for conducting reviews would be fixed for the duration of the contract extension and the contractor will be paid in arrears upon completing a review.
- 4.4. The cost of contracting out to HRL the Housing Review function was £19,179 in 2017/18 and the amount spent from 1 April to 12 September 2018 is £12,976. It is expected to cost approximately £20,000 from 1 December 2018 to 29 November 2019, depending on the number of reviews requested, though it is possible that caseloads could increase due to the Homelessness Reduction Act, which is why approval for a maximum cost of £50,000 has been sought. The cost of carrying out the function within Homes for Haringey has been estimated at approximately £50,000 per annum, so using the external provider should deliver savings to the Council.

5. Alternative options considered

- 5.1. ***Asking HRL to continue undertaking reviews beyond the term of the contract without extending the contract:*** If the contract with HRL is not extended for 12 months while a review is taking place, HRL will not be

authorised to carry out reviews on behalf of the Council and any reviews conducted by HRL would be open to legal challenge.

- 5.2. ***Bringing the reviews function back in-house:*** If the contract was not extended, all cases currently allocated to HRL would have to be passed back to the council immediately to complete. The Council does not have sufficient staffing in place to deliver the statutory reviews function 'in house' from 30 November 2018, when the contract expires. Previous attempts to recruit staff to deliver this function were unsuccessful. The lack of capacity to complete these reviews would result in delays, increased costs and likely legal challenges. However, the option of bringing the reviews function in-house will be fully reviewed during the extension period.
- 5.3. ***Contracting out the reviews function to another borough's reviews team:*** Southwark Council's Review Team has been conducting reviews on behalf of a number of other London authorities since 2017. If the contract was not extended with HRL, an alternative could be to conclude a contract with Southwark and pass all cases currently allocated to HRL to them, on expiry of HRL's current contract to complete. Officers have not yet appraised the viability of this option and whether it would deliver best value for money and quality. However, the option of contracting out this function to Southwark or another Council will be explored fully during the extension period.

6. Background information

- 6.1. The duties of Local Housing Authorities to a person who applies as homeless are governed by Part 7 of the Housing Act 1996. The Authority must make such enquiries 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. There are various points where an applicant can ask the Council to review a decision that it has reached when applying Parts VI and VII Housing Act 1996 to the applicant's circumstances. The Homelessness Reduction Act adds additional points of review around the 'prevention' and 'relief' duties. The main reasons an applicant may seek a review are:
- That the person does not agree with the 'reasonable steps' that the Council has set out in their Personalised Housing Plan.
 - That the Council has given notice that a duty owed has come to an end.
 - That the Council considers the person to have 'deliberately and unreasonably refused to co-operate' with the homelessness prevention and relief process.

- The Council has considered the person's circumstances and has decided they are not homeless / eligible for assistance / in priority need / that they are intentionally homeless / that they do not have a local connection to the Borough.
- That the accommodation offered is not suitable.

Full details are set out in Chapter 19 of the Homelessness Code of Guidance and the Statutory Regulations¹.

- 6.3. 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 the then in-house Community Housing Service 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.
- 6.4. The Leader approved the contracting out of the statutory homelessness review function to HRL with effect from 1st May 2014 until 30th April 2016. In line with Contract Standing Orders, Requests for Quotation were sent to 3 independent review providers. There is limited choice as this a much specialised area and the only valid expression of interest came from HRL. As a consequence this was the successful tender and a Contract was awarded for less than £50,000 for the initial 2-year term.
- 6.5. HfH intended to bring the reviews function back in-house in 2016 by employing a Reviews Manager. However, the recruitment did not lead to any candidates being shortlisted for interview.
- 6.6. The Leader approved a further 6 month extension (1 June to 30 November 2018) to the HRL contract on 19 April 2018 to ensure the Council was compliant with this duty to enable a full procurement process to be undertaken alongside exploring whether Homes for Haringey could successfully recruit after 3 previous failed attempts.
- 6.7. However, it would be premature to re-tender the housing review contract or deliver the function in house within the extension period due to lack of sufficient data as yet on the demand for housing reviews following the implementation of Homeless Reduction Act in April 2018. Officers need further time to fully investigate the impact of the Act on levels of demand for housing reviews and then develop a robust service delivery option.

7. Contribution to strategic outcomes

¹ Homelessness Code of Guidance

https://assets.publishing.service.gov.uk/media/5a969da940f0b67aa5087b93/Homelessness_code_of_guidance.pdf

7.1 Priority 5 of the Council's Corporate Plan has as its second objective to prevent homelessness and support residents to lead fulfilling lives. This can only be achieved if the Council is able to discharge its full statutory responsibilities on homelessness, including conducting statutory housing reviews.

8. Statutory Officers comments

9. Procurement

9.1 Procurement supports further extension with Housing Reviews Ltd. Service will need to start looking at carrying out a competitive tender process on expiration of extension.

10. Finance

10.1 The existing contract with Housing Reviews Limited for the conduct of reviews of allocation and homelessness decisions will expire on 30th November 2018.

10.2 This report recommends to extend the contract for a period of 12 months, from 1 December 2018 to 29 November 2019 at an estimated cost of £20,000.

10.3 This cost can be contained within the Housing Demand budget.

11. Legal

11.1. The Assistant Director of Corporate Governance has been consulted in the preparation of this report and makes the following comments.

11.2. The Council has statutory functions under Parts VI and VII of the Act 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 Act.

11.3. The Homelessness Reduction Act 2018 has increased the number of potential decisions subject to review but has not affected the principles applying either to reviews or to their being contracted out.

11.4. 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.

11.5. 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 effective 1 April 2016.

- 11.6. 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.
- 11.7. The Assistant Director of Corporate Governance sees no legal reasons preventing the Leader from approving the recommendations in the report.

12. Equality

- 12.1 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.
- 12.2 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.
- 12.3 The decision is to approve an extension of the current contract with Housing Reviews Limited (HRL) to undertake reviews of allocation and homelessness decisions under Parts VI & VII of the Housing Act 1996. The decision therefore primarily affects individuals and groups at higher risk of becoming homeless, including women, younger people, those with disabilities, members of BAME communities, and lone parents. The decision will ensure continuity of service for residents who are vulnerable to homelessness. It will therefore benefit individuals and groups with protected characteristics, including those stated above.

13. Use of Appendices

None

14. Local Government (Access to Information) Act 1985

Minutes from signing of previous decision:

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=435&MID=8793#A157968>

- 14.1.