



City of Westminster

Meeting or Decision Maker:

Cabinet Member for Housing

Date:

19 September 2024

Classification:

Part exempt

The accompanying part B report is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972:

3. Information relating to the financial or business affairs of a particular person (including the authority holding that information).

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings,

and in all the circumstances of the case, the public interest in withholding the information outweighs the public interest in disclosure.

Title:

Contract variations and awards – Housing Solutions

Wards Affected:

All

Policy Context:

The contract variations and direct awards of contract recommended in this report are to ensure service continuity of frontline service provision to prevent or relieve homelessness.

Key Decision:

Yes - Decision is likely to result in significant expenditure

Financial Summary:

The contractual values refer to 4 variations and 2 direct awards with the aggregated value of £8,469,100

Report of:

Sarah Warman, Strategic Director of Housing and Commercial Partnerships

1. Executive Summary

- 1.1 The Council's frontline Housing Solution service is currently delivered through 4 contracts which deliver the following services:
 - Frontline advice, homeless prevention and support services (lot 1)
 - Single person homeless services (lot 2)
 - Housing Assessment allocations and nominations (lot 3)
 - Procurement and Management of Temporary Accommodation (lot 4)
- 1.2 Through these contracts, the Council delegates statutory duties, namely duties in relation to homeless functions such as intervention and prevention duties to single applicants and households at risk of homelessness, as set out under part VII and part VI of the Housing Act 1996 [as amended] and the duty to provide interim housing if homelessness cannot be prevented or relieved.
- 1.3 The Housing Solutions service was tendered in 2017 and a 5+2 year contract awarded to Places for People for all 4 lots, to be delivered by their subsidiary company RMG as subcontractor in partnership with Shelter (lot 1) and The Passage (lot 2). The contract terms are coterminous and are due to end 30th September 2024. The total contract value included in the contract award notice was £29,652,000.
- 1.4 On the 15th of July 2024, Cabinet approved the decision to insource frontline advice, homeless prevention and support services (lot 1) and the housing assessment, allocations and nomination service (lot 3), together with some back-office functions, into direct Council control. The remaining two services will continue to be commissioned from the market. This hybrid model of delivery will give direct control of parts of the service, allowing for greater integration and alignment with other Council services, while utilising the capacity and capability of providers to deliver the remaining service areas.
- 1.5 This report recommends a variation to extend all four contracts until March 2025, to allow sufficient time to prepare for insourcing, and a further 12-month direct award for single person homeless service (lot 2) and procurement and management of Council owned temporary accommodation (lot 4) until March 2026. This is to ensure service continuity of critical front-line service during a period of unprecedented demand and provide a phased and measured approach to insourcing followed by recommissioning of the services not being insourced. This contract spend will be in addition to the original contract value of £29,652,000
- 1.6 To meet the unprecedented demand on housing solution services and to ensure service quality is maintained, additional funding for additional fixed term staff has been included in the variation for 2024/25.

2. Recommendations

- 2.1. It is recommended that the Cabinet Member for Housing:
 - 2.1.1 Approves a variation to the contract for the delivery of frontline advice, homeless prevention and support services (Lot 1) with Places for People [company number 03777037], to increase the contract term by 6 months and provide additional resource costing £89,250 for the total sum of £1,332,002 for the period 1st October 2024 to 31st March 2025.
 - 2.1.2 Approves a variation to the contract for the delivery of the single person homeless service (Lot 2) with Places for People [company number 03777037], to increase the contract term by 6 months and provide additional resource costing £131,750 for the total sum of £875,084 for the period 1st October 2024 to 31st March 2025.
 - 2.1.3 Approves a variation to the contract for the delivery of housing, allocations and nominations (Lot 3) with Places for People [company number 03777037] to increase the contract term by 6 months and provide additional resource costing £89,250 for the total sum of for £1,459,531 for the period 1st October 2024 to 31st March 2025.
 - 2.1.4 Approves a variation to the contract for the delivery of procurement and management of temporary accommodation (Lot 4) with Places for People [company number 03777037] to increase the contract term by 6 months and provide additional resource costing £114,750 for the total sum of £889,635 for the period 1st October 2024 to 31st March 2025.
 - 2.1.5 Affirms the ongoing delegation of its statutory decision-making functions under Parts VI and VII of the Housing Act 1996 pursuant to the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 to Places for People and its approved subcontractors wherever such decision-making is part of the contract requirements within the four contract extensions recommended above.
 - 2.1.6 Approves the direct award of a contract for a single person homeless service to Places for People [company number 03777037] for the total sum of £2,441,230 for the period of 1st April 2025 to 31st March 2026.
 - 2.1.7 Approves the direct award of a contract for procurement and management of temporary accommodation to Places for People [company number 03777037] for the total sum of £1,471,615, for the period 1st April 2025 to 31st March 2026.
 - 2.1.8 Approves the delegation of its statutory decision-making functions under Parts VI and VII of the Housing Act 1996 pursuant to the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 to Places for People and its approved subcontractors wherever such decision-making is part of the contract requirements within the two 12-month contracts recommended above.

3 Reasons for Decision

- 3.1 The recommendation to extend all 4 Housing Solution contracts by way of a variation until 31st March 2025, is to allow the Council sufficient time to prepare for the insourcing of the relevant services. The Housing Solution services has not been delivered directly by the Council for over 20 years. Coupled with the fact the services are partially statutory front line service which are experiencing unprecedented demand, extending the contract will allow time for the Council to review the service, conduct due diligence on the statutory functions, reshape services to ensure connectivity with other Council services and engage and consult with staff and Unions on the TUPE transfer of staff.
- 3.2 In addition, the variation to all 4 contracts also includes additional funding totalling £425,000 apportioned across the 4 contracts to increase staff resources to meet unprecedented demand.
- 3.3 The contract variations will be under the current contract terms and conditions which includes an annual GDP deflator set in September to come into effect in the October of each contract year. The GDP deflator was estimated in the Qtr 1 financial monitoring 24/25 and has been used in the contract figures included in the recommendations in section 2 of this report.
- 3.4 The recommendations to subsequently directly award contracts for the single person homeless service and the procurement and management of temporary accommodation, is to allow a phased approach to the reshaping of this service area. Cabinet have agreed to insource what was Lot 1 and Lot 3 of the original contracts by April 2025, and to recommission Lot 2 and Lot 4 from the provider market. This decision is in part to mitigate the risk of service continuity for vulnerable service users during a period of exceptionally high demand. By keeping the single person homeless service and procurement and management of temporary accommodation with Places for People for a further year, there is consistency and continuity of provision, and a planned use of Council staff resources to manage the insourcing without having to run a procurement at the same time. Once services are insourced into direct Council control from April 2025, work will commence on recommissioning and tendering the remaining services from the open market, or a second decision can be made regarding insourcing at that time.
- 3.5 The contract values for the 12- month directly awarded periods have increased by £383,403 across both lot 2 and lot 4 collectively compared to final year of the contract and contract variation value. This is due to the split of roles and functions submitted in the TUPE information which is informing which services will come into Council control. The directly awarded contract values have been negotiated with the provider. The contract value has increased to represent current market costs, a cost-of-living salary increase for staff and represents higher operating costs for only delivering 2 contracts as opposed to 4. The Council have not been able to explicitly test how these direct awards deliver value for money against the open market. However, the direct award period is for 12 months after which an open procurement will be carried out.

4 Background, including Policy Context

- 4.1 Westminster faces a number of significant pressures and challenges that are driving the need for the Council to implement a new delivery model for Housing Solutions. The service was last retendered in 2017, prior to the introduction of the Homelessness Reduction Act 2017, which introduced a new duty to prevent homelessness and the duty to relieve homelessness. These legislative changes have had a significant impact on demand for the service, which has had to adapt from the originally intended model. In 2017/18, Housing Solutions received 729 homelessness applications with 443 main duty acceptances. When compared to 2023/24, this represents a 302% increase in applications and a 126% increase in main duty acceptances from the start of the contract.
- 4.2 The demand for temporary accommodation (TA) placements has come as a result of both legislation and global events driving market pressures resulting in a challenging and limited housing market and continued cost-of-living pressures for many residents. Demand for TA in Westminster has increased rapidly from 2526 households in TA in 2017/18 to 3494 households in March 2024 and with projections reaching 4100 in 2025/26.
- 4.3 The Council made a commitment to review the Housing Solutions Service which acts as a gateway for those seeking support and advice. In doing so identifying opportunities to strengthen front line delivery and address increasing operational pressures faced by the service. Through this work, the recommendations of the Future of Westminster Commission to identify any parts of the service that would be better delivered in-house by the Council has been met.
- 4.4 A full options appraisal was undertaken in line with the Insourcing Framework developed and introduced across the Council in January 2023. Through this work several alternative delivery models were considered with feedback from service users and other stakeholders helping to inform the recommended model. Cabinet on the 15th July approved the recommendation to implement a hybrid model of delivery and insourcing of two services. The recommendations in this report, compliment the implementation of the hybrid delivery model by April 2025.
- 4.5 The lead provider RMG, has confirmed that they can continue to deliver the specification alongside subcontracted partners for the contract variation and direct award periods.
- 4.6 A summary of the key contract details are below:

| | |
|-----------------------|---------------------------------|
| Procurement reference | Prj_wcc_7831 |
| Contract start date | 1 st October 2017 |
| Contract end date | 30 th September 2024 |

| | |
|---|--|
| Total contract value (inc and ex. VAT) | £29,652,000 |
| Summary of Responsible Procurement commitments | During each contract year RMG have committed to, and successfully delivered on over 20 social value commitments, these range from areas of employment, the environment, education, digital and community themes. A total of £15,160 was pledged alongside these activities and over 54 hours of volunteering was performed by RMG staff across various activities including rough sleeper street counts, One Westminster initiatives and supporting the HELP project with private rented sector clinics. |
| Does contract commit supplier to paying Living Wage? | Yes |
| Does the contract include Ethical Procurement Policy & Supplier Charter? | The original contract pre-dated both policies. The direct awards will incorporate the ethical procurement policy and supplier charter in the new Terms and Conditions |
| Is the supplier classified as a SME? If yes, what is the size of the Company? e.g., Small, Medium | No |
| Is the Supplier classified as VCSE? | No although partner subcontractors are VCSE. |
| IT implications | RMG continue to use the Council's IT hardware, systems and are part of our network and servers. This is part of the contract and so RMG do not pay a direct fee for this use. There will be no change to IT provision during the contract variation and direct award periods. |

4.7 Estimated timeframe for future competitive procurement process:

| | |
|--|---------------------------|
| Commissioning approach and specification finalised | May 2025 – September 2025 |
| Procurement process commences | October 2025 |
| Procurement process completed | January 2026 |
| Contract start date | April 2026 |

5 Financial Implications

- 5.1 The report seeks to approve the extension of all four established contracts for an additional 6 months until 31st March 2025 at a total additional value of £4,556,255. This extension will allow sufficient time to prepare for Lots 1 and 3 to be brought in house from April 2025. In addition, the report seeks to award a directly awarded contract for a further 12 months relating to single person homeless service (Lot 2) and procurement and management of Council owned temporary accommodation (Lot 4) until March 2026 with a total value in 2025/26 of £3,912,845.

| | October 2024 - March 2025 (inc of £425,000) | 2024-25 Total | April 2025 - March 2026 | Apportionment of the £425,000 (6mths of £850,000) |
|--------------|---|-------------------|----------------------------|--|
| Lot 1 | £1,332,003 | £2,664,005 | | £89,136 |
| Lot 2 | £875,085 | £1,750,170 | £2,441,230 | £132,834 |
| Lot 3 | £1,459,531 | £2,919,062 | | £88,794 |
| Lot 4 | £889,636 | £1,779,272 | £1,471,615 | £114,237 |
| Total | £4,556,255 | £9,112,509 | £3,912,845 | £425,000 |

- 5.2 The current contracts are budgeted for within the homelessness services within Housing Needs, funded as below:

| | |
|---|-------------------|
| General Fund Core Budget | £6,276,800 |
| Additional Growth Added in 2024-25 | £850,000 |
| HPG Funded | £2,099,200 |

The additional funding to meet demand is anticipated to be funded through retained grants and HCP reserves, if it cannot be absorbed from within the 2024/25 service budget.

Finance will continue to work with the client team to monitor the financial performance of this contract.

6 Legal and Governance Implications

6.1 Governance

Decisions on the strategic direction of Housing Services are an executive function and it is thus legitimate for the Lead Member to be considering such a matter. Authority for setting the strategic and policy direction for these services is delegated to the Cabinet Member for Housing Services by Chapter 3 Section 3 paragraph 3.15 of the Constitution. For contract matters, extending a contract where this is not provided for in the contract terms, or varying it where this will

amount to more than 10% of the original contract value, requires approval by the Cabinet Member. and for contract matters under the Procurement Code. The Procurement Code also provides that awards of contract above £1.5m in value require Cabinet Member approval, which applies to one of the two direct awards.

6.2 **Housing**

Under part VII and part VI of the Housing Act 1996 (as amended), the Council has various obligations to homeless applicants and is required to discharge statutory duties in relation to homeless functions such as intervention and prevention duties to single applicants and households at risk of homelessness. A full housing duty to provide suitable temporary accommodation to accepted homeless households, and discharge of this housing duty by allocation of permanent homes are additional key statutory duties that the Council is required to fulfil. While ensuring appropriate and suitable homes are available to homeless households, the Council should be aware of its duty to households with children and vulnerable adults.

There is a risk of increase in legal challenges and judicial review claims against the Council in case of noncompliance of Council's housing duties.

6.3 **Contracts – varying the current contracts**

There is no contractual provision to further extend the existing contracts beyond the 2-year extension already exercised. The Public Contracts Regulations 2015 (“PCR”) restrict the modifications of contracts after their awards. Regulation 72 requires any modification not falling within one of six exemptions to be treated as a new contracts and subjected to re-tendering.

6.4 The additional 6-month terms and £425,000 for additional resources across the four contract variations can be regarded as a permitted modification under ground 72 (1)(b) which relates to where additional services have become necessary; where this is the case, then the decision-maker has to be satisfied that a change of contractor (a) cannot be made for economic or technical reasons and (b) would cause significant inconvenience and duplication of costs. This is also subject to the precondition that the modification does not exceed 50% of the original contract value, which applies here, given that the original contract values for the 7-year period expiring 30 September 2024 are:

Lot 1 - £10.122m (extension value £1,332,002)

Lot 2 - £3.15m (extension value £875,084)

Lot 3 - £11.76m (extension value £1,459,531)

Lot 4 - £4.62m (extension value £889,635).

6.5 If another contractor were to be awarded four 6-month contracts at the original contract prices together with the £425,000 to deliver additional staff to carry out the

same services across the four contracts, there would be significant difficulties in transitioning such a short-term set of contracts with confusion for service users and lack of continuity for the statutory decision-making process. Additional services have become necessary for a further period while the Council plans its commissioning strategy including insourcing plans. The same test of significant inconvenience and duplication of cost (if another contractor were to deliver the service for the proposed 6-month period before the potential insourcing) can also be demonstrated.

Contracts – Direct award of two additional contracts

- 6.6 The two proposed contracts recommended for direct award are above the relevant thresholds for tendering (they are a mixture of Light touch regime services and standard services under the PCR). Therefore for a direct award of contract to be justified, each award must fall within one of the grounds under Regulation 32 of the Public Contracts Regulation 2015 (“PCR”). Regulation 32 permits an above threshold contract to be awarded without public advert in three limited circumstances.
- 6.7 The Council’s Procurement Code applies to the direct award recommended in this report.
- 6.8 The Procurement Code requires contracts to be entered into in advance of delivery (paragraph 4.3.4).
- 6.9 The value of the direct award necessitates it being executed as deeds in accordance with the Procurement Code. Legal Services will assist with completion of the direct award contract.
- 6.10 Further legal implications are set out in Part B of the report.

Contracting out of Statutory Functions

- 6.11 It should be noted that as a general principle of public law, where powers or duties are conferred by statute, there is a presumption against further delegation of discretionary decision-making. The basis for this is that the duty to take decisions in a certain sphere has already been delegated to local authorities by Parliament. (This does not prevent a contractor such as Places for People from being appointed provided they do not exercise statutory discretion). However, this common law presumption has been modified by the Deregulation and Contracting Out Act 1994 and associated legislation. The Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 permits contracting out of most functions under housing allocation (Part VI of the Housing Act 1996) and homelessness (Part VII of the Housing Act 1996). It is recommended that the contracting out of these functions is re-affirmed for the period of the contract extensions, and is sought as a fresh decision for the two new contracts. The bringing to an end of the two contracts that will be insourced will bring the delegations to an end automatically (section 73 of the Act).

7 Climate Impact

7.1 The Council declared a climate emergency in 2019 and developed a [Climate Emergency Action Plan](#).

7.2 There is no direct climate impact arising from this report as the recommendations relate to extending current provision of service from the same buildings by the same providers. However, a climate impact assessment will be undertaken as part of the Reshaping of Housing Solution implementation project and the subsequent retendering of services.

8 Equalities Implications

8.1 An initial Equalities Impact Assessment screening has been undertaken for our Housing Allocations scheme, which is the same demand cohort who receive Housing Solutions services. It found that when looking at demand for housing assistance, certain groups with protected characteristics were overrepresented compared to their population share:

- Females
- (Asian all) Asian any other background, Asian Bangladeshi, Asian Indian, Asian Pakistani, Arab, Chinese
- (Black all) Black African, Black any other background, Black Caribbean, Mixed White and Black African, Mixed White and Black Caribbean
- Age 35-49 years
- Disabled (Housing register only considers mobility)

8.2 As part of reshaping housing solutions projects engagement plan, a full EIA will be conducted alongside the service design and co-production work commencing during 2024. As part of this engagement plan we will ensure the following:

- We are clear with stakeholders and service users about the parameters of this work; that this is about a change of delivery model and in itself will not result in an increase in housing supply.
- Seek out those whose housing needs have already been resolved, and their valuable reflections on the process.
- Consider opportunities for co-design with service users and how they can support and have influence over the design of the insourced services.
- Seek out representation from groups with protected characteristics who may be overrepresented in their population share, to ensure we are doing all we can to minimise inequality in the design of the new services.
- Ensure ongoing review and consideration of the impact of insourcing and new service design on service users and staff who have protected characteristics.

9 Consultation

9.1 As part of the reshaping of housing solutions and the recommissioning of any services, the project team will engage with service users experts by experience

and the provider market to ensure all future provision is person centred to best meet need, while being connected, place based and represents value for money for the Authority.

9.2 There are no direct staffing implications in relation to the recommendations in this report.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Insert report author contact details here

Sarah Risby srisby@westminster.gov.uk

APPROVED BY

| Title | Date approved |
|---------------------------------|---------------|
| Senior Finance Manager, Finance | 19/9/24 |
| Senior Solicitor, Legal | 19/9/24 |
| Portfolio Advisor, Governance | 19/9/24 |

APPENDICES

LIST APPENDICES ABOVE BACKGROUND PAPERS

BACKGROUND PAPERS

- Background papers should list the documents on which the report author has relied in compiling the report.
- Confidential background papers (i.e. papers not available for public inspection) should have an asterisk against them and an indication of the grounds for exemption

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member** for (add portfolio title)

Declaration of Interest

I have <no interest to declare / ~~to declare an interest~~> in respect of this report



Signed:

Date: 30 September 2024

NAME: **Cllr Liza Begum, Cabinet Member for Housing Services**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled "Contract variations and awards – Housing Solutions" and reject any alternative options which are referred to but not recommended.

Signed:



Cabinet Member for Housing Services

30 September 2024

Date:

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Monitoring Officer and Section 151 Officer (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making

the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

