

19/42

To be made



Havering

LONDON BOROUGH

Notice of KEY Executive Decision

Subject Heading:	2 Year Extension of the Void Contract
Cabinet Member:	Councillor Joshua Chapman
SLT Lead:	Gerri Scott, Interim Director of Housing
Report Author and contact details:	Ian Brady, Housing Services ian.brady@havering.gov.uk 01708 431475
Policy context:	HRA Policy and Budgets
Financial summary:	The two year extension is expected to cost £1,640,503 per year and will be funded from the HRA Revenue and Capital budgets.
Reason decision is Key	The decision is a Key decision because the cost of the extension is expected to be in the region of £1,600,000 per year.
Date notice given of intended decision:	
Relevant OSC:	Towns and Communities
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering
Places making Havering
Opportunities making Havering
Connections making Havering

Key Executive Decision

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

In June 2014 the Council entered into a 5 year contract with Breyer Group ('Breyer') to deliver Void Refurbishment works to Council housing stock, with an option to extend for a 2 year period.

The initial 5 year term expires in June 2019 and a decision is being sought to extend the contract for a two 2 year period on an annual basis (1+1), with the second year's extension being dependent on satisfactory performance of the contractor.

AUTHORITY UNDER WHICH DECISION IS MADE

Contract Procedure rule 19.9 "for an extension with a value between the EU threshold for supplies and services and £5,000,000 approval of a member of SLT is required"

STATEMENT OF THE REASONS FOR THE DECISION

The contract with Breyer for the Void refurbishment works to Council housing stock was originally awarded for a five year term, with an option to extend for a further two year period. The initial 5 year term is due to expire in June 2019.

We have undertaken benchmarking which indicates that the current contract provides the Council with good value for money and a satisfactory level of customer service in relation to the void contract.

In order to gain the maximum benefit from the contract, and reduce disruption in service it is intended to extend the existing contract for a two year period with a review being undertaken at expiry of the first year's extension, to ensure performance is of an acceptable standard.

Where performance is deemed satisfactory the contract will be extended for the further 1 year term expiring in June 2021.

Key Executive Decision

The cost of the repairs service is fully funded from the HRA budget and any savings made will be reinvested into the HRA. The approximate cost of the contract is anticipated to be £1,600,000 per annum based on the previous year's expenditure and will continue to be funded by the HRA.

Background

The current contract is delivered through a schedule of rates contract where each void property is individually specified and priced in accordance with the tendered rates contained in the original tender contract.

The Council does not hold a signed copy of the contract, however, it is intended as part of the extension process to rectify this and that both parties execute the contract. For clarity, the wording of the extension clause 13.1 will be amended to reflect the recommendations in this report.

Planning for the procurement process to replace the current Void refurbishment contract to start in June 2021 has begun. It is planned to procure a new Voids contract at the same time as the new Responsive Repairs contract in order to maximise opportunities for economies of scale.

It is anticipated that the overall procurement process will take approximately 18 months to complete. As part of this process actuarial and pensions advice will be sought. We will also include a period for obtaining pension approvals after the tender period and to allow for mobilisation of the new contract.

Continuing with the existing contract arrangements during this period will provide the Council with a service delivering good value for money, a good level of service delivery and will minimise any disruption in the service being provided to our residents.

The re-procurement period will also provide the Council with the opportunity to refocus the existing service with Breyer to deliver a higher quality and more customer focused approach for residents which will also be implicit in the procurement strategy for the future contract.

Key Executive Decision

Since the commencement of the contract, with the exception of a few specialist sub-contractors, Breyer has delivered the service predominantly using a directly employed workforce. 50% of the directly employed workforce lives within the Borough and 13% of those are Council tenants.

In addition Breyer have a social value investment programme, where they engage with the local community through the Breyer Foundation and run regular job clubs, training courses and workshops for local residents. They have also taken on a number of local apprentices. These initiatives add value to the contract and to the local community.

The contract was awarded using a Partnering contract and has been managed through regular monthly contract meetings and quarterly Partnership board meetings, attended by the Director of Breyer and senior managers from the Council where performance is reviewed and action plans implemented. We continue to monitor and manage the performance in this way.

As part of the Council's transformation of Housing Services, we will be looking to review our approach to contract procurement, management and enhance the skillset of our teams.

Extending the existing contract as recommended will give the Council time to properly procure a new contract and provide the Council with a Void Refurbishment contract that delivers good value for money for the next two years. During that time, as part of our transformation, we will review, improve and hone our approach.

It is also intended over the next two years to direct more of our void works through the Breyer contract, subject to satisfactory performance. This will provide Havering with improved value for money, although it will still be necessary to continue to using other back up contractors to deal with peaks and troughs in workload. The conditional increase in work could mean that up to 70% of the total costs of void spend may be directed through Breyer over the next two years.

OTHER OPTIONS CONSIDERED AND REJECTED

Allow the current contract to terminate at the end of the initial 5 year term and enter into interim arrangements with other providers to continue delivering the service whilst procuring a new Term Contract with a commencement date aligned to the new Responsive repairs contract.

This option was rejected because:

- It is likely to cost more than extending the existing arrangements as the current contract provides very good value for money.
- Introducing a new contractor for a two year period would inevitably result in some disruption to the service, as the new contractor would require a period of time to induct the workforce and understand the requirements of the new contract.
- Given that the contract will be a short term solution it is considered more appropriate, from a service delivery perspective, to continue with the existing provider until expiry of the extended period and work with them to develop and improve the existing service and incorporate those improvements in the new contract.
- For any new provider there will be TUPE implications and pension liabilities for operatives employed by Breyer, some of whom were originally part of the Council's Direct Labour Organisation (DLO) that will need to be met.
- The TUPE implications for an interim contract will not be attractive to potential contractors. There is a limited market that may be willing and able to take on the interim contract. This will inevitably have a negative impact on cost.

PRE-DECISION CONSULTATION

Consultation with tenants and leaseholders was carried out prior to the award of the original contract. This included the contractual provision to extend the contract for the further 2 year term.

Residents have been consulted regarding the options for the future delivery of the Void Refurbishment service and agreed the approach.

The current contractor has indicated their willingness to continue to provide the service for this extended period.

Key Executive Decision

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Ian Brady

Designation: Interim Property Services Manager

Signature:



Date:

25/6/19

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

- 1.1 This report seeks approval to extend the original five year contract for a further two years. The report confirms that the original contract permits the two year extension. The two year extension in clause 13.1 of the draft copy of the original contract states that the contract is *for a period of five years extendable by agreement by the Council to seven years subject to an annual review*. The wording is clumsy and should be amended to clarify that the option to extend the Contract is up to two 2 years subject satisfactory performance in the first year of the extension.
- 1.2 The client department cannot locate the executed contract however the client has advised legal the original contract was procured under the Public Contracts Regulations ('Regulations').
- 1.3 The Regulations article 72 permit variations of contract where the contract sets out the scope and nature of the variation, however the variation 'cannot alter the overall nature of the contract'.
- 1.4 The client department has draft copies of the original contract and the parties can therefore execute the terms with the extension requested in this report and clarification of clause 13.1.
- 1.5 The decision maker in making its decision must be satisfied with the content of the report and that the proposed variation does not change the overall nature of the original contract and is within scope.
- 1.6 In accordance with Contract Procedure Rule 19.8, the reasons and authority to extend the contract must be recorded in writing and loaded onto the Council's preferred e-tendering suite.
- 1.7 Officers have confirmed that Breyer (the provider) has performed the service to a satisfactory level under the current contract

FINANCIAL IMPLICATIONS AND RISKS

The value of the contract for the 2 year extension, commencing June 2019 is estimated to be £1,640,503 per year, based on historic spend with Breyer Group of £1,285,162 and an additional £355,341.

Breyer Group Spend for 2018/19

Void Revenue Budget (A29215) £ 945,850

Key Executive Decision

Capital Major Voids(A2836)	£ 114,861
Capital Kitchen and Bathrooms (A2848)	£ 224,451
Total	£ 1,285,162

Other Contractor Spend 2018/19

Void Revenue Budget (A29215)	£ 140,259
Capital Major Voids(A2836)	£ 571,157
Capital Kitchen and Bathrooms (A2848)	£ 346,997
Total	£ 1,058,413

Total Spend on Void Works 2018/19

Void Revenue Budget (A29215)	£ 1,086,109
Capital Major Voids(A2836)	£ 686,018
Capital Kitchen and Bathrooms (A2848)	£ 571,448
Total	£ 2,343,575

Void works are demand led and as such expenditure can vary year on year. This will be monitored to ensure spend does not exceed the budget provision.

Budgets Available

	2019/20	2020/21	2021/22
Void Revenue Budget (A29215)	£1,286,300	£1,286,300	£1,286,300
Capital Major Voids(A2836)	£560,430	£270,000	£275,000
Capital Kitchen and Bathrooms (A2848)	£880,557	£450,000	£450,000
	<u>£2,727,287</u>	<u>£2,006,300</u>	<u>£2,011,300</u>

The budget allocation for 2020/21 and 2021/22 are not sufficient to cover the anticipated cost of void works, which based on 2018/19 spend could be £2,343,575. These budgets will be reviewed as part of the annual HRA budget setting process and will also consider any additional funding requirements for the new contract.

Inflation

The contract allows for an annual inflationary uplift of prices. The 2019/20 budget already includes the uplift and this will be built into the preceding years budgets.

**HUMAN RESOURCES IMPLICATIONS AND RISKS
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

Key Executive Decision

There appear to be no HR implications arising directly as a result of extending the existing contract.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

Key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

~~Proposal NOT agreed because~~

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title:

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 4 July 2019

Signed  _____