



## CABINET

23 January 2013

**Subject Heading:**

Delivery Strategy – Delivery of Housing Revenue Account (HRA) Capital Programme 2013-15

**Cabinet Member:**

Councillor Lesley Kelly

**CMT Lead:**

Cynthia Griffin, Group Director of Culture and Communities

**Report Author and contact details:**

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**Policy context:**

Housing Revenue Business Plan

**Financial summary:**

Delivery of Capital Programme including Decent Homes Back log funding in accordance with approvals by Cabinet

**Is this a Key Decision?**

Yes

**When should this matter be reviewed?**

Annually

**Reviewing OSC:**

Towns and Communities

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

- |  |                                     |
|--|-------------------------------------|
| Ensuring a clean, safe and green borough   | <input type="checkbox"/>            |
| Championing education and learning for all   | <input type="checkbox"/>            |
| Providing economic, social and cultural activity<br>in thriving towns and villages | <input checked="" type="checkbox"/> |
| Valuing and enhancing the lives of our residents                                   | <input checked="" type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax                     | <input type="checkbox"/>            |

**SUMMARY**

This report seeks approval for the proposals relating to the procurement and delivery of the HRA Capital Programme. The current delivery strategy was agreed and operated by Homes in Havering and with the re-integration of the ALMO a decision is required from members on the strategy to be adopted for the duration of the decent homes backlog funding.

With the re-integration of the former ALMO and with the re-procurement of the Repairs and Maintenance contract for Council Housing a new strategy and plan is required. This report addresses proposals to enable the delivery of the confirmed Decent Homes Backlog Funding of £38,581,000 and other work streams within the HRA capital programme for 2013/14 and 2014/15.

**RECOMMENDATIONS**

That Cabinet approves the Delivery Strategy for the delivery of work streams within the HRA Capital Programme as detailed in appendix one of this report.

**REPORT DETAIL**

**Background**

In 2010 as part of preparations following the award of the Decent Homes Backlog funding Homes in Havering, in conjunction with retained Housing Services, undertook a review of the various ways in which the programme was delivered and a strategy was jointly devised and approved by the HiH Board.

With the re-integration of the ALMO and changes in the contractual options available a revised strategy is required. The previous strategy had not been the subject of review by members as it was part of the functions devolved to the ALMO.

**The proposal**

In the next two years 2013/14 and 2014/15, the Council will deliver £38m of Decent Homes works to its housing stock. In order to maximise effective delivery, the Council proposes to adopt a mixed economy of procurement methods: some contracts are already in place to deliver some programmes of work, such as legionella, and electrical testing. Secondly, the Council will use some bulk procurement frameworks which are proven to deliver value for money, and are compliant with EU and Council procurement rules. Finally, the Council will tender some works directly to the market, to enable the full range of providers, including

small and medium sized enterprises to tender for works in the programme. The details of how the proposed programme is to be delivered is set out in more detail in the Capital Investment Delivery Strategy at Appendix 1.

## **REASONS AND OPTIONS**

### **Reasons for the decision:**

The reasons for seeking approval of this strategy are

- To have members approval on the procurement options for the various work streams.
- To comply with the statutory and legal requirements associated with the delivery of works in the capital programme. The legal requirement for section 20 consultations has a time implication in project preparation and the approval of the strategy allows for the correct schedule of consultation to be identified and implemented.
- To ensure compliance with procurement rules of the European Union.
- To create greater opportunity for local construction companies to participate in the delivery of the Council's HRA Capital Programme.

### **Other options considered:**

The other options are

- a) Continue with the existing delivery strategy adopted by Homes in Havering – REJECTED because the HiH strategy has not been considered by Cabinet and as such the strategy has no status as Council policy. Also the HiH strategy includes a significant proportion of the HRA Capital Programme being delivered via the partnership agreement with Morrison Facilities Services. This contract is being re-procured as it expires in July 2013. The new repairs and maintenance contract will not include any facility for investment works to be carried out; therefore a new approach is required.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

Cabinet is being asked to approve the delivery/procurement strategy for the HRA Capital Programme, to cover the period 2013/14 and 2014/15 on the basis of an annual review.

Cabinet approved £15.3m of the Capital Programme 2013/14 on 12 December 2012. These funds comprised of £12.9m of the £15m decent homes grant and

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£2.4m of the £17.4m of additional resources available. It is proposed a report be brought to cabinet in February 2013 for approval of the remainder of the funds available in 2013/14.

In order to ensure delivery of the programmes and to comply with the requirements of the funding agreement with the GLA, a definitive strategy of delivery mechanisms is required to enable statutory consultation to commence. Section 20 of the Landlord and Tenant Act 1985 prescribes methods of notification based on the procurement route to be adopted, or the proposed frame work agreement to be utilised. Should these requirements not be correctly adhered to, the Council will not be able to recover the full amounts of contributions from Leaseholders. This would have a detrimental impact on the HRA Business Plan.

The proposed strategy gives officers clarity around which procurement route they should adopt and reduce the risk of non conformity of the section 20 consultation process.

The proposed strategy has proper regard for the Councils Financial Framework and tendering rules in respect of procurement and the appropriate use of resources. Clearly, a critical theme of the strategy is to ensure the best possible value for money from the arrangements. This will be achieved by giving wide access to the market, while being mindful of the cost of tendering and monitoring.

### **Legal implications and risks:**

Any local authority that owns housing stock is obliged to maintain a Housing Revenue Account and, under the Localism Act 2011, manage and project the resources within the HRA through the development and maintenance of an HRA Business Plan. This Plan was approved by Cabinet on 8 February 2012. The proposed strategy directs capital expenditure accounted for within this HRA Business Plan.

In the absence of an approved delivery strategy there is a risk the Council could receive a challenge from contractors/suppliers for a breach of the EU procurement rules. The strategy adopts the use of properly procured frameworks to ensure compliance and mitigate the risk of challenge. It should be noted by members the proposed frameworks do comply with EU legislation but are not considered Qualifying Long Term Agreements (QLTA) as defined in section 20 of the Landlord and Tenant Act 1985 and the appropriate schedule must be used in leaseholder consultation.

The requirements of section 20 of the Landlord and Tenant Act 1985 require landlords, as the freehold owners of a building, to undertake consultation with leaseholders in a prescribed manner when proposing to undertake activities for which the landlord can recover costs. In the absence of a pre-determined delivery strategy there is a risk consultation will be carried out incorrectly and potentially lead to a challenge via the Leasehold Valuation Tribunal (LVT). In particular the use of QLTA's is an area where the LVT has seen considerable activity in the past.

The proposed strategy gives clear direction on which work streams require section 20 consultations.

The Competition Act 1998 governs the behaviour of contracting parties, as well as contractors and suppliers, with regards to the procurement and award of a wide range of contracts. Section 98 of the Competition Act and Article 101 of the EU Treaty cover anti competitive agreements (cartels). Article 102 of the EU treaty also covers abuse of a dominant position in the market place. The laws contained in the CA98 and Articles 101 and 102 of the EC Treaty are similar but not the same: the CA98 prohibits anti-competitive behaviour that affects trade in the UK. Articles 101 and 102 prohibit anti-competitive behaviour that affects trade in the EU.

As a contracting authority the Council is exposed to the risk of challenge from contractors and suppliers. The delivery strategy states how the Council proposes to utilise a range of procurement options and gives a clear account of its intentions.

**Human Resources implications and risks:**

There are no human resources implications arising directly from this report.

**Equalities implications and risks:**

The matters covered in this report relate to the allocation of capital resources already noted for expenditure in 2013/14 by Cabinet at its meeting on 8 February 2012 and the approval of resources on 12 December 2012. Therefore, no further equalities analysis has been carried in relation to this particular report. That said, equalities analyses will be carried out, as required, on key aspects of the 2013/14 HRA revenue and capital budget-setting process and will inform the HRA Budget to be presented to Cabinet in February 2013.

**BACKGROUND PAPERS**

*None*