

## LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Cabinet

**Date:** 04/03/2024

**Subject:** Approval to procure a borough-wide Responsive Repairs contractor and terminate our existing term-service contract for LOT 1 and LOT 2

**Report of:** Councillor Frances Umeh, Cabinet Member for Housing and Homelessness

**Report author:** Nicholas Marco-Wadey, Head of Contract Governance (Housing)

**Responsible Director:** Jon Pickstone, Strategic Director of Economy

---

### SUMMARY

This decision report seeks approval to terminate the LOT 1 (north area) and LOT 2 (central area) responsive repairs and maintenance contract with Morgan Sindall Property Services Ltd. This will be a mutual termination, which will take effect on 31 August 2024. Without this mutual termination, the existing arrangement would expire on 1 August 2025.

Due to the above, this Procurement Strategy also recommends approval to undertake a mini competition via the 'Responsive Maintenance and Void Property Works' part of the 'National Housing Management Forum' Framework for a responsive repairs contract to commence on 1 September 2024. This contract will cover the term-service responsibility for our LOT 1 and 2 repairs contracts.

This is a value and time limited award (3-year contract-term) to support the delivery of good quality repairs and maintenance outcomes until July 2027 when a new H&F repairs framework is due to come into place.

---

### RECOMMENDATIONS

1. To note that Appendix 2 is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To authorise the termination of the contracts (LOT 1 and LOT 2) for responsive repairs (housing) with Morgan Sindall Property Services LTD on 31 August 2024 subject to the finalisation of approved terms between the parties, the negotiation of which be delegated to the Strategic Director of Finance in consultation with the Assistant Director of Legal Services and the Assistant Director of Repairs.

3. To approve the procurement strategy to undertake a mini competition via the 'Responsive Maintenance and Void Property Works' part of the 'National Housing Management Forum' Framework. This contract will be for a period of 36 months. We will incept the contract on 1 September 2024.
4. To approve that the Strategic Director of Finance, in consultation with the Assistant Director of Legal Services and the Assistant Director of Repairs be authorised to enter into agreements as necessary to bring the decisions in this report into effect.

**Wards Affected:** All

<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
Building shared prosperity	This procurement exercise will include social value as part of the procurement weighting. 'Building shared prosperity' is a recognised measure of the Council's 'themes, outcomes and measures' social value matrix and therefore this value will drive through the addition of social value in the procurement.
Creating a compassionate council	<p>The council is obliged to ensure homes are kept in a state of repair so residents can live in safe, warm environments. Overdue repairs negatively impact our tenants.</p> <p>Furthermore, this procurement is going to place a critical emphasis on our customers' bespoke needs. We will inform bidders of this so that they can develop a contract plan that delivers a repairs service embodying customer care principles such as empathy, respect and responsiveness. This approach will ensure that we are a caring and compassionate local authority that takes a customer-driven approach to delivery.</p>
Doing things with local residents, not to them	The contract will stipulate high standards of resident communication throughout the works process.
Being ruthlessly financially efficient	We will undertake a mini competition off a Framework that has a suitable number of suppliers approved on it. This will therefore stimulate cost competition and enable the council to secure value for money.
Taking pride in H&F	It is important that the Council provides

	tenants with homes to be proud of. The recommendations are designed to improve the responsive housing repairs service to achieve a service that residents can be proud of.
Rising to the challenge of the climate and ecological emergency	The Environment Team is being consulted to ensure that minimum council standards are included in the contract specification. Also, at procurement stage, bidders will be invited to include in method statements and social value proposals their plans for reductions in carbon emissions associated with their provision of the services, and the use of recycled and environmentally sustainable materials.

### Financial Impact

This report is not intended to approve budgets but is seeking approval of the procurement strategy. A further report will be required to approve the appointment of a contractor and to set out the detailed financial implications. At this stage, the expectation is that the costs of this procurement will be funded from annually approved budgets.

*Comments completed by: Danny Rochford, Head of Finance (Economy & Housing Revenue Account), 2 February 2024*

*Verified by: Sukvinder Kalsi, Strategic Director of Finance, 2 February 2024*

### Legal Implications

The Council has an obligation to ensure that its residential properties are kept in repair. This is an obligation as a landlord under the Landlord and Tenant Act 1985 and as a local housing authority under the Housing Act 1985.

This is a public works contract under the Public Contracts Regulations 2015 (PCR). The advertising and competition requirements in the regulations therefore need to be observed. The use of a framework agreement, which the Council is entitled to call-off under, is a compliant method of procurement under the PCR. The Council is a member of and entitled to call-off contracts under the 'National Housing Management Forum' Framework. The framework allows for the successful contractor to be selected by way of a "mini-competition" among the contractors on the framework.

This is a high value contract under the Council's Contract Standing Orders. The use of a suitable third-party framework in accordance with its terms is a compliant method of procuring a contract of this value. The requirements of CSO 18 are therefore being complied with.

The award of these contracts will involve the transfer of the employees working on the current Lot 1 and Lot 2 responsive repairs contracts to the new contractor under the Transfer of Undertakings (Protection of Employment) Regulations 2006. It will be

for the outgoing and incoming contractors to manage this process, though the Council will facilitate the smooth organisation of the transfer.

These are key decisions under the Council's Constitution and need to be included in the key decision list on the Council's website.

*John Sharland, Senior solicitor (Contracts and procurement), 31 January 2024*

## **Background Papers Used in Preparing This Report**

None.

---

## **DETAILED ANALYSIS**

### **Background**

1. Between late 2022 and early 2023, there was a significant backlog of revenue and complex/capital repairs, disrepair works and voids. These had negative impacts on tenants, generated complaints and failure demand costs and created risk in terms of further legal challenge and compensation cost and continued rent loss due to overdue voids.
2. In the earlier part of 2023, to tackle the backlog, we onboarded five new interim contractors, to support with general building works, capital disrepair and voids works. The new supply chain was specifically procured to target complex and high-risk jobs. By removing this workstream from Morgan Sindall, it allowed them to utilise their existing capacity to complete and focus on day-to-day repairs only.
3. In the later part of 2023, due to continued pressures in relation to day-to-day repairs, the council started to onboard several smaller repairs contractors to target day-to-day repairs such as plumbing, electric, and damp and mould cases, to support the service to return to a business-as-usual position.
4. To further support the reduction of service delivery pressures and an improved customer journey, the council has increased its Direct Labour Organisation (DLO) capacity. This has included the direct management of repairs for sheltered accommodation properties.
5. The above actions are yielding positive outcomes in relation to reducing 'works in progress' and increasing the timely resolution of work order completion.
6. Although positive outcomes are being yielded in relation to paragraph 5, the service has identified that the current contract capacity will not adequately cover forecasted work order demand between August 2024 and July 2027.
7. On this basis, we have identified the need to source a contractor to replace Morgan Sindall and ensure the continuation of sustainable improvements to the

repairs service while the longer-term post-August 2027 repairs plan is commissioned and implemented.

8. To procure a new contract with appropriate speed and value for money, we intend to undertake a mini competition off a suitable framework. This report therefore seeks procurement strategy approval to undertake a mini-competition from The National Housing Management Forum Framework 'Responsive Maintenance and Void Property Works' to source a 3-year contract.

### **Reasons for Decision**

9. To continue the recovery of responsive repairs, relating to general repairs, disrepair, and void works.
10. To control the costs of the service through commercially astute application of contracts and negotiated agreements with contractors.

### **Contract Specifications Summary**

11. The contractor will cover the services currently being delivered through the current term contracts, augmented by additional planned preventative maintenance activities. In summary these comprise:
  - a) Emergency callouts and repairs
  - b) Day to day repairs to internal properties
  - c) Communal repairs (excluding Mechanical and Electrical)
  - d) Community Hall Repairs
  - e) Planned preventative maintenance and ad hoc 'lifecycle' renewals (i.e., excluding major works included in the capital programme) for:
    - i. gutter clearance
    - ii. drainage works.
    - iii. kitchen replacements
    - iv. bathroom replacements
    - v. window replacements
    - vi. roofing renewals
    - vii. damp and mould improvement work.
    - viii. decorating
    - ix. Energy Performance Certificate (EPC) surveys (in the course of a repair / void works)
  - f) Voids
  - g) Disrepair
  - h) Damp and Mould
  - i) Specialist ventilation
  - j) Scaffolding
  - k) Roofing
12. The contract will be for a maximum duration of 36 months.
13. The current term repair contracts in use by the council are based on a Joint Contract Tribunal (JCT) contract with a Price Per Property (PPP) inclusive

element that asked Morgan Sindall to provide repairs to 9,500 homes. The new contracts will utilise a National Housing Federation (NHF) schedule and form of contract, which is based on repair volumes with each individual job valued on completion of works. This NHF contract will better financially incentivise delivery of repairs in our homes focusing on quality and satisfaction.

## Procurement Route Analysis of Options

14. There are a range of procurement options available to procure providers of these works:
  - Competitive tender
  - Mini competition from a suitable framework or Dynamic Purchasing System (DPS)
  - Direct award from a suitable framework
15. These options provide varying levels of assurance that the resulting providers are value for money. Competitive tender is the best guarantor of value as it is open to the whole market. A direct award from a framework provides less ability to specify what is wanted and thus leaves more limited assurance.
16. Competitive tender can take up to several weeks to seek tenders and evaluate the results, before 3 or 4 weeks required for the contract award Governance. Mini competition is quicker as the suppliers have already passed through a first stage qualification in order to get appointed onto the framework.
17. Direct Award from a suitable framework would be the quickest option and can take up to 3 months in total for both the procurement strategy and contract award governance.
18. Balancing (i) the need to ensure that we stimulate cost and quality competition (to achieve both the best value for money and the most appropriate solution) and (ii) the need for a relatively fast turnaround, we seek approval for a mini competition from the NHMF Framework, (responsive maintenance and void property works).
19. This framework was selected on the basis that it has a high number of suppliers contained within it and of these, there is a good SME 'mix'. The fees pertaining to this framework are also very competitive.

## Risk Assessment and Proposed Mitigations

20. Please see a table of the key risks below:

Risk	Mitigation
'Busy market': we are currently operating in a 'sellers' market as there is a lot of client-demand available. This is resulting in a scarcity of supply.	We will use early market engagement and dialogue with the market (via the procurement exercise) to demonstrate strong commissioning intentions and

	customer-qualities. Through this approach we will ensure that we are considered as a desirable customer to work with.
Reputation of the Council: the recent findings of the Housing Ombudsman and historic changes to contracts may impact market appetite and the Council's ability to transfer risk.	We will need clear and positive messaging to the market that the service is improving and stabilising and that lessons have been learned in conceiving the new contracts and associated systems within the Council.
Baseline data: the Council having insufficiently comprehensive and accurate baseline data against which bidders can develop their proposals.	The operational board includes a workstream to compile relevant data. This is supported by external experts to ensure success. This data can be used for the purposes of this procurement exercise.
Cost increases: material and labour costs have increased significantly over the last 18 months.	We will configure our tender to ensure that we use a range of contracting methods that help tackle cost pressures. These include (but are not limited to): economies of scale, pragmatism with indexation, avoidance of over-specification/wastage, and the offer of security of business to support supply chain cost development.
Risk adversity within the market driving up tender costing: suppliers are costing risk to account for volatile price changes, liability risk and the need to ensure contract profitability.	We will use our market engagement to ensure we have a pragmatic approach to cost management (per the above). We will also ensure that contract terms and conditions and contractual mechanisms are robust, fair, and equitable in terms of liability risk and profitability.
TUPE and labour implications stemming from a potential change in provider.	We will ensure that we engage the right teams within H&F so that we are sighted and proactive in relation to effectively managing the TUPE process.

## Timetable

21. Please see below for an estimated timetable:

Key Decision Entry (Procurement Strategy).	01/02/2024
Contracts Assurance Board (Procurement Strategy).	07/02/2024
Stage 1 S20 notice issued	07/02/2024
Cabinet Sign off (Procurement Strategy).	04/03/2024
Invitation to tender issued	15/03/2024
Tenders Evaluated and Confirmation of Preferred Bidder.	15/06/2024
Key Decision Entry (Contract Award Report).	15/06/2024

Contracts Assurance Board (Contract Award Report).	19/06/2024
Stage 2 S20 notice issued	22/06/2024
Cabinet member Sign-off (Contract Award Report)	03/08/2024
Contract Mobilization	08/08/2024
Contract start date	01/09/2024

## Selection and Award Criteria

22. Bidders will be shortlisted based on pass/fail criteria linked to general eligibility and financial strength with quantitative scoring of responses to technical capability questions testing experience including the following areas:

- Resident Satisfaction
- Work Planning
- Work closure and quality assurance
- Social Value

23. To ensure value for money whilst maintaining an efficient procurement process, we would seek to shortlist 4 contractors.

24. Achieving relevant values in awarded contracts will be secured through utilising the following Evaluation Criteria which will be used to determine the most economically advantageous tender:

Tier 1 Criteria	Weighting	Tier 2 Criteria
Quality	50%	Resourcing
		Management Systems
		Delivery Methodology
Social Value	10%	Offer
		Delivery
Financial	40%	Price
		Financial Robustness
<b>Total</b>	<b>100%</b>	

25. Each of the Resourcing, Management Systems and Delivery Methodology Tier 2 Criteria (totalling 50%), bidders will be required to provide method statements for which the required contents will be prescribed which in turn will be scored.

26. Bidders will be required to demonstrate how the associated resident experience is embedded in their method statements, for example:

- a) 'Resourcing' will include the Contractor's work planning proposals critical to achieving service standards, including associated change management.



- b) 'Management Systems' will include the Contractor's systems and processes for communicating and managing their relationship with residents; and
  - c) 'Delivery Methodology' will include the Contractor's proposals for validating that works have been completed to required quality requirements, thus minimising return visits.
27. The associated calibration of scoring will be such that bidders will not be able to score highly in these areas if the associated resident experience is not addressed in the method statements.
28. Social Value will be operated in line with the framework and as such we are applying the 10% SV. This is allowed under our Contract Standing Orders.
29. The social value explanation in the tender pack will highlight the core priorities for the authority in relation to Social Value in relation to this contract. These will include jobs, training and apprenticeships, community resources especially for the care experienced, and improved climate outcomes. The engagement with suppliers will highlight this ask.
30. The council will also incorporate white goods and other goods to support young leavers as part of our Corporate Parent responsibility going forwards.
31. Tier 3 evaluation criteria may be developed as the procurement documentation is developed (for example based on method statements received).
32. In relation to the pricing element of procurement evaluation, a comprehensive schedule of rates will be requested by bidders.
33. This schedule will enable cost transparency as we will establish a list of work costs (broken down by e.g., labour, materials etc), central overhead costs, and profit levels. We will compare and evaluate suppliers based on total cost of delivery and the financial robustness of proposals.

## **Contract Management**

34. The standard of workmanship and service will be monitored and measured by the Repairs client team. The successful contractor will need to provide evidence of works undertaken, including before and after photographs. The service will be allocating a dedicated supervisor resource to the contract.
35. There will be monthly performance meetings in which KPIs will be reviewed. KPIs will include:
- Appointment kept.
  - Works completed by target completion date.
  - Submission of all required information for every job, proving quantity and quality.

- Resident satisfaction
- Quality assurance

36. We will insert a clause in the contract that allows for annual inflationary uplifts to be applied for on each yearly contract anniversary date. The uplift decision will be based on CPI and any other market relevant factors. The local authority will decide on any uplift payable based on their uplift business case.

### **Equality Implications**

36. An Equality Impact Analysis has been undertaken. This assessment has evidenced a positive to neutral impact. Please see Appendix 1 for more details.

### **Risk Management Implications**

37. The report recommends the mutual termination of current repairs contracts for Lots 1 and 2 following discussions with the incumbent provider. This is in the best interests of the Council and for residents. The report also recommends a procurement strategy to procure new contracts for Lots 1 and 2 to provide the service from September 2024, which is in line with the objective of being ruthlessly financially efficient. The report identifies a number of risks in paragraph 20, around the procurement and mobilisation of the new contracts, along with a number of appropriate mitigations which will be put in place.

*Risk implications provided by David Hughes, Director of Audit, Fraud, Risk and Insurance, 2 February 2024*

### **Climate and Ecological Emergency Implications**

38. The contract specifications will set out the Council's minimum standards (to be determined in co-production with the service and the Climate change team), Bidders will then be invited to include in method statements and social value proposals their plans for reductions in carbon emissions associated with their provision of the services, the use of recycled and environmentally efficient materials.

39. The outcome of the bidder's response to the method statements will be shared with the Climate Change team at contract award approval stage.

*Verified by: Jim Cunningham, Climate Policy & Strategy Lead, 05<sup>th</sup> of February 2024*

### **Local Economy and Social Value Implications**

40. It is a requirement that all contracts let by the council with a value above £100,000 provide social value commitments that are additional to the core services required under the contract.

41. This procurement exercise will ensure that social value is included as part of the scoring, as set out above. The qualification questions will ask for both a social value method statement and submission of the social value proposal matrix.
42. This contract will detail performance monitoring and management procedures in relation to social value achievement by the suppliers, including the provision of legal remedies to the extent that committed social value measures are not delivered.

*Verified by Andrew Munk, Assistant Director for Economic Development on the 02<sup>nd</sup> of February 2024.*

## **Consultation**

43. This contract is part of a wider longer-term repairs programme which has made a commitment to factor in consultation through all stages of the commissioning, procurement, and contract management lifecycle.
44. As part of this programme, we have pinpointed mechanisms for consulting and engaging with several external stakeholders such as residents and other local authorities and technical experts.
45. Residents are continuously engaged via resident forums, and we are working with the Resident engagement and involvement team to ensure that this engagement is frequent and effective. This will be achieved via the below mechanisms:
  - Housing Representatives Forum – meets six times a year. Membership is made up of Tenants and Residents Association (TRA) committee members (tenants and leaseholders), sheltered housing tenant reps and service group Chairs.
  - Fire, Building Safety and Repairs Working Group – meets eight times a year and covers safety and compliance, capital works and responsive repairs discussion areas. Membership is made up of tenants and leaseholders from estates.
  - Sheltered Housing Forum – meets six times a year. Membership is sheltered housing Tenant Representatives elected from the 21 sheltered housing schemes across the borough.
  - Leasehold Forum – meets three times a year, open to all leaseholders across the borough.
  - Tenants and Residents Associations (TRAs) – we currently work with 28 TRAs across the borough. Most TRAs represent residents on our estates. We also have TRAs who represent small standalone blocks and street properties.

## **LIST OF APPENDICES**

Appendix 1- Equalities Impact Analysis

Exempt Appendix 2 - Legal and Financial Implications

## Appendix 1- Equalities Impact Analysis:

Age	<p>Social housing tenants in Hammersmith &amp; Fulham tend to be older than the wider borough population. Older residents are at higher risk of adverse outcomes when they are living in properties in a state of disrepair. This strategy has the potential to improve outcomes for this cohort by returning properties to standard quicker through a better repairs service.</p> <p>Older and vulnerable residents may be adversely affected by any disruption caused by demobilising one contract and mobilising the replacement contract. To mitigate this risk our dedicated DLO team is completing all repairs on all sheltered accommodations within the borough. Therefore, the residents within these properties will be unaffected by this transition.</p> <p>The Repairs Client Team and Customer Services Centre are actively taking steps to support the day-to-day delivery of repairs. This involves identifying and prioritising works where there are vulnerable residents and ensuring that these repairs are completed in time to mitigate any outgoing contractor backlog. During the demobilization period, a post inspection regime will be introduced. This will target any complex or risk-flagged properties that are currently issued to the incumbent contractor. To further re-enforce this position, our existing contractor will only be issued day to day repairs. Complex works will be issued to our wider supply chain. These complex works will include all disrepairs cases, stage 1 and stage 2 complaints and all ombudsman escalations.</p>
Care Experienced	<p>In preparation for the Social Housing Act, which comes into force in April 2024, we set up a supporting our residents working group to ensure that we comply with the new consumer standards. The group will ensure we use relevant information and data to:</p> <ul style="list-style-type: none"> <li>a) Understand the diverse needs of tenants, including those arising from protected characteristics, language barriers, and additional support needs</li> <li>b) Assess whether all tenants have fair access to, and equitable outcomes of, housing and landlord services.</li> </ul> <p>The outcomes that will be achieved via the work undertaken in sections (a) and (b) will ensure that the needs of those receiving care are factored into the working practices of this new contractor. This expectation will be set out as both part of the qualification of suppliers and through the contract terms and conditions.</p>
Disability	<p>Social housing tenants in Hammersmith &amp; Fulham tend to have a higher incidence of disability than the wider borough population. Disabled residents are at higher risk of adverse outcomes when they are living in properties in a state of disrepair. This strategy has the potential to improve outcomes for these residents by returning properties to standard quicker through a better repairs service.</p>

	<p>Disabled residents may be adversely affected by any disruption caused by demobilising one contract and mobilising the replacement contract – missed appointments, delays in completing works and poor-quality works are all risks.</p> <p>The Repairs Client Team and Customer Services Centre will take steps to identify and prioritise works where there are residents who need any additional support and liaise with the contractors to ensure that risks are mitigated. The repairs team will post inspect the outgoing providers work in order to detect inadequate workmanship and ensure speedy resolution. The outgoing contractor’s supervisory team must evidence that they had a phone call with every resident once a works order is completed – to ensure the resident is satisfied the work has been carried out.</p>
Gender reassignment	No impacts have been identified that are associated with these protected characteristics.
Marriage and Civil Partnership	
Pregnancy and Maternity	<p>Pregnant residents, or residents with young children are at higher risk of adverse outcomes when they are living in properties in a state of disrepair. This strategy has the potential to improve outcomes for this cohort by returning properties to standard quicker through a better repairs service.</p> <p>Pregnant/young family residents may be adversely affected by the works being carried out – as tenants or as neighbours. The Repairs Client Team will scrutinise the resident liaison and tenant experience requirements of the contract for the works and negotiate additional protections where necessary.</p>
Race	<p>Social housing tenants in Hammersmith &amp; Fulham tend to be more ethnically diverse than the wider borough population. This strategy has the potential to improve outcomes for this cohort by improving the repairs service.</p> <p>Language barriers may cause difficulties when works are being carried out. The Repairs Client Team will scrutinise the contract’s requirements for resident liaison and tenant experience to ensure clear communication and understating of resident’s needs. They’ll also negotiate extra protections where needed to ensure residents are satisfied.</p>
Religion and Belief	No impacts have been identified that are associated with these protected characteristics.
Sex	
Sexual orientation	