

Birmingham City Council

Report to Cabinet

10th November 2020



Subject: **WORKING WITH THE PRIVATE SECTOR TO DELIVER TEMPORARY ACCOMMODATION SOLUTIONS**

Report of: **Acting Director, Neighbourhoods**

Relevant Cabinet Member: **Councillor Sharon Thompson, Homes and Neighbourhoods**
Councillor Tristan Chatfield, Finance and Resources

Relevant O &S Chair(s): **Councillor Penny Holbrook, Housing and Neighbourhoods**
Councillor Sir Albert Bore, Resources

Report author: Marcia Bell, Senior Service Manager, Housing Options and Private Rented Service
Telephone No: 0121 464 3552
Email Address: marcia.bell@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision? If relevant, add Forward Plan Reference: 008198/2020	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1 Executive Summary

- 1.1 To provide details of the procurement strategy and process for the provision of temporary accommodation to support the Council's statutory duty to provide temporary accommodation to vulnerable households under the Housing Act 1996, the Homelessness Act 2002 and the Homeless Reduction Act 2017 for a period of up to 10 years to commence on 29 January 2022.

2 Recommendations

That Cabinet:

- 2.1 Approves the strategy and the commencement of tendering activity for a block contract for the provision of temporary accommodation in accordance with the requirements and approach outlined in paragraph 3 of this report commencing 29 January 2022.
- 2.2 Delegates authority to the Director, Neighbourhoods in conjunction with the Assistant Director, Development and Commercial (or their delegate), the Interim Chief Finance Officer (or their delegate), and the Acting City Solicitor (or their delegate) to award the contract following the completion of the tendering process.
- 2.3 Approves the strategy and the commencement of tendering activity for a Dynamic Purchasing System (DPS) for the provision of excess requirements for temporary accommodation not covered by the block contract in accordance with the requirements and approach outlined in paragraph 3 of this report.
- 2.4 Delegates authority to the Head of Housing Options and the Head of Procurement to approve suppliers onto the DPS following completion of the selection questionnaire process where the selection criteria is met.
- 2.5 Delegates authority to the Head of Housing Options and the Head of Procurement to award contracts for temporary accommodation following the completion of the tender process for individual call offs.

3 Background

3.1 Background and Service Requirements

- 3.1.1 The Council has a statutory duty to provide temporary accommodation to vulnerable households under the housing Act 1996, the Homelessness Act 2002 and the Homeless Reduction Act 2017. These Acts require the Council to provide accommodation for a minimum of 56 days as a relief, prevention or homeless duty. In addition to this the Code of Guidance 2018 states that B&B accommodation should not be used for more than 6 weeks. There are currently over 153 households in bed and breakfast accommodation or hotels that have exceeded that time frame.
- 3.1.2 The Temporary Accommodation team uses a range of accommodation types to house homeless households pending permanent re-housing. These include:
 - Bed and Breakfast Accommodation or Hotels
 - Council Stock let as Temporary Accommodation
 - Council Homeless Centres
 - Rented properties from external companies / organisations
 - Voluntary Sector supported accommodation including Salvation Army, St Basils and Trident
- 3.1.3 To support the above, there is a requirement for properties rented from the private sector and registered social housing providers. The maintenance of these properties is the responsibility of the landlord, not the Council and managed by the agent. All payments from the Council are made to the agent. The rental agreement includes for the provision of furnished accommodation only, with the

exception of No Recourse to Public Funds cases, and all other utility charges will be the responsibility of the tenant.

- 3.1.4 The current contract which expires on 28 January 2022, was awarded on the basis of block contracts and a framework agreement. It was to supply 1498 units of accommodation ranging from hostels to 1 -6 bedroomed self-contained properties, situated in Birmingham and the surrounding areas.
- 3.1.5 There has been a significant increase in the number of households in TA over the last 4 years. The average in 2018/19 was 2457 households, as at 19 October 2020 it has increased to 3568 which is divided between the various accommodation types as follows:

Tenancy Type	Total in TA
Bed & Breakfast	582
Dispersed	1859
Hostel	181
Private Landlord	4
PSL Tenancy	942
Total	3568

- 3.1.6 This is a demand led service that has been significantly impacted by the introduction of the benefit cap whereby it is becoming increasingly difficult to contain these costs given the rise in homelessness acceptances across the city, the wider housing market pressures and the increased costs of private rented accommodation.
- 3.1.7 In 2018/19 the Housing Options Service had a budget of £6.1m budget for Bed and Breakfast accommodation and spent £9.9m; this represents a variance of £3.8m in excess of the approved budget for that year. In 2019/20 the budget was again £6.1m, however the spend increased to £10.2m increasing the variance to £4.1m.
- 3.1.8 The increases can be attributed to the impact of the Homeless Reduction Act 2017 which place additional legal duties on Local Authorities to provide temporary accommodation as a relief or prevention tool to support households and/or prevent homelessness.
- 3.1.9 As a consequence, there is a requirement to commence a procurement process that meets the current and future needs of the service and its users.

3.2 Outcomes Sought

The procurement process for the proposed is expected to deliver the following outcomes:

- A sufficient portfolio of properties to minimise the need to resort to bed and breakfast accommodation or hotels;
- A range of different properties to meet the needs of all household sizes, in particular larger accommodation for those in need of it given the current shortage
- The provision of suitable decent quality temporary accommodation;
- Costs reflective of market conditions
- Delivery of added social value relevant to the services being provided by providing better quality self-contained accommodation at an affordable rent in areas that support households with work and local support services. The key areas of social value delivery are prioritised below:

PRIORITY 1 – Partners in Communities

We expect the appointed contractors to utilise their reach into the communities to provide significant homelessness prevention activities by providing financial literacy, housing advice, benefit advice, employability advice either directly or through local community organisations. The outcome of their activities needs to be homelessness prevention. We expect to see volunteering, fundraising, donations and supporting local, relevant community organisations. We expect the significant quantity of activity to be backed up with a robust understanding and methodology for community engagement.

PRIORITY 2 – Buy Local

There is a significant spend on repairs and maintenance of the properties. We want to incentivise the providers to buy these services and associated goods locally, with focus on Birmingham providers. We would encourage the providers to seek out social enterprise to provide some of those services and goods. Shelforce, a provider of PVC doors and windows is an appropriate social enterprise for this contract.

PRIORITY 3 – Local Employment

Some of the likely providers are not particularly experienced at providing employability skills to our customers, however there may be some room for innovation here. They can provide some low-level employment and employability within the local community. This is a relevant measure for preventing homelessness. We will be looking for the bidders to offer this support through local community organisations if they do not have sufficient resource or knowledge in house.

PRIORITY 4 – Good Employer

The likely providers will not be employing large numbers of staff for this service and the typical skill level is modest. We expect the providers to bring in robust measures that provide good employment practices to increase the staff employability and quality of employment.

PRIORITY 5 – Green & Sustainable

Although it may appear that this theme is particularly relevant, given the urgent need of our clients and the imbalance in supply of temporary housing we have allocated the sub weighting from this theme to the other themes. We will, however, engage with the providers to inform and encourage environmental outcomes within the properties.

PRIORITY 6 – Ethical Procurement

Other than paying the suppliers within 30 days which is a default requirement and since there is little materials used in this service, we do not believe that this theme is particularly relevant and cannot justify reducing the other themes

3.3 Market Analysis

- 3.3.1 Although the Council would like a decent mix and spread of properties within each ward of the city, this may not be achieved because the market dictates availability of suitable accommodation. There are a number of providers for this service ranging from small to medium enterprises operating as lettings agents and also registered social housing providers. It is considered that the nature and value of the service will appeal to small, local providers; however larger organisations will not be precluded from tendering. There are also potential pressures from external companies and other local authorities looking to place homeless households in Birmingham. Following lessons learnt from the previous contract, it has been decided to open the opportunity up to other sectors of the market other than private lettings agencies including registered social housing providers to ensure that it will present to the market the most attractive opportunity and that there is sufficient accommodation available to house vulnerable households.

3.4 Procurement Approach

3.4.1 Strategic Procurement Approach

The following high-level procurement options were considered:

- Tender as a Council only contract. This is the recommended option as this would give the Council the most flexibility in specifying our service provision and enable the contract to be awarded within the timescales. Further procurement options for the service are detailed below.
- Use a collaborative framework agreement. There is not a collaborative framework agreement in place that meets the Council's requirements.

Procurement Options

It is recommended that the procurement process is split into two tender exercises:

- One for block contracts (more than one contractor required)
- The other for a Dynamic Purchasing System

Further details of the options are detailed below.

3.4.2 Block Contract

3.4.2.1 A block contract is where properties are leased for a pre-agreed length of time at a fixed rate.

3.4.2.2 Duration and Advertising Route

The proposed contract will be for a period of up to 10 years. Due to the contract value the opportunity will be advertised in OJEU, www.finditinbirmingham.com and Contracts Finder.

3.4.2.3 Procurement Route

The contracts will be tendered using the 'open' route on the basis that:

- The service can be clearly defined;
- Tenderers' prices will be fixed on the specific requirements at tender stage
- There are a large number of organisations in the marketplace likely to tender for the block contract, however a robust first stage evaluation will ensure only those organisations that are able to meet the Council's requirements, which will include the ability to provide good quality sustainable accommodation of various sizes in all areas of Birmingham, will proceed to the next stage.

3.4.2.4 Scope and Specification

In order to mitigate against the circumstances highlighted in the report such as:

- other competitors (neighbouring authorities and the Home Office)
- changes in legislation relating to welfare reform and immigration
- unpredictable increases in demand as a result of the above
- legal duty relating to homelessness, children act and immigration status

The minimum specification requirements for the accommodation is sleeping spaces, access to bathroom and kitchen facilities, in a safe and secure environment. All accommodation will need to meet the most current health and safety regulations including the Housing Act 2004 and the Fit for Habitation Act 2019 and property providers will be responsible for all repairs and maintenance to the accommodation within pre-set timescales

3.4.2.5 Tender Structure (Block Contract)

Evaluation and Selection Criteria

The quality / social value / price balances below were established having due regard for the corporate document 'Evaluating Tenders' which considers the complexity of the services to be provided. The tender documents will include the form of contract. Tenders will be evaluated

against the specification in accordance with a pre-determined evaluation model.

The evaluation of tenders will be assessed as detailed below:

Assessment A (Pass / Fail)

- Section A – Information about the Applicants (Pass / Fail)
- Section B – Grounds for Mandatory Exclusion (Pass / Fail)
- Section C – Grounds for Discretionary Exclusion Part 1 and Part 2 (Pass / Fail)
- Section D – Economic and Financial Standing (Pass / Fail)
- Section E – Technical and Professional Ability (Pass / Fail)
- Section F – Environmental Management (Pass / Fail)
- Section G – Insurance (Pass / Fail)
- Section H – Compliance with Equalities Duty (Pass / Fail)
- Section I – Compliance with Health & Safety (Pass / Fail)
- Section J – Declaration (Pass / Fail)

Those organisations that pass all sections of Assessment A will proceed to the next stage.

Assessment B - Quality - Written Proposals (Weighting 30%)

Each lot will be assessed with the criteria below:

Criteria	Sub-weighting
Service Delivery	80%
Customer Care	20%

Service delivery will be assessed on the following areas

- Property standards - demonstrating how it is ensured the properties meet and maintain all of the relevant health and safety standards including , décor and furnishing requirements, throughout the life of the contract.
- Repairs and maintenance – service standard including turnaround times especially in responding to emergencies.
- Communication – the mechanism and means of providing relevant information to BCC and the service user.

Customer Care will be assessed on the following

- Information provision and method of sharing
- An escalation procedure
- A comprehensive complaints procedure.
- A safeguarding procedure which includes adheres to the government guidelines

An interview with tenderers may take place to clarify their understanding of the requirements and the scoring adjusted accordingly, as appropriate.

Tenderers who score more than the quality threshold of 60% i.e. a score of 60 out of a maximum quality score of 100 will proceed to Assessment C – Social Value.

Assessment C – Social Value (Weighting 20%)

	Sub-Weighting	Sub-Criteria	Theme Sub-Weighting
Qualitative	40%	Local Employment	10%
		Buy Local	30%
		Partners in Communities	50%
		Good Employer	10%
			TOTAL 100%
Quantitative	60%	BBC4SR Action Plan	Total of financial proxies (£) score
			TOTAL 100%
Overall Social Value	100%		

Assessment D – Pricing (Weighting 50%)

The price will be based on a weekly rental charge for each unit type e.g. 1, 2, 3, or 4 bedroom properties and scored using a predetermined pricing model. PRICE BANDING

Prices will be fixed for a period of 24 months from the date of award but will be subject to an annual price review thereafter using an agreed price fluctuation formula. A cap will be applied to the maximum increase available with reference to market conditions to manage and limit any increases.

Overall Evaluation

The evaluation process will result in comparative quality, social value and price scores for each tenderer. The maximum quality score will be awarded to the tender that demonstrates the highest for quality and the highest social value score will go to the tenderer whose response is considered to provide the most social value. Similarly, the maximum price score will be awarded to the lowest acceptable price. Other tenderers will be scored in proportion to the maximum scores.

The top ranked bidders who can support the number of required properties will be awarded a block contract. Due to the number of properties required it is envisaged that there will need to be more than one provider awarded a block contract thus minimising the lack of supply risk going forward. The number of block contracts to be awarded will be determined by the tenderers' submissions and ability to support the number of properties

required which is currently estimated at circa 2000 units. This will be set out in the ITT documentation.

3.4.2.6 Evaluation Team

The evaluation of the tenders will be undertaken by officers from the Housing Options Service, supported by Corporate Procurement Services.

3.4.2.7 Indicative Implementation Plan

The indicative implementation plan is as follows:

Cabinet Approval (Strategy)	10 th November 2020
OJEU Notice and Issue ITT	28 th June 2021
ITT Deadline Submission	2nd August 2021
Evaluation Period	2nd August – 27 th August 2021
Tenderer Interviews (if required)	1st September – 10 th September 2021
Award Report Sign Off & Issue of Letters	17 th September 2021 – 19 th October 2021
10 Day Standstill Period	19 th October 2021
Formal Contract Award	29th October 2021
Mobilisation Period	1st November 2021
Contract Start	30th January 2022

3.4.2.8 Service Delivery Management

Contract Management

The **block contracts** will be managed by the Senior Service Manager, Housing Options Service.

Performance Management

Performance management measures will form part of the contract including the delivery of the agreed Social Value outcomes as outlined in 3.2.

3.4.3 Dynamic Purchasing System

- 3.4.3.1 A DPS is an entirely electronic procurement approach for setting up and maintaining an 'approved list' of suppliers that allows entry at any time in its duration. A DPS is set up using the restricted procedure under the Public Contract Regulations 2015 and further in accordance with Regulation 34 of the regulations. Using the DPS procedure will give SMEs and new entrants the opportunity to tender for the Council's requirements where previously they were excluded.

3.4.3.2 Duration and Advertising Route

The DPS will be for a period of up to 10 years and a call for competition will be advertised in the Official Journal of the European Journal, Contracts Finder and on the www.finditinbirmingham.com website stating that a DPS is to be established.

3.4.3.3 Procurement Route

The requirement will be to set up a DPS following the **two-stage** restricted procedure. The DPS will operate as an 'open system' in that new suppliers can at any time during its duration apply to join the DPS. The DPS is a two-stage process. Firstly, at the initial set up stage (Selection Questionnaire SQ), all suppliers who meet the selection criteria and are not excluded must be admitted to the DPS. Individual contracts are awarded during the second stage. In this stage, all suppliers on the DPS (or the relevant category or Lot within the DPS) are invited to bid for the specific contract. Submitted bids at stage 2 will be considered in accordance with the restricted procedure and evaluated against the award criteria set out in the OJEU contract notice and supplemented by more precise criteria in the specific further competition stage.

3.4.3.4 Scope and Specification

As per paragraph 3.4.2.4.

3.4.3.5 Tender Structure (DPS)

The structure of the tender will be as follows:

- Stage One – Standard Selection Questionnaire Stage (SQ) and entry on to DPS Approved Supplier List
- Stage Two – Invitation to Tender Stage (procuring under the DPS)

SQ Stage

The SQ will require tenderers to complete a questionnaire which requires the following to be fully answered. The documents will be available electronically for new entrant suppliers to access for the duration of the DPS for up to 10 years. Suppliers whose submissions have been rejected at any stage will also have the opportunity to modify their return if their circumstances have changed.

- Section A – Information about the Applicants (Pass / Fail)
- Section B – Grounds for Mandatory Exclusion (Pass / Fail)
- Section C – Grounds for Discretionary Exclusion Part 1 and Part 2 (Pass / Fail)
- Section D – Economic and Financial Standing (Pass / Fail)
- Section E – Technical and Professional Ability (Pass / Fail)

- Section F – Environmental Management (Pass / Fail)
- Section G – Insurance (Pass / Fail)
- Section H – Compliance with Equalities Duty (Pass / Fail)
- Section I – Compliance with Health & Safety (Pass / Fail)
- Section J – Declaration (Pass / Fail)
- Section K – Baseline Rate Card Provided (Pass/Fail) - Not evaluated and for reference at further competition stage only

Tenderers that pass the selection criteria will be admitted to the DPS and entitled to submit bids at the Further Competition Stage.

Further Competition Stage

Once suitably qualified suppliers have been appointed to the DPS, a further competition will be carried out for each property requirement to determine the price and best value for the Council.

The further competition process will include quality and social value questions that will relate to each separate provision of excess requirements for temporary accommodation not covered by the block contract. Tenderers will be expected to submit their proposals on how they intend to deliver the quality including an element of social value in relation to each specific service requirement. A price will also be submitted which will be benchmarked against their SQ submitted rate card.

Submitted quality, social value and price responses will then be evaluated and scored against a pre-determined evaluation model.

3.4.3.6 Evaluation Team

The evaluation of the tenders will be undertaken within the mandatory period of 10 days from receipt of tender by officers from the Housing Options Service, supported by Corporate Procurement Services.

3.4.3.7 Indicative Implementation Plan

The indicative implementation plan is as follows:

Cabinet Approval (Strategy)	10 th November 2020
OJEU Notice and SQ Issued	28 th June 2021
SQ Deadline Submission	2nd August 2021
Evaluation Period	2nd August – 27 th August 2021
Award Report Sign Off & Issue of Letters	17 th September 2021 – 19 th October 2021

3.4.3.8 Service Delivery Management

Contract Management

The **Dynamic Purchasing System** will be managed by the Senior Service Manager, Housing Options Service.

Performance Management

Performance management measures will be included in the contract

4 Options Considered and Recommended Proposal

- 4.1 To do nothing – this is not an option as this would lead to the Council without any formal contractual arrangements.
- 4.2 Alternative procurement options are detailed in paragraph 3.4.1.

5 Consultation

- 5.1 As the strategy seeks to include the register social housing providers, consultation will take place to determine the likelihood of this sector participating in a procurement exercise.

6 Risk Management

- 6.1 The CPS approach is to follow the Council Risk Management Methodology and the Procurement and Contract Management Teams are responsible for local risk management. CPS maintains a risk management register and documentation relevant for each contract. The risk register for **the block contracts and Dynamic Purchasing System** has been jointly produced and owned by CPS and the Housing Options Service. Arrangements are in place to ensure operational risks for the **block contracts and Dynamic Purchasing System** are mitigated. Key risks will include the ability of the private sector to identify a sufficient supply of properties and sites for housing in the right locations to meet demand and customer requirements as well as for the Council in managing communication and engagement with communities affected by the development of temporary accommodation provision. However, this is partly mitigated by the current number of properties TA are already using in the private sector.

7 Compliance Issues:

- 7.1 How are the recommended decisions consistent with the Council's priorities, plans and strategies?
 - 7.1.1 This proposal is also consistent with the Council's Vision and Forward Plan 2018 – 2022 (updated in 2019) key priorities by;

- Outcome 2 Birmingham is an aspirational city to grow up in – we will work partners to provide a multi-agency approach to the protection of vulnerable children and young people.
- Outcome 3 Birmingham is a fulfilling city to age well in – we will work with partners to improve the care for older people
- Outcome 4 Birmingham is a great city to live in: we will work with partners to tackle rough sleeping and homelessness by providing accommodation to enable access to pull support to develop independent living skills.
- This will help tackle inequality and deprivation and promote social cohesion across all communities in Birmingham and ensure dignity, particularly for older people and safeguarding of children in that the contract will allow fast access to house homeless households on a temporary

7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of these contracts. Tenderers will be required to submit an action plan with their tender that will be evaluated in accordance with the procurement strategy set out in paragraph 3 and the action plan of the successful tenderers will be implemented and monitored during the contract period

7.2 **Legal Implications**

7.2.1 The Council has a duty to provide temporary, emergency accommodation under Part VII of the Housing Act 1996. Under section 17 of the Children's Act 1989 the Council has a duty to safeguard and promote the welfare of children within their area who are in need.

7.2.2 Pre-Procurement Duty under the Public Services (Social Value) Act 2012

Consideration of how the provision of temporary accommodation might improve the economic, social and environmental well-being of the City and whether to undertake any consultation were discussed at the planning stage. It was agreed not to conduct further consultation on the basis that external consultation will be undertaken for each scheme the professional services are delivered for and that application of the BBC4SR would satisfy the Council's obligation under this Act, with relevant proposals from tenderers to secure such improvement being evaluated during the process (See 3.2)

7.3 **Financial Implications**

7.3.1 The current budget provision for leased properties is £11.2m and the portfolio has up to 1,000 properties. The financial impact of the new contracts will be to seek cost efficiencies and a potential budget saving.

7.3.2 Depending on the number of properties available there is further cost reductions to be achieved by increasing capacity. This will allow more placements to be made in leased properties rather than the current more expensive bed & breakfast option.

7.3.3 To meet the current and future needs of the service the procurement strategy is to have contract period of up to 10 years. Costs need to be minimised by only paying for properties when they are in use and the contracts should not commit the service to having properties in the portfolio that are vacant. There should also be sufficient break clauses in the contracts to enable the service to review and manage these within budget.

Once specific options have been identified further detailed costings will be provided to determine the level of cost reduction and/or savings that can be identified per project.

7.4 Procurement Implications

7.4.1 This report concerns a procurement strategy and any implications are detailed throughout the report.

7.5 Human Resources Implications

7.5.1 The procurement activity and the subsequent contract management will be undertaken by Council staff.

7.6 Public Sector Equality Duty

7.6.1 In regard to section 149 of the Equality Act 2010, the proposed procurement is related to property acquisition and as such there are no practices that could be considered unfair, unlawful or discriminatory within this context.

8 Appendices

8.1 List of Appendices accompanying this Report:

1. Risk Register
2. Equality Analysis