



Crawley Borough Council

**Report to Cabinet
28 June 2017**

Crawley Homes Gas Repair Servicing and Renewal, Responsive Repairs, Voids and Planned Works Options for Service Provision

Report of the Head of Crawley Homes, **CH/173**

1. Purpose

- 1.1 To provide a report to Cabinet outlining options for the future delivery and management of Crawley Homes repairs services at the expiration of the current contracts in 2019/2020. And to seek direction from members as to the preferred option.

2. Recommendations

The Cabinet is recommended to:

- 2.1 Note the options for the delivery and management of Crawley Homes repair services as set out in the report.
- 2.2 Approve the outsourcing model of service provision for Crawley Homes gas repair servicing and renewal and for the provision of responsive repairs, voids and planned works.
- 2.3 Delegate authority to the Head of Crawley Homes in consultation with the Cabinet Member for Housing to commence an OJEU procurement exercise for gas repairs, servicing and renewal for a contract to commence 1st April 2019.
- 2.4 Delegate authority to the Head of Crawley Homes in consultation with the Cabinet Member for Housing to commence an OJEU procurement exercise for responsive repairs, voids and planned works for a contract to commence 1st April 2020.
- 2.5 Note that further Cabinet authority will be required for the award of any contract for the provision for gas repair and servicing and the provision of responsive repairs, voids and planned works.
- 2.6 Authorise the Head of Crawley Homes to procure the appointment of Procurement and Specialist Legal Advisors, which will be met from existing budgets as outlined in paragraphs 7.2 and 7.3.
- 2.7 Delegate to the Head of Crawley Homes in consultation with the Cabinet Member for Housing to evaluate the options for alternative provision of a repairs contact centre. To note that the estimated additional cost to the Council for this service is £148,041 outlined in paragraphs 6.6 and Appendix 1, and the aim of the review would be to mitigate the additional costs or find acceptable alternatives.

- 2.8 Subject to a satisfactory review as outlined in 2.7 to delegate authority to the Head of Crawley Homes in consultation with the Cabinet Member for Housing and Head of Finance, Revenues and Benefits, to negotiate with the current contractors Mears and Mitie to put in place an agreed alternative which might include the in-house option with transfer to the Council (TUPE), of call handling staff and for the Council to deliver this aspect of the service in advance of the appointment of a contractor for gas repair and servicing in 2019.
- 2.9 Note that additional ICT support may be required as set out in paragraphs 7.4 of the report to be funded through the current HRA Consultancy Budget with any additional costs for work required to be included within the HRA budget for 2018/19 as outlined in paragraph 7.5.

3. Reasons for the Recommendations

- 3.1 To ensure that the provision of repairs and maintenance continues to be provided to Council tenants and leaseholders.

4. Background

- 4.1 The current Gas Servicing and Repairs contract expires end of March 2019. The current provider of the service is Mitie Property Services. The contract commenced 1 April 2009 on a 5 year term with an option to extend for a further 5 years. We are now in the second phase of the contract and have moved to an open book, cost plus basis. An open book contract is one where the costs associated with the running of that contract are shared with parties to that contract. The cost plus arrangement is one where the costs associated are all paid by the client with specified contractor uplifts which in this case are central office overheads and profit. The current value of the contract is approx. £1.5m per annum.
- 4.2 Responsive Repairs and Voids was let in April 2010 for a 10 year term in two lots; one lot provided by Mears and the other lot provided by Mitie. From the start of the contracts these have operated on an open book, cost plus basis (although procured utilising a schedule of rates). The current contract value for both is approx. £7.8m per annum which includes an element of capital works carried out within the revised approach to voids.
- 4.3 Planned Works was let as one lot within the Responsive Repairs and Voids procurement with a commencement of 2012 but also running to 2020. The current contractor is Mitie and the current contract value is approx. £11m per annum.
- 4.4 In order to meet the timescales for an OJEU procurement exercise, work has been undertaken by Officers to review the options available for the future delivery of the service. These Options are:
- Taking the service in-house to create a Direct Labour Organisation (DLO)
 - Creating an alternative model for delivery which provides the structure similar to creating a DLO – a wholly owned subsidiary (WOS).
 - Creating a vehicle to allow for the incorporation of development and future expansion of services – a Joint Venture Company (JVC)
 - Procurement of contractor/s to deliver the service - Outsourcing

- 4.5 All of the options above can be applied to the whole of the service or to parts. For simplicity the options appraisal assumes the option to be applied to the whole service.
- 4.6 The delivery of these large scale projects requires additional support in the form of both legal advice; project management, procurement and ICT strategic advice. Specialist Procurement and Legal advisors will need to be appointed.

5 Description of Issue to be resolved

- 5.1 The Council's contract for Gas Servicing and Repair, will expire at the end of March 2019 and Responsive Repairs, Voids and planned maintenance at the end of March 2020. Large scale procurement exercises of this nature require significant planning and reasonable time for contract mobilisation/handover.
- 5.2 To ensure a successful contract letting for gas servicing and repair in 2019 work needs to commence over the summer to prepare the contract documentation. This activity will also be carried out for the Responsive Repairs, Voids and Planned services as some documentation will be duplicated.
- 5.3 To assist with this work it is intended to appoint specialist Procurement Advisors who will also draw up a project plan to ensure that tasks are delivered in order to meet the required timescales. The budget for this contract has been included within the HRA Consultancy Budget.
- 5.4 It is also intended to appoint specialist legal advisors to assist with the documentation of the contracts and ensure that timescales are achieved. The Council's legal team do not have capacity nor the specialist skills for a significant procurement of this nature

6 Information & Analysis Supporting Recommendation

- 6.1 The following paragraphs outline the Options that have been considered

6.2 CREATION OF A DIRECT LABOUR ORGANISATION (DLO)

- 6.2.1 There has been a current trend towards housing organisations setting up DLOs, (although these have predominantly been Housing Associations), the reasons are:
- It reduces costs as Value Added Tax (VAT) is then not payable for those organisations that are not able to claim back payment
 - Better management of the risk of contractors under-bidding and creating the problems seen with insolvency of major contractors such as Connaught.
 - Improved control on the levels of service provided leading to better cost management
 - Use of company to provide services externally and generate a profit to invest within housing stock.
- 6.2.2 Against this were concerns regarding the impact of taking on the contractor staffing structure:

- The ability to pay for the expertise of contract managers at the top end and therefore retaining quality staff
 - The limited opportunities for progress within the Council for repairs staff and therefore retention problems
 - Increased costs of running the service with the Council's terms and conditions.
 - Increased costs of managing the service on other services within the council such as HR, Payroll, finance and health and safety expertise.
 - The ability of the Council to develop and maintain a specialist IT system for the operation of repairs and maintenance
- 6.2.3 In order to test the assumptions regarding costs a financial exercise has been undertaken. The costs were broken down for the call handling service and the repairs operatives. The financial summary for the call handling team appears in Appendix 1 with the financial summary for the rest of the staff in Appendix 2 and are based on 2017-18 budget estimates.
- 6.2.4 The current cost of provision through the contractors for the call handling service is £276,903. Some of the CSAs do other duties such as some financial administration for the preparation of the monthly invoice.
- 6.2.5 The additional costs of direct employment on the same terms and conditions, accounting for the increase in National Insurance and Pension, would amount to approx. £60,283 with £6,018 for life/health insurance (which is currently part of the contractors' T&Cs).
- 6.2.6 However, if Employee salaries were brought in line with the Council grading scheme, the extra costs would increase to £70,881 plus the £6,018 for life/health insurance.
- 6.2.7 In addition, supervision is provided to the contractor CSAs through the existing contractor structure, and direct delivery requires two team leaders at a cost of up to £58,131 each. The call handling additional costs are covered in Appendix 1.
- 6.2.8 For remaining staff the financial impact of employing people directly is covered in Appendix 2
- For Mears, the additional costs of employing the operatives would amount to £226,986 with the remaining office staff at £29,598, a total of £256,584.
 - For Mitie, the additional costs of employing the operatives would amount to £296,454 with the remaining office staff at £60,756, a total of £357,210.
 - The total additional costs of employing operative staff directly is therefore assessed as being £613,794. This does not take in to account any change in working hours/overtime.
- 6.2.9 Currently the contractor staff work 45 hours (Mears) and 42 hours (Mitie) per week and reducing this to the Council's standard working week of 37 hours would have a significant impact in capacity to do the work.

- 6.2.10 Mitigating the additional employment costs would be the savings for the contractors' central office overheads and profit, which totals approximately £1,494,423 (2017/18 estimates) per year. Central office overheads covers the costs of IT provision (both contractors have bespoke repairs systems); HR; supply chain management; procurement; financial management and access to shared learning and knowledge within large specific companies.
- 6.2.11 There would still be a requirement to outsource the out of hours telephone service as the Council does not have the capacity to operate such a service.
- 6.2.12 Operating a large scale DLO would mean a significant amount of risk for the Council in directly operating high risk service areas such as gas servicing and would require a significant increase in support services covered by the contractor overheads. It was therefore felt that the disadvantages of a DLO outweighed any advantage from directly running such a service.

6.3 **WHOLLY OWNED SUBSIDIARY (WOS)**

- 6.3.1 In the WOS model the contractor staff would transfer in to the WOS and an EU procurement undertaken to procure contractor/s who would manage the workforce. More than one contractor could be appointed with an alliancing framework put in place to ensure co-operative working.
- 6.3.2 The key advantages of operating this type of model are:
- Maintains full contractor warranty for the work carried out
 - Provides significant control over service and strategic approach to delivery of supply chain & sustainability
 - Provides contractors with a commercial incentive to improve performance and productivity
 - Mitigates staff concerns regarding TUPE
 - Mitigates risk of contractor default/insolvency
 - Residents could be involved in the management of the WOS
- 6.3.3 The disadvantages are:
- Would still require a significant HR resource
 - Would require commercial incentives, possibly over and above what would be expected through procurement
 - Requires separate legal structure, financial structure and management
 - Will require registration with Companies House and may involve the payment of corporation tax
- 6.3.4 The WOS model mitigates a number of the risks associated with operating a DLO. However, there are complications with operating the separate legal structure and the model didn't offer significant advantages over the outsourcing model.

6.4 **JOINT VENTURE COMPANY (JVC)**

6.4.1 An EU procurement would be required to appoint a JVC partner, with current contractor staff being TUPEd to the JVC.

6.4.2 The advantages of a JVC are:

- Provides contractors with a commercial incentive to improve performance and productivity
- Mitigates staff concerns regarding ongoing TUPE
- Mitigates risk of contractor default/insolvency
- Provides significant control over service and strategic approach to delivery of supply chain, sustainability etc.
- Provides opportunity for third party business and for development opportunities

6.4.3 The disadvantages are:

- Requires separate legal structure and management of the JVC.
- Requires significant legal input to dismantle the JVC even when re-procuring.
- There is a significant management expertise required by both Council and contractor in running a separate business.
- Requires a significant HR, finance, health and safety resource which could come from either party to the JVC.
- Requires registration with Companies House and may involve the payment of corporation tax.

6.4.4 It was also considered whether a JVC could assist with bringing forward some of the smaller development sites. The complexities of setting up a JVC for repairs and development would limit the number of contractors. The HRA has limited capacity for further development to 2021/22, and the small number of available development sites will be difficult and not necessarily attractive to a contractor. As such we felt that this would complicate the procurement of repairs.

6.4.5 Without the additional benefits of either bidding for additional work or development the JVC model did not offer advantages over the outsourcing model.

6.5 **OUTSOURCING**

6.5.1 The current method of service delivery has enabled significant improvements for the customer since the contracts started in 2010. Both contractors have embraced the systems thinking methodology and the data has provided a good understanding of the services provided and the basis for ongoing improvements.

6.5.2 The open book cost plus approach has also enabled the Council as a client to fully understand the costs of providing the service and we would be in a strong position through the procurement process to evaluate the financial returns.

- 6.5.3 The other points which offer strong delivery of services is the joint location and true partnering arrangements with both the client and both contractors who have co-operated very successfully to share both resources and knowledge.
- 6.5.4 Outsourcing has provided the basis for the delivery of strong customer services, and a retendering process would enable some aspects of contract management to be improved through the contract documentation such as best utilisation of the local supply chain; firming up the status of the budget management and driving for increased efficiencies.
- 6.5.5 The key advantages of the outsourcing model are:
- Full contractor warranty of work (single point of responsibility)
 - Commercial incentives for contractor to improve performance/productivity
 - Commercial motivation and potential for supply chain savings/efficiencies – compatible with open-book pricing approach
 - Investment/commitment of contractors to large-scale contracts
 - Access to contractor ICT packages; corporate health and safety regime and expertise of delivery of services.
- 6.5.6 The key concerns for the model are:
- Alignment of contractor values with those of Crawley Homes especially in maintaining the systems thinking approach
 - Capacity/capability of contractors to undertake large-scale contracts and deliver promises
- 6.5.7 These aspects can be mitigated through the procurement process.
- 6.5.8 In considering how to package an outsourcing approach the options considered were:
- The ability to do one procurement exercise to enable the possibility of one contractor taking on all works; through either extending the gas contract for a further year or bringing forward the repairs procurement to run with the gas contract, with the effective date of 2020.
 - Running two separate procurement exercises for Gas in 2019 and Repairs in 2020.
- 6.5.9 The drivers for looking at one procurement exercise were the complexities and cost of running large scale procurements and the advantages of having one contractor running the contact centre. However, the different work streams involved would require separate specifications and if run as separate lots would still require separate evaluations.
- 6.5.10 The benefits of having one contractor were not found sufficiently compelling to overcome the advantages of enabling a specialist gas contractor to bid and also having the repairs contracts split in to two so that the risk of a contractor failing were mitigated by having another contractor already working within Crawley. There have

been other benefits of having two contractors delivering repairs as benchmarking has been possible between the two as well as comparisons regarding approach, commercial overviews and organisational culture.

- 6.5.11 If the repairs package is split for the benefit of having two contractors covering this work then the two lots would cover all repairs, voids and planned works within the geographical area. This better facilitates the approach to the repairs team purpose of “doing the correct work at the right time” and not handing off to a different contractor for larger or more complex work.
- 6.5.12 As we have a very good understanding of the cost of delivering the service, one model under consideration is for price evaluation is the Optimum Price Model which would state how much we would expect to pay for the service. Utilising this model would require a significant shift away from the usual pricing of tenders to a 75/25 ratio in favour of quality. This percentage ensures that the decision on appointment is not solely determined by price.

6.6 LIMITED INSOURCING

- 6.6.1 There is an opportunity to provide better service options for customers by having all call handling operated by the Council. Customers would be able to access the repairs team through one direct line and it would also provide better cover arrangements and offer the flexibility of organising different contractors around the provision of this central team.
- 6.6.2 This option would not need to wait until the contracts were re-procured but could be done ahead of the procurement by negotiation with the current contractors. This would enable an easier transition of work to any new gas servicing contractor coming in. The additional cost of directly employing the call handling team is estimated to be £76,899 with an additional cost of employing team leaders (x2) being £71,142. Total additional cost £148041.
- 6.6.3 Some additional costs may also be required within the contractors’ structure as there will still be a requirement for some call handling to operatives and administrative work.
- 6.6.4 TUPE would apply for those staff currently employed by the contractors in their call handling teams.
- 6.6.5 The proposal is to review this option in more detail to see if the additional costs of this proposal can be mitigated by reduction of waste within the system and the evaluation of an improved customer service. Crawley Homes staff will be undertaking a service wide systems thinking review starting summer 2017 which will provide the opportunity of following the customer experience.
- 6.6.6 The options under consideration would be whether the WOS are JVC could be utilised to provide one repairs contact centre.

7 Consultancy Support

- 7.1 Professional support is required to assist in developing a timeline of required activity, project management to ensure completion of relevant tasks, support in preparing documentation, serving notices, developing questions and evaluation to ensure a rigorous procurement exercise that delivers the best contractor for our needs.

- 7.2 This can be achieved with the appointment of Procurement Advisor who will also act as a critical friend to challenge the strategic approach to ensure all aspects of procurement and future methods of working are considered. A budget of £35000 has been included within the HRA consultancy budget for this task which will cover both procurements.
- 7.3 In addition, the preparation of the contract documents, serving of specific notices, and ensuring all legal aspects of the process are rigorously adhered to requires additional legal support. A budget of £35000 has been included with the HRA consultancy budget for this work.
- 7.4 Prior to the new contracts starting there is a requirement to review the number of IT systems and interfaces currently operating, to enable a smooth transition to any new contractor IT systems. This will require additional consultancy support which initially will be within the existing consultancy budget.
- 7.5 Through the mobilisation period there is also a significant IT resource required to ensure the new contractor systems are successfully integrated with the housing databases. As this will be happening when the current programme for the new town hall will also be reaching a critical point there may be a need for additional ICT support. When the outcome of the ICT review is known and an assessment made of the internal capacity to carry out this work additional HRA resources may be required. This would form part of the HRA budget for 2018/19.

8 Implications

8.1 Legal Implications

- 8.1.1 The options for the delivery and future management of Crawley Homes repairs services comprising of gas repair and servicing, responsive repairs, voids and planned works have various legal implications.
- 8.1.2 The preferred option is to continue to outsource Crawley Homes repair services. The value of these contracts will require Notice in the Official Journal of the European Union and a tender procedure that complies with the Public Contracts Regulations 2015. The procurement must also comply with the Council's Procurement Code.
- 8.1.3 External legal advisors will be appointed to advise the Council on this significant procurement project.
- 8.1.4 The Transfer to the Council of call handling staff from Mitie and Mears will be subject to and in compliance of The Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended (TUPE)

8.2 Equality Implications

- 8.2.1 The Council is required to have due regard to its Equality Duties and in particular those set out in section 149 of the Equality Act 2010 to eliminate discrimination, harassment, victimisation and eliminate any other conduct that is prohibited by or under the Act, advance equality of opportunity between persons who share a protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Subject to approval of the recommendations, the Council's equality duty

will be assessed at various stages of the procurement exercise, the Equality Impact Assessment (EIA) will be updated as the project moves forward.

8.3 Consultation

- 8.3.1 Under Section 105 of the Housing Act 1985 the Council, as it considers appropriate, should consult tenants to enable those individuals who are likely to be significantly affected by a matter of housing management and delivery of housing services to which Section 105 applies to be informed of the Council's proposals about it, and to make their views known to the Council within a specified period.
- 8.3.2 The recommendation is retaining the status quo for the delivery and management of repair services. Although it is recommended consultation takes place with tenants and leaseholders to seek their views on options and views generally so as to assist and contribute to the procurement exercise.
- 8.3.3 An all member seminar was held on 13 June 2017 to enable Members to be consulted on the proposals. Members were broadly in favour of the recommendation to outsource the delivery.

8.4 Financial Implications

- 8.4.1 The costs of procurement will be met from within existing set aside budgets and that the outcome of the tendering process will be reported back as outlined in paragraph 2.7 above.

9. **Background Papers**

None

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Additional Costs of Direct Provision of Call Handling

Customer Service Advisor Cost Comparison

Mitie (10 x CSA)	2017-18 Budget Estimate				
	Contractor	TUPE	Variance to Contractor	CBC T&Cs	Variance to Contractor
	£	£	£	£	£
Basic Salary	185,237	193,906	8,669	201,596	16,359
NI	14,454	22,687	8,233	23,587	9,133
Pension	3,060	40,914	37,854	42,537	39,477
Sub Total	202,751	257,507	54,756	267,720	64,969
Life / Health	6,018	6,018	0	6,018	0
Gross	208,769	263,525	54,756	273,738	64,969

Mears (3 x CSA)	2017-18 Budget Estimate				
	Contractor	TUPE	Variance to Contractor	CBC T&Cs	Variance to Contractor
	£	£	£	£	£
Basic Salary	59,700	59,999	299	60,289	589
NI	8,141	7,020	(1,121)	7,054	(1,087)
Pension	293	12,660	12,367	12,721	12,428
Sub Total	68,134	79,679	11,545	80,064	11,930
Life / Health			0		0
Gross	68,134	79,679	11,545	80,064	11,930

TOTAL	276,903	343,204	66,301	353,802	76,899
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Supervision salary estimates on CBC pay grading

*Grades based on similar CBC roles

	Budgeted on Top Scale	Pro-Rata Salary		
		Salary	On-costs	Total
CSA Team Leader - G (Scale 26 to 29)	29	£ 28,473	£ 3,331	£ 31,804
CSA Team Leader - H (Scale 30 to 33)	33	31,845	3,726	35,571
CSA - D (Scale 14 to 17)	17	20,559	2,405	22,964
CSA - E (Scale 18 to 21)	21	22,925	2,682	25,607

Summary costing estimate of a Team Leader:

	Grade G29	Grade H33
	£	£
Gross Salary	31,804	35,571
Employee insurance	523	523
Central Support*	22,037	22,037
TOTAL	54,365	58,131

*Current cost per HRA staff

Summary total for delivery of Contact centre

Estimates based on the recommendation of 12 - 13 x CSA's and 2 x CSA Team leaders

	TUPE	CBC T&Cs
	£	£
Additional cost of CSA Salaries	66301	76899
2 x CSA Team Leaders	71,142	71,142
Employee insurance	7,845	7,845
Central Support	44074	44074
Total Estimated cost	189362	199960

Additional Costs of Direct Provision of Operative Repairs StaffComparison of costs for remaining contractor staff**Mears**

Mears Operatives

	Mears Cost £	CBC Estimate £	Variance £
Salaries	1,129,639	1,129,639	-
NI	108,852	132,168	23,315
Pension	34,683	238,354	203,671
Gross	1,273,174	1,500,160	226,986

Mears Office staff excluding CSA

	Mears Cost £	CBC Estimate £	Variance £
Salaries	175,987	175,987	-
NI	23,998	20,590	(3,408)
Pension	4,127	37,133	33,006
Gross	204,112	233,710	29,598

TOTAL MEARS	1,477,286	1,733,870	256,584
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Mitie

Mitie Operatives

	Mitie Cost £	CBC Estimate £	Variance £
Salaries	2,144,373	2,115,527	(28,846)
Health/Life	27,603	27,603	0
NI	190,857	204,846	13,989
Pension	58,113	369,424	311,311
Gross	2,420,946	2,717,400	296,454

Mitie Office staff excluding CSA

	Mitie Cost £	CBC Estimate £	Variance £
Salaries	487,777	487,777	0
Health/Life	10,245	10,245	0
NI	52,960	57,070	4,110
Pension	46,275	102,921	56,646
Gross	597,258	658,013	60,756

TOTAL MITIE	3,018,203	3,375,413	357,210
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TOTAL	4,495,489	5,109,283	613,794
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