

FOR PUBLICATION

FUTURE ARRANGEMENTS FOR THE REPAIR AND MAINTENANCE OF THE COUNCIL HOUSING STOCK (H000)

MEETING:	1. CABINET 2. EXECUTIVE MEMBER FOR HOUSING
DATE:	1. 21 APRIL 2015 2. 14 APRIL 2015
REPORT BY:	HOUSING SERVICES MANAGER – BUSINESS PLANNING AND STRATEGY
WARD:	ALL
COMMUNITY ASSEMBLY:	ALL
KEY DECISION REFERENCE (IF APPLICABLE):	499

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1.0 **PURPOSE OF REPORT**

- 1.1 To advise Members of the forthcoming expiry of the Housing Repairs and Maintenance Contract 12 and of the requirement to make proper arrangements for the continuing repair and maintenance of the Council's housing stock beyond the 5 October 2015.
- 1.2 To set out the options available to the Council in and to recommend a preferred option with appropriate supporting evidence and rationale.

2.0 **RECOMMENDATIONS**

- 2.1 That the Council negotiates and enters into a Service Level Agreement with the Housing Services' Operational Services Division for the future provision of the housing responsive and planned repair works programmes with effect from the 5 October 2015.
- 2.2 That the Operational Services Division performance against the terms and conditions of the Service Level Agreement be subject to internal review on an annual basis.

3.0 **BACKGROUND**

- 3.1 The OSD has historically submitted tenders in open competition for Housing Repair Works by contract with the Council. This process has been taking place since the inaugural Compulsory Competitive Tendering of 1979, and OSD has always been successful in tendering for this work in the open market, and against open-market competition.
- 3.2 The OSD has a strong track record of success and compliance in respect of the volume of work undertaken, scope of works, competitive pricing of works, and quality of works and has been able to align this with high and increasing levels of tenant satisfaction.
- 3.3 A formalised tender process has normally been utilised by the Council, with the OSD having to submit a tender to the Council in exactly the same way as external contractors. The OSD has then been subjected to the same rigorous internal scrutiny and auditing carried out by Business Planning and Strategy (formerly the Design Services Team).
- 3.4 The latest contract (Contract 12) is due for renewal on October 6th 2015. The scope of works which would be included in the tender document relate to –
1. Repairs and maintenance of Council owned dwellings
 2. Programmed maintenance
 3. Gas Servicing
 4. Voids

3.5 The value of this work for 2015/16 is £9.166million, with similar values in following years. The budget and scope of these works was approved by Cabinet on the 10 February 2015.

4.0 **LEGAL AND CONTRACT RULES**

4.1 It has been confirmed by the Council's Legal Service that EU procurement rules do not oblige local authorities to tender for services which they directly manage themselves - there is as yet no "EU CCT".

4.2 Generally public procurement rules do not apply to contracts which are awarded by a public authority as part of an in-house arrangement. This is because the authority is deemed as a matter of law to be incapable of contracting with itself but can negotiate works internally by means of a Service Level Agreement (SLA).

4.3 As can be seen from the above there is nothing to prevent the Council awarding the work that would have been covered by Contract 013 directly to the OSD, in-house team.

5.0 **THE CASE FOR NEGOTIATING A SERVICE LEVEL AGREEMENT**

5.1 The case to negotiate a service level agreement (as a successor to Contract 012) with OSD is supported by the following and which demonstrate compliance with the principles of Value for Money.

5.2 Through the application of a restructure and stronger corporate alignment, a more integrated Housing Service has evolved and a more effective and customer focused housing repairs service has emerged. This view is strongly supported by tenants, tenants' representatives, and is evidenced by the step change in the last few years in tenants' satisfaction within the repairs arena.

The 2013 Tenant Satisfaction Survey carried out by the Council's Policy Service returned an overall satisfaction survey of 80% for the housing repairs and maintenance survey, compared with the previous return of 76.3% for the 2008 survey.

5.3 Performance management – an integral part of OSD culture has increasingly been directed at improving performance targets set by

the Government and also at a local level. Performance levels are generally at a high level with many KPIs at 2nd quartile level and above and improving.

- 5.4 OSD is moving towards a more commercial approach that will generate income from the private sector and align with the corporate 'Great Place; Great Service' objectives of the Council. To enable this to progress at pace, OSD needs to have stability in its core work functions and consequent income base that the commercial arm will be attempting to build on. This stability will be afforded by the Council granting this repairs contract / service level agreement to OSD.

6.0 **VALUE FOR MONEY, BENCHMARKING AND EXTERNAL ACCREDITATION**

- 6.1 The Association for Public Service Excellence (APSE) organisation is a nationally acclaimed body that independently provides benchmarking, comparative performance information and regularly publishes statistics on performance for public service organisations by means of a suite of KPI performance indicators and Direction of Travel assessments.

An integral part of this benchmarking is evaluating comparative costs and Value for Money considerations. To be classified as a 'top performing organisation' means that the annual data submitted to APSE has automatically been subjected to a rigorous value for money exercise and that the named organisation has demonstrated this.

Chesterfield Borough Council has attained 'Building Services Maintenance Excellence' when subjected to this assessment, and this is externally validated evidence that the organisation provides Value for Money.

The Council has been awarded finalist status within the APSE annual awards for 3 of the past 4 years.

- 6.2 The performance outlined above is also evidenced and confirmed with further external validation by virtue of the OSD membership with Housemark, being the premier benchmarking club of the Chartered Institute of Housing.

- 6.3 The OSD also tests itself with various external contracts and competitive tendering bids for supplementary works, with a high level of success.

Programmed works are benchmarked and market tested regularly, and in this way it can be proven that OSD is competitive in the following areas of work:

1. Window fixing and upgrade contracts
 2. Adaptations
 3. Kitchen refurbishments
 4. Central Heating installations
 5. External painting to Council Houses
 6. Roofing renewal works
- 6.4 From 2011, the former Head of Housing applied a 15% reduction across the board to the 'schedule of rates' paid to OSD, this being the method of payment from client to contractor. These rates were applied over 3 consecutive years (2011/12/13) with a 5% reduction year on year resulting in a 15% saving overall to the client side.
- 6.5 OSD has still managed to date to return a surplus year on year in spite of these reductions applied to the income base, which is the equivalent of a £700k reduction in income at present rates.
- 6.6 OSD was recently successful in tendering for the construction of a new pavilion at Eastwood Park, Hasland, which not only assists the Council in making savings to the General Fund, but demonstrates the competitive pricing structure and operational application within OSD. This project is presently progressing on target and within budget with a completion date of the end of April 2015.

7.0 **FINANCIAL CONSIDERATIONS**

- 7.1 By the end of the 6 year period of Contract 012 it is forecast that OSD will have generated surpluses of £4.1 million, of which £3.3 million will have been returned to the HRA for reinvestment in the housing stock. The balance of £0.8 million has been retained by OSD and invested in the service. The main areas of investment have been a new contractor IT system (COINs which is due to go live in May 2015), a massive upgrade to the Stonegravels Depot (to improve facilities for both staff and the public) and new plant and

equipment to further improve the efficiency of OSD. The average rate of return on Contract 012 over its life is expected to be around 5%.

- 7.2 The Housing Repair and Maintenance Contract currently provides OSD with over 50% of its turnover. As this work is more or less guaranteed, a substantial proportion of the overheads of OSD are recovered on this work. This allows OSD to tender more competitively for other work such as the Housing Capital Programme. Without the core of repair and maintenance work it is highly likely that OSD would become uncompetitive and not gain the other work. Ultimately this could lead to the closure of OSD.
- 7.3 The high proportion of overheads charged to the repair and maintenance contract also reflects the complexity and cost of providing a comprehensive service to tenants, including 24 hour emergency cover. OSD deals with over 50,000 responsive and planned repair jobs per annum under this contract, which call heavily on OSD resources.
- 7.4 Had the contract been carried out by an external contractor any surpluses achieved would not have been returned to the HRA.
- 7.5 It can be seen from the above that the retention of the Repairs and Maintenance contract / service level agreement is key to the on-going success of OSD and provides stability for the future.
- 7.6 The last time this work was exposed to competitive tender OSD won the contract by a considerable margin.

8.0 **HUMAN RESOURCES IMPLICATIONS**

- 8.1 If the contract is re-tendered and the in-house team is unsuccessful in winning the work in open competition, the employees working on the contract will be subject to a transfer to the successful company under the TUPE regulations. This will create significant additional work for the HR, Legal and Procurement teams and therefore also considerable expense.
- 8.2 Following a transfer of such a large number of staff the Council would need to review the corporate support services (client side) to establish whether any employees who work predominantly on that

work area are eligible for transfer. Furthermore the future requirement for such support services may diminish requiring actions to reduce staff numbers (for example payroll, HR accountancy etc.).

8.3 Staff morale at OSD may be adversely affected by the lack of stability perceived by re-tendering Contract 013 and recruitment and retention would also suffer as a result.

9.0 **THE ADVANTAGES OF A SERVICE LEVEL AGREEMENT WITH OSD**

9.1 There are a number of significant factors that can be considered:

- Negotiation of a Service Level Agreement provides stability for the Council and in particular for tenants who have built up a relationship of trust with OSD operatives and staff. They know who to contact and what to expect from the present set-up. Such a good reputation should be protected and maintained for tenants allowing operatives into their homes.
- Although the past 20 years have seen the demise of many Direct Labour Organisations there is now a move nationally to revert back to DLO organisational structures.
- Quality Control is more effectively retained by a close client/contractor relationship that an OSD provides.
- The emergency call-out repairs service is currently linked with Careline to provide a strong in-house call-out service and this would be lost.
- Negotiation will save the significant costs of tendering process and all the associated staff time that has to be dedicated to the process.
- Retention retains the unity of the Housing Service where relations are much stronger than with external contractors.
- Negotiation meets the policy of staff retention and recruitment.
- All surpluses are retained within the Council and redeployed within the HRA for the benefit of tenants.
- A known, trusted, high performing service would be retained.

- OSD have attained 'Building Services Maintenance Excellence' validation with APSE and have been awarded finalist status within the APSE annual awards for 3 of the past 4 years. This externally validated evidence demonstrates that the organisation provides high quality services and value for money.

10.0 **RISK ASSESSMENT**

- In the present economic climate it is possible that key players within the industry (external contractors) may seek to 'buy' a repairs and maintenance contract to retain their staff on a short-term basis, and as an investment for future works if the works were subject to an open tender process.
- If the contract is lost the Housing 'Client' will have to increase in capacity, and pay for a client side function to monitor the external repairs and maintenance contract, and to ensure compliance with same. This is likely to be very costly as well as divisive to good relations.
- Overheads will increase as the residual non-Housing and non-contract OSD functions will have to absorb the same costs. The new contractors may not choose to take up the present site and assets which could prove even more costly.
- The end result of this is that it could lead to a complete cessation of OSD in the near future.
- External Contractors adopt a profit focussed approach. This is sometimes already evidenced with present supplementary contracts, where variation orders and claims if not checked, are regularly submitted.
- The customer service delivery can become secondary to achieving a high rate of return for the company.
- Customer service could also decline because tenants will no longer know who they are dealing with, and the tenant/operative relationship will suffer.
- Although it may be argued that existing staff will transfer under TUPE regulations, a high percentage of staff will leave before, during and after the hand-over period. There is evidence of this at other comparable organisations and indeed, to a lesser extent, this happened at the OSD with the non-housing contract in 2007.

- Of the 195 employees in OSD, 118 could potentially be affected by the loss of works if subject to an open tender process, although a small number may be retained in a new client team.
- All surpluses would be lost to the Contractor to the dis-benefit of the tenants.
- There will be a loss of contribution to Corporate overheads.

These risks may be summarised in the following table:

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
High Costs of tendering and demands on staff time	High	High	Negotiate the works by SLA to reduce costs and impact on staff time	Medium	Low
TUPE process applies if tender is lost by DLO	High	High	There is no TUPE process required by a negotiation of an SLA	Low	Low
Additional overheads added to General Fund by loss of in house DLO team	High	High	Maintain equilibrium and contribution to General Fund by retaining in-house DLO	Medium	Low
Larger Client side section would be needed to supervise a new contractor	High	High	Client side resource can supervise the DLO in line with present arrangements	Low	Low
OSD would be lost permanently	High	High	OSD is retained by SLA renewal of contract	Low	Low

OSD performance in terms of delivery, quality, satisfaction of tenants, surplus shows a marked decline	High	Low	Stringent top quartile KPI's are negotiated as part of the SLA. Repairs and Maintenance Service could be tendered at a later date if performance requirements are not met	Medium	Low
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11.0 **CONSULTATION**

11.1 There is a powerful endorsement from the Tenants of Chesterfield Borough Council that they wish to continue with the housing repairs service provided by the OSD, which adds support to the recommendation to negotiate a service level agreement with the OSD.

12.0 **EQUALITY ISSUES**

12.1 An Equality Impact Assessment is attached at **Appendix 1**.

13.0 **SUMMARY**

13.1 This report seeks approval to negotiate a Service Level Agreement, in line with the legal guidelines contained in the Public Contracts Regulations 2006. By doing so, this will provide seamless service delivery to tenants of Chesterfield Borough Council in respect of its housing repair services.

13.2 The alternative option, if Members were minded to, would be to subject the Repairs and Maintenance Service to an open tender process in accordance with the OJEU Regulations due to its size and value. This process could take in the region of 6 to 9 months and would need to commence immediately in order to award the contract prior to its expiry on the 5th October 2015.

- 13.3 It is not proposed to put a timescale on this Service Level Agreement with OSD e.g. 5 years, but to instead negotiate this on similar terms to that of any other existing Service Level Agreement with in house service providers. Stringent key performance indicators (KPI's) will be included within the service level agreement in relation to services to tenants, e.g. timescale for completing repairs, void relet time, gas servicing, quality of repairs and surplus returned to the Housing Revenue Account. These will be monitored by the Business Planning and Strategy, Housing Services 'client' function on an annual basis and will involve a degree of external validation by utilising APSE and Housemark. If the required levels of performance are not met then the work programme could ultimately be put out to tender at a later date.
- 13.4 The OSD has a strong local and regional reputation, with knowledge of the area and an understanding of the make-up and requirements of the stock profile and a good relationship with the tenants who reside therein.
- 13.5 As the opportunity is available to negotiate a service level agreement with OSD it would be expensive, divisive and unsettling in many respects to tender at this stage. This is especially the case in the current economic climate when there is a fear that this work will be 'bought' as a loss-leader with subsequent problems of poorer quality and higher costs for the Council.
- 13.6 If this happens, once the OSD is replaced it cannot be recalled and is gone for good. The retention of OSD at this stage in the evolution of Housing Services is intrinsically linked with the Stock Retention Strategy and the preservation of options for the future service.
- 13.7 The repairs and maintenance work package only applies to responsive repairs at OSD, but to lose it will, in reality, affect the remaining OSD services and effectively signal the demise of the entire OSD operation as overheads will rise and prove unsustainable to what remains at OSD.

14.0 **RECOMMENDATIONS**

- 14.1 That the Council negotiates and enters into a service Level Agreement with the Housing Services' Operational Services Division (OSD) for the future provision of the housing responsive and

planned repair works programmes with effect from the 5th October 2015.

14.2 That the Operational Services Division performance against the terms and conditions of the Service Level Agreement be subject to internal review on an annual basis.


15.0 **REASONS FOR RECOMMENDATIONS**

15.1 To contribute to the delivery of the Council's Corporate priorities 'To improve the quality of life for local people' and 'to provide value for money services'

**ALISON CRAIG
HOUSING SERVICE MANAGER – BUSINESS PLANNING AND
STRATEGY**

Further information on this report can be obtained from Alison Craig on extension 5156.

Officer recommendation supported.



Signed

Executive Member

Date 14.4.2015

Consultee Executive Member/Support Member comments (if applicable)