



AGENDA ITEM: 9
SUMMARY

Report for:	Cabinet
Date of meeting:	24th July 2012
PART:	1
If Part II, reason:	

Title of report:	Procurement Options Appraisal of the Models of Delivery Available for Housing Repairs, Maintenance, New Build and Improvements.
Contact:	Councillor Margaret Griffiths, Portfolio Holder for Housing Landlord Responsible Officer: Mark Gaynor Corporate Director Housing and Regeneration Authors: Fiona Williamson Group Manager Property and Place, Elliott Brooks Assistant Director Housing Landlord.
Purpose of report:	To provide a report outlining the extensive Options Appraisal that has been undertaken and to seek direction from members as to the preferred option for delivery, following consideration of risks and benefits and the Corporate Priorities.
Recommendations	1. That Cabinet note the scope and progress of the options appraisal and approve that options 1, 2 and 5 are taken forward to be considered in more detail.
Corporate objectives:	The Options Appraisal has been undertaken to assess the most beneficial model for the delivery of the repairs, maintenance, improvement and new build within the housing portfolio to support the Council's Corporate objectives and contributes to: Affordable Housing To provide a repairs and maintenance service in line with current best practice and one that provides value for money and most economical use of resources. To promote tenant involvement in deciding type of service

	<p>preferred.</p> <p>To provide a repair service that is consistent regardless of the type of work.</p> <p>To enable the delivery of new affordable homes.</p>
Financial Implications:	Full details will not be available until the pricing mechanism is agreed at the pre-tender stage of the procurement process.
'Value For Money Implications'	The Options Appraisal has considered the value for money implications of the various models of delivery.
Risk Implications	The Options Appraisal has included a risk matrix to identify the key areas of risk, which have been weighted to provide an overall assessment of the risks and benefits associated with each model of delivery.
Equalities Implications	The Options Appraisal has outlined the requirement to consider any equalities implications during the pre-tender stage of the procurement process to ensure that the tender addresses any equalities issues that are identified. An Equalities Impact Assessment for the project has been drafted and is provided at Appendix B.
Health And Safety Implications	The Options Appraisal considered the management arrangements of each model and the potential Health and Safety implications. All of the differing contractual arrangements arising from the considered models do not reduce the liability of the Council with regard to its Health and Safety obligations. Therefore the ability to manage and monitor high areas of risk has been considered in the Options Appraisal in order to minimise the chance of any Health and Safety issues arising.
Monitoring Officer/S.151 Officer Comments	<p>Deputy Monitoring Officer:</p> <p>The report is confined to an options appraisal for the future procurement of the housing repairs, maintenance and improvement contract and as such the legal implications are minimal at this stage. It is noted that the option of a Joint Venture Organisation (JV) forms part of the recommendation as Option 5. There are significant and complex risk and legal implications if a JV is to be considered when compared to Options 1 & 2 and specialist advice will be required to assess the full risk and agree the governance/contractual documentation in order to minimise the risk to the authority if this option is to be pursued.</p> <p>S.151 Officer</p> <p>The first stage of the procurement process eliminated possible delivery models on the basis of what would be operationally suited to the Dacorum requirements. The next stage of the process will require greater financial evaluation, in order to narrow down the remaining options (all of which could work operationally) to a single recommended delivery model. There</p>

	<p>is Finance representation on the project board.</p> <p>In particular, a key factor to consider will be the balance of potential rewards derived from appointing a single supplier responsible for planned and responsive maintenance, with the increased risk of concentrating a contract of this magnitude with a single contractor.</p> <p>It's important that there is strong communication between this project board and the board responsible for reviewing CSU delivery models, as feedback from the Housing 'Meet the Buyer' day suggested that the larger suppliers would prefer to manage the call centre, which could have significant implications for the scope and financial evaluation of the CSU project.</p> <p>To ensure that the impact of the evaluation criteria (for example quality versus costs) is understood, when chosen, there should be compliance throughout the procurement process with the recommendations made by the Audit Commission and the 2010 Bowles Report accepted by Council on 21 April 2010.</p>
<p>Consultees:</p>	<p>Councillors: Margaret Griffiths, Portfolio Holder Housing Landlord, Nicholas Tilley, Portfolio Holder Finance and Resources.</p> <p>Tenant Representatives; Tenants and Leaseholder Committee and Maintenance Focus Group</p> <p>Procurement Project Board</p> <p>Andy Vincent, Group Manager Tenant and Leaseholders</p> <p>Janice Milson Assistant Director Strategy & Transformation, Community & Organisation</p>
<p>Background papers:</p>	<p>Cabinet report 18th October 2011, Future Procurement Options for Housing Repairs.</p> <p>Repairs and Maintenance Procurement Strategy Project Initiation Document 1st May 2012</p> <p>Cabinet report 29th May 2012, Dacorum Borough Council Housing Revenue Account Business Plan</p> <p>Cameron Consulting Report Options Appraisal for the future procurement strategy to deliver the repairs, maintenance and improvements to the Councils Housing and related assets July 2012.</p>
<p>Acronyms and other abbreviations used in this report</p>	<p>HCA - Homes and Communities Agency</p> <p>JV - Joint Venture</p> <p>LLP - limited liability partnership</p>

	PWLB - Public Works Loan Board SMEs - Small and Medium Enterprises
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BACKGROUND

The Council are currently engaged in a number of contracts to deliver various elements of the planned, cyclical and responsive repairs programmes. Since these contracts were established there have been fundamental changes to the way social housing is funded (i.e. the introduction of self financing) which have enabled the Council to develop a Business Plan that allows a higher level of investment in the stock. Additionally self financing provides an opportunity for the Council to develop new affordable housing, in part funded by the Homes and Communities Agency (HCA) in the early years.

The current contracts were established based upon the investment requirements of a business plan that had significant levels of under investment arising from the historic subsidy arrangements. Therefore the ability to proactively plan the majority of work was in part undermined by the necessity to prolong the life of components by undertaking day to day repairs.

The contracts for planned work and responsive repairs were procured individually. Apollo London Limited, now part of Keepmoat as the result of a recent merger, deliver the Decent Homes planned work and MITIE deliver the responsive repairs, following the outsourcing of the Direct Labour Organisation in 2008.

In October last year Cabinet agreed to align the existing contracts for delivering the repairs, maintenance and improvements, in order to provide an opportunity for more options for the various methods of delivery, to be considered.

Since the report to Cabinet in October, the reduction in the interest rate from the Public Works Loan Board (PWLB) and the ability to leverage further benefits from internal borrowing from the General Fund have resulted in additional monies for investment being available. The details were outlined in the Business Plan that was approved at Cabinet on the 29th May 2012 and provided the increased levels of investment in the stock in order to achieve the Dacorum Standard and for the delivery of new Council housing.

In order to ensure the model that is selected for the delivery of these work programmes provides both value for money and aligns with the corporate and tenant priorities, a comprehensive Options Appraisal has been undertaken. As well as traditional contracting models, the viability and risks associated with alternative models have been explored.

The Options Appraisal has been conducted over the past six months and there has been a high level of engagement from the market, which has welcomed the approach as it has provided an opportunity for contractors' views to be considered in the procurement process. The Options Appraisal has provided extensive information regarding the market conditions, peer organisations experience and a risk analysis surrounding each option. During the process of the research the initial options were further refined, based upon the information being assimilated. The following list outlines the options that have been considered:

Option	Model	Description of the Model
Option 1	Outsourced Multiple Contracts (A) (planned and responsive maintenance together)	Single contract awarded to one or two contractor(s) to deliver all areas of the service. – The Borough could be subdivided into two geographical areas and two contracts awarded. Gas servicing and other specialist compliance issues will have separate contracts. A separate framework agreement would be established for the delivery of new homes.
Option 2	Outsourced Multiple Contracts (B) (different contractors for responsive and planned maintenance)	A number of contracts would be awarded to deliver the various types of work. Planned capital work, responsive repairs and gas servicing would be separate contracts. Contractors would be restricted to bid for one work stream and there would be no ability for them to deliver more than one type of work. A separate framework agreement would be established for the delivery of new homes.
Option 3	Outsourced Multiple Contracts (C) (different contractors for responsive and planned maintenance with planned maintenance being carried out under a framework agreement)	Separate contracts would be awarded to deliver the responsive repairs and gas servicing; a framework agreement would be established for the planned capital works and a further framework for the delivery of new homes. A number of smaller contracts would be awarded with specialist service providers such as lift servicing or water treatment.
Option 4	In-sourcing/ management contracting	A directly employed labour force is employed to deliver the repairs, planned programmes of work and gas servicing. The options for managing the workforce are using the existing client team or employing management contractors.
Option 5	Joint venture organisation	A joint venture would be established to include Dacorum Borough Council and one or more contractors to deliver all of the works and services, with the possible exception of gas servicing and compliance issues (as in Option 1).

Option	Model	Description of the Model
Option 6	Employee Led Mutual	Mutual established by existing employees , directly employing Small and Medium Enterprises (SMEs) to deliver the various programmed and cyclical maintenance and responsive repairs.

With the exception of the employee led mutual, there are examples of all of the other models being successfully delivered for both local authority retained stock and/or for registered providers of social housing. It was necessary, therefore, to determine the best option for delivery in Dacorum, based upon the corporate priorities and visions and aspirations of the tenants.

Scope of service provision

One of the initial considerations that had to be defined, was the scope of the services that are to be delivered under the new contractual arrangements; however in order to respond to / assess the views of the market it was necessary for this to be drafted in outline only, so that final decisions could be informed by the information collated during the options appraisal.

There are three main service areas that are definitively within scope of the project as follows:

- 1) All repairs and improvement work, which are currently managed and undertaken by contractors to housing properties.
- 2) All work that has been jointly procured to benefit from economies of scale and includes housing and corporate buildings i.e. lift servicing and Legionella management.
- 3) The maintenance and refurbishment work to garage blocks.

The following service areas have been consulted upon during the soft market test; however a decision upon whether these remain in scope has yet to be determined:

- The ability to deliver new build affordable housing
- The potential to include in the outsourcing the repairs element of the call centre activity and the client-side technical services team.

The timing of the current market test of the call centre, did not allow for a decision to be made at this stage; however the findings from this options appraisal will be fed back to the Performance and Improvement team for further consideration with regard to the future options for this part of the service.

Following the decision made by the Council in January 2011 to retain its stock, the view is that outsourcing the delivery of housing management, and therefore the relationship with the tenants and leaseholders, is not in line with current corporate objectives. Therefore the housing management function has not been included within the scope of the options appraisal.

Stakeholder engagement

It has been essential to engage with the residents who will be receiving the new service and who have direct experience of the existing suppliers. Members of the Tenant and Leaseholder Committee and the Maintenance Focus Group were invited to represent the views of the tenants on the Procurement Project Board. A number of them volunteered to attend meetings and have been involved in the peer group reviews; including site visits, contractors open day interviews and the assessment of relative risks and benefits of each of the options. Whilst the representation has been limited, with between two and four tenants attending each meeting, there have been a range of views expressed both in terms of the existing contractual arrangements and preferences for the new contracts that have been included in the summary information.

It is proposed that tenants and leaseholders will be involved in the future two stages of the procurement exercise, to assist in drafting the tender documents and in the evaluation and selection of the new contractors.

Options Appraisal Executive summary

The Options Appraisal delivered a large volume of information from both the market and peer reviews, and the detail and summary of findings is contained within the Cameron Consulting Report, Options Appraisal for the future procurement strategy to deliver the repairs, maintenance and improvements to the Council's Housing and related assets. Some of the information was contradictory, which was mainly attributable to the differing size and type of organisations that responded (i.e. larger organisations preferring more extensive/comprehensive options with smaller organisations the reverse). In order to try and simplify the information and to make some direct comparisons the responses were grouped by the annual turnover of the organisations and the range of services that they could deliver.

In order for the Council to proceed with some further in-depth analysis of the preferred model for delivery, it is essential that some of the options are excluded following the findings from the market and peer reviews. To enable consolidation of the options, the relative risks and benefits, to the Council, of each option were summarised and scored by members of the procurement project board.

The results of the option appraisal have identified two of the options where the risks outweigh the benefits, option 4 (in-sourcing) and option 6 (the employee led mutual) therefore it is recommended these be discounted at this stage. The rationale behind the low scores have been summarised below

Option 4 In-sourcing – The internal infrastructure is not in place and therefore would require significant investment in advance of the tender process for this to be established. This activity would be undertaken at risk as it would be subject to procurement.

There is no experience within the client team of directly managing gas servicing contracts or planned capital works programmes and therefore managed in sourcing would be the only option.

The increasingly onerous statutory requirements with regard to the delivery of works contracts, especially around high risk areas such as the Health and Safety at Work etc. Act 1974, the Controlled Waste Regulations 2012 and the Control of Asbestos Regulations 2012 would need to be adhered to and effectively managed. The current IT systems would need to be enhanced to support this activity.

The Council's Terms and Conditions of employment and pension arrangements would need to be considered when comparing with those of commercial contractors and these were considered to have a higher intrinsic cost (although this was not subject to market test).

Option 6 Employee Led Mutual – Whilst this was considered to have a number of benefits including early adoption of the principles of the Localism Act agenda and the fact that employees own a share in the business (thereby encouraging and rewarding performance), it has not been widely adopted and is currently untested. Additionally, and more relevant at this stage, is that fact that there needs to be two or more employees who establish a mutual and offer this as a viable alternative, and be in a position to demonstrate the capacity and experience to run what will be a very large enterprise.

Remaining Options

Of the remaining options, there are three which provide variations on an outsourced model with each of the work streams being considered individually or grouped to provide opportunities for consolidation of the site-based costs and through economies of scale. It is recommended that the lowest scoring option be discounted as the other two provide better options for further consideration. The second ranked option is a joint venture, which is a model that is currently untried by the Council; however it has been used successfully in Harlow, one of the organisations that took part in the peer review, and by other social housing providers.

The risk/benefit matrix produced the following scores for all of the options:.

Option	Summary	Score	Rank
Option 1 Multiple Outsourced contracts (A)	Main benefit of having one main point of contact and the ability for the contractor to utilise the intelligence from the repairs service to target planned work and ensure there is no duplication. Concern over the potential for contractor collapse, which would create problems for the delivery of the service.	10	1
Option 2 Multiple Outsourced contracts (B)	Main benefit of spreading the risk around a number of contractors who deliver one area of work only in case of collapse. Concern that this would replicate the existing model and the Council would still be viewed as the provider. Potential for better costs resulting from economies of scale would not be realised.	3	3
Option 3 Multiple Outsourced contracts (C)	Main benefit of regularly testing the market through the use of Framework agreements to undertake mini competitions for elements of work. Concern that the use of frameworks would limit the duration of part of the contract to 4 years which contractors felt would not provide sufficient time to provide any legacy regarding community investment.	1	4

<p>Option 4 In-sourcing /management contracting</p>	<p>Main benefit of direct control over the management of the workforce and overheads. High ongoing costs of the pension and associated benefits and no internal infrastructure or experience of directly managing planned programmes of work.</p>	<p>-12</p>	<p>6</p>
<p>Option 5 Joint Venture</p>	<p>Main benefit surpluses are retained by the JV rather than by an outsourced contractor and enable commercial investment to fund improvements or new build. No direct experience of establishing or running a JV and the competitive dialogue route is lengthy and costly and unless heavily resources may not be achievable in the timescale.</p>	<p>6</p>	<p>2</p>
<p>Option 6 Employee Led mutual</p>	<p>Main benefit employees own a share in the organisation and are incentivised by the successful delivery of the business plan and any surplus share bonus. Difficult to determine which area of the service provision would be suitable for a mutual model and would still be subject to a procurement process undertaken at risk. Currently no expression of interest from employees.</p>	<p>-8</p>	<p>5</p>

There have been some consistent preferences expressed by the majority of suppliers and peer organisations which are further supported by the scores arising from the in the risk/benefit assessment.

The soft market responses and internal risk benefit assessment has a clear preference for the gas servicing and other high risk areas of works to be delivered by contractors who are focused upon these specialist areas, rather than including them within a single supplier arrangement. Whilst two of the peer organisations had included these services within single supplier arrangement or a joint venture, because of the risks associated with compliance there is a desire for the Council to retain as much direct control and day to day operational involvement. This rationale also applies to a joint venture organisation, although to a lesser degree, because of the level of involvement that the Council would have in the management of the joint venture organisation.

There is a limited supplier base with a proven track record of delivering all of the services that could be contained within a single outsourced arrangement. The limited number was considered to be beneficial in terms of their understanding of the market and the ability for the Council to target the evaluation of tenders. Conversely this could result in higher costs arising from limited competition and the reduced opportunity to provide local SMEs with any guarantee of work. These issues could be addressed at tender stage to make provision for inclusion of SMEs. but this could attract a higher cost.

There also needs to be consideration of the use of framework agreements, as opposed to Qualifying Long Term Agreements, for leasehold properties as the administration process is more onerous in order to comply with the Landlord and Tenant Act and OJEU procurement rules

Option 5 Joint Venture Organisation (JV) – This model envisages the creation of a separate organisation which is jointly owned by the Council and a contractor (although a multiple contractor JV is possible, most JVs involve a single contractor). The JV is typically either a company limited by shares or a limited liability partnership (LLP). In local government, the LLP structure is more common because it is “tax transparent” ie it does not have to pay corporation tax on the Council’s “share” of any profits it makes, only on the “contractor’s share”.

The documentation for a JV comprises:

- the LLP agreement (which usually includes provisions setting out the arrangements for agreeing the JV’s business plan and requiring the agreement of both the Council and contractor to significant decisions by the JV and any departures from that agreed business plan);
- the contract between the Council and the JV (which is usually based on one of the standard forms of contract and in relation to which, as with an external contract, there are a number of different payment options);
- a management support contract between the Contractor and the JV, setting out the specific services the contractor will provide to the JV (corporate services, HR, finance, materials procurement, provision of vehicles etc) and the basis on which the JV will pay for them; and
- a parent company guarantee from the contractor, guaranteeing certain obligations of the JV (including the continued delivery of the work if the JV becomes insolvent).

In practice the JV would seek to become an admitted body under the Local Government Pension Scheme, so the workforce would be eligible to join the LGPS.

The advantages and disadvantages of a JV are similar to those of a large integrated planned and responsive maintenance contract (Option 1). However, the JV option offers the following additional advantages:

- since the Council will be represented on the board of the JV, there will be an opportunity to influence the strategic decisions of the JV over things such as the delivery arrangements for the work, where to invest resources to improve efficiency or improve delivery, and recruitment arrangements including the creation of training opportunities or opportunities for long term unemployed people;
- the provisions for agreeing the business plan for the JV that are established through the procurement process and for requiring actions outside that agreed business plan to be approved by both parties will give the Council more control over the JV than the Council would have over an external contractor. In many ways, the JV should be seen as a “hybrid” between the Council having a large integrated asset management contract with a single contractor and the Council setting up a DLO to carry out the work; and
- since both the Council and the contractor will share any profits the JV makes, there will be an alignment of the commercial interests of both the Council and the contractor to improve efficiency. As long as the payments to be made by the Council under the contract are established through the EU procurement process (which they will need to be), these should be genuine efficiency based savings, rather than savings that are “passed on” to the Council through the contract between the Council and the JV.

There is one advantage of a number of JVs that does not apply to the Council, though. One of the key reasons for the current popularity of joint ventures in social housing is the ability for housing associations that set up a JV with a contractor to

save VAT on labour costs. Since the Council is able to recover VAT it pays on external contracts (including any contracts with a JV), this advantage does not apply to the Council

The main disadvantages of a JV compared to a large integrated asset management contract are:

- the procurement process will inevitably be more complex because it will involve agreeing the governance and operational structure for the JV, the contract between the JV and contractor, and the guarantee from the contractor, as well as the terms of the contract between the JV and the Council. For this reason, the competitive dialogue procedure will need to be used. This process involves a further "dialogue stage" between prequalifying and selecting contractors to tender and inviting final tenders from those contractors. During that dialogue stage, the governance and contract documentation is discussed with at least three bidding contractors/consortia. This will involve increased procurement costs for the Council and a degree of procurement risk for the contractors since only one of them will be successful despite all of them being required to participate in the dialogue process;
- The workforce is likely to be employed by the JV, but managed by the contractor. This can lead to some operational issues. Whilst there are practical means of dealing with this, it is important to be very clear where the responsibility lies for recruitment, general management, training, and disciplinary processes in relation to the workforce. If the contractor is taking significant risks here, the contractor will want significant rights to manage the workforce. This will need to be balanced against the controls and protections that the Council wishes to impose on the JV through the business plan over how the workforce is managed.

The main distinction in the remaining options is between a Joint Venture or to retain the client contractor relationship using one of the traditional outsourced options.

Shared Services

It was important to explore the potential for a shared services arrangement with neighbouring authorities as there could be benefits from economies of scale and improved purchasing power. The peer reviews considered this potential and Welwyn Hatfield Community Housing Trust, and St Albans City and District Council expressed interest in investigating this further. A shared services arrangement will only be possible if there is a firm commitment received from these organisations prior to the final recommendations to Cabinet in September. Additionally due to the duration of their existing contracts the work will be limited in scope to gas servicing and planned work.

Consultancy support

The external consultancy support received to date has been provided by Cameron Consulting, who were initially appointed to act as Partnering Advisor on the Term Partnering Contract with MITIE. Their knowledge of the current contractual arrangements and of the Council's contract management approach, have enabled them to support and facilitate the options appraisal.

The next phase of the project will require further specialist input to both support the procurement activity and to advise upon the best form of contract and financial reimbursement model. It will be necessary to procure this support and instruct the

successful firms to progress the pre-tender procurement activity in conjunction with the Procurement Project Board. The Council do not wish to cede control of key aspects of the procurement to external consultants as it is imperative that the tender provides explicit details of what the Council and its tenants expect from the service provider.

Next Phase of the project

The project plan outlines the next stages in the procurement project and is attached at Appendix A. The next steps will involve further refining the detail of the procurement strategy to finalise the scope of any transferring employees and associated TUPE implications, the appropriate duration, form of contract, financial reimbursement model and number and size of the supplier organisations. Additionally the evaluation criteria including the weightings for price and quality split will need to be finalised. These details will be considered and used to inform a further report to be presented to Cabinet in September 2012.