



London Borough of Hackney – Decisions taken by the Cabinet Procurement and Insourcing Committee on Monday 8 April 2024

Decisions listed below that are Key Decisions will come into force and may then be implemented on the expiry of 5 clear working days unless called-in by at least 5 non-executive members in writing and submitted to the Monitoring Officer using the form;

[Executive Decision Call-in Request](#)

Date of Publication: 9 April 2024
Last Date for Call-In: 16 April 2024

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Items considered in public

6	Unrestricted Minutes of the Cabinet Procurement and Insourcing Committee held on 4 March 2024	RESOLVED: That the unrestricted minutes of the previous meeting held on 4 March 2024 be agreed as a true and accurate record of proceedings.
7	AHI S304 Day & Evening Service Dynamic Purchasing System (DPS)	RESOLVED: To approve the award of contract for the delivery of Day & Evening Services to the successful suppliers listed in Exempt Appendix 1, and any subsequent successful providers who apply to deliver the Day & Evening Services via the Dynamic Purchasing System (DPS), for a period of up to 4 years in total (2+1+1) commencing in May 2024 at a maximum cost of £8.44m. <u>Reason(s) For Decision / Options Appraisal</u> - This report asks CPIC to approve the award of contract for the delivery of Day & Evening Services to suppliers listed in Exempt Appendix (1) and any subsequent providers who successfully bid for the provision of Day & Evening Services via the DPS. Local Authorities, under the Care Act 2014, have a duty to promote wellbeing. The Act

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		<p>highlights the importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist.</p> <p>The preferred option, agreed at Business Case stage (Option 1 below) was to Procure a DPS under the Public Contract Regulations 2015 (PCR) light touch regime. Providers would be admitted onto the DPS after having been evaluated as adhering to the required legal and quality standards and financial parameters. Providers then sign up to a set of overarching Terms & Conditions which govern the way they will operate, as well as set out a floor and ceiling rate for fees and other standardised fee rates if they have anyone placed with them. Providers would apply to be on the DPS; however, this would not be a guarantee of work. This would then create a “menu” for where Individuals would then be placed with the most appropriate service, using a combination of customer choice, geography, availability, etc – with the most cost effective option that meets need and choice being selected. Each service user is placed with an individual placement agreement (IPA, rather than an overarching or block contract) which stipulates the needs and goals of the individual.</p> <p>This will complement the current in-house service which is considering becoming a centre of excellence to take on more complex cases in future, currently being provided by external agencies often out of the borough.</p> <p>- <u>Alternative Options (Considered and Rejected)</u></p> <p>- Option 2: Continue with current spot purchasing arrangements, which has the advantage of retaining the status quo for providers. The drawback of this option would be: it is difficult to assure the quality of spot purchased day opportunities without a specific service specification. It is also difficult to negotiate fair rates for services and it is an inefficient use of social worker/brokerage officer time, searching for appropriate provider services and negotiating prices. Potential providers may see spot purchasing as offering no level of security to operating their business, furthermore, it does not consistently offer a choice for the people wishing to use</p>

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		<p>these services. Without an overarching contract, there is also no standardisation of the service offer. For example, some providers class half a day as 4 hours and some 3 resulting in inconsistency of offer to individuals.</p> <p>Option 3: Insourcing Fully. To insource fully would be less choice for the residents, and reduce the range of expertise available. While Oswald street does provide a good service, and this proposal supports its development into a centre of excellence it remains vital that there is different expertise and choice open to our residents depending on their need, culture and personal choice and control</p> <p>Option 4: Complete appropriate procurement processes to award a number of separate contracts based on the scope of the existing provision. This would have the advantage of regularising existing arrangements and establishing a fixed model of provision for the duration of the contracts. However, it would fail to deliver the added benefits of the DPS that are detailed below and it would be extremely time consuming to complete all of the separate contracting arrangements required.</p> <p>The following options were considered and appraised for the future of provision in the borough</p> <table border="1" data-bbox="842 1059 2040 1401"> <tbody> <tr> <td data-bbox="842 1059 1079 1310">Option 1 (preferred)</td> <td data-bbox="1079 1059 1413 1310">DPS - creating a hybrid in/outsourcing arrangement</td> <td data-bbox="1413 1059 2040 1310">Balances both in-house provision and use of external Hackney based services wherever possible. Contract with Quality Standards and specification. Will mean Provider Services can develop Oswald Street as a centre of excellence, whilst offering wider choice and control of residents and their families/carers</td> </tr> <tr> <td data-bbox="842 1310 1079 1401">Option 2</td> <td data-bbox="1079 1310 1413 1401">Remain as is and continue with spot purchasing</td> <td data-bbox="1413 1310 2040 1401">Poor value for money. No control over costs and what's included in provider costs. Costs and fees are not transparent. No service</td> </tr> </tbody> </table>	Option 1 (preferred)	DPS - creating a hybrid in/outsourcing arrangement	Balances both in-house provision and use of external Hackney based services wherever possible. Contract with Quality Standards and specification. Will mean Provider Services can develop Oswald Street as a centre of excellence, whilst offering wider choice and control of residents and their families/carers	Option 2	Remain as is and continue with spot purchasing	Poor value for money. No control over costs and what's included in provider costs. Costs and fees are not transparent. No service
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8	CHE S319 Procurement of a Design and Build Contractor for Fairbank Estate, Hoxton N1	<p data-bbox="842 1050 1014 1082">RESOLVED:</p> <p data-bbox="842 1118 2078 1251">To agree the procurement of a two-stage design and build contract with a Pre-Construction Services Agreement (PCSA) using the Notting Hill Genesis Framework Development Contractors Lot which is compliant with Regulations 26(4) of the Public Contracts Regulations 2015 to deliver the Fairbank Estate housing regeneration project.</p> <p data-bbox="842 1287 2078 1383">Delegate authority to the Group Director - Climate, Homes and Economy, in consultation with the Group Director of Finance and the Acting Director of Legal, Democratic and Electoral Services to:</p>									

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		<p>a) Enter a Pre-Construction Services Agreement (PCSA), which may include but is not limited to work relating to design, value engineering, surveys, utilities, demolition and enabling works.</p> <p>b) Enter into a main building contract and if appropriate any preceding or parallel demolition or enabling works contract with the preferred contractor or one or more suitable specialist early works contractors, upon satisfactory completion of the Pre Construction Services Agreement (PCSA stage), or equally; and</p> <p>c) Should a position representing acceptable performance and/or value for money not be reached with the preferred contractor at any point during or upon conclusion of the Pre-Construction Services Agreement (PCSA) stage, to enter into the contracts described at (a) and (b) above, as appropriate, with the reserve bidder appointed during the first stage of the two stage tender.</p> <p>The Fairbank Estate project is a mixed tenure housing development that forms part of the Housing Supply Programme. It is located in the Hoxton West Ward in the London Borough of Hackney. This report outlines the proposed process for procuring a principal build contractor to deliver this new housing, along with associated landscaping and public realm works.</p> <p>The site is located along East Road and is bounded by Murray Grove to the north. It is occupied by a 20 storey Council-owned tower block, Thaxted Court, which is to remain occupied during construction and a two storey garage block, which is to be demolished. The western part of the site has a lower level car park that surrounds Thaxted Court. A low rise block, Halstead Court, is to the south of the site. The site sits directly over two Network Rail underground tunnels, which adds a level of complexity and risk to delivery of the project.</p> <p>The original scheme design for Fairbank Estate was submitted for approval to the Planning Authority in November 2020. The application received approval from the Planning Sub-Committee in January 2021.</p>

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		<p>The scheme previously went to CPIC in October 2020 for approval to commence a single stage competitive tender procurement exercise using Lot 2 of the Southern Housing Group Framework. In November 2020, the procurement was launched for the selection of a principal contractor to deliver the scheme. However, the tender returns subsequently received were significantly over budget and in the autumn of 2021, the procurement was terminated and put on hold as the project was deemed non-viable.</p> <p>A significant amount of work has taken place over the past two years to improve the financial viability, risk profile and deliverability of the scheme. The Housing Regeneration team carried out a no-stone-unturned review of the project to identify weaknesses in the original planning scheme and tender, along with addressing new regulatory requirements and introducing a range of changes to create a more affordable, deliverable project. In October 2022, construction consultancy AECOM was appointed to review the scheme and have since made a number of recommendations to secure design efficiencies and reduce costs.</p> <p>The principal drivers of the hitherto unacceptable cost and viability position were identified as:</p> <ul style="list-style-type: none"> • Insufficiently de-risked site at the point of works tendering, particularly in respect of ground investigations, substructure design and statutory approvals to build above the Network Rail tunnels; • Unsuitability of a single stage Design & Build procurement in light of the above, leading to unrealistic risk transfer to contractors and therefore significant risk charging by bidders; • Inefficient residential arrangements with small floor plates leading to relatively low net-to-gross and high wall-to-floor ratios throughout and particularly in the west block; • Design complexity generally, and most especially in building envelopes and the provision of a basement for storage and plant. • Over-specification against brief standards, for example through the use of triple glazed windows both where needed for acoustic attenuation but also throughout. • Non-compliance with new building safety requirements for second stairs in residential

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		<ul style="list-style-type: none"> • buildings above 18 metres (from external ground to highest habitable level). • Risk of non-compliance with current building regulations regarding environmental performance, particularly overheating and ventilation. <p>Throughout 2023, the project team worked closely with Lynch Architects and Pell Frischman engineers, the incumbent design team, to explore and incorporate the outcomes of the scheme review through a range of revised design options with the principal objective being, to significantly improve the viability, compliance and deliverability of the extent scheme whilst preserving the overall design intent and housing offer, primarily by:</p> <ul style="list-style-type: none"> • Seeking value engineering cost savings and a more efficient residential arrangement whilst protecting the overall design intent (three blocks around Thaxted Court and a new public realm); • De-risking delivery particularly in respect of the subsurface rail tunnels and the scope and magnitude of changes to the extant planning permission; • Future-proofing against recent and emerging regulatory change, particularly building safety. <p>The build costs and valuations relating to each proposed design were updated, taking into account predicted interest rates, sales price changes and tender/build cost inflation. A preferred option was agreed at a ‘Way Forward’ meeting with the Housing Regeneration and Delivery management team in August 2023.</p> <p>The proposed scheme consists of three six storey buildings providing around 70 new homes, 2 ground floor commercial/retail units and a residents’ room. There will continue to be a new public realm introduced at street level, replacing the sunken car park with new landscaping, play space, and some re-provided car parking.</p> <p>Further design development will take place during the Pre-Construction Services Agreement</p>

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		<p>(PCSA) stage with the benefit of contractor buildability, technical and supply chain input, to arrive at a final design which the extant planning decision will be amended to.</p> <p>This report seeks agreement from CPIC to commence the procurement of a main build contractor for this scheme, via a two stage procurement process with a Pre-Construction Services Agreement (PCSA). The form of contract for the PCSA will be the Joint Contracts Tribunal (JCT) Preconstruction Services Agreement (General Contractor) 2016 with London Borough of Hackney amendments. The form of contract for the main build works will be a Joint Contracts Tribunal (JCT) Design and Build Contract 2016 with London Borough of Hackney amendments. The details of the procurement process are set out in paragraph 5.23-5.36 of the report.</p> <p>The outsourcing route is recommended because the Council does not have the capability to carry out major capital construction works in-house.</p> <p>The Council will meet the full development costs of the scheme and act as developer for the social rent, shared ownership and outright sale homes. The Council’s established Sales and Marketing Team shall market and sell the shared ownership and outright sales homes under the ‘Hackney Sales’ brand, following the established sales policy including first dibs for local buyers.</p> <p>The estimated costs for the construction of this option have been provided by AECOM and can be found in Exempt Appendix 1 - Cost Estimate. Bidders will be required to submit a contract price for the construction of the enabling and demolition, main build works and landscaping.</p> <p><u>Preferred Option</u></p> <p>The pre-tender estimate for the works is above the UK Public Procurement Threshold for Works of £5,372,609 and is subject to the Public Contracts Regulations 2015. This means that</p>

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		<p>the opportunity must be advertised on Find a Tender or procured from a suitable framework contract.</p> <p>The preferred option is to procure a construction contractor using a two stage tendering process through the Notting Hill Genesis framework which is compliant with the current regulations applicable to the Public Sector namely, the Public Contracts Regulations 2015.</p> <p><u>Alternative Options (Considered and Rejected)</u></p> <p>-</p> <p>The most recent Cost Estimate for Fairbank Estate is included as Exempt Appendix 1 to this report and is above the Find a Tender threshold set out in the Public Contracts Regulations 2015. The Council's preferred option 14 is to appoint a contractor via a PCSA and a JCT 2016 Design and Build contract, with Hackney amendments. As a Contracting Authority, the Council must comply with the 'Find a Tender' procurement processes and so will need to either tender through this portal, in line with the prescribed timescales and regulations, or through a framework which was set up in line with the UK regulations. A number of alternative procurement routes have been considered to achieve these requirements. The matrix of time, risk and cost has been used to consider each method.</p> <p>A single stage approach can produce a number of benefits, but also carries a number of inherent risks. It would enable the Council to obtain a nearly contractual commitment on price, but should it become necessary to make any changes to the brief post-tender this can undermine the original lump sum tender. The single stage approach provides the potential for a clear risk allocation between the client and contractor, but this may be undermined if the contractor's assessment of cost, programme or working method is initially incorrect. The single stage approach provides the opportunity for the Council to set a clear timetable, but the need to clarify proposals, which is often required, can extend the intended timescale. In addition, receipt of tenders above budget could delay the project as redesign and re-pricing must be completed before the contract sum is agreed. These inherent shortcomings were apparent in</p>

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		<p>the earlier single stage tender of Fairbank Estate.</p> <p>There are a number of routes that can be used which comply with the EU legacy procurement processes in accordance with The Public Contracts Regulations 2015. These are set out below in more detail. However, these procurement routes are lengthy in terms of the time required, often taking over a year from commencement to appointment. As a result of the ambitious programme Fairbank Estate is aiming for, these tendering options have been rejected:</p> <ul style="list-style-type: none"> • Open procedure - This is where the Invitation to Tender is issued and any contractor can respond. This is not considered suitable for Fairbank Estate as it might result in a large number of tenders being received, making the assessment process longer and more difficult than necessary, whilst not adding any extra value to the process. • Restricted procedure - This is where a Standard Questionnaire is issued, and only those contractors who pass the qualification criteria are invited to submit a tender. This allows a robust process but tends to take an extended period - often taking a year from commencement to appointment. Therefore, there is not sufficient time within the Fairbank programme to use this procurement route. • Competitive dialogue procedure - In this option there is a qualification process and those who qualify are invited to take part in a dialogue process. When the dialogue process is complete, final tenders are invited. This is used where there is more than one option, or a series of options relating to the resolution of one particular issue. Competitive Dialogue is generally used when clients are unable to specify their requirements or cannot assess without in-depth dialogue what the market can offer in terms of technical, financial or legal solutions. It is most helpful for procuring innovative projects, or projects involving complex and structured financing. Since the Fairbank Estate project already has Planning Permission with most of the parameters defined, Competitive Dialogue is not the most efficient approach to procurement. • Competitive Procedure with Negotiation procedure - In this option there is a qualification process and short-listed contractors are invited to take part in a negotiation process.

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		<p>Again, this is felt to be too onerous for use on Fairbank Estate and would risk the project missing key milestones such as a start on site in October 2025.</p> <p>The option to not appoint a reserve bidder has been considered and rejected, as having a reserve bidder enables the Council to retain some competitive tension with the preferred bidder; and, provides a procurement-compliant alternative to the preferred bidder in the event that the design/price is not in line with the Council's budget and expectations for the project.</p>