

COMMITTEE**Agenda Item**

Brighton & Hove City Council

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| Subject: | The procurement of Legionella Assessment and Control Services for housing stock | | |
| Date of Meeting: | Housing and New Homes Committee 14 March 2018 | | |
| Report of: | Executive Director for Neighbourhoods, Communities and Housing | | |
| Contact Officer: | Name: | Adrian Day | Tel: 01273 293453 |
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| Wards affected: | All | | |

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Approval and authorisation is sought from Housing and New Homes Committee regarding the recommendations in section 2 in order for the continuity of legionella assessment and control services within the Council's social housing stock to take place, ensuring hot and cold water is safe for domestic use. This involves the management of communal water systems in council housing, including inspecting and testing water systems for legionella and managing risk and treatment for remedial works.

2. RECOMMENDATIONS:

That the Committee:

- 2.1 Delegates authority to the Executive Director for Neighbourhoods, Communities and Housing to:
- (i) Procure and award a contract for the provision of legionella assessment and control services within housing stock for a term of three years; and
 - (ii) Approve an extension(s) to the contract referred to in 2.1(i) above for a period of up to two years following the initial three year term, subject to satisfactory performance by the provider.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 As a Landlord, the Council has a legal responsibility under the Health and Safety Executive's (HSE's) Approved Code of Practice and Guidance on Legionnaire's Disease (ACOP) L8 to cover the water services for legionella in social residential housing stock. Following a Risk Assessment, it is essential that there is good management of any communal water systems under the Landlord's direct control or responsibility.
- 3.2 The current contract with Hertel (UK) Limited (commonly known as HSL) ends on 30th September 2018 and no extension option exists.

3.3 The average annual value of this contract is £150,000-250,000, totalling £750,000-1,250,000 across the total five year contract. This service therefore must be procured under the Public Contracts Regulations 2015.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Collaboration with the Orbis partners has been considered and rejected. The Council are unable to utilise their existing contracts and the Surrey County Council contract does not fulfil the Council's requirement as it is for risk assessments only and the Council also requires control and prevention.

4.2 The Council does not currently have the resource to undertake this service in-house.

4.3 Six frameworks were found to be accessible to the Council and therefore a stand alone tender was deemed an unnecessary use of resource. Officers plan to procure this service under an existing framework and analysis of the most appropriate frameworks to call-off is underway.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The Community Engagement Framework and Standards have not been used as they are not relevant to this procurement.

5.2 Leaseholder consultation is not applicable as the cost per leaseholder is below the £100 per annum threshold.

6. CONCLUSION

6.1 The recommendations should be approved in order to comply with the Council's legal obligations as a Landlord and ensure the safety of the tenants and leaseholders in regards to water consumption.

6.2 It is proposed that Procurement will support the contract manager officer with this procurement to ensure that the Public Contracts Regulations 2015 are adhered to and a value for money contract is achieved.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 The average annual value of this contract is £250,000 and this will continue to be met from within existing budget resources.

Finance Officer Consulted: Michael Bentley

Date: 11/01/18

Legal Implications:

7.2.1 As a Landlord, the Council has a legal responsibility under the Health and Safety Executive's (HSE's) Approved Code of Practice and Guidance on Legionnaire's

Disease (ACOP) L8 to cover the water services for legionella in social residential housing stock.

- 7.2.2 The Council has a duty to secure continuous improvement in the way in which its functions are exercised having regard to a combination of 'economy, efficiency and effectiveness' (known as the duty of best value).
- 7.2.3 In accordance with Part 4 of the Council's Constitution, Housing and New Homes Committee is the appropriate decision-making body in respect of the recommendations set out in paragraph 2 above. In addition, in order to comply with CSO 3.1, authority to enter into contracts in excess of £500,000 must be obtained by the relevant committee.
- 7.2.4 The Council's Legal officers will advise on the use of framework agreements and the call off contract during the procurement process to ensure that they comply with all relevant public procurement legislation as well as the Council's Contract Standing Orders (CSOs).

Lawyer Consulted:

Wendy McRae-Smith

Date: 16/1/18

Equalities Implications:

- 7.2 An Equality Impact Assessment has not been carried out as it is anticipated that an award under an existing framework will take place. Under all the frameworks the supplier must comply with the Equality Act 2010 on the basis that the supplier is providing services and exercising public functions under that Act.
- 7.3 The transfer of staff does not apply, neither from the Council nor the existing supplier.

Sustainability Implications:

- 7.4 None.

Any Other Significant Implications:

- 7.5 If this service is not provided there is a public health issue and reputation implication as the consequences of not complying with ACOP L8 are serious. Heavy fines and even imprisonment can be imposed and the Council may also be prosecuted should there be an exposure to risk, without necessarily anyone becoming ill.

SUPPORTING DOCUMENTATION

Appendices:

None.

Documents in Members' Rooms

None.

Background Documents

None.

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