

# Executive Decision Report

# A7

<b>Decision maker(s) and the earliest date the decision will be taken</b>	Leadership Team (Executive) Date of meeting: 24 August 2017 Date of report: 21 August 2017 Key Decision Reference Number: 05107/17/K/AB	 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
<b>Report title</b>	Contract Award for Generic Floating Resettlement Support Service for Residents Affected by Grenfell	
<b>Reporting officer</b>	Maxine Holdsworth, Interim Director of Housing	
<b>Key decision</b>	Yes	
<b>Access to information classification</b>	Public Report with Exempt Part B Appendix not for publication by virtue of information relating to the financial or business affairs of any particular person (including the authority holding that information).	

## ***Reason for General Exception (Urgency)***

*In order to procure quickly a resettlement service to support residents affected by the Grenfell Tower fire to move into new homes, it is not possible to give the 28-day statutory notification of the Key Decision as publication of the intention to make a key decision is impracticable and urgency provisions as set out in the Council's constitution are being used.*

## **1. EXECUTIVE SUMMARY**

- 1.1 I am writing to seek approval for the award of a contract to provide floating support and resettlement services for vulnerable people with complex needs, including households affected by the Grenfell Tower tragedy to Family Mosaic Housing. These services fall under Regulations 74 - 77 (Social and Other Specific Services) of the Public Contract Regulations 2015, known as the Light Touch Regime (LTR) and follow a period of direct negotiations with Family Mosaic Housing.
- 1.2 The contract will be for 2 years, subject to satisfactory performance. The relatively long term of this contract is justified by the need to ensure stability and flexibility of the service in supporting households affected by the Grenfell Tower tragedy in resettling into their homes.

- 1.3 Family Mosaic Housing, is a high performing provider with a track record of delivering responsive services that are value for money. They currently hold the contract for the floating support service which is due to expire in November 2018.
- 1.4 This procurement strategy is recommended due to specific circumstances. On 14<sup>th</sup> of June, 2017, the Grenfell Tower tragedy occurred in which many families and individuals were displaced. These residents are from Grenfell Tower and surrounding properties. Due to the 'urgent' needs created by this tragedy, Family Mosaic Housing, which delivers the existing floating support service would be best placed to provide the resettlement work for those residents who have been displaced by the Grenfell Tower fire.
- 1.5 Combining the two services will deliver economies of scale in terms of staffing.

## **2. RECOMMENDATIONS**

2.1 It is recommended that:

- In accordance with regulation 2.10(a) of RBKC's internal contract regulations as set out in its Constitution (the "**Internal Regulations**"), authorise a waiver of the requirements of the Internal Regulations to advertise the proposed contract in the Official Journal of the European Union and to undertake a competitive tendering exercise in respect of the services to be provided under this contract.
- the contract be awarded to Family Mosaic Housing, in accordance with the terms and conditions set for all supported housing contracts, for a term of two years at a contract value of £ 598,747.60 per annum, subject to the contract adhering to annual key performance management targets and being contract compliant.

## **3. REASONS FOR DECISION**

- 3.1. The households who have been displaced by the fire in Grenfell Tower will be moving into temporary and permanent housing. The Council accepts a duty to resettle these households into alternative accommodation. The staff from the floating support service will support families and individuals in resettling into their homes.
- 3.2. For the reason of expediency of providing such service, we would like to integrate the resettlement service with the existing generic floating support service managed by Family Mosaic Housing.

## **4. BACKGROUND**

- 4.1 On the 14th June 2017 a major fire in Grenfell Tower resulted in the evacuation of the tower and surrounding buildings. Residents from Grenfell Tower and Grenfell Walk have been permanently displaced from their homes.

- 4.2 The Council and the Grenfell Response Team are sourcing alternative accommodation for affected residents, both temporary and permanent, and supporting these households to view and move into new homes.
- 4.3 This resettlement effort for these families and individuals will be part of wider floating (housing-related) support service to provide cost effective as well as efficient use of resources to support these households to view and move into temporary and new homes.
- 4.4 The primary purpose of housing-related support is to develop and sustain an individual's capacity to live independently. Housing-related support therefore covers a wide range of activities and behaviours, including assistance with life skills, budgeting, maintaining tenancies, arranging repairs and helping people to understand the terms of their tenancy.
- 4.5 The focus of housing-related support is to enable and support people to 'do things for themselves' and have control over how their support is delivered. It can be delivered in a number of different ways. It can either be long-term or provided for temporary periods.
- 4.6 One of the types of services offered is a floating support service for short periods of time, from a few weeks up to two years or more. This service is offered on a tenure neutral basis, although the majority of recipients live in temporary, supported or social housing. The term floating means that the service is temporary and will "float away" to someone else who is in need when the recipient no longer needs it. If people continue to need this support we will provide it.
- 4.7 The staff team of this service will be co-located with other RBKC staff who will be working jointly to be supporting the residents who are affected Grenfell Tower.
- 4.8 Currently, Family Mosaic Housing is providing the generic floating support service for vulnerable residents in the Royal Borough of Kensington and Chelsea.
- 4.9 This contract is due to expire on 31<sup>st</sup> October 2018. This proposal is to award a new contract.

## **5. PROPOSAL AND ISSUES**

- 5.1 It is anticipated that there will be in the region of 189 households moving into Stage 2 (up to 12 months) and Stage 3 (permanent) accommodation. This includes split households, defined as households who were part of the original household composition and move into separate accommodation. This is usually adult children moving into accommodation separately from their parent(s).
- 5.2 Due to the large number of households that will need to resettle, it is recommended that the floating support service provides the necessary support to resettle those affected. This allows households to be effectively resettle into their homes.

## 6. OPTIONS

- 6.1 **Option 1: To award the contract to Family Mosaic Housing, for the provision of a floating support service for 3 years plus 2, with the option to reduce the resettlement hours when the support is not needed.** If the service is not recommissioned from Family Mosaic Housing, there will be a delay in providing a resettlement support to those displaced households. This contract will give stability and consistency to the support the residents receive and enable the Council to respond to this unique emergency.
- 6.2 **Option 2: To award the contract to Family Mosaic Housing, for the provision of a floating support service for 2 year during which a competitive procurement to secure a supplier will take place.** If the service is recommissioned from Family Mosaic Housing, for a year, this will not delay in providing a resettlement support to those displaced households. However, this option will, relatively, give us the stability and consistency to provide the support to residents receive, many of whom are traumatised by this tragedy.
- 6.3 **Option 3: To award the contract to Family Mosaic Housing, for the provision of a floating support service for 1 year during which a competitive procurement to secure a supplier will take place.** If the service is recommissioned from Family Mosaic Housing, for a year, this will not delay in providing a resettlement support to those displaced households. This option will however be less subject to a legal challenge from other support providers and would allow a compliant procurement to be executed. However, this option will not give us the stability and consistency to provide the support to residents receive, many of whom are traumatised by this tragedy.
- 6.4 The most compelling option is therefore to award the contact to Family Mosaic Housing for the provision of a floating support service for two years, subject to satisfactory performance.

## 7. CONSULTATION

- 7.1 There has been no consultation on this proposal due to the emergency nature of the need.

## 8. EQUALITY IMPACT ASSESSMENT

- 8.1 The Council is committed to ensuring that all sections of the community have equal access to and can benefit from the services it provides. The Equality Act 2010 outlaws all forms of discrimination including issues around the procurement of goods and services.
- 8.2 It is anticipated that the decision to award the new contract will not have any adverse impact on equalities as the service is not materially changing. The

requirement for Providers to deliver services that respond to and address equalities issues is set out both in the Supported Housing Contract and in the supplementary Service Specification, which are in accordance with the Council's equalities agenda.

- 8.3 Family Mosaic Housing, has been assessed through the SP Performance Management Framework as delivering services that recognise and respond appropriately to Equalities.

## 9. LEGAL IMPLICATIONS

- 9.1 This Report estimates the value of this contract to be £1.2 million. It is noted that the floating housing support services are considered as Schedule 3 Services to which the Light Touch Regime (LTR) under the Public Contracts Regulations 2015 (the "PCR") applies. It is proposed that the Council will award this contract to Family Mosaic Housing pursuant to Regulation 32(2)(c) of the PCR, i.e. using the negotiated procedure without prior publication of a notice in the Official Journal of the European Union (the "OJEU"). Under the LTR there is no express requirement to advertise the contract where the Council can rely on the negotiated procedure without prior publication. This procedure is permitted under the PCR "*for reasons of extreme urgency brought about by events unforeseeable*" by the Council, provided that: (a) the time limits for the open, restricted, or competitive procedures with negotiation cannot be complied with; and (b) the circumstances used to justify the extreme urgency are not attributable to RBKC (Regulation 33(4) of the PCR). The body of the report sets out the reasons as to why the performance of these support services is urgent.
- 9.2 The Council's internal contract regulations set out in its Constitution require that contracts above the LTR Threshold of £589,148 be advertised in the OJEU where required, or on CapitalESourcing and Contracts Finder. However, regulation 2.09 of these regulations states that this requirement does not apply "*for dealing with emergencies and where immediate action is necessary to comply with the statutory obligations of the Council*". To the extent the services in question are a statutory obligation of the Council, then, this regulation may be relied upon in relation to the non-advertisement of this contract. Alternatively, to the extent that the services in question are not a statutory obligation of the Council, a waiver from the requirement to advertise this contract in the OJEU can be made pursuant to authorisation from the relevant Cabinet Member or authorised officer with delegated powers, provided sufficient evidence has been provided for this decision to be made (see regulations 2.10 and 2.11).
- 9.3 Further legal implications which are legally privileged and/or commercially sensitive are contained in Part B to this Report in accordance with Schedule 12A of the Local Government Act 1972.
- 9.4 Legal implications completed by: Kar-Yee Chan, Principal Solicitor, Shared Legal Services, 0208 753 2772

## 10. FINANCIAL AND RESOURCES IMPLICATIONS

- 10.1 The annual cost of this contract is £ 598,747.60 per annum.
- 10.2 Officers will explore whether the services to support residents affected by the fire can be mitigated through funding from Central Government. However, officers anticipate that most of these costs would need to be met through the Council's General Fund.

## 11. PROCUREMENT CONTEXT

- 11.1 Public Procurement Directive 2014/24/EU was transposed into law in England and Wales by the Public Contract Regulations 2015 with effect on procurements commenced after 26 February 2015. The PCR 2015 introduced a Light Touch Regime (LTR) for Social and Other Specific Services. The threshold for application of the LTR is over and above £ 589,148 (€750,000) for the lifetime of the contract. With the LTR, contracting authorities may use any of the procedures provided under Part 2 of the Regulations, with or without modifications, provided that the General Treaty Principles of equal treatment and transparency are adhered to.
- 11.2 There is actually no express requirement in the LTR regulations to acquire tenders before awarding a contract. However, Crown Commercial Services advise; '.....it would normally be necessary to at the very least acquire tenders before awarding the contract, in order to ensure that a transparent and competitive procurement has been undertaken, despite the absence of a specific LTR regulations requiring it.'<sup>1</sup>
- 11.3 In the present case, for the reasons outlined at section 3 of this report the Negotiated Procedure without Prior Publication is used, *insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with* (Reg. regulation 32(2)(c).
- 11.4 It is submitted that a case may be made that such circumstances exist here:
- This floating support service is urgently needed to resettle the displaced households from Grenfell Tower and surrounding properties.
  - Family Mosaic Housing is committed to providing the resettlement service within their floating support service contract to deliver a high quality service.
  - In the event that the Borough does not commission this service from Family Mosaic Housing, it would be very difficult to provide necessary resettlement support to displaced households urgently and in a timely manner.

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<sup>1</sup> Guidance on the New Light Touch Regime for Health, Social, Education and Certain Other Services Contracts (CCS October 2016).

- While there is no realistic risk of the European Commission launching infraction proceedings against the UK in view of the enormity of this national tragedy and the fact that these services will not attract economic operators from other Member States, this still remains a very large contract that other providers could be expected to find attractive and there is a risk that alternative service providers could challenge a direct award of contract that could potentially last seven years.
- The option to award a one-year contract is much less likely to be challenged and would allow a compliant procurement to be executed which would also ensure that best value had been obtained.

***Barry Quirk, Chief Executive***

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