

Report of: Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	20 October 2016	All

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SUBJECT: Capital Programming scrutiny review – Executive member response to proposed recommendations

1. Synopsis

- 1.1 On the 21 April 2016 the Executive received a report from the Housing Scrutiny Committee concerning the Capital Programming service. The report highlighted fifteen recommendations to further improve the Capital Programming service.

2. Recommendations

- 2.1 To agree the response to the Housing Scrutiny Committee’s recommendations for capital programming as detailed in paragraph 4 of this report.

3. Background

- 3.1 In September 2014 the Housing Scrutiny Committee commissioned a review of the Capital Programming service. The aim of the review was to consider the benefits and shortfalls of Capital Programming and to explore what improvements could be made to address any shortfalls of the service.
- 3.2 The review also considered other areas associated with Capital Programming. They were: to investigate how contractors are selected, to look at opportunities for using local labour, and to explore who determines what works are undertaken.
- 3.3 The committee issued a final report on the 22nd March 2016 which included fifteen recommendations. The response to each of those recommendations is set out in paragraph 4 below.

4. Response to recommendations

- 4.1 **In future capital works contracts, the Council should consider increasing its role in the selection and monitoring of sub-contractors, to ensure that those contractors which carry out high-quality work, establish positive relationships with residents and the use of local labour are preferred over those with recorded performance issues**

The Council like all other public sector organisations within the United Kingdom are bound by the rules of OJEU which requires all contracts with a value greater than five million Euros to be advertised across the EU. Given the outcome of the June referendum there is unlikely to be any change to these rules until after the UK formally departs from the EU. The Council will actively look at any new changes to the Procurement Rules placed upon public sector organisations by the UK government post-Brexit and will ensure that we use all means available to maximise the use of local sub-contractors in future capital works contracts. The Council does currently monitor the performance of each of the capital works contractors through quarterly KPIs. The targets within these KPIs will be reviewed and enhanced going forward.

- 4.2 **That penalty clauses be reinstated into future capital works contracts to ensure appropriate recourse in the event of performance issues, and incentives be explored as a means of improving performance.**

The Council has embraced the partnering ethos however it will now ensure that a full review of the pros and cons of reinstating Liquidated and Ascertained Damages and the Retention Clauses is undertaken as well as reviewing whether financial incentives should be put in place to encourage a better level of service from the successful contractors. The benefits will of course need to outweigh those of the the current arrangements and will need to be in line with the contractual requirements.

- 4.3 **That the Council further consider social value matters when procuring capital works contracts.**

The Council will ensure that all future successful contractors are fully committed to the Council's Social Value Matters agenda and that they can demonstrate this during the Invitation To Tender and the Pre-Qualification Questionnaire stages which form an important part of the tender selection process. The Council has clear over-riding policy ambitions in this regard which are periodically updated and we will ensure that we set future contract requirements in line with this policy.

- 4.4 **Given the financial challenges facing the Council, all procurement options be explored to ensure that best value is achieved when the capital works contracts are due to be re-tendered. The Council should consider if the greatest value can be obtained through term partnering agreements, procuring works in smaller lots, or carrying out certain works in-house.**

The Council will review all the available options open to it to ensure that it achieves and maximises Best Value in all future capital works contracts.

- 4.5 **To assist in the future procurement of capital works, consideration be given to establishing a benchmarking club with other London local authorities, to ensure best practice on contractual, financial, and performance matters.**

The Council will seek to establish closer working relationships with other local authorities to ensure that benchmarking of similar issues is explored and to ensure that it embraces best practice at all stages of capital works contracts. The Council will look to focus first on building relationships with specific boroughs which are facing similar challenges rather than London-wide comparison due to differing stages of Decent Homes work and the

differing implications/outcomes resulting from the recent Housing and Planning Act 2016.

- 4.6 **In order to continue gauging satisfaction and identifying performance issues, the Council should continue and expand the pilot survey of residents before, during and after capital works.**

The Council is committed to continuing to listen to residents at all stages of the capital works programme. Currently residents are consulted prior to the completion of the scope of works and at a pre-start meeting and are issued with site-specific newsletters during the course of the works and invited to an end of contract review walkabout on-site. In addition to this residents are invited to attend the 12 months defects walkabout on-site.

- 4.7 **That further work be carried out to increase the accessibility and transparency of leaseholder service charges for capital works, and the council seek to discontinue the use of commercial sensitivity clauses relating to the schedules of rates when tendering for future capital works contracts.**

The Council needs to keep this issue under review as disclosure of the rates submitted by successful contractors which they deem to be commercially sensitive is a contentious issue. If the rates are disclosed and put into the public domain this is likely to discourage some competent and competitive contractors from submitting tenders in this financially critical period. The Council employs a team of experienced and qualified quantity surveyors whose job it is to interrogate the rates and dimensions used by the capital works contractors in their priced submissions.

- 4.8 **With a view to increasing resident engagement and transparency, resident inspectors be appointed to review capital works as they are being carried out. It is suggested that the council engage with TRAs, TMOs and other resident groups on this matter.**

The Council is committed to ensuring the best standard of workmanship from all of its contractors to ensure that standards are maintained. We regularly engage with TRAs and TMOs on capital works before, during and after works on site. We will continue to invite residents to scope of works meetings, pre-start meetings, end of contract review walkabouts on-site and the 12 months defects walkabout on-site.

- 4.9 **The seven-year basis of the cyclical improvement programme be reviewed to ensure that the greatest value for money is achieved. It is suggested that the basis of any capital works programme should be flexible and based on the life-cycles of components.**

Council surveyors carry out condition surveys of the building to determine if works are necessary at that time, or if the remedial works can be deferred for another few years. The broad range of buildings within the Council's housing stock means that there is an amount of expected variability in the frequency with which different buildings require maintenance to keep them to a decent standard. This process ensures that regular inspections are carried out, but offers the flexibility to defer works where the works are not absolutely required to ensure prudent investment of resources.

- 4.10 **Following previous resident involvement in the selection of capital works contractors, tenants and leaseholders should continue to be involved in decisions about procurement and the future of the service.**

The Council will continue to have tenant and leaseholder involvement in the selection of capital works contractors and they will be involved in decisions about the procurement and the future of the service.

- 4.11 **To improve the response to capital works consultations, the Council seek to**

engage further with tenants and leaseholders, particularly those in areas without TRAs which tend to have a lower response rate to consultations.

The Council seeks to engage and encourage participation from these groups at consultation events for major works. Consultation Officers will, prior to consultation meetings taking place, remind residents by placing notices at the entrances of the estates/blocks concerned of the impending meeting. Meetings have been arranged between the Consultation Team and Resident Engagement Team to establish an engagement approach to assist in attracting more residents to major works consultation events.

4.12 The Council seek to use the capital works programme to increase the quantity and quality of local employment opportunities and implement the findings of the Employment Commission.

The Council's local employment targets are currently being met by both capital works contractors. These targets will be reviewed for any future contracts and made more demanding if it is realistic to do so. It should be noted that there are limitations on the range of apprenticeships that can be offered by the capital works contractors via our workstreams as the works themselves do not encompass a sufficiently broad range of experience on certain trades e.g. bricklaying where we could only offer experience on repairs and not on new building.

4.13 Consideration be given to establishing an in-house capability to carry out a proportion of planned maintenance works, subject to consultations with labour unions.

Consideration of all options is undertaken when reprocurring contracts. It should be noted that direct works operatives are already used for some planned maintenance works, although these works are not included in the capital works contracts.

4.14 Future capital works contracts should require property data compiled by contractors to be held in an accessible format to enable integration into the council's own ICT systems. The contracts should stipulate that all such data is owned by the council.

The Council works very closely with the two capital works contractors on data management as the exchange of information is key to the success of the contracts. The contractors are required to provide records against each project identifying the works that have been carried out to each flat and/or on each block/estate. The Council used these records to update its own asset management database, Codeman.

4.15 The service explore opportunities for income generation, such as providing contractors with on-site facilities on a commercial basis.

The Council has negotiated a source of income from one its contractors for the hire of the disused underground garages on the Girdlestone Estate. Similar arrangements to these will apply to all new long term site storage facilities. It should be noted that the Council is contractually required to provide each contractor with welfare and storage facilities within easy reach of estates they are working on. Adequate site welfare is often a very real challenge due to the highly built-up nature of the borough, so it is imperative we retain some flexibility in this regard to ensure the effective delivery of the capital works programme.

5. Implications

5.1 **Financial implications:**

Given the resourcing pressures facing the HRA the financial impact of any proposals would need to be funded from within existing budgets or from additional external income generated. A full financial assessment of individual proposals will be carried out when they are fleshed out in more detail & it is decided which of the proposals are to be moved forward.

5.2 **Legal Implications:**

There are no specific legal implications on this report. Where required, legal advice and support will be provided to Housing Services in respect of the implementation of the recommendations.

5.3 **Environmental Implications:**

Some of the recommendations made in this report may have a positive environmental impact. Better selection and monitoring of subcontractors could help ensure that they comply with the environmental requirements placed upon them, whilst an in-house service would also give greater control over performance and compliance with requirements. The use of local labour may reduce vehicular emissions by reducing the distances travelled by contractors to carry out the works.

The need to ensure best value should be balanced with the environmental impacts of the work being done.

5.4 **Resident Impact Assessment:**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

Where the proposals in this report may have equalities implications and other implications for residents. Resident Impact Assessments (including assessment of equalities implications) will be undertaken as part of the process of developing and implementing policies and actions arising from this report.

6. Conclusion and reasons for recommendations

- 6.1 This report details the Executive's response to the recommendations of the Housing Scrutiny Committee.

Final report clearance:

Signed by:

A handwritten signature in black ink that reads "Diarmaid Ward." The signature is written in a cursive style.

10 October 2016

Executive Member for Housing and Development **Date:**

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