

EAST RENFREWSHIRE COUNCILCABINET15 April 2021Report by Director of EnvironmentMIXED TENURE SCHEME**PURPOSE OF REPORT**

1. The purpose of this report is to seek the Cabinet's approval to bring in-house the Mixed Tenure Scheme which is currently provided through an external contractor and transfer the existing relevant staff into the employment of the Council.

RECOMMENDATIONS

2. It is recommended that the Cabinet:-
- a) agree that for the reasons detailed in this report in relation to Best Value the service provided under the existing contract be brought in-house;
 - b) note that the relevant employees from VERG will transfer to the Council as employees through Transfer of Undertakings (Protection of Employment) Regulations 2006, (TUPE);
 - c) agree to extend the contract for a few months on the same terms and conditions and rates and within the existing budget as noted in the 28 January 2021 report until the transfer can take place which will be done as quickly as possible;
 - d) note that there are no financial implications at this stage since budgetary provision already exists for the delivery of the scheme; and
 - e) delegates to the Director of Environment in consultation with the Chief Officer – Legal and Procurement and Deputy Chief Executive to make the necessary arrangements for the transfer.

BACKGROUND

3. The Mixed Tenure Scheme contract was awarded in 2015 to help the Council improve the condition of mixed tenure estates which comprise both Council houses and private properties.

4. The Mixed Tenure Scheme is currently managed on behalf of the Council by a third party contractor – the Vocational Education Resource Group (VERG). The Group are essentially a training and employability service provider and deliver the Council's Mixed Tenure Scheme "hit squad" service. (They also deliver other employability services for the Council including the Family Firm initiative which provides training and support for care experienced young people).

5. The annual budget of around £500,000 pays for the hit squad and contractor management services provided directly by VERG as well as paying for the services tendered to private contractors (close cleaning and grass cutting).

6. The Cabinet in January 2021 considered a comprehensive report on the future of the Mixed Tenure Scheme given that the existing contract had expired in November 2019.

7. In essence, the Cabinet:-

- noted that the contract with VERG (the Council's third-party Mixed Tenure Scheme provider) expired at the end of November 2019 and that due to an oversight and subsequently coronavirus related issues the contract was not retendered within the timescale required.
- approved the continued use of the contract until 31 March 2021 based upon the previously agreed terms, conditions and tendered rates (for which budgetary provision already existed).
- noted that the contract would be competitively tendered to run from 31 March 2021.

REPORT

Option appraisal

8. During the process of developing tender documentation further in parallel consideration has been given to the options available to the Council in respect of ongoing performance of these services at best value to the Council. These considerations involve not only the financial cost of performance of these functions to the Council but also the effectiveness, efficiency and strategic benefits which the various service provision options provide.

9. An options appraisal has been carried out assessing the respective merits of stopping delivering the service, retendering to the market or bringing the service in house which are essentially the three options available to the Council.

Option one: Stop delivering the service

10. The service to date has been highly valued and widely acknowledged by both Elected Members and local residents as positively addressing small scale issues across local housing. It has dealt effectively and efficiently with problems such as fly tipping or litter picks, close cleaning, grass cutting and environmental improvements in Council areas regardless of housing tenure. It has also provided social benefits. Terminating the service would be unpopular with customers and viewed as a backwards step by the Council in achieving its strategic objectives.

Option two: Go to the market on a competitive tendering basis.

11. Retendering would allow the Council to test the current marketplace with a view to identifying whether better value could be obtained. However, it is recognised that the previous tender exercise did not elicit multiple bids, the nature and scope of the service has not to any extent changed in the interim whilst the range of potential bidders for work of this sort does not appear to have increased in that time. This suggests that a similar level of response may be likely.

12. Beyond that, it is also noted that the Council's rules on the financial standing of acceptable bidders has changed since the original tender process and smaller businesses may struggle to qualify as potential bidders for any new contract. Given only one bid was previously received there is a strong possibility the time and cost invested in any new tendering process would not attract any bids at all.

13. Even if bids are received, it is also the case that any new service provider would require to take on any transferring employees from the current incumbent in terms of TUPE and will cost this added burden in their bids in all likelihood raising the contract price to the Council.

14. This means that there is a risk to the Council through pursuing a tendering process that no tenders may be received (because of TUPE implications) or that those received may be at a significantly higher price reflecting the bidders perception of the financial risk associated with a TUPE transfer.

15. Under the circumstances if no tenders are received it would not be possible to continue to deliver the service.

16. There is also a concern that the appointment of any new third party supplier would not bring the same key social, economic, and employability benefits and flexibility that the existing contract has provided.

Bring the service in-house.

17. Given the above concerns and risks consideration has been given to the possibility of bringing the service in-house to be run directly by the Council.

18. It would be possible to bring the service in-house and transfer the relevant existing staff employed by VERG through the contract into the direct employment of the Council (to be managed and located within Housing Services).

19. Bringing the service in-house also triggers TUPE and the Council would require to take on the existing staff complement in the same way as any new contractor would.

20. Whilst bringing this service in-house would permit the Council to maintain key services and benefits it should be noted that this places a permanent cost on both the General Fund and the Housing Revenue Account which fund this service on a 50/50 basis.

21. The terms and conditions provided by the Council as an employer may also result in an increase in salary costs along with other employment related liabilities by transferring the existing staff. As yet the amount of the additional cost is not known. However, it is expected that this could be managed through adjustments within the overall budget available for the scheme.

22. However, there would also be additional potential advantages and benefits in bringing the scheme in-house around issues such as knowledge, reputation, social responsibility and responsiveness. For example, the scheme has to date;

- Built up considerable experience and knowledge of Council services and practices.
- Established good relationships with local residents.

- Dealt effectively and efficiently with problems such as fly tipping or litter picks in Council areas regardless of housing tenure.
- Provided added value to the local economy and other Council strategic objectives by providing training and creating and sustaining employment almost exclusively for local people (including our care experienced young people as part of the Council's Family Firm initiative).
- Provided invaluable support to the Council during the pandemic by, for example, delivering food parcels, undertaking uplifts and providing cleaning services.
- Shown a clear and flexible commitment towards supporting other Council services in various situations including emergencies.

23. Also, bringing this service in-house would provide wider flexibility in relation to supporting existing Council services possibly across a range of departments.

24. There would be opportunities for better integration of the scheme with the Council's ambitions and activities with regard to training and employment opportunities for example in relation to apprentices, school leavers, care experienced young people and building capacity within the Council. It would be easier to adapt and develop the scheme outwith the restrictions of a formal contract.

25. Importantly, bringing the service in-house would provide additional employment security to the existing staff who live locally.

Best Value

26. In terms of Best Value authorities should consider overall value including economic, environmental and social value and not just price when reviewing service provision. As a concept, social value is about seeking to maximise the additional benefit that can be obtained above and beyond the benefit of merely the goods and services themselves.

27. Given all of the above in terms of an options appraisal it is felt that bringing the service in-house represents best value in the circumstances. This avoids the uncertainty over future service provision and the potential additional cost of going to the market. It also ensures the continued delivery of added social value in relation to employment and the local economy.

FINANCE AND EFFICIENCY

28. The total cost of the ongoing monthly continuation of the third party contract will be approximately £24,000 per month under the current arrangements and until the transfer is completed. There are no additional financial consequences for the Council in this respect. Budgetary provision of that level already exists.

CONSULTATION

29. Legal Services, Procurement, Housing and HR have been consulted in the development of this proposal.

PARTNERSHIP WORKING

30. This project will continue to be overseen by ERC Housing Services.

IMPLICATIONS OF THE PROPOSALS

31. This proposal has staffing, legal and financial implications all of which are being assessed in partnership with the Environment Department Business Partners for Legal Services, Procurement, Housing, Human Resources and Accountancy. This assessment is still underway.

32. There are no IT, equality, Subsidy Control and Trade and Cooperation Agreement or sustainability implications directly associated with this report at this point in time.

CONCLUSIONS

33. The Mixed Tenure Scheme delivers essential rapid response neighbourhood services ensuring mixed tenure areas within East Renfrewshire are well maintained for all residents. In order to support key Council services it is essential that this service is continued to ensure local mixed tenure estates are maintained effectively. However, to attempt to renew this service as an external contract would risk incurring additional costs, the possibility of no tender being submitted and also the loss of essential economic, employability and social benefits for the reasons explained in this report. It is proposed therefore that the best option for the Council and the one carrying the lowest risk would be to bring the service in-house.

RECOMMENDATIONS

34. It is recommended that the Cabinet:-

- a) agree that for the reasons detailed in this report in relation to Best Value the service provided under the existing contract be brought in-house;
- b) note that the relevant employees from VERG will transfer to the Council as employees through Transfer of Undertakings (Protection of Employment) Regulations 2006, (TUPE);
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- d) note that there are no financial implications at this stage since budgetary provision already exists for the delivery of the scheme; and
- e) delegates to the Director of Environment in consultation with the Chief Officer – Legal and Procurement and Deputy Chief Executive to make the necessary arrangements for the transfer.

Director of Environment

Further information can be obtained from Andrew Cahill, Director of Environment 0141 577 3036

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