



**Report of Chief Officer Civic Enterprise Leeds**

**Report to Director of Resources and Housing and Chief Financial Officer**

**Date: 10<sup>th</sup> November 2020**

**Subject: LBS Mobilisation of Housing RRV in the South: TUPE and capital funding injection**

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

**1. Main issues**

- In October 2019, Executive Board approved a decision for our in-house service provider, Leeds Building Services (LBS), to deliver housing responsive repairs, voids and cyclical maintenance services to two-thirds of the city to the East and South. An external provider will deliver these services to the remainder of the city to the West.
- Services in the South at present are delivered by the external contractor, Mears Limited. This contract will end on 30<sup>th</sup> June 2021 with services transferring to LBS on 1<sup>st</sup> July 2021. In accordance with TUPE (Transfer of Undertakings Protection of Employment) regulations, all Mears staff who are eligible and in scope will automatically transfer to LBS as Leeds City Council (LCC) employees.
- There are currently 91 employees on the TUPE list which, due to the nature of the TUPE process is subject to change. To allow for this uncertainty, a 10% contingency has been added to avoid the need to submit further papers. As such, approval is being sought for the creation of up to 100 new posts on the LBS structure, with the overall annual salary costs anticipated at approximately £2.96m.
- A detailed financial analysis has been undertaken to prepare for this insourcing and has identified a requirement for a capital injection of up to £1.728m for the purchase of additional vehicles, IT hardware and tools.

- Delivery of the insourcing of the South is built into the LBS 2021/22 business plan, including the annual revenue financing costs of capital expenditure which are therefore budget neutral.
- Due to the fluid situation of TUPE the capital injection request is based on maximum funding requirements. Every effort will be made to reduce capital spend where opportunities arise e.g. reduction in fleet purchases via fleet reallocation.

## **2. Best Council Plan implications** (see the [latest version of the Best Council Plan](#))

- These services support the Council's ambition for Leeds to be a compassionate and caring City that tackles poverty and reduces inequality, by making sure that our tenants, including some of the most vulnerable people in our city, are able to live in safe, accessible and well maintained homes.
- The services contribute to the following Best Council Plan ambitions:
  - Housing – in particular housing of the right quality, and the key performance indicator of percentage of council housing repairs completed within target; and
  - Safe, Strong Communities – in particular keeping people safe from harm and protecting the most vulnerable.
- The increase in this service provision by LBS also supports internal growth and investment.

## **3. Resource implications**

- There are no additional adverse financial implications as a result of approving this report. The insourcing of the housing maintenance and repairs work was approved by Executive Board in October 2019, the financial impact of this is reflected in both the LBS Business Plan and the Council's draft budget strategy for 2021/21. The additional staff costs arising from TUPE and the financing of the proposed capital expenditure are both built into the LBS Business Plan and, therefore, are cost neutral for the Authority's financial planning.

## **Recommendations**

The Chief Financial Officer is recommended to:

- a) Inject £1.728m into the capital programme for 2021/22, funded by borrowing over 6 years, for the purchase of vehicles and other operational equipment required to support the growth of LBS and the expansion of services provision into the South.

The Director of Resources and Housing is recommended to:

- b) Approve the creation of up to 100 permanent posts with an approximate annual value of £2.96m on the LBS staff structure to accommodate the transfer of employees from Mears Limited to Leeds City Council in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). The transfer will take place on 1<sup>st</sup> July 2021.
- c) Provide LBS with the authority to procure of up to £1.728m for the purchase of vehicles and other operational equipment required to support the growth of LBS and the expansion of services into the South.

## **1. Purpose of this report**

- 1.1 This report seeks approval for the creation of up to 100 additional posts on the LBS structure. Mears employees who are eligible and in scope will automatically transfer employment to LCC on 1<sup>st</sup> July 2021 in accordance with TUPE regulations. This report also seeks approval for an injection of up to £1.728m into the capital programme, as well as the authority to procure and spend up to this amount for additional fleet, IT hardware and tools to support LBS expansion of service provision in the South.

## **2. Background information**

- 2.1 Housing's responsive repairs and voids services, including cyclical maintenance activities, keep Council housing assets safe and well maintained for our residents. These are essential services, helping us to meet our commitments and legal obligations as a caring and responsible landlord to over 50,500 homes.
- 2.2 The current arrangements for who delivers these services differ across the city. Mears currently deliver in the South and West of the city, with our in-house service provider, LBS delivering in the East.
- 2.3 In October 2019, Executive Board approved a decision for LBS to deliver these services for the East and South of the city. The existing Mears contract in the South will end on 30<sup>th</sup> June 2021 with responsibility transferring to LBS on 1<sup>st</sup> July 2021. An external contractor is currently being sought to provide these services to the West of the city under a separate competitive procurement process.
- 2.4 LBS is currently responsible for approximately 16,905 homes to the East. The South will add approximately a further 14,055 homes taking its total to approximately 30,960. This represents an 83% increase and LBS has been planning and preparing for this.

## **3. Main issues**

### TUPE of staff

- 3.1 TUPE applies when a contract for services is transferred from one provider to another. There are 91 employees on the current Mears TUPE list, however the nature of TUPE means that we will not have a clear picture of the exact numbers until nearer the transfer date. Allowing for this uncertainty, the business is planning for up to 100 staff transferring to LBS to avoid the need to submit an additional request at short notice. This will be under continual review to ensure that the service does not unnecessarily invest in fleet and other operational equipment for more staff than required. The variation in staff numbers will have a proportionate impact on LBS turnover levels and the rate of return and, as a result, will be budget neutral.
- 3.2 Employees will transfer from Mears to LCC on 1<sup>st</sup> July 2021. LBS has a duty to inform appropriate representatives of the affected employees of the transfer and must consult on any proposed 'measures' - including potential changes to existing work practices such as pay dates, benefits, job descriptions and hours of work etc.
- 3.3 A TUPE process plan has been developed with HR which aims to ensure that LCC fully complies with TUPE regulations. The majority of this workstream will begin in early 2021 when formal consultations with employees and Trade Unions will

commence. No additional recruitment needs are expected for the South and annual salaries for the TUPE'd posts will be approximately £2.96m. The revenue implications of this are covered within the LBS Business Plan and the Council's draft budget strategy for 2021/22.

### Capital Expenditure

- 3.4 To support the business expansion, an injection of £1.728m is required into the capital programme to invest in fleet, IT hardware and tools. A detailed financial analysis has been undertaken looking at set-up costs for up to 100 additional staff. These costs will be financed over 6 years with annual repayments of £318k per annum.
- 3.5 It should be noted that capital expenditure requirements are based on maximum costs to the business and every effort will be made to reduce capital spend where opportunities arise. For example, in parallel to this project, the Council is delivering an Early Leavers Initiative (ELI) programme which is expected to result in a reduction of staff across LBS which, wherever possible, spare fleet, IT hardware and tools will be redistributed to new employees, therefore reducing the capital expenditure provision that will be required.

### Fleet

- 3.6 The majority of operatives joining LBS will require a vehicle in order to undertake their role. Vehicle type and configuration is dependent upon trade and job specialisms. Table 1 provides a high level breakdown of vehicle types, trades and likely numbers required based on the latest Mears information.
- 3.7 Maximum total cost for fleet is estimated to be £1,579,215 allowing for a 10% contingency due to the level of uncertainty surrounding final employee numbers. This cost includes telematics, home charging points and installation costs on electric vehicles where required.

Table 1. Vehicle type, cost and numbers to be purchased

<b>Vehicle type</b>	<b>Fuel type</b>	<b>Trades / Job type</b>	<b>No. required</b>
<i>Transit 350M Dropside - Tail lift (Euro 6)</i>	<i>Diesel + Ad blue</i>	<i>Bricklayer</i>	<i>3</i>
<i>Nissan E-NV200 Van</i>	<i>Electric</i>	<i>Carpenter &amp; Joiner, Electrician, Floorlayer, Multi-skilled, Plumber, Tiler</i>	<i>39</i>
<i>Transit Custom 290L1 (Euro 6)</i>	<i>Diesel + Ad blue</i>	<i>Carpenter &amp; Joiner (out of hours), Electrician (out of hours), Fencer, Multi-skilled, Plasterer, Plumber (out of hours)</i>	<i>27</i>
<i>Transit Custom LWB (Euro 6)</i>	<i>Diesel + Ad blue</i>	<i>Glazier</i>	<i>1</i>
<b>Total</b>			<b>70</b>
<b>Total £ inc. 10% contingency</b>			<b>£1,579,215</b>

- 3.8 LBS is committed to reducing fleet costs and is currently undertaking a fleet review to ensure the business will maximise the future use of its current stock. The outcome of this review will inform procurement decisions and where possible any spare fleet capacity following ELIs will be allocated to staff transferring under TUPE. This is expected to reduce the overall number of vehicles required for LBS and thereby reduce the capital provision required. In addition, where possible, trades will be paired to reduce the overall number of vehicles required to be purchased. This exercise is expected to be completed over the few next months which is why, in the interim, a prudent approach has been undertaken by requesting the maximum estimated capital provision required.
- 3.9 The business is working with Fleet Services to ensure that fleet capacity from across the Authority is also maximised and procurement of any new vehicles delivers the best value for money.
- 3.10 LBS currently has 377 vehicles of which 139 are electric making it the business which already has the largest fleet of electric vehicles across the Council.

#### IT Hardware

- 3.11 All TUPE'd staff will be provided with new IT hardware. Operatives will receive a smart phone and office based staff a laptop and mobile telephone installed with Mobile Iron. A breakdown of costs can be found at table 2.
- 3.12 In addition, there is a one-off initial estimated cost to the business to configure and set-up all new devices of £5,000

Table 2. IT Hardware costs and set-up

<b><i>IT Hardware</i></b>	<b><i>No. required</i></b>	<b><i>Total cost £</i></b>
<i>PDA / Mobile</i>	<i>100</i>	<i>22,323</i>
<i>Mobile Iron</i>	<i>100</i>	<i>7,088</i>
<i>Laptop</i>	<i>19</i>	<i>15,749</i>
<i>Total IT Hardware</i>		<i>45,160</i>
<b><i>Total (inclusive of configuration and set-up)</i></b>		<b><i>50,160</i></b>

- 3.13 As part of the wider Connect project (planned new LBS ICT system), DIS is undertaking a review of IT to ensure that LBS is using the most suitable and cost-effective devices available. Findings from this work will be acted upon before any IT hardware procurement commences with a further view to realising cost-savings and efficiencies in the South and across the business as a whole.

## Tools

3.14 All Operatives must be provided with the right level of tools to carry out their role. Table 3 provides detail of the standard equipment required for each role and costs. In total, tools for new operatives are estimated to cost up to £99,226. Again, where possible for any staff departing on ELI, their tools will be redistributed to minimise costs.

Table 3. Tool costs

<b>Tool</b>	<b>Skills / trades</b>	<b>No. required</b>	<b>Total cost</b>
<i>SDS Drill</i>	<i>Bricklayer, Carpenter &amp; Joiner, Electrician, Fencer, Floorlayer, Glazier, Multi-skilled Ops, Plasterer, Plumber, Tiler</i>	75	26,625
<i>Drill &amp; driver</i>	<i>Bricklayer, Carpenter &amp; Joiner, Electrician, Fencer, Floorlayer, Glazier, Multi-skilled Ops, Plasterer, Plumber, Tiler</i>	75	19,125
<i>Planer</i>	<i>Carpenter &amp; Joiner, Fencer, Multi-skilled, Plumber</i>	54	13,986
<i>Jigsaw</i>	<i>Carpenter &amp; Joiner, Fencer, Multi-skilled, Plumber, Glazier</i>	55	13,750
<i>Circ Saw</i>	<i>Carpenter &amp; Joiner, Fencer, Multi-skilled, Plumber</i>	54	13,500
<i>Tile cutter</i>	<i>Multi-skilled, plasterer, tiler</i>	45	8,726
<i>Paddle mix</i>	<i>Floorlayer, Plasterer</i>	5	2,625
<i>Grinder</i>	<i>Bricklayer</i>	3	889
<b>Total</b>			<b>99,226</b>

## Revenue costs

3.15 In addition to the financing costs of the above capital requirements, there will be additional set-up costs to LBS funded through the business's revenue budget.

## Uniforms

3.16 All staff will require new uniforms including coats and boots and PPE such as Hi Vis waistcoats and knee pads. The total uniform costs for up to 100 staff is £15,218.

## Van stock

3.17 All new vehicles must be provided with initial stock. The total cost of van stock is £177,100 allowing for contingency.

## Salaries

3.18 Annual salaries for up to 100 staff are estimated to be £2.96m which are fully costed within the LBS Business Plan 2021/22.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 Extensive consultation and engagement with Trade Unions took place prior to the original Executive Board decision for LBS to deliver services in the South.
- 4.1.2 Formal consultations around the nature of TUPE will commence in early 2021 with Trade Unions, LBS and Mears staff.

### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 An Equality, Diversity, Cohesion and Integration screening and impact assessment has been completed and is attached at Appendix A.
- 4.2.2 Key findings include:
  - Approving the creation of up to 100 additional posts on the LBS structure will impact both TUPE'd and existing LBS staff. However no single group will be disproportionately affected.
  - The decision to approve the capital injection and associated authority to procure is a financial decision with no equality, diversity, cohesion or integration impacts.

### **4.3 Council policies and the Best Council Plan**

- 4.3.1 Housing repair and maintenance services support the council's ambition for Leeds to be a compassionate and caring city that tackles poverty and reduces inequality. Through the provision of these services we ensure that our tenants, including some of the most vulnerable people in our city, are able to live in safe, accessible and well maintained homes
- 4.3.2 The services contribute to the following Best Council Plan ambitions:
  - Housing – in particular housing of the right quality, and the Best City key performance indicator of percentage of council housing repairs completed within target; and
  - Safe, Strong Communities – in particular keeping people safe from harm and protecting the most vulnerable.

#### Climate Emergency

- 4.3.3 At Full Council on 27 March 2019, Leeds City Council passed a motion declaring a Climate Emergency. In addition, the Leeds Climate Commission have proposed a series of science based carbon reduction targets for the city so that Leeds can play its part in keeping global average surface temperature increases to no more than 1.5C.
- 4.3.4 LBS will contribute to this target by:
  - Reducing air pollution e.g. increased electric vehicles and reduction in fossil fuel consumption
  - Improving energy efficiency of homes

- Reducing waste and use of resources in delivering repairs and maintenance
- Improving biodiversity outcomes in the repaired homes where possible.

4.3.5 LBS is committed to reducing air pollution and new vehicles will be electric where possible. The business already has the largest fleet of electric vehicles across the Council.

#### 4.4 Resources, procurement and value for money

4.4.1 TUPE'd staff are required by LBS in order to deliver these essential services in the South. No additional recruitment needs are expected.

4.4.2 Any costs which will be incurred following approval of the capital injection and authority to procure will be incurred in accordance with Contract Procedural Rules to ensure that value for money is obtained from the procurement exercise. Vehicles will be procured by obtaining tenders using the TPPL (The Procurement Partnership Limited) Framework and IT and tools costs will be procured using existing approved contracts wherever possible, otherwise a new procurement will be undertaken.

4.4.3 This report seeks a maximum injection of capital funding based on service requirements for up to 100 staff, however the business will seek out all opportunities that aim to reduce capital spend. The Council wide ELI programme is likely to result in fleet, IT hardware and tool capacity that will be redistributed to new TUPE'd staff thereby reducing capital spend. LBS's fleet review will also ensure the business is maximising its current stock and where possible reallocate fleet capacity to the South.

4.4.4 The business is working with Fleet Services to ensure that fleet capacity from across the Authority is also maximised and procurement of any new vehicles delivers the best value for money.

#### Capital funding and cash flow

Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2021 £000's	FORECAST				
			2021/22 £000's	2022/23 £000's	2023/24 £000's	2024/25 £000's	2025 on £000's
Fleet	1579.0		1579.0				
IT Hardware	50.0		50.0				
Tools	99.0		99.0				
<b>TOTALS</b>	<b>1728.0</b>	<b>0.0</b>	<b>1728.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2021 £000's	FORECAST				
			2021/22 £000's	2022/23 £000's	2023/24 £000's	2024/25 £000's	2025 on £000's
LCC Departmental Borrowing	1728.0		1728.0				
Any Other Income (Specify)	0.0						
<b>Total Funding</b>	<b>1728.0</b>	<b>0.0</b>	<b>1728.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Balance / Shortfall =</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

## 4.5 Revenue Effects

The 2021-22 and 2022-23 budget in respect of the South area within LBS assumes the revenue costs identified above are fully incorporated with the identified operating costs. With the associated turnover (wholly chargeable to the HRA) allowing the service to be able to maintain the budgeted return to the general fund.

	2021-22	22-23
	£000	£000
<b>TURNOVER</b>	<b>(7,500)</b>	<b>(10,000)</b>
<b>Expenditure</b>		
Employee Costs		
Officers/Apprentices	506	675
Operatives	1,714	2,285
Other Costs	4	6
<b>Total Employee Costs</b>	<b>2,224</b>	<b>2,966</b>
Direct Materials	1,067	1,423
Sub-Contractors	2,275	3,139
Other Supplies & Services	250	333
Transport	204	272
Prudential Borrowing	318	318
<b>Total Expenditure</b>	<b>6,338</b>	<b>8,450</b>
<b>Return</b>	<b>(1,162)</b>	<b>(1,550)</b>

## Financing Cost

Amount to be borrowed	£1,728k
Asset Life	6 years
Interest Rate	2.29%
Annual Financing Cost	£318k

## 4.6 Legal implications, access to information, and call-in

- 4.6.1 The decision set out in this report is a key decision and subject to Call In.
- 4.6.2 There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.6.3 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (known as TUPE) will apply. The appropriate consultation activity will commence in early 2021. HR is supporting all aspects of this work to ensure the Council fully complies with the regulations.
- 4.6.4 The Council is committed to being a caring and responsible landlord, and these services are an essential contribution to meeting our legal obligations and statutory responsibilities, including those set out in:
- The Landlord and Tenant Act 1985,

- The Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994
- The Regulatory Framework for Social Housing in England 2012, and
- The Homes (Fitness for Human Habitation) Act 2018

## **4.7 Risk management**

- 4.7.1 The nature of TUPE means that exact numbers of employees moving to LBS on 1<sup>st</sup> July 2021 are unknown. The business is therefore planning the insourcing based on maximum numbers likely to be transferred. The TUPE list will continually be updated and reviewed to ensure that the service does not unnecessarily invest in capital and other operational equipment for more staff than required.
- 4.7.2 The uncertainty around employees also risks a potential skills gap within the business. As part of the emerging procurement strategy. LBS will be expanding the subcontractor's base which is important for the mitigation of this risk to bridge any potential labour gaps.
- 4.7.3 Due to the level of uncertainty in staffing requirements, the exact level of capital injection required is unknown at this stage. This report seeks approval for the maximum funding required allowing for a 10% contingency to mitigate any financial risks should numbers increase, with a view to realising costs savings wherever possible. The annual (£318k) financing costs of the maximum level of capital provision can be supported within the LBS Business Plan for 2021/22.

## **5. Conclusions**

- 5.1 In October 2019, Executive Board approved a decision for LBS to deliver housing responsive repairs, voids and cyclical maintenance services for the East and South of the city.
- 5.2 LBS will take over services from Mears Limited on 1<sup>st</sup> July 2021. In accordance with TUPE regulations, Mears staff will automatically transfer to the Council as LBS employees on this date. LBS is planning on the assumption that up to 100 staff could transfer to the Council as LBS employees.
- 5.3 A detailed financial analysis has found that a maximum capital injection of £1.728m is required to support this business expansion to invest in fleet, IT hardware and tools.

## **6. Recommendations**

The Chief Financial Officer is recommended to:

- a) Inject £1.728m into the capital programme for 2021/22, funded by borrowing over 6 years, for the purchase of vehicles and other operational equipment required to support the growth of LBS and the expansion of services into the South.

The Director of Resources and Housing is recommended to:

- b) Approve the creation of up to 100 permanent posts with an approximate annual value of £2.96m on the LBS staff structure to accommodate the

transfer of employees from Mears Limited to Leeds City Council in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). The transfer will take place on 1st July 2021.

- c) Approve LBS with the authority to procure of up to £1.728m for the purchase of vehicles and other operational equipment required to support the growth of LBS and the expansion of services into the South.

## **7. Background documents<sup>1</sup>**

7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.