

## Inflationary uplift to the responsive repairs, voids & cyclical maintenance delivery contract (Mears) in the West of Leeds

Date: September 2022

Report of: Chief Officer, Housing Leeds

Report to: Director of Communities, Housing and Environment

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### Brief summary

The report seeks to obtain The Director of Communities, Housing and Environment approval to increase the value of the Schedule of Rates for the delivery of Responsive Repairs, Voids and Cyclical Maintenance by 9.25%, applicable from 1st October 2022.

The report provides background and information in relation to these recommendations.

### Recommendations

- a) Approves a one-off increase of 9.25% in the Schedule of Rates for the Responsive Repairs, Voids and Cyclical Maintenance contract between Leeds City Council and Mears Group.
- b) Approves the application of this increase in rates from 1st October 2022.

### What is this report about?

Inflationary uplift to the responsive repairs, voids & cyclical maintenance delivery contract (Mears) in the West of Leeds.

### Background information

The council owns and manages approx. 19,000 homes in the West area of the city. The contract for the delivery of Responsive Repairs, Voids, and Cyclical Maintenance (RR, V & CM) work in this area was awarded to Mears Group in April 2021 following a competitive tender exercise and commenced on 1st October 2021. The contract value is c.£14.5m p/and is for a fixed 5-year term with no option to extend beyond this period.

The remaining areas of the city, East and South, are delivered by the council's internal service provider, LBS (Leeds Building Services), the latter of these areas being in-sourced from an external contractor in July 2021.

The terms of the contract between Housing Leeds and Mears does not contain any price reviews during the 5-year period, i.e., the tendered Schedule of Rates for work delivered is fixed for the

entirety of the contract. This is contrary to several other comparable contracts held by the council, where price reviews are linked to price indices.

The rationale for the exclusion of such a price review mechanism in the RR, V & CM contract was that, at the point of development of the contract documents and terms in 2019 and 2020, the 'marketplace' for such services had seen over a decade of stability in terms of inflation with extremely low interest rates and stable growth with Bank of England interest rates consistently below 1% since 2009. At the point at which tenders were submitted (December 2020), this rate stood at 0.75%. The Annual inflation rate of the Consumer Price Index in the United Kingdom averaged 2.64% for the period 2009 to 2020.

As such, in-order to achieve some degree of cost certainty for the Council, it was felt that interested parties bidding for the contract could comfortably predict the rate of interest over the full contract period and build this into their tender submissions. Effectively transferring risk from the council to the contractor however assuming minimal risk to the council/council tenants in terms of risk to the delivery of statutory repairs and maintenance functions.

However, since prices were submitted and particularly since the start of the contract in October 2021, the maintenance industry, as with many areas of the economy, has seen significant challenge associated with increased costs of materials, labour, and overheads, particularly utilities costs, fuel, and energy prices.

This has contributed to The Consumer Price Index increasing to 4.1% in 2021 (from 1.5% in 2020) and it is predicted to close at around 11.8% in 2022.

In April 2022, the Office of Budget Responsibility wrote "Inflation in 2022 is at its highest rate in around 40 years. The increase is driven primarily by higher gas prices feeding into sharp rises in domestic energy bills, alongside higher fuel prices and global goods inflation..." It also noted that these pressures were unlikely to return to target until the end of 2025.

As a result, in June 2022 Mears issued an Early Warning Notice (EWN) to Leeds City Council, noting "...extraordinary increase in inflation in the period since the works were tendered in 2020," meaning that the prices tendered were unable to be sustained for the remainder of the contract period, putting the future viability of the contract in jeopardy, and causing a significant risk to the continued delivery of statutory services to tenants living in the West areas of the city.

Upon receipt of the EWN, Housing Leeds engaged colleagues in PACS (Procurement & Commercial Services) and Finance to ensure internal governance processes and Council guidance were followed in assessing how most appropriately to respond to the situation.

An Options Appraisal was undertaken to ensure all available options were assessed, ensuring that Housing Leeds continued to deliver these essential, statutory services while ensuring a preferred option also delivered best value to the council.

As the pressures highlighted by Mears were objectively demonstrable, it was agreed that the most appropriate response was for the Council to negotiate with Mears to agree an uplift in the current Schedule of Rates.

These negotiations were informally concluded in September 2022, subject to appropriate governance and approvals. The outcome of these negotiations is the recommendation that a 9.25% uplift to the Schedule of Rates is applied from 1st October 2022.

This recommended uplift does not represent the introduction of an annual review of contract prices which would be a variation to the original agreement), but instead a one-off increase to the tendered rates to be applied for the remaining 4 years of the contract.

### **Main issues**

Responsive repairs, voids and cyclical maintenance to council-owned homes is an essential service for the residents of Housing Leeds, ensuring homes are well maintained in a safe manner, compliant with a range of health and safety legislation and meet the needs of Housing Leeds' diverse customer base.

Failure to deliver an effective service would not only have significant reputational damage for Leeds City Council, but also risk the council's ability to deliver a range of statutory services, including fire safety works and electrical safety inspections as well as the reservicing of empty homes.

Due to the unprecedented situation being seen in the industry, including major disruption to material supplies and labour shortages, as well as increases in energy and fuel costs, the cost of delivering these services has increased significantly since the commencement of the contract. This can be evidenced utilising financial tracking indices such as the Consumer Prices Index, as well as more industry specific measures such as BCIS Local Authority Maintenance Cost Index – Services and BCIS General Building Cost Index, all of which have seen steep increases over the course of the last 18-24 months.

As a result, the tendered rates submitted by Mears for delivery of services in the West of the city meant the contract was no longer financially viable. This resulted in the submission of an Early Warning Notice to Leeds City Council requesting an increase in the tendered rates.

Following receipt of the EWN an Options Appraisal was undertaken to ensure all available options were assessed, ensuring that Housing Leeds continued to deliver these essential, statutory services while ensuring a preferred option also delivered best value to the council. The options considered were:

Colleagues in Finance and PACS were engaged throughout this process to ensure all options and negotiations followed LCC guidance and governance processes.

Given the market instability seen across the building, maintenance and construction sectors, the costs to deliver the services covered by the RR, V & CM contract have increased significantly.

This can be demonstrated by objective industry and financial mentoring indices as well as prices submitted to the council for comparable services since the commencement of this contract.

As such, the current terms of the LCC and Mears contract for delivery of these services is no longer viable to the contractor.

This has resulted in the need to negotiate a one-off price increase for the future sustainability of the contract, following an appraisal of all options available to the council.

### **What impact will this proposal have?**

The outcome of the subsequent negotiations with Mears have resulted in the recommendation of a one-off 9.25% increase to the Schedule of Rates, applicable from 1<sup>st</sup> October 2022. This equates to an increase in value of approx. £680k for the remainder of FY2022/23 and £1.36m per full year thereafter.

Adequate budget has been identified in the Housing Revenue Account (HRA) in FY2022/23 to manage this pressure and built into future budget provision for future years.

### How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 1 Working with housing providers, property owners, tenants, and communities to improve inferior quality housing, so everyone can have a home which supports good health, wellbeing, and educational outcomes

### What consultation and engagement has taken place?

Wards affected: Yes

Have ward members been consulted?

Yes

No

- 2 Adel & Wharfedale, Armley, Bramley & Stanningley, Calverley & Farsley, City & Hunslet, Farnley & Wortley, Guiseley & Rawdon, Headingley & Hyde Park, Horsforth, Kirkstall, Otley & Yeadon, Pudsey, Weetwood. Exec Member consultation has taken place but not individual Ward Members.

### What are the resource implications?

- 3 Minimal resource requirement, once the changes have been made to the system the rates will be automatically applied.

### What are the key risks and how are they being managed?

- 4 The risks associated with this decision are recorded and managed through the Housing Leeds Property Management risk register and Housing SMT risk register.
- 5 In addition, the formal Risk Reduction process initiated by the submission of the Early Warning Notice in June 2022 has been followed and recorded accordingly.

### What are the legal implications?

- 6 The decision recommended in this report is a key decision and subject to call-in given the financial value of the recommendation for the remaining term of the contract.

There is a risk that other providers who tendered for the contract could challenge the decision on the basis that they tendered for the contract based on a 'fixed price' Schedule of Rates for the full term. This is considered minimal risk due to the instability witnessed across the sector over the last 18-24 months, meaning other providers would be unable to stand by their tendered rates.

### Options, timescales and measuring success

#### What other options were considered?

- Refuse the request and remain on tendered rates. This option was ruled out on the basis that it would lead to termination of the contract based on financial viability.

- Re-procure the contract. This option was ruled out on the basis that re-tendered rates would be significantly higher than those previously submitted because of the market pressures highlighted above, plus the ongoing instability in the market.
- Insource service to LBS. This option was ruled out on the basis that LBS has recently undergone significant expansion in the South of the city and remains in the 'normalisation' phase of delivery. Further expansion at this time was deemed too high a risk, putting the effectiveness of the service across the city at risk.
- Negotiate with Mears to reach a mutually agreeable position. This was identified as the preferred option based on 'best value' (i.e., would still represent the least costly option for Housing Leeds) and operational continuity.

### **How will success be measured?**

- 7 Using the established performance and monitoring processes that feature in the RRV&CM Contract Management Plan, the Contract Manager will be closely monitoring the change.

### **What is the timetable and who will be responsible for implementation?**

- 8 Adam Crampton will lead the work to ensure the agreed uplift is reflected on the appropriate systems. New rates will be backdated to October 2022.

### **Appendices**

Appendix A - Copy of Mears Early Warning Notice (Confidential)

### **Background papers**

Equality, diversity, cohesion, and integration impact assessment.