

REPORT TITLE: Procurement of Housing Delivery Framework**Ward(s) affected by this report: City Wide****Strategic Director: Barra Mac Ruairi, Strategic Director for Place****Report authors: Tim Southall, Housing Development Manager, Place
Mohammed Al-Bayatti, Housing Development, Place****RECOMMENDATION for the Mayor's approval:**

- a. To agree to establish a new city wide framework of delivery partners and consultants that can be used by all parts of the Council to deliver market and affordable homes on Council land; including land held by the Housing Revenue Account (HRA).
- b. To agree that in advance of the new framework being established, that the Council makes use of the existing Homes Communities Agency (HCA) delivery partner panel and any other appropriate local authority panels/frameworks.
- c. To agree to the Strategic Director Place being given delegated authority, in consultation with the relevant Assistant Mayor to agree enabling, development, consultancy services, funding opportunities and payments in excess of £0.5m.

Purpose of the report:

This report seeks approval to procure a new city wide panel of private developers and registered social housing providers to deliver market and affordable homes on Council land.

Key Details

1. The previous framework: West of England Housing Delivery Panel (WOE HDP) was established by the four west of England authorities in April 2011 and expired in September 2015.
2. This report outlines a proposal to put in place a new housing delivery framework that can be used by all parts of the Council to assist with the development and delivery of market and affordable homes on Council land and Council Homes on HRA Land. The Housing Delivery Framework (Framework) partners will be able to bid for Council land disposal, enabling, development, consultancy services and funding opportunities through a mini tender process.
3. The formulation of a Housing Delivery Framework will provide the Council with a delivery approach, in so far as possible, that;
 - Provides for the delivery of affordable homes to rent
 - Provides flexibility to consider variant bids
 - Drives competition to ensure best value
 - Selects high quality residential delivery partners to work in the City
 - Disposes of sites with a bespoke development agreement which will ensure the Council's site specific housing objectives are met
 - A quick and efficient route to market
4. It is considered that if the framework is to meet one of its prime objectives, namely quicker more efficient procurement, authority should be delegated to the Strategic Director in consultation with the relevant Assistant Mayor to agree enabling, development, consultancy services, funding opportunities and payments in excess of £0.5m. The framework would also facilitate payments from both the enabling budget and commuted sum budget. In November it was agreed to make available £1.5M to the enabling budget for 2016/17, 2017/18 and 2018/19.
5. The proposed framework, and the rationale underpinning it, is compliant with the Procurement Regulations. The Framework Agreement will contain the usual caveat that there is no guarantee of work for the participants. This will enable the Council to continue to use other appropriate frameworks and it will also retain the option to use alternative bespoke procedures within the Procurement Regulations Care will also need to be taken to ensure that the call off arrangements do not comprise unacceptable state aid.

**BRISTOL CITY COUNCIL
CABINET
1st March 2016**

REPORT TITLE: Procurement of Housing Delivery Framework

Ward(s) affected by this report: City Wide

Strategic Director: Barra Mac Ruairi, Strategic Director for Place

**Report authors: Tim Southall, Housing Development Manager, Place
Mohammed Al-Bayatti, Housing Development, Place**

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Purpose of the report:

This report seeks approval to procure a new city wide panel of private developers and registered social housing providers to deliver market and affordable homes on Council land.

RECOMMENDATION for the Mayor's approval:

- a. To agree to establish a new city wide framework of delivery partners and consultants that can be used by all parts of the Council to deliver market and affordable homes on Council land; including land held by the Housing Revenue Account (HRA).
- b. To agree that in advance of the new framework being established, that the Council makes use of the existing Homes Communities Agency (HCA) delivery partner panel and any other appropriate local authority panels/frameworks.
- c. To agree to the Strategic Director Place being given delegated authority, in consultation with the relevant Assistant Mayor to agree enabling, development, consultancy services, funding opportunities and payments in excess of £0.5m.

Background and policy context

1. The previous framework: West of England Housing Delivery Panel (WOE HDP) was established by the four west of England authorities in April 2011. This Council used the WOE HDP to procure delivery partners to deliver residential development on Council land, most recently to identify a partner for the Dunmail school site. The WOE HDP expired in September 2015.
2. Homes West Partnership (HWP) came into existence on 1st April 2015. This partnership was designed to promote collaborative working and share good practice between housing associations working in the West of England.
3. The Council's Housing Delivery Development Team are developing new Council homes on HRA land to meet identified housing needs in the city, and it is

anticipated that these schemes could take advantage of the framework, where appropriate.

4. With a pressing need to increase the supply of land to the market to secure the delivery of affordable homes to rent, the Council needs to establish a new bespoke, efficient procurement mechanism that will ensure the quicker delivery of high quality market and affordable homes in the City. That said the framework will make clear that it is not exclusive, the Council reserves the right to pursue alternative procurement routes wherever it considers it appropriate.

The proposal

5. This report outlines a proposal to put in place a mechanism for procuring delivery partners and consultants (i.e Architects) that can be used by all parts of the Council to assist with the development and delivery of market and affordable homes on Council land and Council Homes on HRA Land. The Housing Delivery Framework (Framework) partners will be able to bid for Council land disposal, enabling, development, and funding opportunities through a mini tender process.
6. The framework would also facilitate payments from both the enabling budget and commuted sum budget. In November it was agreed to make available £1.5M to the enabling budget for 2016/17, 2017/18 and 2018/19.
7. For the Framework to be most effective (i.e. to provide a route for quicker procurement in the future) and supporting local small and medium-sized enterprises (SME's), it is proposed to have 'lots' for the different project types. It is envisaged that the framework will have 'Lots' for procuring specific housing products/ partners/ consultants. This could include but is not limited to a volumetric housing, urban design, extra care, affordable homes to rent, custom build.
8. The 2015 Regulations encourage contracts being set up in Lots, and the Council own policy encourage us to structure procurement to support SME's.
9. The formulation of a Housing Delivery Framework will provide the Council with a delivery approach, in so far as possible, that;
 - Provides for the delivery of affordable homes to rent
 - Provides flexibility to consider variant bids
 - Drives competition to ensure best value
 - Selects high quality residential delivery partners to work in the City
 - Disposes of sites with a bespoke development agreement which will ensure the Council's site specific housing objectives are met
 - A quick and efficient route to market
10. Soft market testing will be undertaken with a range of consultants, private developers and registered social housing providers prior to commencing the EU compliant procurement process to ensure the structure of the offer is commercially attractive to a range of delivery partners with a proven track record of delivering high quality residential developments.
11. It is proposed to explore the scope for the use of a dynamic purchasing system during the soft market testing process.
12. Once the Housing Delivery Framework is established, the Council will have the ability to invite tender bids on the relevant Lot for Council land disposal, enabling, development, consultancy services, funding opportunities through a mini tender process and make payments from the enabling and commuted sum budgets.

13. The following draft timescale is provided for information below:

Cabinet approval	1 st March 2016
Soft market testing completed	May 2016
Suppliers event	June 2016
Advertise OJEU	July 2016
Pre-qualification Questionnaire	December 2016
Select & appoint providers	January 2017

14. It is anticipated that some of the projects which will be run through the framework will involve values (whether land and/or grant) in excess of £500k, and would therefore be classed as key decisions requiring further approval by cabinet. It is felt that if the framework is to meet one of its prime objectives, namely quicker more efficient procurement, authority should be delegated to the Strategic Director, in consultation with the Assistant Mayor and Property Board, to approve such projects.

Rationale for the proposal

15. **Recommendation from Scrutiny and Homes Commission:** This proposal strategically aligns with the key recommendations from both these commissions to implement new housing delivery arrangements.
16. **Delivery:** Once the framework is in place, this proposal will reduce the amount of time that the Council takes to identify an appropriate partner (s) for each different project or make payments available to an appropriate provider to an estimated time period of less than eight weeks. This is considerably quicker than the current forty weeks plus that it has taken on recent Council property disposal.
17. **Value for money:** The implementation of this proposal will enable the Council to evaluate different submissions from private housing developers and registered social housing providers in terms of cost and quality criteria which will enable the Council to promote place shaping, create high quality, sustainable neighbourhoods: where people choose and want to live, that contribute to the economic, social and environmental well-being in the city.
18. **New Affordable Housing:** the proposal will allow the Council, including the Housing Delivery team, to receive variant tenders that respond to the Council requirements for more affordable homes for rent or meet other strategic housing objectives.
19. **Scalability:** By simplifying future procurement processes it will be possible to identify multiple partners so that the Council will be able to proceed on a number of different projects at the same time.
20. **Quality Homes:** The proposal will allow the Council to receive variant tenders that respond to the Council requirements for higher build specifications and improved sustainability requirements which can be compared with the tenders that only offer planning policy compliant / building regulations solution.

Consultation and scrutiny input:

21. **Internal consultation:**

Alison Comley – Strategic Director Neighbourhoods
 Robert Orrett - Service Director Property
 Alistair Reid - Service Director Economy

Mary Ryan - Service Director: Landlord
 Zoe Willcox - Service Director, Development Management
 Nick Hooper - Service Director Strategic Housing
 Abigail Stratford - Service Manager, Major Projects
 Steve Ransom - Environmental Programme Manager
 Joe Jeffrey – Development Manager Property
 Mark Williams - People Business Partner
 Nicky Debbage - Service Manager - Strategy, Planning & Governance
 Robert Hamilton - Finance Team
 Eric Andrews - Legal and Democratic Services
 John Thompson – Procurement
 Tian Ze Hao - Finance Business Partner
 Tim Wye - Strategic commissioning manager
 Giles Neafcy - Corporate, Legal Services
 Anne James - Equalities and Community Cohesion Team Leader

22. External consultation:
 Not undertaken currently

23. Other options considered:

- A. Disposal of individual sites subject to planning and design statement: The Council currently has been using this approach. Although the Council has successfully contracted to sell four sites it has been a time consuming process and in future it will not be possible for the Council to rely on securing the appropriate housing tenures through S106 agreements.
- B. Other local authority’s panels/frameworks: the advantage of a bespoke framework agreement is that this Council can, subject to soft market testing, ensure that the framework partners deliver to specific strategic housing objectives. Whereas using another local authority’s framework may mean that this Council would have to accept a compromise position.
- C. HCA delivery partner panel: the Council considers that its own bespoke procurement panel can be designed in a way to reflect the Council objectives which may be markedly different to the HCA procurement panels. However, it is recognised that this Council has not yet tested the HCA approach and so needs to identify a suitable project can be tested.
- D. Under the new Public Contract Regulations 2015 the Council may be able to use regulation 12 and negotiate direct with appropriate bodies, including members of HWP if the specified conditions are met.

24. Risk management / assessment:

FIGURE 1							
The risks associated with the implementation of the <i>decision</i> :							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
		Impact	Probability		Impact	Probability	
1	Acceptability of procurement approach to developers and	High	Med	Soft market testing all stages	Med	Med	

	registered providers						
2	Lack of legal / procurement staff	High	Med	Commission external resources if necessary	Med	Med	
3.	Length of time before framework is operational	High	Med	Use Homes Communities Agency (HCA) delivery partner panel and any other appropriate local authority panels/frameworks in advance of the framework being established	Med	Low	
4.	Securing best value in terms of quality	High	High	Consider how the scoring criteria is set to ensure high quality developments are delivered	Med	Low	
5	Procurement challenge regarding the framework	High	High	Receive legal and procurement advice at all stages to ensure the process and structure of the framework are compliant to reduce the risk of challenge.	Low	Low	

FIGURE 2

The risks associated with not implementing the (subject) decision:

No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of	CURRENT RISK		RISK OWNER
		(Before controls) Impact	Probability		(After controls) Impact	Probability	
1	Increase overall procurement cost, including internal resources used to administer OJEU processes on individual site	High	High	Closer project control	Med	Low	
2.	Legal challenges on marketing and procurement process when seeking defined products	High	High	To accept the scheme can only deliver planning compliant projects.	Low	Low	
3.	Time consuming - Having to go through the tender procedure several times rather than once.	High	Med	Packaging a series of sites with a signal agent	Med	Med	

25. Public sector equality duties:

The framework will create more competition between developers and housing associations which will allow the council to specify the standards that best meet the need of the local population. For example the framework could specify lifetime home standards or proportions of wheelchair accessible accommodation and affordable larger homes. Whereas individually negotiated schemes where the developers bring forward their housing proposal through the planning system it is harder to negotiate standards above those provided through building regulations.

All organisations signed up to this framework will have had their equality and employment practice checked as part of the procurement system this can address any poor in employment practices in relation to discrimination and harassment. Please see Appendix A for full Equality Impact Relevance check which has confirmed that at this stage a full Equality Impact Assessment is not required.

Advice given by: Anne James / Equality and cohesion team leader

Date 21st January 2016

26. Eco impact assessment:

This proposal concerns improved procurement arrangements rather than new strategy or policy for housing, so does not in itself generate any significant positive or negative impacts.

Advice given by: Steve Ransom / Environmental Programme Manager

Date: 11th January 2016

27. Finance

a. Financial (revenue) implications:

The proposed procurement framework will have a positive influence on the financial aspect of the decision making. It would enable the Council to evaluate the tender submissions and payment applications from housing providers (both private and social), based on a balanced approach combining financial values and quality aspects to achieve the best Value for Money for the Council and for the city-wide economy.

The proposed procurement framework will also provide a firm grounding and flexibility for the Council and its partners to deliver Bristol's housing strategies and visions under various options of commercial structures and delivery models.

There is no net revenue financial impact under this procurement framework. The costs involved in the delivery of the proposed tender and procurement process will be met by existing revenue budgets across departments.

Advice given by: Tian Ze Hao / Finance Business Partner

Date: 20th January 2016

b. Financial (capital) implications:

The new framework proposes the use of bespoke development agreements, in line with the Council's site specific housing objectives, for the disposal of suitable sites. It is advisable to further explore the governance structure of the panel so to ensure that this links in with the Corporate Capital Board and the Corporate Property Board's decision making process, particularly in relation to asset disposal of land and properties and payments to eligible providers. These should tie in with the Council's financial strategy and planned asset disposal programme. There is a £1.5M to the enabling budget for 2016/17, 2017/18 and 2018/19.

Advice given by: Tian Ze Hao / Finance Business Partner

Date: 20th January 2016

28. Legal implications:

The proposed framework, and the rationale underpinning it, is compliant with the Procurement Regulations. For the Framework itself, it will be important to ensure that the narrative describing the Council's payment from enabling budget, disposal of development sites, and their likely value, is accurately set out when the OJEU notice is drawn up, to ensure that all foreseeable projects are covered within its ambit.

The proposal to tender certain sites, or certain types of work (e.g. volumetric, extra care, affordable, custom) as lots, is consistent with the principles underpinning the new Regulations and should also make Projects more accessible to SME's. The criteria for selection and award under for each lot will need to be carefully considered. Care will

also need to be taken to ensure that the call off arrangements do not comprise unacceptable state aid.

The Framework Agreement will contain the usual caveat that there is no guarantee of work for the participants. This will enable the Council to continue to use other appropriate frameworks and it will also retain the option to use alternative bespoke procedures within the Procurement Regulations

Advice given by: Eric Andrews / Senior Solicitor.

Date: 22nd January 2016

29. Land / property implications:

It should be noted that the Service Director Property through the Corporate land policy has delegated powers to approve land disposal. The creation of the framework panel will lead to a decreased risk of challenge to the tendering / procurement process, that property disposals will be faster and less costly to implement and that it enables the Council, as landowner, to consider further whether it wishes to achieve a higher place making specification than Policy currently enables.

Advice given by: Robert Orrett / Service Director Property

Date: 28th January 2016

30. Human resources implications:

There are no implications for the Council's workforce arising from the recommendations. However, the proposals should create new jobs in the local economy through the development and building of new affordable housing.

Advice given by Mark Williams / People Business Partner

Date 20th January 2016

Appendices:

Appendix A - Bristol City Council Equality Impact Relevance Check



Bristol City Council Equality Impact Relevance Check – Appendix A

This tool will identify the equalities relevance of a proposal, and establish whether a full Equality Impact Assessment will be required. Please read the guidance prior to completing this relevance check.

What is the proposal?	
Name of proposal	Procurement of Housing Delivery Framework
Please outline the proposal.	To establish a new city wide European Union (EU) compliant framework of developer partners ('Housing Delivery Framework') to deliver market and affordable homes on Council land.
What savings will this proposal achieve?	Not applicable
Name of Lead Officer	Tim Southall

Could your proposal impact citizens with protected characteristics? (This includes service users and the wider community)
Please outline where there may be significant opportunities or positive impacts, and for whom.
By agreeing the framework it will create more competition between developers and housing associations which will allow the council to specify the standards that best meet the need of the local population. For example the framework could specify lifetime home standards or proportions of wheelchair accessible accommodation and affordable larger homes. Whereas individually negotiated schemes where the developers bring forward their housing proposal through the planning system it is harder to negotiate standards above those provided through building regulations.
Please outline where there may be significant negative impacts, and for whom.
We can't identify any negative impact at this stage.

Could your proposal impact staff with protected characteristics? (i.e. reduction in posts, changes to working hours or locations, changes in pay)
Please outline where there may be significant opportunities or positive impacts, and for whom.
All organisations signed up to this framework will have had their equality and employment practice checked as part of the procurement system this can address any poor in employment practices in relation to discrimination and harassment.
Please outline where there may be negative impacts, and for whom.
No

Is a full Equality Impact Assessment required?	
Does the proposal have the potential to impact on people with protected characteristics in the following ways: <ul style="list-style-type: none"> • access to or participation in a service, • levels of representation in our workforce, or • reducing quality of life (i.e. health, education, standard of living)? 	
Please indicate yes or no. If the answer is yes then a full impact assessment must be carried out. If the answer is no, please provide a justification.	No, Equality impact assessment is not required at this stage but it will be required as part of the development of the specification.
Service Director sign-off and date:	Equalities Officer sign-off and date: Anne James, Equalities and Community Cohesion team leader, 21/01/2016.