



Cabinet
26 January 2015

**Report from the Strategic Director of
Regeneration and Growth**

For Action/Information

Wards Affected:
[ALL]

**Authority to invite tenders for a dynamic purchasing
system (DPS) for the procurement and management of
temporary accommodation**

1.0 Summary

- 1.1 This report seeks authority pursuant to the Council's Contract Standing Orders 88 and 89 to invite tenders for a Dynamic Purchasing System (DPS) for the Procurement and Management of Temporary Accommodation in accordance with the Council's Private Sector Accommodation Scheme (PSA). This procurement exercise is designed to provide a sufficient supply of temporary accommodation in the right places to adequately respond to the recent welfare changes and current overheated Housing Market in London. The proposed DPS will commence in July 2015 for the duration of two years with an option to extend for up to two years.

2.0 Recommendations

- 2.1 That Cabinet approve the pre - tender considerations and the criteria to be used to evaluate tenders for a DPS for the Procurement and Management of Temporary Accommodation as set out in paragraph 3.7 of this report.
- 2.2 That the Cabinet give approval to officers to invite expressions of interest, agree shortlists, invite Tenders for a DPS for the Procurement and Management of Temporary Accommodation (TA) and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.

- 2.3 That the Cabinet delegate authority to the Operational Director for Housing and Employment, as and when required, to appoint new service providers onto the DPS where they meet the selection criteria set out by the Council
- 2.4 That the Cabinet delegate authority to the Strategic Director of Regeneration and Growth to agree annual changes to the management fee.

3.0 Detail

- 3.1 The Council has a statutory duty to provide suitable temporary accommodation to homeless persons who are eligible and have a priority need for accommodation under part VII of the Housing Act 1996(as amended by the Homelessness Act 2002). There are currently approximately 3,400 homeless households in various Temporary Accommodation schemes. The Private Sector Accommodation (PSA) schemes involve the Council in leasing properties from the private sector and letting them to homeless households as Temporary Accommodation and the Council.
- 3.2 The DPS tender will have two distinct lots to meet the Council's requirements for affordable cost effective and good quality Temporary Accommodation ("TA").

Lot 1- Accommodation inside the M25

- 3.2.1 Where possible, affordable and practical Brent Council will procure TA within Brent's geographical boundaries or as close as possible. This has always been the Council's preferred option in line with the Council's TA placement policy. (Appendix 1)

Lot 2- Accommodation outside the M25

- 3.2.2 The Council needs to find enough self contained TA that is affordable to people in receipt of benefits, without increasing the costs to the Council Tax payer. This means some accommodation will have to be outside the M25.
- 3.2.3 Brent is part of the overheated London housing market where at one end of the scale rich foreign investors store their wealth in Central London property and at the other where people are forced to live in illegal out sheds because decent housing is either unavailable and/or unaffordable. Both house prices and private rents are at historic highs and housing supply in Brent simply does not match the Council's requirement for good quality and affordable temporary accommodation.

3.2.4 In 2011 the government introduced a maximum Local Housing Allowance (“LHA”) is payable in benefit per property size, with an overall limit set at the four-bed rate (£400) and limiting rents to the 30th percentile of the local market rents.

3.2.5 Access to the Private Rented Sector is becoming increasingly difficult particularly for those on housing benefit (HB). A recent survey of Local lettings agents revealed that most had a blanket policy of 'no benefit claimants'. The Council's ability to access the Private Rented Sector (“PRS”) to house people in need has declined sharply. The Council has recently quadrupled the financial incentives (capped at £5,200) available to landlords to let their properties to people in housing need. The Housing Benefit rental market in Brent has essentially collapsed because of the increasing gap between market rates and the LHA rate, as illustrated below:

The gap between LHA and Market weekly rents in Brent:

- 1 bed LHA £250 vs Brent Market average £271
- 2 bed LHA £290 vs Brent Market average £404
- 3 bed LHA £340 vs Brent Market average £595
- 4 bed LHA £400 vs Brent Market average £672

3.2.6 Brent is suffering from this phenomenon more so than its neighbouring Boroughs as it has rental levels higher than the London average and tends to have households larger than the London average.

3.2.7 With the introduction of the Overall Benefit Cap in August 2013 (in Brent), benefits are capped at £500 a week – this includes all benefits including housing benefit. For example, a couple with three children, under Universal Credit, has a personal allowance of £332.10. With benefits capped at £500, their maximum rent allowance is £167.90. The local housing allowance rent for a three bed property in the south of the Borough is £340.00 per week, leaving a weekly shortfall of £172.10. In essence it is very difficult for larger families to afford the high rent levels in Brent.

3.2.8 The Department of Work & Pensions (DWP) TA funding model for Temporary Accommodation is no longer sufficient to procure good quality accommodation within Brent Council's geographic boundaries. The Department for Work and Pensions (DWP) is currently reviewing the TA subsidy regime. They have indicated that TA subsidy will be set at current LHA plus £45 per week, this will be introduced when Universal Credit is rolled out. The Government have stated that the system will be in place in all areas of the UK and for all claimants by late 2017.

3.2.9 This scheme offers an alternative option which will provide a greater choice of self contained good quality accommodation outside of London in areas where rent levels are more affordable.

- 3.3 The PSA scheme will utilise Housing Benefit subsidy to fund the lease and management costs of the scheme. The specification for the contract will incorporate improved property procurement and management standards agreed by the West London Housing Partnership.
- 3.4 The scope of services will include a full property management service to include property acquisition, viewings and lettings processes, tenancy management, property inspections, administering decants, void periods and property handbacks and performance management.
- 3.5 The services under the proposed DPS will be provided by multiple providers. The DPS will be open to the following local authorities, Hammersmith & Fulham, Kensington & Chelsea, Ealing, Hillingdon, Hounslow, Westminster, Lewisham and Barnet to use (this information will be included in the OJEU notice). The major advantage of this for the Council is that a competitive price for the services can be achieved as a result of the potential combined buying power of 9 London Local Authorities.
- 3.6 There are many potential benefits of the DPS especially the flexibility of adding new suppliers throughout its period of operation provided they meet the set criteria. This potentially increases the supply base for the provision of the service. Suppliers are also able to improve their tenders at any time which would make it easier for them to improve their tender offer.
- 3.7 Establishing and Admitting Organisations onto the DPS
- 3.7.1 The DPS tender process will be based on an open procedure. Adverts for the opportunity will be placed in the Official Journal of European Union (OJEU). DPS documentation will be made available by electronic means via the Councils e-tendering system - London Tenders Portal. The tender documentation will set out the selection criteria organisations will be required to meet in order to be appointed onto the DPS.
- 3.7.2 Returned tender documentation consisting of a completed pre-qualification and method statement will be evaluated by a panel made up of representatives from the 9 Local Authorities. The process for deciding which organisations go onto the DPS will consist of 2 stages
- Stage 1:** Included with the tender documentation will be a questionnaire. The questionnaire will be used to assess organisation's financial viability, legal capability to trade, experience and their capacity.

Stage 2: Included with the tender documentation will be a method statement template. The Council will evaluate the submitted method statement to assess the organisation's capability of providing the required services.

- 3.7.3 In order for organisations to be considered eligible for appointment on to the DPS organisations will be expected at-;
- stage one of the assessment to obtain a “pass” for each of the sections within the questionnaire where it will stated as being a pass or fail assessment and at least 3 marks out of the available 5 for each of the marked questions. Organisations that fail this initial assessment will be excluded from further consideration in the procurement process.
 - Stage two of the assessment to score at least 3 marks out of the available 5 for each question in each section in the method statement.
- 3.7.4 The Council will offer unrestricted, direct and full access to the specification and to any additional documents by electronic means (via the London Tenders Portal) from the date of publication of the contract notice until six months to the date when the DPS ceases to operate.
- 3.7.5 The Council will give any organisation throughout the entire duration of the dynamic purchasing the opportunity of joining the DPS this would involve-;
- (a) The organisation submitting a tender electronically (as documentation will be available throughout the duration of the DPS).
 - (b) The Council will evaluate tenders on receipt in accordance with the evaluation methodology within a stipulated period.
 - (c) If the organisation meets the stipulated criteria then they will be admitted onto the dynamic purchasing system.
 - (d) Where the organisation does not meet the criteria the Council will inform the organisation of this and they will not be admitted onto the system.
- 3.7.6 The number of organisations that can be admitted on to the DPS will not be limited, but it should be noted that only organisations who can demonstrate that they can meet the Council's set selection criteria will be admitted onto the DPS. The Council would also set out the circumstances upon which a service provider will be removed from the DPS. This would include continued poor performance on contracts and non participation in the call off process.
- 3.7.7 As the Council will give any organisation the opportunity of joining the DPS until the DPS ceases to operate, officers are recommending that the Operational Director for Housing and Employment be given

authority to appoint service providers onto the Dynamic Purchasing System as and when required to prevent officers from returning to the Cabinet to obtain approval each and every time a Service Provider is required to be appointed onto the DPS.

3.7.8 It is anticipated that the DPS will become operational in July 2015 .

3.8 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	To procure and manage temporary accommodation properties, let to homeless persons as nominated by the council through a Dynamic Purchasing System (DPS)
(ii)	The estimated value.	<p>LOT 1- £2,808,000 based on an average of 300 properties in management across a four year contract.</p> <p>LOT 2-£936,000 based on an average of 100 properties in management across a four year contract.</p>
(iii)	The contract term.	4 th July 2015 for 2 years with the option to extend by up to a further 2 years.
(iv)	The tender procedure to be adopted including whether any part of the procedure will be conducted by electronic means and whether there will be an e-auction. Brent is about to move to an electronic process and whilst the procurement is being delivered consideration will be given to the use of e-tendering.	Formal tender by way of an open procedure (one stage process) in accordance with the Public Contract Regulations 2006 and the Council's Contract Standing Order 95 .

v)	Executive	Date of action	Date of completion
	Exec meeting Approval to proceed	26/01/2015	26/01/2015
	Dispatch of OJEU notice	02/02/2015	02/02/2015
	Issue invitation to tender	02/02/2015	02/02/2015
	Deadline for tender questions	02/03/2015	02/03/2015
	Tender close date	10/4/15	10/4/15
	Tender Evaluation/ Tender Appraisal	13/04/2015	13/04/2015
	Leaders Briefing	TBC	TBC
	Final Report to Democratic Services for dispatch to Executive Meeting	TBC	TBC
	Brent Cabinet/ Executive meeting decision	10/06/15	10/06/15
	Standstill period (period of time that the Council will not be able to enter into any formal contractual arrangement with the successful tenderer[s])		
	Contract start date	July 2015	July 2015
(vi)	The evaluation criteria and process.	Admittance to the dynamic purchasing system will depend on organization's meeting the selection criteria as stated in the tender documentation by the Council. See 3.7 above	

		<p>The selection criteria are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines namely the pre qualification questionnaire and thereby meeting the Council's minimum requirements in relation to financial standing requirements, technical capacity, technical expertise and compliance with statutory requirements such as health and safety.</p> <p>The tender will be evaluated on 100% quality criteria.</p> <p>Lot 1- Within the M25</p> <table border="1" data-bbox="826 837 1433 1012"> <tr> <td>Procurement</td> <td>50%</td> </tr> <tr> <td>Repairs and maintenance</td> <td>25%</td> </tr> <tr> <td>Complaints and management</td> <td>15%</td> </tr> <tr> <td>Anti-social behaviour</td> <td>5%</td> </tr> <tr> <td>Equalities</td> <td>5%</td> </tr> </table> <p>Lot 2- Outside the M25</p> <table border="1" data-bbox="826 1182 1433 1393"> <tr> <td>Procurement</td> <td>40%</td> </tr> <tr> <td>Repairs and maintenance</td> <td>20%</td> </tr> <tr> <td>Complaints and management</td> <td>20%</td> </tr> <tr> <td>Resettlement</td> <td>10%</td> </tr> <tr> <td>Anti-social behaviour</td> <td>5%</td> </tr> <tr> <td>Equalities</td> <td>5%</td> </tr> </table> <p>Financial and legal considerations on tenders returned are to be given by the Housing Finance Team and representatives from the Council's Legal and Financial services respectively. Where required, these representatives will participate in the evaluation panel.</p> <p>A further report will be presented to the Executive seeking approval to appoint the initial suppliers onto the DPS</p>	Procurement	50%	Repairs and maintenance	25%	Complaints and management	15%	Anti-social behaviour	5%	Equalities	5%	Procurement	40%	Repairs and maintenance	20%	Complaints and management	20%	Resettlement	10%	Anti-social behaviour	5%	Equalities	5%
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(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed contract. Financial Services have been consulted concerning this contract.																						

(viii)	The Council's Best Value duties.	Advertising of the procurement on the OJEU will attract competition from the wider market.
(ix)	Any staffing implications, including TUPE and pensions.	None
(x)	The relevant financial, legal and other considerations.	See paragraphs 4.0 to 6.0 below

3.9 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with the Council's Contract Standing Order 88.

4.0 Financial Implications

4.1 Part 4, section 2.5 of the Council's Constitution states that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite expressions of interest, agree shortlists and invite tenders.

4.2 The total agreed budget for expenditure on Temporary Accommodation for 2014/15 is £46.8m, offset by income from rents and Housing Benefit Subsidy payments totaling £43.2m leaving a net annual budget of £3.6m. It is proposed to reduce this net budget by £1.3m in 2015/16 and by a further £1m by 2017/18.

4.3 The schemes related to this contract currently support around 250 families on average, with the majority of these costs being offset by rental income and Housing Benefit subsidy Payments. The estimated value of this 4 year contract is £3.75m with an average anticipated net spend of c£934k per year based on increasing the numbers of families supported in these schemes by around 150 to approximately 400 per year. These families would otherwise be accommodated in bed and breakfast and other higher cost schemes. The anticipated saving from this initiative is expected to be approximately £195k per annum and will contribute towards the savings target set for 2015/16 and future years.

4.4 These assumptions are heavily reliant on our capacity to find accommodation that will be sustainable within the overall benefit cap. Inevitably this will mean procuring properties in areas where the rents are lower, elsewhere in the country. Although for some households this is not a viable option, and for the largest households there is nowhere in the country that is affordable within the caps.

5.0 Rationale for a Fixed Price Tender

Lot 1- Within the M25

The weekly management fee will be set at £45 per week

- 5.1 London Councils Housing Directors recently commissioned a pan-London bench marking exercise of rates and incentives paid by boroughs for PSL. The survey showed that a few boroughs are, paying more than LHA plus £45, when you take account of the incentives they are paying. We are not proposing to pay any incentives, so need to set rents at that level to compete in the market. The £45 weekly management is lower than Brent are currently paying for nightly paid and B&B accommodation. The weekly management fee needs to be financially attractive enough to ensure migration from these more expensive forms of types of accommodation. The maximum nightly let rates for 2-beds in West London are between £20 and £30 a week higher than the proposed PSA rate.
- 5.2 A fixed price gives the Council a higher degree of certainty, in regards to a steady and reliable supply of accommodation to meet our housing need.
- 5.3 Experience from past TA tendering exercises has shown that contractors that have submitted low bids have failed to provide an adequate supply of property, which has led to an increased use of nightly let and B&B accommodation and higher inevitable costs to the Council.
- 5.4 Lot 2- Outside the M25- The weekly management fee will be set at £45 per week for areas that are within 50 miles from central London. The London property bubble has had a ripple effect on the areas that are within a reasonable commuting distance.
- 5.5 For areas that are more than 50 miles of central London the weekly management fee will be set up at £35 per week.
- 5.6 The management fee will be reviewed annually on the anniversary of the contract by the Accommodation Service Manager and a report detailing any proposed changes will be sent to the Strategic Director of Regeneration and Growth for consideration. However, where the change to the management fee is above £250,000, Cabinet approval will be required.

6.0 Staffing Implications

- 6.1 None

7.0 Legal Implications

- 7.1 The Homelessness legislations, Part VII of the Housing Act 1996 (“the 1996 Act”) as amended by Homelessness Act 2002, and subsequent legislations, Orders and Code of Guidance govern the duties and obligations on housing authorities for prevention of homelessness and

for securing that sufficient accommodation will be available for people who become homeless or who are at risk of becoming so.

- 7.2 Under the legislation certain categories of households, such as families with children and households that include someone who is vulnerable, have a priority need for accommodation. The requirement to provide accommodation to persons who are homeless and satisfy the qualifying criteria for assistance arises under Part VII of the Housing Act 1996 (“the 1996 Act”) as amended by Homelessness Act 2002. The Council has a statutory duty pursuant to section 193 of the 1996 Act to provide temporary accommodation to homeless applicants who satisfy the following criteria: they are homeless; they are eligible for assistance; they are in priority need of accommodation; and, they are not intentionally homeless. The Council also has a duty to secure interim or emergency accommodation, pursuant to section 188 of the 1996 Act, to those persons it has reason to believe may be homeless, eligible for assistance, and have a priority need pending a decision to the section 193 duty, (if any) owed to the applicant.
- 7.3 The properties will be offered either as emergency accommodation in compliance with the duty under section 188 of the 1996 Act or as temporary accommodation under section 193 of the 1996 Act.
- 7.4 Section 206 of the 1996 Act provides that where a housing authority discharges its functions to secure that accommodation is available for an applicant, the accommodation must be suitable. Suitability must be in relation to the applicant and to all members of his/her household who normally reside with him/her, or who might reasonably be expected to reside with him/her.
- 7.5 So far as reasonably practicable the Council shall, in discharging its housing function under Part VII of the 1996 Act, secure that accommodation is available for the occupation of the applicant in its borough, pursuant to section 208 of the 1996 Act. Households who have no overriding need to be in Brent may be offered accommodation outside of the borough in a location which has been identified. Selection of areas will be based upon a number of socioeconomic factors including access to employment, education and affordability. Proximity and transport links to Brent will also be considered. In addition to the obligations under s208 of the 1996 Act, the Homelessness Code of Guidance for Local Authorities, of which the local policy would have regard, advises that housing authorities should aim to secure accommodation within their own district wherever possible.
- 7.6 Officers recommend setting up a Dynamic Purchasing System using the Open Procedure under the Public Contracts Regulations 2006. A Dynamic Purchasing System is a completely electronic system which may be established by the Council to purchase commonly used services, such as the procurement and management of private

temporary accommodation. The advantage of using such a system, which is akin to a Framework Agreement, is that unlike a framework agreement, it allows for new providers in the market to apply for admittance onto the Dynamic Purchasing System throughout the life of the system, which cannot exceed four (4) years unless there are exceptional circumstances.

- 7.7 Under the EU procurement rules provision of Temporary Accommodation service is a mixture of Part A and B of Schedule 3 to the Public Contracts Regulations 2006 but for this particular contract, the bulk of the service falls within Part B. On that basis, the application of the European procurement rules will be limited. However, in accordance with the EC principles of non discrimination and transparency, and for the partial application of the EU procurement rules, the Council intends to invite tenders and undertake the relevant procurement process as set out in this report.
- 7.8 The estimated value of the procurement over the lifetime of the Dynamic Purchasing System is deemed a High Value Contract as defined by the Council's Contract Standing Orders ("CSO"). CSO 88 provides that the Chief Officers have delegated to them power to invite expressions of interest, agree shortlists, invite Tenders and CSO 89 to approve the pre-tender considerations (which are set out in paragraph 3.7 of this report) should be obtained.
- 7.9 Part 4, section 2.5, paragraph 3(b) of the CSO provides that Officers have delegated to them powers to extend, vary and renegotiate contracts provided that in the case of any variation (other than an extension) the total value of the variation is less than £250,000.
- 7.10 Following the evaluation of the tenders received, Officers intend to report back to Cabinet to seek authority to appoint the initial potential providers to the DPS in accordance with CSO 88(c).

8.0 Diversity Implications

- 8.1 Two Equalities Impact Assessment have been completed for Lots 1 and 2 and are attached (please see Appendix 2).
- 8.2 The main risk of negative impact arises from relocating families out of London. BAME households are negatively impacted but cultural considerations have been taken into account when identifying areas of relocation thus mitigating the impact on this cohort. There is also a negative impact on women, however the increased lets to accepted homeless households neutralises this impact as women are over-represented in the homeless population. The analysis recognises that relocating with a young baby can be stressful and is likely to have an adverse impact on these households. The Council aim to mitigate this

impact by setting up links with family support groups and childcare services in areas where the accommodation is sourced.

- 8.3 There are variations within the population of Brent in those applying for assistance as homeless persons.
- 8.4 Through pre-selected providers, this scheme is designed to ensure an on-going supply of privately sourced accommodation. Certain types of properties can be specifically sourced, for example, some BAME households tend to have larger households and require larger properties. Households with certain disabilities require ground floor level access. Properties are to be sourced in areas where there is access to support and resettlement. Consideration will be given to transport links to Brent.
- 8.5 Homeless households, of which BAME households are over represented, will spend less time in emergency accommodation which compromises quality of life, educational attainment, and social inclusion and integration.
- 8.6 Efforts will be made to integrate homeless families into communities and avoid them being stigmatized as homeless households. Accommodation providers are asked to demonstrate how they would deal with harassment/ anti social behaviour in order to be successful and will submit performance statistics on monthly basis. The following actions have been identified to ensure that affected groups continue to obtain a fair and equitable service as a result of the policy:
- 8.7 The Council will be directly responsible for nominating applicants to the scheme in line with temporary accommodation policy and procedure and will be able to monitor take up by affected groups. Providers are asked to demonstrate how they would implement equalities and deal with harassment/ anti social behaviour in order to be successful. These requirements form part of the contractual obligations.
- 8.8 The Housing Act 1996 code of Guidance makes reference to criteria in the 'suitability of accommodation' order which takes into account education, welfare and medical needs. These criteria will be used to make decisions about whether to place out of borough. The council will adopt a policy using the criteria above to ensure that certain vulnerable groups remain in borough. There will be continuing monitoring and review of provider's commitment to provide an equitable service to homeless applicants.

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (the "Social Value Act") to consider how the services being procured might improve the economic, social and environmental

well-being of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement; and whether the council should undertake consultation. This duty applies to the procurement of the proposed contract.

- 9.2 The services being procured aim to improve the economic, social and environmental well-being of the residents of Brent in that persons who are homeless and satisfy the qualifying criteria for assistance arises under Part VII of the Housing Act 1996 (“the 1996 Act”) as amended by Homelessness Act 2002 will be provided with temporary accommodation reducing homelessness in the borough.
- 9.3 Officers will also have regard to the Social Value Act in its procurement of providers of accommodation to be appointed on to the DPS.

10.0 Appendices

Appendix 1 - Brent TA Placement Policy

Appendix 2 -

Equalities Impact Assessment **Lot 1**

Equalities Impact Assessment **Lot 2**

Appendix 2a Procurement bands

Any person wishing to inspect the above papers should contact:

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