

PORTFOLIO HOLDER WITH RESPONSIBILITY FOR HOUSING

01 MAY 2025

A. HOUSING REPAIRS TERM CONTRACT, BUDGET REVIEW AND REPAIRS ARRANGEMENTS

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To consider a request made by the term maintenance contractor for revisions to the contract awarded for housing repairs.

EXECUTIVE SUMMARY

The Council has entered into a term maintenance contract for housing repairs and similar works. The contract was commenced on 01 April 2021 including a three-year initial period and two two-year consecutive options.

The contract is currently at the mid-point of the first two-year option period, having been extended in 2024. The contractor has advised the Council that it is becoming increasingly difficult to continue to deliver the contract based on the current schedule of rates.

In accordance with the contract terms the current contractor has approached the Council asking for an increase due the volatility of the materials market within the building trade and in the context of the inflationary position in general. The contractor has also requested for changes to the minimum visit price requesting an increase to £75.00, payment for scaffolding in addition to the standard rates and a revision to the Schedule of bespoke (TDC specific) rates. There is scope within the current contract to allow for these small adjustments.

Discussions with industry experts have identified that a 21% increase in costs would likely be incurred if the latest version of the Schedule of Rates were to be applied, based on wider market conditions. Based on the current terms a CPI rate of increase would be applied, which, based on current forecast could be up to 4%. would be applied.

As part of the ongoing management of the Housing Revenue Account (HRA) an annual review of the 30-year business plan is carried out. In recognition of the ongoing financial demands that are placed upon the HRA an increase in the budget was identified due to the wider market conditions as mentioned above.

The Cabinet agreed at its meeting on 20 December 2024 to add a further £300,000.00 to the repairs budget in order to meet the increasing demands in the current financial year and to increase repairs provision in future years of the 30-year business plan by 20% which equates to around £615,000 extra per Annum.

The Housing repairs team have negotiated a 15% increase with the contractor, (lower when compared to the original request) that would result in an overall increase of 11% taking into account the CPI forecast rate of around 4%.

A longer-term view will be considered, and options explored as part of the 30-year HRA business plan.

RECOMMENDATION(S)

It is recommended that the Portfolio Holder:

- a) authorises the Assistant Director Building and Public Realm to agree revised rates within the housing repairs term maintenance contract to include:

- i) Updating schedule of rates uplift to +15%
- ii) Minimum visit price of £75.00
- iii) Payment for scaffolding in addition to the standard rates
- iv) Revised Schedule of bespoke (TDC specific) rates

REASON(S) FOR THE RECOMMENDATION(S)

To provide as far as practicable a housing repairs service that is reliable and cost effective and aspires to tenant satisfaction.

ALTERNATIVE OPTIONS CONSIDERED

Alternative option is to refuse the requested uplift and run the risk of the contractor serving notice to terminate the contract. This would leave the repairs service without a nominated contractor, that could lead to further increased costs and delays to the delivery of the service, as individual contractors would have to be sourced to carry out the works.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Pride in our area and services to residents

“We want to put residents’ first, by promoting clean and tidy communities, providing decent housing that everyone deserves...We also want to promote pride in our communities by encouraging everyone to take responsibility for keeping their area a pleasant place in which to live and work.”

Quality, timely and cost effective maintenance is fundamental to the management of our homes and achieving high standards.

Raising aspirations and creating opportunities

“Tendring is ambitious and our residents will be supported to reach their potential and realise their opportunities...”

Quality housing is considered to be one of the determinants of health and success. Robust maintenance agreements are key to embedding quality standards in the stock that the Council controls.

Championing our local environment

“We believe our environment is special, it is the space where we live and work, and therefore deserves protection. We will be tough on those who do not respect our environment. We want to create and maintain spaces for leisure, wellbeing and healthy lifestyles, and deliver access to open spaces and community resources.”

Maintenance of homes and the areas around them is important in promoting and embedding quality in the management of our homes and estates and achieving high environmental standards.

Working with partners to improve quality of life

“We want to promote safer, healthier, well connected and inclusive communities...”

Quality housing is considered to be one of the determinants of health and success. Maintenance is fundamental to embedding quality standards in the stock that the Council controls.

Financial Sustainability and openness

“To continue to deliver effective services and get things done we must look after the public purse; that means carefully planning what we do, managing capacity, and prioritising what we focus our time, money and assets on...”

The maintenance contract is the largest single contract related to the housing stock and is fundamental to dealing effectively with empty homes and property conditions, with financial openness to our tenants and leaseholders. The contract is important to minimise claims and liabilities, embedding practices in line with the new consumer standards as outlined in the social housing regulatory framework.

OUTCOME OF CONSULTATION AND ENGAGEMENT (including with the relevant Overview and Scrutiny Committee and other stakeholders where the item concerns proposals relating to the Budget and Policy Framework)

Although the tenants panel has not been consulted on these specific contractual changes, They have raised issues such as contractor performance and are in favour of developing options such as in house capability. This concern can be explored as part of the 30-year business plan.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES	If Yes, indicate which by which criteria it is a Key Decision	☐ Significant effect on two or more wards ☐ Involves £100,000 expenditure/income ☐ Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	06 December 2024

The current contract uses a standard contract form: National Housing Federation Form of Contract 2011 (version 6 2019). Condition 14.6 of the contract includes for variations to be made by mutual agreement only.

Condition 9.4, as completed, of the contract provides for inflationary increases on an annual basis to be applied to the rates on the first of November each year from 2021 onwards, based on the comparison of the NSI CPI index for April 2020 and the same index for April of the year at the time being. In practice the inflationary application date is May each year because the contract start was delayed by some months by issues related to the Covid pandemic at the time.

A one-off affixed increase was agreed in 2022 replacing the contracted index related increases which were not applied again until the indexed prices exceeded the 2022 agreement.

Construction contracts have provisions for variations. In general the variations envisaged by the provisions are for changes to the nature of the work to be carried out under the contract rather than to the contract itself. However, in this contract, additionally, there is a contractual provision to facilitate change as long as both parties agree. The parties have provisionally agreed, subject to formal decision, to apply an inflation related change to the rates in the contract in excess of the indexing comprised within the contract.

The contract is in scope of Public Contracts Regulations 2015 (PCR 2015). Regulation 72 (c) PCR 2015 allows for modification of public contracts where any of the following conditions are met:

- (i) The need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen
- (ii) The modification does not alter the overall nature of the contract
- (iii) Any increase in price does not exceed more than 50% of the value of the original contract.

It is clear that the current market conditions were not foreseeable at the time of the award, including but not limited to the impact of war in Ukraine. The proposed change is estimated at circa 12%, falling below the 50% and is not likely to alter the overall nature of the contract.

Additionally, the Contract contains mutual break clauses exercisable by six months' notice either way. At the time of writing neither party has issued such a notice. In the event that Rapid response served a break notice it would be legally entitled to cease offering a service on expiration of the notice period and would be able to do so without any contractual sanction.

☐	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
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During the current extension period the performance issues against the terms of the contract should be monitored and to ensure the Council makes the best use of the time available to establish if there are alternative options to extending the contract again, which achieve value for money and deliver greater social value opportunities, as required by the Council's adopted Social Value Policy in November 2024.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The provision of housing services is mainly self-funding with other separate processes for the General Fund functions. However, the wider effects of regulation, Tenants' Charter and potential changes to Decent Homes Standard as well as Minimum Energy Efficiency Standards have yet to be fully understood. Initial funding has been agreed separately to facilitate stock condition monitoring and enhanced estates functions. Further additional costs are inevitable as the demands on the service increase. These will be managed through the 30-year business plan.

The contract is fundamental to the current delivery of the HRA repairs service forming the backbone of the repairs response.

Discussions with industry experts have identified that a 21% in cost would likely be incurred if the latest version of the Schedule of Rates were to be applied given the wider market conditions which was recognised in the development of the 30-year business plan.

With the above in mind the Cabinet added £300,000.00 from reserves to the previous financial year repairs budget in order to meet the previously identified increasing demands. Cabinet also decided, for similar reasons, to increase repairs provision in future years of the 30-year business plan by 20% which equates to around £615,000 extra per Annum.

Based on negotiations with the contractor, in line with the contract, the annual financial cost of agreement to the changes to the rates as negotiated is estimated at £570k. (Which is over £250K lower than the original request from the contractor.

Based on all of the above, it is expected that the proposed increases can be accommodated within existing budgets. However, opportunities to explore alternative future options, eg an increase in the in-house capacity, will be considered as part of the on-going 30-year business

plan and will run along side work currently being undertaken as part of the Stock Condition exercise.

Social housing is a regulated function and there are clear requirements it improve standards and response times. The social housing sector is also currently targeted by legal companies offering contingency fee arrangements to tenants. These factors and safety legislation and requirements mean that options to reduce work levels to match budgets are minimal.

☐ **The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:**

It is acknowledged that the proposals seek a fair balance between the current wider market conditions (which have been reflected within the 2025/26 HRA Budgets) and the approach made by the contractor for the consideration of a higher annual increase than the indexation set out within the associated contract. It is also important to note that the longer term position can be considered, alongside the approach proposed, as part of the business plan and other associated arrangements to support the on-going financial sustainability of the HRA.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Council has an adopted Financial Strategy.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, and	The Council has a mature constitutional structure and framework of policy for decision-making. The recommended decision follows careful consideration of options and implications.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The Council has an adopted Financial Strategy.

MILESTONES AND DELIVERY

The pricing schedule to be adjusted as soon as possible in conjunction with an ongoing discussion on contractor performance, with the longer-term position being considered along with the ongoing development of the 30-year business plan.

ASSOCIATED RISKS AND MITIGATION

The cessation of the of the term maintenance contract would leave the Council without its first line contract for repair and maintenance works and would impose a risk to delivery of quality and response standards and difficulty in controlling costs.

In addition to financial constraints around the main contract the general cost of repair works to the stock has increased and is likely to increase further due to inflationary and demand factors.

Adequate repairs and maintenance are vital to minimising claims, regulatory complaint and exposure to fines and compensation.

The measures set out in the recommendations are intended to mitigate risks in the immediate future. It will be important to review alternative options, as mentioned earlier in this report as part of the development of the 30-year business plan.

EQUALITY IMPLICATIONS	
The appropriate maintenance and management of the housing stock is an important progressive factor in enhancing equality.	
SOCIAL VALUE CONSIDERATIONS	
The appropriate maintenance and management of the housing stock is an important progressive factor in enhancing the social wellbeing through creating healthier and more resilient communities. The contract was let having regard to quality as well as price factors including elements of social significance.	
IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION	
It is expected that opportunities will arise as part of the associated processes which will be explored as part of developing the HRA business plan and wider financial plans associated with this key challenge for Essex authorities.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050	
The appropriate maintenance and management of the housing stock is a contributory factor in reducing energy use. Other measures linked to stock condition and other ongoing work are key contributing factors and will be evaluated within the 30-year business plan.	
OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	The appropriate maintenance and management of the housing stock is an important progressive factor in addressing the causes of crime and disorder.
Health Inequalities	The appropriate maintenance and management of the housing stock is an important progressive factor in terms of health equalities.
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	The Council will follow subsidy control legislation and regulations, where applicable in relation to any procurements.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Council has entered into a term maintenance contract for housing repairs and similar works with Rapid Response Limited. The appointment was made following a full open tendering process compliant with EU rules and included cost and non-financial and social criteria.

The tender and evaluation process were facilitated by Rand Associates on behalf of TDC, with the contract commencing on 01 April 2021 including a three-year initial period and two two-year consecutive options. The contract is at the mid-point of the first two-year option period, having been extended in 2024.

The contract is a term maintenance form and facilitates the placing of orders for works at the defined rates as the need arises. There is no minimum value level and the Council has the option to place more or less work through the contract as may be required.

Discussions with industry experts have identified that a 21% in cost would likely be incurred given the wider market conditions, if the latest version of the Schedule of Rates were to be applied.

Rapid response Limited has advised the Council that it is becoming increasingly difficult to continue to deliver the contract based on the current schedule of rates, and in line with the contract have instigated a request for an increase in the schedule of rates costs.

Discussion with Rapid Response Limited around the response times has highlighted some working practice changes that are aimed at improving the rating, including more accurate reporting of faults and recording of attendance times on emergency matters that is based on the resolution of the emergency rather than on the completion of any subsequent repair that may be necessary. Rapid Response Limited has also drawn attention to the difficulty in reaching revised aspirations off the back of schedules of rates created five or more years ago during the procurement exercise.

Contractor performance issues have been raised by the Tenants Panel which will form part of the current negotiations as well as feed into the options currently being explored as part of the on-going 30-year business plan.

PREVIOUS RELEVANT DECISIONS

25 March 2021 [Appointment of Rapid Response](#)

January 2021 Building and Public Realm structure including permanent establishment of the in-house housing repairs team.

[30-Year Business Plan and 2025/6 HRA budget](#)

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None.

APPENDICES

None

REPORT CONTACT OFFICER(S)

Name	Andy White
Job Title	Assistant Director Building and Public Realm
Email/Telephone	<u>awhite@tendringdc.gov.uk</u> / 01255 686833