

Sandwell Metropolitan Borough Council Statement of Decisions made at a meeting of the Executive on Wednesday, 18 May 2022

Published:

The following decisions were made by the Executive at its meeting on **Wednesday, 18 May 2022**. These decisions will come into force on **26/05/2022**. A decision by the Executive may be called-in (in accordance with Part 4 – Scrutiny Procedure Rules of the Council's Constitution) by **25/05/2022**. Should you have any queries about any decision that has been made, contact should be made in the first instance to Democratic Services at democratic_services@sandwell.gov.uk. Any declaration of interest made by any member of the Executive is shown below.

	Item	Reason for Decision:	Alternative options:	Lead officer:
1	Apologies for Absence			

	Item	Reason for Decision:	Alternative options:	Lead officer:
5	<p>Adult Social Care Contributions Policy</p> <p>Resolved:-</p> <p>(1) that the Director of Adult Social Care and the Director of Finance be authorised to enter consultation with users of services on the policy changes set out below and three proposed contribution models summarised (as detailed in Appendix A), and submit a further report to Cabinet following consultation on final policy change proposals;</p> <p>(2) that approval be given to the following general principles of change to the Adult Social Care Contributions Policy and as summarised in Appendix A;</p> <p>(3) that approval be given to the following clarifications regarding the existing Adult Social Care Contributions Policy, as set out in Appendix A, for approval with immediate effect.</p>	<p>The Director of Adult Social Care and the Director of Finance had commissioned work to check the compliance of the Council's current policy against the Care Act 2014.</p> <p>This paper proposed changes in council's contributions policy to identify a model which was more financially viable for the council, whilst also reflecting recent case law and Local Government Ombudsman findings to be fairer and comply with equalities expectations.</p> <p>In addition, legal advice has highlighted some conflicts between that policy document and actual financial assessment practice, and these were addressed in the proposed amendments within this paper and in the practice guidance being prepared for staff use.</p> <p>There were also some aspects of the policy that were no longer consistent with recent case law and rulings by the Local Government Ombudsman, and these aspects were reflected in the proposed changes for which public consultation would be required.</p>	<p>The Council was required to have a Contributions Policy as it had discretion over aspects of both Residential and Non-Residential Contributions.</p> <p>It was possible to defer these updates until national decisions on recent case law and on the care cap proposals were reached, but some of these changes were deemed essential and should be made without delay. The financial viability of the current policy was also important.</p> <p>Furthermore, recent legal advice obtained by the Council drew attention to the risks of operating with a policy that was technically outdated or did not align to practice, and it was considered prudent, therefore, to make the identified changes without further delay to avoid any misunderstandings caused by outdated wording, which also ensured that people better understood the council's current policy.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
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Asset Management and Maintenance Investment Programme 2022-23

Resolved:-

- (1) that the Director of Housing, in consultation with the Director of Finance, be authorised to prepare tendering documentation and to procure contractors, in accordance with The Public Contract Regulations 2015 and the Council's Procurement and Contract Procedure Rules, to work on behalf of the Council, to deliver the refurbishment and maintenance works detailed below: -

Contract	Value
External Improvement Works 2023 – 2027	£80,000,000 (£20,000,000 per annum)
Expansion of CCTV and Concierge Service	£1,400,000
Major Adaptations and Improvement Works 2023 – 2027	£24,000,000 (£6,000,000 per annum)
Retro-fitting of Sprinklers in High-Rise Flats 2022 – 2026	£15,000,000 (£3,750,000 per annum)
Refurbishment Works to Union Street, Tipton	Budget estimate £1,100,000
Refurbishment of Allen House, Great Barr	Budget estimate £3,300,000
Void Repairs and Post Tenancy Repairs to Housing 2022 - 2026	£24,000,000 (£6,000,000 per annum)
Plastering and Associated Works 2022 – 2026	£2,000,000 (£500,000 per annum)
Supply and Fit Fencing 2022 – 2026	£560,000 (£140,000 per annum)
Roofing Repairs to Council Properties 2022 - 2024	£499,000 (£239,500 per annum)
TOTAL	£151,359,000

- (2) that the Director of Housing be authorised to award the contracts, as referred to in (1) above, to the successful contractor(s);
- (3) that the Director – Law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to the award of the contracts;
- (4) that any necessary exemption be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in (1) above to proceed.

Approval was sought to procure, award and enter into contract with the successful contractors to deliver the various contracts as detailed within the report to continue the substantial investment in the Council's Housing Stock.

The alternative was to not invest in our Council Housing Stock which in turn might lead to dissatisfaction from existing and potential new tenants as well as disrepair and additional burden on the Housing Revenue Account.

	Item	Reason for Decision:	Alternative options:	Lead officer:
7	<p>Award a Contract for the provision of Highway Electrical Connections</p> <p>Resolved:-</p> <p>(1) that the Director of Borough Economy be authorised to award a contract for the provision of Highway Electrical Connections, following a compliant procurement process;</p> <p>(2) that the Director of Law and Governance – Monitoring Officer be authorised to execute any documentation necessary to enable the recommended course of action;</p> <p>(3) that any necessary exemptions be made to the Council’s Procurement and Contract Procedure Rules to enable the recommended course of action referred to in (1) above to proceed.</p>	<p>Sandwell MBC used a wide range of contractors to help us deliver our highway maintenance programmes to maintain the highway network in a safe and useable condition for all road users. One of these contracts was the Highway Electrical Connections Contract which allowed the Council to carry out essential repairs to street lighting as well as other illuminated street furniture.</p> <p>As the Local Highway Authority; the Council had a statutory duty to ensure street lighting was maintained in a safe and useable manner.</p>	<p>There were no recommended affordable alternatives to obtain Highway Electrical Connections.</p> <p>The price analysis conducted using ESPO Framework concluded that a direct award to EON Energy Services Limited was the most cost-effective option.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
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Open Housing - Integrated Housing Management System

Resolved:-

- (1) that approval be given to authorise the Director of Housing and the Director of Business Strategy and Change to enact up to 2 x 1yr extensions for the support and maintenance agreement with Capita Business Services Limited for Open Housing, (the housing management ICT system) from 1 April 2023 to 31 March 2024 at a total cost of £291,000, and from 1 April 2024 to 31 March 2025 at a total cost of £202,000;
- (2) that the Director of Housing and the Director of Business Strategy and Change be authorised to purchase the additional products and services as set out below in order to further develop and future proof the housing management system for the period of the extension:

Support Requirement	Cost - Year 1	Cost - Year 2
Annual support and maintenance for Capita Open Housing for all licenced software products including annual version upgrades	£79,256	£80,841
Out of hours support – DBA Contract	£43,000	£43,000
Development Days (maximum of 50 per year)	£46,250	£46,250
Technical ICT support Days (10 per year)	£9,250	£9,250
Additional modules identified for development (including annual support)	£113,606	£22,548
Totals	£291,362	£201,889

- (3) that the Director – Law and Governance and Monitoring Officer be authorised to seal any documents necessary to enable (1) and (2) above to take effect.

The housing management system was integral to the delivery of a wide range of housing services daily. Failure to provide adequate ICT provision would have a significant impact on the delivery of services to our customers and the ability of employees to perform their duties.

The existing five-year support and maintenance contract with the supplier, Capita, was due to expire on 31 March 2023. Within the original contract, there was an option to extend the existing support and maintenance agreement for a further 2 x 1-year periods.

The options were considered as follow:

- No change – let the current contract expire on 31 March 2023.
- Enact year 1 of the contract extension for the support and maintenance agreement with Capita, with an option to enact the second year if needed to allow more time to conduct a full system review.
- Procure a new housing management system from the market.

The recommendation was to enact the first 1-year contract extension for the support and maintenance agreement with Capita whilst conducting the system review and to enact the second 1-year extension if required. It was deemed unfeasible to not have a Housing system in place and there was inadequate time to undertake a full review and implement the outcome of that review prior to the end of March 2023.

	Item	Reason for Decision:	Alternative options:	Lead officer:
9	<p>Towns Fund - Procurement requirement for SMBC projects</p> <p>Resolved:-</p> <p>(1) that the Director of Regeneration and Growth, in consultation with the S151 Officer, Director of Law & Governance-Monitoring Officer and the Cabinet Member for Regeneration & Growth (Leader) be authorised to commence, where required, procurement exercises and award contracts and call off orders above £250,000 for all SMBC Towns Fund Projects until March 2026;</p> <p>(2) that the Director of Law and Governance & Monitoring Officer be authorised to enter and execute, under seal as might be required, any contracts or ancillary documentation in relation to the award of contracts referred to in recommendation (1) above;</p> <p>(3) that any necessary exemption be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in (1) and (2) to proceed.</p>	<p>The Council's Procurement and Contract Procedure Rules Section 3.3(c) required Cabinet to award all contracts with total value above the key decision threshold of £250,000.</p> <p>Section 3.3(d) of the Procurement and Contract Procedure Rules required Cabinet approval for exemptions from these rules for contracts with a total value above the key decision threshold.</p> <p>It was proposed to seek exemption under this rule for Cabinet to approve Delegated authority to allow for the timely procurement of SMBC Towns Fund projects to ensure the successful delivery of the Towns Fund Programme within timescale and budget.</p>	<p>Alternative was that each project / procurement activity above key decision threshold was considered for approval by Cabinet separately. This option, however, would delay project starts and could impact on the delivery of projects within the timescale and budget.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
10	<p>Towns Fund Governance Structure - Phase 3</p> <p>Resolved:-</p> <p>(1) that Cabinet approve the updated governance arrangements relating to Phase 3 of the Towns Fund Programme;</p> <p>(2) that the Managing Director Commissioner, in consultation with the Leader of the Council, the Cabinet Member for Regeneration & Growth, and the Monitoring Officer be authorised to agree updates to Terms of Reference and arrangements for the Governance of the Towns Fund Programme in accordance with the Government's Towns Funds Guidance;</p> <p>(3) that delegated authority be extended for the Section 151 Officer and Director for Regeneration & Growth, in consultation with the Cabinet Member for Regeneration & Growth, to approve Towns Fund virements of above £250,000 or 1% of approved Gross Expenditure budget (whichever is greater);</p> <p>(4) that approval be given for an exemption from Part 5 Section 4.4 of the Council's Financial Regulations to action (3) above.</p>	<p>As Phase 2 of the Towns Fund Programme – Completion of Full Business Case and submission to Government – had been completed, Governance arrangements needed to be updated to ensure that the structure was fit for purpose for Phase 3 – Delivery of the Towns Fund Programme.</p> <p>Part 5 Section 4.4 of the Council's Financial Regulations Council's Financial regulations state that any financial virements above £250,000 require Cabinet approval. An exemption from this was requested to avoid an impact on Towns Funds projects in terms of risks on deliverability of projects to timeframe and budgets.</p>	<p>Alternative proposals for governance could be implemented including different structural options which had been considered by Chairs. The proposed model of the Local Boards inheriting the responsibilities from Superboard would provide an ongoing consistent approach strengthening the governance arrangements to ensure effective engagement of stakeholders.</p> <p>The proposed updated Terms of Reference within this report adhered to the Government's Towns Fund Guidance which was a requirement to access the Towns Fund funding.</p> <p>Cabinet approval for changes to financial profiles for each project would delay the reporting to Department for Levelling Up, Housing and Communities (DLUHC) and, consequently, for requested project adjustments to be approved and implemented.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
11	<p>Procurement of a Wrap Around Service</p> <p>Resolved:-</p> <p>(1) that the Director of Adult Social Care be authorised to complete a procurement exercise for the delivery of a Wrap Around Service for a contract term from 6 November 2022 to 5 November 2023, with an option to extend for a further one-year period from 6 November 2023 to 5 November 2024;</p> <p>(2) that the Director of Adult Social Care be authorised to award and enter into Agreements with all successful bidders, on terms to be agreed with the Director of Adult Social Care, for the provision of a Wrap Around service to commence on 6 November 2022 to 5 November 2023, with an option to extend for a further one-year period from 6 November 2023 to 5 November 2024;</p> <p>(3) that the Director - Law and Governance and Monitoring Officer, or their designated representative, execute any documents necessary within a reasonable time to give effect to the proposal in recommendation (2) above for the provision of a Wrap Around service;</p> <p>(4) that any necessary exemptions be made to the Council's Procurement and Contract Procedure Rules 2018-19, to allow the Director of Adult Social Care to award contracts to the successful tenderer(s) in relation to (2) above.</p>	<p>There was a current contract in place with Universal Care Ltd that was due to expire on 5 November 2022 and there was no extension option available. Therefore, the approval to commission a new service would ensure there was another service that could be used to provide a Wrap Around response from 6 November 2022.</p>	<p>Six options were identified as follows:</p> <ol style="list-style-type: none"> 1. Recommission the service with 6 providers for a term of 3 years paid for on a spot basis as per November 21 and December 21 referral data; 2. Recommission a spot with one provider for 3 years according to November 21 and December 21 referral data; 3. Recommission the service with 6 providers on a block basis for 3 years according to November 21 and December 21 referral data; 4. Recommission a block with one provider for 3 years; 5. Recommission on a block retainer basis with SPOT purchased hours for 3 years based on 3 carers retained; 6. Recommission with 6 providers on a spot basis for one year plus one year according to November 21 and December 21 referral data + 25%. <p>Option 6 was recommended as the preferred option because the service was in its infancy and had the potential for increased referrals, but an accurate picture of demand was still unknown at this stage as D2A continued to embed. It was therefore recommended that a one-year contract, with an option to extend for a further year be established for up to 6 providers based on an additional 25% of referrals as received in November 2021 and December 2021. By establishing a one plus one- year contract from November 2022, further analysis could be undertaken of referral patterns in order to commission a longer-term service that would be based on data that better predicts referral numbers from 2024.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
12	<p>Award of Mobile Telephony, Voice and Data Contract</p> <p>Resolved:-</p> <p>(1) that the Director of Business Strategy and Change, in consultation with the Director of Finance - Section 151 Officer and the Cabinet Member for Finance and Resources, be authorised to award a contract for Mobile Telephony, Voice and Data Services, to be procured via a direct award of contract using Crown Commercial Services (CCS) framework RM3808 Network Services 2, Lot 6 (Mobile Voice and Data) and to be awarded for a two-year period with an option to extend for a further year;</p> <p>(2) that the Director Law and Governance – Monitoring Officer be authorised to execute any documentation necessary to enable the action referred to in (1) above;</p> <p>(3) that any necessary exemptions to the Council’s Procurement and Contract Procedure Rules be made to enable the course of action referred to in (1) above to proceed.</p>	<p>The current contract for the provision of Mobile Voice and Data Services was due to expire 25 July 2022. Approval was sought to enable a direct award in order to continue provision of these services from 26 July 2022 – 25 July 2024 with an option to extend for a further year.</p>	<p>A full above threshold procurement could be taken as an alternative approach. However, all of the main providers were on the CCS framework, making it unlikely that any additional benefits would be achieved. Procuring via a framework was compliant with Public Contract Regulations 2015.</p> <p>Instead of a direct award from the framework, the Council could run a call-off competition from the same framework. This seemed unnecessary and would not deliver additional benefit to the council. The service offerings from the market suppliers had equalised over time. Pricing was based on volume, which competition would not alter.</p> <p>Doing nothing was not an option. The provision of mobile telephony, voice and data services was essential to support modern service delivery. Out of contract mobile telephony costs might increase, potentially leaving the Council without a mobile telephony service.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
13	<p>Use of Road Weather Forecasting Service Contract</p> <p>Resolved:-</p> <p>(1) that the Director of Borough Economy in consultation with the Cabinet Member for Environment be authorised to approve the use of a contract for the supply road weather forecasting services for winter service operations, following a compliant competitive tender process in collaboration with Birmingham, Coventry, Dudley, Solihull, Walsall and Wolverhampton Councils;</p> <p>(2) that the Director of Law and Governance – Monitoring Officer be authorised to execute any documentation necessary to enable (1) above;</p> <p>(3) that any necessary exemptions be made to the Procurement and Contract Procedure Rules to enable the course of action referred to in (1) above to proceed;</p> <p>(4) that approval be given to working in collaboration with Dudley MBC, as lead authority, for the provision of road weather forecasting services for winter service operations.</p>	<p>The Council had a statutory duty ‘to ensure, so far as reasonably practicable, that safe passage along a highway is not endangered by snow or ice’. The duty was not absolute, but decisions must be taken on reasonable grounds with due care and regard to relevant considerations set out in best practice guidance.</p> <p>The new forecasting service contract would utilise the weather stations Sandwell had alongside our neighbouring authorities to produce high quality and specific road weather forecasting details for our area.</p> <p>The new contract would also provide additional resource where Sandwell could opt to receive forecasts around the year rather than just through the winter period. This would help the council plan and prepare for maintenance work and provide further specific to the area details where or when summer storms are likely to occur.</p>	<p>There were no recommended affordable alternatives to mitigate the safety risks arising from winter weather.</p>	