

## Record of individual Cabinet member decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

<b>Decision made by</b>	Cllr Helen Pighills
<b>Key decision?</b>	Yes (see notes below)
<b>Date of decision</b> (same as date form signed)	7 August 2023
<b>Name and job title of officer requesting the decision</b>	Paul Fielding Head of Housing and Environment
<b>Officer contact details</b>	Tel: 07543302885 Email: <a href="mailto:paul.fielding@southandvale.gov.uk">paul.fielding@southandvale.gov.uk</a>
<b>Decision</b>	<p>To enter into an 18-month contract for the provision of property compliance, repair and maintenance and tenancy management services for residential properties the council owns and leases out, including properties purchased under the Local Authority Housing Fund (LAHF) and those leased from the Ministry of Defence (MOD) under the Service Family Accommodation (SFA) scheme.</p> <p>The number of properties that will be purchased under the LAHF scheme is an initial 14 under the first round of funding, with possible 4 additional units purchased using later funding.</p> <p>The number of MOD properties that will be leased is an initial 24, but potentially up to 48 in total</p> <p>The contract will start as soon as approval is obtained and contract negotiations completed, and will last for 18 months, ending in early 2025. During that time officers will undertake work to determine how these services will be provided beyond this arrangement, and that consideration has already begun</p>
<b>Reasons for decision</b>	<p>Beyond a very small number of temporary accommodation units houses and two hostels), the council does not own its own housing stock and does not currently have the expertise in house to be able to provide reliable compliance and repair and maintenance services using its own staff on the proposed scale.</p> <p>The purchase of properties, financially supported by the Government's Local Authority Housing Fund (LAHF), was indicated in reports to, and decision made by, Cabinet on <a href="#">10 March 2023</a> and <a href="#">3 July 2023</a> and by Council on <a href="#">12 July 2023</a></p>

In these reports Cabinet approved delivery and management arrangements in respect of the purchase and renting out of properties to vulnerable refugee groups under the LAHF scheme (and used for general temporary accommodation if not required by a named group), and Council approved the use of £2.5m capital allocation to support the purchase of LAHF properties. The LAHF fund prospectus outlines a compressed timetable set by government for the acquisition of properties under the scheme. The reports to Cabinet also outlined any anticipated revenue impacts for the council from these housing schemes.

As indicated within those reports, the provision of housing will require property compliance, repair and maintenance services beyond the current capacity of the council's existing team/services. The long-term aim of the council should be to provide property compliance and repairs and maintenance through a range of internally employed resources and/or direct contracts with external providers. However, this is not possible within the timescale, for reasons set out, and therefore this contract is required.

### **Timetable**

As has been indicated in the reports to Cabinet, the LAHF process began in late December 2022, but funding was only confirmed in Spring 2023, with the need for property to be available by the end of the year. Sooner than this, Vale is leasing properties from the MOD for accommodation, and a single contract providing services to accommodation in both council areas is required.

As additional background, rising pressures on housing and vulnerable refugees continue to be seen by the Government and at the end of April 2023, the Home Office announced its timetable for the intended closure of bridging hotels across the UK which has added to the urgency and the need for officers to work at pace to ensure that homes can be provided for families. The Government announced in April families at the two bridging hotels within South Oxfordshire had received their three months' notice and had been given a timeframe to move out by the end of August 2023. This has since been extended until 31 December 2023

For these reasons there was the need to act more quickly than could be achieved in a compliant procurement process.

### **Procurement process**

Officers from Housing, Property, Finance, and Procurement began work in late 2022 to explore the possibilities of obtaining such services, looking for an output based specification which, at that time, had a large number of unknowns (such as the precise number and location of properties) which impacted the ability to form a clear requirement.

Through the Procurement team, the council approached a number of existing procurement frameworks to establish the interest of taking on this work, and the feedback was weak, with no suppliers wishing to

	<p>investigate the requirements further at that time. The reasons for non-engagement cited were the geographical location and the small volume of properties.</p> <p>Consideration was given to creating capacity within the council to undertake these works. The time required to undertake the necessary recruitment, setting up of systems and procurements was tested and believed to be at least 12 months from early 2023, and certainly well beyond the required timescale to support the SFA and LAHF programmes.</p> <p>Until such a solution can be safely and legally procured and put in place, it was proposed that the council (along with South) partner with an existing provider and manager of social housing that already undertakes the necessary checks in a larger number of properties. There will be a separate contract for each council with the provider.</p> <p>To work with such a partner and set up the required arrangements in such a short period of time meant that the council needed to follow a specific procurement path. The suggested route to market is a non-compliant route in line with the public procurement regulations 2015 and that to mitigate the risk of challenge the council will be issuing a VEAT (Voluntary Ex-Ante Transparency) Notice to inform the market of our decision and the reasons why.</p> <p>Officers therefore approached three local providers of social housing and discussed the options available.</p> <ol style="list-style-type: none"> <li>1. One local authority owned housing organisation declined to undertake the Tenancy Management aspect.</li> <li>2. One Registered Housing Provider confirmed that they no longer provide such services to third parties.</li> <li>3. Soha expressed an interest in providing both property and tenancy management services.</li> </ol> <p>A Statement of Requirements (SoR) was issued to Soha and their response has been evaluated.</p> <p>If accepted, the contract would be managed by an officer in the role of Property &amp; Tenancy Officer, under the responsibility of the relevant Service Manager that will sit within the Housing Delivery team of the Housing &amp; Environment Service. They will be supported by officers from Finance, Legal, Programmes and Policy and Development &amp; Corporate Landlord</p>
<p><b>Alternative options rejected</b></p>	<p>As outlined, a number of alternative options were considered. These were as follows:</p> <p>Use of existing procurement frameworks. This was investigated but was found to have little interest from the market due to small numbers and geography. It was therefore rejected.</p>

	<p>Undertake in-house. Whilst some of the functions of repairs and maintenance could be carried out by officers within the development and Corporate Landlord service, there is not enough capacity to support the number of properties being taken on. Additionally, some functions are very specialised and need external support which would require a number of procurements, or a single procurement which would take 12 months +. This did not meet the timeframe and was therefore rejected.</p> <p>Undertake a full procurement process. During the research phase and engaging with frameworks, the experience of other councils was considered. This showed that to develop the full specification required, undertake soft market testing, publish an Invitation to Tender, receive bids, select a provider, and then mobilise was a 12-18 month process. This would also have required the support of an external consultant to support in development of the specification. This did not meet the timeframe and was therefore rejected.</p> <p>Pause the lease/purchase of property until a full procurement had taken place. This would result in the council not offering much needed accommodation until into 2024, leaving families at risk of being in B&amp;B/hotel temporary accommodation for much longer. Not only does this not meet Government timescales, but this would also have a detrimental impact upon the families and have significant cost implications for the council.</p>
<b>Climate and ecological implications</b>	<p>There are not considered to be any direct implications of this decision to procure services externally. However the council will work with Soha to ensure that houses are well maintained and kept to the relevant EPC standards or better.</p>
<b>Legal implications</b>	<p>By not following a legally compliant procurement process, there is a risk of a procurement challenge being brought and the Court making a declaration of ineffectiveness for not advertising the contract opportunity pursuant to the Public Contracts Regulations 2015. A risk mitigation measure is to publish a voluntary ex ante transparency notice (known as VEAT notice) of the intention to award a contract and then wait at least ten calendar days before entering into the contract in order to try and flush out any objections. A challenge cannot be completely discounted but it does help to provide protection from a finding of ineffectiveness for failure to advertise subject to the Council considering the justification for contract award is met by the procurement regulations.</p>
<b>Financial implications</b>	<p>Detailed below are the estimated costs based upon the anticipated number of properties, and costs provided by Soha through their response to the statement of requirements. They can only be estimates at this stage as the arrangement with Soha see actual costs for repairs passed through to the council, and actual number and type of repairs, and their costs, cannot be known, only estimated.</p> <p>The elements of the Soha's returns that could be directly compared to the alternative (who could not meet all of the requirements) show that the costs were comparable and demonstrates that Soha's submitted costings offer best value.</p> <p>These figures are higher than identified with the Cabinet report, and take</p>

account of a wider scope required by the council, and the general rise in costs. Actual costs will be monitored through the usual budget monitoring processes

**Vale**

	VWHDC
Number of properties	66
General Responsive & Void work	£23,760
Gas Servicing & Repairs	£11,772
Specialist responsive Repairs	£73,260
Planned & Cyclical maintenance	£37,620
Asset Compliance	£14,798
Soha Property and Tenancy Management fee (ex VAT)	£158,400
<b>Total</b>	<b>£319,610</b>

The financial model that was outlined within the reports mentioned above showed that the costs for providing these services to the properties will be partly funded from within the rent level, which will be set at Local Housing Allowance (LHA) rate. Any revenue deficit will be borne by the council, although it is possible that suitable grants for ARAP, ACRS and HfU schemes may cover some of that cost.

The costs of providing the Property & Tenancy Officer have also been included in the housing financial model

**Other implications**

This contract will be used by both South and Vale to provide the outlined property services to any housing which the council holds and wishes to manage in this way. It enables resilience on the LAHF scheme, and on other property that the council is looking to manage as housing stock.

The tenancy will remain between the council and the householders who occupy. Soha will be a managing agent named in the tenancy and will directly engage with the occupiers on property management, property compliance and rent collection issues. However, the council will also be working directly with the tenants as part of the support that is offered to those using property under the ARAP/ACRS or Homes for Ukraine scheme.

**Background papers considered**

Cabinet on [10 March 2023](#) and [3 July 2023](#). Also by Council on [12 July 2023](#)

Due to the requirements to have a service available asap, a Regulation 10 notice (as included) has also been produced and is included

**Declarations/**

No conflicts of interest are known at this time.

<b>conflict of interest?</b> <b>Declaration of other councillor/ officer consulted by the Cabinet member?</b>				
<b>List consultees</b>		<b>Name</b>	<b>Outcome</b>	<b>Date</b>
	Legal <a href="mailto:legal@southandvale.gov.uk">legal@southandvale.gov.uk</a>	Gillian Mason		26/07/23
	Finance <a href="mailto:Finance@southandvale.gov.uk">Finance@southandvale.gov.uk</a>	Helen Knight		24/07/23
	Climate and biodiversity <a href="mailto:climateaction@southandvale.gov.uk">climateaction@southandvale.gov.uk</a>			
	Diversity and equality <a href="mailto:equalities@southandvale.gov.uk">equalities@southandvale.gov.uk</a>			
	Strategic property <a href="mailto:Property@southandvale.gov.uk">Property@southandvale.gov.uk</a>			
	Health and safety <a href="mailto:healthandsafety@southandvale.gov.uk">healthandsafety@southandvale.gov.uk</a>			
	Risk and insurance <a href="mailto:risk@southandvale.gov.uk">risk@southandvale.gov.uk</a>			
<b>Confidential decision?</b> If so, under which exempt category?	Given that we are outlining Soha's costs that they have provided through their response to the Statement of Requirements, only the overall anticipated spend will be shown in the VEAT notice			
<b>Call-in waived by Scrutiny Committee chairman?</b>				
<b>Call-in waived by Scrutiny Committee chairman?</b>	No			
<b>Cabinet portfolio holder's signature</b> To confirm the decision as set out in this notice.	Signature _____ Councillor Helen Pighills _____ Date _____ 7 August 2023 _____			

**ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.**

For Democratic Services office use only		
Form received	Date: 7 August 2023	Time: 14:33
Date published to all councillors	Date: 7 August 2023	
Call-in deadline	Date: 14 August 2023	Time: 17:00

## Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off, including the chief executive. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must hand-sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence.  
Tel. 01235 422520 or extension 2520.  
Email: [democratic.services@southandvale.gov.uk](mailto:democratic.services@southandvale.gov.uk)
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days) if it is a 'key' decision (see the definition of a 'key' decision below). A key decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing a key decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If a key decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
  - refer the decision back to the Cabinet portfolio holder for reconsideration or
  - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
  - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.

## Key decisions: assessing whether a decision should be classified as 'key'

The South Oxfordshire and Vale of White Horse District Councils' Constitutions now have the same definition of a key decision:

**A key decision is a decision of the Cabinet, an individual Cabinet member, or an officer acting under delegated powers, which is likely:**

- (a) to incur expenditure, make savings or to receive income (except government grant) of more than £75,000;**



- (b) to award a revenue or capital grant of over £25,000; or**
- (c) to agree an action that, in the view of the chief executive or relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.**

Key decisions are subject to the scrutiny call-in procedure; non-key decisions are not and can be implemented immediately.

In assessing whether a decision should be classified as 'key', you should consider:

- (a) Will the expenditure, savings or income total more than £75,000 across all financial years?
- (b) Will the grant award to one person or organisation be more than £25,000 across all financial years?
- (c) Does the decision impact on more than one district council ward? And if so, is the impact significant? If residents or property affected by the decision is in one ward but is close to the border of an adjacent ward, it may have a significant impact on that second ward, e.g. through additional traffic, noise, light pollution, odour. Examples of significant impacts on two or more wards are:
  - Decisions to spend Didcot Garden Town funds (significant impact on more than one ward)
  - Changes to the household waste collection policy (affects all households in the district)
  - Reviewing a housing strategy (could have a significant impact on residents in many wards)
  - Adopting a supplementary planning document for a redevelopment site (could significantly affect more than one ward) or a new design guide (affects all wards)
  - Decisions to build new or improve existing leisure facilities (used by residents of more than one ward)

**The overriding principle is that before 'key' decisions are made, they must be published in the Cabinet Work Programme for 28 calendar days. Classifying a decision as non-key when it should be a key decision could expose the decision to challenge and delay its implementation.**