

**Meeting:** Cabinet **Date:** 11th July 2024

**Wards affected:** All Wards

**Report Title:** Re-Procurement of Asset Maintenance “Service Level Agreements” 2024

**When does the decision need to be implemented?** 25th July 2024

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## 1. Purpose of Report

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- 1.1 To outline the planned re-procurement of contractors for Service Level Agreements (SLAs) to provide a range of planned and reactive asset maintenance and minor capital works services for Torbay Council and for Torbay Council external clients.
- 1.2 To seek delegated authority to award the contracts for this service at the end of the procurement process. The report provides a brief background on how the services are currently delivered and identifies the need for re-procurement of these services.
- 1.3 The procurement will secure a range of services from local contractors to ensure that Torbay Council fulfils its property related statutory duties and maintains its assets to a reasonable standard.
- 1.4 We currently have ten SLA lots contracts to be re-procured and we propose to procure a further four SLA agreements. There will be a total of fourteen lots.

## 2. Reason for Proposal and its benefits

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- 2.1 The re-procurement of these SLAs will support our asset maintenance and our role as an efficient and enabling council. It will also help the Council to keep a grip on finance and contribute towards the Council commitment to addressing the climate change emergency. The proposals in this report help us to deliver these ambitions by ensuring the assets which Torbay Council own are maintained by suitably reliable, authorised contractors to a reasonable standard and the Council manages its assets safely and in accordance with its statutory and regulatory obligations. It also supports the Council ambition to reduce carbon emissions and meet its carbon reduction targets.
- 2.2 The reasons for this re-procurement proposal is because the existing service level agreements that provide these wide ranging services expire on the 31<sup>st</sup> March 2025. These SLAs play an essential role in ensuring that the Council fulfils its property related statutory duties and maintains its assets to a reasonable industry standard.

## 3. Recommendation(s) / Proposed Decision

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- 3.1 That the Director of Pride in Place in consultation with the Director of Finance be given delegated authority to grant “Service Level Agreement” contracts to successful bidders on the Service Level Agreements Framework Procurement.

### **Appendices**

Appendix 1: Schedule of Lots

### **Background Documents**

None

## Supporting Information

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### 1. Introduction

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- 1.1 Torbay Council typically employs contractors to maintain its assets under service level agreements. This report seeks delegated approval to award multiple contracts over a period of four years. The majority of contracts will be a re-procurement of existing services (total of ten lots), as well as an additional five service lots which were identified as a service need following customer consultations.

<b>EXISTING LOTS (10)</b>	<b>ADDITIONAL LOTS (4)</b>
Servicing of Mechanical Plant & Equipment	PAT testing
Fixed wiring Inspections & Electrical (Including Nurse call alarms)	Gates, barriers and roller shutters
Fixed Wiring Inspections for Torbay Harbours	Solar panel maintenance and installations
Asbestos Management & Surveys	Gutter clearance services
Lift Maintenance & Inspections	
Automatic Powered Doors	
Building Access Control, CCTV & Intruder Alarms	
Lightning Protection	
Water Hygiene Risk Assessments & Monitoring	
Fire Alarm & Emergency Lighting	

- 1.2 The contracts are proposed to commence on 1<sup>st</sup> April 2025 and conclude on 31<sup>st</sup> March 2029. The total value of this entire procurement exercise inclusive of VAT is expected to be in the region of £1,293,167 per annum, commuted over four years gives a total value of £5,172,667. The aim is to procure specialist, competent and appropriately accredited contractors to deliver services within their field of expertise over a sustained period enabling good working practices to become embedded and good relationships to be developed during the life of the contract. We expect this approach will make the individual lots more attractive to local providers and deliver value for money and maximise public benefits.
- 1.3 These service contracts include regular planned maintenance, reactive repairs and minor capital works. This approach ensures that for the most part, the equipment is installed inspected and maintained by the same contractor, thus ensuring that accountability rests with a single contractor avoiding the potential for any disputes over any faults.
- 1.4 The intended outcomes from service delivery are that buildings are safe, secure and well maintained; compliance with legislation/regulations and good industry practice and also

compliance with reasonable reporting timeframes for uploading inspection documents to enable accurate and up to date records to be maintained and readily available on the Council's CIVICA system. The contractors are expected to have direct interface with the CIVICA system to make the flow of information as efficient as possible. Property Services Team representatives provide regular training to SLA contractor staff to ensure the system runs smoothly.

- 1.5 The selection and award criteria for contracts are designed to ensure that appointments are good for the Torbay community and factors such as social value and environment are properly considered.
- 1.6 The Council will use the Devon County Council, Devon Maintenance Panel Agreement for minor building works. We have also contacted Devon CC procurement team to find out more about their procurement plans for Service Term Contracts because they are advertising procurement of Service Term Contracts in the next 6 months as one of their future pipeline projects on the Southwest.org.uk portal.

## 2. Options under consideration

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**Option 1 – Do nothing:** The option of doing nothing is not a viable option because the Council has a statutory duty to undertake planned maintenance, minor repairs and compliance checks to its properties.

**Option 2 – Extend the current contracts:** The existing contracts cannot be extended due to them already receiving one extension and reaching the end of its extended term on 31<sup>st</sup> March 2025.

**Option 3 – Utilise a framework:** The option to utilise a framework(s) has specific benefits these are contractors on the framework have already been through a rigorous procurement process. The option is to use traditional frameworks set up via a tender process or open frameworks (which do not allow for direct award)

**Option 4 – Open market procurement:** This option could be run as an open or closed tendering activity, and this is how the SLA contracts have been procured in the past.

- 2.1 Advice from the Council's procurement team informed the options for these SLAs and whilst options 3 and 4 above were both considered as suitable available options, it is concluded that through the use of the traditional framework option the Council has the ability to appoint a contractor under the framework agreement through one of two procedures: direct award or mini-competition. It is the intention that direct award will be used predominantly for all servicing requirements and the majority of minor repairs with low value and low risk will be undertaken by the preferred contractor, however we will also have the option for mini-competition to be used, at the discretion of the Council, for all other service requirements. In these circumstances where the preferred contractor undertaking planned maintenance

services is unable or considered unsuitable to deliver certain services we could use mini-competition or a replacement contractor.

- 2.2 A framework can deliver many benefits when procuring over a period of four years, these include reduced transaction costs, continuous improvement, better value and greater community wealth.
- 2.3 Framework agreements usually establish clear terms and conditions, ensuring compliance and providing contract stability for suppliers. These standardised agreements minimise disputes and ensure fair treatment for all parties involved. However, they can have some drawbacks, such as limiting competition, flexibility, and innovation.
- 2.4 It is the intention for the Council to have the ability to use these SLAs for provision of resources for ad hoc work, although it should be noted that no volume or value of work will be guaranteed through the framework agreement.

### 3. Financial Opportunities and Implications

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- 3.1 A four-year term is considered an appropriate period to help achieve best value. The annual cost of the SLAs has been incorporated into the 2025-26 budget.
- 3.2 The SLA contracts will seek a fixed price maintenance schedule for Years 1 & 2, with provision for a maximum inflationary increase in rates capped using BCIS indices from the RICS, any increases proposed must be submitted by contractors by the 10<sup>th</sup> March in the year of the proposed increase.

### 4. Legal Implications

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- 4.1 Service Level Agreements for contractors will use JCT Measured Term contract. These contracts are designed for employers who have a regular flow of maintenance and minor repair works, including improvements, to be carried out by a single contractor over a specified period, in this case four years, under a single contract. NEC contracts were considered however after review with the property services team and local contractors it was determined that the JCT Measured Term contract is preferable.
- 4.2 Service Level Agreements for consultants, asbestos, will use the following contracts:
  - Asbestos Consultant - RICS Standard form of Consultant's Agreement 2022.
- 4.3 Beyond the planned maintenance regime, there are no guarantees or representations of future work within the contracts for repairs and maintenance or minor capital works.

## 5. Engagement and Consultation

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- 5.1 We regularly undertake customer satisfaction surveys for the services provided by Property Services and our SLA providers to help monitor our performance and the performance of our service providers to help us identify areas for improvement. The overall feedback from the last two years has been positive and details are available upon request.
- 5.2 We have consulted with existing suppliers about the way we manage existing contracts and also our service managers have undertaken some soft market testing with potential service providers about the re-procurement of the SLAs. We have also engaged with existing clients to understand whether there are likely to be any changes to their future service requirements which we need to take into consideration for this process. Whilst this consultation has been undertaken, the impact on the proposals for the procurement process has been minimal.

## 6. Procurement Implications

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- 6.1 The Procurement team advised on the procurement process and the options available and after due discussions and consideration we decided that the framework route was most suitable for our service requirements.

## 7. Protecting our naturally inspiring Bay and tackling Climate Change

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- 7.1 It is vital that there is a planned maintenance regime in place for maintaining Council assets. Effective, regular planned maintenance will help to preserve and extend the life of assets and also ensure that the assets are fit for purpose and working efficiently. Procurement of these service level agreements therefore helps the Council to minimise waste and reduce its carbon emissions.
- 7.2 Part of the procurement process and award criteria will entail finding out how and ensuring that contractors are actively addressing climate change and identifying opportunities for reducing carbon emissions and waste. We will include in all relevant specifications a requirement that all contractors provide low carbon, sustainable alternatives options for consideration where available and we will also ask for evidence from contractors to demonstrate overall sustainability credentials including policies on low carbon and sustainable use of materials and waste.
- 7.3 One of the new lots to be included in the procurement exercise is solar panel maintenance and installation. This has the potential to have a positive impact on the environment and our carbon emissions (subject to funding to deliver schemes). In addition to carbon emission savings this could help to deliver longer term financial savings on Council energy bills.

## 8. Associated Risks

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- 8.1 It is essential that Torbay Council has a full suite of Maintenance Service Contracts (Service Level Agreements) in place to help ensure that the Council has reliable contractors to help fulfil its statutory obligations in relation to the management of its built environment. These agreements help to ensure that all Council owned assets, (where maintenance responsibility lies with the Council), are regularly serviced and maintained by appropriately qualified staff in accordance with good industry practices.
- 8.2 If these SLA contracts are not renewed there is a risk that parts of Torbay Council Estate or certain component assets may not be maintained at the appropriate levels. A consequence of this potential lack of maintenance could be that these component assets start deteriorating or the Council does not fulfil its legal obligations to inspect that assets are functional, working correctly and as intended, a fundamental requirement for the Estate is to remain safe from fire, water damage, decay and dilapidation. These contracts help to ensure Council assets are regularly inspected and remain safe.

## 9. Equality Impact Assessment

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	<p>There is no differential impact, equal treatment and non-discrimination remain key principles for the procurement process.</p>		
Carers	<p>At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.</p>	<p>There is no differential impact</p>		
Disability	<p>In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.</p>	<p>There is no differential impact</p>		
Gender reassignment	<p>In the 2021 Census, 0.4% of Torbay's community</p>	<p>There is no differential impact</p>		



	<p>answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.</p>			
Marriage and civil partnership	<p>Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.</p>	<p>There is no differential impact</p>		
Pregnancy and maternity	<p>Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.</p>	<p>There is no differential impact</p>		
Race	<p>In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.</p>	<p>There is no differential impact</p>		

Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	There is no differential impact		
Sex	51.3% of Torbay's population are female and 48.7% are male	There is no differential impact		
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	There is no differential impact		
Veterans	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously serviced in the UK armed forces.	There is no differential impact		
<b>Additional considerations</b>				
Socio-economic impacts (Including impacts on child poverty and deprivation)		There is no differential impact		
Public Health impacts (Including impacts on the general health of		There is no differential impact		

the population of Torbay)				
Human Rights impacts		There is no differential impact		
Child Friendly	Torbay Council is a Child Friendly Council and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	There is no differential impact		

## 10. Cumulative Council Impact

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10.1 None.

## 11. Cumulative Community Impacts

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11.1 None.