

# **WEST DUNBARTONSHIRE COUNCIL**

## **Report by Executive Director of Housing, Environmental and Economic Development**

**Tendering Committee: 26 January 2012**

---

**Subject: Tender for the External Legal Adviser for  
Partial Housing Stock Transfer**

### **1. Purpose**

- 1.1** To advise the Committee of tenders received for the Tender for the External Legal Adviser in the Partial Housing Stock Transfer.

### **2. Background**

- 2.1** The Council, at its meeting of 29 October 2008, approved a Standard Delivery Plan to meet the Scottish Housing Quality Standard for its housing stock and selected its preferred option of transferring approximately 45% of its stock to registered social landlords.
- 2.2** The Housing, Environment and Economic Development Committee at its 2 September 2009 meeting agreed the governance arrangements for the process of Partial Stock transfer to move forward and agreed that progress would be made at the required pace through the delegated powers of the Chief Executive and the Executive Director of Housing, Environmental and Economic Development. The Committee also approved that a Stock Transfer Steering Group, meeting quarterly, would be established to oversee the project.
- 2.3** At its meeting of 5 May 2010 the Housing, Environment and Economic Development Committee approved the Partial Housing Stock Transfer Strategy and at its meeting of 6 October 2010, the Housing, Environment and Economic Development Committee approved the Housing Stock transfer package areas of Vale of Leven, Dumbarton, Clydebank East and Clydebank West. At its meeting of 26 May 2011, the Housing, Environment and Economic Development Committee reaffirmed the Council's policy of Partial Housing Stock transfer.

**2.4** At its meeting of 29 June 2011 the Housing, Environment and Economic Development Committee approved that the six central Dalmuir multi-storey blocks would be brought back into the retention model and would not form part of any potential transfer, noted the transfer price for the stock in each transfer area and instructed the issue of the invitation to bidding to Registered Social Landlords to submit their business plan proposals based on the price calculated for each transfer area with officers putting in place a timeline for ballots to be held in September 2012. Following the decision to exclude the Dalmuir multi-storey blocks from transfer the number of houses currently available for transfer are:-

Vale of Leven - 928 units;  
Dumbarton - 1649 units;  
Clydebank West - 656 units; and  
Clydebank East - 1209 units.

On 11 November 2011 business plans were submitted from the undernoted housing associations in respect of the four package areas:-

|        |                |                                  |
|--------|----------------|----------------------------------|
| Area 1 | Vale of Leven  | Cordale Housing Association      |
| Area 2 | Dumbarton      | Cordale Housing Association      |
| Area 3 | Clydebank West | Dalmuir Park Housing Association |
| Area 4 | Clydebank East | Clydebank Housing Association    |

**2.5** A project solicitor was appointed by Legal Services and assigned to the Housing Stock transfer team in Housing, Environmental and Economic Development in June 2011 to carry out the property and contracts legal work in conjunction with the specialist assistance of external legal advisers. The principal solicitor in the Contracts & Property in-house legal team chairs/attends the Legal Issues Group and attends the project implementation management meetings with the project solicitor as the in-house legal representatives.

### **3. Main Issues**

**3.1** Following consideration of the legal support required for stock transfer at project implementation group meetings and by the Executive Director, approval to commence a tendering process was provided by the then Chief Executive in April 2011. In May 2011 Legal Services began the process of identifying suitably qualified and experienced external legal advisers by inviting the submission of tenders for legal services through restricted procurement procedure advertising through the Public Contracts Scotland website. The first stage was the selection of suitable candidates through completion and evaluation of a Pre-Qualification Questionnaire (PQQ) and the second stage, inviting successful candidates to submit invitations to tender (the ITT) stage.

3.2 Three legal firms returned completed PQQ's in June 2011 and external references were also obtained. Following evaluation all the firms were invited to tender by the closing date of 31 October 2011.

3.3 ITT returns were received as follows:

| <b>Legal firm</b>    | <b>Total project fee cap</b> |
|----------------------|------------------------------|
| HBJ Gateley          | £45,000                      |
| Brechin Tindal Oatts | £188,500                     |
| Harper MacLeod LLP   | £75,000                      |

3.4 The tenders were evaluated by an internal team of 3 legal officers and were assessed on the basis of 60% Price (in terms of a Total Project Cap) and 40% Quality. See Appendix 1.

3.5 The highest scoring tender based on the above model is HBJ Gateley and it is therefore proposed that the contract for undertaking the Legal Adviser role is awarded to them.

#### **4. People Implications**

4.1 There are no personnel issues.

#### **5. Financial Implications**

5.1 The cost of this contract is £45,000 and the budget provision for this spend has been made in the HRA Capital Programme.

#### **6. Risk Analysis**

6.1 Specialist external legal advice is essential to ensure that the legal work is adequately resourced and completed to a high quality best value standard and that the best interests of the Council are protected at all times. There are certain legal areas where the in-house team does not have the expertise or experience such as pensions, tax, VAT and contractual indemnities required in the transfer documentation. External solicitors specialising in stock transfer work will also be more familiar with housing stock transfer negotiation and have the specialist commercial knowledge to avoid any potential pitfalls and deal with a variety of legal problems which may arise in up to four separate transfers.

#### **7. Equalities Impact Assessment (EIA)**

7.1 No equalities impact was identified in a screening for potential equality impact of this requirement.

**7.2** All tenderers were required to complete Equalities and Diversity questions as part of the selection process and all were able to demonstrate compliance with current regulations.

## **8. Strategic Assessment**

**8.1** As a result of this tender exercise the Council will realise the most competitive rates for this service.

**8.2** The use of external legal advisers with experience of housing stock transfer will assist the in-house legal team in providing a Fit for Purpose legal service to the Council. This report identifies the external legal resources available to the Council after a robust tendering process to assist in its delivery of the Strategic Priorities, principally Social & Economic Regeneration through partial stock transfer.

## **9. Conclusions and Recommendations**

**9.1** The tendering process has successfully identified one Legal Adviser firm which can provide an economically advantageous and quality service.

**9.2** The Committee is invited to approve the awarding of this contract to HBJ Gateley.

**Elaine Melrose**

**Executive Director of Housing, Environmental & Economic Development**

**Date:15 December 2011**

---

**Persons to Contact:** Sally Michael  
Principal Solicitor  
Garshake Road  
Tel: (01389) 737808  
e-mail: [sally.michael@west-dunbarton.gov.uk](mailto:sally.michael@west-dunbarton.gov.uk)

John Kerr  
Manager of Housing Strategy  
Garshake Road  
Tel: (01389)  
e-mail: [john.kerr@west-dunbarton.gov.uk](mailto:john.kerr@west-dunbarton.gov.uk)

**Appendices:** One

**Background Papers:** None

**Wards Affected:** All

## Appendix 1

|                                     | BTO       | HM           | HBJ          |
|-------------------------------------|-----------|--------------|--------------|
| Price Weighted score( out of 60)    | 14        | 36           | <u>60</u>    |
| Quality Weighted score ( out of 40) | <u>31</u> | <u>33.17</u> | <u>32.33</u> |
| Total                               | <u>45</u> | <u>69.17</u> | <u>92.33</u> |
| Rank                                | 3         | 2            | 1            |