

East Kent Services Committee **1st November 2017.**

Subject: **EK Services Strategic Service Delivery Options and Potential for Contracting out of certain functions**

Director/Head of Service: Director of Shared Services

Decision Issues: These matters are within the authority of the East Kent Services Committee.

Decision type: Executive – Key (for Dover District Council and Thanet District Council)

Classification: This report is open to the public with the exception of Annexes B and D of the attached Business Case which are not for publication by virtue of Paragraph 3 of Schedule 12A of the Local Government Act 1972 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Summary: The partner councils in East Kent Services, Canterbury City Council, Dover District Council and Thanet District Council, have agreed the business case for entering into a strategic partnership and contract for the delivery of the Revenues, Benefits and Customer Services functions, and have delegated authority to the East Kent Services Committee to exercise the powers and functions of the Councils in respect of such strategic partnership.

This report requests the Committee to approve the onward delegation to the Director of Shared Services and Director of Collaborative Services of the powers & functions listed in this report, in order to enable contract negotiation to proceed and to authorise the presentation of a subsequent report to EKSC for their consideration and approval of final contract terms which will then seek authority if appropriate to enter into the contract and associated documentation.

That the Committee resolves:

- (1) To note that the attached report has been considered and approved by each of the Cabinets of Thanet District Council and Dover District Council, and both the Policy and Resources Committee and the Canterbury City Council
- (2) To accept the requests of the above Cabinets and Council that the East Kent Services Committee should discharge the powers and functions of the Councils to:
 - (a) Acting in consultation with the chief legal officer of the Council*, to authorise entry into contracts with

third parties in relation to the discharge of all or any of the Revenues, Benefits and Customer Services Functions, including the granting of interests in land.

- (b) To exercise the powers and functions of the Council in relation to any contract entered into by the Council pursuant to (2)(a) above, (to include but not be limited to) making decisions on behalf of the Council in relation to:-
 - (i) Contract management
 - (ii) Renegotiation of the contract (acting in consultation with the chief legal officer of the Council)*
 - (iii) Variation of the contract (acting in consultation with the chief legal officer of the Council)*
 - (iv) Assignment of the contract (acting in consultation with the chief legal officer of the Council)*
 - (v) Novation of the contract (acting in consultation with the chief legal officer of the Council)*
 - (vi) Termination of the contract (acting in consultation with the chief legal officer of the Council)
 - (vii) Renewal of the contract (acting in consultation with the chief legal officer of the Council)*
 - (viii) Enforcement of the contract including the making and settling of any claims arising under it (whether or not legal proceedings are actual or contemplated)
*the contracts shall be entered into in accordance with each local authority's respective Contract Standing Orders.
- (c) To authorise the doing of anything in relation to the exercise of the powers and functions of the Council under Part II of the Deregulation and Contracting Out Act 1994 and the orders and regulations made under it.
- (d) Acting in consultation with the chief legal officer of the Council to authorise entry into contracts* with third parties in relation to any functions of the Council which are not the Revenues, Benefits and Customer Service Functions but which can usefully be entered into in connection with or in order to facilitate contracts entered into, or to be entered into with regard to the Revenues, Benefits and

Customer Service Functions.

*the contracts shall be entered into in accordance with each local authority's respective Contract Standing Orders.

- (e) To authorise the doing of anything incidental to, conducive to or otherwise expedient in connection with (a) to (d) above.
- (3) To approve the use of the Kingston-upon-Hull City Council's existing OJEU-tendered Framework Agreement and to authorise the Director of Shared Services to enter into an access agreement with Kingston for the use of such framework.
- (4) To agree that Civica UK Ltd is the Preferred Bidder for this contract under the framework agreement listed in (3) above.
- (5) To amend the existing delegations to the Director of Shared Services and Director of Collaborative Services to discharge the functions and delegations listed in (2)(b)(i)-(vi) and (2)(b)(viii) above on behalf of the Committee.
- (6) To task each of the Director of Collaborative Services and the Director of Shared Services responsibility for the negotiation of a contract for the delivery of the Revenues, Benefits and Customer Services Functions and request that a report come back to EKSC for their consideration and approval of final contract terms and, if appropriate, their authorisation of entry into the contract and associated documentation.

Note: In relation to 2(d) above, Canterbury City Council specifically included the following within their resolution:-
“for completeness this is in relation to contracts that may be required to facilitate Revs & Bens or CS, for instance: enabling systems”

Next stage in process

Following contract negotiations, a further report will be submitted to EKSC for consideration and approval of final contract terms and seek authority to enter into the contract and associated documentation.

Thanet District Council will be required to make determinations in relation to staff for pension admission agreement which will be subject to report to Thanet District Council's General Purposes Committee in due course.

SUPPORTING INFORMATION

1. Background

The revised governance structures for the delivery of the shared services by CCC DDC and TDC were approved on the report of Head of Legal Services (Canterbury), the Director of Governance (Dover), the Solicitor to the Council (Dover) and the Interim Legal Services Manager (Thanet) ("the Original Report") by the respective Cabinets Council at the end of 2014 and the early 2015 and finally, by the East Kent Services Committee on 11 February 2015. They were subject to minor amendments in July 2016 and subsequently in July 2017.

As part of EK Services' ongoing operation, the Director of Shared Services and his Management Team have been examining options to reduce the cost of service delivery whilst maintaining the high quality of services that have been delivered since its inception. This options appraisal and supporting detailed research included visits to other Local Authorities and informal supplier engagement.

This work has now developed an alternative means of delivering the Revenues, Benefits and Customer Services functions that ensures services can be maintained without loss of staff and provides savings. It also offers a new income stream for the partner councils and new employment opportunities within the three East Kent districts. The proposed arrangement is based on a "core and hub" model contract with a commercial provider. The core comprises a contract for the continued provision of Revenues, Benefits and Customer Services to the three partners at a reduced cost. The trading hub would be located in CCC, TDC and DDC locations and service new commercial contracts with any profit being shared with CCC, DDC and TDC. This trading hub is expected to grow and increase staff, delivering jobs growth in the District(s).

Following the publication of an OJEU notice in September 2014, Kingston-upon-Hull City Council undertook a competitive dialogue process to tender a framework agreement for the provision of (inter alia) Revenue & Benefits and ancillary services. Civica UK Limited were the successful bidder and are the preferred supplier for this proposed contracting out of functions. The partner councils are able to contract with Civica UK Limited under the framework agreement.

2. Current Situation

The councils have authorised the EKSC to discharge the following functions and delegations on behalf of the Councils:

- (1) To note that the attached report has been considered and approved by each of the Cabinets of Thanet District Council and Dover District Council, and both the Policy and Resources Committee and the Canterbury City Council
- (2) To accept the requests of the above Cabinets and Council that the East Kent Services Committee should discharge the powers and functions of the Councils to:
 - a) Acting in consultation with the chief legal officer of the Council*, to authorise entry into contracts with third parties in relation to the discharge of all or any of the Revenues, Benefits and Customer Services Functions, including the granting of interests in land.
 - (b) To exercise the powers and functions of the Council in relation to any contract entered into by the Council pursuant to (2)(a) above, (to include but not be limited to) making decisions on behalf of the Council in relation to:-

- (i) Contract management
- (ii) Renegotiation of the contract (acting in consultation with the chief legal officer of the Council)*
- (iii) Variation of the contract (acting in consultation with the chief legal officer of the Council)*
- (iv) Assignment of the contract (acting in consultation with the chief legal officer of the Council)*
- (v) Novation of the contract (acting in consultation with the chief legal officer of the Council)*
- (vi) Termination of the contract (acting in consultation with the chief legal officer of the Council)
- (vii) Renewal of the contract (acting in consultation with the chief legal officer of the Council)*
- (viii) Enforcement of the contract including the making and settling of any claims arising under it (whether or not legal proceedings are actual or contemplated)

*the contracts shall be entered into in accordance with each local authority's respective Contract Standing Orders.

- (c) To authorise the doing of anything in relation to the exercise of the powers and functions of the Council under Part II of the Deregulation and Contracting Out Act 1994 and the orders and regulations made under it.
- (d) Acting in consultation with the chief legal officer of the Council to authorise entry into contracts* with third parties in relation to any functions of the Council which are not the Revenues, Benefits and Customer Service Functions but which can usefully be entered into in connection with or in order to facilitate contracts entered into, or to be entered into with regard to the Revenues, Benefits and Customer Service Functions.
*the contracts shall be entered into in accordance with each local authority's respective Contract Standing Orders.
- (e) To authorise the doing of anything incidental to, conducive to or otherwise expedient in connection with (a) to (d) above.

Note: In relation to 2(d) above, Canterbury City Council specifically included the following within their resolution:- *"for completeness this is in relation to contracts that may be required to facilitate Revs & Bens or CS, for instance: enabling systems"*

The rationale for the above inclusion was to ensure that the East Kent Services Committee was authorised to enter into contracts that directly supported the Revenues, Benefits and Customer Services Functions but was not authorised to enter into contracts with third parties for the provision of services beyond this scope.

It is proposed to utilise the Kingston-upon-Hull City Council Framework agreement to procure this contract, in order to expedite the process and avoid the delays and costs that would accrue if the councils were to undertake their own, OJEU-compliant tendering process. Certain specific amendments will be made to the Agreement to reflect changes in legislation that have occurred since the original contract letting and to ensure that the Framework is usable and provides suitable protection for all three Councils.

The Chief Legal Officers of each of the three Councils will ensure that the amendments are not deemed substantial, thereby ensuring that the Councils will have the comfort and protection of the already procured Framework.

The East Kent Services Committee is therefore asked to note the preferred supplier status of Civica UK Ltd and to agree and authorise the use of the Kingston-upon-Hull City Council Framework agreement (subject to the amendments referred to above). If such authorisation is given, the councils will formally enter into the agreement with Kingston-upon-Hull City Council and make payment to Kingston-upon-Hull City Council for the use of that agreement.

The East Kent Services Committee is asked to consider amending the current delegations that exist to the Director of Shared Services and Director of Collaborative Services as provided for in the "Original Report" to additionally discharge the functions and delegations listed in (2)(b)(i)-(vi) and (2)(b)(viii) above on behalf of the Committee.

Following the contract negotiations, a further report detailing the terms and conditions agreed will be presented to the East Kent Services Committee for consideration. The intention would then be for the East Kent Services Committee (acting on behalf of each of the councils) to authorise entry into such a contract. Each Council would then formally execute the contract.

3. Relevant Council Documents

Report to Councils in September 2017 and accompanying business case.
The Original Report (and Schedule 5 thereto)

4. Consultation planned or undertaken

The business case has been informed by consultation with Chief Executives, S.151 officers and Monitoring Officers/chief legal officers. Consultation with potentially affected staff is planned, as mandated by The Transfer of Undertakings (Protection of Employment) Regulations 2006.

5. Options available with reasons for suitability

- (i) To accept the delegation from Councils and approve the proposed delegation to the Director of Shared Services and Director of Collaborative Services
- (ii) Not to accept the delegation from Councils and approve the proposed delegation to the Director of Shared Services and Director of Collaborative Services

6. Reasons for supporting option recommended, with risk assessment

Option (i) is recommended, as it allows the negotiation of detailed terms and conditions and their presentation to EKSC for approval and authorisation to proceed to contract.

7. Implications

(a) Financial Implications

Agreeing the recommendation will (subject to contract) result in a significant reduction in the operating cost of EK Services and consequently reductions in the contributions made to EK Services operating costs by each of the partner councils providing direct cashable savings to each Council. It also provides a high likelihood of income generation over the lifetime of the contract through a combination of profit share and rental income.

In addition, agreeing the recommendation would avoid an estimated £1.2m of redundancy costs over the next 7 years and/or the need to increase the contributions paid by the partner councils to meet the operating costs of EK Services of circa £2m over the same period.

It mitigates against the potential loss of DWP grant by maintaining the current levels of service quality.

It also indirectly provides a financial benefit to the three partner councils through the generation of a large number of new jobs over the same contract period as well as helping to support the wider East Kent economy.

(b) Legal Implications

The proposed amendments to the delegations to the East Kent Services Committee are in accordance with legislation and are considered to be lawful. All contracts and related documentation will continue to be executed on behalf of the relevant local authority. As the employing authority for the EK Services staff, Thanet District Council will need to enter into appropriate agreements with Kent County Council and the contractor in regard to the Local Government Pension Scheme.

8. Conclusions

Entering into a contract with Civica UK Limited, using the available framework contract, allows the three councils to maintain service provision, quality and performance standards whilst rapidly delivering significant base budget revenue savings commencing in 2018/19 whilst protecting existing jobs (as detailed in the accompanying business case). It will additionally enable the development of a trading hub and centre of excellence in East Kent that is expected to create new jobs and deliver new income to the councils via profit share, rent and royalties.

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