

MUNICIPAL YEAR 2018/2019 REPORT NO. 112

MEETING TITLE AND DATE:

Cabinet - 14 November
2018

REPORT OF:

Director of Commercial

Contact officer and telephone number:

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Agenda – Part:1

Item: 10

Subject: Variation to the co-managed procurement and commissioning hub contract

Wards: All

Key Decision No: KD 4754

Cabinet Member consulted:

Cllr Mary Maguire

1. EXECUTIVE SUMMARY

As part of the Enfield 2017 Programme staff from across the Council were consolidated into a procurement, commissioning and market management hub (“Procurement & Commissioning Hub”) prior to the award of a long-term procurement and commission co-sourced contract.

Following a tender process, the contract was awarded to Ernst & Young LLP in October 2016 and commenced in February 2017.

Following an Executive level restructure in May 2018 and a review of the contract by the new Commercial Director, this report recommends that the contract in its current form no longer represents value for money and through negotiation with EY is recommending a variation to the contract and transitioning the service back in house. This will significantly reduce the external spend.

2. RECOMMENDATIONS

It is recommended that Cabinet

- 2.1 Agree to vary the contract to reflect the changes as set out in the heads of terms in Part 2 Report Appendix 1 with a resultant deed of variation to be entered into by the parties.
- 2.2 Agree to end the current risk and reward element of the contract.
- 2.3 Agree to transition the service back to LBE and reduce the core fee by £2.46m over the three year remainder of the contract
- 2.4 Note there will be a need for investment in staff to deliver the new operating model as the current EY resource on the contract is reduced
- 2.5 Agree to delegate authority for agreement of the final form of the transition and transformation plan and Specification to the Director of Commercial in consultation with Director of Law and Governance as detailed in section 3.12

3. BACKGROUND

- 3.1 As part of the Enfield 2017 transformation programme, the Council decided to engage external expertise and capacity to develop and deliver the Procurement and Commissioning Hub, as an expansion of a successful model already trialled in the Health and Adult Social Care (HASC) brokerage function.
- 3.2 The Hub comprises of staff formerly from across the Council and is responsible for all procurement and commissioning activity across the Council, including the delivery of a market management function that ensures that the Councils future needs across a range of service departments such as temporary accommodation and domiciliary care, can be provided in a sustainable manner.
- 3.3 Enfield entered into a co-sourced contract with Ernst Young LLP (EY) in February 2017 for a period of 5 years to January 2022, to provide leadership and operational management of the hub and to maximise the delivery of savings for LBE. The contract is made up of a 'core service' element and a 'risk and reward' hopper (of which the latter is agreed annually with the Council).

In managing the hub there are 4 elements and 5 pillars in the contract.

The 4 Elements are:

- Operation of Hub
- Strategic Management of Hub
- Continuous Improvement & Savings Programme
- Commercial Opportunities

The 5 Pillars are:

- Procurement,
- Commissioning,
- Contract Management,
- Brokerage, and
- Specialist Advice.

With the exception of specialist advice the other functions are all in the core contract.

- 3.4 Since the commencement of the contract the following has been achieved in the contract:
- A phase 1 restructure of the hub which has reduced overall staffing costs, progression opportunities to LBE staff and replaced contracted staff.
 - Delivered successful procurements, and reduced waivers by 95%, and improved the spot procurements for temporary accommodation and care clients.

- Improved the procurement process, developed the contracts register further, updated the CPR's, roll out of Neptune, and commenced contract reviews.
- Supported cross council initiatives with EY expertise.

3.5 In addition, over the first 15 months of the contract, the Hub has delivered across the organisation the core contract savings (£2.5m) and a risk and reward hopper of savings (£4.4m), which total £6.9m of cost avoidance/ savings to LBE relating to the 2017/18 financial year, which have been signed off, and are projected by EY to grow in future years.

3.6 Following the Executive level organisational restructure in May 2017 and the creation of a Commercial Division, the Procurement and Commissioning co-sourced service with EY has been reviewed following the first year of delivery. The recommendation is that going forward in its current form it does not offer the Council value for money (refer to part 2). For 18/19 there is currently no agreed pipeline of risk reward work, as this does not represent VFM for the Council under the current contract terms. As part of the review and renegotiation of the contract it has been agreed with EY to re frame the contract.

3.7 The key principles in reframing the contract have been to:

- Simplify the contract, by separating the hub from the risk and reward work
- End the current risk and reward up to 31st August 2018 and agree a fee to do this (see part 2 report)
- Ensure the vision for the P&C hub is delivered and clearly specified in the revised heads of terms and a detailed transition and transformation plan
- Transition hub back sooner to reduce core fee (recommendation 2.3)
- Provide an option for a new project based work to be agreed on a commercial basis should the Council wish to use this element of the contract
- Put in place new governance arrangements
- Ensure transparency of costs and deliverables

3.8 The proposed variation is therefore for the remaining 38 months of the contract from November 2018 to December 2021, to reframe the EY support and deliverables to the P&C hub and build the internal capacity.

3.9 The vision for the P&C Hub is to be a centre of excellence, delivering and governing a high quality and cost effective Procurement and Commissioning function for the Council that drives savings across the Council departments through the services it delivers. This will involve working with services at the start of the commissioning cycle to

challenge existing models of delivery and working more closely with services and their partners to deliver innovation, transformation and value.

- 3.10 The 5 Pillars in the contract have been retained within the specification which has been reviewed to ensure it still meets council objectives. Following this a transition and transformation plan has been drafted and will be agreed between the Council and EY which will detail how and when the functions of the P&C hub will transition back to the Council.

- 3.11 To ensure a managed transition there will be four key transition points where significant deliverables, management and operational areas of the P&C hub will be transitioned. The transition points are:

Transition Point 1	July 2019
Transition Point 2	April 2020
Transition Point 3	January 2021
Transition Point 4	April 2021
Contract End	31 st December 2021

Please see appendix 1 for details of the outcomes required at each Transition Point.

- 3.12 The transition and transformation plan is currently being developed and final details will be agreed along with the final revised specification by the Director of Commercial in consultation with Director of Law and Governance within the overall financial cost envelope agreed. It is proposed that management control and leadership of the hub will transfer to the Council in July 2019 at which point the monthly fee will reduce. Fees will continue to reduce at defined transition points until April 2021 when there will be no further fees payable to EY.
- 3.13 During the transition EY will be required to deliver core savings of 1.5x the contract sum paid in any given financial year. The contract sum and associated core savings reduce as profiled below:

Financial Year	2019/20	2020/21	2021/22
	£,000	£,000	£,000
Contract sum	1,460	765	0
Core Saving	2,190	1,148	
Net Saving	730	383	

Please note there is an existing savings target of £1.1m for the 2018/19 financial year for the hub to enable. This will remain under the transformation proposals.

- 3.14 Prior to transition EY will be required to demonstrate appropriate resource, systems, process and outcomes have been met before the transition is approved. This will be performance managed through a

balanced scorecard that covers Financial, Operational and Staff requirements under the contract as well as close reference to the relevant contract specification outputs.

- 3.15 The transformation of the P&C hub services will require some investment in the staff resources within the hub. The level of investment needed will be substantially below the current contract sum. This will be the subject of a separate restructure report that will be brought forward before July 2019.
- 3.16 Overall governance of the contract transition will be via a Strategic Board set up for that purpose chaired by the Council's Commercial Director and comprising officers from EY and the Council. This will be supported by an Operational Board which will ensure contract deliverables are being progressed.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Continue with the current contract. This would increase the core contract costs by £2.46m over the remaining 38 months of the contract. Further it would leave uncertainty over the future risk and reward payments which are cumulative but also linked to the adjustment factor.
- 4.2 Seek to terminate the contract. Based on the current performance there is no basis to do this.

5. REASONS FOR RECOMMENDATIONS

- 5.1 The Council has undergone an Executive level restructure and the review of the contract by the Commercial Director has concluded that going forward the contract in its current form does not represent VFM and through a variation it should be transformed and transitioned back in house.
- 5.2 Both parties have agreed to re frame the contract and end the current risk and reward mechanism and other aspects set out in 3.5
- 5.3 It is preferable now for the Council to transition the service back in house, but still ensure the vision for the P&C hub is delivered and a legacy is left which will be via the transition plan.
- 5.4 There are financial benefits in bringing the service back in house earlier than originally anticipated in the original contract of £2.46m.
- 5.5 There are new core contract savings targets set out in the table in 3.12.

6. COMMENTS OF OTHER DEPARTMENTS

6.1 Financial Implications

See Part 2 Report

6.2 Legal Implications

- 6.2.1** S.111 Local Government Act (1972) gives a local authority power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- 6.2.2** The Council also has a general power of competence in s.1(1) Localism Act (2011). This states that a local authority has the power to do anything that individuals generally may do provided it is not prohibited by legislation.
- 6.2.3** This report seeks authority to vary the existing contract with Ernst & Young and the parties to the contract are both agreeable to the proposed variations.
- 6.2.4** Variations to existing contracts must be carried out in accordance with the Council's Constitution and in particular, its Contract Procedure Rules ("CPRs"). The Council must ensure it complies with CPR 7 – 'Variations to Contracts'.
- 6.2.5** In addition to the requirements of CPR 7, where the value of the variation exceeds the relevant EU Threshold, officers must also comply with the Public Contract Regulations (2015) ("PCR 2015"). The Council has considered the PCR 2015 in light of the proposed variations and is satisfied that the agreed variations are PCR 2015 compliant.
- 6.2.6** The Council must also comply with its obligations relating to obtaining best value under the Local Government (Best Value Principles) Act 1999.
- 6.2.7** As the contract variation value exceeds £250,000 this is a Key Decision and the Council must comply with the Key Decision procedure.
- 6.2.8** All legal agreements arising from the matters described in this report must be in a form approved by Legal Services.

6.3 Property Implications

None

6.4 Procurement Implications

The procurement implications are contained within the body of the report.

7. KEY RISKS

- 7.1 The contract is not managed and the deliverables in the transformation and transition plan are not achieved. This will be mitigated by an assigned officer being responsible for the contract management and performance. Further a mechanism will be included to provide for deductions should there be under performance (see part 2)

8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

8.1 Good homes in well-connected neighbourhoods

The Co-managed service contract supports all procurement activity. Supporting all services across the council, enabling them to deliver front lines services to the community, including the development and maintenance of the Councils housing estate

8.2 Sustain strong and healthy communities

Supporting front line services such as public health, adult social care, and children's services enabling them to deliver services that sustain strong and healthy communities

8.3 Build our local economy to create a thriving place

The Co-managed service contract supports and promotes the use of local suppliers and local business, to develop the local economy. It has a sustainable procurement policy to promote social value and ethical sourcing through procurement.

9. EQUALITIES IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report. However it should be noted that the any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010.

10. PERFORMANCE AND DATA IMPLICATIONS

Delivery of the Transformation and outstanding contract requirements will be managed by the Strategic Board as detailed in Para 3.15

11. HEALTH AND SAFETY IMPLICATIONS

Not applicable

12. HR IMPLICATIONS

Not applicable

13. PUBLIC HEALTH IMPLICATIONS

See Part 2 Report

Background Papers

None