

Reason why decision is being called in:

- **The decision fails to explain why the decision was taken so late to continue with Trowers when the original contract expired on 4th March 2019?**

RESPONSE:

Please see response to question 2.

- **The report states that the Procurement and Commissioning Board approved the procurement and the use of the CCS Framework in August 2018 yet it took 8 months for this decision in the end to be signed off. The report does not offer any explanation as to why it took 8 months to award this contract when using a framework should be quicker than via OJEU.**

RESPONSE:

There are two main reasons for the apparent delay:

- (1) The CCS Framework for Wider Public Legal Services was originally due to be launched in early October 2018, but the launch was delayed until the end of November 2018. The launch date of the CCS Framework was outside officers' control. Given the delay to the launch of the CCS Framework, alternative frameworks were investigated, but for the reasons stated in the Report were deemed not suitable for the current purposes. Although outline information was available prior to the launch date, detailed information about the CCS framework (e.g. identity of the suppliers, framework rules and processes etc.) was not publicly available until after the framework had become operational. Promptly following launch, the framework was thoroughly reviewed to confirm that it was in fact suitable for the Council's requirements and enquiries were made of suppliers on the panel (see response to question 3 below).
- (2) Officers from the Regeneration Team sought approval for the procurement of legal advisers in relation to the Meridian Water Project at the meeting of the Procurement and Commissioning Board in August 2018. Approval to use the CCS Framework was obtained at that meeting subject to the proviso that Regeneration officers liaise closely with officers from Legal Services and Procurement in relation to (i) establishing the scope of services required and (ii) conducting the procurement. Given the close relationship that would be required between the Council's internal and external advisers and the expertise and knowledge that Legal Services have in relation to the procurement of legal advisers, in accordance with rule 1.29 of the Council's Contract Procedure Rules it was decided that the procurement was best conducted by the Legal Services team. Information

about the anticipated scope of services was received from officers in Regeneration between August and December 2018. As a result of the information received, it was concluded that ensuring continuity of service would be a key priority and that a direct call-off to Trowers & Hamblins LLP would be the preferred course of action to achieve this.

In relation to the comment regarding the use of a framework rather than an open/restricted procurement process under the Public Contracts Regulations 2015, where it demonstrates best value, the Council's Contract procedure Rules require the use of an available framework. As stated in the Report, a full procurement process would be significantly more resource intensive than procurement via a framework and would be unlikely to offer any advantages in respect of cost savings or otherwise, such as ensuring continuity of service.

- **The report states that this decision represents best value. How has best value been assessed? Has this been benchmarked against other legal providers?**

RESPONSE:

The Council is under a statutory obligation to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

Following the launch of the CCS Framework, enquiries were made of other suppliers on the panel to determine the level of their fees and experience. Enquiries were also made of suppliers on other frameworks. Although other suppliers could potentially offer lower fees than Trowers & Hamblins LLP, it is considered that a direct call off would have significant benefits in terms of efficiency and effectiveness, i.e. by ensuring continuity of service. As stated in the Report, Trowers & Hamblins LLP have acquired extensive knowledge of the complexities of the Meridian Water project during the period of their engagement and officers from both Legal and Regeneration teams are satisfied with the quality of service provided to date. This knowledge and experience will be invaluable as the next phase of Meridian Water is brought forward, whereas considerable time and resource would be required to mobilise any alternative supplier to such an extent that it would inevitably be detrimental to overall project delivery.

As set out in the Report, officers will seek to ensure that best value continues to be delivered throughout the engagement of Trowers & Hamblins LLP, e.g. by ensuring robust contract monitoring, and efficient allocation of work within the internal and external team. Furthermore, under the terms of the new contract, Trowers & Hamblins LLP will be expected to deliver additional added value to the Council e.g. by offering trainee solicitors at the Council a period of work experience at Trowers at no additional cost to the Council.

- **Why does the report not explain the reasons why we are paying via an hourly rate system rather than a capped fee for services required?**

RESPONSE:

The framework sets out and restricts the basis on which law firms can charge for their services. Given the uncertain scope of services that will be required over the next 12 months, it would be unrealistic to expect any firm of solicitors to agree to a capped fee at the outset of the contract. However, under the terms of the call-off contract, any legal instruction (including the cost of such instruction) will be required to be approved in advance by the Director of Law and Governance, Trowers will be expected provide estimates of their fees at the outset of any new instruction and report back to officers in the event that these estimates are likely to be exceeded. In addition, and where appropriate in relation to any specific scope of work, officers will seek to agree fixed fees or caps on fees in accordance with the framework terms.