

SPECIAL URGENCY DECISION

Leader of Council:

Name: Councillor Alyson Barnes
Date agreed: 19/04/2021

Chair of Overview and Scrutiny:

Name: Councillor Janice Johnson
Date agreed: 19/04/2021

Decision Taker:

Agreed: 20/04/2021

Details of Decision and Reasoning:

The Council has received a Contract Variation form from its incumbent supplier for its online payment solution, based on compliant procurement practice undertaken by Crown Commercial Services (CCS).

Whilst it is a renegotiation of the existing agreement to secure improved contract content and financial terms, the financial commitment emanating from this discounted, time limited offer constitutes a 'Key Decision'.

Importantly, to ensure the Council has a compliant and fit for purpose payment solution in place, - including the introduction of additional online security (3D Secure V2) not currently contracted - approval is sought before the next sitting of Cabinet (June 2021).

Any delay to approval outside of Special Urgency increases the risk of the Council being unable to take online payments, given planning, testing and implementation phases associated with upgrading the current offer.

The General Exception procedure cannot be followed due to the time limited nature of the proposal and the associated risks of deferred approval.

The implications are further detailed below.

Decision to be taken by:

Karen Spencer

Documents to be considered by the decision taker:

Rossendale Borough Council Contract Variation Form;
Rossendale Council – CivicaPay DAS Contract;
Rossendale Council – CivicaPay 7 Year Discounted Proposal March2021.

Implications:

Legal

Compliance risk issues are considered in more detail in the Risk section below.

The Data and Applications Solutions (DAS) Framework Contract (RM3821) has been tendered by Crown Commercial Services (CCS) on behalf the public sector. This process 'pre-qualifies' prospective suppliers and is a compliant route to market. Group 2 of the Framework Agreement is specifically for Local Government and includes Call Off contracts for a maximum duration of 7 years. The Council's incumbent supplier is an 'approved' provider on this Framework Agreement.

HR

There are no HR implications arising from this Special Urgency Decision.

Finance

In summary, the Discounted Proposal can be financed over the life of the agreement within existing resources. Further detail is provided below.

The Discounted Proposal contains three core elements:

One Off Application Licence Fee: This can be funded from sums set aside for such upgrades (Provisions) held on the Council's Balance Sheet.

Annual Hosting Charges: The Discounted Proposal represents a reduction to existing charges for annual licence costs and includes provision for upgrades (see implementation fee below) not currently included the existing core contract (this is procured separately with sums included in the baseline budgets for

existing charges).

Implementation Fee: These fees become due and payable on satisfactory implementation of upgrades. The timing profile for significant upgrades included in the proposal is considered to be mid-term and end of term. The strategy to fund Implementation costs is to utilise the reduction from the annual hosting charges (above) and set these aside for commitments in future years (similar approach to Provisions taken for financing the One Off Application Licence Fee above). Subject to the actual timing of the upgrades, sufficient provisions should exist to fund upgrade implementation when they fall due.

The Discount Proposal also protects the Council from inflationary risk. Annual Hosting Charges are fixed for the duration of the agreement and are not subject to RPI or similar indexation, unlike the existing contract terms. This represents a 'saving' over the life of the agreement and the fixed nature of these annual costs offers a degree of certainty for future budget planning assumptions and development of the Medium Term Financial Strategy (MTFS).

The Discounted Proposal is only available for a limited period and without timely signature, the Council risks losing a material discount. This discount enables the Council to manage and finance an improved offer over the life of the agreement from within existing budgets. Any new proposal arising from an alternative date will need to be re-assessed to determine affordability.

Risk

The Financial Risks are considered in the above section, namely the possibility of the loss of discount and the future financial implications, and continued exposure to inflationary increases associated with the existing terms.

The Council utilises its web channels to

facilitate payments for services including Bulky, Garden and Commercial waste collections.

The Financial Conduct Authority (FCA) requires implementation of 3D Secure v2 by 14th September 2021. At present the Council does not have this feature embedded in its online offer, nor is delivery of this solution included within existing contract terms.

Separate procurement for this item is possible but securing this within the Contract Variation will enable better planning and commitment from the Council and its incumbent supplier to deliver within the required timescales. Without timely planning, the following significant risks to the Council and its service users are identified:

- Risk that a 3D Secure operating environment for service users is not available in the required timescale and the Council being subjected to enforcement action from the FCA for non-compliance;
- Consequently, the Council being unable to take electronic payments with potential negative impact on service delivery, reputation and cashflows.
- Failure of this digital service to meet and comply with the Government's Web Content Accessibility Guidelines (WCAG 2.1 Compliance) not contained within the current digital offer or contract
- Missed opportunity to improve the user experience as part of the agreed upgrade plan.

Corporate Priorities

This Special Urgency decision and renegotiation of contract terms for the Council's online payment solution supports the Corporate Priority of

Connected Rossendale, sustaining digital connectivity with service users and reducing the risk to levels of Customer Service currently experienced.

Status:

Not for Publication Schedule 12A of the Local Government Act 1972 section 3:

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services, and/or

Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.

Date:

20/04/2021

NOTES

A Key Decision is defined as one that either:

- a) is, in value worth more than £100,000, or
- b) has a **significant impact** because (for example) it either:
 - (i) affects individuals or organisations outside the Borough; or
 - (ii) will have a long term (more than 5 years) or permanent effect on the council or the borough.

1. Status - Is the issue an open and public matter or is it a private and excluded matter as described in Schedule 12 A of the Local Government Act 1972. If it is an open matter it is for publication. If it is a private matter it is not for publication and you state the reason why and the appropriate paragraph number of Schedule 12A.
2. Implications – List any financial staffing and legal implications and remember to consult with legal, human resources and finance. Also consider implications such as LA21 Environment, Human Rights Act 1998. Equal opportunities, Community Safety, IT, Land and Property and Partnership Working.
3. When the decision has been made and the form signed by the decision taker and the portfolio holder the form should be sent to the Committee Services Manager.