



## CABINET – 20 JULY 2021

### EXCEPTION TO CONTRACT PROCEDURE RULES - URGENT ACTION TAKEN BY THE CHIEF EXECUTIVE IN RELATION TO THE EXTENSION OF AN EXISTING CONTRACT FOR AN ELECTRONIC ROSTER SYSTEM

#### REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES

#### PART A

##### Purpose of the Report

1. The purpose of this report is to advise the Cabinet of urgent action taken by the Chief Executive to agree an exception to the Council's Contract Procedure Rules which enabled the existing contract with Advanced Business Solutions for the supply of a staff roster system to continue to be used, by the Homecare Assessment and Reablement Team (HART) and Crisis Response Service (CRS) teams respectively..
2. The exception also covered earlier short-term extensions between April 2020 and March 2021 the reasons for which are outlined in Part B of this report below.

##### Recommendation

3. It is recommended that the Cabinet notes the urgent action taken by the Chief Executive to agree an exception to the Contract Procedure Rules to enable the existing contract for the supply of a staff roster system to continue to be used by the Homecare Assessment and Reablement Team and Crisis Response Service teams.

##### Reasons for Recommendation

4. The Council's Constitution (Contract Procedure Rule 6 (b)) provides that exceptions to the Contract Procedure Rules may be made by the Cabinet where it is satisfied that an exception is justified on its merits and that in urgent cases the Chief Executive (after consultation with the Leader or Deputy Leader save where this is not practicable) may direct that an exception be made subject to it being reported to the Cabinet.
5. The exception was necessary in order to support both HART and CRS services to continue to operate at full capacity.
6. The circumstances are explained in Part B of this report.

**Timetable for Decisions (including Scrutiny)**

7. The Chief Executive agreed the exception on 9 July 2021.

**Policy Framework and Previous Decisions**

8. The exception to the Contract Procedure Rules follows the Council's Constitution (Contract Procedure Rule 6(b)(ii)).

**Resource Implications**

9. The Director of Corporate Resources, the Director of Adults and Communities and the Director of Law and Governance have been consulted on the rationale behind this contract exception. Any risk associated with this direct award will be mitigated, provided that a new contract is re procured (in accordance with the procurement rules), as soon as possible and in any event, with a new system in place no later the 31<sup>st</sup> March 2023.

**Circulation under the Local Issues Alert Procedure**

10. None.

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## **PART B**

### **Background**

11. The HART service provides intensive support to help service users optimise their independence and enable them to continue living in their own homes. The team focuses on the existing support that people have around them and encourages individuals to do tasks for themselves where possible.
12. The Crisis Response Service supports people who are experiencing a health or social care crisis within their own home and without support might otherwise need to be admitted to hospital or a care home. The service is available 24 hours a day, 7 days a week and aims to respond within 4 hours of receiving a referral. The service provides a short-term intervention and is available for a maximum of 3 days.
13. Both the HART and CRS services are heavily reliant on having an electronic roster system which can circulate and update rota information to staff in real time. Such a system is vital to managing service demand, particularly in times of significant crisis, as currently being experienced with Covid-19.
14. The current system procured from Advanced Business Solutions (Advanced) has been operational since November 2013 and was due to be replaced in March 2020 with a new system supplied by a different contractor. The procurement process for this had followed standard processes. Advanced had chosen not to bid for the tender due changes in their business model at that time.
15. There followed a period of difficulties with implementation of a new system and resultant delays. Tests in November 2020 found that the new system was still subject to significant errors. Further work to resolve these could not be done without more slippage, or a significant risk of not achieving any implementation by March 2021.
16. Advanced continued to provide a service on an emergency short-term basis. At this point a further extension would have been required to their existing contract in order to ensure that HART and CRS could continue to use their system until such time as the new system was ready.
17. As a precaution, Advanced were contacted regarding the potential of a further extension to the current contract. This was agreed on their normal trading terms for a three-year period (rather than on the emergency short-term basis, that they had been providing in support of the difficulties in getting the new system operational). This was subsequently re-negotiated to two years at a reduced cost of £88,069 over the three-year terms, provided a purchase order was received by Advanced no later than 15<sup>th</sup> February 2021.
18. Following lengthy discussions between the Project Board and the new provider it was concluded that the later had failed to deliver a working system there was no confidence that they would be able to do so, before or after the target delivery date of 31<sup>st</sup> March 2021. (Any further slippage beyond March, however short,

would have triggered the need for a full two-year extension with Advanced). The contract with the new provider was therefore terminated, with formal notice given on 26 November 2020.

19. It was agreed that there were no other options available that would enable the HART and CRS services to continue to operate safely and efficiently.
20. A Contract Exception Request was prepared for permission to take up the contract extension with Advanced. The request was made under Public Contract Regulations 2015, Regulation 72(4) such that;
  - a) the need for the modification has been brought about by circumstances which a diligent contracting authority could not have foreseen; and
  - b) the modification does not alter the overall nature of the contract; and
  - c) any increase in price does not exceed 50% of the value of the original contract.
21. The request was approved by the Director of Corporate Resources, the Director of Adults and Communities and the Director of Law and Governance on 9<sup>th</sup> February 2021.
22. It was not appreciated at that time that the Exception in this instance required the agreement of the Chief Executive and subsequent report to advise the Cabinet.

#### **Equality and Human Rights Implications**

23. There are no equality or human rights implications arising from this report.

#### **Background Papers**

None.