



**ESPO MANAGEMENT COMMITTEE –**  
**5 DECEMBER 2013**

**ARRANGEMENTS FOR THE WITHDRAWAL OF**  
**LEICESTER CITY COUNCIL FROM THE**  
**CONSORTIUM**

**REPORT OF THE DIRECTOR AND CONSORTIUM**  
**SECRETARY**

**Purpose of Briefing Note**

1. The purpose of this report is to update members on operational progress in managing the withdrawal of Leicester City Council from the ESPO Consortium and progress in amending the Consortium Agreement.

**Background**

2. Leicester City Council has taken a decision to withdraw from the ESPO Consortium.
3. This decision was taken following the development of a local procurement task force and was a strategic decision by the authority to rely less on national framework solutions in favour of public contracts with local suppliers.
4. As a result, it has decided that, at this time, being part of the ESPO management committee is not consistent with their intended future direction.
5. Leicester City Council however, has confirmed its on-going commitment to using ESPO's services, frameworks and catalogue, including engaging ESPO on a project-by-project basis. They are choosing to do this as a non-member authority rather than as a member authority, and will review their usage in due course, as commitments fall away.

**Due Diligence Work**

6. From a commercial perspective, ESPO officers are carrying out a programme of 'due diligence' work with regards to contracts where Leicester City Council is currently engaged, to ensure that any potential adverse commercial impacts have been considered. The headlines arising from this work area are as follows.

7. It is the Council's intention, generally, to continue to use existing frameworks until they expire. It expects to review options for the procurement requirements as current frameworks expire and then consider whether it re-procures locally or seeks to participate in ESPO solutions.
8. ESPO is conducting a 'due diligence' review to identify any liabilities arising from the change in Leicester City Council's status, including a review of the contracts database to identify:
  - Contracts for that authority only
  - Contracts for that authority and other specified customers
  - Regional/National/Pro5 contracts
  - Generic/multi-client contracts/frameworks where the authority is a significant customer
9. Further review by Category will identify:
  - Outstanding access agreements, claims, disputes or challenges
  - Projects/frameworks underway but not completed with potential for claims, disputes, challenges arising (a) before the authority withdraws from membership and (b) subsequently
  - Any contracts/frameworks where there is a rebate sharing or 'customer' rebate
10. Situations regarding other specific projects/undertakings are as follows:
  - Food category support – ESPO will be participating in the Leicester Food Forum.
  - Fleet Maintenance support – ESPO will be providing low-level support to this procurement, on a no fee/no liability basis.
11. Any residual liabilities in relation to contracts post expiry are to be identified.
12. New projects/commissions extending beyond March 2014 or commencing after March 2014 will be subject to a Business Case review on a case-by-case basis. Engagement of ESPO by Leicester City Council is to be covered by the standard form of Proposal developed by the Legal & Governance work stream, and managed on a non-member basis.
13. As at 20/11/2013, no financial concerns or irregularities have been identified.

#### **Legal and Governance Group**

14. Legal representatives of the authorities have attended at a meeting of the group. Prior to the meeting of the group, the expectation was that it would be necessary to consider a new Agreement to allow for Leicester City Council to leave the Consortium without serving a full period of notice and subject to payment of the dividend for 2013/14 and indemnities as to liabilities which may arise. At the meeting, a proposal

was put forward that the Council should consider a rather more simple arrangement, of not taking the dividend but not being expected to sign up to any indemnities. The response of Leicester City Council to this proposal has been to confirm that they wish to leave on the basis as previously discussed (as above) and accordingly, further work will be required to formulate the necessary agreement.

### **Resources Implications**

15. Resources implications will be dependent upon the outcome of discussions at the Legal and Governance Group.

### **Recommendation**

16. The Committee is asked to note the contents of the report.

### **Equal Opportunities Implications**

17. None.

### **Risk Assessment**

18. See section on Due Diligence activity to date.

### **Background Papers**

19. Progress Report of the Director – ESPO Management Committee on 26 September 2013

### **Officers to Contact:**

John Doherty, Director  
[j.doherty@espo.org](mailto:j.doherty@espo.org), 0116 2657931

David Morgan, County Solicitor  
[David.morgan@leics.gov.uk](mailto:David.morgan@leics.gov.uk), 0116 3056007

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