

CABINET MEMBER SIGNING

Wednesday, 26th April, 2023, 10.30 am

Members: Councillors Sarah Williams

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

3. AWARD OF CONTRACT FOR SAP HOSTING AND SUPPORT SERVICES (PAGES 1 - 4)

4. AMENDMENT TO CABINET APPROVAL FOR LEGAL COSTS FOLLOWING AN OMBUDSMAN DECISION (PAGES 5 - 8)

5. EXCLUSION OF THE PRESS AND PUBLIC

Item 6 is likely to be subject to a motion to exclude the press and public from the meeting as it contains exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 3 and 5, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

**6. EXEMPT - AMENDMENT TO CABINET APPROVAL FOR LEGAL COSTS
FOLLOWING AN OMBUDSMAN DECISION (PAGES 9 - 10)**

Felicity Foley, Committees Manager
Tel – 020 8489 2919
Fax – 020 8881 5218
Email: felicity.foley@haringey.gov.uk

Fiona Alderman
Head of Legal & Governance (Monitoring Officer)
George Meehan House, 294 High Road, Wood Green, N22 8JZ

Tuesday, 18 April 2023

Report for: Cabinet Member Signing

Title: Award of Contract for SAP Hosting and Support Services

Report authorised by : Director of Culture, Strategy & Engagement – Jess Crowe

Lead Officer: Carla Villa, x3111, carla.villa@haringey.gov.uk

Ward(s) affected: N/A

Report for Key/

Non Key Decision: Key Decision

1. Describe the issue under consideration

- 1.1 This report seeks approval from the Cabinet Member to direct award a contract to Support Revolution Ltd, for a term of 3 years with an option to extend for a further 1 year, by way of a call-off from the Crown Commercial Service's GCloud 13 framework to replace the current SAP managed service contract. The new contract will facilitate the continuation of critical SAP hosting and support for the Finance, Payroll, HR and Procurement systems.
- 1.2 In 2019 a contract was let for the SAP managed service for a term of 2+1+1 years. The current contract has become unviable under the current costs due to incorrect sizing and supplier cost increases due to exchange rate fluctuations exacerbated by recent financial markets turbulence.
- 1.3 Support Revolution Ltd is still the most appropriate partner for SAP Hosting and support. By issuing a new contract rather than extending the current one, Support Revolution will be able to correct the errors of the past and manage the variable cost of hosting. Creating a new contract has the effect of almost co-terming both the license support and SAP Managed service contracts making future contracts easier to procure. Support revolution provide 3rd party support for both our Sap licenses and hosted services and support

2. Recommendations

- 2.1 It is recommended that the Cabinet Member approves, in accordance with Contract Standing Order 9.07.1d, to direct award to Support Revolution Ltd the contract for SAP hosting and support services for an initial 3-year term valued at £883,036.86 with an option to extend for a further one-year period valued at £294,345.62 with a total contract value of £1,177,382.48 over the maximum term of 4 years.

3. Reasons for decision

- 3.1 The current SAP managed service contract expires 31st May 2023 although there is still an option to extend for a further period of 1 year on the existing contract. It is therefore necessary to either extend the current contract or replace it with a new contract that ensures the Council has ongoing service provision through addressing the financial issues of Support Revolution.
- 3.2 The Council already has a satisfactory relationship with Support Revolution.

3.3 Rather than extend the current contract, a new SAP Managed Service contract should be procured which would align with the renewal of the Council's SAP licence support contract rather than the two contracts ending 14 months apart. This alignment would enable the Council to have both contracts end almost at the same time; it will enable a smoother procurement process for one new contract to replace both of the current contracts if at some point this is required.

4. Alternative options considered

4.1 Do Nothing – not an option as Support Revolution cannot continue to absorb the losses it's incurring on the hosted part of the service and the contract would have to end leaving the Council with no hosting and support for its SAP systems. This is not a realistic option. This would mean that we would not have a Finance, Payroll, HR, and procurement system.

4.2 Insource the hosting - the current in-house SAP support team would be required to take on this specialist role. This would require expensive specialised SAP resources to be recruited that would not be fully used. It is not an economically viable option to maintain these sorts of skills as part of the Haringey Digital Services team. The Council would also be required to procure the hardware and software which would come at an additional cost to run, maintain and the Council would be unable to move to a new supplier in the timeframes available.

4.3 Go out to Tender – To do this would take a minimum of 18 months to 2 years to do. A full specification would be required and full migration of data. There are no plans to move away from SAP currently.

5. Background information

5.1 The current GCloud 11 contract was awarded at Cabinet in 2019 for the hosted managed service and subsequently went live in June 2020. The contract is for 2+1+1 and the final year would require Cabinet approval to extend into in May 2023. Rather than do an extension it is simpler to create a new contract to align the termination dates would be more favourable for both parties. Both parties worked together to mitigate some of the costs being incurred going forward.

5.2 A search of the GCloud 13 framework (a Government framework where all supplier have pretended their services) was carried out which brought up 10 suppliers. Only Support Revolution is able to provide the service required. G-Cloud guidance stipulates that if only one framework supplier's service provision meets a procuring authority's requirements, the procuring authority can award a contract to the supplier without further competition.

5.3 The proposed supplier's service has been procured through a GCloud 13 Framework from Support Revolution under a direct award for a term of 3 years with an option to extend for a further 1 year, as allowed under the framework.

6. Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes’?

6.1 Outcome 17: objective c) We will maintain strong controls over delivery of our critical projects through our Medium-Term Financial Strategy

7. Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

7.1 Finance

7.1.1 The cost of this four-year contract award for SAP hosting and support services, including the option to extend for one year, is £1,177,382 which represents an annual increase of 10% on the current contract which was agreed at a fixed price four years ago. The Digital Services contracts budget is insufficient to fully cover the increased cost of this new contract however an inflation provision has been included in the 23/24 corporate budgets to cover, among other things, contract inflation and currency fluctuations within Digital Services’ contracts. This will be released to the Service at an appropriate point during the year to cover the budget shortfall

7.2 Procurement

7.2.1 CSO 7.01b) permits the selection of a contractor from a public sector framework. A search and filter process has been undertaken in accordance with the framework selection process.

7.2.2 CSO 9.07.1d) permits all contracts valued at £500,000 or more to be awarded by the Cabinet

7.2.3 Strategic Procurement support the recommendations in section 3 of this report.

7.3 Head of Legal & Governance

7.3.1 This report is proposing the award of a contract by way of a direct award call-off from the Crown Commercial Service’s G-Cloud 13 framework agreement.

7.3.2 Under Contract Standing Order (CSO) 7.01(b) and Regulation 33 of the Public Contract Regulations 2015 the Council may award contracts called off under a framework established by another public sector body.

7.3.3 The G-Cloud framework agreement allows for the direct award of a contract without the need for a mini-competition in selecting the proposed contractor. Strategic Procurement has confirmed below that the selection process followed in this procurement from the G-Cloud framework was in accordance with the framework rules.

7.3.4 Under CSO 9.07.1(d), a contract valued at £500,000 or over may be awarded by Cabinet and under CSO 16.02 a Cabinet Member to whom the decision to make an award has been allocated by the Leader may award the contract in lieu of Cabinet.

7.3.5 The Head of Legal and Governance (Monitoring Officer) is not aware of any legal reason preventing the approval of the recommendations in paragraph 3 of this report.

7.4 Equality

7.4.1 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

7.4.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

7.4.3 Ensuring the platform is fully accessible to support all users was an important part of the procurement process.

8. Use of Appendices

N/A

9. Local Government (Access to Information) Act 1985 N/A

Report for: Cabinet Member Signing

Title: Amendment to Cabinet approval for Legal Costs following an Ombudsman Decision

Report authorised by : Jess Crowe, Director of Culture, Strategy and Engagement

Lead Officer: David Graaff Head of Service Delivery
David.graaff@haringey.gov.uk

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key Decision

1. Describe the issue under consideration

- 1.1 Members approved a level of legal costs in relation to annulment of the bankruptcy of Ms B (recommended by the Ombudsman) in the report to Cabinet on 10th December 2019.
- 1.2 Cabinet has agreed the Councils response, but the level of trustees costs has risen since the original report.
- 1.3 A further approval is required to negotiate and settle the level of costs to be paid to the Trustees.

2. Cabinet Member Introduction

- 2.1 The report delegates to officers the ability to negotiate and approve legal costs which have risen since 2019 in order to achieve a satisfactory outcome for all parties.

3. Recommendations

- 3.1 To note that the level of legal costs has increased from the initial cabinet report for the reasons set out in section 4, and as set out in the exempt appendix.
- 3.2 To authorise the Assistant Director Resident Experience, in consultation with the Cabinet Member for Finance and Local Investment, to conclude negotiations with the Trustees to agree and then to pay the costs in order to allow the bankruptcy annulment to proceed.

4. Reasons for decision

- 4.1 The remedies proposed by the Ombudsman were agreed by Cabinet on the 10th December 2019 and have been actioned, with the exception of the annulment of the bankruptcy.
- 4.2 The Trustee's costs were estimated to be in the region of £15,000, but these have since escalated. The bankruptcy cannot be annulled until the Trustees costs have been settled

4.3 The Trustee's costs have escalated from the initial estimates due to procedural requirements and delays due to COVID:

4.3.1 There was an requirement to communicate with the complainant and set out the consequences of the bankruptcy annulment relating to this debt and other debts to third parties. This took time to arrange and conclude discussions

4.3.2 All the Courts were closed for an extended period due to Covid so it was not possible to progress matters

4.3.3 The Trustees were still required to comply with a procedural timetable in the absence of the Courts, which led to activity and increased cost attributable to that activity

4.3.4 Negotiations to reduce the level of costs payable have been time consuming and have led to some delay

5 **Alternative options considered**

5.1 There are no alternatives available.

6 **Background information**

6.1 The report to Cabinet on 10th December 2019 entitled "Report by the Local Government and Social Care Ombudsman into complaint by Ms B against Haringey Council" sets out the background to the matter and the original decision that Cabinet:

6.1.1 Accept the findings and recommendations of the Ombudsman in the report dated 17th September 2019, as shown at Appendix 1 of that report. Authorise officers' reduction of Ms B's debt by £3,400 as compensation

6.1.2 Authorise officers to compensate Ms B by applying to annul her bankruptcy and paying the court and trustee costs of doing so up a value of £20,000

6.1.3 Adopt this report as the Council's formal response under s.31 Local Government Act 1974, to be communicated to the Ombudsman.

6.1.4 Adopt this report as the Cabinet's formal response as required by s.5A Local Government and Housing Act 1989, to be distributed to all members and the Monitoring Officer.

6.2 On 6 June 2022 Luton County Court ordered that Ms B's bankruptcy be annulled, and that the Council pay both the costs of the application and the Trustee's costs of the bankruptcy itself

6.3 The Trustee estimates those costs at [EXEMPT]; his solicitors have proposed agreement of the costs at a figure of [EXEMPT].

7 **Contribution to strategic outcomes**

7.1 Positive Resident Experience

8 Statutory Officers comments

8.1 Finance

8.1.1 There is provision for [EXEMPT] to deal with this matter in the Revenues Budget.

8.2 Procurement

8.2.1 There are no procurement issues.

8.3 Legal

8.3.1 The Head of Legal and Governance has been consulted in the drafting of this report and comments as follows.

8.3.2 As envisaged by the Cabinet report of 10 December 2019, the Council was on 6 June 2022 ordered to pay the Trustee's costs.

8.3.3 If costs cannot be agreed, the Trustee will apply to the Court for them to be fixed; unless the Council was able to achieve a very significant reduction in costs through that process, it would be required to pay the costs of that process in addition.

8.3.4 In this context and having regard to the significant information as to costs already provided by the Trustee, the offer to agree costs at [EXEMPT] is considered reasonable to accept.

8.3.5 The Head of Legal and Governance sees no legal reasons preventing approval of the recommendations in the report.

8.4 Equality

8.4.1 There are no equalities implications

9 Use of Appendices

Exempt appendix 1

10 Local Government (Access to Information) Act 1985

Minutes of the Cabinet Meeting of 10th December 2019

<https://www.minutes.haringey.gov.uk/documents/s113057/Cabinet%20report%20-%20Ombudsman%20-%2010%20December%202019.pdf>

This page is intentionally left blank

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is exempt

This page is intentionally left blank