


<p style="text-align: center;"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p style="text-align: center;"><b>CABINET</b></p> <p style="text-align: center;"><b>4 JULY 2016</b></p>	
<p><b>SOCIAL CARE CASE MANAGEMENT SYSTEM CONTRACT</b></p>	
<p><b>Report of the Cabinet Member for Health and Adult Social Care: Councillor Vivienne Lukey and the Cabinet Member for Children and Education: Councillor Sue Macmillan</b></p>	
<p><b>Open Report</b></p> <p>A separate report on the exempt part of the Cabinet agenda provides exempt financial information.</p>	
<p><b>Classification - For Decision</b></p> <p><b>Key Decision: YES</b></p>	
<p><b>Wards Affected: ALL</b></p>	
<p><b>Accountable Director:</b> Rachel Wigley, Deputy Director and Director of Finance &amp; Resources, Adult Social Care and Health</p>	
<p><b>Report Author:</b> Marc Cohen, ASC IT Programme Manager</p>	<p><b>Contact Details:</b>  Tel: 075 2501 7569  E-mail: mcohen@westminster.gov.uk</p>

**1. EXECUTIVE SUMMARY**

1.1. Hammersmith & Fulham’s (H&F) contracts for the current Social Care record system (Frameworki and the People First Website) expire on 16 January 2017.

To preserve continuity of service we are seeking approval to extend the existing Hammersmith and Fulham Bridge Partnership contract with Servelec Corelogic Limited, the existing supplier, for a further three year term, with a break clause after 2 years.

1.2. We are also seeking approval for Adult Services, on the delegated authority of the Cabinet Member, to upgrade Frameworki to Mosaic (next generation product), subject to a detailed review of this product and a clear business case outlining the benefits arising from an upgrade.

## **2. RECOMMENDATIONS**

- 2.1. That approval be given to extend the existing service arrangements with Servelec Corelogic Limited for provision of social care systems; and that this service continuity be achieved by:
- i) novating the existing contacts held by HFBP on the Council's behalf to H&F when the Hammersmith and Fulham Bridge Partnership (HFBP) ceases to exist after 31st October 2016 , and
  - ii) upon expiry of the contracts referred to in 2.1 further contract with Servelec Corelogic for a Children's and Adults social care system from 17th January 2017, with directly awarded contracts between Corelogic and the Council.

Such contracts to be on the same terms as the existing contracts. Such contracts to be for a term until 16 January 2020, with a two-year break clause.

- 2.2. That approval be delegated to the Cabinet Member for Health and Adult Social Care on the decision to upgrade to Mosaic; this decision will take place after a more detailed review to ensure Mosaic can meet our digital ambitions.
- 2.3. That approval be given for the release of capital funds up to the sum of £200,000 from the 2016/17 investment programmes for Adult Social Care (ASC) to fund the upgrade of Frameworki to Mosaic should the decision be made by the Cabinet Member for Health and Adult Social Care to upgrade to Mosaic.

## **3. REASONS FOR DECISION**

- 3.1. It is necessary to extend provision of the Social Care case management and Finance system, which also includes the People First website (<http://www.peoplefirstinfo.org.uk>). Significant new investment and time would be required to implement a different system.
- 3.2. Renewed provision will provide continuity and allow us to continue building on the good work done on:
- A. Health Integration
  - B. Meeting Care Act compliance and business transformation initiatives
  - C. Sharing of data with the NHS through the Child Protection-Information Sharing initiative
  - D. Whole Systems Integration
  - E. Preserve the interface with Agresso for processing payments relating to service provision.

## **4. BACKGROUND**

- 4.1. Frameworki is the primary social care records system used in Social Care.
- 4.2. It is used by all three boroughs in Adult Social Care and is the main business system, driving payments and income collection through an interface into Agresso and links to the electronic home care monitoring system. It is integral to the ambitions to deliver One ASC. It is also used by Children's Services (CHS) in H&F and in Westminster City Council (WCC).
- 4.3. Frameworki is provided by third-party supplier Servelec Corelogic Limited ("Corelogic"). Each of the three boroughs have separately called off services from a Framework set up for this purpose, they have separate but substantially identical contracts in nature.
- 4.4. HFBP on behalf of the Council, entered into an agreement for the supply of the hosted Frameworki with Corelogic on the basis that "the [Framework] Agreement should apply between them, and that HFBP shall be entitled to call off Contracts under the [Framework] Agreement, as if HFBP were a Participating Authority under the [Framework] Agreement." The agreement provides that HFBP shall have the option to extend for period of at least 1 year to the maximum contract duration allowed under the Framework of 10 years.
- 4.5. The Framework Agreement was for a four year term and expired on 20th December 2015. The Framework Agreement provides that the duration of a call off contract shall not exceed ten (10) years from the commencement of the call off contract. It should be noted that there is a contradictory provision in the call off terms and conditions (included within the Framework) which states that call off contract shall be for a term of 4 years, with no express provisions for extension.

## **5. PROPOSAL AND ISSUES**

- 5.1. The contracts with HFBP do not amount to a compliant contracting authority. To award a further period direct to the Council or to extend and novate the contract does not amount to a publicly procured contract and is subject to risk of challenge.
- 5.2. Although there is some ambiguity within the original contract documentation, Westminster City Council and the Royal Borough of Kensington and Chelsea, having considered the service requirements, risks and mitigation, will be extending their current contracts for a further 3 years, with a break clause in the 2<sup>nd</sup> year.

On this basis there is a service imperative for ASC and CHS to have a tri-borough and bi-borough operating system there is a clear and justifiable

reason for H&F to extend our existing arrangements for the same period as the RBKC and WCC extensions.

- 5.3. The approach being proposed carries a degree of risk as there is ambiguity as to whether RBKC and WCC can extend their existing contracts. If this were to be successfully challenged, the justifiable argument being made by H&F would fall away. Officers believe the risk of challenge is relatively low. However, if a challenge was to be made, the risk of that being successful would be relatively high. The mitigation plan below significantly reduces the impact of a successful challenge.

## **6. OPTIONS AND ANALYSIS OF OPTIONS**

### **6.1. Option 1: Direct award under the Crown Commercial Service (CCS) framework contract for Local Authority Software Applications (LASA) Framework agreement RM1059**

This option has advantages and offers the lowest legal and procurement risk. However should this option result in a new supplier being appointed there would be insufficient time for the required handover period and there is a strong possibility that both ASC and CHS would be without an operating system during the migration and implementation phase, possibly up to 18 months.

This would put continuity of service in jeopardy and as a consequence this is an unacceptable risk.

### **6.2. Option 2: Extend current arrangements in RBKC and WCC and directly award a contract in Hammersmith and Fulham for three years and put appropriate mitigation in place**

We consider this as the most appropriate option as it provides the greatest assurance around service continuity.

This would see the Council extend contracts with Servelec Corelogic Limited. As the financial value of these new interim contracts would be above the £164k EU threshold, a Prior Information Notice (PIN) would be posted in OJEU to publicly signal the councils' intention to run a fully regulated competition and facilitate pre-procurement dialogue with interested parties in the market on how a new package/solution could be tendered and priced for.

The risk is that this approach breaches the Public Contracts Regulations (PCRs) and could result in a legal challenge to the direct awards. If this were to occur, the impact would be serious but mitigated by the issuing of the Prior Information Notice.

## **7. LEGAL IMPLICATIONS**

- 7.1. This report refers to the extension of service provision Frameworki and the People First Website, which are provided under contract by the Council's current outsourced ICT provider HFBP. In order to extend service provision, it will be necessary for LBHF to enter into agreements with the company now known as Servelec Corelogic Limited (Corelogic).
- 7.2. Service is provided under contracts called-off from a Westminster City Council framework procurement that has now expired. It is to be noted that HFBP is not a contracting authority and as such the call-off contracts do not have the benefit of the OJEU notice originally issued by that Council.
- 7.3. Such agreement whether by novation of the terms or by issue of new contracts on the same terms as current service provision, where such agreement is of a value above the EU procurement threshold (£164,176.00) poses a risk of challenge to LBHF as such some ordinarily requires compliance with the full regime of the Public Contracts Regulations 2015 (the regulations).
- 7.4. On a strict interpretation of EU procurement rules this would require H&F to carry out a new competitive procurement process. It should be noted that as the Framework expired in December 2015 it is not possible for H&F to directly call off from the Framework. Novating and extending or awarding further contracts to Corelogic does therefore carry the risk of procurement challenges under the regulations.
- 7.5. It is noted that service continuity is required for the carrying on of Council business which relates to statutory functions relating to Adult and Children services. In order to mitigate a challenge (although it will not function to justify such awards as described in the report), LBHF should ensure that a valid procurement process is undertaken forthwith, which is noted in paragraph 6.1.
- 7.6. The recommendations of the report amount to a waiver of the Council's standing orders.

Legal Implications provided by Jonathan Miller, Shared Legal Services,  
077 7933 3041

## **8. FINANCIAL AND RESOURCES IMPLICATIONS**

- 8.1. As set out in the exempt report on the exempt Cabinet agenda.
- 8.2. As set out in the exempt report on the exempt Cabinet agenda.
- 8.3. The capital costs of £200,000 for upgrading Frameworki in ASC will be met from the Community Capacity Grant.

- 8.4. The extension can be contained within existing budgets. Savings of £1.8m have already been made in ASC budgets. The possible upgrade to Mosaic will enable the workload to be managed within the reduced staffing resources.

Financial Implications provided by Rachel Wigley, Deputy Executive Director and Director of Finance & Resources, Adult Social Care and Health, Telephone No: 020 7361 2312; and Dave McNamara, Director of Finance and Resources, Children's Social Care, Telephone No. 020 7361 2296.

## **9. PROCUREMENT & COMMERCIAL IMPLICATIONS**

- 9.1. Cabinet will be aware from previous reports of the major ICT transition programme facing the Council when the HFBP ceases to exist after 31<sup>st</sup> October 2016, and of the need to ensure important service continuity whilst also trying to remain compliant with public procurement regulations. Cabinet will also be aware from previous Legal opinion – repeated in this report – that where HFBP contracts novate to back to H&F, and the financial values of these contracts are above the EU threshold of £164,176 (which the Servelec Corelogic contracts for framework will be over a three year period), these contracts will be deemed to be direct awards and could increase the possibility of a successful legal challenge.
- 9.2. Whilst this situation is not ideal, the Council has to address serious issues of service continuity – an acknowledged major strategic risk. All of the procurement options mentioned in this report carry risks, and whilst these cannot be removed, it is important that a balanced approach to them is taken.
- 9.3. Framework system continuity is critical to maintaining and supporting essential front line services to vulnerable adults and children; including, amongst other things, their safeguarding and the recording of statutory assessments. Failure to maintain this business-critical system and its potential consequences for vulnerable residents, many of whom have high levels of dependency upon efficient delivery of Council care services, arguably carries a far higher risk exposure than a potential challenge being brought under the EU procurement rules.
- 9.4. It is difficult to quantify the likelihood of a procurement challenge being made following a direct award to Servelec Corelogic in January 2017. If a challenge is brought and the court rules against the council, the Judge could declare the contract “ineffective” (i.e. the Council would not have one), or shorten it; impose costs and fines; and order the Council to pay damages for loss of profit to the company bringing the action.
- 9.5. The service departments believe that the time needed to not only procure but also decommission existing systems, install, integrate and roll-out a new social care ICT system will take at least two, possibly

three years. With service continuity to vulnerable residents paramount during this period, the risk of legal challenge therefore needs to be carefully managed and mitigated.

- 9.6. In these circumstances, the Interim Head of Procurement supports the report's recommendations, and further recommends that a Prior Information Notice (PIN) should be placed that publicly:
- a) states the council will shortly be reviewing its future strategic needs for ICT social care management;
  - b) invites interested organisations to register their interest with the Council so that they can engage in pre-procurement dialogue with commissioners, as part of this review, on what shape a new system and contract should take in order to meet service user and H&F requirements, and, be commercially viable and sustainable for the provider;
  - c) states the Council will be commencing a regulated public procurement exercise once this review and market consultation has been completed, and includes an outline indicative timetable for undertaking the review, market consultation, and subsequent procurement.
- 9.7. The placing of a PIN will not remove the risk of a challenge. However, it should help to significantly reduce the risk of one being brought. In the circumstances just described, it would seem a somewhat perverse commercial judgement to bring a challenge when the offer of dialogue to help inform a new forthcoming contract and business opportunity is on the table.
- 9.8. Where it wishes to, Cabinet can under the Council's Contracts Standing Orders grant prior approval on the delegation of contract award and/or contract extension decisions to the relevant Cabinet Member(s) up to £1,000,000.

Comments provided by John Francis, Interim Head of Procurement (job share) 020-8753-2582.

## **10. INFORMATION, COMMUNICATIONS AND TECHNOLOGY (ICT) IMPLICATIONS**

- 10.1. This is a complex decision involving trade-offs and risks.
- 10.2. ASC have an ambitious plan to implement sector-leading new ways of working and realise significant savings across all three councils. Information and technology – and this system – will be the foundation for the rest of the ASC transformation making it crucial to 'get right'.
- 10.3. There are a number of key considerations for the department (and the three councils) as they put this essential foundation in place. These are set out below:

- 10.4. Speed and pace versus haste: This key consideration is around time risk and whether to:
- slow down the system upgrade to ensure that the foundation is right (and that it will be possible to meet future ambitions at pace moving forward), or
  - avoid delay now and progress the system upgrade with haste (accepting the risk that the foundation may not be fit for purpose).
- 10.5. Change and evolution, adapting at pace: Expectations are changing ever quicker. Apps are increasingly the norm, and we expect them to change and evolve on an almost weekly basis. The supplier of the social care system will need to be able to meet those evolving business and user needs and support a business model where services are delivered and managed through an eco-system of providers, and an eco-system of apps. Servelec CoreLogic have not supported app integration with their core system, limiting our ability to deliver mobile working apps. Other approaches and solutions may be more agile and better suited to the likely pace of change that will be needed.
- 10.6. ICT Strategy: The councils have a shared ICT strategy to consolidate and rationalise systems to reduce costs, and simplify information sharing across the organisations and with partners. The key consideration for the councils and departments is not whether to extend Framework-1 (that case is clear) but rather whether to proceed at pace with the upgrade to enable further service transformation in ASC or whether to look for further alignment opportunities across social care and health (taking account of both internal and external integrations etc.).

Implications completed by: Ed Garcez, Chief Information Officer, 0208 753 2900

**LOCAL GOVERNMENT ACT 2000; LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT: None**