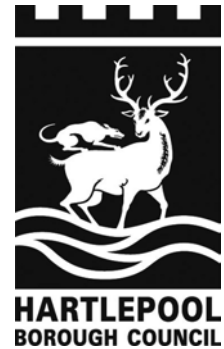


# **SCRUTINY CO-ORDINATING COMMITTEE AGENDA**



**29 June 2012**

**at 10.00am**

**in the Council Chamber**

**MEMBERS: SCRUTINY CO-ORDINATING COMMITTEE:**

Councillors Ainslie, C Akers-Belcher, S Akers-Belcher, Beck, Cook, Fisher, Gibbon, Hall, James, Loynes, Payne, Richardson, Shields, Tempest, Wells and Wilcox.

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**  
No items
- 4. RESPONSES FROM THE COUNCIL, THE EXECUTIVE OR COMMITTEES OF THE COUNCIL TO REPORTS OF THE SCRUTINY COORDINATING COMMITTEE**  
No items
- 5. CONSIDERATION OF REQUEST FOR SCRUTINY REVIEWS FROM COUNCIL, EXECUTIVE MEMBERS AND NON EXECUTIVE MEMBERS**
  - 5.1 Referral from Cabinet – Medium Term Financial Strategy – ICT Services – Scrutiny Manager
- 6. FORWARD PLAN**  
No items

**7. CONSIDERATION OF PROGRESS REPORTS / BUDGET AND POLICY  
FRAMEWORK DOCUMENTS**

No items

**8. CONSIDERATION OF FINANCIAL MONITORING/CORPORATE REPORTS**

No items

**9. ITEMS FOR DISCUSSION**

No items

**10. CALL-IN REQUESTS**

No items

**11. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

**ITEMS FOR INFORMATION**

- i) **Date of Next Meeting 27 July 2012, commencing at 10.00am in the Council Chamber**

## SCRUTINY CO-ORDINATING COMMITTEE

29 June 2012



**Report of:** Scrutiny Manager

**Subject:** REFERRAL FROM CABINET – MEDIUM TERM  
FINANCIAL STRATEGY – ICT SERVICES

### 1. PURPOSE OF REPORT

- 1.1 To inform Members of the Scrutiny Co-ordinating Committee of the scrutiny topic referral from the Cabinet meeting held on 11 June 2012 to the Overview and Scrutiny Function.

### 2. BACKGROUND INFORMATION

- 2.1 As outlined within the Authority's Constitution, the Scrutiny Co-ordinating Committee has a mandatory obligation to consider referrals from Council, Cabinet and individual Cabinet Members within the timescale prescribed. (dependent upon origin of referral)

- 2.2 The Cabinet on the 11 June 2012 received a report (attached at **Appendix A**) in relation to

'the options available to the Council and the associated timescales, costs and implications of implementing the decision of Council on 23<sup>rd</sup> February in respect of the Medium Term Financial Strategy (MTFS) and more specifically the provision of Information and Communications Technology (ICT) services for the authority.'

- 2.3 In discussing the report, Cabinet Members agreed that the report be referred to scrutiny and Members views sought in relation to the recommendations contained within it – i.e.:-

- (i) Whether the scope of the competitive dialogue should be:

- In house and Private Sector;
- Private sector only; or
- In house, private sector and Public / public.

- (ii) The objectives of the procurement – either:

- Objective Scope 1 - Maintaining and improving services and achieving savings (only possible through in-house, outsourced or public-public options); or

- Objective Scope 2 - Maintaining and improving services, achieving savings and maintaining a base in Hartlepool (only possible through in-house or outsourced options).

- (iii) Notwithstanding the objectives of the procurement identified above agree to the implementation of a competitive dialogue process.
- (iv) Agree to seek full Council approval to allocate up to £0.215m from the uncommitted backed-dated Job Evaluation Appeal reserves (i.e. the resources not needed to replace the loss of the ICT / Revenues and Benefits and the removal of the Denominational Transport savings in 2012/13 and net of the £50K managed revenue underspend which has been earmarked to contribute to this) of £0.545m transferred to the General Fund Reserves to fund the up-front costs associated with this:-
  - £265,000 if a competitive dialogue process is undertaken for the private sector with an associated in house bid
  - £130,000 if a competitive dialogue process is undertaken for the private sector only
- (v) Agree to seek full Council approval to allocate the remaining balance of the resources transferred to the General Fund Reserves from the uncommitted backed-dated Job Evaluation Appeal reserves of £0.330 on an 'in principle' basis to provide temporary support for the budget in 2013/14 pending the full year ICT saving being achieved in 2014/15. The 'in principle' decision will then be ratified as part of the formal budget setting report in February 2013 to enable full Council to consider this issue in the context of the Councils overall financial position and the budget cuts which will need to be made in 2013/14.

2.4 A full copy of the relevant minute is attached at **Appendix B**.

2.5 As part of the referral, it is requested that the Overview and Scrutiny response be provided to the Cabinet meeting of 9 July 2012, to ensure the procurement exercise could be undertaken. Given the tight timetable prescribed by Cabinet, Members are asked to consider:-

- i) How they wish to proceed with consideration of the referral to enable the submission of a report back to Cabinet within the prescribed timescale;
- ii) Subject to (i) above, formulate a view in relation to the recommendations referred to Scrutiny (as detailed in Section 2.3) for inclusion in the report back to Cabinet.

2.6 In order to assist the Committee, and answer any questions Members may have, invitations have been extended to the Assistant Chief Executive, relevant Officer and appropriate Cabinet Member(s) to attend today's meeting.

### 3. RECOMMENDATIONS

3.1 It is recommended that the Scrutiny Co-ordinating Committee:-

- (a) Formally receives the referral;
- (b) Considers how it wishes to proceed with consideration of the referral within the prescribed timescale;
- (c) Considers the formulation of a view in relation to the recommendations referred to Scrutiny (as detailed in Section 2.3) for inclusion in the report back to Cabinet.
- (d) Seeks clarification, where required, on any relevant issues from the Assistant Chief Executive and appropriate Cabinet Members(s) present at today's meeting.

**Contact Officer:-** Joan Stevens– Scrutiny Manager  
Chief Executive's Department - Corporate Strategy  
Hartlepool Borough Council  
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Email: joan.stevens@hartlepool.gov.uk

## **BACKGROUND PAPERS**

The following background paper was used in the preparation of this report:-

- (i) Hartlepool Borough Council's Constitution
- (ii) Agenda and Minutes - Cabinet – 11 June 2012

# CABINET REPORT

11 June 2012



**Report of:** Assistant Chief Executive / Chief Finance Officer /  
Assistant Director Resources

**Subject:** MEDIUM TERM FINANCIAL STRATEGY – ICT  
SERVICES

## 1. TYPE OF DECISION/APPLICABLE CATEGORY

Key Decision (test (i)/(ii)) Forward Plan Reference No. CE 50/11

## 2. PURPOSE OF REPORT

- 2.1 The purpose of this report is to consider the options available to the Council and the associated timescales, costs and implications of implementing the decision of Council on 23<sup>rd</sup> February in respect of the Medium Term Financial Strategy (MTFS) and more specifically the provision of Information and Communications Technology (ICT) services for the authority.

## 3. BACKGROUND

- 3.1 The ICT service for the Council has been outsourced since 2001 when a 10 year agreement was established firstly with Sx3 and then subsequently with Northgate. The arrangement was extended for two years in 2009 with a number of benefits secured for the Council, including a reduction in the contract price for the period to 2013. The current arrangement for ICT services concludes at the end of September 2013.
- 3.2 Cabinet have received a number of reports over the last 18 months on the options and recommendations for the procurement of ICT and Revenues and Benefits Services and agreed to the procurement of these services using the Office for Government Commerce (OGC) Buying Solutions framework. The procurement was undertaken and a preferred bidder identified on the basis of the established evaluation framework with significant savings identified to form part of the MTFS over the next 7 years.
- 3.3 Both of the bids were robustly evaluated and assessed by Officers, utilising appropriate external expertise and it was the professional advice of officers that formed the basis of the report to Council both in terms of the solutions offered and the financial (and cost savings profiles). Both of the bids proposed at this stage had one-off upfront costs to secure the significant savings over the lifetime of the proposed contract. Cabinet determined to proceed with the preferred bidder and the upfront costs for proceeding with the preferred bidder formed part of the MTFS for consideration and potential

agreement by Council. This was not agreed and Council determined the following;

“This Council cannot agree to the budget proposal from Cabinet relating to the upfront costs from the ICT, Revenues and Benefits Contract. Our recommendation is to balance our 2012/13 budget by utilising £330K from the Job Evaluation Appeal Reserve. The remainder of the monies identified from this reserve should be transferred to the General Fund.

The purpose of our decision is because this Council resolves we do not and will not privatise the Revenues and Benefits Service but our decision will allow the Council the opportunity to explore all available options for a new ICT contract, including both privatisation and an in house option which may realise the maximum savings for the benefit of Hartlepool”

- 3.4 As a result of this decision the 2013/14 budget deficit increased by £0.536. It should also be noted that in addition to the above decision Council also determined, at the meeting on 23<sup>rd</sup> February that an additional £125K be taken from the Job Evaluation Appeal Reserve for the retention of denominational transport. After reflecting this decision, and the allocation of resources to offset the removal of the ICT / Revenues and Benefits proposed savings the uncommitted Job Evaluation Appeal Reserve of £0.545m has been transferred to the General Fund Reserve.
- 3.5 This report is designed to enable consideration of the options, timescales, associated costs and requirements to implement the decision of Council.
- 3.6 Previous reports to Cabinet, in respect of ICT and Revenues and Benefits, concluded that:-
- preliminary research indicated that significant savings for the Council could be achieved
  - there are potential benefits to Hartlepool in economic regeneration
  - there is significant private sector experience in the delivery of these services on behalf of the public sector
  - proposed amendments to the national benefits system may result in significant changes to the scale and scope of the Revenues and Benefits services the Council currently provide
  - statutory protections for current staff would be maximised
- 3.7 The evaluation of the submissions identified that significant savings could be achieved through the provision of the services concerned by an external company, that there would be benefits to the local economy in terms of new jobs and that staff terms and conditions could be protected and that these elements would be contractually enforceable measures.
- 3.8 In addition the authority is investigating the options available and potential business cases in respect of collaboration on a range of services (in line with the programme Cabinet agreed). The options available through collaboration

may impact upon the current ICT provision and systems and applications utilised and whilst an exercise such as this offers potentially significant financial benefits it should be noted that it may be that it affects the scope and scale of collaboration savings that may be achievable.

- 3.9 In relation to potential savings in Revenues and Benefits these will be considered in the context of the forecast budget deficits in the same way as other services and incorporating consideration of the recommendations from previous scrutiny investigations. A separate report considering these matters will be prepared for Cabinet.
- 3.10 It needs to be recognised that the approach the Council adopts in relation to examining the options for ICT will need to be managed carefully to ensure there is appropriate private sector interest, which will be critical to ensuring value for money is achieved from the final procurement solution, be this either an in-house bid, award to a private company or public/public provision. In relation to engagement of the private sector the authority will need to manage the impact of the previous Council decision not to award a contract for ICT / Revenues and Benefits. Additionally, the Council will potentially need to manage expectations around exploring both an in-house bid and public/public provision on the engagement of the private sector, as these initiatives may deter the private sector from bidding as they incur significant costs in bidding for work.
- 3.11 The Council will also need to manage the impact of not achieving savings from ICT until 2013/14 (which will only be a part year saving), either by making alternative permanent savings in other services, or by using the uncommitted Job Evaluation Appeal Reserve on a temporary basis until the full year savings flow through in 2014/15. This issue will need to be assessed as part of the 2013/14 budget process.

#### **4. BASIS FOR PREVIOUS PROCUREMENT**

- 4.1 The procurement process followed for ICT and Revenues and Benefits and particularly the contract documentation and evaluation methodology used was based on the key objectives identified by Cabinet i.e.:-

- A base in Hartlepool
- Retain and grow jobs
- Local Economic benefits

The Authority identified as a key requirement that any procurement exercise should offer a model of service delivery which includes, within the context of the services being procured, regeneration based in Hartlepool and aligns to the delivery of services at a sub regional and regional basis and included plans to both retain and develop jobs within the service areas being procured.

- Enhanced TUPE protection for staff



It was identified that an important part of any requirement was to protect the current employment and employment rights of staff.

- Maintain and improve services

It was identified that the solution was required to combine high quality service delivery, with guaranteed efficiencies in delivery and that particular consideration would be given to how the provider would review and improve provision over the course of the agreement.

- Achieve savings

In recognition of the changes and pressures which the Authority faces there was a requirement for providers to identify the guaranteed and contractually enforceable savings to be delivered against the current cost base, reflective of the budget reductions in the MTFs and anticipated Central Government Grant cuts, the approach to the risks in delivering these savings and the assumptions made in determining these.

- Scalability in terms of services and expansion to other Local Authorities

To identify how these arrangements will be beneficial to the Authority in service and financial terms through the potential for inclusions such as “gain share” (an arrangement which would provide a direct financial benefit to the Authority through any additional work delivered through such an arrangement).

- 4.2 It is important in the context of the Council decision to consider the extent to which these objectives are to be integral to any approach followed as the consideration of a number of the potential options are unlikely to be able to meet these requirements and therefore the basis for any evaluation has the potential to be inconsistent and liable to challenge.

## **5. THE OPTIONS AVAILABLE**

- 5.1 The decision by Council calls for the investigation of all available options in respect of ICT but makes specific reference to the development of an in house option and continuing some form of outsourced provision.
- 5.2 As part of the plans and programme the authority needs to put in place for the 2013/14 budget and beyond, consideration also needs to be given, in line with those considerations corporately to the options for achieving the savings required, to the current Revenues and Benefits functions of the council.
- 5.3 In considering the potential to feasibly and practically undertake to deliver on the decision by Council in relation to ICT it is necessary to consider a number of factors and issues.
- 5.4 The current contractual arrangement for the provision of ICT services concludes at the end of September 2013. This arrangement was extended by 2 years from the original completion date of the end of September 2011 and

the legal advice is that this should not be extended further without consideration of the options. Any new arrangement should be capable of being delivered, effectively, to commence in October 2013.

- 5.5 The consideration of the potential options bring with them a number of legal, logistical and transparency issues which would need to be robustly managed if there was to be no legal challenge (on the grounds of unfair advantage) over any potential in-house bid. These are covered in more detail elsewhere but include the need to physically and operationally separate a bid team for any in-house bid (should this be progressed) from any evaluation team. Given that any team to develop an in-house bid would require physical and system separation from any bid management team (and that any such bid development team would require ICT, finance, legal and HR expertise as a minimum) it would be impractical and unmanageable to achieve this from existing resources and ensure the authority was not liable to challenge.
- 5.6 The current HBC establishment includes a Corporate ICT team and it is important to understand the role which this team fulfils and how that fits with the managed service we are now looking to procure. The CICT team does not provide technical support for systems or infrastructure, that is provided through the outsourced ICT arrangements. The role of the Corporate ICT (CICT) Team is to manage and co-ordinate the use of ICT across the Authority in order to assist departments in improving service delivery whilst also delivering efficiency savings by promoting effective use of ICT. The CICT team provides support for end users in the use of systems through advice on how to use the systems, development of the approach to use these systems to meet new business needs, training of front line users and supporting the implementation of new systems etc. It also carries out a contract management role to ensure the private sector provider delivers the required service at the levels agreed in the contract, as well as developing the Council's overall ICT Strategy, liaising with 3<sup>rd</sup> party suppliers, and advising on Information Security. When it was established it was resourced at the level needed to fulfil these roles, and has subsequently, through budget reductions been reduced in size by 20%. It is not a technical team and does not have the skills required to either deliver a technical support service to the authority or in fact to develop an in-house bid. It is also of critical importance to note that whilst it will be necessary to release limited resource from this team that to ensure, in the light of reduced resources, that there is adequate support to service users and departments given the critical role of ICT now.
- 5.7 The authority does not have, as spare capacity and in house, the skills required to develop an in-house bid. It should be noted that to manage effectively an outsourced ICT provision requires a set of skills quite different from those to develop a bid for the provision of services. Developing a bid for services, given the nature of the likely specification, requires a fully costed model, with associated minimisation of potential risk, in conjunction with a business model, an assessment of the requirements in terms of technology and applications infrastructure. Such a model requires fully costing and in line with requirements around technology refresh and application and infrastructure refresh to ensure services are capable of meeting the ongoing and future requirements of the authority.

- 5.8 For these reasons, any in-house bid would need to be developed by an external, professional bid-management team (working with selected staff from the CICT team) as part of a competitive dialogue process and alongside external competition to ensure the demonstration and achievement of value for money.
- 5.9 Additionally, the officers involved in evaluating the previous ICT / Revenues and Benefits tenders will need to be excluded from the development of an in-house bid given their in-depth knowledge of these bids to ensure the Council can clearly demonstrate separation between the client and delivery options (i.e. private sectors bids, in-house bid and public/public bid). This separation will be essential to avoid potentially expensive legal challenge and ensure the Council can robustly demonstrate the arrangements in place for achieving value for money for future ICT provision.
- 5.10 The decision of Council is to look at all available options for the provision of ICT services with particular reference to in-house and privatised options. The options and the potential costs associated with pursuing a number of options are included as part of this report and have been calculated based on a combination of previous experience and external advice.
- 5.11 The business model to be developed requires an approach to costing which, in the context of the scale and scope of the services involved, in conjunction with market and technology changes, is not within the current skills mix in place in the authority. The costing matrix for such services is, when dealing with the private sector based upon a combination of an assessment of the current technology base, allied to the costs of capital (to fund such changes) and incorporated into the base contract price.
- 5.12 A significant area to consider, and covered elsewhere in this report is the assigning of risk as part of any delivery arrangements. The mechanism through external arrangements is that risk, service levels, cost and other contractual matters are allocated as part of the contractual process and in a significant proportion of cases assigned to the deliverer. ICT is notoriously difficult to control in terms of costs incurred (there has been much press coverage of central government ICT cost overruns, particularly in relation to installation or upgrade of systems) as there are so many unknown variances involved and the allocation of the risk in these instances is an important consideration. In simple terms the allocation of risk is an integral part of any negotiated ICT arrangement. Risks in relation to the financial operation of any contractual arrangements (e.g. with an outside organisation) are part of a range of contractually enforceable clauses aligned with an agreed contract and service specification. It is, within the confines of this arrangement for an external supplier to determine the manner in which the services will be delivered and their costs to do this. It is then their responsibility to deliver this or there is the likelihood that contractual penalty clauses will apply. This is not the case in an internal arrangement and this therefore means the risk is with the authority. It also means that the development of any in-house bid must be absolutely robust as the authority may ultimately be considering committing to the delivery model and costs included in this. For this reason with others,

including the value of any potential arrangements it is strongly advised this should not be undertaken without the external support identified in this report.

## 6. BASIS FOR THE INVESTIGATION OF OPTIONS

- 6.1 The basis for the investigation of options available must be aligned to the overall aims of the exercise and be capable of effective and equitable evaluation. The previous section highlights the overarching principles which were established for the previous exercise. Given the disparate nature of the options to be investigated it is important, to ensure that the comparisons are valid and meaningful and that they are undertaken on a consistent basis to ensure that they are both robust and not liable to external legal challenge.
- 6.2 It is therefore fundamental that the basis for the investigation and ultimate evaluation of the potential options is clarified at the outset. On this basis, and taking the key objectives from the last exercise, an assessment of the ability of the potential options to deliver against these objectives has been assessed.

NB all of the objectives below were previously contractual requirements for any successful tenderers. Failure to deliver would be classed in most cases as breach of contract or as subject to penalty clauses (or both should certain circumstances apply).

	In house	Outsourced	Public / Public
A base in Hartlepool	A base in Hartlepool for an in house service would be defined as part of any comparative and costing exercise	A base in Hartlepool for an out sourced service can be defined as part of any comparative and costing exercise.  Outsource arrangements and cost efficiencies can be significant if server estates / data centres are not located on site but part of a shared arrangement. This is normal in the industry.	A base in Hartlepool could be defined as part of any comparative and costing exercise.  Any public / public arrangement would be unlikely to be able to meet these requirements fully as it is likely that any solution would be predicated on shared infrastructure and location arrangements, if this is on the basis of existing partnering arrangements the default is likely to be to current arrangements they have in place.
Retain and grow jobs	It is highly unlikely that any in house provision would be able to meet the requirements to grow jobs. In house provision and the resource to deliver it would be based on a core resource to deliver the service at best cost with no capacity to embark on large scale tendering exercises. Additionally, it is unlikely that jobs can be grown as	In the same way as the previous procurement exercise it could be made a requirement for external bidders that they identify their plans for both the retention and growth of jobs to be based in the town.	It is unlikely that any public / public arrangement could be structured in such a manner as to provide for the retention and growth of jobs based in the town.

	an in-house team would not have the track record and resilience to secure future work from other potential clients who would require a robust and resilient ICT services. It needs to be recognised that as the second smallest unitary council it is extremely unlikely that other councils would look to Hartlepool to provide ICT services.		
Local Economic benefits	It is unlikely that there are identifiable and tangible local economic benefits that can be tangibly identified from an in house bid unless the bid is significantly cheaper than any alternative ( resulting in a reduced requirement in the level of potential savings from other council services)	In the same way as the previous procurement exercise it could be made a requirement for external bidders that they identify their plans for delivering local economic benefits both in terms of sustaining and increasing jobs and local suppliers and provision and investment in the local economy	Any local economic benefits would be contingent on the method of delivery and the locality for that delivery. If the staff to deliver the service were based in Hartlepool there is limited additional net benefit over the current outsourced arrangements, where the staff are located at the civic centre.  If the staff were wholly or partially based outside the town the net impact would be potentially negative from the current position / an in house provision or an outsourced arrangement based in the town.
Enhanced TUPE protection for staff	Not necessary for the authority in this circumstance as supplier staff would transfer to the authority	It would not be in the best interests of the authority to mandate this as part of any external bidding regime as the transferring employees are not currently employed by the authority and there would be no related authority staff transfers	It would not be in the best interests of the authority to mandate this as part of any public / public arrangement as the transferring employees are not currently employed by the authority and it is unlikely that there would be related authority staff transfers
Maintain and improve services	It would be a requirement of any arrangement that the provider, whether in house or external to the authority would be tasked with a requirement to maintain and ideally improve services with clear performance measures.		
	The extent to which an internal provider would be able to source and utilise sufficient expertise to improve services on an ongoing basis would be questionable. In house resources, unless they are priced in to the service model are essentially for the	An outsourced arrangement would be the mechanism which would give greatest surety for the maintenance and improvement of services either through a robust and enforceable contractual framework aligned to penalties for under performance.	A partnering arrangement with another public service provider mitigates against some of the potential risks in this areas in respect of expertise and capacity to improve.  Whilst it may be a requirement of the authority as part of any

	<p>maintenance and upkeep of system resources</p> <p>There would be no contractual ability to penalise financially an internal supplier for the failure to deliver services as this is essentially counter intuitive</p> <p>There would be no ability to introduce financial penalties for poor performance to an internal provider.</p>	<p>It also mitigates against the potential small size of any in house provision to ensure there is both capacity and skills for the improvement of services.</p>	<p>consideration of options a partnering arrangement with a public provider is most likely to bring aligned for the authority to their service provision and standards than any stand alone authority determined model based on need or priorities</p> <p>There would only be limited ability to introduce financial penalties for poor performance to an internal provider as the Council would partly 'own' any public/public arrangement.</p>
Achieve savings	<p>Any in house bid would be required to identify a cash limited budget to deliver the services.</p> <p>It is not possible to make this a "contractual" requirement and the risk in terms of the cash profile and the delivery of services, should this overspend would be entirely with the authority.</p>	<p>It would be a contractual requirement that services were delivered within an agreed cash limited budget.</p> <p>In the same way as the previous procurement exercise it could be made a requirement for external bidders that they identify the cash profile of costs on a reducing profile based on the currently projected MTFS and savings requirements.</p>	<p>It could be made a requirement of any arrangement that the delivery of services is cash limited to an agreed specification and in line with the requirements for an external contractor include the provision for penalties. Any public sector partner is unlikely to accept this as a risk model as it impacts on the financial stability of the model.</p>
Scalability in terms of services and expansion to other Local Authorities	<p>Scalability in terms of in house options (with the ability to generate income / profit) are largely limited by the willingness of other organisations to participate / put their faith in an in house option and or the ability of an in house team to bid and compete against the market.</p> <p>In the context of this highly competitive market there are no readily available examples of in house teams effectively competing for additional contracts and or opportunities</p>	<p>Dependant upon the model of delivery the potential solution through outsourcing would either be required to be based in Hartlepool and scalable, be added into an already scalable solution which is based elsewhere.</p> <p>The requirement for gain share build into the previous arrangements was essentially a profit share in new work to be based in hartlepool</p>	<p>There has been limited success from partnering arrangements to make these scalable in terms of provision to other authorities.</p> <p>If the council were to enter into an already existing partnership arrangement it is unlikely we would enter as an equal partner and would be more likely to be as a contracted service to a partner or partners.</p>

6.3 The basis for the previous procurement was established to ensure that maximum benefit could be derived for the local authority and the local economy. The criteria were sufficiently broad to enable potential bidders to identify solutions which aligned with their potential business strategies but to guarantee for the authority, through contractual means, a series of guarantees

for the authority in respect of the cost of services, a reducing profile of cost, new job creation based in the town, services based in the town and a quality of service which maintained current levels of performance in conjunction with the potential to expand this service base from which the authority could benefit.

- 6.4 It is not feasible to maintain the comprehensive scope of the last procurement (beyond the provision of services and savings) if the options identified by Council are maintained.
- 6.5 The information below is an assessment against the originally established criteria for the last exercise. At a basic level these criteria form the basis for any bid, negotiation and terms for any arrangement.
- 6.6 In simple terms these criteria cannot apply across the consideration of all options and to assess and evaluate options on anything other than a clear and equitable basis would lead to legal challenge of the authority as a minimum.

	In house	Outsourced	Public / Public
A base in Hartlepool	Yes	Yes	Unlikely
Retain and grow jobs	No	Yes	Unlikely
Local Economic benefits	Unlikely	Yes	Unlikely
Enhanced TUPE protection for staff	N/A	N/A	N/A
Maintain and improve services	Yes	Yes	Yes
Achieve savings	Yes	Yes	Yes
Scalability in terms of services and expansion to other Local Authorities	No	Yes	Unlikely

- 6.7 Based on this assessment, which aligns contractual and service delivery alongside the delivery models and their potential on the basis for the assessment of options, if it is to be comparable and equitable there are a number of options for the procurement of the services:

- In house, outsourced arrangements and public/public with the objectives based upon
  - Maintain and improve services
  - Achieve savings
- In house and outsourced arrangements with the objectives based upon
  - A base in Hartlepool
  - Maintain and improve services
  - Achieve savings
- Outsourced arrangements with the objectives based upon
  - A base in Hartlepool
  - Retain and grow jobs
  - Local Economic benefits
  - Maintain and improve services
  - Achieve savings
  - Scalability in terms of services and expansion to other Local Authorities

- 6.8 On the basis of the considerations to date, and the primary requirement to safeguard the authority from legal challenge it is not considered feasible to undertake any such assessment / bid process on the same basis as the last exercise including retention and growth of jobs local economic benefits and scalability across all models. This means that a significant number of the benefits secured as part of the last tendering exercise will not be capable of delivery if this approach is undertaken.

## 7. DEVELOPMENT AND EVALUATION PROCESS

- 7.1 The process for ensuring that any arrangement is robust is dependant upon the route determined and the management of this process to ensure that risks are managed and mitigated and that any agreed delivery solution is robust, financially secure and delivers the agreed level of service. Based upon other information in this report a process and associated requirements will be developed to ensure this is the case.

## 8. RISK IMPLICATIONS

- 8.1 There are a number of areas of risk in undertaking such an approach that must be considered and assessed as part of any such development. The nature and scale of the risks identified are dependant upon the scope of options to be considered as part of the process but whichever route is determined the Authority needs to be satisfied that the following risks are mitigated.

- Procurement, Legal and Financial Risks
- Service Risks
- Risks around scope, specification and change
- Risks in achieving the Authority's key objectives

### 8.2 Procurement, Legal and Financial Risks

Risk	Issue and Potential Mitigation
Actual or perceived favouritism in availability and provision of information leading to legal complaints from tenderers and withdrawal of offers.	If an in house bid is pursued in conjunction with tenders from other providers the authority will need to effectively and completely separate the process and involvement of staff in the evaluation process and the internal bid development process. This will require the establishment and resourcing of a separate bid team.
Actual or perceived breach of confidentiality / separation of bid and evaluation processes to mitigate complaints and mistrust by tenderers.	All potential tenderers to receive initial and additional information in the same manner and to the same level of detail.  All queries to be responded to in writing and provided copies to all potential tenderers.  Ensure that all potential tenderers are provided with any addenda
Capacity of the Organisation	The authority has undertaken a number of changes and has significantly reduced staffing at a senior level reducing the capacity to undertake multiple and complex additional activities without additional support. Undertaking the assessment (and development) of an in-house bid in addition to any private sector bid brings with it the need to separate the elements of bid and evaluation. In addition the authority must be able to



	<p>place absolute confidence in the robustness of the in-house bid prior to decision making as any errors in scope or cost will have to be borne directly by the authority.</p> <p>On this basis the development of any in-house bid would need to be resourced effectively and this would need to be above current resource levels</p>
Achieving and demonstrating Value for money	<p>The demonstration and achievement of value for money can best be achieved and clearly understood through there being sufficient interest from the market, in conjunction with any internal bid, to drive competition within the context of the specified services.</p> <p>There is a risk that there will only be limited or no interest from the private sector in the procurement exercise due to perceived risks on their part that the authority may not proceed even if the private sector bid is the most economically advantageous. The authority will need to assure external suppliers that any investment they may make in such a bid will not be wasted</p>
Timely decision making	<p>The timescales and volume of work required to ensure that the authority has in place a robust and evaluated solution do not allow for any significant slippage at any stage of this process.</p> <p>The decision by Council has made provision for the savings identified from the previous exercise for 2012/13 but not for those anticipated in 2013/14 or the costs attributable to the course of action agreed. It will be necessary to determine both these and the approach to be taken and the key objectives to form the basis for the procurement.</p>
Current contractual arrangements	<p>The current contractual position requires the authority to be in a position to determine and nominate a preferred supplier or arrangement by 1<sup>st</sup> October 2012 to enable an effective transition period. The timescales which the authority is now working to as a result of the recently determined decision of Council does not enable this to be the case and officers will need to renegotiate this position.</p>
Risk of legal challenge from rejected bidder on the grounds of an incorrectly executed procurement process.	<p>A separate in house bid team would need to be established and full composite copies of all documentation related to dialogue meetings, conference calls and the evaluations retained for audit purposes.</p> <p>Legal advice to be secured.</p> <p>Internal bid team to be separately located and excluded from in house networks.</p>
Failure to adequately address enquiries from tenderers and claims of unfair practices.	<p>Implement standardised procedures for responding to enquiries and respond in a timely manner to enquiries.</p> <p>Allow adequate time for tenderers to respond. Clarity on bids and variants to be documented to avoid qualifications.</p>
Insufficient number of responses and poor value for money due to limited competition.	<p>The inclusion of an in house bid option may deter external bidders due to there being seen to be an unfair advantage. This will be unclear until the authority embarks on the process but will need to be clearly delineated.</p> <p>Used appropriate tender strategy to ensure competition including supplier engagement days.</p>
Failure to follow effective evaluation procedures and inconsistent evaluations.	<p>A robust and tested evaluation methodology will be utilised and the evaluation team will utilise an appropriate tender assessment and evaluation approach.</p> <p>The evaluation process will need to maintain effective separation between the evaluation process and any internal bid development to avoid legal challenge by external bidders.</p>
Decision made on subjective grounds, claims of unethical	<p>The inclusion of an in house bid option may lead to claims of subjectivity and unfair competition. This will be unclear until the authority embarks on</p>

and unfair behaviour, complaints from tenderers.	<p>the process but will need to be clearly delineated</p> <p>Ensure evaluation criteria contain the critical factors on which the assessment of tenders will be based and that they are clearly identifiable to tenderers in tender documents in conjunction with ensuring the evaluation criteria are appropriate and measurable and a robust and tested evaluation methodology utilised.</p>
Guaranteed savings levels	<p>Through contractual arrangements the costs of services can be fixed and contractually managed with an external provider.</p> <p>The costs can be established for an in house bid however variations from this would need to be managed within the normal financial procedures of the authority and bring with them greater risk to the authority.</p>
Financially costed bid and guaranteed savings	<p>The development of a costed bid, based over a likely “term” of 7 years (although this requires confirmation) has associated risks.</p> <p>Any external provider will cost the delivery of services based on the requirements of the authority utilising an established business and costing model. The associated costs and service performance metrics will be established based on this model and the cost base and be subject to contractual and legal controls and penalties for any failure to deliver. This model will have to take account of required technology, infrastructure and application updates to ensure the provision for the authority is maintained at an agreed level.</p> <p>The authority does not have any experience in this service area of developing such a costed bid over this time horizon and this issue will need to be addressed as part of the strategy going forward (and costed). In addition the contractual ability that the authority would have to penalise an external provider for non performance (and to cash limit the budget is not in line with the Councils current internal arrangements.</p>

### 8.3 Service Risks

Risk	Mitigation
Reduced service (to customers) overall.	<p>Clear contract performance specifications would be established. If the service is delivered by an external provider effective contract specification, contract monitoring and retained client functions will be established in conjunction with guaranteed outcomes and redress for non-compliance.</p> <p>Any potential internal arrangement would require internal Service Level Agreements and the development as part of the bid of associated delivery structures for the services including the consideration and costing of sufficient and suitable expertise for both the delivery and development of the services (including the provision for additional specialised support as required).</p>
ICT is a core service to the Authority and the provision of continuous service is critical to the delivery of services internally but more importantly externally.	<p>Any process of change brings with it risk. As part of the process potential bidders will be required to provide a transition plan which is required to provide reassurance of the proposed plans for the change from current to any new arrangements.</p> <p>The transition process is a critical part of any such process and particularly for the services being considered as part of this exercise.</p>
Reduced service during transition period.	An effective Implementation and Transition Plan would be a requirement of, and evaluated in, bids.
Poor contract documentation leading to claims/conflict/costs.	To mitigate this risk the Authority will need to continue to draw on specialist advice in drafting any contract or arrangements for the delivery and management of the services.

	With any external provider the authority would build in appropriate non compliance and termination clauses to the contract and appropriate management and improvement arrangements for any internal bid arrangement.
Failure to adequately monitor contract performance	<p>In any event the authority would have in place clear performance requirements.</p> <p>In any contract with external suppliers there would be in place a contract with guaranteed outcomes provided by the bidders. Non-compliance clauses within contract Specialist client side team to monitor contract.</p> <p>The options available to the authority in any externally provided service allow for termination arrangements and penalty clauses (financial) for non performance.</p>

#### 8.4 Risks around scope, specification and change

8.5 The process for consideration of the exercise in hand must incorporate several aspects which will be designed to manage a number of risks in the actual process and in regard to the scope and specification of services.

Risk	Mitigation
The requirements of the authority are not clear.	External advisors for the project will be involved in critiquing and refining all documentation
Documentation will detail the expected outcomes for the authority but not necessarily the inputs or detailed method of delivery, other than where this is prescribed	<p>Such arrangements provide for a degree of flexibility in determining a potential solution for the delivery of services to the council. This ensures that the authority is not prescribing a method of delivery.</p> <p>The determinations of the cost model (and associated costs to the authority from this) are at the risk of the potential provider. If this provider is external these risks are then borne by the provider as part of the contractual framework, and transferred to the supplier through contracting.</p> <p>In any internal arrangement these risks and associated potential costs are at the risk of the authority.</p>
Due diligence process identifies additional unforeseen costs.	<p>Any documentation and the detailed information included in it will be designed to mitigate this risk but it should be noted that there is the potential that this risk may manifest itself.</p> <p>Information provided to external bidders as part of any procurement will be comprehensive and external bids will be predicated on the failure of an external provider to adequately reflect such matters will be at their financial risk.</p> <p>In terms of any in house bid this cannot be enforced and becomes a significant financial risk to the authority which essentially cannot “enforce” these arrangements on itself</p> <p>Any due diligence process in place will enable potential providers to ensure they have a clear understanding of the current provision (and, in the case of ICT, infrastructure and release versions of software) and to model these in the context of their solution and the requirements of the Authority.</p>
The assumptions upon which any bid is predicated, and the surety that the Authority places on these need to be taken into account in the consideration of the level of risk to which	<p>There may be a situation where levels of risk and surety within any bids are not wholly comparable.</p> <p>The position of the authority in securing both high quality services and financial surety has to be protected and the arrangements to do this, and the associated risk in any such arrangements, quantified as part of both an initial decision on how to proceed but also in any future arrangements.</p>

the Authority is exposed	
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## 8.6 Risks in achieving the Authority's key objectives

- 8.7 A number of key objectives were identified at the outset of the exercise relating to ICT and Revenues and Benefits. The objectives identified aligned closely to the financial and service objectives of the authority and provided for broader benefits for the town in terms of job retention and creation. The bids received both delivered the required financial and service requirements (as previously reported) and significant (and contractually obligated) benefits for the town in terms of job creation and services being delivered from a base in the town (bringing with it significant local economic benefits).
- 8.8 The assessment in section 6.6 identifies that officer advice is that not all of the objectives established as part of the original process can be delivered and still meet the requirements of the decision of Council. It is therefore imperative that before any process commences, the objectives are clearly established and considered in the light of the potential routes and timescales that would be required from this.

## 9. SCOPE OF ICT SERVICE

- 9.1 It is important to understand the scope and complexity of the service under consideration as part of this exercise.
- 9.2 ICT supports and underpins every aspect of the authority's work and without a reliable and robust ICT support service there is a very real and significant risk to the authority's ability to deliver its services to the community. The existing contract has provided the Council a stable network and infrastructure which has allowed increased reliance to be placed upon it, to the extent that it is now the expected norm which was not the case in the past. This means that the necessity to continue this stability is crucial to the service delivery of the Council and this does not happen without ensuring the correct delivery and monitoring arrangements are put in place. Given the critical importance of this service to the Council and the amount of work needed to ensure a smooth transition, it is essential that it is properly planned and resourced to ensure that the service can continue to be provided, in whatever format is agreed, after the end of the current contract.
- 9.3 At the start of the current arrangements in 2001, support was provided for 1,245 desktop PC's and 149 laptops. The basic supported provision in the Council has increased by more than 60% since then and hardware supported at the current time consists of 2,219 devices as follows:
- 1,487 desktop PCs
  - 492 laptop and tablet PCs – to allow more flexible working arrangements

- 175 Citrix boxes (where all the applications and processing are carried out on the central server rather than on the PC). The desktop device simply acts as a dumb terminal
- 65 hand-held devices used for mobile access to systems

This increase in numbers can be attributed to an increasing reliance on, and greater use of, ICT across the authority, which reflects the greater use of ICT to improve efficiency by automating previous manual process and externally changes in the way the public expects services to be delivered. There has also been significant movement towards more flexible and mobile methods of working to allow staff to take the Council's services out into the community, and to support the Council's accommodation strategy of rationalising buildings to reduce accommodation costs, all of which further increases the authority's reliance on technology. This type of flexibility is likely to become even more important moving forward as technology develops at an ever increasing pace.

- 9.4 ICT equipment is now a standard tool for the vast majority of staff, with most staff inputting and retrieving information themselves where previously this had been an administrative task. It can also be explained by the fact that in 2001 the support was purely for core Council staff, whereas it is now much more Hartlepool-wide with ICT reaching out into the community. For example, in addition to Council staff and schools, support is also provided for 160 public access points in Libraries, Foster Carers and the Community Grid for Learning (adult education). This increase also hides the fact that the original contract covered the services now provided by Housing Hartlepool which accounted for approximately 10% of the base service. Housing Hartlepool now has a separate agreement with Northgate.
- 9.5 In addition to this, the contract also supports 89 servers on which 185 services/applications are hosted. A number of these systems enable major front line services to be delivered (e.g. i-world for Revenues and Benefits, ICS for Children's Social Care, i-Lap for Planning and Building Control, CareFirst for Adult Social Care, Onyx Customer Relationship Management System used in Hartlepool Connect etc.) Others are corporate solutions, without which the authority would not be able to function on a daily basis (e.g. Outlook for email and calendars, JADU for website and intranet, GovConnects for secure exchange of information, Integra for the Financial Management System etc.) These range from a large server hosting 72 applications down to smaller ones hosting only 2 or more applications. Whilst there are a number of standard applications used across the authority, there are also, by necessity, a variety of specific applications used by different service areas resulting in a complex mix of software combinations to be supported. There are, in fact, approximately 750 different combinations of software applications across the 2,219 devices.
- 9.6 The authority also has to consider its use of 64 separate sites across the town and the agreement includes support for 126 network devices connecting between these sites. Telephony systems are also included adding 1 core exchange and 11 satellite exchanges, with 1,800 active extensions across all sites with a potential capacity of 3,300.

- 9.7 In addition to the support of the above devices, systems etc. through the managed service agreement, the Council also works with Northgate on new developments to move the authority forward and further support the delivery of council services. This work is outside of the base contract and is negotiated on an ad hoc basis as required. The access that private sector ICT companies have to technology specialists plays a vital role in this area of the service as the authority strives to keep up with the fast paced developments in the industry and increasingly high expectations of both staff and customers.
- 9.8 The nature and scale of the ICT arrangements and the extent to which they are fundamental and integral to the operation of the authority is crucially important to understand in the context of the importance of ensuring that any delivery arrangements are robust, effective and can deliver the services required.

## **10. APPROACH, TIMESCALES AND DELIVERY**

- 10.1 Given the complexity of the service requirements and its importance in ensuring that vital front line services continue to be delivered, it is imperative that a properly planned and timely approach is taken. Whichever procurement model is chosen, and regardless of the final delivery model adopted, the current contract arrangements with Northgate Public Services (NPS) terminate at the end of September 2013 and there is a great deal of work to be done prior to that date in order to ensure the best decision is taken. As the decision was made not to proceed with the previous procurement exercise undertaken for ICT and Revenues and Benefits it is appropriate to work to timescales that bring about whatever the determined delivery mechanisms are in line with the timescale for the conclusion of the current ICT contract.
- 10.2 Whilst it may be felt that the end of September 2013 is a considerable time away to effectively manage and deliver the process which will enable the authority to have any evaluated arrangements in place for this time, it is not and there is a very significant amount of work to do in this time to do this effectively.
- 10.3 The detailed information in section 9 shows the scope and complexity of the ICT estate and infrastructure and systems supported. Depending upon the outcome of any procurement exercise, this may require disentangling of existing infrastructure, negotiation of new agreements with 3<sup>rd</sup> party suppliers, purchase and installation of new equipment/infrastructure etc.
- 10.4 The current contractual arrangements with Northgate include the following extract in relation to re-procurement timescales:
- Preferred new supplier to be nominated by 1<sup>st</sup> October 2012
  - New contract awarded by 1<sup>st</sup> April 2013

- Any additional charge to be levied for the provision of the service during the Porting Period by the supplier to be notified and agreed by the Council by 30<sup>th</sup> September 2013
- Transfer of service to new supplier on 1<sup>st</sup> October 2013

10.5 It can be seen, therefore, that the authority should, in accordance with its contractual agreement, be in a position to nominate any new supplier by 1<sup>st</sup> October 2012. This is clearly not now achievable following the recent decision not to continue with the ICT/R & B procurement exercise. Further negotiations with Northgate are required to agree amendments to this timescale and the earlier a decision can be implemented the less likely the authority is to incur additional costs in relation to this. The Porting period is not an extension to the timescale, it is simply a period of up to 2 years after the signing of a new agreement whereby the authority could request Northgate to continue provision of all or part of the service (at an agreed cost) to allow for smooth transition to any new supplier. It does not enable the extension of the current contract without further competition or assessment of value for money.

## **10.6 POTENTIAL “PROCUREMENT” OPTIONS, ROUTES AND TIMESCALES**

10.6.1 Research and advice from external sources in relation to the feasibility of all options in relation to ICT, has been undertaken. This includes advice on what the options would involve, what resources would be required to carry them out (and any associated costs) and what the risks/benefits of each would be.

10.6.2 There are a number of options for delivering ICT support to the authority, ranging from complete outsourcing to complete in-house provision and a range of variants on these. These could include the use of Cloud computing, software on demand, partnerships with private sector and/or other public sector bodies, purchasing support direct from 3<sup>rd</sup> party suppliers or other public sector organisation etc. There are risks, however, in paving the way with less tried and tested options and given the timescales we are working within, the size of HBC, the current budgetary restraints, resources available to investigate and/or deliver on these options, and the risks involved, the advice we have received has been that the most realistic 3 options are private sector provision, in-house provision and some form of public-public partnership/collaboration.

10.6.3 Regardless of which option is taken, there will be a requirement for some external advice, in relation to technical, legal and financial support. This is similar to the external advice procured for the Building Schools for the Future exercise, the advice received when the housing stock transfer was undertaken with the establishment of Housing Hartlepool, and the recent ICT/R&B procurement exercise. Whilst the majority of the work will be undertaken by HBC staff, additional skills and knowledge of specialist areas will be required from external sources. The procurement of this advice is expected to take approximately 4 to 6 weeks so it is important that this is built into any timescales identified for the various options.

## **10.7 OPTION 1 - IN-HOUSE PROVISION**

**10.7.1 Background**

- 10.7.2 The Council Decision specifically requested that consideration be given to the option of transferring the ICT service back in-house, to be delivered by HBC staff, using equipment, infrastructure etc. owned by HBC.
- 10.7.3 There are considerable risks associated with this option and these cannot be underestimated. If the service is to be returned to in-house provision, these risks must be understood and addressed if the authority is to continue to benefit from a reliable, robust and secure ICT service which can support the provision of front line services. The transfer of ICT service is an extremely complex process involving recruiting skilled staff, establishing how existing hard and software operates, transferring software licences from the existing provider etc.
- 10.7.4 In-house provision means that the requirement to cover unforeseen events, peaks and troughs of workloads, cyclical operations etc. need to be catered for by the authority, although it can provide for more flexibility over the service (changes, additions and reductions are all within the control of the authority),. It doesn't tie the authority into a fixed term contract but this also means that the costs moving forward are less certain.
- 10.7.5 ICT moves at an incredibly fast pace and keeping up with this requires investment in infrastructure, equipment and training and it would be a requirement for an in-house team to ensure that provisions are established to support these requirements (and that in any bid these costs are incorporated) or HBC could very quickly find itself behind the game and struggling to keep up or deliver services effectively.
- 10.7.6 It needs to be remembered that the authority has been without an in-house ICT service since 2001 and therefore owns none of the infrastructure, equipment etc. that is needed to deliver the service. It would be possible to buy-back the existing infrastructure etc. from our current providers although this would be expected to require updating as the bids received for the recent ICT/Revs & Bens procurement recommended the use of new technology which would provide more flexibility and robustness and cheaper running costs. For a separate, competitive, in-house bid it would be required that these costs would form part of that bid and the authority should not determine to bring back in-house any redefined ICT services without further competition as there would be no benchmark or clarity on the extent to which any such service delivers value for money.
- 10.7.7 Bringing the service back in-house also transfers all the risk back to the authority, including costs and delivery overruns, service failures, cost increases, system changes and failures, staff shortages, skills shortages, reliance on a small number of key individuals (sometimes a single post holder) for critical system support, redundancies etc. Private sector suppliers can be held accountable through penalty charges etc. which would not be available for use with an in-house team.



10.7.8 The challenges of bringing ICT back in-house cannot be under-estimated and are significantly more challenging than awarding a contract to a new contractor. Transition of ICT services between providers is extremely challenging for both the Council and the new provider. A new private sector provider would manage this arrangement using specialist staff, trained and experienced in managing ICT changes and by allocating additional staff resources during the transition period. The ICT provider would effectively fund these costs over the lifetime of the contract. More importantly a successful transition would be a contractually enforceable requirement and a reputational issue for the new provider.

10.7.9 Transferring the ICT service to an in-house team would require the same issues to be managed, without the benefit of a contractual remedy if the transition was not successful i.e. the whole risk of transition would fall on the Council. The Council would also need to fund one-off costs of supporting the transition. More importantly the Council would need to not only recruit skilled and experienced IT staff (there is no guarantee existing staff will want to transfer to the Council, or will be the staff identified for TUPE transfer) to operate and manage the new in-house service, it would also have to recruit on a temporary basis staff with specialist skills in successfully managing IT transition projects, who would be more difficult to recruit.

#### **10.7.10 Procurement Route**

10.7.11 When considering in-house provision of ICT, there are a number of options, ranging from a full Competitive Dialogue process, combined with the development of an in-house bid to be evaluated against any private sector bids through to simply making the decision to return the service in-house without any further competition although the latter route is not recommended and will provide no basis for assessing value for money. There needs to be an awareness of the risks involved in which ever route is chosen.

10.7.12 Taking a decision to return the service in-house without any form of market comparison is not recommended as it allows for no consideration as to whether value for money is being achieved or that the most appropriate and effective service was being obtained as there would be no external bids for comparison. It also runs the risk of transferring a service back to the authority which no longer employs the necessary skills. The skills required to effectively manage an outsourced contract are very different to those required to deliver an in-house ICT service as outlined in sections 4.6 to 4.12. Delivery of an ICT Managed Service requires high levels of technical skills, covering a wide range of systems, infrastructure and desktop environments and including specialists in particular programming languages, ICT Development, specific types of platforms and a knowledge of the wider industry context. These skills and knowledge must be constantly updated as the technology landscape changes. Management of an outsourced contract, however, requires skills in procurement, contract management, monitoring, strategy development and negotiation.

10.7.13 Similarly, developing an in-house bid requires specific skills that are not available within the authority and gives an added risk that if the costed bid is

not robust, either in service or cost terms, then it is the authority that bears this, not inconsiderable, risk moving forward.

- 10.7.14 Considering an in-house bid alongside external bids could potentially reduce the number of external bids attracted (and hence reduce the competition) as it is expensive and time-consuming for potential suppliers to develop their bids and take part in the Competitive Dialogue process and there may be a reluctance to put in the time and effort if it is felt that an in-house bid is likely to be taken instead. Additionally, the decision not to proceed with the ICT / Revenues and Benefits outsourcing when considered along the development of an in-house bid could potentially reduce the number of external bids.

#### **10.7.15 Key Steps/Timescales**

- 10.7.16 The advice obtained and recommendation of officers is that any in-house bid development should be carried out as part of the Competitive Dialogue process outlined in Option 2 so the key tasks and timescales would be the same. In addition, however, there would be an earlier task of identifying the resources (internal and external) to develop the in-house bid and agreeing the protocols to be followed. It is expected that this would add a further month to the beginning of the process.

#### **10.7.17 Resource Requirements**

- 10.7.18 In order to maintain independence of any in-house bid development, there needs to be complete separation from the procurement / specification / evaluation team. There would be a requirement for a Bid Management and Evaluation Team to run the procurement, evaluate the bids and recommend the preferred bidder, which would need to be kept separate from the team (likely to be a mixture of internal and external resources) that actually develops and submits the in-house bid. This second team would have to be treated exactly the same as any external bidder, with the same level of access to the Bid Management and Evaluation Team and information as all other bidders. This is expected to require the engagement of a specialist Bid Team and advisors with support from the in house team as was the case with the transfer of the housing stock and establishment of Housing Hartlepool.

- 10.7.19 Whilst the authority has a number of officers with experience in running a procurement exercise, bid evaluation and contract management, it does not have the specialist skills required to develop and cost a robust ICT managed service bid. This would require someone with bid expertise, working alongside some HBC resource, and there would be a requirement for external assistance for both teams. Whilst the intention is that, wherever possible, the work will be carried out by HBC staff, there are specific skills and knowledge required to pull together a realistic and supportable bid that are not available within current HBC resources.

- 10.7.20 External advice obtained is that there would be a requirement for a Bid Lead and a Technical lead from within HBC as well as an External Bid Team including technical, legal, financial and bid management resources. It is

estimated that the cost of the internal resources would be absorbed within existing HBC staffing and the external resources are estimated at:

	£
Bid Management & Project Support	65,000
Technical	35,000
Legal	20,000
Financial	15,000
<b>TOTAL</b>	<b>135,000</b>

10.7.21 In addition to this external support, there will be a requirement for internal resources to be made available. It has been advised that, although the bid will be developed externally, there will be a requirement for a small internal in-house bid team to work with the external team, and the establishment of complete separation of this team from the bid evaluation team – usually referred to as “Chinese Walls” to ensure it is, and is seen to be, a completely separate entity and is treated the same way as any external bidders. This internal resource requirement is likely to include two roles - a Bid Manager and a Technical lead. These are not full time roles for the entire period but would be expected to take up a significant amount of time at different stages of the process. It is intended that these roles are undertaken by senior staff from the Corporate ICT team in addition to their normal workload and through reallocation of current work, re-prioritisation of activities etc. Whilst it is anticipated that this will be absorbed within existing resources, the extent of the work involved cannot be underestimated, and will rely to a large extent on the goodwill and commitment of the staff involved.

## **10.8 OPTION 2 - PRIVATE SECTOR PROVISION**

### **10.8.1 Background**

10.8.2 The current ICT support is provided through an outsourcing arrangement with a private sector supplier. This has been running since 2001 and has brought a number of benefits which would be expected to continue under any further outsourcing arrangement.

10.8.3 The outsourcing arrangement has improved the service that the authority receives (evidenced by year on year improvements to the customer survey results, the regular service level reports, the significant reductions in down time etc.).

10.8.4 Private sector provision helps to reduce the risk carried by the authority as this is transferred to the provider. The costs are known and more easily controlled as it is the provider that needs to cover unexpected events and resource to deal with peaks and troughs in workloads where they are encompassed by the contractual arrangements. It also provides the authority with access to wider expertise and procurement resources which would not be available within the authority.

- 10.8.5 On the other hand, it is important that the disadvantages to outsourcing are also understood, to enable an informed decision to be taken. Handing over the responsibility for ICT support to a private sector supplier can reduce flexibility in terms of both services received and the cost base. An agreed contract (and price) for an agreed term mean that changes to our requirements and/or budget are more difficult to negotiate but there is general surety of the base contract value. It also removes some of the control from the local authority.
- 10.8.6 In addition, it needs to be understood that the supplier will be required to make a profit from the arrangement which will be fed into the costs agreed with the authority (although the buying power of the supplier may offset these costs).
- 10.8.7 Managing the contractual arrangement requires resources within the authority to ensure the arrangement continues to deliver what the authority needs and that the supplier meets their obligations under the arrangement. On balance and based on experience of the existing contract and contracts in other authorities the advantages of outsourcing ICT outweigh the disadvantages.

#### **10.8.8 Procurement Route**

- 10.8.9 Internal and external advice has been sought in relation to the recommended procurement route to take if the authority were to consider private sector provision of the service. There are two primary routes to take, the Office of Government Commerce (OGC) Buying Solutions Framework or the Competitive Dialogue process.
- 10.8.10 The OGC Buying Solutions Framework was the route that was used for the recent ICT/Revs & Bens process because it was the only possible route given the extremely tight timescales if we were to realise savings for the 2012/13 Budget round. The main advantage to using the Framework is that it can be done more quickly as bids are only allowed from companies already pre-vetted and registered with the OGC. The disadvantages are that it precludes any other potential suppliers, outside of the framework, from bidding and restricts the process significantly in that the authority needs to issue a very clear, detailed specification for bidders to submit bids against at the beginning of the process. There is no room for discussion with suppliers, negotiation during the process or joint development of requirements with potential suppliers.
- 10.8.11 The Competitive Dialogue process is lengthier and starts with a very broad based statement of requirements which are then developed in conjunction with potential suppliers through a series of dialogue phases. The main advantage of this process is that it allows the authority to use the expertise of potential suppliers who will have a much wider knowledge of the technical possibilities and potential problems so that the final specification will be more likely to provide effectively for the authority's needs moving forward. It allows the authority to define what our output requirements are without specifying how these will be delivered, giving potential suppliers the flexibility to identify alternative technical solutions to deliver our requirements. This is the process

that was successfully used during the Building Schools for the Future ICT Procurement. It is, however, a more lengthy and resource intensive process than the Framework Agreement, although there is still sufficient time available to carry out this process in line with the current contract expiry deadline of September 2013. There are, therefore, still tight timescales but these are now based on contractual requirements rather than the Budget timescales associated with the earlier ICT/Revs & Bens exercise.

10.8.12 Given the timeframe available and after consideration of the alternative options, the best advice is that the procurement should be through the Competitive Dialogue process. It is a process that was successfully used by the authority in the past (for the Building Schools for the Future ICT project), will allow for joint development of the specification and requirements, has built in flexibility and will provide the best chance of getting the service the authority requires. Using this process, the starting point is a broad based advert in the Official Journal of the European Union (OJEU) which invites suppliers to express an interest. Then, through a series of steps, a shortlist of potential suppliers is selected which the authority will then work with to develop a detailed specification or specifications which shortlisted suppliers then provide a bid price(s) for. The recommendation is that this process should always be used for a procurement of this size and complexity unless time restraints dictate otherwise (as was the case in the recent ICT/Revs & Bens procurement exercise).

#### **10.8.13 Key Steps/Timescales**

10.8.14 Based on advice from external and internal sources, Appendix A shows, in diagrammatical format, the high level stages and tasks with estimated timescales required for this process to be effectively carried out. It is currently showing an expected contract award date in September 2013 but it needs to be understood that this timescale is extremely tight, given the various stages and legal timescales so it is essential therefore that a decision on whether to proceed down this route would be required by July 2012 if we are to have any chance of meeting the contract expiry date of September 2013.

#### **10.8.15 Resource Requirements**

10.8.16 The Competitive Dialogue process is a detailed, time-consuming procedure, periods of which are very intensive, and it is essential that it is carried out properly as the authority will be relying on the outcome of this exercise to support the ICT infrastructure and critical ICT systems (and therefore crucial front line services) for a number of years.

10.8.17 Advice received, both internally and externally, indicates that there would be a requirement for in-house resources to be available for developing the specification, running the procurement process and evaluating the bids received, and that this would need to be complemented by external support, particularly in relation to legal, financial and technical issues. Procurement of this external support would be expected to take around 4 to 6 weeks to complete, although some of the preparation work for the Competitive Dialogue

process can be done by the in-house team whilst this external advice is being procured.

10.8.18 External advice is that the costs of the external support for the bid management and evaluation team would be likely to be in the region of:

	£
Technical and Bid Support	85,000
Legal advice	30,000
Financial advice	15,000
<b>TOTAL</b>	<b>130,000</b>

The Technical and Bid support is required to cover supporting the authority and the identified internal resources with the following tasks:

- Review/update of current requirements
- Design of procurement route, roles and responsibilities
- Working with legal advisors to develop baseline contract
- Review of the Project Information Notice (PIN), OJEU Notice, Pre-Qualifying Questionnaire (PQQ) and Project Information Memorandum (PIM); documents, management of evaluation and development of evaluation report
- Review of submissions, interviews with bidders, management of evaluation and development of evaluation report
- Dialogue meetings with bidders, agreement of substantive contract with bidders, management of evaluation and development of evaluation report
- Dialogue with preferred bidder and associated contract development to financial close

The level of legal advice is based around the assumptions that some of the work would be carried out by our internal legal team but that external support would be required as there are specific legal steps at various stages in relation to the Competitive Dialogue process that would require specific knowledge, not available in-house.

Again, the level of Financial advice is based on the assumption that internal Finance resources would be used wherever possible but specific areas of expertise and knowledge would also be required to be sourced externally.

All of these costs are estimates, based on the best advice available and working on the assumption that, wherever possible, the work would be done by HBC resources and supported externally as required.

10.8.19 To put these costs into perspective, they are lower as a percentage of the total potential contract value for this exercise than for the similar exercise completed as part of the Building Schools for the future programme.

10.8.20 In addition to this external support, there will be a requirement for internal resources to be made available. This internal work will be undertaken by a

number of senior staff in addition to their normal workload and through reallocation of current work, re-prioritisation of activities etc. Whilst it is anticipated that this will be absorbed within existing resources, the extent of the work involved cannot be underestimated, and will rely on the goodwill and commitment of the staff involved. It has been assessed that to ensure the procurement is effective the following roles will be required, and although the full extent of the involvement is difficult to quantify, it is expected to take up considerable time during the various phases of the project.

- Corporate Lead
- Project Manager
- Strategic ICT Lead
- Technical Lead
- Financial Support
- Legal Support
- HR Support
- Procurement Support

10.8.21 In addition, there will be costs associated with holding Industry Days, Dialogue Days, site visits and secure electronic storage facilities. These costs will be met from existing budgets

## **10.9 OPTION 3 - PUBLIC-PUBLIC PARTNERSHIP/COLLABORATION**

### **10.9.1 Background**

10.9.2 The third option under consideration is the development of a public-public partnership/collaboration. The idea behind this option is that Hartlepool would look at the possibility of sharing the ICT support with one or more local authorities. This could potentially reduce costs by sharing overheads but would increase the complexity of the requirements as different infrastructures, systems, organisations, political and environmental factors would all need to be taken into account.

10.9.3 There is also the possibility that no local authorities are either in a position to join with Hartlepool at this stage due to current contractual arrangements, or in fact, have no desire to work in partnership in this way or not be in a position to deliver a value for money solution in comparison with other options.

10.9.4 It is the basic stance of the Department for Communities and Local Government (DCLG) and the UK Government that value for money should be sought in all public procurement and that this is to be achieved through competition unless there are compelling grounds to the contrary. Local Authorities must therefore consider how far such a compelling case can be made in respect of collaboration and how, if they decide to adopt a collaboration strategy, whether they are obliged to follow a formal procurement route.

10.9.5 The EU procurement rules make no distinction between the bodies that may be providing services to another. It is irrelevant whether the best provider might be a private or a public sector provider. There is still, however, the issue

of ensuring value for money as discussed in relation to the in-house option. Following this option, without any competitive element will not provide the authority with any reassurance that we are obtaining the best solution for the best price that we can. Collaboration between authorities has commonly not been regarded as procurement but this cannot be assumed and it is advised to seek legal advice, especially where in other circumstances the authority would be preparing for a procurement exercise (as is the case here).

10.9.6 It may be possible to set up some kind of shared service arrangement which may be exempt from the EU procurement rules if the arrangement passed the 'Teckal' test, which relates to control over the body delivering the work and the body providing its services. The main issues which decide whether the Teckal exemptions apply are:

- the company set up to deliver the service must carry out the principal part of its activities with the Council(s);
- the Council(s) exercises the same kind of control over the service provider as it does over its own departments; and
- there is no private sector ownership of the service provider nor any intention that there should be any.

If the Teckal test was passed and the result was to agree to some form of merging of existing local authority services then the major issues would be around configuring the services and reaching managerial and political agreement around who does what and is accountable to whom.

10.9.7 There could be, with a public-public collaboration a potential conflict of priorities between the authorities, and possible difficulties caused by the use of different platforms, systems, infrastructure etc. There would be a requirement to disentangle any existing arrangements that might be in place and a range of transition issues, and associated costs, arising from this. On a positive note, however, it may enable the local authorities to share resources with organisations who have a shared understanding and ethos, rather than the private sector commercial considerations and it could also allow for flexibility of service provision as the authorities involved could jointly agree changes without consideration of the commercial impact it would have had in a private sector arrangement.

10.9.8 One of the big risks with this option is that the time taken to consider this could eat very significantly into the time available for the whole project given that the current arrangements are due to end in September 2013 if the approach were taken to explore this option and then undertake the further assessments sequentially. In this scenario, if the decision is taken to go down the public-public route without any competition (assuming the Teckal test is passed), then it may be possible to approach other local authorities to identify any potential interest in a joint service provision, followed by a period of pre-collaboration discussions and a feasibility study. It is estimated that this initial phase (up to the completion of the feasibility study) would take approximately 12 months. This would then leave insufficient time to carry out a Competitive Dialogue process should the feasibility study produce a negative outcome.



10.9.9 As discussed earlier, if the Teckal test is not passed, or the decision is taken to run this alongside a Competitive Dialogue process (either with or without an in-house bid), then there is a big risk that it could potentially deter many (if not all) of the potential bidders who would be disinclined to put in the time and resources needed to develop their bids when there is the likelihood that the authority will eventually decide to take the public-public collaboration option instead. They are likely to be very wary of the authority simply taking their ideas and using them in a public-public collaboration exercise.

10.9.10 There would also be the need to share current service levels, costs, systems, etc. with potential partners, which could be considered as a breach of contract with current suppliers where existing commercial arrangements are in place.

#### **10.9.11 Key Tasks/Timescales**

10.9.12 In order to expedite what is essentially an almost unmanageable timescale and without delaying overall timescales, an alternative, informal soft test exercise has been undertaken to provide some information in advance of any decision. As part of this exercise another local authority has been approached to provide a without prejudice assessment of the potential costs of delivering the ICT provision for the authority. This was undertaken utilising the specifications for ICT which previous bidders has submitted costs against. This was to ensure that there was a reasonable assessment of value for money and for procurement benchmarking processes only. The information provided is commercial in confidence and not for disclosure but does provide HBC with an indication of the likely level of costs and/or potential savings that could be expected and therefore provide an answer to the value for money concern.

10.9.13 The results of this exercise have shown that the submission from the other local authority for the provision of ICT services is approximately 15% more than the submissions received for ICT through the previous procurement exercise which appears to be mainly through the increased buying power of the private sector bidders.

### **11. FINANCIAL CONSIDERATIONS**

11.1 The previous procurement exercise had identified significant savings over the life of the contract to the benefit of the Medium Term Financial Strategy. These saving would have provided a significant contribution towards the 2012/13 budget and increased ongoing savings in the remaining two years of the MTFS (i.e. 2013/14 and 2014/15). The savings would also have significantly exceeded the one-off costs associated with the proposed ICT / Revenues and Benefits Contract. One-off funding had been identified to fund these one-off costs, which would have maximised the annual savings which could have been taken towards the MTFS. An element of the available one-off funding has been allocated to offset the loss of the saving from the proposed ICT / Revenues and Benefits contract and also to fund the removal

of the denominational transport saving in 2012/13. The uncommitted one off funding of £0.545m has been transferred to the General Fund Reserve.

- 11.2 The exercise to be undertaken as a result of any decision taken from this report will not deliver savings until October 2013 at the earliest.
- 11.3 The report identifies the potential costs for the potential routes that may be considered following the decision by Council. In determining these, account has been taken of where internal resources can be utilised to minimise cost.
- 11.4 In summary the costs of the various procurement options are identified below:
- |   |          |
|---|----------|
| Option 1 – Private Sector Competition plus In-House Bid | £265,000 |
| Option 2 – Private Sector Competition Only              | £130,000 |
- 11.5 The costs of undertaking this procurement (in the form that is ultimately determined) are not part of the budget and policy framework and will require agreement by Council. It is recommended that these costs are funded from the uncommitted resources of £0.545m transferred to the General Fund Reserves after taking into account £50K Managed Revenue Underspend which has been earmarked to contribute to this ).
- 11.6 In addition, as indicated in the previous paragraphs a potential saving from just looking at ICT will not be achieved until October 2013 at the earliest. Members will need to determine if the impact of the delay in achieving this saving is managed by making additional cuts in other services, which in the medium term is the most financially sustainable approach given the scale of ongoing budget shortfalls in 2013/14 and beyond.
- 11.7 Alternatively, Members may determine to utilise all, or part of the net uncommitted resources transferred to the General Fund reserves (and not needed for unbudgeted procurement costs detailed in paragraph 10.4) to provide temporary support to the budget in 2013/14 pending the full year ICT saving being achieved in 2014/15. In practise it is anticipated that the full value of uncommitted one-off resources not needed for one of procurement costs of £0.280m will be needed to offset a partial year saving from ICT, as this amount is a prudent estimate of the likely part year ICT saving which should be achievable.
- 11.8 At this stage it would be prudent to seek full Council approval to allocate the £0.545m transferred into the General Fund to cover one-off procurement costs of up to £0.215m and also full Council in principle approval that the residual balance of £0.330m be earmarked as temporary support for the budget in 2013/14 pending the full year ICT saving being achieved in 2014/15. The 'in principle' decision will then be ratified as part of the formal budget setting report in February 2013 to enable full Council to consider this issue in the context of the Councils overall financial position and the budget cuts which will need to be made in 2013/14.
- 11.9 If these proposals are adopted then these and the previous decisions made by full Council will fully commit the whole of the one-off resources previously

identified of £1 million for one-off costs of awarding an ICT / Revenues and Benefits contract. At this stage it is hoped that the new arrangements for ICT will provide an ongoing saving towards the MTFS budgets deficits, although the value of these savings is not yet known.

## **12. LEGAL CONSIDERATIONS**

- 12.1 It is vitally important that in embarking on the planned exercise which is encompassed by this report, that the approach which is taken is designed to ensure that the objectives of the authority, however they are defined, are maximised; that the process is clear, unambiguous and transparent; that the basis for the evaluation of any bids is fair and equitable and in doing each of these things that any risk to the authority of legal challenge is minimised and mitigated as far as is practicably possible.
- 12.2 The recommendations and information included in this report are the professional advice of a range of senior officers, take account of external expertise in the procurement of large scale, complex ICT contracts and reflect the views of the Section 151 officer as to the issues, costs and implications of the matters being considered and in dealing with these issues, the practical arrangements that will need to be put in place to undertake them in an effective manner and the costs of doing this.

## **13. STAFF ISSUES**

- 13.1 This report does not identify any of the potential staffing and or TUPE issues that may be applicable to the various options that are available to the authority at this stage. Any staffing implications or issues will be managed in line with either legislative requirements and or the policies of the council in respect of these matters.

## **14. SUMMARY**

- 14.1 The decision of Council in respect of ICT and Revenues and Benefits requires the consideration of a range of issues and decisions in respect of the appropriate route and to provide officers with a clear decision upon which to proceed in a timely manner to ensure that suitable arrangements can be put in place.
- 14.2 The objectives set at the outset of the previous procurement exercise require reconsideration as not all of the originally determined objectives are valid for all of the potential options and instil unnecessary and impractical risk into the process and the evaluation of any subsequent bids.
- 14.3 The need to ensure that the process undertaken is fair, equitable and demonstrably open and balanced is key in determining any way forward as any potential lack of objectivity on the part of the Council will increase either the risk of a lack of engagement of the private sector and / or legal challenge on their part of the process undertaken by the authority.

- 14.4 There are a range of options which may be pursued which bring with them a range of different benefits, risks and costs. These can be managed as part of a procurement process but they are included in this report to ensure that members have a clear view of the advice of officers and that received from external advisors.
- 14.5 The procurement timescales, especially if allied to exploring and managing this in respect of a number of options, are tight and whilst these can be managed they do require clear and early decisions on the overall objectives, the options and procurement route and the funding to deliver these.
- 14.6 As with any such exercise following more than one route will bring with it increasing complexity and in the case of the procurement of the services that are being considered as part of this report in some cases increased costs. The value of the services being considered as part of this report are considerable and their potential impact on the authority if not procured and then delivered effectively is significant. It is on this basis that the information included in this report is considerable and detailed.

## **15. CONCLUSIONS**

- 15.1 After consideration of the detailed information provided in the previous sections of this report, Members need to determine a concise set of objectives for this exercise in the light of the fact that to ensure equality and equity in evaluation that these should be capable of delivery across the model of delivery determined. Members also need to appreciate and accept the risks attached to the various options and agree on the route to be followed, taking into account the risks, timescales and costs associated with any decision taken.
- 15.2 The position is that the authority is now in a situation where to do nothing is not an option. The current ICT support arrangement ends on 30<sup>th</sup> September 2013 so it is essential that any new arrangements are in place from that date. It is essential, therefore, that a decision is made in June 2012 to allow sufficient time for this decision to be implemented effectively, whilst minimising any risks and being in a position to maintain an effective ICT service which provides a managed and cost effective solution delivering savings to the Councils core budget.
- 15.3 It is also important to note that whatever decision is taken, there are constraints in terms of timescales, resources and costs. Each of the options will require a great deal of time and resources (both internal and external to the authority), and there will be some up-front costs that will need to be budgeted for.
- 15.4 The options covered earlier give detail in relation to the 3 main options open to the authority, namely in-house provision, further private sector provision, and collaboration with another public body/bodies. In order to expedite the situation an informal soft testing / cost benchmarking exercise has been undertaken to determine what the potential cost options and benefits could be for a public/public delivery model.

15.5 If the decision is taken to only follow the private sector option, then it is recommended that a Competitive Dialogue process is undertaken, as this will attract the widest possible number of bidders and enable the requirements to be developed in conjunction with the bidders during the process. It is less restrictive than other processes and will put the authority in the best possible position to get the service it requires at the most competitive price.

## **15.6 OBJECTIVES**

15.6.1 The decision by Council calls for the investigation of all available options in respect of ICT but makes specific reference to the development of an in house option and continuing some form of outsourced provision.

15.6.2 As part of the plans and programme the authority needs to put in place for the 2013/14 budget and beyond, the Revenues and Benefits functions will be considered in line with the corporate arrangements applying to other services for achieving savings. Any proposal will therefore be reported as part of the normal budget process.

15.6.3 The objectives within the previous procurement were established to ensure that maximum benefit could be derived for the local authority and the local economy. They covered:

- Base in Hartlepool
- Retain and Grow Jobs
- Local Economic Benefits
- Enhanced TUPE protection for staff
- Maintain and improve services
- Achieve savings
- Scalability in terms of services and expansion to other local authorities

15.6.4 It is not feasible to maintain the comprehensive scope of the last procurement (beyond the provision of services and savings) if the options identified by Council are maintained.

15.6.5 Assessment, aligning contractual and service delivery alongside the delivery models and their potential has identified that there are a number of options for the procurement of the services.

- In-house, outsourced arrangements and public/public with the objectives based upon
  - Maintain and improve services
  - Achieve savings
- In-house and outsourced arrangements with the objectives based upon
  - A base in Hartlepool
  - Maintain and improve services
  - Achieve savings
- Outsourced arrangements with the objectives based upon

- A base in Hartlepool
- Retain and grow jobs
- Local Economic benefits
- Maintain and improve services
- Achieve savings
- Scalability in terms of services and expansion to other Local Authorities

15.6.6 On the basis of the considerations to date, and the primary requirement to safeguard the authority from legal challenge it is not considered feasible to undertake any such assessment / bid process on the same basis as the last exercise including retention and growth of jobs local economic benefits and scalability across all models. This means that a significant number of the benefits secured as part of the last tendering exercise will not be capable of delivery if this approach is undertaken.

15.6.7 The first decision required, therefore is to agree that the objectives of the exercise are either:

- Maintaining and improving services and achieving savings (only possible through in-house, outsourced or public-public options); or
- Maintaining and improving services, achieving savings and maintaining a base in Hartlepool (only possible through in-house or outsourced options).

## 15.7 “PROCUREMENT” OPTIONS / RISKS

15.7.1 As detailed earlier in the report, there are a number of options for procurement of these services, each of which carries different risks, costs and timescales.

15.7.2 Option 1 would be to develop an in-house bid to be submitted alongside private sector bids using the Competitive Dialogue process. This is estimated to cost £135,000 to develop the bid plus £130,000 as for Option 2 (below) giving a total of £265,000 plus internal resources, with estimated timescales of 16 months. One of the main risks with this option is that potential bidders would be even less likely to submit bids were they to view the in-house option as the likely outcome. A further major risk is that any in-house bid would have to be largely developed by external advisors (supported by in house staff) but would then become the responsibility of the authority to deliver were it to be successful during the Competitive Dialogue process. These risks could be mitigated against by being completely open about the requirements and evaluation process, reassuring potential bidders that the in-house bid team is separate from the evaluation team and ensuring a robust evaluation to ensure that the in-house bid is capable of being delivered against should it be successful.

15.7.2 Option 2 would be to carry out a Private sector competition using a Competitive Dialogue process, with estimated costs of £130,000 plus internal resources and estimated timescales of 15 months. The most significant risks associated with this route are that potential suppliers will not be willing to put

in the time and resources needed to bid for the contract, and that there could be insufficient time to carry out the exercise before the current arrangements expire in September 2013. These risks can be mitigated against by making a decision as early as possible to allow sufficient time, ensuring resources are made available to focus on the exercise and being clear about HBC plans to convince potential bidders that this is a serious competitive process which will be properly and openly managed.

15.7.3 Option 3 encompasses considering the potential for a Public Public Partnership for the provision of ICT services. In considering this, and as outlined previously a cost benchmarking exercise utilising the previously developed ICT specifications has been undertaken on a without Prejudice basis. This was to understand the potential costs of another public sector / local authority body providing the services to the authority. This has demonstrated that the costs provided against the specification utilised previously (to enable a test of value for money to be determined) are approximately 15% more than those received by external bidders through the last procurement exercise which appears to be mainly due to the increased buying power of the private sector bidders.

## **15.8 TIMESCALES AND COSTS**

15.8.1 Options 1 (estimated to cost £265,000 plus internal resources) or 2 (estimated to cost £130,000 plus internal resources) above would be expected to take a 15 to 16 months to reach a successful conclusion.

15.8.2 It is not recommended that Option 3 be progressed as a result of the cost benchmarking exercise which has been undertaken.

## **15.9 OFFICER ADVICE**

15.9.1 It is important in an exercise of this scale, complexity and importance to the authority that the advice of officers is considered in taking any decision. The report is the summary of significant work which has been undertaken since the Council decision. It is the best advice of officers that:

- based on the decision of Council members required officers to explore, as part of a procurement exercise for ICT services, an in house option and private sector provision. This report has been prepared on that basis and to meet these requirements.
- If a private sector only route is undertaken then it is possible to use the same objectives (or a variation upon them) as the last procurement. This would mean that it would be possible to incorporate, as was the case last time, the requirements for job creation, local economic benefits or a scalable base for the delivery of services and the benefits that may be derived from these.
- If it was determined to follow an in-house and private sector route then this will mean that it is not possible utilise the same objectives as the last procurement and it will not be possible to incorporate, as was the case last time, the requirements for job creation, local economic benefits or a

scalable base for the delivery of services and the benefits that may be derived from these.

- The timescales available for undertaking this exercise are very limited and therefore a clear decision to proceed and the basis upon which to proceed is required before the end of July to enable the programme of work to be completed by September 2013.
- There will be no clear demonstration of either value for money or service provision if the current arrangements are essentially allowed to wind down to contract completion. The critical importance of these services and their cost to the authority requires clear demonstration of value for money and effective ongoing provision.
- The ultimate delivery model and the evaluation of any options must incorporate not just the initial costs of the delivery of any service but requirements around capital and infrastructure upkeep and the refreshing of technology on an ongoing basis. Dependant upon the model this cost may fall directly to the authority.
- There will be no clear demonstration or test of value for money if the decision is taken to only develop an in house bid and this is not recommended.
- If a private sector only route is taken and there is competition within this then this can provide a demonstration of value for money.
- If an in house bid is to be pursued this cannot be undertaken without there being a private sector bidding process and bid comparators to determine and demonstrate value for money.
- If an in house bid is to be pursued then external resources as identified in the report are required to ensure the bid is suitably robust given the risk to the authority.
- To explore all available options is not entirely feasible and the report has focussed on the three main available options in the light of the decision by Council.
- To continue to aim to explore all available options as part of this exercise is adding a significant degree of complexity to the programme due to procurement and transparency requirements and the need for officers to protect the legal position of the Council. The arrangements included in this report do however manage to do this.
- A competitive exercise should be undertaken to ensure value for money.
- The Competitive Dialogue process should be followed – either with or without in-house bid as part of the process as in the timescales available this offers the most robust options for the services.
- The exercise cannot be undertaken effectively without additional resources as identified in the report.
- If an in house bid is delivered it must be developed by a team, as outlined in the report, which is kept entirely separate from the evaluation team, any failure to do this will leave the authority open to legal challenge and will deter the market from bidding with there therefore being no clear test of value for money.
- The current contract requirements in place with the incumbent supplier in respect of notification of change for the end of the contract will need to be renegotiated.



- Based on the informal exercise undertaken in respect of the public-public collaboration it is not recommended to pursue this route on value for money grounds.

15.9.2 As indicated in the previous sections of the report and summarised above there are significant complexities and risks around exploring multiple options for ICT at the same time. These issues could impact on the ability to deliver an effective ICT service when the existing contract ends and the opportunity to achieve savings at least equal to those which would have been delivered from the previously proposed ICT / Revenues and Benefits procurement. There are also significant one-off costs of exploring multiple options for ICT.

15.9.3 Based on an assessment of these risks, work undertaken to date and costs it is officers best professional advice that the Council should only pursue the option of a new private sector contract for the provision of ICT, as this option provides the safest and most robust route for the continued delivery ICT, maximises the opportunity for future technology benefits and secures contractually enforceable savings. This report includes the initial exploration of the available options and the professional advice of officers in pursuing these.

15.9.4 If Members accept this advice they then need to determine the scope of the contract as this will impact on the level of savings achievable. This issue is a policy decision, although officers would advise Members excluding certain aspects from the scope of the contract would increase the savings which can be achieved.

15.9.5 The timescales attached to this exercise are complex and will be difficult to achieve. On this basis a decision is required by Cabinet no later than the end of July and then Council (in respect of the funding required) if the procurement exercise is to be effectively delivered, the position of the authority not compromised and any potential transition arrangements effectively managed.

## **16. DECISIONS REQUIRED**

16.1 Cabinet are recommended to:

- Note the investigations and information which has been undertaken in respect of the decision of council on 23<sup>rd</sup> February 2012.
- Note the results of the informal assessment of the potential for a Public / Public arrangement and the implications of this identified in the report.
- Determine whether the scope of the competitive dialogue should be
  - In house and Private Sector
  - Private sector only
  - In house, private sector and Public / public
- Determine the objectives of the procurement – either:
  - Objective Scope 1 - Maintaining and improving services and achieving savings (only possible through in-house, outsourced or public-public options); or

- Objective Scope 2 - Maintaining and improving services, achieving savings and maintaining a base in Hartlepool (only possible through in-house or outsourced options).
- Notwithstanding the objectives of the procurement identified above agree to the implementation of a competitive dialogue process.
- Agree to seek full Council approval to allocate up to £0.215m from the uncommitted backed-dated Job Evaluation Appeal reserves (i.e. the resources not needed to replace the loss of the ICT / Revenues and Benefits and the removal of the Denominational Transport savings in 2012/13 and net of the £50K managed revenue underspend which has been earmarked to contribute to this) of £0.545m transferred to the General Fund Reserves to fund the up-front costs associated with this
  - £265,000 if a competitive dialogue process is undertaken for the private sector with an associated in house bid
  - £130,000 if a competitive dialogue process is undertaken for the private sector only
- Agree to seek full Council approval to allocate the remaining balance of the resources transferred to the General Fund Reserves from the uncommitted backed-dated Job Evaluation Appeal reserves of £0.330 on an 'in principle' basis to provide temporary support for the budget in 2013/14 pending the full year ICT saving being achieved in 2014/15. The 'in principle' decision will then be ratified as part of the formal budget setting report in February 2013 to enable full Council to consider this issue in the context of the Councils overall financial position and the budget cuts which will need to be made in 2013/14.
- Agree that the Assistant Chief Executive be authorised to conduct negotiations with the current supplier in relation to the revision of timescales for re-tendering in relation to the current contractually agreed dates.
- Agree to receive the results of the exercise once completed.
- Agree to refer to scrutiny for consideration and response to cabinet by the end of July to ensure procurement exercise can be undertaken.

## 17. BACKGROUND PAPERS

Cabinet reports of:

24<sup>th</sup> January 2011, Strategy for bridging the budget deficit 2012/13.

7<sup>th</sup> February 2011, Strategy for bridging the budget deficit 2012/13

8<sup>th</sup> April 2011, Strategy for bridging the budget deficit 2012/13 – ICT and Revenues and Benefits

23<sup>rd</sup> May 2011, Strategy for bridging the budget deficit 2012/13 – ICT and Revenues and Benefits

20<sup>th</sup> June 2011, Call in of Decision, Strategy for bridging the budget deficit 2012/13 – ICT and Revenues and Benefits

19<sup>th</sup> December 2011, Strategy for Bridging the Budget Deficit 2012/13 ICT, Revenues & Benefits Services

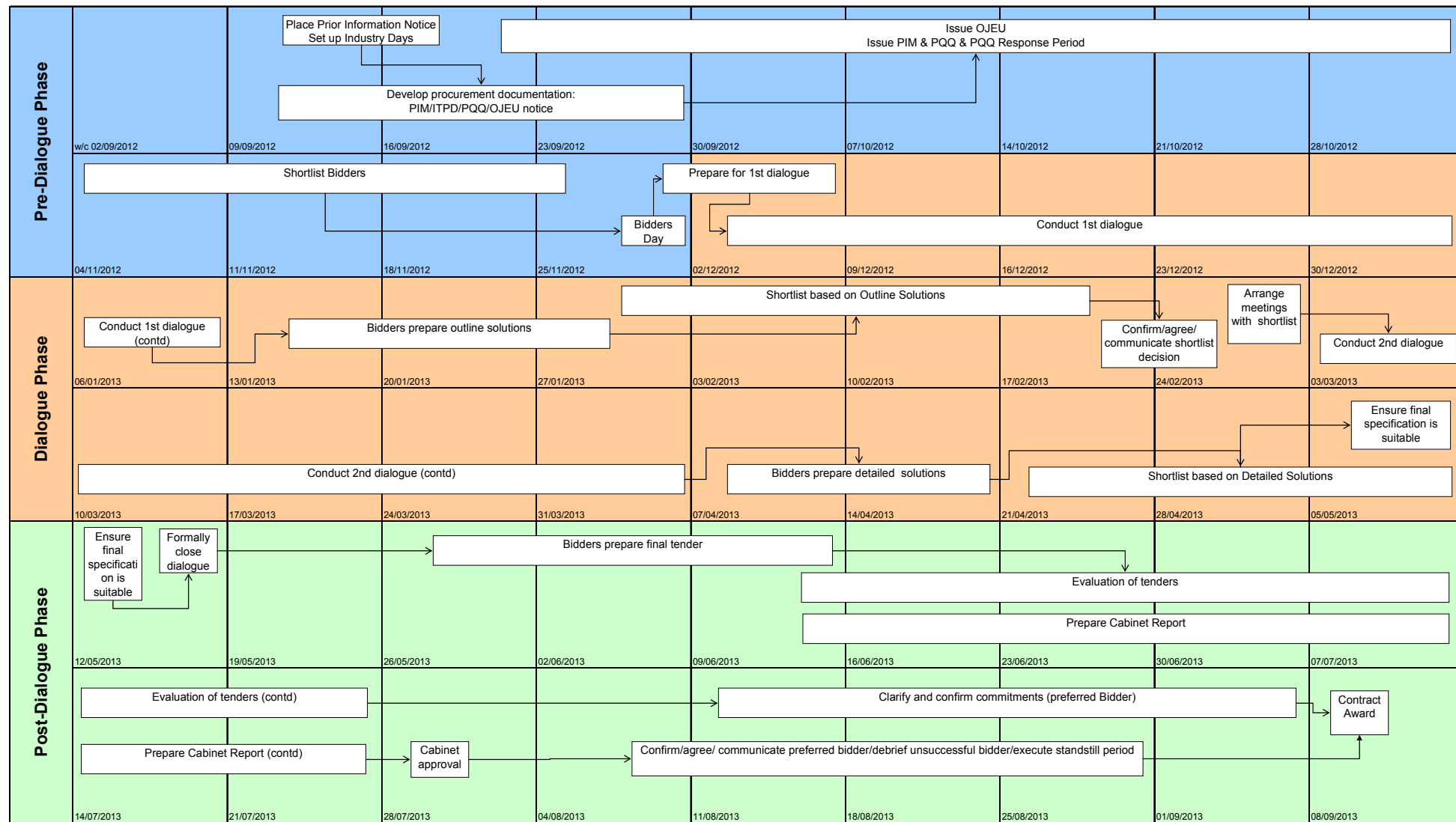
## 18. CONTACT OFFICERS

Andrew Atkin, Assistant Chief Executive

Chris Little, Chief Finance Officer

Graham Frankland, Assistant Director (Resources)

## 5.1 Appendix A



# **CABINET**

## **MINUTES AND DECISION RECORD**

11 June 2012

### Extract

The meeting commenced at 9.30 am in the Civic Centre, Hartlepool

**Present:**

The Mayor, Stuart Drummond - In the Chair

Councillors: Cath Hill, Children's and Communities Portfolio Holder  
John Lauderdale, Adult and Public Health Services Portfolio Holder  
Paul Thompson, Finance and Corporate Services Portfolio Holder

Also Present: Councillor Marjorie James, Chair of Scrutiny Co-ordinating Committee  
Councillors Richardson and Wells

Officers: Nicola Bailey, Acting Chief Executive  
Andrew Atkin, Assistant Chief Executive  
Peter Devlin, Chief Solicitor  
Chris Little, Chief Finance Officer  
Dave Stubbs, Director of Regeneration and Neighbourhoods  
John Morton, Assistant Chief Finance Officer  
Sally Robinson, Assistant Director, Prevention, Safeguarding and Specialist Services  
John Mennear, Assistant Director, Community Services  
Louise Wallace, Director of Public Health  
Alastair Rae, Public Relations Manager  
Clare Clark, Neighbourhood Manager, Central  
James Walsh, Scrutiny Support Officer  
Denise Wimpenny, Principal Democratic Services Officer

## **7. Medium Term Financial Strategy – ICT Services** (Assistant Chief Executive/Chief Finance Officer/Assistant *Director of Resources*)

### **Type of decision**

Key tests (i) and (ii) apply – Forward Plan Reference No CE50/11

### **Purpose of report**

The purpose of this report is to consider the options available to the Council

and the associated timescales, costs and implications of implementing the decision of Council on 23<sup>rd</sup> February in respect of the Medium Term Financial Strategy (MTFS) and more specifically the provision of Information and Communications Technology (ICT) services for the authority.

**Issue(s) for consideration by Cabinet**

The Assistant Chief Executive presented the report which outlined the options available to the Council and associated timescales, costs and implications of implementing the decision of Council on 23 February in relation to the provision of Information and Communications Technology (ICT) services for the authority.

The ICT service for the Council had been outsourced since 2001 when a 10 year agreement was established firstly with Sx3 and then subsequently with Northgate. Further background information in relation to the options available in terms of future ICT provision was detailed in the report.

It was highlighted that the approach the Council adopted in relation to examining the options for ICT would need to be managed carefully to ensure there was appropriate private sector interest which would be critical to ensuring value for money was achieved from the final procurement solution be this either an in-house bid, award to a private company or public/public provision.

The Council would also need to manage the impact of not achieving savings from ICT until 2013/14 (which would only be a part year saving), either by making alternative permanent savings in other services, or by using the uncommitted Job Evaluation Appeal Reserve on a temporary basis until the full year savings flowed through in 2014/15. This issue would need to be assessed as part of the 2013/14 budget process.

Members were referred to the basis for previous procurement which was based on the key objectives identified by Cabinet ie:-

- A base in Hartlepool
- Retain and grow jobs
- Local Economic benefits
- Enhanced TUPE protection for staff
- Maintain and improve services
- Achieve savings
- Scalability in terms of services and expansion to other Local Authorities

With regard to the options available, the decision by Council called for the investigation of all available options in respect of ICT but made specific reference to the development of an in house option and continuing some form of outsourced provision. In considering the potential to feasibly and practically undertake to deliver on the decision by Council in relation to ICT it was necessary to consider a number of factors and issues which included

the current contractual arrangement for the provision of ICT services which concluded at the end of September 2013 as well as the legal, logistical and transparency issues, referred to in the report.

The report outlined the role of the current Corporate ICT team and how that linked to the managed service. The authority did not have, as spare capacity and in house, the skills required to develop an in house bid. To manage an outsourced ICT provision effectively required a set of skills quite different from those to develop a bid for the provision of services. Any in house bid would need to be developed by an external professional bid-management team working with selected staff from the CICT team.

An assessment of the ability of the potential options to deliver against the key objectives had been assessed, details of which were set out in the report.

There were a number of areas of risks in undertaking such an approach which must be considered and assessed as part of any such development which included the actual or perceived favouritism in availability and provision of information leading to legal complaints from tenderers and withdrawal of offers, achieving and demonstrating value for money, risk of legal challenge from rejected bidder on the grounds of an incorrectly executed procurement process and any decision made on subjective grounds, claims of unethical and unfair behaviour, complaints from tenderers.

With regard to the approach, timescales and delivery, as set out in the report, it was highlighted that given the decision of Council not to continue with the ICT/Revenues and Benefits procurement exercise, the authority would not be in a position to nominate a preferred new supplier by 1 October 2012. Further negotiations with Northgate were required to agree amendments to this timescale and the earlier a decision could be implemented the less likely it was to incur additional costs in this regard.

Research and advice from external sources in relation to the feasibility of all options in relation to ICT had been undertaken. There were a number of options for delivering ICT support to the authority ranging from complete outsourcing to complete in-house provision and a range of variants on these. Regardless of which option was taken there would be a requirement for some external advice in relation to technical, legal and financial support. This was similar to the external advice procured for the Building Schools for the Future exercise.

In terms of the Council decision that consideration be given to the option of transferring the ICT service back in house, the risks associated with this option were provided together with the procurement considerations, cost implications and resource requirements as set out in the report.

Members were referred to the procurement route, key steps and timescales and resource requirements for the private sector provision option and

**Appendix B**

public-public partnership/collaboration option, details of which were set out in the report.

Given that the previous procurement exercise had identified significant savings over the life of the contract to the benefit of the Medium Term Financial Strategy, the financial implications of not pursuing this option were set out in the report. In summary the costs of the various procurement options were identified below:-

Option 1 – Private Sector Competition plus In house bid	£265,000
Option 2 – Private Sector Competition Only	£130,000

It was not recommended that Option 3, public-public collaboration be progressed as a result of the cost benchmarking exercise which had been undertaken.

It was important that an exercise of this scale, complexity and importance to the authority that the advice of officers was considered in taking any decision. The report provided details of officer advice in relation to the options.

As indicated in the previous sections of the report and summarised above there were significant complexities and risks around exploring multiple options for ICT at the same time. These issues could impact on the ability to deliver an effective ICT service when the existing contract ended and the opportunity to achieve savings at least equal to those which would have been delivered from the previously proposed ICT / Revenues and Benefits procurement. There were also significant one-off costs of exploring multiple options for ICT.

Based on an assessment of these risks, work undertaken to date and costs, it was officers best professional advice that the Council should only pursue the option of a new private sector contract for the provision of ICT, as this option provided the safest and most robust route for the continued delivery of ICT, maximised the opportunity for future technology benefits and secure contractually enforceable savings. This report included the initial exploration of the available options and the professional advice of officers in pursuing these.

If Members accepted this advice they then needed to determine the scope of the contract as this would impact on the level of savings achievable. This issue was a policy decision, although officers would advise Members excluding certain aspects from the scope of the contact would increase the savings which could be achieved.

The timescales attached to this exercise were complex and would be difficult to achieve. On this basis a decision was required by Cabinet no later than the end of July and then Council (in respect of the funding required) if the procurement exercise was to be effectively delivered, the position of the authority not compromised and any potential transition

arrangements effectively managed.

The Mayor was of the view that the report should be referred to Scrutiny and sought clarification that the timescale of 9 July for feedback to Cabinet was achievable. The Chair of Scrutiny Coordinating Committee indicated that the proposed timescales could be achieved and suggested an alternative informal option for consideration of this issue. The Mayor expressed a preference that the issue be considered formally in accordance with the decision making process and confirmed that Cabinet Members would be available to attend scrutiny meetings as required.

### **Decision**

- (i) That the report be referred to scrutiny for consideration and that a response be provided to the Cabinet meeting of 9 July 2012 to ensure the procurement exercise could be undertaken.
- (ii) Cabinet noted the investigations and information which had been undertaken in respect of the decision of Council on 23<sup>rd</sup> February 2012.
- (iii) Cabinet noted the results of the informal assessment of the potential for a Public / Public arrangement and the implications of this identified in the report.

The meeting concluded at 11.25 am.

**P J DEVLIN**

**CHIEF SOLICITOR**

**PUBLICATION DATE: 18 JUNE 2012**



## SCRUTINY CO-ORDINATING COMMITTEE

29 June 2012



**Report of:** Scrutiny Manager

**Subject:** CALL-IN OF DECISION: FUTURE OPTIONS FOR  
THE PROVISION OF A STRATEGIC HR FUNCTION

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### 1. PURPOSE OF THE REPORT

- 1.1 To provide Members of the Scrutiny Co-ordinating Committee with the relevant information relating to the Call-In of the decision taken by Cabinet on the 11 June 2012, in relation to the future options for the provision of a strategic HR function, as per the Authority's Call-In procedure.
- 1.2 To enable the Scrutiny Co-ordinating Committee to:-
  - i) Make a decision in relation to the acceptance or rejection of the Call-in; and
  - ii) Consider, subject to the acceptance of the Call-in:
    - The way forward in dealing with the Call-In;
    - The formulation of a response / comments for consideration by Cabinet (via the Proper Officer).

### 2. BACKGROUND INFORMATION

- 2.1 At the meeting of Cabinet, held on 11 June 2012, a report was considered in relation to the future options for the provision of a strategic HR function. A copy of the report considered by Cabinet on the 11 June 2012, and relevant decision record (Minute No. 10 refers), are attached at **Appendices A and B** respectively for Members consideration.
- 2.2 Following the decision of Cabinet, a Call-In Notice was issued by 3 Members of the Scrutiny Co-ordinating Committee on the 22 June 2012. This notice was accepted by the Monitoring Officer on the 22 June 2012 and a copy is attached at **Appendix C**.

### **3. CALL-IN PROCESS**

3.1 The Scrutiny Co-ordinating Committee has the power under Section 21 of the Local Government Act 2000, and Rule 14 of the Council's Scrutiny Procedure Rules, to call-in decisions made by the Executive but not yet implemented.

3.2 The Call-In notification outlines the reasons why the signatories were of the opinion that the decision had been taken in contravention of the principles of decision making, as outlined in Article 13 of the Constitution. The reasons identified in the Call-In Notice are as follows;

- vii) Clarity of aims and desired outcomes;
- v) Best Value; and
- xi) Efficiency (i.e. decisions must not be unnecessarily delayed).

The narrative within decision record re: scrutiny is not accurate.

3.3 Details of the narrative from the decision record are outlined below to assist Members.

'A number of scrutiny chairs had made representations to CMT in relation to the future delivery of a strategic HR function. Whilst they were fully cognisant of the challenges ahead and supportive of the need to continue to provide a dedicated and clear strategic HR service they did not feel that this should be done by Option 1 i.e. reappointing to a permanent full time Chief Customer and Workforce Services Officer post. They felt the costs of this option were prohibitive and did not feel it met the authority's needs going forward. Option 3 i.e. a shared service with Darlington was also not one that they wished to see continue as they felt the costs of continuing with this arrangement were also prohibitive.

They had indicated that in their view some form of internal restructure would be of more value to the council but would wish to see the costs associated with this limited significantly. This would mean that the increase in HR capacity that was required for Option 2 would potentially not be able to be fulfilled by the appointment of an additional HR advisor, but via the re-grading of staff currently providing an HR service. This would have the impact of altering the nature and type of duties undertaken by staff but would not offer the additional capacity CMT felt was required.'

### **4. NEXT STEPS**

4.1 In the first instance, the Committee must decide whether it agrees with the Members submitting the Call-In Notice that the decision should be Called-In for the reasons set out in the Notice. These reasons should then form the basis for the Committee's consideration of the decision. The Committee will also then need to decide how it wishes to proceed with consideration of the Call-In.

- 4.2 Subject to the acceptance of the Call-In by the Scrutiny Co-ordinating Committee invitations have been extended to Cabinet, and relevant officers, to attend today's meeting to assist Members in their consideration of the Call-in.
- 4.3 Having fully discussed the reasons outlined within the Call-In Notice there are two ways forward:-
- (i) Should the Committee be satisfied that the principles of decision making have not been contravened, the decision(s) will be effective immediately; or
  - (ii) Should the Committee remain concerned about the decision(s), comments should be agreed for formal consideration by Cabinet at the earliest opportunity. The next possible Cabinet meeting being held on the 9 July 2012. Following receipt of these comments Cabinet would be required to reconsider the decision in light of them and either reaffirm or amend the decision. A response from Cabinet must then be referred to the Committee, setting out the reasons for reaffirming or modifying the decision, in relation to the issues raised by the Committee.

## **5. RECOMMENDATIONS**

- 5.1 That Members of the Scrutiny Co-ordinating Committee decide if they wish to accept or reject the Call-In Notice;
- 5.2 That subject to acceptance of the Call-in:
- i) Consideration be given to the way forward in dealing with the Call-In;
  - ii) Consideration be given to the whether the decision was taken in accordance with the Principles of Decision Making (as outlined in Article 13 of the Constitution); and
  - iii) Should the Committee be of the view that the decision was not taken in accordance with the Principles of Decision Making, comments be formulated for consideration by Cabinet (via the Proper Officer).

**Contact Officer:-** Joan Stevens– Scrutiny Manager  
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Hartlepool Borough Council  
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## **BACKGROUND PAPERS**

The following background paper was used in the preparation of this report:-

- (i) Hartlepool Borough Council's Constitution
- (ii) Reports and Minutes – Cabinet of 11 June 2012
- (iii) Call-in Notice – 22 June 2012

# CABINET REPORT

11 June 2012



**Report of:** CHIEF EXECUTIVE

**Subject:** Future options for the provision of a strategic HR function

## 1. TYPE OF DECISION/APPLICABLE CATEGORY

Non Key Decision.

## 2. PURPOSE OF REPORT

2.1 To set out options for the future provision of a strategic HR function. This report will present three options for cabinet to consider.

- Reappointment of a Chief Customer & Workforce Services Officer,
- undertake an internal restructure which removes the strategic HR post
- Continue to share a Head of HR with Darlington Borough Council.

## 3. BACKGROUND

3.1 The financial pressures facing the Council have been set out for Members in other reports on a regular basis and all departments are required to identify savings to balance budgets. As a consequence, officers are regularly looking at options to make savings and critically review each post that becomes vacant. We do this in order to be sure that we need the post and to see if the service can be provided in a more cost effective way by either restructuring or by sharing the costs with a partner. As such, officers are in regular contact with other local authorities to share best practice and identify potential opportunities for efficiencies and savings.

3.2 Last year Darlington BC considered the options available to them as they prepared for the retirement of an Assistant Director – Human Resource Management (HRM) at Darlington Borough Council in March 2012. In August 2011 Cabinet agreed to enter into a contractual agreement with Darlington BC for Hartlepool's Chief Customer & Workforce Services Officer to undertake the lead HR role for both local authorities. This decision followed initial discussions at Chief Executive level and Darlington's assessment that this joint arrangement would satisfy their requirements. Temporary arrangements were made to re-allocate some responsibilities of the Chief Customer &

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Workforce Services Officer to other Chief Officers in the Chief Executive's Department.

- 3.3 The Chief Customer & Workforce Services Officer has tendered her resignation to take up another post and will leave the employment of Hartlepool BC on 30 June 2012. In light of this resignation it is important for both councils to reassess their needs for a shared strategic HR post for which HBC has been the employing council.
- 3.4 As with all potential vacancies, it is important that the council considers the need to replace, restructure or change the shape of how services are delivered. The options for the future delivery of this service are presented below for members to consider. As part of the consideration of future options it is important for cabinet to be aware of the strategic HR functions that are required by any public sector organisation with significant staffing resources. It is essential as part of any future service configuration the council is able to draw upon strategic advice that has:
- knowledge and understanding of employment law, national agreements, regional networks and local policies to carry out constitutional requirements and to ensure compliance with statutory regulations and national/local agreements
  - expertise in monitoring and managing corporate and operational HR activities;
  - an on-going relationship with a range of local, regional and national local government and trade union officers to maintain effective industrial relations and to act as the Council's lead negotiator
- 3.5 The 3 options for the future delivery of this support are outlined in Section 4.

**4. OPTIONS FOR CONSIDERATION**

**4.1 Option 1 – Recruit into a HBC only Chief Customer and Workforce Services Manager Post**

- 4.1.1 HBC could withdraw from the HR partnership with Darlington Borough Council and reappoint into the Chief Customer & Workforce Services Officer post. Whilst this option would ensure the council has the capacity and specialist skills to deliver a strategic HR service, it also offers increased management capacity and cost across the senior management team. The current partnership arrangement with Darlington Borough Council has been successful. It has ensured that both organisations have made efficiency savings, and have shared resources and skills whilst still offering a strategic high level professional HR service to both councils. Schools are a major contributor to the costs of the HBC HR service and this option would be acceptable to them as it gives them the continuity they require and gives confidence that the council is still providing a strategic HR service. In Hartlepool all but 3 schools buy into the service and over 90% of schools indicated their satisfaction with the HR service they receive via the annual negotiation with schools as part of the SLA reviews. However recruiting into a

like for like post may not be a realistic longer term option. The council is increasingly looking for additional savings and a corporate restructure may be required in the next twelve months which may mean an alternative service delivery method would be required. The council is also looking at innovative ways to reduce costs and ensure service sustainability and the work on collaboration may offer options for shared services or alternative options for HR in the future such as a bi or tri borough approach to the delivery of HR services. Recruitment to the post would mean taking on employment liability for the council at a time when we are looking to limit such liabilities. As this post is a Chief Officer post recruitment into this post would require an appointments panel to be set up by full council who would then progress the recruitment process.

#### **4.2 Option 2 – Undertake an internal restructure that removes the Strategic HR Post**

4.2.1 HBC could undertake an internal restructure that removes the Chief Customer & Workforce Services Manager from the establishment and reallocates the management of these services to another Chief Officer with the Chief Executive's Department. This would allow the council to make some savings as a result of this change; however, these will be limited by the need to provide additional HR capacity at a lower level. This more operational post would be expected to lead strategically:

- on all single status and job evaluation issues, involving key negotiations with trade unions
- by acting as the LA lead in relation to the LGA role as negotiator in relation to national changes to staff terms and conditions
- by representing the council in any regional and sub regional partnerships,
- on any future corporate restructure which may include changes to Chief Officer posts,
- on any HR issues relating to future collaboration opportunities
- in supporting the significant HR issues that will arise from the future budgetary issues including redundancy and restructurings issues.
- on HR strategy and policy development and workforce development.

4.2.2 This approach to removing the strategic HR post is one that has been used in two neighbouring councils, both of whom increased HR operational capacity at the same time and reallocated duties to other Chief Officers. However in doing so it is important to note that both of those authorities have significantly more Chief Officers than Hartlepool does to share out the responsibilities and duties. Important to note is that one of those authorities who undertook this change some time ago is now training the Chief Officer who took on most of these services in HR and Personnel management and the other is just appointing an operational HR lead at a salary that is virtually equivalent to the HBC lowest grade of Chief Officer i.e. Band C.

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- 4.2.3 This option would however, allow the council to remove a post at Chief Officer level in keeping with the requirement to protect front line services. This option does have a number of risks inherent within it. Any restructure and reallocation of responsibilities and duties of the Chief Customer and Workforce Services Officer of HR would involve a significant change and would require formal consultation with those Chief Officers affected by this change. It is also possible that any change may have an impact on the officer's grade due to the additional responsibilities that they would be required to manage and become accountable for. This reallocation of duties and strategic responsibility could have the potential to leave the council at increased risk of employment litigation due to the lack of specialist and strategic HR advice.
- 4.2.4 A more significant risk is that any removal of strategic HR capacity may cause concern for schools if they feel the council is not capable of providing them with the strategic HR function they currently purchase. Schools fund approx 30% of the councils HR function which also supports the council's HR offer. Any large scale removal of funding from the HR service by schools would provide the council with a significant budget pressure as the Council would lose the economies of scale from the strategic HR function supporting both the Council's own requirements and schools requirements. . It would therefore be essential that if Option 2 is taken significant reassurance would need to be given to schools to convince them that any new service reconfiguration does not dilute the service they purchase from the council and would still offer them the strategic advice they require. The savings in this option may be limited as there would be a need to create additional operational HR capacity to meet the needs of the council going forward. This capacity is likely to involve the appointment of an additional HR advisor. It may also result in the need for some adjustment to the grading of other officers involved in any reallocation of duties. This option would increase operational capacity but would limit strategic capacity
- 4.3 Option 3 – continue in a shared arrangement with Darlington Borough Council**
- 4.3.1 In August 2011 Cabinet agreed to enter into a contractual agreement with Darlington BC for Hartlepool's Chief Customer & Workforce Services Officer to undertake the lead HR role for both local authorities.
- 4.3.2 A contract was agreed which included a break clause at six-months to protect the interests of the respective parties. Monitoring arrangements of the contract since it began formally on 1 November 2011 indicate that both local authorities are satisfied that the shared role provides the required leadership and management of the HR service and would confirm the contract beyond the six month break clause.
- 4.3.3 Darlington Borough Council have considered their options regarding a future HR service and potential replacement in the light of the resignation of the shared strategic HR post and have decided that they do want to retain a strategic HR lead. As a result they will progress and appoint into a strategic



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HR post irrespective of the HBC decision on the future option they wish to take. DBC however, have agreed to hold their recruitment process until HBC have made a decision in relation to their requirements for a strategic HR post to enable a post to be clearly advertised as either a sole DBC post or a post that offers a shared service to HBC.

- 4.3.4 It was in light of the successful shared arrangement for the last 6 months that Darlington BC offered to take the role as lead authority and recruit to the Assistant Director – HRM, a vacancy that remains on Darlington Council's structure so that the shared arrangements can continue without delay. Darlington BC recognise that the role within Child and Adult Services that offers a shared schools improvement service ie Assistant Director – Performance & Achievement was recruited to by Hartlepool BC and in the spirit of partnership would like to take employer responsibility for any replacement to the shared HR function. This option would enable Hartlepool to minimise its legal and financial obligations in relation to employee liabilities as we would in effect be buying a service.
- 4.3.5 If HBC were to proceed into a shared arrangement it is suggested that this is done for an initial period of 12 months then reviewed. This enables Hartlepool to reconsider its position in 12 months once the outcome of any collaboration work is known. It enables any corporate restructure to take place without any additional employee liabilities to consider but allows senior HR advice at a time when significant change is taking place within the organisation. This option would be acceptable to schools as they are comfortable with how the service has been delivered in the last 6 months. A key objective for the shared role was to begin work on the development of an arm's length, LA delivered, specialist support service for schools across most of Tees Valley. This would work with academies and free schools as much as with local authority community, foundation or trust schools. This is important as the aim is to avoid schools buying independent LA services from the plethora of schools advisory services that are springing up as a result of the academies policy drive. This would support not only HR but other local authority school buy back services such as school improvement, payroll, legal and finance.
- 4.3.6 If option 3 is taken it is suggested that the formal legal contract that already exists between the two authorities which agrees to share equally the costs of the post is used. It would ensure the same contractual terms would apply that HBC was comfortable with previously but instead names Darlington BC as the contractor and Hartlepool BC as the client. Darlington BC would therefore become the employer of the new postholder and under the main terms and conditions of employment determined by Darlington BC. The new employment contract would specify the requirement to deliver services to other organisations.
- 4.3.7 If option 3 is taken Darlington BC would welcome Hartlepool BC Members and Officers' involvement in the recruitment process to select a new postholder. As a Chief Officer post a formal appointment by Members is required under Darlington's constitution.

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- 4.3.8 As with option 2 the substantive duties of the Chief Customer & Workforce Services Officer which include responsibility for workforce services, customer services, shared services, revenues and benefits services would need to be reallocated. Options for permanently relocating services within the Chief Executive's Department were already under consideration due the current shared arrangement and a further report would be presented to Cabinet as part of any corporate restructuring proposals.
- 4.3.9 This option gives HBC less than a whole time post offering strategic capacity but as the post holder will be involved on behalf of both LA in many strategic forums and in responding to the same policy changes would in terms of economies of scale. This option may still incur some additional cost due to the reallocation of duties and the impact on grading of other officers.

**5. FINANCIAL IMPLICATIONS**

- 5.1 The costs (which include employer overheads - national insurance and pension costs) associated with implementing each of the three options presented are outlined below. Some of these costs may vary slightly dependent upon the outcome of any recruitment or restructuring process and associated grading issues. However the costs outlined below are a realistic reflection of the true costs of each option.

**5.2 Option 1 – Recruit into a HBC only post**

- 5.2.1 This option would require additional savings to be found of £51.7k per annum to fund the remaining half of the post as the partial costs of this post were incorporated into the savings programme agreed by council last financial year. The full year costs (including employer overheads) of this post is between £91.9k - £103.4k p.a

**5.3 Option 2 – Undertake an internal restructure that removes the Strategic HR Post**

There would be a requirement to increase the capacity of the HR function. This would entail the potential appointment of an additional HR advisor at Band 15 - £54.9k (minimum of grade) to £59.9k (maximum of grade) with oncost.

**5.4 Option 3 Shared Service with DBC**

- 5.4.1 Full year savings associated with sharing the cost of the post were originally estimated as being £51.7k (inclusive of pension and NI saving). This amount was included in the Chief Executive's Department savings proposals and was based on equal sharing of employment costs between Hartlepool and Darlington Councils.
- 5.4.2 The DBC grade of the Assistant Director – HRM to be filled has a salary range of £72,000 - £84,000 p.a. with a total of seven incremental points. This is

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slightly different to the salary range within Hartlepool BC for the Chief Customer & Workforce Services Officer which is £72,254 - £81,062 p.a.

- 5.4.3 The costs of a shared Assistant Director HR with DBC (inclusive of pension and NI saving) would be dependent upon the starting salary on appointment and incremental progression. There will be a very small amount of additional savings for Hartlepool at the minimum at the grade and a small decrease in the savings when the maximum of the grade is achieved. This amount is estimated between £45k (minimum of grade) £52.5k (maximum of grade).

## 5.5 Financial Summary

- 5.5.1 The following table summaries the cost of the above options at the maximum of the grade (all figures include employers overheads):

Option	Total Cost	Additional Cost to existing shared arrangement with DBC (which HBC lead)
1. Recruit into a HBC only post	£103.4k	£51.7k
2. Undertake an internal restructure that removes the Strategic HR Post	£59.9k	£8.2k
3. Shared Service with DBC *	£52.5k	£0.8k

\* The cost of a shared Strategic HR posts may reduce if work on collaboration across 3 authorities enables this arrangement to be extended beyond HBC and DBC.

## 6. CONSULTATIONS

- 6.1 If either Option 2 or 3 were chosen there would be a requirement of formal consultation to take place with those staff that would be affected by these changes. In relation to the current shared HR service consultations were undertaken with those staff affected by the requirement to reallocate service responsibilities last summer and no adverse comments were received regarding the proposals. It was not possible however to conclude the consultations at the time given the temporary nature of the shared arrangements with DBC.
- 6.2 As mentioned previously both Options 2 and 3 require ongoing formal consultations and these would need to commence as soon as a decision is made upon the option taken as both options are slightly different in emphasis and may involve different council officers.
- 6.3 The Trade Unions were previously consulted on the proposals inherent with a shared post with DBC i.e. Option 3 and wrote a letter of support for this option at the time. They would be involved in any further consultation relating

to whichever option is taken.

- 6.4 In relation to both options 2 and 3 there could be the potential in the future to extend shared HR arrangements across the three local authorities involved in the collaboration work. This would enable further savings to be achieved whilst retaining the services of a qualified HR professional at a strategic level.
- 6.5 A number of scrutiny chairs have made representations to CMT in relation to the future delivery of a strategic HR function. Whilst they are fully cognisant of the challenges ahead and supportive of the need to provide a dedicated and clear strategic HR service they do not feel that this should be done by Option 1 i.e. reappointing to a permanent full time Chief Customer and Workforce Services Officer post. They feel the costs of this option are prohibitive and do not feel it meets the authority's needs going forward. Option 2 i.e. a shared service with Darlington is also not one that they wish to see continue as they feel the costs of continuing with this arrangement are also prohibitive.
- 6.6 They have indicated that in their view some form of internal restructure would be of more value to the council but would wish to see the costs associated with this limited significantly. This would mean that the increase in HR capacity that is required for Option 2 would potentially not be able to be fulfilled by the appointment of an additional HR advisor, but via the re-grading staff currently providing an HR service. This would have the impact of altering the nature and type of duties undertaken by staff but would not offer the additional capacity CMT feel is required.
- 6.7 A key issue for cabinet to consider in any option is the position of schools in relation to the HR service. We must ensure we continue to provide a full HR offer to schools, one that they will want to continue to buy into as any apparent dilution of this service may see them look elsewhere for HR support and a council budget pressure will result.

## **7. Conclusions**

- 7.1 Dependent upon the option taken by cabinet there is a requirement for further work to be undertaken by CMT and for cabinet to address this as part of the recommendations of this report.
- 7.2 If Option one is chosen a report will be presented to full council to request the setting up of an appointment panel as the Chief Customer and Workforce Services Officer post is a council appointment, in line with the council's constitution on the recruitment of Chief Officer posts. It will also require additional savings to be found for the budget this year as part costs of this post were agreed as a budget saving by council as part of last year's budget process.
- 7.3 If Option 2 is taken CMT will develop a new operational structure within this area and a consultation process will commence which will involve those

**Appendix A**

officers who would be impacted by the restructure process. The outcome of that process will be reported back to cabinet for decision in relation to the reallocation of duties inherent within the current Chief Customer and Workforce Services Officer post and any grading issues that may be impacted on by this option.

- 7.4 If Option 3 is chosen cabinet will need to agree to enter into a new agreement with Darlington Borough Council to share a joint Head of HR and that the Acting Chief Executive and/or Chief Solicitor be delegated to finalise the legal agreement with the General Purposes Committee. Cabinet are also asked to nominate the appropriate Member/Officer to be involved in the recruitment process undertaken by Darlington BC.

**8. RECOMMENDATIONS**

- 8.1 Cabinet are asked to consider the three options presented within this report and to make a decision on which option they feel best meets the needs of the Authority going forward.

- 8.2 Dependant upon which option is chosen one the following set of recommendations will be required to be agreed upon.

**8.3 Option 1**

- 8.3.1 Cabinet to agree to a report being presented to full council for the recruitment to the Chief Customer and Workforce Services Officer post and for cabinet to receive a further report on the additional savings that would be required to fund this post in its entirety.

**8.4 Option 2**

- 8.4.1 Cabinet to receive a further report to consider the outcome of the staff consultations and the impact any changes may have on officer grading.

**8.5 Option 3**

- 8.5.1 Cabinet are asked to agree to enter into a new agreement with Darlington Borough Council to share a joint Head of HR and that the Acting Chief Executive and/or Chief Solicitor be delegated to finalise the legal agreement with the General Purposes Committee. Cabinet are also asked to nominate the appropriate Member/Officer to be involved in the recruitment process undertaken by Darlington Borough Council.

**9. CONTACT OFFICER**

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MINUTE EXTRACT

**CABINET**

**MINUTES AND DECISION RECORD**

11 June 2012

The meeting commenced at 9.30 am in the Civic Centre, Hartlepool

**Present:**

The Mayor, Stuart Drummond - In the Chair

Councillors: Cath Hill, Children's and Communities Portfolio Holder  
John Lauderdale, Adult and Public Health Services Portfolio Holder  
Paul Thompson, Finance and Corporate Services Portfolio Holder

Also Present: Councillor Marjorie James, Chair of Scrutiny Co-ordinating  
Committee  
Councillors Richardson and Wells

Officers: Nicola Bailey, Acting Chief Executive  
Andrew Atkin, Assistant Chief Executive  
Peter Devlin, Chief Solicitor  
Chris Little, Chief Finance Officer  
Dave Stubbs, Director of Regeneration and Neighbourhoods  
John Morton, Assistant Chief Finance Officer  
Sally Robinson, Assistant Director, Prevention, Safeguarding and  
Specialist Services  
John Mennear, Assistant Director, Community Services  
Louise Wallace, Director of Public Health  
Alastair Rae, Public Relations Manager  
Clare Clark, Neighbourhood Manager, Central  
James Walsh, Scrutiny Support Officer  
Denise Wimpenny, Principal Democratic Services Officer

**10. Future Options for the Provision of a Strategic HR Function** *(Chief Executive)*

**Type of decision**

Non-key

**Purpose of report**

To set out options for the future provision of a strategic HR function. This report will present three options for cabinet to consider.

**MINUTE EXTRACT**

- Reappointment of a Chief Customer & Workforce Services Officer,
- Undertake an internal restructure which removes the strategic HR post
- Continue to share a Head of HR with Darlington Borough Council.

**Issue(s) for consideration by Cabinet**

The Chief Executive provided background information to the current HR strategic provision and the options available in terms of future provision following the resignation of the Chief Customer and Workforce Services Officer.

Members were referred to the benefits and implications of the three options, as set out in the report.

With regard to option 1, to recruit into an HBC only Chief Customer and Workforce Services Manager post would mean taking on employment liability at a time when the Council were looking to limit such liabilities.

In relation to option 2, to undertake an internal restructure that removed the Strategic HR Post, this would allow the Council to make some savings as a result of this change. However, these would be limited by the need to provide additional HR capacity at a lower level. This more operational post would be expected to lead strategically on a number of areas as detailed in the report. This approach to removing the strategic HR post was one that had been used in two neighbouring councils, the outcome of which was detailed in the report. The significant risks of this option were outlined.

In terms of Option 3, to continue in a shared arrangement with Darlington Borough Council, Darlington had considered their options regarding a future HR service and decided they did wish to retain a strategic HR lead. As a result they would progress and appoint into a strategic HR post irrespective of the HBC decision on the future option they wished to take. In light of the successful shared arrangement for the last 6 months Darlington had offered to take the role as lead authority so that the shared arrangements could continue and would welcome HBC Members and Officers' involvement in the recruitment process.

Members were referred to the financial implications of the three options as detailed in the report.

A number of scrutiny chairs had made representations to CMT in relation to the future delivery of a strategic HR function. Whilst they were fully cognisant of the challenges ahead and supportive of the need to continue to provide a dedicated and clear strategic HR service they did not feel that this should be done by Option 1 i.e. reappointing to a permanent full time Chief Customer and Workforce Services Officer post. They felt the costs of this option were prohibitive and did not feel it met the authority's needs going forward. Option 3 i.e. a shared service with Darlington was also not one that they wished to see continue as they felt the costs of continuing with this arrangement were also prohibitive.

**MINUTE EXTRACT**

They had indicated that in their view some form of internal restructure would be of more value to the council but would wish to see the costs associated with this limited significantly. This would mean that the increase in HR capacity that was required for Option 2 would potentially not be able to be fulfilled by the appointment of an additional HR advisor, but via the re-grading of staff currently providing an HR service. This would have the impact of altering the nature and type of duties undertaken by staff but would not offer the additional capacity CMT felt was required.

Cabinet considered the various options and discussed which options best met the needs of the authority going forward. Following discussion, Cabinet were of the view that Option 3 should be pursued given the ongoing financial challenges facing the authority and the success of the current arrangement with Darlington.

**Decision**

- (i) Cabinet agreed to enter into a new agreement with Darlington Borough Council to share a joint Head of HR and that the Acting Chief Executive and/or Chief Solicitor be delegated to finalise the legal agreement with the General Purposes Committee.
- (ii) That the arrangement be reviewed in 12 months time.

The meeting concluded at 11.25 am.

**P J DEVLIN**

**CHIEF SOLICITOR**

**PUBLICATION DATE: 18 JUNE 2012**



# Hartlepool Borough Council

## Overview and Scrutiny – Call-in Notice – Scrutiny Chairs



### 1. Which decision would you like to call-in?

(Please include details of the decision, when it was taken and by whom)

Future Options for the Provision of a Strategic HR Function Cabinet published 18/6/12.

### 2. What are the reasons for calling-in this decision?

Call-in must only be used in exceptional circumstances and the justification for the call must be either: Please tick as appropriate

- that the decision or proposed decision is outside the Budget and Policy Framework ☐
- that the decision was not taken in accordance with the principles of decision making set out in Article 13 of the Constitution ☐

Clarity of aims and desired outcomes  
Best Value  
Efficiency  
Narrative within decision record re scrutiny is not accurate

Councillor	Position and Party Group	Signature
1. C AKERS-BELCHER	CHAIR CHILDREN'S SERVICES SCRUTINY FORUM – LABOUR	
2. R.W. COOK	SCC MEMBER	
3. R.H. WELLS	CONSERVATIVE GROUP LEADER	

NB. Each of the Scrutiny Chairs may initiate call-ins providing they have the support of at least two members of the Scrutiny Co-ordinating Committee. The three signatories must represent at least two of the Council's political groups.

Councillor: Christopher Akers-Belcher

Signed:

Date: 22/6/12

For office use only

Date received: 22.6.2012

Initials: JS

SCC Agenda: 29 June 2012