

**Open Report on behalf of Debbie Barnes, Executive Director of Children's Services**

Report to:	<b>Executive</b>
Date:	<b>1 May 2018</b>
Subject:	<b>Corporate Support Services re-provision</b>
Decision Reference:	<b>I015576</b>
Key decision?	<b>Yes</b>

**Summary:**

This report summarises the work done to date in reviewing the way forward for those services delivered by Serco under the Corporate Support Services contract when the initial term expires at the end of March 2020. The report recommends a way forward.

**Recommendation(s):**

That the Executive;

- (i) Notes the report
- (ii) Approves the entering into of a shared service arrangement under section 9EA of the Local Government Act 2000 and Regulation 5 of the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012 for the exercise by Herefordshire County Council or, as the case may be, the executive of Herefordshire County Council of the Council's payroll and People Management Administration function from 1 April 2020; and
- (iii) Approves the entering into of a public-public co-operation with Herefordshire County Council to provide access to Hoople Limited's Business World ERP for LCC's Finance function, accountancy, financial, administration and Adult Care Finance services from the 1 April 2020.
- (iv) Delegates to the Executive Director of Children's Services in consultation with the Leader of the Council and the Executive Councillor for Community Safety and People Management authority

to take all decisions necessary to ensure the entering into of the above shared service arrangements described in (ii) and (iii) to include the entering into of the shared service agreement itself and delivery of services from the 1 April 2020 but only once the requirements of paragraph 40 of the Report have been met.

- (v) Approves the carrying out of market engagement and all ancillary activity with IT providers.

#### **Alternatives Considered:**

1. Decide to commence a repeat procurement for another Business Process Outsourcing contract. This would enable much of the work done on the Serco procurement to be re-used having been revised to update/make improvements. That would reduce the cost of re-provision and repeat a procurement procedure that the Council is familiar with. However that would require the continued use of a model which is falling out of favour with Councils and providers alike and which has not always delivered across all service streams.
2. Decide now not to award a contract or enter into a shared service arrangement and in-source all of the services – this would enable the Council to take more control of the day to day delivery of the services but would require the insourcing of staff on what are primarily back office support services potentially diverting resource and attention away from front line services. It would also pass the employment, service delivery and cost risk back to the Council. This raises the Council's risk profile particularly in the more complex service areas, Payroll and IT, where the Council has limited experience to mitigate that risk and where experienced employees are hard to recruit and where other providers such as the shared service referred to may be better positioned to manage that risk.
3. Identify a re-commissioning strategy that divides up the services differently from Payroll/PM Administration; IT and the other services. This would allow more flexibility and therefore less reliance on a few providers. But it would not make the best of the available providers, would probably mean that the service bundle would be too small to encourage Serco or other providers to bid, would increase fragmentation and contract management costs.

#### **Reasons for Recommendation:**

The Council has undergone a thorough review of the current contract performance and the commercial and shared service markets to identify the source of expert provision in those areas where performance has not always been

strong.

In the case of Payroll and PM Administration much of the necessary due diligence has been completed and it is anticipated that it should be possible to come to a good value arrangement with a provider whose core business is local authority payroll, increasing confidence in both the payroll system and service whilst enabling us to retain Business World On (formerly known as Agresso) as the Council's Enterprise Resource Planning (ERP) system.

In terms of IT, whilst there are frameworks in place with providers who will be able to meet the Council's requirements the Council needs further information through market engagement before it can decide whether to go down the procurement route.

In terms of the other services (i.e. not payroll and IT) no decision needs to be made imminently because in broad terms given the extent of the external market (outside of a business process outsourcing contract) the choice available to the Council is likely to be an extension of the existing contract with Serco or an in-sourcing, both of which would secure on-going local service delivery. Either of these options have a shorter lead in time than entering into arrangements with a provider other than Serco. The Council will have more information upon which to decide the way forward in the summer when we will understand Serco terms for an extension and when we have seen how Serco has continued to perform.

## **Background**

### **General**

1. On 21 March 2014 the Council entered into a contract with Serco Limited for a range of back-office services. The price offered by Serco was competitive and at the time equated to savings of nearly £10m or 16% budget savings over the 5 year term across IT, People Management (PM) and Finance with a further circa £5m (or 26%) in respect of the CSC. These savings are priced into the contract rates paid by the Council. Serco's margins were low.
2. Serco commenced service delivery on 1 April 2015 for 5 years. The services covered are People Management including Payroll; Financial Administration including Adult Care income collection and assessment; CSC Services and IT Services. Under its contract with the Council Serco is required to provide PM professional advice and administration, Payroll and IT to those maintained schools who wish to buy the services. Additionally Serco supports the Council's financial services offer to schools by providing the necessary financial administration.

3. It became clear that Serco very significantly underestimated its costs of delivering the service and it made an onerous contract provision in respect of the Lincolnshire contract in the sum of £34m over the first five years of the contract in 2015/16. Much of that overspend has been on transformation work being under budgeted and an under-resourced staffing model overestimating Business World On's ability to reduce activity, the Council's delayed implementation of Mosaic (anticipated to be in place by December 2014) and a failure to understand this was a second generation outsourcing where efficiencies had already been made. As a result whom-ever the future provider, the cost of service provision is likely to go up.
4. As part of its solution Serco adopted Business World On as an integrated financial and people management system or ERP system. Serco contracted with Unit 4 - developer/owner of the software - to implement the system and as part of its bid price Serco has purchased Business World On licences for the Council's use in the Council's name throughout and after the contract for a total period of 25 years. It is the implementation of Business World On that has been the biggest single issue in the contract to date. See paragraphs 25 to 29 below for a further discussion of this.
5. The Council is past the mid -way point of the initial 5 years in its corporate support services contract with Serco which will expire on the 31 March 2020 if not extended (by up to two years in the first instance and then potentially by a further two years). The Council must issue a notice of extension to Serco no later than the 30 March 2019 if it wishes to extend the contract.
6. Should the Council wish to extend then Serco will set the terms on which they would be prepared to extend. Without Serco's agreement there can be no extension. Serco have indicated that they would be keen to extend in the right circumstances. Local government continues to be a chosen market and for the future Serco would like Lincolnshire to be a reference site. It would be possible for the Council to extend all or some of the services currently delivered. It would also be possible for additional services to be added so long as they were within the original scope of the contract notice. Serco has been asked to price an extension but in any event the Council must consider its alternatives as either it or Serco may not wish to extend or be able to agree the terms of an extension.
7. Realistically decisions must be taken sooner than the 31 March 2019 because the lead in time to other arrangements including the transition from one provider to another will be long when third parties are involved. As a consequence work looking at future options is underway. That has included looking at Serco's performance under the contract, reviewing the possibility of procuring another Business Process Outsourcing (BPO) Contract and looking at the alternatives to another BPO. There has been particular focus on the

payroll function and IT being the areas which have given most cause for concern.

8. A programme board has been set up to deliver the further development and implementation work required. Debbie Barnes is the Sponsoring Director with Andrew McLean acting as the Chief Commissioning Officer. Service Leads lead projects in their service area and report regularly to the Board. The Sponsoring Director and Chief Commissioning Officer will report as required to the Sounding Board consisting of the Leader and relevant Executive Councillors. The Commercial Team will provide the necessary project management support and external advice will be procured as required.

## **Performance**

### *Overview*

9. The first year of operations (April 2015-March 2016) was particularly difficult because the implementation of the Council's ERP, Business World On did not go as well as expected. The Council and schools were left without timely, accurate and complete financial records and with significant problems paying suppliers and staff. Business World On is used for different functions across the Council. The main function is to maintain the ledger so the Council can account for its spending in accordance with strict accounting and reporting rules. The ERP also includes payroll functionality.
10. Business World On has been improved over the last couple of years and successfully upgraded so that it is able to operate payroll with 18/19 HMRC changes but it is still not user friendly; relies too heavily for payroll on manual work arounds and continues to struggle with the demands of year-end. A lack of proper commitment accounting remains an issue. The issues go back to the implementation and cannot be easily remedied. See paragraphs 25 to 29 below for further information.
11. Elements of the IT and CSC transformation are delayed these include Telephone Enablement (Upgrade), Identity Management and channel shift. The scale of payroll errors is such that a project has been set up to review all 3 payrolls (Fire, Schools, Corporate).
12. In broad terms the PM professional advisory services are and have been good throughout the contract; the CSC performs and works well with the Council with the issue of abandoned calls being resolved in October 2017. The relationship with and delivery of Adult Care Finance and Finance services is now generally good and better than delivered by the previous provider. The Council is working well with Serco on Mosaic and the recruitment service has been redesigned. As a result the dropout rates during the job application process has decreased. Effective systems are now in place to reduce the likelihood of duplicate payments.

13. In spite of notable failures to deliver on IT related projects there has been significant IT project delivery. As at December 2017, 154 projects had been delivered out of a possible 309 and 100 more were active and in the delivery process. The IT estate is in a better place now than it was in 2015 in terms of email security, Web browsing security and resilience.

#### *KPIs*

14. The contract has 41 Key Performance Indicators which are measured monthly and together cover most of Serco's service delivery. They are challenging and where directly comparable, require the same level or better performance than that previously delivered. The intention was that Serco would have to work hard to meet them and as a result it was expected that Serco might not meet all of them all of the time. The contract provides for a total of 1000 abatement points to be distributed amongst the Key Performance Indicators, with each KPI generally attracting between 10-50 points. These points translate into service deductions from the monthly payment to Serco for delivering the services.
15. In the first two years of the contract performance as measured against the Key Performance Indicators was poor and as a result service deductions in excess of £2million over this time were made from Serco's contract payment. The continuing lack of performance was subject to regular scrutiny by the Council through the Value for Money Committee and subsequently through Overview and Scrutiny Management Board. This coupled with Serco's remedial plan over time has resulted in a successful recovery.
16. Performance against the Key Performance Indicators has been strong since October 2017 culminating in no service credits in January 2018. In February only one Key Performance Indicator failed to meet its target service level extending the period of stable performance. Table 1 below shows the number of abatement points accrued since the start of the contract to February 2018.

#### *Market Alternatives to an Extension of the Contract*

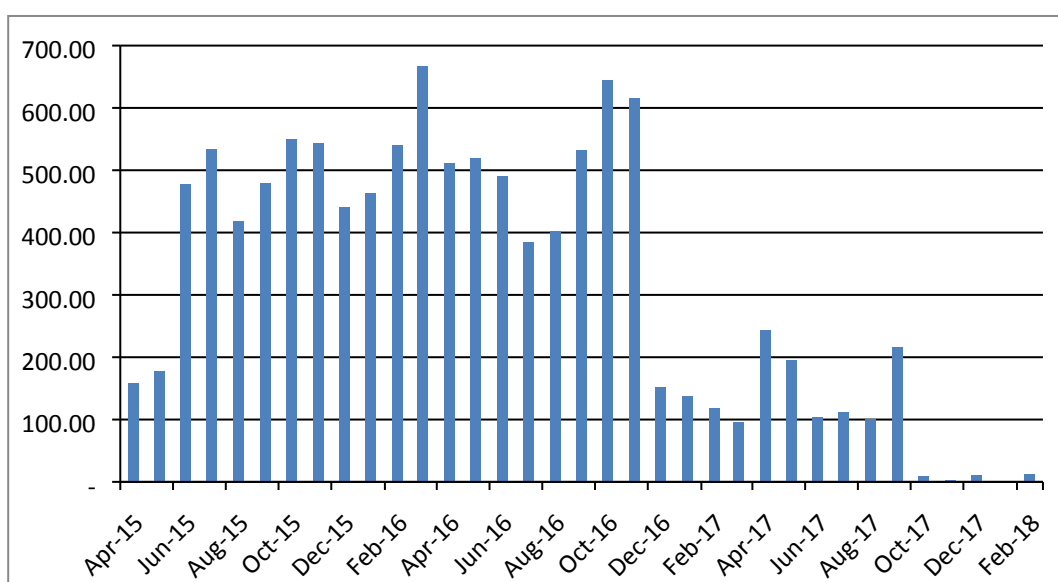
##### *Business Process Outsourcing Contracts*

17. The annual Arvato report analysed all outsourcing contracts procured in local government during 2016. It shows a big increase in outsourcing in IT and Digital Transformation and a move away from the business process outsourcing and/ or back office support services like the contract with Serco.
18. Similarly a market review by Ashford's has indicated that the large business process outsourcing contracts are decreasing because of (i) a mismatch of expectation-local authorities have selected providers mainly on price where the providers are concerned with generating profit and (ii) the large public

sector providers are becoming less financially secure in the face of their customers' austerity. It is of note that the big outsourcers G4S, Capita and Serco share prices have all fallen since 2013 see Table 2 below. Carillion has recently gone into liquidation.

19. Increasingly, local authorities are not extending their BPO contracts and, in some cases, the authorities have terminated contracts early (e.g. Somerset, Essex) and in other cases, providers are choosing not to extend the contract (e.g. BT and South Tyneside Council). In the CSC market, Capita chose not to join the Crown Commercial Service's (CCS) new Framework (2017). Serco has restructured because of less local government business and in December 2017, BT opted not to extend its 10 year shared service in South Tyneside except for IT services as its core business.

**Table 1 Abatement Points**



**Table 2 Outsourcer's Share Price**

Company	Share price in pence April 2018	Share price in pence April 2013
Capita plc	138	880
G4S plc	249	297
Interserve plc	119	355
Kier Group plc	1,093	1,256
Serco Group plc	102	355

20. A benefit of the big outsourcing contracts used to be that the Council could transfer the operational and financial risk of delivering activity to the outsourcer. As Carillion demonstrates the limit of risk transfer is only up to the value of the balance sheet of the outsourcing company.
21. For the above reasons it would be better not to re-procure on the same business process outsourcing model but instead proceed on a multiple provider model to achieve the required performance standards.

### *Insourcing*

22. The Council is a Commissioning Council. Whilst it does not follow that the Council is keen to outsource all of its activity it is not primarily a deliverer of back office services. Consequently a decision must be taken on a case by case basis as to whether or not to deliver services from within or outside the Council on contract expiry. This will depend to a large extent on whether other providers are available, the type of service required and the Council's service delivery experience. Commissioning guidelines used in 2012 indicated services of a primarily transactional/standard professional and routine advisory nature, rather than of a transformational nature, could be outsourced.
23. Conversely insourcing make more sense for those activities which would increase the Council's strategic capability; or where savings could be had or where it is necessary to make up for market deficiency.
24. The areas which have caused the most difficulty have been the ERP system, the payroll function and IT. These are looked at in more detail below.

### *Business World On (formerly known as Agresso)*

25. In the light of ongoing difficulties UNIT4 has undertaken a systematic review of the Council's current deployment of Business World On. In addition, an independent Business Consultant has reviewed the payroll issues and traced their root causes. These include poor configuration of the PM/Payroll system; poor quality data held within the system; lack of experience of Business World On; overly complex legacy pay arrangements; user input issues triggering errors later in the process and a lack of payroll expertise during the first 2 years of the contract. There was little evidence to suggest a fundamental weakness in Business World On itself.
26. UNIT4 say they have improved Business World On with each milestone release and that their build methodology and revised partner network ensure a more uniform approach to the build process which is where it went wrong for the Council. The City of Wolverhampton is happy with Milestone 6 as are Hoople Limited which delivers Herefordshire County Council's payroll. Whilst



there are still only a few councils using Business World On to deliver their PM/Payroll, UNIT4 report increasing public sector business which is encouraging.

27. Business World On configuration issues in Lincolnshire cannot easily be fixed by undertaking iterative fixes in a live environment because of the risk of harm to the live payroll. There is doubt that all the current issues can be remedied as some of the issues are core system components that become increasingly difficult to resolve the longer the system remains live. As a result a fundamental rebuild from scratch is the only effective solution to continue to use the Council's version of Business World On allowing us to use the existing Council build to deliver payroll until the new build has been through its acceptance tests. It is a significant undertaking and neither Serco nor the Council are experienced or well placed to carry it out.
28. An alternative is to retain Business World On for the finance function replacing only the payroll system. But this would still require a re-build so that the Finance system became a separate standalone accounting system and it would lose the benefits of an ERP. An interface transferring the payroll data into the accounting system would need to be built and this is unproven, untested, technically risky, and probably expensive. So separating the two systems is not an attractive option.
29. The Council would usually expect its ERP to last over 20 years but it could choose to replace Business World On with another ERP. However the larger systems such as SAP and Oracle are too complex and expensive. Business World On is the only smaller ERP built with the public sector in mind. As a result there is no obvious replacement ERP. Further, investment in Business World On has been significant both in officer time and money. The Council is getting used to the system. The expert technical advice is that it can be made fit for purpose and it is used elsewhere successfully. A further significant system change with its attendant risks would impact adversely on the Council's business and resources. The preferred position therefore would be to retain Business World On if the Council is able to get access to a better build.
30. At the same time it is clear that in addition to system problems, payroll issues have also arisen because of a lack of experienced local government payroll capacity. The Council itself has very limited payroll expertise as the service has been outsourced for 18 years. Local government payroll is a complex and highly specialised service. Public sector payroll experts are in short supply. In the above circumstances the best way forward is to find a payroll provider whose core business it is to process local government payroll. Ideally itself using Business World On so that a rebuild of the current system i.e.

Lincolnshire's Business World On maintained by Serco becomes unnecessary.

#### *Payroll and PM Administration Services*

31. PM Administration is very closely related to payroll. Operational teams are either integrated or work very closely together. Payroll systems also offer PM Administration functionality.
32. A review of the market identified that there were no private sector providers of local government Payroll/PM Administration outside of the big business process outsourcing contracts like the Council's contract with Serco. The only expertise available is within a shared service arrangement with local government. This offers an established, experienced and resilient pooled resource; using a mature system they are familiar with and presenting an opportunity to secure both services and a system without undertaking procurement.
33. Two viable shared service partners were identified including Herefordshire County Council through Hoople Limited. (A third was discounted because of an imminent system change). Due diligence activities have been carried out comprising of site visits by key Council officers, as well as scenario based questions, inspection of audit reports, and review of Information Governance and IT management arrangements. All supported by Jason Davenport a payroll expert commissioned by the Council to provide specialist knowledge and support.
34. Jason Davenport has advised that based on the reviews undertaken, the reference calls conducted, and the responses received to the scenario testing, he strongly recommended Herefordshire County Council's Hoople as the partner to take forward for payroll services. A risk assessment of Herefordshire County Council's Hoople focussed solely on payroll considerations is attached at Appendix A. This scored Herefordshire County Council's Hoople most highly of the 3 potential partners considered.
35. Further, from the due diligence carried out to date PM and Finance supported by the Council's external payroll expert are satisfied that Herefordshire County Council (Hoople's) Business World On system can support the Council's Finance and PM/Payroll functions, if configured correctly. Fortunately, Hoople has developed significant internal expertise in relation to the configuration of Business World On and have experience in managing it on behalf of others. For the above reasons on the work carried out to date a shared service arrangement with Herefordshire County Council giving access to Hoople's payroll and PM administration expertise and a public-public collaboration with Herefordshire for access to the Hoople Business World On system is the Council's preferred solution.

### *Hoople Limited*

36. If the Council enters into a shared service arrangement with Herefordshire, then Herefordshire would fulfil its role within that arrangement through a contract with Hoople Limited Herefordshire County Council's Teckal company. It provides payroll and PM administration services to Herefordshire County Council, Wye Valley NHS Trust and Rutland Council. Herefordshire County Council's Hoople operate with very low error rates and is experienced in a number of the Council's current payrolls. Its processes are efficient and effective so few errors are made. Jason Davenport has confirmed that Hoople could deliver a safe payroll, so long as the necessary data cleansing is completed and the configuration of the systems is correct at the point of go-live. The audit reports carried out by Herefordshire County Council on Hoople identified some early issues with the payroll control environment in 2015/16 and 2016/17. As a result Hoople changed the payroll management arrangements. In a 2017/18 follow up audit all but one of the recommended actions had been completed and the overall level of assurance for payroll was 'Reasonable'.
37. Hoople's IT and Information Governance arrangements have been reviewed by the Councils IT department and no issues have been raised, providing the Council with assurance that Hoople is technically able to run the Council's payroll system.
38. Herefordshire County Council and Hoople are keen to partner with the Council. An indicative cost has been provided which is in the same ball park as the Serco charges once adjusted. Detailed design workshops have been set up for May to develop the technical work streams following which the Council will negotiate a shared service agreement with Herefordshire County Council. That negotiation will include a discussion about the possibility of locating transferring Serco staff in County Offices. We will also discuss how the Fire Service Payroll will be managed as Herefordshire County Council's Hoople has limited experience of delivering this payroll. It may be therefore, that the terms and conditions input is maintained and delivered within Lincolnshire County Council. This would require local onsite Payroll and PM Administration expertise.
39. It should be noted that currently the Council decides the configuration and future direction of its build of Business World On. If the Council were to partner for payroll with Herefordshire County Council via Hoople any changes to the Hoople standard build to accommodate the Council's existing processes would have to be agreed by Hoople.
40. The impact of this will be explored in the design workshops in May and it is possible that significant and material issues will be discovered which might

question whether Hoople's Business World On can meet Lincolnshire's needs either because it does not meet regulatory or good practice requirements, or because of the scale of change required to our existing processes. As Hoople's main customer is Herefordshire County Council who has to abide by the same strict financial regulations as the Council it is hoped that this is not the case. However no commitment can be made in respect of the shared service until this further due diligence has been completed and reasonable shared service terms have been agreed.

41. The shared service will take the form of the Council arranging for the exercise of its payroll function by Herefordshire County Council. As the delivery of payroll is an executive function within the County Council the decision whether to make such arrangements lies with the Executive. It is expected that payroll will be an executive function for Herefordshire as well and so the Council will arrange for those functions to be exercised by Herefordshire County Council's Executive. Such an arrangement is a strong form of public-public partnership involving the Executive delegating its functions and therefore its decision-making and discretions in relation to the payroll service to Herefordshire County Council.
42. There is much to be done ahead of any transfer of function to Herefordshire County Council including the need for data cleansing, system configuration/work arounds to the current Council build, process improvements including documenting a payroll specification and the new Hoople build. This will require close collaboration between Serco, Herefordshire, Hoople, UNIT4, the Council and its advisers. Serco has already provided assurance that it will support the Council. Because of the long lead in time that work must start now. Additionally the Council will want to review its in-house expertise in Payroll and PM Administration to ensure it can provide effective management including a quality control function of the shared service arrangements. This may need to be recruited to.
43. To avoid multiple payroll providers (potentially up to 200) having access to the Council's bank and feeding into the general ledger and PM Administration system Herefordshire recognise that the payroll and PM Administration partnering solution would also have to be extended to maintained schools. This is not an issue for them as they currently deliver schools payroll and PM administration.

#### *IT*

44. In addition to the issues experienced with Business World On, the Council has experienced some dissatisfaction with the IT service received from Serco to date in particular the delivery of transformation activity has been slow and user experience has not been good.

45. There are non-Serco factors which are relevant to the IT problems being experienced such as the lack of investment/improvement in the Council's infrastructure pre 2015, the lack of integration between business need and IT strategy, legacy applications which are being used in a way that they were not designed and insufficient Council IT resource for assurance and contract management. However Serco's performance is also a factor.
46. Market research has shown that IT is the one service area of the existing corporate support services contract where there is a market for IT services with well - developed service delivery models. There is the possibility therefore that the Council could benefit from this through an improved service from a specialist IT provider, compared to Serco a larger multi-service supplier.
47. These IT providers can be accessed through suitable Crown Commercial Service procurement frameworks which are available to the Council. This will reduce procurement time. Providers are willing to bid on the framework terms and conditions. They will not bid for work on terms they are not comfortable with and this means the Council would need to structure its requirements in a way which was attractive to the market.
48. The advice received is that the Council could see a reduction in onsite capacity with more delivery and maintenance occurring remotely. This would result in a loss in knowledge about the local infrastructure. The indication is that framework providers would also require the Council to plan and commission projects well in advance (at least 30 days) and provide Council approvals within tightly defined time periods. It might be possible to mitigate these potential difficulties and this could be raised in market engagement.
49. There are two IT service models multi-sourcing and a single supplier. Multi-sourcing is where 'best of breed' suppliers are engaged directly by the Council for different towers of service, e.g. network, storage, support desk etc. The Council would commission and co-ordinate the work from these providers and contract manage each of them. This service integration function is more complex when dealing with multiple projects with several technological or business interdependencies, and where each project is competing for resources from each tower. Co-ordinating this function will require a larger client function. In contrast in a single supplier model a single supplier is responsible for the 'Cross Tower Services' function and has responsibility for delivering all of the services that sit in the 'Towers'. The multi-sourcing approach takes longer to achieve as it has to be phased in over the various towers.

50. The Council believes that the only procurement model achievable to enable a service transition by April 2020 is the single supplier model but it would be helpful to test this further in discussion with suppliers. There are other considerations, for example the migration of servers from Orchard House to Sungard is nearing completion and there is no wish to move these servers again in the short term. It is unclear at the moment what impact this would have on market interest. In short little further progress can be made without detailed market engagement to better understand the acceptable contract terms, model, service towers and general level of interest.

*Customer Services Centre, Finance and PM services*

51. People Management, Exchequer Services and much of Adult Care Finance and Assessments has been outsourced for 18 years. The Customer Services Centre was outsourced in 2015. Service delivery in these areas in general terms is good. Market research has shown that in the absence of a large Business Processing Outsourcing contract there are no experienced local government providers of these services in the market. In some service areas there may be some scope for shared service arrangements but there is nothing very much already established that would give confidence. Instead the viable options would seem to be an extension of the contract with Serco or an insourcing. It is likely that a combination of all of these services together would be of a sufficient scale for Serco to agree to extend. Anything less would probably not be.
52. The services need to be in experienced hands (this may favour Serco over the Council, though TUPE would apply) and/or local because;
- the Customer Service Centre services are more complex than most and CSC employees are usually a citizen's first point of contact with the Council;
  - understanding the locality and local Adult Care policies is necessary as is the ability to carry out home visits to complete financial assessments. The service is key to managing Adult Care spend and is specialised and complex.
53. The lead in time for an insourcing is shorter and so no decision needs to be made on these services for some time. The better approach is to see whether Serco continue to improve on performance and what the nature of an extension with Serco might look like before taking any decisions. With this in mind the recommended approach is to bring a further report to the Overview and Scrutiny Management Board and the Executive reporting on progress in the late summer.

## **Legal Issues:**

### **Procurement Considerations**

Under Regulation 12 of the Public Contracts Regulations 2015, the Council has the power to enter into a public-public collaboration with another local authority without being caught by procurement law where:-

- The arrangement implements a co-operation between the two authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
- The implementation of the co-operation is governed solely by considerations relating to the public interest; and
- The two authorities perform on the open market less than 20% of the activities concerned in the co-operation.

In this case the co-operation between authorities occurs in a context where there is no market for local authority payroll provision or local authority financial administration which is particularly complex and specialist. A co-operation with another local authority in principle achieves a common public interest objective of helping to secure the availability and sustainability of specialist local authority payroll and financial recording provision to secure the payment by the Councils of the staff that they have to employ to fulfil their functions and the proper maintenance of each Council's financial records.

The use of a delegation of function under section 9EA of the Local Government Act 2000 is a strong form of public-public co-operation with Herefordshire County Council taking on the exercise of the Council's function. This goes beyond a simple service delivery model and is a form of co-operation which can only be undertaken by public bodies. It is considered that the Council can rely on Regulation 12 in these circumstances and this will be kept under review to ensure that the detailed implementation of a shared service arrangement continues to meet these requirements.

### **Equality Act 2010**

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- \* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- \* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- \* Foster good relations between persons who share a relevant protected

characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- \* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- \* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- \* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

An Impact Analysis is attached at Appendix C and identifies the potential for some impact on persons with a protected characteristic in the case of any transfer of employment. The mitigating factors are set out in the impact analysis and relate to channels of communication. The analysis results in a number of actions for the Council as set out in Appendix C. The Impact Analysis and the conclusions drawn from it will be kept under review so that as issues arise any potential for differential impact can be mitigated.

The legal duty is simply to have due regard to the need to advance equality and as a consequence so long as the Executive carefully consider the Impact Analysis at



Appendix C it is entitled to adopt the recommendations or one of the alternatives considered.

## **Best Value**

The Local Government Act 1999 imposes a “best value duty” on the Council. This creates two legal obligations on the Council. Firstly;

"A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

Consequently, when making its decision the Executive is under a legal duty to consider which option best secures continuous improvement bearing in mind that the commissioning approach commended is to secure improved performance in Payroll and PM Administration rather than to secure savings.

Secondly for the purpose of deciding how to fulfil the duty an authority must consult;

- (i) Representatives of persons liable to pay any tax, precept or levy to or in respect of the authority,
- (ii) Representatives of persons liable to pay non-domestic rates in respect of any area within which the authority carries out functions,
- (iii) Representatives of persons who use or are likely to use services provided by the authority, and
- (iv) Representatives of persons appearing to the authority to have an interest in any area within which the authority carries out functions.

In deciding how to fulfil the best value duty; who to consult and the form, content and timing of consultations an authority must have regard to any guidance issued by the Secretary of State. The most recent guidance was issued in September 2011. The passage relating to consultation reads:

“To achieve the right balance – and before deciding how to fulfil their Best Value Duty – authorities are under a Duty to Consult representatives of a wide range of local persons; this is not optional. Authorities must consult representatives of council tax payers, those who use or are likely to use services provided by the authority, and those appearing to the authority to have an interest in any area within which the authority carries out functions. Authorities should include local voluntary and community organisations and small businesses in such consultation. This should apply at all stages of the commissioning cycle, including when considering the decommissioning of services.”

There is case law that states that consultation should be on high-level choices about how, as a matter of principle and approach, an authority goes about

performing its functions and that it would include a major outsourcing. In these circumstances the Council has not consulted on the possible re-provision of the Payroll and PM Administration service as this at most is simply a change in the way a small back office service area of little relevance to citizens and council tax payers is arranged by the Council. As a consequence this change should it occur does not amount to "high level choice" as a matter of principle and approach, as to how an authority goes about performing its functions.

### **Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy [JHWS])**

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

The JSNA for Lincolnshire is an overarching needs assessment. A wide range of data and information was reviewed to identify key issues for the population to be used in planning, commissioning and providing programmes and services to meet identified needs. This assessment underpins the JHWS 2013-18 which has the following themes:-

- Promoting healthier lifestyles;

- Improving the health and wellbeing of older people;

- Delivering high quality systematic care for major causes of ill health and disability;

- Improving health and social outcomes and reducing inequalities for children

- Tackling the social determinants of health;

- The additional theme of mental health runs throughout the document.

Again there is not an immediate direct connection between the back-office services under the corporate support services contract and the themes of the strategy but the following connections can be identified:

Pursuing good value solutions for back office support services will enable a high proportion of the Council's resources to be allocated to front line services directly relevant to the achievement of the strategy.

The proposed approach is likely to maintain local delivery for much of the services thus helping to maintain local jobs and creating the potential for further employment which would tackle social determinants of ill health.

## **Crime and Disorder**

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The specific nature of the services are not of direct relevance to Crime and Disorder. However the ongoing securing of good value back office support services will ensure that a greater proportion of the Council's available resources can be allocated to front line services including those aimed at reducing crime and disorder.

## **Conclusion**

Driven by the expiry of the initial term of the corporate support services contract the Council has carried out a review to re-provision services resulting in the recommendations in this report. More work will be required which will result in a further report to the Overview and Scrutiny Management Board and to the Executive in the late summer.

### **Legal Comments:**

The Council has the power to enter into the arrangements set out in the Report and can do so consistent with its procurement obligations.

The decision is consistent with the Policy Framework and within the remit of the Executive.

### **Resource Comments:**

There are both short and long term financial implications arising from acceptance of the recommendations in this report.

In the short term funding is required to resource project teams and facilitate any transfers of service provision resulting from acceptance of the recommendations in this report. Such funding will be required for, at least, 2018/19 and 2019/20. Funding of around £1.5m is presently available in reserves having been primarily sourced from service credits under the Serco contract. This funding can be applied to this initiative. Consideration will also be given as part of the finalisation of the 2017/18 revenue budget outturn position of the Council as to the extent and source of any additional funding required.

In the long term there will be an increase in the cost of delivery of the support services presently within scope of the Serco contract. The increase will generally only impact on the revenue budget from 2020/21 onwards and, once quantified, those additional costs will be considered as part of the budget setting process for those years.

## **Consultation**

### **Has The Local Member Been Consulted?**

n/a

### **Has The Executive Councillor Been Consulted?**

Councillor Hill Leader of the Council and Executive Councillor for Policy, Finance, Property, Communications Procurement and Commissioning; Councillor Davies Executive Councillor Highways Transport and IT; Councillor Young Executive Councillor People Management and Councillor Whittington Support Councillor to Councillor Hill are on the project Sounding Board and have been updated.

## **Scrutiny Comments**

The Overview and Scrutiny Management Board will undertake an examination of the Corporate Support Services re-provision at a meeting of the Board on the 26 April 2018. Its comments will be presented to the Executive.

### **Has a Risks and Impact Analysis been carried out?**

A thorough risk log has been completed it is attached at Appendix B. The key risks have been identified along with the relevant mitigations. The risks are then scored in terms of probability and impact. The risk log will be reviewed monthly by the Programme Board which will report on an exception basis to CMB and to the Sounding Board as appropriate.

An Equality Impact Assessment has been carried out and is attached at Appendix C.

## **Appendices**

These are listed below and attached at the back of the report	
Appendix A	Payroll Risk Assessment
Appendix B	Risk Log
Appendix C	Equality Impact Assessment

## **Background Papers**

No Background Papers within Section 100D of the Local Government Act 1972 were used in the preparation of this Report.

This report was written by Sophie Reeve who can be contacted on 01522 552578.

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