

# Decision Pathway

## Commercial in Confidence



**PURPOSE:** Key decision

**MEETING:** Cabinet

**DATE:** 05 March 2018

<b>TITLE</b>	IT Programme, Future State Assessment – Delivery Partner and Procurement Approach		
<b>Ward(s)</b>	n/a		
<b>Author:</b> Simon Oliver	<b>Job title:</b> Director - Digital Transformation		
<b>Cabinet lead:</b> Councillor Cheney	<b>Executive Director lead:</b> Mike Jackson		
<b>Proposal origin:</b> BCC Staff			
<b>Decision maker:</b> Mayor <b>Decision forum:</b> Cabinet			
<b>Purpose of Report:</b>			
<ol style="list-style-type: none"> <li>To set out options and seek approval for the procurement route to follow in order to place a contract with a suitable supplier to work in partnership with the council as the Future State Assessment delivery partner.</li> </ol>			
<b>Evidence Base:</b>			
<ol style="list-style-type: none"> <li>In July 2018, Cabinet approved £20.3m (£7.2m revenue, £13.1m capital) to deliver the FSA programme in a timescale of 3-5 years. FSA set out components needed to build on the current IT platforms and ICT service delivery to ensure a modern, secure, flexible and service-aligned IT service in support of the Corporate Strategy and business drivers/outcomes will be delivered.</li> <li>The original steer to the development of the FSA Programme delivery approach was to use internal expertise to deliver the programme, supported by training and short-term external consultancy resource. In addition, it was envisioned that the Council would partner with a number (c12) local SMEs to deliver the programme.</li> <li>The programme SRO took up post with BCC in August 2018 and highlighted a risk to the programme delivery board that the council has neither the skills nor experience required to deliver outcomes within the approved timescales and budget due to the technical and delivery complexity.</li> <li>In October 2018, the FSA Delivery Board agreed the commencement of exploration of options for how the programme could be delivered with greater certainty.</li> <li>Following market testing, three alternative supplier approaches were considered; a) Single Supplier, b) Consultancy-led and c) Individual Procurements. An appraisal of these options is included in the Report Appendices. The FSA Delivery Board has opted to proceed with supplier option a).</li> <li>Following market testing, and undertaking procurement advice, two options to procurement have been identified as being appropriate: a) Award of contract via G-Cloud Framework following clarification of price and service offerings, or b) Open market tender/competition such as Competition with Negotiation. An appraisal of these options is included in the Report Appendices. The FSA Delivery Board recommends consideration of procurement option a) and considers option a) to be the quickest route to delivery without incurring additional procurement risk.</li> </ol>			
<b>Cabinet Member / Officer Recommendations:</b>			
That Cabinet			
<ol style="list-style-type: none"> <li>Approve the procurement of an FSA Delivery Partner via G-Cloud to an estimated value to not exceed £12m.</li> <li>Delegate authority to the Executive Director Resources and Head of Paid Service in consultation with the Deputy Mayor to take all necessary steps to award the contract.</li> </ol>			

**Corporate Strategy alignment:**

The Corporate Strategy identifies a need to work with back office services to identify what needs to change to be a more effective and efficient council to achieve our priorities (p7). The FSA and resulting IT Strategy is a core component of this, particularly contributing to two of the four Organisational Priorities outlined in the Corporate Strategy (p11):

- Redesign the council to work effectively as a smaller organisation
- Equip our colleagues to be as productive and efficient as possible

IT underpins all the council's work and, with a strategy that encompasses the council's outward-facing approach to digital, directly contributes to the Key Commitment of 'Make progress towards being the UK's best digitally-connected city'.

**City Benefits:**

There are no specific or direct benefits to the city however this service improvement programme supports the wider organisation's ability to deliver commitments in the city; there are no identified equalities impacts.

**Consultation Details:**

No consultation is considered necessary as aligned to previous cabinet decision to commence the FSA Transformation Programme.

<b>Revenue Cost</b>	£	<b>Source of Revenue Funding</b>	
<b>Capital Cost</b>	< £12m	<b>Source of Capital Funding</b>	<b>Allocated Budgets</b>
<b>One off cost</b> <input checked="" type="checkbox"/>	<b>Ongoing cost</b> <input type="checkbox"/>	<b>Saving Proposal</b> <input type="checkbox"/>	<b>Income generation proposal</b> <input type="checkbox"/>

**Required information to be completed by Financial/Legal/ICT/ HR partners:**

**1. Finance Advice:** The report seeks approval for procurement of a strategic partner to support delivery of the Council's ICT Future State Assessment, via one of the Crown Commercial Services G-Cloud frameworks, over a period of up to 4 years. It is important that a clear and transparent process is agreed as part of this procurement approach. The Council has a duty of Best Value, and that includes ensuring procurement of services is undertaken in a way that is effective in delivering desired outcomes, including those relating to social value, whilst ensuring value for money is achieved. The approach recommended will need to ensure those tests are met.

The revenue and capital resources required to deliver the programme were agreed by Cabinet in July 2018, and have been factored into the Council's medium term financial plan, which are set out elsewhere in the report. The recommended procurement approach must ensure overall costs in delivering the programme are contained within those agreed financial parameters.

**Finance Business Partner:** Chris Holme 25/02/18

**2. Legal Advice:** Whenever the council procures goods works or services over certain financial thresholds, it must comply with the council's Procurement Rules and the Public Contracts Regulations 2015 (PCR 2015), unless an exemption is available. The recommendation of the FSA Delivery Board is to procure a delivery partner using the established [Crown Commercial Service \(CCS\)](#) G-Cloud 10 framework i.e. a fast track / low cost direct award only (without further competition) procurement route for standardised cloud services via the 'Digital Marketplace', including cloud transition and deployment support services. The framework allows limited flexibility around customising the scope and delivery of services (depending on the nature of the services), payment profiles, caps on liability and insurance requirements, and includes an option to terminate early for convenience on giving 30 days written notice (or less where agreed). G-Cloud 10 call-off contracts incorporate the supplier's standard G-Cloud terms, although the call-off terms override the supplier terms in cases of conflict.

It is understood that extensive market testing has been conducted by the FSA project team with a target group of suppliers, including Microsoft (as an existing partner in relation to Azure and other services), to develop a set of supplier neutral service requirements, including outline deliverables / work packages, that can be used to procure a delivery partner from among a pool of potential suppliers on G-Cloud. Use of G-Cloud is therefore in preference to a

more costly and time consuming “full” competitive procurement process, such as the negotiated procedure without notice, which in theory could be used to deliver a more bespoke solution against a less certain requirement, but where the current position is that negotiation may not add any additional value, and may not be justifiable under PCR 2015.

It is also understood that the council requires a reasonably flexible approach to service delivery, with the implementation of digital transformation services (‘cloud support’ services under G-Cloud) expected to take around 18 months, but with flexibility to deliver the services over 12 to 24 months. Within these timescales, the council is seeking a fixed fee arrangement, with payment against pre-agreed milestones, where the workstreams, milestones (including deliverables), milestone payments, and detailed plans are agreed during the first 7 weeks of the programme. The council is also considering whether to procure additional ongoing consultancy and support services from the delivery partner (under the same call-off contract), which could run for 2 years from the completion of the implementation work. (Any additional cloud software licences required as part of the transformation and other ‘out of scope’ transformation services (e.g. on premise data recovery, WAN design and infrastructure etc) would need to be separately procured / delivered.)

In relation to the use of G-Cloud, there are a number of points that will need to be addressed, including the following:

- The service requirements will need to be developed into a list of ‘must-haves’ and ‘wants’ that will be used to decide which search categories, keywords and filters to use as part of the G-Cloud ‘best fit’ buying process. Some analysis may be required of the scope of the relevant suppliers’ service descriptions, to ensure that the range of ‘must-have’ requirements are deliverable under a single call-off contract and are not unduly / unfairly restrictive.
- It is likely, given the range and nature of the cloud support services required, that some suppliers (if not all) will use third parties to deliver aspects of the programme under sub-contracts. This is provided for under G-Cloud (where the main supplier assumes the risk of any sub-contracted services), but the nature of any sub-contracting would need to be clarified prior to awarding a contract (if not apparent in the service descriptions), and in particular the nature of any data processing, including processing outside of the EEA. Any processing of data by the main supplier or its sub-contractors will need to be captured within the call-off contract’s data processing schedule.
- The total pricing under G-Cloud will need to be determined through questions to suppliers based on standard G-Cloud pricing, and the council will need to avoid any negotiations or raising questions on points falling outside of the supplier’s standard G-Cloud service descriptions.
- The right to terminate for convenience is linked to a buyer indemnity in relation to unavoidable losses the supplier can’t mitigate or reduce by way of insurance. The approach to workstreams and payment milestones should help to reduce the council’s exposure in such circumstances, but the position under the call-off contract could be clarified in relation to unperformed services and the fixed fee. The council’s liability (and the supplier’s exposure to losses) should be mitigated as far as possible to services and payments due in relation to specific milestones.
- The maximum duration of a G-Cloud call-off contract is typically a 2 year initial terms with further extensions of up to 2 years. This is sufficient to cover the services required of the delivery partner, although minor amendments will be needed in relation to the additional support services, which could also be described as a contractual option.

Subject to the council’s requirements falling within the supplier’s standard service offerings, and provided the council adheres closely and fairly to the G-Cloud buying process, including the requirement for a well audited and transparent search process, G-Cloud provides a compliant route to market under PCR 2015 and the council’s procurement rules.

Legal advice should be sought in relation to capturing the council’s requirements in the call-off contract, particularly in relation to any deviations from the standard terms and conditions and descriptions of additional services and contract deliverables. Consideration should also be given to the risk profile under the contract, and separate advice may be required on appropriate caps on liability and insurance requirements under the call-off contract (within the permitted scope of G-Cloud).

There are no particular equalities issues arising from the proposals in this report.

There are no public consultation issues associated with this proposal.

**Legal Team Leader:** Eric Andrews, Legal Services 19<sup>th</sup> February 2019

**3. Implications on IT:** Clearly, this paper has significant implications for IT within the Council. However, these have been well documented in previously published material and across internal governance forums. This proposal seeks to embed the new technologies and mechanisms within the Council IT structures and systems, enabling delivery of the FSA benefits.

**IT Team Leader:** Ian Gale (Service Manager, Service Delivery and Integration), 14<sup>th</sup> February 2019

**4. HR Advice:** No HR implications evident.

**HR Partner:** James Brereton (People & Culture Manager), 9th February 2019

**PR officer:** John Smith (Senior Public Relations Officer, External Communications and Consultation. 22<sup>nd</sup> January 2019

<b>EDM Sign-off</b>	Mike Jackson	16/01/2019
<b>Cabinet Member sign-off</b>	CLlr Craig Cheney	24/01/2019
<b>CLB Sign-off</b>	Mike Jackson	n/a
<b>For Key Decisions - Mayor’s Office sign-off</b>		

<b>Appendix A – Further essential background / detail on the proposal</b> Full details of market assessments and procurement advice.	<b>YES</b>
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