

Report To:	CABINET	Date:	15 MARCH 2018
Heading:	CHANGE TO PROCUREMENT SERVICE		
Portfolio Holder:	CORPORATE RESOURCES AND FINANCE		
Ward/s:	N/A		
Key Decision:	YES		
Subject to Call-In:	YES		

Purpose of Report

This report seeks delegated authority to enter into a Service Level Agreement (SLA) for procurement services provided by Nottingham City Council, effective from 1 April 2018.

Recommendation(s)

To delegate authority to the Director of Resources and Business Transformation to negotiate and agree a Service Level Agreement (SLA) with representatives of Nottingham City Council for the provision of procurement services to Ashfield in line with the details contained in the report.

Reasons for Recommendation(s)

Officers have investigated several potential lead authorities with regard to providing the service and delivering on the core objectives of spend efficiency and efficacy. Of those investigated, Nottingham City Council demonstrated the greatest ability to add value and expertise, with tangible evidence of delivery.

Alternative Options Considered

The only alternative to the service provision method currently in place is to bring the service in-house. Given the financial constraints facing the MTFs now and in the future, bringing the service in-house would necessitate the employment of staff to run the service. The costs of doing so would far exceed the costs of sourcing the service externally.

Detailed Information

Ashfield District Council is party to the Nottinghamshire Derbyshire Procurement Unit (NDPU), a shared procurement unit hosted by Bassetlaw District Council. Under the terms of agreement, the NDPU would disband after 1 year of a member Council submitting 12 months' notice of its intention to leave the agreement. In April 2017, Erewash Borough Council submitted notice to leave the NDPU, thereby effecting the cessation of the service on 31 March 2018.

Bassetlaw District Council have attempted to address maintaining the Procurement service for the benefit of its members by commissioning a consultant to review the service.

It was determined that the service was not fit for purpose, and Bassetlaw attempted a restructure, predominantly by employing additional resource. Attempts at recruitment into the new structure failed.

Bassetlaw are currently reviewing their options around procurement moving forward.

Officers are working to formally agree a transition agreement with Bassetlaw to overlap the start of the new service with Nottingham City in order to ensure that Ashfield District Council are fully supported, i.e. if Ashfield have procurement exercises underway and it is not practical to move these to City's team, the exercises can be managed through to their conclusion by Bassetlaw.

Options Appraisal

Officers have been aware of this activity from the outset and have been investigating alternative options for Ashfield. Dialogue has taken place with:

- **Chesterfield Royal Hospital Trust (NHS)**
- **Bolsover/NE Derbyshire Councils**
- **Nottinghamshire County Council**
- **Nottingham City Council**

Each potential provider has been provided with Ashfield's work plan and influenceable spend in order to evaluate fit.

The outcomes by provider:

- **Chesterfield Royal Hospital Trust (NHS)** – The majority of the procurement service at CRHT is focussed on serving the needs of the NHS, while a small contingent (2 staff members) focus on the Local Authority clients. Demonstrable proof of benefits/ability was requested but not delivered. While other Local Authorities have signed up to this service, Ashfield's view is that the fit would be better with a provider operating 100% in the Local Government sector.
- **Bolsover/NE Derbyshire Councils** – The service is very much nascent concept rather than a defined service, and it will be some time before the service, if approved, would be running at full strength. As such, Ashfield's interests would be better served elsewhere currently.
- **Nottinghamshire County Council** – Operating in the same sector, albeit at Upper Tier, County has the levels of influenceable spend and frameworks to deliver real benefit. In conversations with Ashfield, County officers admitted very low purchasing activity in areas that would benefit Ashfield; however remained open to future partnership working on specific projects.
- **Nottingham City Council** – City have evaluated Ashfield's work plan and spend, and have found high levels of crossover (which would naturally occur, given their unitary status and the provision of similar services). Furthermore, City have a dedicated team of 15+ qualified procurement officers focussing on activities other than Social Care and Education, providing a clear focus and emphasis. City's spend levels will also serve as leverage where Ashfield and City joint procurement is possible (City's total influenceable spend is in excess of £240M). Whilst they have no current experience of such an arrangement, the will and desire is present amongst senior officers to forge a partnership. As evidence of effectiveness, City's procurement teams have delivered 8% year-on-year savings since 2014.

Officers recommend entering a SLA with Nottingham City Council with City to provide procurement services to Ashfield.

Outline details of the agreement

Whilst the minutiae of the SLA have yet to be finalised, the principals that underpin the agreement are known:

1. The term of the agreement would be three years, with 12 months' notice by either party to terminate.
2. A flat fee of £35,000 per annum for the service. The flat fee is in line with that currently paid to Bassetlaw, and as such, will not increase the financial burden on Ashfield.
3. A gainsharing agreement of 10% for cashable savings to City. This performance related pay would be payable on cashable savings, i.e. spend reductions (savings) to existing budgets, and not on obtaining the lowest cost for products/services where the service/product has not been acquired before. For example, if savings were delivered on a previously existing printer/copier contract, this would qualify for gainshare. It would not apply to situations such as a new Leisure Centre.

Implications

Corporate Plan:

Legal:

Ashfield District Council and Nottingham City Council are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999. Pursuant to the Local Authority (Goods and Services) Act 1970 local authorities may provide services for other public authorities. The proposed arrangement will be established pursuant to the 1970 Act. Legal Services will provide advice and assistance as part of the transfer to the new arrangements and will ensure a suitable Service Level Agreement is entered into. As an interim measure, Legal Services will also assist in the preparation of a Memorandum of Understanding if this is the most expedient approach to formalising interim arrangements.

As noted in the HR comments, potential employment issues have not yet been agreed with Bassetlaw, accordingly legal services will provide advice and assistance as part of these ongoing negotiations.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	The 2018/19 budget provision currently allocated to pay for procurement services from Bassetlaw DC will be sufficient to cover the £35k charge from Nottingham City Council. This assumes that no additional fees will be payable to Bassetlaw DC during the transition period.
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
SLA cannot be agreed and signed on/before 1 April 2018	A memorandum of understanding can be implemented as a mitigating action to formalise the process until the SLA is in place.
Procurement exercises currently underway may be delayed or otherwise effected.	Third tier officers have been notified that the service will be moving and have been asked to provide details of current/ongoing exercises. If approved, workshops will be planned in for the last two weeks of March for officers to meet the new representatives and discuss ongoing requirements.

Human Resources:

The Service Level Agreement governing the relationship with Bassetlaw and Ashfield was silent on the topics of redundancy pay and Ashfield's liability. Potentially TUPE could also apply if it is determined that a Bassetlaw employee in the Procurement Unit is working predominantly or wholly for Ashfield. A formal statement of intent with regard to both Redundancy and TUPE has been requested of Bassetlaw, but not yet officially delivered. Officers understand through informal conversations that Bassetlaw will seek no support for redundancy and will retain all employees post-agreement. The report indicates that in transferring to a new SLA with Nottingham City, no additional resources will be employed.

HR will provide advice and assistance in the event that negotiations are tabled.

Reason(s) for Urgency

N/A

Reason(s) for Exemption

N/A

Background Papers

N/A

Report Author and Contact Officer

Justin Henry

COMMERCIAL DEVELOPMENT MANAGER

j.henry@ashfield.gov.uk

Craig Bonar

DIRECTOR RESOURCES AND BUSINESS TRANSFORMATION

c.bonar@ashfield.gov.uk