

<b>Cabinet</b>  27 February 2018	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Zena Cooke, Corporate Director Resources	<b>Classification:</b> Part Exempt (Appendix)
<b>ICT Future Sourcing</b>	

<b>Lead Member</b>	<b>Councillor David Edgar, Cabinet Member for Resources</b>
<b>Originating Officer(s)</b>	Adrian Gorst, Divisional Director IT
<b>Wards affected</b>	All
<b>Key Decision?</b>	Yes
<b>Community Plan Theme</b>	All

## Executive Summary

ICT is a strategic enabler of change that allows the Council to create distinctive value for its residents by improving public services and reducing costs; rather than as previously, a commodity, back-office cost to the organisation.

The end of the initial term of the contract with Agilisys in March 2019 provides an opportunity to reconfigure the Council's ICT management arrangements to reflect these changes by insourcing the parts of the ICT service which provide strategic value and extending and then recommissioning support for the infrastructure which requires specialist technical capabilities.

## Recommendations:

The Mayor in Cabinet is recommended to:

1. To adopt a hybrid model for the future sourcing of ICT services from April 2019, combining elements of insourcing, extending the existing contract with our strategic partner and then retendering to obtain optimal outcomes for the Council.
2. To agree that the Divisional Director IT insource ICT contract management, ICT project management and ICT applications management.
3. To agree that the Divisional Director IT utilise the facility within the existing contract with Agilisys, to extend the contract term for ICT technical services, for two years, to 31 March 2021 at a cost of £5.5m plus inflation per annum, referring to the detailed costings in Appendix A
4. To agree that the Divisional Director IT develop detailed plans for the

future sourcing of the remaining outsourced services ahead of the extension ending on 31 March 2021; considering further insourcing of services and the use of government procurement frameworks.

5. To authorise the use of up to £3.0m from the ICT Transformation Reserve to create a transition programme to manage the process, including drafting a Deed of Variation; managing the TUPE transfer of staff to the Council, completing the assignment, novation and re-procurement of ICT contracts and the purchase of hardware, software and services for transferred staff, referring to the detailed costings in Appendix A.

## **1. REASONS FOR THE DECISIONS**

- 1.1 To ensure the Council enjoys an effective ICT service after the existing contract ends on 31 March 2019, recognising the Council's needs have changed and are changing with the adoption of online and digital services.
- 1.2 To secure direct control of aspects of the ICT service where greater alignment with the Council's operations and strategic priorities will improve services, reduce costs, increase flexibility and reduce risks.
- 1.3 To maintain continuity of service for existing ICT technical services which rely on specialist computing skills provided by Agilisys, recognising there is a limited market for supporting ageing infrastructure.
- 1.4 To complete the ICT transformation programme, delivering a reliable and fit-for-purpose ICT infrastructure for the future, reshaped as commodity services, with widely available support arrangements.
- 1.5 To recommission the transformed ICT technical services using government procurement frameworks ahead of April 1, 2021, leveraging the buying power of the whole public sector to secure value for money.

## **2. ALTERNATIVE OPTIONS**

- 2.1 *To extend the existing ICT outsourcing arrangement.* Extending the existing contract would not address the changing needs of the Council, nor meet its aspirations to align key aspects of the ICT service with Council priorities.
- 2.2 *To fully insource the ICT service.* Insourcing the whole service would divert Council and Agilisys resources away from maintaining the existing infrastructure and delivering the ICT transformation, increasing the risk of a catastrophic ICT service failure and leaving the Council with a failing and unsustainable service.
- 2.3 *To retender the entire ICT service.* Retendering the whole contract and completing the transition of services within a year is a major undertaking, and would divert Council and Agilisys resources away from maintaining the existing infrastructure and delivering the ICT transformation, increasing the risk of a catastrophic ICT service failure. It is unclear if there are sufficient active providers for traditional outsourced IT providers to create a market, hence a risk of having to pay a higher price for a reduced quality of service, and being locked into another long-term contract at a time of significant ICT

and organisational change.

- 2.4 *To join or establish a shared service.* Negotiating entry to an existing or establishing a new shared service and completing the transition of services within a year is a major undertaking, and would divert Council and Agilisys resources away from maintaining the existing infrastructure and delivering the ICT transformation, increasing the risk of a catastrophic ICT service failure. Joining a shared service could also lead to a loss of flexibility at a critical time in the run up to the move to the new Civic Centre in 2021.

### **3. DETAILS OF REPORT**

#### **Background**

- 3.1 The Council entered into a strategic partnership with Agilisys to provide ICT services in 2012, with Agilisys delivering up-front savings, transferring council ICT staff with a zero-redundancy policy and delivering local apprenticeships.
- 3.2 In 2016 the Council and Agilisys agreed a deed of variation to the strategic partnership contract which sought to address legacy issues and improve the partnership relationship.
- 3.3 The initial term of the contract ends on 31 March 2019. The contract allows for one extension of up to three years.
- 3.4 The Council needs to formally advise Agilisys of their intentions by 31 March 2018 to provide both parties with sufficient time to make appropriate arrangements.

#### **Process**

- 3.5 The Divisional Director IT convened an internal working group in September 2017 to establish the Council's requirements for ICT services from April 2019, to outline options available; and to consider the merits of each.
- 3.6 The Divisional Director IT presented the findings of the internal working group to the Corporate Leadership Team (CLT) in October 2017.
- 3.7 Following guidance from CLT and further discussions, the internal stakeholder group established none of the initial options (set out section 2 above) satisfied the Council's requirements.
- 3.8 This led to the internal working group considering a hybrid approach, combining elements of different approaches; partial insourcing, an extended exit from the outsourcing contract, and then retendering specific services using appropriate government frameworks.
- 3.9 To support the hybrid approach, the internal working group modified an industry standard model to break the ICT service into a series of discrete parts (often called towers) and determined how each of these should be delivered after March 2019.
- 3.10 Having established an extended exit with the Council's Strategic Partner as part of the ICT Future Sourcing approach, the internal stakeholder group commenced discussions with Agilisys.

- 3.11 Extensive discussions have resulted in a negotiated position which the internal stakeholder group, Divisional Director IT and Corporate Director Resources can recommend to the Mayor in Cabinet, and which Agilisys representatives can recommend to their Board.

### **Hybrid approach**

- 3.12 The proposed approach disaggregates the ICT service into distinct parts, often called “towers” so each part can be provisioned independently to achieve the best mix of quality, price, flexibility and risk for the Council.
- 3.13 These towers generally align with teams within an ICT service, so the outcome is concrete and practical to those familiar with the ICT service.
- 3.14 The towers will initially be split between the Council and Agilisys; with a transition to a full multi-sourcing model, where each tower is commissioned independently, by 2021.
- 3.15 A combination of insourcing, an extended exit with Agilisys and then recommissioning delivers a hybrid approach; with each element outlined below.

### **Insourcing**

- 3.16 The Council will insource the ICT applications management, ICT contract management and ICT project management, with these towers returning to direct Council control on 1 April 2019.
- 3.17 Insourcing the ICT applications management tower will allow the Divisional Director IT to create a single business applications teams, reuniting staff employed within the Council with those outsourced to Agilisys. This will create a holistic service under a Head of Business Applications, reporting to the Divisional Director IT.
- 3.18 This is particularly important, as the business applications collectively contain a wealth of information the Council uses to improve operational service delivery and strategic decision making.
- 3.19 Many of the ICT third-party contracts currently commissioned through Agilisys also relate to business applications, and insourcing the contract management tower reinstates a direct relationship between the Council and its key suppliers. The third-party contract management tower will be subsumed into the existing ICT client team.
- 3.20 Insourcing the ICT project management tower gives the Council direct control over the ICT projects which support operational service delivery and organisational transformation, aligning ICT and Council priorities, reducing costs, and accelerating delivery. This will create a new service under a Head of Portfolios and Programmes, reporting to the Divisional Director IT.
- 3.21 Overall, 35 Agilisys staff will transfer to the Council under a TUPE process to maintain the application support, contract management and project management towers.
- 3.22 Around 250 contracts with 100 suppliers will be assigned or novated back to the Council or recommissioned directly by the Council.

- 3.23 It may be expedient for selected posts and contracts to transfer earlier, for example if a post becomes vacant or a contract needs re-procuring in the run up to the transition in 2019.

#### **Extended exit**

- 3.24 The Council will engage Agilisys to deliver an extended exit for the ICT technical services, supporting the existing infrastructure, completing the ICT transformation programme, and reshaping the technical services to return to the market ahead of April 2021.
- 3.25 The ICT technical services cover service desk, user support, data centre, database administration, cyber-security and the integration of these services for service users.
- 3.26 This secures Agilisys staff familiar with the intricacies of our ageing infrastructure to maintain existing ICT services, which would otherwise be difficult to procure and would require a service transition to a new supplier.
- 3.27 The extended exit allows ICT transformation to progress, providing reliable and modern services for the future, which would otherwise need to be paused during the transition to an alternative supplier.
- 3.28 During the extended-exit, Agilisys will work with the Council to reshape the ICT service ahead of recommissioning through government procurement frameworks before April 2021.
- 3.29 To facilitate the extended exit, Agilisys will retain two technical project managers and those contracts directly associated with the outsourced technical services, and selected specialist database support engineers.

#### **Phase two future sourcing**

- 3.30 During the extended exit, the Council will develop detailed plans for the future sourcing of the remaining outsourced services, considering further insourcing of services and the use of government procurement frameworks to recommission the ICT technical services, to secure the optimum combination of quality, price and flexibility to meet changing needs.
- 3.31 The use of government procurement frameworks provides a compliant, cost-effective and relatively fast way of commissioning standard ICT services; while leveraging the spend of the whole public sector to secure favourable terms.

#### **Contract and costs**

- 3.32 The extended exit will be implemented as a deed of variation on the existing contract, as allowed for in the original procurement exercise.
- 3.33 The deed of variation is for a fixed term of two years. No further extension is permitted, so all ICT services must be recommissioned ahead of the end of the extended exit on 31 March 2021.
- 3.34 The deed of variation covers a fixed scope. There is no exclusivity beyond the fixed scope, so the Council can procure additional ICT services from any supplier, subject to the usual procurement regulations.
- 3.35 The fixed-cost model does not apply when a service or part of a service moves to a utility model so long as Agilisys retain management of the service.

- 3.36 The Council may also withdraw services from the extended exit arrangement, subject to a penalty of 15% of the cost of that service for the remaining duration of the contract. This is likely to apply if the Council chooses to recommission services before the end of the extended exit to ensure service continuity; and will be subject to an agreed business case.
- 3.37 The total cost of the new arrangement with Agilisys is currently estimated at £5.5m per annum ( at 2017/18 prices). This figure is still being verified and will be subject to inflationary increases over the two year contract period.
- 3.38 The price is subject to indexation for inflation in the last year of the existing arrangements in April 2018, as part of the transition to the new arrangements in April 2019 and at the mid-point of the extended exit arrangements in April 2020, with the detailed costings in Appendix A.
- 3.39 As ICT Transformation is already underway, with more services moving from a fixed price to an utility price (where the Council pays for what it uses each month) these figures will vary over time. This will be managed through the established Contract Change Notice process.
- 3.40 The Council has a number of other major ICT initiatives underway or at the planning stage, and again, these will change the overall cost of the ICT Service, and this will be managed through the established Contract Change Notice process.
- 3.41 All new ICT work is subject to a business case, and those with a total cost greater than £50,000 are subject to formal approval at the ICT Strategy and Commissioning Board.

### **Transition arrangements**

- 3.42 The transition from a fully managed ICT outsourced service to a hybrid ICT service will be run as a project under the guidance of a sub-committee of the ICT Strategy and Commissioning Board.
- 3.43 The Divisional Director IT will exercise day-to-day control of the project, and report regularly to the Corporate Director Resources, ICT Strategy and Commissioning Board and Corporate Leadership Team.
- 3.44 The Divisional Director IT will appoint a transition manager to coordinate the activities and ensure all necessary arrangements are in place ahead of 31 March 2019.
- 3.45 These activities will include arrangements for:
- TUPE transfer of 35 staff.
  - Novation, assignment or reletting of around 250 contracts with 100 suppliers.
  - Hardware, software, accommodation and services for returning staff
  - Reconfiguration of services within the Council and Agilisys, and the interfaces between these services.
  - A review of service level agreements and key performance indicators for the hybrid approach.

- Communications with stakeholders, including elected members, Corporate Leadership Team, managers, staff and suppliers.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 The current ICT budget is £10.2m and the cost of the future sourcing option presented in this report is approximately £10.4m (2017-18 price covering both the cost of the extended exit with Agilisys and the cost of running insourced services. However, this figure is still being verified and future costs are expected to be contained within the current budget. Should that not be possible, officers will be obliged to seek approval for any additional funding, in the context of the MTFs, through the Council's financial approval process.
- 4.2 The one off cost of transition to the new hybrid model is estimated to be in the region of £2.0-£2.5m and can be funded through the Council's ICT transformation reserve.

#### **5. LEGAL COMMENTS**

- 5.1 The recommended option amounts to both an extension of the contract term and a restructuring of how the service is described under the contract. The extension to the contract is provided for within the contract terms and does not provide any procurement law issues. However, the variation to the contract must not amount to a material change to the contract or it will be deemed to breach the prevailing European procurement Law.
- 5.2 This contract was originally advertised under the Public Contract Regulations 2006 and so it is these regulations that apply and not the current 2015 regulations.
- 5.3 Changes that amounted to a "material change" were explored further by the European Court in the Priesetext case. The intended restructuring of the contract shape:
- does not change the economic balance of the contract in favour of the contractor in a manner not provided for in the terms of the initial contract or
  - does not extend the scope of the contract considerably to encompass services not initially covered or
  - if the changes had been known at the time of the initial tender would not have allowed others to participate in the tender or a different tender to be accepted
- and therefore the changes do not offend the rules stated in Priesetext.
- 5.4 The Council will still need to show that the resultant changes represent Best Value in accordance with its duty under section 3 of the Local Government Act 1999. However, the initial changes to the structure under the contract still leave the core day to day provision of the ICT service with the Contractor and

therefore, the original argument for Best Value when the contract was outsourced remains.

- 5.5 As regards the services which will become the direct responsibility of the Council post change the Council can demonstrate that this change represents Best Value as the cost of the provision of the same services only increases marginally (albeit there is a cost in the transformation that would need to be met in any event regardless of the change) but it enables the Council to subject the ICT service to competition and implement its transformation agenda.
- 5.6 With regards to any staff who will transfer from the contractor in the extension period the Council will need to ensure that it complies with its own internal rules and the provisions of the Transfer of Undertakings (Protection Of Employment) Regulations 2006 as amended. In particular the Council will need to ensure that it undertakes all appropriate levels of consultation with any staff affected by the changes including the adherence to statutory timescales and allowing for union representation where appropriate. The Council must also ensure that any such staff are re-engaged by the Council on terms that are no less beneficial than their existing employment terms.
- 5.7 The Council must undertake Equalities assessments to determine whether or not any changes intended under this report may impact upon persons who have a protected characteristic for the purposes of the Equality Act 2010 and undertake all other necessary actions to understand any potential impact including where appropriate consultation with such individuals and other relevant stakeholders.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 The recommendations set out in this report provide an opportunity for the Council to secure an effective ICT service to deliver the Council's strategic priorities. The recommendations set out an extended exit for the strategic partnership and propose a hybrid model which allows the Council direct control of the Council's ICT provision in a number of areas through insourcing as well as continuing the partnership arrangements in other areas. This will minimise disruption to Council services and act as a key enabler to support the Council to achieve its strategic outcome of effectively working together as one team to deliver services to the community.
- 6.2 These proposals also ensure that the ICT service can deliver the ICT Transformation Programme concurrently, replacing our aged infrastructure. Transformational IT service is at the heart of the Council's ambition to provide excellent services to residents as set out in the Council's Community and Strategic Plan whilst delivering the Council's Medium Term Financial Strategy.
- 6.3 The Council's Public Sector Equalities Duty (PSED) in relation to eliminating discrimination and evidencing due regard in relation to peoples with a protected characteristic has been considered in this report in relation to the proposals set out. An initial Equalities Assessment Screener has been

completed on the impact of the proposals on this. As a result of this assessment a full Equalities Impact Assessment (EIA) is not required as there is no impact.

- 6.4 The proposals do consider at a high level the option of TUPE of staff across from Agilisys to the Council at a later stage. It is envisaged that subject to Cabinet agreeing this report a full EIA will be completed by the Transition Project Team prior to the completion of the TUPE process with relevant compliance with the Council's HR and organisational change policy.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 The proposals allow in future for the Council to commission ICT services, in particular, the line of business applications and cloud services using government procurement frameworks. This will mean we can fully leverage the buying power of the whole public sector to secure value for money for the Council in line with its Best Value Duty.
- 7.2 Proposals such as the novation of 3<sup>rd</sup> party contracts back to the Council will allow for direct negotiation on 3<sup>rd</sup> party contracts of which savings could be directly realised by the Council.
- 7.3 The proposals will ensure the Council can proceed with vital work to transform the Council's ICT transformation with minimal disruption which will provide greater reliability and uptime thereby allowing staff to maintain productivity and efficiency resulting in better value ICT for the Council over time.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 The proposal allows for the Council to explore key pieces of transformation work involving the transition away from much of the physical hardware in Agilisys and Council premises to cloud based services. This will reduce our overall energy consumption and thereby reduce environmental impact. Furthermore, this will make way for decommissioning of Albert Jacob House and Mulberry Place data centres as part of asset rationalisation and the move to the Whitechapel Civic Centre thereby reducing our overall carbon footprint within the borough in the long term.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 Moving away from a single strategic partner to a multi sourcing model reduces the Council's vulnerabilities in relation to the failure or bankruptcy of a single partner.
- 9.2 Phased transition to in house services over a period of time i.e. some in 2019 and others in 2021 mitigates risks through lessons learnt ensuring this is delivered in an effective way.
- 9.3 A phased exit will minimise service disruption and ensure that service continuity risk is mitigated over the transition period.

**10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

10.1 This has been considered and there are no crime and disorder implications arising from this report.

**11. SAFEGUARDING IMPLICATIONS**

11.1 This has been considered and there are no safeguarding implications arising from this report.

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**Linked Reports, Appendices and Background Documents**

**Linked Report**

- NONE

**Appendices**

- Appendix A: Costing calculations (exempt from publication)

**Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- NONE.

**Officer contact details for documents:**

Or state N/A