

Record of Officer's Decision

The Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Date of Decision:	9 th May 2024
Decision Maker (Officer):	Lisa Hastings, Assistant Director (Governance) and Monitoring Officer
Authority for Delegated Decision (Cabinet/Committee Decision or Scheme of Delegation – provide reference):	<p>Part 3, Schedule 3 – Responsibility for Executive Functions delegated to Officers paragraph 4.4 (1) Corporate Directors and where appropriate, Assistant Directors, have delegated authority to discharge all executive functions within their respective service areas (Part 3.43).</p> <p>Part 3, Schedule 3, Para 4.4.1, paragraph 1 confirms that instructing external legal resources remains the responsibility of the Assistant Director (Governance).</p>
Identify which Portfolio Holder(s)/Committee Chairman consulted?	N/A
Ward Member(s) consulted?	N/A
Is it a Key Decision?	No
Is it subject to call-in?	No
Decision Made:	To appoint Messrs Sharpe Pritchard LLP as the external solicitors instructed to advise Tendring District Council on the procurement of a new “waste” contract, to negotiate on behalf of, support and work with the Council in connection with all aspects of procurement, up to and including the award, and entry into a new “waste” contract.
Reason for Decision (if a report was produced to support the Decision, refer to or attach it):	The “waste” contract is a significant contract for any Waste Collection Authority and it requires specialist and continuous input throughout including the procurement process, negotiations, drafting and

	<p>advising on the preparation of the “waste” contract that has a value in the millions of pounds per annum. Whilst the hourly charge rates of both Sharpe Pritchard LLP and Bevan Brittan LLP are higher than those of Essex Legal Services, Essex Legal Services cannot offer the full or complete service that both Sharpe Pritchard LLP and Bevan Brittan LLP can offer, and of these two firms, Sharpe Pritchard LLP’s hourly rates are lower than those offered by Bevan Brittan LLP.</p> <p>Whilst the in-house legal service does have a dedicated contracts lawyer post, this is currently vacant due to maternity leave and in any event, is regarded outside of the normal course of business as usual and existing capacity within the team.</p>
<p>Highlight any associated risks/finance/legal/equality considerations:</p>	<p>Without appropriate expert and timely advice there are risks that the Council will omit some relevant considerations or fail to understand the options and routes that may put the Council at risk in financial or reputational terms, and could result, for example, in the Council being subjected to an application to the High Court for leave to judicially review any of the decisions it makes throughout this work or risk the procurement activity failing.</p> <p>The cost of the external solicitors is being met through the project costs, and the Head of Legal Service will work closely with the service to ensure the costs are being monitored, within the budget envelop.</p>
<p>Details of any Alternative Options Considered and rejected (together with reasons):</p>	<p>In accordance with the Procurement Rules for services expected to exceed £10,000 but not to exceed £50,000 exclusive of VAT, three quotations were sought and obtained. Two of the three quotes were sourced via the Government’s Crown Commercial Services and the third, from Essex Legal Services was via the Public Law Partnership, of which Tendring DC is a member.</p> <p>Both Messrs Bevan Brittan LLP and Sharpe Pritchard LLP offered a full service from assisting and advising on procurement issues through to contract completion, attending or meeting when agreed, drafting all documentation including the contract document itself as and when required and supporting officers in negotiations and throughout.</p> <p>Essex Legal Services were able to offer a more limited role essentially providing a “high risk services contract” template that could be tailored to TDC’s</p>

	particular waste contract requirements, with support only around that document.
<p>Details of any declarations of interest (by Portfolio Holder/Committee Chairman who was consulted by the officer, which related to the decision)</p> <p>If relevant, a note of the dispensation granted by the Monitoring Officer:</p>	N/A
<p>Reason Decision, or supporting Report, is not published:</p> <p><i>Tick one or more of the specific exemptions,</i></p> <p><u>and</u></p> <p><i>Give more information in the final box with regards to why the exemption applies and outweighs the public interest test (which is in favour of disclosure).</i></p>	X Not applicable – Decision [and report] to be published
	If Report is not to be published – tick one of the following boxes:
	<input type="checkbox"/> The report supporting the Decision contains confidential information
	<input type="checkbox"/> The Report supporting the Decision falls within an exemption pursuant to Schedule 12A of the Local Government Act 1972 Information:
	<input type="checkbox"/> • Relates to an individual
	<input type="checkbox"/> • Likely to reveal the identity of an individual
	<input type="checkbox"/> • Relating to financial or business affairs of a person or organisation
	<input type="checkbox"/> • Relates to a claim for legal professional privilege in legal proceedings
	<input type="checkbox"/> • Reveals that the Council proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment
	<input type="checkbox"/> • Relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
<u>And</u> is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information	

Officer: ELECTRONICALLY Signed: LISA HASTINGS Assistant Director (Governance)

Dated: 20TH MAY 2024