



APPENDIX 1

Council Offices
Weeley
Essex
CO16 9AJ

Please ask for Gary Guiver

Tel: (01255) 686173

Our Ref: CL: Birketts May25

29 May 2025

Dear Cllr. Stephenson,

Exemption from Contract Procedure Rules: Legal support from Birketts LLP

I seek your concurrence to an exemption to normal procurement and contract procedure rules to enable the Council to proceed quickly to employ the services of Birketts LLP to provide expert legal support for the proposed transfer of Careline service users and staff to the expanded Helpline Service provided by Colchester City Council's arms-length trading company Amphora – including the preparation of the necessary legal agreement(s).

In June 2025, Officers will be preparing a report that will seek the Portfolio Holder for Partnerships' agreement to the Transition Plan for the Careline/Helpline transfer along with the Heads of Terms for an associated legal agreement. The emerging proposals being considered and discussed by the Resource and Services Overview and Scrutiny Committee on 3 June 2025 identify the potential to achieve the transfer on 1 August 2025 but one of the risks to that timescale is potential delay in preparing, negotiating and agreeing the legal agreement.

The report to RSOSC states: *"Officers have sought external legal support to write up the detailed agreement on the basis of the emerging Transition Plan and Heads of Terms set out within this report; so that if and when the Portfolio Holder for Partnerships is able to agree the proposals, Officers can progress as quickly as possible to put the formal legal agreement in place and implement the transfer."* Birketts LLP have already been advising Officers to date on the legal aspects of the proposed TUPE transfer of staff – but given the important interrelationships between the staff transfer, service-user transfer and proposed arrangements for the provision of Out-of-Hours and CCTV monitoring services, it is considered prudent for the same firm to be employed address all aspects of employment, commercial, procurement, data protection and other relevant law in a comprehensive and timely manner.

It is therefore proposed that an exemption from normal procurement and contract procedure rules is agreed to enable Birketts LLP to be engaged immediately to progress further work on reviewing the various legal aspects of the proposed Careline/Helpline transfer in readiness for expediting work on drafting the necessary legal agreement(s) with a view to achieving a timely August transfer.

Birketts LLP offers significant discounts for public sector organisations and, being well briefed on the project having given TUPE advice to date, are well positioned to deliver a timely service offering positive value for

money, not only through discounted fees – but also bearing in mind the month-by-month financial cost to the Council of any delays to the transfer, as indicated within the RSOSC report.

I would be grateful for your confirmation of concurrence, and would be happy to discuss this matter as necessary.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'G R Guiver', with a stylized flourish at the end.

Gary Guiver
Corporate Director – Planning and Community

Request for Exemption to Procurement Rules

Legal support from Birketts LLP

Following the Cabinet's resolution on 21 February 2025, the Council's Careline service is preparing to transfer service-users and staff to an expanded Helpline Service provided by Colchester City Council through its arms-length trading company Amphora. It is also proposed that the Council's Out-of-Hours, CCTV monitoring and monitoring of its own sheltered housing schemes will form part of the transfer.

The Cabinet's resolution delegated authority to the Portfolio Holder for Partnerships to progress and deliver, amongst other things, the preparation of a detailed Transition Plan in collaboration with Colchester City Council and Colchester Helpline (Amphora) including the associated legal agreement for the achievement of the transfer. Emerging proposals for the Transition Plan and Heads of Terms for the legal agreement are set out within the 4 June 2024 report for the Resource and Services Overview and Scrutiny Committee and that report indicates the potential to achieve the transfer in August 2025 subject to the completion of various tasks, including the completion of that legal agreement.

One of the main risks to achieving the transfer within that timeframe is the potential for any delay in preparing, negotiating and agreeing the legal agreement and, in turn, delays to the transfer present increasing risks around staff shortage, service provision and financial implications. Officers therefore recommend moving as quickly as possible from the Portfolio Holder's agreement to Heads of Terms to the drafting of the legal agreement by having an external law firm ready to progress work immediately.

Birketts LLP have been advising the Council already in relation to aspects of the employment law aspects of the Careline/Helpline transfer, but given the important interrelationships between the staff transfer, service-user transfer and proposed arrangements for the provision of Out-of-Hours and CCTV monitoring services, it is considered prudent for the same firm to be employed address all aspects of employment, commercial, procurement, data protection and other relevant law in a comprehensive and timely manner.

The anticipated cost, to be met through the agreed one-off transition/implementation budget is anticipated to fall within the range of £13,000 and £20,000 depending on any specific issues that arise through the full legal review of the proposals – however this includes a discount offered to public sector organisations and the firm is well briefed and well positioned to progress the work within the timescales. An exemption from normal procurement and contract procedure rules is therefore proposed in order for the work to progress immediately, thus maximising the likelihood of achieving the suggested August transfer and minimising wider risks of delay. It is considered that an exemption is justified both in the interest of expediency and value for money.

I authorise the use of Birketts LLP to provide legal support and advice in respect of the proposed Careline/Helpline transfer – including the preparation of the legal agreement(s) required for the transfer to happen.

Councillor Mark Stephenson

Deputy Leader of the Council and Corporate
Finance & Governance Portfolio Holder

Confirmed by the Deputy Leader of the Council
(on the Leader's behalf) on 3 June 2025 (see
email)

Richard Barrett

Corporate Director – Finance and IT

Confirmed on 29 May 2025 (see email)

Gary Guiver

From: Richard Barrett
Sent: 29 May 2025 16:17
To: Gary Guiver
Subject: FW: Exemption from Contract Procedure Rules: Legal support from Birketts LLP
Attachments: Exemption from Contract Procedure Rules - Birketts LLP - Careline - May 2025.docx

Hi Gary
I am happy to support the attached.

It would be helpful to indicate the likely cost and how it is to be funded – I think it is going to be less than £30k. If funded from the £750k pot set aside do we need to wrap up the delegated decision within this same note? Are you also getting a concurrence to place the work or are you doing that via Gina?

Cheers
Richard

From: Gary Guiver <gguiver@tendringdc.gov.uk>
Sent: 29 May 2025 15:06
To: Cllr. Mark Stephenson <cllr.mstephenson@tendringdc.gov.uk>; Richard Barrett <rbarrett@tendringdc.gov.uk>
Cc: Cllr. Gina Placey <cllr.gplacey@tendringdc.gov.uk>; Katie Wilkins <kwilkins@tendringdc.gov.uk>
Subject: Exemption from Contract Procedure Rules: Legal support from Birketts LLP

Dear Mark,

As always, very happy to discuss this before you consider, but I am seeking concurrence please to an urgent exemption from normal contract procedure rules to be able us employ the services of Birketts LLP to provide legal support and to prepare the necessary legal agreement(s) for the Careline/Helpline transfer.

With a potential transfer date of 1 August 2025, one of the main risks to achieving this is the timely completion of the necessary legal agreement – and thus having the right legal firm lined up and ready to go will be important. Birketts are best placed to start immediately in providing this service having already been advising the Council on employment law aspects of the transfer, being well briefed on the project and offering discount for public sector customers.

Richard, can I also confirm your agreement as s151 Officer.

Thank you, and happy to discuss.

Kind regards

Gary

Gary Guiver BSc(Hons) PGDipTP MBA MRTPI
Corporate Director
Planning and Community

Gary Guiver

From: Cllr. Ivan Henderson
Sent: 03 June 2025 16:22
To: Gary Guiver
Cc: Cllr. Gina Placey; Katie Wilkins; Richard Barrett; Cllr. Mark Stephenson
Subject: RE: Exemption from Contract Procedure Rules: Legal support from Birketts LLP

Hi Gary,

I am happy to agree to the attached concurrence.

With best wishes

Ivan

From: Gary Guiver <gguiver@tendringdc.gov.uk>
Sent: 03 June 2025 15:23
To: Cllr. Ivan Henderson <cldr.ihenderson@tendringdc.gov.uk>
Cc: Cllr. Gina Placey <cldr.gplacey@tendringdc.gov.uk>; Katie Wilkins <kwilkins@tendringdc.gov.uk>; Richard Barrett <rbarrett@tendringdc.gov.uk>; Cllr. Mark Stephenson <cldr.mstephenson@tendringdc.gov.uk>
Subject: FW: Exemption from Contract Procedure Rules: Legal support from Birketts LLP
Importance: High

Dear Ivan,

I hope you are keeping well. I hadn't realised that Cllr. Mark Stephenson was away this week, and so could I ask you to consider the attached as Deputy Leader, in Mark's absence, please?

We are looking to appoint Birketts LLP to carry out the legal work to advance the Careline/Helpline transfer, but will require an exemption from normal contract procedure rules to allow us to proceed immediately in light of the timescales involved and Birketts' familiarity with the project and involvement to date.

Richard Barrett has already confirmed his concurrence, but I would be grateful for your concurrence too – and Gina and I can then proceed to formalise the appointment.

Please don't hesitate to ask any questions, and I'm very happy to discuss.

Many thanks

Gary
Gary Guiver BSc(Hons) PGDipTP MBA MRTPI
Corporate Director
Planning and Community
Tendring District Council
01255 686173

From: Gary Guiver
Sent: 02 June 2025 13:08
To: Cllr. Mark Stephenson <cldr.mstephenson@tendringdc.gov.uk>
Cc: Cllr. Gina Placey <cldr.gplacey@tendringdc.gov.uk>; Richard Barrett <rbarrett@tendringdc.gov.uk>; Katie Wilkins <kwilkins@tendringdc.gov.uk>

Subject: FW: Exemption from Contract Procedure Rules: Legal support from Birketts LLP
Importance: High

Morning Mark,

Hope you had a good weekend. You may not have had a chance to look at this yet, but just to let you know that Richard has confirmed he's happy to proceed with this exemption and I hope you are okay giving your concurrence too. I am more than happy to talk you through it.

If you are happy to concur, I will arrange a report for Gina to agree the budget spend and we'll get Birketts up and running on the legal work for the Careline/Helpline transfer.

Thanks

Gary

Gary Guiver BSc(Hons) PGDipTP MBA MRTPI
Corporate Director
Planning and Community
Tendring District Council
01255 686173

From: Gary Guiver
Sent: 29 May 2025 15:06
To: Cllr. Mark Stephenson <cllr.mstephenson@tendringdc.gov.uk>; Richard Barrett <rbarrett@tendringdc.gov.uk>
Cc: Cllr. Gina Placey <cllr.gplacey@tendringdc.gov.uk>; Katie Wilkins <kwilkins@tendringdc.gov.uk>
Subject: Exemption from Contract Procedure Rules: Legal support from Birketts LLP

Dear Mark,

As always, very happy to discuss this before you consider, but I am seeking concurrence please to an urgent exemption from normal contract procedure rules to be able us employ the services of Birketts LLP to provide legal support and to prepare the necessary legal agreement(s) for the Careline/Helpline transfer.

With a potential transfer date of 1 August 2025, one of the main risks to achieving this is the timely completion of the necessary legal agreement – and thus having the right legal firm lined up and ready to go will be important. Birketts are best placed to start immediately in providing this service having already been advising the Council on employment law aspects of the transfer, being well briefed on the project and offering discount for public sector customers.

Richard, can I also confirm your agreement as s151 Officer.

Thank you, and happy to discuss.

Kind regards

Gary

Gary Guiver BSc(Hons) PGDipTP MBA MRTPI
Corporate Director
Planning and Community
Tendring District Council