

## WRITTEN STATEMENT OF A KEY DECISION CABINET MEMBER ECONOMY AND CORPORATE SERVICES

<b>ITEM:</b>	<b>TERMS OF THE BT DELIVERY CLOSE DOWN</b>
Date of Decision:	24 May 2017
Exempt:	No -
Confidential	No
This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates.	
A notice was served in accordance with Part 3, Section 9 (Publicity in connection with key decisions) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	
Urgency/Special Urgency: (As defined in Constitution)	No
Purpose:	To agree terms of close down of the fibre broadband delivery with of Borders Broadband project - referred to as Fastershire).
<b>Decision:</b>	<p><b>THAT:</b></p> <p>(a) the delivery element of the Borders Broadband contract with BT be closed subject to a deed of variation being agreed with the following terms:</p> <ul style="list-style-type: none"> <li>• Achievement of contracted delivery for phase one is based on required premises being fully evidenced as Passed Premise with the ability to access a 30Mbps service based on the output of the wholesale line checker as of 31 May 2017;</li> <li>• That a compensation sum is calculated on the basis of £2,400 for each premise not achieving Passed Premise status as part of the target delivery;</li> <li>• That any compensation sum is retained from any future eligible claim and if required charged to BT where the residual contract payments are less than the compensation sum due;</li> <li>• That BT's obligation to deliver universal service commitment (USC) under the contract is removed and 50% of Herefordshire's M1b budget is reallocated to Herefordshire's M1a budgets subject to evidence of under 30Mbps premises being reached and costs incurred;</li> </ul> <p>(b) subject to recommendation (a) being implemented, a reinvestment fund be established under the control</p>

	<p><b>of the partner councils (for which Herefordshire Council will act as accountable body) to hold any excess profits generated by BT to be used to fund additional network deployment during a period of 7 years after final payment for phase 1;</b></p> <p><b>(c) in the event that the deed of variation referenced in recommendation (a) is not accepted by BT, BT be issued with a termination notice based on the contracted delivery as of 31 December 2016 based on evidence provided; and</b></p> <p><b>the assistant director communities be authorised to take all operational decisions necessary to effect the above recommendations.</b></p>
<p>Reasons for the Decision:</p>	<p>The terms outlined in the recommendations are considered the best outcome for due diligence in the use of public funds whilst meeting the ambitions of the revised broadband strategy agreed by cabinet in December 2015. In presenting these terms the partner councils are offering reasonable conditions to bring to a close overdue delivery, with compensation for reinvestment in a future solution for those premises not reached as part of the planned delivery for phase one.</p> <p>The recommendation concerning USC (universal service commitment) is based on recognising that premises of less than 2Mbps have been serviced by either the fibre network or the availability of the Better Broadband (national government subsidised satellite scheme).</p>
<p>Options Considered:</p>	<p>That BT is given an additional 12 months to deliver any outstanding deployment. This is not recommended as BT have already been issued with contract extensions. Also, closing delivery at this point will mean options for premises that fall out of the BT delivery can be explored in a timely manner to meet the intentions of the revised broadband strategy.</p> <p>That BT are immediately issued with termination notice based on contractual default due to missed coverage as of December 2016 without the terms identified above being offered. This option is recommended if BT do not agree the proposed terms of a negotiated close down. It is likely that this would be a longer process and may involve resources being required to support litigation that are better used to support the Fastershire project going forward with an uncertain outcome for the partner councils. It is deemed prudent to offer reasonable terms before taking this step.</p>
<p>Conflict of Interest <input type="checkbox"/> (See below):</p>	
<p>Date the key decision is due to take effect:</p>	<p>31 May 2017</p>

<p><b>COUNCILLOR D HARLOW</b> .....Date: 24 May 2017  <b>Cabinet member economy and corporate services</b></p>
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- a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision;

And

- in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.