

Record of officer decision

Decision title:	Final agreement to close down the delivery and payment phase of the Borders Broadband contract (Phase 1 delivery for Fastershire)
Date of decision:	31 January 2018
Decision maker:	Assistant Director Communities
Authority for delegated decision:	An executive decision authorising the officer : http://hc-modgov:9070/ieDecisionDetails.aspx?ID=4614
Ward:	Countywide
Consultation:	Fastershire Project Board Gloucestershire County Council Cabinet member economy and communications Broadband Delivery UK
Decision made:	In accordance with the cabinet member decision of 24 th May 2017 entitled "Terms of the BT delivery close down" the following decision is made, that: A deed of variation is produced between BT and the partner authorities to include the following points: <ul style="list-style-type: none"> • Information submitted by BT on premise status of 31st May 2017 is a statement of delivery that BT are committed to reach as premise passed. • That a retained sum held by the authorities for 12 months against eligible premises that are unable to order a service after an 11 week period of reporting. • That BT's obligation to deliver universal service commitment (USC) under the contract is removed. • That any under delivery in Herefordshire milestones is compensated for reinvestment in the network. • A reinvestment fund be established under the control of the partner councils 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.
Reasons for decision:	The cabinet member agreed the terms to conclude the delivery of phase one deployment with BT on 24 th May 2017 and this decision reflects those recommendations. Since 2012 Herefordshire Council and Gloucestershire County Council has contracted BT to deliver a fibre broadband network across the two counties as part of phase 1 of the Fastershire project. The final part of the deployment in Herefordshire was due to complete in December 2016. BT provided sufficient modelling information regarding the required number of NGA premises passed as of 31 st May 2017.
Highlight any associated risks/finance/legal/equality considerations:	Legal: As of the end of December BT had not met all its contractual obligation. The option of issuing a termination notice which could lead to litigation was a consideration – however based on BT's agreement to terms, stated delivery as of 31 st May 2017 and the risk/cost of litigation, this is not being pursued. Inaccurate data: there continues to be a risk the data submitted as premises passed is not accurate. BT have committed to ensure any premise declared on the 31 st May 2017 data is able to receive

	<p>30Mbps and above service will be able to do so. The authorities will also hold a retained sum to meet that obligation.</p> <p>Financial: The obligation to deliver USC is withdrawn from BT and any held-back payment for under delivery will be used for further investment in the network. USC has been met either through network delivery at less than 30Mbps via the network investment; phase 2 delivery through new contracts; or the Better Broadband Scheme via the Government's subsidised satellite scheme. Appendix 1 includes outline financial summary (commercially confidential).</p>
Details of any alternative options considered and rejected:	<p>The alternative option as outlined in the cabinet member report taken on the 24th May 2017 was that in the event that the deed of variation based on the terms outlined were 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. This has been rejected as BT have met the terms.</p>
Details of any declarations of interest made:	n/a

Signed..... Date: 31/1/18