

## **Title of report: Major contract performance update**

**Meeting: Cabinet**

**Meeting date: Thursday 29 July 2021**

**Report by: Cabinet member commissioning, procurement and assets**

### **Classification**

Open

### **Decision type**

Non-key

### **Wards affected**

All wards

### **Purpose**

To update Cabinet on progress made following the Major Contract Performance Review reported to Cabinet on 24 September 2020. That report approved improvements to the council's major contracts for Public Realm services and Property and Facilities Management.

### **Recommendation(s)**

**That:**

- a) Cabinet note the outcome of a whistleblowing investigation and, in line with the approved improvement plan, a contract management and commissioning resource is created in the corporate centre to provide capacity to support the delivery of the improvement plan using the Programme Management Office (PMO).**
- b) Cabinet approve the establishment of an improvement board to include senior officers and Cabinet members**

### **Alternative options**

- 1. This is a factual report with updates on suggestions for improvements. The alternative option is not to implement some or all of the improvements suggested. This would result in reduced improvements to the performance of the major contract in place.**

## Key considerations

2. The findings of the Public Realms major contract performance review was reported to Cabinet on 24 September 2020 and with it Cabinet approved the recommended improvements, being:-
  - a. Build technical knowledge within the Council
  - b. Improve internal communication and education
  - c. Increase the involvement of the procurement team
  - d. Set up a contract management framework
  - e. Consider an appropriate Contract Management System (CMS)
3. On 5 October 2020 a whistleblowing investigation was commissioned to consider the management of the Hereford City Centre Transport Package. In summary the purpose of the Hereford City Centre Transport Package (HCCTP) is a series of works to improve the way residents and businesses travel around Hereford to reduce journey times, cut pollution and create a safer environment for all road users; the programme has also released land for development. There are two key elements – the City Link Road which was opened in December 2017 and the Transport Hub yet to be completed; along with some public realm elements.
4. The investigation concluded on 23 January 2021. Attached at Appendix A is the Hereford City Centre Transport Package internal investigation summary report. Its key findings include:-
  - a. Based on the 23 November 2017 cabinet member report total spend to that point was £34,160k with £6,490k remaining to spend on public realm works at Commercial Road, Blueschool and Newmarket streets, plus the transport hub.
  - b. Since the 2017 report there has been additional costs relating to land acquisitions. A further up to date Cabinet report was presented on 22 July confirming that insufficient funding remains to complete the remaining undelivered HCCTP projects.
  - c. Of concern are the number of compensation events, with costs beyond contracted amounts outlined in original governance. The contract and relationship with BBLP meant they were the key delivery agent. This puts a great deal of trust in BBLP without the value for money being tested beyond the original contract.
  - d. Also of concern is the cost of land acquisition beyond the business case estimate – by more than £5m. CPOs follow complicated legal processes and once started there will be a set entitlements based on land valuation and disturbance payments (sometimes only fully realised years later).
  - e. The report recommendations include further financial appraisal on BBLP spending, especially focusing on payment for quantity surveying, project leads and programme management and BBLP's value for money test when

commissioning third parties, reviewing procurement reports and / or evidence of quotes.

5. This further supports the previous report being that it is a corporate priority to improve the commissioning and contract management of the Public Realm Contract.
6. To address the required improvements it is proposed that a contract management and commissioning resource is created in the corporate centre to provide capacity to support the delivery of the improvement plan using the Programme Management Office (PMO).
7. The commissioning role does report to the monitoring officer and the contract management to the chief finance officer. The two new roles are providing expertise and additional capacity to support the Director and work with the existing team, who will continue with front line delivery.
8. In addition to this Cabinet is requested to approve the establishment of an improvement board to include senior officers and Cabinet members. The board and additional resource will review the current operating model and monitor the improvement plan. Minutes from Improvement board meetings will be published and reports will come back to Cabinet on an exceptional basis.

## **Community impact**

9. To ensure the optimum performance of the major contract for public realm supports the delivery of the best value for money and community impact of the services the contract provides.
10. Herefordshire Council is committed to ensure that those making decisions and delivering services are accountable for them. To support effective accountability the council is committed to reporting on actions completed and outcomes achieved, and ensuring stakeholders are able to understand and respond as the council plans and carries out its activities in a transparent manner. External and internal audit contribute to effective accountability.

## **Environmental Impact**

11. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
12. Whilst this is a decision on reviewing a major contract in place, consideration is given to minimise waste and resource use in line with the Council's Environmental Policy when procuring works through the contract.

## **Equality duty**

13. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

14 The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a report on the performance of an existing contract, we do not believe that it will have an impact on our equality duty.

## **Resource implications**

15 The suggested improvements to improve the performance of the major contract for public realm will largely be resource implication neutral. Contract efficiencies can fund the resource implications of the recommendations proposed.

16 The contract provision is supported by council staff costs that total approximately £0.3m in revenue costs and £0.7m in capital costs, per annum. Council officers have agreed the proposed action plan and the cost of implementing this will be contained within existing budgets.

17 The role of the officers will be to implement the recommendations of the internal investigation and instigate a programme of improvement relating to the contract to ensure value for money.

## **Legal implications**

18 There are no legal implications as a result of the proposed improvements discussed in this report.

## **Risk management**

19 To improve the performance of the major public realm contract will reduce the risk of mismanagement and non-compliance with contract procedure rules. The monthly Performance Report - Risk Register does not sufficiently log actions related to risks. Each risk should be accompanied by a strategic plan, which is to either accept, mitigate or transfer the risk. These strategic plans should also be accompanied by

clear actions against each which are tracked and updated each month (even if there is no progress).

20 There is a need to build technical knowledge within the Council to reduce the risk of the Council being over reliant on Balfour Beatty for end-to-end delivery of its infrastructure, property and public realms works.

## **Consultees**

21 None

## **Appendices**

Appendix A Major Contract Performance Internal Investigation

## **Background papers**

None identified