

To: Cabinet
Date: 19 April 2023
Report of: Head of Paid Service (Chief Executive)
Title of Report: Decisions taken under Part 9.3(b) of the Constitution

Summary and recommendations	
Purpose of report:	Council is asked to note the decision taken by the Head of Paid Service using the urgency powers delegated in Part 9.3(b) of the Constitution.
Recommendation: That Cabinet resolves to:	
1. Note the decision taken as set out in the report.	

Appendices	
None	

Introduction and background

1. This report updates Cabinet on a decision taken by the Head of Paid Service (Chief Executive) using the urgency powers delegated in Part 9.3(b) of the Council's Constitution.
2. Where urgency powers are used the Constitution requires the Head of Paid Service to report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.

9.3 Role of Head of Paid Service

...

(b) The Head of Paid Service is authorised to take any urgent action necessary to protect the Council's interests and assets where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.

The Head of Paid Service, in so acting, will be guided by budget and the policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.

Key decision procedures and call in procedures (Parts 15 & 17) will apply to any key decisions taken under this authorisation.

Decisions taken using urgency powers

3. The following decision has been taken using urgency powers for which Cabinet would otherwise have been required to give the necessary authority to act. Cabinet is responsible for giving project approval for projects of £500,000 or over (£1,000,000 for contract awards). Cabinet is asked to note the decision.
4. This report does not include decisions taken using urgency or emergency powers that have previously been reported to Cabinet.

ITEM 1	SUPPLIER CONTRACT AWARD FOR MICROSOFT SOFTWARE LICENCES
<p>Following a regular procurement exercise, a successful bidder was identified. The outcome is the award of a three-year contract to the supplier Phoenix for the provision of all Microsoft software licences used across the Council and associated companies. The offer of a 3-year award with the associated discounts was only made during the week of 13th March 2023 - given the timescales for implementation, which must be by the 31st March 2023, which is what has generated the need for an urgent decision.</p> <p>In order to obtain a £40,000 discount on the pricing, we have to sign the agreement in the coming days. Otherwise we will pay the full cost for an annual deal.</p> <p>The value of the contract amounts to £1,107,123.21 over a three-year period. This is in line with the existing capital (C3044) and revenue (CA70) budgets for the provision of the licences. No additional capital or revenue funding is required, nor is there a requirement to vire funds or to adjust annual budgets.</p> <p>Time is of the essence, to protect the Council's financial interests, by securing the discount of £120,000 over the three year period, and the discount will not be available if the decision awaited the next scheduled Cabinet meeting. For this reason, the use of the Chief Executive's delegated authority to take urgent action is appropriate and justified.</p>	
Date of decision:	24 March 2023
Decision taker	<p>Head of Paid Service (Chief Executive)</p> <p>Decision taken in consultation with:</p> <ul style="list-style-type: none"> • Councillor Nigel Chapman, Cabinet Member for Citizen Focused Services • Helen Bishop, Head of Business Improvement • Nigel Kennedy, Head of Financial Services • Susan Sale, Head of Law and Governance
Was the decision taken under emergency or urgency rules?	<p>Constitution 9.3(b):</p> <p><i>The Head of Paid Service is authorised to take any urgent action necessary to protect the Council's interests and assets where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.</i></p> <p><i>The Head of Paid Service, in so acting, will be guided by budget and the policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as</i></p>

	<i>practicable to the body which would otherwise have been required to give the necessary authority to act.</i>
Is this a Key Decision?	<p>Yes – contract award with a value of £1,000,000 or greater [Constitution 15.14]</p> <p>The matter was not able to be included on the forward plan for 28 days in accordance with the Local Authority (Executive Arrangements) Regulations. The matter was included on the Forward Plan on 16th March 2023 and a special urgency notice served on the Chair of Scrutiny on the same day.</p> <p>The decision may not therefore be made by the Chief Executive until 24 March 2023.</p> <p>The decision is subject to the usual call-in rules and so the contract with the supplier may not be entered into until 29 March 2023 at the earliest.</p>
Reasons for decision	If a decision is not taken with urgency, Microsoft will apply the April pricing, which has a 9% uplift on 2022/3 values. If an annual contract is taken out, the increase in cost will be in the region of £40,000 compared to the three-year cost, plus an uplift of 9%.
Alternative options considered:	<ol style="list-style-type: none"> 1. Follow the regular process – this would cost the Council upwards of £120,000 (circa 10% of the contract value) over three years. 2. Approve an annual contract through the Head of Service (as the value would be below £500,000) – this would cost an additional £40,000 to the Council.
Wards significantly affected	None

Financial issues

5. The decision was made in order for the Council to take advantage of a £120,000 saving over the life of the three-year contract, when compared to awarding an annual contract only.
6. The expenditure of £1,107,123.21 was accounted for in the budget agreed by Council on 16 February 2023.

Legal issues

7. Decisions reserved to Cabinet are set out in Part 4.5 of the Council's Constitution. The urgency and emergency powers of the Head of Paid Service are set out in Part 9.3 of the Council's Constitution. The responsibilities for budget decisions are set out in Part 18.8 of the Council's Constitution.

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Background Papers: None