

# Birmingham City Council

## Report to CABINET

Date: 25<sup>th</sup> July 2023



**Subject:** **CONTRACT STRATEGY / AWARD - CLEARING BANK SERVICES (P1133)**

**Report of:** **Interim Finance Director & Section 151 Officer**

**Relevant Cabinet Member:** **Councillor Brigid Jones, Finance and Resources**

**Relevant O &S Chair(s):** **Councillor Jack Deakin, Resources**

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 011517/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		
Exempt information paragraph 3: Information relating to the financial or business affairs of any particular person (including the Council)		

### 1 Executive Summary

- 1.1 To provide details of the outcome of the negotiated procurement process undertaken for the provision of clearing bank services and to seek approval for the direct award of a contract to Barclays Bank Plc.
- 1.2 The contract award is for a period of 5 years commencing 1st April 2024 with an option to extend for a further period of 2 years subject to satisfactory performance, for the estimated annual contract value of £130,541 based on current volumes.

- 1.3 The Appendix C: Exempt Information report contains confidential market and financial information.

## **2 Recommendations**

- 2.1 Approves the direct award of a contract to Barclays Bank Plc for the provision of bank clearing services for a period of 5 years commencing 1<sup>st</sup> April 2024 with an option to extend for a further period of 2 years subject to satisfactory performance, for the estimated annual contract value of £130,541.
- 2.2 Delegates taking up the option to extend for the further period of 2 years subject to performance to the Interim Finance Director & Section 151 Officer (or their delegate) in conjunction with the Assistant Director, Procurement (or their delegate), and the City Solicitor & Monitoring Officer (or their delegate).
- 2.3 Authorises the City Solicitor & Monitoring Officer to execute and complete all necessary documentation to give effect to the above recommendations.

## **3 Background**

- 3.1 The provision of clearing banking services for Birmingham City Council and its wholly owned companies Acivico, InReach, Birmingham Propco and Birmingham Children's Trust, are critical and an essential part of their ability to continue operations. This includes the ability to make payments to staff, the City's vulnerable citizens, to its entire supply chain and for income collection.
- 3.2 A clearing bank is a member of London Bankers Clearing House, which clears cheques, settling indebtedness between two parties. Barclays clearing bank services covers the following core banking areas:
- Processing income and payments via BACS, CHAPS and direct debits.
  - Processing cheques for income and payments.
  - Processing of cash from numerous sites in notes and coins.
  - Managing a large number of bank accounts
  - Facilitate the use of internet banking with the provision of online banking support.
  - Managing reconciliation data via direct link and/or tapes/files transfer.
  - Provide the Council with overdraft facilities setting out interest on overdraft and for in hand cash balances.
  - Providing the Council with a short-term borrowing and lending facility.
  - Advice and support with regards to banking initiatives, innovation and changes.
- 3.3 Following an 'open' tendering exercise undertaken in 2013, Barclays Bank Plc ('Barclays') were awarded the contract for clearing bank services for the Council for an initial five-year period commencing 1st April 2015 to replace the existing incumbent contract with Co-op Bank. The new contract included the option to extend for a further two years subject to satisfactory performance.

- 3.4 A Delegated Award Report was signed on 24<sup>th</sup> July 2019 to take up the extension option until 31<sup>st</sup> March 2022.
- 3.5 Any commencement of a procurement process for a new banking contract from 1<sup>st</sup> April 2022 would need to allow for the potential transition to a new supplier and the timing would have coincided with the Council's implementation of its replacement Enterprise Resource Planning (ERP) system.
- 3.6 To minimise the risks of implementing two business critical Financial IT programmes concurrently, a Single Contractor Negotiations Report was approved on 28<sup>th</sup> January 2021 to allow Barclays to provide clearing bank services for an additional two years until 31<sup>st</sup> March 2024.
- 3.7 A new contract for the provision of clearing bank services will be required to commence on 1st April 2024 for the continued provision of these services. The Council has evaluated the option of undertaking a formal tender exercise against negotiating a new contract with its existing supplier Barclays. This evaluation has involved feedback from officers within Procurement, an independent review from banking consultant Focus on Banking, market engagement with a number of potential competitor banks and revised transaction fees and service delivery proposals from Barclays.
- 3.8 The consequence of a different banker being appointed would mean significant technical changes across the Council in terms of I.T. systems, documentation and procedures. It is estimated that this change process may take up to 12 months and would involve significant resource from both the Council and suppliers' side and cost to reconfigure the financial systems and is a major business risk to the organisation. When the Council moved from the Co-op Bank to Barclays in 2015 the system changes costs were as per Exempt Appendix C and took approximately a year for transition. Based on the proposed pricing received from Barclays, these transition costs would account for approximately 76% of the 5-year contract value. Focus on Banking also confirmed the cost of transferring banking arrangements are significant for some of the smaller to medium size local authorities that they have supported.
- 3.9 Some of the tariff increases outlined by Barclays are concentrated on cash and cheque processing which have already seen a decrease in volumes and to which Barclays have committed to reducing further by working together with the Council. Equally Barclays have reduced or maintained tariffs for the increasing volumes seen in electronic banking processes. As part of the negotiation process Barclays have further reduced some tariffs. Aside from these reductions, Barclays believe there are further savings which can be made by the Council by reviewing processes and changing the way that transactions are made and will support with this.
- 3.10 Barclays have also outlined how they will continue to bring social value to Birmingham by supporting Birmingham residents through various initiatives including Cost of Living support.
- 3.11 Focus on Banking undertook benchmark analysis in March 2023 to compare Barclays initial proposed costs against tariffs that are likely to be offered by banks

active in the local authority banking market (see Exempt Appendix C). This report reviews the current and proposed tariffs/costs charged by Barclays and compares them against the pricing/terms that are likely to be achieved if the contract were tendered. Following the analysis, Focus on Banking concluded that Barclays proposed terms and costs are competitive when compared to the current market. Since the report was undertaken by Focus on Banking, the Council have negotiated with Barclays to further reduce proposed tariffs further as detailed in Appendix C: Exempt Information report.

3.12 The Council have undertaken market engagement with a number of competitor banks to ascertain whether they would bid for the clearing banking services contract should the Council go through an 'open' tender process. All these banks confirmed they would not take part due to the cost of a tender process, I.T. system implementation and resource costs following an award and the annual contract spend being viewed as low, especially against offering competitive pricing to offset the Council's own internal costs of switching banks.

3.13 Focus on Banking have worked with many local authorities who have chosen to regularly extend their banking contracts rather than undertake a formal tender process. This is often the preferred option as:

- The market for local authority banking in England is limited. Currently there are only three banks that may consider competing – NatWest, Lloyds and Barclays. When tendering local authority contracts, it is common to see only one submitted, from the incumbent.
- The internal cost associated with moving to a new service provider can be excessive and for most local authorities this will often be greater than the annual contract value and is considered to be the case here.

#### **4 Options considered and Recommended Proposal**

4.1 Do nothing – this is not an option. The Council needs a banking contract as it cannot function without bank clearing services that are essential to its continued operations. This includes the ability to make payments to staff, the City's vulnerable citizens, to its entire supply chain and for income collection.

4.2 Tender as a Birmingham City Council only contract – this is not likely to provide value for money for the Council or a supplier given the significant changes across the Council in terms of I.T. systems, documentation & procedures and the costs and timescales of migrating to a new supplier. There is a likelihood of no other bids from competitor banks following market consultation with a number of these banks to gauge their interest and following advice received from the Council's banking consultant Focus on Banking. No significant benefit or economies of scale would be realised from this option therefore this option was discounted.

4.3 Use a Collaborative Framework –There are no frameworks in place that provide clearing bank services in line with the Council's requirements and the type of banks needed do not operate on such frameworks. Therefore, this option was discounted.

- 4.4 Direct award contract with existing supplier – this is the recommended option due to the removal of the risk and changes in terms of I.T. systems and the significant costs and timescales associated with migrating to a new supplier, along with the competitive market pricing as verified with the independent banking consultant Focus on Banking, where proposed tariffs have been reduced further by Barclays.

## **5 Consultation**

### Internal

- 5.1 The Interim Finance Director and Section 151 Officer and the Head of Category for Corporate Procurement have been consulted and are in agreement with the procurement strategy and the contents of this report.
- 5.2 Officers from Finance, Corporate Procurement, Corporate Finance and Legal Services were consulted in the preparation of this report and have been involved with the preparation of this report.

### External

- 5.3 An independent review was undertaken by the Council's banking consultants Focus on Banking.
- 5.4 A number of Banks operating and currently providing clearing bank services in the local government sector have been contacted as part of market engagement.
- 5.5 Consideration was given to carry out wider consultation externally to the Council under the Public Services (Social Value) Act 2012 to determine if additional social value could be derived from this contract. Due to the transactional nature of the contract, it was considered that no further social value would result beyond mandating compliance to the Birmingham Business Charter for Social Responsibility (BBCSR).

## **6 Risk Management**

- 6.1 There is a risk that the Council will not have a contracted clearing bank services supplier from 1 April 2024. The Council and its wholly owned companies cannot function without banking services as they are essential to Council operations including payments to staff, the City's vulnerable citizens, income collection and making payments to its entire supply chain. A new banking contract approved before the end of the current contract will mitigate this risk.
- 6.2 An assessment of the risks attached to the proposed approach of a negotiated direct award is included in Appendix A.
- 6.3 It is therefore considered a measured and acceptable risk to take in the circumstances avoiding the significant disruption, transition costs of change and resources associated with a change of supplier and allowing the Council and its wholly owned companies Acivico, InReach, Birmingham Propco and Birmingham Children's Trust to focus on the critical and essential part of their ability to make

payments to staff, the City's vulnerable citizens, to its entire supply chain and for income collection.

## **7 Compliance Issues:**

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 This contract will support the following objective of the Council:

- A prosperous city, built on an inclusive economy – by ensuring the contract offers the latest facilities to support the financial activities of the Council and meets the requirements of its customers.

7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR) – Barclays Bank plc are a signatory to the BBC4SR and this will be a mandatory requirement and will form part of the conditions of this contract. Following contract award, a plan will be agreed on how charter principles will be implemented and monitored during the contract period.

7.1.3 Living Wage - The requirement to pay the Birmingham Living Wage will not apply to this contract as it does not comply with paragraph 4.3 of the City Council's Living Wage Policy.

7.1.4 Treasury Management Policy and Strategy

The procurement of this contract will be in accordance with the City Council's treasury management objectives and activities which are defined as:

"The management of the organisation's cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks".

7.2 Legal Implications

7.2.1 The Council requires a clearing bank services contract to enable it to effectively perform its statutory functions and manage the financial affairs of the Council. This procurement is permitted under ancillary powers conferred on the Council to enter into arrangements under S.111 Local Government Act 1972.

7.3 Financial Implications

7.3.1 The transaction rates will be fixed for the duration of the contract and the contract will not commit the Council to a specific level of annual expenditure as it will be volume based.

7.3.2 The annual contract expenditure is estimated to be £130,541. It is not anticipated that the new contract will deliver significant cost savings, however, emphasis will be on not only maintaining, but improving the quality of service received by the Council.

7.3.3 Funding for this contract is provided for in the existing approved Council Management Directorate budget. The total spend on this contract is largely volume based and therefore will be dependent upon the number of transactions processed. The process will incorporate the requirement to secure best value for money and demonstrate tangible efficiencies wherever possible.

7.3.4 If the Council chose to go through a compliant 'open' tender process, the consequences of a change to the Council's current banker would mean significant changes across the Council in terms of I.T. systems, documentation and procedures and give rise to significant transition costs to the Council as per Exempt Appendix C. These transition costs would equate to approximately 76% of the total estimated 5-year contract value.

#### 7.4 Procurement Implications

7.4.1 In line with regulation 32(2)(b)(ii) under the Public Contract Regulations 2015 and that contracting authorities may award public contracts by way of the negotiated procedure without prior publication for public works contracts, public supply contracts and public service contracts where competition is absent for technical reasons, where no reasonable alternative or substitute exists and/or the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

7.4.2 Under Part D2 Sec 4.59 vi. of the Constitution it has been demonstrated from the due diligence undertaken that no genuine competition can be obtained

7.4.3 The procurement recommendation is to direct award with Barclays Bank Plc following the negotiations for the provision of clearing banking services due to:

- The significant changes across the Council due to migrating to a new supplier in terms of I.T. systems, documentation & procedures and cost implications and resources to a supplier themselves.
- Council transition costs of potentially moving to a new supplier being approximately 76% of the initial 5-year contract.
- Competitive pricing received from Barclays, substantiated by consultants Focus on Banking.
- Market engagement with a number of other banks showed no appetite, other than retaining their existing local authority contracts, rather than bidding for new business.

#### 7.5 Human Resources Implications

7.5.1 The contract management will be undertaken by Council staff.

#### 7.6 Public Sector Equality Duty

7.6.1 A relevance test to decide whether this planned procurement has any relevance to the equality duty contained in Section 149 of the Equality Act

2010 of eliminating unfair/unlawful discrimination and to promoting equality and human rights was conducted on 25 May 2023, reference EQA1145. The screening identified that there was no requirement to assess this further and completion of an Equality Assessment form was not required.

## **8 Background Documents**

### **8.1 List of Appendices accompanying this Report (if any):**

- Appendix A – Equality Act 2010
- Appendix B – Risk Assessment
- Appendix C – Exempt information

## APPENDIX A Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"><li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;</li><li>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li><li>(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li></ul>
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"><li>(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</li><li>(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;</li><li>(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.</li></ul>
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"><li>(a) tackle prejudice, and</li><li>(b) promote understanding.</li></ul>

5 The relevant protected characteristics are:

- (a) Marriage & civil partnership
- (b) Age
- (c) Disability
- (d) Gender reassignment
- (e) Pregnancy and maternity
- (f) Race
- (g) Religion or belief
- (h) Sex
- (i) Sexual orientation

## Appendix B – Risk Assessment

Risk No	Risk description	Risk mitigation	Residual / current risk			Additional steps to be taken
			Likelihood	Impact	Prioritisation	
1.	Contractor(s) ceases trading during the contract period.	The three main credit rating agencies give Barclays an A+/A1 rating. The outlook on Barclays Bank's long-term deposit and senior unsecured debt ratings are stable. If Barclays ceases trading, there are a few banks that services can be switched to, taking into account tariff rates and transition costs.	<i>Low</i>	<i>Low</i>	<i>Material</i>	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.
2.	Contractor merges (or bought) by competitor.	The three main credit rating agencies give Barclays an A+/A1 rating. The outlooks on Barclays Bank's long-term deposit and senior unsecured debt ratings are stable. If a merger takes place, discussions would need to take place on continuing services or review a few banks that services can be switched to, taking into account tariff rates and transition costs.	<i>Low</i>	<i>Low</i>	<i>Material</i>	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.
3.	Under performance from supplier	Monitoring of supplier performance at regular intervals with built in review meetings.	<i>Low</i>	<i>Medium</i>	<i>Severe</i>	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.

4.	Reputational risk from unethical practices	Monitoring of supplier and customer complaints at regular intervals with built in review meeting.	Low	Low	Material	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.
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**Measures of likelihood/ Impact:**

Description	Likelihood Description	Impact Description
High	Almost certain, is expected to occur in most circumstances. Greater than 80% chance.	Critical impact on the achievement of objectives and overall performance. Critical opportunity to innovate/improve performance missed/wasted. Huge impact on costs and/or reputation. Very difficult to recover from and possibly requiring a long-term recovery period.
Significant	Likely, will probably occur in most circumstances. 50% - 80% chance.	Major impact on costs and objectives. Substantial opportunity to innovate/improve performance missed/wasted. Serious impact on output and/or quality and reputation. Medium to long term effect and expensive to recover from.
Medium	Possible, might occur at some time. 20% - 50% chance.	Waste of time and resources. Good opportunity to innovate/improve performance missed/wasted. Moderate impact on operational efficiency, output, and quality. Medium term effect which may be expensive to recover from.
Low	Unlikely, but could occur at some time. Less than 20% chance.	Minor loss, delay, inconvenience, or interruption. Opportunity to innovate/make minor improvements to performance missed/wasted. Short to medium term effect.

**Key:**

Severe	Immediate control improvement to be made to enable business goals to be met and service delivery maintained/improved
Material	Close monitoring to be carried out and cost-effective control improvements sought to ensure service delivery is maintained
Tolerable	Regular review, low-cost control improvements sought if possible