

BIRMINGHAM CITY COUNCIL
PUBLIC REPORT

Report to: CABINET
Report of: Chief Operating Officer
Date of Decision: 27 March 2018
SUBJECT: Outcome of final stage negotiations between BCC and Capita – proposed IT and Digital Service Transition Roadmap to 2020/21, with associated investments and benefits
Key Decision: Yes
Relevant Forward Plan Ref: 004112/2018
If not in the Forward Plan: Chief Executive approved ☐
(please "X" box) O&S Chair approved ☐
Relevant Cabinet Member(s) or Relevant Executive Member: Councillor Jones – Deputy Leader
Councillor Mahmood - Cabinet Member for Commercialism, Commissioning and Contract Management
Relevant O&S Chair: Councillor Councillor Mohammed Aikhlaq – Chair of Corporate Resources and Governance
Wards affected: All

1. Purpose of report:

- 1.1 To inform Cabinet of the findings from further due diligence work conducted since the report approved by Cabinet on 14 November 2017 i.e. for Part 1 of the deal with Capita, to deliver the budgeted ICT savings for 2017/8 and the ending of the Joint Venture arrangement on 1st January 2018 through the 10th Deed of Variation to the Service Delivery Agreement (SDA).
- 1.2 To inform Cabinet on the outcome of the third phase of negotiations with Capita to deliver the budgeted ICT savings up to 2020/21.
- 1.3 To seek Cabinet approval of a roadmap of change that balances the optimum use of available ICT project investment to deliver the maximum benefits, with a revised approach that engages directly with the market for various projects and services
- 1.4 To seek authority for the Chief Information Officer (CIO) to incur spend of up to £1m to progress the proposed projects to Full Business Case stage and for the CIO to approve those Full Business Cases.
- 1.5 To update Cabinet on the progress made on the delivery of the Council's Information and Communications Technology and Digital Strategy (ICT&D Strategy 2016-2021).
- 1.6 The accompanying private report contains commercially confidential information.

2. Decision(s) recommended:

That Cabinet:

- 2.1 Notes the progress made and future plans for continued delivery of the ICTD Strategy (2016-2021).

Lead Contact Officer(s): Peter Bishop, Chief Information Officer and Assistant Director for Information, Technology and Digital Services, Strategic Services
07864 926819
Telephone No: peter.bishop@birmingham.gov.uk
E-mail address:

Lead Contact Officer(s): Nigel Kletz, Director of Commissioning & Procurement
Corporate Procurement Services, Strategic Services
Telephone No: 0121 303 6610
E-mail address: nigel.kletz@birmingham.gov.uk

3. Consultation

3.1 Internal

Senior officers in Finance, Legal, HR and Procurement have been involved in detailed negotiations since June 2017 with Capita.

The Cabinet Member for Commercialism, Commissioning and Contract Management, the Chair of Corporate Resources Overview and Scrutiny Committee, the Deputy Leader of the Conservative Party, the member with responsibility for ICT matters from the Liberal Democratic Party and the Council Directors of Service Birmingham have been consulted regarding the contents of this report and support it progressing to an executive decision.

Capita ICTDS (formerly Service Birmingham Ltd) has continued to undertake informal and formal communication with the council staff seconded to the existing service supported by the Councils CIO. On-going engagement with trade union colleagues is also being undertaken by the Councils CIO.

3.2 External

A number of advisors have been advising the Council since negotiations started in 2017. PWC were appointed to review and provide external financial advice to the council on the negotiations with Capita on ending the Joint Venture and 2017-18 savings proposals.

Gowling WLG are externally appointed legal advisors who have reviewed the original SB contract and its various schedules in support of the development of the various negotiation options and advised on the process, issues and risks around ending the JV contract.

Socitm Advisory has provided commercial negotiation support, technology and services advice and guidance, programme management and assisted with the financial support.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The Council's objectives and priorities as detailed in the Vision and Forward Plan approved by Cabinet on the 16 May 2017 will be supported by the adoption of this proposal which is consistent with the ICT & Digital Strategy (2016 - 2021) approved by Cabinet in October 2016.

4.2 Financial Implications (How will decisions be carried out within existing finances and Resources?)

The Financial Plan 2017+ identified new savings within ICT of £43.210m between 2017/18 and 2020/21 - £10.020m in 2017/18, £9.650m in 2018/19, and £11.770m in 2019/20 and 2020/21.

The sale of the Council stake in Service Birmingham agreed by Cabinet in November 2017 delivered one off resources which are being used to deliver the savings in 2017/18 and contribute to savings in 2018/19. After taking account of other savings already achieved and other adjustments in the Long Term Financial Plan, savings still to be delivered amount to

£4.608m in 2018/19, £11.353m in 2019/20 and £12.854m in 2020/21. The transition process recommended in this report is needed to deliver these further savings.

Table 1 below shows the difference between savings that still need to be delivered to meet the targets in the approved Financial Plan and indicative savings to be realised under recommended Option B. Overall indicative savings are £0.5m more than required but there is a shortfall of £3.5m in 2018/19. Measures are being taken to reduce the shortfall in 2018/19. These include reviewing the funding required to meet the costs of the investment programme in 2018/19 in the light of a revised split between revenue and capital costs within the programme; and identifying further tactical savings that can be achieved in 2018/19. Indicative savings of £16.611m from 2020/21 onwards are in excess of those currently included in the Long Term Financial Plan although at this stage no account has been taken of savings that may fall outside the General Fund (i.e. to the HRA and Children's Trust).

Table 1 - difference between savings required and indicative savings under Option B

Description	2018/19 £m	2019/20 £m	2020/21 £m	Total £m
Savings required from Transition Programme	4.608	11.353	12.854	28.815
Indicative savings under recommended option	1.083	11.589	16.611	29.283
Difference – shortfall(+), surplus (-)	3.525	-0.236	-3.757	-0.468

Costs that will be incurred in delivering the transition programme include:

1. A proposed investment plan totalling £27.608m over the period 2018/19 to 2020/21, this will be funded from a mixture of capital and revenue resources. This involves repurposing funds allocated to the Technical Refresh and Investment Plan (TRIP) agreed in October 2016. Funding of the costs is from prudential borrowing budgets allocated to fund the original TRIP programme.
2. A delivery team estimated to cost £4.664m over the period 2017/18 to 2020/21. This team will be funded from the Organisational Transition Reserve in 2017/18 (£547k). The balance of funding is within the approved ICT budget for 2018/19 to 2020/21.
3. Staff transition costs. Redundancy costs will potentially be incurred as staff transition to the Council. Costs associated with redundancy of Council secondees will be met from the corporate redundancy fund. Pension fund strain costs of Council secondees are not currently provided for and will be met over three years which will mean that some of the costs can be set against additional savings made in 2020/21 and 2021/22. In addition, potential redundancy costs for Capita staff TUPE'd to the Council are not provided for. Detailed business cases are to be developed on each of the schemes within the transition plan and these will need to identify the extent to which additional savings can be generated to meet staff transition costs not met in other ways.
4. Contractual payments to Capita. There are certain payments that have to be made to Capita as services transition back to the Council. These costs, which will be incurred in 2019/20, are not currently provided for in the LTFP. Their funding will have to be assessed in the light of the delivery of savings through the transition process.

The overall financial position of the programme will be monitored and reviewed at the Deputy Leaders ICT Strategy Board and a highlight report will be brought back to Cabinet on an annual basis.

Further details are provided in the private report.

4.3 Legal Implications

The Council are under a duty under Section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The implementation of the Savings Plan will deliver economy.

4.4 Public Sector Equality Duty

In October 2016 Birmingham City Council Cabinet approved the ICT & Digital Strategy for the period 2016 -2021. The work to implement the strategy has two major projects:

1. An Investment Programme - implementing replacement and new, enabling ICT assets in line with the strategy and in support of the Council's new Business Architecture.
2. An ICT Transition Programme to take BCC up to and beyond the end of the Service Birmingham partnership with Capita and the ending of the Joint Venture with Service Birmingham.

An Equality Analysis was completed during the development of the ICT & Digital Strategy (2016-2021 and for the Cabinet report of the 27th June (see Appendix 1). There has been no change to that analysis.

5. Relevant background / chronology of key events:

- 5.1 The Council's contract with Capita for ICT services from Service Birmingham commenced in 2006 for a ten-year period with an option to extend for a maximum of a further five years. This extension was exercised in 2011 as the 4th Deed of Variation.
- 5.2 In March 2014 the Council agreed a series of savings for the remaining seven years of the contract to the total value of £140m. These savings have been achieved or plans are already in place to deliver the savings over the life of the contract.
- 5.3 In October 2016 Cabinet approved the Information & Communications Technology & Digital Strategy (2016 - 2021) to guide the prudent use, maintenance and development of the Councils ICT assets to and beyond the end of the existing Service Birmingham contract in 2021. The strategy described the need for investment and to transition to a new ICT Operating Model to enable the Council to deliver the savings associated with the service between 2017 and 2021. In January 2017 the Council formed the "SB Transition Programme" and initiated contract negotiations with Capita, with key objectives to:
 - Save £10.02M revenue from the Core ICT Contract cost in 2017-2018 and deliver revenue savings totalling £43M in total across 4 years as set out in the Financial Plan 2017+
 - Reach a negotiated position with Service Birmingham that;
 - Allows the Council moving forward to gradually take back full control of its ICT & Digital from Capita/Service Birmingham.
 - Allows the Council to deliver the ICT & Digital projects in a manner that represents value for money and meets the needs of the Directorates and the wider Council.
 - Gives the Council flexibility to deliver an ICT & Digital Service and future Operating

Model that can flex as the wider Council transforms.

- Gives the Council the right to go to the market as it selects solutions or implements new capability to test that it always getting real value for money.
 - Potentially allows the Council to select multiple suppliers, and in doing so avoid penalty charges.
 - Avoids extending the current contract for any further additional years.
- 5.4 Appendix 2 gives an overview of what has been achieved since the Council approved the ICTD strategy and associated technology refresh programme. During the development of the transition roadmap, the technical refresh programme has been reviewed in detail from a VFM perspective and with greater understanding of the opportunities derived from the IT&D Strategy, the TRIP programme has been re-purposed using the remaining budget to deliver critical TRIP outcomes, but in a more cohesive, strategic approach delivering more benefits.
- 5.5 A joint team between Capita, Service Birmingham and the Council under the leadership of the Chief Operating Officer were tasked to work together to agree how these savings could be delivered in a manner consistent with the ICT&D Strategy.
- 5.6 In April 2017 substantive agreement was achieved between the Council, Capita and SB on how to deliver the savings, which was confirmed in a Without Prejudice Letter from Capita dated 2nd May 2017 and attached to the June Private report. Since 27 June 2017 to October 2017, negotiations to translate the Without Prejudice Letter of Intent into a formal contractual Agreement were concluded.
- 5.7 Capita and the Council also agreed principles in November 2017 for working together to deliver savings required in the LTFP over the remaining term of the contract. An implementation plan was prepared to deliver the actions required which included:
- Detailed legal, HR and financial due diligence of the offer leading to a new set of contractual arrangements being put in place.
 - Assessing any potential employment issues and impact on staff . No change is planned immediately but as the services are proposed to be changed any workforce impact will be consulted on with trade union colleagues and staff in the normal way.
 - External communication for the Council, Capita and supporting partners.
 - Establishment of new Terms of Reference for the SB Transition Programme to implement the desired changes and mobilise the necessary programme structure, project governance and required resources.
- 5.8 Cabinet approved in November for Capita/Service Birmingham to buy the Council's stake in Service Birmingham, which ended the Joint Venture Agreement at the end of December 2017 and an agreed set of behaviours, working practices and contract changes which will be negotiated as part of part 2 of the deal.
- 5.9 Cabinet also agreed to receive a final report covering the final negotiations, including a detailed breakdown of the Transition Roadmap, investments and benefits. The subsequent third phase of negotiations has been built on the 'principles' agreed between BCC and Capita in November 2017. These focused on mechanisms to assure Council savings and the treatment of potential contractual penalties for Capita's loss of profit. This will be via the reduction of core cost over the life of the programme, which is the primary source of savings in the LTFP. More details are available in the private report.
- 5.10 A revised governance framework was approved by Cabinet in June 2017 and this has

been implemented to maintain oversight to ensure:

- Strategic Alignment: Linking the Council and ICT & Digital services so they work together.
- Maintaining Control: Identifying business requirements correctly, choosing the right ICT solution, reusing what we have and working against a roadmap towards a future design.
- Value Delivery: Making sure that the Council's ICT& Digital service delivers the benefits promised at the beginning of a project or investment using the council business case methodology.
- Resource Management: Manage resources effectively, deploying resources on a demand driven basis.
- Risk Management: Instituting a formal risk framework that manages and reports risk
- Performance Measures: Measuring business performance against achieving business goals.
- The new governance framework is under the leadership of the Deputy Leader and the ownership of the Chief Operating Officer.

5.11 The proposed future ICT& Digital service is based around a multi supplier Service Integration and Management (SIAM) model which will be progressively implemented over the next three years. More details are provided in the private report. The shape and objectives of the Council are changing and the ICT& Digital service needs to support and lead in achieving those objectives, whilst providing flexibility, added value and having the ability to continue delivering a 'day-to-day' Information, Technology & Digital service whilst making this transition. The Council have already recognised that the Service Birmingham Transition programme will be a major undertaking for the Council and have allocated resources to support it.

5.12 Each major project or service migration will be covered via a business case. Other costs such as termination costs of third-party contracts or redundancy/pension strain costs will be considered by the Council via the ICT&D governance to ensure robustness in planning, financial support and execution.

5.13 Each project or service migration will be covered via an individual Procurement Strategy. Each strategy will detail the procurement approach, route to market and evaluation criteria, and will follow agreed governance arrangements. To help inform the Procurement Strategies early and active market engagement will take place to;

- Allow for innovative solutions to be explored with market leaders
- Leverage expertise within the market place to inform procurement decisions
- Create interest and competition within the market, and
- Ensure a robust market tested approach for each procurement

The level and type of market engagement will be established on a case by a case basis.

6. Evaluation of alternative options:

Refer to Private Report.

7. Reasons for Decision(s):

To authorise officers to proceed with the execution of the detailed transition roadmap and continue to deliver the ICT savings for 2017/18 – 2020/ 2021.

Signatures

Date

Councillor Brigid Jones
Deputy Leader

.....

Angela Probert
Chief Operating Officer , Strategic Services

.....

Councillor Majid Mahmood
Cabinet Member for Commercialism,
Commissioning and Contract Management

.....

List of Background Documents used to compile this Report:

- 1. Report to Cabinet October 2016 - Birmingham City Council Information & Communications Technology & Digital Strategy (2016 - 2021)
- 2. Report to Cabinet October 2016 - Birmingham City Council Strategic ICT & Digital Investment Programme (2016 - 2021)
- 3. Report to Cabinet of 27 June 2017 Delivery of Savings against Service Birmingham ICT Contract
- 4. Report to Cabinet of 14 November 2017 - Budget savings proposals, ending the Joint Venture (JV) with Capita for Service Birmingham and proposing new contractual arrangements up to 2020 / 2021

List of Appendices accompanying this Report:

- 1. Equality Impact Analysis
- 2. What has been delivered since the ICT strategy was approved

Report Version

Dated

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in section 4.4 of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty (as an appendix).

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 The Council 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 the Equality 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.
- 2 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:
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (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;
 - (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.
- 3 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.
- 4 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:
 - (a) tackle prejudice, and
 - (b) promote understanding.
- 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