

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	4101
Author:	Clive Heaphy
Department:	Chief Executive's
Contact:	Clive Heaphy (Job Title: Chief Finance Officer, Email: clive.heaphy@nottinghamcity.gov.uk)
Subject:	Procurement of external support in response to the actions from the Public Interest Report and Non Statutory Review
Total Value:	172,000 (Type: Revenue)
Decision Being Taken:	1) To approve expenditure for the appointment of a consultant to provide external financial expertise in response to the multiple issues raised in respect of companies within the Report in the Public Interest on Nottingham City Council's Governance Arrangements for Robin Hood Energy and the report arising from Non Statutory Review of Nottingham City Council. 2) To delegate authority to the Strategic Director of Finance to award the contract to the chosen consultant. 3) To approve dispensation from Contract Procedure Rule 4.1.2 in accordance with Financial Regulations 3.29 to make a direct award of the contract described above for the reasons set out in this report.
Reasons for the Decision(s)	As part of responding to the Report in the Public Interest and the Non Statutory Review undertaken by the Ministry of Housing, Communities and Local Government, a review will need to take place on the Council's governance and operation of its interests in its companies portfolio. This will support the requirements of the reviews and the establishment of a Shareholder Executive Unit.
Other Options Considered:	The option to resource this work internally was rejected because the work will require specialist commercial skills that are not available within the Council.
Background Papers:	None

Published Works:

Report of the external auditor 'Report in the Public Interest on Nottingham City Council's Governance Arrangements for Robin Hood Energy' (August 2020)
Report to, and minute of the Extraordinary Council meeting held on 27 August 2020 'Report in the Public Interest on Nottingham City Council's Governance Arrangements for Robin Hood Energy and Action Plan in response'
Max Caller CEB 'Non Statutory Review of Nottingham City Council' (November 2020)
Report to Executive Board on 19 January 2021 'Nottingham City Council Recovery and Improvement Plan'

Affected Wards:

Citywide

Colleague / Councillor Interests:

None

Dispensation from Financial Regulations:

Yes

Use of Consultants

Number of Days:174

Rate per Day:991

Total value:172000

Start date:25/01/2021

End date:24/09/2021

Reason for using a consultant:

To provide additional capacity and skills to undertake the necessary actions as a result of the reviews set out in the reasons for this decision. This is for a 9 month period.

Other options considered:

None

Name of consultant:

Ian Edwards via Penna

Reason for selection?

Most appropriate candidate following interview process

Has the consultant previously completed work for the City Council?

No

Specific activities to be undertaken by the consultant are:

To undertake a strategic review of Nottingham City Council Trading Companies and produce reports for each company including:

1. Due diligence report;
2. 8 Dimensions Strategic Review;
3. Recommendations for improvements and
4. Options for the future of each of the companies.

Period of engagement:

9 months

By what process was the consultant selected?

Via competitive selection

Consultations:

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

Not applicable

Equality:

EIA not required. Reasons: An EIA is not required as the decision does not relate to a new or changing policy or service.

Social Value Considerations:

Not applicable

Relates to staffing:

Yes

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

05/02/2021

Advice Sought:

Legal, Finance, Procurement, Human Resources, Other: Gary Robbins(gary.robbins@nottinghamcity.gov.uk)

Legal Advice:

This report seeks authority to appoint a consultant for a period of 9 months to provide specialist financial support in response to the Public Interest Report and Non-Statutory Review. The appointment is made via Penna which is an executive search agency. That appointment is subject to the Public Contracts Regulations 2015 which continue to apply notwithstanding the end of the Brexit Transition Period. As the value of the appointment is less than the applicable financial threshold in the Regulations it is permissible to make a direct award. Serious consideration should be given to awarding the contract for a shorter period, say 3 or 6 months only to enable a permanent appointment to the post.

Advice provided by Andrew James (Team Leader Contracts and Commercial) on 07/01/2021.

Finance Advice:

This decision seeks approval to:

- 1) To approve expenditure for the appointment of a consultant to provide external financial expertise in response to the multiple issues raised in respect of companies within the Public Interest report and the Non Statutory review**
- 2) To delegate authority to the Strategic Director of Finance to award the contract to the chosen consultant.**
- 3) To approve dispensation from Contract Procedure Rule 4.1.2 in accordance with Financial Regulations 3.29 to make a direct award of the contract described above for the reasons set out in this report.**

The total cost for an initial 9 month period is £0.172m and this is split across two financial years - £0.057m in 20/21 and £0.115m in 21/22. The cost of this decision will be funded from the Resilience & Transformation reserve in full up to the amount outlined in this decision. Any extension to the contract length and financial value above what is included in this decision will require further approval through the relevant process.

The role and criteria sits outside of IR35 legislation therefore is classed as a use of consultant therefore the additional approval process for use of consultants is needed and contained within this decision.

Under the terms of the contract, payment will only be made on completion of milestones as outlined in the Statement of Works therefore there is no risk of incurring any additional costs due to any project slippage. No payments are to be made for holidays, sickness or pension either.

Alternative immediate options were explored including resourcing internally but were all deemed unviable at the present time due to the need for specialist commercial skills for the role. Consideration however should be given to award a contract of a shorter length and appoint permanently instead in order to minimise spend and maximise value for money for the organisation.

Dispensation from Contract Procedure Rule 4.1.2 in accordance with Financial Regulations 3.29 to make a direct award of the contract is sought.

Advice provided by Philip Gretton (Finance Analyst) on 07/01/2021.

Procurement Advice:

The Procurement Team will assist with any tendering exercises to ensure that fully compliant value for money contracts are entered in to.

Advice provided by Paul Ritchie (Lead Procurement Officer) on 23/12/2020.

HR Advice:

Use of consultants needs to be reviewed against IR35 requirements, as per Finance Advice submitted. The requirements outlined suggest a relatively short term requirement, supporting this resourcing method. Future consideration of the role, duties and requirements to be undertaken as part of wider consideration of senior management structure for the organisation.

Advice provided by Paul Slater (Service Redesign Consultant) on 04/01/2021.

Other Advice:

The engagement of a worker on an off payroll basis, either directly or via an intermediary is subject to the Off Payroll Working Regulations, also known as IR35.

The Council is legally required to determine the employment status of any workers engaged in this manner and ensure that all required deductions for tax and National Insurance are made from payments to the worker by either the Council or the intermediary. The Council has procedures in place to make this determination and fulfil its legal obligations; these should be followed to ensure legislative requirements are met for the duration of the engagement.

Gary Robbins Senior Accountant - Tax on 25/01/2021.

Signatures:

David Mellen (Leader/ PH Regeneration, Schools, Communications)
SIGNED and Dated: 27/01/2021
Sam Webster (PH Finance, Growth and City Centre)
SIGNED and Dated: 28/01/2021
Mel Barrett (Chief Executive)
SIGNED and Dated: 25/01/2021
Theresa Channell (Deputy Section 151 Officer) - Dispensation from Financial Regulations
SIGNED and Dated: 25/01/2021