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**CABINET PROPOSAL**

**AGENDA ITEM**

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**ACCEPTANCE OF THE DELEGATION OF THE MONMOUTHSHIRE  
COUNTY COUNCIL PROCUREMENT FUNCTION**

**Reason for this Report**

1. To authorise acceptance of an Executive Delegation from Monmouthshire County Council to deliver their Procurement Function as part of the Council's agreed 2021/22 Budget Strategy.

**Background**

2. In August 2020, the Council were approached by Monmouthshire County Council (MCC) to ascertain whether the Council would be interested in submitting a proposal to take on the management and delivery of their Procurement Functions. This request followed the submission of a review of their procurement function delivered by Atebion Solutions Ltd, the Council owned Local Authority Trading Company.
3. The Council submitted a proposal to MCC under which the Procurement Functions would be delegated to the Council. This proposal was accepted in principle by MCC subject to proceeding through their decision making arrangements. The proposal was formally approved by MCC Council as part of their 2021/22 budget setting process.

**Issues**

4. Over recent years the Council has been able to continue to invest in its Commissioning and Procurement Team through the generation of external revenue via Atebion Solutions Ltd and the delivery of major collaborative procurement arrangements for the Welsh public sector. As a result, it has developed an award winning team which is highly respected across the public sector, particularly in Wales. In addition, the Operational Manager responsible for the Commissioning and Procurement Team is the Chair of the WLGA National Procurement Network and Chair of the National Social Value Taskforce for Wales.
5. Through the delivery of these externally funded activities, the team have become adept at delivering services to other public sector organisations, whilst balancing the needs and priorities of the Council.

6. The proposal submitted to MCC proposed the delivery of the delegated function through a combination of existing Council officers, the creation of three new procurement officer posts and the secondment of one procurement officer from MCC. The proposal is for a minimum of three years with an annual review and will be governed by a Delegation Agreement which is being developed jointly by the Council's and MCC legal teams.
7. It should be appreciated that with the acceptance of the delegation comes certain benefits and responsibilities. However, the Delegation Agreement will ensure that accountability, risks and liabilities sit appropriately with MCC.
8. Through the proposal, MCC will fund the costs the Council incurs in delivering the delegated function, including:
  - A proportion of existing Council officer time, which will support the delivery of a savings contained within the 2021/22 Budget Report approved by Council on the 4th March 2021
  - The three new procurement officer posts, and
  - The one seconded Procurement Officer from MCC
9. Through the proposal the Council will carry out on behalf of MCC the following:
  - Leadership and Management of their Procurement Function
  - Technical capability, expertise and category specific knowledge to support delivery of their contract pipeline
  - Support on the development and delivery of procurement strategy and policy
10. This delegation arrangement will provide the Council with:
  - An agreed annual net revenue stream to reimburse costs incurred (see para 8)
  - Allow the retention of the existing team and continued investment in recruitment of new team members
  - An opportunity to learn and share good practice

### **Reason for Recommendations**

11. In accordance with the Council's constitution, full Council approval is required to allow the Council to accept the Executive Delegation of the Procurement Functions from Monmouthshire County Council.

### **Financial Implications**

12. This report sets out delegation requirements to enable this Council to deliver Procurement function for Monmouthshire County Council. This is required in order that the Council can deliver an income stream planned for as part of the 2021/22 Revenue Budget Strategy.

13. Authorisation by Council will allow the service to plan service delivery and budgets over the period of the agreement and will support the expansion of the current service.
14. If the agreement is not progressed, alternative proposals from the Service will be required to close any residual funding that arises.

### **Legal Implications**

15. The recommendation can be achieved within legal constraints. Legislation enabling one local authority to delegate the discharge of a function to another authority. A delegation agreement will be prepared, which will set out the detail of how the arrangements will operate, including, amongst other things, provision for; secondment of staff, reimbursement of costs incurred by Cardiff Council in carrying out the delegation and termination of the arrangement. The delegation does not prevent Monmouthshire County Council from exercising the delegated functions itself.

### **General legal advice**

#### **Equalities & Welsh Language**

16. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: (a) Age, (b) Gender reassignment, (c) Sex, (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f) Pregnancy and maternity, (g) Marriage and civil partnership, (h) Sexual orientation, (i) Religion or belief –including lack of belief.
17. The decision maker should be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

#### **The Well-being of Future Generations (Wales) Act 2015**

18. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan 2021 -24.
19. When exercising its functions, the Council is required to take all reasonable steps to meet its well being objectives. This means that the decision makers should consider how the proposed decision will

contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives. The well being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
  - Focus on prevention by understanding the root causes of problems
  - Deliver an integrated approach to achieving the 7 national well-being goals
  - Work in collaboration with others to find shared sustainable solutions
  - Involve people from all sections of the community in the decisions which affect them
20. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible on line using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

#### Policy and Budget Framework

21. The decision maker must be satisfied that the proposal is within the Policy and Budget Framework, if it is not then the matter must be referred to Council.

#### HR Implications

22. The proposal requires the recruitment of three new posts which will take place under corporately agreed processes. There will also be the secondment of one employee from Monmouthshire County Council for which a formal agreement will be put in place to ensure that the employment relationship and liabilities remain between the employees and Monmouthshire County Council.

#### Property Implications

23. There are no property implications in respect of this report.

#### **CABINET PROPOSAL**

Council is recommended to

1. Accept an Executive Delegation from Monmouthshire County Council to carry out their Procurement Functions, subject to the satisfactory conclusion of the Delegation Agreement referred to in 2 below.

2. Delegate authority to the Corporate Director Resources in consultation with the Cabinet Member for Finance, Performance and Modernisation to conclude a Delegation Agreement in a form to the satisfaction of the Council and complete all arrangements to carry out the delegated procurement functions.
3. Subject to the conclusion of the proposed Delegation agreement in 2 above, agree that the day to day responsibility for carrying out the delegated procurement functions sit with the Operational Manager, Commissioning and Procurement.

**THE CABINET**

17 JUNE 2021