

## **CABINET PROPOSAL**

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### **ACCEPTANCE OF THE DELEGATION OF THE TORFAEN COUNTY BOROUGH COUNCIL PROCUREMENT FUNCTION**

#### **Reason for this Report**

1. To authorise acceptance of an Executive Delegation from Torfaen County Borough Council to deliver their Procurement Function.

#### **Background**

2. In November 2021, the Council were approached by Torfaen County Borough Council (TCBC) to ascertain whether the Council would be interested in submitting a proposal to take on the management and delivery of their Procurement Functions.
3. The Council submitted a proposal to TCBC under which the Procurement Functions would be delegated to the Council. This proposal was accepted in principle by TCBC subject to proceeding through their decision-making arrangements. The proposal was formally approved by TCBC Cabinet March 2022 in accordance with their Constitution.

#### **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, the delivery of major collaborative procurement arrangements for the Welsh public sector and the recent delegation of the procurement functions from Monmouthshire County Council.
5. 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.
6. 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.

7. The proposal submitted to and approved by TCBC proposes the delivery of the delegated function through a combination of existing Council officers, the creation of one new procurement officer post and the secondment of one procurement officer from TCBC. 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 TCBC legal teams.
8. It should be noted 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 TCBC.
9. Through the proposal, TCBC will fund all of the costs the Council incurs in delivering the delegated function, including:
  - A proportion of existing Council officer time
  - The one new procurement officer post,
  - The one seconded Procurement Officer from TCBC, and
  - An overhead charge to cover administrative costs
10. Through the proposal the Council will carry out on behalf of TCBC 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
11. This delegation arrangement will provide the Council with:
  - An agreed annual net revenue stream to reimburse all costs incurred
  - Allow the retention of the existing team and continued investment and development of the service through the recruitment of new team members
  - An opportunity to learn and share good practice

### **Reason for Recommendations**

12. 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 Torfaen County Borough Council.

### **Financial Implications**

13. All direct financial costs incurred in the provision of the procurement service to TCBC will be reimbursed to the Council through the operation of the Delegation Agreement.

## Legal Implications

14. 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 Torfaen County Borough Council from exercising the delegated functions itself.

## General legal advice

### Equalities & Welsh Language

15. 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.
16. 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

17. 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 2022-2025.
18. 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

19. 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

20. 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

21. The proposal requires the recruitment of one new post which will take place under the Council's corporately agreed processes. There will also be the secondment of one employee from Torfaen County Borough Council for which a formal agreement will be put in place to ensure that the employment relationship and liabilities remain between the employee and Torfaen County Borough Council.
22. The trade unions in Cardiff have been consulted on the recommendations set out in this report. Likewise, Torfaen County Borough Council have undertaken trade union consultation.

#### Property Implications

23. The report does not make any recommendations immediately relevant to Cardiff Council property.
24. Property advice required to support any procurement process relevant to Torfaen Council managed land and property will be subject to advice provided by Torfaen Council.

#### **CABINET PROPSAL**

Council is recommended to agree to:

1. The acceptance of an Executive Delegation from Torfaen County Borough 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 is to sit with the Operational Manager, Commissioning and Procurement.

**THE CABINET**  
**14 JULY 2022**