

Highways and Transport Committee

25th January 2024

Highway Service Contract Peer Review

Report of: Tom Moody, Director of Highways and Infrastructure

Report Reference No: HTC/39/23-24

Ward(s) Affected: All

Purpose of Report

- 1 On 3rd October 2018 the Council entered into a 15-year contract to deliver highway services with Ringway-Jacobs Limited (the “Highway Service Contract” or “HSC”).
- 2 The HSC contains a pre-defined mid-term break clause which, in general terms, allows the Council to shorten the service period to eight years in specific circumstances.
- 3 This report:
 - (a) Proposes a process and timetable to conduct an objective review and inform the Council’s decision in respect of the break clause, in line with the Council’s strategic aims to be “Open” and “Fair”;
 - (b) Considers the legal and financial implications of assessing the performance of the HSC.

Executive Summary

- 4 To consider the overall performance of the HSC the report recommends that a review is conducted using external peers.
- 5 The report recommends that a further report is brought to the Highways and Transport Committee in the summer of 2024 to recommend the proposed approach to the break clause based on the findings of the review.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Agree that a review of the Highways Service Contract (HSC) is undertaken and:
 - a) Commence a peer review through which the Contract is assessed to inform future decisions regarding the HSC.
 - b) Delegate authority to the Director of Highways and Infrastructure to finalise the scope of the HSC Peer Review.
 - c) Approve that a Member Advisory Panel is established with the proposed membership as set out below and the Terms of Reference as set out in Appendix A.

The Chair of the Highways and Transport Committee
The Vice Chair of the Highways and Transport Committee
The Chair of the Finance Sub-Committee
Leader of the CEC Conservatives

2. Note that a further report with a recommendation will be brought to the Highways and Transport Committee regarding the HSC in summer 2024 following the completion of the review.

Background

- 6 Cheshire East Borough Council (CEC) is the Local Highway Authority for the Borough of Cheshire East and thus has statutory duties to maintain and manage the public highway under the Highways Act 1980, New Roads and Street Works Act 1991 and Traffic Management Act 2004. CEC is also the Lead Local Flood Authority under The Flood and Water Management Act 2010. These duties are predominantly delivered through the HSC.
- 7 The Council's current contracting model is a predominantly externalised service with integrated highway maintenance and engineering services, together with an in-house "thin client".
- 8 This model was commissioned from 2010 and procured through competitive dialogue, with the service commencing in October 2011.

- 9 The commissioning and procurement was a resource-intensive activity in addition to business as usual service provision. It also required support through external consultants.
- 10 Ringway-Jacobs was successfully appointed on a five-year term with two subsequent one-year extensions for satisfactory performance.
- 11 The Council's Cabinet approved the approach to procuring the current HSC in January 2017. Officers were delegated to progress the procurement in consultation with relevant Cabinet Members.
- 12 Priorities for the new contract were informed by a cross-party member panel, advising the Cabinet Member. The strategy was also informed by the Corporate Overview and Scrutiny Committee.
- 13 The procurement strategy was approved as a 15-year contract with a break clause at year 8 linked to performance. The contract term was set seeking to maximise the benefit of a longer-term partnership. The strategy was also validated with market engagement.
- 14 Following a robust, compliant and transparent procurement process Ringway-Jacobs was appointed as the successful contractor from 4th October 2018.
- 15 The contract is based on the Highway Maintenance Efficiency Programme's New Engineering Contract version 3 Term Service Contract ("NEC3"), which has been tailored to meet the Council's needs.
- 16 The method in which the Council has reviewed and selected its contract models and then gone on to procure its Highway Services Contracts has been key in the Council achieving maximum funding from the Department for Transport ("DfT") through the Local Highways Maintenance Incentive Fund.
- 17 A key aim of procuring a 15-year contract was to take advantage of long-term planning to maximise investment in the network, aligning with DfT best practice.

Proposed Review

- 18 It is good practice in contract management to use the opportunity provided by a break clause to review performance and value for money. The recommended approach to this is to inform the Council's decision regarding whether to exercise the break clause, through a peer review of the Contract.
- 19 This peer review will be undertaken using a panel of independent sector experts who work / have worked or have in depth knowledge of Local Government and have experience of working within a highways and place environment.
- 20 The peer review will:
- (a) Undertake a review of the contractor's performance against the Performance Measures Framework (Strategic Indicators) in the HSC.
 - (b) Undertake a series of workshops with HSC stakeholders to obtain qualitative views and opinions, namely:
 - (i) Highways, Transport and Infrastructure contract users;
 - (ii) The Council's Corporate Leadership Team members whose service areas interface with the HSC;
 - (iii) Wider Council departments who access services under the HSC; and
 - (iv) The proposed Council Member Advisory Panel.
 - (c) (Subject to available data and reasonable comparisons), benchmark the HSC against performance on other highway service contracts across the country which are considered to be CEC's peers.
 - (d) In addition to considering the service area's performance against the Strategic Indicators, provide further insight into areas of strength and weakness within the operation of the Contract.
 - (e) Produce a report to enable Officers within the Highways Thin Client Team to make recommendations to this Committee.
- 21 Table 2 below shows the programme that must be followed to achieve the timescales set out in the Contract.

Activity	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	04/10/2024
Committee Paper seeking approval to review												
Scope Review												
Undertake Review												
Committee paper												
Float												03/10/23 - Notify RJ of outcome drop dead date

Table 2 – Review Programme

Consultation and Engagement

- 22 As a front-line service, Member engagement on the delivery of highway maintenance and management services remains a priority for the Highways Service. As part of the review exercise, it is proposed to form a cross party Member Advisory Panel which will act as a sounding board in the preparation and progression of the peer review.
- 23 Proposed terms of reference for the Panel are in Appendix A.
- 24 The contents of this report have been discussed with Ringway-Jacobs, the Council’s Highway Service Contractor.

Reasons for Recommendations

- 25 Undertaking a peer review to inform decisions aligns with best practice in contract management.
- 26 By implementing the recommendations of this paper, the Council is operating in a transparent, Open and Fair manner.

Other Options Considered

- 27 The Council could consider not undertaking a peer review; however, by doing this the Council could struggle to demonstrate an objective review of the performance of the HSC.

Option	Impact	Risk
Do nothing	Continue to operate the contract without review	Opportunity to assess value missed

Implications and Comments

Monitoring Officer/Legal

- 28 Please see confidential Appendix B: Highway Service Contract Peer Review Part 2 Information for legal implications and comments on the review of the HSC.

Section 151 Officer/Finance

- 29 The cost of implementing the peer review will be covered by existing highway revenue budgets across the 2023/24 and 2024/25 financial years.

Policy

- 30 This decision contributes to the Council's Corporate Plan Objectives as shown in the table below.

An open and enabling organisation	A council which empowers and cares about people	A thriving and sustainable place
Support a sustainable financial future for the council, through service development, improvement and transformation	N/A	N/A

Equality, Diversity and Inclusion

- 31 An Equality Impact Assessment (EIA) has been conducted and is published under "H" on the [Council's web page](#).
- 32 The EIA has identified that while the delivery of services under the HSC can have impacts on equality and diversity issues, the conduct of the review / Peer Review itself does not. In accordance with the HSC, the review will therefore consider a review of the performance under the contract performance indicators and against the Council's aims, goals and targets.

Human Resources

- 33 Undertaking of the review will require a notable level of Client Team resource. Due to the timescales and expertise involved and need for independence, this will be conducted by external advisors with appropriate expertise. The advisors conducting the review will be managed by officers in the Highways Service alongside their day to day responsibilities.

Risk Management

- 34 Should the Council decide not to undertake a mid-term review of the contract it could be considered that it is not acting in line with its Best Value Duty.

Rural Communities

- 35 The Highway Service Contract facilitates the delivery of the management and maintenance of the public highway for all residents and road users equally through its asset management led approach with no specific implications on rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 36 There are no specific implications to children, young people and cared for children or those with special needs.

Public Health

- 37 There are no direct public health implications of this report.

Climate Change

- 38 There are no direct climate change implications of this report.

Access to Information	
Contact Officer:	Domenic de Bechi , Head of Highways domenic.debechi@cheshireeast.gov.uk
Appendices:	Appendix A – Member Advisory Panel Terms of Reference and proposed membership Appendix B - Highway Service Contract Peer Review Part 2 Information
Background Papers:	

Appendix A - Member Advisory Panel Terms of Reference

Purpose

This Member Advisory Panel has been established as part of the Council's peer review of the Highway Service Contract, ahead of the Highways and Transport Committee's consideration of the performance and service period of the Contract at year 6 of the Contract.

This Advisory Panel is a non-decision making Advisory Panel whose purpose is to advise the Director of Highways and Infrastructure from a Member's perspective in interpreting and understanding the findings of the peer review.

Members

- The Chair of the Highways and Transport Committee
- The Vice Chair of the Highways and Transport Committee
- The Chair of the Finance Sub-Committee
- The Leader of the Conservative Group

Roles and responsibilities

To advise, from a Member perspective, the Director of Highways and Infrastructure on matters concerning the peer review

Key Principles for members of the Panel

- Work as an advisory panel for the Highways and Transport Committee.
- Have no formal delegated decision making authority from the Highways and Transport Committee.
- Attend on a voluntary basis and receive no remuneration.
- Be expected to maintain the confidentiality and integrity of any confidential information that they may receive that is not publicly available.

Periodicity

The frequency of this group will be determined following the initial group meeting.

Support

Meetings will be chaired by the Director of Infrastructure and Highways. Other attendees will include the Head of Highways and other technical officers by exception, where the agenda dictates. Meetings will be confidential to

maintain the commercial sensitivity and position of the Council in the Highway Service Contract.

Meetings

The primary purpose of the first meeting will be to introduce the Cheshire East officers to the Member Advisory Panel, agree the purpose of the meetings and explain the peer review process and key gateways.

Substitutes will be subject to the approval of the Chair prior to the meeting.

The Secretariat for the Panel will be provided by Cheshire East Council Officers, preparing agendas and supporting papers.

Meetings will either be held by Teams or a Council venue will be provided for face to face meetings.