
Meeting	Cabinet Resources Committee
Date	25 February 2013
Subject	Electronic Call Monitoring – Interim Contractual Arrangements
Report of	Cabinet Member for Adults
Summary	This report seeks a waiver of relevant rules within the Council’s Contract Procedure Rules in order to extend the contract with Care Management 2000 Limited for the supply of an electronic call monitoring system.

Officer Contributors	Caroline Byrt, Assistant Director - Resources, Adult Social Care and Health
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	None
Contact for Further Information:	James Taylor, Deputy Head of Strategic Commissioning and Supply Management (Adult Social Services and Health), 020 8359 4886.

1. RECOMMENDATIONS

- 1.1 That the Committee agree to waive Contract Procedure Rules as necessary and authorise the continuation of arrangements for the electronic call monitoring service with Care Monitoring 2000 Limited until the 1st April 2014.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee, 20 June 2012 (Decision item 12) - resolved that approval be given to proceed with the contract procurement activity for the 2012/13 financial year, subject to budget availability, and noted the provisional procurement activity for future years, including the procurement of an electronic call monitoring system.
- 2.2 Audit Committee Meeting, 8 December 2011 (Item 10) – the Committee resolved (i) to note the progress that management had made in implementing the agreed actions against the Procurement Controls and Monitoring Action Plan and (ii) that the Assistant Director of Finance - Audit and Risk Management continues to report to the Audit Committee on the further implementation and embedding of these controls.
- 2.3 Cabinet Resources Committee, 7 November 2011 (Decision item 10) - resolved to waive certain Contract Procedure Rules and regularise contractual relationships with existing providers in respect of specified existing contracts for Adults' and Children's services.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The regularisation of contracts will progress the three priorities of the Council's Corporate Plan:
 - 3.1.1 Better services with less money – through efficient procurement and contract management.
 - 3.1.2 Sharing opportunities, sharing responsibilities – contractors and service users, as well as the council, will be clear about the terms which govern the provision of services and therefore better able to monitor day-to-day delivery.
 - 3.1.3 A successful London suburb – by providing a range of quality services which enhance the council's reputation with local families and the community.

4. RISK MANAGEMENT ISSUES

- 4.1 There is a significant reputational risk attached to failure to regularise existing contractual relationships. The recommendation in respect of the contract with Care Monitoring 2000 Limited is intended to expedite regularisation and, thereby, mitigate this risk.
- 4.2 There is a risk that the contract with Care Monitoring 2000 Limited does not represent best value for money for the Council. The recommended waiver will

enable the Council to regularise and extend the contract pending a procurement project to be undertaken by the NSCSO contractor.

- 4.3 The electronic call monitoring system provided by Care Monitoring 2000 Limited is a key system as more than 600 care workers log details of client visits to it which in turn drives the Council's self-billing and suppliers' payments' activities. Ceasing payment to Care Monitoring 2000 Limited would compromise Adult Social Care and Health operations as a manual procedure would need to be implemented in the short-term until requirements could be competitively tendered.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Pursuant to The Equalities Act 2010, public sector organisations have a responsibility to consider equality as part of every procurement. The Council and any organisation contracted by the Council to provide services on its behalf is also under an obligation to have due regard to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy, and maternity, religion or belief and sexual orientation.
- 5.2 Implementation of the Procurement Controls and Monitoring Plan will ensure that the Council addresses any non-compliant contracts, taking action to ensure that all contractors comply with the general equality duty set out above.
- 5.3 The Council's Equalities policy will also form part of the formal evaluation of all future providers' proposals. Any contracts will include explicit requirements fully covering the Council's duties under equalities legislation.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The current annual value of the contract with Care Monitoring 2000 Limited is £130,000. There is sufficient funding within the Adult Social Care and Health base budget to meet this cost.
- 6.2 It is intended that the contract with Care Monitoring 2000 Limited will be replaced following review of the Council's requirements and of market products, through a compliant procurement to select a system that will offer best value for money.

7. LEGAL ISSUES

- 7.1 The contract with Care Monitoring 2000 Limited falls under Annexe A of Schedule 3 to The Public Contracts Regulations 2006 (as amended), and is therefore subject to the full EU tendering rules.
- 7.2 The Treaty provisions of equal treatment, fairness and non-discrimination must be complied with, by the council, in carrying out its functions and in exercising its powers.

7.3 With respect to the waiver of Contract Procedure Rules, the Cabinet Resources Committee has power to waive any one or more of those Rules if satisfied that waiver is justified on any one or more of the grounds set out in Section 8, below.

7.4 In accordance with the Contract Procedure Rules, there will be a need for the Council and Care Monitoring 2000 Limited to execute a formal contract for the provision of the electronic call monitoring system.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

8.1 Council Constitution, Part 3, Responsibility for Functions, paragraph 3.6 sets out the functions of the Cabinet Resources Committee which includes the power to agree exceptions to standing orders.

8.2 Council Constitution, Part 4, Contract Procedure Rules, Rule 5.8 provides that the Contract Procedure Rules may only be waived on the decision of Cabinet Resource Committee and only where that Committee is satisfied, after considering a written report by the appropriate officer, that the waiver is justified because:

5.8.1 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or

5.8.2 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or

5.8.3 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or

5.8.4 there are other circumstances which are genuinely exceptional.

8.3 A waiver to the Contract Procedure Rules is being sought under Contract Procedure Rule 5.8.4 on the basis that there are exceptional circumstances as outlined below:

8.3.1 The monitoring system is a key one in that over 600 care workers log details of client visits to it which in turn drives the Council's self-billing and suppliers' payments' activities. Terminating its use without an automated alternative would not, therefore, be a desirable outcome.

8.3.2 The time which it would take to carry out a full procurement process and the impending externalisation of NSCSO to a private partner.

9. BACKGROUND INFORMATION

- 9.1 The Council commissioned Care Monitoring 2000 Limited to provide an electronic call monitoring system following a competitive procurement process in 2002.
- 9.2 Since the procurement exercise in 2002, the Council has procured the monitoring system and is invoiced by Care Monitoring 2000 on a monthly basis (circa £9,600 excluding VAT per month).
- 9.3 No written contract has ever been entered into with Care Monitoring 2000 Limited since the procurement exercise so the Council is contracting with them on an 'invoice and payment' only basis which represents both a commercial risk and is non-compliant with the Contract Procurement Rules (notably Section 12 – "Signing and Sealing of Contracts" which requires that every contract must be in writing and that contracts whose value exceeds £173,934 must be sealed on behalf of the Council).
- 9.4 Reference to the contract with Care Monitoring 2000 Limited was not included in the report to the Cabinet Resources Committee of 7 November 2011 concerning Adults' and Children's service contracts requiring regularisation and extension, and consequently was excluded from the terms of the Committee's decisions. This report seeks to rectify that omission.
- 9.5 The care monitoring records the day-to-day delivery of services by the Council's contractors responsible for providing home and community support (previously known as 'homecare') to disabled and elderly people assessed as being in substantial or critical need. The system uses telephony to record the attendance times of home and community support staff at clients' homes. Links to the Adult Social Care Swift client database enables comparison of actual hours delivered and commissioned hours, and provides an auditable record for the purposes of Fairer Charging billing to service users, and the validation of payments to home and community support contractors. The system and similar products offered by Care Monitoring 2000 Limited are in use by some 52 local authorities.
- 9.6 The monitoring system is a key one in that over 600 care workers log details of client visits to it. This in turn drives the Council's self-billing and suppliers' payments' activities so terminating its use without an automated alternative would not be a desirable outcome.
- 9.7 It is intended that the Council's future electronic call monitoring requirements are met as part of the procurement of its overall IT solution for Adult Social Care and Health by the NSCSO contractor and shall be concluded by 1st April 2014 so it is necessary for the Council to regularise the existing arrangements with Care Monitoring 2000 Limited in the interim period.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Finance (Officer's initials)	JH/MC
Cleared by Legal (Officer's initials)	SS