

CABINET

DATE	14 th February 2024
REPORT OF	Councillor Philip Jackson, Leader of the Council and Portfolio Holder Economy, Net Zero, Skills and Housing
RESPONSIBLE OFFICER	Carolina Borgstrom – Director for Economy, Environment and Infrastructure
SUBJECT	Equans Review
STATUS	Open with the exception of Appendix 1 which is exempt under paragraphs 3 and 4 of Schedule 12A to the Local Government Act 1972
FORWARD PLAN REF NO	CB 02/24/08

CONTRIBUTION TO OUR AIMS

The Council has two strategic priorities – stronger economy and stronger communities. The Partnership with Equans contributes to the Council's strategic aims through the delivery of a range of technical and professional services that underpin the ambitions of stronger economy and stronger communities. Implementing the recommendations arising from this review, provides an opportunity for the Council to reshape key services to align to Council priorities, to meet the future needs of our residents and place.

EXECUTIVE SUMMARY

On 1st July 2010, North East Lincolnshire Council entered into a ten-year contractual arrangement (“Contract”) with Balfour Beatty Workplace Limited (now Equans Services Limited (“Equans”)) to deliver a number of key services on its behalf. The Contract allowed for extensions up to a maximum period of five years. All extensions have subsequently been approved and the Contract is due to end on 30th June 2025.

The contractual relationship with Equans and strategic options available for future service delivery are set out in the report. North East Lincolnshire Council officers have recently conducted a service-by-service review to understand the current delivery model, outputs, outcomes, and key performance indicators (KPIs) for all Equans’ service areas to increase understanding of opportunities and challenges with the current delivery model. The review further assessed benchmarking data where available and applicable, alignment with current and future Council needs, and set out risks and benefits of a range of possible future delivery models. The findings from these reviews and recommendations for future service delivery from July 2025 are explained below.

RECOMMENDATIONS

That Full Council agrees and thereafter recommends to Cabinet, support of the following:

1. Endorse the delivery model approach set out in the closed appendix.
2. That the Director for Economy, Environment and Infrastructure, in consultation with the Leader of the Council, be delegated responsibility to oversee the strategic and operational aspects in the implementation of the proposed delivery model, as set out in the Closed Appendix.
3. That the Director for Economy, Environment and Infrastructure update Cabinet by way of further report at least 6 months in advance of 1st July 2025.

REASONS FOR DECISION

The proposed delivery model is set out in Appendix 1 (closed report). This sets out the findings of the review and explains the rationale behind the proposed decision for each service area. The new delivery model is required as the existing Contract cannot be extended beyond 1st July 2025.

1. BACKGROUND AND ISSUES

Contractual Background

- 1.1 The North East Lincolnshire Regeneration Partnership was formed by North East Lincolnshire Council (Council) and Balfour Beatty Workplace Limited (BBW) on 1st July 2010. At the centre of the rationale for entering into the Partnership was the long-term objectives to improve the lives of residents in North East Lincolnshire through economic and physical regeneration.
- 1.2 The Contract was awarded for a 10-year period, thus providing the Council and BBW a significant timeframe to establish practical and stable delivery arrangements. The Contract was initially extended in August 2014 for a further 2 years (until 30th June 2022) with a further extension in December 2020 for an additional 3 years. All extensions which are legally permitted have now been utilised and the Contract is now due to end on 30th June 2025.
- 1.3 BBW was acquired by Cofely GDF SUEZ in 2013. During April 2015, the GDF SUEZ group announced that it would be rebranding and changing its name to "ENGIE" to match the new strategic direction of the group. A further change in 2021, saw Engie splitting its service divisions with the Council Contract forming part of the newly established Equans brand. Following rebranding, Bouygues acquired the service divisions within the Equans brand in October 2022, and Equans now sits within the Bouygues Group.
- 1.4 Throughout the Contract period, changes have been agreed between both parties. This includes:

- Several services have been removed from the core Contract and charged on a “Pay as you Go” basis.
- Two new services have been included into the Contract (Building Control services and Facilities Management for Childrens’ Centres)
- Several services have been brought back under direct Council control (Economic Development and Strategy, Strategic Assets, Commercial Estate, Valuation Service, Housing Strategy and the Project Management Office).

1.5 The services remaining within the Contract include:

- Facilities Management
- Housing Enforcement and Grant Administration
- Disabled Facilities Grants
- Highways and Transport
- Parking Services
- Design Services (Architectural Services, Highways Design, Civil Engineers, Quantity Surveyance, Landscape Design and Principal Contractor role)
- Planning and Development Management/Planning Enforcement
- Flood Risk Management
- Building Control
- Strategic Planning
- Security
- Some support services including procurement and communications.

Strategic Options Review

1.6 In early 2023, an external review was conducted by Commercially Public to identify options for Council post Contract expiry in June 2025. Options were assessed based on the following strategic priorities for future service delivery:

- Allow flexibility in a changing strategic environment. A future solution must be able to deal with future changes such as devolution.
- Offer the Council sufficient strategic control over its services. A future solution must allow the Council enhanced strategic control.
- Offer the best value to meet financial challenges in the Local Government Sector. The solution must not add to the Council’s financial pressures and provide flexibility in finding solutions.
- Provide confidence to Elected Members and residents that the Council is delivering the highest quality services with the best possible use of resources. The solution must offer a risk profile such that it can be delivered effectively with due consideration given to stakeholder engagement and communications.

1.7 A full range of options were evaluated using HM Treasury five case model including:

- Reprocurer the services on the open market – In addition to the impacts of transfer of services to a new provider, the review included an assessment of the state of the market, and the potential to competitively procure similar services.
- Bring services in-house – Review considered the impacts of establishing an in-house service including cost considerations.
- Review the Contract service by service with different approaches for different areas – The review considered whether the package of services is stronger as a whole or a different approach might be preferable to certain services.
- Establish an arms-length delivery company to deliver the services – Review considered performance, benefits and risks based on previous created enterprising organisations like: Care Trust Plus, Care Plus, Lincs Inspire and FOCUS.
- Partnership or Joint Venture.

1.8 The review found no real financial benefit to any option, and thus recommended that any solution should be considered entirely on which option offers the best potential to meet its current and future challenges. The control gained by bringing services in-house was highlighted for its ability in ensuring flexibility, both strategically and financially, in a changing and challenging local authority sector. The review further noted a significant change in the market for contracted local authority services since commencement of the 2010 contract. Very few local authorities have retained large scale, multi-disciplinary contracts and the current trend at contract end is to move to insourcing or splitting services into smaller, more targeted procurement baskets. With only two large scale providers actively bidding in the market, full-scale retendering is unlikely to seek or secure best value. The review further found limited benefit of exploring arms-length delivery further.

1.9 Based on the review findings, a more detailed in-house review was commenced in August 2023 to consider the options for the services following the end of the Contract, in light of the findings of the Commercially Public report. The in-house review had the following scope:

- Carry out a service-by-service review of all core/statutory services to assess the opportunities and challenges of insourcing versus service specific re-procurement.
- Complete a review of non-statutory services to evaluate future Council requirements and most beneficial delivery model if retained.
- Explore the opportunities and challenges of procurement of a commercial partner through joint venture in distinct areas of transformation, such as urban housing delivery and net zero delivery.

Service-By-Service Review

1.10 A service by service review was conducted during the autumn of 2023. The review aims were to explore Contract specifications, outputs, outcomes and KPIs for all Equans service areas to increase understanding of opportunities and challenges with the current delivery model. The review further assessed benchmarking data where available and applicable, alignment with current and

future Council needs, and set out risks and benefits of a range of possible future delivery models.

- 1.11 Risk and opportunities of each option were assessed against five criteria:
- Commercial Delivery - The Council's ambitions to provide traded services to a wider market.
 - Strategic Control – Whether the proposed future arrangements are likely to protect alignment of services to the Council's strategic priorities.
 - Financial Risks – Whether the proposed future arrangements are likely to require more, the same or less financial resources.
 - Change management risks - Assessment of time, resources and skills required to deliver each option successfully.
 - Future Service Delivery risks - Assessment of the Council's skills and capacity to deliver proposed service delivery option effectively.

Review Findings

- 1.12 The review findings, including service by service analysis, are set out in Appendix 1 (closed report).

2. RISKS AND OPPORTUNITIES

- 2.1 The proposed approach provides an opportunity for the Council to reshape key services to align to Council priorities and better meet the needs of residents.
- 2.2 The proposal further creates an opportunity to improve communication between service areas, achieve efficiencies by more joined up working and provide more seamless service delivery for residents.
- 2.3 The Council has not previously completed a service review of this scale and have limited experience of TUPE transfer, which creates challenges with capacity. This risk will be mitigated by external specialist support and increased change management capacity.
- 2.4 There is a risk of reduction of service quality or continuity during implementation of the change. This risk will be mitigated by joint exit planning with Equans and dedicated Council resource to monitor service quality during change.
- 2.5 There is a risk that staff eligible for TUPE transfer within Equans may seek opportunities in other parts of their business or private sector, thus avoiding TUPE transfer to the Council or new contract. A dedicated staff communication plan would be put in place to reduce this risk.

3. OTHER OPTIONS CONSIDERED

- 3.1 Extend the existing Contract. This option was disregarded as all legally permissible extensions have been executed.
- 3.2 Re-procure a multi-service contract with the same scope as the existing Contract. This option was disregarded after review of the current provider

market. Very few local authorities have retained large scale, multi-disciplinary contracts and only a small number of large-scale providers are actively bidding in the market. As a result, full-scale retendering is unlikely to seek or secure best value.

- 3.3 Set up an arms-length delivery vehicle (Teckal company). This option was disregarded due to the limited opportunities for commercial trading in the affected service areas and the complexity of setting up and running an arms-length company.
- 3.4 In-source all Equans Services including existing subcontracts. This option was disregarded as it would prevent the Council from benefitting from opportunities to use specialist providers where markets exist and are able to deliver to greater efficiency or quality.
- 3.5 The proposed operating model chosen is a hybrid model as set out in Appendix 1 (closed report).

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

- 4.1 Under the terms of the Contract, it is not possible to extend the existing contract with Equans beyond 30th June 2025. There is therefore a considerable reputational risk to continued delivery of those services if alternative arrangements are not approved, procured (where required), and implemented by 1st July 2025. An early decision on the proposed way forward is therefore beneficial to ensuring continuity of service for residents and businesses in North East Lincolnshire.
- 4.2 Furthermore, there is a risk that competent and qualified staff at Equans will decide to leave the organisation due to uncertainty and potential TUPE implications if an early decision is not taken.
- 4.3 For any services brought back in-house, the risk profile becomes the full responsibility of the Council, and it is important to identify any potential consequences that this may have.
- 4.4 The management, staff, and trade unions at Equans and North East Lincolnshire Council will be involved throughout the transition process. Key contractors and stakeholders will also be kept informed.

5. FINANCIAL CONSIDERATIONS

- 5.1 Through the Contract, Equans seek to make a commercial profit for shareholders. For any services which return to the council, there is no requirement to make a commercial profit and this money (profit) can be offset against service delivery improvements and any additional staffing costs which may arise (see paragraph 5.2 below).
- 5.2 Detailed salary levels and local pension membership will remain unknown until TUPE information is released in January 2025. There will be an increased cost

due to additional pension liabilities and potential increases in salary costs for some posts when they are aligned to the Council's pay structure, which could potentially be offset by factors detailed in paragraphs 5.1, 5.3 and 5.4.

- 5.3 In some areas, for any services that come back in-house, there is an opportunity to reduce contract management costs and create efficiencies in management structures.
- 5.4 Opportunities to deliver future service efficiencies through more integrated teams can be explored. This may require more investment in assets/expertise and could take advantage of synergies between staff roles in different teams.

6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

6. The services delivered by the current arrangements are wide ranging and impact the regeneration and quality of place that our children and young people live in.
- 6.2 Some services affected by this review such as facilities management of school buildings, school crossing patrols and road safety are essential services to ensure that children and young people are kept safe. Ensuring these services, as well as other services designed to improve our place, continue to be delivered to high standard will benefit all children and young people.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The recommended strategic and operational delivery model will enable the authority to focus service delivery on its environmental priorities by:

- Leading North East Lincolnshire towards consuming resources more efficiently and supporting and developing the green economy and infrastructure.
- Recognising and realising the economic and social benefits of a high-quality environment.
- Working towards a low carbon North East Lincolnshire that is prepared for, and resilient to, the impacts of climate change.

8. CONSULTATION WITH SCRUTINY

- 8.1 A Joint Scrutiny Panel involving Members of the Economy and Communities Scrutiny Panels will be held on 6th February 2024 to consider the proposals.
- 8.2 Different Scrutiny Panels have been involved in reviewing the operation and performance of various Equans services to date, and these reviews will continue throughout the interim period until the new arrangements come into operation on 1st July 2025. Panels will thereafter need to determine scrutiny oversight of the individual service areas affected by the new arrangements.

9. FINANCIAL IMPLICATIONS

The precise financial implications arising from the proposed delivery model are still to be fully developed. However, it is anticipated that delivery of the range of services within the current contract can be contained within the existing contract fee envelope. As detailed within the financial considerations above, there are a range of risks and opportunities arising from proposed delivery model and these will need to be worked through as part of the transition plan.

10. LEGAL IMPLICATIONS

- 10.1 It is clear from the above report that the Contract expires on 1st July 2025 and that due to previous extensions, as articulated, there are no further contractual opportunities to extend.
- 10.2 The Council is therefore faced with a range of options in terms of ongoing service delivery, and the emerging model is articulated in the closed appendix.
- 10.3 There are clearly a number of legal and contractual implications that will be invoked in dealing with a contract reaching its natural termination point and Legal Services will continue to support the core project group in understanding and meeting these.
- 10.4 Overall, in reaching their decision, Members should be cognisant of a range of issues, including:
 - A duty of continuous improvement set out at s.3 of the Local Government Act 1999 whereby the Council is statutorily obliged to look for continuous improvement in the delivery of its functions having regard to strategic effectiveness, service quality and availability, fairness, sustainability, efficiency and innovation.
 - That decisions are supported by a proper risk analysis and options appraisal.
- 10.5 To ensure proper discharge of these duties, independent consultants have been engaged to support officers to assess, identify options, and advise by way of recommendations. These are set out in the closed appendix.
- 10.6 Key stakeholders will be informed of the recommendations set out in this report. Key communication messages will be prepared by the Council's Communications Team and in partnership with senior management. On the basis that no change in services is currently being delivered, formal public consultation is not being undertaken at this stage. However, consultation requirements will be taken into account, and public consultation undertaken as required moving forward.
- 10.7 Engagement with Scrutiny (pre-decision) and Full Council adds strength to the decision. Constitutionally, it is for Cabinet, as the ultimate decision maker, to weigh any forthcoming recommendations from that engagement.
- 10.8 The recommendations sought are nevertheless appropriate, and it is prudent for Cabinet to receive a timely report setting out progress in advance of July 2025. It would not be unreasonable for such progress report to be considered, in advance, by Scrutiny.

11. HUMAN RESOURCES IMPLICATIONS

The proposed delivery model may have potentially significant people implications for those staff being insourced and current council staff. Employment matters will be dealt with in accordance with legislation and established HR procedures in order to achieve the proposals identified. Staff will need to be informed of the insourcing and reshaping of services and proposals being considered prior to any public announcements or public decisions. Staff will need to be kept engaged throughout the respective processes with consultation as appropriate in accordance with procedural and legal requirements.

12. WARD IMPLICATIONS

The services delivered through Equans impact on all Wards within the Borough.

13. BACKGROUND PAPERS

Cabinet – 5th June 2019 – Regeneration Partnership Review (Closed Report)

Cabinet – 6th November 2019 – Regeneration Partnership Review (not available on website)

Cabinet – 9th December 2020 – Future Delivery of the Regeneration Partnership Services (Closed Report)

14. CONTACT OFFICERS

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