

## Decision Report – Officer Key Decision

Forward Plan Reference: FP/23/05/13

Decision Date – 19/07/2023

Key Decision – yes



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### Report Title: Decision Relating to Operational Contracts

Executive Member(s): Cllr Federica Smith-Roberts - Lead Member for Communities, Housing and Culture and Cllr Ros Wyke - Lead Member for Economic Development, Planning & Assets

Local Member(s) and Division: N/A

Lead Officer: Sarah Dowden, Service Director, Regulatory and Operation Services & Oliver Woodhams, Service Director Strategic Asset Management

Authors: Mike Berry, Temporary Head of Service, Neighbourhood Services & Darren Puckett, Acting Strategic Manager – Systems & Performance,

Contact Details: [michael.berry@somerset.gov.uk](mailto:michael.berry@somerset.gov.uk) [darren.puckett@somerset.gov.uk](mailto:darren.puckett@somerset.gov.uk)

### Summary / Background

1. This decision is to extend the idverde contract for Street Scene and Ground Care within the former Mendip District Area for a further 18 months to allow time to consider and implement the future direction of the service. The Facilities Management provision will cease at the end of the current contract and be brought in-house. In addition, this decision will add an additional tree team to the contract to enable Somerset to meet the new service standards agreed by members.

### Recommendations

2. The Executive Director of Community Services, Executive Director of Resources and Corporate Services (Section 151 Officer)
  - a. To extend the current idverde contract for a further 18 months, with the addition of tree provision to meet the agreed service standards and removing Facilities Management from the contract extension.
  - b. That the elements of the contract relating to Facilities Management provision will subsequently be managed and delivered through the Council's in-house

Facilities Management Teams within the Strategic Asset Management Service.

### **Reasons for recommendations**

- 3.1 Given the associated timescales for contractual arrangements, it is deemed appropriate to consider extension for 18 months to May 2025, to allow a future phasing of change and allow the new Strategic and Operational Directors to consider the future direction of the service and interdependencies with other functions and possible opportunities which may exist.
  
- 3.2 At its Full Council meeting of Wednesday 22<sup>nd</sup> February 2023, Somerset County Council approved the Asset Management Strategy for Somerset Council which set out that “the property function in the new Somerset Council will enjoy a unique opportunity to establish a modern, effective and efficient approach to asset management, based around the implementation of a Corporate Landlord model and a new, consolidated asset management system”. The principle of a corporate landlord approach is that the Council’s property assets are managed consistently through a centralised Property function thus providing assurance on Health and safety and building compliance matters as well as managing the whole estate in a cost-efficient way. Under Somerset Council, the Strategic Asset Management Service will include in-house teams managing and delivering both ‘Hard’ and ‘Soft’ Facilities Management. The direction of the Service will therefore be to manage all of the Council’s operational estate in a consistent way and the local government re-organisation in Somerset presents an opportunity to align the former Mendip Council’s Facilities Management provision with that of the wider Estate.

### **Other options considered**

- 4.1 Consideration of insourcing of the former Mendip District Area services within the contract, at its current termination date of 31<sup>st</sup> October 2023.
- 4.2 Consideration of a new procurement exercise to retender the services to the market.
- 4.3 Both of these options have been discounted due to the required time available to the council and the complexity and size of the services involved.

- 4.4 Consideration to including the Facilities Management provision within the wider contract extension – this option has not been considered to be favourable as it does not progress the alignment of FM provision into a consistent approach.

### **Links to Council Plan and Medium-Term Financial Plan**

- 5.1 For the Facilities Management proposal, the recommendation aligns with Strategic Objective 1 of the Asset Management Strategy: The Council's estate is financially sustainable, efficient, and effective.

### **Financial and Risk Implications**

- 6.1 In relation to Facilities Management, as part of the 23/24 Medium Term Financial Plan (MTFP) budget setting process, a Strategic Asset Management Service target for budget savings was set of £50,000 in 23/24 and a further £50,000 24/25. By transferring the functions to Somerset Council and in utilising existing in-house resources to supplement those transferred, alongside aligning specialist services to other existing Council contracts, the Strategic Asset Management Service is confident that the cost of delivering the service will be able to deliver efficiencies on the current annual costs. The projected costs to the Council have been assessed and at this stage it is felt that the MTFP savings target set for this area is reasonable.

6.1.1 There will be an element of fixed staffing costs which due to TUPE requirements would transfer from the current contractor. It is anticipated that the management of FM provision will be delivered through a combination of those staff which (subject to any necessary TUPE consultation) would transfer to the Council, supported by existing council FM Teams. The transfer would not require the Council to take on any additional direct labour resource. Further consultations will be required to identify and agree which posts would be affected.

6.1.2 There will also be a number of FM activities which, through the current contract, are delivered through sub-contractors. Where Somerset Council does not directly employ the necessary specialisms it will in those cases look to procure those specific services through contractors, either through adding to the scope of existing contracts or through specific separate procurement activities. There would be opportunities to benefit from economies of scale by incorporating such activities into larger existing contracts/purchasing arrangements.

- 6.1.3 With specific regard to Hard FM services such as reactive repairs and asset maintenance/servicing, by utilising the Council's in-house Hard FM delivery team it will reduce the cost of such activities (e.g. boiler servicing, electrical testing, reactive repairs) as they can be undertaken without having to incur any significant additional overhead.
- 6.2 There is a financial risk linked to potential TUPE transfer around the potential staffing costs, this will be worked through in more detail through the due diligence process once formal notifications have taken place however a significant amount of information has already been provided giving a reasonably high degree of certainty around fixed costs but there may be detail around pensions for example which will need to be factored in once known.
- 6.3 The risks of the FM services decision will largely be around the affected staff to ensure that they are adequately consulted and any transfer managed appropriately and according to legislation.
- 6.4 There is a risk in relation to continuity of FM services due to the proposed transfer although due to incorporating and aligning the services within existing arrangements, this is deemed to be a manageable risk.

Likelihood	3	Impact	3	Risk Score	9
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### Legal Implications

- 7.1 Although the extension of the contract has a total value over £500k, the existing contract contains provision for the Council to extend the expiry date by a period of up to 5 years by giving 6 month's notice, the terms of any extension would be subject to agreement by both parties via change control which would be instructed via legal services.
- 7.2 Legal Services contractual advice has been sought regarding the decision not to extend the Facilities Management part of the contract – a further instruction will be required relating to TUPE provisions in terms of any potential people to be transferred as a result of ceased services.

### HR Implications

- 8.1 There are no HR implications for the contract extension part of the decision however there will be implications relating to the Facilities Management function

where there will be TUPE requirements to consider for any staff affected whose roles relate to the provision of FM services.

- 8.2 Detailed consultations with those affected will be required at the appropriate time, in order to identify those specific roles affected and confirm whether they would transfer to Somerset Council or to another provider where those services may be re-procured through an alternative supplier. Sufficient time will need to be allowed to undertake the necessary consultations.
- 8.3 Consideration of employment terms and conditions of those proposed to transfer, to understand if more/less favourable than SC terms and conditions, to establish if any additional employment costs - this will form part of the standard TUPE due diligence process.
- 8.4 The HR team have been made aware and have provided initial advice and further support from both HR and Legal will be required once the decision has been taken.

#### **Other Implications:**

#### **Equalities Implications**

- 9.1 The equalities manager has agreed that an Equalities Impact Assessment is not required for the renewal of this contract but idverde will maintain accessibility through the delivery of its functions and that we will manage these through standard contract management processes.

#### **Community Safety Implications**

- 10.1 The extension of our ground care and street scene to the new service standards will improve the visible environment of the Council, improve the health and wellbeing of local residents and business by living and working in a clean, greener environment.

#### **Climate Change and Sustainability Implications**

- 11.1 The contractor, idverde have a Sustainability Action Plan, which includes a commitment to combat climate change, to steer improvement and development of good practice and to 'give back' to the communities they serve and the environment they depend on and use their strength and capacity to create a positive impact at a local level. By complying with the new service standards, we

will be working on a key council priority in delivering a greener, more sustainable Somerset.

### **Health and Safety Implications**

12.1 The In-house Facilities Management Teams are responsible for ensuring that the Council's premises are managed in a safe and compliant manner. This means that when premises transfer back to the Council to be managed, Health and Safety building compliance matters will be brought into line with the wider estate. The FM teams ensure that statutory servicing and compliance obligations are met and the Council will use its recently introduced Asset Management System to monitor and manage building compliance issues.

### **Health and Wellbeing Implications**

13.1 A cleaner environment, will benefit our communities, reduce crime and improve health and wellbeing,

### **Social Value**

#### **Scrutiny comments / recommendations:**

14.1 The proposed decision has not been considered by a Scrutiny Committee.

### **Background**

15.1 The former Mendip District Council delivered Street Scene, Ground Care and Facilities Management services via contract since 2012. The current service provider idverde, has been working in partnership since its start date. The contract term was 10 years with the possibility of a further extension up to 5 years, taking the maximum possible term to 31<sup>st</sup> October 2027.

15.2 The former Mendip District Council took a decision in late 2021 to look to extend the contract by 12 months as at the time, detail was not confirmed regarding the transition to the new Somerset Council and time was required in order to determine the impacts and future expectations of service delivery. The current contract end date is 31<sup>st</sup> October 2023. This is relevant to all services within the contract.

- 15.3 Within early discussions between the Waste and Neighbourhoods sub workstream and that of the Property and Asset optimisation sub workstream it became clear that Facilities Management functions would sit within the wider Estates/Property Asset Management team moving forward, and in doing so, it was highly likely that there would be both time and monetary savings of insourcing the function. As such, we have taken the decision to remove Facilities Management from the contract extension
- 15.4 As part of the current contract arrangements, the contract depicts that notice should be provided to idverde of the end of contract or extension arrangements no later than 31<sup>st</sup> March 2023. This has recently been extended by mutual agreement to the end of July 2023, to allow for this decision.
- 15.5 At present the former Somerset West and Taunton Street Scene services are also delivered through contract to the same supplier. The contract arrangements for the former SW&T area are split into the two original District Council lots, which sees different contract end dates by one month. December 2024 and January 2025.
- 15.6 The earliest that consideration of exit can be given for the former SW&T contract is December 2024, however, there is a right to extension up to December 2027 which is currently being determined by those managing the former SW&T contract.
- 15.7 Considering the earliest exit from the supplier for the former SW&T contract, extension of the former MDC services by a further period will see a future ability to phase insourcing and manage impacts and risks accordingly.

## **Background Papers**

- 16.1 Original report that went to Executive and SLT board for a political steer
- 16.2 Somerset County Council Full Council Meeting, Wednesday 22<sup>nd</sup> February 2023, Item 5, Paper F, Asset Management Strategy for Somerset Council  
<https://democracy.somerset.gov.uk/CeListDocuments.aspx?CommitteeId=589&MeetingId=3177&DF=22%2f02%2f2023&Ver=2>

## **Appendices**

None




## Report Sign-Off

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	04/07/2023
Communications	Chris Palmer	03/07/2023
Finance & Procurement	Nicola Hix	11/07/2023
Workforce	Chris Squire	19/06/2023
Asset Management	Oliver Woodhams	19/06/2023
Executive Directors / Senior Managers	Jason Vaughan Chris Hall	11/07/2023 08/06/2023
Strategy & Performance	Alyn Jones	21/06/2023
<b>Consulted:</b>		
Executive Lead Members	Cllr Federica Smith-Roberts Lead Member for Communities, Housing and Culture and Cllr Ros Wyke Lead Member for Economic Development, Planning & Assets	11/06/2023  31/05/2023
Local Division Members	N/A	
Opposition Spokespersons	Cllr Mark Healey for Prosperity, Assets and Development Cllr Andy Dingwall for Communities, Housing and Culture	07/07/2023
Scrutiny Chairs	Cllr Bob Filmer - Scrutiny Committee - Corporate & Resources Cllr Gwil Wren - Scrutiny Committee - Communities	07/07/2023



# Somerset Equality Impact Assessment

Before completing this EIA please ensure you have read the EIA guidance notes – available from your Equality Officer or [www.somerset.gov.uk/impactassessment](http://www.somerset.gov.uk/impactassessment)

<b>Organisation prepared for (mark as appropriate)</b>	 <b>Somerset Council</b>	<p style="text-align: center;">X</p>	 <b>NHS Somerset</b>	 <b>NHS Somerset</b> <small>NHS Foundation Trust</small>	
<b>Version</b>	<b>1</b>		<b>Date Completed</b>	<b>13/06/2023</b>	
<b>Description of what is being impact assessed</b>					
<p>The extension of contractual arrangements relating to Street Scene and Ground Care services and the decision not to extend the parts of the contract relating to Facilities Management services will not involve any change to the way in which services affecting members of public are provided. Therefore there will be neutral outcomes for all protected groups as a result of this decision.</p>					
<b>Evidence</b>					
<p><b>What data/information have you used to assess how this policy/service might impact on protected groups?</b> Sources such as the <a href="#">Office of National Statistics</a>, <a href="#">Somerset Intelligence Partnership</a>, <a href="#">Somerset's Joint Strategic Needs Analysis (JSNA)</a>, Staff and/ or <a href="#">area profiles</a>, should be detailed here</p>					
<p>n/a</p>					

**Who have you consulted with to assess possible impact on protected groups and what have they told you?** If you have not consulted other people, please explain why?

n/a

**Analysis of impact on protected groups**

The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome, before you have implemented any mitigation.

Protected group	Summary of impact	Negative outcome	Neutral outcome	Positive outcome
<b>Age</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Disability</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>Gender reassignment</b>	<ul style="list-style-type: none"><li>• none</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Marriage and civil partnership</b>	<ul style="list-style-type: none"><li>• none</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Pregnancy and maternity</b>	<ul style="list-style-type: none"><li>• none</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Race and ethnicity</b>	<ul style="list-style-type: none"><li>• none</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Religion or belief</b>	<ul style="list-style-type: none"><li>• none</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Sex</b>	<ul style="list-style-type: none"><li>• none</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>Sexual orientation</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>	□	⊗	□
<b>Armed Forces (including serving personnel, families and veterans)</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>	□	⊗	□
<b>Other, e.g. carers, low income, rurality/isolation, etc.</b>	<ul style="list-style-type: none"> <li>• none</li> </ul>	□	⊗	□

**Negative outcomes action plan**

Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.

Action taken/to be taken	Date	Person responsible	How will it be monitored?	Action complete
	Select date			□
	Select date			□
	Select date			□
	Select date			□
	Select date			□

	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>

**If negative impacts remain, please provide an explanation below.**

<b>Completed by:</b>	<b>Darren Puckett/Mike Berry</b>
<b>Date</b>	<b>22/05/2023</b>
<b>Signed off by:</b>	<b>Oliver Woodhams</b>
<b>Date</b>	<b>19/06/2023</b>
<b>Equality Lead sign off name:</b>	<b>Tom Rutland</b>
<b>Equality Lead sign off date:</b>	<b>11/07/2023</b>
<b>To be reviewed by:</b> (officer name)	<b>Darren Puckett</b>
<b>Review date:</b>	<b>31/03/2024</b>