

CABINET

15 JULY 2014

GATEWAY 1 PROCUREMENT COMMENCEMENT: ALTERNATIVE DELIVERY MODEL FOR THE COMPLETE MANAGEMENT OF THE MEDWAY CONTROL CENTRE SERVICE

Portfolio Holder: Councillor Peter Hicks, Community Safety and Customer Contact

Report from: Robin Cooper, Director of Regeneration, Community and Culture

Author: Andy McGrath, Assistant Director, Frontline Services

Summary

This report seeks permission to commence the procurement exercise to procure an alternative delivery model for the management of the entire Medway Control Centre Service, including CCTV Partnership, out-of-hours and associated personal safety services such as telehealthcare and lone-working. This Gateway 1 report has been approved for submission to Cabinet after review and discussion at the Regeneration, Community and Culture Directorate Management Team Meeting on 19 December 2013.

The Regeneration, Community and Culture Directorate Management Team recommended to Procurement Board that this project be approved as a Category B, High Risk procurement. Procurement Board has provided comments about this proposal, which have been actioned, and is recommending this report to the Cabinet for consideration.

The reputational and service sensitivities are that this is a service that benefits other local authorities through a partnership for CCTV service. The associated personal safety services are delivered across Medway. The telecare and telehealth services are provided to vulnerable people and are valued by the families and carers of these service users. The procurement aims to ensure that the Council secures value for money, and therefore income, over the proposed contract period.

1. Budget and Policy Framework

1.1 Service Background Information

- 1.1.1 The control centre has two distinct divisions – one is the operation of CCTV for the prevention of crime and disorder (the CCTV Partnership) and the second being the commercial operation where contracts are won/awarded for the services provided from which revenue is generated. The commercial division is also where chargeable services operate.
- 1.1.2 Over the last 5 years the management team at the control centre have delivered efficiencies to reduce the cost subsidy to the current level. The management team now consider that any further reductions to the cost subsidy must come from growth through winning new business. The newly established legal entity proposed in paragraph 1.4 and appendix one would be a commercial entity and would therefore have the flexibility to respond quickly to opportunities for growth.
- 1.1.3 Over the next five years the Council will continue to experience significant financial pressures. The proposal in this report is an innovative response to protecting a non-statutory but greatly valued service by creating a commercial legal entity that benefits taxpayers both in terms of the service that will continue to be provided and the income that it will generate.

1.2 Funding/Engagement From External Sources

- 1.2.1 Following approval in 2011, Medway Council facilitated the creation of a partnership with three other local authorities – Maidstone Borough Council, Gravesham Borough Council and Swale Borough Council. The three local authorities delegated their CCTV function to Medway Council through exercising their powers under the Local Government Act 1972 to establish and participate in a Partnership. The CCTV infrastructures were transferred from each of three local authorities to Medway Council as the host authority in April 2012, with the Partnership officially launched in December 2012. Since then, cost benefits have been realised with savings in excess of 25% per local authority partner. The Partnership has built solid capability and intellectual capacity during that time which can be further capitalised upon.
- 1.2.2 The Joint Strategic Needs Assessment tells us that the number of older people in Medway is growing and the number who is likely to live with dementia is equally accelerating. The figures are in 4.1. This is an important and increasing market for Telehealthcare, which is where the anticipated growth in income will come from.

1.3 Parent Company Guarantee/Performance Bond Required

- 1.3.1 The Constitution states that 'For all Supplies (Goods), Services and Works contracts, over £250,000 a Parent Company Guarantee or Performance Bond shall be required unless agreed otherwise by the Council's Monitoring Officer in conjunction with the Council's Chief Finance Officer. Whilst the Council has in the past waived this requirement, the circumstances relating to this procurement means that this is not an option. Given that the contract will be awarded to a sole provider and the importance of this service to partner agencies such as the CCTV partners and the police, it is recommended that a bond is required equivalent to three months' payments of the contract value, £579,949.

1.4 Proposed alternative model of delivery

1.4.1 Appendix 1 of this report sets out the options that were reviewed in determining the future of the current service. The proposed alternative model of delivery will be for the appointed contractor to create a new legal entity for the purpose of delivering CCTV service and associated personal safety services. The key features of the legal entity would be as follows:

Key feature		Rationale
Medway Council will hold 20% shares in the company.		By Medway having minority shares in a limited company, the winning tenderer assumes financial liability.
30% profit share	15% for Medway Council	If the company not only reduces the contract payments for the Council but also turns a profit then the Council should benefit through a profit share arrangement and to exercise some form of control.
	15% for the CCTV Partnership	The CCTV Partners will expect some form of reward for agreeing to the service that they have delegated to Medway Council being transferred to a third party and to exercise some form of control.
All or some of the 70% profit share for the employees and management team		Incentivises employees to promote and sell the commercial services. The appointed contractor may wish to retain some shares for their own company.
Purchasing back office services from the Council for a minimum of 5 years		On being established, the legal entity will purchase support from finance, HR and ICT so that there is continuity and quality assured support. Legal services will not be required due to the potential conflict of interest and regulatory requirements.

- 1.4.2 Any company wishing to win the contract will need to establish a new company as described above.
- 1.4.3 The price evaluation will focus on the speed with which the organisation is prepared to reduce the contract payments and underwrite it through declaring a tapered price over a maximum of five years which is delivered through growth rather than subsidy from a parent company.
- 1.4.4 The pricing structure will be such that the Council will be transferring the costs and the income to the successful bidder and therefore making contract payments. There is a breakdown of the costs in the exempt appendix.
- 1.4.5 The winning bidder should provide a pricing schedule that demonstrates how they will reduce the contract payments from the Council as quickly as possible and create a return through dividends from the company for the remainder of the contract period. The price evaluation will reflect this aspiration, where tenderers who propose to reduce the contract payments quickest will get higher weighted scores.
- 1.4.6 The contract value is greater than the value of the payments because EU regulations require that the Council should publish a contract value that reflects the benefit to the appointed contractor, which includes all income that arises from the contracting arrangement.

2. PROCUREMENT DEPENDENCIES & OBLIGATIONS

2.1 Statutory/Legal Obligations

- 2.1.1 There are no statutory requirements requiring the Council to provide this service. However, there are legal obligations in relation to the CCTV Partnership as per the CCTV Partnership Agreement. It will be ensured that CCTV Partnership Agreement is fully adhered to and forms a crucial part of the tender specification.

3. BUSINESS CASE

3.1 Procurement Project Outputs / Outcomes

As part of the successful delivery of this procurement requirement, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?
1. Maintain a frontline service and remove the current cost subsidy	Initial measurement will be through the price evaluation Secondary measurement will be contract monitoring	Procurement project team Procurement Board Cabinet	During procurement process GW4 reporting which should be initially six monthly and then annually for the remainder of the contract.
2. Create a community asset by requiring that a employees have a 'stake' in the company	Initial measurement will be through the tender evaluation. As part of the social value aspect of this contract, it will require a company to be established	Procurement project team Procurement Board Cabinet	During procurement process
3. Ensure that the Council benefits from any	Initial measurement will be through the tender evaluation which will include the requirement for a company to be established with the Council holding	Procurement project team Procurement Board	During procurement process

commercial success	shares The resulting partnership agreement will provide a clear statement of what the partnership's objectives are and how they will be managed. This will include what each individual's responsibilities are, how decisions will be taken and so on. The partnership agreement will set out how the partnerships' profits (or losses) will be shared among the partners including whether or not newly admitted partners will have the same right to a profit share as the current partners. The agreement will also confirm the length of the partnership, the arrangements for introducing new partners, and what will happen if a partner wishes to withdraw from the arrangement.	Cabinet	
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3.2 Procurement Project Management

- 3.2.1 A Category Lead will lead on this procurement exercise, with oversight from an experienced Head of Category Management.
- 3.2.2 Given that a potential economic operator may come forward from an in-house bid from staff, it has been agreed that the Service lead for this procurement will be Medway Council's Assistant Director for Frontline Services. To continue to manage the potential conflict of interest and mitigate against a potential challenge, the drafting of the specification and technical evaluation questions will be reviewed by CCTV and telehealthcare representatives from another local authority.
- 3.2.3 Given the significance of the procurement, it is proposed that a Project Board is established, chaired by the Assistant Director, facilitated by the Category Management team. Board membership would include Legal, Finance, ICT, HR, Adult Social Care Partnership Commissioning and a representative from the CCTV partnership executive board.

3.3 Post Procurement Contract Management

- 3.3.1 It is proposed that a role of Partnership Officer should be created to continue to manage the strategic partnership between the local authorities and to manage the contract on the Council's and partnership's behalf. The proposed officer would report to the Strategic Partnership Board, Regeneration, Community and Culture Directorate Management Team, Procurement Board and Cabinet.

4. MARKET CONDITIONS & PROCUREMENT APPROACH

4.1 Market Conditions

CCTV services

- 4.1.1 Local authorities usually undertake the monitoring of CCTV cameras in public places and therefore there is limited competition for this type of service, unlike telehealth and telecare services. A new code of practice offers guidelines for best practices in public area CCTV in England and Wales. It is a 12 point code of conduct introduced by the Home Office in August 2013 under the Protection of Freedoms Act passed by Parliament in June 2013. No enforcement or penalties will be imposed for breaking the code; however the infringement may be passed to the Information Commissioners Office, which then may lead to a prosecution.

Telehealthcare

- 4.1.2 In Medway, the older people's population is around 15% (36,000 – over 65). Over the next 5 years there is expected to be a significant increase in people over the age of 65 living within the Council boundary, and an increase in older people with dementia requiring services. Currently the Council estimates that there are about 2500 people with dementia in Medway and that this figure could increase by 10% over the next ten years. Apart from the demographic information, there is also the reality that moving into the over 65 years bracket are less technophobic people who are more likely to embrace innovative solutions to support their independence beyond the traditional pendant worn round the neck.
- 4.1.3 In the UK, the telecare and telehealth market is very fragmented with over 80 players, including over 25 players on the National Telehealth Framework. Tunstall is the dominant player, providing telecare sensors, monitoring software and monitoring centres. Other

leading firms include Doboco, O2 Healthcare, Chubb Community Care, Just Checking, Phillips Healthcare, Care Innovation, Bosch, Tynetec, Telesupport and Invicta Telecare.

4.1.4 The telecare market in 2010 comprised 90% public and 10% private spending. There were around 1.6 million users each spending on average around £66 on telecare (including alarm installation and response centres). The highest penetration of telecare was within the over 65 age group. According to the UK's local authorities' expenditure reports, the public sector telecare market in England was worth £91.8 million in 2010, with 75 percent of spend on equipment and services. This expenditure has been increasing at a steady rate of 18% per annum with the fastest growth seen in equipment and services at 23%. Using Department of Health data, it is estimated that the total income from telecare in the UK could rise to £7.15 billion by 2020, a growth rate of 19% from 2010.

4.2 Procurement Process Proposed

4.2.1 A restricted process and advertising using an OJEU notice via the Kent Business Portal is proposed. This process will identify an economic operator that will take over the provision of the CCTV service for the CCTV partnership as per the CCTV Partnership Agreement, personal safety services, for lone workers and vulnerable people in Kent, as well as, generating income in the medium to long term for the Council, CCTV partners and employees.

4.2.2 Given the unique nature of the requirement, it is not envisaged that many expressions of interest may come forward; however, given the value of the contract it is necessary to demonstrate the market to ensure that this is the case. Equally, those that wish to submit a completed PQQ at the first stage of tender exercise would need to demonstrate experience and capability within the full requirement.

4.3 Evaluation Criteria

The PQQ (stage 1) will focus on:

4.3.1 Social value in the form of employee profit share and creating apprenticeships.

4.3.2 Experience of the technical requirements to maintain the Council's ICT infrastructure in relation to CCTV monitoring

4.3.3 Experience of retailing personal safety services

4.3.4 Financial standing

These elements will have minimum scores of 60% to progress to the next stage.

The tender submission (stage 2) will focus on, but not be limited to:

4.3.5 Ascertaining the maximum number of years it will take to reduce the contract payments to £0 and start delivering profits. The declared figures (targets) will be supported by a business plan that explains how the targets will be achieved.

4.3.6 The financial model proposed by the tenderer in terms of the proposed dividends for the Council, its partners and the employees and how quickly this can be achieved

4.3.7 The proposed quality of service delivery in relation to the specification

4.3.8 Site visits for a technical assessment and customer feedback.

5. RISK MANAGEMENT

5.1 Risk Categorisation

1. Risk Category: Finance and Reputational	Likelihood: Low	Impact: II
Outline Description: Council does not benefit from future income from the commercial service		
Plans to Mitigate: Require shares in the company and profit share		
2. Risk Category: Contract delivery	Likelihood: Low	Impact: II
Outline Description: That the commercial services do not generate income or the overall arrangement is not successful		
Plans to Mitigate: 5 year break clauses in the contract		
3. Risk Category: Procurement process	Likelihood: Low	Impact: I
Outline Description: CCTV partners do not agree to progress the procurement exercise to contract award		
Plans to Mitigate: Early, and continued, consultation by key officers from the Council		
4. Risk Category: Procurement process	Likelihood: Low	Impact: I
Outline Description: The organisation makes losses		
Plans to Mitigate: Whilst the Council will require 30% profit share, it will take 20% of the shares so that in drafting the partnership agreement, the appointed provider/partner will agree to underwrite all losses related to the new company.		

6. CONSULTATION

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Consultation with staff about the proposed model and TUPE.

6.2 External Stakeholder Consultation

6.2.1 Preliminary discussions with CCTV partners have taken place and the initial response has been positive.

7. SERVICE IMPLICATIONS

7.1 Financial Implications

7.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 10) will be funded from existing revenue budgets.

7.1.2 Medway Council to start receiving its agreed percentage of profit shares as dividends; this will enable Medway Council to have a true income generation vehicle. CCTV Partners will also receive an agreed percentage of profit shares, which should help them to reduce their contributions towards the service.

7.1.3 During the initial transitional period, permission will be sought, if possible for the contractor to have access to the 'Integra' the Medway Council financial system. This will allow for a seamless service delivery to its existing client base.

7.1.4 Cost centres 4C272 and 4C274, will need to be analysed and re-aligned accordingly to ensure that actual expenditure & income is related to the individual service area rather than the whole combined serve as one, i.e. CCTV Partnership and Telehealthcare.

7.1.5 Further detail is contained within Section 2.1 Finance Analysis of the Exempt Appendix that accompanies this report.

7.2 Legal Implications

7.2.1 The services which are under consideration in this report are Part A services and the value of the procurement exceeds the financial limit which requires compliance with the procedures set out in the Public Contracts Regulations 2006 ("the 2006 Regulations").

7.2.2 The 2006 Regulations permit the use of the restricted procedure for procurement of goods and services of this nature, and so the proposed procurement process complies with the 2006 Regulations.

7.2.3 The proposed process is also in compliance with the Council's Contract Procedure Rules, and so provides assurance that the Council's 5 Primary Objectives (Rule 1.5.2.2) and 10 Strategic Procurement Objectives (rule 1.5.2.3) are met.

7.2.4 Under the Council's Contract Procedure Rules, the proposed procurement is a Category B high risk procurement (Rule 2.3), and the process set out in this report meets the requirements for such procurements.

7.3 TUPE Implications

- 7.3.1 TUPE applies to this procurement on the grounds of a Service Provision Change in the event that the same or similar services are to be continued by the new provider, which appears to be the case. The new company would have to obtain admitted body status to the LGPS or provide a comparable pension scheme.

- 7.3.3 It is important to ensure that both the incoming and outgoing providers of the service complies with their respective obligations under the TUPE Regulations to minimise the risks of successful legal challenges with the Council likely to be a party to any potential legal challenges.

7.4 Procurement Implications

- 7.4.1 Due to the reputational sensitivities related to this service, a key outcome of the procurement process is to identify an economic operator who understands the importance of this service to the Council in relation to its community safety duties; the community in terms of feeling safe, either when out and about or in their own homes; and the local authority partners in terms of continuing to influence the services that that they have entrusted to Medway Council. These key outcomes will become Key Performance Indicators for contract management.

- 7.4.2 Due to the value of the contract, this will be an OJEU compliant process. In order to manage the quality of response to the advert, the process will be a restricted process. The PQQ will focus on, but not be limited to, the areas identified in paragraph 4.3 of this report.

- 7.4.3 The SLA for the existing CCTV partnership between the four Councils expires in 31 March 2017. As part of agreeing whether to award a contract, the SLA will need to be renegotiated to co-terminate with the first break clause of the contract, as a minimum.

- 7.4.4 Given that the Councils' partnership is not a legal entity, it can not have shares within the established company; therefore the SLA also needs to be renegotiated to reflect the profit share entitlement of partners.

- 7.4.5 The tender documentation must ensure that it takes into account the vision for the services and mitigates the risk identified through the project board, such as a veto vote for the Council in relation to company decisions that will impact on the Council's corporate policies.

- 7.4.6 This report was presented to Procurement Board on the 20 May 2014 and their comments were as follows:
 - 7.4.6.1 That the proposal is a bold and innovative proposal
 - 7.4.6.2 The report must clarify the minimum period that the buy-back arrangements from the Council's back office services, such as ICT
 - 7.4.6.3 That the report explains which assets will remain with the Council and which will transfer to the new legal entity and who will be responsible for replacing those assets during the partnership.
 - 7.4.6.4 That the report explains why a performance bond is required.
 - 7.4.6.5 The tender evaluation must ensure that the proposals to reduce the contract payments and generate income become targets for the successful partner.

7.4.6.6 That the service ensures that all efficiencies are achieved prior to going to the market.

7.5 ICT Implications

- 7.5.1 Currently ICT provide the infrastructure and support services to staff delivering the CCTV, Telecare and Telehealth services outlined within this gateway report. Discussions would need to take place in relation to the IT service, if any, required by the selected partner, and the costs and implications associated with the provision of the required service, with a robust Service Level Agreement in place to ensure all parties are clear on the IT service to be provided, and the costs associated with the provision of that service. These costs should be built into any cost comparisons provided as part of the tender comparison process.
- 7.5.2 It is accepted that during early stages of the new formation, it would be beneficial for any new partner to continue using some of the existing Medway Council ICT infrastructure. This use may be temporary or permanent, depending on requirements, but early negotiations, compliance implications and costs associated with the provision of this service must be considered during tender negotiations and prior to contract start.
- 7.5.3 Some of the CCTV infrastructure is also linked to a small number of schools to enable CCTV services to be provided in some areas of Medway. Any such nuances to the main service provided should be taken into consideration as part of tender negotiations.
- 7.5.4 Use of the existing ICT infrastructure is party to certain compliance standards, such as the PSN Code of Connection compliance requirements set by Central Government. Discussions and adherence to such standards would need to be considered as part of the tender negotiation process to ensure that Medway Council can continue to remain compliant.
- 7.5.5 As there are significant ICT implications, primarily connected to the ICT infrastructure provided, which would need to be discussed in detail with ICT engineers prior to the contract being let, I would recommend that a representative from ICT is invited to sit on the project board.
- 7.6 The Council is under a duty under section 123 Local Government Act 1972 to obtain best consideration, when it disposes of properties or lets them for over 7 years. In assessing whether a proposed letting constitutes best consideration, the Council is entitled to take into account any benefits, which result from sales or lettings, which have a financial value to the Council. It is proposed to grant a lease of the CCTV control centre at Civic Centre Strood to the new company. The lease would be contracted out of the security of tenure provisions contained in the Landlord and Tenant Act 1954 and would contain break options allowing the lease to be terminated, and the Council to recover possession of the Centre if the 5 yearly breaks in the contract are exercised by the Council or if the contract terminates for any other reason, such as breach by the new company.

8. OTHER CONSIDERATIONS

8.1 Diversity & Equality

- 8.1.1 When considering making changes to any service provision, the Council must have due regard to its equalities duties set out in section 149 of the Equality Act 2010. The

general duty on the Council is to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act, to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Cabinet should be aware that the duty is not to achieve the objectives or take the steps set out in section 149. The duty on public authorities is to bring these important objectives relating to equality into consideration when making decisions. "Due regard" means the regard that is appropriate in all the circumstances. Therefore a DIA screening will be undertaken in relation to the staff that are subject to TUPE and users of the service (including their families and carers) to inform the final decision to be taken by Cabinet at Gateway 3.

8.2 Social, Economic & Environmental Considerations

- 8.2.1 The Public Services (Social Value) Act 2012 requires local authorities to consider at the pre-procurement stage of any services contract (1) how what is proposed to be procured might improve the economic, social and environmental well-being of their areas and (2) how the local authority might act with a view to securing that improvement in conducting the procurement process. It is proposed that the procurement include the following steps to satisfy this duty:

Establishing a profit share for employees, Medway Council and the CCTV partners.
Creation of apprenticeships in accordance with the Council's procurement strategy.

8.3 Assets

- 8.3.1 Given the potential associated costs for maintenance, repair and/or replacement, this section sets out how the assets would be treated, if the Cabinet agrees to a procurement exercise, and contract award. There are three forms of assets within the Medway Control Centre (MCC). These are:

1. **CCTV Infrastructure** – Currently the CCTV infrastructure is broken into two different categories as below:
 - a. CCTV Partnership infrastructure – During the negotiation of the CCTV Partnership Agreement, it was decided that each partner's CCTV infrastructure would remain as their own, giving them direct control of their assets. This was due to the different sized infrastructures, each partner (Medway, Gravesham, Maidstone and Swale Council) has. Within the CCTV Partnership Agreement, there is a set revenue contribution for each partner's CCTV infrastructure maintenance, upgrades and renewals expenditure.

This approach allows for seamless transition in the event of any partner wishing to exit the agreement or/and transfer their services to another provider, without them incurring any expenditure in re-establishing costly CCTV infrastructures.

- b. CCTV Commercial Contracts – When taking on any new contracts to monitor Public or Private sector clients CCTV networks, the existing/new CCTV infrastructures remain the property of the client. As part of the contract, the client may wish to transfer the responsibility of maintenance, upgrades and renewals for their CCTV infrastructure at an additional cost.

Again, each client's CCTV infrastructure would remain as their own, giving them direct control of their assets. This allows for a seamless transition in the event of any client wishing to exit the agreement or/and transfer their services to another provider, without them incurring any expenditure in re-establishing costly CCTV infrastructures.

As part of establishing an 'Alternative Delivery Model' (ADM), the above points 1(a) and (b) will be taken into consideration and therefore any current CCTV Infrastructure within MCC, must continue to remain the property of its current owners, i.e. partners or any other client. The new legal entity would act as the custodian's of the CCTV infrastructure.

2. **Telehealthcare infrastructure** – Currently the Telehealthcare infrastructure is broken into two different categories as below:
 - a. MCC Telehealthcare Monitoring Platform – This is leased from the manufacturer, where an annual revenue payment is made for leasing the equipment. The payment includes all the maintenance of the platform.
 - b. Field Equipment (in clients' homes or premises) – A minority of the field equipment (old) has been purchased and due to the nature of the equipment, once installed it has no resale value.

The majority of the field equipment is on lease agreements; therefore a revenue payment is made for leasing this equipment. Due to the nature of the equipment, leasing is the more favourable option, as at the end of the leasing period, the equipment is out-of-date and newer technology is available and is required.

Taking the above two points 2(a) & 2(b) into consideration, it is proposed that whilst establishing the 'ADM', the Telehealthcare Infrastructure (assets) should be transferred to the new establishment. Therefore the new legal entity taking the ownership of the assets, making them responsible for any repairs, replacements, upgrades or renewals of the Telehealthcare infrastructure. The equipment lease can include an asset lock.

3. **Back Office Equipment** – This includes all other assets that are required to fulfil the MCC business operations. Some of the assets that would be included as part of the 'Back Office Equipment' are as below:
 - a. Vehicles (leased)
 - b. IT Equipment (Including Telephony)
 - c. Furniture
 - d. Stationery

Again either due to the above assets being leased or due to the age, the assets have no value. All the 'Back Office Assets' should be transferred to the new legal entity, where the new establishment will take ownership of the assets, making them responsible for any repairs, replacements, upgrades or renewals of the Back Office Equipment. The equipment lease can include an asset lock.

9. OTHER INFORMATION

9.1 Other Information

- 9.1.1 Waveney Council successfully took the procurement approach proposed for this service. They identified, an economic operator that fully met their requirements for continuing to run their Theatre. Waveney Council has helpfully provided their documentation to support the Category Management team equally identifying an appropriate economic operator that will deliver the social value and income generation expected from the proposed contracting arrangement. See the following link for more information:
https://www.waveney.gov.uk/site/scripts/news_article.php?newsID=104.

10. RECOMMENDATIONS

- 10.1 That Cabinet agrees to the alternative delivery model for CCTV and telehealthcare services being the subject of a procurement exercise and delegates authority to the Assistant Director, Legal and Corporate Services, in consultation with the Portfolio Holders for Finance and Customer Contact & Community Safety, to commence the procurement of the provision of the CCTV service.
- 10.2 That Cabinet notes that a Project Board be established that enables Finance, Legal, ICT, HR, Adult Social Care Partnership Commissioning representative and a representative from the CCTV Partnership executive board to contribute to developing the tender documentation and evaluation criteria.

11.1 SUGGESTED REASONS FOR DECISIONS

- 11.1 As per the option analysis in appendix one, an alternative delivery model for CCTV and telehealthcare services is more likely to safeguard the future of this non-statutory but highly valued service.

LEAD OFFICER CONTACT

Name	Andy McGrath	Title	Assistant Director, Frontline Services
Department	Category Management and CCTV Partnership within Frontline Services	Directorate	Regeneration, Community and Culture
Extension	3163	Email	andy.mcgrath@medway.gov.uk

BACKGROUND PAPERS

Information about the Code of Practice can be found at
<https://www.gov.uk/government/publications/circular-0112013>

Options appraisal of alternative delivery models for the Medway Control Centre

1. Background

- 1.1 Medway Lifeline was established in 1987 by the former housing department of Rochester upon Medway City Council (now MHS Homes) to monitor elderly residents in Council sheltered housing schemes. This was expanded to include alarms in individual Council houses and private homes. When MHS Homes was created, Medway Council took the decision to retain Medway Lifeline and operate this service from the then newly formed Medway Control Centre (MCC).
- 1.2 Medway Control Centre (MCC) began operating in 1999. In its early days it monitored approximately 20 CCTV cameras. As time progressed, MCC expanded into various ventures and now operates a large CCTV network (approx. 750 cameras), Commercial CCTV, Out-of-hours, Town Centre Radio Schemes, Telecare, Telehealth, 40 Sheltered Housing Schemes, Lone Worker Solutions and Intruder Alarms.
- 1.3 Responding to the public spending cuts, MCC explored an alternative delivery model that would create a more efficient way of operating: A shared service model for four Local Authority CCTV infrastructures. Following approval in 2011, MCC underwent an ambitious programme of change whereby three local authorities – Maidstone Borough Council, Gravesham Borough Council and Swale Borough Council - delegated their CCTV function to MCC through exercising their powers under the Local Government Act 1972 to establish and participate in a Partnership. The CCTV infrastructures were transferred in April 2012, with the Partnership officially launched in December 2012. Since then, cost benefits have been realised with savings in excess of 25% per local authority partner. The Partnership has built resilient capability and intellectual capacity during that time which can be further capitalised upon.
- 1.4 Conceptually, MCC is devised to accommodate the functions of the newly formed CCTV Partnership to ensure that the commercial activities operate as a stand-alone entity, whilst paying an equal financial contribution towards the infrastructure. The control centre now has two distinct divisions – one is the operation of CCTV for the prevention of crime and disorder (the CCTV Partnership) and the second being the commercial operation where contracts are won/awarded from which revenue is generated. The commercial division is also where chargeable services operate. However, operationally, the staff are multi-skilled within both divisions and therefore are inseparable without incurring additional costs to create two free-standing entities.
- 1.5 MCC has historically been enterprising; developing pricing structures to ensure that the service provisions are sustainable. Similar services within Local Authorities have unfortunately not had this foresight, with many of them now facing 'make or buy' decisions as grants are withdrawn and budgets reduce. Of particular reference is the recently reduced Supporting People grant that wholly financed a large number of Telecare provisions across the country.
- 1.6 As austerity continues to bite, MCC plans to become more commercial in its acumen, outlook and skills to secure longevity in its service provisions. In order to achieve the

desired growth to sustain all service provisions, MCC have identified that the current delivery model need readdressing and an alternative model explored. With enabling legislation now in place and a strong drive to make savings, the case for alternative delivery structures is getting stronger.

2. The vision for MCC at the time of being established

2.1 A fully commercial entity that provides:

- income generation that will combat the reducing Council budget and protect frontline services
- most current telecare equipment available in Medway
- ethical and proactive selling of telecare and Telehealthcare services
- develop strategic partnerships with care providers to create a response service for unbefriended users of the service

3. Limitations of the current arrangement for organisational growth

- 3.1 As a Medway Council service, MCC must follow in-house policies and procedures. The 'Procurement Manual' and 'Procurement Contract' outline the Council's commitment to a rigorous procurement process. The procedure's central principles, along with legislation, make purchasing a lengthy and resource intensive exercise. For example, from initial approval to awarding a small value quote takes approximately eight weeks and a large value tender takes approximately a year. As a high proportion of purchased goods and services within the control centre are technological in nature, their advances can often move at a faster rate than the procurement process. Operating with outdated equipment not only makes MCC less efficient; it also puts them at a competitive disadvantage when offering monitoring services. As a result, MCC has lost corporate contracts. For example, MCC recently lost the Telehealth contract with the NHS (£58,000) as it was unable to compete with private sector companies that purchase their equipment in bulk and from overseas at a cheaper price.
- 3.2 Medway Council is both a provider and commissioner of services. There is an expectation that all providers will use those in-house services in the first instance rather than contract with third parties. Although MCC does utilise services across different departments within the Council, there are circumstances where third party providers are more cost effective and efficient.
- 3.3 As a fully embedded department of the Council with charging powers under section 93 of the Local Government Act 2003, MCC charge individual clients for the Telecare service. The pricing structures are rigid and do not reflect the current market. Decision makers may be reluctant to increase/decrease prices in line with competitors due to clients (residents) bringing the Council to account. Furthermore, income streams are forecast year on year and budgets are allocated accordingly, therefore there is limited flexibility built in to the strategy.
- 3.4 With the above restraints, MCC will not be able to sustain the quality of service or grow the business. To develop more commercial lines to strengthen its position in the market place, MCC need to explore alternative ways in which to operate their commercial activities. Simultaneously, alternative delivery models that would support growth within the CCTV Partnership in relation to delegation of public services and commercial ventures needs to be explored.

4.0 Options

4.1 Do nothing

- 4.1.1 Not considered a viable option for the future of MCC. The management team has strong commercial acumen which is constrained by managing in a public body, which necessarily has governance arrangements that require senior management and, at times, executive sign off, which can slow down decision-making and implementation.
- 4.1.2 As a public body, Medway Council is subject to the EU regulations in relation to public sector procurements and as such is constrained in terms of its agility to procure goods and services (in spite of our commitment to reducing bureaucracy); unlike our competitors in the private sector. As explained in paragraph 3.1, with the constraints of minimum timescales for procurements over the EU thresholds, opportunities to purchase the most up to date equipment emerging on the market can be missed. This means that we would not be at the leading edge of available equipment making us less competitive. **Not recommended.**

4.2 Split the divisions so that the commercial service is outsourced

- 4.2.1 Separate the CCTV Partnership operations from the telehealthcare and other personal safety services. This option is costly (personnel costs are £1.16 million) and time consuming because of the duplication of costs for a 24-hour service, moving from a multi-skilled workforce working across the two divisions to silo'd working and forfeits efficiencies realised from shared effort and infrastructures and accumulated intellectual property.
- 4.2.2 This would increase the cost of operating both services (CCTV, Telehealthcare and personal services) individually and therefore would not be attractive to the CCTV partners, corporate clients and citizens.
- 4.2.3 For Medway, this would increase the cost subsidy and overall lose all the benefits of a multi-skilled and motivated workforce that has won a national award for innovation and management of CCTV services. **Not recommended.**

4.3 *Local Authority Trading Company (section 95 Local Government Act 2003)*

- 4.3.1 Section 95 Local Government Act 2003 enables Local Authorities to provide, on a commercial basis, anything that is related to a function of the authority. The powers under the Act enable Local Authorities to trade with private bodies and persons for profit (i.e. charges fixed at more than the cost recovery). Surpluses on commercial operations under the section 95 trading power would be available to individual authorities. This legislation has been further strengthened by the Localism Act, which expand Local Authority's trading activities to areas not related to their existing functions and removes geographical boundaries so trading can take place for a variety of service provisions and anywhere in the UK.
- 4.3.2 The opportunities that enabling legislation to change EU procurement regulations addresses some of the challenges facing MCC. However, EU procurement regulations would still apply.

- 4.3.3 To take full advantage of a wholly owned local authority company a 'Teckal' exemption, whereby an authority sets up arrangements to supply services back to those authorities in the same manner as in-house arrangements, would need to be applied. In order to be Teckal compliant (and exempt from EU procurement rules), the company would need to abide by two Teckal rules (a) the company should behave and be controlled as a department of the local authority and (b) the major part of the company's business must be with the local authority owner.
- 4.3.4 The company will be free to commercialise and market its services to customers, as long as this remains the subsidiary portion of its activities in compliance with Teckal. If there is a strong desire to undertake open market activity, this must not amount to more than 10% in terms of turnover of the activity of the company. With this limitation, the model would create a reduction in service and limit any further growth.
- 4.3.5 As MCC is already successful in their commercial activities the current income would exceed the turnover limit of 10%. This model would create a reduction in service and limit any further growth; strengthening the argument that there is a need for two legal entities to be set up to accommodate their differing compositions.
- 4.3.6 The benefits of creating a Local Authority company are:
- Create future value and service improvement for the authorities that requires modest investment and represents a low financial risk
 - Exploiting the Teckal exemption allows the shared services company to be more agile in partnering with other local authorities. This eradicates undertaking a lengthy procurement and incurring the sizable associated costs.
 - In the "in house incubator" employees could have more independence in the day-to-day running of the service embedding a culture of innovation and creativity, and the market has time to develop whilst the service are kept in house.
 - Desire to trade commercially for a profit with other public and private sector organisations ¹ – an opportunity for the Partners to undertake commercial activities to test the market
- 4.3.7 However, the procurement constraints related to being part of the Council would equally apply to the publicly owned company as they do for a local authority and therefore this option would continue to be behind the technological curve. **Not recommended.**

4.4 Establish an organisation with employee and Council profit share

- 4.4.1 There is a political drive towards wider employee profit share schemes, such as John Lewis Partnership. As the benefits prevail, cross-party political commitment has strengthened. There is now a Government drive to increasing the role of employee led organisations. Public sector workers are being encouraged by Government to set up new organisations outside of the public sector and take on full responsibility for the services they deliver.
- 4.4.2 A new company would be established using the general power of competence in the Localism Act 2011 in which the Council would be a 20% shareholder, and the remainder would be shared between the employees and the winning contractor. To

¹ 10% turnover limit for private sector trading, as per 4.3.5

take the full advantages of commercial opportunities, the majority of the shares would have to belong to a non-public body.

- 4.4.3 It is usual for employees to hold different shares or shares with different rights attached. Those with more responsibility or those with longer service may be given greater incentivisation or participation through a larger shareholding than someone with a more operational level of input or someone who has just joined.
- 4.4.4 A number of studies have been commissioned to measure the success where the employee/employees have led the companies. The key features are:
- Improved business performance;
 - Increased economic resilience;
 - Greater employee engagement and commitment;
 - Driving innovation
 - Enhanced employee well-being and;
 - Reduced absenteeism
- 4.4.5 Continuous business improvement is the only way for a business to survive effectively in a competitive marketplace. Taking ownership introduces new expectation and cultural shifts concerning 'harder' skills, such as winning contracts, and emphasis placed on ongoing evaluation of performance.
- 4.4.6 Building strategic partnerships is often a key aspect of an organisation's development plan: such partnerships can help to minimise costs, by sharing core services and overheads, and also open up new potential markets.
- 4.4.7 Whether employees (two or more) express an interest in exercising the community right to challenge under section 81 Localism Act 2011 or the Council chooses an alternative model for service delivery, a procurement exercise must take place to demonstrate best value for the tax payer.