

# Approval to use Contract Procedure Rules (CPR) 9.5 and award a contract direct to British Telecommunications plc (BT) for the provision of broadband and telephony services.

Date: 16<sup>th</sup> January 2024

Report of: Data Centre and Voice Team Manager

Report to: Chief Digital Information Officer

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

- To seek approval from the Chief Digital Information Officer to approve the use of CPR 9.5. to enter into a direct contract with British Telecommunications plc (BT) for the continued use of existing commercial arrangements with BT to supply broadband and PSTN services for a period of 24 months, on the grounds that there is genuinely no competition as the lines are owned by BT and therefore only BT can provide these services.
- We have been continuously working with BT for the provision of broadband and PSTN services for over a decade. In 2010, the large majority of PSTN and Broadband lines were transferred over to Virgin Media leaving only essential lines with BT.
- These services are used by more than 100 council offices that include children's centres, leisure centres, residential care home settings, and building infrastructure such as lifts, fire and security systems, where downtime is not possible.
- A project is underway to review all analogue PSTN and ADSL broadband services provided by BT as part of Openreach's analogue switch off in Leeds.
- The cost of this contract will £83,000 per annum with a talk cost for the two years being no more than £165,000.

## Recommendations

- a) The Chief Digital Information Officer is recommended to approve the use of CPR 9.5 and to award a contract direct to British Telecommunications plc for the provision of broadband and PSTN services for a period of 24 months and to an anticipated annual spend of £83,000 per annum on the grounds that there is genuinely no competition as the lines are owned by BT and therefore only BT can provide these services.

## What is this report about?

- 1 The original contract awarded to BT for the provision of broadband and PSTN services expired several years ago, and since that time the Council has been using the services under an implied contract whilst Leeds City Council has been working to move services onto digital telephone solutions.
- 2 These services are used by more than 100 council office across Leeds that include children's centres, leisure centres, residential care home settings and building infrastructure such as lifts, fire and security systems, where downtime is not possible.
- 3 A project is underway to review all analogue PSTN service provided by BT as part of Openreach's analogue switch off in Leeds.
- 4 The Council now wish to formalise the arrangement with BT and award a contract direct to British Telecommunications plc for the provision of broadband and PSTN services for a period of 24 months and to an anticipated annual spend of £83,000 per annum using CPR 9.5 on the grounds that there is genuinely no competition as the lines are owned by BT and therefore only BT can provide these services.

## What impact will this proposal have?

- 5 Due to Openreach switch off of the analogue infrastructure in Leeds by 2025, we expect to see a significant reduction in the use of telephone and broadband services provided by BT. The council has already ceased over 90 telephone lines as part of the analogue switch off project.
- 6 Council services using analogue lines will be moved onto internal council telephone system utilising Microsoft Teams.
- 7 Council services using analogue Broadband and ADSL services will be migrated over to the BT full fibre contract.

## How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 8 The award of this contract will allow the continuation of key services without disruption. The provision of these services supports the Council's Best City Housing priority of supporting older and vulnerable citizens to remain independent and to feel and be safe.
- 9 There is no climate emergency impact associated with this decision.

## What consultation and engagement has taken place?

Wards affected: All

Have ward members been consulted?

Yes

No

- 10 No consultation or engagement has taken place however consultation evidence is not needed to inform the decision in this report.
- 11 The Analogue Switch Off Project is engaging closely with council services affected by the analogue switch off and working to move these onto internal telephone system utilising Microsoft Teams.
- 12 The Analogue Switch Off Project will also have to replace existing PSTN solutions with their digital counterpart via BT to maintain ongoing council services. These will be solutions which

cannot be re-provided with an internal IDS solution but will need form part of a new contract in the future.

### **What are the resource implications?**

- 13 Continuation of the current arrangement with British Telecommunications plc (BT) will ensure no disruption to the services being provided and does not have any resource implications.
- 14 Resource has been allocated to the analogue switch off project who is co-ordinating the migration of services away from the analogue PSTN infrastructure.
- 15 Existing operational support processes will prevent delays in fault reporting and resolution.
- 16 Work is underway to review all PSTN services as BT/Open Reach plan decommission analogue infrastructure in Leeds by 2025.

### **What are the key risks and how are they being managed?**

- 17 The alternative to continuing with the current arrangements would be to undertake a procurement exercise and evaluate the provision of the required services by alternative suppliers. Given the requirement to move from analogue lines by 2025, this could potentially involve the risk of moving to a supplier which cannot provide the future services we need, or at the best value.
- 18 Moving to a different supplier would involve downtime of critical services which provide emergency care for older and vulnerable citizens.
- 19 The Redcare service is only available on lines supplied by BT.

### **What are the legal implications?**

- 20 As a significant operational decision this report is not subject to Call In. There are no grounds for treating the contents of this report as confidential with the Council's Access to Information Rules.
- 21 There is the potential risk of challenge that there are no real technical reasons justifying the use of CPR 9.5 and that the Council is simply seeking to circumvent the application of the procurement rules. However, due to the reasons set out in in this report this risk is perceived to be low

Contract Procedure Rule 9.5 states that a "...proposed direct appointment must also be assessed against the provisions of the Subsidy Control Act 2022 ("the Act") so as to ensure that no unlawful subsidy is provided". Having considered the Act the proposed direct award would not meet the definition on a "subsidy" in the legislation, because it does not give a financial advantage to BT on favourable terms. It is purely limited to the local provision of a service on terms which reflect market rates.

- 23 Although there is no overriding legal obstacle preventing the award of this contract in this manner, in making their final decision, the Chief Digital Information Officer should note the above comments and be satisfied that the course of action chosen represents best value for the Council.

## **Options, timescales and measuring success**

### **What other options were considered?**

24 Leeds City Council must move away from analogue PSTN services because Openreach are turning this service off in Leeds by 2025.

25 Going out to tender was an option but this would have duplicated resources which have already been allocated to the Analogue Switch Off Project and we do not yet know what our future requirements will be from third party providers.

### **How will success be measured?**

26 The Analogue Switch Off Project are undertaking monthly reviews to ensure a there is a reduction in PSTN lines and work through technical solutions to support Council services with the transition.

### **What is the timetable and who will be responsible for implementation?**

27 Leeds City Council needs to have moved away from Analogue infrastructure by 2025, in the majority of cases BT provided telephone and data services will be ceased and these services moved onto internal telephone and network infrastructure.

### **Appendices**

- None

### **Background papers**

- None