



**Report of** Chief Officer Shared Services  
**Report to** Director of Resources and Housing

**Date:** 18.9.2018

**Subject:** To seek approval from the Director of Resources and Housing to enter in to an extension provided for within the existing contract with Whistl UK Limited for the provision of postal goods and services.

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Summary of main issues

1. Following a procurement exercise in conjunction with a group of authorities from Yorkshire and Humberside, a contract was entered in to with Whistl on the 29 August 2016 to realise savings on the provision of postal goods and services.
2. This contract has been successfully delivered realising savings of £500,000 so far compared to standard Royal Mail tariffs.
3. The contract was for an initial two years with the option to extend for a further two years. However, the Call-Off Terms and conditions are silent on how the extension period should be taken up. As we indicated in the contract that the call off extension period will end on the 31 July 2020 it is considered that the intention of the parties was to “roll over” the contract to the end of the extension period unless notice was given by either party that the contract should expire at the end of the call off extension period. Thus, the contract has, in effect, already been extended but without any decision being taken allowing this.
4. In line with the requirements of the council’s contract procedure rules a decision to extend a contract is treated as a decision in its own right and cannot be treated as a consequence of any previous Key Decision. Therefore, in order to be as open and transparent as possible, this report seeks retrospective approval for the two year extension of the contract with Whistl for the provision of postal goods and services.

5. In addition, it is considered that taking up the extension represents best value for the council. This report seeks approval to take up this extension.

### **Recommendations**

It is recommended that the Director of Resources and Housing formally approves the two year extension of the Whistl contract for the provision of postal goods and services until 31 July 2020.

## **1. Purpose of this report**

- 1.1 To seek formal approval of the two year extension of the contract with Whistl for the provision of postal goods and services.

## **2. Background information**

- 2.1 In February 2015, a group of authorities from the Yorkshire and Humberside region agreed to form a collaborative group for the procurement of mail services in the region. This was subsequently extended to include authorities from the Greater Manchester region.
- 2.2 The aim of this procurement was to establish a single service provider to deliver postal services to the named contracting authorities that would provide savings for all the authorities.
- 2.3 The winning tender submission came from Whistl. There is no minimum spend associated with this contract, the council only pays for the volumes of external mail it uses. The value of the contract has been approximately £1.7M over the first two years.
- 2.4 On 16 June 2016 the Collaborative Procurement Report recommended to the Mail and Print Project Board that a contract be entered in to with Whistl for the provision of postal goods and services.
- 2.5 The board approved that decision, and a contract was signed on 29 August 2016 with Whistl UK Limited for the provision of postal goods and services. This contract provided for an initial two year call off period, with the option to extend for a further two years ending 31.7.2020.
- 2.6 The service received has been good, and the anticipated savings realised, equating to £500,000 over the duration of the contract compared to the Royal Mail standard tariffs.

## **3 Main issues**

- 3.1 The initial contract with Whistl which commenced on the 29 August 2016 to realise savings on the provision of postal goods and services has been successfully delivered.
- 3.2 The contract allowed for a two year extension. However, the Call-Off Terms and conditions are silent on how the extension period should be taken up. As the parties indicated in the contract that the call off extension period will end on the 31 July 2020, it is considered that the intention of the parties was to “roll over” the contract to the end of the extension period unless notice was given by either party that the contract should expire at the end of the call off initial period. Thus, the contract has, in effect, already been extended but without any decision being taken allowing this.
- 3.3 In line with the requirements of the council’s contract procedure rules a decision to extend a contract is treated as a decision in its own right and cannot be treated as a consequence of any previous Key Decision. Therefore, in order to be as open and transparent as possible, this report seeks retrospective approval for the two year extension of the contract with Whistl for the provision of postal goods and services.
- 3.4 In addition, it is considered that taking up the extension represents best value for the council.

## **4 Corporate considerations**

### **4.1 Consultation and engagement**

4.1.0 Extending the contract for the supply of postal services has no impact upon operational procedures.

### **4.2 Equality and diversity / cohesion and integration**

4.2.0 An Equality and Diversity, Cohesion and Integration screening form was completed as part of the overall programme delivery and a further screening form completed for this contract extension.

### **4.3 Council policies and best council plan**

4.3.0 The extension of this contract supports the delivery of the Best Council Plan in contributing to priorities to become a more efficient and enterprising council.

### **4.4 Resources and value for money**

4.4.0 The report demonstrates that the council has made a considerable saving (17.5%) compared to its previous contract with Whistl, and £500,000 compared to Royal Mail. The extension provides best value for the council.

### **4.5 Legal implications, access to information, and call-in**

4.5.0 This is a Key Decision which is subject to call-in and there are no grounds for keeping the contents of this report confidential under the Access to Information rules.

### **4.6 Risk management**

4.6.0 There is always the possibility of a procurement challenge that this opportunity should be subject to a retender as no decision to extend the contract was in place at the time the extension took place, and therefore the extension is void. However, due to the reasons set out at paragraph 3.1.1 this risk is considered to be low.

4.6.1 There is a risk of an ombudsman investigation arising from a complaint that the council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings

## **5 Conclusions**

5.1 Extending the contract will continue to deliver significant savings for the council.

## **6 Recommendations**

6.1 It is recommended that the Director of Resources and Housing formally approves the two year extension of the Whistl contract for the provision of postal goods and services until 31 July 2020.

## **7 Background documents<sup>1</sup>**

7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.