

**Report of: Business Manager, City Development**

**Report to: Chief Officer Culture & Sport**

**Date: 9 June 2020**

**Subject: Approval to waive CPR's 9.1 & 9.2 and award a new contract for Support & Maintenance of the Council's Direct Debit Management System.**

Are specific electoral Wards affected? If relevant, 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 type="checkbox"/> Yes	<input checked="" 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. The Council awarded a contract (DN278266) to Debit Finance Collections Plc for the provision of a Direct Debit Management System, including Support & Maintenance, for the period 21<sup>st</sup> August 2017 to 27<sup>th</sup> August 2020. The contract is due to expire and there are no provisions to extend it beyond the contract term.
2. The Direct Debit Management System is a 3<sup>rd</sup> party application (supplied by Debit Finance Collections Plc) which integrates with the Council's current Leisure Management System (supplied by XN Leisure Systems Ltd), and is used by the Council's Active Leeds Service to facilitate and support the collection of direct debit payments from Customers using its Leisure Services.
3. The Council is currently in the process of reviewing its requirements with a view to procuring a replacement Leisure Management System. It is envisaged that the procurement of any new Leisure Management System will also include an integrated Debit Management module.
4. To ensure that the Council continues to receive support & maintenance services for the current Direct Debit Management System whilst this procurement exercise is concluded and any replacement system implemented, it is necessary to award a short term contract to Debit Finance Collections Plc to provide Support & Maintenance.
5. The contract will be awarded for the period 28<sup>th</sup> August 2020 to 27<sup>th</sup> August 2021, and will include options to extend the contract for further periods up to a maximum of 12 months. These options will only be exercised in the event of unforeseen delays in the procurement and/or implementation process of the new Leisure Management System.

## **Best Council Plan implications**

6. The proposed new contract will support and contribute to the delivery of the following Council policies and priorities:
- Enable the Active Leeds Service to continue to support the Best Council Plan's objective of Health and Wellbeing and the aim of 'supporting healthy, physically active lifestyles';
  - The Best Council Plan has an ambition for 'Leeds to be the best city for health and wellbeing'. The work of the Active Leeds Service is essential to this and requires continued use of a direct debit management system to allow customers to easily join and pay for leisure memberships.
  - Supporting healthy, physically active lifestyles, a Key Best City Priority in the Best Council Plan;
  - Spending Money Wisely.

## **Resource implications**

7. There are no additional resource implications associated with awarding a new contract to Debit Finance Collections Plc for the Support & Maintenance of the Direct Debit Management System.

## **Recommendations**

- (a) The Chief Officer Culture & Sport is recommended to approve a waiver of CPR's 9.1 & 9.2 and award a new contract to Debit Finance Collections Plc in the sum of £50,000.00 for the provision of Support & Maintenance of the Direct Debit Management System. The contract shall commence on the 28<sup>th</sup> August 2020 and expire on the 27<sup>th</sup> August 2021, with the option to extend the contract for further periods up to a maximum of 12 months, which shall only be exercised in the event of unforeseen delays in the procurement and/or implementation process associated with the new Leisure Management System.

The recommendation to award a new contract for the period 28<sup>th</sup> August 2020 to 27<sup>th</sup> August 2021 with options to extend the contract for further periods up to a maximum of 12 months is made for the following reasons:

- (i) on technical grounds – the Direct Debit Management System is proprietary to Debit Finance Collections Plc, and as such only they can provide the necessary required levels of support and maintenance, as well as upgrades and fixes to the system.
- (ii) on economic grounds – as the Council is in the process of procuring a replacement Leisure Management System, which will include an integrated Debit Management module, to carry out a procurement exercise for a replacement Direct Debit Management System at this point in time would not be best use of Council funds or resources. The award of a short term contract which will enable the Council to continue to receive support & maintenance services for the current Direct Debit Management System until such time as a replacement Leisure Management System is procured and implemented is therefore the most cost effective and practical option.

The cost for Support & Maintenance of the Direct Debit Management System for the period 28<sup>th</sup> August 2020 to 27<sup>th</sup> August 2021 is anticipated to be approx. £50,000, based on recent year's figures.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to set out the reasons for seeking approval to waive CPR's 9.1 & 9.2 and award a new contract to Debit Finance Collections Plc for the Support & Maintenance of the Council's Direct Debit Management System for the period 28<sup>th</sup> August 2020 to 27<sup>th</sup>

August 2021, with options to extend the contract for further periods up to a maximum of 12 months.

## **2 Background information**

- 2.1 The Direct Debit Management System facilitates and supports the Council's Active Leeds Service in the collection of approx. 33,000 direct debits each month, which generates approx. £5,310,323 p.a. from Customers who use the Council's Leisure Services.
- 2.2 The collection of these direct debits payments is one of the main sources of income for the Active Leeds Service.
- 2.3 Annual support & maintenance costs for the Direct Debit Management System are variable, and are charged based on both the numbers of new Direct Debits set up and on the numbers of Direct Debit collections made p.a.
- 2.4 The Council is currently in the process of reviewing its requirements with a view to procuring a replacement Leisure Management System. It is envisaged that the procurement of any new Leisure Management System will also include an integrated Debit Management module.

## **3 Main issues**

- 3.1 The Council has a contract with Debit Finance Collections Plc for the provision of a Direct Debit Management System for the period 21st August 2017 to 27th August 2020. The contract is due to expire and there are no provisions to extend it beyond the contract term.
- 3.2 The Direct Debit Management System is a 3rd party application (supplied by Debit Finance Collections Plc) which integrates with the Council's current Leisure Management System (supplied by XN Leisure Systems Ltd), and is used to facilitate and support the collection of direct debit payments from Customers using the Council's Leisure services.
- 3.3 To ensure that the Council continues to receive support & maintenance services for the current Direct Debit Management System until such time as a replacement Leisure Management System is procured and implemented, it is necessary to award a new short term contract to Debit Finance Collections Plc for the provision of Support & Maintenance of the Direct Debit Management System for the period 28th August 2020 to 27th August 2021, with options to extend the contract for further periods up to a maximum of 12 months.
- 3.4 The options to extend the contract for further periods up to a maximum of 12 months shall only be exercised in the event of unforeseen delays in the procurement and/or implementation process of the replacement Leisure Management System.

## **4 Consequences if the proposed action is not approved**

- 4.1 As the collection of direct debits payments is one of the main sources of income for the Active Leeds Service, continued use of the Direct Debit Management System is crucial. If the award of a new short term contract is not approved, the Council would be left without Support & Maintenance services for the existing Direct Debit Management System. Any issues arising through use of the system would be unsupported, which could result in significant operational disruption, customer dissatisfaction and loss of revenue, as well as potential reputational damage to the Council.

## **5 Advertising**

- 5.1 This requirement has not been advertised. As this decision is to award a short term contract to Debit Finance Collections Plc so as to enable the Council to continue to receive support &

maintenance services for the current Direct Debit Management System until such time as a replacement Leisure Management System with integrated Debit Management module is procured and implemented, it would not be practical to advertise this as a procurement opportunity.

## **6 Corporate Considerations**

### **6.1 Consultation and Engagement**

6.1.1 Key stakeholders from the Council's Active Leeds Service, Finance team and Digital and Information Service (DIS) have been consulted and support the decision to award a new contract to Debit Finance Collections Plc.

### **6.2 Equality and Diversity / Cohesion and Integration**

6.2.1 There are no specific Equality, Diversity, Cohesion and Integration impacts relating to this decision to award a new contract to Debit Finance Collections Plc for the Support & Maintenance of the Direct Debit Management System.

### **6.3 Council Policies and City Priorities**

6.3.1 The award of a new contract will support and contribute to the delivery of the following Council policies and priorities:

- Application Rationalisation (DIS);
- Spending Money Wisely;
- The Best Council Plan has an ambition for 'Leeds to be the best city for health and wellbeing'. The work of the Active Leeds Service is essential to this and therefore the service requires an effective means for customers to be able to join and pay for leisure services.
- Supporting healthy, physically active lifestyles, a Key Best City Priority in the Best Council Plan;

### **Climate Emergency**

This report relates to the provision of continued support & maintenance services for a software system, its impact on climate change initiatives is mainly through the support it gives those services using it. The system directly contributes by facilitating digital working e.g. online direct debit application forms; removing the need for paper based forms.

### **6.4 Resources and Value for Money**

6.4.1 As the Direct Debit Management System is currently in use and is fully embedded in the Council's IT infrastructure, there are no additional resources in excess of the current arrangements.

6.4.2 The cost for Support & Maintenance of the Direct Debit Management System for the period 28th August 2020 to 27th August 2021 is estimated to be approx. £50,000 and represents value for money.

### **6.5 Legal Implications, Access to Information and Call In**

6.5.1 The award of a new contract to Debit Finance Collections Plc for Support & Maintenance of the Direct Debit Management System at this value is a Significant Operational Decision and is not subject to call in. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.

- 6.5.2 The value of the direct award detailed within this report is below the threshold for the application of the Public Contracts Regulations 2015 for the procurement of public services contracts and therefore it is not subject to the full EU procurement rules. However, the Council's Contracts Procedure Rules 9.1 and 9.2 require competition for procurements valued between £25K and £100K and the invitation of at least three written tenders. A waiver of these Contracts Procedure Rules is required to award a contract direct to Debit Finance Collections Plc. Awarding a contract direct to Debit Finance Collections Plc without competition could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that it has not been wholly transparent. In terms of transparency it should be noted that Council's Contracts Procedure Rules suggests that contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices etc.) and the geographical location of the place of performance. The Chief Officer Culture & Sport has considered this and, due to the nature of the services being delivered, the system being proprietary to Debit Finance Collections Plc, and the relatively low value and length of the contract, is of the view that the scope and nature of the services is such that it would not be of interest to contractors in other EU member states. In awarding the contract to Debit Finance Collections Plc without competition, there is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity, although this risk is considered low due the technical reasons set out in this report.
- 6.5.3 Whilst there is no legal obstacle preventing the waiver of Contract Procedure Rules 9.1 & 9.2, the above comments should be noted by the Chief Officer Culture & Sport, City Development and in making the final decision should be satisfied that doing so represents best value for the Council.

## **6.6 Risk Management**

- 6.6.1 There are no risks associated with awarding a new contract to Debit Finance Collections Plc for Support & Maintenance of the Direct Debit Management System. This is a mature system, fully embedded within the Council's IT infrastructure and has been used for a number of years.
- 6.6.2 Any risks which are highlighted during the term of the contract will be managed and mitigated through regular account management/supplier review meetings.

## **7 Conclusions**

- 7.1 To ensure the Council can continue to receive support & maintenance services for the current Direct Debit Management System until such time as a replacement Leisure Management System with integrated Debit Management module is procured and implemented, there is a need to award a new short term contract to Debit Finance Collections Plc for the provision of Support & Maintenance of the Direct Debit Management System for the period 28th August 2020 to 27th August 2021, with options to extend the contract for further periods up to a maximum of 12 months.

## **8 Recommendations**

- 8.1 The Chief Officer Culture & Sport is recommended to approve a waiver of CPR's 9.1 & 9.2 and award a new contract to Debit Finance Collections Plc in the sum of £50,000.00 for the provision of Support & Maintenance of the Direct Debit Management System. The contract shall commence on the 28th August 2020 and expire on the 27th August 2021, with the option to extend the contract for further periods up to a maximum of 12 months, which shall only be exercised in the event of unforeseen delays in the procurement and/or implementation process associated with the new Leisure Management System.

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

9.1 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.

## What is your reason for waiving CPRs?

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process e.g. to deal with the consequences of extreme weather.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Ran out of time to undertake a new procurement exercise.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other (please provide summary here)	<input type="checkbox"/> Yes	<input type="checkbox"/> No