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NON-EXEMPT

# HAVANT BOROUGH COUNCIL

MEETING TITLE: CABINET

02 November 2022

## Coastal Service – Constitution Change in relation to undertaking work for third parties

### FOR DECISION

Portfolio Holder Councillor Clare Satchwell, Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners)

Key Decision: No

Report Number: HBC/091/2022

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### 1. Purpose

1.1. This paper is submitted to Cabinet:

In relation to the Coastal Service the purpose of the report is to enable the Coastal Partnership to grow through wider sharing of experience and supporting other public authorities enabling income to be shared for mutual benefit and building an even more resilient Service, supporting HBC's Corporate objectives.

1.2. To enable growth and resilience, the Coastal Service (includes the Coastal Service and Civil Engineering and Landscape Team (CELT)) seek a change to the Havant Borough Council Constitution, when entering into contracts working for third parties from an income value of £50K per annum up to the income value of £250,000 per year.

The rationale of this is to quickly and proactively respond and engage with third parties in order to generate income to enable increased resilience and support the Coastal Service and Havant Borough Council by delivering projects without first having to commit to a lengthy approval process via Cabinet.

## **2. Recommendation**

The Members of Cabinet are requested to support:

- 2.1. That the Havant Borough Council Constitution total value of new work in one year threshold of £50K as referred to in HBC Constitution Part 3 Section G G143 Financial Rules be changed to £250K.
- 2.2. That the Executive Head for the Coastal Service is authorised to enter into contracts under which the Coastal Service Team in compliance with the Coastal Service's Business Development Gateway process, to undertake work for third parties up to an income value of £100,000 per year in compliance with the Coastal Service's Business Development Gateway.
- 2.3. That the Executive Head for the Coastal Service is authorised to enter into contracts under which Civic Engineering Landscape Team (CELT) in compliance with the Coastal Service's Business Development Gateway process, undertake work for third parties up to a value of £100,000 per year.
- 2.4. That the Executive Head for the Coastal Service in consultation with the Coastal Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners) and the CELT Cabinet Lead for Levelling-Up, the Cabinet Lead for Finance and Section 151 Officer is authorised to enter into contracts under which the Coastal Service Team and the Civil Engineering and Landscape Team (CELT), in compliance with the Coastal Service's Business Development Gateway process, undertake work for third parties over a value of up to £100,000 per year up to a limit of £250,000.
- 2.5. Third party agreements greater than £250,000 will be forwarded to Cabinet for review and decision.
- 2.6. Should the Executive Head for the Coastal Service, Coastal Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners) or CELT Cabinet Lead for Levelling-Up or the Cabinet Lead for Finance or Section 151 Officer consider the work related to the third party of high risk then this will be deferred to Cabinet for decision.

### **3. Executive Summary**

- 3.1. Havant Borough Council (HBC) is working in Partnership with Fareham Borough Council (FBC), Portsmouth City Council (PCC) Chichester District Council (CDC) and Gosport Borough Council (GBC) providing a coordinated Flood and Coastal Erosion Risk Management (FCERM) shared service, called Coastal Partners.
- 3.2. The Coastal Partners Service Vision is to Manage Coastlines, Improve Community Resilience and Enhance the natural Environment, which it delivers through provision of beach management and maintenance activities for each Authority and provide feasibility and option appraisal studies, via a variety of funding sources, to support future coastal projects to the outline and detailed design stage of FCERM. These schemes and programmes help to manage and reduce the risks to people and the developed and natural environment from flooding and coastal erosion.
- 3.3. The Partnerships ambition, agreed with the Coastal Partnership Board made up of the constituent Council Partners, is to continue to develop, grow and extend the portfolio of services to generate more income to support the future service needs particularly in response to climate change, meeting the coast, community, and environmental needs. Any proposed sharing or provision of Services beyond the existing Partners will also need the prior approval of the Partnership Client Board.
- 3.4. Currently the Coastal Service has been developing various services, such as their well-known and publicised, Tracer Pebble Studies and Geomatics Survey Solutions. These services have been provided to other public sector organisations, most of which have been low risk and under the value of £50,000. Many public sector organisations are requiring assistance and have been in contact with the Coastal Partnership for advice and support to deliver their projects, such as Southampton City Council, Hampshire County Council, Suffolk, Norfolk, Dorset, Boston, Arun and Bristol Councils.  
  
With careful planning it is anticipated the future will provide more opportunities to for additional growth of the Coastal Partnership through wider sharing of experience and supporting other public authorities. This will enable income to be

shared for mutual benefit and building an even more resilient Service for the future.

The services which can be provided are as follows:

- Regional Survey Monitoring
- Tracer Pebble Studies
- Contract and Project Management
- Geomatics Surveys
- Environment Studies
- Consultancy

- 3.5. The Civil Engineering and Landscape Team (CELT) maintain HBC assets plus design and implement engineering and landscape projects for Havant, East Hants, Hart and Hampshire County Council. Their business portfolio and client base within Hampshire County has increased and opportunities to provide services to the wider public sector are also rising. The CELT vision since joining the Coastal Service is about building on the culture, business approach, range of expertise and ability to proactively react to new opportunities resulting in increased income generation. The services they can provide are based on the services provided to Havant currently, of low or known risk and can vary in value.
- 3.6. Havant Borough Council hosts the Southern Coastal Group (SCG) and SCOPAC which is the Regional Coastal Group for southern and central England stretching from Portland Bill to Selsey Bill. This group provides research and development and the sharing of knowledge to assist, advise and influence matters relating to the Coast. This helps to inform and drive change by implementing and developing new projects and supporting future funding bids for Havant Borough Council as well as the other Councils and Public Organisations who are part of this group. As host, on behalf of the Group, HBC make applications for funding to undertake the business of the Group, for example Regional Flood and Coast Committee Levy funding and Environment Agency/Defra Grant in Aid funding. As the group is hosted by HBC it uses the HBC constitution. The types of projects they undertake are usually of low risk and usually of low value.

3.7. The Council's Financial Procedure Rules contain the following provision:

Work for third parties

G.143 Contractual arrangements to undertake work for third parties, must be approved by Cabinet in situations where the Chief Finance Officer is of the view that such a contract may cause a significant risk of net cost to the Council, or where the total value of new work in one year will exceed £50,000.

However, the process to obtain internal approval can prove lengthy and add additional bureaucratic costs, causing delays in delivering timely responses to new opportunities. This could result in loss of opportunities, lost officer time, and potential loss of income, increasing reputational risk and not meeting the Coastal Service Business objectives.

3.8. The Coastal Service has a Business Development Gateway process that supports a strategic, outline and full business case process to assure all new work opportunities are reviewed and approved prior to commencing new work.

Measures to scrutinise new business solutions and are built into each package of work from the outset. The main areas in the approval gateways are as follows:

- Assuring the business case is robust and supports the key strategic priorities and business plans.
- The solution is fit for purpose and can be delivered.
- Resourcing is identified.
- The cost model is scrutinised and approved.
- The legal team has been briefed have reviewed contracts and service level agreements.
- Risk assessments have been reviewed and approved.
- Work is covered by the Councils insurers.

Evidence of these areas are provided to the Executive Head for the Coastal Service for final approval before any work commences.

- 3.9. As these vigorous processes are in place for the Coastal and CELT services and the SCG and SCOPAC group it is proposed that the total value of new work in one year threshold of £50K as referred to in HBC Constitution Part 3 Section G G143 Financial Rules, be changed to £250K.

The Executive Head for the Coastal Service will approve contracts up to the income value of £100,000 in compliance with the Coastal Service's Business Development Gateway process for both Coastal and CELT services.

And in consultation with the Coastal Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners) and CELT Cabinet Lead for Levelling-Up, the Cabinet Lead for Finance and Section 151 Officer for third party contracts over £100,000 per year but not exceeding £250,000 in income in any one year.

Should the income value be over £250K or the consultation identify a risk associated to the opportunity the decision will be deferred for Cabinet review and decision.

#### **4. Additional Budgetary Implications**

- 4.1. None

#### **5. Background and relationship to Corporate Strategy and/or Business Plans**

- 5.1. The Coastal Service has a dedicated Coastal Strategic Workplan 2020 to 2025 and Service and Operational Business Plans which includes the ambition for additional growth of the Coastal Partnership through wider sharing of experience and supporting other public authorities to enable income to be shared for mutual benefit and building an even more resilient Service. These plans are aligned to and support the HBC Corporate Strategy 2020-2024 priorities. Most significantly by maintaining a *thriving borough economy* by looking after our waterfront assets and coastal areas attracting people to come to our coast and boost our economy. Also, by *providing infrastructure that meets our ambitions*, by delivering defence works that protect our residential and business areas as well as protecting wildlife habitat and improving visitor access along our coast.

5.2. The service delivered by the Civil Engineering and Landscape links to the Corporate Business Plan themes by increasing the awareness of the Borough's environmental needs, keeping safe the Borough's assets, providing the Borough with infrastructure that meets its needs and ambitions. CELT's 2022/23 Operational Business Plan and the Coastal Service Business Plan objectives are aligned to the Corporate Strategy for example by providing engineering projects to *maintain the Borough's sustainable transport network and supporting and increasing the local economy.*

## **6. Options considered**

6.1. No change to the Constitution:

When new opportunities arise, it is important that they are responded too in a timely fashion to successfully acquire the work. This requires a dynamic process leading to a start date for the work to commence. Delays to this process could lead to the opportunity being lost (therefore lost income) and the customer going elsewhere for the service. Or the deliverable work/project taking far longer than expected creating more financial and reputational risk.

The current process requires Cabinet approval for all third-party contractual arrangements over £50,000 per year (or if the work is of high risk) this could delay the process considerably leading to loss of opportunities and poor income generation. This is not in line with the Coastal Service and Operational Business Plans which align to the HBC Corporate Strategy.

6.2. Change to Constitution – Working with Third parties, increased threshold from £50K to £250K

This will result in there being a shorter period required to obtain approval for work to be delivered to third parties. This will assure opportunities in income are not lost due to delays in the duration taken to obtain Cabinet approval.

The Coastal Service Business Development Gateway Process provides the confidence to assure adherence to the constitutional guidance is maintained and

work and projects are delivered to third parties in a timely, processed and risk managed way. (See Appendix 1)

## **7. Resource Implications**

### **7.1. Financial Implications**

This change should result in the Council supporting other authorities, enabling income generation to reduce fixed costs which further reduces overall costs to the Council.

This proposed change references Part 3 Section G, G143 of the HBC Constitution which is part of the Financial Procedure Rules

By implementing the threshold change to the constitution, the requirements in G143 of the HBC Constitution will be met. New work opportunities and risk and quality matters will be reviewed and approved by the Executive Head for the Coastal Service for contract values less than £100,000. For contract values over £100,000 but not exceeding £250,000 in consultation with the Coastal Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners) and CELT Cabinet Lead for Levelling-Up, Cabinet Lead for Finance and Section 151 Officer.

Contractual arrangements and commissions to undertake work for third parties, which are considered high risk by either the Executive Head for the Coastal Service or the Coastal Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners), or the CELT Cabinet Lead for Levelling-Up, or the Cabinet Lead for Finance or the Section 151 Officer and will be deferred to Cabinet for decision.

## **Section 151 Officer comments**

Date: 04/10/2022

Any new work engaged through Coastal Partnerships will be subject to careful consideration as to the income and service benefits obtainable versus any potential risks and cost / service liabilities.

There are no direct budget implications arising from this report although the proposed change does present an opportunity to generate further income and service resilience.

### 7.2. Human Resources Implications

By having the opportunity to respond and support other public bodies, increases the breadth and depth of work across the teams thereby improving recruitment and retention.

### 7.3. Information Governance Implications

There are no information governance implications arising from the options.

### 7.4. Other resource implications

None

## **8. Legal Implications**

If approved, this proposal will mean that Cabinet approval is no longer required for contracts entered into by the Council under which the Coastal Service Team undertake work for third parties, unless the value exceeds £250,000 in any year to a single authority or they are considered high risk by either the Executive Head for the Coastal Service or the Coastal Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners) or the CELT Cabinet Lead for Levelling-Up or the Cabinet Lead for Finance or the Section 151 Officer and will then be deferred to Cabinet for decision.

The legal team will be required to change the Havant Borough Council Constitution to reflect the threshold increase.

The legal team will be requested to advise on the most appropriate business model to apportion risk appropriately and will be asked to provide agreements, contracts and service level agreements (duly signed and agreed by all parties) to support the work package to be delivered to the third party.

### **Deputy Monitoring Officer comments**

Date: 20 October 2022

Designated Officers do have delegated authority to “enter into any agreement for the supply of goods and services” (Constitution Part 2 Section G2 paragraph 3.4) but, of course, the exercise of the power must be consistent with the provisions contained in Financial Procedure Rules. A significant restriction on the exercise of the power is the requirement to seek Cabinet approval if the value of new work in one year will exceed £50,000 (Part 3 G143). This financial threshold is recommended to be raised to £250,000. The principal control measure will remain in that the approval of Cabinet will be sought if Chief Finance Officer sees any significant risk of such a contract causing a net cost to the Council. This change to the Constitution, and the grant of the additional and specific contractual authorities to the Executive Head for the Coastal Service, should go forward as recommendations from Cabinet to Full Council.

## **9. Risks**

- 9.1. Contractual arrangements and commissions to undertake work for third parties, which are considered high risk by the Executive Head for the Coastal Service, the Coastal Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners) and CELT Cabinet Lead for Levelling-Up, Cabinet Lead for Finance and Section 151 Officer and will be deferred to Cabinet for decision.
- 9.2. Risks around value and delivery of sold services to third parties are mitigated by the vigorous Business Development Gateway process already in place with approval by the Executive Head of Service. The process includes the creation of a business case (strategic, outline and full) which covers a risk assessment, the solution, resource, cost modelling, timelines plus other areas. The Executive Head of the Coastal service will review these areas prior to providing approval.

9.3. Additionally, the process of having further senior officers included in the approval process for contracts with an income of greater than £100K and less than £250K provides an internal check and balance to assist with risk mitigation.

9.4. Risk of non-payment due to the quality of the work delivered will be mitigated by having one or more of the following dependent upon the size and type of work:

- A clear scope of work agreed between all parties.
- Service Level Agreements containing a clear specification and brief of work, quality assurance guidance, cost and invoicing terms, how the work will be managed and agreed timelines for implementation.
- An agreement signed by both parties.

9.5. Any residual risk identified will be carefully managed via a risk owner and risk matrix for the project being delivered to the third party.

9.6. Appropriate insurance to cover areas of risk will be agreed with Havant Borough Council insurers.

9.7. Work is underway with legal colleagues to develop a standard legal agreement to suit the delivery of different services and appropriate risk owners associated with the different opportunities that arise.

## **10. Consultation**

10.1. The Executive Head of the Coastal Partnership and the Cabinet Lead for Planning, Hayling Seafront and Coastal Management (Coastal Partners) and the Cabinet Lead for Levelling-Up have all been consulted.

## **11. Communication**

11.1. Once approved, the new threshold amount will be incorporated into the Coastal Business Development Gateway Process.

**12. Appendices**

12.1. Appendix 1 Business Development Process

**13. Background papers**

13.1. None

Agreed and signed off by:

Executive Head of the Coastal Service: Lyall Cairns

Portfolio Holders: Cllr Tim Pike and Cllr Clare Satchwell

Deputy Monitoring Officer: Alan Harrison

Section 151 Officer: Malcolm Coe

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# Appendix 1 Business Development Lifecycle

## Business Development Lifecycle

