



ADUR & WORTHING
COUNCILS

**Record of Officer
Executive Decision**
Ref. No: DforC/006/18-19
Date of Decision: 18 September 2018

If you have any questions about this decision, please contact 01903 221006 or email heather.kingston@adur-worthing.gov.uk.

Record of Decision: To extend the current contract with [Community Works](#) for a further year from 1st April 2019 to 31st March 2020.

Decision taken by: Mary D'Arcy, Director for Communities

Declaration: I do not have a disclosable pecuniary interest, or conflict of interest.

Delegated authority:
2.7.1, 2.7.8 and 8.22.2 in the Councils' Contract Standing Orders.

Decision:

Community Works have had a contract with Adur and Worthing Councils since July 2016 with an end date of 31st March 2018, with the ability to extend for one further year. This additional year was executed from 1st April 2018 and will end on the 31st March 2019.

This paper is to record the decision to extend this contract for one *further* year from 1st April 2019 to 31st March 2020 due to some potential budget changes with our partners, West Sussex County Council.

Context:

Community Works have been a positive and significant addition to the voluntary and community sectors of Adur and Worthing. There have been regular formal reviews, an independent audit and consistent feedback from local voluntary and community sector groups which demonstrates and evidences the important role they play in our vibrant third sector.

Adur and Worthing Councils both have a budget assigned to this area and the service is procured jointly to make best use of money and resource. The budget also includes funding from West Sussex County Council. This has been the case for many years.

Until now, West Sussex County Council have passed the money to local District and Boroughs to assign as they see fit, the income summarised below:

20017/18	Adur and Worthing Councils' budget	West Sussex County Council's budget	WSSCC % of total funding	Total income to Community Works
Adur Council	£38,470	£15,299	29%	£52,529
Worthing Council	£38,570	£27,075	40%	£66,885
	£77,040	£42,374	35%	£119,414

However, during 2018, West Sussex County Council began a piece of work to look at their funding arrangements for infrastructure support to the third sector across the county.

It could change the way that money is distributed, the amount and the expectations of the investment. This project has not concluded and at the time of writing no firm decision has been made.

Due to the existing contract term with Community Works, Adur and Worthing Councils were due to begin re-procure the service in the Autumn of 2018. However, this is difficult to do without knowing the final intentions of West Sussex County Council. As cited above, they provide 35% of the overall funding, or 29% in Adur and 40% in Worthing. If this money was to reduce or to be removed altogether, this would have significant impact to the local service in Adur and Worthing. With this in mind, advice was sought from Adur and Worthing Councils' Legal and Procurement Teams.

This service provision is now categorised by the EU as "Social and Other Specific Services" part of a "Light Touch Procurement Regime", which is exempt from the full rigour of the EU Procurement Directives. As such the Councils have some flexibility over the procurement processes adopted, in so long as the process followed is fair and transparent.

Undertaking a new procurement exercise is a time consuming effort for both the Councils and any organisation submitting a bid. It may be unwise to commence a procurement exercise until the current uncertainty of the long term funding arrangements at West Sussex County Council has been resolved. Indeed, given the level of funding contribution by West Sussex County Council, any withdrawal of the funding may actually necessitate having to re-tender the contract as it would constitute a significant change in the contract provision.

The advice of the Councils' Procurement Manager is that it may be more prudent to defer tendering these services for 12 months until the funding situation has been resolved.

Under the Council's Contract Standing Orders paragraph 8.22.1, the contract can be extended. This is because there have been no additional extensions other than those allowed for in the contract as it was originally tendered and all remaining criteria are met. Paragraph 8.22.2 requires that the cost of the extension does not exceed 25% of the total contract and, if it does, advice from Legal and Procurement should be sought.

In addition the extension must be on the same terms as the original contract and made during the term of the original contract.

As to contract value, the total value of the contract to the expiration of its original term is £238,828. The additional year would exceed 25% at a cost of £119,414. However, a contract for this type of service, would be a light touch contract under the Public Contract Regulations 2015, and the proposed value of the extension is not unlawful under those rules see PCR 72.(1) (c) (iii). This is the advice taken from the procurement and legal teams and there is nothing else in the Contract Standing Orders that would prevent the extension from taking place.

To conclude, having sought advice from Legal and Procurement, the direction is that the contract with Community Works can be lawfully extended until 31st March 2020.

Key Decision: Yes, due to value over £100,000.

Reason for the Decision:

This extension would allow time for West Sussex County Council to confirm their intentions and bring the funding cycle in line with them.

There are absolutely no concerns about Community Works' performance and the contract will continue to be managed as it has been to date.

Alternative Options Considered:

To procure the service without knowing the funding from West Sussex County Council and 'subject to funding'. Given the amount of money this would put the local service at risk and could be the cost of a member of staff to Community Works.

Other Matters Considered:

Legal Advice and Issues	Y	Financial Advice and Issues	Y
Sustainability Issues	Y	Equality Issues	Y
Community Safety Issues	n/a	Human Rights Issues	Y
Reputation	Y	Risk Assessment	Y

Health and Safety Issues	Y	
Consultation: As advised in the decision.		
Background Papers: None		
Call-in: The call-in deadline for this decision will be 5:00pm on 25 September 2018.		



Signed:

Dated: 18 September 2018

Name: Mary D'Arcy, Director for Communities

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