

LOCAL GOVERNMENT ACT 2000

**REGISTER OF URGENT
DECISION OF THE EXECUTIVE**

NORTH DEVON COUNCIL CONSTITUTION
-Appendix 12



1) SUBJECT:

Devon WAN Partnership, procurement of Devon Wide Area Network (WAN) links.

2) REQUESTED DECISION:

To request a waiver to procurement rules and authorise NDDC to contract with the same supplier as Devon County Council for WAN links required to enable continued partnership working and connection to the Public Sector Network (PSN).

3) STATEMENT OF THE REASONS FOR THE REQUEST AND WHY IT IS URGENT:

North Devon Council has been part of the Devon WAN Partnership since 2011.

We have Devon WAN links in the following 7 sites:

- a. Brynsworthy Environment Centre
- b. Lynton House
- c. North Devon Crematorium
- d. Woodlands Enterprise Centre
- e. Barnstaple Museum
- f. The Ilfracombe Centre
- g. The Amory Centre

This partnership and associated links have enabled us to connect to other authorities that joined the group e.g. Torridge District Council for Payroll and Mid Devon for the Building Control and a shared connection into the secure PSN.

In September 2016: Devon County Council published an Invitation to Tender (ITT) for the Devon WAN Contract but potential suppliers disputed the terms and conditions of that tender and this tender was withdrawn.

In November 2016: Devon County Council then re-tendered the contract with just one supplier Update submitting a tender. Following numerous negotiations around this contract DCC finally signed a two year contract in June 2017. North Devon Council were referenced in the ITT but it was always anticipated that separate contracts would be entered into.

The current contract with Unify was due to cease mid-August 2017 and a 2 week extension has been agreed for all partners until the end of August 2017.

The new contract with Udata will commence on 01 September 2017.

It is essential that all partners remain with the same supplier to enable these connections to continue.

The other partners do not have sufficient time to conduct their own procurement exercise and even if there was an extension of time, the result is highly likely to be the same supplier based on the experiences of DCC.

We are able to contract with Udata using the same Terms and Conditions negotiated by DCC, which are more favourable to the buyer than the supplier.

4) FINANCIAL IMPLICATIONS: (NOTE: Please state if there are any financial implications. If so, state if there are sufficient funds within the agreed budget. If there are not sufficient funds, please state how the decision will be financed).

The cost of this contract can be covered within the existing budget.

We were also able to encourage DCC to take out a two year contract instead of one, making the installation costs more palatable.

We have been able to negotiate down the early indicative costs by 30%.

The breakdown of these final costs are:

Installation	£ 31,973
Year one rental	£ 55,635
Year two rental	£ 54,524
Total	£142,132

5) ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

Do nothing:

This is not an option as to remain operational and secure we need to have these connections.

Carry out our own tender exercise:

We do not have the time to do this.

We have to have the same supplier as Torridge District Council and Mid Devon District Council and they plan to also ask for a waiver / extension for this new contract.

DCC have carried out due diligence to enable us to use their terms and conditions.

6) A RECORD OF ANY CONFLICT OF INTEREST DECLARED:

None

7) A NOTE OF ANY DISPENSATION IF GRANTED:

None

8) THE CONSENT OF THE CHAIRMAN OF THE OVERVIEW AND SCRUTINY COMMITTEE WAS OBTAINED ON:

Councillor Brian Greenslade.

27/07/2017.

9) LIST OF BACKGROUND PAPERS (but not including published works or those which disclose exempt or confidential information (as defined in rule 10 of appendix 15 (Access to Information Procedural Rules) and the advice of a political advisor).

None

10) CONSULTATION UNDERTAKEN:

The following have been consulted on this urgent decision:

Consultee	Consulted Yes/No	Date
Executive Member	Yes	27/07/17
Ward Member(s)	N/A	
Chief Executive Mike Mansell	Yes	27/07/17
Head of Service (name) as above	N/A	
Legal	Yes	27/07/17
Finance JT: I am happy with the proposed urgent decision attached; also justified in that there is no Executive meeting now until 04 September 2017.	Yes	21/07/2017

11) APPROVED BY DECISION TAKER

Councillor Des Brailey MBE, Leader

12) NOT APPROVED BY DECISION TAKER

Councillor Des Brailey MBE, Leader

13) DATE THAT DECISION WAS TAKEN: 27/07/17.

GUIDANCE NOTES

NOTE: ALL REFERENCES TO SUB-PARAGRAPHS REFER TO APPENDIX 12 OF THE CONSTITUTION

PROCEDURE FOR DECISIONS WHICH MAY BE CONTRARY TO ADOPTED PLANS AND STRATEGIES (INCLUDING THE BUDGET):

1. The Chief Executive must notify the Leader/Deputy Leader/Other Executive Member.
2. The Leader/Deputy Leader/Other Executive Member must approve the use of the procedure and notify the Chief Executive of his approval together with his reasons.
3. The Chief Executive must notify the Chairman of the Overview and Scrutiny Committee or if unable to act the Chairman of Council or if absent the Vice-Chairman to seek his determination as to whether the conditions detailed in paragraph 1.1 (b) (i), (iii) or (iv) are satisfied.
4. The Chairman of the Overview and Scrutiny Committee or if unable to act the Chairman of Council or if absent the Vice-Chairman, must confirm to the Chief Executive in writing that the proposed decision is urgent and that either of the conditions identified in paragraph 1.1 (b) (iii) or (iv) have been satisfied, the Chief Executive shall advise the Leader, Deputy Leader or other member of the Executive that the decision may be taken by a person or body possessing a relevant power to make such a decision.
5. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor (s).

PROCEDURE FOR DECISIONS WHICH ARE WITHIN THE ADOPTED PLANS AND STRATEGIES (AND CAN NOT BE INCLUDED IN THE FORWARD PLAN):

1. If the Chief Executive considers that the conditions in sub-paragraph 2.1 are satisfied, he must notify the Proper Officer of the need for the decision, the reasons why it was impracticable for it to be included in the Council's Forward Plan, and whether or not the decision is required to be taken within five working days.
2. On receiving the notification, under sub-paragraph 2.3 and where satisfied that no decision is required to be taken for five working days, the Proper Officer shall:
 - (a) notify in writing the Chairman of the Overview and Scrutiny Committee or if there is no such person, each Member of the Overview and Scrutiny Committee, with particulars of the proposed decision, the reasons for its urgency and the reasons for it being impracticable to include in the Council's Forward Plan;
 - (b) make available for public inspection at the Council offices a copy of the written notice given to the Chairman of the Overview and Scrutiny Committee about the decision.

3. Decisions to which sub paragraph 2.4 applies, shall not be made until after five working days have elapsed following publication of the proposed decision under 2.4 (b) of Appendix 12 in the Constitution.

4. Where it appears to the Chief Executive that an urgent decision-

(a) meets the requirements of sub-paragraph 2.1 of Appendix 12 of the constitution; and

(b) because of the urgency cannot be deferred for five working days, he shall seek the agreement and confirmation in writing on both those points from-

(c) the Proper Officer; and

(d) the Chairman of the Overview and Scrutiny Committee or in his absence the Chairman of Council or if there is no Chairman the Vice- Chairman of Council;

and the person or body possessing a relevant power to make the decision may proceed to make it only when the necessary agreement and confirmation have been obtained.

5. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor(s).