

Report to: Cabinet



Date of Meeting 7 September 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Exemption to Contract Standing Orders in respect of a consultant solicitor

Report summary:

For Cabinet to approve an exemption to Contract Standing Orders in respect of a consultant solicitor to cover an unfilled vacancy.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Cabinet approves the exemption to contract standing orders in respect of the procurement of a consultant solicitor from Lighthouse Law Limited in accordance with Rule 2.3.1 of the Constitution

Reason for recommendation:

Legal Services has two vacant posts for commercial property lawyers which we have been unable to fill despite considerable advertising.

We offered a role to a strong candidate who unfortunately declined the opportunity on salary grounds.

After consideration of the market and in consultation with Human Resources, it has been decided to await the outcome of the reward review and to re-advertise the posts in the autumn.

In the meantime we need to ensure that we have sufficient capacity in the service and we wish to use the services of a consultant solicitor who has worked with EDDC previously. We have approached him direct through his own limited company rather than via an agency which means that we need an exemption to contract standing orders in respect of the procurement process.

The solicitor has worked with us previously over a number of years, he is familiar with EDDC's processes and many of the projects and officers. We know that he a very competent and able commercial solicitor and is a "safe pair of hands" which means that less management time will be needed to oversee the work as compared to an unknown locum procured via an agency.

The solicitor has been brought in initially under an initial exemption to contract standing orders to enable a handover with the outgoing post holder who had a 2 month notice period, this exemption was under £20,001 so did not need to be reported to Cabinet. This arrangement was short term initially whilst we were awaiting the outcome of the recruitment process.

Given the failure to recruit and the decision to postpone recruitment until the autumn, we would like to secure the services of the consultant solicitor for an additional six month period from November 2022. The intention being that this gives sufficient time to await the outcome of the reward review, advertise the vacant posts, appoint candidates and to allow for what is likely to be a 3 month notice period in most cases. It provides some stability to all of the team members at a time when workloads are high generally.

This situation will still leave a 20% reduction on the hours of the full time solicitor who left and one vacant post, we will continue to review capacity and workloads, it is hoped that a combination of the consultant and using external legal services where appropriate will mean that we can avoid needing to bring in further locum cover. We will keep this situation under review to ensure that the Service is able to deliver the Council's requirements in the most appropriate way.

The cost of the consultant solicitor will be £37,500 for 683 hours over a six month period which equates to £55 per hour, this is comparable to rates for suitably qualified locum solicitors via agencies.

Officer: Anita Williams, Principal Solicitor & Deputy Monitoring Officer,
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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: High Risk; As reflected in the Service Plan for Legal Services, insufficient qualified legal staff gives rise to a significant risk to the Council in terms of an inability to progress transactions as well as an inability to provide advice and to ensure good governance across the Council as a whole.

Links to background information None

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Financial implications:

The financial details are contained in the report. No new budget is requested with any overspend reported to members via the regular budget monitoring reports presented to Cabinet.

Legal implications:

The contract value falls below the threshold set out in the Public Contracts Regulations 2015 and therefore the EU procurement procedure (which is still currently relevant) does not apply and Cabinet has the power to authorise exemptions from the requirement to seek quotations or invite tenders pursuant to the Council's Contract Standing orders Rule 2.3. The reason for using the exemption in this case appears justified.