

North Yorkshire Council
Executive
16 July 2024

Wide Area Network Arrangements

Report of the Corporate Director Resources

1.0 PURPOSE OF REPORT

- 1.1 North Yorkshire County Council entered into a Collaboration Agreement in 2017 regarding Wide Area Network (WAN) and associated services with 6 health sector organisations located across North Yorkshire and York. This report seeks approval to update that arrangement on its expiry on 1 January 2025 and delegate the authority to the Corporate Director Resources in consultation with Assistant Director Legal to take such steps as are necessary to complete a new agreement.
- 1.2 The report also concerns a further opportunity for the council to enter into collaborative arrangements with the York & North Yorkshire Combined Authority and Chief Constable. The report seeks approval to enter into such arrangements and delegate the authority to the Corporate Director Resources in consultation with Assistant Director Legal to take such steps as are necessary to complete the necessary agreements.
- 1.3 The report notes that the council currently contracts with NYnet Limited for a WAN solution across North Yorkshire for the provision of broadband connectivity to the council sites and North Yorkshire schools. The report seeks approval to renew the arrangements with NYnet Limited for the delivery of a WAN solution to council sites, schools and any other partner organisation's sites as part of the collaboration agreements referred to at 1.1 and 1.2 above.

2.0 SUMMARY

- 2.1 NYnet Ltd is a local authority controlled company, wholly owned by the council and established to operate a WAN service to the public sector in North Yorkshire.
- 2.2 NYnet currently provides various public sector connectivity products to the council direct under an agreement which expires in January 2025 and also to schools through NYES Digital via an agreement which expires at the end of March 2025.
- 2.3 NYnet supplies the council with WAN services which the authority relies upon for the delivery of its services and operation of its activities across approximately 180 corporate sites. The council has used WAN services from NYnet since the company was established in 2007.
- 2.4 The council delivers WAN services to approximately 300 schools through the council's NYES Digital service. The services are procured from NYnet and the charges are passed on to schools customers including a service charge for support.
- 2.5 The council entered into a Collaboration Agreement in 2017 with 6 health sector organisations located in North Yorkshire and York. The agreement set out the principles of collaboration between the parties, their obligations in respect of the provision of a WAN service and the associated products and services. The Collaboration Agreement has been extended until 1 January 2025. This is the final permitted extension under the agreement and therefore the

partner organisations including the council will all need to consider and plan for any arrangements post 1 January 2025.

- 2.6 The council has also been in discussions with the Police, Fire & Crime Commissioner and the Fire and Rescue Authority, now part of the York and North Yorkshire Combined Authority about entering into collaborative arrangements with them to enable the pooling of respective resources and expenditure to support the delivery of a number of public tasks.
- 2.7 The council would contribute to the collaboration arrangements through a Solution Agreement between the council and NYnet. It is proposed that a single Solution Agreement between the council and NYnet be entered into covering arrangements for the council's corporate sites, schools and any collaboration partner sites.

3.0 BACKGROUND

Corporate & Schools

- 3.1 The use of WAN services is critical to the delivery and operation of the council services for both its staff and residents. As is the case globally, the importance of high quality internet connectivity increases as we digitise more services and operational processes. The council has used NYnet services since the formation of the company in 2007 establishing a collaborative and effective relationship that underpins high performing service delivery.
- 3.2 The council's NYES Digital traded service to schools was established in 1998 and ensures high quality and best value technology services are provided to schools generating revenue for the council and supporting our objectives to enable high quality a learning experience for all children and young people. NYES Digital's objective is growth, and the WAN services are a fundamental part of this enabling us to provide other high performing income streams such as full IT managed service support, the sale of software and equipment, websites, cyber security services and digital safeguarding products.
- 3.3. The proposal to renew WAN service provision through NYnet for both the council's corporate connectivity and schools via a single Solution Agreement ensures best value, service continuity and maximises the investment already made over a number of years. As an organisation that is wholly owned by the council, NYnet thrives as part of the public sector ecosystem. All surpluses are reinvested to provide cost-effective, proven and reliable networks to the region and help deliver on the council's ambitions for a digitally inclusive county.
- 3.4 The Solution Agreement would be for an initial 5 year term with the ability to extend for 2 further 12 month periods.

Collaboration with other public bodies

- 3.5 There are objectives common to the council and the health sector public sector bodies, which will be achieved by the continued collaboration, including but not limited to facilitating enhanced secure and resilient communications in an emergency. The arrangements will operate on a costs reimbursement basis with arrangements for knowledge sharing between all partner organisations.
- 3.6 The police functions of the Combined Authority currently receive their WAN through a third party provider and will continue to do so until May 2025. As part of wider collaboration opportunities it is proposed that the council will dual run WAN services alongside the third party, free of charge until May 2025. After May 2025 the Combined Authority will be require to reimburse the council for the cost of provision. The collaboration agreements would set

out the nature and scope of the collaboration between all of the parties and their respective roles and responsibilities in so far as how they would pool their resources to deliver their roles as Category 1 responders under the Civil Contingencies Act 2004; facilitate and achieve enhanced secure and resilient communications in an emergency; and provide day to day reliable access to the public, data and cloud hosted applications supporting all of their authority functions.

- 3.7 It is proposed that the collaboration agreements be for a term of 5 years with the ability for the parties to agree 2, 12 month extensions and that they enable additional public bodies to become parties to the arrangements subject to complying with the agreements and applicable laws.

4.0 Finance

- 4.1 The investment in WAN services for the council's operations would be £725k per annum totalling and estimated £3.63m over the initial 5 year agreement period. NYnet have committed to retaining the current prices for all products therefore the council will avoid indexation and inflation present in the market.
- 4.2 For schools, the services are procured from NYnet and the charges are passed on to schools customers including a service charge for support, therefore the council will only pay NYnet for the services that it sells to schools. If we retain all existing customers the value of the services procured would be £750k per annum and an estimated £3.75m over the initial 5 year agreement period.
- 4.3 For corporate sites and schools, the prices are fixed per service connection unless there is a change in service specification. If a school customer requests to terminate a connection early we would pass on termination charges to the customer and our agreements with customers are backed to allow for this. Similarly, if there is a requirement to terminate a corporate site connection early there is a clear cancellation charge pre-agreed in the contract. The pricing is based on specific connection services which have predefined length terms therefore although the overall solutions agreement and underpinning collaboration agreements are proposed to be for 5 years with two one-year extension options, there will be specific connections with shorter length terms (such as schools connections that will be based on three year pricing terms).
- 4.4 The Health Collaboration partners (Humber and North Yorkshire ICB, York and Scarborough Teaching Hospitals and Harrogate and District Hospital) reimbursed costs totalled £787k in 23/24.
- 4.5 For the police/fire collaboration agreement it is estimated that the value of costs to be reimbursed over the initial 5 year period would be £2.9m.
- 4.6 The council pass on NYnet's charge at cost to the health sector organisations and do not add anything for administration. The proposal for the Combined Authority would operate on a similar basis.

5.0 Legal Implications

- 5.1 NYnet is a Teckal company. Historically the council has entered into collaboration agreements with other contracting authorities for services, and sub-contracted the work to council owned Teckal companies. The council has previously relied on the Hamburg exemption as codified under Regulation 12 (7) Public Contracts Regulations 2015 to enter into the collaboration agreements without undertaking a procurement process.

- 5.2 Regulation 12(7) provides the ability for public bodies to pool resources towards the performance of public service tasks and exempts the arrangement from the requirement to undertake a public procurement exercise where:
- the contract implements a co-operation between the participating authorities with the aim of ensuring that the public services they have to perform are provided with a view to achieving objectives they have in common;
 - the implementation of that co-operation is governed solely by considerations relating to the public interest; and
 - the participating authorities perform on the open market less than 20% of the activities concerned by the co-operation.
- 5.3 Whilst the proposed arrangements are being established to align with regulation 12, there is always a risk of challenge.
- 5.4 Additionally, as a Teckal company, should the provision of the solution to the council become less than an essential part of NYnet's activities then the council would be obliged to undertake a procurement exercise to ensure compliance with the procurement regulations.

6.0 EQUALITIES IMPLICATIONS

- 6.1 An Equalities Impact Assessment screening form has been completed for this proposal and is set out in Appendix A. There are no known equalities impacts to report as a result of this proposal.

7.0 CLIMATE CHANGE IMPLICATIONS

- 7.1 A Climate Change Impact Assessment has been undertaken for this proposal and is set out in Appendix B. There are no material impacts on climate change resulting from this proposal as this is a proposal to continue to procure WAN services and to establish an agreement with other public sector organisations to procure these services. In the future should there be any significant changes to the WAN infrastructure these projects would undertake due diligence to assess, mitigate and improve climate change impacts.

8.0 RECOMMENDATION(S)

- 8.1 The council should continue collaborative arrangements with various health sector organisations upon their expiry on 1 January 2025 regarding WAN and associated services.
- 8.2 The council should enter into collaborative arrangements with the York & North Yorkshire Combined Authority and Chief Constable regarding WAN and associated services.
- 8.3 The council should enter into a new Solutions Agreement with NYnet in relation to the provision of a WAN solution to the council's corporate sites, schools and other public sector organisations who have collaborative arrangements in place with the council.
- 8.4 The council should delegate authority to the Director of Corporate Resources in consultation with Assistant Director Legal to prepare and complete the required contracts on behalf of the council to put into effect the agreements under 6.1, 6.2 and 6.3 above

APPENDICES:

Appendix A – Equalities Impact Assessment Screening Form

Appendix B – Climate Change Impact Assessment

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05/07/2024

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Presenter of Report – Madeline Hoskin, Assistant Director Technology

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.