



**RECORD OF DELEGATED DECISION (OFFICER)**

**CONTRACT EXEMPTION**

<b>1. Decision Reference No.</b>	<b>CEX453</b>	
<b>2. Name/Title of Officer</b> <small>(who is taking the Decision)</small>	<b>Clive Tobin, Assistant Director for Governance and Democracy</b>	
<b>3. Email address of Officer</b>	<a href="mailto:ctobin@melton.gov.uk"><b>ctobin@melton.gov.uk</b></a>	
<b>4. Contract Title / Subject Matter:</b>	<b>Contract Exemption – Modern.Gov Hosted Server Solution</b>	
<b>5. Type of Decision:</b> <small>(The decision will be published in its entirety unless it contains exempt information as described in Section 1.4 of the <a href="#">Council's Access to Information Rules</a>)</small>	<b>Public</b>	
<b>6. Key Decision?</b> <ul style="list-style-type: none"> <li>• Expenditure/income/savings over £50K and/or</li> <li>• Significant impact 2 or more wards</li> </ul>	<b>Yes</b>	
<b>7. Contract type:</b>	<input checked="" type="checkbox"/> Goods <input checked="" type="checkbox"/> Services <input type="checkbox"/> Works	
<b>8. Decision Taken:</b> <small>(Try to briefly summarise what you have decided to do. Do not include any exempt or other information in your decision that you would not want to be published.)</small>  1. Authority to use a Contract Exemption as detailed below;  2. Authority to award and enter into any necessary agreements with Civica.		
<b>9. Contract Details</b>		
Service area	<b>Democratic Services</b>	
Short contract description	<b>For hosting the Council's Modern.Gov data on Civica's servers</b>	
Length of Exemption (months)	<b>5 years</b>	

Exemption start date	<b>1 October 2024</b>
Exemption end date	<b>30 September 2029</b>
Total exemption value (£)*	<p><b>£66,367.50</b></p> <p><b>(Cost of Hosting Solution £6,670p.a., Hub £2kp.a. and Azure AD £2kp.a. over 5 years, totalling £10,670.00 per annum</b></p> <p><b>plus a one-off fee for data transfer of £13,017.50 in year one)</b></p> <p><b>Contact is to be combined with existing support contract with Civica. Total value combined is £36,200.89 in year 1 and £23,775.39 in year 2 onwards.</b></p>
Cumulative value of all previous Exemption requests (if applicable)	<b>N/A</b>

\* Where the total value of the contract is £5,000 or more, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.

An award notice is required on Contracts Finder for all Contracts with a total value of £20,000 or above. Welland Procurement is responsible for such award notices. Officers must formally advise Welland of the award details, so that they can publish the award notice.

## 10. Exemption Details

<b>Type of Exemption:</b>	<input checked="" type="checkbox"/> New Requirement <input type="checkbox"/> Change to Existing Requirement <input type="checkbox"/> Replacement to Existing Requirement <input type="checkbox"/> Other
<b>Which rule are you seeking an exemption from?</b>	<input type="checkbox"/> To advertise <input checked="" type="checkbox"/> To follow a competitive process
<b>Name of Proposed Provider:</b>	Civica
<b>Has the requirement been subject to a previous Exemption?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes [If yes give details below]

<p><b>Applicable Exemption:</b></p>	<input checked="" type="checkbox"/>	<p>(1) No genuine competition: proprietary or patented goods or services; requirement of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; compatibility with existing goods or services is required and where those existing goods or services can only be sourced from the same supplier.</p>
<p><i>If the justification being relied upon is as detailed in here, the relevant Service Director will need to approve the exemption prior to it being submitted to the Director for Corporate Resources and the Director of Governance and Regulatory Services for approval.</i></p>	<input type="checkbox"/>	<p>(2) There is a sound business case and/or an independent review that there is no value for money in running a full procurement process. Supporting evidence will need to demonstrate market testing and enquiries to other suppliers. This should not be used to avoid competition or where decisions to procure have been postponed and there are insufficient timelines to procure.</p>
	<input type="checkbox"/>	<p>(3) Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, bombing, landslide etc.</p>
	<input type="checkbox"/>	<p>(4) Urgent Situations not of the Council's own making: the urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exemption. Where this exemption is used, a compliant procurement must be implemented as soon as possible.</p>
	<input type="checkbox"/>	<p>(5) Collaborative/Joint Procurement: where another authority/public body is acting as the 'lead buyer' and provided that the Officer can demonstrate those arrangements comply with relevant Regulations and best practice.</p>

	<input type="checkbox"/>	(6) Grants which the Council may receive or make: except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered. The awarding of grants by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process.
	<input type="checkbox"/>	(7) Contracts for the execution of either mandatory works or provision of goods or services which must be provided by Statutory Provider other than the Council. This includes but is not limited to public utility companies and other legal authorities.
<b>Details of benchmarking or market testing carried out</b>		None. The option is only available because the Council is already using Civica's Modern.Gov product.
<b>How will value for money be secured?</b>		By having the Council's Modern.Gov data hosted by the supplier (Civica), then the Council has the benefit of having a fully functioning product without the responsibility of having to maintain a server. The alternative is to continue to have the server hosted internally at an offsite location with reduced functionality and the responsibility of maintaining the server being the Council's.

## 11. Reasons for Decision:

The Council has used the Modern.gov system for at least 5 years. Currently the Council pays Civica for the system itself together with a service contract on a rolling contract from October to October. Neither Civica nor the Council can locate the original contract documentation.

The Council currently hosts the system on its own server. The Council is seeking to move away from use of in-house servers since they offer more limited functionality for certain systems and are less secure. Additionally, that server is now at end of life and unsupported and presents a risk to the system.

The most cost effective way of moving to a hosted system is to combine the current contract for the system and support with a contract which includes the system, support and hosting. This will however, include a one off fee for data migration from the Council's current unsupported server.

The only option is to have the data hosted on Civica's server due to using the Modern.Gov product supplied by Civica which is not offered / supported by others in the market place. This also has the benefit of regularising the existing contract with Civica.

**12. Authority / Legal Power:**

**CPR 16.4 Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance & Democracy**

**13. Background Papers attached?**

**No**

**14. Alternative options available / rejected:**

1. The data remains on an internal server which is hosted offsite at Milton Keynes. This could result in a loss of functionality (e.g. printing and reporting from the server, limited connectivity) leading to a failure to adhere to agenda publication deadlines or loss of data.
2. Undertake a procurement exercise for a complete new system, support and hosting. This would take some time, would still require data to be held on the off-site server in the interim and also require data migration at extra cost.

## 15. Implications:

<p><b>Legal</b></p>	<p>The Council may enter contracts in order to discharge its functions under section 111 of the Local Government Act 1972 and section 1 of the Local Government (Contracts) Act 1997.</p> <p>The 1972 Act requires the Council to have standing orders regulating how it enters contracts. In addition to complying with relevant UK and retained EU legislation every contract entered on behalf of the Council must comply with the Council’s Contract Procedure Rules and the Financial Regulations. The Contract Procedure Rules provide exemptions, but the exemptions listed do not apply to procurements valued above the relevant EU Threshold.</p> <p>Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance &amp; Democracy and are subject to one of more of the criteria being fulfilled.</p> <p>[Legal Approval (Assistant Director for Governance and Democracy) – 13 September 2024]</p>
<p><b>Finance</b></p>	<p>The cost of the hosted solution has been budgeted for. The other part of the contract (the support contract) is in existing budgets. The benefit of amalgamating both parts into a single contract is that both the hosted and support elements will commence at the same time and that the costs for both can be budgeted for at the same time.</p> <p>[Finance Approval (Director for Corporate Services) – 13 September 2024]</p>
<p><b>HR</b></p>	<p>Not applicable.</p> <p>[HR Approval – 13 September 2024]</p>
<p><b>Procurement</b></p>	<p>Whilst I recognise there is a sense of proprietary or at least an interdependence on data linked to Civica, I can’t help but be concerned around the aggregation this generates with the existing Civica contract and recommend a contract period co terminus with this agreement so that these could be procured better together in the future.</p> <p>[Procurement Approval (Head of Welland Procurement) - 17 September 2024]</p>

## 16. Signature of relevant

### Service Director:

Where justification (2) is being relied upon, the relevant Service Director will need to approve the exemption prior to

*Signature Redacted*

**Director for Corporate Services**

<p>it being submitted for further approval</p>	
<p><b>17. Signature of Decision Maker with authority to sign (See Section 12):</b></p> <p><b>CPR 16.4 Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance &amp; Democracy</b></p>	<p><i>Signature Redacted</i></p> <p><b>Dawn Garton</b> <b>Director for Corporate Services</b></p>
<p><b>18. Consultation with:</b> (Where applicable - attach email as confirmation)</p> <p><b>CPR 16.4 Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance &amp; Democracy</b></p>	<p><i>C. H. Tobin</i></p> <p>13 September 2024</p> <p><b>Clive Tobin</b> <b>Assistant Director for Governance &amp; Democracy</b></p>
<p><b>19. Date:</b></p>	<p><b>17 September 2024</b></p>

Please send all decisions for publication to: Democratic Services at [democracy@melton.gov.uk](mailto:democracy@melton.gov.uk).  
All decisions with exempt information should be referred to [MonitoringOfficer@melton.gov.uk](mailto:MonitoringOfficer@melton.gov.uk)