

Report to: Cabinet

Date of Meeting: 3 September 2015

Subject: The Management of Southport Theatre and Conference Centre – Process Variation

Report of: Head of Inward Investment and Employment **Wards Affected:** Dukes

Is this a Key Decision? Yes **Is it included in the Forward Plan?** No – Rule 27 Approval Received

Exempt/Confidential No

Purpose/Summary.

To help finalise operational arrangements for the Southport Theatre and Conference Centre (STCC) by seeking a variation to the procurement process.

Recommendation(s)

The **Cabinet** is recommended to agree:

1. That officers enter into a Negotiated process with tenderer No 1 due to the absence of competition, as is afforded under Regulation 32 of the 2015 Public Contracts Regulations
2. That the Head of Inward Investment and Employment in consultation with the Chief Finance Officer submit a report on the outcome of the negotiated process to the Cabinet Member for Regeneration and Skills for determination.
3. Following on from the negotiated process the Head of Regulation and Compliance be requested to draw up appropriate Lease and Management Agreements with tenderer No 1.
4. It be noted that the proposal was a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Regeneration and Skills) had been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by the Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because the Council received a minimal response to the tender opportunity, in spite of openly advertising it in the European marketplace. One of the two tender submissions received failed the Council's financial assessment and so this could not be considered further. The Council is left with one tender submission and so no competition exists. The 2015 Public Contract Regulations afford the Council, under Regulation 32, the opportunity of switching the procurement process to a Negotiated process where there is an absence of competition. This situation requires a more rapid solution than is available within the timescale of the Forward Plan.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity	✓		
3	Environmental Sustainability		✓	
4	Health and Well-Being		✓	
5	Children and Young People		✓	
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy		✓	

Reasons for the Recommendation:

The Council received a minimal response to the tender opportunity, in spite of openly advertising it in the European marketplace. One of the two tender submissions received failed the Council’s financial assessment and so this could not be considered further. The Council is only left with one tender submission and so no competition exists. The 2015 Public Contract Regulations afford the Council, under Regulation 32, the opportunity of switching the procurement process to a Negotiated process where there is an absence of competition. The panel of evaluating officers consider that a negotiation should be entered into with the remaining tenderer in order to secure a viable outcome for the Council.

What will it cost and how will it be financed?

(A) Revenue Costs. There is currently a budget provision of £344k. Subject to the outcome of any negotiations it is anticipated that at this stage that the cost of the new management arrangements will be accommodated within this budget.

(B) Capital Costs. None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal. Requires the production of appropriate legal agreements to support the award of the tender. Existing agreements form a basis for any required revisions.
Human Resources. None

Equality		
1.	No Equality Implication	<input checked="" type="checkbox"/>
2.	Equality Implications identified and mitigated	<input type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

Service delivery is not expected to be affected negatively and there is potential for improvement to be realised.

What consultations have taken place on the proposals and when?

The Chief Finance Officer (FD 3705/15) has been consulted and any comments have been incorporated into the report.

The Head of Regulation and Compliance (LD 2988/15) has been consulted and any comments have been incorporated into the report.

Are there any other options available for consideration?

None of equivalent value.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the decision of the Leader of the Council

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Background Papers:

None

BACKGROUND

- 1.1 The STCC is a Council owned asset that reopened in 2008 after being closed for 5 months for a £8m+ refurbishment. It is critical to the Borough's visitor economy as it is the primary conference venue for Sefton. It is also the primary theatre in Sefton with a seated capacity of over 1,600.
- 1.2 It has been operated for the last 18 years under a management agreement and FRI lease by Ambassador Theatre Group (ATG) which comes to term in September 2015.
- 1.3 As is now afforded under the 2015 Public Contract Regulations, the Council opted to carry out a European Union Light Touch Regime Procurement Procedure to secure a contract for the operational management of Southport Theatre and Conference Centre over a 15 year period.
- 1.4 The tendering opportunity, managed via the Council's Procurement Unit, was publicised and managed electronically within the North West Opportunities Portal, 'The Chest'.
- 1.5 Two providers submitted formal tender bids. The relatively low response demonstrates how narrow the marketplace is for this specialist service.
- 1.6 Upon commencing evaluation of the bids tenderer 2 failed to pass the Financial Assessment, therefore the Council was unable to consider the proposal any further.
- 1.7 On the 16th April 2015 Cabinet Authorised the Director of Built Environment to accept the Highest Scoring Tender in accordance with the approved basis of evaluation and to report on the outcome to the Cabinet Member for Regeneration & Skills.
- 1.8 With there only being one viable tender and due to the tender containing an addition to the service specification, officers now require further Cabinet approval to enter into a negotiated procedure with tenderer No 1 ((Ambassador Theatre Group) under Regulation 32 of the 2015 Public Contract Regulations, to bring the tender back to the Council's original specification.
- 1.9 This approach will allow further dialogue that will keep the procurement exercise on track and maximise the benefits to the Council.