

## Appendix 1

This record relates to urgent decisions taken by Chief Officers under the Scheme of Delegation to Officers Paragraph 7(2).

### **RECORD OF URGENT DECISION TAKEN BY Abraham Ghebre-Ghiorghis Executive Director Governance, People & Resources**

**SUBJECT:** Learning Management System Procurement  
**CONTACT OFFICER:** Amy Newnham, Head of Learning &  
Organisational Development 07517497451

#### **REASONS FOR URGENCY AND WHY NOT PRACTICABLE TO HOLD A SPECIAL MEETING OR URGENCY SUB-COMMITTEE:**

The Learning & Organisational Development (L&OD) team were made aware in late July 2022 that the company who supplies our Learning Management System (LMS) was going into liquidation, with the platform ceasing to exist in September 2022.

This impacts not just BHCC but also East Sussex County Council, West Sussex County Council and over 40 other organisations – mainly local authorities – who use the same provider.

There is urgency in reprocurring a replacement LMS due to the critical nature of what it delivers.

It has a significant impact on the organisation with staff relying on it to book onto and complete mandatory and statutory learning as well as ensuring staff have a comprehensive induction to help them perform at full capacity as quickly as possible and ensure their development needs are met to best serve the organisation.

As important is the reliance on the LMS by critical partners (care providers, third sector and schools) who heavily rely on the LMS to be legally able to operate. Without the LMS, these partners may fail to show compliance with statutory and mandatory training requirements and, in the worst case scenario, may be forced to close down or reduce operations. We could also be held responsible for health & safety incidents which take place in schools if they have been unable to complete critical learning to operate safely.

It is in this context, and the lead-in time to secure a replacement, that an urgent decision was required which precluded delaying a decision until the next available P&R committee in October 2022. The option of a Special or Urgent P&R was also considered but would also have taken time to arrange and agree dates and an initial check of the council diary showed this to be difficult to accommodate.

**DETAILS AND OUTCOME OF CONSULTATION WITH THE CHAIR/DEPUTY CHAIR OF RELEVANT COMMITTEE AND OPPOSITION SPOKES:**

The Leader, who is also the Chair of the Policy & Resources Committee was consulted and agreed with proposed way forward. Opposition spokespersons were consulted though the meeting of Group Leaders on Wednesday 7<sup>th</sup> September 2022. There were some comments received and these will be taken into account in progressing the procurement and selecting the successful contractor..

**DATE OF CONSULTATION WITH CHAIR/DEPUTY CHAIR AND OPPOSITION SPOKES:**

7 September 2022 and 12 September 2022

**THE DECISION:**

To use officer urgency powers under delegations provided to officers under Part 6 of the Council's Procedure Rules to proceed with procurement of a replacement LMS.

To approve expenditure up to a maximum of £0.324m over 3 years for the purchase, implementation and licensing of the replacement LMS to be met from a combination of revenue commitment, borrowing (capital financing) and/or addition to the Modernisation Fund subject to the final split of costs between capital and revenue.

**REASONS FOR DECISION:**

The critical nature of the LMS in the management and provision of training and learning to internal and external parties provides justification for proceeding at pace with a procurement exercise.

**DETAILS OF ANY ALTERNATIVE OPTIONS CONSIDERED:****Business continuity and full procurement in 2023/24 financial year**

This option would mean using a short-term 'sticking plaster' (business continuity) solution, for example, through downloading current e-learning and courses onto paper or PDF files, while a longer-term procurement process is undertaken. However, not only

would this be logistically high risk, it was deemed to be unsuitable due to other considerations as follows:

- Total cost would be higher than proceeding with a replacement system;
- End users would experience a significantly reduced learning experience which may not adequately satisfy all requirements and could affect performance;
- There would be insufficient capacity within the L&OD team to fully procure a replacement system alongside the greater administrative burden of maintaining a short-term business continuity LMS service.

### **Piggybacking on a system used by another local authority**

This option was considered unsuitable due to the need to put an alternative system in place at pace and due to the differing timescales/approaches for procurement being considered by neighbouring local authorities WSCC and ESCC, as well as nearby coastal councils.

### **Proceeding without an LMS**

This would be untenable as the Learning & Organisational Development (L&OD) team relies on an LMS to provide low-cost e-Learning that can be done at any moment with completions tracked and e-certificates issued for mandatory and statutory training needed to keep our staff and those they work with safe. This includes a full suite of health & safety, equality act and safeguarding training.

Administratively, manually processing training requests would also come at a significant cost due to the additional staffing requirements and would carry a high risk of data corruption and delays in working permanently with only the aid of simple applications to manage the process such as Microsoft Excel.

### **LEGAL IMPLICATIONS:**

The routes to markets to be pursued will need to comply with the Public Contracts Regulations 2015 and the Council's Contract Standing Orders.

Name of lawyer consulted: Elizabeth Culbert

Date consulted: 11/09/11

### **FINANCIAL IMPLICATIONS:**

The Learning Gateway had a hosting cost of approximately £10,000 per annum met from income generation, with no budget identified for a new system.

The proposed replacement system is expected to provide an interim solution for a minimum of 3 years costing an estimated maximum [set out in the part II version of the record of the decision] (total all years), which includes significant contingencies due to the wide variation of pricing and functionality of systems available in the market and due to the L&OD team still testing and understanding the full specification of various learning management systems to meet our basic needs which may alter pricing.

The purchase and implementation of the new system can be treated as capital expenditure but until the procurement exercise is complete the split between capital and revenue cannot be determined. After the 3-year period, the system is expected to be


replaced by a new ERP corporate system as approved in principle by Policy & Resources Committee on 29 July 2022. Therefore, at this stage, it is assumed that all costs will be spread over 3 years and a budget commitment as set out in the part II report will be factored into the budget for 2023/24 to 2025/26 in respect of annual licensing and financing costs with an additional amounts for system implementation costs.

Any costs that cannot be capitalised will need to be provided for through an addition to the Modernisation Fund. The annual financial commitment will be amended once the procurement exercise is concluded and costs are determined.

*Finance Officer consulted: James Hengeveld Date: 15/09/22*

**DATE OF NEXT COMMITTEE MEETING TO WHICH THE DECISION WILL BE REPORTED:**

Policy & Resources Committee on 6 October 2022

<b>Date:</b>	16 September 2022
<b>Signed:</b>  <Chief Officer title>	  Executive Director, Governance, People and Resources
Logged by Democratic Services Officer for Annual Report:  Name:	Date: