



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

## **SUPPLEMENTARY AGENDA**

for the consideration of  
the Cabinet at its meeting on 20  
June 2017

### **Business**

**7. Chartered Institute of Public Finance and Accountancy (CIPFA) Report Recommendations**

Submit report by the Executive Director (Education and Youth Employment) on the CIPFA Report Recommendations (copy enclosed).



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 7**

**20 June 2017**

#### **Cabinet**

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**Title:** **Chartered Institute of Public Finance and Accountancy (CIPFA) Report Recommendations**

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**Purpose:** Cabinet approval is sought to engage the CIPFA to provide consultancy services relating to the schools PPP Project in North Ayrshire.

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**Recommendation:** CIPFA should be further contracted to assist North Ayrshire Council in the pursuance of potential savings that may exist within the North Ayrshire Schools PPP Contract.

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#### **1. Executive Summary**

- 1.1 CIPFA were engaged, following a procurement exercise, to provide a strategic overview of any potential for cost savings which may be realised within the 30 year schools PPP contract which was signed in 2006.

The final recommendations arising from CIPFA's initial involvement were as follows:

- North Ayrshire Council should engage CIPFA to act on its behalf in a series of negotiations with the PPP Contractor, to secure a range of potential savings, which caps the fees payable to CIPFA, on a "No Win-No Fee" basis.
- North Ayrshire Council should commission CIPFA to pursue all potential savings identified, but only where they will not result in a diminution of the services provided under the contract or expose the council to greater risk.
- CIPFA should be engaged, through their sub-contractor Ashmore Financial Services, to undertake detailed financial analysis of the PPP Contractor's adherence to all aspects the formal PPP Financial Model.

## **2. Background**

- 2.1 North Ayrshire Council entered into a Public Private Partnership agreement with PPP Services (North Ayrshire) Ltd in 2006. This contract, which has a 30 year duration, provides for the design, construction and maintenance of 4 schools within the authority area: Greenwood Academy, Dreghorn; Arran High School, Lamlash; St Matthew's Academy, Saltcoats; and Stanley Primary School, Ardrossan.
- 2.2 The four schools covered by the contract opened between August 2007 and January 2008. All Facilities Management services at the schools are undertaken by Mitie, who are a sub-contractor of PPP Services (North Ayrshire) Ltd. Services are provided to standards agreed prior to contract commencement and cover areas such as Grounds Maintenance, Building Maintenance, Specialist/Statutory Maintenance (Lifts, Gas, Water etc), Porterage Services, Janitorial Services, Cleaning Services, FM Helpdesk Management services, Energy Management services and Planned Preventative Maintenance services.
- 2.3 The contract allows for North Ayrshire Council to withhold payments from the contractor where agreed service standards have not been achieved. North Ayrshire Council, Education and Youth Employment have a Compliance Team who actively and robustly monitor the contractor's performance.
- 2.4 CIPFA have identified a market for their specialist advice to Public Bodies with PPP Contracts, where they will undertake a healthcheck of the contract and advise on any possibilities which may exist for cost savings to be realised.
- 2.5 Within North Ayrshire, CIPFA have identified areas which may, with the agreement of the PPP Contractor, yield savings. These are detailed in Section 3.

## **3. Proposals**

- 3.1 A number of opportunities have been identified where North Ayrshire Council could, with the agreement of the PPP Contractor, realise savings within the current contract provision.

3.2 The following table outlines these items:

Change of Law *
Insurances **
SPV Management Costs ***

\*

A “Qualifying Change in Law” is a change in the law which specifically and wholly relates to PPP properties covered by the contract. In many PPP agreements, these were included as an insurance for the contractor against unforeseen future costs falling to them, through changes in legislation. In practice, no “Qualifying Changes in Law” have ever been enacted, so the money paid within the Unitary Charge each year, which covers this notional risk, has never been required and is treated as income by the PPP Contractor.

\*\* The PPP Contract as agreed, contains a mechanism which seeks to ensure that the PPP Contractor (who has contractual responsibility for placing building insurance and liability insurance), is not left out of pocket should insurance costs rise. However, the mechanism also works in reverse and ensures that North Ayrshire Council are recompensed where savings in insurance are realised.

The actual cost of the required insurances for the 4 PPP schools has been consistently less than the amount allowed for in the contract so it makes sense to pursue an amendment to the agreed contract, to prevent excessive monies from being paid unnecessarily to the PPP contractor, in order that he can then pay a proportion of the “overpayment” back to NAC.

\*\*\*The management costs incurred by the PPP Contractor are funded through our unitary charge payment each month. CIPFA have advised that it not uncommon to find that actual costs may be less than the amount allowed for within the financial model.

In addition to the proposals detailed above, CIPFA have recommended that further work is undertaken by their financial services sub-contractor, Ashmore, who can provide expert advice on the more complex issues of inflation-hedging (whereby NAC would place an insurance against inflation rising above a pre-determined cap) and, for a fixed fee provide a forensic accountancy service to examine in thorough detail, the financial model agreed at the commencement of the contract and check that the PPP contractor is currently adhering to the agreed parameters. CIPFA advise that Ashmore are currently engaged in this respect with a number of our neighbouring authorities. Informal feedback from another authority indicates that this line of investigation has proved fruitful.

North Ayrshire Council Procurement Team have confirmed that the use of Ashmore Financial Services as a specialist sub-contractor to CIPFA would be acceptable in the circumstances.

#### 4. Implications

<b>Financial:</b>	<p>There would be a basic fee payable to CIPFA for Ashmore's initial report. Thereafter, any savings realised by Ashmore/CIPFA would determine the final payment to them. The "No Win No Fee" structure incentivises the consultant to achieve greater savings for NAC - but these are all subject to the agreement of the PPP Contractor. The capped maximum payment for both Ashmore/CIPFA would be £100,000 - or 50% of any savings achieved if less than £100,000.</p> <p>NAC, as the instigator of any suggested contract changes, would be responsible for the payment of all legal fees - both their own and those of the Contractor. The extent of these fees are currently unknown, and would be dependent on the changes proposed.</p>
<b>Human Resources:</b>	No implications identified.
<b>Legal:</b>	Any changes proposed to the existing contract would be subject to external legal involvement. NAC would be required to pay for all legal work related to changes in the contract.
<b>Equality:</b>	No implications identified.
<b>Environmental &amp; Sustainability:</b>	No implications identified.
<b>Key Priorities:</b>	No implications identified.
<b>Community Benefits:</b>	No implications identified.

## **5. Consultation**

- 5.1 Due to the confidential nature of the work undertaken by CIPFA thus far, any consultation has been limited to discussions with those officers directly involved in the process (Executive Directors, Heads of Service and Senior Managers within Finance and Education Directorates). Should any decisions be taken which may impact on end users, then discussion would take place at the earliest possible opportunity.

A handwritten signature in black ink, appearing to be 'JB' followed by a stylized flourish.

**JOHN BUTCHER**  
Executive Director (Education and Youth Employment)

Reference : JB/RN/JN

For further information please contact John Butcher, Executive Director on  
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## **Background Papers**

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