

# Exceptions Report

This form is to be completed by the commissioning service or department for all proposals seeking an exception from the requirement to tender. If you are not seeking exemption or exception and your proposal has a total value above £25,000 you must complete a **Commissioning Form**.

**Title** Shared Prosperity Fund – Prosperous: Business Support Across the County, Key Fund

**Head of Service:** Nicola Kneale

**Manager:** Amy Selby

**Report Completed by:** Amy Selby

**Date:** 27/01/23

**Total Estimated Value:** £2,055,192

**PROCUREMENT TEAM USE ONLY**

**Procurement BP** Mike White

**Received** 30/01/2023

**Completed by** 31/01/2023

**Name of Contract:** Business Support Across the County, Key Fund

**Proposed Contractor:** Cadwyn Clwyd

**DCC Contract Manager:** Nicola Kneale / Amy Selby

## Timescales

Date	Milestone
01/04/2023	Contract start
31/12/2024	Contract end
DD/MM/YYYY	Extension option
DD/MM/YYYY	Contract end after extension option taken

Type	Copy and paste:	
Goods		
Services: services not subject to the 'light touch regime' (i.e. most services)		✓
Light Touch Regime: certain social, health, education & other services subject to the 'light-touch regime'		
Works		

## Outline

Briefly describe the background

It has been agreed that under UK Shared Prosperity Fund (SPF), applications will be larger in scale (i.e. with a value of over £250k). Therefore, to be able to support smaller scale projects we are looking to commission intermediary funds (Key Funds) to support smaller scale projects from our communities and businesses. Projects delivered through the Key Funds approach will contribute to the outputs and outcomes of the SPF interventions as included as part of Regional Investment Place. Cadwyn Clwyd have been identified as the most suitable, technically skilled, connected and equipped organisation to deliver on the Business Support Theme identified as part the Denbighshire element of the Regional Investment Plan.

EXCEPTION FORM

Please state the relevant exception criteria as listed in CPR 2.9 or 2.10 (e.g. 2.9.3 iv)

2.9.3 xii & 2.9.3 xiv

State the grounds for exception as relevant to the specific criteria:

2.9.3 xii -in relation to time limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this.

2.9.3 xiv - Where delay attributable to the quotation or tendering process would, in the estimation of the Head of Service (Liz Grieve/ Nicola Kneale) concerned, result in the Council incurring net expenditure or forfeiting net income in excess of the savings on the contract sum that might reasonably be expected to accrue from competitive tendering.

Grant funding through the Shared Prosperity Fund, is from an external body (UKGOV). The UKSPF is a 3-year funding programme that began in April 2022. Under year 1 the invitation to apply for funding was restricted to the local authority due to the terms of the funding between UK Government and LAs being still outstanding. Years 2 & 3 UKSPF funding will shortly go live for applications but the timeline from approval of allocations to project and program delivery end is likely to have massive impact on spend which could result in funding being returned to the treasury if interventions are not address and projects do not meet their projected targets for spend and outputs and outcomes. Any underspend in the SPF will result in funding being returned to UKGOV.

The process of going out to tender for the delivery of the Key Funds would significantly reduce the delivery time of the projects and programme. With a minimum period of 3 months start to finish for general procurement the delivery of the UKSPF Years 2 & 3 would be cut even shorter than the expected 21 month delivery window, down to 18 months, which would result in delivery confidence of UKSPF in Denbighshire being put at significant risk.

Details of why compliance with finance and contract procedure rules is not possible

Funding provided from UKGOV is time limited grant funding. It has been agreed regionally that under UK Shared Prosperity Fund (SPF), applications will be larger in scale (i.e. with a value of over £250k). Therefore, to be able to support smaller scale projects a tailored solution is required to deliver intermediary funds (Key Funds). If there would be a requirement to tender for the contract to deliver the suite of Key Funds, this could result in a time delay in the delivery of SPF funding in Denbighshire, which would result in inventions, outputs and outcomes not being achieved with in the delivery window of the UKSPF programme. The impact of non-delivery would result in claims being reduced not only to Denbighshire but also to the Region as all money is delivered via the Regional Lead Authority (Gwynedd)

Cadwyn Clwyd have knowledge of the County and good establish networks for communication which will be required for delivering the Key Fund for Business Support. They already have an established grant panel for the review and appraisals of application and have close links with services and departments of Denbighshire County Council (EBD / Community Development/ Countryside Services/ Tourism) which will be important for the communication and delivery around this project. Cadwyn Clwyd also have the financial controls in place to deliver a Key Fund and have a good track record for delivering EU and WG Funded programmes and projects of this nature

EXCEPTION FORM

Cadwyn Clwyd are also set up to deliver projects pan Wales, and although they have in the past have been restricted in their funding to only assist projects in Rural Denbighshire, they have recently delivered a successful UK Community Renewal Fund Project which covered the whole of Denbighshire, with projects in the North of the County.

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Details of any previous exception form submitted for the same contract:

The UKSPF is a new UKGOV funding programme to replace European Fund, no commissioning of work has been carried out for projects or services to be delivered through SPF to date.

**Finance**

Copy and paste:



Capital Funding Source	Amount
	£50,000
	£500,000
<b>Total Capital Funding:</b>	£550,000
Revenue Funding Source	Amount
	£655,192
	£850,000
<b>Total Revenue Funding:</b>	£1,505,192
<b>Estimated Total Value:</b>	£ 2,055,192
<b>Estimated Annual Value</b>	£TBC
<b>Cost Code</b>	TBC

**If the contract is a collaboration with external partners the figures quoted should include the total contract value not just the Local Authority element.**

**Community Benefits**

Copy and paste:



Are you including community benefits?

Yes

No

*If Yes, provide details below: If No, state why community benefits have not been included*

*If you have not yet discussed Community Benefits with the Community Benefits Hub please contact [communitybenefits@denbighshire.gov.uk](mailto:communitybenefits@denbighshire.gov.uk)*

EXCEPTION FORM

This commissioned service will be set up to deliver against the interventions, outputs and outcomes of the UKSPF. Applicants will be required to contact the Community Benefits Hub at project design stage, and introductory meetings will take place. [communitybenefits@denbighshire.gov.uk](mailto:communitybenefits@denbighshire.gov.uk) or [Karen.bellis@denbighshire.gov.uk](mailto:Karen.bellis@denbighshire.gov.uk)

**Note: Community Benefits must be considered for all Goods & Services contracts over £25,000, all Works contracts over £100,000 and it is mandatory to include Social Value in ALL contracts of £1,000,000 and over.**

### Procurement Route

Explain the procurement process you intend to follow:

Officers/ SPF Partnership have elected to procure under the Innovation Partnerships procedure. Cadwyn Clwyd are also set up to deliver projects pan Wales, and although they have in the past have been restricted in their funding to only assist projects in Rural Denbighshire, they have recently delivered a successful UK Community Renewal Fund Project which covered the whole of Denbighshire, with projects in the North of the County. Cadwyn Clwyd also have the financial controls in place to deliver a Key Fund and have a good track record for delivering EU and WG Funded programmes and projects of this nature.

An innovative solution, tailored to the requirements of the of delivery across the theme Business Support under the SPF is seen to be the best solution to deliver against all intervention, outputs and outcomes. This involves the delivery of Key Funds (grant scheme) to be put in place to help support those smaller scale projects that would miss out on receiving SPF funding directly as they would not meet the £250k minimum value for projects.

If this exception form is approved:

If things go wrong, what is the operational risk to the Local Authority?	Medium
If things go wrong, what is the reputational risk to the Local Authority?	High
If things go wrong, what is the financial risk to the Local Authority?	High

Explain the risks and or the impact if this exception form is not approved:

Should the exceptions report not be approved this will compromise the delivery of SPF interventions in Denbighshire which will result in the loss of funding to the LA and Region.

## Risk Mitigation

For risks which have a medium or high risk, state steps to be taken to minimise the risk:

There is a risk of negative feedback from the approach taken, however the reasons for why action has been taken will be clearly communicated as well as the opportunities available to smaller groups and businesses to access SPF Funds will be shared publicly. Under UK Shared Prosperity Fund (SPF), applications will be larger in scale (i.e. with a value of over £250k). Therefore, to be able to support smaller scale projects a tailored solution is required to deliver intermediary funds (Key Funds).

As well as clear communication on our website, we would also form part of the active promotion of the Key Funds with our Resident, Community Groups, City Town and Community Council and Members. It is also envisaged that Denbighshire County Council Officers would serve as advisors and possibly voting members on the Key Fund appraisal panels to ensure that the projects delivered not only deliver against the set intervention, outputs and outcomes of the UKSPF but are complementary to our DCC Corporate Plan.

Key Fund deliverers will also be required to report on progress and spend to the External Funding Manager (DCC) and SPF Regional Team (Gwynedd) in line with procedures under SPF. These reports will also be shared and scrutinised by the Denbighshire SPF Partnership.

## Consultation with Members

Please confirm that relevant members have been informed where the decision has implications for a particular locality.

Copy and paste:

Yes  No

*If Yes, please list member's names below and details of any feedback incorporated.*

Consultation has taken place with stakeholders and members of the Denbighshire's Share Prosperity Fund

***Please note: Retrospective approvals will not be considered.***

## **PROCUREMENT TEAM ASSESSMENT**

**Which, if any, of the criteria for an Exception as set out in the Contract Procedure Rules are met.**

Having discussed the requirement with the Amy Selby, I concur that running a Procurement exercise would not add anything beneficial to the process of selecting an organisation to work with allocation of funding and delivering projects.

The clauses provided are compliant with exception in accordance with Contract Procedure Rules and are acceptable for this report.

The values stated will be required to be authorised by persons listed on page 8 & 9 of this document.

**Could this Exception have been avoided, if Yes, what could have been done to avoid it and what should be done to avoid any further extension of the contract if awarded via an exception.**

The exception may have been avoidable if the grant funding had been made available at an earlier stage in the process.

It is debateable whether the resulting Supplier would have been different as it is a niche type of service required.

### **Any further Recommendations/Advice**

Obtain Legal opinion.

### **Action Required**

#### **Summary of follow up actions to be undertaken by Contract Manager**

1. Finance to confirm validation of bona fide company and D & B Check for all contracts above £25k
2. Service to obtain copies of the relevant insurance documentation to ensure the Council's minimum insurances are held
3. Service to liaise with the legal to ensure there is a contract put in place as soon as possible.
4. Service to manage this contract and monitor expenditure and timelines in order that the contract is completed by the due date and that there is sufficient budget.
5. Service to add the contract to the Corporate Contracts register on Proactis Source to Contract and update/expire any previous contracts on Contract Register.
6. Service to upload copy of fully signed Exceptions report to Contract Record on Proactis Source to Contract
7. Service to send this completed and fully signed off exception report to Collaborative Procurement Service.
8. Service to complete Contract Risk Matrix Questionnaire and upload completed questionnaire to Contract record on Proactis Contract Management Module.

**Procurement Business Partner**

Mike White

**Date**

31/01/2023

**LEGAL SERVICES ADVICE**

*(required where total contract value is above £250k for works contracts and above OJEU Threshold for Goods & Service Contracts)*

**ADVICE:**

**LEGAL SERVICES**

**DATE**

Is this Exception deemed Low, Medium or High Risk by Legal Services

Low

Medium

High

*If High Risk this form will be reviewed by a second Legal Officer/Solicitor*

**Second Legal Officer/Solicitor Assessment**

Second legal officer/Solicitor to insert their legal assessment.

**Legal Services Officer**

**Date**

**Second Legal Office/Solicitor**

**Date**

(if applicable)

**AUTHORISATION**

**N.B:** This section is to be completed by the commissioning service following the completion and return of the Procurement Team Assessment (above) and advice of Legal and Procurement Operations Manager. For details of authority to approve exceptions see CPR 2.11

**Service response to Collaborative Procurement Team Assessment**

Please detail your response and plan of actions to the assessment of the Corporate Procurement Team and the advice of the Legal Services. In particular, if you are choosing not to abide by their recommendations please state why not.

**\*\*A RESPONSE MUST BE INSERTED BELOW \*\***

**Authorisation Signatories**

**\*\*Signatories should ensure they have read and understood the Procurement and Legal advice provided prior to signing this form\*\***

**TEAM MANAGER:** (if within spend authorisation level)

Signature & print.

Date

**CHIEF DIGITAL OFFICER / MANAGER OF BUSINESS TRANSFORMATION & ICT**

(Mandatory for all ICT Contracts)

Signature & Print

Date

**HEAD OF SERVICE:** (Mandatory for all contracts above £250,000)

Signature & print.

Date

**SECTION 151 OFFICER (Finance):** (Mandatory for all contracts above £250,000)

Signature & print.

Date

**MONITORING OFFICER (Legal):** (Mandatory for all contracts above £250,000)

Signature & print.

Date

**LEAD CABINET MEMBER:** (Mandatory for all contracts above £1,000,000)

Signature & print.

Date

**N.B: Contracts over £2,000,000 also require Cabinet approval and the completion of a Cabinet report**



**Rejection** (To be completed by Service Area)

Rejected by:
Date:

Reasons for the rejection:

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Action required:

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