

Procurement Title

Adult Community Substance Use Treatment and Recovery Services

Procurement Option

Competitive Process under the Health Care Services (Provider Selection Regime) Regulations 2023.

The Council has followed the steps set out in Regulation 6 of the Health Care Services (Provider Selection Regime) Regulations 2023 to identify the most appropriate process for the procurement of the service.

Direct Award Processes A and B are not suitable for this contract therefore the Council may choose to use the Competitive Process, Direct Award Process C or the Most Suitable Provider Process, such choice being at the Council 's discretion.

The Competitive Process is considered likely to provide the best value solution for the service provision. Therefore, the recommendation is to use the Competitive Process to procure the service.

New or Existing Provision

Existing – current contract end date 30 September 2025. Compared to the existing arrangement, the new arrangements will seek to take account of potential additional grant funding and Family Safeguarding from the outset.

Estimated Annual Contract Value and Funding Arrangements

Forecast Budget: Year 1 of contract.

Public Health Grant funding*	Family Safeguarding Budget**	Potential additional grant funding***	Total estimated budget
£12,926,720	£350,040	£7,419,969	£20,696,729

Forecast Budget: Full Contract Term (7 Years)

Public Health Grant funding	Family Safeguarding Budget	Potential additional grant funding	Total estimated budget
£96,100,902	£2,602,297	£55,162,152	£153,748,764

*The successful provider may receive, at the sole discretion of the Council, an annual uplift to the budget aligned to the net percentage inflationary rate applied to the Public Health Grant. For contract term forecast purposes this is assumed to be 2%.

In terms of financial risk management, this uplift policy is aimed at mitigating against financial risk by ensuring the contract increases by the same rate as the funding received to deliver the service therefore protecting affordability during the whole term of the contract. The proposed contract would include provision to balance the need for service continuity with strong financial management principles.

The provider would also be obliged to operate an open book policy so the council can understand the cost structure of delivering the service in assessing value for

money within contract performance managing processes. The council would also be permitted to request that the provider enters into negotiations to reduce the charges payable by the council to maximise continual cost efficiencies.

** Family Safeguarding is a specific project funded by the Children's Social Care Budget. This value is an estimate based on the budget allocation in 2024/25, in the event that funding reduces, service delivery will be reduced accordingly.

*** The potential additional grant funding includes central government funded grants (e.g. Supplemental Substance Misuse Treatment and Recovery Grant - SSMTRG). Values are estimates based on the allocation in 2024/25. Future funding is not guaranteed, in the event that additional grant funding ceases, service delivery will be reduced accordingly.

Contract Duration

The contract will have an initial term of 3 years with Lancashire County Council retaining the right to extend the contract by any number of defined periods provided that the total contract period does not exceed 7 years.

Lots

It is recommended that this service is offered as a single Lancashire countywide contract, to support consistency and equity in service provision throughout the county. The successful provider will be required to operate on 3 locality footprints aligned to the Integrated Care Board's Place-Based Partnerships:

- Central Lancashire: Chorley, Preston, South Ribble, West Lancashire
- East Lancashire: Burnley, Hyndburn, Pendle, Ribble Valley, Rossendale
- North Lancashire: Fylde, Lancaster, Wyre

Reporting to the Council will be at a district and locality level.

Officers have explored the possibility of delivering this service by up to 3 lots as part of a recent market engagement process. However, the results of the engagement suggest that this would increase risk to the Council in terms of financial viability and inequity of provision. The Market engagement indicated that a single lot will be more viable.

Evaluation

Quality Criteria 60%	Financial Criteria 40%
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10% of the quality criteria will be focussing on Social Value.

This process includes a pass/fail Selection Criteria Questionnaire.

Contract Detail

The contracts for the Lancashire Adult Community Substance Use Treatment and Recovery Services expire on 30 September 2025. A new contract will need to be in place to ensure a replacement service commences on 1 October 2025.

The service delivers recovery-oriented substance use treatment and recovery support for adults aged 18 and above as well as for their family, carers, and

supporting others. The service will continue to be delivered across the community and will have strong links with the criminal justice system, health services, social care and the Voluntary, Community, Faith and Social Enterprise Sector.

Key aims of the service will be delivered under 3 core strands:

1. Prevention, Wellbeing, and Harm Reduction
2. Treatment
3. Recovery, Development and Support

In addition to these 3 core strands, commissioners have placed additional emphasis on:

1. Links with the Criminal Justice System
2. Co-occurring mental health and substance use disorders.
3. Preventing Drug and Alcohol Related Deaths.
4. Responding to new and emerging patterns of drug use.
5. Gender appropriate service provision.

The Existing Adult Community Substance Use Treatment Service in Lancashire is delivered under 2 contracts and across 3 localities:

- East Lancashire
- North and Central Lancashire

The intention is to procure the service as a single Lot (Lancashire wide), which would bring the following benefits:

- A single lot would improve economies of scale for management and clinical leadership.
- It would allow for the provision of Lancashire wide specialist posts and/or teams.
- Commissioning a service in this way would create consistency of provision across the county and would allow an incoming provider to allocate resource based on need and the principle of proportionate universalism.

Market engagement responses suggest that there is an appetite for a single Lancashire wide contract. Commissioners have advised that a single contract for the service would mean managing the additional grant funding will be a more streamlined process for the Authority.

The estimated contract value will include estimated values for additional funding (as set out above) this should reduce the risk of non-compliant contract modifications under Provider Selection Regime (PSR) throughout the contract term.

The service model for the new Community Substance Use Treatment and Recovery Service broadly follows the same structure and principles of the previous contract with some minor additions and amendments to the structure of the service specification reflecting changes in national guidance. Commissioners have undertaken extensive service user and stakeholder consultation. The new service reflects the findings of this exercise, although this has primarily resulted in re-emphasis of existing elements of service delivery.

There is little scope for cost savings as any disinvestment in core Public Health Grant funded services puts the Council at risk of breaching the conditions of additional grant funding, (e.g. Supplementary Substance Misuse Treatment and Recovery Grant). Additionally, the most recent estimates by Public Health England (now the Office for Health Improvement and Disparities), suggests that the return on investment for drug and alcohol treatment is between £3 and £4 for every £1 invested. This increases up to £26 for every £1 invested over 10 years.

However, the use of a competitive tendering process is likely to derive the best value option for the delivery of this contract by encouraging competition. 40% of the award criteria will be assigned to price and the contract is likely to be considered attractive due to the scale and potential value.

Risks

- The contract is due to commence midway through the financial year. This presents a risk to the delivery of additional grant funded programmes (e.g. Supplementary Substance Misuse Treatment and Recovery Grant) and a risk that the Council will need to hand back a significant proportion of grant funding to central government if it cannot otherwise spend it in accordance with those grant terms.
- Learning from previous procurements indicates that performance may reduce during exit, mobilisation and implementation periods which presents a reputational risk to the Council and a risk of non-compliance with the above-mentioned grant conditions which include maintaining core service delivery.
- There are several workforce related risks, principally relating to whether the above-mentioned grant funding continues and whether staff to whom TUPE would apply, choose to transfer to an incoming provider. Some of these risks are not notably increased as a result of the procurement exercise, however, the risk that a lack of willingness by staff to transfer in the event of a change in provider, may result in a shortfall in available staff for the incoming provider in the short term.

Mitigations

- Bidders will be required to submit a robust mobilisation and implementation plan which will be evaluated during the procurement exercise.
- In the event of a change in provider, the outgoing provider will be required to produce a robust exit strategy and business continuity plan. This will include all projects delivered under additional grant funding.
- Mobilisation will be robustly managed by commissioners, contract management, legal, and procurement throughout the exercise.
- In the event that the mobilisation period of the procurement timeline is impacted by any of the risks listed above and/or unforeseen circumstances, an extension to the existing contract may be required.

Legal

This procurement exercise is to be conducted in accordance with the Competitive Process under the Health Care Services (Provider Selection Regime) Regulations 2023.

The Council is required to take appropriate steps to improve the health of the population of Lancashire, including addressing drug and alcohol misuse, in accordance with Section 12 of the Health and Social Care Act 2012. The Adult Community Substance Use Treatment and Recovery Services is one such significant step.

The contract will be on the Council's standard Public Health Services agreement, which will be prepared by Legal Services.

Procurement Title

Heating, Ventilation and Air Conditioning (HVAC) Service & Maintenance

Procurement Option

The opportunity will be offered via Open Procedure in accordance with Regulation 27 of the Public Contract Regulations 2015.

After reviewing the future service and maintenance requirements consideration was given to the procurement strategy and the contract arrangement that would provide the best outcome to the Council in terms of cost and quality of service.

Third party frameworks were reviewed, however it was considered that by awarding two contracts for the north and south of Lancashire and by offering the opportunity to the market as an open procedure this would provide the best opportunity for competition and a greater opportunity to smaller local business.

Additionally, appointing two suppliers to cover different geographical areas and having them provide step-up support for each other mitigates the risk of service failure. This ensures that if one supplier faces issues, the other can step in to maintain service continuity.

New or Existing Provision

Existing provision. The procurement is to replace the existing contractual agreement which, expires on 31 March 2025.

Estimated Annual Contract Value and Funding Arrangements

The estimated annual spend of the contract is £1,300,000.

The total estimated spend over a contract period of a four years is £5,200,000.

The contract will be funded from the Facilities Management revenue budget.

Contract Duration

The contract will be let for a period of 2 years (Initial Term) with the right to extend for a further two 12-month periods.

Lots

The requirement will be divided into two separate contracts covering the North and South regions of Lancashire.

Contract A	North	a) Mechanical Plant b) Air Conditioning / Handling / Extract Vent c) Gas Safety Testing d) Pressure Systems Safety Valves Testing e) Service, Maintenance and Cleaning of Fan Convector Heaters f) TMV Servicing
Contract B	South	a) Mechanical Plant b) Air Conditioning / Handling / Extract Vent c) Gas Safety Testing d) Pressure Systems Safety Valves Testing e) Service, Maintenance and Cleaning of Fan Convector Heaters f) TMV Servicing

Evaluation

The contract will be established by evaluating Contractors against the following criteria:

Stage 1: Selection Stage (Pass Fail)

The tender will be evaluated using the Common Assessment Standard (CAS) Supplier Questionnaire which is compliant with the Public Contract Regulations 2015.

Mandatory and discretionary grounds to ascertain suppliers' financial, technical capability and ability to demonstrate their experience in operating in compliance with Industry standards. Each tenderer must pass this stage in order to proceed to stage 2.

Stage 2: Award Stage

The evaluation criteria used to evaluate the tender bids will be as detailed below:

- 30% Quality, Technical and
- 10% Social Value:
- 60 % Price

The scores awarded for the Quality and Price criterion will be added together to give the Tenderer's overall score.

Contract Detail

The Council has a requirement to enter into a new contract to provide service and maintenance of Heating, Ventilation and Air Conditioning systems across the county of Lancashire. This service will also include decommissioning and replacement of assets, and a 365-day 24-hour call out service.

Legal

The opportunity will be offered via Open Procedure in accordance with Regulation 27 of the Public Contract Regulations 2015.

The contract will be on the Council's standard Services Agreement, and this will be prepared by Legal Services.

There is a legal duty to ensure the proper maintenance and service of heating and air conditioning units at work premises in accordance with the Health and Safety at Work Act 1974. Furthermore, the School Premises Regulations 2012 places an obligation on Local Authorities to ensure that heating systems in schools are installed, maintained and in proper working order.

Failure to ensure the proper maintenance and service of such equipment could result in the illness or death of individuals (such as through the spread of Legionnaires Disease) and the potential for those within the Council to be charged with Corporate Manslaughter.

Procurement Title

Dynamic Purchasing System for the Provision of Horticultural and Landscape Goods and Services

Procurement Option

Above threshold tender using a dynamic purchasing system.

The requirement to appoint multiple suppliers for various categories of work led to consideration of a framework agreement or a dynamic purchasing system. A dynamic purchasing system has the advantage of permitting new entrants in relatively short timescales as well as the requirement to undertake mini-competitions to determine the best value solution.

New or Existing Provision

This is new service provision based on the identification of a requirement to create improved contracting arrangements for the existing spending requirements.

Estimated Annual Value and Funding Arrangements

The estimated maximum annual value is £941,000 which will be funded by existing Capital and Revenue budgets as well as external funding providers such as the Forestry Commission. The total value of the Dynamic Purchasing System will therefore be in the order of £3,800,000. The spend will be determined by need over the contract period and contract awards may be less than this value.

Duration of the Dynamic Purchasing System

This dynamic purchasing system will be established pursuant to the Public Contracts Regulations 2015 ("PCR"). The new Procurement Act 2023 (the "Act") is anticipated to be in force from 24 February 2025. Whilst the Dynamic Purchasing System will still be subject to the PCR, the Act makes it clear that any contracts let under a Dynamic Purchasing System will automatically expire 4 years after the Act is in force.

Lotting

There are 7 individual Categories:

Category 1 – Plants

Category 2 – Planting Product

Category 3 – Growing Media

Category 4 – Vegetation and Surface Treatment Products

Category 5 – Plant Establishment

Category 6 – Plant and Tree Aftercare and Maintenance

Category 7 – Treatment Services

Evaluation

Evaluation of the Dynamic Purchasing System comprise two stages:

Stage One: Application to join the dynamic purchasing system

Potential suppliers must complete the Crown Commercial Services Standard Selection Questionnaire, which is used to gather information about the supplier, to establish if there are grounds for mandatory and discretionary exclusion, ascertain economic and financial standing and technical and professional ability to meet the Council's requirements. Suppliers must pass this Stage in order to be appointed to any of the Categories in the dynamic purchasing system and participate in mini-competitions.

Stage Two: Award of Contracts

The suppliers appointed to each individual Category are invited to participate in mini-competitions to win contracts to supply the goods or services as and when the Council has a requirement. The relevant award criteria for each mini-competition will be selected from the following options and will be clearly stated in the mini-competition documents:

- 1) Price (100%)
- 2) Price (100%) and Quality (Pass / Fail)
- 3) Price and Quality from one of the following combinations:

Criterion	Weighting (1)	Weighting (2)	Weighting (3)
Price	80%	70%	60%
Quality	10%	20%	30%
Social Value	10%	10%	10%
Total	100%	100%	100%

Contract Detail

The dynamic purchasing system for the provision of horticultural and landscape goods and services is a new requirement to support countywide works undertaken by Highway Services on behalf of Lancashire County Council. To date, the goods and services have been procured by competitive quotes or ad-hoc tenders depending on the value.

A dynamic purchasing system is an arrangement that is open to the entire market. It is a completely electronic system which offers a flexible procurement solution and creates a continuous competitive market to purchase goods and services. Suppliers can apply to join at any time during its term and there is no limit on the number of suppliers which can be admitted.

Establishing the dynamic purchasing system will provide best value and enable potential savings to be made during the lifetime of the DPS. The benefits of the DPS include:

Savings

- Competitive pricing for each requirement.
- Consolidating the requirement into a DPS which will reduce administrative resource costs for both the Council and the supplier in preparing and responding to individual tenders, completion of numerous documents, placing advertisements, time pressures, and repetitive evaluation procedures.

Cost Avoidance

- Vetted suppliers that will provide a quality product and provide maintenance services avoiding replacement costs for products that fail.
- Experienced suppliers that will provide specialist services such as removal and disposal of invasive plants which prevent future damage to infrastructure, weed prevention and grass cutting of public areas.

Legal

Dynamic Purchasing Systems is a procurement option available under Regulation 34 of the Public Contracts Regulations 2015. To procure under a Dynamic Purchasing System, the Council will follow the rules of the Restricted Procedure in accordance with Regulation 28 of the Public Contracts Regulations 2015.

The Dynamic Purchasing System contract and call off contract will be based on the Council's terms and conditions and will be prepared by Legal Services.

With the exception for the need to control invasive species of crops such as Japanese Knotweed, there is no statutory requirement to procure this service. However, there is a desire to improve green spaces within the County.

The procurement will consolidate existing requirements in a way to ensure consistency and to reduce spend.

Procurement Title

Residential Digital Front Door Platform

Procurement Option

Competitive flexible procedure let pursuant to the Procurement Act 2023. In the event of any further delay to the Procurement Act 2023, an Open Procedure let pursuant to the Public Contracts Regulation 2015 will be used (the competitive flexible procedure is not available under the Public Contracts Regulations 2015).

Whilst other routes to market, such as third-party frameworks, are available, an openly advertised tender will increase competition by enabling a wider selection of suppliers to bid.

New or Existing Provision

Renewal of existing service contracts. The future contract will consolidate and simplify the way residents contact the Council through a single platform provider. Overtime, this will reduce the costs of duplicate licences and systems the Council operates and maintains.

Estimated Annual Contract Value and Funding Arrangements

The future contract is valued at £300,000 per annum and to be funded from the Council's operational revenue. Total value can be determined to be in the order of £1,500,000 where extension options are utilised.

Contract Duration

Initial term of three to five years, with the option to extend multiple time to a maximum term of ten years.

Lots

To ensure a single point of contact with the Council and consolidate spend through economies of scale, it is not recommended to lot the Council's requirement. Previous lotting of requirements has increased the complexity of service delivery, diluted the Council's relationship with partner suppliers and increased costs through duplications in licencing, training and resource support. Multiple systems also create technical inconsistencies across all systems and processes that affect a seamless integration of service.

Evaluation

The Contract will be established by evaluating tenderers against the following criteria:

Stage 1: conditions of participation for tenderers to ascertain their legal and financial capacity, technical ability, and proportionality to deliver the contract. Each tenderer must pass this stage before proceeding to stage 2.

Stage 2: The contract will be established by evaluating service providers against following criteria:

- 60% technical and quality
- 10% social value
- 30% whole of life costs

A lower financial weighting has been apportioned to give added weight to the number of key technical and quality considerations which focus on the longer term

value to ensure the solution is more reliable, requires less maintenance, and offers better performance, which can save costs in the long run.

Stage 3: The highest scoring tenderer following stage 2 will be invited to demonstrate and discuss their proposal prior to the Council making an award decision. This will allow the tenderer to demonstrate they can meet the Council's must have requirements and address any areas of risk that have been identified during stage 1 or 2. In the event the highest scoring tenderer is unable to demonstrate they can meet the Council's must have requirements, the next highest scoring tenderer will be invited the same opportunity to demonstrate, and so on until the Council is satisfied the recommended tenderer can meet the Council's must have requirements and areas of risk prior to award and standstill.

Contract Detail

A digital front door platform is designed to streamline and enhance the way residents and businesses interact with services that the Council provide. The future platform will deliver the following strategic ambitions:

- Easy, seamless experience whether engaging by phone, face to face, social media, AI chat or via a range of resident facing applications and forms.
- Mobile friendly, easy access to advice, information, and support about Council services at a time to suit our residents.
- Opportunities to feedback about their digital journey and the design of resident facing services.
- An automated telephone payment system which allows users to make payments over the phone or online without needing to speak to an agent.
- Receive a consistently effective digital service without having to provide information more than once.
- Ability to capture nondigital interactions where residents have chosen to use nondigital routes.
- Real time access to updates about a service request.
- Promotes an inclusive digital service.
- Accessibility is embedded into the fabric of our solution so that residents with additional needs can engage with the Council digitally.
- Seamless signposting to the wider local government community without having to understand the difference between county, district, or parish level services.
- Ability to communicate in a non-English first language.
- An effective, timely and empathic response to an enquiry or service request
- Assurance that information the Council holds is safe and secure.

The future contract offers several advantages over our existing customer contact centre system:

1. **Accessibility:** A digital system can be accessed 24/7 from anywhere, making it easier for residents to report issues or seek information at their convenience.
2. **Efficiency:** Digital systems can streamline processes, reducing the time it takes to handle inquiries and resolve issues. Automated workflows and real-time updates ensure that requests are processed quickly and accurately.

3. **Data Management:** Digital systems can efficiently manage and analyse large volumes of data, helping the Council identify trends, allocate resources effectively, and make informed decisions.
4. **Transparency:** A digital front door system can provide residents with real-time updates on the status of their requests, fostering trust and accountability within the community.
5. **Cost-Effectiveness:** A single solution is expected to halve (£250,000 per annum) the Council's spend across multiple systems that deliver similar outcomes. Over time, digital systems can reduce operational costs by minimising the need for manual processing and physical paperwork.
6. **User Experience:** Modern digital systems can offer a user-friendly interface, making it easier for residents to navigate and find the information they need in one place.

Legal

The Procurement Act 2023, "the Act", is expected to take full effect from 24 February 2025. One of the most significant changes brought by the Act is the introduction of a new procurement procedure: the Competitive Flexible Procedure.

This procedure affords the council broader discretion to structure tender processes, subject to ensuring that the procedure is designed and conducted in a manner consistent with the overarching principles of value for money, maximising public benefit, transparency, acting with integrity and treating bidders fairly.

Legal Services will support Procurement in ensuring that those principles are met.

Should there be a delay to the implementation of the Act, the opportunity will be offered via Open Procedure in accordance with Regulation 27 of the Public Contract Regulations 2015.

In either case, Legal Services will draft the contract, using the Council's terms and conditions.

There is a general duty under the Best Value and Local Government Act 1999 to ensure that services are delivered in the most efficient, effective, and economical way possible.

It is essential for residents to have the ability to report issues to the Council, to be aware of what is available to them and to gain access to our services. This procurement is to change the current delivery of Customer Access Services by consolidating and simplifying the way residents contact the Council through a single platform provider. This has the benefit of fostering effective communication, promoting transparency and accountability and to delivering high quality services.

Procurement Title

Openreach Agreement

Procurement Option

Direct award – exempt procurement under the Procurement Act 2023.

Due to the significant market dominance that Openreach has in Lancashire, a tender exercise was considered but it was determined this approach would not achieve value for money.

Openreach cannot respond to open tender opportunities due to Ofcom regulations.

New or Existing Provision

Existing agreement with annual renewals, representing a continuation of the current sourcing strategy, but under the Procurement Act 2023.

Estimated Contract Value and Funding Arrangements

The Council currently spends £1,000,000 per annum with Openreach for access to their physical infrastructure and connection charges. Based on the continued buy-in from each customer site, circa £1,000,000 per annum is the continued forecasted expenditure for this access.

Contract Duration

Reviewed annually. The position will be reviewed to give assurance that this remains the most appropriate and effective solution.

Lotting

Not applicable

Evaluation

Not applicable

Contract Detail

In 1998 Lancashire County Council formed a consortium with Cumbria County Council and Lancaster University to create the Cumbria and Lancashire Education Online network, known as CLEO. CLEO was a concept that provided schools across Lancashire and Cumbria with a wide area network and internet service provision connection. The network was self-built by Lancashire County Council through funding from the Department for Education, making Lancashire a Communication Provider under Ofcom oversight.

The approach to self-build compared to buying a fully managed service as a solution was taken for two reasons. The benefit of investing in a bespoke solution supported the longer-term investment in Lancashire and Cumbria, and the complexity of the geography for both counties meant that few (if any) competitors could offer the level of service needed for all school sites, particularly in remote communities.

Since the turn of the century, the CLEO network has been upgraded and redefined to support changing technology and solutions. It now supports not only schools, but

local councils, blue light services, academies and, of course, the Council's own premises. Since Department for Education funding ended in 2010, the Council continued to manage the service with end users paying to sustainably fund the network.

The Council's Core Wide Area Network Roadmap, produced by Digital Services, recommends the continued operation as a Communication Provider. With the Council's existing capability and scale, this model approach supports a financial and economic benefit to the Council. For instance, the self-build approach has ensured that broadband investment goes direct to the network builders instead of through intermediaries, ensuring every pound spent is on physical improvements. With the combined scale of the Core Network, this has ensured the Council's investment maximises benefit for all Lancashire service users.

As with almost all UK Communication Provider's, the existing UK broadband network is based upon access to the Openreach buildings and network infrastructure.

The Council contracts with Openreach Limited to access their existing public communication network, connecting the county councils geographically dispersed sites. The Council also provides ICT services to schools and public authorities, such as police, fire and local councils.

Openreach holds a significant market power in the provision of telecommunication physical infrastructure. Openreach has limited competition and as a result, Ofcom imposes heavy regulations to ensure that communication providers, such as the Council, can obtain equal and fair access to Openreach's vast national telecoms infrastructure.

Cabinet previously approved a procurement waiver based on Regulation 8 of the Public Contracts Regulation 2015 (PCR 2015). Due to the new Procurement Act 2023 (PA 2023), the Council is seeking now to rely on Procurement Rule 2.10:

"The provisions of these Procurement Rules shall not apply to contracts that are/spend that is exempted from the application of Procurement Legislation as set out in the relevant Procurement Legislation..."

Schedule 2, Part 2, parts 11 and 12 of the Procurement Act 2023 provides an exemption for the requirement to competitively tender contracts for the provision of accessing publicly available communication network.

This report recommends that the Council continues to contract with Openreach Limited (via British Telecommunications Plc) without competitively tendering.

Where the Council can achieve competition, such as Principal Core Operators agreements for Inter Exchange Connectivity in the end-to-end market, the Council will review these opportunities at the point the contractual agreements are renewed. At all times, the relevant Procurement Rules will be followed.

The agreement with Openreach will be reviewed annually to ensure the market position, within Lancashire, supports this strategy.

Legal

Following the transition from BTLS to the Council in 2021, the Council signed a Public Electronic Communications Network and Public Electronic Communications Service declaration with Ofcom in respect of operating the CLEO network. The effect of that declaration was that the Council confirmed:

- a) The Electronic Communications Services will be provided, or are intended to be provided, over the relevant Electronic Communications Network.
- b) The relevant Electronic Communication Service is considered to be a service that is or will be provided so as to be available to members of the public.

An exempted contract is a type of contract listed in Schedule 2 of the Procurement Act 2023 to which the rules on covered procurement in the Procurement Act 2023 do not apply.

Schedule 2, Part 2, paragraph 11 relates to: "a contract the main purpose of which is facilitating the provision by a contracting authority to the general public of an electronic communications service (within the meaning given in section 32 of the Communications Act 2003)."

Schedule 2, Part 2, paragraph 12 relates to "a contract the main purpose of which is permitting a contracting authority to provide, maintain or use a public communications network (within the meaning given in section 151 of the Communications Act 2003)".

Following a review of the definitions of "Public Communications Network" and "Electronic Communications Services" within the Communication Act 2003 and Ofcom Conditions against the requirements of paragraphs 11 and 12 of Schedule 2, part 2 of PA 2023, the Council believes the ongoing agreement with Openreach adheres to these definitions.

As a result, the rules on covered procurement in the Procurement Act 2023 do not apply and the Council is not required to competitively tender this opportunity.

There is no legal requirement for the Council to be a "Communications Provider" and to set itself up this way but for the reasons set out in this report, it is deemed to be of financial and economic benefit to the Council to do so.