

Title of Report	REQUEST FOR WAIVER OF THE CONTRACT PROCEDURE RULES TO INSTRUCT PARLIAMENTARY AGENT	
Presented by	Councillor Robert Ashman Planning and Infrastructure Portfolio Holder	
Background Papers	https://www.gov.uk/government/collections/hs2-phase-2b-crewe-to-manchester-and-the-west-midlands-to-leeds#west-midlands-to-leeds-route-maps https://www.hs2.org.uk/timeline-2b/	Public Report: Yes
		Key Decision: Yes
Financial Implications	Sufficient provision exists to cover the cost of the Parliamentary Agent within the in-year revenue HS2 budget and earmarked reserve.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	Decision involves a waiver under clause 3.2 of the Council's Contract Procedure Rules.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are none.	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	In order that the Council instruct a Parliamentary Agent to provide support to the Council as the HS2 hybrid Bill process starts and progresses through Parliament.	
Reason for Decision	To waive the Council's Contract Procedure Rules in order that a direct award of a contract to Sharpe Pritchard LLP to provide Parliamentary Agent Services in relation to HS2 can be made.	
Recommendations	THAT CABINET AGREES TO WAIVE THE STANDING ORDERS AT CLAUSE 5 OF THE CONTRACT PROCEDURE RULES IN ORDER THAT A CONTRACT FOR THE PROVISION OF PARLIAMENTARY AGENT SERVICES IN RELATION TO HS2 BE DIRECTLY AWARDED TO SHARPE PRITCHARD LLP.	

1.0 BACKGROUND

- 1.1 The HS2 project is being delivered in phases. During Phase 2b it is intended to construct railway lines from Crewe to Manchester and from Birmingham to Leeds.

- 1.2** During Phase 2b, it is proposed that a stretch of about 30 kilometres of railway will be constructed which will pass through the north of Leicestershire. A map of the route is available in the background papers.
- 1.3** The Council expects to engage with HS2 Limited to provide information in order that HS2 may develop plans to mitigate the impact of the project on communities in the path of the development. Whether the developer will accede to all the mitigation measures suggested by the Council is unknown.

2.0 THE HYBRID BILL

- 2.1** The Council anticipates that a hybrid Bill will be introduced to create the necessary legislation to authorise the construction and maintenance of future phases of the HS2 project.
- 2.2** HS2 Limited have published a timeline (<https://www.hs2.org.uk/timeline-2b/>) and at this stage, it is anticipated the hybrid Bill will be deposited mid to late 2021. However, the outcome of the Governments Integrated Rail Plan for the Midland and North, due to be published in December 2020, is not yet known and may result in further delay to the Bill in light of this.
- 2.3** If the hybrid Bill passes a second reading it is foreseeable that it will proceed to a Select Committee stage. The Council currently anticipates that it will be necessary for the Council to petition for suitable amendments during the Committee stages of the bill.

3.0 PARLIAMENTARY AGENT

- 3.1** The Council wishes to instruct a Parliamentary Agent to provide support as the hybrid Bill process starts and progresses. A Parliamentary Agent is a solicitor who is licensed by the Houses of Parliament in the United Kingdom to draft, promote or oppose Private Bills. Their instruction is therefore necessary if the Council wishes to be represented in the Houses of Parliament on matters of concern or in relation to mitigation measures the Council see as important and necessary to reduce the impacts of HS2 on our communities and the district. The Parliamentary Agent will be engaged early on in the process and then will play a reactive role as the bill progresses and our need for their assistance fluctuates. The Council will continue to work with Leicestershire County Council monthly as part of the HS2 working group and instructions to the Parliamentary Agent shall stem from there.
- 3.2** A parliamentary agent will be responsible in assisting at the Select Committee stage of HS2;
- Advising on discussions with the promoter before the Bill is introduced in Parliament (including advising on tactics, drafting correspondence, attending meetings where the promoter's solicitors are present);
 - Attending meetings with clients;

- Presenting workshops to local authorities and their clients (parish councils, groups, individuals within the Council) on petitioning;
- Advising on the procedural steps a local authority must take before their petition can be deposited;
- Advising on parliamentary procedure generally;
- Advising on the Bill and supporting documents;
- Drafting petitions / advising on draft petitions prepared by the client;
- Advising on how best to present a case to the Select Committee;
- Drafting evidence for Select Committee hearings / advising on draft documents prepared by the client;
- Advising on the choice of witness(es);
- Advising on the choice of counsel;
- Drafting instructing to counsel and preparing notes of conferences;
- Appearing before Select Committees as advocates; and
- Negotiating and drafting letters of assurance / undertakings with the promoter's solicitors.

4.0 SHARPE PRITCHARD LLP

- 4.1** There are only eight providers of Parliamentary Agents nationwide, four of whom represent HS2 and would therefore not be able to act for us.
- 4.2** Sharpe Pritchard act for Leicestershire County Council and have also been instructed by Warwickshire and Derbyshire County Councils. It would therefore be advantageous to have consistency of representation for the authorities who share a common interest, particularly in light of the continuing collaborative work the Council is undertaking with Leicestershire County Council on HS2 through monthly meetings of the HS2 Officer Working Group
- 4.3** With Leicestershire County Council having instructed Sharpe Pritchard on the same matter this will also offer us an advantage as well as financial benefit due to work not having to be duplicated.
- 4.4** Sharpe Pritchard are part of the EM Lawshare group, a trusted framework that this Council regularly takes advantage of when instructing external legal firms. Ordinarily the Council would make a direct award of a contract using the framework, which is compliant with both the Councils Contract Procedure Rules and the Public Contracts Regulations 2015. Unfortunately, Sharpe Pritchard have advised that the role of Parliamentary Agent is not covered within the framework services so we are not able to award a contract to them in that way.

5.0 WAIVER

- 5.1** The Council's Contract Procedure Rules stipulate that the procurement process for a contract of this value, over £25k would be an open tender. To submit a tender the

Council would use the online portal, Contracts Finder which is a 6-12 weeks process. We are not in a position to wait this long.

- 5.2** Further, NWLDC do not have a specification and would need external assistance in drafting a specification in any event to ensure we procure for exactly what we need.
- 5.3** There is also a possibility that Sharpe Pritchard would not win the tender and so the benefits of instructing them, consistency and avoiding paying for duplicated work, would be negated.
- 5.4** Cabinet is however able to waive the Councils contract Procedure Rules in order that a direct award of the contract be made to Sharpe Pritchard without the requirement to run a competitive procurement.
- 5.5** Clause 3.2 of the Contract Procedure Rules (CPR) states:
'If, in exceptional circumstances, authority is sought from Cabinet to waive these Standing Orders, the report to Cabinet must give adequate reasons and specify precisely the procedures to be waived and must first be approved by the Monitoring Officer.'
- 5.6** The Monitoring Officer has approved this Report and is content that it addresses the reasons and procedure for asking Cabinet to waive the contract procedure rule
- 6.0 COSTS**
- 6.1** Sharpe Pritchard have provided a competitive hourly rate, reduced from their usual hourly rate.
- 6.2** An estimate of the costs up to and including depositing the petition would be around £20,000 plus VAT.
- 6.3** If, after depositing the petition, we were to instruct Sharpe Pritchard to assist on negotiations leading to a settlement without the need for a Select Committee appearance, then the estimate costs could be in the region of £35,000 plus VAT.
- 6.4** If a Select Committee appearance were necessary, the estimate of costs would be in the region of £50,000 plus VAT.
- 6.5** These costs assume significant involvement of Sharpe Pritchard. They can therefore be treated as generous. They have acted for several local authorities whose involvement was more passive and so the fees were lower than estimated here.
- 6.6** The estimated value of the contract is comfortably within the delegated authority to directors to authorise. Cabinet is not asked to give authority to award the contract as this will can be provided according to the Scheme of Delegation.
- 6.7** There is an annual budget of £75K for HS2 in addition to an earmarked reserve of £74,469 which is sufficient to cover the cost of the Parliamentary Agent.

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Developing a clean and green district - Our communities are safe, healthy and connected
Policy Considerations:	None identified
Safeguarding:	None identified
Equalities/Diversity:	None
Customer Impact:	Robust representation of residents of the district in challenging and mitigating the HS2 Legislation
Economic and Social Impact:	Robust representation of residents of the district in challenging and mitigating the social impact of the HS2 Legislation
Environment and Climate Change:	Robust representation of residents of the district in challenging and mitigating the environmental and climate change implications of the HS2 Legislation
Consultation/Community Engagement:	None undertaken
Risks:	There is a risk of challenge to the decision to waive the Contract Procedure Rules however this risk is considered very low.
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