HIGHLANDS AND ISLANDS PATHFINDER BROADBAND RE-PROCUREMENT: UPDATE

1 SUMMARY

1.1 This report updates the Council on the progress of the Pathfinder Broadband Re-Procurement Project which aims to provide a continued managed network service after the current contract expires on 20 March 2014. The current contract is supported by the Scottish Government to the extent of £62m and provides high capacity broadband links to schools, libraries and other council buildings throughout the Highlands and Islands.

1.2 The Pathfinder North contract provides a total of 145 local authority and schools sites within this Council with high speed broadband connectivity, enabling the delivery of efficient and effective public services and educational content.

1.3 Members were previously informed via the Leaders report to the Executive that there will be a significant funding gap when the current contract expires, that a funding bid had been submitted to the Scottish Government on 3 August 2011, that a full options appraisal and business case was presented to the Director Digital on 17 January 2012 and of his response that the Scottish Government has made no provision for any future funding of Pathfinder. The working assumption is that the HIE current broadband project across the Highlands and Islands will be the focus for meeting the needs of this area.

2 RECOMMENDATIONS

2.1 The Council is asked to note the detail provided, and to raise any issues that may be of particular concern to ensure these are fully addressed as the project progresses.

3 DETAILS

Pathfinder North 1

3.1 A summary of current costs and sites connected compared with current contributions is set out in the table below:

<table>
<thead>
<tr>
<th>Authority</th>
<th>Current annual contribution</th>
<th>Predicted annual payments to C&amp;W</th>
<th>Potential Gap 2014/15 on current cost</th>
<th>No of sites connected</th>
</tr>
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A separate part of the project was to upgrade the Connected Communities network in the Western Isles to the level being procured across the rest of the Highlands and Islands under the Pathfinder project. £1 million was allocated for this in addition to the £62m for the core contract from the Scottish Government.

3.2 The largest beneficiary of Pathfinder has been the education sector, notably in rural areas. According to Education Scotland, without Pathfinder, Glow (the online community for Scottish schools) could not have been delivered as effectively to the Pathfinder sites. Other local authority departments such as social work and customer support services have also indicated that they have achieved cost reductions and improvements in productivity through having faster email and Internet connectivity as well as a network that supports complex call centre and social work applications. Connections to sites range from 2 Mbps to over 500 Mbps. Prior to this, a significant majority (78%) of all sites were provisioned with 128Kbps – only 1/16th of the minimum now provided so the implementation of Pathfinder represented a very significant increase in bandwidth speeds.

**Current ICT landscape**

3.3 The Pathfinder re-procurement comes at a time when two high profile initiatives are being led by the Scottish Government: the creation of a Scottish Public Services Network (SPSN) which is informed by the McClelland Review of ICT infrastructure in Scotland; and the next-generation broadband (NGB) programme, which is being led by the Scottish Government’s Digital Strategy, and informed by Broadband Delivery UK (BDUK).

3.4 HIE is currently in competitive dialogue with bidders for the provision of NGB services. HIE has currently secured £20 million funding for a project that is estimated to cost between £200 million and £300 million, although detailed cost modelling is underway to confirm this. This will be a highly significant project for the Highlands and Islands, with the potential to make a step change in connectivity across the region. The primary objective is to ensure the delivery of NGB at 30Mbit/s or above to all by 2020. Pathfinder North and HIE have a reciprocal arrangement at respective Board meetings, and have a close working relationship. It should be noted that this does not cover the Helensburgh and Lomond area. That area will be covered by a separate project to be led by Scottish Enterprise but that is not nearly so far advanced yet.

3.5 Both the NGB and PSN initiatives are currently being driven in parallel, although there is acknowledgement within the Scottish Government that they will need to converge to some extent in the near future. However, plans are at a preliminary stage; they are likely to evolve and therefore do not provide the Partnership with the
The attached paper, prepared by Highland Council for their Resources Committee on 21 March 2012, sets out more detail on the recently published paper by the Scottish Government entitled “Scotland’s Digital Future: A Strategy for Scotland” and the implications for Pathfinder North re-procurement. It sets out the need for partners to agree a new Memorandum of Agreement for the new project. It also highlights the risk for Pathfinder North in relying on the HIE project to deliver requisite infrastructure that will meet its requirements from March 2014, the likelihood of needing a stop-gap service for a one to two year period to maintain service continuity, and the need therefore to progress with a new EU procurement to bridge this gap.

3.7 Members should also be aware that a meeting has been arranged with Mike Neilson, Director Digital of the Scottish Government with Pathfinder Partners on 2 April. It is expected that this will emphasise the need for partners to align Pathfinder with the HIE project, and discuss the funding shortfall of that project. That project has £20m funding committed (£10m from BDUK, £5m ERDF and £5m HIE) and needs at least £120m to need the 2015 targets. That might provide connectivity to c 65-70% of premises across the area with speeds of at least 24mbps. The Scottish Government may look to local authorities to make a capital contribution in a similar way to that promised by certain other local authorities. However we have no allowance in the capital programme, and HIE have made it clear that their project will not provide connection to local authority premises – we would have to fund last mile connection to the nearest BT cabinet.

3.8 We consider that the rationale applied by Scottish Government to support Pathfinder North 1 remains extant. Market failure remains in this most rural of areas resulting in disparity in telecoms pricing, compared to urban areas. The importance of a robust and reliable communications infrastructure cannot be over emphasised as it provides the bedrock to sustainable rural communities.

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29 March 2012

Appendix 1: Report to Resources Committee Highland Council of 21 March 2012 entitled “Pathfinder North Re Procurement”
Summary:
This report updates members on the current status of the re-procurement of the Pathfinder North contract.

1. Introduction:

1.1 The aim of this report is to provide Members with information on the current status of the Pathfinder North broadband re-procurement delivery project. Pathfinder North is a successful example of a shared services partnership between 5 Highlands and Islands Local Authorities. The Pathfinder North contract was the culmination of extensive collaboration between the Scottish Government and Highlands and Islands Local Authorities with regard to aggregation of demand for network services within the public sector and was seen as a true Pathfinder; to test the public sector procurement aggregation model, and to provide affordable broadband for the delivery of public services in remote and rural areas. The current contract ends in March 2014, and all Partners need to have succession arrangements in place for post March 2014.

1.2 To date, Pathfinder North provides a total of 782 local authority and schools sites with high speed broadband connectivity, enabling the delivery of efficient and effective public services and educational content. The requirement to continue this service beyond March 2014 has been confirmed by the Partnership and provides the foundation of the Business Case for re-procurement.

1.3 As a result of successful aggregation the cost of bandwidth to Pathfinder North local authorities has reduced significantly from £3,323 per Mbps per annum to £600 per Mbps per annum as a result of the original Pathfinder North procurement, comparable to other public sector aggregated procurements, however the network is still more expensive than national urban prices where there is more competition from potential suppliers.

1.4 Members were informed at Resources Committee on 1st December 2011 of the need to prepare for re-procurement and the Partnership’s intention to conduct an Options Appraisal and develop an Outline Business Case to allow the Partnership to make a decision on the project’s strategic direction for the next generation Pathfinder and to invite dialogue with Scottish Government with respect to making a decision on the future availability of funding. The business case was completed as planned and submitted to the Scottish Government Digital Directorate on 17th Jan 2012. In
correspondence with the Chief Executive of the Highland Council, the Scottish Government has thanked the Partnership for completing this activity, provided some clarity on the Scottish Government’s approach going forward and advised that currently the Scottish Government’s Spending Review has made no provision for any future funding of Pathfinder beyond the end of the current fixed-term contracts. However Pathfinder North has been encouraged by the Scottish Government to review a number of other options such as linking in to existing to the HIE/BDUK procurement, opportunities for increased collaboration with other public sector agencies and discussions with the Scottish Government’s national procurement teams. All of these activities are underway.

2. **Background:**

2.1 The cost of providing broadband services to remote and rural areas is high when the required infrastructure is not in place, this was the position faced by the Partners prior to Pathfinder North, which had previously restricted the rollout of higher bandwidths across their sites. The Highland and Islands is a “white” area in terms of broadband which reflects the lack of private sector interest in providing high-speed broadband services on a commercial basis. In addition, supplier interest in individual Partner requirements when not aggregated was low, which meant availability and affordability of broadband connectivity hampered progress in service delivery. Significant issues and digital inequality remain within some areas of the Pathfinder North Partnership area with provision of broadband to business and communities remaining poor.

2.2 In 2006, The Scottish Government allocated £65m of funds to the Pathfinder North project in order to procure managed broadband network for public sector sites. Such a market subsidy was deemed compatible state aid by the European Commission. At its inception in 2002, it was envisioned that the successful contractor for Pathfinder North could deliver wider benefits to the private sector and individuals within Scotland. The primary aim of the Pathfinder North contract is for public sector broadband delivery, and it was hoped that the successful provider would be encouraged to provide additional services to other users in the area. However despite extensive representation from Council this has not proved to be the case and the provider Cable and Wireless are predominately interested in the large wholesale market rather than smaller retail customers. Partners entered into a seven year contract with Cable and Wireless that included a two year rollout period.

3. **Current Position**

3.1 In March 2011, the Scottish Government published Scotland’s Digital Future: A Strategy for Scotland. The strategy set out the following ambition: that next generation broadband would be available to all by 2020, and that significant progress would be made by 2015. On 31 January 2012 its strategy was developed into ‘Scotland's Digital Future - Infrastructure Action Plan’ which details the action required now and in the coming years to deliver world-class digital infrastructure for Scotland, taking forward the targets set out in 2011 and setting out the intent to move forward at a pace and in a way that ensured Scotland is internationally competitive. This Infrastructure Action Plan sets out 4 critical programmes that combined will ensure that Scotland meets its ambition and delivers a world-class digital infrastructure for the country.
The first two programmes are focused on delivering the core, or backbone, national infrastructure in a phased and future-proofed way:

**Programme 1:** Achieving a step change by 2015 will address the current digital divide and put in place infrastructure in those areas that the market will currently not go to ensure a step change in speeds by 2015; and

**Programme 2:** Achieving World-Class by 2020 will deliver a longer term plan, developed in parallel, to ensure we have the right mechanisms, partnerships and commercial models in place to deliver world-class infrastructure in a sustainable way and in partnership with industry.

Underpinning these core infrastructure programmes are two additional programmes:

**Programme 3:** Demonstrating and delivering innovative and local solutions will be targeted at promoting locally based projects and programmes and also trialling new technologies. This will help deliver solutions now for the 10-15% least likely to benefit from the core investment in Programme 1 and ensuring that they are not left behind.

**Programme 4:** Increasing take-up and usage will be targeted at raising digital participation rates (for businesses and individuals) and raising demand for services - helping to improve the commercial case for investment and delivering better outcomes for Scotland.

Aligned to these programmes the Scottish Government will continue to work with the UK Government and Ofcom to promote an appropriate and adaptable regulatory environment that is an enabler to achieving the ambitions. It will also ensure that its approach to delivery of digital infrastructure is strongly aligned with the Public Sector ICT strategy for Scotland. By 31 March 2012 the Scottish Government plans to publish its national ICT procurement strategy for the plan which will build on the recommendation in the McClelland Report recommending greater aggregation in ICT/Broadband Services and more national contracts. The procurement strategy will provide the framework for a coherent approach to digital infrastructure and broadband services that will be taken forward through two contracts: one for the Highlands and Islands and one for the rest of Scotland.

The Scottish Government’s forthcoming procurement strategy will clarify the links that will be required between its digital infrastructure action plan and the Scottish Public Service Network, and will seek to ensure both aggregation/value-for-money and interoperability. Pathfinder North is therefore seeking a successor contract in a very complex and changing environment where government funding is heavily under pressure. Pathfinder North is also being encouraged to work very closely with the HIE/BDUK H&I project on provision of the required broadband infrastructure.

Following receipt of the Outline Business Case, further meetings have been held with the Partnership and the Scottish Government.

At the project board in January 2012, representatives from the Scottish Government explained that the Scottish Government would like to work with HIE, Pathfinder North and local government more generally, to ensure that a coherent approach to digital
infrastructure and service networks could be delivered across the Highlands and Islands. It was confirmed that the Scottish Government has currently made no separate funding provision in its Spending Review for the continuation of funding of Pathfinder beyond the term of the current fixed-term contract, but that there is a national budget for development of Broadband across Scotland. The Partnership contribution to project costs has been relatively modest in comparison to the grant subsidy and as a result it has always recognised that there would be quite a significant affordability gap on any re-procurement. Since October 2011 the Partnership has engaged with the Scottish Government in an attempt to secure new grant funding as has been enjoyed previously. These discussions have to take place in the context of a national picture of overall reduction in public sector funding and a very high demand for broadband funding across Scotland. Discussions are currently ongoing with the Scottish Government and a number of meetings are scheduled to continue to clarify the situation on funding and timescales and to work with the Scottish Government and public sector partners.

3.7 The current Partnership compromises of 5 local authorities. It is hoped to extend the proposed new Partnership to 6 local authorities, including Western Isles Council. As such the six local authorities have expressed strong concern to the Scottish Government with regard to the current lack of future funding and the timescales of the HIE/BD UK procurement and the impact that this could have on future service delivery across the Pathfinder North Partnership.

4. Pathfinder Re-Procurement:

4.1 The provision of an effective broadband network beyond March 2014 is a critical business need for the current Pathfinder Partners in terms of effective public sector service delivery and business continuity. Many services which the Council delivers in schools and council offices cannot be delivered without broadband infrastructure. The Pathfinder Partners cannot afford to 'stand still' and as such has to prepare for re-procurement.

4.2 Partners have considered the requirement to re-procure very seriously. Set in the context of an extremely complicated ICT landscape, the Partnership has had to identify the optimum time to move towards Procurement and also how to position itself to support an emerging national strategy. It has achieved this by providing the Scottish Government with a comprehensive Outline Business Case that offered a number of options in terms of scope and timescales and invited dialogue with the Scottish Government to choose the right option.

4.2 Timing has been a key issue; by starting the procurement too soon the Partnership would have risked undermining a national strategy and also wasting public funds by duplicating the provision of network infrastructure. The publication of the Scottish Governments - Digital Infrastructure Action Plan on 31 Jan 12 and subsequent correspondence has provided an element of clarity and the ‘trigger’ for the Partnership to move. As such the Partnership has now entered into the first formal stage of a re-procurement project that will result in a Detailed Business Case and Project Initiation Document that will provide a full definition of the project. Part of this first stage of procurement will be to ask all of the 6 partners to sign an initial legal
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agreement which will bind the 6 partners together to the production of a final business case and a procurement scoping exercise in order to share costs and aggregate potential demand. Once the final business case and procurement options are confirmed, Partners would then be asked to formally confirm their intentions with regard to the Partnership and sign a binding Memorandum of Agreement committing to the procurement and award of a future contract.

4.3 As indicated above, Scottish Government's working assumption is that HIE’s current broadband project will be the focus for getting the necessary infrastructure in place, Pathfinder North’s role would then become the provision of the local authority services that are required across the digital infrastructure of the H&I area. The dependency and risk in this approach is clear when you consider that the current managed service project ends in March 2014 and the HIE Regional Broadband project will not have the necessary infrastructure in place until at the earliest 2015 on current planning which provides a potential 12 month disconnect between the two projects.

4.4 This potential disparity in timescales has been recognised by both the Scottish Government and the Partnership and this risk is being managed by obtaining formal legal advice with regard to the current contractual opportunities and how these fit into the national, regional and Pathfinder North strategies. The formal legal advice on this matter is expected during March 2012 and will be included in future discussions with the Scottish Government and HIE.

5. Summary:

5.1 Pathfinder North has proven to be a success in shared services partnership working and local authority service delivery across some of the most challenging geographies in Scotland. It has demonstrated that value for money can be achieved through public sector aggregation, which is now being highlighted through the McClelland report as the future route for ICT procurements.

5.2 The continued investment and support from the Scottish Government has enabled a very effective network which enables strong public sector service delivery.

5.3 The Pathfinder North Partnership led by The Highland Council has made significant progress in a complex and changing ICT landscape towards identifying an appropriate way forward, however discussions on funding, timing and scope of any future re procurement are still to be finalised due to the Scottish Government’s developing national agenda.

5.4 Due to the fact that the Partnership’s contract ends in March 2014, the Partners need to take action to ensure that service continuity will be maintained whilst undertaking dialogue with the Scottish Government as to what shape and form the procurement is likely to take. As such a re procurement project team has been established, an Outline Business Case has been developed, a bandwidth utilisation study of all Pathfinder sites has been completed, a new Minute of Agreement is in development and the project has entered into the Procurement Initiation Stage. It is the intention of the Partnership to continue to have intensive dialogue with the Scottish
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Government as to the best way forward, whilst simultaneously developing its procurement specification, ready to commence procurement in October 2012 should that be required.

5.5 Even if the project progresses to procurement in October 2012, the project faces a challenging timescale to secure continuity of service beyond 20 March 2014, with potential supplier behaviour difficult to predict in advance of formal procurement activity.

5.6 As such members are asked to note the continuing uncertainty with regard to national funding, the development of a national approach to broadband funding and ongoing discussions with the Scottish Government. It is intended that this procurement scoping work will continue over the coming months, and that a full update on all aspects of the reprocurement and discussions with the Scottish Government will be presented to members in October 2012 when it is hoped that the national position and broadband funding availability will be much clearer.

6. Implications

6.1 Resource implications
Partners are working together and with the Scottish Government to define the resources required for the next Pathfinder Procurement, however the potential funding issues described in this paper remain a primary consideration for all Pathfinder North Partners. The Pathfinders North Partners have already made provision for the next procurement exercise and funding is in place for the procurement team and the costs of undertaking an EU procurement.

6.2 Legal Implications
Partners will need to enter into a new EU Procurement which will commence in 2012 and as such will need to form a new legal agreement with the Partners (new or existing) who choose to join the new Partnership, an initial legal commitment will be required to cover the production of the Final Business Case and the procurement scoping to be followed by a formal memorandum of agreement for the commencement of procurement and award of any future contract. Partners have agreed that Highland Council will continue to lead the procurement activity and the Partnership. At the request of the Scottish Government the Partnership is also in the process of obtaining expert legal advice with regard to the options under the current contract to support the Scottish Government’s national agenda.

6.3 Equality Implications/Climate Change Implications
There are no implications arising from this report.

7. Recommendation

7.1 Members are asked to:

i. Note the continuing dialogue between the Scottish Government, Pathfinder
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Partners and HIE with regard to future funding for the Pathfinder North project, procurement options and the national broadband delivery strategy.

ii. Agree the need to continue with re procurement scoping in lieu of a finalised national position to ensure service continuity post March 2014,

iii. Agree the need to seek initial legal agreement from Partners to cover the costs and production of the final business case and procurement scoping exercise

iv. Note that a full update, together with re procurement and legal recommendations will be presented to members in October 2012.

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