REPORT OF:	**STRATEGIC DIRECTOR**
TO:	**EXECUTIVE**
DATES:	**17th NOVEMBER 2016**

Contact Details:	Dean Langton
Tel. No:	01282 661866
E-mail:	dean.langton@pendle.gov.uk

LIBERATA – EXTENSION TO CONTRACT AND RELATED MATTERS

PURPOSE OF REPORT

1. The purpose of this report is to seek approval to an extension to the current contract with Liberata UK Ltd and outlines the basis on which this is proposed including the acquisition by the Council of the freehold of Number One Market Street.

RECOMMENDATIONS

2. The Executive is asked to endorse the following recommendations and agree that they be submitted to Council for approval in December 2016:

   a) that the current contract with Liberata UK Ltd be extended for a 10 year period from February 2020 on the basis of the terms set out in the report;

   b) that delegated authority be granted to the Strategic Director to conclude the contract extension as outlined in this report in consultation with the Leader and Executive Member for Finance;

   c) that the Council purchases the freehold interest of Number One Market Street, Nelson from Barnfield Investment Properties Ltd for £3.300m in 2017/18;

   d) subject to (c) above, agree that the purchase be funded by borrowing and that this be reflected in the development of the Council's capital programme for 2017/18 (with the timing of such borrowing delegated to the Financial Services Manager)

   e) subject to (a) and (c) above, agree to lease Number One Market Street to Liberata on the basis of the terms outlined in the report;

REASONS FOR RECOMMENDATION

3. To contribute to the Council's savings requirements for 2017/20

ISSUE

Background

4. In February 2005, following a comprehensive procurement process, the Council let a contract to Liberata UK Ltd for the provision of a range of services. The term of the contract is 15 years (expiring in February 2020) and the services provided include the administration of Council Tax, Business Rates and Benefits, Information Technology, Customers Services, Property Services and Human Resources. In return for the services provided, the Council pays Liberata a Unitary Charge. The Unitary Charge for 2016/17 is £4.995m (albeit, this includes c£0.9m in respect of costs managed by Liberata on behalf of the Council which would revert to the Council on the expiry of the contract (e.g. property management and maintenance budgets, software, telephony charges).

5. Liberata currently employ c300 staff in Number One Market Street, the Business and Customer Contact Centre that was delivered as part of the agreement and which has contributed to the regeneration of a derelict site in the centre of Nelson. The staff on site work primarily for Pendle but also a number of other Councils (e.g. Burnley, North Somerset, London Borough of Hillingdon) for whom Liberata provide services. The current level of employment makes Liberata one of the biggest employers in Pendle.

6. Number One Market Street is owned by Barnfield Investment Properties and leased to Liberata. Whilst the term of the lease is aligned with the Council's contract with Liberata, the Council has no direct interest in the property other than letting part of the Contact Centre from Liberata to accommodate Housing Needs, Taxi Licensing and part of the Planning Service. Thus, Liberata are not obliged to renew the lease for Number One Market Street once it expires and, in the event the contract with the Council is not renewed, there is no guarantee that any new Provider would need to lease the building. A new provider could deliver services from an alternative location or, if Liberata for example, from another site (e.g. Burnley). Whilst the Council could stipulate requirements to address this risk either when extending the contract or in seeking a new partner there are cost considerations in doing so.

Issue

Proposed Extension of Contract

7. At the meeting of the Executive in May 2016, Councillors were provided with an update on the Council's Financial Strategy and Medium Term Financial Plan. This indicated that the Council faces a funding shortfall of c£4.8m over the next three years and that, in order to deal with this, the Council needs to take significant action.

8. In response to this, the Council's Financial Strategy 2017-20 is built on three key themes, namely Growing, Charging and Saving. Under the latter, consideration has been given to identifying savings in the four main areas of service expenditure. These are Waste Management, the subsidy paid to the Pendle Leisure Trust, Grounds Maintenance and Liberata together with such other budget reductions considered necessary to deliver a balanced budget over the medium term.

9. As Councillors are aware, the Council's financial position has changed markedly since the contract to Liberata was let. Since 2010, the Council's funding has reduced by 52% leading to year on year reductions in the Council's expenditure. During this period, the Council has worked with Liberata to deliver substantial savings both through investment in services and in changes to the way services are delivered, some of which have led to a reduction in the Unitary Charge.

10. The extent to which reductions in the Unitary Charge are now possible without impacting on service levels is considered to be limited and so, given the remaining life of the current contract, recent discussions with Liberata have focused on a possible extension to the present contract in return for both a reduction in the Unitary Charge and further investment in services. Extending the contract would also help secure the employment of staff based in Nelson, a key part of the original contract award.

11. In summary, the outcome of these discussions is that Liberata will:-

- invest in the existing services delivered to the Council and transform them to deliver a digital council. The value of this investment – in terms of cost avoidance for Pendle – is estimated at £160k (capital);

- continue to develop Pendle as a Shared Service Centre with a view to creating additional jobs in Nelson Town Centre;

- offer a reduction in the Unitary Charge with effect from April 2017 of £300k each year, rising to £400k each year from 2020 until the end of the contract.

12. This would be on the understanding that the Council:-

- extends the current contract from 2020 to 2030, i.e. a 10 year extension, on the same terms and conditions as the present contract;

- commits to a ‘digital by default’ approach to the delivery of customer services; and

- assists in achieving a reduction in the rental costs for Number One Market Street. This represents a significant overhead to Liberata under the terms of their current lease with Barnfield Investment Properties and this is covered more fully below.

Number One Market Street

13. Number One Market Street comprises a mix of uses including:-

- Contact Centre and Shared Service Centre for Liberata
- Office Space comprising 610m^2 of office floor space (all currently unoccupied)
- 3 retail units (840m^2) each currently leased to third parties with leases expiring between March 2019 and July 2025.

14. A key part of the proposal from Liberata is for the Council to assist in achieving a revised rental cost for their demise in Number One Market Street. As indicated earlier, the Council currently has no direct involvement in the site and cannot, therefore, directly negotiate a revised rental agreement. Initial discussions between Barnfield and Liberata have indicated that there is no scope to reduce the present rental rates and this is likely to be the case up until the expiry of the present lease.

15. As Councillors are aware, the regeneration of the site of Number One Market Street was a key component of the current contract with Liberata. The continued use of the building, which accommodates over 300 employees, is vital to the Nelson Town Centre economy as is a need to ensure that those jobs remain in Pendle. Equally, as Liberata’s business continues to grow, there is scope for Number One Market Street to become the Hub for services provided to other Councils thereby increasing the number of jobs in Nelson.

16. An option available to the Council is to acquire the freehold of the site from Barnfield and have a direct relationship with Liberata acting as lessor/lessee respectively. Subject to agreement by Council , the purchase would be financed by the use of the Council's prudential borrowing powers and consideration of this is recommended in response to the following factors:

- the proposed contract extension and having more control over the terms of the ongoing rental of Number 1 Market Street and how this links to the unitary charge paid by the Council;
- the importance of retaining an operational base in Nelson from which core services are currently provided (bearing in mind if the contract reverted back to the Council for any reason we would require equivalent space from which to deliver services);
- responding positively to the request from Liberata to assist them reduce their building overhead in exchange for further investment in services combined with savings on the current unitary charge paid by the Council. This would be conditional on Liberata agreeing to lease their part of the site until the end of extended contract in 2030.

17. Exploratory discussions have been held with Barnfield Investment Properties and a price of £3.300m has been agreed for the freehold of Number One Market Street, subject to the acquisition being agreed by the Council. A separate and independent valuation of the site has been obtained from the District Valuation Service and based on this the value agreed with Barnfield is reasonable and represents value for money.

18. Should the purchase be agreed as proposed, the intention would be to fund the acquisition via additional borrowing. The cost to the Council of such borrowing consists of two elements, namely,

- **Annual interest charges** – amount based on loan type and duration – assuming a fixed rate maturity loan was taken from the Public Works Loan Board current rates range from 2.37% (at 14 years i.e. to 2030) to 2.47% (at 50 years)
- **Minimum Revenue Provision (MRP)** – this is the charge to revenue reflecting the repayment or amortisation of the loan; the repayment period would be determined by reference to the expected asset life; for Number 1 Market Street a maximum MRP period of 50 years would not be unreasonable.

19. On the basis of current interest rates, the estimated cost of borrowing £3.550m (being the agreed purchase price of £3.3m plus £150k for Stamp Duty Land Tax and £100k for refurbishment costs) is £84k pa. Principal repayments (MRP) would be £71k pa (although as the purchase would be completed after 1st April 2017 the requirement to charge MRP would not arise until 2018/19). PWLB rates remain volatile at the present time, notably linked to uncertainty regarding Brexit and emerging inflation concerns. The timing of any borrowing would be determined by the Financial Services Manager drawing on advice from our treasury advisers, Capita Asset Services.

Financial Implications of a Contract Extension

20. Table 1 below provides a summary of the savings that will be achieved if the Council agrees to the extension with Liberata and acquires Number One Market Street (subject to the lease back arrangement with Liberata). These savings would be effective from April 2017:-

	2017/18 £000	2018/19 £000	2019/20 £000	2020/21 £000
Reduction in Unitary Charge	300	300	300	400
'One off' saving in MRP *1	71	-	-	-
Net Saving (Debt Charges v Rent) *2	132	132	132	67
Total Estimated Savings	**503**	**432**	**432**	**467**

*1 – The acquisition of Number One Market Street would be deferred until 1st April 2017 so that MRP is not payable in 2017/18
*2 – assumes the loan is amortised at 2%pa (i.e. over 50 years)

21. In addition to these ongoing savings, Liberata would invest in a range of activities as part of the Council's transformation agenda. Whilst not the full list of proposals this would include the following:

- Citizen's access portal providing 24x7 online access to council tax information/reporting
- E-billing for council tax
- E-benefits to allow on-line form completion and submission
- Adopt risk based verification to speed up processing of low risk claims
- Develop vulnerable customer strategies
- Implementation of SMS texting capability
- Introduction of self-service HR functionality

22. The value of this investment by Liberata is estimated at £160k. If Liberata did not make this investment it would fall to the Council with the risk that the timescales for implementation would be extended.

Other Options – (1) Undertake a re-procurement of the Services

23. The Council is not obliged to agree an extension of the contract with Liberata. If it so wished, the Council could re-procure the services currently provided by Liberata (or a variant) with a view to a new contract being awarded from February 2020. Any such procurement would, at present, have to comply with EU procurement regulations and is likely to take around 18 months to complete. Assuming a 6 month mobilisation period following the award of a contract, this would mean that the procurement process would have to start in mid-2018 to ensure that it is completed in time for the start of a new contract from February 2020.

24. Without undertaking the procurement process, it is not possible to determine whether, or if at all, there would be a reduction in the value of the contract compared to what is currently paid to Liberata. It is also not possible to predict how buoyant the market for outsourcing will be at the time the Council undertakes its procurement. The most recent example of a procurement that would be similar to the Council's is that conducted by Burnley Borough Council during 2015 following which Liberata were appointed as the successful bidder.

25. To complete a full procurement exercise to let a new contract for services as those currently delivered by Liberata would represent a significant activity for the Council and involve substantial resources from across the Council, notably, financial and legal both with external consultancy support. There would be an impact on officer capacity and significant additional cost in procuring the new contract.

26. That said it is only by doing this that we would know with certainty what, if any, additional benefits would be derived from this approach rather than the extension option currently being proposed. The latter would lead to savings from 2017/18 whereas savings on any 'new' contract would arise from 2020/21 on inception of the new contract. Neither option is without risk but on balance it is felt the option to extend should be progressed.

Other Options – (2) Bring the services back in-house on expiry of the current contract

27. The Council does not have to extend the current contract, nor does it have to seek an alternative service provider. It could allow the current contract to expire in February 2020 and take the services back in-house. However, if this option was pursued the Council would still require suitable accommodation for those staff that provide the Pendle services and who would TUPE back to the Council. We have no other suitable premises to house and retain staff in Nelson town centre on the scale involved. As a result we would most likely have to buy the current building or secure a lease in negotiation with Barnfield. This would minimize the cost and disruption from having to move out of the building with the attendant costs of change such as IT and telephony systems infrastructure. In addition to the costs of change there is no certainty that bringing the service back in-house would deliver savings in excess of those outlined above.

28. In respect of the current contract operation there are no significant performance concerns that would support bringing the service back in house.

IMPLICATIONS

Policy

29. There are no new policy implications arising directly from the contents of this report.

Financial

30. The financial implications are significant and mainly as outlined above in this report. The acquisition of Number 1 Market Street would represent a significant addition to the council's asset base. The running costs associated with the building would largely be met by Liberata (e.g. heat, light, business rates) and the lessee's in the three retail units. The Council will be liable for costs associated with the (currently unoccupied) top floor of the building although these will be offset by rental income from the ground floor units.

31. The valuation undertaken by the District Valuation Service noted that the property is in a good state of repair commensurate with its age and construction. A condition survey has also been commissioned from Liberata Property Services and should this highlight any significant matters details will be presented at the meeting. Provision for ongoing planned and reactive maintenance will need to be considered in the development of future revenue and capital budgets.

Legal

32. The Public Contract Regulations 2015 apply to the Council's agreement with Liberata even though it was made before the new regulations came in to effect from 26th February 2015. Regulation 72 includes provision for a contract to be modified without a new public procurement procedure provided certain requirements are met. The Council has taken legal advice from a QC in this respect which concluded that the Council can extend the contract as proposed.

Risk Management

33. Neither a contract extension nor a new procurement exercise is without risk. Without conducting the latter the Council cannot be certain that more savings could be generated than those negotiated with Liberata linked to the option of extending the current contract.

34. However, the savings and ongoing investment in services as agreed with Liberata are significant in exchange for a contract extension provided they are delivered in full.

35. Procurement risk has been negated by the legal advice received.

Health and Safety

36. There are no Health and Safety implications arising directly from the contents of this report.

Climate Change

37. There are no climate change or sustainability implications arising directly from this report.

Community Safety

38. There are no community safety issues arising directly from the contents of this report.

Equality and Diversity

39. There are no equality and diversity impacts arising from this report.

APPENDICES

None.

LIST OF BACKGROUND PAPERS