

**NORTH SOMERSET COUNCIL  
DECISION**



**DECISION OF: COUNCILLOR DONALD DAVIES, EXECUTIVE MEMBER FOR HUMAN RESOURCES**

**WITH ADVICE FROM: JO WALKER, DIRECTOR OF CORPORATE SERVICES AND  
MARK RODDAN, HEAD OF STRATEGIC PROCUREMENT SERVICE  
DIRECTORATE: CORPORATE SERVICES**

**DECISION NO: CSD76**

**SUBJECT: PROCUREMENT PLAN FOR TEMPORARY AGENCY STAFF CONTRACT**

**KEY DECISION: NO**

**REASON: THIS IS A PROCUREMENT PLAN AND THEREFORE NOT CONSIDERED A  
KEY DECISION.**

**BACKGROUND:**

One of the three ambitions of the Corporate Plan focusses on prosperity and opportunity within the North Somerset Community. The decision to agree this Procurement Plan will support delivery of this through a competitive process, challenging suppliers to develop the local jobs market. In addition, the Corporate Services Annual Directorate Statement for 2019/20 refers to the challenges faced with regard to staff recruitment and supporting other Directorates to achieve their ambitions. Approval of this Procurement Plan will also enable the Council to address these challenges.

**DECISION:**

It is requested that this Procurement Plan be approved to proceed with tendering a collaborative contract for the supply of temporary agency workers.

**REASONS:**

**Introduction**

The Council currently has a contract for Temporary Agency Staff with a supplier called Comensura. The existing contract was directly awarded to Comensura off a national framework in 2016 and this emulates the previous procurement strategy carried out in 2012. The current contract commenced in 2016 and is in its final year, ending on the 31st May 2020. Comensura are a Neutral Vendor, this means they are not a recruitment agent themselves, they act as a conduit to other agencies with whom they procure agency staff on our behalf, under a prescribed set of rates and conditions.

The scope of the new contract is varied in two ways. Firstly, North Somerset Council is working in collaboration with South Gloucestershire Council, Bath & North East Somerset Council and the West of England Combined Authority to procure one, shared contract for all 4 authorities. This will increase our buying power and therefore drive better pricing through a competitive exercise, it should also increase our access to the high-quality agency staff and facilitate closer working and more streamlined processes with partner LA's. Secondly, we will include elements into the scope that Comensura are either only partially able to fill or not at all. The Council will be continuing to buy the service of temporary agency workers to fill required council roles, with the potential addition of access to the following:

- access to previously 'hard-to-fill' roles such as social workers, nursery workers, engineers, planners etc, where need currently outweighs supply in the market and quality recruitments can be hard to find/maintain
- permanent recruitment (e.g. recruitment campaigns for difficult to fill roles)
- talent pool management (to allow registered workers / casual workers to be matched to available work)
- interim and executive hires
- statement of works packages (to provide a more cost-effective solution to e.g. projects or high-volume work)

This should aggregate spend under the contract, reducing administrative burden and increasing quality of candidates whilst maintaining value for money.

There is a small risk of secondary TUPE applying to some of the incumbent provider's staff, given NSC, SGC and B&NES all currently use Comensura and share a contract manager. We do not believe this will apply, nor if it could, that the incumbent would want it to however in the event that it did, the cost would be negligible in comparison to the overall cost and potential saving of the contract amongst all 4 authorities.

### **Commissioning Plan**

The Commissioning Plan is on the forward plan and has been submitted for approval in the September Executive meeting on 11/09/19. This Procurement Plan has been submitted in line with those meeting dates to allow Executive Member Cllr Davies to deal with both documents at the same time.

### **Lessons Learned from previous projects**

We feel that the existing and previous contracts have generally run well and therefore this contract is looking to build on that success, however we have addressed gaps in the delivery, as discussed above, and are looking to include these areas in the new specification and evaluate them rigorously to get as comprehensive coverage as we can from the new contract.

## Requirement

As discussed above, the scope of the recommissioning plan for 2020 remains broadly the same, in that it focuses on temporary agency worker recruitment across all our existing job categories. The Joint Working Group have developed an outcomes-based specification for this procurement and we have come up with the following outcomes for suppliers to deliver:

- **A proactive/human approach to placements**, including being responsive to blockages/inactivity without us having to spot them and raise with them as issues and carrying out a review of our requirements, coming back to us if they are sub-standard to ensure we can rectify with minimal time lost.
- **Working with partners/agencies to source the best people for us**, including marketing us to the best agencies so they want to fill for us, and actively working with those agencies. Ensuring that all agencies that we work with have a role. Proactively checking so we don't get offered the same candidates from multiple agencies and ensure that CVs that are sent to us are relevant and appropriate.
- **Working with our hiring managers to educate them on how to get the best out of the contract**, including training on process and ICT systems, facilitating direct contact with agencies, providing fast access to staff we use regularly and helping us to avoid competing with each other for the same resource.
- **Work with us to optimise our overall Agency spend**, including identifying and notifying us where things aren't working e.g. long-term temps and pro-actively draw conclusions from our M.I to produce recommendations for us against a single Agency Staff Policy
- **Support us to achieve our broader objectives**, including maintaining a diverse workforce, recruiting from local communities throughout the supply chain, ensuring compliance with vetting/IR35 against a single set of requirements and supporting our Social Value outcomes.

The expanded, outcomes-based specification should drive a more comprehensive coverage of our current requirement, including the harder-to-fill roles where managers have had to seek staff outside of the existing contract. Further consultation with Service Managers with responsibility for recruitment will inform the tender evaluation process.

As previously detailed, this is a collaborative procurement process that we are carrying out with neighbouring authorities SGC, B&NES and WECA. Each authority will carry out its own internal governance.

The contract value for the current contract was estimated, based on previous spend, at £12million however the contract has been managed closely and spend driven down. As a result of this work and the continued efforts via the contract management, we

predict that the actual contract spend at the end of the contract in 2020 will be closer to £4.8million. We anticipate spend for the next contract to North Somerset Council will be in the region of £1.5m PA, £6m over the entire term however, as a reactive service, this will not be guaranteed and the Contract Manager will continue to work with the Supplier to reduce this spend.

The contract is anticipated to commence from 01/04/2020, this allows us to award in January with a 3-month window for implementation. During the implementation period, there may be a re-training requirement with our hiring managers, as well as working with areas such as Finance and HR to implement any changes to systems. The proposed start date fits with the requirements of the rest of the Joint Working Group, all of whom have differing end dates on their existing agreements. NSC could choose to continue to use our current contract up until 31<sup>st</sup> May 2020 however we are looking to work as collaboratively with the group as possible.

### **Route to market**

This procurement is being carried out using the latest version of the MSTAR framework, (MSTAR3). The existing contract and its predecessor were awarded directly from this national framework with ESPO (Eastern Shires Purchasing Organisation). The framework gives all public sector bodies access to a pre-established and robustly tested group of suppliers who can provide all aspects of Temporary Agency Staff. The reason for continuing to use the MSTAR agreement is that it has worked well for all 4 authorities for at least 4-8 years and provides a high-quality, value for money offering whilst reducing the procurement processes and resource requirements. Given most local authorities utilise frameworks for agency staff, suppliers have less of an appetite to bid for separate tendering processes and/or will only offer the same level of value and quality or less as they offer under the MSTAR framework, given that the overall spend potential for a separate procurement exercise would be significantly lower.

Whilst we could look to direct award off the MSTAR agreement, the expanded specification and fact that we are looking to tender for one shared contract makes a further competition a better option, in the option of the joint working group. A Further competition would allow bidders to provide a blended approach to Neutral/Master vendor and takes into account the additional considerations around the shared element of the contract, allowing us to specify how the supplier will work with the group to deliver one cohesive, effective contract. The further competition will be run amongst all suppliers for Lot 1 (Managed Service Provision). The resulting contract will be a 4 year contract with no extensions, this matches the term of the framework and is the recommended approach, as per the Public Contracts Regulations.

### **Timescales**

The joint working group anticipate publishing a further competition by mid-October with a view to evaluating mid-November-December and provisionally awarding in January 2020. This timetable is subject to change, due to the collaborative nature of the

exercise and meeting each LA's internal governance procedures. The Council's target is to have new arrangements in place by May 2020, in line with the end of the current contract.

Please see indicative timeline below:

Preparation	September 2019
Procurement process to commence	October 2019
Award Approval	December 2019
Award	January 2020
Implementation	February 2020
Service Commences	May 2020

## **Governance**

The Strategic Procurement Service lead for this contract is Holly Wilkins, Procurement Officer and the Contract Manager is Jacky Collins, Senior HR Advisor. The Head of the Strategic Procurement Service is heavily involved, playing an active role in the joint working group and steering the strategic approach of the project. The Service Manager for Corporate HR has also been involved, alongside the Head of HR. The Hiring Managers will also be involved in the specification as part of the internal consultation exercise. The Finance Business Partner has been briefed as to the levels of spend and has agreed with the findings of the commissioning plan and they will also be included within the consultation and resulting implementation around the processes.

## **Market / Suppliers**

As described above, the MSTAR framework contains 22 suppliers, most of whom are large, prominent suppliers in the market with the majority of the market share amongst the public sector.

The Council itself (or any of the LA's on the joint working group) would not be considered particularly attractive to suppliers in the market as our spend levels per annum are comparatively low, however, by collaborating, the group as a whole present a much more attractive prospect as the successful supplier will not only have good coverage of the South West but they will only have one contract to manage in the place of 4. Research into the market has shown that more and more LA's are collaborating as we are and suppliers are responding very positively to this change.

Given the procurement strategy for this procurement differs from previous contracts, alongside the fact that we directly awarded, the level of interest in previous tenders is less relevant here however we have carried out soft market testing and the results of this were that the suppliers suggested they would be keen to bid, should we go ahead with a tendering exercise.

Based on the suppliers able to offer services under lot 1, we could expect to see a response of around 14 submissions to a mini-competition. We don't know that all would be interested in applying/have capacity to deliver this however current market research has demonstrated a good appetite in the market. We plan to hold another supplier engagement session in early October to allow any suppliers not part of the initial market testing an opportunity to learn more about the opportunity and provide suggestions, which will be used to shape the specification.

## **Social Value, Sustainability & VCSE**

Social Value is a consideration to this procurement, the level of spend and size of supplier would suggest an ability to deliver Social Value outcomes.

The standard Social Value question will be included within the quality submission and given a maximum weighting of 10%. This will be accompanied by an appendix which will provide bidders with an explanation of Social Value and key areas bidders could consider adding value, these will be based on what is most relevant and appropriate to this provision and the market of suppliers.

Areas we could look to target suppliers on will be:

- ❖ Increased employment to local people
- ❖ Increased employment to those most removed from the labour market
- ❖ Increased use of local supply chain
- ❖ Reducing negative and promoting positive environmental impacts

We would expect bidders to be able to provide opportunities to agencies serving our local areas which will increase employment of local people and use of the supply chain. Within the question, we have included some examples including providing opportunities for agencies that work with those more distanced from the labour market. We also expect agencies to provide smart and forward-thinking technological solutions to reduce use of paper and minimise the need for travel on the part of temporary agency staff. This will be written into the specification to ensure it is delivered and give us the ability to challenge suppliers if this does not transpire. In addition to including these areas within the specification, the quality question will give bidders the opportunity to use their expertise to provide further innovative ways to deliver Social Value and allow us to differentiate them.

## **Evaluation**

The evaluation criteria will be a 60/40 quality/price split. The rationale for the criteria is based on a couple of factors:

1. Quality is extremely important and therefore we need to prioritise this, especially as our focus for this procurement has been to secure a better-quality service than we are currently been receiving in terms of supplier capability.

2. In running a mini-competition off the framework, we gain some cost certainty in respect that the set rates for direct award can be considered as maximums and bidders should bid below.

### **Pricing Evaluation – 40%**

For evaluating the overall price from each bidder, we will be using the standard pricing evaluation tool, widely used within the council.

The tender with the lowest total price will receive the maximum score of 100% (weighted at 40%) and the prices of all other tenders will be expressed as a percentage of the maximum score.

Should quotes come in at a higher cost than we are expecting, we have the option to not award and direct award off the framework at the set rate, either short-term whilst investigating other options or for a standard 4-year contract.

### **Quality Assessment – 60%**

All bidders will be required to complete a number of method statements. The quality criteria we will evaluate on will cover the following outcomes:

- Timely and high-quality order fulfilment
- A proactive, human approach to getting things done
- Promoting us as a good employer to work for
- Supporting hiring managers
- Reducing and maximising efficiency in contract spend
- Tangible, measurable Social Value
- Ensuring workers pass compliance to work
- Providing effective contract management
- Managing change
- Co-ordinating and managing a smooth implementation period

The scoring matrix being used is the following:

Score	Classification	Award Criteria
5	Excellent	A response that inspires confidence; specification is fully met and is robustly and clearly demonstrated and evidenced. Full evidence as to how the contract will be fulfilled either by demonstrating past experience or through a clear process of implementation.
4	Good	A response supported by good evidence/examples of the Bidders' relevant ability and/or gives the council a good level of confidence in the Bidders' ability. All requirements are met and evidence is provided to support the answers demonstrating sufficiency, compliance and either actual experience or a process of implementation.



3	Satisfactory	A response that is acceptable and meets the minimum requirement but remains limited and could have been expanded upon.
2	Weak	A response only partially satisfying the requirement with deficiencies apparent. Not supported by sufficient breadth or sufficient quality of evidence/examples and provides the council a limited level of confidence in the Bidders' ability to deliver the specification.
1	Inadequate	A response that has material omissions not supported by sufficient breadth and sufficient quality of evidence/examples. Overall the response provides the council with a very low level of confidence in the Bidders' ability to deliver the specification.
0	Unsatisfactory	No response or response does not provide any relevant information and does not answer the question.

The evaluation team will be made up the whole of the joint working group which includes representatives from both the HR and Procurement teams, as well as more senior Procurement Managers, such as the Head of the Strategic Procurement Service. The collaborating parties are North Somerset Council, South Gloucestershire Council, Bath & North East Somerset Council and the West of England Combined Authority (although WECA will not necessarily participate). In NSC, we intend to also invite staff to join the evaluation panel who manage the process of hiring agency staff regularly and extensively, they will either be evaluators for some or all of the process or as subject matter experts who will advise the evaluators on specific areas of tenderers responses.

### **Contract Management**

Once the new collaborative contract is in place, it will be managed centrally by South Gloucestershire Council on behalf of all four authorities. Contract Management leads will be identified within each authority and this will continue to be the Senior HR Advisor for NSC. The Contract Management leads for each authority will feed into the Main Contract Manager, who will be the first point of contact for any contract management disputes/issues on either the supplier or buyer side, they will have a contract Management Plan and Issues Log in place to effectively manage this however all authorities will support this. It is proposed that Contract Management leads attend a contract management meeting at least quarterly with the Supplier, where they will review MI and any issues, as well as discussing the overall strategic approach to drive continuous improvement and monitor social value outcomes.

Whilst there will be a Main Contract Manager, the Supplier will be expected to liaise with individual Contract Management leads for each authority to resolve any smaller, individual issues. The benefit of a collaborative contract is that the resource allocated to Contract Management should be significantly reduced and streamlined across all four authorities.



The following table outlines how the collaboration will work and this will be communicated to bidders as part of the specification. It identifies the extent of the collaborative arrangement and areas where it would not be considered necessary or practical.

Areas for collaboration	Areas where collaboration is not possible
<ul style="list-style-type: none"> <li>• Use of the same invoicing format and fields</li> <li>• Carrying out one set of contract review meetings with representation from each authority</li> <li>• Establishing one contract lead across all three participating authorities</li> <li>• Use of a generic list of job types</li> <li>• Identical MI templates to be provided across all three authorities</li> <li>• Identical vetting requirements across all three authorities</li> </ul>	<ul style="list-style-type: none"> <li>• One single consolidated invoice across all three participating authorities</li> <li>• One single grading system</li> <li>• One single contract, to be signed only between Lead Authority and Supplier</li> </ul>

The below table demonstrates the contract management tasks that will be undertaken and by whom

Area of Contract Management	Action	Managed by L.A	Managed by All
Basic Contract Management	Payments are monitored and validated in accordance with the agreed payment schedule		✓
	Review Meetings are held at appropriate intervals and actions and decisions are documented	✓	
	SLA/Quality levels are monitored to ensure they meet contract requirements		✓
	The supplier's broader obligations (eg safeguarding, sustainability) are monitored to ensure they are delivered		✓
	MI is utilised and acted upon as per plan established at the outset		✓
	Variations are approved at the right level and appropriate records are maintained	✓	
Performance Management	Carrying out Issue Resolution (including maintaining an issues log) and managing contractual disputes	✓	
	Monitoring of KPIs to manage performance		✓
	Reviewing KPIs regularly to ensure they are still relevant and adequate	✓	
	Maintaining records of the Performance Review process	✓	
	Monitoring contract costs against projected figures		✓
	Undertaking reviews to ensure that delivery still meet stakeholders needs		✓
Risk Management	Ensuring internal governance processes are clear and are followed		✓
	Ownership of Risk Management processes		✓
	Maintenance and regular review of Risk Registers	✓	
	Contingency/business continuity plans are in place	✓	
	Ongoing market analysis is undertaken to identify market risks		✓
	Undertake regular Supply Chain reviews to identify potential vulnerabilities		✓
Relationship Management	Supplier Performance Risks are reviewed and mitigations are in place	✓	
	There is an identified senior manager overseeing the relationship	✓	
	Establish clear process for delivering Innovation, Continuous Improvement and joint working initiatives	✓	

KPI's have been largely set by the wider framework and therefore the evaluation team do not anticipate needing to mandate any further however there is scope to do so as part of the mini-competition exercise. Data will be provided via the Management Information from the Supplier and monitored on a monthly basis, any poor performance will be addressed in quarterly meetings and there will be scope within the terms and conditions to terminate the contract if poor performance reaches a certain level and for a sustained period of time.

Risks that could remain after the conclusion of the procurement process could include inability to provide hard-to-fill roles or the scale of hard-to-fill roles increasing, which is likely given the potential impacts of Brexit, this is highly likely to reduce the numbers of individuals able to deliver certain roles such as carers. This will be targeted as part of the evaluation process and suppliers will be evaluated in line with their ability to mitigate this risk. We will work with the Supplier to develop and stimulate the market, making ourselves as attractive employers as possible and developing temporary agency staff numbers regionally.

## **OPTIONS CONSIDERED:**

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Alternative options we have considered are:

- To allow the contract to lapse, allowing hiring managers to either use individual recruitment agencies across the service or to operating a Preferred Supplier List. This would require no resource from any authority however the option was rejected on the basis that it will result in the Council losing its ability to control costs and consistency, as well as being non-compliant with the Public Contracts Regulations 2015.
- To directly award to another 4-year contract to our incumbent provider Comensura off the MSTAR3 framework. This option would reduce the resource requirement significantly however it was rejected on the basis that it will not drive any improvements and does not allow us to thoroughly test the market for best value for money.
- To carry out an Open Tender independently of the MSTAR3 agreement. This option would allow a wider pool of suppliers to bid however it would be replicating a great deal of work that ESPO have carried out on our behalf. In addition, the buying power of the Council or the Joint Working group would be insignificant in comparison to that of ESPO, therefore we would be unlikely to receive competitive bids to this. Suppliers may also be unwilling to bid, given they have already gone to the trouble of getting onto the national framework.
- To not collaborate with across the 4 authorities with SGC, B&NES and WECA. This would give us slightly longer timescales to have the new contract in place however our buying power would be smaller and we would be unlikely to drive as competitive bids as if we did so as a group. The spirit of the collaboration also allows us to streamline our working practices, making the South West more attractive to agency workers and driving better quality candidates.

- To deliver the contract in-house. This option would give us complete control over the systems and processes however it was rejected on the basis that the administrative burden and cost would far outweigh any savings we could hope to make as we would need to significantly increase resource in this area and that resource would have to have a suitable level of expertise, as well as existing strong working relationships with agencies, that would deliver the same value for money as outsourcing this.

## **FINANCIAL IMPLICATIONS:**

### **Costs**

There are no additional costs anticipated in association with this contract, spend has been decreasing in the existing contract and, whilst we hope to aggregate some of the spend that falls outside of the existing contract, overall spend should remain the same, if not decrease.

Spend for North Somerset Council is as follows:

<b>Expenditure on temporary staffing for 2018/19</b>	Comensura contract	£1.5 million
	Off-contract spend (nursery workers/ executive hire/ ad hoc requirements)	£500k
<b>Projected spend 2019/20</b>	Comensura contract	£1.2 million
	Off-contract spend (as above)	£300k

The current contract has supported the year-on-year reduction in expenditure on agency workers, and this trend should continue into the next contract period.

Further potential savings can be driven from the collaboration with neighbouring Local Authorities as services within the Local Authorities will not be competing against each other for candidates. The increased buying power of our combined spend should drive greater discounts and added value from suppliers, this will be targeted and evaluated with bidders identifying where they can bring further efficiencies.

## **LEGAL POWERS AND IMPLICATIONS**

The use of an existing national framework to carry out a further competition will mean that the pre-established terms and conditions, created by the framework provider, will apply to any contract. The nature of these terms being developed in line with a high value, national framework means they are generally extremely robust and comprehensive.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

Managed Service Providers operate in an increasingly digital environment with online candidate selection processes potentially reducing fuel miles and online billing reducing the need for paper-based systems that are often found with smaller individual agencies.

## **CONSULTATION**

The Council, alongside SGC and B&NES, carried out some soft market testing with suppliers from the ESPO Mstar agreement that could offer both a Neutral and Master Vendor solution, with the addition of our incumbent. The purpose was to discuss our desired outcomes with suppliers and gauge the approach they would recommend. The outcome of this session was that most suppliers supported our proposal to go to the market with an outcomes-based specification to which they could propose a blended approach. We will deliver another supplier engagement session in early October for any suppliers on the ESPO framework under Lot 1 who are interested in the opportunity and/or wish to provide feedback. This will help us to shape the specification to make the opportunity as attractive as possible to the market.

Further consultation with Service managers with responsibility for recruitment will inform the tender evaluation process.

## **RISK MANAGEMENT**

The current contract with Comensura expires in May 2020. If the council does not recommission for agency worker supply, managers will need to hire agency workers through individual agencies. This presents a risk of escalating costs and inconsistent charges being applied. The Council may also take on an additional administrative burden in terms of areas such as invoicing, compliance monitoring, performance and activity monitoring.

As discussed above, there is a risk of no one supplier being able to provide for all hard-to-fill roles or the scale of hard-to-fill roles increasing, leaving the Local Authorities unable to resource frontline services. The chances of hard-to-fill roles becoming harder-to-fill is high, given the potential impacts of Brexit. There is a strong chance that the impact of the UK leaving the EU will reduce the numbers of individuals able to deliver certain roles such as carers and may drive salaries up for those who remain and have a captive market. This will be targeted as part of the evaluation process and through active contract monitoring and management.

There is a very low risk that TUPE is deemed to apply in the scenario of contracting with a new supplier and therefore bidder's pricing increases to include this provision, the joint working group have already had verbal confirmation from the incumbent that TUPE will not apply and are in the process of gaining written confirmation.

## **EQUALITY IMPLICATIONS**

Have you undertaken an Equality Impact Assessment? Yes

The summary EIA identifies no issues. Suppliers' commitments to supporting a diverse workforce will be assessed through the procurement process; managers will apply the same equality and diversity principles in their selection processes as they do currently.

## **CORPORATE IMPLICATIONS**

The proposed recommissioning exercise intends to have a positive impact on the budgets and time constraints for hiring managers that depend on non-employed workers to meet service demands.

The implementation phase may involve an initial training period to use new online systems, although it is expected that disruption should be kept to a minimum through the use of online user-guides and full support from the supplier. Bidders will be evaluated based on their ability to provide a smooth transition to the new contract.

The period from the point of award until contract commencement will need to focus on managing existing agency assignments to ensure a smooth transition for services. Communication and engagement with hiring managers, existing agency workers and agencies will be key to ensuring continuity.

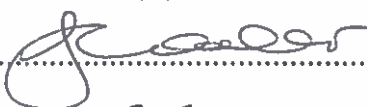
## APPENDICES

N/A

## BACKGROUND PAPERS

### SIGNATORIES:

#### DECISION MAKER(S):

Signed: 

Title: ..... CEO .....


Date: ..... 14/10/2019 .....

Signed: 

Title: ..... NSC .....

Date: ..... 14.10.19 .....

#### WITH ADVICE FROM:

Signed: 

Title: ..... HEAD OF STRATEGIC PROCUREMENT .....

Date: ..... 14.10.19 .....

Signed: .....

Title: .....

Date: .....

**Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable:**





