



**Notice of KEY Executive Decision**

<b>Subject Heading:</b>	The London Borough of Havering on behalf of the London Libraries Consortium seeks approval to extend the Axiell Ltd contract for a period of twelve months.
<b>Cabinet Member:</b>	Cllr Melvin Wallace
<b>SLT Lead:</b>	Sarah Homer Sarah.homer@havering.gov.uk
<b>Report Author and contact details:</b>	Alexis Wainwright <a href="mailto:Alexis.wainwright@havering.gov.uk">Alexis.wainwright@havering.gov.uk</a> Telephone: 01708 433126
<b>Policy context:</b>	Library Services and data protection policy.
<b>Financial summary:</b>	The total value of the contract extension over the proposed twelve month term for the 17 London Boroughs is expected to be £612,330. Havering's liability is c. £32,438 of this, and will be funded from existing revenue budget.
<b>Reason decision is Key</b>	As there are libraries in all wards this decision is a Key Decision.
<b>Date notice given of intended decision:</b>	7 <sup>th</sup> December 2017
<b>Relevant OSC:</b>	Culture and Customer Access
<b>Is it an urgent decision?</b>	No.
<b>Is this decision exempt from being called-in?</b>	

The subject matter of this report deals with the following Council Objectives

Communities  
Havering

making  
[x]

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Places making	
Havering	[x]
Opportunities making	
Havering	[X]
Connections making	
Havering	[X]

***Place an X in the [] as appropriate***

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The London Borough of Havering on behalf of the London Libraries Consortium seeks approval to extend the Axiell Ltd contract for a period twelve months.

### AUTHORITY UNDER WHICH DECISION IS MADE

#### *3.3 Powers of Members of the Senior Leadership Team*

##### *Contracts Powers*

*b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.*

### STATEMENT OF THE REASONS FOR THE DECISION

The London Borough of Havering was the Lead Borough/chair of the London Libraries Consortium (LLC) until 2016 when this responsibility transferred to Sutton. LBH in its previous capacity awarded a single supplier Framework Agreement for the supply of a library management system to Axiell Ltd in 2004.

The Consortium is currently made up of 17 authorities, which all share the current Library Management system (LMS). The LMS holds the details of all the stock items, the catalogue, online resources, and website and library memberships across the consortium.

The Framework is a rolling contract and will only terminate by the Council giving notice of the same to the Supplier.

As the role as the lead borough/chair of the LLC has now passed to the London Borough of Sutton, Sutton will be undertaking the procurement process to award a new library systems contract. As the award of this contract will not be concluded by March 2018 the LLC has requested that Havering, as the organisation that awarded the original contract, extend the existing contract by twelve months to allow the new contract to be awarded and solution implemented by members. LBH procurement services and the libraries team have been working closely together.

It is proposed to extend the existing contract using the Council's right under clause 31 (amendments to this agreement and work order)

The value of the initial contract for the provision of maintenance was c.£7.9m, the value of the required one year extension is c. £612,330. This is therefore compliant with the Councils requirement of the extension being less than 50% of the initial contract value.

It is proposed to issue a VEAT notice of the Councils intention to directly a contract for the Axiell system allowing LB Sutton the time requested to conclude the award of the

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new contract.

Havering as a member of the LLC is supporting the award of the new contract and have participated in the development of the specification and will support the evaluation of the responses when received. This procurement process is currently underway with the award of a new contract expected early/mid 2018 with the implementation to commence across all LLC members thereafter.

Each LLC member will make their own call-off from the interim Axiell contract. To support the implementation of the new system each call off can be cancelled without financial penalty after six months by giving the supplier three months' notice. Each LLC member will manage their own call off and subsequent cancellation. This will ensure both a continuation of service throughout the award of the new contract and subsequent system implementation. LLC members have been informed that if they fail to implement the new system by March 2019 Havering will not be awarding a further interim contract.

LLC Rebate Fund: To support development initiatives by the LLC the supplier has historically paid a rebate to the lead borough. As there will be no further developments until the new contract has been awarded the members of the LLC have agreed that the payment of a rebate will cease, Axiell have agreed to reduce their costs to compensate for a rebate not being paid.

To ensure LLC members (including Havering) have a supported management system and a functioning cost effective Library Service during the award of the new contract it is recommended to award an interim contract to Axiell.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

The option of allowing the current contract to end and doing nothing is not considered a viable option. In this case Havering and other members of the LLC would not have a supported Library management system and a functioning cost effective Library Service. As a Borough we would also be unable to fulfil statutory functions under the Public Libraries and Museums Act 1964

### **PRE-DECISION CONSULTATION**

Havering has consulted with Sutton and also the other members of the LLC who have requested that Havering award (extend) the existing contract

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Alexis Wainwright,  
Designation: Library Manager, Culture and Customer Access.

Signature:

Date:

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The Council, (a Library Authority as defined within the Public Libraries and Museums Act 1964) has the power, under section 7 of the same Act, to make facilities for the borrowing of books and other materials available to any persons.

Officers are satisfied that Axiell Ltd have performed the service to a satisfactory level under the current Framework and now seek to extend the current arrangement until the London Borough of Sutton have completed their procurement process and appointed suppliers to their Framework.

In 2004 the Council set up a Framework for the London Libraries Consortium and granted access to eleven other London Boroughs. Such a Framework is therefore governed by the Public Services Contracts Regulations 1993 and although the current Regulations prohibit the term of a Framework exceeding 4 years, the 1993 Regulations are silent on this. The term of the Framework was subsequently amended so that it would be on a rolling basis as opposed to a defined term. To terminate the agreement, the Council needs to give the Supplier 12 month's written notice.

However, the Council has a duty under section 3(1) of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The Council also has a duty to obtain value for money through all contracts it procures.

Furthermore, fundamental treaty principles of the EU require non-discrimination, equal treatment and transparency with the aim of fostering a common internal market. Continuously using the same Supplier for this service creates a risk of legal challenge to the Council. This risk is somewhat mitigated by the London Borough of Sutton's procurement process for this service.

The London Borough of Sutton is currently conducting a competitive tender for this service under a new Framework and will subsequently become the lead authority. The new Framework is estimated to be in place by April 2018; however, each Council will first need to transfer all data from one system to another which will take approximately [30 weeks]. The Framework set up by the London Borough of Sutton will be accessible to all local authorities within the UK and Community libraries.

The requirement to publish a contract notice before awarding a contract does not apply if the Council has published a voluntary transparency notice (VEAT Notice) in the Official Journal, expressing its intention to enter into the contract; and the contract has not been entered into before at least 10 days beginning with the day after the date on which such a VEAT Notice was published. Although continuing with the contract on a rolling basis is not technically awarding a new contract, the risk of legal challenge still applies. The advantage of a VEAT Notice is that 30 days after a valid a VEAT Notice is published, it will be difficult for an interested party to bring any action. Any interested parties will also likely be tendering for the services through the London Borough of Sutton's procurement.

CPR 19.9 confirms a member of SLT is required to approve an extension to a contract with a value between the £164,176 and £5,000,000.

### **FINANCIAL IMPLICATIONS AND RISKS**

Havering's share of this contract is approximately £32,438 and will be funded from existing revenue budget.

Whilst it may be possible to achieve a lower price following a full procurement exercise this cannot be delivered with the timescale allowed and must be balanced against the risks associated with system failures due to having an unsupported system. The costs proposed are in line with the cost of the existing contract.

If agreement was not established then Havering will be required to tender for a new Library management system to provide services at a Borough level and would incur increasing implementation costs by:

- Losing the cost benefits of consortium purchasing.
- The authority would have to pay the direct costs for the creation of a new contract or framework agreement and allocate staff to undertake this work.
- The authority would have to leave the LLC and disaggregation costs would be charged.
- Loss of benefits of shared knowledge and shared working.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

Failure to award an interim contract would leave the authority without a supported stock management system and a functioning, cost effective Library Service. The authority would also need to leave the consortium and staff would need to be assigned to undertake the procurement of a new system and disaggregation works relating to LLC.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The provider is expected to comply with Equality Act legislation and have an equality policy in place pertaining to staff and service users. The service will remain accessible to all potential users, including disabled people with sensory impairments.

### **BACKGROUND PAPERS**

None

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**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

Proposal NOT agreed because

**Details of decision maker**

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on

0/12/2017

Signed

