

Notice of KEY Executive Decision

NOTE – red text (including this note) is for guidance and should be deleted from the actual decision

Subject Heading:	Decision to tender for a concession contract for a film service in Havering
Decision Maker:	Gareth Nicholson, Director, Partnerships & Organisational Development
Cabinet Member:	Councillor Ray Morgan
SLT Lead:	Gareth Nicholson, Director, Partnerships & Organisational Development
Report Author and contact details:	Kaz Thomas <u>Kaz.thomas@havering.gov.uk</u> 01708 431869
Policy context:	The decision is to be made in line with the procurement policy and guidelines
Financial summary:	This contract is for 3 years, with the possibility to extend for a further 2 years. The awarding of the concession is projected to have a positive effect, offering both a potential increase in revenue above the £5,000 per annum currently received from filming work in the borough, and a

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	reduction in staff time and resources.
Relevant OSC:	N/A
Is this decision exempt from being called-in?	Yes. It is a non-key decision by a member of staff.

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

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input checked="" type="checkbox"/>

Place an X in the [] as appropriate

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Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Approval to commence the tendering process for a concession contract for managing filming in Havering for 3 years with a 2 year extension with a view to maximising income for Havering.

AUTHORITY UNDER WHICH DECISION IS MADE

3.3 Powers of Members of the Senior Leadership Team

Contract powers

(a) To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services.

STATEMENT OF THE REASONS FOR THE DECISION

Havering receives a number requests to film in the borough each year requiring resources needed to manage these requests in line with the council's policies and statutory requirements. Fees and charges are applicable providing the ability for the council to generate income and market the borough for inclusion in a range commercial filming requirements.

Currently, Havering Council use Film Fixer to provide a film service and the existing contract is due to end on 1 September 2022.

In line with the financial challenges the council is looking to retender this contract to maximise income and is looking for a dedicated resource to manage filming in the borough and the council intends to go out to tender for companies to bid to provide a filming service and seek best value.

The council will not pay the concessionaire for its service but this arrangement will generate income for the council because the concessionaire will charge the film production companies a fee for filming in the borough. The size of the fee will depend of the size of the crew and the length of time for filming. There will be an agreed percentage split between the council and the filming service to maximise income for the council, through which the council will receive an agreed percentage of the profits that the concessionaire will make through the agreements it will make with the film production companies.

OTHER OPTIONS CONSIDERED AND REJECTED

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Havering Council could again begin to manage filming in the borough on an ad-hoc basis. This is not recommended because it would mean the council would be missing out on potential revenue. It would also take up a significant amount of officers' time.

Around two thirds of London councils externalise their film service on a concession basis as it offers best value.

Another option would be developing an in-house capacity to manage and market filming. This option was rejected as it would be very resource intensive, particularly in the short term. It would therefore entail a significant financial pressure to the council.

PRE-DECISION CONSULTATION

N/A

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

Name: Kaz Thomas

Designation: Marketing Assistant

Signature: K.Thomas

Date: 19.08.22

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The council is a contracting authority which has the power to award a concession contract within the meaning of regulation 4 of the Concession Contracts Regulations 2016. The council also has the power to award contracts through section 111 of the Local Government Act 1972, which allows the council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, or through its general power of competence under section 1 of the Localism Act 2011 to do anything that individuals generally may do. There are limitations on the general power of competence, but the limitations do not apply to this decision.

Officers have estimated this arrangement will generate around £7,000 of income per year for the council. Over the course of a three year contract, the total income is estimated to be around £21,000. This will be increased to £35,000, if the contract is extended another two years.

The concessionaire's total turnover will undoubtedly be significantly higher than that figure, but it will certainly be below the applicable threshold for concessions contracts stipulated in the Concessions Contracts Regulations 2016 ("CCR") of £5 336 937. Therefore, the proposed contract value is below the applicable threshold in the CCR and consequently it is not subject to the full CCR regime.

For the reasons set out above, the council can start the tendering process.

FINANCIAL IMPLICATIONS AND RISKS

The Communications Service is seeking to appoint a company to manage the relationship between the council and film companies who are seeking to operate within the borough. It is deemed more cost efficient to employ a company to carry out this work on Havering Council's behalf rather than manage it in-house using officer time and that this approach would garner better results in terms of revenue or income generated.

The service will be following the appropriate procurement route to secure this contract and a report will be re-presented at the point of contract award at which stage details of the financial implications will be better understood and able to be considered prior to awarding the contract.

The existing contract brings in about £5000 per year of income to the council. The council does not pay the current concessionaire for its service but receives a 60% split of the profit made through the current arrangement and the current concessionaire retains 40% of the profit.

The amount of income the new contract will create for the council will depend on how much business is generated which cannot be known at this stage. The evaluation of

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tenders will take into account any guaranteed income, predictions of the amount of profit that will be made over the term of the contract and the percentage of profit that the council will receive, along with expertise and quality scores.

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

There are no HR implications or risks.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The provider is required to demonstrate an active commitment to the principles and values set out in the Equality Act 2010. Under s.149.(1) Equality Act 2010 a public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The council will embrace the Environment and Climate Agenda both strategically and globally through its development of footprint reduction initiatives, Climate Action plans and externally delivered services. The council will strive to minimise negative impacts and optimising positive opportunities delivering our Climate change action plan.

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BACKGROUND PAPERS

N/A

APPENDICIES

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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

Details of decision maker

Signed GD Nicholson

Name: Gareth Nicholson

Director, Partnerships & Organisational Development

Date: 22/08/2022

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____