



Havering
LONDON BOROUGH

Notice of Non-key Executive Decision

Subject Heading:	Direct Award of Banding Increase Contract - to incumbent supplier Bottomline
Decision Maker:	Simon Oliver Director of Technology and Innovation
Cabinet Member:	Cllr Paul Middleton Cabinet Member for Corporate, Culture and Leisure Services
SLT Lead:	Simon Oliver Director of Technology and Innovation
Report Author and contact details:	Karen Harris Karen.harris@Havering.gov.uk 01708 432921
Policy context:	<p>This request coincides with the Corporate Resources Theme – A well run Council that delivers for People & Place</p> <p>1) The Council is financially resilient and provides value for money services to residents ensuring it is monitored fairly and transparently</p> <p>Outcome</p> <ul style="list-style-type: none">• Ensuring best value from contracts through procurement and commissioning• Managing the risk of the financial circumstances <p>2) The Council is digitally enabled</p> <p>Outcome</p> <ul style="list-style-type: none">• Refresh the Council IT hardware and more to the cloud where appropriate
Financial summary:	This report is requesting approval to commence a new contract with Bottomline, for an increased banding

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	<p>allowance, with immediate effect. This request is as a direct award, for £38,095 per annum.</p> <p>The incumbent contract, at £7623 per annum, with Bottomline has a lower banding and is incurring excess usage charges to the value of £10,000 to £15,000 per month.</p> <p>Costs are currently funded by Treasury Management budget. This will need to be increased by approx. £30k to meet the cost of the new contract.</p> <p>This will allow cost avoidance of excess usage charges of over £120,000 per year for the incumbent lower banded contract.</p>
Relevant OSC:	Overview and Scrutiny Board
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place. X

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To agree to:

1. Terminate the contract for PTX with Bottomline which commenced on 21st July 2023 on the 5th February 2023 as set out in this report; and
2. Subject to 1 above, to award a 12 month contract commencing on 6th February 2023 to Bottomline Technologies Limited for the provision of BACs payment processing software to the value of £38,095.

AUTHORITY UNDER WHICH DECISION IS MADE

OneSource Scheme of Delegation

B20. Power to refer contracts to arbitration, to terminate contracts, withhold payments and enforce contract terms pursuant to financial procedures. Level A officer

B21. To award contracts on behalf of participating councils Up to £500,000 Level A officer - in compliance with the Contract Procedure Rules of each participating authority

Havering Constitution

Part 3.4 Powers of Second Tier Managers-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

The PTX solution is responsible for processing 1.25 million BACs payments for LB Havering, a key service. In September 2022 we migrated to the supplier's new Cloud solution PTX as the previous BACWAY software, which had been in place for a number of years, was deprecated by the supplier.

A consequence of this upgrade is a change in the definition for what constitutes a transaction. As a result the Borough is incurring significant unbudgeted charges for excess usage, approximately £10,000 plus per month.

The Council's existing contract, at the lower banding, with Bottomline for PTX expires in July 2023. However, discussions with the supplier have established the option to terminate the existing contract by agreement on the condition that the Council will

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immediately enter into a new 1 year contract to cover the anticipated 1.2m transactions (1.5m max transactions to allow uplift) at a cost of £38,095 per annum.

The Council has already paid the 2022/23 annual fee for the existing contract in advance. Bottomline will refund this fee on a pro-rata basis. This refund will be applied to the price of the new contract. Terminating the existing contract and entering into the new contract will provide cost avoidance of circa £120,000 per annum.

In the context of the relatively low value of the contract together with the anticipated savings by entering into the direct award as set out in this report, the direct award is considered best value for the Council. In addition, remaining on the existing PTX (fit for purpose) platform is considered lowest risk and avoids cost of change.

A waiver to the contract procedure rule requirement to use a request for quotation process was granted on 2nd February 2023.

OTHER OPTIONS CONSIDERED AND REJECTED

Do nothing – Havering would continue to pay additional overage costs of £10k-£15k per month until the expiration of the existing contract in July 2023. At which point Havering would then increase its contract to cover the anticipated 1.2m transactions per annum at a cost of £38,095 per annum.

Call off the appropriate terms via GCloud13 – GCloud has significantly higher costs for the base license of 1.5m transactions per annum at £69.3k. Havering would continue to incur overage charges of £10k-£15k per month due to the time required to undertake the formal call off process.

Transfer to a managed provider – The decision to transfer to a managed provider is not to be taken at this time. Havering would continue to incur overage charges of £10k-£15k per month due to the time required to discuss, agree and undertake this transfer.

PRE-DECISION CONSULTATION

No formal consultation with the public required
Stakeholder consultation has been undertaken

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

Name: Karen Harris

Designation: IT Implementation Manager

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Signature: *K Harris*

Date: 24/2/23

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has power to terminate the existing contract and to enter into the proposed replacement contract under the general power of competence contained in section 1 of the Localism Act 2011 which allows the Council to do anything that an individual may do subject to any statutory constraints on the Council's powers. None of the constraints on the Council's s.1 power are engaged by this decision.

The Council also has power to terminate and procure the contracts under s111 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.

The parties may mutually agree early termination of the existing contract. The termination should be documented in writing. The Council's contracts team can provide advice in this regard as required.

The Council is a contracting authority for the purposes of the Public Contracts Regulations 2015 (PCR 2015). The value of the new contract is below the PCR 2015 threshold of £213,477 for goods and services. The contract is not caught by the full PCR 2015 regime however the award should comply with the Council Contracts Procedure Rules (CPR)

The CPR require that procurement of contracts with a value between £25k-£99,999 are subject to a request for quotation process with a minimum of 3 quotes. A waiver from these requirements was granted on 2 February 2023.

As set out in the report officers have confirmed the proposed contract is considered to represent best value for the Council.

For the reasons set out above the Council may enter into the contract.

FINANCIAL IMPLICATIONS AND RISKS

The direct award of this contract with the incumbent supplier Bottomline will result in an increase in the annual contract of cost of £30,472 from £7,623 to £38,095, however, it will also result in the avoidance of overage costs in the region of £120k per year. Therefore, net of the increase in contract costs, entering into this direct award will be saving the council in the region of £86k per year.

The new contract has a contingency figure built in which will mitigate against the risk of transactions increasing above estimates over the next 12 months. However, if the 1,500,000 figure is exceeded the new contract has the added benefit of overage charges of 4p per transaction rather than 10p per transaction.

Costs are currently met from within the Treasury Management budget which will need to be increased by £30k per year on an ongoing basis in order to meet the new cost of the contract.

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Existing Contract

Estimated number of transactions per month	100,000
Estimated number of transactions per year	1,200,000
Amount of transactions allowed for within existing contract	30,000
Amount of transactions subject to excess charge	1,170,000
Cost of excess charge per year at 10p each	117,000
Cost of Contract	<u>7,623</u>
Total annual cost of Contract plus excess charge	<u>124,623</u>

New Contract

Estimated number of transactions per month	100,000
Estimated number of transactions per year	1,200,000
Amount of transactions allowed for within new contract	1,500,000
Contingency amount	<u>300,000</u>
Cost of Contract	<u>38,095</u>

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

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

This is decision is for a direct award of a new software contract with the incumbent supplier for a transactions banding increase.

There is no requirement to conduct an Equalities Assessment or Social Inclusion Impact assessment as this decision has no impact on any vulnerable groups.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

This is decision is for a direct award of a new software contract with the incumbent supplier for a transactions banding increase.

There will be no impact on carbon emissions, biodiversity improvements or climate change.

BACKGROUND PAPERS

None

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.

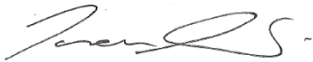
Decision

Proposal agreed

Delete as applicable

~~Proposal NOT agreed because~~

Details of decision maker



Name: Simon Oliver

Head of Service title: Director of Technology and Innovation

Date: 24/02/2023

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 _____