
REPORT FOR: CABINET

Date of Meeting:	18 January 2018
Subject:	Library Management Contract Extension
Key Decision:	Yes
Responsible Officer:	Paul Walker, Corporate Director of Community
Portfolio Holder:	Councillor Sue Anderson, Portfolio Holder for Community, Culture and Resident Engagement Councillor Adam Swersky, Portfolio Holder for Finance and Commercialisation
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	Appendix 1: Equalities Impact Assessment Appendix 2: Contract Performance

Section 1 – Summary and Recommendations

This report sets out proposals to continue the current contract for the provision of Library Management for five years from September 2018 (as permitted by the current contract).

Recommendations:

Cabinet is requested to:

- i) Delegate authority to the Corporate Director of Community, following consultation with the Portfolio Holder for Community, Culture and Resident Engagement, the Portfolio Holder for Finance and Commercialisation, and the Director of Finance, to agree the continuation of the current contract for the provision of Library Management for a further five years from September 2018.

Reason: (For recommendations)

To allow the continuation of the contract with Carillion Integrated Services Ltd (CIS) for a further five years from September 2018 to provide a cost effective library management service that is performing satisfactorily.

Section 2 – Report

1. Introductory paragraph

The Council awarded its Library Service contract to John Laing Integrated Services Ltd (subsequently Carillion Integrated Services Ltd) for ten years from 1st September 2013.

Under the terms of the contract the Council can invoke an early termination of the contract option after the first five years of the contract but the Council will incur a termination payment cost if it does so. This report is submitted to Cabinet for approval to continue the contract for a further five years until 31st August 2023.

2. Background

2.1 Cabinet approved the award of the contract for delivery of Library Management Services to John Laing Ltd (subsequently Carillion Integrated Services Ltd) in June 2013. A joint procurement exercise on behalf of Ealing and Harrow Councils was undertaken, and the award of contract required the approval of both Councils

2.2 The contract covers the management of the following services:

- Six static libraries
- Libraries back office support services;
- Home Library Service;
- Schools Library Service

2.3 The contract term was set at 10 years, with the option of an early termination after the first 5 years at the absolute discretion of Ealing and Harrow Councils. The Service is managed day to day by Cultural Community Solutions (CCS), a Not for Profit Distribution Organisation subsidiary of CIS.

2.4 The contract includes key performance indicators for the following and service credits are due where minimum performance indicators have not been achieved:

- increased participation through usage (library throughput, library issues, and library members)
- increased participation by target groups to ensure accessibility of services for all
- development of libraries as community hubs to ensure use by non-traditional groups
- increased external grants and investment
- improved user satisfaction
- more word of mouth recommendations

- higher quality of service assessed through targets for mystery shopping exercises
- environmental sustainability through reduced utilities consumption and % of waste recycled
- social sustainability through staff satisfaction and staff/volunteer make-up representative of the ward profiles
- economic sustainability through apprenticeships, work placements and jobs for borough residents and through the use of local suppliers.

2.5 A shared contract management model across Ealing and Harrow was adopted as the most cost effective method of managing the contract. The joint contract management team for Library Services has line management reporting into Harrow's Service Manager – Libraries, Sport and Leisure. The relationship between the two councils is detailed in an Inter-Authority agreement. Policy and decisions on strategic matters remain with each council.

2.6 There have been a number of service improvements since the start of the contract with CIS including:

- Implementation of free public access Wi-Fi in all libraries, and a refresh of the public access computers.
- Introduction of e-books, e-magazines, and additional online resources.
- The delivery of grant funded programmes following successful applications by CIS including a £45k funded programme 'Enterprising Libraries' and 'Books Beyond Words Plus' a £92k funded programme for adults with learning difficulties.
- Improved marketing including a quarterly 'What's On' guide, and a monthly e-newsletter.

3. Current Situation

3.1 The contract with CIS started on the 1st September 2013. The first five years of the contract ends on the 31st August 2018. If Ealing and Harrow wish to continue the contract for a further five years each authority must give at least six months prior written notice to CIS. The deadline for informing CIS of the decision to extend the contract is the 28th February 2018. The end date for the full ten years of the contract is 31st August 2023.

3.2 If the contract is not continued for the full ten year term, Ealing and Harrow will be liable for payment of a termination sum to reflect the difference in the ten year and five year contract price. The one-off termination sum for Harrow would be £485,120.

3.3 Officers in Ealing are also recommending that the contract with CIS is extended for the full ten year term.

4. Options considered

Option A: Early termination of the Library Contract with Carillion Integrated Services Ltd (CIS) and re-tendering of the library contract.

Whilst a re-tendering of the library contract could be undertaken the market in the UK for the management of Library Services is currently limited. In London 26 out of the 33 London Authorities are run in-house. Other than CIS, the other contractor who is currently managing multiple Library Services is Greenwich Leisure Limited (GLL). Vision Redbridge Culture and Leisure Trust manage Redbridge Libraries on behalf of the Council. In addition to the joint contract with Ealing and Harrow, CIS are also currently contracted to manage the Library Services in Croydon. GLL are currently contracted to manage Library Services in Greenwich, Wandsworth, Bromley, Dudley, and Lincolnshire. This approach would also mean that the termination sum of £485,120 would be payable to CIS.

This option is not recommended.

Option B: Early termination of the Library Contract with Carillion Integrated Services Ltd (CIS) and return of the service to Council operation.

An analysis of the costs of running the service in-house, based on the costs in 2012-13 prior to the commissioning of the service in September 2013, indicates that the cost would be greater than continuing the current contract with CIS. This option would also involve a significant one off cost for bringing all of the libraries ICT back onto the Council's Corporate Network and an on-going IT support charge. The Council would also be responsible for all facilities management costs. Under the terms of the current contract CIS is responsible for the initial £5k of repair and maintenance per item. This approach would also mean that the termination sum of £485,120 would be payable to CIS.

This option is not recommended.

Option C: Continue the Library Contract with Carillion Integrated Services Ltd (CIS) for the full ten year term.

This option would enable Harrow to continue to benefit from a cost efficient delivery of library services, with a comparison with the costs of delivering in-house indicating that the costs to manage the service would be higher if the service was returned to Council operation. Harrow would benefit from the ten year price with no termination sum being due to CIS. The current market for re-tendering the contract is also limited. The performance of the contract to date has been satisfactory with CIS supporting the wider strategic objectives of the council.

This option is recommended.

5. Implications of the Recommendation

5.1 Performance Issues

The contract with CIS includes a range of Key Performance Indicators (KPIs) with Service Credits due for non-performance. The performance of the contract is detailed in Appendix 2. Whilst the KPI targets for increasing participation (library visits, stock issues, and new members), have not been met performance on the whole for the first four years of the contract compares favourably with the national trend (national statistics not yet available for 2016-17). A performance summary is as follows:

- There has been an increase in new members on average of 4.81% annually in the first four years of the contract.
- Library visits decreased on average by 1.25% per annum during the first three years of the contract compared to a national average decrease of 3.91% (the national statistics for 2016-17 are not yet available). During the first four years of the contract visits decreased on average annually by 0.76%. There was, however, an increase of 0.56% in visits in 2016-17 compared to 2015-16.
- During the first four years of the contract stock issues decreased on average annually by 7.59% compared to a national average decrease of 7.7% in the period 2013-14 to 2015-16 (the national statistics for 2016-17 are not yet available). Stock issue statistics declined above the national average in 2013-14 and 2014-15 although there has been a significant improvement in 2015-16 and 2016-17. There has been a reduction in the stock fund from £323,000 in 2014-15 to £200,000 in 2016-17. The installation of a new Library Management System in 2013-14 also impacted on stock issue statistics.
- Appendix A also details the Service Credits that have been paid to the Council for non-compliance for four KPIs during the first four years of the contract. There has regularly been Service Credits due for increasing participation, delivery of actions in the Annual Green Travel Plan, and for Social and Economic Sustainability.

6. Risk Management Implications

Risk included on Directorate risk register?
Separate risk register in place? Yes

A risk register is in place for this project. Key risks and mitigation are as follows:

- i) CIS becomes insolvent and is not able to fulfill its contractual obligations

Mitigation

A Parent Company Guarantee is in place between CIS and Carillion PLC. Carillion PLC has announced unfavourable financial performance recently but has reiterated its continuing ability to deliver its contractual obligations. Ealing and Harrow has a contingency plan that would be put into operation if this changed.

- ii) The current Library Service budget of £1.83m is not a sufficient budget for the indexation increases that are due under the terms of the contract.

Mitigation

Some of the budget shortfall can be mitigated by a drawdown from the libraries reserve which has been set aside in the event that the contract is not continued after the end of the fifth year of the contract. A growth funding bid has been submitted for the indexation increase which is subject to a separate approval as part of the 18/19 budget process.

- iii) There is a risk that MTFs targets for the library service that were predicated on re-provision of libraries will not be achieved within the required timescales.

Mitigation

Due to delays in the re-provision of libraries including the move to the new Town Centre Library it has been requested that the saving of £209k profiled in 18/19 is re-profiled to later years. This is subject to a separate approval as part of the 18/19 budget process.

- iv) There is a reduction in performance levels during the remaining 5 years of the contract with CIS.

Mitigation

The contract includes Key Performance Indicators (KPIs) with performance payment mechanisms in place for failure to meet these KPIs.

- v) There is a requirement to change or terminate the contract before the end of the contract due to strategic decisions.

Mitigation

The contract and leases include change control mechanisms, and redevelopment and break clauses.

- vi) A future change in contractor managing the Library Service could result in there needing to be a change in Library Management System resulting in the Council incurring additional costs.

Mitigation

This report recommends extending the library contract with CIS. If CIS decided to terminate the contract early under the terms of the contract the Council could make a claim for resulting costs incurred by the Council as a result of this.

7. Legal Implications

7.1 The Public Libraries and Museums Act 1964 makes it the duty of every library authority to provide a “comprehensive and efficient library service for all persons desiring to make use thereof”. The proposals in this report would support this.

7.2 There are a number of legal powers that supported the proposal to move libraries provision to an external provider, which were as follows:

- a) Section 19 (1) of the Local Government (Miscellaneous) Provisions Act 1976: local authorities have power to provide such recreational facilities as they think fit and by virtue of section 1 of The Local Government (Contracts) Act 1997 they also have power to enter into a contract with another person in connection with the provision of those facilities.
- b) General power of competence: Section 1 of the Localism Act 2011 gives the Council power to do anything individuals may do and this includes entering into contracts for services and leasing arrangements.
- c) Power to make contributions towards others providing library facilities: Section 9(1) of the Public Libraries and Museums Act 1964: gives the Council an additional power to make contributions towards the expenses of any other person providing library facilities for members of the public.
- d) Power to provide goods and services: Section 2 of the Local Authorities (Goods and Services) Act 1970 allows local authorities to provide to other authorities and specified public bodies, goods and materials and administrative, professional and technical services on such terms as may be agreed. This is a wide power although it does not extend to services which are not administrative, technical or professional in nature.
- e) Power to provide officers: Section 113 of the Local Government Act 1972 allows an authority to place its officers at the disposal of another authority on such terms as they may agree. An officer provided under section 113 is treated for all purposes as an officer of the recipient authority for the discharge of its statutory functions. Such an officer can therefore hold statutory offices e.g. section 151 or monitoring officer and can exercise delegated authority etc. The providing authority must consult with the officer before entering into an agreement and it will probably be necessary to vary the officer’s contract of employment (see below).

- f) Power to delegate: With the exception of a small number of Council-only decisions and functions outside the general rules on delegation, Council functions are either executive, which can be discharged by the executive, an executive member or an officer, or non-executive, which can be discharged by Council, a committee, or an officer. Such functions can also be delegated to another local authority (which may then discharge it through a committee or an officer), in the case of non-executive functions (s.101 Local Government Act 1972), and to another authority's executive (regulations under s.19 of the Local Government Act 2000) in the case of executive functions. The function of levying a rate can only be discharged by the authority itself. Non-executive functions may also be exercised jointly by one or more authorities and a joint committee established for the purpose or the functions delegated to an officer. Similarly, executive functions may be exercised jointly by a joint committee of executive members.
 - g) Power to grant leases or licenses: The Council has the power to dispose of property under s123 of the Local Government 1972 Act. This is subject to an obligation to obtain the best consideration that can reasonably be obtained (except for leases of seven years or less) unless the Secretary of State's consent is obtained for the disposal whether by means of a general consent or otherwise.
- 7.3 Ealing and Harrow had conducted the original tender process in accordance with principles of transparency, fairness and equal treatment as required by regulation 4 of the Public Contracts Regulations 2006 (as amended) and the EC Treaty
- 7.4 The Council complied with the requirements of The Transfer of Undertakings (Protection of Employment) Regulations 2006 when the contract was awarded as it involved a service provision change, including consultation requirements with affected staff and Unions, and the provision to the new employers of employee liability information.
- 7.5 The contract was publically advertised as a ten year contract and the contract terms expressly permit the Council to extend the initial contract five year term for a further five years.
- 7.6 If the Council does not extend the contract for a further five years it will incur a contract termination payment of £485,120.

8. Financial Implications

- 8.1 When the libraries contract was originally let in 2013, the contract payment was £2.23m per annum. This sum is subject to an indexation uplift every two years, calculated in accordance with the pay award for the staffing element and RPI increase for the non-staffing element within the contract. As part of the implementation of Library Strategy 2015-2018, the contract sum was reduced to £1.83m. Indexation uplifts were due in August 2015 and August 2017 respectively, meaning that the contract costs for the 5th year of the contract (September 17 to August 18) are approximately £1.97m.

8.2 Based on the above, the costs of the contract are £1.93m in 2017/18 and £0.82m (5 months to the end of the 5th year) in 2018/19. There is currently an annual budget of £1.83m for the libraries contract, which is not sufficient to meet the full costs of the contract due primarily to indexation uplifts. For 2017/18, the budget shortfall of £100k is being mitigated by a drawdown from the libraries reserve, which has been set aside for a one-off payment to CIS in the event that the contract is not continued after the end of its 5th year. As at 31st March 2017, the balance of the reserve stands at £250k.

8.3 The contract includes a termination clause which allows both Ealing and Harrow to decide if they wish to continue the contract with CIS for a further period of 5 years at the end of its 5th year. Under Clause 33.4, if the contract is not continued for the full ten year term, Ealing and Harrow will be liable for payment of a termination sum to reflect the difference in the ten year and five year contract price. For Harrow, this one-off termination payment is £485k. The libraries reserve, following the planned drawdown this year, will have a balance of £150k only. A funding of £335k would have to be identified, should the Council decide to implement an early exit of the contract in August 2018.

8.4 A financial analysis has been undertaken to compare the costs of options considered in this report and is summarised in the table below. There are some limitations in the analysis due to unknowns on future RPI indices and the current staffing structure/costs of the remaining libraries, and therefore key assumptions made are as follows.

- Contract indexations: Staffing 2.2% and Non Staffing 4% every 2 years
- Spend data of 2012/13 (prior to procurement) is used as baseline, adjusted for inflation of 2.5% per year, for estimating the costs of in-house provision
- On-going revenue cost for Facilities Management of £32k (subject to condition survey) and ICT of £235k (subject to final pricing from ICT contractor) respectively.

	Option A	Option B	Option C
	Early termination of the contract and re-tendering	Early termination of contract and return service to Council operation	Continue with CIS for the full term of 10 years
	£'000	£'000	£'000
Total Estimated Service costs (Year 6 - Year 10)	Not known	11,970	10,599
<i>Other adjustments:</i>			
Saving on Pension liability costs	0	-400	0
Additional NNDR income retained by Council	0	-260	0
Net Total Estimated Service costs (Year 6 - Year 10)	Not known	11,310	10,599
<i>One-off costs:</i>			
Early termination cost	485	485	0
ICT set up costs (capital)	0	989	0
Procurement resource (estimate)	75	0	0
Total one-off costs	560	1,474	0
Total Costs	Not known	12,784	10,599

8.5 It is not possible to estimate the service costs for Option A as these can only be known following the conclusion of a competitive tendering exercise. However the early contract termination payment of £485k would need to be made under this option. There would also be a one-off cost relating to procurement resource, estimated at £75k. The external market for library management is currently limited making a reduction on current contract costs by re-tendering more challenging.

8.6 The estimated total costs for Option B takes into account the following:

- saving on employer's pension liability costs for libraries TUPE staff (for which the Council currently makes an annual contribution separately to the Pension Fund to meet the shortfall). This is estimated at £400k over 5 years.
- additional NNDR income retained by the Council. CIS currently claim 80% NNDR relief due to charity status of its company delivering the library service. By returning the service to the Council, although the Library Service would have to pay the full NNDR on all properties, there would be a net gain to the Collection Fund. This is estimated at £260k over 5 years.

8.7 The financial analysis indicates that the overall estimated costs of Option C (the recommended option) would be circa £2.2m lower than Option B.

8.8 Should the Council decide to extend the current contract for a further period of 5 years, the annual contract costs are estimated as follows, subject to actual indexation uplifts.

	Estimated CIS contract costs (excl pension liability)	Service budget	Libraries reserve	Growth Budget (Note 1)	Budget Shortfall
	£'000	£'000	£'000	£'000	£'000
2018/19 (7 months)	1,151	1,008	143	0	0
2019/20	2,006	1,830	1	175	0
2020/21	2,030	1,830	0	200	0
2021/22	2,061	1,830	6	200	25
2022/23	2,084	1,830	0	200	54
2023/24 (5 months)	868	763	0	83	22

Note 1: The growth budget is subject to Full Council approval in February 2018.

8.9 The budget pressure of £143k in 18/19 could be mitigated by utilising the remaining balance of the libraries reserve as the Council would not be required to make the early exit payment to CIS. In 19/20, there will be an on-going pressure of £176k, increasing to £254k in 22/23. The 18/19 Draft Budget includes a growth budget of £175k in 19/20 and a further £25k in 20/21 for contract indexations. Subject to a separate approval, this will provide the necessary funding for the contract payments within the MTFs period. The service will continue to work with CIS to identify further efficiency savings to reduce the cost of running the library service.

8.10 In the existing MTFs, there is a saving of £209k profiled in 18/19 in relation to the relocation of Gayton Library to 51 College Road and Wealdstone Library to the new Civic Centre respectively. Due to delays, it has been requested that the saving is re-profiled to later years. This is subject to a separate approval as part of the 18/19 budget process. It should be noted that the figures in the table in Para. 8.8 do not take into account this saving.

9. Equalities implications / Public Sector Equality Duty

9.1 An Equalities Impact Assessment (EqIA) has been conducted (Appendix 1) and no negative impacts have been identified for library customers for any of the protected characteristics.

9.2 The specification of services identified the following as what 'good' will look like in equality terms:

The Contractor has:

- Equalities policies that place equality central to the way the organisation carries out all of its work including:
- Commitment to equality that is communicated effectively to all staff and volunteers and to communities where the organisation is working
- Clarity about what the organisation needs to do to address issues and barriers faced by under-represented groups in use of services, articulated in an action plan with SMART objectives
- Facility-specific action plans to maximise use by disabled people and minority and disadvantaged communities in their catchment areas, including outreach.

9.3 The following measures were put in place to ensure that the contractual equality requirements are undertaken:

- i) Quarterly contract monitoring and annual review of contract to review requirements for low participant groups;
- ii) User surveys through the contract.

10. Council Priorities

This proposal delivers the Council's vision as follows:

Working Together to Make a Difference for Harrow

- Making a difference for the vulnerable by providing a range of library services and activities for local residents and in particular older people, young people, and those with a disability.
- Making a difference for communities and families by offering a range of library services and activities for all ages to reach different communities in Harrow.

The continuation of the library contract will directly contribute to the Harrow Ambition Plan 2020. The continuation of the library contract will help to make Harrow 'Be more Business-like and Business Friendly' by providing a cost effective way of providing library services as well as by the libraries contributing to the local economy. The libraries will also 'Protect the most Vulnerable and Support Families by providing a range of services free of charge to local residents.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 5 December 2017		
Name: Stephen Dorrian	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 22 November 2017		

Ward Councillors notified:	NO, as it impacts on all Wards
EqIA carried out:	YES
EqIA cleared by:	Dave Corby, DETG Chair, Community Directorate

Section 4 - Contact Details and Background Papers

Contact: Tim Bryan, Service Manager – Libraries, Sport and Leisure. Tel. 020 8416 8639, Email: tim.bryan@harrow.gov.uk

Background Papers:

Cabinet Report and decision Libraries and Leisure Commissioning: Award of Contract, 6th June 2013

<http://www.harrow.gov.uk/www2/ieListDocuments.aspx?CId=249&MId=62202>

Cabinet Report and decision Library Strategy, 2015-2018, 19th March 2015

<http://www.harrow.gov.uk/www2/ieListDocuments.aspx?CId=249&MId=62361>

**Call-In Waived by the
Chair of Overview and
Scrutiny Committee**

NOT APPLICABLE

[Call-in applies]