

Decision Maker: EXECUTIVE

**For Pre-Decision Scrutiny by the Renewal & Recreation Policy
Development & Scrutiny Committee**

Date: Wednesday 12th October 2016
Tuesday 20th September 2016

Decision Type: Non-Urgent Executive Non-Key

Title: COMMUNITY MANAGEMENT AT COMMUNITY LIBRARIES:
OUTCOME OF TENDER

Contact Officer: Colin Brand, Assistant Director Leisure and Culture
Tel: 0208 313 4107 E-mail: colin.brand@bromley.gov.uk

Hannah Jackson, Project Manager: Change & Regeneration
Tel: 0208 461 7960 E-mail: hannah.jackson@bromley.gov.uk

Chief Officer: Executive Director of Environment & Community Services

Ward: Bickley; Bromley Common and Keston; Cray Valley West; Hayes and Coney
Hall; Mottingham and Chislehurst North; Plaistow and Sundridge; Shortlands;

1. Reason for report

- 1.1 Following pre-decision scrutiny at the meeting of the Renewal & Recreation Policy Development & Scrutiny Committee on 18th March 2015, the Portfolio Holder decided to implement a new approach to the delivery of library services in difficult financial circumstances. This included agreeing to start a procurement process to identify suitable community management options for the borough's six community libraries.
- 1.2 Members were provided with an update on the tender process in November 2015. In January 2016, following the evaluation of initial business plans and negotiations with tenderers, the Renewal & Recreation Portfolio Holder awarded preferred bidder status to Community Links Bromley to enable them to work up the detail needed to finalise its business plan for community management at all six community libraries.
- 1.3 Final business plans were submitted, clarified and evaluated, however following this process. Community Links Bromley decided to withdraw their tender. As a result, there are no proposals for community management at community libraries to be considered.
- 1.4 In light of this, this report recommends that the Council pursue the alternative option that was presented to them in the update report in November 2015 which recommended that should no suitable community management arrangements be found, community libraries should be

included in the commissioning of the core Library Service. The Council is currently engaged in a joint tender for core library services with the London Borough of Bexley, an update of which is provided in this report.

2. RECOMMENDATION(S)

2.1 The Renewal & Recreation Policy Development & Scrutiny Committee is asked to review this report and provide its comments to the Executive Committee for consideration.

2.2 The Executive Committee is asked to:

- **Note the outcome of the tender seeking community management at community libraries and that no tenders remain.**
- **Agree to draw down the £250k saving built into the budget from the Central Contingency for 2016/17, as the assumed savings will not be achieved this financial year**
- **Agree to include community libraries for direct management as part of the joint tender with the London Borough of Bexley for library services in both boroughs**

Corporate Policy

1. Policy Status: Existing Policy: Library Service Strategy
 2. BBB Priority: Children and Young People Excellent Council Safer Bromley Supporting Independence Vibrant, Thriving Town Centres
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Financial

1. Cost of proposal: The savings of £250k will not be achieved
 2. Ongoing costs: There is a potential for these savings to be achieved through the joint tender process of the core library service
 3. Budget head/performance centre: Libraries
 4. Total current budget for this head: £4.5m
 5. Source of funding: Existing revenue budget for 2016/17
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Staff

1. Number of staff (current and additional): 104.4FTE
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): In 2015/16, Bromley's library service recorded 45,578 active users across the whole network of libraries (and active user is defined as an individual who has had a transaction on their library account in the last year). This represented a decrease of 12.5% on the number of active users recorded in 2014/15. The Library Service has a statutory duty to be available and accessible to all those who live, work and study in the borough. The 2011 census identified that 309,392 people live in the London Borough of Bromley. In 2015/16, community libraries received the following number of visits and issues:

Library	Number of Visits	Number of Issues
Burnt Ash Library	21,142	13,116
Hayes Library	18,493	21,987
Mottingham Library	20,559	19,280
Shortlands Library	19,582	26,124
Southborough Library	26,849	39,572
St Paul's Cray Library	20,329	20,604

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: A summary of Ward Councillor comments will be provided at the committee meetings.

3. COMMENTARY

Decision to seek community management

3.1 On 18th March 2015, the Renewal & Recreation Policy Development & Scrutiny Committee and Portfolio Holder agreed that officers should commence a procurement exercise to identify suitable community management arrangements for the borough's six community libraries:

- Burnt Ash Library
- Hayes Library
- Mottingham Library
- Shortlands Library
- Southborough Library
- St Paul's Cray Library

3.2 Community management was considered desirable for these libraries because it had the potential to retain library services at community locations as part of the Council's statutory provision, whilst significantly reducing operating costs to avoid making closures. As community libraries are the smallest in the borough, make the lowest number of issues and receive the lowest number of visits, it was agreed that community management could have made these libraries work more effectively for the very communities they serve.

3.3 The decision to seek community management arrangements that kept community libraries part of the Council's statutory service was made on the basis that:

- To remove all community libraries from the Council's statutory service may leave the Council falling short of its statutory duty to provide a comprehensive and efficient library service.
- The impact of community management on service users would be reduced as customers would continue to enjoy access to Council book stock and the existing opening hours would have to be sustained.

3.4 However, the requirements for the library service under community management were less stringent than those which the Council directly deliver. The wider range of services to be offered could be different: for example, the specification was not prescriptive about how internet access was provided or how the libraries were staffed.

Initial Tender Stages

3.5 The procurement process for this tender was designed to accommodate tenders from community groups or organisations, or local businesses. A negotiated process was chosen so that the Council could work with tenderers to refine requirements and proposals to try and find a workable solution that delivered value for money.

3.6 The opportunity was advertised widely between 12th May 2015 and 26th June 2015 in accordance with a communications plan which targeted residents, library users, local businesses and community and voluntary sector organisations. A detailed pack gave prospective bidders information about what would be required from any successful community

management arrangements and officers held an information day where interested parties could talk to officers about community management and their proposals.

- 3.7 The deadline for receipt of expressions of interest was 5pm on 26th June 2015. An application form was submitted which gave a high level overview of the tenderers' vision for community management. Expressions of interest were received from five organisations, and there were at least three expressions of interest for each library.
- 3.8 Four organisations were shortlisted and three of those organisations were invited to submit an initial business plan for each library. Officers met with the shortlisted applicants to feedback on their expression of interest and to guide them in the next stage of the process.
- 3.9 Initial business plans were submitted on 9th October 2015. In accordance with the guidance provided in the information pack, business plans provided detailed information about the shortlisted organisations' plans for community management at community libraries. Plans needed to show that tenderers had adequately planned for the responsibilities of community management and that their proposals could be sustainable.
- 3.10 Before the submission of initial business plans, one tenderer withdrew from the procurement process. Additionally, one tenderer invited to submit initial business plans for five libraries decided that they would only apply to community manage one.
- 3.11 Business plans and proposals were evaluated by an officer panel which included representatives from Bromley's Library Service, the Head of Procurement, Divisional Head of Finance and the Assistant Director for Culture, Libraries & Leisure. Legal and HR advice was also sought.
- 3.12 Following their evaluation, the panel members decided that two tenderers should not be invited to participate in the tender process any further. This was because their submissions did not demonstrate that they had the potential to be sustainable and the financial models which attracted a high level of risk.
- 3.13 The evaluation panel evaluated Community Links Bromley's proposals for community management at all six community libraries and met with them on 9th November 2015 to provide feedback and negotiate the detail of their initial proposal. At this initial stage, the panel agreed that their proposals had potential but highlighted a number of issues that would need to be addressed in their final business plan. In order to address some of the issues, the Renewal & Recreation Portfolio Holder agreed to award preferred bidder status to Community Links Bromley. Preferred bidder status did not award a contract but it did allow Community Links Bromley the time and transparency to develop the detail in order to de-risk its final business plan.

Final Tenders

- 3.14 Following a short delay, Community Links Bromley was invited to submit its final tenders on 14th April 2016. After having requested an extension to the deadline which was granted, Community Links Bromley submitted their final business plan on 24th June 2016. The evaluation panel evaluated the proposals against the agreed criteria set out in the procurement documents and included at **Appendix 1**. They were evaluated against:
 - Price (50% weighting)
 - Quality (50% weighting)

3.15 The final business plan and proposals were initially evaluated at the end of June and beginning of July 2016. Officers wrote to Community Links seeking clarification on a number of points relating to their business plan.

Outcome of tender process

3.16 Following the evaluation of the clarified final business plan and proposals, and the tendered price, there were a number of issues that remained:

- The level of saving anticipated in the initial business plan has not been realised in the final proposals and the net saving to the Council is significantly reduced.
- The viability of the financial model remained high risk and the final business plan did not address all of the concerns fed back at and following negotiation, particularly in relation to income assumptions.
- The risks associated with the staffing and management model were not addressed adequately in the final business plan and proposals
- Transition costs were not quantified
- An equalities impact assessment demonstrated that, on the basis of Community Links Bromley's final tender, community management at community libraries would have an adverse impact on people with protected characteristics.

3.17 In response, Community Links Bromley wrote to the Council on 2nd September 2016 to withdraw their tender. As a consequence, there are no remaining tenders offering community management at community libraries.

3.18 Community management arrangements at libraries have been successful for other local authorities, and officers have spent some time learning from neighbouring boroughs to inform the approach adopted in Bromley. However, there were a number of circumstances that may have affected why this tender process has not identified suitable community management arrangements in Bromley:

- Other local authorities have advertised community management opportunities as a last attempt to keep libraries open and have been unambiguous about the intention to close libraries, should no community management arrangements be found. This Council has been committed to keeping libraries open and had not threatened closure. Rather, the Council has been improving services, opening three refurbished libraries in the last six years.
- The Council's requirements for community managed libraries were more demanding than some other authorities in order that the libraries continued to be part of the Council's statutory provision. Whilst community management arrangements have been secured in similar circumstances elsewhere, these demands do narrow the market.
- The Council has already made significant savings in relation to its library service. Market testing has demonstrated that it is difficult for community organisations to make significant savings on the current budgets for community libraries whilst retaining core services without relying heavily on high-risk financial models.

Recommended next steps

3.19 In the update report scrutinised by Members on 27th October and 9th November 2015, officers explained that there was an alternative option for community libraries should it not be possible to identify community management arrangements.

- 3.20 This other option was identified during the course of soft market testing the core library service in preparation for a joint tender with the London Borough of Bexley (which is now underway). Some respondents suggested that they could deliver direct management of community libraries to the same specification required for the core libraries and achieve the £250k per annum projected level of saving identified at the commencement of the tender for community management. This Council consulted service users and residents on this option, the outcome of which was reported to Members in report **DRR15/089**.
- 3.21 This report recommends that community libraries are considered for inclusion in the tender for the core library service. This joint tender with the London Borough of Bexley commenced at the beginning of the year. As a contingency, the Council had requested that tenderers for that process supplied a price for direct management at community libraries in a schedule to the pricing document on the understanding that those prices may be accepted should no suitable community management arrangements be found or in the case that community management arrangements at community libraries failed during the course of the contract. Additionally, as that process is a negotiated tender process, officers have the opportunity to discuss the inclusion of these libraries further with tenderers to increase the likelihood of achieving the level of savings requested by Members.
- 3.22 Initial tenders for this process have now been received and an overview of the programme for the remaining part of the process is summarised below:

Evaluation of initial tenders	July – August 2016
Staff engagement throughout the process	Ongoing
Negotiation on initial tenders	August – September 2016
Allowance for reiterative process requesting and evaluating a second round of initial tenders	September – November 2016
Invitation to submit final tenders	November – December 2016
Evaluation of final tenders	December 2016 – January 2017
Formal consultation with staff, trade unions and Departmental Representatives on the proposals	January 2017 – September 2017
Decision-making on contract award	February – March 2017
Contract commencement	September 2017

4. POLICY IMPLICATIONS

- 4.1 The Renewal & Recreation Portfolio Holder approved a new approach to the delivery of library services following pre-decision scrutiny at the Renewal & Recreation Policy Development & Scrutiny Committee on 18th March 2015.
- 4.2 The approach is consistent with the Council's stated ambitions around vibrant, thriving town centres, supporting independence, children & young people, and an excellent Council under its vision for Building a Better Bromley.
- 4.3 The Council's Corporate Operating Principles include a commitment that services will be provided by whoever offers customers and council tax payers excellent value for money.

5. FINANCIAL IMPLICATIONS

- 5.1 A sum of £250k was built into the 2016/17 budget as provisional savings expected from the procurement of a community library service for the libraries listed in 3.1. In January 2016, officers reported that the savings were unlikely to be achieved in this financial year, given the latest timetable and the potential lead in time requested by the tenderer for contract mobilisation.
- 5.2 Following the final evaluation of the clarified business plan, Community Links Bromley decided to withdraw their tender. The savings will therefore not be achieved this year and the £250k will be met from the Central Contingency.
- 5.3 It should be noted that there is a possibility that this level of saving may be realised through the market testing of the core library service which includes the option to directly manage community libraries. The outcome of the evaluation of the final tenders for the core library service is expected to be reported to Members before the end of March 2017.

6. LEGAL IMPLICATIONS

- 6.1 This report to the Executive seeks approval for the management of community libraries to be added to the joint tender with the London Borough of Bexley for library services.
- 6.2 Under section 7 of the Public Libraries and Museums Act 1964 the Council has an obligation to provide a comprehensive and efficient library service for people who live or work in the area. The service must be 'accessible to all residents using reasonable means' taking into account stock, transport to and from the library and opening hours.
- 6.3 As mentioned in paragraph 3.24 of this report, the tender for the core library service is still in progress and the community library service may be added to the specification for the core library service.
- 6.4 Under the Equality Act 2010 section 149 the Council has a duty to have 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.

The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Paragraph 3.16 of this report shows that the Council has carried out an Equality Impact Assessment and has had regard to its duty.

7. PERSONNEL IMPLICATIONS

- 7.1 The Assistant Director for Culture, Libraries & Leisure led on staff engagement during the tender process and staff received communications about the tender process on a regular (approximately bi-monthly) basis. Engagement with Trade Unions and Departmental Representatives also took place and where queries were raised, responses were provided.
- 7.2 In addition, engagement with staff and their representatives previously took place on the option to include community libraries in the joint tender for library services following the outcome of soft market testing and public consultation; the outcome was reported in the Gateway Report on Proposals for a Commissioned Library Service (**DRR15/089**).
- 7.3 The recommendation is to seek agreement to include community libraries for direct management as part of the tendering currently being undertaken. Consequently there are no staffing implications arising from these recommendations for those staff currently employed in the community libraries. If the recommendation is agreed then during the tendering process the staffing proposals will be considered.
- 7.4 As more detailed proposals are developed these would be the subject of formal consultation in accordance with Council policies and procedures and with due regard for the existing framework of employment laws. The procurement process would consider whether or not the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 would apply.

8. IMPACT ON CHILDREN AND YOUNG PEOPLE

- 8.1 The impact of the proposals for community management at community libraries on children and young people was evaluated as part of an Equalities Impact Assessment at various stages during the commissioning process.
- 8.2 A Children's PLUS Survey undertaken in 2014 identified the age profile of children who use the library service in Bromley:

Age	% of children visiting the library
0-7 years (Key Stage 1)	58%
7-11 years (Key Stage 2)	28%
11-16 years (Key Stage 3)	13%

It also identified that 25% of children who use the library service are from ethnic minorities.

- 8.3 The Equalities Impact Assessment on the bid from Community Links Bromley found that their proposals for community management would have an adverse impact on children and young people.

8.4 Although the risks with the business plan affect users of the service generally, they have a specifically adverse impact on children and young people because community libraries stock and activities target children and young people and the elderly specifically. In particular, staff noted public PCs are often in highest demand after school when they are used by children completing homework.

9. PROCUREMENT IMPLICATIONS

9.1 The arrangements for the completion of these tender processes have previously been agreed with the Head of Procurement and have been complied with in the conduct of this Procurement exercise and the requirements of the Council's Contract Procedure Rules and relevant Procurement Regulations.

9.2 The original Negotiated Tender process and accompanying EU Notice for this "Light Touch" activity, made provision for the inclusion of the Community Managed Libraries, should the separate tender process be discontinued.

9.3 As a result the inclusion of these services, within the proposed Joint Library's Management Contracting with Bexley now at tender, is a permissible amendment and can be completed without the need for any further EU Notice or action, beyond advising those taking part in the tender of the required changes to the process

9.4 There is no CPR requirement to report on a discontinued tender process, however, in this case, as it impacts on a concurrent tender process for the Library's Management Contract and has particular sensitivities around community engagement, this changed requirement is being provided for information only.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	<p>DRR16/016 Community Management at Libraries: Update – report to the Renewal & Recreation Policy Development & Scrutiny Committee on 26th January 2016</p> <p>DRR16/017 Community Management at Community Libraries: Update (Part 2) – report to the Renewal & Recreation Policy Development & Scrutiny Committee on 26th January 2016</p> <p>DRR15/089 Gateway Report: Proposals for a Commissioned Library Service – report to the Executive Committee on 9th November 2015 (with pre-decision scrutiny by the Renewal & Recreation Policy Development & Scrutiny Committee on 27th October 2015)</p> <p>DRR15/090 Gateway Report: Proposals for a Commissioned Library Service (Part 2) – report to the Executive Committee on 9th November 2015 (with pre-decision scrutiny by the Renewal & Recreation Policy Development & Scrutiny Committee on 27th October 2015).</p> <p>DRR15/024 Update on the Library Service Strategy – report to the Renewal & Recreation Policy Development & Scrutiny Committee on 18th March 2015.</p> <p>DRR14/090 Library Service Strategy – report to the Renewal & Recreation Policy Development & Scrutiny Committee on 18th November 2014</p> <p>Equality Impact Assessment for Library Service Strategy</p> <p>Equality Impact Assessment for Proposals to Commission the Library Services</p> <p>Equality Impact Assessment for Proposals for Community Management at Community Libraries</p>