

Decision by Portfolio Holder



Report reference: BSS-004-2019/20

Date of report: 25 September 2019

**Epping Forest
District Council**

Portfolio: Business Services

Author: Christine Ferrigi (Ext 4536)

Democratic Services: J Leither

ICT Infrastructure: S Jennings

Subject: Mail Gateway Provision

Decision: 1. Retrospective agreement to continue to use the services of Mimecast Ltd without the need for a tender process.

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| ADVISORY NOTICE: <i>A Portfolio Holder may not take a decision on a matter on which he/she has declared a Pecuniary interest. A Portfolio Holder with a non-pecuniary interest must declare that interest when exercising delegated powers.</i> | |
| I have read and approve/ do not approve (delete as appropriate) the above decision: | |
| Comments/further action required: None | |
| Signed: Councillor S-A Stavrou Date: 10 th October 2019 | |
| Non-pecuniary interest declared by Portfolio Holder/ conflict of non-pecuniary interest declared by any other consulted Cabinet Member: None | Dispensation granted by Standards Committee: Yes/No or n/a N/A |
| Office use only: Call-in period begins: 11 th October 2019 | Expiry of Call-in period: 18 th October 2019 |

***After completion, one copy of this pro forma should be returned to
Democratic Services IMMEDIATELY***

Reason for decision:

Mimecast Ltd have been providing mail gateway functions and support to the Council since 2011. The company provides high quality secure mail gateway, secure mail to other Government bodies (previously GCSX) and business continuity services and are the only company that can provide the Council with the services required to remain PSN compliant. Recent checks carried out by ICT Officers have confirmed that other suppliers can provide gateway services or mail management services but none can provide both services within the same package, essential for compatibility and efficiency. A number of companies have a preferred supplier policy where a single supplier is allocated to a company and they are given preferential rates, discounts, to pass onto the customer. In the case of the Council the preferred supplier is Softcat plc for mail provision.

**Initialed as original copy by
Portfolio Holder:**

Options considered and rejected:

To carry out a procurement exercise. For the reasons set out in the report it is an officer opinion that a new procurement exercise will not yield a better outcome and the current arrangement offers best value to the Council.

The total current annual spend with Mimecast Ltd is around £53,000. This includes the support contract, core services (archive, management, backup, etc), mail recovery services for Office 365, email security services and large file send facilities. Under general purchasing rules consideration should be given to carrying out a managed tender process however as the Council is currently supplied by the preferred supplier for this service there will be no benefit to a tendering process as Softcat plc will always have the benefit of being the incumbent preferred supplier.

Background Report:

1. Mimecast Ltd were first engaged in 2011 for the provision of a secure, robust and compliant email system. ICT Services have invested in a mail system that relies heavily on the services of Mimecast Ltd, a world class email management solution, who invest heavily in infrastructure and security provision to protect customers from an ever-changing world of cyber-criminal activity. It has proven to be a good choice as can be attested by other partners in the Essex Online Partnership (EOLP) reporting of mail scam attacks affecting their businesses; whereas Epping Forest District Council has remained, to date, clean of any mail-based attacks that affect business ability.

2. Over the years expenditure with Mimecast Ltd has gone over the thresholds set in Procurement Rules. It is a requirement that for expenditure between £50,001 and £250,000 three tenders should be invited. Unfortunately, this was not done as the specialist nature of work and the preferred supplier status with Softcat Plc, Mimecast Ltds' preferred supplier, it is now necessary to seek a waiver in Procurement Rules to regularise the retrospective breach.

3. Going forward it is an officer recommendation that Mimecast Ltd provides the most advantageous solution for Council requirements and the Council should use Procurement Rule 19: negotiated contracts. This allows the appointment of a contractor without the need for competitive tendering. Officers believe that no other supplier offers the wide range of facilities and protection offered by Mimecast Ltd and any change to the mail structure to exclude or replace Mimecast Ltd would cause severe disruption for an extended period for a critical business component across the organisation.

4. Officers acknowledge that reliance on one supplier, no matter how reliable they are, is not ideal. During the next financial year officers will explore possible suitable alternative solutions and carry out more in-depth market research to identify possible options for consideration including companies who may have recently begun to offer all the email gateway services that the Council requires.

Resource Implications:

There are no resource implications arising from this decision and adequate budget provision exists to cover costs.

Legal and Governance Implications:

The decision requested is seeking to waive the Council's Procurement Rules in line with the Policy, below the threshold set out in the Public Contracts Regulations 2015 (approx. £53,000 wef 25 Sept 2019).

The waiver is based on the following from the Council's Procurement Rules;

19.2.the reason for not inviting competitive Tenders must be set out in the report to the Portfolio Holder or Cabinet, which can be for any reason considered appropriate by the relevant Director or Asst. Director, including the following reasons:

(b) The requirements of the Contract are of a specialist nature, where no other Contractor is known to provide them;

(c) No demonstrable material benefit would be obtained from inviting competitive Tenders;

Safer, Cleaner and Greener Implications:

Ongoing provision of Mimecast and the ability of staff to access historical achieved data enables efficient service provision and good customer service across the organisation.

Consultation Undertaken:

Not applicable

Background Papers:

Procurement Rules – February 2018

Impact Assessments:

Risk Management:

The renewal for this year is due now and suitable financial arrangements need to be made. The major risk is that if the current renewal is not paid in a timely manner then the service will be withdrawn with the effect that the Council has no external email causing major disruption to the business and cause major damage to the Council's reputation.

Equality Analysis:

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided at Appendix 1 to the report.

Key Decision Reference - No