

Resources Department
Town Hall, Islington, N1 2UD

Report of: Executive Member for Finance and Performance
Meeting of: Executive
Date: 24 October 2024
Ward(s): All
Decision No: I028559

Subject: Procurement strategy and contract award for external legal advice from barristers and solicitors

1. Synopsis

- 1.1. Islington Council and a number of other local authorities are members of the London Boroughs' Legal Alliance (LBLA). A procurement process (led by Ealing Council) established a pan-London fourth generation Barristers Framework Agreement and Solicitors Framework Agreement (the 'Frameworks') for use by the members of the LBLA.
- 1.2. This report details the outcome of the procurement and seeks approval for the council to utilise the Frameworks for ad hoc external legal advice from barristers chambers and solicitors firms appointed to the different lots on the Frameworks.

2. Recommendations

- 2.1. To approve the procurement strategy to utilise the LBLA Barristers Framework Agreement and LBLA Solicitors Framework Agreement and subsequent contract awards from 1 January 2024 until 31 December 2026 (36 months) with an option to extend for a further 12 months to 31 December 2027.

- 2.2. To note the extensive range of social value benefits which LBLA members can access through its frameworks in support of the council's resident and community initiatives.

3. Background

3.1. Nature of the service

- 3.1.1. Directorates across the council may have a requirement to engage external legal advice on an ad hoc basis where there is a specialist need that cannot be met by in-house resources.
- 3.1.2. Membership of the LBLA enables councils to use their joint leverage to achieve the best rates and terms of service. The LBLA is currently made up of City of London Corporation; HB Public Law (including the London Boroughs of Barnet, Harrow & Hounslow, and Slough); the London Boroughs of Bexley, Brent, Bromley, Camden, Croydon, Ealing, Enfield, Hackney, Haringey, Hillingdon, Islington, Lambeth, Redbridge, Southwark, Tower Hamlets, Waltham Forest; London Fire Commissioner; OneSource (London Boroughs of Havering & Newham); Royal Borough of Greenwich; London Borough of Hammersmith & Fulham; Royal Borough of Kensington & Chelsea, Westminster City Council. In addition, South Oxfordshire and Vale of White Horse District Councils, Buckinghamshire and Mid Kent Legal have access to the Framework.
- 3.1.3. The Frameworks give LBLA members access to a panel of expert legal advisers for specialist advocacy, advice, and related legal services

3.2. Estimated value

- 3.2.1. The current barristers framework estimated spend at tender is £60m over 4 years. The current solicitors framework estimated spend at tender is £20m over 4 years. . The current level of spend is approximately £0.110m for barristers and solicitors which is a significant reduction over previous years. Any legal spend is either approved or rejected and a justification must be provided.
- 3.2.2. Historically, spend has created budget pressures so measures have been put in place to reduce spend. This is as legal spend was being made across directorates without sufficient monitoring. To create transparency and to minimise risks of overspends, the budget has now been centralised under the control of Legal Services to enable effective monitoring of the advice and services provided and to stop services accessing legal spend directly.

3.3. Options appraisal

- 3.3.1. The council aims to carry out its legal services via the in-house legal services team wherever possible. However, there will always be times when the in-house team does not have the specialist expertise, the capacity to act (for example, only barristers are permitted to appear in some courts), or where there are otherwise prudent reasons to use independent barristers or solicitors firms. The specialist nature of some requirements means advice is only required on an ad hoc basis which would not be viable to have in-house resource. The Frameworks will give the council quick and cost-effective access to a specialist panel of barristers and solicitors firms qualified to meet this need.
- 3.3.2. In the absence of frameworks such as these, Islington (and the other LBLA boroughs) would have to individually procure the services of barristers and solicitors on a case-by-case basis, either to meet additional capacity within legal services or to obtain specialised legal support. Such an approach would be time consuming and potentially more costly. There are no other similar frameworks identified that are as well suited to the council's needs and the proposed frameworks are expected to deliver the value for money.
- 3.3.3. Monthly management information services will enable the participating authorities and other contracting bodies to monitor the operation of the frameworks and to enable strategic decision making around encouraging competition and delivering better value for money.

3.4. Social Value Considerations

- 3.4.1. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured.
- 3.4.2. The established Frameworks which the council is recommending to utilise is expected to deliver social value benefits. In regard to social value a weighting of 5% was given to equality and diversity and additionally a further 5% of the award criteria was attributable to value added benefits including:
- provision of work experience, volunteering, paid internship and pupillage opportunities targeted to help improve social mobility
 - provision of support to schools by way of mentoring, or talking to groups of pupils about careers in the law

- provision of goods or services for community groups as agreed, e.g. pro-bono legal advice

3.4.3. Chambers and firms appointed to the Frameworks will provide a minimum of one bespoke legal training session per annum per Lot to which they are appointed as part of the annual LBLA Training Programme (although bespoke sessions for individual LBLA members, webinars and podcasts can be provided in addition).

3.4.4. They will also be required to provide monthly management information including a review of the value added and social benefits offered which will ensure that the council takes up the additional benefits when instructing those chambers or law firms.

3.4.5. The successful chambers and law firms will also be expected to offer a range of additional free benefits which could include:

- Twenty minutes free advice (by phone or email) for each potential new instruction
- additional training sessions and seminars;
- legal updates;
- legal research facilities;
- access to Chambers' and firms' conference rooms;
- secondments;
- legal surgeries;
- supporting local charities;
- providing work experience to state school children and those from Black, Asian and Minority Ethnic backgrounds;
- newsletters / bulletins in relation to relevant changes in legislation and case law;
- additional bespoke training sessions; and
- innovative fee arrangements.

3.5. **Evaluation**

3.5.1. The procurement process comprised a one stage procedure under the Light Touch Regime. The chambers and law firms appointed to the frameworks were selected following a detailed evaluation process, carried out by specialist representatives from the legal teams of LBLA member councils, under the supervision of a specialist independent legal consultant.

3.5.2. **Award criteria**

Pricing: Dependent on which of the 11 different lots, pricing ranged between 35% and 50% including fixed fees and hourly rates.

Quality: Dependent on which of the 11 different lots, quality ranged between 50% and 65% including Service delivery; Cost Effectiveness, Transparency and Communication; Availability of Counsel and Efficient Administration; Equality and Diversity; Value Added Benefits and Social Value

3.6. **Business Risks**

3.6.1. Should this not be agreed, the Council will lose resilience of external cost effective legal provision.

3.7. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

4. **Implications**

4.1. **Financial Implications**

4.1.1. Prior to 24/25, General Fund budgets for external legal advice were held in departments, but these have been centralised from 24/25 to enable more central oversight and ensure good value and greater budgetary control. The external legal advice budget for Regional Adoption Agency has not been centralised as this is an external organisation hosted by the Council on behalf of the member local authorities. Similarly, due to the HRA ringfence, the HRA legal advice budget remains under the HRA. £0.584m is the centralised General Fund budget for external legal advice from 24/25 and the budget in the HRA is £0.366m. The current spend on external legal advice for the year to date is £0.110m in the General Fund, a significant reduction on previous years.

4.1.2. The estimated contract value under the procurement strategy is £6m over 48 months based on the level of historic spend over the last 5 years. Contractual cover is being sought over and above the budget level to ensure the Council can access timely and good value advice when needed.

4.2. **Legal Implications**

- 4.2.1. This report seeks approval for the procurement strategy to utilise the London Boroughs' Legal Alliance (LBLA) Barristers' Framework Agreement and the LBLA Solicitors' Framework (the Frameworks) and for the subsequent contract awards for legal services under the Frameworks.
- 4.2.2. The proposal is that the Frameworks be used for contract awards from 1st January 2024 to 31st December 2026 (36 months) with an option to extend to 31st December 2027 being the total term of the current Frameworks, with an estimated maximum spend of £6 million based on historical data.
- 4.2.3. The current Frameworks were set up by the London Borough of Ealing who acted as contracting authority for the other LBLA members and procured the Frameworks in accordance with the Public Contracts Regulations 2015. The purpose of the Frameworks is to offer a wide range of legal expertise, highly competitive pricing and access to an extensive range of social value benefits. The Council is a member of the LBLA so the Frameworks are available for use by the Council.
- 4.2.4. The proposed procurement route of awarding contracts for legal services using the Frameworks is a compliant route to market in accordance with the Council's Procurement Rules (rule 3.1). Such contracts must be awarded in accordance with the rules set down in the Frameworks.
- 4.2.5. The Council may enter into contracts with providers of legal services under section 111 of the Local Government Act which enables the Council to carry out any activity that is calculated to facilitate the discharge of any of their functions. The council may enter into contracts for such services under section 1 of the Local Government (Contracts) Act 1997.
- 4.2.6. Centralisation has reduced the spend significantly and effective controls have been put in place. The delegated financial authority of Corporate Directors, is £2m for revenue spend; and accordingly, it is the Council's Executive which has the power to make the decision to authorise the proposals in this report subject to being satisfied that the decision represents value for money for the Council.

4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

- 4.3.1. An environmental impact assessment has been completed and identified that there are no significant environmental implications.

4.4. **Equalities Impact Assessment**

- 4.4.1. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.
- 4.4.2. This contract seeks to replace an existing contract with similar terms and conditions. As such there are not considered to be any implications and an Equality Impact Assessment has not been undertaken.

5. **Conclusion and reasons for recommendations**

- 5.1. This framework agreements will continue to provide cost effective service delivery and resilience to support the legal services team within the requirements for value for money and social value benefits.

Appendices: None.

Background papers: None

Final report clearance:

Authorised by:

Executive Member for Finance and Performance

Date: 7 October 2024

Responsible Officer: Alison Stuart, Director of Law & Governance
Email: Alison.stuart@islington.gov.uk

Financial Implications Author: Tim Partington, Assistant Director Finance, CWB and Commercial
Email: Tim.partington@islington.gov.uk

Legal Implications Author: J. Paver, Commercial Solicitor.
Email: Janine.paver@islington.gov.uk