

 <p>Brent</p>	<p align="center">Cabinet 27 June 2016</p> <p align="center">Report from Director Performance, Policies and Partnerships</p>
<p align="right">Wards Affected: ALL</p>	
<p>Shared Procurement Service – revision to participating members</p>	

1.0 Summary

- 1.1 This report seeks approval for LB Brent to join a Procurement Shared Service (PSS) that will be led by LB Harrow as set out in the Business Case at Appendix A. The principal aim of joining the PSS will be to ensure that the Council continues to receive Procurement services whilst being in a strong position to deliver the required savings of £272k from procurement in 2016/17.
- 1.2 This report is being brought to Cabinet as a result of Buckinghamshire County Council's (Bucks CC) decision to withdraw from the original proposition to create a tri-party shared service between LB Harrow, LB Brent and Bucks CC. Their decision was based on a strategic decision to pause shared service initiatives with LB Harrow, and not a reflection on the particulars of the PSS.
- 1.3 The business case for the PSS has been reworked to show the benefits of a shared service between LB Brent and LB Harrow.
- 1.4 The PSS will enable the LB Brent to deliver on five key areas:
 - contribute to the Council's savings target, in particular enabling the delivery of savings to the procurement service;
 - enable the Council to take a strategic view of procurement activity
 - provide new approaches to the delivery of Social Value benefits in Brent contracts

- enable the potential generation of additional income by selling procurement services, as opportunities to do this currently have been limited due to the size of the current team; and
 - ensure that there is resilience built into Procurement activities whilst maximising the opportunities for collaboration.
- 1.5 The arrangement will be one of a Lead Authority Model where LB Harrow is the Lead Authority. By joining this arrangement it will strengthen LB Brent's ability to deliver the savings target for the procurement service, whilst minimising any reduction of service provision. The creation of a combined shared service will also facilitate improved opportunities for income generation e.g. by selling procurement services to other public sector authorities, of which LB Brent will receive in proportion to their level of investment in the PSS. A key thrust for the PSS will be to attempt to attract other boroughs and councils to join.
- 1.6 The shared service will be created in two stages; firstly with a delegation of the procurement function from LB Brent to LB Harrow with affected staff transferring their employment from LB Brent to LB Harrow pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006, and following this the creation of an operational shared service with a new Target Operating Model.

2.0 Recommendations

That Cabinet:-

- 2.1 Agrees to delegate the provision of its procurement service to the London Borough of Harrow with effect from 1st August 2016 or such other date as may reasonably be agreed with the London Borough of Harrow.
- 2.2 Agrees to enter into an Inter Authority Agreement confirming the terms of the delegation of the provision of its procurement service to the London Borough of Harrow.
- 2.3 Agrees to delegate authority to the Director Performance, Policy and Partnerships in consultation with the Chief Finance Officer and Chief Legal Officer to negotiate the precise terms of the Inter Authority Agreement for a Procurement Shared Service between the London Borough of Brent and the London Borough of Harrow as set out in the Business Case at Appendix A.
- 2.4 Note the proposed staffing arrangements including the transfer of procurement staff currently employed by the London Borough of Brent to the London Borough of Harrow as set out at paragraphs 3.6 and 3.7.

3.0 Detail

- 3.1 The London Borough of Harrow ("LB Harrow") and the London Borough of Brent ("LB Brent") have a combined annual third party spend of over £500m. Procurement teams across these councils are providing professional procurement support to service departments whilst under downward budgetary pressures and with limited resources in terms of capacity and expertise.
- 3.2 The major benefit in joining the PSS arrangement will be that LB Brent will be in a strong position to deliver the savings required from the procurement service in 2016/17 and benefit from the opportunity to obtain far greater benefit from Social Value in its contracts by sharing best practice across the boroughs.
- 3.3 In addition, bringing the two teams together will increase the opportunities for better deals through collaborative procurements and income generation through the sale of procurement services to other London boroughs, local councils and third parties.
- 3.4 Creating a Procurement Shared Service (PSS) from the two councils will help assuage cuts to budgets and bring together best practice, knowledge, skills and resources. LB Brent has a savings target of £272k in 2016/17 and without a form of transformation LB Brent will only be able to provide a largely transactional procurement service. By joining this initiative LB Brent will be in a good position to deliver the savings target whilst also guaranteeing a level of resilience in its procurement activities.
- 3.5 By becoming one of the founder organisations LB Brent will avoid having to reduce the current procurement service from a team of 11 to a team of 6, with 5 staff being forced to take redundancy. This reduction would mean that LB Brent's ability to provide procurement services would be significantly impacted. However by entering into the Shared Service arrangement, the impact of the reductions will be mitigated allowing LB Brent to continue to receive a good level of procurement support.
- 3.6 Individually the 2 councils have high procurement expenditure for the purchase of most goods, works and services but collectively they will become a significant customer for a number of areas of major spend. The aggregated spend on specific categories will open up greater opportunity to deliver savings, value for money and social value for the councils by increasing the attractiveness of the councils to third parties.
- 3.7 Additionally there will be an increase in the skills and resources available for Procurement activities which will improve resilience and

give staff more opportunities to progress their careers. Other benefits include the opportunity to implement standardised, best practice systems and processes. In addition it will provide a platform to do work for other agencies and give greater influence to deliver collective aspirations with regard to SME engagement, apprenticeships and social value.

- 3.8 There will be a two stage process to creating the PSS. The first stage will be to create an amalgamated procurement service, with staff from LB Brent transferring to the employment of LB Harrow pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). During this first stage, staff will be able to remain based at their current locations.
- 3.9 Once staff have been transferred there will be a review of the service and decisions made on whether it is fit for purpose or whether further transformation is required, providing that there are economical, technological or organisational reasons for any reorganisation. Any change will be consulted upon and new posts will be filled through a process of interview and selection that will involve both councils.
- 3.10 The recommendation from this paper is to create a shared service, whereby LB Brent formerly delegate its procurement activity to LB Harrow, and LB Harrow provides the service from a PSS.
- 3.11 Staff working in the PSS would be employed by LB Harrow but would be made available by LB Harrow to LB Brent in accordance with the provisions of the Inter Authority Agreement.
- 3.12 The aspiration for the PSS is to be able to provide Procurement services to the founding partners at no cost within 5 years. This would be achieved through increasing the income generated by the PSS and by attracting further organisations to join the PSS.

Governance

- 3.13 The PSS will be managed by the Head of Procurement (who is Divisional Director of Commercial, Contracts and Procurement in Harrow). That post will be responsible for the day to day running of the shared service and will report into a Shared Services Management Board (SSMB) on a quarterly basis. The SSMB will consist of the LB Harrow's Director of Resources and Commercial and the LB Brent's Director of Performance, Policy and Partnerships. The main areas that this group will discuss will be the Inter Authority Agreement (which will include an SLA setting out key deliverables), performance, key procurement activities and the costs of the shared service.

- 3.14 The Head of Procurement will produce an annual Procurement Report and present this to a Shared Services Steering Group which consists of the relevant Portfolio Holders/Members from each council. This body will also be responsible for agreeing any changes in the proportion of cost allocation as well as considering applications from other organisations to join the PSS.
- 3.15 On an ongoing basis PSS staff will attend relevant meetings with Services/Business Units and sit on the relevant individual procurement and programme Boards, as they currently do.

4.0 Financial Implications

4.1 Financial implications arise out of the following key points:

- a) The initial PSS budget has been taken from the two Councils' existing budgets, after allowing for the savings targets that LB Brent and the LB Harrow have for the next two years (2016/17 and 2017/18).

	2015/16 Budget £	Savings Required¹ £	Amount Available £
Harrow ²	876,990	290,000	586,990
Brent	813,176	272,000	541,176
Total	£1,690,166	£562,000	£1,128,166

- b) It is proposed that costs will be shared between the two partners in the same proportion as the budgets that they have provided at the onset of the shared service.

Council	Original Budget £'000s	Allocation Proportion³
LB Harrow	587	0.5203
LB Brent	541	0.4797
Totals	£1,128	1.0000

- c) The three year forecast for the PSS shows a slight increase in costs, due entirely to an assumption around a pay settlement of 1%.

¹ Savings required in 2016/17 and 2017/18

² Harrow budget is 2015/16 adjusted for 2016/17 salary increase

³ Proportions based on a %age of the Total Original Budget and rounded to 4 decimal places

C&P Shared Service Summary				
	Yr 1 £'000s	Yr 2 £'000s	Yr 3 £'000s	Annual Uplift
Contributions:				
Brent	540.868	545.839	550.861	0%
Harrow	586.644	592.037	597.484	
Total Contributions	1,127.512	1,137.876	1,148.344	
Salary Costs	1,036.432	1,046.796	1,057.264	1%
Other Staffing Costs	15.000	15.000	15.000	0%
Other Procurement Related Costs	76.080	76.080	76.080	0%
Overhead Contribution	-	-	-	
Total Costs	1,127.512	1,137.876	1,148.344	
Surplus / (Deficit)	-	-	-	

d) Details of the costs are shown below.

Annual Costs	Yr 1 £	Yr 2 £	Yr 3 £
Salary costs	1,036,432	1,046,796	1,057,264
Other staffing costs ⁴	15,000	15,000	15,000
Other procurement related costs	76,080	76,080	76,080
Total Cost of Shared Service	£1,127,512	£1,137,876	£1,148,344

Assumptions behind the figures outlined above include:

- i. Each year above has been considered as a full year.
- ii. The salary costs relate to a full year of the new TOM.
- iii. An uplift in salary costs of 1% has been added to subsequent years.
- iv. An uplift in overhead contribution of 1% has been added to subsequent years.

e) First Year Operational Considerations:

- i. Whilst the amalgamation of the two teams is intended to take place there are considerations that need to be taken into account during the first year of operations. Firstly the shared service operating model will not be in place until 1 November

⁴ Travel, training and telecommunications

2016 at the earliest. This will mean that the merged team will be operating at the current cost until the new model is fully staffed. In effect this would mean an increase of approximately £264,713 in operational costs for the first three months. The impact of this on each council is shown in the next table.

Council	Original Budget £	PSS Contribution £	Saving £	7 Months Current Cost £
Harrow	876,990	586,990	290,000 ⁵	169,167
Brent	813,176	541,176	272,000 ⁶	158,667
Total	£1, 690,166	£1,128,166	£453,793	£327,834

- ii. There is the possibility of additional year one costs should any redundancies be made. These will be effective at some point during the 2016/17 financial year and may include notice periods of up to 12 weeks. No impact of this has been taken into account due to not knowing the impact of vacant posts, difficulty in determining likely notice periods and redundancy terms but the method of apportionment will be agreed by all parties. The intention is to minimise redundancies due to the current level of vacant posts in all organisations.
- iii. It is also possible that individuals may take roles that are below their current salary or grade. In these cases the individuals would be entitled to continue for a period⁷ on current salaries which would reduce the saving potential until they move onto the new pay grade.
- iv. The treatment of set up costs that will be incurred through the creation of the new shared service will need to be agreed as a first year cost that the partners will share. These include one-off ICT costs, HR advisory costs and legal advice on the creation of Inter Authority Agreements.
- v. In the case of all these costs, these will be subject to discussions and agreement between the two parties as part of the Inter Authority Agreement that will need to be in place.

⁵ Savings relate to 2016/17 and 2017/18

⁷ This period will vary between councils, and it is possible that a reduced difference is also required for the second year

- vi. With an efficiency savings target of £272k for 2016/17, the PSS model is financially beneficial to the council and will enable the service to deliver the savings and keep within budget. This is in addition to other future benefits including Economies of scale, system synergy and ability of the PSS to attract good quality staff.

5.0 Legal Implications

- 5.1 Section 9EA of the Local Government Act 2000 and regulation 5(2)(a) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 enables Cabinet to delegate the discharge of one of its executive functions to another authority.
- 5.2 Procurement services are by default an executive function and the Council's executive arrangements (as recorded in the Constitution) allow the Cabinet to delegate executive functions to another local authority.
- 5.3 It should be noted that the arrangements proposed are not intended to amount to a procurement of services which would fall within the scope of the EU Procurement Rules. Instead, LB Brent is delegating its procurement service function to the LB Harrow and it is the LB Harrow exercising the function on behalf of LB Brent, rather than agreeing some form of contractual arrangements, similar to those which would pertain with an external provider of procurement services.
- 5.4 Given the proposed delegation, the parties will need to enter into an inter authority agreement to record the terms of such delegation e.g. the sharing of costs, governance arrangements and the other practical issues. The detail of such arrangements is subject to further negotiation.
- 5.5 Given the proposal to delegate the procurement service function, LB Brent will suffer a loss of direct control over the delivery of the procurement service and the management of staff. It will therefore be essential for the inter authority agreement to set out detailed arrangements with regard to matters such as governance, service delivery requirements, contributions and exit provisions.
- 5.6 TUPE will apply where there is a service provision change, namely where "activities cease to be carried out by a person on his own behalf and are carried out instead by another person on the client's behalf". Given the proposed delegation of the procurement service function to LB Harrow, it is considered that LB Brent's procurement staff will be transferred to LB Harrow pursuant to TUPE. Where there is a potential TUPE situation, there are positive duties to inform and consult with staff

on various matters that have to be observed as a matter of law. Failure to observe such matters could result in litigation and the potential for compensation to be awarded.

- 5.7 Staff transferred to LB Harrow will be made available to LB Brent under section of the 113 Local Government Act 1972 which will enable each council to delegate decisions to them etc. as if they were their own staff.

6.0 Diversity Implications

- 6.1 Officers do not consider that there are any direct Diversity implications arising from this report. An Equalities Impact Assessment Screening has been completed and this is attached at Appendix B for information.

7.0 Staffing/Accommodation Implications

- 7.1 Should the PSS gain approval to proceed, the proposal is for LB Brent staff to TUPE transfer to LB Harrow with effect from 1 August 2016 at the earliest. It is anticipated that the maximum number of staff that will transfer will be 5 posts. The intention is that the majority of staff will continue working from their current locations in LB Brent.
- 7.2 The effect of TUPE is that all relevant staff transfer to the new employer on the same terms and conditions as they are employed on at LB Brent. Changes made because of the transfer itself are void even if the Employee agrees to the change, unless it is for an economic, technical or organisational reason entailing changes to the workforce. Given that the first phase of this proposal simply transfers the employees to the shared service without making any change to the terms of employment, compliance with TUPE should be straightforward.

8.0 Public Services (Social Value) Act 2012

- 8.1 There are no direct implications for Social Value from this report; however the sharing of best practice across the 2 councils will provide improved outcomes for Social Value in contracts.

9.0 Background Papers

None

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