

	Decision of Cabinet Member for Finance, Resources & Reform
	Report to the Corporate Director, Governance
AWARD OF BARRISTERS' SERVICES FRAMEWORK	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Appendix 1 – Successful Chambers for Lots
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Name: Ozgur Dogus Job Title: Trainee Solicitor Email: ozgur.dogus@brent.gov.uk

1.0 Executive Summary

1.1 This report concerns the establishment of the London Boroughs Legal Alliance Barristers' Services Framework. This report summarises the process undertaken in procuring the Barristers' Services Framework by the London Borough of Ealing and and, following the completion of the procurement process, recommends entry into an access agreement with the London Borough of Ealing, permitting Brent Council to use the Barristers' Services Framework to procure barristers' services.

2.0 Recommendation(s)

That the Cabinet Member for Finance, Resources & Reform, having consulted with the Leader:

2.1 Notes the establishment and appointment to the Barristers' Services Framework of the chambers set out in Appendix 1 in respect of Lots 1-11 as detailed in paragraph 3.6.

2.2 Approves entry into an access agreement with the London Borough of Ealing

enabling Brent Council to access and use the Barristers' Services Framework.

3.0 Detail

Contribution to Borough Plan Priorities & Strategic Context

- 3.1 Entry into an access agreement with the London Borough of Ealing allowing Brent Council to use the London Boroughs Legal Alliance (LBLA) Barristers' Services Framework will support the Council with costs associated with the delivery of legal services within the Council, and will allow it to achieve best value, and enhance the delivery of legal services. Use of the LBLA Barristers' Services Framework will also allow for economies of scale in procuring legal services. Kennedy Cater Legal, who assist the LBLA with the administration of the current Barristers' Services Framework, have estimated that from 1 January 2020 to 30th June 2023, Brent Council saved £448,839.00 instructing barristers via the current framework compared with their usual hourly charging rates had the framework not been used.
- 3.2 It is estimated that Brent Council's overall spend from 1st January 2020 to 30th June 2023 is £1,908,568.00. It is estimated that the LBLA as a group currently spends approximately £18 million per annum on external barristers. This expenditure includes spend outside the current framework agreement and is spread across the wide range of functions the LBLA Members engage in. Barristers appointed to the panel will provide a range of both added value benefits and social value benefits under the Barristers' Services Framework, in particular training for in-house LBLA Members. The Council will reserve the right to seek services of barristers outside the Barristers' Services Framework should the need to arise.
- 3.3 The use of the Barristers' Services Framework by Brent Council aligns with the Borough Plan 2023 – 2027 priority for desired outcome 3 of the Borough Plan, namely to “Ensure our social value policy encourages all the organisations we buy services from to provide benefit to our local communities, through jobs, skills, apprenticeships and training places” . The award of the Barristers' Services Framework will include social value added benefits such as outreach and work experience opportunities for students in the Borough.

Background

- 3.4 The Council requires the provision of barristers' services for specialised legal advice and representation in relation to a range of complex legal matters. It is proposed that such services are procured using the Barristers' Services Framework established by the London Borough of Ealing for a period of three (3) years from 1st January 2024 with the option to extend for up to a further twelve months.

- 3.5 The LBLA was established in 2009 as a collaborative partnership of legal teams throughout London. The current members of the LBLA are the London Boroughs of Barnet, Bexley, Brent, Bromley, Camden, Croydon, Ealing, Enfield, Hackney, Hammersmith & Fulham, Haringey, Harrow, Havering, Hillingdon, Hounslow, Islington, Lambeth, Newham, Redbridge, Southwark, Tower Hamlets, Waltham Forest, the Royal Borough of Greenwich, the Royal Borough of Kensington & Chelsea, the City of London corporation, Westminster City Council, the London Fire and Planning Authority and Slough Borough Council (together the “LBLA Members”).
- 3.6 The LBLA Members have in the past let framework agreements for the provision of both solicitors’ and barristers’ services. The existing framework for barristers’ services commenced on 1st January 2020 and expires on 31st December 2023. The LBLA Members consider that the frameworks have worked well and delivered savings. As a result, the LBLA Members have agreed to jointly establish a new Barristers’ Services Framework to enable the procurement of barristers’ services in an organised and consistent way. The Barristers’ Services Framework arrangement is made up of 11 Lots, namely:
- Lot 1: Adult Social Services
 - Lot 2: Children’s Services
 - Lot 3: Governance & Public Law
 - Lot 4: Criminal Litigation & Prosecutions
 - Lot 5: Housing
 - Lot 6: Planning
 - Lot 7: Property
 - Lot 8: Civil Litigation
 - Lot 9: Employment
 - Lot 10: Education
 - Lot 11: Licensing
- 3.7 It was agreed that the London Borough of Ealing would act as a central purchasing body for the purposes of undertaking this procurement exercise and concluding framework agreements with each successful applicant. Each LBLA Member, and any other eligible authority wishing to access the Barristers’ Services Framework will do so by signing an access agreement. The access agreement is to be produced and provided to LBLA Members by the London Borough of Ealing.
- 3.8 A number of expert and experienced barristers’ chambers have been appointed to the Barristers’ Services Framework by the London Borough of Ealing. It is expected that the Council’s participation in the Baristers’ Services Framework to call off specialist legal services, will assist the Council in achieving best value and enhance delivery of legal services to the Council.

The Procurement Process

- 3.9 Advertisements were placed London Tender Portal to seek tenders for legal work by the London Borough of Ealing on 18 May 2023.
- 3.10 The advertisement was provided with an outline specification and details of the tender approach and an invitation to complete a selection questionnaire using the London Borough of Ealing’s Electronic Tendering Facility. The procurement was run as a one stage process, resembling the open procedure. Any organisation that considered itself able to meet the requirements of the selection criteria within the Selection Questionnaire were invited to submit a tender. Such organisations are hereinafter referred to as “Bidders”.
- 3.11 The tendering instructions stated that the Barristers’ Services Framework would be awarded on the basis of the following criteria and weighting for all Lots:
- Service Delivery - Method Statement:
 - 30% for Lots 1, 4, 5, 7, 8. 9.10
 - 35% for Lot 2
 - 45% for Lot 3
 - 40% for Lot 6 & 11
 - Cost Effectiveness, Transparency and Communication: 5% for all Lots
 - Availability of Counsel and Efficient Administration: 5% for all Lots
 - Equality and Diversity: 5% for all lots
 - Value Added Benefits & Social Value: 5% for all lots
 - Commercial Envelope (Pricing):
 - 50% Lot 1
 - 45% Lot 2
 - 35% Lot 3
 - 50% Lot 4
 - 50% Lot 5
 - 40% Lot 6
 - 50% Lot 7
 - 50% Lot 8
 - 50% Lot 9
 - 50% Lot 10
 - 40% Lot 11

Evaluation process

- 3.12 The tender evaluation was carried out by a panel of officers from the LBLA Members.
- 3.13 Following receipt of tenders each member of the evaluation panel carried out an initial evaluation of how well they considered each of the award criteria was addressed by the Bidders.

- 3.14 The evaluation panel met on a number of occasions in August and September and each submission was marked by the panel against the award criteria. The panel were given guidance on how to complete the evaluation process prior to the panel meeting and each evaluator put forward the scores given for each Bidder.
- 3.15 The recommendations for appointment to the Barristers' Services Framework are set out at Appendix 1.
- 3.16 The London Borough of Ealing considered the matter on 12 October 2023 and approved the appointment of barristers' chamber to the Barristers' Services Framework. The Barristers' Services Framework will commence on 1st January 2024.

4.0 Stakeholder and Ward Member consultation and engagement

- 4.1 Because of the nature of the procurement, there has been no consultation with Ward Members or Stakeholders.

5.0 Financial Considerations

- 5.1 This Report seeks approval for the following:

5.1.1 The establishment and appointment to the Barristers' Services Framework of the chambers set out in Appendix 1 in respect of Lots 1-11 as detailed in paragraph 3.6.

5.1.2 Approval of entry into an access agreement with the London Borough of Ealing enabling Brent Council to access and use the Barristers' Services Framework.

- 5.2 Part 3 of the Council's Constitution states that the relevant Cabinet Member in consultation with the Leader has delegated authority to approve entry into agreements for services valued at between £2m and £5m.

- 5.3 The estimated value of services that Brent Council will procure under the Barristers' Services Framework over a period of 3 years is estimated to be £1.875m with an option to extend for 12 months taking the total value to £2.5 million.

The estimated cost without the LBLA Barristers procurement is approximately £3.0m.

The Council has spent approximately £2.1 million on the existing framework for barristers' services and has saved approximately £0.5m to-date

- 5.4 The Barristers' services procured through the Barristers' Services Framework will be funded from Legal Services current budget and recharges in certain circumstances to various internal service areas for the legal services provided.
- 5.5 The contract will be monitored closely to ensure compliance with the Council Resources's Policy and Terms and Conditions and that the quality of services provided by the Barristers is not compromised.
The Council will receive monthly budget monitoring reports and regular meetings will take place between the Heads of Law for LBLA Members to discuss the operation of the framework.
- 5.6 There are no foreseen risks to Brent Council resulting from the entry into an access agreement with the London Borough of Ealing enabling Brent Council to access and use the Barristers' Services Framework.

6.0 Legal Considerations

- 6.1 The estimated value of call-offs by Brent Council under the Barristers' Services Framework over its lifetime is over £2.5M and is in excess of the Public Contracts Regulations 2015 (the "PCR 2015") threshold for Services. The award of the Barristers' Services Framework is therefore governed by the PCR 2015. Section 3 of the report outlines how the Barristers' Services Framework was procured in accordance with the PCR 2015.
- 6.2 Whilst this procurement has been a collaborative procurement between LBLA members, as indicated in paragraph 3.7, the London Borough of Ealing has acted as a central purchasing body and it has awarded and entered into the Barristers' Services Framework with the successful Bidders. To enable Brent Council to access the Barristers' Services Framework, it will be necessary to enter into an access agreement with the London Borough of Ealing. Given the estimated value of call-offs by Brent Council, the Cabinet Member for Finance, Resources & Reform, subject to consultation with the Leader, has delegated authority to approve entry into such access agreement.
- 6.3 CSO 86 (e) provides that no formal tendering procedures apply where contracts are called off under a framework agreement established pursuant to a joint procurement involving the council. This will ensure that barristers' services can be called off from the Barristers Services Framework in an efficient and effective manner, with transparent pricing.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

- 7.1 Pursuant to s149 Equality Act 2010 (the "Public Sector Equality Duty"), the Council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,
- 7.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 7.4 There is no prescribed manner in which the Council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.
- 7.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications
- 7.6 It should be noted that in the procurement, the London Borough of Ealing used the promotion of Equality and Diversity from Bidders as an evaluation criterion with an overall weighting of 5%. Furthermore, any Bidder that failed to either confirm that it complies fully with the Equality Diversity rules of the Bar Standards Board Handbook, or if it does not comply, to adequately explain why not, led to the Bidder in question being disqualified from the procurement process.

8.0 Climate Change and Environmental Considerations

- 8.1 Given the nature of the services to be delivered under the Barristers' Services Framework, Officers do not envisage that there will be any direct Climate Change and Environmental Considerations. Bidders were, however, asked to provide innovative social value added benefits in their Tender responses, which may include benefits such as reducing carbon footprint, and any responses were considered under the Value Added Benefits & Social Value benefits criterion, which had a weighting of 5% for all lots.

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 Barristers' services are currently provided by external barristers and there are no implications for Council staff arising from retendering the Barristers' Services Framework.

10.0 Communication Considerations

- 10.1 Given this report deals with the retendering of the Barristers' Services Framework, relevant Officers will be advised of the outcome of the procurement to ensure its effective use but it is not envisaged that there will be any further Communication Considerations or implications.

Report sign off:

DEBRA NORMAN
Corporate Director of Governance