

Decision Maker: EXECUTIVE

Date: 12 February 2020

Decision Type: Non-Urgent Executive Key

Title: LONDON BOROUGHS LEGAL ALLIANCE FRAMEWORK AGREEMENT FOR BARRISTERS

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Chief Officer: Mark Bowen , Director of Corporate Services

Ward: Wards

1. Reason for report

- 1.1 Seek authority to join the London Boroughs Legal Alliance (LBLA) Framework Agreement for Barrister.

2. RECOMMENDATIONS

- 2.1 Agree to join the new LBLA Framework Agreement for barristers for a period of 3 years with the option to extend for a further year.
- 2.2 In the event the LBLA framework is extended by a further year, delegate authority to the Director of Corporate Services to extend access to the LBLA framework for a further year after the initial 3 year term.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not applicable
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Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Not Applicable:
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Financial

1. Cost of proposal: £6,382 membership fee per annum. £19, 146 over the initial three year period; £25,528 if the option to extend for a further 12 months is taken up.
 2. Ongoing costs: £200k to £300k per annum. Up to £900k over the three year term of the contract; rising to £1.2 million if the option to extend is taken.
 3. Budget head/performance centre: Legal Services
 4. Total current budget for this head: £1.9 million
 5. Source of funding: Existing legal budgets
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Personnel

1. Number of staff (current and additional): 0
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Public Contracts Regulations 2015:
 2. Call-in: Applicable Not Applicable: Further Details
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Procurement

1. Summary of Procurement Implications:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All Council departments
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The LBLA is an alliance of over 20 London Boroughs including the London Fire Brigade. The Council became a member of the LBLA in March 2019 with access to the Solicitors and Barristers framework Agreements. The Barristers Framework has recently been re-tendered and the new Agreement commences from 1 January 2020 and ends after a term of 3 years with the option to extend for a further 12 months.
- 3.2 The LBLA Barristers Framework was competitively tendered in full compliance with Public Contracts Regulations 2015. The framework appointed a panel of approved chambers and approved barristers who undertake work on the basis of agreed framework prices. Kennedy Cater Ltd manage the framework and monitor invoices and spend by each Authority with chambers on the panel. Kennedy Cater provide regular spend monitoring reports to each Authority to make it easier to track spend. They also spot check invoices to ensure charges are in accordance with framework rates and provide a report where there is a variance.
- 3.3 The framework consists of in 6 specialist lots with specialist chambers appointed for each of the lots. The lots are:
- Lot 1: Adult Social Services
 - Lot 2: Children Service
 - Lot 3: Governance and Public Law
 - Lot 4: Criminal litigation and Prosecution
 - Lot 5: Housing
 - Lot 6: Planning
 - Lot 7: Property
 - Lot 8: Civil Litigation.
- 3.4 Barristers are instructed by Legal Services to undertake advocacy in court and give advice on complex matters when required. All instructions to barristers is monitored and approved by the team leader for each team and the Head of Legal Services. Legal Services are demand led service and spend on barristers is also led by the volume of work Legal Service are instructed on. By joining the framework there will be no obligation to any minimum spend or to commission through the framework at all. It is possible to commission barristers from outside the framework where necessary. Using a framework however allows a procurement compliant route and the advantage of commercially tendered rates.
- 3.5 Benefits of LBLA membership include administration and management of the framework with expenditure data provided to members, a comprehensive training programme delivered free by solicitors and barristers on the framework for our staff and facilitated special interest group meetings.

4. SERVICE PROFILE / DATA ANALYSIS

Not applicable.

5. CUSTOMER PROFILE

- 5.1 Legal services commission barristers on children and adults matters, planning matters, prosecution matters, employment matters, SEN education matters, housing matters, litigation matters and other miscellaneous matters as required to provide representation for the Council at court or seek specialist legal advice.

6. MARKET CONSIDERATIONS

- 6.1 There are other frameworks available. However the LBLA framework is targeted at London local authorities and services tailored to London Boroughs.
- 6.2 Alternatively, the Council could run its own procurement to set up a framework agreement. This will be too time consuming and will require resources to manage the framework. This option is not recommended.
- 6.3 The preferred option is to join the LBLA Barristers framework.

7. STAKEHOLDER CONSULTATION

Not applicable.

8. SUSTAINABILITY / IMPACT ASSESSMENT

- 8.1 This decision has been judged to have no or a very small impact on local people and communities.

9. OUTLINE PROCUREMENT STRATEGY AND CONTRACTING PROPOSALS

- 9.1 **Estimated Contract Value** – spend is demand led. Estimated spend per annum under the barristers framework is between £200-300k per annum. Over 4 year the projected value is £1.2 million. The cost is usually met through the legal budget for business as usual matters. For complex matters where the expenditure on a case is going to be significant such as a coroners enquiry or a case listed in court over multiple days legal seek assistance from client departments or the contingency to meet these extra costs. There is no commitment to procure barristers through the framework or commitment to any minimum spends.

- 9.2 **Other Associated Costs** – LBLA Membership fee of £6,382 plus VAT per annum.

- 9.3 **Proposed Contract Period-** January 2020 to December 2023 with the option to extend for a further 12 months.

10. IMPACT ON VULNERABLE ADULTS AND CHILDREN

No direct impact.

11. POLICY IMPLICATIONS

Not applicable.

12. COMMISSIONING AND PROCUREMENT IMPLICATIONS

- 12.1 This report seeks authority to make use of the LBLA Framework. As stated above, the framework commenced 1 January 2020 and ends after a term of 3 years with the option to

extend for a further 12 months. The estimated cumulative spend of individual call off contracts is up to £300k p.a., or an estimated £1.2m over the entire life of the contract.

12.2 This is a 'specific service' covered by Schedule 3 of the Public Contracts Regulations 2015.

12.3 In accordance with Clause 3.5 of the Contract Procedure Rules, the Head of Procurement has been consulted regarding the use of the Framework. The Council is able to make use of the Framework and has been properly included on the Contract Notice. Individual call off contracts can be awarded via further competition or direct award. For any call off contracts awarded over £25k, a Contracts Finder notice will need to be published.

12.4 The Council's Contract Procedure Rules require the following for authorising an award via a framework for a contract of this value; the Approval of the Executive following Agreement by the Portfolio Holder, Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance must be obtained. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

12.5 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

13. FINANCIAL IMPLICATIONS

13.1 The current budget for Counsel fees is £220k across Legal Services budgets on the subjective code of 1766. Over the three year period of the contract it is anticipated that up to £900k will be spent through the framework, rising to a possible £1.2m if the option to extend for a further 12 months is taken up.

13.2 The framework is expected to enable the Council to benefit from competitive prices and standard agreed rates, however, as a demand led service it is not expected to generate savings against budget but will assist in achieving best value from within existing resources.

13.3 The membership fees of £6,382 per annum, totalling £19,146 for the three year period of the contract, or £25,528 if the option to extend for a further 12 months is taken up. This cost will be met from existing budget within the Legal Operational Services cost centre on 420030.

13.4 There is no previous expenditure across the Council with London Boroughs Legal Alliance (LBLA) so the cumulative spend at the end of the initial period of the contract will be £19,146, or £25,528 if the option to extend for a further 12 months is taken up. However there has been £10,380 spent with Kennedy Cater Ltd previously so the cumulative spend with them would increase to £27,796 or £34,178 over the potential three and four year period.

14. PERSONNEL IMPLICATIONS

Not applicable.

15. LEGAL CONSIDERATIONS

15.1 The Framework Agreement has been set up in full compliance with EU public Procurement rules. The Council is permitted to use the framework. If the decision to join is agreed the Council will need to sign an Access Agreement to enable it to use the framework.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	