



CABINET

Subject Heading:

Borough of Culture

Cabinet Member:

Councillor Gillian Ford

SLT Lead:

Barbara Nicholls, Strategic Director
People

Report Author and contact details:

Guy Selfe, guy.selfe@havering.gov.uk
Tel: 01708 433866

Policy context:

People – Things that matter for residents

Financial summary:

The work of a newly formed Council controlled company, will be funded by grants and sponsorship if successful with the Borough of Culture application. Any Council funding contributions have already been identified from existing budgets that will be re-aligned with Borough of Culture objectives within individual service areas.

Is this a Key Decision?

Indicate grounds for decision being Key:

(a) Expenditure or saving (including anticipated income) of £500,000 or more

(b) Significant effect on two or more Wards

When should this matter be reviewed?

December 2024

Reviewing OSC:

Overview and Scrutiny Board

The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents X

Place - A great place to live, work and enjoy X

Resources - A well run Council that delivers for People and Place.

SUMMARY

- 1.1 An application for the London Borough of Havering (the “Borough”) to become the London Borough of Culture (“LBOC”) in either 2025/26 or 2027/28 and for a Cultural Impact Award for 2026/27 was submitted to the Greater London Authority (“GLA”) at the end of November 2023.
- 1.2 The announcement of the successful boroughs for the LBOC title awards and the cultural impact awards were made on 11 March 2024. (A verbal update will be given at the Cabinet meeting as to the outcome and whether Havering has been successful.)
- 1.3 The application included a proposal to establish a new cultural and place making organisation that will support the Council to deliver the LBOC programme and realise future opportunities, irrespective of the outcome of the application (the “Company”).
- 1.4 This report seeks authority to establish the Company as a Council controlled company limited by guarantee initially, with a longer term ambition to evolve into charitable status which would be subject to an options appraisal and relevant decisions.

RECOMMENDATIONS

Cabinet is requested to make the following recommendations:

1. Agree to the incorporation of a company limited by guarantee wholly owned by the Council for the purpose of delivering the London Borough of Culture year (if awarded) and / or realising and delivering other cultural and place making opportunities;
2. Delegate to the Strategic Director People in consultation with the Deputy Director of Legal Services to take all steps necessary to incorporate the Company;
3. Delegate to the Strategic Director People in consultation with the Leader the authority to make the appointments to the board of directors of the Company.
4. Authorise the Strategic Director of Resources to allocate all necessary external funding received for the purposes of Borough of Culture to the Company, to enable delivery of the Borough of Culture programme by way of commissioned contract.

REPORT DETAIL

Background

- 2.1 On 23 November 2023, Cllr Ray Morgon, the Leader of the Council, authorised officers (amongst other things) to submit an application for the Borough to become the LBOC in 2025 / 26. The executive decision is included as a background paper.
- 2.2 The LBOC application included the proposal to establish the Company.
- 2.3 Should the Council be successful with its application to be LBOC in 2025/26 there will be a need to move very quickly to be ready to deliver the year-long programme from April 2025. To assist with this, the Company is considered to be the best option to take on the lead role for delivery of the LBOC, for the reasons set out in this report.
- 2.4 The Company will need to be ready to activate the bid and contract with many of the freelancers and companies that will be engaged to deliver the year of LBOC. The main advantages to establishing the Company are that decision will be more agile and the Company may be able to seek out further contracting and / or funding opportunities.
- 2.5 The longer term ambition for the Company is to apply for charitable status to enable additional benefits to be derived, such as applying for external funding that the Council cannot access. Due to the time needed to set up a charitable organisation, and the need for 'hitting the ground running' following the announcement of the LBOC awards, it is proposed the company limited by guarantee is the first and quickest step.
- 2.6 It is envisaged that the Company could also continue following the year of LBOC to continue its wider role as a cultural and place making organisation.
- 2.7 The Company will be supported by the Council support services, such as finance, HR and legal.
- 2.8 The Company will procure the services of relevant professionals, such as independent Artistic and Executive Directors, alongside expert producers responsible for LBOC projects.
- 2.9 Should the application to be LBOC be unsuccessful, there would still be merit in setting up the Company. During the application process, there have been positive conversations with external funders who have expressed a desire to reverse the Borough's lower investment through external funding per head compared to other

London Boroughs. A business case would need to be developed to demonstrate the benefits or otherwise of this approach.

REASONS AND OPTIONS

Reasons for the decision:

- 3.1 At the time of writing this report the announcement has not been made as to whether the Borough has been successful with its application to be LBOC. The announcement will be made on Monday 11th March 2024, with a verbal update given at the Cabinet meeting of the outcome.
- 3.2 Should the Borough be successful with its application to be LBOC in 2025/26, preparations will need to commence almost immediately. A large and complex programme of thirty different projects will involve significant planning, organisation, procurement, delivery, marketing, evaluation if it is to be successful. With the spotlight on the Borough during a year of being LBOC, it is imperative to start this process immediately after the announcement of the winning boroughs. A timeline of activity between award and delivery is attached as Appendix A.
- 3.3 The benefits of using a company limited by guarantee include the ability to progress and react quicker than embedding the delivery of LBOC within the Council. The application to be LBOC has been a consortium based approach, with representation from the public, private, voluntary and charitable sectors, with a whole borough approach. The Company would be a way to demonstrate ownership and control for the partnership going forward, with appropriate representatives invited on to the Board of the new company.

Other options considered:

- 4.1 Do nothing – this is not an option as if awarded LBOC there will be a need, to realise the significant inward investment opportunities, to mobilise very quickly to prepare to deliver 30 individual projects during the year of being LBOC. This has been discounted.
- 4.2 Do not accept the award of LBOC or a Cultural Impact Award. A previous Executive Decision was taken to apply to be LBOC. By not accepting the award, the borough will see significant inward investment of over £4m going elsewhere to another London Borough. This has been discounted.
- 4.3 Deliver LBOC from within the Council utilising existing resources. Should Havering be successful with being awarded the title award, there is not

sufficient resource within the Council to deliver a year-long programme. Additionally, having to follow the Council's processes, particularly around procurement, will delay the appointment of key personnel, artists, equipment and other associated requirements to deliver LBOC. This has been discounted.

4.4A new Committee of the Council could be established with the sole purpose of overseeing the work required to deliver LBOC. Members, officers and external partners could be co-opted on to the Committee. This is considered to be an option that is not as clear cut as setting up a new company. Therefore this option has been discounted.

4.5 Establish a charitable organisation for the delivery of LBOC. Whilst this is the longer term aim, the establishment of such an organisation is considered to take too much time. Given the need to progress the preparation for delivery of LBOC, the delays caused would severely impact the delivery of LBOC and being ready to deliver 'on time'.

IMPLICATIONS AND RISKS

Financial implications and risks:

The funding required to establish, support and operate a new company would be contained within the total sums of grants received. As identified within the application submitted to LBOC, it is estimated that the total budget for LBOC will be in the region of £4.6m. This includes the match funding required to be contributed from the Council that has already been identified, by cost centre, from existing budgets that will be realigned to delivering service and LBOC objectives.

Any secondments from the Council to the Board of a new company are not expected to be full time positions and are considered to be able to be contained with existing posts. Any changes or additions to job profiles will need to be evaluated, with any increase in grade to be met from the funding received from the grants awarded to be LBOC.

The grant monies received will have accompanying conditions to which the new company would have to adhere. The council will ensure the company follows best value processes via its articles of association.

Should the bid to be LBOC be unsuccessful progression of a company or new charitable organisation would only be on the basis of an approved business case. A charitable organisation would be able to apply for grants/funding which are not accessible by the Council.

Legal implications and risks:

The recommendations here commence with the step of incorporating a company limited by guarantee, a form of company which officers have considered as appropriate for this service. The power to incorporate the Company and enter into these arrangements is contained in s1 of the Localism Act 2011.

This Company will be a company limited by guarantee. The Council will be the sole member and as such will ensure that certain matters relating to the governance of the Company such as the ability to change its name or compete with other Council businesses will be reserved matters for the Council to make decisions on and not the Board of Directors.

It is intended initially that the Company will be what is known as a Teckal company, that is to say the Council will be able to make a direct award of the commissioning contract to deliver the BOC (where so awarded) on behalf of the Council, without having to go out to tender under the Public Contracts Regulations 2015 as it would otherwise have to do. The exception from competition is in Regulation 12 and provides that the company must be controlled by the Council in a similar way to the way it controls its departments, that more than 80% of its business is undertaken on behalf of the Council and that there is no private participation in the Company.

Once the Company has been set up there may be council staff seconded to manage the functions at the company as part of their council role. These staff will remain the employees of the Council.

Human Resources implications and risks:

Should Havering be successful with being awarded LBOC status and the establishment of Havering London is agreed, external appointments will need to be made to the new organisation.

All externally appointed posts would be for a fixed term period required to deliver LBOC and funded through the external grants awarded for this purpose, unless there is a clear business case in some circumstances to exceed an appointment beyond this period. The posts would be created and recruited to in accordance with the new companies HR policies and procedures.

The Council's officer support required, either to provide support services such as Human Resources, Finance, Legal, will need to be factored in during the implementation period once the announcement has been made on the winning boroughs. Consideration will need to be given to existing officer job profiles, grading and whether any updates to these are required to carry out the functions associated with being LBOC. All such matters will be managed in accordance with the Council's HR policies and procedures.

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A new post, LBOC Transformation and Legacy Manager will be embedded within the Council, funded through the grant monies that come with the title award.

Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

In all situations, urgent or not, the Council will seek to ensure equality, inclusion, and dignity for all.

Should Havering be successful with the bid to be Borough of Culture or receive a Cultural Impact Award, one of the guiding principles of delivery is equality, diversity, inclusivity and access. This principle will be applied to delivery of the programme.

The establishment of the Company would adopt all of the above in its setting up and operation.

Health and Wellbeing implications and Risks

There are no health and wellbeing implications or risks associated with the setting up of a Council controlled company limited by guarantee.

However, if Havering is awarded the title award as Borough of Culture or a Cultural Impact Award, there are many positive health and wellbeing implications. Participation, whether as a direct participant in the activity, a volunteer or as a spectator can bring mental and physical health and wellbeing.

As part of the proposed programme of activity there is a desire to provide education, training and development opportunities for cultural activity to positively impact people to progress their careers within the borough – talent retention.

Activities during a year as Borough of Culture will provide access either physically or digitally through hyper-local activity so everyone has access to culture activity within 15 minutes of their home or business. This will include encouraging access to outdoor spaces within the borough.

A key part of the application is to grow the cultural ecology in Havering through developing spaces for creative industries to thrive. This would provide a big benefit to the local economy. Boroughs that have already been Borough of Culture have seen over £4m investment into the local economy by being Borough of Culture. The same impact is expected if Havering is successful with the application.

The delivery of Borough of Culture or a Cultural Impact Award will require a period of rapid management and planning to ensure everything is ready to deliver especially if the award is for 2025/26. Having a Council controlled company to deliver this will ensure the health and wellbeing benefits are achieved.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no implications or risks associated with establishing a Council controlled company limited by guarantee.

However, if Havering is awarded the title award as Borough of Culture or a Cultural Impact Award, the team will acknowledge best practice regarding climate change and environmental needs in line with the Havering Climate Change Action Plan.

There is a desire to embed environmental themes into the proposed programme of activity to help build environmental knowledge, awareness and inspire behavioural change amongst Havering's residents.

The team will consider the environmental impact of materials, sourcing, construction and transportation associated with the proposed programme of activity. The total amount of waste produced will follow the principles of the waste hierarchy: prevention, reuse, recycling, and energy recovery, with disposal as a last resort.

All event organisers will be signposted to a free set of carbon calculators developed by Julie's Bicycle (<https://juliesbicycle.com/our-work/creative-green/creative-climate-tools/>), for the creative industries to understand the environmental impacts of events, tours and productions. They allow users to track a range of different impact areas including energy use, water consumption, waste, travel, freight and materials.

Delivery of the Borough of Culture or a Cultural Impact Award complements the Council's establishment of a Low Energy Demonstration Centre to encourage residents to take direct action to combat climate change. The venue could also be used for some of the events given that it is located in the Council's flagship park.

BACKGROUND PAPERS

1. Notice of KEY Executive Decision containing exempt information - Application to be London Borough of Culture.