



CABINET

12th June 2024

Subject Heading:

London Boroughs Legal Alliance,
Barristers Framework

Cabinet Member:

Councillor Chris Wilkins. Lead Member for
Finance

ELT Lead:

Kathy Freeman

Report Author and contact details:

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Policy context:

Commission services in a way that
provides the best possible value for money

Financial summary:

Estimated spend over 3 years + 1 (based
on previous usage) is £1.5m

Is this a Key Decision?

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

When should this matter be reviewed?

12th June 2024

Reviewing OSC:

Overview & Scrutiny Board

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

People - Supporting our residents to stay safe and well

Place - A great place to live, work and enjoy

Resources - Enabling a resident-focused and resilient Council x

SUMMARY

1. This report seeks Cabinet approval to access a multi-provider London Boroughs Legal Alliance (LBLE) framework agreement (the "Framework") for the provision of services by barristers to the Council providing significant savings on the cost of these services instructed through Legal Services.
2. The Council gains access to the Framework as a member of the London Boroughs Legal Alliance (LBLE) of 28 boroughs and the new agreement replaces the current framework utilised by the Council. The London Borough of Ealing has acted as lead authority for the LBLE for the re-procurement. Using the Framework, Legal Services are able to deliver corporate savings to the Council when representation or advice from counsel is required.

RECOMMENDATIONS

3. For the reasons set out in the report, Cabinet is recommended to agree to enter into the London Boroughs' Legal Alliance (LBLE) Barristers Framework to call off services as and when required until 31st December 2026 (plus a further 1 year, in the event that the London Borough of Ealing exercises the option to extend the Framework).

REPORT DETAIL

4. Background

4.1 The London borough of Havering is a member of the London Boroughs' Legal Alliance (LBLE) which is a network of 28 London boroughs' legal services. The LBLE procures framework agreements for solicitors and barristers services obtaining significant cost savings. The services are provided on a call off basis so the councils are not obliged to instruct barristers from the Framework.

4.2 In practice, Legal Services use the LBLE Barristers framework to save on costs, when the internal legal department does not have in house specialist expertise, where the matter is particularly complex or where there is not sufficient in house capacity, with the permission of the Director or Deputy Director of Legal and Governance.

4.3 The Framework comes with additional value added benefits described below.

5. Key Considerations and Proposals

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- 5.1 The Framework commenced on 1 January 2024 and will continue for a period of three years, subject to the London Borough of Ealing's option to extend the Framework for a further period of one year. Cabinet approval is sought to access the agreement until 31st December 2026.
- 5.2 An officer non-key decision has been made authorising the Legal Service to call off the Framework for the interim period between January 2024 to May 2024, pending a report to Cabinet for a decision.
- 5.3 The services from barristers are divided between the following lots with the chambers identified in Appendix A appointed to each Lot:
- 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
- 5.4 The Council's annual Framework spend on counsel over the past 3 years is as follows:
- 2021/22 - £340k
 - 2022/23 - £431k
 - 2023/24 - £390k (forecast)
- 5.5 Costs can vary with the complexity and number of cases in any one year. The largest area of spend is child protection, but this year there's been an increase in spend in areas like adult social care advice for court of protection and judicial review matters, licensing and enforcement with regards advice on complex and private sector housing matters advice.
- 5.6 The estimated cost for last year shows indicates a slight decrease to the previous year. This reflects the improvements that have taken place in the capacity of the legal service over the last year, which has included less reliance on external expert advice as part of staff undertaking more complex work in-house.
- 5.7 In addition to cashable savings, the bidders have agreed to provide a range of Value Added and Social Value Benefits. Mandatory requirements are a minimum of 1 training session for each Lot to which they are appointed, monthly management information and 20 minutes' free advice for each potential

new instruction. Bidders have also offered a range of additional free benefits which include additional training sessions and seminars, legal updates, legal research facilities, access to Chambers' conference rooms, secondments, legal surgeries, Pro Bono legal advice, supporting local charities, and providing work experience to state school children and those from ethnic backgrounds.

REASONS AND OPTIONS

6. Reasons for the decision:

- 6.1 The use of the Framework will deliver value for money when the Council has to use external barristers for specialist expert advice and advocacy in court. Legal Services often undertakes its own advocacy but the in-house solicitors do not have rights of audience in the High Court and it is often more cost effective to use junior counsel. Under the Framework, chambers have agreed significant discounts on their standard rates and offer both fixed and hourly rates dependant on the nature of the work.
- 6.2 Compliance with the Framework is monitored by a specialist company engaged by the LBLA that checks bills from Chambers, deals with disputes and provides information on the overall spend on the Framework, together with estimated savings achieved, broken down by lot. This provides valuable management information for planning and managing future spend. For the period 1 January 2020 to 31st December 2023 savings for Havering are estimated to be £588k against a total spend from the Framework of £1.5m.

7. Other options considered:

The Council may:

- 7.1 Undertake an individual procurement exercise for the provision of services by barristers. This is not recommended as it is unlikely to benefit from the discounted rates that chambers are prepared to give to a group within a framework.
- 7.2 Procure barristers on a "case by case" basis so far as this is compliant with the Council's procurement rules. This is not recommended as the Council would not receive any discount save through individual negotiation on cases. (NB the LBLA framework is a "call off" contract and so the Council may instruct "non-Framework" barristers where this is appropriate or desirable such as a specialism not covered by the Framework).

7.3 Join a different Framework. There are no competitive alternatives and the Council has paid for free access to the Framework through its membership of the LBLA.

IMPLICATIONS AND RISKS

8. Financial implications and risks:

8.1 The amount of annual spend will vary based on usage, however, based on recent data, is estimated to be up to approx. £430k per year. The spend is accommodated within council wide legal services budgets. Rates achieved via the framework are favourable compared to off-framework equivalents. There is no cost associated with accessing the framework. Use of the framework avoids costs associated with running a procurement.

9. Legal implications and risks:

9.1 The Council has the general power of competence under Section 1 of the Localism Act 2011 to do anything that individuals generally may do, subject to statutory limitations. The recommendation in this report is compatible with the above statutory power.

9.2 Services covered by this report are above threshold and subject to Public Contract Regulations 2015 (as amended) and therefore competition is required. A procurement process was conducted by the London Borough of Ealing on behalf of all boroughs in the London Boroughs Legal Alliance. The Procurement process conducted by the London Borough of Ealing appears to be a fully compliant procedure.

9.3 There is no form of exclusivity or volume that is guaranteed under the Framework Agreement and the Council will be entitled to enter into other contracts with Chambers /Barristers outside of this Framework.

10. Human Resources implications and risks:

10.1 There do not appear to be any HR implications or risks arising directly that impact on the Councils workforce.

11. Equalities implications and risks:

11.1 No Equalities implications have been identified. 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: the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and to foster good relations between those who have protected characteristics and those who do not.

11.2 The protected characteristics' are: age, gender, race and disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

11.3 The council is committed to demonstrating these principles in the application of its decision-making processes and the provision, procurement and commissioning of services.

12. Health and Wellbeing implications and Risks

12.1 There do not appear to be any Health and Wellbeing implications or risks arising directly that impact on the Councils workforce.

13. ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

N/A

BACKGROUND PAPERS

14 Financial information on the overall total of external chambers spend and estimated savings for Havering through the current framework for years 2020 to 2023 from the London Boroughs Legal Alliance.

Appendix A – List of participating chambers by Lot

Lot	Chamber	Lot	Chamber
Adult Social Services	Cornerstone Deka Chambers 39 Essex Chambers Field Court Chambers 11 KBW 4-5 Grays Inn's Sq. Landmark Chambers	Children's Services	4 Brick Court 2 Dr. Johnson's Buildings 33 Bedford Row 42 Bedford Row New Court Chambers The 36 Group Coram Field Court Deka Chambers 1 Crown Office Row 5 Pump court
Governance and Public Law	11KBW 39 Essex Chambers 4-5 Grays Inn's Sq. Cornerstone Field Court Landmark Chambers	Criminal Litigation & Prosecutions	4-5 Grays Inn's Sq. Cornerstone Drystone Foundry Chambers Three Raymond Buildings
Housing	42 Bedford Row 4-5 Grays Inn's Sq. 5 Pump Court Cornerstone Field Court Five Paper	Planning Building	39 Essex Chambers 4-5 Grays Inn's Sq. Cornerstone Francis Taylor Landmark Six Pump Court
Property	42 Bedford Row 4-5 Grays Inn's Sq. 5 Pump Court Cornerstone Field Court	Civil Litigation	42 Bedford Row 4-5 Grays Inn's Sq. 5 Pump Court Cornerstone Field Court The 36 Group
Employment	42 Bedford Row 4-5 Grays Inn's Sq. Doughty Street Field Court The 36 Group The Barrister Group	Education	11 KBW 39 Essex Chambers Landmark The 36 Group

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Licensing	Cornerstone Francis Taylor Building Three Raymond Buildings	
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