


<p style="text-align: center;"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p style="text-align: center;"><b>CABINET</b></p> <p style="text-align: center;"><b>27 MARCH 2017</b></p>	
<p style="text-align: center;"><b>PROCUREMENT OF COMMUNITY ADVICE SERVICES</b></p>	
<p style="text-align: center;"><b>Report of the Cabinet Member for Social Inclusion - Councillor Sue Fennimore</b></p>	
<p><b>Open Report</b></p>	
<p>Classification - For Decision Key Decision: Yes</p>	
<p>Wards Affected: All</p>	
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## **1. EXECUTIVE SUMMARY**

- 1.1. The council has a declared ambition to change the way it engages with the Third Sector. This approach seeks to refocus the relationship with third sector organisations to achieve the best outcomes for H&F residents. This approach values community engagement, volunteering and leadership while seeking new partnerships and ventures which will embolden the sector and provide incentives and opportunities for it to secure additional funding for the Borough.
- 1.2. This approach is set out in a separate report elsewhere on this agenda. As a first step this report seeks approval for the sustained funding of community advice services and sets out the procurement plan to facilitate this.

## **2. RECOMMENDATIONS**

- 2.1. That Cabinet agrees the approach for funding sustainable community advice services and the procurement strategy attached as appendix 1 to this report.

- 2.2. That Cabinet agrees to delegate to the Director of Delivery and Value, in consultation with the relevant Cabinet Member, the specification and tender documentation.

### **3. REASONS FOR DECISION**

- 3.1. The council is supporting a new approach to working with the third sector and is keen to ensure that its approach helps to build a stronger and more resilient sector where the focus is on developing new partnerships and where less time and resources are spent on administration.
- 3.2. The development of a new approach for the procurement of community advice services is part of this agenda. In line with the Low Commission's recommendations, the council is seeking to procure 10 year contracts for community advice services, based upon an open OJEU procurement process. Cabinet approval is sought to approve this approach and the financial commitment involved.

### **4. BACKGROUND**

- 4.1. An early priority for the new relationship with the third sector is to create a far more stable base for the funding of community advice services. In addition to developing the vision for a broader relationship with the Third Sector, this report seeks authority for a procurement exercise to establish 10-year contracts for such services.
- 4.2. These services provide residents with critical advice and legal services in areas which have the capacity to assist the council in lowering demand in some of its own high cost service areas, including social care, housing and homelessness.
- 4.3. The council has grant-funded local community advice services continuously for over 15 years, generally through relatively short-term grants, for a maximum of four-years. The continual need for these services is well documented and with cuts to legal aid, the ongoing shortage of affordable housing in London and changes to benefit regulations, there remains a very clear need for these services in the borough.

### **5. THE CASE FOR CHANGE**

- 5.1. The council proposes that the funding term of 10 years be guaranteed to secure sustainable local advice services. This will require the procurement of a contract through an OJEU process but will have the effect of saving the costs of retendering grants every few years. It will provide security of funding for a sector which has experienced an exponential growth in demand and potentially permit the successful bidders to lever in additional resources to further enhance the service.
- 5.2. The Low Commission on the Future of Advice and Legal Support was established to develop a strategy for access to advice and support on Social

Welfare Law in England and Wales. It published its report on a future strategy for social welfare advice considering legal aid cuts, and has now published a major report on the economic value of social welfare advice - [www.lowcommission.org.uk](http://www.lowcommission.org.uk)

The Low Commission recommends local authorities should:

- a. work with their local advice sector to coproduce ten-year local advice and legal support plans, to ensure the provision of a basic level of information and advice.
  - b. commission services working in partnership with the local advice sector.
  - c. consider procuring local advice and legal support services through grant programmes, where appropriate, rather than competitive tendering, and should reflect the new Public Services (Social Value) Act 2012 in their approach, which recognises the added value which not-for-profit agencies can often bring.
  - d. develop local advice and legal support plans for a ten-year period (with detailed proposals for the first five years, followed by a broader outlook for the second five years), but should be reviewed every three years to ensure they remain relevant in a changing environment; local authorities should be required to publish a report every three years on achievements against planned outcomes.
- 5.3. The proposal is to take advantage of the Low Commission findings to establish a more sustainable funding and relationship with the sector, rather than continue the more traditional funder/funded provider relationship. However, it should be noted that the financial value of a 10-year funding arrangement exceeds the level where this can be done via a traditional grant. The level of funding will trigger an EU procurement process. Moreover, there are also state aid implications with awarding a grant should it not fall within the state aid exemptions. In previous years, the council has relied on the De Minimum exemption which allows the grant awards up to a value of 200,000 euros over 3 fiscal years.
- 5.4. Longer-term contractual arrangements, for ten years plus, have been long-established for a range of other council goods and services.
- 5.5. The council's view is that more effective and sustainable outcomes can be achieved through empowering communities, shifting the relationship from a top-down, grant-making approach, to one based on collaboration and partnership.
- 5.6. The rationale for *sustainable* community advice services is well supported by a broad range of policies, research and drivers, including:
- the Social Inclusion agenda (to embed social inclusion at the forefront of all council activity);

- the Low Review<sup>1</sup>;
- the impact of welfare reform;
- and the ongoing work to support local residents within a challenging housing economy.

It is a priority for the council to ensure that residents have the appropriate advice and information in relation to their rights.

- 5.7. As well as enabling community advice services to focus their energies on developing and delivering services, longer term funding agreements would offer a far better use of limited council resources. A different, more strategic, relationship will enable the council to focus on supporting the development of partnerships and future local advice strategies.
- 5.8. Providing secure longer-term funding will offer successful bidders a secure base from which they will be better placed to attract additional funding into the borough, which would further benefit local residents.
- 5.9. Longer term funding models also provide a secure platform for organisations to operate on a more equal footing with the council, strengthening their leadership in the future co-production of services.
- 5.10. The procurement plan to award a 10-year contract for community advice partnerships is attached as Appendix 1.

## **6. OPTIONS AND ANALYSIS OF OPTIONS**

- 6.1. The options for the council fall into two areas. First, the council could continue to fund advice services on the current basis, with short to medium-term grant awards. This 'status quo' option does not challenge the sector to raise its game, or fundamentally change the relationship between the council and the sector. With public sector budgets almost certain to continue contracting, the council is keen to demand more of the sector, both in terms of leveraging additional monies into the borough and to provide the critical advice which may reduce demands on critical council services. Moreover, such an approach could raise State Aid implications.
- 6.2. The second, recommended, option is to competitively procure the services via an open OJEU process. This is the only route which delivers the critical policy objective of creating a sustainable funding model upon which a long-term partnership can be based.
- 6.3. It should be noted that while the Low Commission recommended 10-year long-term partnerships being established via grant programmes, the financial value of such a commitment in Hammersmith and Fulham crosses the financial threshold at which an OJEU process may be triggered. The value of

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<sup>1</sup> The Low Commission published its report on a future strategy for social welfare advice considering legal aid cuts, and has now published a major follow up work on the economic value of social welfare advice. [www.lowcommission.org.uk](http://www.lowcommission.org.uk)

these contracts and the proposed 10-year length, creates a strong case to submit these services to a tendered approach as this will help mitigate any State Aid issue.

## **7. PROCUREMENT STRATEGY**

- 7.1. It is recommended that Community Advice services be competitively tendered, using the council's online procurement system, with a view to offering secure and sustainable 10-year funding. See Appendix 1, Procurement Plan.
- 7.2. Services will be advertised in three lots:
  - a. Generalist community advice services.
  - b. Specialist community legal advice and representation (with an initial focus on housing related issues).
  - c. Specialist advice and support for disabled residents, with an initial focus on welfare benefits and welfare reform.
- 7.3. Providers will be required to evidence that they have:
  - a. An existing record of providing high quality and outcomes focussed community advice services.
  - b. Evidence of significant success of winning court cases, reducing debt, securing entitlements/benefits, avoiding homelessness – particularly for traditionally excluded communities.
  - c. An ability to operate efficient and responsive community advice services in the borough.
  - d. Evidence of ability to deliver the services at the capacity required.
  - e. Evidence of the ability to deliver added value in the borough, including use of volunteers, local employment opportunities and additional funding levered into the local economy.
  - f. Evidence of a range of additional services that will enhance the core offer for which funding is offered.
  - g. Evidence of the ability to secure and sustain partnerships and collaborations within the sector.
  - h. Evidence of the ability to operate from suitable and accessible premises in the borough with an appropriate staff resource.

## **8. EQUALITY IMPLICATIONS**

- 8.1. The procurement process will include a robust Equalities Impact Assessment report, which will be attached to the Award of Contract decision report. The service level agreements offered will include requirements under the Prevent agenda.

## **9. LEGAL IMPLICATIONS**

- 9.1. The services that are the subject of this report are classified as Schedule 3 services for the purposes of the Public Contracts Regulations 2015 (Regulations). Schedule 3 services are subject to the “light touch regime” if the value of the contract exceeds the current threshold of £589,148.00. As the value of the proposed contracts will exceed the threshold, the council is required to comply with the requirements set out in the Regulations, which include the requirement to advertise the contract opportunity on OJEU and Contracts Finder.
- 9.2. The Council has a duty to ensure that the procured contracts satisfies the Best Value requirements under the Local Government Act 1999.
- 9.3. *Implications verified/completed by: Kar-Yee Chan, Solicitor, Shared Legal Services, 020 8753 2772.*

## **10. FINANCIAL IMPLICATIONS**

- 10.1. Current agreements for grant funded community advice services are in place until March 2018.
- 10.2. The total value of current funding for community advice services from the borough’s corporate grants programme, the Third Sector Investment Fund is £658,171 for 2016/17.
- 10.3. Under the new proposals, it is likely that the total value of contract award offered will be in the region of £510,000-£690,000 per financial year, for a 10-year period. Funding at this level represents approximately 15% of the current overall annual grants budget.
- 10.4. Members will need to balance several considerations in determining whether to agree to the proposals. A key consideration in offering a 10-year commitment is future affordability. A 10-year funding commitment is likely to reduce the council’s ability to deliver savings in this area.
- 10.5. Balanced against this is the proven, long-term commitment and need for community advice services, which is likely to continue, and the potential which good quality advice services offer to reduce demand on existing high-cost Council services. Cabinet, in making a decision, should be mindful of these issues.
- 10.6. *Implications verified/completed by: Andrew Lord, Head of Strategic Planning and Monitoring, Ext 2531.*

## **11. IMPLICATIONS FOR BUSINESS**

- 11.1 This report's recommendation is for the Cabinet to approve the procurement plan to let a 10-year contract for community advice services.
- 11.2 In relation to businesses, it is proposed that the procurement plan includes the need to look locally for contractors and where possible for third sector organisations. As set out in this Cabinet Report, contractors will be assessed as part of any procurement plan for evidence of 'delivering added value in the borough, including extensive use of volunteers, local employment opportunities and additional funding levered into the local economy.'
- 11.3 The economic and community benefits will be clearly identified and detailed in any new contracts and will be monitored by the client management team for these contracts.
- 11.4 *Implications verified/completed by: Antonia Hollingsworth, Economic Development.*

## **12. PROCUREMENT IMPLICATIONS**

- 12.1. This report's recommendations if approved, will help give effect to some of the key recommendations contained in the two Low Commission reports on the delivery of community advice services. Namely, local authorities taking a more long-term, holistic, collaborative and strategic partnership approach to local delivery of these important services.
- 12.2. The financial value of the long-term strategic partnerships being sought will require a public procurement exercise under the Public Contracts Regulations 2015. However, as the services are categorised under these regulations as "Social and Other Specific Services", they fall under a "light touch regime." This will require the placing of a notice in the Official Journal of the EU, and in the UK's Contracts Finder, advertising the opportunity to tender for the contracts, but allow the council discretion in how the process is run, so long as the fundamental principles of transparency, fairness, and non-discrimination are upheld. Regulation 76 allows the council to consider the "specificities" in awarding the contracts, including, under clause 8 of Regulation 76, relevant considerations such as:
- "a) the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services;*  
*b) the specific needs of different categories of users, including disadvantaged and vulnerable groups;*  
*c) the involvement and empowerment of users;*  
*d) innovation."*
- 12.3. *Implications verified/completed by: John Francis, Interim Head of Procurement (job-share) 020-8753-2582.*

### 13. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
	None.		

### LIST OF APPENDICES:

*Appendix 1: Business Care and Procurement Strategy*