

# **CENTRAL SERVICES CABINET MEMBER MEETING**

## **Agenda Item 26**

Brighton & Hove City Council

**Subject:** Legal Services Framework  
**Date of Meeting:** 12 October 2009  
**Report of:** Director of Strategy & Governance  
**Contact Officer:** Name: Alison Leitch Tel: 29-1516  
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**Key Decision:** No Forward Plan No: N/A  
**Wards Affected:** All

### **FOR GENERAL RELEASE**

#### **1. SUMMARY AND POLICY CONTEXT:**

- 1.1 All the District and Borough Councils in West and East Sussex, East Sussex County Council, West Sussex County Council, Brighton and Hove City Council and the East Sussex Fire and Rescue Authority have a need from time to time for external legal services either because internal legal resources are fully committed to other work which has a higher or equal priority, or the work requires specialist expertise. In 2007/2008 the total cost of such work across all the above authorities was in the region of £3-3.5m.
- 1.2 The above authorities wish to set up a procurement framework that they can all use, that will have tested the market for the services to be provided and improve the efficiency of acquiring those services. Arun District Council's Chief Executive is the lead Chief Executive across West Sussex for shared legal services and it is proposed therefore that Arun District Council be the lead authority for this procurement framework agreement.

#### **2. RECOMMENDATIONS:**

- 2.1 Authorise the Head of Law to enter into a Consortium Agreement to achieve a joint procurement framework agreement for external legal services with all or any of the Unitary, County, District, Borough and Fire and Rescue Authorities in West and East Sussex (the Consortium Authorities) to be led by Arun District Council, and take any steps necessary or incidental to implementing the framework agreement.

#### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Consortium Agreement sets out the obligations and responsibilities of each of the authorities comprising the Consortium Authorities including indemnities to ensure that each authority is solely responsible for the cost of any service that authority procures under the Joint Procurement Framework Agreement.

- 3.2 Arun District Council be the lead authority for the Joint Procurement Framework Agreement and work with a core team of legal and procurement officers from the Consortium Authorities on the procurement process. The tender will follow the Restricted Procedure where potential providers will be required to pass a Pre-Qualification Questionnaire stage before receiving an Invitation to Tender. All tender submissions will be evaluated and a suitable number of providers for each category of work will be awarded a place on the Framework Agreement.
- 3.3 As lead authority, Arun District Council will enter into a Joint Procurement Framework Agreement for four years with selected providers on behalf of all the Consortium Authorities with a provision to extend the Joint Procurement Framework Agreement for a further 2 years.
- 3.4 Local Authorities provide a diverse range of services and in the course of doing so the need arises from time to time to appoint firms of solicitors and barristers to assist with the work involved.
- 3.5 That work can include routine legal services or specific one off projects that the in-house legal team are unable to carry out within the timescale required because resources are fully committed to other work which has a higher or equal priority or the work requires specialist expertise.
- 3.6 The areas of such work across the Consortium Authorities covers:
- ♦ Administrative/Local Government Law
  - ♦ Adult Care Services
  - ♦ Children's Care Services
  - ♦ Civil Litigation
  - ♦ Contracts
  - ♦ Construction
  - ♦ Criminal Litigation
  - ♦ Education
  - ♦ Employment
  - ♦ Environmental Amenities
  - ♦ Environmental Health
  - ♦ Highways
  - ♦ Housing
  - ♦ Information and IT Law
  - ♦ Licensing
  - ♦ Major Projects
  - ♦ Planning
  - ♦ Property
- 3.7 Some of this work is appropriate to be carried out by another authority within the Consortium, or local firms or barristers, whilst other parts of the work require the

input of a specialist in that field. Currently each of the Consortium Authorities arrange for work to be outsourced on a project by project basis. A Joint Procurement Framework Agreement will enable the costs involved to be market tested.

- 3.8 The Consortium Authorities will each put forward a core team of legal officers and procurement officers to set up the procurement process to be followed and the evaluation process to be applied. It is proposed that the number of service providers accepted for each sub-category of work is set on the basis of:
- ♦ anticipated quantity of work
  - ♦ likelihood of there being a conflict of interest
- 3.9 It is expected that by dividing the work into main and then sub-categories there will be interest from a large number of service providers ranging from the small local providers right through to the large national service providers.
- 3.10 Service providers will submit details of their time charges for the procurement process work within the sub-categories and if selected those charges will apply throughout the period of the Joint Procurement Framework Agreement subject to adjustment for inflation. When any one of the Consortium Authorities has work to put out, the authority will select one or more of the firms on the framework and ask for a case/matter plan including an estimate of the time the work will take and which person(s) will carry out the work. The authority then decides who to place the work with, without the need to go through any other procedure under the authority's contract or financial standing orders other than relating to budget provision.
- 3.11 There is no guarantee to the service providers that work will be given to them. The allocation of work depends upon each authority's future need to put work out.
- 3.12 Funding for the set-up costs including relevant officer time will be provided from an allocated sum of £10,000 from the Sussex Improvement Partnership through the Regional Improvements and Efficiency Consortium
- 3.13 It is intended that the use of the framework should be monitored throughout the life of the Agreement which will provide valuable data to all the Consortium Authorities for future procurement.

#### **4. CONSULTATION**

- 4.1 Individual authorities have consulted their legal services teams to determine the demand for this service. Given that the arrangement proposed is a framework agreement, each authority can choose to use it or not depending upon their own requirements, and their ability to source legal services which represent value for money for the authority elsewhere.

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 5.1 The entering into and operation of a Sussex wide Framework Agreement requires no upfront costs for the Council and is expected to deliver better value for money and produce efficiencies in the procurement of external legal advice. The operation of the Agreement will be monitored during the four year life and will inform future procurement processes

*Finance Officer Consulted: Anne Silley*

*Date: 06/08/2009*

### Legal Implications:

- 5.2 The entering into of the consortium agreement would not require any payment from the council, and would allow them access to a properly procured framework agreement which could realise the council significant savings. There is no cost to the council of entering the agreement, and no obligation on the council to use the services under the framework if they did not (for any reason) offer the council value for money. The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report.

*Lawyer consulted: Alison Leitch*

*Date: 06/08/2009*

### Equalities Implications:

- 5.3 All firms applying for selection under the framework agreement will be required to comply with relevant equalities legislation.

### Sustainability Implications:

- 5.4 All firms applying for selection under the framework agreement will be required to provide details of the sustainability schemes.

### Crime & Disorder Implications:

- 5.5 It is not anticipated that entering into this agreement will have a negative effect on crime and disorder in Brighton & Hove.

### Risk & Opportunity Management Implications:

- 5.6 There is a low risk in entering into this agreement, given that it is up to the council whether to use the services under it. Therefore, it represents an opportunity for savings rather than a risk.

### Corporate / Citywide Implications:

- 5.7 None identified.

## **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 That the Council enters into the Consortium Agreement with the other authorities within West and East Sussex to form a Joint Procurement Framework Agreement as detailed in this report. Arun District Council is to take the lead on this project (preferred option).
- 6.2 That the Council does not enter in the Consortium Agreement with the other authorities within West and East Sussex to form a Joint Procurement Framework Agreement as detailed in this report. Given that there are no cost implications for doing so, this option is not recommended.
- 6.3 That the council enters into a Framework Agreement solely for work needed by the council. This option remains open to the council whether or not the Sussex-wide framework is entered into. However, it is likely that the Sussex-wide framework will offer greater value for money due to the potential size and scope of the work on offer to the legal providers.

## **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 Approval of entering into the relevant consortium agreement is sought in order to deliver efficiency savings and value for money for the council when instructing external legal providers.
- 7.2 The method proposed allows the council to market test the cost of external legal services, to seek efficiency savings based on the economy of scale and to establish a more efficient method of procuring external legal services.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Consortium Agreement

### **Documents in Members' Rooms**

1. None

### **Background Documents**

1. None

