

Item No. 10	Classification: Open	Date: 18 th July 2006
To	Executive	
Report title	Gateway 1 - Procurement Strategy Approval Advice and Legal Services Commissioning Programme 2007-10	
Ward(s) or groups affected	All	
From	Assistant Chief Executive (Performance and Strategy) Head of Social Inclusion	

1. RECOMMENDATION (S)

1.1 That the Executive approves the commissioning plan outlined in this report for the Advice and Legal Services Programme for the period 2007-10.

1.2 That the Executive determine whether the leaseholder pilot should be incorporated into the main contract specification, and if so, how they would wish this to be funded for the period 2007 –2010.

2. BACKGROUND INFORMATION

2.1 The contracts for the delivery of Advice and Legal Services amount to the budget sum of £3.5m for the period 2004-07. The current arrangements, which are coming to an end, are set out in paragraphs 3.10 and 3.11.

2.2 The current contract does not have provision for extension, and therefore the re-commissioning of advice and legal services is needed.

2.3 The estimated cost of the contract for the years 2007/10 (assuming inflation at 2.5%) is £3,789,108 (excluding the leaseholder initiative).

2.4 To incorporate the leaseholders initiative into the main contract from 2007/8 will either require consolidation of the current additional funding, or result in a reduction in other aspects of advice provision.

3. REASONS FOR PROCUREMENT

3.1 Southwark is required to report to central government through Best Value Performance Indicator 226 on the amount of money it spends on funding advice services provided by external organisations. The Advice and Legal Services Programme provides funding to organisations that deliver these services.

3.2 The overall objective of the Advice & Legal Services Programme is to help reduce the effects of poverty and deprivation in Southwark by providing resources to support advice agencies offering information, advice and guidance on rights, entitlements, responsibilities and duties.

3.3 The strategy for achieving this is to commission services offering a variety of access routes to advice, which meet the differing needs of the community. Service delivery is focused on providing:

- Access to advice and casework in areas of social welfare law, such as welfare benefits, housing, debt, employment, consumer and immigration

- Multi-lingual advice services for people whose first language is not English
- Specialist legal advice, advocacy and representation (where possible) at Social Security and Child Support Appeal Tribunal, County Court and Employment Tribunal
- Variety of access routes to advice including drop in, appointments, telephone help lines, outreach sessions and home visits
- Co-ordination of services through the Southwark Community Legal Services Partnership
- Reducing poverty, exclusion and discrimination through income maximisation, the provision of preventative advice, and partnership working with agencies working to address unemployment and financial and social exclusion

3.4 In addition, as a result of the number of enquiries and the complexity of issues affecting Southwark leaseholders, for 2006/7 the Council is funding Southwark Citizens Advice Bureaux Service to provide a one-year pilot independent advice project to leaseholders. The cost of funding the project for the duration of the pilot period of one year is £25,000 for a part-time project worker. Southwark CAB Service will add value to the funding by setting up and managing a free legal clinic in partnership with the Solicitors Pro Bono Group.

3.5 The pilot will provide a service to Southwark leaseholders during the initial one-year funding period and will assess the level of need for independent advice. If Members wish to include this service as part of the mainstream contract arrangements for 2007 to 2010, this requirement will need to be included in the specification issued in the autumn (before the evidence from the pilot is available). The cost of this would either need to come from consolidating the current one-off budget plus growth if the level of demand cannot be met within the current pilot resourcing level, or be contained within the 2007/8 base budget for Advice and Legal Services which would result in a reduction in the level of other types of advice available. Demand for these other services is also high (see below).

3.6 This Gateway 1 report is a key decision as the contract value is over £500,000 p.a. and all wards will potentially be affected. It was placed on the Forward Plan on May 18th 2006.

Market considerations

3.7 At present there is an established supply of not-for profit advice and legal services providers offering generalist, specialist and multi-lingual services within Southwark. These are the existing Southwark core funded service providers. These organisations offer a quality service to their client groups. At times the demand for services exceeds supply, which has an impact on service access.

3.8 Following the Best Value Review of Advice services in 2002/3, it was agreed that the Council focus on the provision of advice and legal services at Level 2 (casework) and Level 3 (advocacy and representation), that are not funded by other funders, in particular the Legal Services Commission (LSC). This approach ensures that the highest levels of need are met whilst ensuring that there is no duplication between coverage provided by advice and legal services' contracts, and the LSC. The overall specification is being developed based on an assessment of current levels of need and services provided, taking into account services funded by the Legal Services Commission. The specification will package services in terms of geographical spread, different aspects of advice (e.g. welfare benefits, employment, debt, immigration, housing, etc), and the provision of some advice in other languages. Organisations will be able to receive funding for providing one or more parts of a service package.

3.9 Some of the currently funded agencies also receive Legal Services Commission funding for Level 3 specialist legal services. The LSC has published two key strategies that may affect future LSC funding of currently funded agencies. These policy changes will be implemented during the period of the next contract period. This could result in the withdrawal of LSC funding

and the loss of specialist-funded services locally. Legal advice will be taken to ensure that new contracts issued by Southwark to advice providers protect our funding interest should any change in LSC funding affecting the viability of a provider.

Summary of the business case

3.10 The Social Inclusion Division manages the Advice and Legal Services Programme. Seven voluntary sector advice agencies in Southwark are currently funded through the programme to deliver services. They are in the final year of 3-year contracts due to expire on the 31st March 2007. The currently funded agencies are listed at Appendix 1.

3.11 Until the year 2004/05, the funding framework consisted of grant aid awarded on a yearly basis. Following a Best Value Review of Advice Services a plan was developed to move to formal tendering and contracting. This led to the change to the current 3-year contract-funding framework.

3.12 An Audit of Advice Needs in Southwark has been carried out between March and June 2006. The main findings include the following:

- Access to services – there is evidence of significant levels of unmet need for face to face and telephone advice
- The highest levels of demand are for generalist and specialist advice in welfare benefits, housing and debt
- Evidence of the highest levels of unmet need is for employment, debt and consumer advice at generalist and specialist levels
- There has been a large increase in the number of people seeking advice about bankruptcy
- There has been a reduction in the number of solicitors in Southwark providing publicly funded immigration work from 21 in 2005 to 12 in 2006
- There is very limited specialist immigration advice available for complex immigration cases
- There are barriers/lack of availability of welfare benefits form filling services in community languages provided by the Department for Work and Pensions
- It is estimated that about 50% of people attending Southwark One Stop Shops do not speak English as a first language
- The increased availability of self-help materials and resources through web based directories is of limited value to vulnerable client groups
- The impact of improved accessibility provided by national and local Call Centre methods of service delivery does not reduce the need for face to face advice for vulnerable client groups and individuals with complex or clusters of problems
- Difficulties are reported with accessing information from Southwark Housing Department

3.13 The benefits to Southwark residents of the advice services currently provided is demonstrated by the following indicative statistics:

- For the two years 2004-06 total extra income generated by advice agencies for clients has amounted to £4,044,000. (Final figure will be higher).
 - £3,167,426 consists of additional Tax Credits and welfare benefits income.
 - £795,949 in settlements achieved in employment cases challenging unfair and constructive dismissal, discrimination and redundancy terms.
 - £80,625 in cases involving housing matters and utility companies.
- Another example of need and service delivery is provided by examining the statistics of the currently funded agencies during 2004-05. The seven agencies provided face

to face advice to 15,187 people, telephone advice to 6046 people, outreach appointments for 1286 people, and email/letter advice in response to 190 enquiries.

- During 2004-06 the two multilingual agencies completed 620 application forms, resulting in £736,690 additional Tax Credits and benefit income for Southwark residents with a first language other than English.
- Between 2004 and 2006, one agency specialising in immigration achieved a 32% increase in the number of clients achieving a positive resolution to an immigration matter with 635 people benefiting.
- In 2005 one agency with exceptionally high demand for both face to face and telephone advice improved access to its services by piloting a triage service twice a week, providing an additional 4 hours per week of public access, and also secured funding to deliver a Pilot Leaseholders Advice Service.
- One agency has attracted additional funding:
 - to work in partnership with Southwark Credit Union in addressing financial exclusion.
 - to take the South London lead in developing Capitalise – London’s debt advice partnership.
 - to provide advice and training to prisoners and ex-offenders.

3.14 For the next commissioning round, in order to ensure that only those organisations who are fit for purpose are invited to tender, the restricted procurement procedure will be followed. In order to ensure the capacity needs of the service, and that the diversity of need within Southwark communities is recognised, the Council will reserve the right to award the contract to more than one supplier.

Identified risks and how they will be managed

3. 15 The main risks and mitigations are as follows:

Risks	Managed by
Increased costs of provision compared to 2004/5 may reduce the volume of advice that can be provided with the same level of budget as at present.	Continuing to benchmark Southwark costs with that of LSC and other boroughs to ensure we maximise provision whilst retaining viability of providers
Specialist providers may be particularly vulnerable to changes in LSC funding	Closely monitor LSC developments and work with providers to encourage collaborative working.

4. KEY ISSUES FOR CONSIDERATION

Policy implications

4.1 The services delivered by the agencies funded within the Advice and Legal Services Programme support and complement a number of key corporate plans and strategies including the following:

- Southwark Alliance’s Community Strategy
- Southwark’s over arching priorities for Tackling Poverty
- Southwark’s Equality, Diversity and Cohesion Policy and Action Plan in relation to tackling discrimination and promoting positive community relations.

Procurement project plan

Activity	Complete by:
Gateway 1: Procurement strategy for approval report (this report)	18.07.06
Completion of Pre-qualification questionnaire documentation	18.07.06
Advertise for expressions of interest in tendering for contract	24.7.06
Closing date for return of Pre-qualification questionnaire	18.08.06
Review of Pre-qualification questionnaire documentation	15.09.06
Invitation to tender to preferred suppliers	18.09.06
Place award decision on the forward plan for January 2007	Sept 06
Closing date for return of tenders	24.11.06
Completion of evaluation of tenders	08.12.06
Completion of any post-tender clarification meetings/interviews	15.12.06
Gateway 2: Contract award for approval report	30.01.07
Window for the decision to be called into scrutiny	04.02.07
Contract award	Feb 07
Contract completion date	28.02.07
Contract start	01.04.07

NB The procurement plan project timetable may be subject to slight amendment.

TUPE implications

4.2 Not applicable.

Development of the tender documentation

4.3 The Partnership and Policy Manager for advice and legal services within the Social Policy Unit will produce:

- A full Pre-Qualification Questionnaire with guidance from Southwark Procurement
- A full set of tender documentation with guidance from Southwark Procurement
- Findings from the Audit of Advice Services will inform any changes that need to be made to the current service specification
- If it is desirable to consult with external agencies on service specification this will be completed before the start of pre-tender activity.

4.4 This report will be sent to all existing preferred suppliers for their information.

Advertising the Approved List

4.5 Advertisements will be placed in South London Press and SAVO News. Personal invitations will also be sent to current suppliers.

Evaluation of tenders

4.6 The Evaluation Panel will consist of a Head of Service, the Social Policy Manager and the Partnership and Policy Manager. Southwark Procurement will assist with evaluations.

Community Impact Statement

4.7 The Advice and Legal Services Specification is drawn up to ensure that the communities of Southwark have access to free independent advice and legal services. These services are designed to promote individual rights and access to social justice by reducing income poverty and social exclusion.

4.8 The population in Southwark is growing at a faster rate than the national average and reached 265,000 in 2001. Southwark has high in and out migration. The profile of ethnicity shows that 63% of the population is white with 37% of the population made up of people from black and minority ethnic communities.

4.9 The overwhelming characteristic is the diversity of the population with large communities of people from across the African continent, of Caribbean origin, Irish origin, from Latin America, Eastern Europe, Turkey, Vietnam and many other places.

4.10 People from across the African continent comprise 16% of the population. 44% of the 5183 people taking up British nationality in Southwark Citizenship Ceremonies between late 2004 and February 2006 were from Nigeria, Sierra Leone or Ghana.

4.11 Key data from the Office of National Statistics show that in June 2004 Southwark had the third highest claimant count unemployment rate in London at 5.3%. Statistics from November 2005 indicate that an additional 20% of the working age population is not economically active and in receipt of means tested or earnings replacement benefits. There were 39,772 Housing and Council Tax Benefit recipients during the year 2005/06. There were 7,500 workless lone parent households in 2005.

4.12 Southwark lacks affordable housing even though 53.5% of the population currently lives in social housing tenure. There are large numbers of homeless people. The demand for advice is highest in the categories of welfare rights, housing and debt. The geographical diversity of the borough is broadly reflected in the profile of advice needs.

4.13 There are 3 BME predominantly managed and governed organisations amongst the current suppliers.

4.14 This procurement process will be informed by and be compliant with the Council's Equality, Diversity and Cohesion Policy in tackling discrimination and promoting community relations.

Other implications or issues

4.15 There are no other issues or implications.

Sustainability considerations

4.16 Not applicable.

Staffing Implications

4.17 Not applicable.

Financial implications

4.18 The total Advice and Legal Services base budget available to deliver the total package of advice (through one or more contracted providers) is:

Contract	2007/08	08/09	09-10
Advice and Legal Services	£1,231,981	£1,262,780	£1,294,347

4.19 The overall recommendations for the programme can be met within the cash allocation allowed for within the Strategic Services Departmental Budget, assuming no reductions on the 2006/7 base. The proposed total sum for allocation includes a 2.5% inflationary annual increase. Final allocation is subject to the contract award for approval report.

4.20 In addition, one-off funding of £25,000 has been found this year to support the leaseholder initiative. If this function is included in the core specification, then this sum plus inflation is the minimum additional sum needed to continue the service.

Consultation

4.21 Organisations currently in receipt of contract funding are required to complete annual customer evaluation surveys. The Council shares its overall approach to financial exclusion with the Community Legal Services Partnership. The need to continue support for those facing financial exclusion was also raised as part of the consultation on Southwark 2016.

5. SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor

5.1 The Borough Solicitor & Secretary (acting through the Contracts Section) notes the content of this report. Legal advice services are classified as “Part B” services for the purposes of the EU Procurement Regulations, which means that it is not necessary to advertise the proposed contracts via a contract notice in the Official Journal of the European Union. The procurement process will, however be subject to the application of the Council’s Contract Standing Orders (“CSOs”) and Procurement Guidelines.

5.2 Paragraphs 4.1 to 4.5 of this report indicate how expressions of interest will be sought. Contract Standing Order 6.2 c requires that where the Estimated Contract Value is £50,000 or over there is a requirement to invite at least 5 tenders following a competitive tendering process in accordance with the CSOs and any Procurement Guidelines. If it is not possible to comply with that requirement, approval will need to be obtained in due course in accordance with the procedure laid down in CSO 3.

5.3 Under the Council’s Constitution the proposed procurement will be regarded as a “strategic” procurement as the estimated value of the services to be provided over the duration of the contracts is in excess of £2 million. CSO 8.3B provides that, in the case of a strategic procurement the decision to approve the procurement strategy is one which must be taken by the Executive.

5.4 The decision to award the contracts will be a “key” decision under the Council’s Constitution requiring to be noted on the Forward Plan. Paragraph 3.6 confirms that this has been done.

Finance Director

- 5.5 Existing budgets available within Advice and Legal services as indicated should meet the estimated £3,789,108 contract. Further review of funding would need to be undertaken should funding above this level be required.
- 5.6 Financial implications and funding will need to be agreed should changes be made as indicated in paragraph 3.5 & 4.19.

Head of Procurement

5.7 With an advised value of £3,789,108, this procurement meets the criteria of a Strategic Procurement thereby requiring the invitation of at least five tenders following public advert. As confirmed by Legal Services, as a Part B Service, it is exempt from EU tendering. The report confirms compliance with the Council's Contract Standing Orders and Procurement Guidelines and advises that the format of the Restricted Process will be followed. Again, as referred to by Legal Services, in the event of less than five organisations being eligible to be invited to tender, advice will be sought from Legal Services and Procurement to decide if best value can be achieved for the Council with the remaining organisations.

5.8 The report advises that the project plan may be subject to amendment. Southwark Procurement understands that this is to ensure that the correct level of resources is available to meet the desired timetable over the holiday period. It is further noted that the proposed procurement strategy will retain the option of the Council awarding the contract to more than one supplier, which will address capacity issues previously experienced. Southwark Procurement will continue to offer advice and assistance as required.

KEY POINT SUMMARY

- This procurement will follow a **Strategic** protocol
- This contract is for *services* and is *replacing an existing provision*

BACKGROUND PAPERS

Background Papers	Held At	Contact
<i>An Audit of Advice Needs in Southwark</i>	<i>Social Policy Unit, West House, Southwark Town Hall</i>	<i>Andrew Matheson 020 7525 7648</i>

APPENDICES

Appendices number	Title of appendix
1	<i>List of Funded Advice Agencies</i>
2	

AUDIT TRAIL

Lead Officer	<i>Sarah Naylor, Assistant Chief Executive</i>		
Report Author	<i>Andrew Matheson</i>		
Version	<i>Final</i>		
Dated	<i>7.7.06</i>		
Key Decision?	Yes	If yes, date appeared on forward plan	<i>18/05/06</i>
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Legal: Borough Solicitor & Secretary	Yes	Yes	
Chief Finance Officer	Yes	Yes	
Head of Procurement	Yes	Yes	
Executive Member	Yes	No	
Date final report sent to Constitutional Support Services	<i>7.7.06</i>		