

Cabinet

Wednesday 7 July 2010
7.00 pm
Town Hall, Peckham Road, London SE5 8UB

Membership

Councillor Peter John
Councillor Ian Wingfield
Councillor Fiona Colley
Councillor Dora Dixon-Fyle
Councillor John Friary
Councillor Barrie Hargrove
Councillor Richard Livingstone
Councillor Catherine McDonald
Councillor Abdul Mohamed
Councillor Veronica Ward

Portfolio

Leader of the Council
Deputy Leader and Housing Management
Regeneration and Corporate Strategy
Health and Adult Social Care
Community Safety
Environment, Transport and Recycling
Finance and Resources
Children's Services
Equalities and Community Engagement
Culture, Leisure, Sport and the Olympics

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Contact

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Webpage: <http://www.southwark.gov.uk>

Members of the committee are summoned to attend this meeting.

Councillor Peter John

Leader of the Council
Date: 29 June 2010



Cabinet

Wednesday 7 July 2010
7.00 pm

Order of Business

Item No.	Title	Page No.
	PART A - OPEN BUSINESS	
	MOBILE PHONES	
	Mobile phones should be turned off or put on silent during the course of the meeting.	
1.	APOLOGIES	
	To receive any apologies for absence.	
2.	NOTIFICATION OF ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT	
	In special circumstances, an item of business may be added to an agenda within five clear working days of the meeting.	
3.	DISCLOSURE OF INTERESTS AND DISPENSATIONS	
	Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.	
4.	PUBLIC QUESTION TIME (15 MINUTES)	
	To receive any questions from members of the public which have been submitted in advance of the meeting in accordance with the cabinet procedure rules.	
5.	MINUTES	1 - 12
	To approve as a correct record the minutes of the open section of the meeting held on 15 June 2010.	

Item No.	Title	Page No.
6.	GATEWAY 1 - PROCUREMENT STRATEGY APPROVAL - SOUTHWARK AND LAMBETH BARRISTERS FRAMEWORK	13 - 24

To approve the procurement strategy for an inter borough barristers framework arrangement serving Southwark and Lambeth over a period of 4 years.

7.	CANADA WATER RETAIL OPTION	25 - 31
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To approve the completion of a 250 year lease of retail units in phase B2 of the Canada Water development, located on the plan attached to the report.

OTHER REPORTS

The following items are also scheduled to be considered at this meeting.

8.	ELEPHANT AND CASTLE - PROVISION OF A NEW LEISURE FACILITY
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9.	ELEPHANT AND CASTLE - REGENERATION AGREEMENT AND DISPOSAL OF ASSOCIATED LAND
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DISCUSSION OF ANY OTHER OPEN ITEMS AS NOTIFIED AT THE START OF THE MEETING

EXCLUSION OF PRESS AND PUBLIC

The following items are included on the closed section of the agenda. The Proper Officer has decided that the papers should not be circulated to the press and public since they reveal confidential or exempt information as specified in paragraphs 1-7, Access to Information Procedure Rules of the Constitution. The specific paragraph is indicated in the case of exempt information.

The following motion should be moved, seconded and approved if the cabinet wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure Rules of the Constitution. “

Item No.

Title

Page No.

PART B - CLOSED BUSINESS

10. MINUTES

To approve as a correct record the minutes of the closed section of the meeting held on 15 June 2010.

11. CANADA WATER RETAIL OPTIONS

12. ELEPHANT AND CASTLE - REGENERATION AGREEMENT AND DISPOSAL OF ASSOCIATED LAND

DISCUSSION OF ANY OTHER CLOSED ITEMS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT

Date: 29 June 2010



Cabinet

MINUTES of the OPEN section of the Cabinet held on Tuesday 15 June 2010 at 7.00 pm at Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Peter John (Chair)
Councillor Ian Wingfield
Councillor Fiona Colley
Councillor Dora Dixon-Fyle
Councillor John Friary
Councillor Barrie Hargrove
Councillor Richard Livingstone
Councillor Catherine McDonald
Councillor Abdul Mohamed
Councillor Veronica Ward

1. APOLOGIES

There were no apologies for absence.

2. NOTIFICATION OF ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The following items were identified as late and urgent. The leader agreed to accept the items as urgent for the reasons of urgency to be specified in the relevant minute:

- Item 15 – Recommendations to Council Assembly on the Establishment of a Southwark Democracy Commission
- Item 16 – Delegation for Contract Award for Phase 2 of Building Schools for the Future

3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were no disclosures of interests or dispensations. However some of the cabinet members declared that they had been involved with scrutiny reviews that were due to be considered at the meeting (see below):

- **Item 9 – Planning Enforcement Review – Report from Scrutiny Sub-Committee C**

Councillors Richard Livingstone, Barrie Hargrove, Fiona Colley and John Friary

- **Item 10 – Parental Engagement Review – Report from the Children’s Services and Education and Scrutiny Sub-Committee**

Councillors Veronica Ward, Barrie Hargrove, Fiona Colley and John Friary

- **Item 11 – Early Years Review – Report from the Children’s and Education Scrutiny Sub-Committee on Early Years Review**

Councillors Veronica Ward, Barrie Hargrove, Fiona Colley and John Friary

(Councillors Fiona Colley and John Friary, as the former chair and vice-chair of overview and scrutiny committee that approved reports and the remaining identified Councillors as former members of the scrutiny sub-committees/overview and scrutiny committee)

4. PUBLIC QUESTION TIME (15 MINUTES)

There were no public questions.

5. MINUTES

RESOLVED:

That the open minutes of the meetings held on 23 and 26 March 2010 be noted.

6. A FAIRER FUTURE FOR ALL IN SOUTHWARK

RESOLVED:

That the mission and commitments of the new administration be noted.

7. HOUSING REVENUE ACCOUNT REFORM - 'COUNCIL HOUSING: A REAL FUTURE' CONSULTATION PAPER

An addendum report was also circulated.

Cabinet also heard representations from Steve Hedger, tenant’s council in respect of this item.

RESOLVED:

That the finance director respond to the consultation paper in the terms employed within the report, and with particular reference to the areas of concern highlighted.

8. PROPOSED AMENDMENT TO INTERIM OUTLINE BUSINESS CASE FOR AYLESBURY ESTATE PRIVATE FINANCE INITIATIVE**RESOLVED:**

1. That the scope of the Outline Business Case (OBC) under the Government Private Finance Initiative (PFI) be amended to include sites 1b & 1c as well as those in Phases 2 & 3.
2. That officers consult with affected local residents to obtain their views on possible changes to the phasing and timing of the Aylesbury regeneration programme.

9. PLANNING ENFORCEMENT REVIEW - REPORT FROM SCRUTINY SUB-COMMITTEE C

Deborah Collins, strategic director of communities, law & governance confirmed that approval would need to be sought from council assembly in respect of recommendation 10 of the scrutiny report (proposed amendment to the scheme of delegation).

Councillor Toby Eckersley attended the meeting to present the scrutiny report.

RESOLVED:

1. That the recommendations of the planning enforcement review undertaken by scrutiny sub-committee C (attached as annex 1 to the report), including the comments of the strategic directors of regeneration and neighbourhoods as outlined in the report be agreed.
2. That the recommendations from this report be referred to the planning committee, constitutional steering panel, council assembly and chairs of community councils, as appropriate, for consideration and implementation.

10. PARENTAL ENGAGEMENT REVIEW - REPORT FROM THE CHILDREN'S SERVICES AND EDUCATION SCRUTINY SUB-COMMITTEE**RESOLVED:**

That the scrutiny report be noted and comments of the strategic director of children's services to the scrutiny recommendations be agreed as the cabinet response.

11. EARLY YEARS REVIEW - REPORT FROM THE CHILDREN'S SERVICES AND EDUCATION SCRUTINY SUB-COMMITTEE

RESOLVED:

That the scrutiny report be noted and comments of the strategic director of children's services to the scrutiny recommendations be agreed as the cabinet response.

12. DEPUTATION REQUEST - COOLTAN ARTS

The strategic director of children's services circulated comments in respect of the deputation request.

RESOLVED:

That the deputation be heard.

The deputation spokesperson addressed the meeting in order to seek assistance for the groups long term sustainability, explaining the background to their work and services offered. Issues relating to their current premises were also raised.

The cabinet agreed that the cabinet member for health and adult social care and cabinet member for culture, leisure, sport and the Olympics meet with CoolTan Arts at their premises within one month's time to discuss the issues raised by the deputation with a view to establishing what assistance can be given to the organisation.

13. APPOINTMENTS TO OUTSIDE BODIES 2010-11

RESOLVED:

1. That appointments to the outside bodies listed in appendix A of the report for the 2010-11 municipal year be agreed as follows:

Age Concern London

Councillor Dora Dixon-Fyle

Better Bankside Board

Councillor Adele Morris

Browning Estate Management Board

Councillor Martin Seaton
Councillor Darren Merrill

Canada Water Consultative Forum

Councillor Fiona Colley
Councillor Michael Situ
Councillor Columba Blango
Councillor Jeff Hook

Central London Forward (CLF)

Councillor Peter John

Centre for Language in Primary Education

Councillor Catherine McDonald

Creation Trust (The New Aylesbury Trust Limited)

Councillor Fiona Colley
Councillor Dan Garfield
Councillor Abdul Mohamed

Cross River Board

Councillor Peter John

Crystal Palace Community Development Trust

Councillor Lewis Robinson

Cycling England (Member Champion for Cycling)

Councillor Abdul Mohamed

East London Line Group (and Steering Group)

Councillor Barrie Hargrove

Greater London Enterprise Limited

Councillor Fiona Colley

Green Chain Joint Committee

Councillor Barrie Hargrove
Councillor Victoria Mills

Groundwork Borough Steering Group

Councillor Mark Glover
Councillor James Barber
1 Conservative vacancy

Groundwork South London Sub-Regional Committee

Councillor Mark Glover

Guys and St Thomas NHS Foundation Trust (Council of Governors)

Councillor Dora Dixon-Fyle

Lambeth & Southwark Housing Association Limited

Councillor Ian Wingfield

London Accident Prevention Council (LAPC)

Councillor Dora Dixon-Fyle

Councillor Barrie Hargrove

Lee Valley Regional Park Authority

Councillor Veronica Ward

LGA Urban Commission

Councillor Peter John (3 votes)

Councillor Anood Al-Samerai (2 votes)

London Youth Games Ltd

Councillor Veronica Ward

Councillor Catherine McDonald (deputy)

North Southwark Environment Trust

Councillor Barrie Hargrove

South Bank Partnership

Councillor Fiona Colley

Councillor Geoffrey Thornton

Councillor Adele Morris

Councillor David Noakes

South Bank and Bankside Cultural Quarter Directors Board

Councillor Veronica Ward

South Bermondsey Partnership Board

Councillor Richard Livingstone

Councillor Paul Kyriacou

Southwark Cathedral Education Centre

Councillor Cleo Soanes

Southwark Community Leisure Ltd. (Fusion Management Board)

Councillor Veronica Ward
 Councillor Michael Mitchell
 Councillor Columba Blango

Southwark LGBT Forum

Councillor Catherine McDonald
 Councillor Mark Gettleson
 Councillor John Friary

South London and Maudsley (SLaM) NHS Trust Members Council

Councillor Dora Dixon-Fyle

Southwark & Lambeth Archaeological Excavation Committee (SLAEC)

Councillor Stephen Govier
 Councillor Dan Garfield

Southwark Police and Community Consultative Group

Councillor Althea Smith
 Councillor John Friary
 Councillor Stephen Govier
 Councillor Lorraine Lauder
 Councillor Kevin Ahern
 Councillor Linda Manchester
 Councillor Wilma Nelson
 Councillor Michael Bukola
 Councillor Poddy Clark
 Councillor Lewis Robinson

Team London Bridge (formerly London Bridge BID Company)

Councillor Nick Stanton

Waterloo Quarter Business Alliance – Southwark (Business Improvement District)

Councillor David Noakes

2. That the Southwark Alliance (Local Strategic Partnership) and thematic boards (appendix B of the report) for which cabinet member involvement will be required be noted.

14. APPOINTMENTS TO PANELS, BOARDS AND FORUMS 2010-11

RESOLVED:

That the allocation of places to the panels, boards and forums set out in appendix A to the report for the 2010-11 municipal year and nomination of members be agreed as follows:

Adoption Panel

Councillor Patrick Diamond

Admissions Forum

Councillor Catherine McDonald
Councillor Adele Morris

Fostering Panel

Councillor Victoria Mills

Joint Partnership Panel (Trade-Union Consultation)

Councillor Peter John
Councillor Richard Livingstone

Leaseholders Arbitration Panel

Councillor Althea Smith
Councillor Right Revered Emmanuel Oyewole
Councillor Norma Gibbes
Councillor Keadean Rhoden
Councillor Lorraine Lauder
Councillor Victoria Mills
Councillor Andy Simmons
Councillor Stephen Govier
Councillor Dan Garfield
Councillor Wilma Nelson
Councillor Poddy Clark
Councillor Eliza Mann
Councillor Jeff Hook
Councillor Michael Bukola
Councillor Tim McNally
1 Liberal Democrat vacancy
1 Conservative vacancy

Pensions Advisory Panel

Councillor Richard Livingstone

Councillor Toby Eckersley
Councillor Tim McNally

Secure Accommodation Panel

Councillor Patrick Diamond
Councillor Helen Morrissey (reserve)
Councillor Lisa Rajan
Councillor Wilma Nelson (reserve)

Southwark Safeguarding Children's Board

Councillor Catherine McDonald

Standing Advisory Council on Religious Education

Councillor Cleo Soanes
Councillor Right Reverend Emmanuel Oyewole
Councillor Graham Neale
1 Liberal Democrat vacancy

Tenancy Agreement Arbitration Panel

Councillor Althea Smith
Councillor Right Reverend Emmanuel Oyewole
Councillor Norma Gibbes
Councillor Keadean Rhoden
Councillor Lorraine Lauder
Councillor Victoria Mills
Councillor Andy Simmons
Councillor Stephen Govier
Councillor Dan Garfield
Councillor Wilma Nelson
Councillor Poddy Clark
Councillor Eliza Mann
Councillor Jeff Hook
Councillor Michael Bukola
Councillor Tim McNally
1 Liberal Democrat vacancy
1 Conservative vacancy

Tenants Management Organisation Liaison Committee

Councillor Claire Hickson
Councillor Darren Merrill
Councillor Tim McNally
Councillor Geoffrey Thornton
Councillor Ian Wingfield (Cabinet Member)

15. RECOMMENDATIONS TO COUNCIL ASSEMBLY ON THE ESTABLISHMENT OF A SOUTHWARK DEMOCRACY COMMISSION

This item had not been circulated 5 clear days in advance of the meeting. The chair agreed to accept the item as urgent because the 15 June cabinet meeting was the earliest opportunity to consider the report before council assembly on 14 July 2010 and for officers to consider cabinet comments in preparation of the report to council assembly. It was also important to give the commission as much time as possible to complete phase 1 this year.

RESOLVED:

1. That a democracy commission be established to consider changes to the council's constitution to make the council's democratic functions more open and engaging.
2. That the democracy commission be focused and task-based to increase its ability to deliver recommendations for substantive change and so that it can be delivered within existing budgets.
3. That the democracy commission's first task should be to consider reforms to council assembly.
4. That it be reported to council assembly that membership of the democracy commission in its initial phase of work will be a proportional body of elected councillors taking evidence from local residents and experts.
5. That the proportionality be divided as follows:
 - 4 Labour councillors
 - 2 Liberal Democrat councillors
 - 1 Conservative councillor
6. That it be reported to council assembly that Councillor Abdul Mohamed be appointed as chair of the democracy commission with the first full meeting of the commission to consider and agree terms of reference within the scope set out in paragraphs 16-26 of the report.
7. That it be recommended to council assembly that the first recommendations of the democracy commission, together with a review of the commission and recommendations for future phases of work be presented to the cabinet meeting of 19 October 2010 and then the council assembly on 20 October 2010 for agreement and implementation.

16. DELEGATION FOR CONTRACT AWARD FOR PHASE 2 OF BUILDING SCHOOLS FOR THE FUTURE

This item had not been circulated 5 clear days in advance of the meeting. The chair agreed to accept the item as urgent because the submission programme had been agreed with Partnerships for Schools to enable financial close at the end of July and this programme included the date of the 15 June 2010 for the cabinet decision to delegate the

contract award. Confirmation of delegation by cabinet to enter into contracts is a key document within the future business case.

Also a delay to financial close would also have significant financial and reputational implications.

RESOLVED:

1. That the cabinet recommends that the leader of the council delegate approval to the cabinet member for children's services or the strategic director of children's services, whichever is the most expedient, to approve the contract award for the contracts set out in table 1 of the report, subject to:
 - confirmation of funding from Partnerships for Schools;
 - the council's financial contribution being within the parameters set out in the closed version of the report.
 - advice from the finance director and strategic director of communities, law and governance and consultation with the cabinet member for children's services.
2. That the cabinet recommends that the leader of the council delegate approval to the cabinet member for children's services or the strategic director of children's services, whichever is the most expedient, to enter into the agreements with the school's governing bodies as set out in table 2 of the report in regard to the management of the construction phase and ongoing revenue commitments to support facilities management and the information and communication technology (ICT) managed service.

EXCLUSION OF PRESS AND PUBLIC

It was moved, seconded and

RESOLVED:

That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in category 3 of paragraph 10.4 of the Access to Information Procedure Rules of the Southwark Constitution.

The following is a summary of the decisions taken in the closed section of the meeting.

17. MINUTES

The closed minutes of the meetings held on 23 and 26 March 2010 be noted.

18. DELEGATION FOR CONTRACT AWARD FOR PHASE 2 OF BUILDING SCHOOLS FOR THE FUTURE

The cabinet considered the closed information relating to the Delegation for Contract

Award for Phase 2 of Building Schools for the Future. The open decision is set out in item 16 above.

The meeting ended at 9.15pm

CHAIR:

DATED:

DEADLINE FOR NOTIFICATION OF CALL-IN UNDER SECTION 21 OF THE OVERVIEW AND SCRUTINY PROCEDURE RULES IS MIDNIGHT, WEDNESDAY 23 JUNE 2010.

THE ABOVE DECISIONS WILL NOT BE IMPLEMENTABLE UNTIL AFTER THAT DATE. SHOULD A DECISION OF THE EXECUTIVE BE CALLED-IN FOR SCRUTINY, THEN THE RELEVANT DECISION WILL BE HELD IN ABEYANCE PENDING THE OUTCOME OF SCRUTINY CONSIDERATION.

Item No	Classification: Open	Date: 07/07/2010
To	Cabinet	
Report title	Gateway 1 - Procurement Strategy Approval Southwark and Lambeth Barristers Framework	
Ward(s) or groups affected		
From	Cabinet Member for Finance and Resources	

FOREWORD – RICHARD LIVINGSTONE, CABINET MEMBER FOR FINANCE AND RESOURCES

This report asks the Cabinet to approve the procurement strategy for the inter-borough Barristers framework arrangement for Southwark and Lambeth. It is the first decision that the Cabinet will take to work more closely with one of our neighbours and as such is in line with the new administration's priorities to find innovative ways to find financial efficiencies through joint working with other South London authorities. As Cabinet member, I am asking that Cabinet, after consideration, approve this decision at the meeting on 7 July so that we can proceed along the timescale agreed with our colleagues in Lambeth.

RECOMMENDATION (S)

1. That the Cabinet approve the procurement strategy outlined in this report for an inter borough Barristers framework arrangement serving Southwark and Lambeth extending over a period of 4 years.
2. That the Cabinet recommends that the Leader of the Council delegate approval to the Cabinet Member for Finance and Resources or the Strategic Director of Communities, Law & Governance, whichever is the most expedient, to award the framework contract for the reasons noted in paragraph 11 of this report.
3. That the Cabinet approve a reserve position for the development of a unilateral, 'Southwark only' framework in the unlikely event that the partnership with Lambeth Council does not proceed as envisaged.

BACKGROUND INFORMATION

4. Barristers are currently commissioned on a spot purchase basis from barristers' chambers. Legal Service professionals tend to use a selected number of chambers but there is no agreed fee structure across the division. In this respect, fees vary widely from £150 for advocacy on a possession case to £750 for a full day at court. Expenditure on Barristers fees amounted to £1.35 million in 2007/8, £1.6 million in 2008/9 and at the time of writing this report on the 22nd June, it is estimated that spend will be in the region of £1.5 million when accounts are closed for the last financial year. This figure covers all expenditure incurred by Southwark's own in-house legal team where the specialist legal advice of barristers is required but does not however take account of spend on barristers commissioned through external solicitors on particularly complex cases such as the cemeteries investigation. The table below sets out spend on barristers across Legal Services with the highest spend represented by the Children and Adults team, explained by several factors including, Southwark handling the highest proportion of child protection cases in London.

Counsel spend 2009/10 as of January 2010

Section	£
Planning litigation	£56,977
Housing litigation	£439,404
Children and adults	£471,330
Property	£3,209
Contracts	£8,771
General litigation	£ 146,555
Constitutional	£9,774

Summary of the business case/justification for the procurement

5. The overall aim of this exercise is to procure an inter borough barristers framework in order to achieve significant reductions in the £1.5 million per annum associated with the commissioning of Barristers services while at the same time improving on the already high quality of legal advice provided. Three main outcomes have been identified for this project;
 - Reduce the cost of procuring barristers services in Southwark with a target reduction of initially £55K for 2010/2011 and a further £100k¹ per annum by securing more competitive rates and economies of scale.
 - Create better visibility of where and how spending takes place in order to improve service planning across Legal Services by introducing robust performance management controls.
 - Helping to provide career and development opportunities for Southwark's own in-house legal team by including the provision of 'soft-benefits' such as training within the evaluation criteria.

6. This exercise is part of a wider programme to deliver major cost savings and service improvements across Legal Services which include;
 - Empowering existing legal services professionals to take on more advocacy work in the courts by including the scope for additional training/secondments etc, arising from the tender.
 - Negotiating interim fee structures with barristers currently commissioned by Legal Services.
 - Recruiting 3 in-house advocates to undertake child protection work in the family courts.
 - Working with Legal Services clients across the Council to make the most effective use of spend on legal services.

MARKET CONSIDERATIONS

7. Current arrangements have allowed significant flexibility in matching those chambers with the kind of specialist advice needed for Southwark's extremely diverse legal case load. However there are considered to be opportunities for making these more systematic and cost effective. The potential collaboration of Southwark and Lambeth in developing a shared framework agreement means that the implementation costs are shared and the scope for greater market competition and efficiency savings is increased.

Proposed Procurement route

8. Although the estimated value of the contract exceeds the EU threshold for services, this service is classified under service category 21, 'legal services' which is defined under the EU directives and regulations as a part B service and therefore is subject only to the requirements for technical specifications and the despatch of contract award notices to the OJEU. It is proposed that this procurement will be subject to a competitive tendering process using the restricted route.

¹ Based on research on the experience of other local authorities part of similar framework agreements.

Options for procurement including procurement approach

9. Several options were looked at identifying a preferred procurement approach. These included:
- **Joining a pre-existing framework agreement:** Officers considered joining one of a number of framework structures in London and looked closely at the option of becoming an associate member of the London Boroughs Legal Alliance LBLA. This option had immediate advantages of being able to be put into effect without a complex tendering process and had merits in terms of short term expediency but was not considered to offer sustainable long term benefits since it was soon to expire.
 - **Develop a Southwark only framework:** This option would provide the Council with maximum control in developing a 4 year framework that would be completely tailored to what was right for Southwark. However it was felt that a unilateral approach, while delivering savings would not have such great economies of scale on the part of barristers chambers that may therefore not be able to quote as competitive fee rates as might have been the case in a shared procurement exercise.
 - **A framework developed in partnership with or is open to another local authority to join:** The option of a framework developed in partnership with another authority was based on securing maximum savings by offering barristers chambers the opportunity to bid on the basis of potentially receiving greater volumes of work. The current partnership with Lambeth emerged after a call to other London boroughs initiated by the Head of Southwark's Legal Services. Discussions with Lambeth have been taking place since January 2010, with Lambeth being equally keen to take the advantages of potential cost savings which a joint procurement would bring. Estimated to be just under £1million, spend on barristers' services in Lambeth is lower than in Southwark. However as a neighbouring borough with a very similar range of socio-economic issues, there is much in common in terms of the areas of legal work undertaken. There is now joint agreement between both authorities to the arrangements and timescales set out in this report for delivering the framework. This includes sharing procurement costs and a commitment to introducing the necessary systems and processes to ensure it delivers identified outcomes. Officer colleagues in Lambeth obtained authorisation to proceed from their Departmental Procurement Board on the 19th May with a Gateway 1 business case report approved at their Strategic Procurement Board on the 26th May 2010.

Identified risks and how they will be managed

10. While representing good practice a shared procurement exercise between two authorities is complex. Risks and mitigating action identified are set out below.

Risk	Mitigating Action
Possible delays which may arise from joint working with another local authority	Establishment of strong governance structures between Southwark and Lambeth at head of service level, adoption of core Prince 2 principles and introducing robust project controls.
Procurement exercise fails to meet quality thresholds or recruitment is unsuccessful	All reasonable steps are being taken to ensure this procurement exercise is successful. This includes significant consultation with finance, procurement and contract lawyers within legal services in both authorities to ensure procurement/contract best practice is observed as well as testing the market via Southwark's interim fixed fee initiative. In the unlikely event that the recruitment is unsuccessful, the fall back position is to revert to barristers who form part of the LBS interim fixed fee initiative and continue with the introduction of performance management systems set out in paragraph 21 of this report as part of a wider review of next steps.
Lambeth having to pull out of shared procurement exercise	Reserve position for the development of a unilateral Southwark only framework set out in recommendations.
Uncompetitive fee rates submitted on return of tender	The proposal is for a threshold of maximum rates to be built into the tender exercise above which tender returns would automatically be rejected and for this to be made explicit within the tender documentation. A robust baselining exercise is taking place in both Lambeth and Southwark to establish the range of fee rates currently paid to barristers chambers for different types of work undertaken.
Framework proves too complex or bureaucratic for legal professionals to operate within	Early development of performance and contract management processes to ensure that framework is 'fit for purpose' once it is up and running. A focus on engaging with legal service clients and legal service professionals who will be expected to work within the framework once it is adopted.
Difficulty with assessing cost savings being delivered	Development of robust performance management system via the Axxia case management system.

KEY ISSUES FOR CONSIDERATION

Key Decision

11. The estimated annual cost of the framework for Southwark based on current expenditure is £1.5 million per annum for a period of 4 years, making a contract value for Southwark of £6 million. As the estimated contract value exceeds £4m, this procurement is classed as strategic and therefore it becomes a key decision. However, based on the experience of savings of other frameworks in place in London, it is envisaged that costs will reduce significantly over the term of the framework agreement. To reflect the additional time which a shared procurement with another local authority takes and to allow the framework to be in place as quickly as possible to begin delivering savings within this financial year, it is proposed that the Cabinet recommends that the Leader of the Council delegate approval for awarding the framework contract to the Cabinet Member for Finance and Resources or the Strategic Director of Communities, Law & Governance, whichever is the most expedient.

Framework Overview

12. The proposal that has been developed with Lambeth is based on a framework made up of 4 panels of preferred barristers chambers who once selected as part of the tender exercise would be instructed according to a set of different fee rates for the different types of legal work undertaken set out below. The framework would handle the majority of cases where the specialist services of barristers are required, such as advocacy before the courts and tribunals, legal advice and support in the conduct of legal proceedings, including the drafting of documents, advice and generally in relation to the full range of legal work carried out by an in-house legal department. Further discussions are taking place with Lambeth on the optimum number of barristers chambers on the framework, which is likely to be in the region of 5-10 chambers per panel. Proposals are also being developed for generating additional savings from this exercise through the use of volume banding and it is expected that the framework agreement will include provisions for securing discounted rates from chambers who receive over and above certain level of work. The presumption at this stage is that fee rates, along with the partnership framework generally would be reviewed annually.

Panel	Areas of Law
Planning, property and contracts	General Local Government Law [general powers, LG finance, major transactions and projects, procurement Local Government Law [Administrative Law and Judicial Review] Data Protection and Freedom of Information Commercial Property, Compulsory Purchase Orders and Stamp Duty Land Tax Planning Highways and Traffic
Housing litigation	General Local Government Law Local Government Law [Administrative Law and Judicial Review] Housing including Judicial Review
Children and adults	General Local Government Law Local Government Law [Administrative Law and Judicial Review] Childcare, Adoption and Fostering General Social Services Law Mental Health Education including Judicial Review
General litigation and employment	General Local Government Law Local Government Law [Administrative Law and Judicial Review] Employment, TUPE and Pensions Criminal Litigation and prosecutions Licensing and gambling Civil Litigation other than litigation covered under another category Human Rights and Equalities

Other Boroughs wishing to join the framework

13. It is proposed that the framework is open to other local authorities to join through an access agreement but this would be on the basis of a secondary partner with Lambeth and Southwark acting as lead authorities in managing the framework and determining broad policy for its future development. The main benefit of having more boroughs participating in the framework is the scope for a greater volume of business on the part of barristers chambers and therefore the opportunity to secure more favourable fee rates on the behalf of participating local authorities. Further discussion is taking place with Lambeth to identify an appropriate annual administration charge for joining the framework.

Governance arrangements for developing and managing the framework

14. A project board has been set up to oversee the procurement and implementation of the framework and had its first meeting on the 9th of June 2010. In this respect, and with the intention that it meets quarterly, the board represents the respective agreement by Lambeth and Southwark to the successful, resourcing, delivery and subsequent operation of the framework. The board is jointly chaired by Southwark and Lambeth's respective Head of Legal Services with membership including senior legal and procurement professionals from both authorities. Specific roles and responsibilities include:
- Oversight of the framework to ensure delivery of stated outcomes and benefits.
 - Signing up to a joint timetable for procuring the framework.
 - Obtaining the necessary Gateway1 [approving the procurement process] and Gateway 2 approvals [approving the contract award].
 - Identifying relevant officers and resources to support the development, implementation and subsequent contract management of the project.
 - Jointly participating in the preparation of evaluation criteria, evaluation of tender returns and subsequent selection of barristers chambers to framework panels.
 - Agreeing the operational manual and meeting obligations set out in the manual with regards performance management of the framework and proposals for improving its operation.
 - To have oversight for the overall management of the framework once it is in place, including reviewing the performance of individual barristers chambers who are part of the framework.
 - Reviewing the performance of the framework and determining broad policy for its future development.
15. An internal project group has also been set to support the project by providing expert input around technical issues and reaching an agreement on how key aspects of the framework will be approached as far as Southwark is concerned. Membership of the project group includes senior managers of Housing & Environment and Children's Services as key legal service clients. This group is now meeting on a six weekly basis.

Development of the tender documentation

16. The development of tender documentation will be jointly carried out between the project manager and Lambeth's Senior Contracts Lawyer. Key documents that will make up the tender package include;
- The tender specification which would set out the services to be provided within the framework contract.
 - Pre-Qualification Questionnaire based on the past experience of barristers chambers as a means of shortlisting applications considered suitable to be invited to tender
 - Invitation to tender to chambers wishing to be part of the framework.
 - Instructions to tender to guide prospective applicants through the procurement process [including fee rate thresholds].
 - Terms and Agreement which set out the formal terms and conditions under which prospective barristers chambers need to sign up to the framework if successful [including fee rates discounts via volume banding].
 - Form of Tender to enable chambers to set out their intention to meet the terms and conditions of the framework agreement.
 - Method Statement setting out hypothetical questions to be answered relating to specific areas of local government law to enable chambers to demonstrate their suitability to be on the framework.
17. Officers within Southwark and Lambeth have developed a fee schedule as part of the tender documentation. This is based on a set of fixed fee rates for representation by barristers of different levels of seniority and experience at different types of court. The fee schedule will be used for i] for the purposes of the tender exercise and ii] will form the basis for the instruction of barristers chambers once the framework has been formally adopted.

Advertising the contract

18. It is proposed to run the tender via open competition with the framework being advertised in relevant trade journals such as the Law Society Gazette and Counsel Magazine. There is a formal agreement that costs for advertising the procurement exercise will be shared between Lambeth and Southwark.

Evaluation

19. Tender Evaluation Panels will be structured around the 4 panels. It is proposed that principal lawyers from both Lambeth and Southwark will be jointly responsible for evaluating tender returns. The evaluation methodology including criteria, weighting and any sub-weightings are being further developed with a view that these are agreed by the Project Board. Current proposals under development are based on a split of 60 % cost and 40 % quality which takes into account the fact that barristers have to reach a high standard of expertise and training to reach the bar, rather than suggesting that the quality of legal representation is less important than considerations of cost.

Plans for operating within the framework

20. A framework protocol is being developed to instruct legal services and govern the operation of calling off barristers chambers under the framework. Detailed proposals for how the framework will operate on a day to day basis will be subject to the approval of the board. Broad principles are based on instructing the most competitive chamber for a particular piece of work and creating a system for instructing barristers chambers which is as simple as possible to use by legal services professionals. It is not proposed to introduce mechanisms which automatically guarantee that all chambers on the framework receive work. For the purposes of effective performance/contract management, it would be mandatory for all orders to be inputted into Lambeth's and Southwark's respective legal case management system. A 'workflow' IT application based on drop down menus has already been devised to enable this to happen. Consideration of cost will also extend to seniority of barristers and the system for placing orders will be weighted towards the use of less senior/expensive barristers [e.g. barristers with 1-5 call rather than more senior barristers]. The expectation is that the framework would handle the vast majority of cases where the services of barristers are required. However it is recognised that there will be some instances, where cases, due to their complexity, will need to be agreed outside of the framework. The current view is that authorisation for such cases would normally be sought from the Head of Legal Services.

Plans for the monitoring and management of the contract

21. The framework protocol will set out details for the overall management of the framework and is based on the role of contract and performance management being jointly shared between Lambeth and Southwark. All information relating to the framework would be held on a shared Southwark/Lambeth drive. This will include original procurement information as well as the framework agreement/contract, minutes of board meetings etc. Although Lambeth and Southwark use slightly different management systems, both systems have the capacity to collect and interrogate exactly the same data sets. A system of monthly, quarterly and annual reports is therefore being developed to provide the partnership board and individual partner authorities with the necessary information to carry out effective performance management of the framework, particularly in terms of how it is achieving savings : Reports that will be generated include :
- total spend on barristers.
 - spend on barristers per barristers chamber.
 - spend on barristers per area of law, i.e child protection, housing litigation, planning.
 - KPI's on performance at court/defending Council's interests.
 - KPI on customer care i.e. submission of fee notes and invoices.

Responsibility for maintaining framework information overseeing management systems and supporting the partnership generally will with the Business Managers in Southwark and Lambeth with specific details on how these will be split to be further developed. It is also proposed to nominate principal lawyers from both authorities to act as leads for each of the 4 panels with responsibilities to include, liaising with barristers chambers that form part of the framework and to escalate issues of concern/potential improvement to the partnership board.

Procurement project plan [key decision]

22. Set out below is a project plan for the framework. While Southwark and Lambeth have different internal decision making processes for considering and agreeing the development of the framework, the project plan is based on the tendering exercise being carried out as a joint undertaking with view to awarding the framework contract in late November 2010.

Activity	Complete by:	Lambeth Timetable
Forward Plan (if Strategic Procurement)	10/04/10	n/a
CCRB Review Gateway 1: Procurement strategy	20/05/10	Departmental Contract Review Board GW1 19/05/10
Agenda Planning	17/06/10	Strategic Contract Review Board GW1 14/06/10
Deadline for final reports	28/06/10	Departmental Review Board GW2 07/07/10
Approval of Gateway 1: Procurement strategy report (this report)	07/07/10	Strategic Contract Review Board GW2 21/07/10
Tender documentation complete	16/07/10	Joint timescale with LBS
Decision Implementable	16/07/10	Joint timescale with LBS
Advertise the contract	26/07/10	Joint timescale with LBS
Return of Pre-qualification questionnaire	6/09/10	Joint timescale with LBS
Completion of shortlisting	15/09/10	Joint timescale with LBS
Invitation to tender	22/09/10	Joint timescale with LBS
Closing date for tender returns	04/10/10	Joint timescale with LBS
Completion of evaluation of tenders	29/10/10	Joint timescale with LBS
DCRB/CCRB/CMT Review Gateway 2: Contract award report	12/11/10	Departmental Review Board GW3 17/11/10
Notification of forthcoming decision (five clear working days)	14/11/10	
Approval of Gateway 2: Contract Award Report	22/11/10	Strategic Contract Review Board GW3 24/11/10
Scrutiny Call-in period and notification of implementation of Gateway 2 decision [decision implementable]	30/11/10	
Contract award	30/11/10	Joint timescale with LBS
Contract start	30/11/10	Joint timescale with LBS
Contract completion date	30/11/2014	Joint timescale with LBS

Staffing/procurement implications

23. An interim project manager, line managed by the Head of Legal Services has been appointed up until July 2010 to coordinate the work of the project, inform and update the project Board/internal project group and generally help drive the framework forward. The project manager will also be responsible for putting arrangements in place for maintaining project documentation, organising meetings and recording actions/decisions taken. This role will be absorbed into the responsibilities of the post of Legal Services Business Manager which is currently being recruited to. A senior Contract Lawyer has been identified by the Head of Lambeth Legal Services to progress the project in Lambeth, particularly in terms of working through its own decision making processes, supporting the development and evaluation of the tender and the introduction of shared performance/contract management arrangements.

Resource Implications

24. The table below sets out indicative costs for the initial procurement and setting up of the framework agreement. The role of on-going monitoring, performance and contract management will be mainstreamed to the relevant business manager function that exists within the two authorities' respective legal departments. Costs for the project as far as Southwark is concerned will be absorbed within Legal Service's operations budget.

Description	Cost in £'s
Project Management, tender and implementation	£20,000 [one off cost]
Contract Legal technical/specialist expertise	£5,000 per annum
Strategic Procurement technical/specialist expertise	£5,000 per annum
Systems development	£5,000 per annum

25. **Community impact statement**

This decision is judged to have little impact on local people, businesses and communities, particularly since Barristers Chambers are generally based outside of the Borough. However it does include the scope for 'soft benefits' such as the training and secondment of existing Southwark and Lambeth legal service personnel to Barristers Chambers to develop their advocacy skills. Legal Services are considering how the Framework could be used to support the development of future Trainee solicitors by providing the opportunity for them to spend time in Chambers as part of their training contract. Legal Services are working with Southbank University to provide placements for Law students in the 2nd year of their degree. The scheme has been in place since February this year, and it is proposed that the framework agreement could be used to provide these students with the opportunity to undertake part of their placement in Chambers.

Sustainability Considerations

26. There are no specific sustainability considerations associated with this framework.

Financial implications

27. The costs for barrister's services are met by the service departments. This procurement initiative seeks to deliver savings of at least £100k per annum for Southwark from the estimated £1.5 million spent on their services each year. Management costs for introducing the framework will be met from within Legal Service's operations budget. It is not possible to accurately estimate efficiency savings for each department but it is likely that they will be greatest for Children's Services and Housing who are Legal Services' two largest clients. Performance management systems which accompany the framework's development will create much better visibility of where and how takes place and it is envisaged that this will

help to improve service and budget planning on the part of service departments as well as provide the means for ensuring savings are being delivered. It is proposed that fee rates that make up the structure of the framework will be reviewed annually.

Legal implications

28. All legal implications are noted in paragraph 31 of this report.

Consultation

29. Developing the framework to date has included consultation with a wide range of members and officers to ensure that the framework is developed on sound foundations. This has included discussions with, senior legal personnel in Camden, Croydon, Hackney and the London Boroughs Legal Alliance and procurement specialists within the Council. The Head of Legal Services has also briefed Senior Management Teams of service departments on the project and also invited Senior Managers from Children's Services and Housing management, in their capacity as key legal Service Clients onto the project board. Managers and staff within Legal Services have also been actively engaged in developing proposals for taking the project forward. Key messages that have been received include, an emphasis on ensuring the framework is easy to use, inviting returns from a wide a field of barristers chambers as possible to ensure maximum competition and maintaining a very strong focus on post contract award, performance and contract management.

Other implications or issues

- 30.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

31. This report seeks the Cabinet's approval to the procurement strategy for an inter-borough framework to provide barrister's services as noted in paragraph 1. As this is a Strategic Procurement (having a value in excess of £4million) then approval of the procurement strategy is reserved to Cabinet.

Contract Standing Orders require that all reasonable steps are taken to obtain at least 5 tenders following a publicly advertised competitive tendering process. This report confirms that tenders are to be sought in open competition through adverts in relevant trade journals such as the Law Society Gazette and Counsel Magazine. Legal Services fall within the category of 'part B' services under the Public Contract Regulations 2006, so there is no requirement to tender these contracts in accordance with the full application of those European regulations. It is however necessary for the council to comply with the general EU principles regarding transparency and non-discrimination. Cabinet is advised the tender process proposed would satisfy those general EU requirements.

The Cabinet is also asked to recommend that the Leader delegates approval to the Cabinet Member for Finances and Resources or the Strategic Director of Communities, Law & Governance to approve award of these contracts for the reasons noted in paragraph 11. The Cabinet is advised that the Leader has the power to delegate to either Cabinet Member or Director under Section 14 of the Local Government Act 2000 (as amended).

Finance Director

32. This report seeks Cabinet approval for a strategy for an inter authority framework arrangement with Lambeth, for the procurement of Barristers Services for a period of four years from 30th November 2010.

The current costs for barristers are around £1.5m, this procurement seeks to deliver savings of at least £100k per annum over the four year period. These savings should be reflected in the 2010/11 revenue monitor and the 2011/12 to 2013/14 budget setting process.

As this is a cross-cutting contract affecting most, if not all, departments, the contract award proposals at GW2 should be notified to all Chief Officers for comment. Careful management of the framework will be required to ensure that work is commissioned within budgetary constraints, budgets and spend are closely monitored, and that the savings are achieved as planned.

Head of Procurement

33. This report seeks approval from the Cabinet for the procurement strategy for an inter borough barristers framework agreement for the period of 4 years. The proposed procurement route is in line with the Councils contract standing orders (CSO's) and procurement guidelines for a strategic procurement.

The recommended strategy is for the framework to be developed in partnership with a neighbouring borough, Lambeth in order to secure greater efficiencies through increasing buying power.

With an inter borough arrangement it is vital that the governance arrangements are clearly defined and the timeline for gaining internal approvals within each of the organisations is aligned. Paragraph 14 confirms the governance arrangements and the procurement project plan shown in paragraph 22 demonstrates synchronised timelines.

The report confirms that a joint project board has been set up and will be responsible for agreeing all tender documentation including evaluation methodology and criteria before going to market.

Setting up and managing a framework requires additional up front work to detail the operational procedures etc. An operational guidance manual will need to clearly define how work will be ordered through the framework arrangement and this will need to be included as part of the tender documentation. Paragraph 20 confirms that this work is underway.

Southwark has previous experience of setting up inter borough frameworks and lessons learned are being shared through the ongoing support being provided by the corporate procurement team.

KEY POINT SUMMARY

- This procurement will follow a strategic protocol
- This contract is for services and is replacing an existing provision
- There will not be EU procurement implications

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Highlight report Risk log Barristers Framework briefing paper	Communities, Law and Governance	Donald Forde 0207 525 1005

AUDIT TRAIL

Cabinet Member	Cabinet Member for Finance and Resources		
Lead Officer	Doreen Forrester-Brown, Head of Legal Services		
Report Author	Donald Forde, Project Manager		
Version	Final		
Dated	29/06/2010		
Key Decision?	Yes	If yes, date appeared on forward plan	12/04/2010
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities, Law & Governance	yes	yes	
Finance Director	yes	yes	
Head of Procurement	yes	yes	
Contract Review Boards			
Departmental Contracts Review Board	no	no	
Corporate Contracts Review Board	yes	yes	
Date final report sent to Constitutional Team			29.06.10

Item No.	Classification: Open	Date: 7 July 2010	Meeting Name: Cabinet
Report title:		Canada Water Retail Option	
Ward(s) or groups affected:		Rotherhithe Ward	
From:		Cabinet Member for Finance and Resources	

FOREWARD – RICHARD LIVINGSTONE, CABINET MEMBER FOR FINANCE AND RESOURCES

1. This report asks the Cabinet to approve the taking up of a 250 year lease of retail units at the new square adjacent to the Canada Water library (site B2) and note the option to take up a similar lease for further units next to Canada Water tube station (site A3). The recommendation would require the council to take up the advantageous option available to Southwark as part of the sale of the land to Barratt Homes.
2. The recommendation has three principal benefits to the local authority:
 - the preferential terms for retail space at what is likely to be near the bottom of the market in a strongly marketable location
 - the potential to generate a new revenue stream at a time when revenue funding from government is likely to contract
 - the tighter control of lessees of the units than planning regulations allow through ownership of the premises. This added assurance to the local community is important in a sensitive site such as this
3. I have also looked at the risks of the proposal and consider that the analysis in that section of the report gives sufficient assurance for the authority to proceed with the lease.
4. The option notice period on site B2 expires on 15 July 2010 and so it is important that the Cabinet consider the proposal at its 7 July meeting.
5. This proposal represents good value for money for the authority and I am therefore asking the Cabinet, after consideration of the officers' report set out from paragraph 8 onwards to approve the recommendation set out below.

RECOMMENDATIONS

The cabinet is asked to:

6. Give approval to the completion of a 250 year lease of the retail units in phase B2 of the Canada Water development, located as shown on the plan attached as plan 1, and to delegate to the Head of Property authority to negotiate the option price and final form of lease provided that they represent best consideration.
7. Note that in due course a further feasibility will be prepared to consider the option to purchase the long lease of the retail units in phase A3 of the Canada Water Development and that an appropriate allowance will be put into capital programme

for financial year 2012/13.

BACKGROUND INFORMATION

8. The council has the opportunity to underpin its investment in the new Canada Water library and plaza by exercising an option to buy from Barratt Homes a long lease in the retail space being built at sites A and B. Ownership of these assets will allow the council, through its letting policy, to enhance the setting for the new library, take advantage of the discounted purchase price for the shops and benefit from the anticipated rise in property values. Subsequently the council will have the option of selling the improved asset at any time to support the capital programme.
9. On 5th April 2005 a strategic development agreement was signed between the council and British Land Canada Quays Ltd (BLCQ) for the regeneration of the Canada Water area. The agreement required BLCQ to create a masterplan, which was approved by Executive on 11th October 2005.
10. After an initial period of public consultation and masterplanning the project is now in its delivery phase. This will see the area take full advantage of its central location and impressive public transport infrastructure (which is being further improved) to emerge as a renewed, vibrant and exciting residential quarter within inner London.
11. The philosophy behind the regeneration has been to follow a multifaceted approach in order to produce a sustainable community. One key element of this is the council's investment in the iconic Canada Water library, which along with the adjoining plaza will create a new civic heart for Rotherhithe.
12. This community building approach is echoed in the emerging Area Action Plan (AAP) for Canada Water. The AAP sets out a vision for the area as one that is family friendly, which has at its core the facilities of a commercial district that will be enlarged and re-energised as a more traditional town centre.
13. During the life of the AAP it is anticipated that the commercial core will expand with the construction of at least 2,500 new homes and up to 35,000 sq m of additional retail space. This activity will create a major retail destination made possible by the increased local population and the excellent public transport infrastructure. For example the Canada Water tube transport node (which sits directly underneath the new civic plaza and currently caters for something of the order of 31,000 exits and entries a day) will offer: direct access via the Jubilee line to the north of the borough; the second phase of the East London Line extension will open up the centre of the borough; and, a number of routes pass through the adjoining bus station.
14. The regeneration is at an exciting stage with significant activity on the ground:
 - a) The library and plaza are due to complete construction in the middle of 2011.
 - b) 232 new homes have been completed on site B (64 affordable)
 - c) 385 new homes are under construction on site A (113 affordable) with a further 283 homes to follow (57 affordable).
 - d) Site C has been granted planning consent for a mixed use scheme of approximately 11,000 sq m of commercial space and 430 homes (116 affordable).
 - e) Outline planning consent has been granted for a mixed use scheme on the Leisure Park site for around 16,000 sq m of commercial space, 509 homes (128 affordable) and 123 room student accommodation.
 - f) British Land has recently invested in the Surrey Quays Shopping Centre.

15. This level of investment will bring about a step change in commercial activity in Canada Water and it is anticipated will enhance the value of council property holdings.
16. The council sold sites A and B to BDW Trading, known as Barratt Homes, by way of an agreement dated 21 December 2007. Barratt are developing the two sites in five phases (phases B1, B2, A1, A2 and A3 in that order). The retail space is around 2,000 sq m and is located within phases B1, B2 and A3.
17. The agreement, which was authorised by Executive on 18 December 2007, includes an option for the council to take a 250 year lease of the retail space. The key terms of the option are; at the implementation of development of a phase Barratt serves on the council notice of the option to purchase the retail units in that phase. The council then has 18 months to confirm if it wants to exercise the option. The price is at a fixed rate per sq foot of gross external area.
18. The intention in negotiating the option was to ensure that the units are managed and operated in a way that supports the regeneration objectives and provides financial benefit for the council. The option price was fixed at a level that it was hoped would be financially advantageous to the council.
19. The first phase of the development, phase B1 has been completed. The option notice for the B1 retail expired on 28 February 2010 and for the reasons set out below was not taken up. Phase B2 is nearing completion and the retail option notice period expires on 15 July 2010. For the reasons set out below it is recommended this option be exercised. Phase A3 recently obtained planning consent but work has not started on site and no notice has been served. At the appropriate time a business case will be prepared to consider the benefit of exercising that option.
20. Since entering into the agreement to buy the land Barratt has appointed Peverel OM Ltd as managing agents for the development. If it is agreed to exercise the option and take a lease this will be by way of a tri-partite agreement involving the council, BDW Trading and Peverel.

KEY ISSUES FOR CONSIDERATION

Vision for the Canada Water Town Centre

21. Ownership of these assets will assist the council in furthering its regeneration plans for Canada Water. It will mean that we can create an appropriate setting for the new civic plaza and library and respond to local aspirations to expand the night time economy.
22. Once the area is established the council would have the option of disposing of its ownership with minimum risk to its regeneration objectives.

Valuation of the Retail Units and Business Case

23. The closed report on this cabinet agenda contains details of the valuation of the leasehold interest and the business case. It concludes that the option over the retail in site B2 should be exercised and that the option over the retail in site A3 should be considered in detail when it has been constructed.

Risk analysis

24. The risks identified with purchasing the units are summarised below:

- (a) That a suitable tenant can not be found – this will mean the expected rent roll will not be achieved and the payback period not met.

Canada Water is a fast developing area and it is expected that investment performance will improve as further regeneration materialises.

Canada Water is already attracting considerable investor interest. There is reason to believe that this will continue and that suitable occupants will be found. This view is backed up by consultants CBRE and this risk is not considered to be of high likelihood.

- (b) Liability for fit out – developers usually provide shell and core for new retail units with tenants responsible for the fit out. It is not unusual for tenants to negotiate a rent free period to cover some or all of the cost of the fit out.

Advice has been taken from retail letting agents at CBRE on the treatment of fit out costs and this is reflected in the business case.

- (c) That there is a delay in finding a suitable tenant – the considerable construction activity in the area may put off prospective tenants who may preferred to wait until the building work; which is also creating the homes for their customers, is finished.

It is undoubtedly true the area will be inconvenienced by building work for some time to come. However it must be kept in mind that the Canada Water tube station is the main driver of footfall in the area and that in 2008 it generated over 11 million exist and entries. So there is already a strong potential customer base for the units.

It is also clear that a number of investors are active in the area and it might be expected that tenants will view these new, good quality units as a chance to get in at the bottom of the market in an up and coming area. For these reasons this risk is not considered to be of high likelihoods.

Policy implications

25. This report flows directly from previous decisions made by the Council in December 2007 in respect of the sale of sites A and B at Canada Water and the option to take a lease of the retail space.

26. Taking a lease of the retail units would mean that the council has control of the letting policy. The units could then be managed in such a way as to support the council's wider regeneration aspiration for the area; for example by enhancing the new civic plaza being created at Canada Water and by creating an appropriate setting for the new Canada Water library.

Community Impact Statement

27. Should the council choose to exercise the option over the retail space at Canada Water it will afford the opportunity to enhance the new civic plaza being created in the vicinity. This will be to the benefit of all of the local community.

Resource Implications

28. Once the council buys the lease of the units, their day to day management as part

of the council's property investment assets will pass to the investment portfolio team within Property Services.

Financial Implications

29. The closed report on this cabinet agenda contains details of the financial implications of exercising the option to take the retail space and identifies appropriate funding sources from existing budgets.

Consultation

30. There has been internal consultation with officers in finance and property departments.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

31. The cabinet is recommended to approve the exercise of the option to take a 250 year lease of the retail units in the completed Phase B2 of the Canada Water development. Section 120(1) of the Local Government Act 1972 (the "Act") enables a principal council to acquire by agreement any land, whether situated inside or outside their area, for the purposes of:

- a) any of their functions under that or other enactment, or
- b) the benefit, improvement or development of their area.

32. Section 120(2) of the Act enables a principal council to acquire any land for any purpose of which they are authorised by that or any other enactment to acquire land, notwithstanding the land is not immediately required for that purpose; and until it is required for the purpose for which it was acquired, the land acquired may be used for the purpose of any of the council's functions.

33. Paragraph 18 of this report notes the intention of council officers in negotiating this deal was to enhance the regeneration of Canada Water town centre. Paragraph 39 (of the closed report) notes that the exercise of the option will be for the benefit, improvement and development of the Canada Water area, and therefore the requirements of Section 120(1) of the Act are fulfilled.

34. The cabinet is therefore advised that there are adequate powers available to the Council to exercise the option and take the lease of the completed retail units at Phase B2.

35. We understand that the final form of lease has not yet been agreed and is subject to ongoing negotiation. Eversheds LLP are providing legal advice to the Council on this matter. The first recommendation of this report is that the Head of Property be authorised to agree any necessary amendments to the lease.

Finance Director / Departmental Finance Manager

36. This project will be funded via a revenue contribution to capital and be financed by a release from the regeneration and development reserve. The longer term business model is scheduled to deliver sustained revenue sources of income for the council from the retail units which can be used for a combination of reinvestment in regeneration across the borough and replenishment of the capital reserve. In the possible future event of asset disposal, this will generate a capital

receipt for the corporate resource pool.

Portfolio Business Manager, Property Services

37. The units will be held in the managed property holding account and managed as part of the commercial property portfolio. It is understood, if approval is given, the Council will buy long leases of the ground floor retail units which will let at open market value to prospective occupiers.
38. Barratt has provided a form of lease for the retail units. Further negotiations with Barratt and their legal advisers concerning the lease covenants are recommended. A critical area of negotiation is the Council's ability to underlet or assign the units without any restriction. The Barratt sale contract agreement of 21 December 2007, clause 12.1 states that there should be no restrictions on assignments or under lettings on the open market. The Property Portfolio Business Manager's team will lead further negotiations on the lease.
39. The acquisition of the 250-year leases by the Council will provide a substantial revenue stream which will increase over time and continue to improve the area.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Canada Water retail option case file and business case	Regeneration and Neighbourhood, Canada Water Team, 160 Tooley Street	Bunmi Olafare 020 7525 5422

APPENDICES

No.	Title
Appendix 1	Plan of sites A and B at Canada Water

AUDIT TRAIL

Cabinet Member	Cabinet member for Finance and Resources	
Lead Officer	Richard Rawes	
Report Authors	Tim Thompson/James Oates	
Version	Final	
Dated	29 June 2010	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Portfolio Business Manager, Property Services	Yes	Yes
Date final report sent to Constitutional/Council/Scrutiny Team	June/29/2010	

Draft pdf source

TITLE.

Sites A & B.
Canada Water.



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CABINET AGENDA DISTRIBUTION LIST**MUNICIPAL YEAR 2010-11**

NOTE: Original held by Constitutional Team; all amendments/queries to
Paula Thornton/Everton Roberts Tel: 020 7525 4395/7221

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Annie Shepperd	1	Total:	77
Romi Bowen	1		
Deborah Collins	1		
Gill Davies	1		
Eleanor Kelly	1		
Richard Rawes	1		
Susanna White	1		
Duncan Whitfield	1		
		Dated: 24/05/10	