

SHARED DIGITAL JOINT COMMITTEE

TUESDAY, 20 FEBRUARY 2018 AT 7.30 PM
COMMITTEE ROOM 3, TOWN HALL, JUDD STREET LONDON WC1H 9JE

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MEMBERS

Councillor Jason Arthur (London Borough of Haringey) (Chair)

Councillor Danny Beales (London Borough of Camden), Councillor Ali Demirci (London Borough of Haringey), Councillor Andy Hull (London Borough of Islington), Councillor Richard Olszewski (London Borough of Camden) and Councillor Claudia Webbe (London Borough of Islington)

SUBSTITUTE MEMBERS

Councillors Adam Harrison, Asima Shaikh and Bernice Vanier

Issued on: Monday, 12 February 2018

Mike Cooke
Chief Executive, Camden
Town Hall
Judd Street
London WC1H 9JE

Zina Etheridge
Chief Executive, Haringey
Civic Centre
High Road
London N22 8LE

Lesley Seary
Chief Executive, Islington
Town Hall
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Public Committee Meetings

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The Joint Committee is allowed to discuss some items in private, although this does not happen often – any such items will be discussed at the end of the meeting and you will be asked to leave at this point.

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PLEASE NOTE THAT PART OF THIS MEETING MAY NOT BE OPEN TO THE PUBLIC AND PRESS BECAUSE IT MAY INVOLVE THE CONSIDERATION OF EXEMPT INFORMATION WITHIN THE MEANING OF SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT 1972, OR CONFIDENTIAL WITHIN THE MEANING OF SECTION 100(A)(2) OF THE ACT.

AGENDA

- 1. APOLOGIES**
- 2. DECLARATIONS BY MEMBERS OF PECUNIARY AND NON-PECUNIARY INTERESTS IN RESPECT OF ITEMS ON THIS AGENDA**
- 3. DEPUTATIONS**
- 4. ANNOUNCEMENTS**
- 5. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT**
- 6. REPRESENTATIONS RECEIVED ABOUT WHY THE MEETING SHOULD BE OPEN TO THE PUBLIC**

On occasions, part of a Shared Digital Joint Committee meeting will be held in private and not open to the public if an item is being considered which is likely to lead to the disclosure of exempt or confidential information. In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, members of the public can make representations about why that part of the meeting should be open to the public.

No such representations were received in respect of items on this agenda.

- 7. MINUTES**

To approve and sign the minutes of the meeting held on 30 October 2017.

(Pages 7 -
14)

8. *CONTRACT AWARD FOR SHARED DIGITAL MOBILE PHONES/DEVICES

All Wards
(Pages 15 - 26)

Report of the Chief Digital and Information Officer.

The London Boroughs of Camden, Haringey and Islington undertook a procurement exercise using Crown Commercial Services' Framework Agreement RM1045 Network Services, Lot 6 with the view to entering into a contract with a single supplier for the provision of mobile voice and data services including mobile devices.

This report describes the procurement process and seeks approval to award a contract to the supplier returning the most economically advantageous tender resulting from the procurement.

Part II: Exempt from Publication

This report has an appendix which contains information exempt within the meaning of Schedule 12A to the Local Government Act 1972 and is not for publication. The appendix has therefore been circulated to Joint Committee Members only.

If the Joint Committee wishes to discuss the contents of a closed exempt appendix it may pass the proposed resolution identified at the end of the document to exclude members of the public and the press from the proceedings for that discussion.

9. *CONTRACT AWARD FOR SHARED DIGITAL MULTIFUNCTIONAL DEVICES AND PRINT ROOM SERVICES

All Wards
(Pages 27 - 48)

Report of the Chief Digital and Information Officer.

The London Boroughs of Camden, Haringey and Islington undertook a procurement exercise using Yorkshire Purchasing Organisation's (YPO) framework agreement: RM3871 Multifunctional devices, managed print and content services and records management and information management, Lot 3, with the view to entering into a contract with a single supplier for the provision of multifunctional devices and managed print services.

This report describes the procurement process and seeks approval to award a contract to the supplier returning the most economically advantageous tender resulting from the procurement.

Part II: Exempt from Publication

This report has an appendix which contains information exempt within the meaning of Schedule 12A to the Local Government Act 1972 and is not for publication. The appendix has therefore been circulated to Joint Committee Members only.

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10. MEETING DATES 2018/19

To approve the meeting dates for Shared Digital Joint Committee in 2018/19:

- 12 July 2018 (to be held in Haringey)
- 5 November 2018 (to be held in Islington)
- 28 March 2019 (to be held in Camden)

11. ANY OTHER BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

AGENDA ENDS

The date of the next meeting will be Thursday, 12 July 2018 at 7.30 pm in Civic Centre, Wood Green High Road N22 8LE.

LOCAL GOVERNMENT ACT 1972 - ACCESS TO INFORMATION

Proposed resolution:

THAT the press and public be excluded from the proceedings of the Shared Digital Joint Committee on 20 February 2018 during consideration of the respective item on the agenda on the grounds that it is likely, in view of the nature of the business to be transacted, that were members of the public to be present, there would be disclosure of exempt information as defined in Schedule 12A to the Local Government Act 1972.

Specifically –

Publicity in respect of item 8 or 9 would be likely to lead to the disclosure of information relating to the financial or business affairs of any person (including the authority holding that information) in accordance with paragraph 3 of schedule 12A to the Local Government Act 1972 and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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At a meeting of the **SHARED DIGITAL JOINT COMMITTEE** held on **MONDAY, 30TH OCTOBER, 2017** at 7.30 pm in Council Chamber, Civic Centre, Wood Green High Road N22 8LE

MEMBERS OF THE COMMITTEE PRESENT

Councillors Jason Arthur, Danny Beales, Ali Demirci, Andy Hull, Richard Olszewski and Claudia Webbe

The minutes should be read in conjunction with the agenda for the meeting. They are subject to approval and signature at the next meeting of the Shared Digital Joint Committee and any corrections approved at that meeting will be recorded in those minutes.

MINUTES

1. APPOINTMENT OF CHAIR FOR THE MEETING

RESOLVED –

THAT Councillor Richard Olszewski be appointed as Chair for the duration of the meeting.

2. APOLOGIES

There were no apologies.

3. DECLARATIONS BY MEMBERS OF PECUNIARY AND NON-PECUNIARY INTERESTS IN RESPECT OF ITEMS ON THIS AGENDA

There were no declarations of interest.

4. DEPUTATIONS

There were no deputations.

5. ANNOUNCEMENTS

Withdrawn Item

The Chair announced that *Item 10: Review of Adult Social Care and Children's Services Case Management System Provision* had been withdrawn from the agenda.

6. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

There was no urgent business.

7. MINUTES

RESOLVED –

THAT the minutes of the meeting held on 19 June 2017 be approved and signed as a correct record.

8. *SHARED DIGITAL GOVERNANCE MODEL REVIEW

Consideration was given to the report of the Chief Digital and Information Officer and a presentation on the Governance Model Review project by a representative of Activist Group.

Members commented:

- Commerciality and trading was not a current priority for the shared service.
- The key driver was for the three local authorities to work together towards shared objectives.
- There was a need to end uncertainty for staff.
- The type of 'strategic' decisions to be made by the Joint Committee should be clearly set out.
- The inter-authority agreement had to be right and avoid the problems of interpretation identified with the legal agreement.
- Future reports should provide examples to assist Members to understand the issues presented.
- It was understood that shared services were not commonplace because they were difficult to establish. They required an evolutionary approach.
- Officers needed to provide assurance that the problems identified were caused by the governance model and did not suggest other challenges such as significant cultural differences.
- The shared service should support the provision of an improved service for residents in the three boroughs.
- The views of staff on the proposed changes should be presented to the Cabinets/ Executives.

The Chief Digital and Information Officer and representative of Activist Group responded to Members' queries as follows:

- The Joint Committee had been initially set up to avoid overcomplicated decision-making processes. However, existing governance arrangements had led to some delays in decision-making, particularly with regard to procurement. For example, in November 2016 the Joint Committee had

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agreed a delegation to the Chief Digital and Information Officer for the procurement of cloud services. Following the meeting, there were questions over whether the decision had been properly taken by the Committee and a further paper was considered in June 2017. This had caused a delay to the procurement timetable of at least three months.

- There was risk involved with having teams of staff under different sets of terms and conditions but within one shared service. In other places, having multiple performance regimes, disciplinary procedures etc had encouraged managers to avoid using those procedures.
- There had been transparency at the start of discussions to establish the shared service that savings were required and that there would be a reduction of 66 staff posts. Staff at the London Boroughs of Camden and Islington had been dealing with that uncertainty for four years, while staff at London Borough of Haringey had now been facing uncertainty for two years.
- The London Borough of Camden had already been agreed as the lead employer for the shared service and other delegations had been made to it. Therefore, it was not a significant step to agree that Camden Council be the day-to-day host authority. The Joint Committee would be the lead body, setting the direction and strategy for Shared Digital.
- The Executive at London Borough of Islington would consider the report on the recommended option on 4 January 2018 rather than 23 November 2017 as stated in paragraph 6.1 of the officer report.
- There had been some different interpretations of the legal agreement and which rules took precedence in decision-making. The recommendation was for there to be one set of rules. This would enable the development of a high trust, fast-moving shared service.
- Following an agreement by the Cabinet/ Executives, there would be a consultation on the transfer of staff. The restructure would take between three and six months. Therefore, an estimated timetable would see implementation at approximately nine months after the decision.
- While it was necessary to review governance arrangements over time, it was also necessary for cultural differences to be addressed when identified.
- Staff had different views of the proposed changes across and within the three local authorities. However, most staff would prefer to have an end to the uncertainty.
- The detail behind the proposals would be worked on over the next few months.
- An Equality Impact Assessment could only be completed once the target architecture was known. Until then, it was not known what posts would be affected. The restructure proposal would be brought to the Joint Committee with an Equality Impact Assessment.
- Trade Unions had been engaged on the proposals.

The Borough Solicitor, London Borough of Camden, informed the Committee that officers within the three local authorities would be working together to develop the terms of reference for the Joint Committee and the inter-authority agreement. He commented that it was not unusual for something to be set up and for legitimate

questions and different interpretations to be identified later. A review of governance was a sensible approach to the establishment of a shared service. The Borough Solicitor went on to remind the Committee that when the Joint Committee was established, it had been agreed to seek legal advice on officer reports from Camden Council. He had asked the legal services in the other boroughs to work together on advice for the report to the Cabinets/ Executives.

The Borough Solicitor informed the Committee that the Transfer of Undertakings (Protection of Employment) regulations (TUPE) offered a host of protections to staff, including the right to be consulted. He also confirmed that Camden Council would consider equality issues during their decision making processes and stated that it was likely that the other two boroughs would do the same.

RESOLVED –

That the Shared Digital Joint Committee agree and recommend to the Cabinets/ Executive of Islington, Haringey and Camden that:

1. The Cabinet/ Executives note the options set out in the detailed 'Shared Digital Governance Model Options' report at Appendix 1 prepared by Activist Group following extensive work since March 2017 with Councillors and senior officers.
2. The Cabinet/ Executives approve the adoption of the governance model for the Shared Digital Service set out as Option 1 (a 'lean' Joint Committee model in paragraphs 3.2, 3.6 – 3.13 of this report and paragraphs 4.5 – 4.9 of Appendix 1) based on the outcomes framework at Table 2.4, paragraph 2.26 of Appendix 1 with a planned service commencement date of {to be confirmed before submission to Cabinet/ Executives}.
3. The Cabinet/ Executives approve Camden as the host Council and agree to the proposed staffing arrangements set out in section 5.1 of this report.
4. The Executive/ Cabinets of Islington and Haringey delegate to Camden (as the primary host authority in the Shared Service) the delivery of ICT services to include employing staff, managing the service, financial management and making day to day decisions.
5. The Executive/ Cabinets agree the Joint Committee be reconstituted to reflect the new governance model at 2 above.
6. The Executive/ Cabinets agree the Joint Committee will consist of two elected members from each Council.
7. The Executive/ Cabinets approve the creation of a Strategy and Portfolio Management Board, accountable to the Joint Committee, to manage the service, with an appointed Director from each Council amongst other key

members of staff to be appointed from each Council and the Chief Digital Information Officer (or suitable alternative).

8. The Executive/ Cabinets make arrangements to delegate to relevant officers, on advice from their respective Borough Solicitors or equivalent, to take the necessary steps to put the above arrangements into effect including but not limited to finalising the terms of the inter-authority agreement and any changes to it and for the operation of the 3 way Shared Digital Service.

Reasons: For the reasons set out in the report and above

9. *SHARED DIGITAL STRATEGY - REVIEWING THE DRAFT

Consideration was given to the report of the Chief Digital and Information Officer.

Members commented:

- There was support for the provision of a draft for discussion rather than a finished product.
- The delivery of more equal boroughs should be more clearly identified as a key objective.
- There was general support for the vision: "Work together to meet the needs of Camden, Haringey and Islington and ensure that technology is delivering a better future for residents".
- There was no support for using the terminology 'customers'. There was preference for either 'residents' or service-users'.
- There should be an emphasis on sharing best practice.
- 'Place-shaping' was missing from the overlapping corporate strategies.
- There was a role for digital services in emphasising different cultural activities.
- The strategy should elaborate on how the shared service could enable positive outcomes for residents.
- The benefits listed in the image under paragraph 9 should be the core of the strategy.
- The strategy should help determine what Shared Digital should not do to avoid mission creep. For example, it should not simply seek to procure the latest technology.
- Paragraph 6 on page 136 of the agenda pack was the right starting point for the strategy.
- Examples would be useful within the strategy.
- The need to use data better so that residents would not have to provide the same information to different parts of the Council was important for a digital strategy.

It was confirmed that Members of the Committee would continue to be engaged informally in the development of the Shared Digital Strategy.

RESOLVED –

That the Shared Digital Joint Committee:

1. Commented on the key points proposed, direction, and content of the draft shared digital Strategy and provided recommendations for the final version that will be brought to the Committee for approval in February 2018.
2. Provided feedback on the next phase of the strategy, including the Joint Committee's views on what type of stakeholders they feel are key engagement priorities to make sure the strategy's message is sound and right.

Reasons: For the reasons set out in the report and above

10. *REVIEW OF ADULT SOCIAL CARE AND CHILDREN'S SERVICES CASE MANAGEMENT SYSTEM PROVISION

This item was withdrawn from the agenda.

11. *NETWORK SERVICE TRANSFORMATION

Consideration was given to the report of the Chief Digital and Information Officer.

RESOLVED –

- a) THAT the strategy for the Councils to share their wide area networks in a single (securely segmented) wide area network provided by a single supplier be approved.
- b) THAT the procurement strategy to go to market via a CCS framework for a managed WAN service via RM1045 be approved.
- c) That the Committee noted the contract award for the procurement would come to the Shared Digital Joint Committee in February 2018 for approval.

Reasons: For the reasons set out in the report and above

12. SHARED DIGITAL FINANCIAL UPDATE

Consideration was given to the report of the Deputy Director of Finance.

RESOLVED –

1. THAT the overall budget position for Shared Digital for 2017/18 and the projected outturn be noted.

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2. THAT the proposals for the budget build for Shared Digital for the next financial year 2018/19 be noted.
3. THAT the annual budget-to-actual true-up process be noted.

Reasons: For the reasons set out in the report and above

13. APPOINTMENT OF CHAIR FOR CALENDAR YEAR

RESOLVED –

THAT Councillor Jason Arthur be appointed as Chair for one calendar year upon the close of the meeting.

14. ANY OTHER BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

There was no urgent business.

The meeting ended at 8.55 pm.

CHAIR

Contact Officer: Cheryl Hardman

Telephone No: 020 7974 1619

E-Mail: cheryl.hardman@camden.gov.uk

MINUTES END

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REPORT TITLE	
Contract Award Decision: Shared Digital Mobile phones/devices	
REPORT OF	
Ed Garcez, Chief Digital and Information Officer	
FOR SUBMISSION TO	DATE
Shared Digital Joint Committee	20 th February 2018
SUMMARY OF REPORT	
<p>The London Boroughs of Camden, Haringey and Islington undertook a procurement exercise using Crown Commercial Services' Framework Agreement RM1045 Network Services, Lot 6 with the view to entering into a contract with a single supplier for the provision of mobile voice and data services including mobile devices.</p> <p>This report describes the procurement process and seeks approval to award a contract to the supplier returning the most economically advantageous tender resulting from the procurement.</p> <p>Local Government Act 1972 – Access to Information</p> <p>No documents that require listing were used in the preparation of this report.</p> <p>Contact Officer:</p> <p>Stephen Menzies, SD Procurement Consultant Address: 5 Pancras Square, London, N1C 4AG Email: stephen.menzies@camden.gov.uk</p>	
WHAT DECISIONS ARE BEING ASKED FOR?	
<p>It is recommended that the Shared Digital Joint Committee:</p> <ol style="list-style-type: none"> 1) Notes and agrees the minor amendment to the procurement strategy reducing the initial contract period from 3 years to 2 years; and, 2) Approves a contract award for the provision of mobile voice and data services including mobile devices to EE Limited. The contract will be for an initial period of 24 months with the option to extend the contract for a further 24 months through two, 12 month extension periods. The estimated contract value is £288,316 per annum and £1,153,264 in aggregate including contract extensions. This value will increase should the councils consume more data or add connections to the contract. 	

Ed Garcez, Chief Digital and Information Officer

Date: 

1. WHAT IS THIS REPORT ABOUT?

- 1.1. In June 2017, the Shared Digital Joint Committee approved the procurement strategy for the provision of mobile voice and data services including mobile devices.
- 1.2. The agreed procurement strategy was to:
 - Consolidate the councils' requirements into a single tender;
 - Procure the services through an appropriate framework agreement. In this case Crown Commercial Services' (CCS) framework agreement RM1045, Network Services, Lot 6 – Mobile Voice and Data Services;
 - Award a contract to the single supplier returning the most economically advantageous tender; and,
 - Award a contract which would be limited to a maximum of five years.
- 1.3. Mobile devices, data and call allowances is a fast moving marketplace, with regular updates in technology and changes in market preferences. It is a very mature marketplace.
- 1.4. On reviewing the procurement strategy following soft market testing it was noted that:
 - An initial contract period of three years would not support the councils' requirement to stay at the forefront of this technology area – providers having a 24 month development and release cycle;
 - Aggregation of data would enable suppliers to provide a better pricing offer; and,
 - Significant technology funds would more likely than not result in an increase in either data or connection costs.
- 1.5. Based on the information collected during soft mark testing the Head of Procurement and Chief Digital and Information Officer endorsed a minor revision to the procurement strategy:
 - The contract period would be for an initial two year period with the option to extend for a further 24 months in annual increments, a maximum of four years in total.
- 1.6. It was also noted that there would be no requirement for suppliers to provide technology funding, although the councils stated a preference to having a technology fund available.
- 1.7. Due to the expected contract value the councils would need to use a procurement route which met the public procurement regulations for goods and services over the OJEU threshold of ~£181,000¹. CCS' RM1045 framework agreement meets the public procurement requirements.
- 1.8. The contract would be awarded to the supplier which scored highest against the tender evaluation criteria which had a Price: Quality split of 60% Price to 40% quality.

2. WHY IS THIS REPORT NECESSARY?

- 2.1. The councils have concluded the procurement exercise for the services noted above. This report seeks approval to **award** a contract to a single supplier. Approval of the contract of this value is a function delegated to the Shared Digital Joint Committee by the London Boroughs of Camden, Haringey and Islington.

¹ OJEU threshold for goods and services contracts increased in January 2018 from £164,176 to £181,302.

3. OPTIONS

Procurement Outcome

- 3.1. CCS' RM1045, Network Services Lot 6 has 19 suppliers all of whom were invited to submit a tender in response to the councils' requirements. Of the 19 suppliers, six chose to submit a tender response.
- 3.2. The table below details the recommended supplier's evaluation score:

Supplier Name	Quality Score (40%)	Price Score (60%)	Total Tender Score (100%)
EE Limited	26	60	86

Evaluation Panel

- 3.3. There was an evaluation panel of seven members. The evaluation panel had cross council representation, drawn from Shared Digital, Finance and Procurement. The panel was chaired by the Assistant Director for Core Infrastructure and End User.
- 3.4. Evaluation was split between two groups: quality evaluation group and pricing group. Both groups held two moderation sessions to review and agree the final scores for each bid. The findings of the evaluation panel were presented to both Shared Digital's senior leadership team and also the Shared Digital Delivery Board.

Options

- 3.5. There are three options available following the conclusion of the procurement process:
- Option 1: award a contract to the highest scoring tenderer – **recommended**.
The councils have completed a competitive procurement process which has returned a strong set of tenders. The successful bid fully meets our requirements and ensures continuity of service at a price which is lower than the current paid across the councils.
- Option 2: do not award a contract and retender the service – not recommended.
The councils have followed an appropriate procurement process, compliant with contract standing orders and meeting public procurement regulations. Tenders received have been competitive and show value for money. There is no reason to re-run the process.
- Option 3: do not award a contract and allow the existing service to end (do not re-commission) – not recommended.
This is a business critical service, delivery of which must be maintained.

4. WHAT ARE THE REASONS FOR THE RECOMMENDED DECISIONS?

- 4.1. The recommended supplier submitted the tender which scored highest across the evaluation criteria. The tender was: the lowest price returned, scored consistently well across all criteria and fully meets the councils' requirements.
- 4.2. Recognising the councils' commitment to Social Value it is worth noting that the recommended supplier has demonstrated a commitment to Social Value through the existing and future initiatives outlined within their bid, examples of which include:
- programmes that are improving levels of technology literacy for young people;
 - expanding and extending the current primary schools' programme already operating across the three councils areas; and,
 - expanding school work experience placements and 'work ready boot camps' for young unemployed people.

4.3. It should be recognised that this is a commodity service akin to utility services such as water, gas and electricity and as such there are limited opportunities for the successful bidder to make significant Social Value contributions beyond those outlined in the tender return and summarised above.

5. WHAT ARE THE KEY IMPACTS / RISKS? HOW WILL THEY BE ADDRESSED?

5.1. This contract will generate significant savings to the councils based on their current service consumption and expenditure as shown below. However, it should be noted that this is a consumption based contract and should the councils' requirements increase the cost of the service will increase as well, reducing the savings available.

Year	Current Annual Expenditure	Tender Response	Savings
2018/19	£1,112,000	£288,316	£823,684
2019/20	£1,112,000	£288,316	£823,684

5.2. The savings noted above are based on an annual data consumption of approximately 32tb of data and 11,000 connections. It is highly likely that the councils' data consumption will increase as new technology, for example roll-out of Office 365 and more flexible and mobile working solutions, is implemented, requiring staff to access data on the move.

5.3. The table below details the main risks:

Risk Description	Mitigation
The result of the procurement is challenged by an unsuccessful bidder. The contract cannot be awarded.	The councils have followed an appropriate procurement process which meets the councils' contract standing orders and also public procurement regulations. All documentation has been held and is available for audit.
Increases in consumption of data or a requirement for more connections will lead to an increase in cost of service. Savings realised will be reduced.	Proactively manage data usage and number of connections.
Two of the three councils will need to transition to a new service provider. Failure to transition smoothly may impact on quality of service.	Shared Digital will: appoint a transition project manager; develop strong transition plans including a communications strategy; and, engage effectively with end users.

6. WHAT ACTIONS WILL BE TAKEN AND WHEN FOLLOWING THE DECISION AND HOW WILL THIS BE MONITORED?

6.1. The table below provides a timeline of activity following approval of the recommendation in this report:

Activity	Date
Notify all bidders of decision	February 2018
Award contract	March 2018
Develop transition plan	March 2018
Start transition to new service provider	April 2018

- 6.2. The contract will be monitored on a regular basis by members of the SD team. Key elements of monitoring will include review of data usage and numbers of connections. There will be regular meetings with the supplier to review service and contract performance.

7. CONSULTATION

- 7.1. There is no public consultation requirement for these services. Elected Members have been involved in the approval of the procurement strategy by the Shared Digital Joint Committee. Chief Officers involved in the Shared Digital Delivery Board and members of Shared Digital's senior management team have been consulted and are satisfied with the outcome of the procurement exercise.

8. LEGAL IMPLICATIONS (Comments of the Borough Solicitor)

- 8.1. Legal Services has reviewed this report in the context of the Shared Digital's Joint Committee's Terms of Reference and the Public Contract Regulations 2015 (the Regulations) which must be complied with.
- 8.2. This report recommends the award of a contract for the provision of mobile voice and data services including mobile devices to EE Limited for a period of 2 plus optional 2 years in yearly increments. The value of the proposed contract is £1,153,264 in aggregate including contract extensions. Under the Terms of Reference the Joint Committee has the power to agree the procurement strategy and award contracts where the total estimated value exceeds £2M revenue. In this case, although the total contract value is less than £2M, the Council is still seeking approval from the Joint Committee for the reasons set out below.
- 8.3. The Council's strategy, which was approved by the Shared Digital Joint Committee in June 2017, was to contract with a single supplier to provide the numerous mobile telecommunication related services/supply streams required by Shared Digital. The contract value was estimated at strategy stage to be in the region of £3.4M. The Joint Committee recommended to delegate authority to the CDIO to procure through a single supplier and award the contract. Council Officers have informed Legal Services that for transparency purposes the Joint Committee was informed at a committee meeting that the method would be to call off from CCS' RM1045 framework agreement to provide the services. In order to be consistent with this revised approach, this report asks the Joint Committee to approve the award of the contract to EE Ltd. It is noted that the strategy has been slightly amended by the reduction of the initial contract period from 3 to 2 years respectively and the Joint Committee should consider this amendment before deciding on whether to award the contract. The Council should ensure that the award of the contract is consistent with the contract call-off procedures set out in the framework.
- 8.4. Local Authorities must take into account in coming to any decision their equality duties and have due regard to them. In summary, these legal obligations require the Council, when exercising its functions, to have 'due regard' to the need to:

1. eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act (the protected characteristic of marriage and civil partnership is also relevant);
 2. advance equality of opportunity between people who share a relevant protected characteristic and those who don't; and
 3. foster good relations between people who share a relevant protected characteristic and those who don't (which involves tackling prejudice and promoting understanding).
- 8.5. Under the Duty the relevant protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Race, Religion, Sex, Sexual orientation.
- 8.6. In this case the EIA, which was carried out at the strategy stage, concluded that there is no potential for discrimination and all appropriate opportunities to advance equality and foster good relations have been taken.
- 8.7. The Public Services (Social Value) Act 2012 requires that public authorities letting service contracts consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area and how during the procurement it might act with a view to securing that improvement. In fulfilling this duty the authority must (amongst other things) consider whether to undertake any consultation. This has been considered as noted in the paragraphs 4.2 and 4.3 of this report and no consultation was deemed necessary.

9. FINANCE IMPLICATIONS (Finance comments of the Executive Director Corporate Services)

- 9.1. This report seeks endorsement of the award of a contract to EE Ltd for a period of 2 years, with two 1 year extensions, for an estimated value of £1.153M over the extended 4 year period. This is based on current levels of connections and data consumption, and it is acknowledged that requirements may change and as such the total contract cost may increase during this period.
- 9.2. The prices offered by the winning tender represent a significant reduction from current expenditure. Based on the current levels of consumption annual costs are expected to decrease by 74%, from £1.112M to £0.288M, a reduction of £0.824M. This includes all councils' General Fund services, Housing Revenue Accounts, and Homes for Haringey (an Arms Length Management Organisation).
- 9.3. General Fund budgets will be pooled into the Shared Digital baseline, from which a saving will be taken. Under the shared service agreement Shared Digital savings will be split evenly between the participating authorities. The level of saving to be taken from budgets should allow for planned increases in consumption levels throughout the contract period, to ensure sufficient budget provision for the service.
- 9.4. There will be an internal resourcing requirement to manage the transition to the new provider, which should be quantified and managed as part of the transition programme.

10. PROCUREMENT IMPLICATIONS (Comments of the Head of Procurement)

- 10.1. This requirement and subsequent evaluation was undertaken in accordance with the CCS using Crown Commercial Services' (CCS) Framework Agreement RM1045, Network Services, Lot 6 which has already undergone a compliant OJEU procurement process.
- 10.2. Finalisation of contract and subsequent deployment should commence after a standstill period has been observed.

10.3. It is also recommended that there is a strong contract management focus throughout the duration of this contract, given aspects pertaining to data consumption which may impact on the anticipated savings stated within the report.

11. APPENDICES

11.1. Appendix 1 – Evaluation of Bids (Exempt from Publication)

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REPORT TITLE	
Contract award for Shared Digital Multifunctional devices and print room services	
REPORT OF	
Ed Garcez, Chief Digital and Information Officer	
FOR SUBMISSION TO	DATE
Shared Digital Joint Committee	20 th February 2018
SUMMARY OF REPORT	
<p>The London Boroughs of Camden, Haringey and Islington undertook a procurement exercise using Yorkshire Purchasing Organisation's (YPO) framework agreement: RM3871 Multifunctional devices, managed print and content services and records management and information management, Lot 3, with the view to entering into a contract with a single supplier for the provision of multifunctional devices and managed print services.</p> <p>This report describes the procurement process and seeks approval to award a contract to the supplier returning the most economically advantageous tender resulting from the procurement.</p> <p>Local Government Act 1972 – Access to Information No documents that require listing were used in the preparation of this report.</p> <p>Contact Officer: Stephen Menzies, SD Procurement Consultant Address: 5 Pancras Square, London, N1C 4AG Email: stephen.menzies@camden.gov.uk</p>	
WHAT DECISIONS ARE BEING ASKED FOR?	
<p>It is recommended that the Shared Digital Joint Committee approve:</p> <ol style="list-style-type: none"> 1) A contract award for the provision of multifunctional devices and managed print services to Xerox (UK) Ltd. The contract will be for an initial period of 36 months with the option to extend the contract for a further 24 months through two, 12 month extension periods. The estimated contract value is £3,859,440. 	

Ed Garcez, Chief Digital and Information Officer

Date:

1. WHAT IS THIS REPORT ABOUT?

- 1.1. In June 2017, the Shared Digital Joint Committee approved the procurement strategy for the provision of multifunction devices (MFDs) and managed print services.
- 1.2. The scope of services include the option to deliver public facing print services such as those available through the library services with members of the public paying for their printing and copying.
- 1.3. The provision of MFDs and managed print services is a mature and very competitive marketplace. Technology changes quickly and the councils are seeking a contract which will support a direction of travel that reduces the amount of printing that the councils produce.
- 1.4. The agreed procurement strategy was to:
 - Consolidate the councils' requirements into a single tender;
 - Procure the services through an appropriate framework agreement;
 - Award a contract to the single supplier returning the most economically advantageous tender; and,
 - Award a contract which would be limited to a maximum of five years.
- 1.5. Soft market testing was undertaken with all suppliers on the relevant framework lot. The findings of the market testing informed the original procurement strategy. There were no changes to the procurement strategy.
- 1.6. Due to the expected contract value the councils would need to use a procurement route which met the public procurement regulations for goods and services over the OJUE threshold of ~£181,000¹.
- 1.7. The chosen framework was Yorkshire Purchasing Organisation's (YPO) framework agreement: RM3781 Multifunctional devices, managed print and content services and records management and information management, Lot 3.
- 1.8. The contract would be awarded to the supplier which scored highest against the tender evaluation criteria which had a Price: Quality split of 60% Price to 40% quality.

2. WHY IS THIS REPORT NECESSARY?

- 2.1. The councils have concluded the procurement exercise for the services noted above. This report seeks approval to award a contract to a single supplier. Approval of the contract of this value is a function delegated to the Shared Digital Joint Committee by the London Boroughs of Camden, Haringey and Islington.

3. OPTIONS

Procurement Outcome

- 3.1. The tender was advertised to all seven participating framework suppliers through the Haringey Procurement and Contract System (HPCS) e-portal and suppliers were allowed five weeks to submit their bids. Of the seven suppliers, three chose to submit a tender response.
- 3.2. The table below details the recommended supplier's evaluation score:

Supplier Name	Quality Score (40%)	Price Score (60%)	Total Tender Score (100%)
Xerox (UK) Ltd.	27.00	60.00	87.00

¹ OJEU threshold for goods and services contracts increased in January 2018 from £164,176 to £181,302.

Evaluation Panel

- 3.1. There was an evaluation panel of eight members. The evaluation panel had cross council representation, drawn from Shared Digital, Finance and Procurement. The panel was chaired by the Procurement Delivery Manager.
- 3.2. Evaluation was split between two groups: quality evaluation group and pricing group. Both groups held moderation sessions to review and agree the final scores for each bid. The findings of the evaluation panel were presented to both Shared Digital's senior leadership team and also the Shared Digital Delivery Board.

Options

- 3.3. There are three options available following the conclusion of the procurement process:
Option 1: award a contract to the highest scoring tenderer – **recommended**.
The councils have completed a competitive procurement process which has returned a strong set of tenders. The successful bid fully meets our requirements and ensures continuity of service at a price which is lower than the current paid across the councils.
Option 2: do not award a contract and retender the service – not recommended.
The councils have followed an appropriate procurement process, compliant with contract standing orders and meeting public procurement regulations. Tenders received have been competitive and show value for money. There is no reason to re-run the process.
Option 3: do not award a contract and allow the existing service to end (do not re-commission) – not recommended.
This is a business critical service, delivery of which must be maintained.

4. WHAT ARE THE REASONS FOR THE RECOMMENDED DECISIONS?

- 4.1. The recommended supplier submitted the tender which scored highest across the evaluation criteria. The tender was: the lowest price returned, scored consistently well across all criteria and fully meets the councils' requirements.
- 4.2. With a strong track record in ethical business practices and also a number of local initiatives the recommended supplier will make a good contribution to the councils' Social Value ambitions. Examples of existing initiatives are noted below:
 - Participation in the national apprenticeship scheme since 2012, with 33 young people completing the L3 and L4 apprenticeship in IT and business administration;
 - Since 2017, over £470,000 spent with local SMEs;
 - Zero landfill disposal of consumables used in Camden and Islington through the Eco Box initiative; and
 - Participation in the transport consolidation project, where all consumables are delivered to a central north London Hub for consolidation with other deliveries, driving a reduction in carbon emission due to council deliveries by 41%
- 4.3. In addition to this there is an expectation that through the print strategy and continuous improvement plan that the councils, by changing staff behaviours around printing will further reduce the level of printing by the councils, lowering environmental impacts.

5. WHAT ARE THE KEY IMPACTS / RISKS? HOW WILL THEY BE ADDRESSED?

Current cost of services and savings profile

- 5.1. The supplier costs are indicative and will be subject to due diligence during the contract award and proof of concept phase of the programme. Once the due diligence work has been completed the SD Joint Committee will receive an update on the likely savings to be generated from this procurement as part of the regular review of SD finances.

- 5.2. There is a high level of confidence that the expected saving of between £300,000 to £400,000 over the life of the contract will be achieved. However, it would be prudent to wait until after due diligence has completed before declaring savings.
- 5.3. In addition to the savings noted above, the councils will also deliver a refresh of all multifunctional devices within 12-14 months, and improved the service provided to members of public via the libraries' service with a refresh of multifunctional devices and payment kiosks.
- 5.4. The table below details the main risks:

Risk Description	Mitigation
The result of the procurement is challenged by an unsuccessful bidder. The contract cannot be awarded.	The councils have followed an appropriate procurement process which meets the councils' contract standing orders and also public procurement regulations. All documentation has been held and is available for audit.
The proof of concept fails and the service proposed does not meet the councils' expectations	The councils' requirements have been clearly stated. The recommended supplier has significant experience in delivering against the stated requirements.
The councils will need to transition to a new service provider. Failure to transition smoothly may impact on quality of service.	Shared Digital will: appoint a transition project manager; develop strong transition plans including a communications strategy; and, engage effectively with end users.
Further reductions in the cost of service are not achieved as the councils do not effectively change staff printing habits, reducing the requirement to print documents	The councils in partnership with the service provider will develop a print and continuous improvement strategy identifying initiatives which will support the councils to reduce the volume of print. A resource will be identified across each council to help champion print reduction initiatives and report these back to the strategic group managing the contract.

- 5.5. To ensure that the continuous improvement strategy and contract are effectively managed Shared Digital will regularly monitor the contract. In addition to regular meetings on the contract a strategic group drawn from all three councils and the successful supplier will meet on an at least quarterly basis to review implementation and progress of the print strategy and continuous improvement plan.

6. WHAT ACTIONS WILL BE TAKEN AND WHEN FOLLOWING THE DECISION AND HOW WILL THIS BE MONITORED?

- 6.1. The table below provides a timeline of activity following approval of the recommendation in this report:

Activity	Date
Notify all bidders of decision	February 2018
Award contract	March 2018
Draft transition plan	March 2018
Complete proof of concept with supplier	April 2018
Start transition to new service provider	Early May 2018
Co-develop print and continuous improvement strategy	May 2018

7. CONSULTATION

- 7.1. There is no public consultation requirement for these services. Elected Members have been involved in the approval of the procurement strategy by the Shared Digital Joint Committee. Chief Officers involved in the Shared Digital Delivery Board and members of Shared Digital's senior management team have been consulted and are satisfied with the outcome of the procurement exercise

8. LEGAL IMPLICATIONS (Comments of the Borough Solicitor)

- 8.1. Legal services has reviewed this report in the context of the Shared Digital's Joint Committee's Terms of Reference and the Public Contract Regulations 2015 (the Regulations) which must be complied with.
- 8.2. This report recommends the award of a contract for the provision of multifunctional devices and managed print services etc. to Xerox (UK) Ltd for a period of 3 plus optional 2 years in yearly increments. The value of the proposed contract is £3,859,440 in aggregate including contract extensions. Under the Terms of Reference, the Joint Committee has the power to agree the procurement strategy and award contracts where the total estimated value exceeds £2M revenue.
- 8.3. The Council's strategy, which was approved by the Shared Digital Joint Committee in June 2017, was to approve the single source procurement strategy for the supply of MFDs and print room services for all three boroughs. The specific details of the strategy approved by the Shared Digital Joint Committee is set out in paragraph 1.4 above. Officers should ensure that this strategy has been correctly followed. The Council should also ensure that the process to award the contract complied with the contract call-off procedures set out in the framework. Regulation 33 (framework agreements) of the Regulations should be observed. In particular, the contract terms and conditions should not entail any substantial modifications to the terms laid down in the framework agreement.
- 8.4. Local Authorities must take into account in coming to any decision their equality duties and have due regard to them. In summary, these legal obligations require the Council, when exercising its functions, to have 'due regard' to the need to:
1. eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act (the protected characteristic of marriage and civil partnership is also relevant);
 2. advance equality of opportunity between people who share a relevant protected characteristic and those who don't; and

3. foster good relations between people who share a relevant protected characteristic and those who don't (which involves tackling prejudice and promoting understanding).
- 8.5. Under the Duty the relevant protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Race, Religion, Sex, Sexual orientation.
- 8.6. In this case the attached EIA, which was carried out at the strategy stage, concluded that there is no potential for discrimination and all appropriate opportunities to advance equality and foster good relations have been taken.
- 8.7. The Public Services (Social Value) Act 2012 requires that public authorities letting service contracts consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area and how during the procurement it might act with a view to securing that improvement. In fulfilling this duty the authority must (amongst other things) consider whether to undertake any consultation. This has been considered as noted in the paragraphs 4.2 and 4.3 of this report and no consultation was deemed necessary.

9. FINANCE IMPLICATIONS (Finance comments of the Executive Director Corporate Services)

- 9.1. This report seeks endorsement of the award of a contract to Xerox (UK) Ltd for a period of 3 years, with two 1 year extensions, for an estimated value of £3.859M over the extended 5 year period, including the assumed cost of transition.
- 9.2. Suppliers have provided unit print costs which cover provision and support of hardware and software as well as consumables, and which will be the basis of billing. As such total cost will be dependent on print volumes. Annual costs are based on unit impression prices as submitted and current print volumes across the three authorities being maintained, however it is acknowledged that there will be a drive to reduce volumes throughout the contract period, which will reduce the total cost of contract.
- 9.3. The unit impression prices offered by the winning tender represent a reduction from current costs incurred. Annual costs are anticipated to decrease, and savings of between £300K to £400K are expected over the 5 year contract period (£50K to £60K per annum), however it is prudent to declare savings following confirmation from the due diligence exercise.
- 9.4. Under the shared service agreement, any Shared Digital savings will be split evenly between the participating authorities. Shared Digital is expected to deliver a savings target of £6m per annum across the three councils, and confirmed savings from this contract will contribute to that target.
- 9.5. Budgets to provide print services will be pooled into the Shared Digital baseline in order to manage the contract and monitor all expenditure centrally.
- 9.6. Following award, a transition plan will need to be drawn up with the chosen provider, with transition costs quantified and managed as part of that programme.

10. Procurement opinion

- 10.1. This requirement and subsequent evaluation was undertaken in accordance with the Yorkshire Purchasing Organisation's (YPO) framework agreement: RM3871 Multifunctional devices, managed print and content services and records management and information management which has already undergone a compliant OJEU procurement process.
- 10.2. Finalisation of contract and subsequent deployment should commence after a standstill period has been observed.

10.3. It is also recommended that there is a strong contract management focus throughout the duration of this contract, given aspects pertaining to data consumption which may impact on the anticipated savings stated within the report.

11. APPENDICES

11.1. Appendix 1 – Equality Impact Assessment

11.2. Appendix 2 - Evaluation of Bids (Exempt from Publication)

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Equalities Impact Assessment

Camden Council

What is an Equality Impact Assessment?

An Equality Impact Assessment (“EIA”) is a way of analysing a proposed organisational policy or decision to assess its effect on people with protected characteristics covered by the Equality Act 2010*. To meet the Council’s statutory duty the EIA should also address issues of advancing opportunities and fostering good relations between different groups in the community.

There is no legal requirement to carry out an EIA, but the courts place significant weight on the existence of some form of documentary evidence of compliance with the Public Sector Equality Duty* when determining judicial review cases. Having an EIA as part of the report which goes to the decision makers and making reference to the EIA within that report helps to demonstrate that we have considered our public sector equality duty and given “due regard” to the effects the decision will have on different groups..

The EIA must be considered at an early stage of the formation of a policy/decision and inform its development, rather than being added on at the end of the process. The EIA form should be completed and updated as the policy / decision progresses and reviewed after the policy or change has been implemented.

Please note all sections must be completed. However the obligation is to have due regard and it may be that while an issue requires the completion of an EIA equally the matters at hand may not lend themselves to some of the obligations for example fostering good relations. As long as this has been properly considered it is legitimate to conclude that this cannot be applied in a particular case.

***Please read the notes at the end of this document.**

Name of proposed decision/policy being reviewed:

Question 1

What is changing and why?

If the issue is going for decision, e.g. at Cabinet meeting, what are the decision makers being asked to decide? If you are reviewing a policy what are its main aims? How will these changes affect people?

Notes to Question 1

- Summarise briefly and precisely just what the decision is about. In particular what changes will happen if this decision is agreed and put into effect? What happens now and what will happen in the future? What will be different?
- **Do not cut and paste the report or policy** but concisely restate it, considering equalities issues directly against the facts
- **Focus on the impacts on people** e.g. the users of any facility or service.

Question 2

Who will be affected by this decision and how?

In particular do those from protected groups benefit or will they experience specific and disproportionate impacts? Will there be any direct or indirect discrimination?

Notes to Question 2

- Here use data to show who could be affected by the decision – e.g. who uses the service now and might use it in the future
- **Do not simply repeat borough wide or general service equality data** – be as precise and to the point as possible
- We are under a legal duty to be properly informed before making a decision. If the relevant data is not available we are under a duty to obtain it and this will often mean some consultation with appropriate groups is required.
- Is there a particular impact on one or more of the protected groups? Who are the groups and what is the impact?
- Consider indirect discrimination (which is a practice, policy or rule which applies to everyone in the same way, but has a worse effect on some groups and causes disadvantage) - for example not allowing part-time work will disadvantage some groups or making people produce a driver's licence for ID purposes.

Question 3

Does the proposed decision have an impact (positive or adverse) on our duty to eliminate discrimination/harassment and victimisation, promote equality of opportunity or foster good relations between different groups in the community (those that share characteristics and those that do not)?

Notes to Question 3

- Here, think about our other duties (see the notes at the end) and do the proposals impact (positive and or negative) upon those wider duties and aspirations?
- What might say a reduction in the hours of a facility that mainly serves a particular group have on our wider duties?
- Examples of eliminating discrimination: Taking action to ensure that services are open to all groups – e.g. targeting help at particular deprived sections of the community or funding services who work to prevent discrimination

Question 4

If there is an adverse impact can it be avoided?

If it can't be avoided what are we doing to mitigate the impact?

Notes to Question 4

- Assuming there is an impact what are we going to do about it? We need to make sure the **decision makers understand the impacts**
- All our policies and decisions should be designed to eliminate discrimination and contribute to our other obligations such as promoting good relations.
- If it can't be avoided can it be mitigated in some other way?
- There might be decisions elsewhere or perhaps additional spending on other services which could reduce the impact. Beware of simply saying that we will direct service users to other services or resources without considering the feasibility of doing so or the knock-on effect for those services
- We don't have to completely eliminate a negative impact, but we must identify it and try to mitigate it and the **decision makers must be in a position to fully understand the implications of their decision and balance off the competing interests** – e.g. the impact against the need to make savings and balance our budget

Question 5

How can/have we advance/d equality of opportunity via this decision/policy?
How can/have we foster/ed good relations via this decision/policy?

Notes to Question 5

- **There may be decisions or policies where this is not going to be applicable. Quickly explain this in the box above. However the important point is that it is carefully considered.**
- Suggest positive steps that can be achieved towards our statutory obligations to remove or minimise disadvantages suffered because of protected characteristics, e.g. taking steps to meet the needs of people from the different backgrounds when they are different to the needs of others, encouraging participation from groups when participation is disproportionately low
- Advancing equality of opportunity - (NB this doesn't apply to marriage and civil partnership). **This is a "positive duty"** which requires public authorities to consider taking proactive steps to root out discrimination and harassment and advance equality of opportunity in relation to their functions—from the design and delivery of policies and services to their capacity as employers. The duties require us to give consideration to taking positive steps to dismantle barriers. Advancing equality of opportunity might require treating some groups differently e.g. targeting training at disabled people to stand as councillors. **The legislation requires when we have due regard in terms of advancing equality of opportunity to. A. Remove/minimises disadvantage suffered by those who share a characteristic and is connected to it B. Take steps to meet the different needs of those who share a characteristic C. Encourage those who share a characteristic to participate in public life or any other activity when participation is disproportionately low.**

Notes to Question 5 (continued)

- Advancing opportunity includes the fact that the steps needed to meeting the needs of disabled persons **take into account the disabled persons disabilities**
- We are required to **have “due regard” to the need to foster good relations** between people who share a relevant protected characteristic and people who do not share it. This **involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.**

Examples:

- ↘ an employer to provide staff with education and guidance, with the aim of fostering good relations between its trans staff and its non-trans staff.
- ↘ a school to review its anti-bullying strategy to ensure that it addresses the issue of homophobic bullying, with the aim of fostering good relations, and in particular tackling prejudice against gay and lesbian people.
- ↘ local authority (Not Camden) to introduce measures to facilitate understanding and conciliation between Sunni and Shi’a Muslims living in a particular area, with the aim of fostering relations between people of different religious beliefs.
- ↘ our work to encourage Bangladeshi tenants involvement in TA’s.

EIA prepared by: _____

Date: _____

EIA checked by: _____

Date: _____

EIA approved by: _____

Date: _____

(Relevant Director Sponsor)

Explanatory Notes

What is our Public Sector Equality Duty (PSED)?

Under section 149 all public authorities must, in the exercise of their functions, have 'due regard' to the need to:

1. Eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act; EqA 2010 (section 149(1)(a)).
2. To advance equality of opportunity between people who share a relevant protected characteristic and those who don't; This involves having due regard to the needs to:
 - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (section 149(4)); and
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Section 149(6) makes it clear that compliance with the PSED in section 149(1) may involve treating some people more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the EqA 2010 (this includes breach of an equality clause or rule or breach of a non-discrimination rule (section 149(8))).

(Section 149(3), EqA 2010.)

3. Foster good relations between people who share a relevant protected characteristic and those who don't (section 149(1)(c)). (which involves having due regard to the need to tackle prejudice and promoting understanding) (section 149(5), EqA 2010)..

Under the Duty the relevant protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Race, Religion, Sex, Sexual orientation.

- In respect of the first aim only i.e. reducing discrimination, etc. the protected characteristic of marriage and civil partnership is also relevant.
- In meeting the needs of disabled people we have a duty to take account of their disability and make reasonable adjustments to our services and policies where appropriate.
- We must be able to demonstrate that we have considered and had due regard to all three parts of this duty. We must also look for anything that directly or indirectly discriminates.

What do we mean by “due regard”?

- This is not a question of ticking boxes, but should be at the heart of the decision-making process.
- decision-makers must be made aware of their duty to have due regard – so understand the legal requirements on them;
- There should be an analysis of the data – who is this going to affect and how will it put against the legal requirements
- We need to have thought about these duties both before and during consideration of a particular policy and we need to be able to demonstrate that we have done so
- The Duty is “non-delegable” so it is for the decision maker themselves to consider with assistance from the report and officer analysis. What matters is what he or she took into account and what he or she knew so it is important to have the relevant papers accompanying the report. The report should make explicit reference to the EIA. the duty is continuing so while this guide is aimed at the point of decision we should at appropriate points review our duties against the decision/policy
- The decision maker must assess the risk and extent of any adverse impact and the ways in which such risk may be eliminated before the adoption of a proposed policy or decision has been taken
- Officers reporting to or advising decision makers must not merely tell the decision maker what he/she wants to hear but need to be “rigorous in both enquiring and reporting to them”
- The duty should be reconsidered if new information comes to light

“

What is due regard? In my view, it is the regard that is appropriate in all the circumstances. These include on the one hand the importance of the areas of life of the members of the disadvantaged ... group that are affected by the inequality of opportunity and the extent of the inequality; and on the other hand, such countervailing factors as are relevant to the function which the decision-maker is performing”

Lord Justice Dyson

”

We need to take a sensible and proportionate approach to this based on the nature of the decision or policy being reviewed

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