



Borough of Tamworth

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## CORPORATE SCRUTINY COMMITTEE

3 March 2021

Dear Councillor

A Meeting of the Corporate Scrutiny Committee will be held in **Online Meeting on Thursday, 11th March, 2021 at 6.00 pm**. Members of the Committee are requested to attend.

Yours faithfully

A handwritten signature in black ink, appearing to be 'AOS', followed by a long horizontal line extending to the right.

Chief Executive

### A G E N D A

#### NON CONFIDENTIAL

- 1 **Apologies for Absence**
- 2 **Minutes of the Previous Meetings** (Pages 5 - 12)

To receive the minutes of the meetings held on:

- 28<sup>th</sup> January 2021; and
- 3<sup>rd</sup> February 2021

- 3 **Declarations of Interest**

*To receive any declarations of Members' interests (personal and/or personal and prejudicial) in any matters which are to be considered at this meeting.*

*When Members are declaring a personal interest or personal and prejudicial interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a personal and prejudicial interest in respect of which they do not have a dispensation.*

**4 Chair's Update**

**5 Responses to Reports of the Corporate Scrutiny Committee**

**6 Consideration of Matters referred to the Corporate Scrutiny Committee from Cabinet / Council**

**7 2020/21 Forward Plan**

*Discussion item – Link to the Forward Plan*

<https://democracy.tamworth.gov.uk/mgListPlans.aspx?RPId=120&RD=0&bcr=1>

**8 Legal Services Review (Pages 13 - 70)**

*(Report of the Portfolio Holder for Assets and Finance)*

**9 Corporate Scrutiny Committee Work Plan (Pages 71 - 72)**

*To consider the Committee Work Plan*

**10 Exclusion of the Press and Public**

To consider excluding the Press and Public from the meeting by passing the following resolution:-

*“That in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012, and Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and / or 5 of Part 1 of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public”*

At the time this agenda is published no representations have been received that this part of the meeting should be open to the public

**11 Update on Solway (Tamworth) Limited (Pages 73 - 76)**

*(Report of the Chief Executive)*

## **12 Update on Potential Legal Actions (Pages 77 - 82)**

*(Report of the Assistant Director, Operations and Leisure)*

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### **Access arrangements**

*If you have any particular access requirements when attending the meeting, please contact Democratic Services on 01827 709267 or e-mail [democratic-services@tamworth.gov.uk](mailto:democratic-services@tamworth.gov.uk). We can then endeavour to ensure that any particular requirements you may have are catered for.*

### **Filming of Meetings**

*The public part of this meeting may be filmed and broadcast. Please refer to the Council's Protocol on Filming, Videoing, Photography and Audio Recording at Council meetings which can be found [here](#) for further information.*

*The Protocol requires that no members of the public are to be deliberately filmed. Where possible, an area in the meeting room will be set aside for videoing, this is normally from the front of the public gallery. This aims to allow filming to be carried out whilst minimising the risk of the public being accidentally filmed.*

*If a member of the public is particularly concerned about accidental filming, please consider the location of any cameras when selecting a seat.*

### **FAQs**

*For further information about the Council's Committee arrangements please see the FAQ page [here](#)*

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To Councillors: T Jay, B Price, R Bilcliff, S Goodall, M Oates, Dr S Peale, P Standen,  
M Summers and P Thurgood

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**MINUTES OF A MEETING OF THE  
CORPORATE SCRUTINY COMMITTEE  
HELD ON 28th JANUARY 2021**

**PRESENT:** Councillor T Jay (Chair), Councillors B Price, R Bilcliff, S Goodall, M Oates, Dr S Peale, P Standen and P Thurgood

The following officers were present: Anica Goodwin (Executive Director Organisation), Sarah McGrandle (Assistant Director Operations and Leisure), Mark Greaves (Operations Manager), Tracey Pointon (Legal Admin & Democratic Services Manager) and Jo Hutchison (Democratic Services, Scrutiny and Elections Officer)

**56 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor M Summers.

**57 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**58 CONSIDERATION OF MATTERS REFERRED TO THE CORPORATE SCRUTINY COMMITTEE FROM CABINET / COUNCIL**

**58.1 Review of Cemetery Regulations - Memorial Benches**

The Chair introduced this item which had been referred to this Committee from Council, which, at its meeting on 15<sup>th</sup> December 2020, had received a Petition requesting that a bench be placed at Wigginton Cemetery. At the Council meeting, the Leader of the Council, Councillor D Cook, proposed and the following motion was approved:

“To refer the policy to corporate scrutiny for immediate review and make all officer time required available to fully understand the impacts of the policy and ensure corporate scrutiny can get this done by the end of January so not to prolong the matter further for Keeley’s family.”

The Chair reported that this Committee had met on 18<sup>th</sup> January 2021 to consider this matter, and that following consideration had resolved that a further meeting of this Committee be scheduled to consider this matter further, and that members

submit any questions and any requests for further information ahead of that meeting.

The Chair welcomed the Executive Director, Organisation, Assistant Director, Operations and Leisure and the Operations Manager to the meeting.

The Committee considered the Cemeteries Regulations, the available burial space for the Borough, which was expected to be sufficient for the next 80 years, any future long term provision of cemetery space, the extent of any available space within existing cemeteries where memorial benches could be placed, the requirement to regularly review policies and the potential for alternative memorial gardens to be explored.

**RESOLVED:**

1. That the Cemeteries Policy is referred back to full Council with a recommendation to leave the policy unchanged.

*(Moved by Councillor S Goodall and seconded by Councillor M Oates)*

2. That it be recommended to Cabinet that Cabinet consult with the wider public investigating an alternative scheme of memorialisation and to further look at whether it is feasible and maintainable.

*(Moved by Councillor B Price and seconded by Councillor Dr S Peaple)*

3. That it be recommended to Cabinet that the Cemeteries Regulations be reviewed on a regular basis, as to be agreed by Cabinet.

*(Moved by Councillor P Standen and seconded by Councillor Dr S Peaple)*

The following motion was moved, seconded and voted on but not carried:

That the Corporate Scrutiny Committee recommend to Cabinet that Cabinet explore creating a civic memorial garden to provide an opportunity for families to remember their relatives.

*(Moved by Councillor Dr S Peaple and seconded by Councillor R Bilcliff)*

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Chair



## **MINUTES OF A MEETING OF THE CORPORATE SCRUTINY COMMITTEE HELD ON 3rd FEBRUARY 2021**

**PRESENT:** Councillor Ben Price (Vice-Chair in the Chair), Councillors R Bilcliff, S Goodall, Dr S Peple, P Standen, M Summers and P Thurgood

**CABINET** Councillor Daniel Cook

The following officers were present: Stefan Garner (Executive Director Finance), John Day (Knowledge, Performance and Insight Co-ordinator), Tracey Pointon (Legal Admin & Democratic Services Manager) and Jo Hutchison (Democratic Services, Scrutiny and Elections Officer)

### **59 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor T Jay and Councillor M Oates.

### **60 MINUTES OF A PREVIOUS MEETING**

The minutes of the meeting held on 18<sup>th</sup> January 2021 were approved as a correct record.

*(Moved by Councillor Dr S Peple and seconded by Councillor S Goodall)*

### **61 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **62 CHAIR'S UPDATE**

There was no update.

### **63 CONSIDERATION OF MATTERS REFERRED TO THE CORPORATE SCRUTINY COMMITTEE FROM CABINET / COUNCIL**

There were none to be considered at this meeting.

**64 2020/21 FORWARD PLAN**

There were no new items identified from the Forward plan for this Committee's consideration.

**65 QUARTER THREE 2020/21 PERFORMANCE REPORT**

The Chair welcomed the Executive Director, Finance and the Knowledge, Performance and Insight Coordinator to the meeting for this item which was for the Committee to receive a performance update and financial health check for Quarter 3, prior to the Report of the Leader of the Council being presented to Cabinet at its meeting on 18<sup>th</sup> February 2021.

Councillor D Cook joined the meeting at 6.15pm.

The Committee sought clarifications in the following areas:

- Discretionary Housing Benefits – in particular, why the council believed lower levels of claims had been received in Q3 whilst the amounts claimed were higher, and what the effect had been of the Local Housing Allowance on Discretionary Housing Payments. The Executive Director Finance agreed to provide further detail to the Committee on why the levels were lower and on any effect of the Local Housing Allowance.
- In terms of the Financial Healthcheck section, questions were raised over the presentation of budget lines by Executive Director and Assistant Director areas.
- Collection rates and the council's confidence in these levels and how that is reflected in the MTFS. The Executive Director, Finance reported that the collection fund had been closely reviewed during January 2021 and all relevant preceptors updated. It was further reported that an updated version from that provided at the Joint Scrutiny (Budgets) meeting, would be reflected in the Budget report to be considered by full Council on 23 February 2021. It was expected that the council tax collection fund, on an estimated basis, would declare a surplus for the next financial year, as government rules allowed deficits to be spread over three years. In terms of business rates collection fund, this was significantly reduced, however, there was significant grant income which partly offset the deficit.
- The reasons for the burial rates being lower this year, which was understood to be as a result of choice.
- Clarification over some descriptors used in the report such as "small" for the housing hardship fund. The Executive Director reported that this was £20,000.
- Strategies to manage the risks ahead with the potential for the furlough scheme and government grants to be withdrawn and the impacts this could have on the council and local residents. The Leader of the Council responded that these risks were being monitored and that the council provided support to help residents manage debt. He agreed to provide further details to members as to the specific forms of support available.
- How the core spending power information captured council income streams. The Leader of the Council agreed to circulate the Government produced data to members.



- In terms of Treasury Management clarification was sought of the interest rate applied to the historic borrowings which were from the Treasury Public Management Loans Board at 4.05% interest, and whether it would be possible for other capital available to the council (potentially from the General Fund) to be utilised. The Executive Director, Finance responded that whilst possible, there would be a premium to be paid in the event of any repayment of the historic loan which would mean that it would be unlikely to be beneficial until interest rates in the market were at least the same or higher than the 4.05% rate applied.
- Further information was requested on how in the Housing Revenue Account for Period 9 there was a £741k favourable variance whilst the expected full year variance was £49k adverse. The Executive Director, Finance reported that this difference was largely expected to be due to further payments around housing repairs, where there was work in progress which at year end would be either paid or accrued for the following year. The Executive Director agreed that the presentation of the data, whilst accurate, would be reviewed to consider whether it would be possible to provide further clarity in the report.
- Clarification was sought on the consultation workstream on the Organisational Development Strategy, which was marked at amber, and why given that amber status, the overall project was marked as green.
- An update was provided on the land acquisition aspect at Tinkers Green and Kerria which related to the retail aspect where the legal process continued.
- In terms of the Leisure Strategy further clarity over the milestones was sought, which were either absent or without dates, whilst the overall project was reported to be on track. The Leader agreed to request the provision of further information to members.
- It was noted that the Town Centre Programme was marked as amber and that one of the workstreams, Market re-tender was also amber and an update on progress in this regard, and in light of the potential activities flowing from the successful Future High Street Fund work was requested. The Leader of the Council agreed to provide that.
- Clarification was sought on the reasons for the General Fund Main Variances where less was being spent on software maintenance but more in terms of software licenses.
- In terms of the implementation of the Customer Portal further information was sought over the red status of the testing process. The Executive Director, Finance reported that some testing had been suspended in the Revenue & Benefits teams to support the prioritisation of the increased activity within those teams as a result of COVID-19.

The Committee thanked the Leader of the Council and the Officers in attendance for presenting the report and responding to the Committee's questions.

## **RESOLVED THAT**

1. Cabinet be advised of the areas where additional information had been sought by the Committee, in the form of an additional page being added to the report following the meeting; and

2. The Committee endorsed the report.

*(Moved by Councillor Dr S Peuple and seconded by Councillor R Bilcliff)*

## 66 CORPORATE SCRUTINY COMMITTEE WORK PLAN

The Committee Work Plan was updated as follows:

### Corporate Scrutiny Work Plan

| <b>Work Plan 2020 – 2021</b> |   |   |
|------------------------------|---|---|
| <b>TARGET MEETING DATE</b>   | <b>SUBJECT</b>  | <b>MEETING WHEN ITEM ADDED TO WORK PLAN</b> |
| 11 <sup>th</sup> March 2021  | Update on Potential Legal Actions                         | October 2020                                |
| 11 <sup>th</sup> March 2021  | Solway trading company update                             |   |
| 11 <sup>th</sup> March 2021  | Review of Legal Services (post implementation)            | November 2019                               |
| March / June 2021            | Review of Cabinet decisions over previous 12 month period | December 2020                               |
| Quarter 4 2020/21            | Asset Management update                                   | December 2019                               |
| June 2021 (tbc)              | Review of Write Offs (full update)                        | July 2020                                   |
| <b>Dates to be agreed</b>    |   |   |
| TBC                          | Update on corporate prioritisation                        | August 2020                                 |
| TBC                          | Market tender progress Update                             | August 2019                                 |
| TBC                          | Parking Toolkit review                                    | October 2019                                |
| TBC                          | Housing Repairs & Investment Contract Review              | November 2019                               |
| TBC                          | Solway Trading Company Update (2x per year)               | December 2019                               |
| TBC                          | Gungate Masterplan  | January 2020                                |
| TBC                          | Customer Portal - post implementation review              | November 2020                               |

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|---|
| <b>Upcoming Corporate Scrutiny Committee Meetings</b> |
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|               |
|---------------|
| 11 March 2021 |
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Chair

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11 MARCH 2021

**REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE**

**LEGAL SERVICES IMPLEMENTATION REVIEW**

**EXEMPT INFORMATION**

None

**PURPOSE**

This report provides an update to the Committee on the first 12 months since the implementation of the shared legal services partnership.

**RECOMMENDATIONS**

That the Committee consider the information, analysis and actions contained within the report:

**EXECUTIVE SUMMARY**

In December 2019 Cabinet approved the creation of a new shared legal service partnership. The service was to be hosted by South Staffs and consist of both Tamworth Borough Council and Lichfield District Council.

The creation of this service offered significant opportunity to make financial savings as well as providing both LDC and TBC with much needed resilience. A set of standards and principles by which the partnership would abide were also established and agreed.

Attached at **Appendix 1** is the detailed analysis of performance assessed against the standards and principles as documented within the Partnership Agreement for member consideration.

**REPORT AUTHORS**

Lorraine Fowkes (Director Legal & Governance (Monitoring Officer), South Staffs Council)  
Anica Goodwin (Executive Director Organisation, Tamworth Borough Council)  
Christie Tims (Head of Governance and Performance, Lichfield District Council)

**LIST OF BACKGROUND PAPERS**

Report to Cabinet 19 December 2019

**APPENDICES**

Appendix 1 – Analysis.

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## **Southern Staffordshire Legal Service Review**

**March 2021**

**Lorraine Fowkes, Anica Goodwin & Christie Tims**

## 1. Introduction

Since March 2019 South Staffordshire, Lichfield and Tamworth councils had discussed the possibility of developing a shared legal service. At the time both Lichfield and Tamworth were without in-house legal whilst South Staffs were investing and growing their team. All three councils had similar requirements requiring legal advice, and all three had similar levels of annual spend on legal services.

The South Staffordshire Legal Service (SSLegals) was developed throughout 2019 and went live on 1 January 2020.

This paper details the performance of the service during the first year of operation (to 31 December 2021), revisits the core achievements of the service to ensure its aims have been met and sets out any relevant changes necessary to ensure the service remains fit for purpose in the future.

## 2. Strategic Context

A shared service was felt to be the best option for a number of reasons:

- Immediate access to advisors across a range of specialisms
- Solicitors are focused on legal, rather than corporate work (an in house solicitor would have management responsibilities)
- Council can seek external advice as a legal client
- Easier commissioning of external contracts via frameworks, existing agreements or tender
- Greater negotiating power for external contracts
- Resilience in levels of 'in-house' support
- Centralised budgets and reporting provides greater corporate oversight
- Reduces potential costs as legal advice for one council may also be relevant to others
- Some cost certainty
- Career progression opportunities
- Buying power increased (economies of scale)
- Risk management can be shared
- Improved standards and consistency
- Improved reporting and analytics
- Common model for potential expansion
- Agreed Service Standards
- Shared vision

## 3. Governance Board

The partnership is overseen by the Governance Board and consists of a senior director from TBC and LDC as well as the Director Legal and Governance from South Staffs responsible for delivery of the shared legal service.

The Board meet monthly (a total of 9 meetings were held from the period Jan – Dec 20) following an agreed agenda as outlined in Schedule 5 of the Shared Services Agreement (**Appendix 1 refers**) covering performance reporting, caseload by priority, by type and by client, workload and planning, budget monitoring, client forum programme and feedback, other services programme, and staffing issues.



The Board members have worked hard to ensure that transparency and complete openness have become the pillars that have enabled this partnership to continue to develop.

The Governance Board oversee the partnership and ensure that it operates in accordance with the agreed service standards as set out in section 14.

Each local authority lead ensures that the needs of their organisation are directly communicated to the host authority to ensure that key timescales, priorities, and projects can be resourced adequately.

In addition, whilst the 'host' authority produces monthly accounts, both TBC and LDC's accountants also ensure that internal reporting and financial regulations are maintained.

## **The Service**

### **4. Customer Perception**

Customer perceptions surveys have been carried out by partner authorities and largely demonstrate the recognised issues present in the shared service due to the lack of administrative support at the host authority and churn of legal staff.

Anecdotally, the quality of work provided by the service is very high, but the responsiveness of general enquiries and where advice is sought outside of the particular specialisms of the solicitors available remains an issue. The range of queries generated within the three authorities is vary varied and the service cannot necessarily provide specialist advice in all of these areas. Commissioning of that work externally remains cumbersome and thought is being given as to how the service can quickly identify when external advice should be sought to reduce workload pressures and make best use of the partnership resources.

The loss of key staff has impacted customer confidence in the service and the part time nature of a number of roles does cause concern to instructing clients, particularly in complex or urgent cases where timescales are critical.

### **5. Primary Functions**

#### Legal Services

- Advice
- Advocacy including representation at panels, tribunals, inquiries and court
- Attendance at Council, Committees, local area Councils and Sub Committees
- Drafting and review of contracts, agreements, orders and notices etc.
- Enforcement and litigation
- Investigations
- Mediations and Negotiations
- Prosecutions
- Asset Management
- Negotiation, analyse queries from client departments and provide advice and training

## **6. Service Parameters (*Appendix 2 and 3 refers*)**

Whilst it has been possible to provide some information from the Iken case management system due to confidentiality issues this is limited. What this information does show is that there is a fairly even split in recorded hours between Lichfield and Tamworth. Due to the way the system was set up prior to the establishment of the shared service, it is not possible to run the equivalent report for South Staffordshire (as cases are allocated across numerous client areas). However, feedback from the fee earners within the service is that their workload is evenly spread across all three authorities with no one authority taking up a disproportionate amount of time.

It should also be noted that not all time has been recorded within the system. As members will be aware, shortly after the service started, the covid-19 pandemic hit. This put additional pressure on all staff and at times particularly in the period March to July, there was not sufficient time to record time accurately and deal with the significant workload. There is therefore an element of work that was carried out, but time was not recorded. This is particularly so in the case of the advice provided from the Director of Legal and Governance over this period. Again, this was discussed at Governance Board and officers were satisfied that the level of support being provided was adequate and appropriate albeit that time was not fully captured.

In addition, the following additional legal services which were provided by SSC:

- Virtual Planning Committee Procedures
- Planning Advice Surgeries

## **7. Financial Performance**

The shared service was set up to run from 1 January 2020 and for that initial period all parties were on a steep learning curve with regard to getting the finance systems in place. Over the initial 2/3 months there were some issues with getting the coding correct on invoices etc. This was picked up via the regular Governance Board meetings and appropriate action taken and measures put in place. A review of invoices over the initial 2/3-month period was undertaken to rectify any issues.

The service is delivering within budget. South Staffordshire Council had higher than anticipated external legal spend but this has not impacted on the overall shared legal budget.

Lichfield and Tamworth had underspends in respect of external legal budget, and it is proposed that this excess is held in a reserve to be used in future years if needed. By their very nature legal costs can be variable and one major legal case could take the entire budget in any given year. Therefore, having the reserve in place will mitigate against this going forward. This will be reviewed on an annual basis.

In addition to the overall budget saving that the shared service generated, there have been other savings such as savings on subscriptions e.g. Schofields Election Law. The shared legal service has also facilitated access to external legal support via Frameworks and other procurement routes which has reduced fees incurred for the use of barristers and external law firms.

In terms Tamworth Borough Council further legal costs (outside of the South Staffs contract) between 1<sup>st</sup> Jan - 31<sup>st</sup> Dec 2020 are:

- £51k, of which £2,778 was paid to Birmingham City Council for Right To Buy work
- £8,060 was accrued regard a disrepair claim with Bromsgrove & Redditch

- £21k relates to Trowers & Hamlins re Assembly Rooms;
- £4.6k to the LGA re NHS NNDR claim costs;
- £3.9k to Anthony Collins re Anker Valley;
- £3k to Birmingham City Council re planning advice

|  | Legal Shared Services<br>Financial summary<br>01/01/20 - 31/12/20 |                |                 | Comments  |
|--|---|----------------|-----------------|---|
|  | Budget  | Actual         | Variance        |   |
| <b>Income</b>                            |   |                |                 |   |
| Shared services contribution             | - 220,000   | - 220,000      | -               |   |
| South Staffs specific income             | - 39,941  | - 43,141       | 3,200           |   |
| Lichfield specific income                | -   | - 5,870        | 5,870           |   |
| Tamworth specific income                 | -   | -              | -               |   |
| <b>External consulting expenditure</b>   |   |                |                 |   |
| South Staffs specific work               | 42,060  | 98,805         | - 56,745        | Includes one off expenditure on commercial units leases and cases for which costs may be recovered. An ear marked reserve is available to help cover some of these costs  |
| Lichfield specific work                  | 30,000  | 26,669         | 3,331           |   |
| Tamworth specific work                   | 30,000  | 19,689         | 10,311          |   |
| <b>Other shared services expenditure</b> |   |                |                 |   |
| Staffing                                 | 234,307   | 220,989        | 13,318          | Underspend due to staff vacancy whilst recruitment took place   |
| Travel costs                             | 3,118   | 4,697          | - 1,579         |   |
| Supplies & services                      | 23,694  | 22,151         | 1,543           |   |
| <b>Total</b>                             | <b>103,238</b>  | <b>123,990</b> | <b>- 20,752</b> | Shared services has performed well. The year end position shows an overspend on South Staffs specific external consulting work. However this is due to case costs that may be recovered or one off expenditure which can be covered by an ear marked reserve. |

#### **ACTION required as a result:**

- It is proposed that the fees charged to third parties e.g. developers in respect of Section 106 legal fees, will be increased to align with regional averages. Fees are currently £150 per hour and this would increase to £175 per hour.
- It is anticipated that the contribution per council, after fee income, will be approximately £110,000 pa. For 2021 an uplift of 2.75% will be added to account for cost of living wage increases and each year thereafter as agreed by the National Joint Council pay award.
- To move the partnership accounting year from January to December to April to March
- Each authority agree that the Partnership retains £30k from underspends in 2020 to fund a ring-fenced contingency

#### **8. Support/Training/Committee Attendance**

##### **Committee attendance and support from SSLegals**

- **PLANNING COMMITTEE**

##### **South Staffordshire Council**

- 12 committees
- 12 pre-agenda meetings
- 12 pre-briefs

### **Lichfield District Council**

- 9 committees
- 9 pre-briefs

### **Tamworth Borough Council**

- 7 committees
- 7 pre-meetings

In addition:

- Monthly contract and procurement catch-up and training with Clair Johnson, LDC and David Onion, TBC.
- 7 January 2020 – Prepared presentation on role of Legal Services which has been circulated to SCC, TBC and LDC Officers
- Providing regular case law updates, PPN updates and items of general contract and procurement interest to SSDC, LDC and TBC Officers
- 10 July 2020 Virtual training provided to SSDC, LDC and TBC on Footpath and Diversion Orders

### **Case Management**

Information taken from the IKEN reporting system shows that the team are currently dealing with Lichfield DC: 122 Cases opened and Tamworth: 63 Cases opened.

### **Chargeable Hours**

The monthly chargeable hours target for FTE (37 per week) Solicitors = 98 hours, Team Leaders = 85 hours.

### **Team Training**

- Manjit Dhillon

| Date             | Courses/Articles                                 | Provider                            | Venue                      |
|------------------|--|-------------------------------------|----------------------------|
| 21 January 2021  | Planning Case Law update                         | Landmark Chambers                   | Online webinar             |
| 30 November 2020 | Planning High Court Challenges Annual conference | Landmark Chambers                   | Webinar                    |
| 17 December 2020 | Making Legally Sound Planning Decisions          | Kings Chambers<br>Piers Riley-Smith | Virtual committee training |
| 23 November 2020 | Legal Challenges PD rights                       | Landmark Chambers                   | Webinar                    |

|                   |   |                   |         |
|-------------------|---|-------------------|---------|
| 29 September 2020 | Variation and enforcement of s106 obligations | Landmark Chambers | Webinar |
| 21 May 2020       | Remote Planning Committee                     | Mills & Reeve     | Article |
| 23 April 2020     | Planning in Brief                             | Landmark Chambers | Webinar |

- **Heather Dean**

| Date              | Course  | Provider                    | Venue                    |
|-------------------|---|-----------------------------|--------------------------|
| 18 November 2020  | Local Authority Virtual Conference 2020 – Procurement and State Aid Update Webinar. | 11 King's Bench Walk        | Online webinar           |
| 16 November 2020  | Real Estate - Repurposing Town Centres  | Freeths                     | Online webinar           |
| 03 November 2020  | PFI Handback: Act now to protect your investment".                                  | Freeths                     | Online webinar           |
| 22 September 2020 | IKEN training   | IKEN                        | Online course.           |
| 02 July 2020      | Lawyers in Local Government Special Activity Area for Partnerships and Procurement  | Lawyers in Local Government | Online course            |
| 01 July 2020      | Negotiating Sourcing Arrangements Following COVID-19                                | DLA Piper                   | Online webinar           |
| 24 June 2020      | How to manage your contracts in the new normal.                                     | Freeths                     | Online webinar           |
| 30 March 2020     | COVID-19: Managing Risks to Your Business - Fighting Fear with Facts                | Browne Jacobson             | Online webinar           |
| 27 January 2020   | Managing an NEC Contract  | EM Lawshare                 | Freeths VCE, Birmingham. |

|                 |                             |               |                            |
|-----------------|-----------------------------|---------------|----------------------------|
| 4 November 2019 | Seminar: Procurement Update | Bevan Brittan | Bevan Brittan, Birmingham. |
|-----------------|-----------------------------|---------------|----------------------------|

## 9. Other Benefits

- Virtual Surgeries
- Sharing of best practice / learning including:
  - Procurement
  - Standard Lease
  - Licence templates
  - Holding virtual planning committee meetings
- Savings made from shared memberships

## 10. The Legal Team – Resources

- The original structure chart and current structure chart are attached at **Appendix 4**
- Complete move to remote working as pandemic hit
- Senior management reorganisation at South Staffs
- Turnover has been high and continues to be so
- Future appointment of an apprentice
- Support to team
- Support to governance board now provided by LDC rather than via SSDC as detailed in the agreement.

Work undertaken by the in-house team is allocated and overseen by the lead lawyer with work being allocated commensurate with their capacity, conflicts and competency,

## 11. Service Standards

These were set out as:

1. Access to the team via email, telephone and face to face.
  - Teams Live and Zoom has replaced face to face meeting but these channels have been established.
2. Advice can be provided either verbally or in writing.
  - Delivered
3. All requests, and advice provided, will be recorded.
  - Partially delivered
4. A generic telephone number to be provided so that can initial contact can be made more easily.
  - Delivered
5. An out of hours telephone number to be provided – but only to be used in the most urgent circumstances.
  - Delivered
6. A generic email address to be provided such that clients are not reliant on an individual Lawyer reading the email.
  - Delivered
7. Email inboxes to be provided with sufficient capacity to accommodate usual business.

- Delivered
8. All Lawyers to use Out-of-office notifications if they are not available.
    - Delivered
  9. If immediate contact is not made, communications to be acknowledged within one working day.
    - Partially delivered
  10. Initial instruction form (request form) to be provided to each partner to enable easier exchange of information when raising issues initially by email.
    - Partially delivered
  11. Each case to be given a priority status by the client at first contact. Priority definitions to be as follows:
    - I. Urgent – initial contact to be by telephone - acknowledgement to be provided at once, response required urgently (within hours) (for instance, in the cases of enforcement, security, during an election, or immediately before a meeting)
    - II. Immediate – initial contact to be by telephone - acknowledgement to be provided within hours; advice to be provided as soon as reasonably practicable (say within one working day)
    - III. Routine – initial contact to be at surgery or email with a request form completed by the Client - acknowledgement required within one day, and work to be incorporated within work programme and completed within 10 working days unless agreed otherwise by the Client and Lawyer.
      - Partially delivered
  12. The client to be advised of complexity and hence likely timescales for delivery.
    - Variable
  13. The client to be advised frequently of progress of the case.
    - Variable unless chased
  14. When complete, cases to be formally closed with agreement of client.
    - Closedown not always confirmed
  15. Each instruction to be given a unique case number by Lead Lawyer.
    - Delivered in the majority of cases
  16. Each case to be recorded on Iken case management system.
    - Delivered in the majority of cases
  17. Case book to be reviewed monthly to ensure that all cases are actively managed.
    - Now underway
  18. Quality standards to be overseen by Lead Lawyer.
    - No reporting yet available on this
  19. Client / Lawyer may decide to instruct External Lawyer for any reason. Client has the right to insist on the instruction of an External Lawyer.
    - Delivered
  20. Host Authority to undertake procurement and commissioning / contracting with external lawyers including barristers.
    - Variable – needs reinforcing with fee earners to be consistent
  21. Lawyer to act as client liaison on behalf of client with external lawyers including barristers.
    - Yes where instructed
  22. Lawyer to oversee and sign-off work of external lawyers including barristers and to authorise the payment of invoices.
    - Yes where instructed

23. Each partner to be allocated a designated planning lawyer, which will remain consistent whenever practical, to support all planning committees and preparation meetings.
  - Delivered – though capacity an issue
24. Planning officers to provide draft planning committee reports requiring legal input to the Lawyer in advance of the preparation meeting for comment.
  - All SSDC draft planning committee reports come to Legal before finalised. This is not the case with TBC and LDC.
25. Service to make available planning training for Members – to be agreed with Planning Officers.
  - Planning committee training delivered to SSDC Members. We have not been asked to provide training to TBC and LDC Members
26. Services to standardise and to communicate approach for the completion of regular work streams including s106 agreements and unilateral undertakings etc.
  - Have we had any procedures signed off?
27. Lawyers to visit partners frequently to allow for surgeries, case conferences.
  - Delivered where requested
28. In the first instance, planning surgeries will be held fortnightly, or as agreed.
  - Delivered
29. Planning officers will prepare an agenda of issues / cases to be discussed in advance
  - Delivered
30. Visits to other councils to be no less frequent than fortnightly, or as agreed.
  - Delivered as required
31. Client Leads to be provided with access to the IKEN case management system.
  - Not yet delivered due to technical issues and capacity of SS ICT team
32. No client will be refused legal support because of budgetary pressures. The Client Leads / Governance Board will be responsible for ensuring that the service is funded appropriately.
  - Fortunately not an issues
33. Each council to establish its own client group to be a conduit for corporate feedback to the partnership / Governance Board.
  - As required
34. Clients to be consulted by the Lead Client at least quarterly as to client satisfaction.
  - Underway
35. Lead Clients to report to the Governance Board on client feedback and demand.
  - Delivered

#### **Actions to be taken as a result**

- South Staffs are currently in the process of recruiting 2 x lawyers
- Job descriptions will be amended so that the scope of the work is made narrow which should assist with targeted recruitment
- South Staffs ICT Team to agree a timescale for IKEN development for further discussion by the board
- Appointment of an Admin Officer is currently underway to ensure Legal Officers time is not spent on admin aspects
- South Staffs are appointing an Apprentice Legal Assistant (funding by SS not SSLegals)
- EMLawshare will be used during the recruitment process as with other external legal providers
- Item 9 through 18 need to develop through implementation of solid processes and administrative support at the host authority now resources are available.



## 12. Expectations of Clients

The partnership expected the following from Clients, and this will be monitored by the Lead Client:

1. Instructions to the team to come from specified post holders based on seniority or responsibility.
  - Should now be coming through consistently, only issues with new employees generally now
2. Clients to consider the priority of their case sensibly.
  - More work to be done in educating clients to plan more effectively
3. Clients to provide clear and meaningful instructions to lawyers
  - More training required
4. Officers to inform the partnership immediately if they receive correspondence or other communication from solicitors.
  - Delivered
5. Clients to respond positively to requests for information / evidence / key documents from lawyers.
  - Anecdotal feedback on this is variable.

### Actions to be taken as a result

- Each local authority to ensure new officers are fully conversant with the process of instructing
- Each local authority to advise SSLegals of corporate planning issues so that better workforce planning and work allocation can take place
- SSLegals to deliver targeted training

Fundamental to the shared service arrangement is the provision of a quality and value for money service. The service will ensure the following:

### Quality

- **Case Management** - that a suitable electronic case management system (CMS) will be used for all matters on which the service works
- **Time Recording** - that all time worked on matters for the service will be recorded using the CMS
- **Client Lead Access** - that access to the CMS will be provided to the client lead, save where a conflict situation arises or confidentiality/data protection restrictions apply
- **Right Lawyer** - that the right level lawyer with the right specialisms will work on the file and in the absence of this consideration will be given to use of external legal representation
- **Service Standards** - the service standards will be met
- **File Checking** - regular file checking will take place on all files to ensure that the service standards are met – where files are inactive consideration will be given to whether the file should be closed
- **Peer File Checking** - peer file checking will be carried out by the lead lawyer on a number of files on a monthly basis to ensure that the service standards are being met and that the quality of advice is good and that conflicts have been met and addressed.

In the future the aim of the service is to seek Lexcel accreditation within the next two years – see link [here](#).

### Action to be taken as a result

- Plan to achieve LEXEL accreditation to be developed over the next 6 months to meet with 2 year deadline
- Audits to take place on to support the development of the service

## 13. Monitoring and Review

*The Host Authority will issue both other partners with quarterly invoices detailing case load.*

The Shared Service shall carry out annual reviews of the operation of this Agreement and the provision of the Shared Service and shall report the findings of these reviews to their respective authorities.

The annual reviews of the Shared Service shall include the identification of performance measures and outputs which show:

- How far the aims of the Partnership are being achieved in delivering the Shared Service;
- How far it has explored opportunities to redesign the service to better meet the needs of user;
- An analysis of legal spend identifying any relevant trends;
- The extent to which outputs including timescales and milestones for the Shared Service are being met; and
- The extent to which agreed outcomes for the Shared Service are being fulfilled and targets met.

Annually the Partnership shall carry out a review of how the provision of the Shared Service through this Agreement compares with other possible methods of delivery of the Shared service, both in general and with specific regard to value for money and efficiencies.

#### 14. Risk Management

The Partnership was only a few weeks into implementation when the pandemic hit.

The following risks have been identified (updated February 2021):

|   | Risk Description                            | How We Manage It   | Severity of Risk (RYG) |
|---|---|--|------------------------|
| A | Lack of commitment from partners            | All partners are demonstrating commitment to the shared service and are investing both officer and member time in its development.   | Green                  |
| B | Pandemic                                    | Work arounds have been found to most challenges presented by the pandemic.   | Green                  |
| C | A partner subsidises the others' legal work | The Governance Board will keep oversight of caseload and costs to ensure that the contributions made by each partner are broadly equitable. But it is recognised that in some years, one partner may benefit more than the others. | Yellow                 |
| D | Recruitment issues                          | The team is experiencing some retention and recruitment difficulties which are being managed   | Yellow                 |
| E | Staffing issues                             | The team will be managed in accordance with the Host Authority's processes and policies  | Green                  |
| F | Client dissatisfaction                      | The Governance Board will ensure that the case book is being managed in accordance with the quality standards.   | Yellow                 |

|   |  |  |        |
|---|--|--|--------|
|   |  | The Governance Board will also seek client feedback for the purposes of continuous improvement.  |        |
| G | Dispute between partners   | The relationship between the partners is currently good but of course this cannot be guaranteed in the years ahead. In consequence the partnership will have a formal shared service agreement (for which we will have sought independent legal advice).   | Green  |
| H | Poor conflict management   | The management of conflicts will be in accordance with the process outlined  | Green  |
| I | Team is given workload beyond its capacity                           | The Lead Lawyer will oversee the workload of the team and individual lawyers. The Governance Board will provide additional oversight to ensure that workload is appropriate  | Yellow |
| J | Bad advice given   | The team will observe their professional standards but the Host Authority will maintain Professional Indemnity Insurance.  | Green  |
| K | Individual council officers do not use the service                   | There will be an expectation that all legal work is first discussed with the service. It does not prevent a client requesting a particular solicitor or barrister but procurement and instruction must be through the team.  | Yellow |
| H | Costs increase   | The fixed costs are unlikely to increase significantly but costs might increase because we require more advice or do not generate expected income. The service is not budgeted to provide for more complex requirements such as for a major project so legal costs must still be incorporated into the budgets of major initiatives. | Yellow |
| I | Team is unable to cope with workload / urgent instructions           | Lead Lawyer to take responsibility for managing work programme and ensuring that all instructions are dealt with according to their priority – Urgent / Immediate / Routine.   | Yellow |
| J | Council incurs additional costs on dissolution of the shared service | The Strategic Partnership Agreement describes how, if in the event of dissolution of the shared service, redundancy or pension costs will be shared amongst the partners apportioned according to the duration of the shared service.  | Yellow |
| K | One party wishes to leave  | The SPA will allow for a party to give 12 months' notice to withdraw from the arrangement. This will allow the other parties to make alternative arrangements.   | Green  |

**Action required:**

- Risks reviews will now form part of the quarterly Governance Board meetings.

**15. Future Developments**

The Board recognises that the first year of this partnership has been severely impacted due to the unprecedented changes and challenges brought about by the pandemic. The change of working practices (i.e. remote working) has also not been conducive to building a team and inducting new employees into a new culture. Changes in the management structure of South Staffs as well as reorganisation of administrative teams have also caused severe disruption to the support of the partnership.

In addition, both Lichfield and Tamworth Councils have also undergone some management changes which again have further added to the 'norming' of this partnership.

Further, it has been recognised that the scope of a solicitor in local government is far greater than that in large legal practices which has meant that at times this has added to the turnover of lawyers. In this regard, job descriptions will now be reduced in scope to enable better target recruitment and selection criteria. South Staffs have also further supported the work of the partnership by allocating dedicated administrative support and an apprentice.

**Appendices**

- 1. Shared Service Agreement**
- 2. Time Report LDC**
- 3. Time Report TBC**
- 4. Staffing Structure**
- 5. Summary of Actions**

DATED 14 day of February 2020

**LEGAL SHARED SERVICE AGREEMENT**

Between

**South Staffordshire District Council**

And

**Lichfield District Council**

And

**Tamworth Borough Council**

**LEGAL SERVICES**

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

**COUNCIL OFFICES**

**WOLVERHAMPTON ROAD**

**CODSALL**

**WV8 1PX**

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This Agreement is made the 14 day of February 2020

**BETWEEN**

**THE PARTIES**

(1) **SOUTH STAFFORDSHIRE DISTRICT COUNCIL** of Wolverhampton Road, Codsall, WV8 1PX (The Host Authority)

(2) **LICHFIELD DISTRICT COUNCIL** of District Council House Frog Lane, Lichfield, Staffordshire. WS13 6YZ (LDC)

(3) **TAMWORTH BOROUGH COUNCIL** of Marmion House, Lichfield Street, Tamworth, Staffordshire B79 7BZL. WV8 1PX (TBC)

Together the "Parties" and each of them a "Party"

**BACKGROUND**

- 1) In November and December 2019, the Cabinets of the Parties agreed to share Legal Services provision as and when required pursuant to section 113 of the Local Government Act 1972.
- 2) Each of the Parties is a Contracting Authority for the purposes of the Public Contracts Regulations 2015 ("the Regulations")
- 3) This Agreement sets out how the Parties will collaborate in accordance (as applicable) with the Local Authorities (Goods and Services) Act 1970, s1 of the Localism Act 2011, s93 of the Local Government Act 2003 and s101 and s111 of the Local Government Act 1972;
- 4) The Parties aim to benefit from the economies of scale that will be generated through this collaboration which will contribute to the promotion and improvement of the respective areas;
- 5) This Agreement, amongst other things, sets out and is predicated on the principles of co-operation as contemplated by Regulation 12(7) of the Regulations which the Parties have agreed should apply to the arrangements in this Agreement;
- 6) The rationale for entering into this Agreement is for the Parties to be able to work co-operatively in the public and common interest and in accordance with the principles of co-operation in order to utilise the professional expertise and experience of employees of all parties in the delivery of a shared legal services service in certain areas set out in Schedule 1 (Scope of Services)

- 7) The arrangements contemplated by this Agreement are predicated on the fact that the public procurement rules as set out in the Regulations and the Directives are not designed to interfere with the freedom of public authorities to perform the public service tasks conferred on them by using their own resources which includes the possibility of co-operation with other public authorities.
- 8) All of the Parties have agreed to the Host Authority discharging their respective functions of providing Legal Services as set out in Schedule 1 (Scope of Service) as the Legal Shared Service in accordance with the terms of this Agreement.
- 9) It is intended that staff currently involved in the provision of the Legal Service and employed by the Host Authority continue to be employed by the Host Authority with effect from the Commencement Date.
- 10) The Parties agree that previous arrangements made under section 113 of the Local Government Act 1972 and pursuant to the Local Authorities (Goods and Services) Act 1970 shall cease and be governed by the terms of this Agreement from the Commencement Date.

## AGREEMENT

### 1. DEFINITIONS AND INTERPRETATION

- 1.1. The definitions and rules of interpretation in this clause apply in this Agreement.

|                          |  |
|--------------------------|--|
| <b>Agreement</b>         | This Agreement and the Schedules   |
| <b>Client</b>            | An officer from any of the Parties who requests the provision of the Services  |
| <b>Client Lead</b>       | The Senior Officer representative for each Party. In the first instance, this shall be the posts of Director of Legal and Governance (for the Host Authority), Executive Director (TBC) and Head of Corporate Services (LDC).                  |
| <b>Commencement Date</b> | Means the 1 <sup>st</sup> January 2020   |
| <b>Controller</b>        | Shall have the meaning given in the Data Protection Legislation  |
| <b>Data Loss Event</b>   | Any event that results, or may result, in unauthorised access to Personal Data held under this agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this agreement, including any Personal Data Breach. |



|  |   |
|--|---|
| <b>Data Protection Impact Assessment</b> | An assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.   |
| <b>Data Protection Legislation</b>       | (i) the GDPR, the Law Enforcement Directive 2016/680 and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018; (iii) the Privacy and Electronic Communications Directive 2002/679 (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 and (iiii) all applicable Law about the processing of personal data and privacy. |
| <b>Data Protection Officer</b>           | Shall have the meaning in the Data Protection Legislation.  |
| <b>Data Subject</b>                      | Shall have the meaning given in the Data Protection Legislation.  |
| <b>Data Subject Access Request</b>       | A request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.   |
| <b>Director of Legal and Governance</b>  | Means the Host Authority's Director of Legal and Governance Services or Officer having responsibility for Legal Services at the Host Authority  |
| <b>DPA 2018</b>                          | The Data Protection Act 2018  |
| <b>Effective Date</b>                    | The date(s) on which the Services (or any part of the Services), transfer from the Host Authority to LDC and TBC or a sub-contractor, and a reference to the Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Host Authority or a sub-contractor  |
| <b>Employee Liability Information</b>    | The information that a transferor is obliged to notify to a transferee under regulation 11(2) of TUPE   |
| <b>Equipment</b>                         | Equipment including ICT equipment, vehicles, plant, materials and such other items supplied by the Host Authority and used by Staff in the delivery of Services   |
| <b>Executive</b>                         | A Local Authority Executive as defined by the Localism Act 2011.  |
| <b>External Lawyers</b>                  | Any Lawyers/Barristers instructed by Clients via the Host Authority to provide the Service other than the Host Authority  |

|                              |   |
|------------------------------|---|
| <b>External Legal Budget</b> | The budget approved by the Governance Board for instructing External Lawyers and for work carried out in accordance with clauses 21.2 and 21.3.   |
| <b>Force Majeure</b>         | <p>An event or circumstance, including (without limitation), any of the following events or circumstances:</p> <ul style="list-style-type: none"> <li>a) Acts of God, flood, drought, earthquake or other natural disaster;</li> <li>b) Epidemic or pandemic;</li> <li>c) Terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;</li> <li>d) Nuclear, chemical or biological contamination or sonic boom;</li> <li>e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;</li> <li>f) collapse of buildings, fire, explosion or accident;</li> <li>g) any labour or trade dispute, strikes, industrial action or lockouts;</li> <li>h) non-performance by suppliers or subcontractors; and</li> <li>i) interruption or failure of utility service.</li> </ul> <p>which directly causes any party to be unable to comply with all or a material part of its obligations under this Agreement</p> |
| <b>GDPR</b>                  | the General Data Protection Regulation (Regulation (EU) 2016/679).  |
| <b>Governance Board</b>      | The Management Group of the three Parties   |
| <b>Initial Term</b>          | The initial term of this Agreement beginning on the Commencement Date and ending on 31 <sup>st</sup> December 2024  |
| <b>Laws</b>                  | Any statute, statutory instrument, subordinate legislation, standard, law, proclamation, order, resolution, notice, rule of court, bye-law, directive, code of conduct or other instrument or requirement having the force of law within any national or local jurisdiction issued, declared, passed or given effect to in any  |

|  |   |
|--|---|
|  | manner by HM Parliament, the legislation making institutions of the European Union, any court or other judicial forum and Commission of Inquiry, local authority, statutory undertaking or relevant authority or any other body or person having such power   |
| <b>Lawyers</b>                         | The Solicitors employed by the Host Authority   |
| <b>Lead Lawyer</b>                     | The Solicitor employed by the Host Authority designated to oversee work allocations, progress and quality control of work undertaken by the Lawyers and External Lawyers.   |
| <b>Legal Service(s)</b>                | The Host Authority's Legal Services which shall include the Services from the Commencement Date   |
| <b>Local Government Pension Scheme</b> | Means a Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972 as from time to time amended  |
| <b>Members</b>                         | Councillors of the Parties  |
| <b>Monitoring Officer</b>              | The Monitoring Officer of each Party designated under section 5 of the Local Government and Housing Act 1989  |
| <b>Personal Data</b>                   | Shall have the meaning given in the Data Protection Legislation.  |
| <b>Personal Data Breach</b>            | Shall have the meaning given in the Data Protection Legislation.  |
| <b>Processor</b>                       | Shall have the meaning given in the Data Protection Legislation.  |
| <b>Relevant Employees</b>              | The employees who are the subject of a Relevant Transfer  |
| <b>Relevant Transfer</b>               | A relevant transfer for the purposes of TUPE  |
| <b>Service(s)</b>                      | The provision of Legal Services by the Host Authority as set out in Schedule 1 (Scope of Services) under any relevant legislation including any support services such as human resources, information technology, finance and property which are required by the Host Authority to facilitate the provision of Legal Services |
| <b>Service Level Agreement</b>         | The agreement to be entered into between the Parties identifying the relevant standards to be achieved in the provision of the Service and any requirements for the Client with regards to instructions given.  |
| <b>Staff</b>                           | The Lawyers providing the Services and employed by the Host   |

|                      |  |
|----------------------|--|
| <b>Sub-processor</b> | Authority<br>Any third party appointed to process Personal Data on behalf of the Processor related to this agreement |
| <b>TUPE</b>          | The Transfer of Undertakings (Protection of Employment) Regulations 2006   |
| <b>Variation</b>     | Has the meaning given to it in clause 9  |
| <b>Working Day</b>   | Any day other than a Saturday or Sunday or a public or bank holiday in England                                       |

- 1.2. Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.4. References to clauses and schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.5. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.6. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.7. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9. A reference to writing or written includes e-mail but excludes fax.
- 1.10. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.11. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.12. Where there is a conflict between the terms and conditions of this Agreement, and a Schedule, the terms and conditions shall prevail to the extent of the inconsistency.

## **2. COMMENCEMENT AND DURATION**

2.1. This Agreement shall commence on the Commencement Date and shall continue for the Initial Term and then until terminated by any party in accordance with clause 11.

## **3. DISCHARGE OF FUNCTIONS**

3.1. LDC and TBC empowers the Host Authority to arrange for the discharge of the Legal Services in the manner set out in this Agreement and to the extent permitted by law and the Host Authority delegates to its Director of Legal and Governance, the responsibility of discharging the Services.

3.2. The Director of Legal and Governance shall report to the Governance Board and shall have oversight of and ultimate responsibility for the provision of the Services. The Director of Legal and Governance shall provide reporting information to the Governance Board in accordance with its Terms of Reference.

3.3. For the avoidance of doubt LDC and TBC does not delegate any decision making to the Host Authority and the Host Authority shall have no authority to make any decisions on behalf of LDC and TBC.

## **4. RELATIONSHIP BETWEEN THE PARTIES**

4.1. The Parties acknowledge that this is not a commercial agreement and agree to work together on a non-commercial basis, acting in good faith and in the spirit of mutual trust and co-operation.

- 4.2. No party is authorised to bind any other party or to enter into any obligations on its behalf without written authorisation from the relevant Monitoring Officer.

## **5. PROVISION OF SERVICES**

- 5.1. The Host Authority shall provide the Services for the Initial Term in accordance with the scope of services set out at Schedule 1 (Scope of Services) and in compliance with the Service Level Agreement.
- 5.2. The Host Authority shall provide the Services or shall procure that they are provided in accordance with all relevant Laws and with all reasonable skill, care and diligence and will comply with all reasonable instructions given by LDC and TBC.
- 5.3. The Host Authority shall employ sufficient staff with such qualifications, skill and experience as are necessary for the proper performance of the Services in accordance with this Agreement.
- 5.4. The Host Authority shall be responsible for the provision of all the Equipment required for the provision of the Services except the provision of identification cards and access fobs to Staff for entry and access into LDC and TBC's offices which shall remain the responsibility of LDC and TBC. LDC and TBC agree to pay for the reasonable costs of Equipment and other facilities used at its offices by the Staff for the purposes of providing the Services.

## **6. ACCOMMODATION**

- 6.1. All Parties shall provide appropriate accommodation and facilities for the provision of any of the Services that reasonably requires the visiting of or working at their respective offices by Staff at their own cost. It is agreed that accommodation and facilities provided by each party shall remain in the ownership of the party, which purchased or otherwise acquired it and each Party shall retain responsibility for maintaining, insuring and replacing their accommodation and facilities for the provision of the Services.
- 6.2. All Parties agree that all relevant corporate policies applicable to staff working at their offices will also apply to the Staff working at their offices while providing the Services,

including but not limited to, rules, procedures and regulations specific to any particular site upon which the Services are performed or which are used to perform the Services.

- 6.3. For the avoidance of doubt, it is hereby declared that the permission to enter and use any of the party's offices hereby given is not the grant of a tenancy of any part of such offices.

## **7. STAFF TRANSFERS**

- 7.1. The Parties agree that the expiry or termination of this Agreement may constitute a Relevant Transfer and the contracts of employment of any Relevant Employees shall transfer to the party responsible for the Services (in part or whole), which are transferring on the relevant date. Each party shall comply with the provisions set out in Schedule 2 (TUPE)

## **8. FUNDING**

- 8.1. The Parties agree to make the contributions set out in Schedule 3 (Financial Contributions) for Year 1 2020 for the costs of delivering the Services excluding VAT and the contributions agreed by the Governance Board for any subsequent years
- 8.2. The Parties may agree to vary their percentage contribution for specific items of expenditure by mutual agreement.
- 8.3. The Governance Board will agree annual budgets for the contributions of the Parties and it is anticipated that LDC and TBC shall pay a proportionate part of any reasonable and justifiable employment costs.
- 8.4. The Host Authority shall invoice LDC and TBC for the pro rata proportion of their contribution every quarter in advance and LDC and TBC shall pay the invoice if undisputed within 30 calendar days of receipt.
- 8.5. If the cost of Services for LDC and TBC exceeds the financial contributions paid set out in Schedule 3 in any financial year after the Commencement Date then this will be reported by the Host Authority to the Governance Board who shall consider whether the

Parties should pay any additional costs. If a year-end adjustment is necessary to align the contributions by the Parties to accord with actual spend and the Governance Board have approved it or there is any unspent money which is to be rolled forward to the next year then the invoices for quarter 4 will be adjusted accordingly.

- 8.6. If any Party considers that the volumes of Services provided in any part or period of the agreement, or anticipated to be required, do not fairly represent the financial contributions set out in Schedule 3 that party shall notify the other Parties. The Parties, through the Governance Board, shall then agree any required adjustments to the financial contributions or to the provision of additional staff and resources as provided by 8.2 if the capacity issues cannot wait until Quarter 4 for adjustment as set out in 8.5. If agreement cannot be reached the dispute resolution process set out in paragraph 14.1 shall be followed save that the timescale for referring the matter to the Chief Executives of each party will be dictated by the urgency of the issue in dispute and can be referred earlier than the 1 month generally provided for dispute resolutions where the circumstances require an earlier resolution.
- 8.7. The Host Authority shall manage and monitor the volume of Service provision by Legal Services at regular intervals to ensure that all party's service needs are being met in accordance with and proportionally to their financial contributions set out in Schedule 3. Should a conflict or dispute arise in relation to the priority or volume of work undertaken by Legal Services, the Parties, through the Governance Board, shall discuss this and agree any required adjustments to the financial contributions or to the provision of additional staff and resources or the allocation of existing Staff. If agreement cannot be reached the same dispute resolution process and timescales set out in paragraph 14.4 shall apply.

## **9. VARIATION**

- 9.1. Any Party on giving three (3) months written notice may request changes to the Services (whether by way of the removal of a part of the Services, the addition of new services, or increasing or decreasing the Services or specifying the order in which the Services are to be performed or the locations where the Services are to be provided) for any reasons whatsoever. Such a change is hereinafter called a "Variation". A request for such a Variation shall not be unreasonably refused.



9.2. The financial impacts of any Variation shall be agreed by the Governance Board and the financial contributions due from the Parties shall be amended accordingly.

9.3. Any such Variation shall be documented in writing signed by all parties and shall take the form of an addendum to this Agreement.

## **10. LIABILITIES AND INDEMNITIES**

10.1 All losses, claims, expenses, actions, demands, costs and liability incurred in relation to this Agreement (and not covered by Insurance) by any party shall be shared by the parties on such terms as are agreed, based on an apportionment which is proportionate to the party's use of the Services or is set out in Schedule 3 (Financial Contributions) or otherwise agreed. For the avoidance of doubt, this provision relates to claims etc in connection with the Shared Legal Service only.

10.2 Nothing in this Agreement shall limit or exclude any parties liability for death or personal injury arising from its negligence, bribery or fraud by its employees or agents or for any other loss or damage for which liability may not by law be excluded.

10.3 This clause shall survive the expiry or termination of this Agreement.

## **11. TERMINATION**

11.1. In the event that any Party wishes to terminate this agreement prior to the end of the Initial Term it shall give no less than six (6) months written notice to the other Parties unless otherwise agreed. The Parties shall work together to make any required amendments to the Service and this Agreement to effect the changes required.

## **12. CONSEQUENCES OF TERMINATION**

12.1. Upon the expiry or termination of this Agreement the following provisions shall apply:

12.1.1. The Host Authority shall cease to provide the Services for LDC and TBC;

12.1.2. The Parties will work together to ensure the transfer of any Relevant Employees in accordance with clause 7;

- 12.1.3. The Host Authority shall submit an invoice for any unbilled contributions outstanding and LDC and TBC shall pay its contribution for the costs of delivering the Services up to the expiry or termination date;
- 12.1.4. The Host Authority shall provide LDC and TBC with such information and data within its possession that LDC and TBC shall reasonably require for carrying out its own Legal functions, complying with all relevant Data Protection Legislation.
- 12.2. Upon partial or full termination of this Agreement, the Parties shall discuss and agree which Equipment and any intellectual property rights are to be retained or transferred between them in accordance with the proportion of the Services provided using the Equipment or relates to intellectual property.
- 12.3. This clause shall survive the expiry or termination of this Agreement.

### **13. INSURANCES**

- 13.1. The Host Authority shall effect and maintain professional indemnity insurance in respect of any financial loss to TBC and LDC arising from any advice given or omitted to be given by the Host Authority under this agreement. Such insurance shall be at a minimum level of £10,000,000 (£10 million) and shall be maintained by the Host Authority for as long as they may have any liability to TBC or LDC hereunder.
- 13.2. This clause shall survive the expiry or termination of this Agreement.

### **14. DISPUTE RESOLUTION**

- 14.1. In the event of a dispute, the matter shall be referred to the Director of Legal and Governance and LDC and TBC's Representative initially who may then refer the matter to the Governance Board who shall use their reasonable endeavours to resolve by mutual agreement any dispute arising over the operation of the terms of this Agreement. In the event that the matter remains unresolved within one (1) month, the dispute shall be referred to the Chief Executives of each of the Parties for resolution.
- 14.2. If the Chief Executives are unable to resolve the matter, any Party may serve written notice to terminate the agreement which shall expire 6 (six) months after service.

- 14.3. Unless otherwise agreed in writing, the Parties shall continue to comply with their undisputed obligations under this Agreement during the course of the dispute resolution process.

## 15. NOTICES

- 15.1. Any notice or other communication, which is to be given by any Party to the other, shall be given by letter (sent by hand, post, or by the special or recorded delivery service) or electronic mail. Such notices shall be addressed to the other party in the manner referred to in clause 15.2 below. Provided the notice is not returned as undelivered, the notice shall be deemed to have been given two (2) Working Days after the day on which it was posted, or 4 hours, in the case of electronic mail or facsimile transmission or sooner where the other party acknowledges receipt of such notice.
- 15.2. For the purposes of clause 15.1 above, the address of each party shall be as set out at the beginning of this Agreement:

For the Host Authority: Director of Legal and Governance

Telephone: 01902 696469

Email: [lorraine.fowkes@sstaffs.gov.uk](mailto:lorraine.fowkes@sstaffs.gov.uk)

And Lichfield District Council

Telephone: 01543 308000

Email: [Christie.tims@lichfielddc.gov.uk](mailto:Christie.tims@lichfielddc.gov.uk)

And Tamworth Borough Council

Telephone: 01827 709225

Email: [Anica-goodwin@tamworth.gov.uk](mailto:Anica-goodwin@tamworth.gov.uk)

Any Party may change its address for service by serving a notice in accordance with this clause.

## 16. FREEDOM OF INFORMATION

- 16.1. The Parties acknowledge that each is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and shall provide all necessary assistance and cooperation as reasonably requested by the other party to enable a party to comply with its obligations and any requests for information without charge.

## 17. DATA PROTECTION

- 17.1. The Parties acknowledge that for the purposes of the Data Protection Legislation, all Parties may take on the roles of Controller or Processor during the provision of the Services, and the Parties shall consider their role under this clause 17 in relation to each separate incidence when Personal Data is to be processed. The only processing that the Processor is authorised to carry out is listed in Schedule 4 and may not be determined by the Processor.
- 17.2. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 17.3. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
  - 17.3.1. a systematic description of the envisaged processing operations and the purpose of the processing;
  - 17.3.2. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 17.3.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 17.3.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 17.4. The Processor shall, in relation to any Personal Data processed in connection with its obligations under this agreement:
  - 17.4.1. process that Personal Data only in accordance with Schedule 4, unless the Processor is required to do otherwise by law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by law;
  - 17.4.2. ensure that it has in place Protective Measures, which have been reviewed and approved by the Controller as appropriate to protect against a Data Loss Event having

taken account of the:

- 17.4.2.1. nature of the data to be protected;
  - 17.4.2.2. harm that might result from a Data Loss Event;
  - 17.4.2.3. state of technological development; and
  - 17.4.2.4. cost of implementing any measures;
- 17.4.3. ensure that:
- 17.4.3.1. The Processor's Personnel do not process Personal Data except in accordance with this agreement (and in particular Schedule 4);
  - 17.4.3.2. it takes all reasonable steps to ensure the reliability and integrity of any of the Processor's Personnel who have access to the Personal Data and ensure that they:
    - 17.4.3.2.1. are aware of and comply with the Processor's duties under this clause;
    - 17.4.3.2.2. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
    - 17.4.3.2.3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this agreement; and
    - 17.4.3.2.4. have undergone adequate training in the use, care, protection and handling of Personal Data;
- 17.4.4. not transfer Personal Data outside of the EU/Safe Harbour unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- 17.4.4.1. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
  - 17.4.4.2. the Data Subject has enforceable rights and effective legal remedies;
  - 17.4.4.3. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  - 17.4.4.4. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal

Data;

- 17.4.5. at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the agreement unless the Processor is required by law to retain the Personal Data.
- 17.5. Subject to clause 17.6, the Processor shall notify the Controller immediately if it:
  - 17.5.1. receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 17.5.2. receives a request to rectify, block or erase any Personal Data;
  - 17.5.3. receives any other request, complaint or communication relating to any party's obligations under the Data Protection Legislation;
  - 17.5.4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this agreement;
  - 17.5.5. receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law; or
  - 17.5.6. becomes aware of a Data Loss Event.
- 17.6. The Processor's obligation to notify under clause 17.5 shall include the provision of further information to the Controller in phases, as details become available.
- 17.7. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to any party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 17.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
  - 17.7.1. the Controller with full details and copies of the complaint, communication or request;
  - 17.7.2. such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 17.7.3. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 17.7.4. assistance as requested by the Controller following any Data Loss Event;
  - 17.7.5. assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 17.8. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause.

- 17.9. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 17.10. The Processor shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 17.11. Before allowing any Sub-processor to process any Personal Data related to this agreement, the Processor must:
  - 17.11.1. notify the Controller in writing of the intended Sub-processor and processing;
  - 17.11.2. obtain the written consent of the Controller;
  - 17.11.3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 17 such that they apply to the Sub-processor; and
  - 17.11.4. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 17.12. The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- 17.13. The Processor may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this agreement).
- 17.14. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **18. GOVERNANCE AND MONITORING AND REPORTING**

- 18.1. The Governance of these Shared Services arrangement shall be as set out in Schedule 5 (The Governance Arrangements).
- 18.2. The Governance Board will arrange suitable monitoring arrangements and shall monitor the performance of the Services and. Each Party will establish its own Client Care forum to ensure that the Governance Board understands the opinion of Clients.
- 18.3. the Governance Board shall have the right to require the Director of Legal and Governance to answer any reasonable questions raised by them in relation to the performance of the Services generally and in respect to any specific Service carried out for LDC or TBC under this Agreement.

## **19. AUDIT**

- 19.1. LDC and TBC and its officers or professional consultants shall be entitled to have access at all reasonable times, on giving reasonable notice, to all the financial and administrative records relating to this Agreement and the provision of Services. The Host Authority shall provide such assistance and access to information as may be reasonably required by LDC and TBC to enable them to monitor performance of the obligations contained in this Agreement.
- 19.2. LDC and TBC shall have the power to inspect and examine the Host Authority's performance of the Services at any premises from which the Services or any part of the Services are being performed at any reasonable time provided that LDC and TBC gives reasonable notice to the Host Authority.

## **20. FORCE MAJEURE**

- 20.1. No Party shall be liable to the other party for any delay in or failure to perform its obligations under this Agreement if such delay or failure results from a Force Majeure event, provided it shall have informed the other party in writing.
- 20.2. If the Force Majeure event continues for more than one (1) month any Party may terminate this Agreement by giving three (3) months written notice to the other party. No party shall have any liability to the other for termination of this Agreement due to the Force Majeure event, but any rights and liabilities, which have accrued prior to such termination, shall remain in force.

## **21. CONFLICTS OF INTEREST**

- 21.1. The Parties shall take appropriate steps to ensure that there are no actual or potential conflicts of interest between the pecuniary or personal interests of the Staff, Director of Legal and Governance and the Client Leads and their duties under the provisions of this Agreement. Each party shall disclose to the other Parties full particulars of any such conflict of interest, which may arise and shall take such steps as will in its opinion, avoid, or as the case may be, remove the conflict.



- 21.2. Where LDC and TBC have a vested interest in a matter and the provision of the Service by the Host Authority may prejudice LDC and TBC's interest, LDC and TBC may require the Host Authority to instruct External Lawyers. In such circumstances the costs of the External Lawyers shall be met from the External Legal Budget (if agreed by the Governance Board) or by the instructing Party in accordance with operating practice. For the avoidance of doubt it has been agreed that any legal advice which is likely to cost more than £25,000 (exclusive of VAT) shall be met by the relevant instructing Party.
- 21.3. Where LDC and TBC have a vested interest in a matter and the provision of the Service by the Host Authority may prejudice LDC and TBC's interest, LDC and TBC may itself instruct a third party to provide the Service required if it does not wish it to be dealt with in accordance with 21.2 above. Where LDC and TBC instructs a third party independently of the Host Authority, LDC and TBC shall meet all the costs of and associated with that instruction and such instruction shall not be considered by any Party to be within the scope of this Agreement or paid for using the External Legal Budget.
- 21.4. Where the provision of the Service may lead to a potential conflict of interest either in relation to the provision of other shared services between the Parties or the discharge of the Monitoring Officer's functions or to any other matter involving all Parties or which may prejudice the other Party, the Parties shall take such steps as is reasonable to avoid, minimise or as the case may be, remove the conflict.

## **22. INTELLECTUAL PROPERTY RIGHTS**

- 22.1. Any intellectual property rights generated by any party in the course of performing its obligations under this Agreement shall be jointly owned and any income generated therefrom will be split between the Parties in accordance with the contributions set out in Schedule 3 (Financial Contributions) or as otherwise agreed.

## 23. GENERAL

- 23.1. No Party shall assign, sub-contract or in any other way dispose of this Agreement or any part of it without the written approval of the other party or as provided elsewhere in this Agreement.
- 23.2. This Agreement shall be governed by and interpreted in accordance with English law and the Parties submit to the exclusive jurisdiction of the courts of England.
- 23.3. The Agreement may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.
- 23.4. If any court of competent jurisdiction holds any provision of the Agreement invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions of the Agreement shall continue in full force and effect as if the Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.
- 23.5. The failure of any Party to insist upon strict performance of any provision of the Agreement or the failure of any Party to exercise any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Agreement.
- 23.6. No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 23.7. A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.
- 23.8. This Agreement constitutes the entire contract between the Parties relating to the subject matter of the Agreement.

IN WITNESS whereof the parties have executed this Agreement the day and year first before written.

Signed on behalf of **SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

L Fowkes

Authorised Officer

L Fowkes

Name

Signed on behalf of **LICHFIELD DISTRICT COUNCIL**

Christie Tims

Authorised Officer

CHRISTIE TIMS

Name

M. B. B. B.  
SIGNED BY MEMBER



Signed on behalf of **TAMWORTH BOROUGH COUNCIL**

Amica Goodwin

Authorised Officer

AMICA GOODWIN

Name

## **SCHEDULE 1: SCOPE OF SERVICES**

- i. Planning - Development Management
- ii. Planning – Enforcement
- iii. Planning – Trees and Conservation Protection
- iv. Planning – Legal Agreements including CIL/S106
- v. Planning – Policy
- vi. Advising Planning Committee both at meetings and in preparation
- vii. Regulatory – including Licensing
- viii. Advice on RIPA
- ix. Property – Right to Buy/Leases/Minor Disposals & Acquisitions
- x. Local Government law
- xi. Election Law
- xii. General Contracts/Procurement/Commercial Activity
- xiii. General advice including Data Protection and Freedom of Information
- xiv. Complex Commercial Property
- xv. Complex Contract Law
- xvi. Company Law

## SCHEDULE 2: TUPE

1. The Parties agree that the expiry or termination of this Agreement may constitute a Relevant Transfer and the contracts of employment of any Relevant Employees shall transfer to the party responsible for the Services (in part or whole), which are transferring on the relevant date. Each party shall comply and the Host Authority shall procure that any replacement contractor shall comply with their obligations under TUPE.
2. LDC and TBC shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Relevant Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, National Insurance contributions, pension contributions and otherwise, up to but not including the Commencement Date.
3. The Host Authority shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Relevant Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, National Insurance contributions, pension contributions and otherwise, from the Commencement Date until but not including the Effective Date, such costs will be shared as agreed between the parties or as set out in Schedule 3 (Financial Contributions).
4. LDC and TBC or a replacement contractor shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Relevant Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, National Insurance contributions, pension contributions and otherwise, from the Effective Date.
5. LDC and TBC shall provide and, where necessary, update the Employee Liability Information for the Relevant Employees to the Host Authority, as required by TUPE prior to the Commencement Date. LDC and TBC shall warrant that such information is as complete and accurate as it is aware or should reasonably be aware as at the date it is disclosed.

6. The Host Authority shall provide and, where necessary, update the Employee Liability Information for the Relevant Employees to LDC and TBC or a replacement contractor, as required by TUPE prior to the Effective Date. The Host Authority shall warrant that such information is complete and accurate as it is aware or should reasonably be aware as at the date it is disclosed.
7. LDC and TBC shall indemnify and keep indemnified the Host Authority against any losses, except indirect losses, incurred by the Host Authority in connection with any claim or demand by any Relevant Employees arising out of the employment of any Relevant Employees prior to the Commencement Date, where and to the extent that such claim or demand arises from the Relevant Employees' employment by LDC and TBC. For the avoidance of doubt, this shall not apply in the event that the Host Authority make any of the Relevant Employees redundant without LDC and TBC's prior written consent.
8. The Host Authority shall indemnify and keep indemnified LDC and TBC or a replacement contractor against any losses, except indirect losses, incurred by LDC and TBC or a replacement contractor in connection with any claim or demand by any Relevant Employees to the extent that it arises out of the employment of any Relevant Employees from the Commencement Date until the Effective Date.
9. The parties agree to be jointly liable for any employment liabilities arising from or as a consequence of any proposed changes to terms and conditions of employment or any proposed measures the Host Authority may consider making on or within 12 months of the Commencement Date and shall agree the basis for apportioning the liability should it arise, where such a decision is approved by all Parties, otherwise the party at fault shall bear and be responsible for such liabilities.
10. The Host Authority shall be liable for and indemnify and keep indemnified LDC and TBC against any employment liabilities arising from or as a consequence of any proposed changes to terms and conditions of employment or any proposed measures the Host Authority may consider making 12 months after the Commencement Date until the Effective Date.
11. The Host Authority shall immediately on request by LDC and TBC provide details of any measures that the Host Authority envisages it will take in relation to any

Relevant Employees, including any proposed changes to terms and conditions of employment within 12 months of the Commencement Date.

12. LDC and TBC or a replacement contractor shall immediately on request by the Host Authority provide details of any measures that LDC and TBC or a replacement contractor envisages it will take in relation to any Relevant Employees, including any proposed changes to terms and conditions of employment prior to the Effective Date.
13. The Parties agree that the Relevant Employees will on completion of a Relevant Transfer, retain membership of, or retain a right to join, the Local Government Pension Scheme and that, were permitted by the Local Government Pension Scheme, they will have continuity of service for the purposes of entitlement to pension under the Local Government Pension Scheme.

**SCHEDULE 3: FINANCIAL CONTRIBUTIONS**

**Legal Services**  
**Shared Services**  
**2020/21**

|                     |                |
|---------------------|----------------|
| Direct costs        | 311,300        |
| Indirect costs      | 18,700         |
| <b>Total</b>        | <b>330,000</b> |
| <hr/>               |                |
| Council Shares      |                |
| South Staffordshire | 110,000        |
| Lichfield           | 110,000        |
| Tamworth            | 110,000        |
|                     | <b>330,000</b> |



**Fixed Costs**  
**2020/21**

| <u>Cost Centre</u> | <u>Cost Centre Description</u> | <u>Account Code</u> | <u>Account Code Description</u> | <u>2020-21 budgeted costs</u> |  |                                       |
|--------------------|--------------------------------|---------------------|---------------------------------|-------------------------------|--|---------------------------------------|
| 32310              | LEGAL SERVICES - GENERAL       | 1110                | SALARIES                        | 187,200                       | Estimate assuming 2 new people are kept on following shared service on their current hours and SCP. Included payment for manager post and 2 hpw of Monitoring Officer's time and 3.7 hpw of Lead Lawyer's time |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 1120                | NATIONAL INSURANCE              | 20,000                        |  |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 1130                | SUPERANNUATION                  | 30,200                        |  |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 1140                | FIRST AID                       | 100                           |  |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 1141                | FIRE MARSHALLS                  | 100                           |  |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 3410                | OFFICERS - ESS. USER LUMP SUM   | 2,900                         |  | Associated staff costs - kept in      |
| 32310              | LEGAL SERVICES - GENERAL       | 3412                | OFFICERS - CASUAL USER MILEAGE  | 500                           |  |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 4610                | SUBSISTENCE - OFFICERS          | 1,000                         |  |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 4670                | PROFESSIONAL SUBSCRIPTIONS      | 2,000                         |  | £338 x 6 - SRA not including ICO fees |
| 32310              | LEGAL SERVICES - GENERAL       | 4720                | SUBSCRIPTIONS                   | 13,400                        |  | Westlaw (£11.7k) & Iken (£1.7k)       |
| 32310              | LEGAL SERVICES - GENERAL       | 4830                | COURT FEES                      | 4,000                         | Land Registry searches - kept in assuming fixed cost of the legal team   |                                       |
| 32310              | LEGAL SERVICES - GENERAL       | 4834                | PROFESSIONAL/CONSULTANCY FEES   | 90,000                        | External legal advice - agreed that each party to put £30k in for external legal advice  |                                       |
| 17010              | DEMOCRATIC & SCRUTINY          | 4720                | SUBSCRIPTIONS                   | 3,700                         | Thomson Reuters - Practical Law Services subscription  |                                       |
|                    |                                |                     | INCOME                          | -                             | Approximate value of Parish Council and other small misc consulting  |                                       |
|                    |                                |                     | <b>TOTAL DIRECT COSTS</b>       | <b>311,300</b>                |  |                                       |

## Legal - estimate of overheads

### **ICT**

|   |      |  |
|---|------|--|
| Laptop costs - 5 x £1000  | 5000 | One off cost - need to decide approach for initial set up costs                |
| Iken - additional licences  | 3000 | £1k of this is one off cost - need to decide approach for initial set up costs |
| Westlaw & Practical Law<br>Subscriptions - additional<br>licences | 1800 |  |

### **Insurance**

|   |     |
|---|-----|
| Professional Indemnity -<br>increase in premium | 100 |
|---|-----|

### **Accommodation**

|                                  |      |  |
|----------------------------------|------|--|
| Opportunity cost of office space | 8300 | Approximately 36 m <sup>2</sup> @ £230/m |
|----------------------------------|------|--|

### **Print room**

|                                 |     |
|---------------------------------|-----|
| Print costs for legal documents | 500 |
|---------------------------------|-----|

|                             |                      |
|-----------------------------|----------------------|
| <b>TOTAL OVERHEAD COSTS</b> | <u><u>18,700</u></u> |
|-----------------------------|----------------------|

## SCHEDULE 4: PROCESSING, PERSONAL DATA AND DATA SUBJECTS

### Processing by the Parties

#### Part 1

1. **Scope** Activities relating to the provision of a shared legal services
2. **Nature** Collecting and categorising, sharing in some cases of data to enable legal advice or proceedings to be provided or taken.
3. **Purpose of the processing** To provide Legal Services
4. **Duration of the processing** For the purpose of the legal case and for whatever duration is required.

#### Part 2 Types of personal data

Various personal data including names, roles, contact details, special category data, sensitive data as required by the nature of the legal advice or any proceedings

Categories of data subject

Employees, consultants, contractors, experts, members of the public, members, Court staff, employees of other organisations

## **SCHEDULE 5 THE GOVERNANCE ARRANGEMENTS AND TERMS OF REFERENCE**

### **The Governance Arrangements**

This Agreement and the delivery of the Services will be overseen by a Governance Board of the Parties' Client Leads. The Governance Board will meet monthly to ensure that the Agreement is working and to keep an oversight of the Case Management and to monitor costs and budgets of the Shared Legal Services.

The operations of the Governance Board shall be as transparent as possible and the Agenda and minutes of the Governance Board meetings shall be circulated to the Parties' Leadership Teams.

### **Terms of Reference**

The Parties shall adhere to the Terms of Reference set out below

### **APPENDIX A**

#### **Terms of Reference for Governance Board on Shared Legal Service**

##### **The officers sitting on the Governance Board**

In line with the Shared Service Agreement the Governance Board is comprised of the client leads for the 3 authorities. These are currently:

- South Staffordshire Council – Director Legal and Governance
- Lichfield District Council – Monitoring Officer
- Tamworth Borough Council – Executive Director & Deputy Chief Executive

##### **The Role of the Governance Board**

To oversee the operation of the partnership and ensure that it operates in accordance with the agreed principles of the service set out below.

- All partners to be equal albeit South Staffordshire Council will be the Host Authority.
- The partnership to be informed by a Strategic Partnership Agreement
- 5 year initial term. Dissolution before end of the term can be by mutual consent.
- The partnership to be governed and monitored by a tri-partite Governance Board comprising a senior officer, 'Lead Client' from each partner
- The partnership to be branded to differentiate it from the Host Authority and to ensure that partners feel that they have equal ownership
- South Staffordshire Council to be the Host Authority because they already employ a team of solicitors

- South Staffordshire Council to continue employment of the team of solicitors and legal support
- The team to have specific specialisms to complete work in-house including local government, elections, planning, property, regulatory and contract law
- South Staffordshire Council to procure external legal advisors as required by the partnership. External advice will be sought when the team does not have the expertise or capacity or where there is conflict
- Fixed costs of the team to be shared equally between the three parties
- Variable costs (i.e. the costs of external advice) to be met either from a partnership budget equally funded by the partners or from the partner specifically requiring advice.
- No partner will pay more because more of their routine work is contracted out rather than being completed in-house
- Lead Lawyer to ensure that work is allocated appropriately to the team
- Work to be managed through a case management system to allow for full transparency
- Caseload to be reviewed regularly to ensure quality and progress
- Expectation that all legal work from all 3 partners will go through partnership
- Team will be available to 'clients' by telephone, email and in person at frequent 'surgeries' and for case meetings
- Team expected to be able to 'hot desk' at partner offices.
- Team to attend committee meetings as required.

### **Budgets**

Budgets, instructions and invoices will be monitored by the Governance Board at its regular meetings.

Business Plans will be shaped and shared by the Governance Board.

Governance Board will also monitor the levels of external work sent out and how this is procured.

### **Performance**

The Governance Board will consider the performance dashboard to monitor the levels of performance of the shared service arrangements.

### **Staffing**

The Governance Board will keep oversight of the levels of staffing and representatives from all three partners will be involved in the recruitment of new lawyers servicing the partnership.

The Governance Board will also ensure that best practice is shared across the three authorities.

### **Caseloads**

The Governance Board will keep oversight of caseload and costs to ensure that the contributions made by each partner are broadly equitable. But it is recognised that in some years, one partner may benefit more than the others.

**Frequency of Meeting**

The Board will meet monthly for the first year to ensure that the Partnership is being established correctly, to keep an oversight of the quality of case management, and to monitor costs and budgets.

**Service Standards**

The Governance Board will ensure that the case book is being managed in accordance with the Service Level Agreement. The Governance Board will also seek client feedback for the purposes of continuous improvement.

The Governance Board will also ensure that Clients are interacting with the Service in a positive manner.

**Secretariat**

Lead lawyer to provide secretariat support to the Governance Board and ensure that the notes of each board and shared with the client leads for each authority.

# Iken Report

## Analysis of Work by Client

Run report

**Date of report** 29-Jan-2021

**Client** **Hours spent** **598.69**

Lichfield District Council 598.69

### Selection criteria for time items:

**Matter Ref**  
**On or after** 1-Jan-2020  
**Before** 1-Jan-2021  
**Client** Lichfield District Council  
**User**  
**Document ID**

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# Iken Report

Analysis of Work by Client

Run report

**Date of report** 29-Jan-2021

**Client** **Hours spent** **515.39**

Tamworth Borough Council 515.39

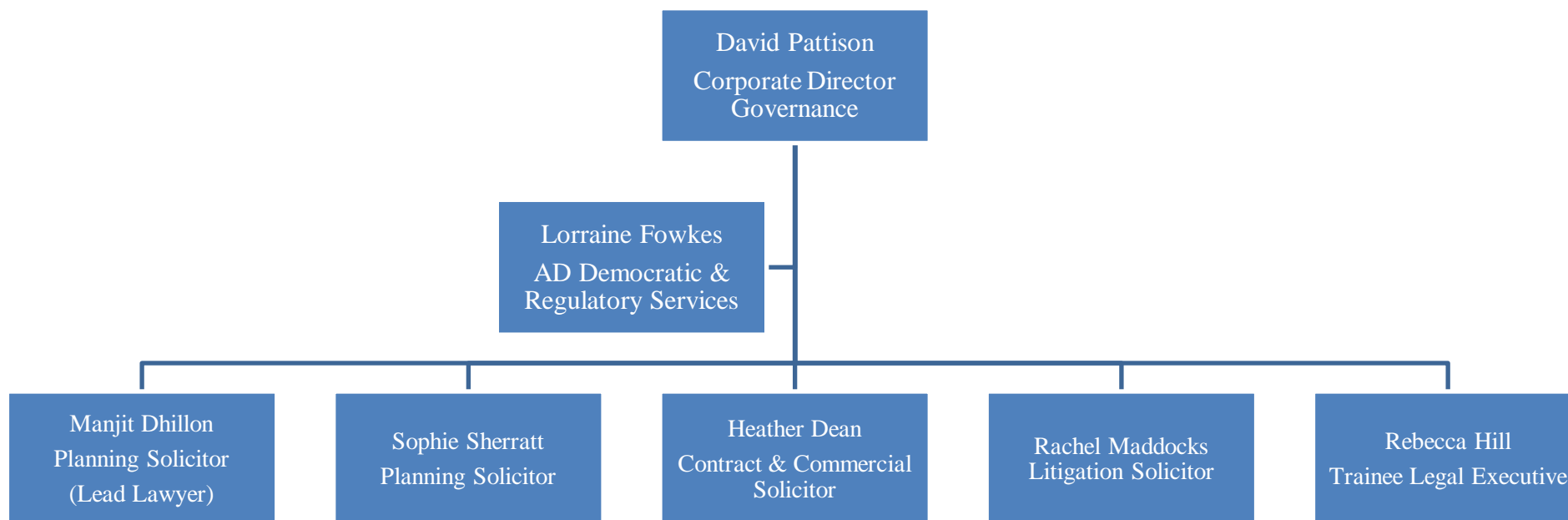
**Selection criteria for time items:**

**Matter Ref**  
**On or after** 1-Jan-2020  
**Before** 1-Jan-2021  
**Client** Tamworth Borough Council  
**User**  
**Document ID**

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**LEGAL SERVICES STAFFING – January 2020 staffing:**

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**LEGAL SERVICES STAFFING – January 2021 staffing:**

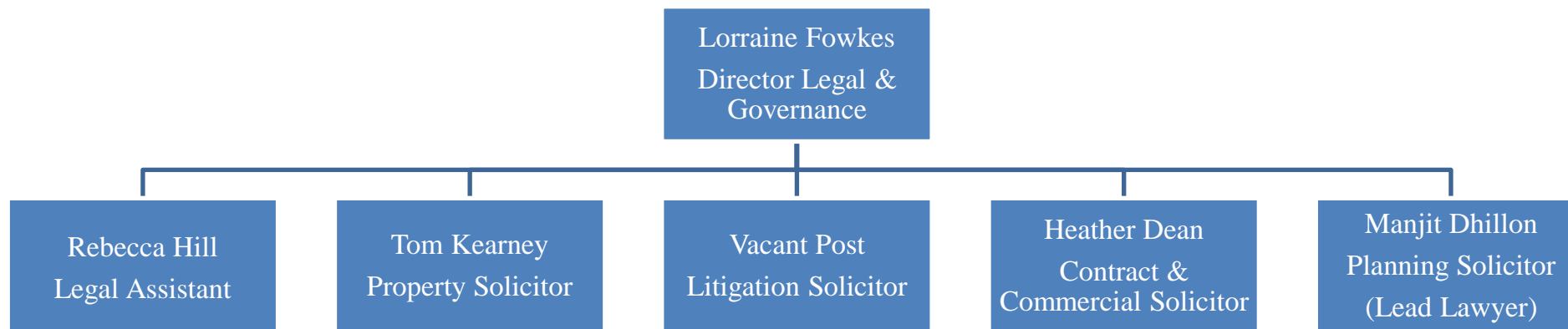
David Pattison left SSC in February 2020

Sophie Sherratt left in February 2020

Tom Kearney jointed in August 2020

Rachel Maddocks left in October 2020

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## SUMMARY OF ACTIONS

|  |
|--|
| <b>Financial Performance</b>   |
| <ul style="list-style-type: none"> <li>• It is proposed that the fees charged to third parties e.g. developers in respect of Section 106 legal fees, will be increased to align with regional averages. Fees are currently £150 per hour and this would increase to £175 per hour.</li> <li>• It is anticipated that the contribution per council, after fee income, will be approximately £110,000 pa. For 2021 an uplift of 2.75% will be added to account for cost of living wage increases and each year thereafter as agreed by the National Joint Council pay award.</li> <li>• To move the partnership accounting year from January to December to April to March</li> <li>• Each authority agree that the Partnership retains £30k from underspends in 2020 to fund a ring-fenced contingency</li> </ul>   |
| <b>Service Standards</b>   |
| <ul style="list-style-type: none"> <li>• South Staffs are currently in the process of recruiting 2 x lawyers</li> <li>• Job descriptions will be amended so that the scope of the work is made narrow which should assist with targeted recruitment</li> <li>• South Staffs ICT Team to agree a timescale for IKEN development for further discussion by the board</li> <li>• Appointment of an Admin Officer is currently underway to ensure Legal Officers time is not spent on admin aspects</li> <li>• South Staffs are appointing an Apprentice Legal Assistant (funding by SS not SSLegals)</li> <li>• EMLawshare will be used during the recruitment process as with other external legal providers</li> <li>• Item 9 through 18 need to develop through implementation of solid processes and administrative support at the host authority now resources are available.</li> </ul> |
| <b>Expectations of Clients</b>   |
| <ul style="list-style-type: none"> <li>• Each local authority to ensure new officers are fully conversant with the process of instructing</li> <li>• Each local authority to advise SSLegals of corporate planning issues so that better workforce planning and work allocation can take place</li> <li>• SSLegals to deliver targeted training</li> </ul>   |
| <b>Quality</b>   |
| <ul style="list-style-type: none"> <li>• Plan to achieve LEXEL accreditation to be developed over the next 6 months to meet with 2 year deadline</li> <li>• Audits to take place on to support the development of the service</li> </ul>   |
| <b>Risk Management</b>   |
| <ul style="list-style-type: none"> <li>• Risks reviews will now form part of the quarterly Governance Board meetings.</li> </ul>   |

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### Corporate Scrutiny Work Plan

| Work Plan 2020 – 2021       |   |                                      |
|-----------------------------|---|--------------------------------------|
| TARGET MEETING DATE         | SUBJECT   | MEETING WHEN ITEM ADDED TO WORK PLAN |
| Dates to be agreed          |   |                                      |
| 11 <sup>th</sup> March 2021 | Update on Potential Legal Actions                         | October 2020                         |
| 11 <sup>th</sup> March 2021 | Solway trading company update                             |                                      |
| 11 <sup>th</sup> March 2021 | Review of Legal Services (post implementation)            | November 2019                        |
| March / June 2021           | Review of Cabinet decisions over previous 12 month period | December 2020                        |
| Quarter 4 2020/21           | Asset Management update                                   | December 2019                        |
| June 2021 (tbc)             | Review of Write Offs (full update)                        | July 2020                            |
| Dates to be agreed          |   |                                      |
| TBC                         | Update on corporate prioritisation                        | August 2020                          |
| TBC                         | Market tender progress Update                             | August 2019                          |
| TBC                         | Parking Toolkit review                                    | October 2019                         |
| TBC                         | Housing Repairs & Investment Contract Review              | November 2019                        |
| TBC                         | Solway Trading Company Update (2x per year)               | December 2019                        |

|            |   |                      |
|------------|---|----------------------|
| <b>TBC</b> | <b>Gungate Masterplan</b>                           | <b>January 2020</b>  |
| <b>TBC</b> | <b>Customer Portal - post implementation review</b> | <b>November 2020</b> |

|   |
|---|
| <b>Upcoming Corporate Scrutiny Committee Meetings</b> |
| 11 March 2021<br>24 March 2021                        |



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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