



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 1st Jan - 31st 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 Financial summary 01/01/20 - 31/12/20			Comments
	Budget	Actual	Variance	
Income				
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	-	-	-	
External consulting expenditure				
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	
Other shared services expenditure				
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	
Total	103,238	123,990	- 20,752	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 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.
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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 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**