

Cabinet

Thursday, 21 October 2021

Report of the Portfolio Holder for Finance and Customer Services

South Staffs Legal Service

Exempt Information

None

Purpose

To seek approval for increased resources and changes to staffing within the Shared Legal Service.

Recommendation

It is recommended that:

Members approve the proposal to expand the current staffing resources within the Shared Legal Service as set out in paragraph entitled 'Resource Implications' of this report.

Executive Summary

A shared legal service was approved by Cabinet and established in December 2019 between Lichfield District Council, South Staffs District Council and Tamworth Borough Council. The service is hosted by South Staffs District Council. The service has encountered a significant staffing turnover and as such, the original structure is now not fit for purpose. The new staffing proposal will result in an increase in costs to all 3 authorities within the shared service (i.e. South Staffs, Lichfield and Tamworth). Authority is sought from all parties in order to support a more robust structure.

Background

In December 2019 Cabinet gave approval for the establishment of a shared legal service and in January 2020 the South Staffs Legal Service between South Staffordshire Council, Lichfield District Council and Tamworth Borough Council commenced.

The original structure for the service is as follows:

- 1 x full time Planning Solicitor (acted as Lead Lawyer)
- 1 x full time Litigation Solicitor (acted as Deputy Monitoring Officer)
- 1 x full time Property Solicitor
- 1 x part time Contracts/Commercial Solicitor
- 1 x part time Legal Assistant

In early 2021 South Staffordshire Council, recognising the need for further resources within the legal team, and in furtherance of their wider apprentice programme, supported a proposal to introduce a Legal Apprentice post to be funded from an earmarked reserve for a 2-year period.

With just over 18 months of the Shared Service undertaken, it is clear that the current structure is not fit for purpose and is unsustainable in the long term. In reviewing the service it is clear that when the Shared Legal Service was established, there was an underestimation of resources required and the team are constantly struggling to meet deadlines and provide a quality, timely service.

Resource Implications

Feedback from all three authorities is generally positive and supportive. There have been some service issues, but these have been due to staffing changes and vacancies. Satisfaction with the quality of advice provided is high; it is the timeliness of advice that can cause issues. This has not been helped by a high staff turnover within the service. Recruitment to the current vacant positions is nearing completion and it is anticipated that this will assist with service delivery.

Managing the service has been time-consuming and has impacted on both the Lead Lawyer and the Director of Legal and Governance at South Staffordshire Council in their day-to-day duties. The structure and cost basis for the shared service only included a minimal element at Director Level; in practice input at this level has been high and is in effect not costed within the current cost allocation.

The service also currently has one Solicitor seeking to service three planning committees across each local authority which meet on a monthly basis; this is unrealistic. It is proposed to introduce a second planning solicitor post to the team to address capacity and resilience issues in this key area. Planning is a significant client area across the three authorities, often requiring speedy advice on time critical matters. Greater resilience and resource in this area would be beneficial to all three authorities.

Due to capacity issues within the team, there is a need for the Director to undertake legal advice work which is not best use of resource for South Staffordshire and restricts available time to undertake the post holders' substantive role. The introduction of a Legal Services Manager position would remove direct line management responsibility from Director Level and would enable some governance/general local government legal advice to be undertaken at Solicitor level. This would be a better use of resources and would again increase resilience within the team in a key area for all three authorities.

A Team Manager position would enable greater oversight of day to day operations and enhanced client liaison. This would enable client officers within the three authorities to have a single point of contact with which to escalate any service issues.

The separation of the day to day oversight from the strategic management (at Director Level) would also be beneficial in respect of Governance Board meetings, allowing clear separation of duties and more focussed planning.

The proposed legal team is:

Legal Services Manager (**new post**) Deputy MO Allowance and Lead Lawyer Allowance

1 x full time Planning Solicitor (existing post)

1 x full time Litigation Solicitor (existing post)

1 x full time Property Solicitor (existing post)

1 x part time Contract/Commercial Solicitor (existing post but slightly reduced hours)

1 x full time Planning Solicitor (**new post**)

1 x Legal Assistant (existing post but increased hours)

Plus the apprentice funded separately.

It is currently an extremely competitive market for Solicitors, which are currently graded in the £36-£42K bracket. Consideration may need to be given to introducing market supplements to the roles in accordance with South Staffordshire Council's pay policy. It is anticipated that the introduction of market supplements could add an additional £3,000-4,000 per post.

The additional cost of the above (against the South Staffs Legal Service current budget) is approximately £92,000 per annum (or c.£99,000 allowing for market supplements). The shared service is based on an equal cost share across all three authorities. Each authority would therefore be asked to increase their contribution from the current £112,300 per annum to (a maximum of) £145,300 for 2022/23 plus any annual inflationary increases as per the agreement.

To assist in the short term, the Partnership Board agreed to use an earmarked reserve of £11K to pay for a paralegal post. The post holder will establish procedures alongside undertaking lower-level legal work. This should enable the existing team to work more efficiently and effectively. The post holder is now in post and is making changes to procedures to increase efficiency resulting in increased capacity for fee earners.

Potential to Expand

The increased capacity within the team would also open up the opportunity of undertaking work for additional clients. Any additional income generated would be ring-fenced to the service. It is difficult to accurately quantify the potential additional income but this would be monitored throughout with reductions to each parties contributions being made as appropriate.

Initial discussions with another local authority are taking place with a view to the possibility of expanding the service further. This would increase resilience further and provide greater opportunities to enhance the external offer. Discussions are at a very early stage and are confidential at the moment due to potential staffing issues but all three current partners would need to be satisfied that expansion was appropriate and would benefit the current partnership.

Financial Implications

The current annual payment for the shared service is £112,300 pa.

The increase in resources as identified in this report adds a further total cost of up to a maximum £99K which, between the 3 parties would equate to £33k per local authority.

The additional costs can be partly financed by underspends within the legal fees budget as well as 2 x retained legal funds within HRA and GF. Further ongoing costs would be subject to a supporting policy change.

	22/23	23/24	24/25	25/26	26/27	Total
Additional Cost	33	33	33	33	33	
Less Ongoing underspend	-13	-13.5	-13.5	-13.5	-13.5	
Less Retained fund HRA	-20					
Less Retained fund GF		-11				
Policy Change Required	0	8.5	19.5	19.5	19.5	67*

*This amount will be subject to any changes identified in the paragraph above entitled 'Potential to Expand'.

Members are also reminded that this increase still represents a significant saving when we compare legal spend prior to the establishment of the shared legal service.

Legal/Risk Implications Background

The Council is able to enter into a shared legal service under Sections 101, 111 and 113 of the Local Government Act 1972, the Local Authorities (Goods and Services) Act 1970, Section 1 of the Localism Act 2011, section 93 Local Government Act 2003.

This proposal has already been approved by South Staffs Cabinet and is to be considered by Lichfield District Council imminently.

If the request is not approved the partnership would need to review the sustainability of the shared service which would result in considerable officer time being spent on dissolving the partnership. Further additional funding would also be required to reinstate TBC’s own legal team or in order to secure an alternative provider.

Report Author

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List of Background Papers

Cabinet report 18 December 2019