

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE CABINET

1. **REPORT TITLE** **Shared legal service with Stoke-on-Trent City Council**

Submitted by: **Chief Executive**

Portfolio: **Policy, People and Partnerships**

Wards affected: **All**

Purpose of report

To seek approval for the council to enter into a shared service agreement with Stoke-on-Trent City Council for the provision of legal services.

Recommendation

The Option 2 to create a shared legal service with Stoke-on-Trent City Council is progressed.

Reason for decision

To ensure that the council maintains a high quality legal service capable of meeting the council's current and anticipated future requirements.

1. **Background**

1.1 As part of a restructure in the Chief Executive's and Regeneration and Development Directorates which took place in January 2017 it was agreed that the council would seek to enter into a shared service arrangement with Stoke on Trent City Council for the delivery of legal services. In the restructure the legal and democratic services teams have been brought under the management of a Legal and Democratic Services Manager. This post holder is also the council's principal solicitor.

1.2 There are currently two vacancies in professional legal posts within the legal team that of Senior Solicitor and of Solicitor. It is proposed that rather than replace these roles that the resources for these posts in the approved budget be used to fund a shared service with Stoke-on-Trent City Council.

2. **Shared service**

2.1 Extensive discussions have taken place with the Assistant Director for Governance at the City Council. Further, whilst the post of Senior Solicitor has been vacant the City Council has been providing an officer to the Borough Council to support the work of this post for which the Borough Council pays a fee to the City Council. This arrangement has worked very well over a period of many months.

- 2.2 Under the shared service the council would retain an in-house legal team located at the council's offices. The in-house team would provide much of the day-to-day legal work particularly that relating to freehold and leasehold conveyancing, contract, s106 work, routine internal legal enquiries and servicing of the Council's regulatory committees. This resource would be complemented by the shared service agreement through which the Borough Council would have access to the wider range of professional legal support within the City Council's legal team.
- 2.3 In addition the Borough Council would have access to call-off additional legal support from the City Council at an agreed hourly rate.
- 2.4 In addition the agreement makes provision for the Borough Council to share access to legal documentation and to use the facilities of the City Council's legal case management system as added value services which are not part of the initial agreement but can be included subsequently if this was confirmed to be mutually beneficial to both councils.

3. **Legal form of agreement**

- 3.1 It is therefore considered that the Borough Council should now enter into a formal agreement with the City Council for the ongoing provision of legal services as a shared service. A form of agreement has been formulated between the Borough Council and the City Council which would see the two authorities enter into a shared service agreement under the provisions of best value provisions of the Local Government Act 1999 and other relevant legislation referred to below.
- 3.2 It is proposed that this should be a long term agreement but with suitable break clauses to allow both councils to reappraise the situation at regular intervals.

4. **Options considered**

Option 1 Status quo

It would be possible for the Borough Council to recruit to the vacant posts and to retain a wholly internal legal team.

Option 2 Shared service

The option to create a shared service with the City Council adds to the resilience of the Borough Council's legal service. The shared service which has been formulated seeks to balance the best of an in-house service with legal staff still located within the council's own office whilst being part of a larger legal team which gives access to a wider range of skills and expertise than can be delivered in a comparatively small in-house team. The major advantage of the shared service for the Borough Council is to be able to access the wider range of professional legal expertise in the City Council's legal team. Partnering with another local government legal team brings

advantages of the existing local government expertise which exists within another Council's in-house legal team.

Option 3 Commercial service

Consideration has been given to all of the legal work of the council being put out to external legal firms. It should be noted that the council already places a volume of work with external legal firms where there is not the in-house expertise to undertake the work. It is envisaged that this would still be the case under the shared service.

Whilst there is a level of specialist expertise in relation to local government law within private practices this area of work forms far less of the routine work than is the case for in-house local government legal teams. It is therefore considered that there is greater benefit for the Borough Council to partner with a local government legal team through a shared service than by commissioning all legal services from a private legal practice.

5. **Outcomes linked to Sustainable Community Strategy and Corporate Priorities**

6. **Legal and statutory implications**

The shared service would be operated under the provisions of:

- the Local Government Act 1972;
- the Localism Act 2011;
- the Local Authorities (Goods and Services) Act 1970;
- the Local Government Act 1999

Local authorities being statutory bodies may only act as provided for in legislation. Any act outside the scope of its statutory power would be ultra vires and therefore unlawful.

If there is a risk of conflict of interest then the Council's in-house team would decide upon the best course of action to resolve the issue which may include outsourcing to other professionals.

7. **Equality impact implications**

The City Council is subject to the same employment and other equalities legislation as the Borough Council.

8. **Financial and resource implications**

Under this arrangement the Borough Council would pay to the City Council the sum of £65,000 for the core services provided under the agreement.

9. **Major risks**

That the authorities may be unable to work together at some future point. This is however dealt with in the agreement by virtue of the break clauses.

Cases of conflict of interest will be dealt with as referred to in the report.

Local authorities can be exempt from the procurement rules but care needs to be taken that the structure of the arrangement does not become a service contract.

The level of demand for legal work by the council could exceed the resource provided for under the shared service. This risk also applies in relation the existing in-house service. Under the shared service agreement this risk will be mitigated by the Borough Council's Principal Solicitor acting as the client manager who will allocate work and case files to the City Council staff to deliver. There are provisions in the agreement for additional work to be taken on beyond the core service at an agreed hourly rate.

10. **Background papers**

None

11. **Earlier Cabinet / Committee resolutions**

None