

# Review of Shared Legal Services

Cllr Angela Lax, Portfolio holder for Regulatory, Housing and Health

Date:	7 December 2021
Agenda Item:	7
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Key Decision?	NO
Local Ward Members	n/a



**CABINET**

## 1. Executive Summary

- 1.1 To highlight to Cabinet the challenges faced regarding staffing within the South Staffordshire Shared Legal Service, explore options available and seek approval for additional resources to deliver the recommended approach.

## 2. Recommendations

- 2.1 To approve an increase in the annual contribution from **£115,200** to **£145,300** to the South Staffordshire Shared Legal Service for 2022/23 and for the remainder of the agreement up to 31 December 2024 as shown in the financial implications section.
- 2.2 To approve that budgetary growth totalling **£84,300** for the remaining agreement period (3 years), together with an increase in the base budget at this higher level beyond the agreement, is included in the Draft Medium Term Financial Strategy for approval by Council on 22 February 2022.

## 3. Background

- 3.1 In November 2019 Cabinet gave approval for the establishment of a shared legal service and in January 2020 the Shared Legal Service between South Staffordshire Council (host), Lichfield District Council and Tamworth Borough Council commenced.
- 3.2 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
- 3.3 In early 2021 South Staffordshire District Council (SSDC), recognising the increasing workload and likely 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. Since then there have been further resignations resulting in on-going vacancies and as a consequence, significant issues in maintaining the quality of service set out in our original agreements.

- 3.4 With almost 2 years of the 5 year agreement for the Shared Service undertaken, it is clear that the current structure is no longer fit for purpose and is unsustainable in the long term given the volume of legal work being requested from the team. When the Shared Legal Service was established, there was an underestimation of resources required due to the dispersed nature of legal work within the individual councils. This was masked by Covid to a certain extent, but now that levels are returning and the housing and property markets are recalibrating the team are constantly struggling to meet deadlines and provide a quality, timely service. This in turn is leading to an increased churn in key positions.
- 3.5 In discussion with other Councils and legal services providers, the Shared Service is not unique in this respect. Across the board all legal sections are struggling to recruit to planning, property and contract positions and existing teams have found significant increases in their workload over the last year in particular. Our use and reliance on the legal service has also increased greatly over the last 18 months as more experienced officers have left the organisation and we deal with ever more complex and challenging questions and projects requiring increasing legal input.
- 3.6 Feedback from all three authorities has been generally positive and supportive for the legal work in the large throughput areas – though timeliness of responses and communication remain areas of concern due to resourcing issues. There have been a number of specific service issues, largely due to staffing changes and vacancies and the delay in developing key processes to underpin the volume of work. Satisfaction with the quality of advice provided is generally high; it is the timeliness of advice that often causes issues. This has not been helped by a high staff turnover within the service and the resultant use of locums. Recruitment to the current vacant positions is nearing completion and it is anticipated that this will assist with service delivery going forward.
- 3.7 The service also currently has one planning Solicitor seeking to service three planning committees which meet on a monthly basis; this is unrealistic and does not support work-life balance. It is proposed to introduce a second planning solicitor post to the team to address capacity and resilience issues in this key area where volumes of work are increasing. Planning is a significant client area across the three authorities, often requiring speedy advice on time critical matters.
- 3.8 Due to capacity issues within the team, there is a need for the Director at South Staffs to undertake legal advice work which is not best use of resources and restricts available time to undertake the post holder's substantive role. This is mirrored in Lichfield with the Head of Governance & Performance (Monitoring Officer) also being frequently engaged in chasing advice and escalating responses from the service, capacity that is more usefully employed elsewhere.
- 3.9 The introduction of a Legal Services Manager position would remove direct line management responsibility from Director/HOS 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, therefore meeting a key aim for all three authorities of providing a robust oversight of governance and consistency of advice. A Team Manager position would enable greater oversight of day to day operations and enhanced client liaison and ensure work is properly co-ordinated. This would enable capacity within the service to develop, imbed and improve processes to eliminate service issues.
- 3.10 The proposed legal team going forward is:
- Legal Services Manager (**new post**)
  - 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
- 1 x full time Planning Solicitor (**new post**)
- 1 x Legal Assistant (existing post but increased hours)

The additional cost of the above (against current budget) is approximately £99,000 per annum. 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 £115,200 per annum to £145,300 for 2022/23 plus any annual inflationary increases as per the shared service agreement for the remainder of its term. This is still significantly less than the £178,000 previously spent on legal services in the year prior to the establishment of the service.

- 3.11 To support the ongoing development of the service a temporary post holder has been appointed by SSDC to develop a plan to improve procedures to increase efficiency resulting in increased capacity for fee earners and improvements in service responsiveness. They have also recommended a series of joint training sessions to improve the quality of instructions provided by officers to the service to increase efficiency and reduce delays in clarifying instructions.
- 3.12 The further proposed increased capacity within the team, whilst solving the current issues, may also open up the opportunity of undertaking work for additional clients in future. The service is often asked to provide legal work, but at the moment does not have the capacity. Any additional income generated would be ring-fenced to the service. Further work is required to stabilise the service to be able to predict the potential additional income this would generate. Such income would be monitored via the Governance board, with reductions to each parties contributions being made as these become clear to enable the service to become more sustainable.

## 4. Other Options

4.1 Soft market testing for alternative models indicate that significant further additional funding would also be required to reinstate an entirely in-house own legal team or in order to secure an alternative provider as demonstrated by the other options to continuing with the shared service.

Option	Areas Covered	Benefits	Risks	Costs
Bring legal services back in-house	A single area of specialism (i.e. planning)	Legal advice under our control and involved in day to day activity of the council. Available for immediate response (subject to leave and other commitments)	Single point of failure and normally only specialist in single area of law – external legal spend would also be required in addition as before. TBC unable to recruit to lone solicitor position via two recruitment exercises.	£80k costs (salary on cost and CPD) for single lawyer and additional admin support to co-ordinate activity.  £90k external legal spend for current levels of legal work.  <b>Min £170,000 (prior costs £178,000)</b>
Alt Council provider 1	Land transactions and conveyancing & Employment	Established legal team – already have relationship and	No domestic planning expertise or capacity.	£90 to £115 per hour for services covered – Approx. £70k per annum.

	pension matters Contracts General Litigation Charities& trusts Individual rights Highways Countryside and rights of way	responsive service – current response time 3 weeks.	No onsite capacity – no continuity of officers for key areas to support our work areas – whoever is available.  Co-ordination of key areas of law required at LDC.	External commission for all other areas at EM Lawshare rates – approx. £60k per annum.  Co-ordination role approx. £40k  <b>£170,000</b>
Alt Council provider 2	Land transactions and conveyancing Employment & pension matters Contracts General Litigation Charities& trusts Individual rights Highways Countryside and rights of way	Established legal team.  45 solicitors – would need to buy in capacity to support expansion to include our areas of law.	No planning expertise or capacity – planning advice provided by Anthony Collins via EM Lawshare. Currently no property lawyers in house. No onsite capacity – no continuity of officers for key areas. Have experienced rapid withdrawal from agreements by this authority previously. No experience of providing 3 <sup>rd</sup> party legal support.	£90 to £115 per hour for services covered – Approx. £40k per annum.  External commission for all other areas at EM Lawshare rates – approx. £80k  Co-ordination role approx. £40k  <b>£160,000</b>
Use E.M. Law share	Specialists in all areas of local government law available	Specialists in all areas of law available	Co-ordination of this would be a full time role for a legal co-ordinator at LDC. No consistency of advice.	Rates vary from approx. £70 to £175 per hour  Approx. £125k in legal spend plus £40k for co-ordinator role.  <b>£165,000</b>
Commission separately	Specialists in all areas of law available	Specialists in all areas of law available	Co-ordination of this would be a full time role for a legal co-ordinator at LDC. Costs and responsiveness will be subject to market forces. No consistency of advice.	Co-ordination role approx. £40k Estimate £200k legal spend.  <b>£240,000</b>
Other districts	No current appetite or capacity to host or develop shared service.			

Alternative options to investing in the shared legal service increase costs from approximately £160k to £240k per annum.

Alternative Options	<p>Section 4 outlines costs and risks of alternatives to ensuring the sustainability of the Shared Legal Service.</p> <p>If the request for additional funding is not approved the partnership would need to review the sustainability of the shared service which would result in considerable officer time (the Head of Governance &amp; Performance) being spent on dissolving the partnership and sourcing or recruiting any alternative provision.</p> <p>Expected increase in costs to between £160k and £240k per annum based on current volumes of work.</p>
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Consultation	<p>Consultation has been undertaken within leadership team and partners.</p> <p>Service feedback from customer satisfaction reviews have been taken into account.</p>
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Financial Implications	<p>The projected financial implications of this proposal compared to the Approved Budget are shown for the agreement period and beyond assuming the expenditure level continues using the same assumptions:</p> <table border="1" data-bbox="408 770 1477 1200"> <thead> <tr> <th rowspan="3">Details</th> <th colspan="4">Agreement Period to 31/12/2024</th> <th colspan="2">Further Projection</th> </tr> <tr> <th>2021/22</th> <th>2022/23</th> <th>2023/24</th> <th>2024/25</th> <th>2024/25</th> <th>2025/26</th> </tr> <tr> <th>£</th> <th>£</th> <th>£</th> <th>£</th> <th>£</th> <th>£</th> </tr> </thead> <tbody> <tr> <td colspan="7"><u>Shared Legal Service</u></td> </tr> <tr> <td>Approved Budget</td> <td>112,940</td> <td>115,200</td> <td>117,500</td> <td>89,900</td> <td>29,950</td> <td>122,250</td> </tr> <tr> <td>Recommended Budget</td> <td>112,940</td> <td>145,300</td> <td>148,200</td> <td>113,400</td> <td>37,800</td> <td>154,200</td> </tr> <tr> <td><b>Budgetary Growth</b></td> <td><b>0</b></td> <td><b>30,100</b></td> <td><b>30,700</b></td> <td><b>23,500</b></td> <td><b>7,850</b></td> <td><b>31,950</b></td> </tr> <tr> <td></td> <td></td> <td colspan="3" style="text-align: center;"><b>84,300</b></td> <td colspan="2" style="text-align: center;"><b>39,800</b></td> </tr> </tbody> </table> <p><i>Assumes annual inflation of 2%</i></p>	Details	Agreement Period to 31/12/2024				Further Projection		2021/22	2022/23	2023/24	2024/25	2024/25	2025/26	£	£	£	£	£	£	<u>Shared Legal Service</u>							Approved Budget	112,940	115,200	117,500	89,900	29,950	122,250	Recommended Budget	112,940	145,300	148,200	113,400	37,800	154,200	<b>Budgetary Growth</b>	<b>0</b>	<b>30,100</b>	<b>30,700</b>	<b>23,500</b>	<b>7,850</b>	<b>31,950</b>			<b>84,300</b>			<b>39,800</b>	
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Approved by Section 151 Officer	Yes
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Legal Implications	<p>The shared legal service provides the following legal services:</p> <ul style="list-style-type: none"> <li>• Planning – policy, development management, enforcement, trees and conservation protection advisor to planning committee, CIL &amp; S106</li> <li>• Regulatory – including licensing</li> <li>• RIPA</li> <li>• Property - Leases, minor disposals and acquisitions</li> <li>• Local Government Law</li> <li>• Election Law</li> <li>• General contracts and procurement activity</li> <li>• General advice on data protection and freedom of information</li> <li>• Coordination and oversight of legal activities and consistency of advice in support of the Monitoring Officer</li> <li>• Commissioning of external instructions</li> </ul> <p>The service does not directly support complex commercial property, regeneration and development agreements, footpaths and rights of way, complex contract law, company law, employment law and financial services law including taxation etc. for which separate arrangements exist.</p>
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Approved by Monitoring Officer	Yes
Contribution to the Delivery of the Strategic Plan	Sound legal advice and support underpins the work of the Council. It is critical to ensure all strategic ambitions are achieved in compliance with our legal obligations.
Equality, Diversity and Human Rights Implications	Not applicable
Crime & Safety Issues	Not applicable
Environmental Impact	This service largely operates remotely, limiting requirements for travel.
GDPR / Privacy Impact Assessment	Not required – covered by the agreement

	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Lack of commitment from partners to continue with partnership	Yellow Likelihood (Green) Impact Assessment (Yellow)	All partners have explored other options and host authority and TBC have reaffirmed their commitment to the shared service.	Green Likelihood (Green) Impact Assessment (Green)
B	The investment does not result in improvements to the service	Red Likelihood (Yellow) Impact Assessment (Red)	Performance metrics are set out in the agreement and governance arrangements hold the host authority to account. Additional feedback from clients to be sought and monitored to ensure performance improvement. Investment into supporting effective usage of the service.	Yellow Likelihood (Green) Impact Assessment (Yellow)
C	A partner subsidises the others' legal work	Yellow Likelihood (Green) Impact Assessment (Yellow)	Cost sharing is set out in the agreement. Regular budget monitoring ensures equal share. Future plans should provide offset of costs for all partners.	Green Likelihood (Green) Impact Assessment (Green)
D	Recruitment and staffing issues	Yellow Likelihood (Yellow) Impact Assessment (Yellow)	A dedicated service manager and improvements in capacity/work life balance for key posts will make them more appealing roles and enable effective support to be provided to the team. Structure now includes capacity for succession planning.	Yellow Likelihood (Green) Impact Assessment (Yellow)
E	Team is unable to cope with workload / urgent instructions	Red Likelihood (Yellow) Impact Assessment	Ensure instructing officers are supported to maximise the impact from legal advice and input. Establish better relationships to manage flow of work and planning	Green Likelihood (Green) Impact Assessment

		(Red)		(Green)
F	One party wishes to leave	Yellow Likelihood (Green) Impact Assessment (Yellow)	The agreement sets out a clear mechanism for this. LDC is positioned with a clear exit strategy and succession planning for alternatives to ensure minimum disruption, however would incur additional costs.	Green Likelihood (Green) Impact Assessment (Green)
G	Dispute between partners	Yellow Likelihood (Green) Impact Assessment (Yellow)	Regular communications and clear escalation and resolution path detailed in the agreement. Good working relationships maintained.	Green Likelihood (Green) Impact Assessment (Green)
H	Team is given workload beyond its capacity	Red Likelihood (Yellow) Impact Assessment (Red)	Input from all HOS to longer term planning for the service to support corporate ambitions in terms of volume of work and nature of work required.	Yellow Likelihood (Green) Impact Assessment (Yellow)
I	Higher inflation than estimated	Yellow Likelihood (Yellow) Impact Assessment (Yellow)	Inflation is assumed at 2% per annum in the modelling. However an allowance for higher inflation is included in the minimum level of reserves. In light of the current economic climate, the current level will be reviewed as part of the drafting of the updated Medium Term Financial Strategy.	Yellow Likelihood (Yellow) Impact Assessment (Green)

#### Background documents

[The Establishment of a Shared Legal Service – Cabinet Nov 2019](#)

#### Relevant web links

[Options for legal services – advantages & disadvantages](#)