

STROUD DISTRICT COUNCIL
STRATEGY & RESOURCES COMMITTEE

**AGENDA
ITEM NO**

13 JUNE 2019

8

Report Title	REVIEW OF LEGAL SERVICES
Purpose of Report	To provide an overview of Legal Services and to outline options for service delivery
Decision(s)	The Committee RESOLVES to: (1) Note the report. (2) Instruct the Interim Head of Legal Services and Monitoring Officer to provide a further report in relation to any of the three options which the Committee wishes to consider.
Consultation and Feedback	Initial consultation in relation to the purpose of the service review has taken place with members, officers and Legal Services colleagues.
Financial Implications and Risk Assessment	There are no financial implications arising from this report. Andrew Cummings Interim Director of Resources Tel: 01453 754115 Email: Andrew.cummings@stroud.gov.uk No risk assessment has been carried out at this stage due to the nature of the report which is principally informative
Legal Implications	There are no legal implications arising specifically from this report and the recommendations. Any legal considerations will be set out in the body of the report Patrick Arran – Interim Head of Legal Services and Monitoring Officer Tel: 01453 754369 Email: patrick.arran@stroud.gov.uk
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Options	The options are that the Committee can note the report and provide instructions to officers to carry out further work. Alternatively, the Committee can note the report and take no action
Performance Management Follow Up	If the Committee instructs officers to carry out further work, a report will be taken to a future meeting of this Committee.

1. INTRODUCTION

1.1 Given the direction of travel for local government funding with increasing budgetary challenges and constraints, there is a compelling need for Councils to explore other options for delivering services and increasing revenue. This, in turn, will require innovative approaches to the way Councils work which may include partnerships and consideration of initiatives for commercial opportunities. The Council may need to look at ways of maintaining service provision by generating revenue through charging and trading. It will also be necessary to seek to control and influence third-party spend through strategic procurement and contract negotiation.

1.2 An effective Legal Services function is essential to the success of any new initiatives. However, it is clear that as well as dealing with the normal day to day legal work – which has not decreased - local authority legal services are now expected to carry out or commission legal work that would not have even been considered ten years ago. This all brings new challenges and a modern local authority legal service has to grow and adapt to meet those challenges.

1.3 The impact of financial challenges and limited available resource is that it is often harder to provide a specialised legal service that Councils can rely upon. To compound the situation, Councils struggle to recruit and retain legal staff and, for a District Council, this is normally a particular issue in key specialist areas, such as planning, commercial property and contracts.

1.4 In local government and the wider public sector generally, the austerity agenda has driven Councils to be more innovative and consequently, local authority lawyers have to be solution-focused. Legal Services must work in a way which is strategic; business focussed and with a facilitative approach to enabling new ways of working which are both ethically and legally defensible.

1.5 With these considerations in mind, this report will:

- Set out the purpose of a legal services function
- Outline the current service provision at Stroud District Council
- Give an indication of client assessment and service need
- Provide an illustration of the cost of legal services to the Council
- Set out an overview of the available options for delivery of legal services by way of illustration only

1.6 It is important to note that this report will not make any recommendations as to a preferred option. If members do wish to consider specific options in more detail, a further report will be necessary with an options appraisal.

1.7 There are a number of reasons for carrying out a review of legal service provision. The situation in Stroud is that the timing for a review was opportune given that there is currently no permanent Head of Service or Monitoring Officer. Coupled to this, there is a situation where certain service areas do not use Legal Services and commission advice from the private sector instead. In addition, all Councils are considering service provision with a view to determining what model works best for their particular organisation. It is therefore considered appropriate to carry out a review at this point in time.

1.8 Whilst this report is not intended to set out an options appraisal, the following - which are set out here for information only - would be used as metrics in any future options appraisal if members required it.

i) Reducing costs of delivery

It should be noted that this is not one of the reasons for this particular review. This would involve a number of different aspects, including the overall reduction of the cost of legal service (which includes external legal spend) over the short and medium through efficiencies, a reduction in overheads and low levels of external legal support.

ii) Improved resilience

The Council requires key legal staff to carry out the work necessary to meet its objectives now and in the future and for there to be cover available, thereby providing continuity and resilience.

iii) Skills to deliver

The Council requires the ready and accessible provision of high quality and professional legal services to help it meet objectives and which provides solution based advice through a skilled generic and specialist legal workforce.

iv) Meeting client needs

The client departments within the Council require a service that meets their needs and ensure their requirements are met appropriately and efficiently.

v) Future proofing

Service provision must be able to meet the needs and aspirations of the Council, and where appropriate, the wider area on an ongoing basis, providing a model of operation that can enable future initiatives.

vi) Value for Money

Any service should be agile, competitive in terms of the cost of the service and based on clear client specifications with monitoring of performance against cost.

vii) Adaptability

The service needs to be able to flex to meet the changing demands and circumstances of clients in a timely and cost-effective fashion.

1.9 In summary, the outcome of the review will be to establish a settled model of service provision to provide the Council with the legal advice it needs to have in order to carry out its activities lawfully and with a risk based approach.

Methodology of the Review

1.10 For the purposes of carrying out the review, the author has carried out the following:

- Interviews with senior managers and some operational colleagues
- Considered management information from the case management system and analysed that data where possible
- Carried out an assessment of service provision from the position of interim Head of Service.

2. Purpose of Public Sector Legal Service

2.1 The Legal Services function should be effective in ensuring that the Council and its interests are protected by providing the legal, corporate and constitutional support that the authority regularly and routinely needs. In short, it provides assurance that the Council is acting legally and within the scope of its powers.

2.2 The majority of lawyers working in local government operate in similar roles. On a day to day basis, a legal service provides strategic, reputational and risk-based advice to their organisations. Legal services also ensure regulatory compliance and the delivery of traditional transactional legal services such as conveyancing, prosecutions and planning advice, for example. However, most lawyers tend to specialise very quickly in their careers and it is often a challenge to find generalist lawyers who can diversify and work competently across a number of legal disciplines.

2.3 A lack of diversity, particularly in a small organisation, can increase the need to commission advice or skills from other public bodies or from the private sector when capacity or competency in a particular area of law is needed. It is important for members to note that it is simply not feasible for any service model – complete commissioning model apart - to avoid an element of commissioning of external legal advice.

2.4 There will always be occasions when external legal advice will be needed. In-house expertise is usually supplemented by resources from other local authorities through shared services and private practice and estimates are that this is on a ratio of say 80:20 or 90:10. Examples of when it may be necessary to commission external legal advice are:

- Advocacy in the higher courts, tribunal and complex inquiries
- A second opinion is required
- Politically sensitive matters, including where investigations of senior officer or Member conduct are involved

- Major projects are undertaken and, there are likely to be skills/capacity issues.
- Particular specialist expertise is required, e.g. in defamation, tax, competition / state aid and other specialist advice not usually available to a local authority; and
- The private sector can offer flexibility / price certainty / speed of delivery by marshalling / employing resources for a particular task.

2.5 Whilst it is inevitable the external legal advice will be appropriately procured from time to time, it is important that this is controlled. There should not be any 'maverick' spend in terms of the commissioning of legal advice by individual services. In short, all legal work should be commissioned by and through Legal Services; client departments should not recuse themselves from this approach to commissioning. It is clear that some service areas have not operated on this basis in the recent past.

2.6 In terms of aims, a legal services function should aspire to deliver its core purpose with:

- A clear focus on customer outcomes
- A facilitative approach based on risk awareness, not risk aversion
- An in house private practice approach to service delivery and standards whilst maintaining a public sector ethos
- Assurance of efficiency of process and provision of service

Current Service Provision - Work Areas

2.7 The current service model for Legal Services is traditional in-house. Professional advice is provided on the full range of core legal services relative to a District Council. In terms of organisation of legal services, it has been customary to refer to enforcement / litigation and prosecutions as contentious business and property, planning, contract drafting as non-contentious business. Legal Services is organised in this way though, given the size of the team, there is inevitably cross over and there is no formal division of the team. Legal Services does not trade its services, but does generate income (Please see below at paragraph 4.1 – 4.3). Legal Services consists of colleagues who have a range of core skills and provide the following services:

- Advisory work – provide advice on all aspects of law
- Property and related transactions
- Infrastructure support - Planning and Rights of Way
- Procurement and Contract law advice
- Litigation and dispute resolution
- Prosecution / Regulatory
- Drafting legal documents
- Negotiation
- Advocacy
- Corporate Governance & Committee Work

2.8 As a support service, the primary objective for Legal Services is to enable the Council to achieve its Delivery Plan priorities and to support customers in the discharge of their functions and achieve their policies and objectives whilst ensuring legality and probity.

2.9 Given the size of the service, there are no distinct teams within Legal Services, rather colleagues are relatively diverse but tend to work in particular areas of law and practice. The general groupings are as follows.

2.10 Monitoring Officer and Governance

This area of work is traditionally carried out by the Head of Service who is usually the Monitoring Officer. There are two Deputy Monitoring Officers. The role of the Monitoring Officer is to ensure good governance and decision making and, in particular, to avoid the potential for maladministration and Judicial Review of Council decisions. The latter is more of a risk nowadays given the difficult choices that need to be made as a result of budget issues. The Monitoring Officer also has responsibility for ethical conduct and to deal with any complaints under the Code of Conduct for elected members.

2.11 Contentious Business

Colleagues carry out all of the work in this area of practice covering both criminal and civil proceedings. The team carry out advocacy at Courts and Tribunals, draft documents and proceedings, carry out negotiation, analyse queries from client departments and provide advice and training. Areas of work covered are:

- Housing related advice including anti-social behaviour, injunctions, possession, disrepair
- Gypsy / Traveller incursions
- Prosecutions
- Licensing
- Bankruptcy/Insolvency
- Contractual disputes
- Debt Recovery

2.12 Non Contentious Business

Colleagues deal with the following areas of work:

- Asset management work - including leases; renewal leases; licences to occupy, alter, assign or underlet; deeds of variation and surrenders.
- Acquisitions and disposals of land/buildings
- General advice on property matters
- Planning
- Right to Buy transactions

Observations of Current service provision

2.13 Observations regarding the current service provision are set out below. It must be made clear that this is not intended to be a 'critical' review, but it is important that any issues – perceived or real – are set out in the report. This

information has been obtained as part of the interviews of senior managers. As mentioned above, interviews were carried out with a number of senior managers and colleagues who use the service regularly. Themes arising from these discussions are set out below.

2.14 In summary, apart from some discreet reputational issues, Legal Services is generally well regarded by its client departments and officers alike. It provides a good service to the Council. The service is well established and the majority of colleagues have worked with the Council for a number of years. Officers dealing with colleagues on a regular basis reported that they were happy with the service they received and that, in the main, legal colleagues were very helpful and receptive to constructive challenge.

2.15 There is sufficient capacity within the team to meet the needs of client departments on a day to day basis dealing with routine matters. As one would expect, certain members of the team conduct advocacy in straight forward Criminal and Civil matters. A question was raised whether the team could deal with straightforward planning inquiries rather than instructing counsel and this is something that might be explored by training a colleague on a 'spend to save' basis.

2.16 There appears to be good use of the existing case management, but there is a lack of sufficient knowledge in house to interrogate the system to provide adequate management information and this will be referred to below. Time recording is not always carried out throughout the team consistently, which is an issue because this is the best means available of demonstrating value for money.

2.17 Due to the makeup of the team and the lack of junior colleagues such as paralegals or apprentices, some colleagues are doing work which is below their level of experience / pay grade. In terms of workforce planning, consideration should be given to a means of ensuring that work is carried out at the appropriate level. There is a vacant trainee solicitor post which could be utilised to provide support for lower level work as well as providing some 'home grown' resilience for the future. However, this person would need to be supervised by someone authorised by the Solicitors Regulation Authority, but there are three colleagues within the team who are sufficiently experienced to carry out this role.

2.18 There is a perception that Legal Services may not always operate in a strategic way. Anecdotal examples have been provided which form the basis of a belief that Legal Services has tended to operate in a 'policing' role, perhaps sometimes adopting a dogmatic or unaccommodating approach to issues. Some services routinely instruct external solicitors rather than use Legal Services. One of the outcomes of the review will be to resolve any relationship issues with certain client departments. In addition, any future service planning for Legal Services will need to focus on customer outcomes and the role of the service in providing advice which is risk aware.

2.19 It is the view of the report author that, where there are issues, this has been because the service has not benefitted from clear strategic direction in terms of its role and purpose within the Council. Whilst this is in no way exclusive to Legal Services, there is no workforce and service planning regularly carried out and likewise, the formal appraisal process has not been applied consistently. This is where the fundamental principles in relation to purpose, role and approach would be made clear.

2.20 It must be made clear that it would be unfair to form a view of the service as it is now because of historical perceptions and the better approach is to be forward looking. Furthermore, it is clear that colleagues in Legal Services are focussed on providing an excellent service to the Council. However, the service will need direction to help colleagues achieve their full potential.

Needs Assessment

3. In terms of needs, the starting point is that any central services function is necessarily demand led. However, it is important to stress that any needs assessment - and particularly in a climate of austerity – should be based on the level of legal support that the authority actually needs – as opposed to what officers may want or have been used to in the past. The challenge then is to assess these needs and plan to resource them adequately through the business / workforce planning process. If members are minded to ask officers to carry out an options appraisal, this would be the appropriate time to provide more detailed information.

3.1 The distinction between ‘wants and needs’ is important given shrinking resources. In terms of ‘wants’, it has traditionally been the case in local government for Legal Services to be relied on by officers to provide a ‘seal of approval’ even when this is not strictly necessary. This approach is unsustainable in a modern Council and this level of service is not justifiable given the resources available. One of the advantages of working in a multi-disciplinary organisation such as the Council is that a large proportion of our clients are professionals in their own field with extensive knowledge of the law affecting their areas of expertise. We therefore already have an “expert client” function which can be utilised to manage interaction appropriately.

3.2 In short, the situation ought to be that Legal Services will support its clients as and when necessary. The focus should be on becoming involved ‘upstream’ seeking to prevent – where possible - more intensive (and costly) interventions later on in the process. The legal service should seek to empower clients to deal with matters themselves when appropriate.

3.3 Any needs assessment should include all legal support whether provided on an in-house or commissioned basis. Only when this is established can a true picture be available as to the total cost of legal advice to the Council, which in turn can enable one to determine the most cost effective way to deliver that advice.

3.4 The best indicator of the current level of demand for Legal Services is the cost of external legal advice together with the information regarding the extent of

work carried out by the in-house team which is held in the case management system. This is based on matters opened and time recorded. It must be accepted that the available management information held does not provide precise detail of what the real need is – i.e. was legal advice / involvement absolutely necessary in the circumstances? It nevertheless provides reasonably reliable intelligence which demonstrates:

- who the clients are
- what type of work clients have asked Legal Services to do
- how many matters have been opened instructed on
- how much time has been spent on each task / matter

3.5 There are unfortunately constraints currently in relation to the available management information because of a lack of expertise on site to interrogate the system. However, more detailed information would be provided as part of any options appraisal.

Time Recording

3.6 Time recording in Stroud is generally consistent across all areas of work and is universal, i.e. not just used to record time where costs may be recovered such as in court proceedings. Time recording is mandatory and all colleagues have been set an objective of achieving 1000 'chargeable' hours per year. This target allows for annual leave, training and ad hoc sickness absence. The majority of staff reach their monthly time recording targets, though this is not performance managed at present and some colleagues will over and under achieve. Time recording performance is something which should form part of any Legal Service key performance indicator suite going forward.

3.7 There are some general caveats on time recording – which in positive terms may mean that the time recording data available is potentially lower than the figures stated – they are:

- Not all colleagues meet time recording targets – which may mean that more work is being done than is being recorded
- Colleagues do not always record all of the work they do – i.e. do not time record as they go
- time recording is not carried out in the same way as in private practice, i.e. as if the client will be sent a bill
- Colleagues may only time record up to their target and then not record any more time when they have achieved their target.

External Legal Costs

3.9 The cost of external legal advice will be set out in the next section.

Short to Medium Term Pressures

3.10 Based on the current position, everyone is currently working within capacity. However, discussions with senior managers on a 'horizon scanning'

basis indicate that there may well be an increase in the need for legal service support in the short to medium term. The areas highlighted are as follows:

- Charging and Trading
- Commercial Property
- Canal Restoration
- Council Owned Property
- Potential lottery
- Housing – improving tenant behaviour, ASB, gardens etc
- Housing reactive repairs in-sourcing / TUPE
- Local Plan and ancillary work
- Waste
- Contracts
- Private Sector Rental Market and use of statutory powers
- Community Governance Review
- Governance Matters – review of Constitution
- Constitution Review
- Brimscombe Port
- Asset transfers
- Lettings

3.11 There are no current issues regarding resources within the team, but the potential increase in need for legal support and the demographics of the team increase the possibility that there may not be sufficient resource to meet demand in the medium to long term.

3.12 In the event colleagues were to move on to different jobs, pay and compensation benefits at Stroud are unlikely – in relation to certain disciplines - to enable the Council to maintain competitiveness in the local and labour market pertinent to the service. This is already being considered as part of the Corporate Peer Challenge feedback and no doubt will be an element in any corporate approach to make the Council an attractive proposition compared to the other councils in the area.

Cost of Legal Advice to Council

4.0 The obvious way in which to demonstrate that the department provides value for money is to analyse the true cost of legal advice to the Council based on time recording compared to the cost if this work were to have been carried out by the private sector.

Cost of in house team

4.1 The cost of the in house team is summarised as follows:

Description	2015/16	2016/17	2017/18	2018/19	Grand total
Salaries	355,068	373,004	371,071	372,991	1,472,134
Legal Services Costs	77,314	104,092	63,797	64,689	309,892
Sub total	432,382	477,096	434,868	437,680	1,782,026
Income	(61,340)	(62,252)	(56,125)	(66,031)	(245,748)
Total Net Cost of Legal Service	371,042	414,845	378,742	371,649	1,536,278
% of budget met from income	14.19	13.04	12.90	15.08	13.79

4.2 The salaries line speaks for itself, but the item “Legal Services Costs” consists of all of the normal expenses associated with a service unit such as expenses, travel, IT etc. It also consists of payments in respect of Court fees and HM Land Registry. The proportion of external legal advice paid from the Legal Services budget is relatively low as one would expect at circa £18k over the whole of the sample period. This is on the basis that the cost of external legal advice should ordinarily be met from the instructing department’s budget.

4.3 Local government legal services generally have considerable experience of generating income; however income strategies have not always been well developed across the sector. Income is achieved from a number of different sources including s106 agreements, legal fees and third party charges for agreements. It is always preferable for an in house legal team to generate income to offset the costs of the service and be self funding to a degree. There is a pretty respectable income position at an average of 13.79%. However, income should not be seen as a panacea as it is difficult to generate income, on a material scale, without detriment to in-house provision so a balance has to be struck.

Cost of external legal spend

4.4 Total external legal spend covers a number of different cost heads, but the main items of expenditure are on ancillary costs such as court fees and external legal advice commissioned directly by Legal Services or by service areas directly. At present, the only service areas who directly commission legal advice are Housing and Human Resources.

4.5 As mentioned above, the general rule of thumb should be that external legal advice is commissioned only when there the skills or capacity are not available in house. To have a complete picture, one would ordinarily have a complete legal spend profile in terms of the in house provision and commissioned legal advice. The difficulty here is that not all legal spend comes through the service budget or is identified as such in the data. Figures have been compiled by colleagues in Finance in relation to legal spend taken from all service budgets and whilst it is believed that this is probably representative of the total cost, they cannot guarantee that all legal spend has been captured.

4.6 In terms of headlines, external legal costs are set out in the following table, but are subject to the caveat below.

Description	2015/16	2016/17	2017/18	2018/19	Grand total
External Legal Advice (legal services)	51,762	23,608	19,223	16,173	110,767
External Legal Advice (Consultants)	16,082	10,477	19,021	50,423	96,004
External Legal Costs (Court Fees etc.)	19,844	15,305	16,159	34,257	85,565
Capital Legal Costs	16,015	10,989	6,478	0	33,481
Total External Legal Costs	103,704	60,379	60,881	100,854	325,817

4.7 As mentioned above, it is difficult to be certain about the precise amount spent on external legal advice because of approaches to coding spend. Due to other elements being included, such as training and enforcement for example, it is not possible without further detailed analysis to determine what is solely related to legal advice obtained from solicitors or barristers. Likewise the Consultancy element also includes entries which really relate to legal advice.

4.8 Further work will be necessary to refine the data as part of any options appraisal. However, for the purposes of this report, any spend in relation to Court Fees (line 3) can be disregarded. Even with that disregard, it is not a matter of simply adding together the cost of the Legal Services and the amounts in the external legal costs table and an element of caution needs to be applied in terms of calculating the total cost of legal advice to the Council. As stated, a 'deep dive' of the data will be needed as part of any options appraisal to provide an accurate figure in terms of spend on legal advice and whether this was work that could have been done in-house.

Options for Delivery of Legal Services

5.0 Based on widespread recent experience across local authorities, and on the basis that no legal service will be able to carry out all of the work the Council needs, there are really only three main strategic options for the provision of a Council's legal service. These three options are not mutually exclusive, and may ultimately be combined with one or more, implemented immediately or over time. The options are:

- Internal provision with external support when needed – hybrid model
- Shared Service / Collaboration – centres of excellence
- Fully Commissioned - Public or private

Internal Provision

5.1 The traditional in house model is probably still the most common approach to service provision. The influence and support that in-house legal teams provide to a Council should not be under-estimated. The service often

extends well beyond purely legal advice and includes, for example, policy, organisational knowledge and softer decision making.

5.2 Many in-house legal teams now operate on a 'mixed economy' or 'hybrid' model. In this model, the in-house team meets a certain level of demand and uses external service providers to assist with peaks of demand or specialist expertise. This allows the authority to retain a range of legal skills, while attempting to ensure value for money from external service providers by competitive tendering. Therefore, rather than try to cover all areas by having a dedicated resource in house, one would commission the advice on a call off basis only when needed. Options for provision of the call off service could be from the private sector under a commercial arrangement, normally under a framework or the public sector via formal or informal arrangements.

5.3 In terms of considerations regarding this model of delivery, the in-house legal team would need to demonstrate that it delivers best value against other options. This could be through ongoing improvement and management of demand for services. There will be generally be some pressure for the in-house team, where possible, to further reduce costs through efficiencies and generate income to offset the cost of services.

5.4 An in-house team would achieve its aims by a focus on outcomes, managing risk appropriately and delivering pro-active, enabling legal services. Effective in-house legal teams will be agile, preparing meaningful management information on current performance and costs, and will have effective relationships with client departments and Members. The in-house option will provide flexibility, additional capacity and expertise and support for major projects. The key advantages of an in-house service are:

- Local knowledge and history of the organisation
- Established relationships
- Settled team – a known quantity

Shared Service / Collaboration

5.5 Local government has a long established history of sharing services with partners in the public sector, especially other councils and the NHS, and local government lawyers likewise. It is nothing new, is not an outsourcing of provision, and in fact, has gained in prominence in recent years.

5.6 The public sector is not in competition with one another, and all are engaged in public service. Public sector lawyers are no different in this respect because they are usually working towards an agreed outcome in the best interests of the public purse. Informal arrangements regarding sharing of resources are common, but there are recent examples of authorities tightening up those existing relationships through formal shared service or merger.

5.7 A formal shared service approach is a partnership or collaboration as opposed to a wholly commissioned model which would be an outsourcing of the service. The collaborative arrangement normally involves a delegation by one

Council of its legal function to the other under section 101 of the Local Government Act 1972. Staff transfer to the lead provider's employment protected by TUPE, then all staff in the team will be made available to both Councils under section of the 113 Local Government Act 1972 which will enable each Council to delegate decisions to them as if they were their own staff.

5.8 There are a variety of mechanisms for collaborative working, both 'top-down and bottom-up', for example:

- Sharing a Head of Legal Services / Monitoring Officer
- Full legal services' teams managed through a joint committee
- Delegation of the legal function from one authority to another/to an officer of the other authority

5.9 Usually these arrangements are operated on a cost sharing basis, with an agreed mechanism for sharing the savings that result, documented in an Inter-Authority or Collaboration Agreement. Shared services may operate for the whole or part of legal services and an Authority may concurrently provide legal services even if it has entered into a shared services arrangement.

One Legal

5.10 There are numerous examples of collaborative working within the local government sector, however, with the exception of those Councils that trade services such as Essex Legal Services, Local Government Support Services (LGSS) and Invicta Law (Kent County Council, most arrangements are entered into on a geographical basis.

5.11 In Gloucestershire, there is an existing arrangement, One Legal, which provides legal services to Gloucester City, Tewkesbury and Cheltenham Borough Councils. One Legal was established between Tewkesbury and Cheltenham Borough Councils with key objectives of resilience and cost savings. Gloucester City joined the partnership at a later date.

5.12 One Legal operates as a shared service on the basis set out in paragraph 5.7 above. Members will have received a presentation from One Legal at an information evening on the 30th May 2019, but it is important to point out that whilst staff transfer to a shared service, it is not an outsourcing arrangement.

5.13 The key purpose of collaboration should, as a minimum demonstrate value for money, and in addition:

- enhance the quality of service to customers
- increase resilience and flexibility
- reduce the overall cost of the service through economies of scale
- create a sustainable model with the ability to grow and develop
- increase staff development opportunities and recruit and retain staff more easily
- provide opportunities to generate more external income.

Fully Commissioned – Public or Private (Outsourcing)

5.14 In this model, the Council could outsource all, or part of, its legal support to a commercial provider or (more likely) to a number of providers, possibly through a managed service contract. This could be to the private sector, the public sector or a combination of both. This would mean that Councils only pay for the service they need and there would be no built in staff costs. Existing staff would transfer to the new provider(s) under TUPE.

5.15 It is unlikely that external providers would agree a fixed price or fees because Legal Services are primarily demand led and both volumes and complexity are notoriously difficult to predict. Hourly rates are the preferred charging model for most legal service providers and, in the case of service companies, costs are driven down by less favourable terms and conditions.

5.16 Councils would need to retain a Monitoring Officer who would be the first call for advice and support within the Council and also the commissioning / relationship manager.

5.17 Previous tendering exercises across the industry have consistently demonstrated that the cost of external providers is greater than in-house provision as they are normally operating commercially. Furthermore, as opposed to a shared service or in-house arrangement, outsourcing the service would not generate income which would help reduce costs further.

5.18 There may also be costs associated with central establishment charges that remain with the Council even where a service is outsourced (e.g. accommodation, telephones, payroll etc.) where the third party provider recharges the Council as part of the fee for the service (effectively meaning that the Council pays twice, until such time as the in-house charges can be reduced).

5.19 A joint venture legal services business between a local authority and a private practice firm could combine the public sector ethos with private sector innovation and commercial disciplines. Both partners must focus on client service and enhancing their skills base. However, this would almost certainly increase costs and is normally only an option for in-house teams in larger organisations.

6. CONCLUSION

This report is intended to provide members with an overview of the current service provision and potential options for future service delivery.

6.1 No recommendations are being made in this report, but it is suggested that of the three options, outsourcing should be discounted because it does not fit with the Council's political aspirations and would increase costs and / or potentially dilute staff terms and conditions.