

INTERNAL AUDIT REPORT

FROM: Audit and Risk Manager **SUBJECT:** Shared Legal Services
TO: Deputy Chief Executive (AJ) **DATE:** 24 July 2017
C.C. Chief Executive
Head of Finance
Portfolio Holder (Cllr AM)

1 Introduction

- 1.1 In accordance with the Audit Plan for 2017/18, an examination of the above subject area has been undertaken and this report presents the findings and conclusions drawn from the audit for information and action where appropriate. This topic was last audited in August 2014.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

2 Background

- 2.1 The arrangements for the provision of a Shared Legal Service between Warwick District Council (the Council) and Warwickshire County Council (WCC) first came into effect in March 2010.
- 2.2 These took the form of a single in-house team, based at WCC, with the aims of improving resilience, maintaining sufficient capacity through fluctuations in demand and reducing reliance on external resources to the benefit of both parties.
- 2.3 The management of the agreement at the Council is undertaken by one of the Deputy Chief Executives (DCE), whose full job title is Deputy Chief Executive, Monitoring Officer and Legal Client Manager.

3 Scope and Objectives of the Audit

- 3.1 The audit was undertaken to test the management and financial controls in place.
- 3.2 In terms of scope, the audit covered the following areas:
- Contract agreement
 - Commissioning
 - Resourcing
 - Contract monitoring.
- 3.3 The control objectives examined were:

- The Council can access appropriate legal services
- Value for money can be demonstrated
- Staff are aware how work should be commissioned from the service
- Management are aware of the level of work commissioned from the service
- Work is appropriately commissioned from the service
- Both councils can plan accordingly for anticipated levels of work to be placed through the agreement
- Budget variances are limited as the budgets are set appropriately in line with known areas of income and expenditure
- The council is aware of any potential budget variances
- Payments are valid and accurate and processed in accordance with the appropriate conditions of the contract / agreement
- Work is undertaken to agreed standards
- Management are aware of issues encountered with the work performed under the agreement.

4 Findings

4.1 Recommendations from Previous Report

- 4.1.1 The current position in respect of the recommendations from the audit reported in August 2014 is as follows:

Recommendation	Management Response	Current Status
1 Management should ensure that budget setting for Shared Legal Services takes due account of the Agreement commitment and that any significant variation from the sum provided for is by mutual agreement between Warwick District Council and Warwickshire County Council.	Agreed. This will be remedied for 2015/16 budget setting.	The current budget is in line with the figure contained within the SLA (see 4.4.1 below).
2 The Shared Legal Services User Guide should be refreshed including update of content and expansion to cover (where applicable) standing mandates and internal expectations including financial responsibility and ensuring compliance with relevant Council policies.	Agreed. WCC refreshing User Guide for WDC/WCC sign-off.	An amended user guide was produced following the previous audit. However, this needs a further update to reflect staffing changes etc. and will need to be re-circulated accordingly (see 4.3.1 below).

Recommendation	Management Response	Current Status
3 The documents accompanying the Shared Legal Services User Guide on the Intranet should be updated.	Agreed. This has been done and will accompany refreshed User Guide.	The 'accompanying documents' were incorporated into the main user guide. As suggested above, these need to be further updated.
4 The refreshed Shared Legal Services User Guide should be relocated, together with the accompanying documents, to a more appropriate and prominent Intranet site and all authorised commissioning officers notified.	Agreed. Will be done once User Guide refreshed.	The user guide is available to all staff from the main Resources tab which appears in the header on each page of the intranet.
5 All newly authorised commissioning officers should be advised of the Shared Legal Services User Guide and instructed to familiarise themselves with it.	Agreed. Will now be done on a rolling basis.	Subject to the acceptance of the recommendation at 4.3.5 below and any associated action, this may need to be undertaken again.

4.2 **Contract Agreement**

- 4.2.1 The current Shared Legal Services Agreement (SLA) came into effect from 1 April 2017 as a continuation to the previous agreements that ran from 9 March 2010 onwards.
- 4.2.2 The SLA document provided had been signed appropriately by representatives from both councils.
- 4.2.3 The agreement goes into appropriate detail as to the services to be provided which, at the top level, is 'the provision of all legal services, subject to the provisions of the conflicts protocol'.
- 4.2.4 There was no requirement to undertake a new procurement exercise for the extension of the agreement, subject to there being an appropriate benchmarking exercise being undertaken.
- 4.2.5 Benchmarking data was provided to the Council by the Corporate Legal Service Manager at WCC (CLS). The WCC charges were found to be generally below the benchmarking figures for each of the different fee levels and it was, therefore, considered that the agreement provides value for money and was renewed accordingly.

4.3 **Commissioning**

- 4.3.1 There is a user guide in place that is available to all staff via the intranet. This contains details of how the service should be used. However, upon review, it was noted that the document is out of date as it includes an old authorised officers list and details of staff who no longer work for Legal Services.

Risk

Staff may not use the service correctly.

Recommendation

The user guide should be updated to provide accurate, up to date information and should be rolled out to relevant staff.

- 4.3.2 Where repetitive work is undertaken, there is scope within the user guide for 'standing mandates' to be established. However, the CLS advised that there is currently no central documentation of any that are in place.
- 4.3.3 He was to find out from the fee earners where any standing mandates are operating and include them when the user guide and associated documents are updated.
- 4.3.4 There is an updated list of authorised commissioning officers in place which contains 32 officers who all still work for the Council. However, there were a few minor issues noted with regards to staff having moved department following various restructures.
- 4.3.5 Another minor issue was that the Private Sector Housing Manager is not currently authorised to commission work from the service, but a member of his team is.

Risk

Relevant officers may not be able to use the service.

Recommendation

SMT should be asked to review the list of authorised commissioning officers to ascertain whether it is still relevant for their departments, and the list should be subsequently updated as necessary.

- 4.3.6 A review of the expenditure against the relevant TOTAL subjective code was undertaken to identify which cost centres had spent the most on Legal Services during 2016/17.
- 4.3.7 The relevant commissioning officers were then identified for those cost centres that had spent over £10,000 during the period and discussions were held with them to identify how the works had been commissioned.
- 4.3.8 It was identified that there was no standard way of commissioning the works, with some using formal memos and others using emails, phone calls or discussions during the weekly surgeries, so the 'formal' commissioning isn't always in writing and may not come directly from an authorised officer.

4.3.9 However, where authorised officers were not directly involved they were already aware of the work or were happy for their staff to go directly to Legal Services for standard pieces of work.

4.3.10 Thus, whilst the agreed processes are not being followed, the work is still being undertaken as required. As a result it is not felt that a recommendation is necessary, other than to make authorised commissioning officers aware of the guidance as part of the abovementioned refresh.

4.4 **Resourcing**

4.4.1 An order for £508,900 has been placed to cover all of the work for the current financial year (excluding disbursements). This figure is just over the amount included in the SLA as agreed between the councils.

4.4.2 The main Legal Services cost centre on TOTAL (4871) does not include a budgeted figure, as the costs are recharged to the individual services, thus leaving a zero balance.

4.4.3 Budgets are included within individual cost centres and these were reviewed to ascertain whether they reflected previous expenditure levels or anticipated costs.

4.4.4 This revealed that many budgets were left unchanged from one year to the next despite some large variances between the budget and the expenditure during 2016/17.

4.4.5 51 of the 92 cost centres that used the shared service had a variance of more than £1,000 between the budget and the outturn for 2016/17 (excluding disbursement codes), with 16 actually being over £5,000. The largest variance (excluding the main cost centre) was approximately £28,000. However, only eighteen budgets were amended for the current year, with only nine having a variance over £1,000.

4.4.6 Whilst it is acknowledged that it can be hard to predict usage due to the responsive nature of the service, there should be more attention paid to the code when budgets are set.

Risk

Inaccurate budgets may provide misleading information to other users of the figures.

Recommendation

Budget managers should be reminded of the need to set accurate budgets based on available information.

4.4.7 The DCE advised that monthly spreadsheets are received from the relevant Assistant Accountant (AA) which set out the overall position for both the time charges and disbursements, broken down by both service and cost centre. These are gone through in detail and any issues will be raised with SMT+.

- 4.4.8 Detailed testing was not performed on the current cost centre budget positions as these are generally covered in the audits of the individual services.
- 4.4.9 Some commissioning officers spoken to during the audit touched on the general topic, highlighting that the nature of the work is often reactive, so it is hard to budget accurately. An issue was also raised by some with regards to not being able to see the cost of individual jobs.
- 4.4.10 The monthly coding spreadsheets received from Legal Services show a job code for each charge and it was suggested that it would be helpful if these could be shared.

Risk

Managers may be unable to properly control their expenditure.

Recommendation

The monthly coding spreadsheets, supplied by Legal Services, should be made available to all relevant (commissioning) staff.

- 4.4.11 The AA advised that she sends the monthly coding spreadsheets to the Accountants so that they can check the coding. Any errors identified will then be rectified, with a second version of the sheet being saved in the individual file with the relevant amendments highlighted, and Legal Services will be informed. Upon review of the spreadsheets provided for 2016/17, 121 individual rows had been recoded out of a total of 2,862 (roughly 4%).
- 4.4.12 The figures from these amended spreadsheets were compared to TOTAL to ascertain whether they had been charged accordingly. This highlighted a number of instances where the cost had been recoded.
- 4.4.13 However, upon review with the AA, it was highlighted that only a few lines had genuinely been miscoded on TOTAL as the majority relate to lines where known coding issues are not amended at the first checking stage.
- 4.4.14 Where the costs had been miscoded, the relevant code centre manager had raised the issue as part of their budget monitoring processes.

4.5 Contract Monitoring

- 4.5.1 Meetings are generally held on a quarterly basis between the DCE and the CLS. Notes from the meetings were provided and it was confirmed that performance issues had been covered at most meetings to some extent.
- 4.5.2 The DCE advised that 'customer satisfaction surveys' are available for completion by commissioning officers at the end of each job, although any completed surveys are not passed to him. However, he suggested that any issues would be picked up as part of the meetings held.

5 **Conclusions**

5.1 Following our review, in overall terms we are able to give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of the Shared Legal Services are appropriate and are working effectively.

5.2 The assurance bands are shown below:

Level of Assurance	Definition
Substantial Assurance	There is a sound system of control in place and compliance with the key controls.
Moderate Assurance	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.
Limited Assurance	The system of control is generally weak and there is non-compliance with controls that do exist.

5.3 A number of minor issues were, however, identified:

- The user guide and associated documents need to be refreshed.
- Cost centre budget codes relating to expenditure on the service are often rolled forward with no reference to previous levels of expenditure.
- Spreadsheets detailing the costs of the service broken down by job code are not shared with commissioning officers.

6 **Management Action**

6.1 The recommendations arising above are reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr
Audit and Risk Manager

Action Plan

Internal Audit of Shared Legal Services – July 2017

Report Ref.	Recommendation	Risk	Risk Rating*	Responsible Officer(s)	Management Response	Target Date
4.3.1	The user guide should be updated to provide accurate, up to date information and should be rolled out to relevant staff.	Staff may not use the service correctly.	Low	Deputy Chief Executive (AJ)	Agreed. This will be updated and staff made aware of its refresh.	30/09/17
4.3.5	SMT should be asked to review the list of authorised commissioning officers to ascertain whether it is still relevant for their departments, and the list should be subsequently updated as necessary.	Relevant officers may not be able to use the service.	Low	Deputy Chief Executive (AJ)	Agreed. The DCE will liaise with SMT colleagues to ensure commissioning officers are current.	30/09/17
4.4.6	Budget managers should be reminded of the need to set accurate budgets based on available information.	Inaccurate budgets may provide misleading information to other users of the figures.	Low	Deputy Chief Executive (AJ)	Agreed. This will be raised at budget review meetings.	30/09/17
4.4.10	The monthly coding spreadsheets, supplied by Legal Services, should be made available to all relevant (commissioning) staff.	Managers may be unable to properly control their expenditure.	Low	Deputy Chief Executive (AJ)	Agreed. The DCE will liaise with SMT colleagues to ensure they know how such information can be accessed.	30/09/17

* Risk Ratings are defined as follows:

High Risk: Issue of significant importance requiring urgent attention.

Medium Risk: Issue of moderate importance requiring prompt attention.

Low Risk: Issue of minor importance requiring attention.