

CABINET
23rd September 2021

Title: Shared Legal Service for Stratford-on-Avon and Warwick District Councils

Lead Officer: Andrew Jones

Portfolio Holder: Councillor Andrew Day

Confidential report No

Wards of the District directly affected: All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: Yes

Included within the Forward Plan: Yes -

Equality Impact Assessment Undertaken:

Consultation & Community Engagement: With Warwickshire County Council

Final Decision: Yes

Accessibility checked: Yes

Officer/Councillor Approval	Date	Name
Chief Executive/Deputy Chief Executive	10 August 2021	Andrew Jones
Head of Service	10 August 2021	Phil Grafton
CMT	10 August 2021	Chris Elliott, Andrew Jones, Dave Barber
Section 151 Officer	10 August 2021	Mike Snow
Monitoring Officer	10 August 2021	Phil Grafton
Portfolio Holder(s)	10 August 2021	Councillor Andrew Day

1. Summary

- 1.1. This report explains the current arrangements for the provision of legal services to Stratford-on-Avon and Warwick District Councils and sets out a business case for the creation of a single shared legal service for both authorities.
- 1.2. The proposal is part of the wider transformation programme across the two Councils, driven by a need to ensure that both Councils can deal with the financial challenges of current and future years.

2. Recommendations

- 2.1. That Cabinet approves the creation of a single shared legal service serving Stratford-on-Avon and Warwick District Councils, as set out in the Business Case (Appendix A), subject to similar consideration and any necessary approval by Stratford-on-Avon District Council.
- 2.2. That Cabinet approves the release of funding from the Contingency Budget of £50,000 to ensure that there is a smooth introduction of the new arrangements.

3. Reasons for the Recommendations

- 3.1 Warwick District Council (WDC) does not currently have an in-house legal service, with legal services provided by Warwickshire Legal Services (WLS), the in-house legal team of Warwickshire County Council (WCC).
- 3.2 The contract with WLS expires on 31 March 2022 and officers have advised that WDC will not be renewing its contract and instead support the creation of an in-house legal service shared with Stratford-on-Avon District Council (SDC).
- 3.3 The sharing of an in-house legal service accords with resolutions relating to shared working approved by both Councils. Full Council at WDC considered and approved the following on 5th August 2020:

That the principle of shared working with Warwick District Council be confirmed as part of the adopted policy framework; and

That agreement(s) be entered into with Stratford-on-Avon District Council pursuant to Section 113 of the Local Government Act 1972 and all other enabling powers so that employees can be placed at the disposal of the other Council as may be required, subject to the (Cabinet) endorsing business cases for any such services.

- 3.4 A full detailed Business Case for the shared legal service (which is exempt from publication) is attached in the **Appendix** to this report.

- 3.5 The Public Contracts Regulations 2015 provides that, subject to compliance with certain conditions, a contract concluded exclusively between two or more contracting authorities' as public/public cooperation falls outside the requirement to advertise and run a competitive procurement process. The Business Case is designed to ensure that these conditions are satisfied and therefore to take advantage of the exemption.
- 3.6 The SDC Head of Law and Governance and Legal Services Manager have conducted meetings with WDC Heads of Service to ascertain their current and future demand for legal services, and the feedback received has been instrumental in designing the new service.
- 3.7 The proposed size of the new shared legal team comprises a Legal Services Manager, two Lead Solicitors and 12 other lawyers (1+2+12=15). The team would be divided into two functional areas.
- 3.8 The current legal team at SDC will need to increase in size to provide an effective service to both SDC and WDC. It is noteworthy, for example, that unlike SDC, WDC has its own housing stock. The work arising from this alone generates a significant demand for legal services.
- 3.9 Up to four members of staff at WCC are in scope for Transfer of Undertakings (Protection of Employment) regulations (TUPE) and could transfer to the new SDC/WDC legal service. This will not be known for certain until closer to the 'go live' date of 1 April 2022. Even if four personnel do come across pursuant to TUPE, there will still be a significant requirement to recruit staff into the new legal team.
- 3.10 Several benefits arise from a shared district council legal team. These include the ability to:
- Reduce the overall cost SDC and WDC pay for legal services.
 - Build a critical mass of legal expertise dedicated to district council functions by increasing opportunities to develop specialist knowledge.
 - Build closer working relationships with clients. For example, WDC can obtain the advantages of an in-house service without concern that every contact with a lawyer is "on the clock".
 - Increase development opportunities for legal team staff, leading to improved staff retention. In particular, the creation of Team Leader posts creates career progression opportunities.
 - Increase efficiency and reduce duplication through standardisation of policies and procedures.
 - Increase team resilience and flexibility. At present, the absence of a member of staff in a small team like the SDC legal team is keenly felt and detrimental to client departments.

- 3.11 Members should note that the proposals were supported by the Joint Arrangements Steering Group, which met on 23 August 2021.
- 3.12 In order to ensure that the team is in place for 1st April 2022, staff recruitment will need to commence imminently. This will mean that staffing and related costs will be incurred prior to the new financial year. A very rough estimate for this cost is £50,000, although it is difficult to estimate what this cost may be. It is anticipated that much of this cost should be able to be accommodated from WDC placing less work with WCC ahead of 31 March 2022, with SDC picking up this work where possible. To accommodate those costs, it is recommended that £50,000 from the Contingency Budget is utilised.

4 Policy Framework

4.1 Fit for the Future (FFF)

- 4.1.1 The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects. This report shows the way forward for implementing a significant part of one of the Council's Key projects.
- 4.1.2 The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found on the Council's website. The section below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

4.2 FFF Strands – Legal Services is an essential support service to both Councils. An effective team enables the Council to continue to deliver its services across all the internal and external elements of the FFF Strategy.

4.2.1 External impacts of proposal(s)

People - Health, Homes, Communities

Services - Green, Clean, Safe

Money- Infrastructure, Enterprise, Employment

4.2.2 Internal impacts of the proposal(s)

People - Effective Staff

Services - Maintain or Improve Services

Money - Firm Financial Footing over the Longer Term

4.3 Supporting Strategies

- 4.3.1 Each strand of the FFF Strategy has several supporting strategies. There are none that are specifically relevant to this report.

4.4 Changes to Existing Policies

- 4.4.1 This report does not seek to amend any existing policies.

4.5 Impact Assessments

- 4.5.1 There will be TUPE implications arising from the cessation of the agreement with WLS and the creation of a new shared legal service. It is anticipated that specialist, independent legal advice will be required in relation to TUPE matters.

5. Budgetary Framework

- 5.1 WDC currently pay WCC approximately £650,000 per annum, plus disbursements in the region of £70,000 (e.g., counsel's fees) for the provision of legal services.
- 5.2 SDC have an in-house service comprising a Legal Services Manager and six lawyers (1+6=7), two of whom work less than full time hours. The team also has a part time practice support officer. The annual cost of the service is £440,000. The total cost of the current arrangements is approximately £1.162m.
- 5.3 The total cost of the proposed structure of a new shared legal service is £1.014m. This assumes that all lawyers (except those transferring from Warwickshire Legal) are full time and that the two team leaders are on SDC pay grade D.
- 5.4 The combined cost of the proposed new service is £148,000 cheaper than the combined total cost of SDC's current service and WDC's spend on WCC's Legal Service. Based on a 60/40 split, the new legal service will be cheaper for WDC (£92,000) and for SDC (£56,000).
- 5.5 Staff who transfer to SDC from WCC pursuant to TUPE will transfer on their existing terms and conditions, and TUPE regulations give protection to terms and conditions of employment for an indefinite period. For example, if SDC wanted to change terms and conditions 10 years later it would still need a valid reason for the change.

5.6 The overall financial position is summarised below:

Summary of cost of new Legal Services Team	Cost of Current Service	Share of current base costs	Cost of Shared Services
	£000		£000
WDC - charges from WCC	650	59.5%	
SDC - Gross Legal Services Budget 2021/22	442	40.5%	442
Staff TUPE'd from WCC			
Additional new appointments *			491
Additional direct support costs			11
Total Cost of service	1,092		944
Cost sharing of future service			
SDC		40.5%	382
WDC		59.5%	562
Total Cost of new service			944
Savings			
SDC			60
WDC			88
Total Savings			148

* Cost of new appointments may vary depending on the individuals to TUPE from WCC.

The above figures exclude "legal disbursements" for which both authorities will continue to hold their own respective budgets.

5.7 Aside from its financial contribution to the shared legal service, WDC will also be providing back-office support to the shared legal team, to include HR and ICT assistance and support and any other related internal help.

5.8 The Contingency Budget can be utilised to accommodate the £50,000 of transition costs.

6. Risks

6.1 The main operational risk is that the new legal team is not at full capacity by 1 April 2022 to provide an effective legal service to WDC and SDC. This could be because of any in-scope WCC staff not transferring across or a failure to recruit suitable team members.

6.2 However, this risk will be mitigated by beginning the recruitment process in October, giving plenty of time before the "go-live" date. There is also the

possibility of outsourcing work or WLS retaining certain projects and files if the new legal team is not at full strength by the live date.

- 6.3 There will be several WDC projects and files being worked on by WLS that will be well advanced by the live date. Transitional arrangements may include WLS continuing to work on these matters until their conclusion. This will be assessed on a case-by-case basis by officers.

7 Alternative Option(s) considered

- 7.1. The main alternative is to maintain the status quo, i.e. WDC would continue to outsource its legal service to WCC or elsewhere. However, whilst WDC's experience of WCC Legal Services is positive, this option does not achieve the benefits to both Councils outlined above and nor does it contribute to the shared working commitments of both Councils, pending the long-term potential of a full merger.