



East
Northamptonshire
Council

Council – 22 April 2013

Delegation of Legal Services Function

Purpose of report

To enable the transfer of delegation of legal functions to a new shared service provider from Northampton Borough Council as part of the legal shared service contract, should Northampton Borough Council decide to transfer its legal service into LGSS.

1.0 Background

- 1.1 As members will be aware, this council negotiated a shared legal services arrangement with Northampton Borough Council (NBC), which started in October 2012. As part of the service agreement we also formally delegated our legal services functions (excluding those of the Monitoring Officer) to Northampton Borough Council in order to evidence robust governance arrangements. (This is a similar arrangement to that made for the S151 duties with Northamptonshire County Council.)
- 1.2 Prior to entering into that arrangement we knew that NBC hoped to “grow the shared service in the future, which could include a broader shared service with Northamptonshire County Council (NCC) and Cambridgeshire County Council (via LGSS)”. Appropriate exit arrangements were therefore built into the shared service agreement should this eventually arise.
- 1.3 Since October 2012, NBC’s position has become clearer and they are making the final decision on the transfer of a range of services to LGSS at a meeting at the same time as this report is being considered by this council. It is anticipated that their report will recommend that NBC legal services functions (excluding Monitoring Officer) are transferred to LGSS.
- 1.4 Policy and Resources Committee in March and April this year have been presented with information on the options for ENC in relation to future delivery of legal services on behalf of this council. The two options under consideration should NBC decide to join LGSS are forming a separate agreement with LGSS or joining District Law (formerly Connect Law - Kettering Borough Council and Wellingborough Borough Council, hosted by KBC). It should be noted however that if the decision is for LGSS, in practice initially it will be former NBC lawyers who will continue to carry out the majority of legal work for ENC, thus providing continuity of cover.
- 1.5 Policy and Resources agreed to delegate the decision on the two options to the Chief Executive (in consultation with the Leader of the Council, or in his absence, the Chair of the Policy and Resources Committee). The decision will verbally be reported to Council by the Chief Executive at the meeting. Council will therefore asked to agree the transfer of delegation of legal functions from NBC to the chosen body as part of the legal shared service contract, should NBC decide tonight to transfer their legal service into LGSS.
- 1.6 Should Northampton Borough Council decide not to transfer their legal services to LGSS, the current shared service agreement and delegation will remain in place.

2.0 Equality and Diversity Implications

- 2.1 There are no known equalities issues arising from this report.

3.0 Legal Implications

3.1 Independent legal advice has been taken on the proposed new contractual arrangements with both potential shared service providers, including any TUPE implications.

4.0 Risk Management

4.1 There continues to be a risk that any shared legal service will not deliver all the desired benefits. The shared service agreement will continue to be tightly monitored to reduce this risk.

4.2 There is also always a risk that a significant legal issue will arise that requires a substantial use of chargeable hours, beyond that contained in the contract, for example on a planning appeal. This risk would have existed even if legal services were still delivered by solicitors directly employed by ENC.

5.0 Financial Implications

5.1 The financial implications of a transfer from a shared legal service arrangement with NBC to another shared service provider have been carefully considered. The aim is to ensure the delivery of the legal shared service within the existing budget (excluding one-off, unpredictable items such as specialist external legal advice on matters such as employment issues, planning application appeals, examinations and regulatory enforcement cases as identified in paragraph 4.2 above).

5.2 Some areas of work which have historically been carried out by the in-house legal services team but which do not require such specialist input (such as public health funerals) have been transferred to other staff. This, combined with overall streamlining of processes in relation to requests for legal input, will continue to reduce some of the demand for legal services, which can offset a growing need for legal advice in relation to new legislation, particularly in relation to planning, where decisions on major applications have become more likely to be challenged by a range of parties.

6.0 Corporate Outcomes

6.1 Having access to effective legal services directly contributes to the Corporate Outcomes of Effective Management – legal compliance

7.0 Recommendations

7.1 Council is asked to agree the delegation of its legal service functions (excepting those of Monitoring Officer) to the shared legal service provider reported by the Chief Executive to the meeting under section 101 of the Local Government Act 1972 IF NBC decides to enter into a shared legal agreement with LGSS.

[Reason: to continue to provide the council with the necessary resources for legal advice and comply with legislative requirements]

Legal	Power: 1972 Local Government Act as amended by subsequent legislation, Localism Act 2011 and related regulations				
	Other considerations: Council Constitution				
Background Papers:					
Person Originating Report: Sharn Matthews, Executive Director and Monitoring Officer smatthews@east-northamptonshire.gov.uk					
Date: 5/4/13					
CFO		DMO		CX	

