

CABINET

22 May 2018

LEGAL SERVICES FUNCTION

Report of the Director for Resources

Strategic Aim:	Sound Financial and Workforce Planning	
Key Decision: No	Forward Plan Reference: FP/080318	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Resources (other than Finance and Communications)	
Contact Officer(s):	Debbie Mogg, Monitoring Officer	01572 758358 dmogg@rutland.gov.uk
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Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That Cabinet:

- Approves that the function of legal services transfers from Peterborough City Council back to Rutland County Council
- Delegate authority to the Head of Legal and Corporate Governance to assume responsibility for the management and delivery of Legal Services for Rutland
- Delegate authority to the Head of Legal and Corporate Governance to vary the legal contract with Peterborough City Council

1 PURPOSE OF THE REPORT

1.1 To update members on the Council's legal arrangements and in particular the shared service arrangement with Peterborough City Council.

1.2 To request that members bring the delegated function of legal services provision back to Rutland County Council from Peterborough City Council.

2 BACKGROUND AND MAIN CONSIDERATIONS

2.1 Cabinet last considered a report on the Council legal function in 15 February 2011 when it authorised the transfer of function for legal services to Peterborough City Council "PCC".

2.2 The delegation of Rutland County Council's legal service was documented through a legally binding contract at which point Peterborough City Council were statutorily responsible for Rutland's legal services as if it were their own function. Staff were transferred to PCC under the TUPE regulations.

2.3 Under the agreement, PCC undertake all aspects of legal services for RCC and charge at an hourly rate of £75p/h.

2.4 With the creation and appointment of the Head of Legal and Corporate Governance it is now an opportune time to review whether or not Rutland continues to see the benefit in PCC continuing to deliver the legal function or whether it would be more beneficial to bring the function back in house and allow the Head of Legal and Corporate Governance to look at alternative ways of delivering the service.

2.5 After 7 years, a number of difficulties have been identified particularly in relation to the legal service provided to the Places Directorate. PCC have struggled to recruit to posts and therefore rely on the use of locums to deliver the service. In some areas such as Academisation and Special Educational Needs "SEN", PCC are no longer able to offer a service due to lack of resources. This has put additional pressure on the arrangement and levels of service and satisfaction are well below what some service areas are expecting.

2.6 Another identified issue for the Places Directorate is that officers believe that because the legal service is located outside of the service the lawyers cannot contribute to the place shaping aspirations of the Council in a way in which they could if they were a part of the organisation. This is particularly important for this Directorate as they focus on large regeneration projects and growth.

2.7 It is acknowledged that the People Directorate generally receive a good level of service from PCC and have built strong relationships which contribute to service delivery. Lawyers who practice adult and children social care are specialised and have to provide a service at all times in case of emergency safeguarding issues. This service can only be provided by a large, established team. At the current time, it is not envisaged that a better more cost effective service could be provided anywhere other than PCC.

2.8 There are a number of advantages of bringing the function back in house and allowing the Head of Legal to effectively manage it. The first and primary one being a greater control of the service and the ability to focus on Rutland's priorities.

- 2.9 Whilst Cabinet are requested to agree to bring the function back in house, it is acknowledged that there will not be a “one size fits all” solution which is why delegation is sought for the Head of Legal to procure services in the best interests of the Council.
- 2.10 As with any directly controlled function, the Head of Legal would have direct control of the function and be able to source resource directly through the most appropriate channel. Options could include an in house lawyer for the Places Directorate (or a joint appointment with another Local Authority), buying services from other Local Authorities or using external solicitors on an ad-hoc basis.
- 2.11 In terms of costs effectiveness, the following table shows how the legal fees have reduced since the Head of Legal has been in post. This has been achieved through enhanced gatekeeping and review of all external legal instructions. Whilst the cost has reduced significantly, further savings could be achieved by bring the function back in house.

Legal Fees	
September 2017	£29,554.85
October 2017	£29,136.51
November 2017	£27,077.11
December 2017	£16,332.13
January 2018	£23,658.67
February 2018	£19,099.11

- 2.12 Members will be aware that the current Head of Legal and Governance will be leaving RCC at the end of June. The intention is to recruit an interim from 1 June to cover this post and to allow a period of handover. Options are currently being considered for a permanent replacement.

3 CONSULTATION

- 3.1 Consultation has been ongoing with Peterborough City Council to inform them that the function may come back in house
- 3.2 Internal services have been consulted through service reviews.

4 ALTERNATIVE OPTIONS

- 4.1 To leave the function with Peterborough City Council. This is not considered to be the best option as it would not represent best value in terms of the service and cost of legal services.

5 FINANCIAL IMPLICATIONS

- 5.1 The current cost and budget for the Shared Service is £253,200. Should the function remain with Peterborough City Council the financial implications would need to be developed as the new service develops. Initial estimates however envisage that it presents a saving.
- 5.2 There would be no additional cost in transferring the function back in house.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 Local Authorities can discharge their functions under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 which provide for the executive of one local authority to arrange for a function for which it is responsible to be discharged by the executive of another local authority.
- 6.2 Removing the delegation to bring the legal function back in house requires Cabinet approval.
- 6.3 Under Section 3 of the Local Government Act 1999, Local Authorities are under a general duty to secure best value services. The duty is “to make arrangements to secure continuous improvement in the way functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

7 EQUALITY IMPACT ASSESSMENT

- 7.1 An Equality Impact has not been completed and it is not envisaged that there are any equality implications.

8 COMMUNITY SAFETY IMPLICATIONS

- 8.1 None identified

9 HEALTH AND WELLBEING IMPLICATIONS

- 9.1 None identified

10 ORGANISATIONAL IMPLICATIONS

Human Resource implications

- 10.1 It is not envisaged that TUPE would apply in these circumstances.

11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

In order to allow the Head of Legal and Corporate Governance to properly control and manage the legal services provision the function will need to be transferred back to Rutland County Council. Consequentially authority is required in order to deliver the service in the best interests of the Council.

12 BACKGROUND PAPERS

- 12.1 There are no additional background papers to the report

13 APPENDICES

- 13.1 No appendices

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