

Effective Organisation Overview and Scrutiny Committee

14 September 2010

Report of the Head of Civic, Legal and Democratic Services

Briefing on Legal Services

Summary

1. This report provides information about the role of the in house legal team and steps which have been taken to minimise expenditure on legal advice from external firms of solicitors.

Background

2. The Council has a relatively small in house legal team with seventeen people in “fee earning” roles including qualified solicitors, barristers and legal executives as well as part qualified legal assistants. The team is well respected by other Departments and for the last ten years the team has had Lexcel accreditation which is the Law Society’s practice management standard.
3. The legal team provides services to all Council departments but particularly significant areas of work are:
 - Care proceedings and related child care work
 - Adult safeguarding, community care and mental health advice
 - Employment Tribunal work
 - Possession proceedings
 - Anti social behaviour
 - Homelessness advice
 - Some prosecutions
 - Landlord and tenant matters relating to the Council’s commercial properties
 - Buying and selling land
 - Procurement issues and contracts
 - Planning and highways advice, agreements and enforcement.
4. All Councils will outsource some of their legal work. It may be necessary to do so either to get the right legal skills or for reasons of capacity. It is very common for example to use barristers to deal with lengthy and complex hearings in care cases both because the time out of the office is difficult to sustain and because experienced barristers

usually have stronger advocacy skills than solicitors whose strengths and experience lie in preparing the cases for hearing.

5. In York however, Officers recognised some time ago that the balance between in house and external provision needed to be reviewed. As a result of this the Corporate Management Team issued an instruction in 2008 that external legal advice should be procured through the in house team. That had the advantages of:

- Ensuring that external advice was not sought when the in house team had the capacity and capability to do it.
- Allowing a much better feel to be gained for the work that was needing to be outsourced.
- Ensuring that the favourable rates which legal services had in place by using its panel of external solicitors were applied to all the outsourced legal work.

Ongoing work then identified three areas of particularly high legal spend.

Contract/Commercial work

6. It was identified that during the three financial years 2006-2008, £1.2m was paid to external solicitors. The biggest single area of expenditure related to advice in respect of equal pay. Other significant areas of expenditure though related to individual pieces of contract and commercial work including Derwenthorpe and the Barbican project amongst many others.
7. During 2009 a business case was prepared for increasing the size of the legal team. This identified (quite conservatively) that £209,000 of commercial legal work had been outsourced in the previous year which could have been handled in house at an estimated cost of £88,000. At the time when the case was being prepared the indications were that there was more work that could be brought in house. This business case was accepted by the Corporate Management Team and a decision was made to recruit two new solicitors to undertake contract/commercial work. These solicitors would have their time charged to the departments and projects they were working on rather than being absorbed within the normal Council recharges system.
8. A recruitment process has been undertaken and the two new solicitors are due to start work in the Autumn. In the meantime however, locum solicitors have been recruited which has enabled work to be retained in house. No new contract/commercial work has been outsourced through legal since April of this year. There are though some matters where previously outsourced work is still to be completed.
9. During the period February to June 2010, locum solicitors have worked approximately 1,000 hours on contract/commercial matters which

would have otherwise been outsourced to external solicitors. By comparing the internal charge out rate against the rates charged by firms on the Council's Panel a saving of approximately £100,000 can be demonstrated over that 5 month period alone.

Employment work

10. A second area for potential savings identified in 2009 related to the settlement of equal pay claims where external lawyers had been used (at a cost in 2008/9 of £193,000) simply because the capacity to handle the volume of work was not available in house. The majority of these cases have now been resolved but a small number of cases which are close to completion remain outsourced while a similar number of newer cases are being handled internally.

Social Services work

11. The volume of work undertaken by the Social Services team has increased significantly in recent years. An increase in the number of cases being initiated together with cases taking longer to complete had led to very substantially increased caseloads.
12. Other aspects of the children's casework have also increased. Similarly, there have been changes in legislation around adult social care and a corresponding increase in legal support to social workers dealing with these cases. As a result the staff in the social services legal team were by 2008 working beyond their capacity. This resulted in the need to outsource some child and adult social cases, and also the need to recruit locum staff. During 2009 a temporary solicitor was appointed which reduced the need for and cost of locum solicitors but there was still a substantial overspend.
13. With the support of colleagues in the former HASS and LCCS directorates and following decisions made by Members as part of the budget process additional funding has been made available to the legal team which has enabled the recruitment of two solicitors and a legal assistant. Had this funding not been available the in house team would not have been able to deal with the ongoing caseload and even more work would have been outsourced or additional locum cover required this year. As it is, no cases have been outsourced and use of locums has been restricted to cover for absent staff.

Future plans

14. As previously mentioned there will always be a need for some external legal advice. The Council's current external panel was created through a competitive tendering process, and the current agreement is in place until April 2011, before which we plan to join with other local authorities to increase our buying power and secure the most competitive arrangements.

Recommendations

That Members note the steps that have been taken to secure that competent and cost effective legal advice is available to the Council.

Reason: The Committee has undertaken its role to monitor performance.

Contact Details

Author	Chief Officer Responsible for the report			
Author's name: Andrew Docherty Title: Head of Civic, Democratic and Legal Services Dept Name: CBSS Tel No: ext 1004	Chief Officer's name: Andrew Docherty Title: Head of Civic, Democratic and Legal Services			
	Report Approved	<i>tick</i>	Date	<i>Insert Date</i>

Background Papers

Report to CMT 23rd September 2009

Annexes

None