
Legal Services

IMPORTANT - Appendix 2 is not for publication as it contains exempt information of the description in paragraph 14 of Part 4 of Schedule 12A of the Local Government Act 1972.

Reason for the Report

1. To provide Members with briefing papers to support scrutiny of the model of Legal Services currently adopted by Cardiff Council.

Structure of the Papers

2. To facilitate the scrutiny the Chair has requested an officer briefing. Attached to this report are the following papers:

Appendix 1: Presentation briefing – Legal Services Operating Model

Appendix 2: NPS Solicitors Services - **exempt from publication.**

Scope of the Scrutiny

3. Members will have an opportunity to consider whether the current model of providing Legal Services is the right one for the Council's needs. The Director of Legal and Governance has been requested to address what alternative models exist for delivering legal services, whether efficiencies could be delivered by contracting out Legal Services, and how resilient the service is to cope with future challenges. The presentation will address whether the Council should retain the status quo or increase in-house capacity to deliver best value for money.

5. Members are reminded that **Appendix 2** is not for publication as it contains exempt information of the description in paragraph 14 of Part 4 of Schedule 12A of the Local Government Act 1972. If Members wish to ask questions that relate to the information contained in Appendix 2 it will be necessary to go into closed session.

Background & Context

6. The Committee has within its Terms of Reference scrutiny and oversight of the Governance and Legal Services function of the Council. This extends to monitoring the Directorate's budget and performance over time, and highlighting any concerns, observations or recommendations to the appropriate Cabinet Member in respect of opportunities for improvement in service delivery and budgetary control.
7. As part of its 2022/23 work programming discussions the Committee agreed an interest in taking a closer look at the cost-benefit of contracting out the Council's legal services, to evaluate whether contracted out legal advice should be brought in-house. Areas of specific interest the committee raised included spend on contracted out legal advice in the last 3 financial years; what areas of legal expertise the Council has bought in; and whether the existing model is the best approach for the Council.

Issues

8. Attached at **Appendix 1** is a briefing presentation prepared at the request of the Chair of the Policy Review and Performance Scrutiny Committee. It addresses the budget, current provision, alternative models, best value development since 2016, and current issues faced by Legal Services.
9. In summary, the current mixed provision means the Council employs experts in many legal areas, and where it does not have the expertise, there are conflicts of interest or significant levels of demand, it contracts out to the private sector. In 2022/23 the Legal Services budget was £6.950m. This budget has been realigned each of the past 3 years by £300k, £305k and £150k respectively to arrive at the budget for 2023/24. Realignments have typically been required due to overspending on external legal fees and underachieved income targets.

Previous Scrutiny

10. This Committee last scrutinised the challenges faced by Legal Services in November 2021 and Members conveyed some key concerns:

- As the service is a demand led service, particularly given an increasing number of complex children's safeguarding cases, Members stressed the importance of the service working closely with the Finance service to identify patterns and improve predictions of budget requirement. Members felt that there was scope to substantially improve budget forecasting to ensure the Council is spending appropriately on legal costs and its predictions for service demand were accurate.
- In respect of the charging framework/approach used, Members considered the option of Legal Services operating as a trading account, where internal client departments are charged for work commissioned from Legal Services. The Director's view at that time was that this approach resulted in a lot of time spent moving money around the organisation internally.
- Importantly Members also noted that where Directorates do not plan effectively and require urgent legal advice, the Council often incurs increased expenditure and Directorates may therefore be asked to fund external legal spend from their own budgets.

Way Forward

11. The Legal Services function falls within the remit of the Leader, however, due to a long-held commitment representing the Council, he is unable to attend this committee. Members will receive a presentation from the Director of Governance and Legal Services, Davina Fiore, and will then have an opportunity for questions.

Legal Implications

12. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or

without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

13. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- a. Note the model of Legal Services adopted by the Council, as outlined in the briefing;
- b. Consider whether it wishes to convey any comments, observations or concerns to the Cabinet Member with responsibility for this service.

Davina Fiore

Director of Governance & Legal Services

14 June 2023