

**Cheltenham Borough Council
Cabinet**

11 November 2014

Expansion of One Legal Shared Service and Break Clause review

Accountable member	Councillor Jon Walklett, Cabinet Member Corporate Services
Accountable officer	Mark Sheldon, Director of Resources
Ward(s) affected	None
Key Decision	No
Executive summary	<p>Cabinet agreed in 2009 to set up a shared legal service with Tewkesbury Borough Council (TBC). The council entered into a section 101 agreement with TBC on 27 November 2009, and the new shared service called One Legal commenced on 30 November 2009. The current arrangement with One Legal runs until 2019 unless terminated by giving 12 months written Notice by 30th November 2014.</p> <p>On 15th October 2014 Gloucester City Council resolved, subject to a business case, to join One Legal by delegating their legal service functions to TBC as host authority. The Monitoring Officer role is intended to be retained by Gloucester City Council.</p> <p>The governance arrangements for One Legal include a Joint Monitoring and Liaison Group comprising Members and Officers from both the council and TBC and that Group supports the recommendations in this report for the continuation and expansion of One Legal. Cabinet is being asked to support the views of the Joint Monitoring & Liaison Group and to respond to the commitment made by Gloucester City Council by approving this expansion of the partnership subject to the approval of a Business Case.</p>
Recommendations	<p>1. To continue the One Legal shared service arrangement with TBC, and</p> <p>2. Subject to the approval of a Business Case (including the financial case) by the Director of Resources in consultation with the Cabinet Member Corporate Services:</p> <ul style="list-style-type: none">• To approve the joining of Gloucester City Council’s legal services with One Legal.• To note the delegation of Gloucester City Council’s legal service functions and the transfer of staff to Tewkesbury Borough Council, as host authority.• To delegate authority to the Director Resources in consultation with the Cabinet Member Corporate Services, to enter into the s101 Agreement, other legal documentation and to take all necessary steps to implement the above mentioned resolutions.

Financial implications	<p>The creation of one legal has delivered savings which have increased and now annually total c£80,000 for the council. These savings will continue to be delivered if the Cabinet agrees to continue with the one legal service arrangement.</p> <p>It is anticipated that an expanded service is likely to deliver further service resilience and potential cashable savings from service rationalisation; external spend reduction and maximise opportunities for undertaking third party work (which should reduce the overall cost of the service to the partner authorities).</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
Legal implications	<p>As set out in the report.</p> <p>Contact officer: shirin.wotherspoon@tewkesbury.gov.uk, 01684 272017</p>
HR implications (including learning and organisational development)	<p>There are no direct HR implications arising from this report for Cheltenham Borough Council. The employees of Gloucester City Council's legal services team will transfer under the principles of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) to the employment of Tewkesbury Borough Council, the lead employer for One Legal.</p> <p>Contact officer: Julie McCarthy , julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	<p>As set out in appendix 1</p>
Corporate and community plan Implications	<p>The report supports the corporate objective of ensuring we provide value for money services that effectively meet the needs of our customers. The report meets VFM 11 in the 2014/15 action plan "We will explore new ways of working with our partner councils via the transformation project. Receive a report on whether there are further savings which might be delivered through the expansion of shared services and delivery models".</p>
Environmental and climate change implications	<p>There are no implications arising from this report but in developing the business case environmental and climate change implications will need to be considered as shared services can lead to an increase in car travel.</p>
Property/Asset Implications	<p>None arising from this report.</p> <p>Contact officer: David Roberts, david.roberts@cheltenham.gov.uk, 01242 264151</p>

1. Background

- 1.1** Cabinet agreed in 2009 to set up a shared legal service with TBC acting as the Host Authority for 'pay and rations' purposes. The council entered into an administrative arrangement through an agreement under sections 101 (1) of the Local Government Act 1972 and under Part 1A Chapter 2 section 9EA of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 ('the s101 Agreement'). The shared service has delivered savings to the council and TBC in comparison of the pre- 2009 legal budgets.
- 1.2** The responsibility for governance of One Legal rests with the Joint Monitoring and Liaison Group comprising two Members, a Client Officer and Finance Officer from each authority. The Group has monitored and reviewed One Legal's performance and has actively encouraged opportunities which have arisen for work to be undertaken for other public authorities. It has been a priority of

the Group during the past year or so to actively seek opportunities for further expansion of One Legal both to maximise use of the staff skills and experience which have been developed and, importantly, to provide greater resilience.

- 1.3 Following discussions which took place with officers from Gloucester City Council in August / September 2014, the Gloucester Cabinet resolved, at its meeting on the 15th October 2014, that it would, subject to a business case, join One Legal. Clearly this can be brought into effect only if Cheltenham and Tewkesbury Borough Councils agree and this report seeks the authority of Cabinet to proceed subject to a satisfactory business case and to a resolution being passed in similar terms by Tewkesbury Borough Council. The ambition would be for the new shared service to be implemented on 1st April 2015.
- 1.4 Discussions are also ongoing with Gloucestershire County Council and a further report will be brought on that matter at the appropriate time.

2. One Legal Performance

3.1 When One Legal was set up a number of local performance indicators were put in place and these have been monitored and refined by the Joint Monitoring & Liaison Group on a year by year basis. The Group has generally been satisfied that One Legal has achieved and / or exceeded the targets which have been set. By way of example, the avoidance of external legal spend over the four complete years of 2010/11 to 2013/14 has achieved an average of 66% against a stretched target of 25-35%. For the same period, overall client satisfaction with good or higher ratings has increased from 73% to 98% and additional fee income has reached an average of 10% against a target of 5%.

2.2 Furthermore, the success of the shared service has been demonstrated by being invited to undertake work for a broad spectrum of local authority and other public bodies (such as districts, unitaries and wholly-owned local authority companies) which has resulted in surpluses being delivered to the council and TBC.

3. Reasons for Recommendation

- 3.1 The council already has a huge agenda for change and any decision to look elsewhere for legal services or to bring the service back in house would result in additional cost and significant resources from already stretched commissioning and support service divisions.
- 3.2 The intention is to proceed urgently with the development of a business case for expansion of the partnership to include Gloucester.
- 3.3 The Business Case will consider the benefits to be delivered from an expanded service but will be expected to include: potential cashable savings from service rationalisation; external spend reduction; maximising opportunities for undertaking third party work (which should reduce the overall cost of the service to the partner authorities).
- 3.4 The Business Case will also consider the key objectives of the expanded service which are likely to include the following:-
 - to continue to provide an excellent legal service
 - to add value and provide supportive influence when required, always identifying and embracing the corporate context
 - to refresh and embed robust processes and procedures to ensure good communication including a case management system.
 - to refresh and enhance, in partnership with clients, specific core service standards against which service performance may be monitored.
 - to tailor the case and file management processes to meet clients' needs.
- 3.5 This opportunity should allow the One Legal shared service to be a leading player as the largest shared legal service in the South West with excellent prospects for being the public sector legal supplier of choice in the region, with significant reputational benefits for partner authorities.

Furthermore, the retention and attraction of high calibre legal staff combined with robust management and a business like work ethic will drive improvements in service quality to the benefit of the partner authorities

- 3.6** It is recommended that the expanded shared service will be provided for a term of 10 years but with an option to terminate in November 2019 when the current arrangement between the council and TBC is scheduled for review.
- 3.7** A Joint Legal Services Project team will be established to implement the decision of Cabinet to expand the service. The team will include officers from each authority, including Gloucester City, and One Legal together with client representatives to ensure that client views on the proposals are appropriately incorporated.
- 4. Alternative options considered**
- 4.1** The 2020 Vision accepts that partner Councils will have services delivered by other partners or delivery agents, not just those within the 2020 partnership. A review of One Legal should be programmed into the 2020 Vision work programme to coincide with the 2019 review date, so that proper consideration can be given and alternative arrangements considered.
- 4.2** If other councils have chosen to join One Legal it will give the council time to assess the impact and at the end of the term or the new review date, if One Legal has a greater client base it will be easier for the council to leave should that be the view or, alternatively, for the GO partner councils to join One Legal.
- 5. Consultation and feedback**
- 5.1** The JMLG has been kept advised of progress and briefing sessions have taken place with One Legal employees.
- 6. Performance management –monitoring and review**
- 6.1** A Joint Project Team will be established which will use programme management tools to ensure that it is managed effectively. Specific monitoring reports will be presented to JMLG.

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Appendices	1. Risk Assessment
Background information	None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1.	If expansion of one legal is established then it may be hard to disaggregate the contractual arrangements.	Mark Sheldon	Oct 2014	2	1	2	R	Put in place clear exit strategies	Dec 2014	Mark Sheldon	
2.	If there is not a clear process for sharing costs and benefits from the outset then it may cause difficulties as these arise.	Mark Sheldon	Oct 2014	3	3	9	R	Cost and benefits schedule to be agreed from outset	Dec 2014	Mark Sheldon	
3.	If there is a diminution in the level of service provided then there is a reputational and legal risk falling on all councils.	Mark Sheldon	Oct 2014	3	3	9	R	Develop a robust business case with clear outcomes / service levels	Dec 2014	Mark Sheldon	
4.	If governance structures are not inclusive then members may not feel that	Mark Sheldon	Oct 2014	2	2	4	R	Review terms of JMLG arrangements to ensure fit for purpose	Dec 2014	Mark Sheldon	

	they can influence the service.										
	If the council does not continue with One Legal then a suitable alternative could not be set up during the 12 months' notice period.	Mark Sheldon	Oct 2014	4	2	8	R	Cabinet to agree to continue with service. Project team to consider alternative ways to seek legal services as part of the business case development	Nov 2014	Mark Sheldon	

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close