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| <b>Report To:</b>          | <b>CABINET</b>  |
| <b>Date:</b>               | <b>7 DECEMBER 2021</b>  |
| <b>Heading:</b>            | <b>TERMINATION OF LEGAL SHARED SERVICE</b>  |
| <b>Portfolio Holder:</b>   | <b>COUNCILLOR KIER BARSBY - PORTFOLIO HOLDER FOR ENVIRONMENTAL IMPROVEMENTS, CORPORATE COMMUNICATIONS AND CROSS PORTFOLIO SUPPORT</b> |
| <b>Ward/s:</b>             | <b>NOT APPLICABLE</b>   |
| <b>Key Decision:</b>       | <b>YES</b>  |
| <b>Subject to Call-In:</b> | <b>YES</b>  |

### **Purpose of Report**

To update Cabinet in respect of the shared legal service since the arrangements were put in place in November 2012 and the decision of Mansfield District Council to not extend the arrangements beyond the current service level agreement termination date of 31 October 2022. The report seeks approval to provide the legal service in-house on termination of the shared service and for delegations to enable an early termination of the agreement if appropriate.

### **Recommendation(s)**

- 1. To note the decision of Mansfield District Council to not renew the Legal Shared Service arrangement beyond the current service level agreement termination date of 31 October 2022;**
- 2. To approve the in-house provision of legal services on termination of the shared service;**
- 3. To delegate authority to the Director of Legal and Governance (Monitoring Officer) in consultation with the Portfolio Holder for Environmental Improvements, Corporate Communications and Cross Portfolio Support to agree an early termination date with Mansfield District Council if appropriate.**

## **Reasons for Recommendation(s)**

Mansfield District Council (MDC) has served notice on Ashfield District Council (ADC) confirming it does not intend to renew the Legal Shared Service beyond the existing agreement term of 31 October 2022. As such, the Council must decide how it will obtain legal advice and support following the termination of the shared service.

Following consideration of alternative delivery options for the provision of legal services, it is recommended that the most efficient and cost-effective option is for the service to be provided in-house, obtaining additional external legal expertise as necessary.

The Council has significant demand for legal support and advice, such as for environmental enforcement work, contracts and land transactions and this demand is set to increase further in light of the Towns Fund projects over the next 5 years.

In early discussions with MDC, and due to a large number of vacancies within the current establishment largely caused by the uncertainty of the shared service ending, it is likely an early termination date will be desirable in order to ensure ongoing, satisfactory and sufficient legal support.

## **Alternative Options Considered**

*(with reasons why not adopted)*

The service could be provided by the private sector or other providers. This option is not considered as this would be more costly than an in-house provision. The option of looking to attract another shared service partner has also been dismissed, partly due to the short time frame in which to achieve this prior to contract termination, but also due to the fact there is little immediate interest being shown for sharing services.

## **Detailed Information**

### **Legal Shared Service**

As a result of the predicted pressures on local government resources and the need to develop new efficient and innovative approaches to service delivery, ADC and MDC began to discuss formal partnership working proposals during 2010.

The two Authorities decided to formally create a shared legal service in the summer of 2012 and agreed that ADC would host the service. MDC's employees transferred to ADC on 1 November 2012, pursuant to TUPE legislation. The initial Service Level Agreement was for a period of 5 years with an option to renew.

In order to inform the potential service extension, a review was carried out during 2016. The review concluded that the shared legal service had delivered greater resilience and development of expertise for both Authorities with numerous examples which demonstrated learning could be applied across both Authorities. This approach allowed efficient delivery of the service in house for both Councils and also reduced the need to seek external expertise and thus control external legal expenditure.

Following the review in 2016, both Councils approved the continuation of the shared service for a further five years. The current Service Level Agreement comes to an end on 31 October 2022.

With the termination date for the current Service Level Agreement approaching next year, MDC has decided not to renew the legal shared service beyond October 2022 and has served notice on the Council.

### **New Legal Provision**

The Council has significant demand for legal support and advice, such as for environmental enforcement work, contracts and land transactions and this demand is set to increase further in light of the Towns Fund projects which will be implemented over the next 5 years.

The service could be provided by the private sector or other providers or a new shared service created with another public sector body. External provision would be more significantly more costly than an in-house provision. The option of looking to attract another shared service partner has also been dismissed, partly due to the short time frame in which to achieve this prior to contract termination, but also due to the fact there is little immediate interest being shown for sharing services.

Following consideration of alternative delivery options for the provision of legal services, it is therefore recommended that the most efficient and cost-effective option is for the service to be provided in-house, obtaining additional external legal expertise as necessary.

In early discussions with MDC, and due to a large number of vacancies within the current establishment largely caused by the uncertainty of the shared service ending, it is likely an early termination date will be desirable in order to ensure ongoing, satisfactory and sufficient legal support.

### **Exit Planning**

A joint project group across both Councils has been established to manage the exit from the shared service. The project group has an exit plan and is meeting monthly. An exit risk register and communication plan is being developed by the project team.

An internal operational exit and transition plan specific to ADC is being developed.

Cabinet will be aware from the Corporate Risk Management report which appears elsewhere on this agenda, that a Corporate Risk has been recognised regarding the lack of staffing resources and disruption caused by exiting the shared service. Filling the Service Manager vacancy was a key part of the Council's exit planning as the role will be crucial in supporting the team during this time and prioritising workloads. The Director of Legal and Governance and Service Manager are monitoring interim staffing arrangements (largely through engagement of locum staff) on a weekly basis and obtaining external legal support where appropriate.

A Service Review is underway to identify a new in-house structure and it is hoped the team will be consulted on this before the end of the calendar year.

## Implications

### **Corporate Plan:**

The Legal Team provides support across the Council to ensure delivery of the Corporate Plan.

### **Legal:**

It is not mandatory for the Council to have an in-house legal service, however, the team does support a number of mandatory services and will play a key role in the corporate delivery of the Towns Fund projects over the next 5 years.

Appropriate legal advice has been provided regarding the dissolution of the service and the impact upon existing employees to ensure that the Service Level Agreement and relevant legislation are applied and policies and procedures followed. [RD 11/11/2021]

### **Finance: [PH 12/11/2021]**

| <b>Budget Area</b>                          | <b>Implication</b>   |
|---|--|
| General Fund – Revenue Budget               | None at this stage. General Fund financial implications will be known once the review is concluded and the staffing structure is approved. |
| General Fund – Capital Programme            | Not applicable.  |
| Housing Revenue Account – Revenue Budget    | None at this stage. HRA financial implications will be known once the review is concluded and the staffing structure is approved.          |
| Housing Revenue Account – Capital Programme | Not applicable.  |

### **Risk:**

| <b>Risk</b>   | <b>Mitigation</b>   |
|---|---|
| The risk has been identified in the Corporate Risk Register:<br>Legal Services – Lack of Staffing Resources and Disruption Caused by Exiting Shared Service | <ul style="list-style-type: none"><li>• Joint Exit Plan with MDC</li><li>• Develop detailed Risk Register as part of Exit Plan</li><li>• Regular project meetings with MDC regarding Exit</li><li>• Transition Plan (ADC) to be developed</li><li>• Use of Communications Plan</li><li>• Agree early exit date with MDC as appropriate</li><li>• Cabinet approval as per the recommendations in this report to set up and in house team and to implement new structure in accordance with Council process</li><li>• Interim staffing – fixed term contracts; locums</li><li>• Regular review of priority workloads</li><li>• Use of external legal resources as necessary</li></ul> |

## **Human Resources:**

HR are involved in the working group in respect of the dissolution and all employees along with their Trade Union representatives have been informed of the dissolution. Employees will be fully consulted in relation to the dissolution and subsequent revised structure. All relevant policies will be adhered to. [KB 16/11/2021]

## **Environmental/Sustainability:**

There are no Environmental/Sustainability issues in relation to the recommendations in the report.

## **Equalities:**

There are no equalities issues in relation to the recommendations in the report.

## **Other Implications:**

None

## **Background Papers**

None

## **Report Author and Contact Officer**

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