

## Report to Cabinet

**Subject:** Restructure of Legal Services

**Date:** 8 November 2012

**Author:** Council Solicitor and Monitoring Officer

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### Wards Affected

Not applicable.

### Purpose

To secure funding for a change in the structure of Legal Services to enable the section to cope with the increasing demands placed on it.

### Key Decision

This is not a Key Decision.

### Background

- 1.1 Over the last 2 years, the resource within the legal section has reduced while the workload has continued to increase. It has now reached the point where the section requires additional resources to maintain an appropriate level of service provided to the Council or would need to outsource discreet areas of work or reduce the service provided to the Council.
- 1.2 Prior to May 2011, the legal section sat within Democratic and Community Services and was supported by a Head of Service and 2 technical admin officers who sat within the administration section. At that time the legal section consisted of 4.3 qualified officers (Solicitors / Legal Executive). In addition the Head of Service represented the section at a corporate level, acted as Monitoring Officer and carried out some day to day legal work.
- 1.3 In May 2011, the Head of Service retired and the department was split. The 2 technical admin officers moved into the legal section on the understanding that they would continue to provide ongoing admin support to the elections function during peaks of work. However, the section received no additional staffing resource following the retirement of the head of service. The Senior Solicitor post was re-designated as

Council Solicitor and Monitoring Officer and was expected to absorb the legal, corporate and monitoring officer work previously carried out by the head of service. It was recognised at the time that this position may be unsustainable and additional resources may be needed at some point in the future.

- 1.4 The Legal Executive and Senior Clerical Assistant both expressed a wish to take flexible retirement in 2011 and reduce their hours to 3 days a week. This was approved and savings made on the reduction in hours of both posts was used to fund a new Legal Assistant post. At that time, it was recognised in the current financial climate that a request for the addition of another part time Solicitor post within the structure to assist with the work to be absorbed by the department following the retirement of the Head of Service may not be supported. The proposal for a Legal Assistant was therefore put forward as a realistic approach within existing budgets and it was hoped that the Section would be able to manage with a Legal Assistant by re-allocating the workload. Since June 2011, the legal section has consisted of 3.9 qualified officers (Solicitors / Legal Executive) together with 2.6 unqualified "support" staff, but with no additional resource to reflect the loss of the head of service.
- 1.5 The Legal Assistant post is now vacant, which gives the opportunity to consider whether it is appropriate to recruit to the same level of post or look at an alternative.
- 1.6 A list of the types of work carried out by the section is attached as Appendix 1. Despite the reduction in staffing the workload has continued to increase.
- 1.7 In addition to the day to day work, the section has been involved in some key corporate initiatives in 2011/2012, including:
  - Advice on introduction of 2 hours free parking
  - CAB relocation into the Civic Centre
  - Redevelopment of health centre in Arnold – Croft Road Access arrangements
  - South Notts college lease of Arnot Hill House
  - Gedling Country Park
  - Acquisition of former Druids public house
  - CCG lease of part of the Civic Centre
  - Installation of solar panels
  - New website
  - Introduction of CIL
- 1.8 The section has also sought to maintain a presence on all corporate working groups and has delivered training to officers and members on a range of matters.

- 1.9 It is becoming increasingly clear, that the current structure of the legal section is not appropriate to cope with the increasing demands placed on it. The section has pushed as much work as possible down to the admin support and Legal Assistant, but there is a limit to the amount of work which can be delegated to unqualified staff. The main pressure exists at service manager level, where the Council Solicitor and Monitoring Officer performs 4 different roles as a member of SLT, Service Manager, Monitoring Officer and Solicitor and needs a deputy with capacity to take on some of the operational management of the team (such as PDRs, distribution of work, approval of spend). The qualified staff below the Council Solicitor and Monitoring Officer are working beyond capacity which means that there is little opportunity for work to be delegated to them without putting additional strain on them.
- 1.10 In March 2012, a Solicitor was taken on to provide temporary support on a casual basis averaging 15 hours a week. Despite this additional resource the section has remained exceptionally busy.
- 1.11 The impact of fewer qualified staff with an increase in workload puts the Council in a position of risk, which needs to be managed. It is more often than not the case that the legal officers are unable to provide prompt, proper and effective advice and make effective judgements and decisions. Advice is regularly given "on the hoof" without carrying out any research or making enquiries. Response times are increasing with some substantive matters taking several months to respond to. Some areas of work are not being given the attention they need. Additional resources are necessary to enable the section to fulfil its requirements. The Council is obliged to provide the Monitoring Officer with sufficient staff and resources.
- 1.12 The section currently has an annual budget for outsourcing work of £6,500. The budget for this year is already overspent due to a number of cases requiring the assistance of a barrister. In addition, advice has had to be sought on matters as a result of lack of expertise/capacity. If day to day work is to be outsourced instead of providing additional staffing resource, this budget would need to be increased. The costs of outsourcing work can be negotiated with individual firms of Solicitors. Most are prepared to charge a fixed fee for straightforward matters, but anything else would be charged at an hourly rate.
- 1.13 By way of additional information, it may be useful to compare the size of the legal section at Gedling with others. Ashfield DC and Mansfield DC have recently agreed to share their legal service. Currently Ashfield has 7.2 fte posts (including support staff) and a head of service (Assistant Chief Executive) who also acts as Monitoring Officer. At Mansfield, the legal section is larger, which is understandable as the housing function remains with the Council. Currently Mansfield has 8.8 fte posts (including support staff) and a head of service (Head of Corporate Administration) who also acts as Monitoring Officer. Staffing reductions were not the primary driver for the shared service

arrangement and therefore only a 0.4 fte reduction is proposed on a combined 16 fte resource.

## **Proposal**

- 2.1 It is proposed that the post of Legal Assistant be deleted from the structure and new post of Legal Executive be created. The new Legal Executive would be expected to deal with a wide variety of work including requests for information, debt recovery, low level prosecutions, research, conveyancing, simple contracts etc. This will enable some work carried out by the Solicitors to be delegated, thereby reducing the capacity issues of the qualified staff. This new post would be graded at Band 8 which is the banding for the existing Legal Executive post in the current structure.
- 2.2 It is proposed that the post of Solicitor (29.5 hours) be deleted from the structure and new post of Senior Solicitor (29.5 hours) be created. The Senior Solicitor will be expected to carry out some operational management of the section, thereby reducing the capacity issues of the Council Solicitor and Monitoring Officer. It is expected that the Senior Solicitor would also be appointed as deputy Monitoring Officer. This new post has been subject to a job evaluation and has been graded at Band 13.
- 2.3 A proposed new structure is attached as Appendix 2 for information.
- 2.4 It should be recognised that this new structure is proposed in light of the current economic climate and with the knowledge that one of the current work streams (housing benefit fraud) will cease next year. Rather than staffing the section up now and taking out resource next year, it is suggested that it is more appropriate to provide this level of staffing on the establishment and manage the excess through outsourcing (if necessary).
- 2.5 The Chief Executive, as Head of Paid Service, has the statutory power to agree to structural changes where the costs can be met within the existing budgets. Unfortunately the costs cannot be met within the existing Legal Service budgets. The Chief Executive supports the structural changes outline above, but is unable to make a formal decision until funding is identified.

## **Alternative Options**

- 3.1 Option – not to put additional resource into the legal section.

Advantages:

- No additional staffing cost to the Council.

Disadvantages:

- Monitoring Officer has insufficient resource to provide an appropriate level of service.
- Service provision would need to reduce which has the potential to

- place the Council in a position of risk.
  - Adverse affect on health and wellbeing of legal staff
  - Likely that additional work will need to be outsourced, which will require additional funds
- Reasons for rejection – Disadvantages outweigh advantages.

## Financial Implications

- 4.1 The resource implications of the proposed structure changes are an increase in salary budget of £12,000 at grade maxima, as detailed in the table below:

Proposed Structure Change		Budget Impact £
Deletion of Legal Assistant	Band 5	(23,800)
Deletion of Solicitor (29.5 hours)	Band 12+5%	(38,200)
Creation of Legal Executive	Band 8	32,900
Creation of Senior Solicitor (29.5 hours)	Band 13+5%	41,100
<b>Net Additional Budget Required</b>		<b>12,000</b>

- 4.2 The Quarterly Budget Monitoring Report, an item included elsewhere on this agenda, details the current budget position for the Council and contained within in it are sufficient ongoing savings to accommodate these proposed structure changes if approved. In approving this change Members will be committing this expenditure to the base estimate in future years.

## Staffing implications

- 5.1 If funding for the proposed structural change is agreed, the proposals will be put for consultation through the appropriate forum and, subject to comments received, a final structure will be implemented under the delegated authority of the Chief Executive.
- 5.2 The proposed deletion of the post of Solicitor (29.5 hours) effectively displaces the existing post-holder. However to avoid a redundancy situation it is proposed that the post of Senior Solicitor is advertised internally, and applications for the post restricted to this post holder as the only suitably qualified internal candidate. Every reasonable attempt will be made to retain current employees in suitable work within the Council. Policies to mitigate potential redundancies will be followed by implementing the agreed staffing protocol. Should this, for any reason, not be possible then redundancy costs will arise but this is considered to be unlikely. This approach will be confirmed through the normal consultation process both to officers potentially affected by the proposal and to trade unions.

## **Appendices**

6. Appendix 1 – List of work carried out by section.

Appendix 2 – Structure charts.

## **Background Papers**

7. None identified.

## **Recommendation(s)**

### **IT IS RECOMMENDED THAT:**

(a) Cabinet notes the proposed structure changes to the Legal Section outlined in the report and agrees that the costs can be added to the base budget with immediate effect.

## **Reasons for Recommendations**

8. To ensure that the Monitoring Officer is provided with sufficient staff and resources.

## APPENDIX 1

General miscellaneous legal advice to all departments and elected Members.

Advice on Standing Orders and Constitution.

Checking draft Committee reports for legal and constitutional issues.  
Attendance at pre-agenda and Committee meetings to give legal and procedural advice.

Dealing with civil proceedings in the County Court inc. debt collection and taking on bankruptcy  
Defending claims against the Council not covered by insurance inc. personal injury and debt claims.  
Liaising with Panel Solicitors and assisting in investigations in respect of claims being dealt with by the insurers.

Defending judicial review proceedings.

Dealing with Employment Tribunal Cases.  
Planning Inquiries.  
Residential Appeals Tribunal.

Drafting /advising on section 106 agreements.  
Drafting /advising on Contracts and Agreements inc. Procurement issues.  
Drafting /advising on Leases.  
Drafting /advising on Licences.  
Drafting /advising on wayleave agreements.  
Drafting /advising on Enforcement and other planning Notices.  
Assessing evidence and drafting Certificates of Lawful Use.

Drafting Footpath Diversion / Extinguishment Orders.  
Byelaws.  
Car Park Orders.  
Drafting Tree Preservation Orders.

RIPA – Keeping central register, reporting to Surveillance Commissioner and annual audit.

Dealing with criminal proceedings in the Magistrates' Court inc prosecuting for benefit fraud, flytipping, littering, breach of planning control, unlawful eviction, health & safety.

Dealing with civil proceedings in the Magistrates' Court inc. taxi appeals, liquor licensing appeals, applications for warrants.  
Advice on and applying for Anti-Social Behaviour Orders.

Dealing with housing management issues including drafting/advising on notices to quit and taking possession proceedings.

Investigations into Standards Complaints.  
Dealing with LGO complaints.

Mortgage redemptions

Ownership queries – council owned and Land Registry Searches.

Inspecting third party deeds for Improvement Grants and Disabled Facilities Grants.

Boundary queries.

Voluntary Registration of the Council's land holdings.

Dealing with sales and purchases of land.

Removal of restrictive covenants and retrospective consent.

Providing training to Officers and members on a variety of legal matters  
[planning, homelessness, investigations etc]

Dealing with FOI requests; EIR requests; Data Subject Access requests under the Data Protection Act; Requests to re-use info under the RPSI Regs

Publication Scheme

FOI/EIR/DPA – general advice to Officers, staff guidance, training.

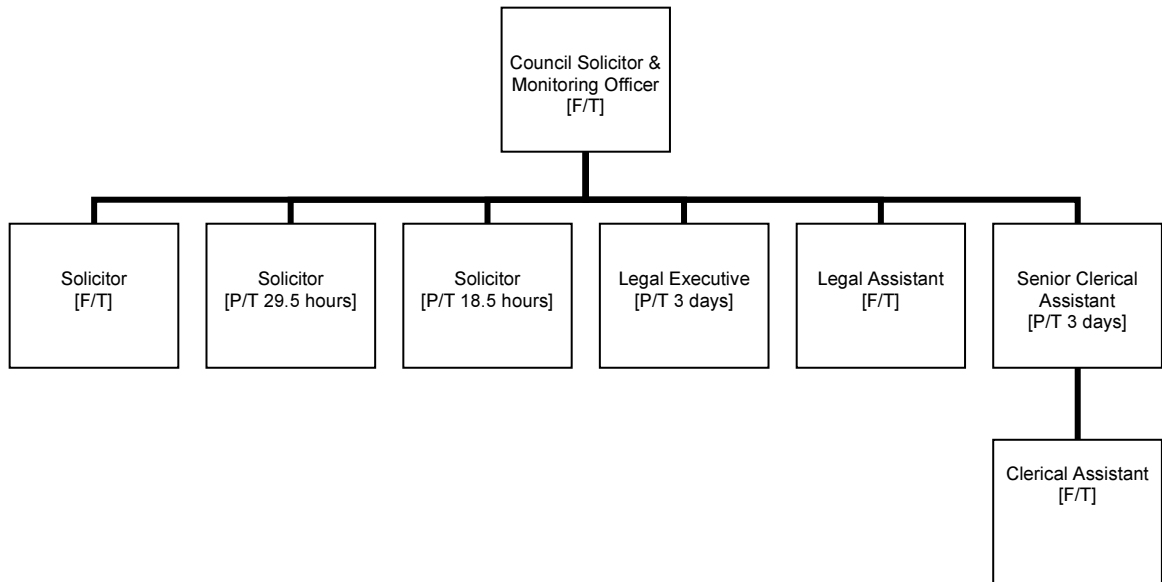
Notification to ICO.

Data Security Group.



## APPENDIX 2

### Current Structure



### Proposed Structure

