

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive Committee
<b>Date of Meeting:</b>	4 March 2020
<b>Subject:</b>	One Legal Shared Service Development
<b>Report of:</b>	Borough Solicitor
<b>Corporate Lead:</b>	Borough Solicitor
<b>Lead Member:</b>	Lead Member for Corporate Governance
<b>Number of Appendices:</b>	None

## **Executive Summary:**

One Legal is the shared legal service which commenced in 2009 between Cheltenham and Tewkesbury Borough Councils with Gloucester City Council joining the partnership in April 2015. Tewkesbury Borough Council is the host authority for 'pay and rations' purposes. The Monitoring Officer role for Tewkesbury and Cheltenham Councils is shared, Gloucester having retained its Monitoring Officer in house.

On 3 October 2019 Stroud District Council resolved, subject to the approval of a detailed Business Case, to join One Legal by delegating its legal service functions to this Council as host authority. The Monitoring Officer role is expected to be retained by Stroud District Council.

The governance arrangements for One Legal include a Joint Monitoring and Liaison Group (JMLG) comprising Members and Officers from Tewkesbury Borough, Cheltenham Borough and Gloucester City Councils and that Group supports the recommendations in this report for the continuation and expansion of One Legal.

The Executive Committee is being asked to support the views of the Joint Monitoring and Liaison Group and to respond to the commitment made by Stroud District Council recommending that, subject to the approval of the Business Case by the Chief Executive, the expansion of the partnership as proposed in this report, be agreed.

## **Recommendation:**

**The Executive Committee is asked to RESOLVE to continue the One Legal shared service arrangement with Cheltenham Borough Council and Gloucester City Council subject to the approval of a Business Case (including the financial case) by the Chief Executive in consultation with the Lead Member for Corporate Governance:**

- 1. to approve the joining of Stroud District Council's legal service function with One Legal;**
- 2. to accept the delegation of Stroud District Council's legal service functions in accordance with Section 101 of the Local Government Act 1972 and under Part 1A Chapter 2 Section 9EA of the Local Government Act 2000;**
- 3. to accept the transfer of Stroud District Council staff under the principles of the Transfer of Undertakings (Protection of Employment) Regulations 2006 on 1 April 2020 or such other date as is agreed; and**

**4. to delegate authority to the Chief Executive in consultation with the Lead Member for Corporate Governance, to enter into a Section 101 Agreement, other legal documentation and to take all necessary steps to implement 1 – 3 above.**

**Reasons for Recommendation:**

By developing One Legal, all partner Councils will benefit from having a joint service that is efficient, resilient and cost effective.

**Resource Implications:**

Stroud Legal Services annual budget for legal services will be transferred to One Legal. There will be a full review of the financial arrangements by the partnership within the first two years of commencement.

**Legal Implications:**

The development of One Legal to include Stroud District Council's legal service functions will mean the termination of the existing arrangement with Cheltenham Borough (CBC) and Gloucester City (GCC) Councils and entering into a new agreement with CBC, GCC and Stroud District Council in accordance with 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 transfer of staff from Stroud District Council to this Council, as host authority will be in accordance with the Transfer of Undertakings (Protection from Employment) Regulations 2006 (TUPE Regulations).

**Risk Management Implications:**

This project forms part of the Council's Project management system. Risks have been identified and monitored by a Project Team set up, jointly with Stroud District Council, to oversee this project which includes the Borough Solicitor as its Project Sponsor.

**Performance Management Follow-up:**

The Business Case will set out performance management arrangements for all partner Councils. It is intended, however, that the current JMLG arrangement will continue to provide Member strategic overview and direction.

**Environmental Implications:**

None.

**1.0 INTRODUCTION/BACKGROUND**

**1.1** In 2009, Cheltenham and Tewkesbury Borough Councils set up a shared legal service with Tewkesbury acting as the Host Authority for 'pay and rations' purposes. The Councils entered into an administrative / delegation 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 two authorities also share a Monitoring Officer.

- 1.2** On 1 April 2015, Gloucester City Council joined the shared legal service, with the Monitoring Officer role being retained in house. A new s101 Agreement was completed running for a period of 10 years from commencement with a break clause in year 5 giving partner authorities the opportunity to terminate at that time (1 April 2020) upon giving at least 12 months' notice. The break clause was not triggered in 2019.
- 1.3** Following discussions between representatives from Stroud District Council's Corporate Leadership team and One Legal, Stroud District Council's Strategy and Resource Committee resolved, at its meeting on 3 October 2019, that it would, subject to approval of a Business Case, join One Legal.
- 1.4** A project team was set up with representatives from One Legal / Tewkesbury Borough Council and Stroud District Council to produce a Business Case for consideration and approval by the existing One Legal partnership and Stroud District Council.
- 1.5** The responsibility for governance of One Legal rests with the Joint Monitoring and Liaison Group (JMLG) comprising two Members and a Client Officer from each authority. The JMLG monitors and reviews One Legal's performance and has actively encouraged opportunities which have arisen for work to be undertaken for other public authorities. The JMLG supports the expansion of the service which would help ensure resilience in the provision of legal services for all authorities involved and should provide One Legal with an opportunity to generate additional income.
- 1.6** JMLG also monitors the performance of One Legal against a number of performance indicators which are in place but currently under review.
- 1.7** 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). This has resulted over the period of the s101 Agreement, in surpluses being delivered to the three partner Councils.

## **2.0 BUSINESS CASE**

- 2.1** The Business Case for expansion of the partnership to include Stroud District Council's legal services is at an advanced stage. It is anticipated that the Business Case will be approved by all authorities by mid-March, to enable the expanded service to commence on 1 April 2020.
- 2.2** The Business Case also considers the key objectives of the expanded service which will 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;
  - to enhance service resilience and ensuring that work is carried out at the appropriate level;
  - to provide staff attraction and retention opportunities, allowing progression by in-house training, shadowing and mentoring opportunities;

- to provide service efficiencies through use of a new case management system and streamlined operational practices, processes and procedures; and
- to maintain and enhance One Legal's trusted reputation for undertaking work for a broad spectrum of local authorities and other public bodies.

**2.3** It is intended the expanded shared service will be provided for a term of 10 years with a break clause giving an option to partner Councils to terminate the arrangement after 5 years, subject to giving 12 months' prior written notice. Other key provisions in the s101 Agreement will be:-

- Funding / financial / accounting / auditing arrangements.
- Monitoring / reporting arrangements.
- Procedure for settling disputes.
- Termination implications / exit strategy.
- Service standards and performance.

### **3.0 OTHER OPTIONS CONSIDERED**

**3.1** Terminating the current shared service is not considered to be a viable option given the good performance of One Legal for some 10 years and also the opportunity to expand.

**3.2** If the opportunity is not taken to develop One Legal to include Stroud District Council's legal functions the additional benefits and opportunities for the partner Councils which are achievable through the expansion of the share service will not be realised.

**3.3** A Company Model for the delivery of legal services across the four partner Councils is not considered to be a viable option at this stage or within the timescale for launching the new partnership because of the complex requirements of the Solicitors Regulatory Authority.

### **4.0 CONSULTATION**

**4.1** JMLG and senior officers at the partner Councils have been advised of this project and will be fully consulted as part of developing the business case.

**4.2** Staff and Trade Unions have/will be consulted as appropriate and required.

### **5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

**5.1** The development of One Legal supports the Council Plan (2020-24), priority to, 'Use resources effectively and efficiently' and is part of its Business Transformation Programme.

### **6.0 RELEVANT GOVERNMENT POLICIES**

**6.1** Shared services are now generally promoted by government through an array of policies and documentation constantly evolving to capture the variety of service delivery models currently being considered by Councils.

**7.0 RESOURCE IMPLICATIONS (Human/Property)**

7.1 As set out in the recommendations, Stroud District Council's legal staff will transfer to this Council in accordance with the TUPE regulations, on their same pay and terms and conditions of employment. Stroud District Council is carrying out full consultation with individual employees before the transfer.

**8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

8.1 None.

**9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

9.1 The development of the One Legal service supports the corporate objectives of achieving value for money.

**10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

10.1 None.

---

**Background Papers:** None.

**Contact Officer:** Borough Solicitor Tel: 01684 272011  
Email: [sara.freckleton@teWKesbury.gov.uk](mailto:sara.freckleton@teWKesbury.gov.uk)

**Appendices:** None.