

**Committee:** SCRUTINY 2 – RESOURCES AND ENVIRONMENT

**Date:** 9 OCTOBER 2002

**Agenda Item No:** 5(i)

**Title:** CORPORATE PERFORMANCE LEGAL AND MONITORING SERVICES BEST VALUE REVIEW - -PROGRESS REPORT

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### **Summary**

- 1 This report details the progress made with the Corporate Performance Legal and Monitoring Services Best Value Review since the meeting of this Committee on 3 July 2002 and sets out further work to be undertaken before reporting a draft improvement plan to the next meeting of this Committee.

### **Progress since the meeting on 3 July**

- 2 Data has been collected from Heads of Service to enable an estimate to be made as to future demands upon legal services. Generally there was an increased requirement for court work. A breakdown of litigation instructions and an estimate for the current year is attached as an appendix.
- 3 Two of the three Members who are part of the Reference Group attended a demonstration of a case management system at Harlow District Council. The Members were impressed with the system which enhances service delivery by running standard procedures and maintaining electronic files, automatically time recording (necessary for costings) and improving management control. At a subsequent Reference Group meeting Members requested that IT carry out an evaluation of the benefits of such systems against the costs. IT are currently trying to identify resources to carry out this exercise.
- 4 At the challenge event one Member expressed a view that a procurement officer, whilst being an additional expense, may well save the Council a significant sum of

money. IDeA state that best practice requires local authorities to employ a procurements officer either alone or in the case of smaller authorities in partnership. The most recent meeting of the Reference Group identified this as an area which should be researched although it was felt that the Council may not have sufficient resources to pursue this option alone and consideration should be given to employing a procurement/contracts officer in conjunction with one or more other authorities.

- 5 Additionally members of the core group appreciated that the government is placing more demands on local authorities to approach issues in a corporate fashion. The Council has limited capacity to ensure the most effective corporate working. The Reference Group accepted that this may lead to the Council being criticized under both the Best Value and CPA schemes. The Reference Group suggested examining whether there was now a case for employing a policy officer to ensure better joined up working to the benefit of service delivery to the Council's customers. District Audit are currently preparing a report on New Skills for New Agendas which is likely to further address this issue.
  
- 6 The last progress report to this Scrutiny Committee made reference to opportunities for alternative methods of service delivery for Internal Audit. This option was explored and on 19 September 2002 a recommendation to form a partnership with Stevenage Borough Council was approved. Internal Audit is now delivered jointly, securing benefits for both councils and their staff. These benefits include:
  - a) Sufficient mass with which to consistently deliver audit plans.
  - b) An opportunity to develop specialist IT audit and contract audit skills.
  - c) Access to the contributing authority's skills and capabilities.
  - d) Opportunities for achieving economies of scale and improving flexibility.
  - e) Sharing tacit knowledge and experience.
  - f) Collaborating on new ideas and service improvements.
  - g) Joint Member working.
  - h) An opportunity for job enrichment and improved staff retention.

The terms of reference for this review also referred to considering the adequacy of audit coverage, and what could be done to address any shortfall. The formation of a partnership has addressed this issue by ensuring sufficient resource is available to satisfy the Council's District Auditor. Budgeted costs for the partnership are also in the low quartile of benchmark data.

## **Benchmarking Exercise**

- 7 In accordance with Members' wishes the Head of Legal Services had a meeting with his counterpart at Maldon District Council. Maldon was selected as it was perceived to be a district similar to our own. Information was also received from North Kesteven District Council which is a member of the Daventry Group.
- 8 Maldon's legal services department comprises the Solicitor to the Council plus a legal executive who works 4 days per week. The Solicitor to the Council also acts as the Monitoring Officer. The cost of legal services for the last financial year was £174464 of which £17000 was spent on external legal costs (against a budget figure of £12000). This however did not include fraud prosecutions nor substantial costs regarding a management contract for the Leisure Centre at Maldon as the accounting practice of that authority is for external costs applicable to a specific department of the Council to be charged directly to that service. This is unlike Uttlesford where the cost is charged to legal services and forms part of the subsequent recharge to the client department.
- 9 North Kesteven District Council supplied data for the financial year 2000/2001. It has one fee earner within an hourly charging bracket of £25 - £35 per hour, one fee earner within an hourly charging bracket of £36 - £50 per hour, one fee earner within an hourly charging bracket of £51 - £60 per hour and half a fee earner within an hourly charging bracket of £61 - £90 per hour. The cost of legal services to the Council is stated as being £168665.
- 10 There are two recognised ways of comparing cost efficiency, namely the hourly rate and the cost of legal services per head of population.
- 11 North Kesteven District Council calculate the hourly rate by taking the fee earners salary x 136% divided by 1591. Applying that criteria to Uttlesford's legal services team, there are two fee earners in an hourly charging bracket of £25 - £35 per hour and one fee earner in an hourly charging bracket of £36 - £50 per hour.
- 12 The more usual method of calculating hourly rates is to divide the expense of the service (excluding external legal costs) between the fee earners, add the fee earners salaries and associated on costs and divide by 1200.

- 13 On this basis the hourly cost for this Council's three fee earners is £55, £62 and £72. Data provided by North Kesteven does not permit comparison but the hourly rates for the two fee earners at Maldon can be calculated at £59 and £87.
- 14 Guidance as to appropriate hourly rates to be allowed in litigation is published by the Lord Chancellors Department. For this area the approved hourly rates range from £95 for trainee solicitors and para legals to £165 for solicitors of over 8 years experience. Evidence obtained at the Challenge Event and from the Review Team's critical friend indicates that these are the rates which are being charged in private practice.
- 15 Whilst legal services is competitive in terms of the hourly rate the alternative method of comparison (cost per head of population) is not as favourable. Dividing the figure in the annual accounts by the population of the district the cost per head for the last financial year was £4.90. Maldon's cost per head was £3.01 (although this excluded substantial sums for external legal services referred to in paragraph 8 above). If the costs of external legal services are excluded from Uttlesford's cost figure then the cost per head is £3.02. North Kesteven District Council claim a cost per head of £1.82. There is however no element of external spend at all comprised in this figure and the absence of this makes it necessary to view the figure with suspicion.

### **Fundamental and Specific Questions**

- 16 These were addressed at length in the last report to this committee.

### **Emerging Options for Improvement**

- 17 The following options appear to be emerging as possibilities for inclusion in a draft action plan:-
- a. Corporate performance – the appointment of a procurement/contracts officer is seen as a way forward in improving the Council's procurement strategy the savings from which should outweigh the costs involved. The appointment of a policy officer would enable the Council to adopt the corporate approach to issues in accordance with current government policy. Further consideration will need to be given to this when the District Audit Report on New Skill for New Agendas is received.
  - b. Legal services – this service can improve by reducing the reliance on outside legal advice thereby saving substantially upon expenditure to the Council. It must be recognised that external legal support will always be necessary to some extent e.g. where the department lacks expertise (PFI) or where the

department lacks resources to cope with lengthy hearings (long planning appeals, local plan inquiry etc). The appointment of a litigator/planner would greatly enhance the ability of legal services to meet the demands of its client departments and reduce expenditure on external legal services. The introduction of a case management system would enhance service delivery and management control.

- c. Monitoring services – it is now anticipated that there will be a greater demand upon the time of the Monitoring Officer than was at first thought. Regulations dealing with the role of the Monitoring Officer in investigations are soon to be published. The Standards Board has now received 1000 allegations of breaches of the Code of Conduct. Many of these will be referred to Monitoring Officers. Once details of the regulations are known plans will need to be made to deal with this work load which may have resource implications.
- d. Internal Audit – the review of internal audit has culminated in the creation of a partnership with Stevenage Borough Council. This will need to be monitored for its effectiveness and consideration will be given to expanding the partnership to include other authorities as experience develops.

**RECOMMENDED** that the Committee accepts this report and approves it as a basis for incorporation in the Improvement Plan.

Background papers:- Best Value Improvement File (Michael Perry's file)

**APPENDIX  
CORPORATE PERFORMANCE LEGAL AND MONITORING SERVICES BEST  
VALUE REVIEW 2002/3**

WORK BREAKDOWN FOR LEGAL SERVICES

Client	Activity	2001/2	External Costs	2002/3 Estimate	External Costs Estimate
Fraud Team	Benefit Fraud Prosecutions	16 cases	Actual £14167 gross Estimated (work done In house) £4380	25 cases	£27390
Housing	Possession Actions on grounds of nuisance	3 cases	Actual £4492.94 Estimated (work done in house) £1697	10 cases	£20600
	Injunctions	0	0	2	£5000
Environmental Health	Prosecutions	2 cases	£2291	2 cases	£2291
	Appeals	1 case	£1041	2 cases	£2082
Planning	s.106 agreements	7	£3857	14	£0
	Enforcement Notices and Breach of Condition Notices	5	£184 (?)	16	£4000
	Planning and Enforcement Inquiries	11 cases (1 x 10 days; 2 x 2 days; 8 x 1 day)	£51453	7 cases	£21060
	Prosecutions	0	£0	2 cases	£2100
	Injunctions	1	£2500	1	£2110
<b>Totals</b>			<b>81683</b>		<b>£86623</b>

Housing	Right to buy	42 + 4 withdrawn	All in house recharge £9165	42 + 4 withdrawn	£16100
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