



Leicester  
City Council

**WARDS AFFECTED**  
All Wards

**BEST VALUE WORKING GROUP**  
**CABINET**

**12<sup>TH</sup> MARCH 2003**  
**24<sup>TH</sup> MARCH 2003**

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**BEST VALUE REVIEW – LEGAL SERVICES**  
**SCOPING EXERCISE**

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**REPORT OF THE HEAD OF LEGAL SERVICES**

**1. BACKGROUND AND PURPOSE OF REPORT**

**1.1 Purpose of Report**

To seek approval of the draft Scope for the Legal Services Review, in the context of the criteria set out in the latest revision of the Best Value Review Guidelines; and to outline the rationale behind the Scope using the 4 "c" 's model.

**1.2 Background**

The CPA Improvement Plan sets out the revised programme of Best Value reviews. The review of Legal Services has been brought forward to 2003/4. The Scope has drawn on issues raised through consultation with all Departments.

**2. RECOMMENDATIONS**

2.1 That the scoping process, the proposed Scope (**Appendix 1**) and the Project Timetable (**Appendix 2**) be approved.

**3. BUSINESS UNITS INCLUDED / EXCLUDED**

3.1 The main subject of this review is the Legal Services' Division, which provides a comprehensive legal service to the Council. The review's aim is to focus on issues raised by clients following consultation in a way that ensures that sufficient and appropriate expertise is available to meet service demand.

3.2 The Legal Services Best Value review is the major review for only one business unit, Legal Services. However, although we are proposing a fairly purposive definition of "Legal Services", it is apparent that legal work cross cuts with a number of other business units which carry out legal responsibilities. Where this work could be said to be material, it will be "scoped in".

These other units (see 6.2 within the Scope) have a wider remit than legal work, and so they can be reviewed as part of other Best Value reviews. Colleagues from these units will be included in the Legal Services Best Value review process, and the recommendations of our review will inform their units' review/improvement plans.

- 3.3 Debt Recovery – Legal Services includes a small team devoted to debt recovery work. This is currently subject to the latest in a series of reviews and it is planned to limit the Legal Services best value review work in respect of this team, so far as practical, so as to avoid duplication but nonetheless addressing the key issues identified in the "Scope".
- 3.4 Local Land Charges – this is another team within Legal Services devoted to the local land charges register and local land charges searches and as such provides a service direct to the public. With the use of independent consultants an improvement plan has already been prepared and is currently being finalised in consultation with colleagues in ERD. It is proposed to exclude this service from the Best Value review, and to concentrate on implementing the plan by means of a corporate project which will be subject to separate monitoring and scrutiny by Directors' Board.

#### **4. COMPETE, CONSULT, CHALLENGE, COMPARE**

The 4 "C"'s model has been used to assess the significant issues facing the delivery of legal services and therefore form the basis on which the Scope has been drafted

##### **Challenge**

Although the main "driver" of "Challenge" is perceived to be the cost of the resource, in fact plentiful data already exists to show that our baseline fees compare favourably with the private sector and our local benchmarking group of authorities. We have also won a competitive tender for the provision of legal services to another public authority.

Quality in terms of evidenced practice standards has been favourably commented on by our external LEXCEL reviewer, as demonstrated by our annual continuing accreditation following an annual inspection, who indeed has identified areas of excellence.

Legal Services have also worked to its own improvement plan, developed as part of the business planning process, for the past 2 years and, in particular, has an established a working User Forum and has conducted a major user satisfaction survey (through an outside consultant), and our follow up survey (although limited) has demonstrated improvement.

Legality processes and standards within the Authority have been rated at the highest possible level by the District Auditor.

Whilst striving to improve in these areas the main thrust of "challenge" is therefore to address concerns about efficiency as identified in the consultation undertaken, for example:-

- why people need to access legal services, including reactive/proactive approaches?
- what options are there as to how the service can be delivered?
- are we making the best use of balancing in-house, partnering and private practice options?

It is intended to engage a "critical friend" to assist with "challenge" as well as approaching another comparable organisation where legal work is by and large externalised to see how the service could be delivered, irrespective of provider, and what the cost of that resource could be. Information is also available from our local benchmarking group of authorities.

The proposed "critical friend" is John McElvaney who is the Head of Derbyshire County Council Legal Services. That service has undergone a Best Value review and Derbyshire has been rated as an "excellent" authority in the CPA process. John is also a key contributor to the East Midlands Benchmarking Group to which the authority belongs.

## **Consultation**

Prior to developing the Scope all Departments were asked to identify any issues of significance that they would want to see addressed within the Best Value review of Legal Services. All Departments responded and the following headline issues emerged:-

- resources to enable access to timely advice/representation
- being perceived as risk averse
- our contribution to risk management
- ensuring work is progressed within desired timescales
- desire to reduce overall expense on legal costs (which are perceived to be expensive/difficult to control/predict)
- what work needs to be sent to Legal Services
- inhibitions and limitations caused by a "trading unit" culture

These, and other concerns raised, lie behind the following key issues in the Scope:-

“In what way and what options exist for ensuring that access to legal services meets quality cost and time requirements, for example:

- options for using the external market
- opportunities for more help to clients in focussing their legal requirements
- are there any options for devolvement of legal staff?
- the level at which legal work is done”

“What options for improvement exist which will promote flexibility to address risk within acceptable and understood parameters?”

“What opportunities exist for improving efficiency of service through ICT including making financial performance more open and more predictable?”

Unions have been also been consulted on the content of the draft Scope and no additional issues were raised. Further stakeholder meetings involving staff groups are planned as are stakeholder meetings with "partners". In summary, it is proposed to extend consultation in the following ways:

- users (including external clients)
- "partners"
- a staff reference group

## **Compare**

Benchmarking data within the East Midlands Benchmarking Group will be available and further opportunities to compare with outside organisations will be sought, but these are expected to be macro studies to overcome expected dissimilarities within the benchmark group.

Case studies to look at the specific way in which certain case types are handled will prove helpful in cross checking the broad benchmark perspectives with specific case requirements. The external "critical friends" will be involved to ensure objectivity

The review will look beyond price to seek out the benefits and disadvantages of alternative approaches, especially looking at the impact on the service as a whole of outsourcing options and in particular options around the treatment of core/sensitive/very privileged work as opposed to project execution work.

One particular problem affecting the delivery of in house legal services is the difficulty of attracting and retaining people with specific expertise. This situation has been managed through the use of both in-house and private practice resources and this ongoing balance is behind the principle set for the review:

“to ensure that sufficient expertise is available to meet the demand for legal services”.

A contributing factor in providing in house resources will almost certainly be the difference between in-house and private practice salaries, but clearly other factors will apply. Staffing issues and the effect these have on customer care (identified through consultation) lie behind the following key question in the Scope:

“What improvement options exist to develop people, improve the environment in which they work and to reward them, to encourage recruitment and retention, to remove unnecessary cultural and attitudinal barriers, and to support partnership working?”

Benchmark research in these areas will take place.

## **Compete**

A well-developed market exists for the delivery of many project services delivered by Legal Services, and it is proposed to involve a further independent consultee from such a comparable organisation.

The review will examine the potential for out-sourcing some or all project services by assessing the success of other authorities who have followed this route.

It is not proposed to consider the option of out-sourcing core/sensitive/very privileged work central to the effective operation of the authority and often politically confidential by nature. This is a similar approach to that taken in the Financial Management Review.

## **5. FINANCIAL AND LEGAL IMPLICATIONS**

The trading budget covered by this review is approximately £3 million, but, in addition, there are the costs of externalised legal services, and legal work undertaken in other business units which cannot be predicted at this stage. These costs will be investigated to establish the true, overall costs of Legal Services.

There are no additional legal issues.

## **6. EQUALITIES**

Legal support is given on a wide range of equalities issues and will be addressed in the review.

## **7. CRIME AND DISORDER ACT IMPLICATIONS/HUMAN RIGHTS ACT IMPLICATIONS/SUSTAINABLE AND ENVIRONMENTAL IMPLICATIONS/ ELDERLY PEOPLE/PEOPLE ON LOW INCOME IMPLICATIONS**

The way in which Legal Services approach legal support in these areas will be addressed in the review.

## **8. REPORT AUTHOR/OFFICER TO CONTACT**

Joanna Bunting, Assistant Head of Legal Services, Lead Review Officer

Peter Nicholls, Service Director (Legal Services)

Geoff Payne, Review Facilitator

## **DECISION STATUS**

<b>Key Decision</b>	<b>No</b>
<b>Reason</b>	<b>N/A</b>
<b>Appeared in Forward Plan</b>	<b>No</b>
<b>Executive or Council Decision</b>	<b>Executive (Cabinet)</b>

## **LEGAL SERVICES** **BEST VALUE REVIEW**

### **SCOPE FOR CONSULTATION**

#### 1. **Focus**

The review will address:

- 1.1 What range of services should be provided by the legal function within the Council?
- 1.2 The way in which these are organised, resourced, accessed and paid for.
- 1.3 The further development of a culture more responsive to the needs of both internal and external clients, for example, overcoming the perception of being "risk averse".

#### 2. **Key Definitions that apply within the review**

- 2.1 "Legal Services" means advice and assistance (including representation) by a lawyer at fee earner level. "Lawyers" include solicitors, barristers, licensed conveyancers, legal executives, trainee solicitors, part qualified legal executives or equivalent, and paralegals. It excludes investment business.

Note: This definition is based on descriptions in the Legal Aid Act, definitions in the Solicitors Act 1974 etc tend to define solicitors work as that of the practice of a solicitor.

#### 3. **Context in which the review will take place**

- 3.1 The principal client of Legal Services is Leicester City Council, who is our employer.
- 3.2 Certain acts have to be carried out by a qualified solicitor, for example appearance before certain courts (unless a barrister), drawing up certain deeds and instruments (unless in some circumstances under the direct control of supervision of a solicitor), instructing Counsel and being described as a solicitor. (Courts and Legal Services Act 1974, Solicitors Act 1974).
- 3.3 A solicitor employed as the senior legal advisor of the Council must have direct access to the Council and its Committees (this would include Cabinet).
- 3.4 Solicitors (and barristers) are covered by a code of conduct having statutory force. This covers professional conduct and recognises not only the solicitors duty to act in the best interests of the client but also the solicitors duty to the

Court and to the good repute of the solicitors' profession. Licenced conveyancers are subject also to rules of conduct similar to those which apply to solicitors. Legal Executives are subject to a code of conduct published by their Institute.

- 3.5 Local Authorities are subject to a fiduciary duty, this will involve taking appropriate professional advice (including legal advice) and taking or defending proceedings when necessary to do so.
- 3.6 Local Authorities are also under a duty to act lawfully. Unlawful expenditure may be recovered and it is possible for criminal proceedings not only to be taken against the Council but against directors and officers.

#### 4. **The Key Principle**

The key principle that will underpin and guide the review will be to address the issues identified in a way that ensures that sufficient and appropriate expertise is available to meet the demand for legal services.

#### 5. **Key issues to be addressed**

The review will look in particular at the following key areas:-

- 5.1 In what way and what options exist for ensuring that access to legal services meets quality cost and time requirements, for example:
  - options for using the external market
  - opportunities for more help to clients in focussing their legal requirements
  - are there any options for devolvement of legal staff?
  - the level at which legal work is done
- 5.2 What options for improvement exist which will promote flexibility to address risk within acceptable and understood parameters.
- 5.3 What improvement options exist to develop people, improve the environment in which they work and to reward them, to encourage recruitment and retention, to remove unnecessary cultural and attitudinal barriers, and to support partnership working?
- 5.4 What opportunities exist for improving efficiency of service through ICT including making financial performance more open and more predictable?

#### 6. **Business Units included/excluded from the Review**

- 6.1 The following business unit will be directly involved in the review:-
  - 6.1.1 Legal Services.

- 6.2 The following units will be scoped into the review but only regarding Legal Services aspects, as some of the work of these units falls within the definition of "Legal Services".
  - 6.2.1 Standing legal advice Cabinet.
  - 6.2.2 Committee Secretariat.
  - 6.2.3 Advice on insurance claims/claims handling.
  - 6.2.4 Corporate Procurement Team.
  - 6.2.5 Prosecutions by authorised officers outside Legal Services.
  - 6.2.6 City-wide ASBO Team.
  - 6.2.7 Data Protection Act and Freedom of Information Act interpretation
- 6.3 The following "units" are not included in the review as these do not fall within the definition of "Legal Services" and, in the case of Land Charges, are producing a separate Improvement Plan.
  - 6.3.1 Local Land Charges Section.
  - 6.3.2 The execution of Council documents.
- 6.4 Debt Recovery including Legal Services elements is currently being reviewed by Graham Aitkin. The Legal Services Best Value Review will look at the key improvements recommended by that review, insofar as they are available, with a view to advising on broader issues raised in the Legal Services best value review that may affect the improvement plan. The inclusions of the Debt Recovery function in Legal Services will be limited accordingly.



**BEST VALUE REVIEW OF LEGAL SERVICES**  
**PROJECT PLAN TIMETABLE**

**Stage 1: Scoping the review and Project Plan**

12 <sup>th</sup> February	DMT
18 <sup>th</sup> February	Corporate Directors' Board Consult Cabinet Lead for Legal Services i.e. Cllr. Patel to assess whether this is a matter which needs to go to Leader's Briefing on 3 <sup>rd</sup> March or 17 <sup>th</sup> March.
5 <sup>th</sup> March	Consult Councillor Westley, Best Value Lead, prior to the deadline for the Best Value Working Group i.e. 5/3.
12 <sup>th</sup> March	Best Value Working Group
Mid March	Full Legal Services staff meeting, including Union representatives.
Mid March	Consultation with User Forum and external stakeholders.
24 <sup>th</sup> March	Cabinet
If required	Scrutiny

**Stage 2: Service assessment**

19 <sup>th</sup> February	Start service assessment
16 <sup>th</sup> May	Review teams report improvement factors
Mid June	Draft service assessment produced by Core Team
Mid-June	Full staff meeting, including Union representatives.
Mid-June	Consultation with User Forum and external stakeholders.
24 <sup>th</sup> June	Directors' Board Consult Cabinet Lead for Legal Services i.e. Cllr. Patel to assess whether this is a matter which needs to go to Leader's Briefing.
End July	Best Value Working Group
End August	Cabinet
If required	Scrutiny

**Stage 3: Improvement plan consultation**

End July	Start consultation
Early August	Full staff meeting, including Union representatives.
Early August	Consultation with User Forum and external stakeholders.
25 <sup>th</sup> August	Draft Improvement Plan produced by Core Group
End August	Full staff meeting, including Union representatives.
2 <sup>nd</sup> September	Directors' Board
?	Leader's Briefing
End September	Best Value Working Group
End October	Cabinet
If required	Scrutiny

**Stage 4: Implementation**

Probably staged over 12 months  
Monthly monitoring reports to DMT

**Stage 5: Inspection**

Not programmed

**Stage 6: Innovation and learning**

At least annual review as part of business plan cycle.