



ALL WARDS

CABINET

6th November 2000

Law Centre/ CAB Review

REPORT OF THE DIRECTOR OF ENVIRONMENT AND DEVELOPMENT

1.0 Purpose of the Report

This report details the outcome of the review of services provided by the Leicester Law Centre and the Citizens Advice Bureau. It identifies the process taken to date and responds to comments made by the Strategic Planning and Regeneration Scrutiny Panel. Finally, the report provides a number of options for Cabinet to consider in order to progress the matter.

2.0 Background

On 26th August 1999, Council deferred a number of proposed cuts to voluntary sector agencies. In respect of the Law Centre and CAB, Council determined to continue discussions between officers of the authority and those agencies in order to rationalise the services being provided and secure significant budget savings.

The level of savings sought formed part of the package of budget savings required in order to meet the three year budget strategy of the authority. The review of the CAB and Law Centre was expected at the outset to deliver up to £375,000 of savings over the period of the budget strategy (equivalent to savings of £125,000 in each financial year). As at this stage of the financial year it was expected that budget savings of £72,900 would have already have been made from this review.

The current levels of grant aid provided by the City Council to the two projects are as follows:

(i) Leicester Law Centre	£ 315,400
(ii) Citizens Advice Bureau	£ 136,600
Total	£ 452,000

Detailed discussions were held between officers of the council and the two agencies from January 2000 onwards. These focused on the development of a new service to the public which could make economies in respect of premises and management costs but continue

to deliver the same level of front-line advice services to the public as at present.

On 20th April 2000, the Law Centre withdrew from discussions regarding the rationalisation of services citing objections both in principle (that the policy work of the Law Centre was threatened) and in practice (that a merger of the agencies would have a detrimental effect on service provision). Issues of TUPE; the costs of relocation; and the possible loss of contracts with the Regional Legal Services Commission were also raised by Leicester Law Centre at that time.

The Law Centre has also indicated their belief that the Best Value Review of Advice Services, currently in place, should be concluded prior to making a decision regarding the services to be provided by the Law Centre and Citizens Advice Bureau.

On 3rd August 2000, the Regeneration Sub-Committee was provided with a number of options in order to progress the review. The sub-committee resolved that in the absence of an agreement to merger, the Director of Environment and Development proceed by way of tendering for the advice services currently provided by the two agencies. The Sub-Committee instructed officers to draw up a proposed service specification and report back to them for further comments.

The decision of the Regeneration Sub-Committee on 3rd August explicitly stated that the tender process would invite both the CAB and Leicester Law Centre to bid for the new contract. However, Cabinet may wish to examine the possibility of opening up the tender to a wider group of agencies. The legal department have indicated that this possibility exists and will report in greater detail at the Cabinet meeting of 6th November. There may be implications for the timescale of the tender, should members widen the list of agencies being approached to tender.

A draft service specification was provided to the Strategic Planning and Regeneration Scrutiny Panel on 30th August 2000. The specification was also sent to the Leicester Law Centre, Citizens Advice Bureau and Regional Legal Services Commission for comment.

In order to allow greater time for responses to the proposed specification, the Scrutiny Panel instructed that the draft service specification be reconsidered at their meeting of 11th October 2000, and that any responses received be tabled with the report.

A copy of the report that proceeded to the Scrutiny Panel on 11th October, together with the responses received from Leicester Law Centre, the CAB and the Legal Services Commission is presented as an appendix to this report.

In addition to the written responses tabled with the report, the Scrutiny Panel also heard from three witnesses:

Glenda Terry - Leicester Advice Compact (an organisation representing the views of a number of Leicester advice agencies);

Amanda Soraghan - Refugee Action

Nick Poulter and Kus Amar - Regional Legal Services Commission account managers for the Law Centre and CAB.

The following key issues were raised at the Scrutiny Panel:

- (i) That there was concern that the tender could lead to a loss of services provided to the public, and that the budget savings could only be made by affecting front-line advice provision.
- (ii) That there was a high demand for advice services in Leicester and that this was growing as a result of the dispersal arrangements for asylum seekers;
- (iii) That the tendering process could give rise to TUPE implications;
- (iv) That funding from the Legal Services Commission could not be used to replace core funding and that contracts currently held by the organisations would be placed in jeopardy if the tender resulted in a reduction in the capacity of the organisation to provide advice services.

The Scrutiny Panel resolved:

- (v) That the service specification and proposal to tender for advice services be placed before Cabinet together with a report that highlighted the above concerns and responded to them; and
- (vi) That the issue be considered again by the Scrutiny Panel before any final decision is implemented by the Cabinet.

3.0 Recommendations

- (i) That Cabinet confirms its wish to proceed with the tender of advice services currently provided by the CAB and Leicester Law Centre to help achieve the Council's budget strategy for 2000/ 01;
- (ii) That Cabinet consider the comments of the Strategic Planning and Regeneration Scrutiny Panel and the options set out in this report and determine the specification that will form the basis for the tendering exercise. In particular, views are sought on the inclusion of services relating to asylum seekers and community groups.

4.0 Report

The Draft Service Specification - Issues raised by the Legal Services Commission and Leicester Advice Compact

Some concerns have been expressed that the service specification being proposed for the tender represents a reduction in the level of advice services currently provided by the Law Centre and CAB.

Whether or not the level of services in the tender represents a reduction on current provision has consequences for the Legal Services Commission contracts currently held by the two agencies.

In their letter to the City Council of 9th October 2000 (attached as appendix 1), the Legal Services Commission make it clear that their funding would not reduce if 2 conditions continue to be met. These are:

- (i) That there must be no loss in the provision of front-line advice services; and
- (ii) That the LSC is confident that the organisation which wins the tender is capable of meeting both the franchise and contract conditions required by the LSC.

As both organisations have experience of working to LSC franchise and contract requirements, the latter condition is likely to be satisfied although a decision from the Legal Services Commission cannot be made regarding this point until the details of the structure of the successful organisation are known to them.

As to the first condition, Table 1, gives details of the performance targets contained within the current service specifications of the Law Centre and CAB, their performance in respect of those targets in the last financial year, and the targets contained within the new draft service specification.

As can be seen, whilst the draft service specification targets are less than the combined targets of the current service specifications, neither the Law Centre or CAB met their targets in 1999/2000. The new draft specification therefore reflects more closely the actual level of advice services being provided by those organisations.

A copy of the information set out in table 1 has been provided to the Legal Services Commission. They have written to the authority expressing the view that they are generally content to accept that the draft service specification does not represent a reduction in front-line services with one exception - in the area of welfare benefit advice. The

Legal Services Commission has therefore requested that the City Council review the figures for this area of advice within the draft specification and have indicated that they would like to see in the region of 8,000 cases of welfare benefits specified. If this were to be done, then the LSC has indicated that they would not view the service specification as causing a reduction in front-line service. A copy of the letter from LSC is attached as an appendix to this report.

It has been raised by Leicester Law Centre that the draft service specification as it stands does not include a remit for the successful organisation to carry out community development work. The current specification with the Law Centre includes work to "support local groups in exercising their legal rights with respect to issues affecting their quality of life".

However, it is unclear as to the level of resources that would be required to support this work or the extent to which it is currently being carried out. In a review of its performance the Law Centre indicated that they provide consultancy to a wide range of groups and agencies within the City, including Councillors and M.P's, under this heading. It would appear that this is consultancy regarding individual cases provided by caseworkers rather than community development work or the bringing of group actions (for example, where a local community is aiming to challenge a planning decision). If members wish these additional types of services to be built into the specification then the value of the tender may rise.

Asylum Seekers and Advice Services

Refugee Action raised concerns that the arrangements for the dispersal of asylum seekers to Leicester will add substantially to the demand for advice services within the City over the coming months. Refugee Action already make use of Leicester Law Centre and other advice agencies and report that refugees have difficulties accessing benefits, employment, education, and asylum applications.

At the Scrutiny Panel meeting of 11th October, Refugee Action pointed out that the Law Centre and CAB meet needs which the National Asylum Seekers Service (NASS) does not cover. Refugee Action had dealt with between 10 and 15 clients in the six weeks previous to that meeting and due to an increase in the speed of decision making on asylum applications were expecting that figure to rise to between 50 and 60 by Christmas.

The City Council has established a corporate Asylum Seekers Group which is being headed by the Assistant Director (Renewal and Rehousing), Housing Department. This group is seeking to ensure that there is a co-ordinated response to meet the needs of asylum seekers in the City.

The group has identified that there are two groups of asylum seekers in the City - those that arrived under the old arrangements (many of

whom are being supported in the community by the Social Services Department or who have a right to claim benefits because they claimed asylum at the port of entry into the U.K), and those who are subject to the new arrangements - reliant upon housing provided via the National Asylum Seekers Service (NASS) and eligible for vouchers only in respect of their daily living expenses.

The advice needs for asylum seekers under the new arrangements will need to be met by working in conjunction with housing providers and NASS pending a decision on their asylum application. Those who are unsuccessful in that application will need to have access to immigration advice regarding possible appeals. For those who are successful, then the rules allow for continued assistance from NASS for only 14 days. During that time they will need rapid assistance in order to obtain housing and to obtain benefits.

The Asylum Seekers Group is aware of these issues and is seeking to ensure that a strategic approach is taken to ensure that advice needs are met. This will be subject to consultation with voluntary sector providers. However, the involvement of core providers, such as the Benefits Agency and housing organisations will be key in order to attempt to prevent problems from arising in the first instance.

The services available from the CAB and Law Centre, and those of other advice agencies in the city, will need to be taken into account in the work of the Asylum Seekers Group as will the availability of resources to develop advice services to meet the specific needs of asylum seekers. The SRB5 programme to develop advice services in Leicester NorthWest, which will invest £236,000 in advice services in that area of the city over the next 4 years, will have a key role to play in this respect. As a result, it is suggested that any additional modifications to the specification involving the provision of services to Asylum Seekers are not made at this point. Should members wish to include additional provision for dealing with asylum seekers then this may limit the savings to be made as a result of the tender process.

Advice Needs in Leicester

It is accepted that Leicester is a city with high need for advice services, and that advice plays a key role in helping to address problems of poverty and social exclusion. Advice services also help to maximise the incomes of residents, support economic development by establishing employment rights and bringing money to the local economy, and can have a positive effect on the Standard Spending Assessment of the local authority itself.

However, the City Council is not the only funder of advice services and could not resource agencies to meet the demand by itself. As a result, the local authority has been involved in the Community Legal Service Partnership for Leicester from the outset and is currently looking to assess the need for and supply of advice within the city. This exercise will then inform the funding decisions not only of the City Council, but

also the Legal Services Commission (LSC) and Leicestershire Health (see page 7 for the implications on LSC funding if an overall reduction in service occurred as a result of the tender process)..

The pattern of funding for advice services will also be informed by the outcome of the City Council's Best Value review of advice services which is due to report to Cabinet in December 2000.

However, neither of these processes will necessarily be affected by a review of the services provided by the Law Centre and CAB, provided that the tender exercise does not cause front-line services to be reduced.

Implications of the Tender Process

The tender process, if approved by Cabinet, carries a number of possible implications. These are:

(iii) Possible TUPE Implications

The Law Centre has written to the authority stating that they believe the operations of one organisation would be transferred to the successful agency as a result of the tender process and that this would constitute a Transfer of Undertakings for the purposes of employment law. This could result in the successful organisation incurring costs that would affect its ability to provide all of the advice services stipulated in the draft specification.

The City Council's legal department have advised that the authority will need to alert potential bidders to the fact that TUPE is likely to apply and request that they take any potential costs arising from TUPE into account when making their bids for the contract.

The legal department has made it clear, however, that the city council itself will not be liable for any costs arising out of a transfer between two independent agencies.

(ii) Unknown Level of Savings

The potential level of savings in any competitive bidding process is unknown until the local authority has received the proposals from the agencies bidding for the contract.

Given that the contracts with the Legal Services Commission will be placed in jeopardy if the bids do not propose to deliver the level of front-line advice services contained in the specification, the city council may need to insist that the successful organisation bid on the basis of meeting the specification in full. If members choose to include other elements of the services currently provided in the service specification (e.g. services for

asylum seekers and community development functions) then this may limit the potential savings to the authority.

Members could also consider setting a financial limit on the new service at a level they consider appropriate in the context of the financial strategy and seeking tenders on the volume of advice provision. Such an approach could, however, have implications for Legal Services Commission funding.

5.0 The Tender Process

If Cabinet agrees to proceed with the tender process, then the decision will be reported to the Strategic Planning and Regeneration Scrutiny Panel Meeting on 14th November. It is anticipated that invitations to tender can be sent out by Friday 17th November and that a deadline for bids be set for 8th December.

Legal advice is currently being sought as to whether the tender process has to be restricted to the CAB and Law Centre or whether other agencies can be invited to tender for the contract with possible implications for the timescale.

6.0 Conclusion

There is no clearly identifiable mechanism through which the City Council can guarantee that its aims of making substantial budget savings and preserving front-line service provision can be met.

The outcomes of the proposed tender process cannot be prejudged and bids will need to be weighed against the desire to deliver the savings sought by the authority and the need to sustain the level of front-line advice services.

6.0 Legal Implications

TUPE - addressed in main report.

Tender Process - whether or not the process can be opened up to other agencies is subject to further information from the legal department. Current advice on this issue indicates that the tender would not be subject to European law on the advertising of the contract and that the authority would be free to invite whichever agencies it felt appropriate to tender for the contract. A more detailed briefing will be available at the Cabinet meeting.

The Law Centre have also previously indicated that they will consider a judicial review of a decision to proceed with a tender process on the grounds that this should be deferred pending the outcome of the Best Value Review of Advice Services. However, it is clear that the local authority has the right to conduct a review of services in order to ensure that its financial strategy is met. Provided the authority acts within its legal powers and operates in a fair and transparent manner

during the course of any such review, then there are unlikely to be any grounds on which a successful judicial review application can be based.

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Table 1: Comparison of Law Centre/ CAB service specifications, performance (99/00) and the new draft specification

Area of Law	Current CAB Spec (b)	CAB performance 99/00 (c)	Current Law Centre Spec (d)	Law Centre performance 99/00 (e)	Total current spec (b) + (d)	Total 99/00 performance (c) + (e)	New Draft Service Spec
Immigration	1500	453	1185	1031	2685	1484	1700
Employment	4000	3256	1000	392	5000	3648	3200
Welfare Benefits	8000	6398	1000	821	9000	7219	6900
Consumer	5200	3001			5200	3001	4000
Debt	1600	800			1600	800	1800
Housing	3100	2469	200	214	3300	2683	2900
Education	600	252	65	24	665	276	250
Health & Community Care	500	280	20	81	520	361	400
Family & Personal	1500	1528			1500	1528	1500
Admin. Of Justice	2000	2154			2000	2154	2000
Taxation & Duties	1500	813			1500	813	1000
Local Info & Leaflets	4600	5321			4600	5321	4500
Total	34100	26725	3470	2563	37570	29288	30150