

LEGAL SERVICES

BEST VALUE

REVIEW 2003

FINAL REPORT

Report Author
Joanna Bunting
Assistant Head of Legal Services
Ext 6450

LEGAL SERVICES BEST VALUE REVIEW

CONTENTS

1. Executive Summary
2. Introduction
3. The Strategic Case for Legal Services
4. Service Profile
5. The Comparative Picture
 - How well does the service compare with other providers?
 - How well does the service meet user expectations?
 - How well does the service meet its objectives?
 - How well can current provision meet future needs?
6. Key issues to be addressed
7. Service Assessments
8. Improvement Options
9. Draft Improvement Plan

1. Executive Summary

A PURPOSE OF EXECUTIVE SUMMARY

This executive summary follows the self assessment stage of the Legal Services Best Value Review and includes draft improvement options and a draft improvement plan for consultation.

B RECOMMENDATIONS

That the assessment be approved and guidance considered on the options identified.

C EXECUTIVE SUMMARY

1. Legal Services covers the whole range of legal work for the Council handling up to 159 different types of matter and having approximately 4,500 open/live files each year.

Legal Services has 70.38 FTE staff (including administrative).

1.3% of the work by volume is externalised (£211,728).

The total cost of services (2002/3) is £2,817,100 with disbursements of £731,945 (£34,000 of this represents payments for legal service e. g court attendance by barristers).

£96,300 is delivered to the corporate code.

2. The scoping exercise for this Best value Review had identified the following key issues:-

- In what way and what options exist for ensuring that access to Legal Services meets quality cost and time requirements
- What options for improvement exist which will promote flexibility to address risk within acceptable and understood parameters
- What options exist to develop people, to improve their conditions and remove unnecessary cultural and attitudinal barriers and to support partnership working.

The key principle guiding the review was to “address issues in a way that ensures sufficient an appropriate expertise is available to meet demand for legal services” This principle to be applied equally regardless of how the service is provided.

3. In the course of the review to date:

Consultation with all directors as well as the members of the Legal Services User forum has been undertaken. Departments have been asked to enhance their representation on User Services Forum for this purpose. Trades Union representatives are on the Project Team and have attended staff consultation meetings. In addition specialist staff from departments were consulted. Case studies have been undertaken on all the cases identified through this consultation. A representative of external “partners” has been consulted

Compare – information on comparative cost and staff numbers has been taken from Audit Commission reports. This has been complemented by information on cost, staff numbers, processes and productivity available through the East Midlands Benchmarking Group. Recent tender information has been used to provide details on external legal fees

Challenge - the range of legal services provided have been reviewed and all found to be statutory or essential to support key policies of the Council. A skills and volume exercise has been undertaken on the “top 15” matter types. This has been a major exercise utilising a specially developed “skills set” based on the IdEA procurement toolkit for the 4 general levels of fee earner and using time recording, volume and risk management data. An external critical friend who is the head of legal services at an “excellent” authority (Derbyshire) is assisting the review.

Compete - Interviews have been undertaken with other public bodies (including County Councils) as part of the examination of alternative forms of service delivery.

4. The emerging messages from the self assessment stage are as follows:-
- 4.1 Legal Services have a low unit trading cost (the hourly rate), this may be because average salaries are low. Overall, of all comparators, Leicester’s unit trading costs are the lowest. Externalisation could increase legal charges by an estimated 260%.
 - 4.2 Bench-marking with our East Midlands peer group shows total legal costs (internally and externally provided) to be about average for the area
 - 4.3 Audit Commission figures indicate that, across the country, amongst unitary authorities, Leicester employs slightly fewer than average qualified solicitors per 1000 population. This reflects well on the performance of the Council as we outsource slightly less than average of our work than the average of all unitary authorities whereas the trend amongst the City authorities in our benchmarking group is to outsource more than this average. Within the East

Midlands Benchmarking Group we compare well when numbers are normalised for population and level of outsourcing.

- 4.4 Recruitment of suitable professionally qualified staff has proved to be a problem in the past and the need for a wider looking programme of internal staff development (leading to flexibility and succession) is evident as one option for overcoming this problem. An alternative approach may be to outsource more work.
- 4.5 Quality – the overall quality of our practice has been independently assessed as meeting the Law Society excellence standard, with areas of excellence. The number of complaints and “poor” returns on client satisfaction postcards is extremely low. However an independent survey of users, pre-EXCEL accreditation identified the following concerns which matched closely with directors feedback:-
- Timeliness to meet users programme
 - Good communication
 - Consistency of advice
 - Being proactive
 - Commercial attitude
 - Fast response to queries
- 4.6 The case studies carried out on cases identified by clients as ones they had issues with to confirmed the concern raised in some 40% of issues. Key causes identified were the need for:
- Increased availability of “manager” time
 - Head room in the recharging rates for proactive work with clients
 - Head room in the way the service can recharge to allow for true “growing” on of staff side by side with more experienced staff

The case studies also showed that there is evidence in some cases of client management issues. There include cases where there has been client error and cases where there is a mismatch between the clients local imperatives and the role of fee earners as legal advisors to the Council as a whole acting under the Councils constitution and under professional rules of conduct. This has led in some cases to a hostile and unhealthy working relationship and yet another cause and unacceptable for a decent employer.

- 4.7 While comparative data on productivity is limited to 5 out of the 15 matters reviewed, in these cases we are as efficient, or more efficient than peer organisations (public and private) in terms of time spent per case. The only exception is for employment law but even here the overall cost is favourable.

- 4.8 The review assessed the ideal skills and establishment need to most efficiently undertake the annual case load. This assessment took into account both the risk and the nature of the tasks required on some 1660 completed cases (35% of the 4,500 cases in progress annually) The results when scaled up confirmed the need for:
- Additional “manager” and clerical support i.e. FTE’s of +2.75 and 6.2 respectively and
 - Small reductions in the number of principal officer and legal officer i.e. FTE’s of 0.9 and 0.9 respectively
- 4.9 The legal services provided are predominantly reactive upon client request. Currently proactive work is not charged for at all (nor is any time allowance made for it) or charged to a reluctant client. If room could be found for this then better use could be made if real legal fee earner time and could assist the client to develop sustainable solutions to the rising call off of legal work.
- 4.10 Corporate legal advice currently constitutes about 8% of the services work and is therefore significant. The review identified latent pressure in this area against the limited corporate budget. Evidence from the case studies also revealed a tension between a desire for advice which, is seen to support the objectives of the particular client and advice that is more corporate or central in scope and nature. The improvement plan is an opportunity to resolve this tension whilst, at the same time, building up a cluster of resources to undertake this work. At the moment the Head of Legal Service is the Deputy Monitoring Officer, a role that is to become formalised and more defined (especially as to standards) under the Local Government Act 2003. Any improvement activity in respect of corporate legal advice must involve consideration of the monitoring officer function as a whole.
- 4.11 The procedures for risk assessment within legal services meet best practice. Assessment of the liability claims against the Council show no major claims fund against the Council arising from poor risk practices in Legal Services.
- 4.12 The ICT internal recharges to Legal Services require further investigation as initial data suggests costs are far in excess of the average incurred by the East Midlands Benchmarking Group.
- 4.13 Devolving lawyers into client departments has proved unsuccessful in the few cases where it has been tried by other authorities.

5. This has led to the identification of the following options for Improvement:

5.1 Issues to be dealt with at a corporate level

The following options are based on the assumption that, as a matter of corporate choice the Council wishes to maintain specialised legal advice in support of legal matters generally and corporate governance in particular, or whether, in order to reduce the cost of legal services, some discretionary activities that involve legal work are dropped altogether.

5.2 Workload Management Issues

Due to the increased cost that would be incurred (ie 260%) major outsourcing of legal services is not seen as an option.

Two alternative options present themselves as to productivity:

- Increase the number of managers (see profile on page 48) to achieve the desired profile in terms of managers: other lawyers
- Reduce the levels of other lawyers (and support staff) leaving the number of managers unchanged to achieve the desired management ratio. This option would require a reduction in the number of matter types undertaken internally as it is impractical to reduce work generally over all cases generally and still retain the skill sets required.

Both options would allow the quality issues identified to be addressed.

The first option would be cost neutral whereas the second option would increase costs, because of the need to outsource, unless certain matter types were dropped completely as a matter of local corporate choice.

Partnering is seen as a solution as and when specific major projects occur, where these bring in both significant additional workload and requirement for specialist skills that cannot be resourced internally.

Devolved legal services are not considered to be an option in terms of expense or effective management of resources

5.3 Trading Arrangements

Reorganise trading arrangements to either a “block sum” or below the line model, in support of:

- Organisational separation for managing corporate legal work (with compliance) recognising that there may be latent demand for corporate legal advice. Given the links with compliance and standards this should also address the role of the Monitoring Officer and Deputy Monitoring Officer
- Additional developmental activity to address quality issues identified on an “invest to save” basis and to promote flexibility/critical mass
- Creating head room for proactive work (to include support to clients who wish to become more self sustaining)

There may be some cost implications. It should be expected that staff progress through the career grade to reflect skills/flexibility although there should be savings on recruitment and the benefit of more immediate succession on vacancy. There may be a need for an additional lawyer/s to meet increased demand for corporate / compliance/ standards work.

5.4 Continuous Professional Development

Increase professional training provided to staff in order to:

- Increase work flexibility of staff
- Improve workload management and customer care
- Develop a potential resource of future professionally qualified staff in house

5.5 Internal Recharges

Appraisal of why the internal recharges to Legal Services for ICT appear relatively high.

5.6 Management Issues

- Improve management of queue and flow of work once in legal services
- Target administrative resource more effectively to address quality issues raised
- Develop available benchmarking data and review productivity targets/realisation to meet upper quartile of available comparators within one/two years

6. Consultation

Strategic Resources Group

Legal Services User Forum

Legal Services Staff Reference Group

External Critical Friends : John McElveney (Head of Legal Services Derbyshire County Council);

Consultee for partner organisations: Keith Beaumont (Chief Executive B.C.A., former Chief Executive of Leicester City Challenge)

Internal Critical Friends: Paresh Chandarana (Housing); Geoff Pearce (Cultural Services & Neighbourhood Renewal)

7. Background Papers

Research files held in Legal Services

2. Introduction

Under the duty of Best Value, Leicester City Council is required to secure continuous improvement in its operations in order to achieve economy, efficiency and effectiveness. In each Best Value Review, the Council will.

- Challenge the purpose and need for the service and the way it is currently delivered
- Compare how the Council is performing over time in relation to its objectives and to other services providers
- Consult with relevant stake-holders about the current and future operation of the service
- Use competitive processes, where appropriate, as a means of securing efficient and effective services

This review is examining the Council's Legal Services function. The aim of this report is to set out the strategic case for the service under review, that is the purpose and the need for them and the way they are currently delivered. It describes the service; how they compare with similar services, meet stakeholder needs at present and the objectives set for them by the council. The key issues that the review itself needs to address are drawn out from this exercise and a service assessment then identifies options for improvement.

The report will be used for consulting stakeholders of legal services, prior to finalising improvement options and preparing an improvement plan for the service.

Definition of Legal Services

The definition of "Legal Services" used in the Legal Aid Act has been adopted for this review:

"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.

Principle of the Review

A complex review has to be strategically focused. 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. This principle applies equally regardless of how the service is procured.

Management of the Review

The legal services delivered cover a wide range, which for practical purpose the review could not fully covered within the time available. The approach taken has been to focus on two areas. Firstly the 20% of services or matter types, which together represented 80% of the 2002/03 trading undertaken and secondly those Corporate services which have not to date been fully delivered, due to the late involvement of Legal Services

3. The Strategic Case for Legal Services

The fundamental need to provide the services which are the subject of this review needs to be challenged. The following issues apply.

- The principal client of Legal Services is Leicester City Council, who is our employer.
- 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, instructing Counsel and being described as a solicitor. (Courts and Legal Services Act 1974, Solicitors Act 1974)
- 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.
- 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.

Applying the above criteria to the matter types covered by the review it is possible to divide the services provided into statutory or corporately required.

Matter Type	Statutory	Corporately Required
015 - Lease/Tenancy – Grant		✓
031 – Disposal (Non RTB)		✓
032 - Title/Status Enquiry (Property)		✓
041 – Housing Possession – Rent Arrears	✓	
042 – Employment Law – Advice & Tribunal	✓	
044 – Planning – Appeals	✓	
056 - Claim – County Court Against LCC	✓	
063 - Contract - Major Works	✓	
068 – Prosecutions by LCC		✓
072 - Grants & Loans (Non Housing Renewal)		✓
082 - Housing Possessions – Non Rent		✓
122 - Right to Buy (Unit Rate)	✓	
E01 - School Admissions	✓	
SA04 - Mental Health	✓	
SC04 - Care Proceedings	✓	
112 – Contracts for services		✓
061 – Corporate Legal Advice	✓	
62 – Committee work *		✓ *
048 – Traffic regulation Order	✓	
30 - complex right to buy	✓	
67 – planning agreements		✓
45 – planning enforcement	✓	
SC02 – Disclosure/PII	✓	

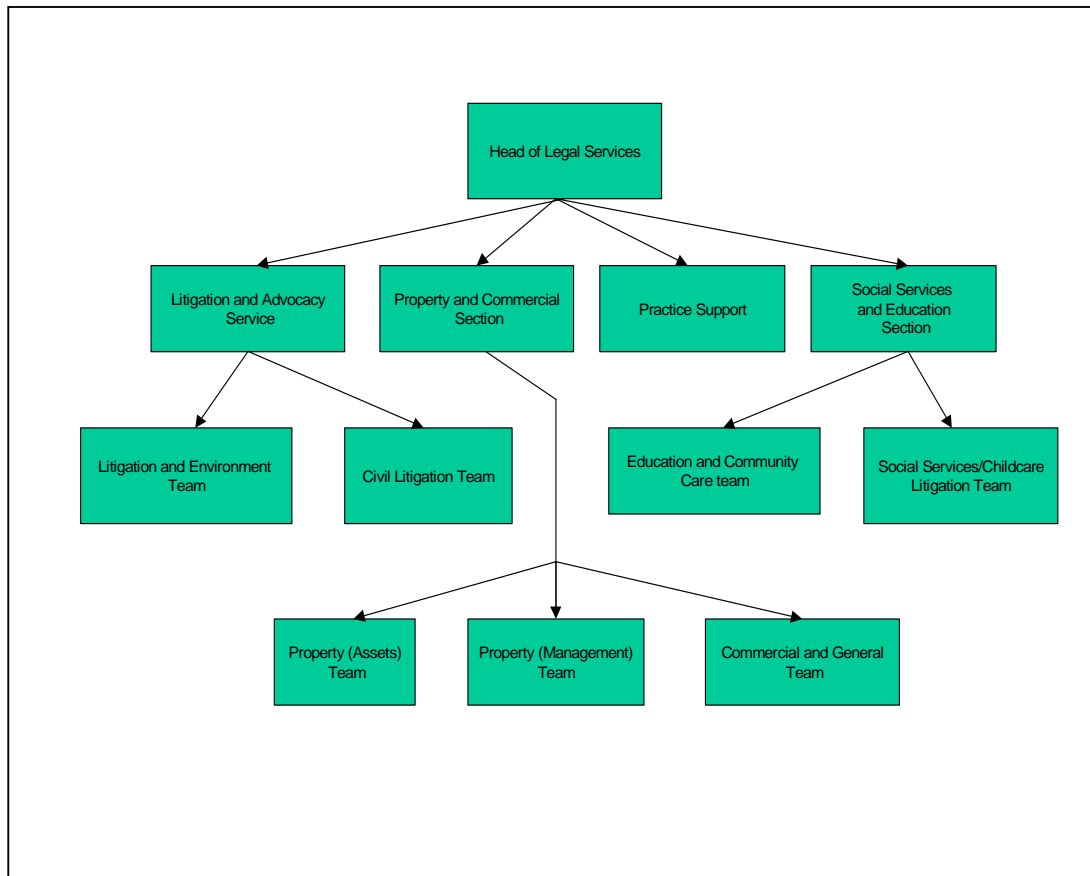
* a service not yet delivered to its full potential (due to late involvement). Contributing the legal implications in all reports going to Corporate Directors Board, Scrutiny and Cabinet represents a significant additional workload.

These matter types represent re-active work. Pro-active work (work done otherwise than on the instructions of a client) is non chargeable.

4. Service Profile

4.1 Legal Services Structure

Legal Services comprises four distinct sections plus a Practice Support Team. Organisationally, the Division also contains the Local Land Charges Team and the ICT Contracts and Security Team



Legal Services Work Areas

The following is a brief description of the work of these sections:

Head of Legal Services

- corporate and policy matters
- corporate legal advice to Council meetings in particular to Finance, Resources and Equal Opportunities Scrutiny Committee
- solicitor to the Combined Fire Authority

Property and Commercial

Commercial & General Team

- contracts for goods, works, services, consultancy and concessions and other commercial agreements
- funding and grant aid agreements both to and by the Council and other agreements relating to funding
- intellectual property
- public procurement processes
- local authority company work
- consortium, agency and partnering agreements
- non-contentious employment advice especially TUPE and workforce matters in contracting
- constitutional and administrative advice
- civil rights and liberties
- local authority finance
- all aspects of public housing law
- leisure services law
- bye-laws
- local government powers and responsibilities
- charities
- corporate legal advice to Council meetings in particular to Housing Scrutiny Committee and Arts, Leisure and Environment Scrutiny Committee

Property Teams

- right to buy
- sales and purchases of land and houses
- highways agreements
- commercial leases and landlord and tenant matters
- compulsory purchase and associated work
- title enquiries
- mortgages and other forms of security
- planning agreements
- easements
- covenants
- licenses for occupation or use of premises or facilities
- housing association law
- development agreements and associated work
- corporate legal advice to Council meetings in particular to Strategic Planning and Development Scrutiny Committee

Of the matter types covered by this review the following fall within this section:

15	Lease/Tenancy (grant)	31	Disposal (non RTB)
32	Title Enquiry (Property)	63	Major Works Contract
72	Grants and Loans (non housing renewal)	112	Contract for services
CTTEE	Committee work	08	General Property Enquiries
30	Complex Right to Buy	67	Planning Agreements

Litigation And Advocacy

Litigation & Environment

- Criminal prosecution and defence work
- All aspect of planning work
- Judicial review
- Licensing including the making of applications for liquor licenses
- Employment law and employment tribunals
- Together with the Civil Litigation Team, civil litigation including injunctions
- Highways and traffic
- Corporate legal advice to Council meetings in particular to Development Control sub committee, Licensing and Licensing sub committee, Highways and Transportation Scrutiny Committee and Strategic Planning and the Environment Scrutiny Committee

Civil Litigation

- All aspects of litigious work, mainly County Court, including debt collection Council House repossessions, homelessness and allocation appeals, introductory tenancy appeals, anti social behavior
- Judicial review
- Injunctions
- Eviction of squatters
- Commercial property disputes
- Contract disputes

Of the matter types covered by this review the following fall within this section:

41	Housing possession for rent arrears	42	Employment law – advice & tribunal
43	Planning appeals	45	Planning enforcement
56	Claims against the Council in the County Court	68	Prosecutions
81	Housing possession other than for rent arrears	CTTEE	Advice to committees
48	Traffic Regulation Orders		

Social Services and Education

Social Services/Childcare Litigation

- Public law proceedings relating to children
- Youth justice matters including advice on secure accommodation
- Child minding and day care advice
- Responding to requests from the courts to intervene in private law proceedings
- Adoption and fostering advice
- General advice to all social work teams dealing with children
- Advising at child protection case conferences
- Public interest immunity advice
- Providing training on childcare legislation
- Area Child Protection Committee
- Attendance and advice at Social Services panels
- Corporate parenting
- Corporate legal advice to Council meetings especially Social Services and Personal Care Scrutiny Committee

Education & Community Care

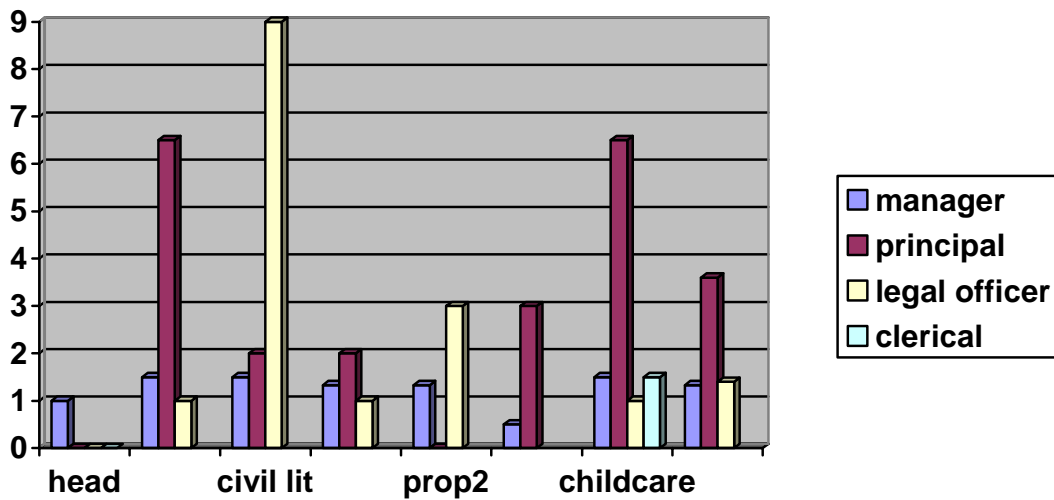
- Mental health advice
- Advocacy re mental health matters
- Asylum seekers
- Advising adult case conferences and strategy meetings
- Social Services and Education Panels
- Court of Protection work
- Advice and training on all community care legislation
- Education law including special education needs
- Education welfare
- School governance issues
- Advice to individual schools in the city
- Advice to church schools
- Admission and exclusion advice and appeals
- Advice on education action zones
- Strategic policy reviews
- Advice on raising educational standards
- Advice on school transport and premises and school security issues
- Educational charities
- Corporate legal advice to Council meetings especially Education and Lifelong Learning, and Social Services and Personal Health Scrutiny Committee

Of the matter types covered by this review the following fall within this section:

E01 School admissions SA04 Mental Health
 SC02 Disclosure/PII SC04 Care Proceedings

4.2 People Employed

The Legal Department employed 68 staff in 2002/03 of which 49.5 are distributed between the legal teams as shown below.



Breakdown of staff employed

- By gender

Scale	Male	Female	Total Numbers
1-3	1	10	11
4-6	1	13	14
SO	2	10	12
PO 1-2	4	10	14
PO 3-5	5	8	13
LSMG	2	1	3
UCOC	1	0	1
Totals	16	52	68

- By full time equivalent

Scale	Total Number of Posts (FTE)
1-3	10.95
4-6	11.68
SO	11.41
PO 1-2	11.53
PO3-5	10.78
LSMG	3
UCOC	1
TOTAL FTE	60.35

- By ethnicity

Scale	White	Mixed	Asian/Asian British	Black/Black British	Chinese Other	Total
1-3	7	1	2	1	0	11
4-6	12	0	2	0	0	14
SO	9	0	2	1	0	12
PO 1-2	8	0	6	0	0	14
1-3	8	0	4	1	0	13
LSMG	3	0	0	0	0	3
UCOC	1	0	0	0	0	1
Totals	48	1	16	3	0	68

- By disability/not disabled

Scale	Disabled	Not Disabled	Totals
1-3	0	11	11
4-6	1	13	14
SO	0	12	12
PO 1-2	0	14	14
PO 3-5	1	12	13
LSMG	0	3	3
UCOC	0	1	1
Totals	2	66	68

4.3 Departmental Budget

Description	Budget 2002/03	Actual 2002/03
Employees	2,055,600	2,036,200
Supplies and Services	166,500	258,855
Internal Recharges	500,100	522,045
External Income	(6,000)	(160,500)
Internal Income	(2,716,200)	(2,824,100)
Net Expenditure	0	(167,500)

Budget figures include the cost of providing the Debt collection services. These services are not covered by this review and account for £296,528 of the internal recharges. The balance figure for internal income of £2,527,572 has been used to identify which 20% of matter types that represent 80% of the internal recharge for Legal Services.

4.4 Internal Recharges

The total cost of delivering legal services for 2002/3 (excluding disbursements) is £2,817,100 of which the cost of internal recharges is £522,045. Of this £96,400 (18.5%) is recharging for IT. Whilst the same year comparisons are not currently available 2001/2 figures show Leicester's recharge as significantly higher than other benchmark authorities.

Authority	IT recharge for 2001/2 expressed per lawyer £
Stoke	580
Derby	739
Nottingham	1,032
Derbyshire	1,354
Leicester	1,614

Figures from CIPFA research produced for an exercise within the Resources, Access and Diversity Department show that central and corporate core costs are, in comparison to the average cost per person nationally, below average. This could indicate that there is some quirk in the way internal recharges are shown in Legal Services figures but the view of the Project Team is that more work is needed to explain why Legal Services is different to the others in the East Midlands Benchmarking Group.

4.5 Services Not Assessed in This Review

Debt Recovery including Legal Services elements is currently being reviewed separately. 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 inclusion of the Debt Recovery function in Legal Services will be limited accordingly.

The debt function represents £296,528 of our recharges and the following staff:

- 1.75 Legal Executives
- 4.0 Legal Assistants
- 2.0 Administrative Assistants (outside Practice Support)

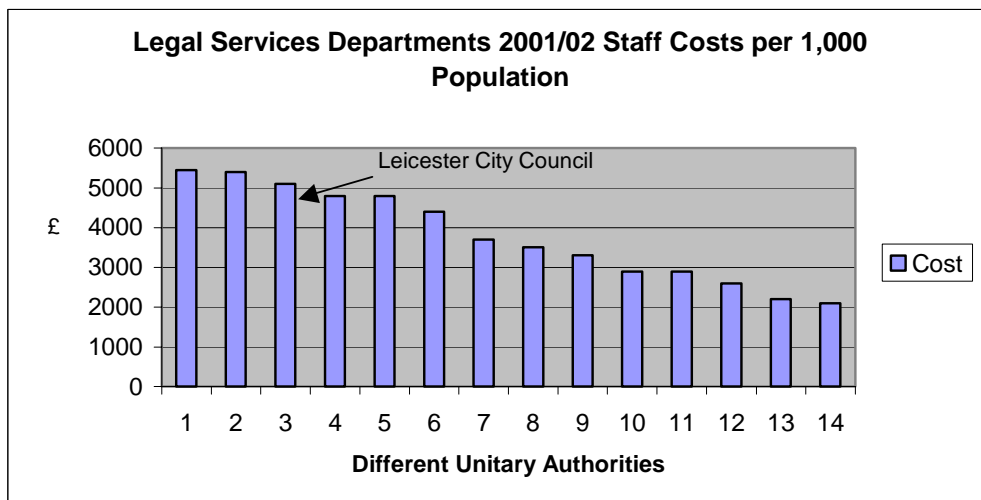
We have also excluded from the review the administration of Education appeals, which is an administrative service provided to Education and Lifelong Learning Department.

5. The Comparative Picture

5.1 How well does the service compare with other providers?

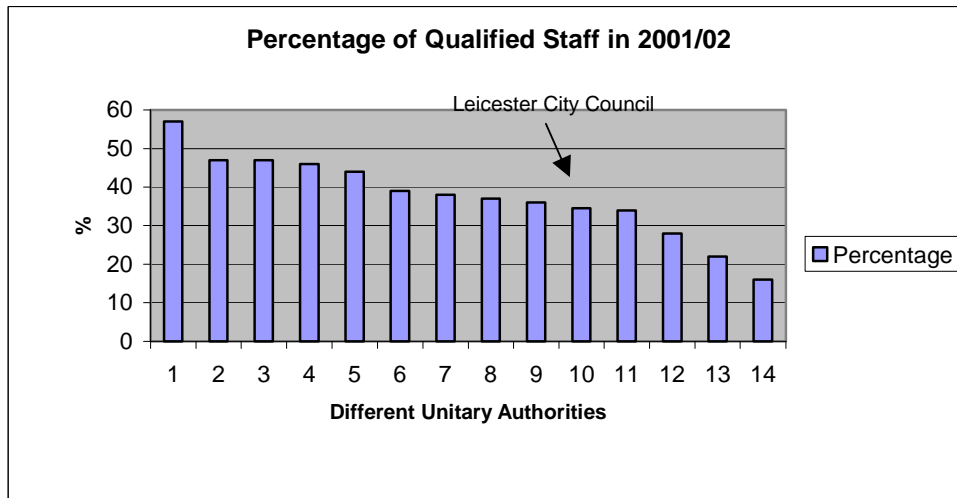
Costs

The Audit Commission in February 2003 identified that the overall cost of staff employed by LCC legal services is high than expected compared to the average for Unitary Councils.



The Audit Commission survey did not examine comparative workloads nor the effect of aggregating staff costs with the cost of externalised legal work. This part of the survey is of little material in this respect. For what it is worth the amount by which Leicester exceeds the “average” in this Audit Commission survey is approximately £380,000. As will be shown later virtually all of this is explainable by the fact that Leicester has lower than average legal externalisation costs.

Whilst the higher than expected overall cost reflects the fact that LCC legal services employs a higher than expected number of full time equivalents, the Council was found to employ a low proportion of solicitors. This could reflect that the council employs a higher than average number of other part qualified legal and support staff.



Further evidence from within our EM Benchmarking Group indicates that locally Leicester, along with Nottingham, employs approximately twice the number of solicitors than other authorities within the Group, although the average cost was the lowest. It is felt that Nottingham is a very good comparator both in demographic and regional terms.

Authority	Total cost of Solicitors 2001/02 in £	Average Unit cost For Solicitors £	Av. FTE
Leicester	703,475	29,935	23.5
Nottingham	711,300	33,238	21.4
Stoke	428,910	33,508	12.8
Derby	382,197	31,850	12
Derbyshire	529,782	37,842	14

This establishment trend for Leicester is also present in the number of other legal staff employed:

Authority	Total cost of other Legal Staff 2001/02 in £	Average Unit cost For of other Legal Staff 2001/02 in £	Av. FTE
Leicester	527,828	20,310	26
Nottingham	437,213	25,357	22.9
Stoke	197,196	26,648	7.4
Derby	200,028	20,002	10
Derbyshire	324,544	20,284	16

Comparing the balance of legal staff with support staff, the following table shows that the ratio for Leicester is in line with the EM Benchmarking Group.

Authority	Legal staff	Support Staff	Ratio
Leicester	49.5	27	1 : 0.55*
Nottingham	44.3	23.9	1 : 0.54
Stoke	20.2	7.4	1 : 0.37
Derby	22	10	1 : 0.45
Derbyshire	30	17.3	1 : 0.58

* includes local land charges staff and support staff devoted to debt which account for over half of this number

The overall cost shown in the foregoing Audit Commission report would be highest but for the lower salaries paid to all staff in the legal department. The hourly rate trading cost comparisons for 2002/03 calculated using the methodology set out by the Law Society shows Legal Services in Leicester being the lowest overall within the EM Benchmarking Group (which may follow from paying the lowest salaries) and significantly lower than a range of tendered private practice rates.

	LCC £k	EM Benchmark £k	Private Sector £k
Head	79	95 – 129	160 – 190
Principal	68	70 – 79	150– 190
Senior Solicitor	60	63 – 71	
Assistant Solicitor	50	53 – 55	105 – 120
Principal Legal Officer	47	55 – 59	90
Legal Officer	44	53	
Legal Assistant	35	46	

The above analysis assumes that the range and complexity of matter types and the overall volume of work, is proportional to the number of staff employed per thousand population.

The question of justifying the staff numbers employed need to be addressed and the following issues have been looked at in more detail:

- The comparative evidence of the effect of aggregating staff costs and the costs of externalised legal work
- Workload/productivity
- Whether there is inherently anything different about the way Legal Services works

The comparative evidence on aggregating internal and external legal costs

In the East Midlands Benchmarking Group Derby and Stoke have significantly lower numbers of staff per 1,000 of population, but externalise more work than Leicester City Council legal services.

<u>2001/2</u>	Population 2000/1	Number of lawyers(ex. Support)	Number of lawyers per 1000 head of population	Cost of lawyers per 1000 head of population £	Cost of all legal staff per 1000 head of population £
Leicester	290,000	49.5	0.17	4,245	5,400
Derby	236,000	22	0.09	2,467	2,960
Stoke	249,000	20.2	0.08	2,503	2,800
Nottingham	284,000	44.3	0.155	4,044	5,010

The average externalisation for legal services in unitary authorities and mets is 17% of all legal costs. Leicester is below average.

<u>2001/2</u>	Use of external legal services £	All legal costs per head of population £	All legal costs as a % of revenue budget	External legal services as a % of all legal costs
Leicester**	309,300 (469,640)	9.53 (10.08)	0.91 (0.96)	11 (16)
Derby	256,295	5.76	0.57	18.9
Stoke*	1,429,019	9.81	1.1	59.6
Nottingham	n/a	n/a	n/a	n/a

* stated to "include costs of a non typical nature"

** figures in brackets include abnormal legal costs of waste PFI and Swan Bridge handled by external solicitors and paid direct by ERD department

Workload/Productivity

Comparative Data

Effectively comparing the volume, complexity and range of matter types dealt with between peer authorities is not easy. A comparison of workload within our East Midland Benchmarking Group is currently not available, however the Group have, in preparation for this analysis, put together available data from other county authorities. These matter types (for property and child protection) only represent 5 of the 20 matter types within this review. This limited information shows Leicester's productivity to compare favorably:

Property Benchmarking 2001/2	LCC	Essex	Hants	Kent	Lancs	Warks	NYorks
	Average hours spent per case						
Disposals (31,30,122)	6.1	n/a	28.4	7.1	15	n/a	18.5
Purchases (28)	11.9	n/a	36.6	6.7	15	n/a	17.9
Leases/Renewals (13) – (20)	5.1	n/a	17.5	7.7	8	n/a	9
Licences (20, 22)	4.8	n/a	8.7	3.1	1	n/a	4.5
Easement (7)	0	n/a	10.5	4.1	3	n/a	13.2
HASSASSA (SA02)	n/a	n/a	7.3	1.8	4	n/a	4.5
Other (1, 5, 12, 25, 32, 35, 52, 123)	4.2	n/a	n/a	n/a	n/a	n/a	9.2
	Other Information						
Total cases divided by number of staff	141	n/a	104	274	70	65	110
Productivity actual hours charged	1301			1379			

* matter types covered in this review

Child Protection Benchmarking 2001/2	LCC	Essex	Hants	Kent	Lancs	Warks	NYorks
Average cost per case excluding disbursements	1339	6633	1140	4059	n/a	2958	n/a
Number of care proceedings cases	177	172	373	419	n/a	83	n/a
Productivity actual hours charged	1216	n/a	1304	1398	n/a	1419	n/a

Two additional matter types have been assessed for productivity against private practice for cases within a matter type where some cases have been externalised

	Internal average		External average	
Matter type	Cost	Time	Cost	Time
Employment	£561.56	9.36 hours	£701.63	7.59 hours
Planning enforcement	£328.57	7.32 hours	£584.31	7.14 hours

The productivity of remaining matter types remains unknown although (and this is not evidence of the relative effectiveness of the time spent) Legal Services do monitor overall chargeable hours booked by fee earners.

Target Hours

The “target” for overall chargeable hours per fee earner is calculated using the methodology in “Expense of time”. Some comparative information is available on other Councils overall targets in addition to the information on property and child protection work above. This information shows that our target is within usual parameters. Some information is available on overall comparative performance.

2001/2	Target	Actual
Stoke	1200hrs/a*	99%
Lancashire	1200hrs/a	100%
Leicester	1300hrs/a*	92%
Birmingham	1335hrs/a	95%

* slightly less for managers

Within our figures there is a variation between the teams

Time recharge expressed as a percentage of target	Head of Legal Services	Litigation and Advocacy	Commercial and Property	Education and Social Services
2001/2	137%	83%	92%	92%
2002/3	147%	90%	102%	90%

Information on comparable workloads is hard to come by. Some information on property and childcare cases is available (above)

5.2 Are there any inherent reasons why our establishment is comparatively high?

80% of our recharges is accounted for by the 20 or so matter types listed in section 2 above. All are either statutory functions or undertaken as a corporate requirement.

None of those appears to be matters that do not belong in “Legal Services” although in the East Midland Benchmarking Group these are some examples of where work that, in Leicester is done by Legal Services, is done by client departments. For example in Nottingham treasury officers conduct uncontested housing rent possessions and in Derby traffic regulation orders are undertaken by the client (although the feedback is poor). Limited process mapping has been undertaken in the areas of childcare proceedings, Right To Buy, Planning Agreements and Major Works Contracts. Although limited there is no evidence of any steps of any significance which are undertaken by Leicester’s Legal Services and nowhere else.

Comparator information on property transactions (see above) indicates that Leicester’s Legal Services carries the second highest individual caseload. Information from Property Services indicates that Leicester has a high property portfolio.

Productivity information (see above) shows that Legal Service is not significantly adrift of the other authorities. Legal Services Business Plan shows that Legal Services’ productivity target was achieved. The information on time spent on cases shows that only in the specialised area of employment law do we spend more time than private sector comparators but given that the comparators are specialist employment lawyers this is not a ready comparison.

Comparison of relative risk management practices (see above) shows that Leicester Legal Services is exactly comparable with the other authorities studied.

There may be issues of corporate local choice that lead to work being referred to Legal Services. For example it is a decision of Directors Board that Legal Services be consulted on every report to Cabinet/Scrutiny as part of the corporate governance requirements audited by the District Auditor. At present this has led to Leicester City Council being awarded a “level 4” in this area – the highest.

Also there is a long-standing corporate imperative for the attendance of solicitors at Committee. This could be changed to a standby basis, but, since committees are after 5.30 pm and the solicitors attending are usually doing (unpaid) overtime, there is little cost saving to be had here.

Other factors may be through the Head of Legal Services role in signing contracts and advising on contract procedure roles as assigned by the Councils' constitution. There has been an increase in awareness of "compliance" in this area since the formation of the Corporate Procurement Team who refer matter onto Legal Services where non standard compliance issues are involved and a general increase in engagement with compliance issues.

One service director has insisted that, notwithstanding the delegation to officers, all contracts should be checked by Legal Services. This has resulted in more queries being referred to Legal Services. Also Contract Procedure Rules require that departures from the standard terms of contracts, in some cases, have to be agreed by the Head of Legal Services. On the other hand the relaxation of the rules on works contracts under £100,000 has already resulted in significant downturn in the number of "minor works" contracts dealt with by legal services, these do not now appear in the "top 20" matter types.

5.3 How well does the service meet user expectations?

EXCEL, the quality mark awarded by the Law Society for practice management and client care, have accredited the service delivered by the legal section as excellent for the past 3 years (2000 to 2003). This accreditation covers Services and forward planning, financial management, managing people, office administration and case administration.

Legal Services operate client surveys. An external consultant as part of our EXCEL accreditation process conducted the first survey. This showed that clients' opinion of the legal services provided was:

Good/adequate	Variable/Weak	Poor
Accuracy and reliability of advice	Timeliness to meet users programme	Fast response to queries
Clarity of advice with explanations	Good communication	
Speed of dealing with case	Consistency	
	Being proactive	
	Commercial Attitude	

Before scoping the Best Value review all Directors were asked to identify concerns with the service Legal Services delivered. They identified the following:

- Timeliness / staff shortages
- Lack of information on the progress of cases
- Inconsistent advice from within Legal Services
- Frustration when advice based upon the authorities overall interest, is not in line with the interests of a specific project.
- Risk adverseness
- Delays caused by externalisation
- Not so good advice on PFI and Partnerships.

This closely reflects the findings of the EXCEL client survey emphasising the continuing need for improvement in these areas.

In between these surveys a “pilot” client satisfaction survey, of Property and Commercial cases had been undertaken. This focused on the areas of concern identified by the EXCEL external consultant and was conducted using a “postcard” issued with completion advice’s. In 2002/3 this was extended to all non-debt matters. The response rate of 163 is statistically very low compared to the 4,500 matters opened/live in Legal Services averages per year. The response is also predominantly from Housing and ER&D, nevertheless within these departments there were very few adverse responses.

Summary of Client Satisfaction Card Survey

Category:	Not Answered	Poor	Satisfactory	Very Good
Standard of Advice/Assistance	0.0%	1.8%	46.0%	52.1%
Consistency of Advice/Assistance	0.0%	1.8%	47.2%	50.9%
Ability to Contact	0.6%	0.6%	41.7%	57.1%
Information on Progress	0.6%	6.1%	41.1%	52.1%
Turnaround	0.0%	11.0%	45.4%	43.6%
Total	0.2%	4.3%	44.3%	51.2%

The Level of unsolicited complaints/plaudits received over the past 2 years were as follows:

	Internal	External	Total
2001/2			
Complaints	1	6	7
Plaudits	14	3	17
2002/3			
Complaints	2	4	6
Plaudits	6	3	9

5.4 How well does the service meet its objectives?

The Business Plan sets out the contribution to corporate strategies and plans and departmental objectives. These can be summed up as ensuring that corporate priorities and strategies have a sound legal basis, contributed by the legality and probity of decision making.

Legal Services has a Business Plan that contains an action plan (detailed overleaf) which, although practice based, set out key tasks, outcomes and targets.

Legal Services Service Business Plan 2003-2006 – Action Plan

	KEY TASK	OUTCOMES	DEADLINE	POSITION 31ST MARCH 2003
1	Overall management of the “modernising” project.	Ensure Business Action Plan delivered to target.	31 st March 2003.	Overall achieved - see below.
2	New case management system.	Purchase and implementation of new case management system, to match specification.	April 2003	Achieved: basic system implemented on target.
3	Implement the Budget Action Plan.	Ensure that legal service is delivered within allocated resources and the set budget for 2002/3.	March 2003	Achieved: target fee earner performance i.e. 94% achieved.
4	Making best use of ICT	Development and implementation of ICT strategy (for at least 3 years) to include training to basic ICT literacy standards.	March 2003	Achieved: have ICT strategy in place. ICT basic level awareness self-assessment audit completed. All fee earners time recording on Solcase.
5	PI's, business plan targets, management and client information, and associated monitoring systems.	Develop measurement arrangements, supported by new case management system, ensure ongoing monthly PI reports, including improved data; review TAG targets and compare with other authorities.	March 2003	PI's / TAG reviewed in consultation with departments. Satisfaction card responses implemented in part on Solcase.
6	EXCEL	To repeat the excellent result achieved in March 2002.	March 2003	Achieved.
7	IIP	To ensure maintenance of IIP standards.	March 2003	Achieved.
8.	Training and development plan	Review of performance against previously agreed priorities.	July 2002	CPD requirements met for all staff. In-house training provided; gap in ERDS identified.
9	Ensure the Practice Support Section meets the needs of the modernised service	Text processing changes to be fully implemented.	March 2003	The service has responded to needs, but there are ongoing resource difficulties which prevent full implementation of plans for text. Move on to link grade outstanding.

	KEY TASK	OUTCOMES	DEADLINE	POSITION 31 ST MARCH 2003
10	Best Value preparations	<p>a. Ensure positive contribution to the corporate Comprehensive Performance Assessment</p> <p>b. Ensure positive outcome in best value review of debt recovery.</p> <p>c. Audit against Best Value 4C's.</p> <p>Development of East Midlands Benchmarking Group to ensure production of:</p> <ul style="list-style-type: none"> * comparative data (preferably of national acceptance) * procurement options for Legal Services 	<p>June 2002</p> <p>Sept. onwards 2002</p> <p>Sept. 2002</p>	<p>Level 4 achieved for corporate governance</p> <p>Project currently underway.</p> <p>Being tackled under 2003 BV review.</p>
11	Managing the client	Development of a set of techniques which clients can employ to enable them to be more efficient in their use of Legal Services.	Sept. 2002	Standard form of instructions done. Delegated powers certificate now available on intranet on legal web page.
12	EMAS	Achieve a 2% reduction in paper printing budget. This was not achieved in 2001/2	March 2003	Not achieved.
13	Resources	Develop an effective human resource strategy	Sept. 2002	External panel established and arrangements with agencies reviewed. Career grade established – majority of staff signed up.
14	Health and safety responsibilities	All risk assessments completed and up to date, and implementation of remedial action plan to be on target. Further assessment is being organised following staff changes and to focus on screen usage.	Sept. 2002	Risk assessments completed. Action plan to address risks completed. DSE operator training / manual handling training provided.
15	Equal Opportunities	<p>To ensure operation of career grade is in accordance with the Council's policy.</p> <p>To ensure all staff attend refresher equality awareness training as part of Divisional Training Strategy</p>	March 2003	Most staff have now moved on to the career grade and a number are progressing through assessment points. All staff deemed to have been treated fairly.
16	Local Land Charges	Ensure turnaround time	Sept. 2002.	Target now being

	KEY TASK	OUTCOMES	DEADLINE	POSITION 31ST MARCH 2003
	turnaround time	consistently below Audit Commission 10 day target.		achieved. Revised SLA and joint improvement plan with ERD agreed.

The performance improvement priority for 2002/3 was accounting for the service and recovering chargeable time to target. The priorities for 2003/04 should address improvement options raised by this review to address the concerns identified by the EXCEL survey and reaffirmed by the recent Scoping survey.

5.5 How well can current provision meet future needs?

Evidence of delivering legal services using different models of service provision:

5.5.1 Outsourcing – in whole or in part

In 2002/3 the service outsourced work with a fees value of £211,728, this represented only 1.3% of cases i.e. 58 cases out of approximately 4,500 handled during the year. This work involved some, but not all cases, within the following matter types:

- Employment Law
- Childcare
- Planning enforcement
- Planning Orders
- Major property work
- Major works contract issues

There is a very limited comparative benchmarking available via the Audit Commission to compare local authority efficiency against private practice. Leicester have made comparisons against four matter types where Leicester has this information

Average	Internal		External	
	Cost	Time	Cost	Time
Lease Renewals	£109.45	2.54	£545.40	4.04
Childcare	£7,643.76	N/A	£11,545.13	N/A
Employment	£708.60	11.24	£701.63	7.59
Planning Enforcement	£328.57	7.32	£584.31	7.14

From the above it can be seen that:

- Lease renewals are both more costly and take longer when externalised.
- Childcare costs are significantly higher for external cases. However it is difficult to make an accurate comparison for these as entire cases have not been externalised in the majority of instances. (This information is based on a sample of four cases only.)
- Employment costs are more or less similar, however, the time taken is significantly lower for externalised cases. (This information is based on a sample of three cases only.)
- Planning enforcement's are considerably cheaper in-house, however, the time taken to process cases is very similar. (This information is based on a small sample of cases)

There is a well-developed regional market for the provision of all the matter types in this review apart from very new developments where the market would be limited to a few firms who actively promote themselves in developing areas.

5.5.2 Market Testing

In 2002 a tendering exercise was undertaken in 8 different work areas as part of an extended resource strategy. Twenty-three responses were received and these were assessed for comparative quality and "sport" costs (fee rates).

5.5.3 Quality

A quality management comparison of the firms that tendered showed that

- 8 were EXCEL or BS EN ISO 9001 accredited
- 4 were awaiting or seeking accreditation
- 2 were IIP accredited
- 4 were awaiting or seeking accreditation
- All firms had a written policy for dealing with complaints.
- All firms claimed to bill on a monthly basis.

Legal Services have achieved EXCEL and IIP status and fulfil all of the above measures.

5.5.4 Fee Comparison

	Most Expensive	Least Expensive	Average Fee	LCC
Partner	£295	£60	£185	Head of Legal - £88 Asst. Head of Legal - £76
Senior Solicitor	£190	£110	£139	Senior Solicitor - £67 Team Leader - £67
Associate	£195	£100	£152	
Solicitor	£209	£50	£134	Solicitor & Team Leader - £56
Senior Assistant Solicitor	£200	£190	£180	
Assistant Solicitor	£180	£110	£142	
Trainee Solicitor	£100	£60	£85	
Legal Exec	£204	£65	£109	Principal Legal Officer - £52 Legal Officer - £50
Paralegal	£110	£60	£84	
Legal Asst/Clerk	£39			

The fees rates quoted would be expected to reduce if a guaranteed work quantity could be given.

Information on partnering, pooled budget/integrated provision and de-centralisation of in-house legal team is limited and will form part of the service assessment information gathering.

6 Key Issues

From the comparative analysis it will be seen that while the Legal Services maintains a EXCEL quality rating, there are concerns revealed by two surveys undertaken 2 years apart. The issues identified i.e. timeliness, good communication, consistency, being proactive and commercial attitude, indicate apparent pressure upon the service. However, benchmarking identifies that both the total service cost and overall number of staff employed are high in comparison with other Unitary authorities. Resolving this apparent contradiction to the benefit of the authority is at the heart of this review. The review will look in particular at the following key areas:

- 1.1 In what way and what options exist for ensuring that access to legal services meets quality cost and time requirements – an assessment of demand and supply and the alternative improvement options available to balance these.
- 1.2 What options for improvement exist which will promote flexibility to address risk within acceptable and understood parameters.
- 1.3 What improvement options exist to develop people, improve the environment in which they work and to remunerate them; to remove unnecessary cultural and attitudinal barriers and to support partnership working.

7 Service Assessments

7.1 Reduction of Service Provision

Work is already being undertaken to reduce the call on Legal Services. Examples at other authorities in the East Midland benchmarking group are as follows:

- At Derby City Council, Stoke City Council and Nottingham City Council court appearance at uncontested rent possessions are done by the client team.
- At Derby City Council as well as in Leicester (and proposed at Stoke) small value standard form contracts are dealt with at client level.
- At Derby City Council and Stoke City Council temporary Traffic Regulation Orders are dealt with at client level.
- At Derby City Council school admission appeals are not done by the Legal Services division.

It may be possible for work to be done by non lawyers in the clients team (and thus fall outside the definition of “legal services”). The staff reference group have identified the following as possibilities

- Clients making sure that full instructions are received first time, using standard instruction checklists so that legal staff do not have to do basic referencing work.
- If Legal Services could do proactive work then “fact sheets” could be produced of FAQ. At the moment corporate trading arrangements effectively bar pro-active work.

These options could be worked up further under the improvement options identified.

However, the only way of reducing the overall cost of Legal Services is by reducing the demand for legal services wherever it arises and thus the number of qualified and non qualified legal staff employed by Leicester City Council. This means that qualified and non qualified legal staff will need to be made redundant. The saving will not be met by just deploying these staff elsewhere.

If this is to be done then there are two options:

- Certain work is just not undertaken at all within the authority for example no prosecutions are taken as a matter of policy, and/or

- Work is reassigned to staff in clients teams who are not “qualified or non qualified legal staff.” Unless spare capacity is used this will mean that new staff who are not “qualified or non qualified legal staff” will have to be taken on by the Council who are capable of doing the work. Given the evidence of average salaries in legal services (see above) it is difficult to see how this would be a cost effective option given that these skills are already in legal services and, according to the evidence, used effectively. If this option were taken then this would contradict any option of moving to a critical mass of skilled lawyers, who in turn may be able to generate income from the legal requirements of other public bodies.

The Project Team supports neither of these two options which in their view, based on the evidence, are irrational. There is no evidence that Leicester is particularly high in the aggregate and comparative cost of legal work (internal and external). In particular the Council may be acting unlawfully if proper professional advice is not taken, if certain functions were not undertaken or if a redundancy decision was taken on unreasonable grounds.

7.2 Outsourcing

The fees rates quoted would be expected to reduce if a guaranteed work quantity could be given. Both Nottingham Trent University and De Montfort University, who outsource most of their legal work, were asked to confirm the range of fees they were charged but are, understandably, unwilling to disclose commercially confidential information.

Example: **De Montfort University**

All legal work is outsourced. They have two distinct areas of legal work, “Estates” (property purchases, sales, leases and development contracts) and “Corporate Instruction” (litigation, employment tribunals and other resource issues, contractual relationships and resource issues)

For Estates work they use a panel of national and local solicitors appointed through a competitive tender process. For Corporate Instruction a sole supplier has been appointed on a three year contract after competitive tendering. The annual budget for Corporate Instruction is £0.25m

There is a small in-house senior team responsible for filtering and allocating corporate instruction work. This comprises a Director and two Principal Officers (salary c. £31k). The sole supplier relationship has proved to be very useful, the external firm have been able to get to know the client and the context in which it works. Outsourcing is a practical way of drawing on expertise when it is needed.

The advantages are seen as follows:

- Access to more diverse range of expertise and ability, this helps when extraordinary cases arise
- Priorities are treated as such and internal pressures within the supplier are not an obstacle to receiving a quality service
- The client can request the level of seniority it requires, this helps maintain confidentiality at a senior level
- Regular and detailed billing information
- Good two way communication process

The disadvantages are:-

- that there has to be a significant amount of time invested in managing the relationship with the supplier.
- It is not a cost cutting option

There is no partnership arrangements between DMU and the supplier

A crude extrapolation can be made using the tendered rates reported above to calculate what the cost of externalising all Leicester’s legal work **assuming** the same number of chargeable hours are incurred as the in-house team.

LCC internal recharges 2002/3 **£2,824,100**

Extrapolated external equivalent **£7,400,000**

This works out as an uplift of 260% in costs. This could only result in a saving to the Council if the private sector was more than 260% more efficient, in terms of productivity or turnaround times. Given that there are only 24 hours in a day (even ignoring working time directives!) it is impossible to see how this could be even begin to be achieved.

7.3 Partnering

Both Nottinghamshire CC and Essex CC operate partnership agreements with private practice as do a number of other County authorities.

Example: Essex CC

Essex advertised for a “preferred provider” although any legal work would have to be separately tendered. Their “partner” provides help with marketing, help in locating specialist legal advisors, events and training and the mutual benefit of building a relationship.

Leicester City Council Legal Services present partnering arrangements

LCC Legal Services have appointed two external firms following competitive tender to assist in eight work areas. These firms are engaged using their spot rates although a small retainer arrangement has also been agreed for one off bits of advice. In one case, provided the requirement is kept to a reasonable minimum, the cost of this is nothing, in the other case small annual fee is paid. The partners have been able to provide the following assistance:-

- Provision of lawyers to work alongside the internal team on cases
- Training events
- Practical advice on sources of assistance
- Access to newsletters etc

Leicester City Council Legal Services have also worked alongside specialist external lawyers. The most notable recent example of this was the successful conclusion of a £365m contract for waste collection and recycling under the PFI scheme, where Legal Services handled constitutional and indemnity matters and Nabarro Nathanson handled procurement and the contracting documentation.

Nottinghamshire County Council also operate a partnering arrangement with Eversheds solicitors but have preferred to handle as much work as possible in-house, as with Leicester work is only sent externally where there are staff shortages or where there is a need for specialist lawyers (although this would be separately tendered).

7.4 Pooled budget/integrated provision

Example: Leicester PCT West

Operate a pooled arrangement with other PCT's that operates for cases where the PCT are sued for negligence. They are allocated a case solicitor from the pool, and pay a premium, which operates in a similar way to a self insurance reserve.

Example: Essex County Council

Have a joint litigation unit. This operates as a sort of "in-house" chambers of advocates who are commissioned both by other legal teams within Essex and by other districts within Essex and even authorities outside Essex who need help with difficult cases. A Project Board has been set up with other districts. Billing is at an arranged rate. The arrangement came about because of alliances between Essex's Chief Executive and other authorities.

The advantages are:-

- Enables a critical mass to be maintained of highly qualified lawyers – this not only enhances and builds on skills but enables people to be moved around or taken on to meet demands
- Gives the Legal Team a higher profile
- Helps with recruitment and retention
- Brings in real income

7.5 In house devolved legal team

No current examples of this are known. Indeed this practice would be contrary to Audit Commission guidance, because of issues of professional supervision. The Review Team has tried to contact those Directors expressing preference for this but has only managed to speak to one department. The main advantage of devolved legal teams was that a personal presence would build up the relationship.

A summary of the advantages and disadvantages of the devolved legal team

<u>Advantages</u>	<u>Disadvantages</u>
Responsibility for controlling demand on legal services firmly in hands of host department, subject to Law society rules on professional conduct	Difficulties in the professional supervision line
A personal presence hosted by the department	Additional costs of building in supervision (as demonstrated by devolved Finance and Personnel Services)

	Difficult to resource, both in terms of specialisms currently crossing departments (e.g. works contracts) and “overflow” (would have to be externalised as no “spare capacity” exists)
	Effective de-skilling
	Inefficient use of resources (see Tower Hamlets)
	For reasons given above more expensive, both in client terms and overall cost to authority
	Legal advice not unified on cross cutting issues

An example of where devolved legal teams has been tried in the past is Tower Hamlets. Contact with the Head of Legal Services involved at the time has indicated that this was expensive and inefficient (apparently four solicitors turned up at the same Court on one occasion!) and the experiment was discontinued.

There are however a number of examples where “Corporate” legal advice (or similar) is effectively a separate division to the delivery of the rest of legal services.

7.6 Risk Management

An analysis of comparative risk management procedures has been undertaken
Review of matters covered in risk management procedures

	LCC	Leeds	Nottingham	Derbys	Bristol	L’pool	Firm A	Firm B
Do very complex cases get referred to a manager /supervisor for allocation	✓	✓	✓	✓	X	✓	✓	X
Is risk considered on a file	✓	✓	✓	✓	✓	✓	X	X
If risk is considered against generic categories are these reviewed?	✓	✓	✓	NA	✓	✓	✓	X

	LCC	Leeds	Nottingham	Derbys	Bristol	L'pool	Firm A	Firm B
Are cases allocated by a manager/supervisor	✓	✓	✓	✓	✓	✓	✓	X
Are risky cases reviewed regularly	✓	✓	✓	✓	✓	✓	✓	X
Are there procedures for when a case goes wrong	✓	✓	✓	✓	✓	✓	X	X

7.7 Case Studies

Case studies have been undertaken on files where a complaint has been raised, or a satisfaction postcard has come back showing "poor". In addition members of the Legal Services User Group were asked to identify cases where there were felt to be issues and cases identifiable from the Directors survey were also studied. These case studies are being verified by the External friend to the Review.

Issues	Clients View	On review, was this view confirmed?	Other findings on review
Delay	11	8	0
Poor advice/poor work	6	2	1
Inconsistent Advice	3	0	0
Unclear advice	0	0	1
Excessive Cost	4	1	0
Cost not accounted for	0	0	1
Advice not in interests of project	1	0	0
Lack of information on progress	4	2	1
Client not consulted enough	1	0	0
Advice Too Cautious	0	0	0
Instructions not carried out	2	0	0
Other	0	0	0
File record not sufficient	0	0	3
Total	32	13	7

The variance between the columns reflect cases where the reviewer found no issue with the legal work done. In 5 cases at least part of the issue can be put down to error or delay on the clients part. In one case an allegation of poor work flies in the face of the facts as revealed by the file so as to be, probably, malicious.

7.8 Queuing

Taking the evidence from the case studies, the comparative information on the average time of cases and the productivity information further work was then done to gauge whether there is any evidence of the extent of work queuing. The following can be deduced:

Files not found at some point	7
Delay in opening file	7
Delay in immediate substantial activity on file	5
Total number of files surveyed	92

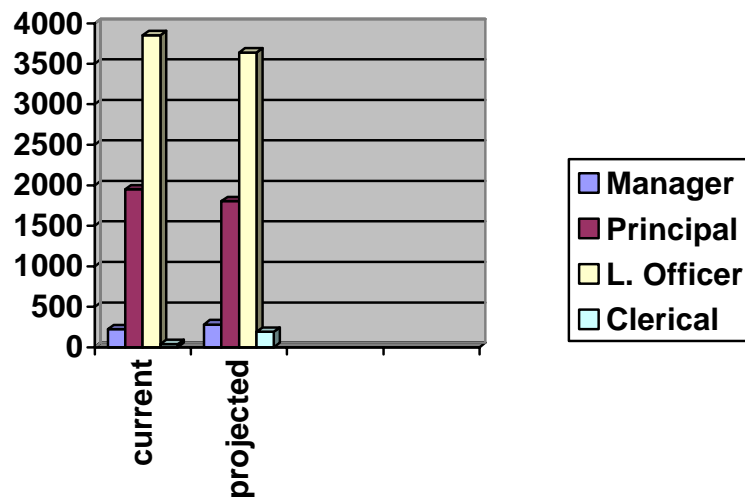
7.9 Volume/Skills Cost study

The Review has found that about 20 matter types of work form 80% of the recharges for Legal Services. 15 of these have been looked at in more detail. Time recording and billing information shows how much time is spent on these matter types by different levels of fee earners and also the cost of completed cases within these matter types. An assessment was then made (taking into account the risk associated with the particular matter type and the main skills sets by fee earner for that particular matter type) of what would be the ideal establishment breakdown for that matter type. A further assessment was made as to whether this would change the time spent on each case and therefore the cost of completed cases. This was done by reallocating time spent on supervision and care and consideration activities after applying a factor to allow for seniority. The hourly rate was assumed to be unchanged.

Matter Type	Current Cost of cases* within survey	Predicted Average cost of cases with re-allocated time	No. of completed cases
Lease/Tenancy	£11,863	£11,357	84
Disposals	£7,083	£6,753	21
Title Reports	£4,402	£4,171	51
Rent Possessions	£35,478	£34,703	321
Employment	£8,951	£8,106	63
Planning Appeals	£6,810	£6,967	63
County Court work	£1,671	£1,739	16
Works contracts	£21,361	£21,062	78
Prosecution work	£59,679	£61,543	197
Grants & Loans	£1,453	£1,411	11
Non rent possessions	£1,421	£1,383	9
RTB	£55,983	£54,534	552
School admissions	£54,168	£49,978	122
Mental health	£4,018	£3,613	38
Care proceedings	£5,495	£5,224	34
Totals for these cases only	£281,651	£272,545	1662

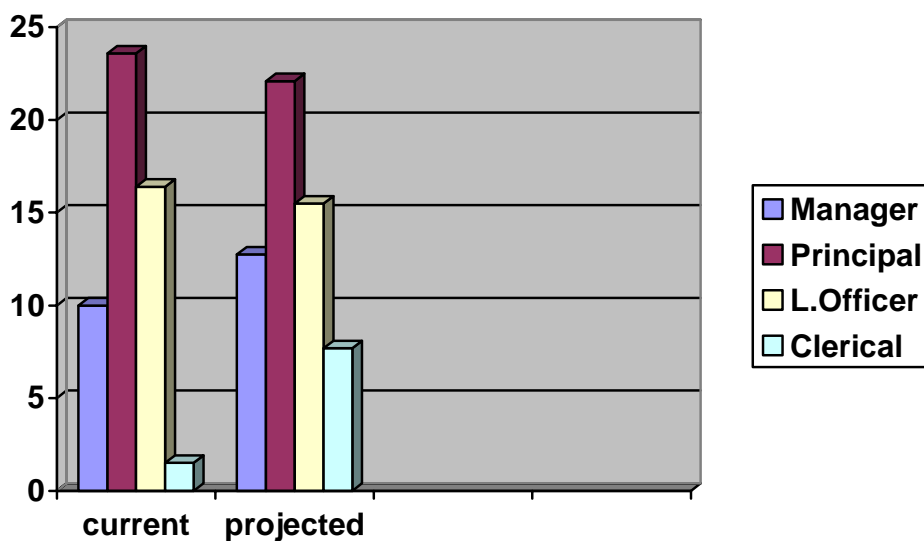
*these would include "abortive" cases

The chart below represents the change required in staff profile expressed as total hours charged on the basis of the cases within this part of the study. These cases are cases opened and completed within the same financial year. The full range of skills/time/risks can only be profiled in this way.



If this picture is extrapolated to Legal Services as a whole this would result in the following variance to the staff profile

This profile will understate the requirement at Team Manager and Principal level because of the effect of corporate legal advice for example at committee. The clerical posts shown are not those located in Practice Support.



This exercise was done, necessarily, on completed files, opened and closed within one financial year. Files covering matters going on for particularly long periods of time, as some complex cases do, may also be understated in this study.

The significant finding here is that, to achieve the ideal profile, there is a need for an increase of approximately 2.75 fee earners at “manager” level. These are persons with the following skills set:

- Expertise in the work allocated to the staff group
- Skills in the Council's procedural environment
- Knowledge of external measures governing the work
- Knowledge of other areas arising
- Expertise in supervision of professional fee earners
- Ability to carry own workload of complex/more sensitive/significant matters

8 Improvement Options

8.1 The Emerging Issues

8.1.1 Workload Management Issues

- Revisiting corporate imperatives e.g. for advice on committee reports
- Managing the queue and flow of work once in Legal Services, the administrative resource and time for complex casework
- Developing the available benchmarking data and setting productivity targets to ensure that these areas meet best in class within one/two years

These options derive from the evidence that corporate legal work is under budgeted and, in terms of staff profile, is an area of pressure. The evidence shows that, generally, time spent on cases is below average although there is evidence, through both the case study exercise and the research into “queuing” that there are issues about delay in making a substantive start on jobs.

8.1.2 Client Issues

- Integrating lawyers into client processes (by becoming more involved in client planning or cases as they emerge)

This option is indicated through the case study research and would also arise from making the best use of the staff profile.

8.1.3 Proactive Work and Corporate Work

- Reorganising the trading arrangements for these, either by a “block sum arrangement” or by taking this as a separate function “below the line”
- Organisational separation for managing corporate legal work
- How best to deliver and “pay” for corporate/compliance work in relation to the role of the Monitoring Officer and Deputy Monitoring Officer

At the moment this work is either charged to the limited corporate code, not charged for at all or charged to a reluctant client. Corporate Legal Advice currently constitutes about 8% of the services work and is therefore significant. Resources suggest that this is an area under pressure too in terms of resources available in the staff profile. Evidence from the case studies reveals a tension between advice that may be seen to be furthering the objectives of the particular client and advice that is more “corporate” or central in nature. At the moment the Head of Legal Services is the Deputy Monitoring Officer, a role that is due to become formalised and more defined under the Local Government Bill. This could be an opportunity to resolve this tension whilst, at the same time, building up a cluster of resources to undertake this work.

8.1.4 Resource Issues

- Are there the right people in the right place at the right time?
- Making headroom in our recharging rates for training, development, “growing” and invest to save strategies.
- Rebalancing the resources to get close to the ideal skills profile. In practice this will mean recruitment/reduction and/or externalisation/reduction.

The evidence shows that in some cases there are issues with delay. This may be a queuing effect. This may be due to the right people not being available at the right time, or there may also be a “bottleneck” effect in staff accessing managers.

The comparative evidence shows that the service has comparatively fewer fee earners at the more senior levels, comparatively higher numbers of fee earners at other levels and that average salaries are low. The business has as a priority achieving a balanced budget yet fee recharge levels are the lowest amongst comparators. This means that fee earners are under pressure to achieve fee performance targets. Little room is available for proactive work or learning on the job. Clients criticise poor legal advice and delay.

Research has also shown that there are advantages in terms of flexibility, income earning potential and profile, in achieving a “critical mass” of skilled lawyers. The skills/volume exercise identified an under resource (compared with ideal conditions) at manager level. This analysis has not looked at the increasing management burden carried by managers in addition to their being expected to take on the most complex/sensitive/significant matters. It needs to be recognised that this option will mean an increase in the sections hourly rates.

8.1.5 Internal Recharges

- We need to find ways of reducing the internal recharges to Legal Services as some of them are comparatively high.

8.1.6 Service Delivery Options

- The retention in-house of the large part of the service.

The cost implications in using external suppliers on anything other than a specialised/spot basis are not justified in terms of either cost or overall efficiency. The cost implications of externalising work show an estimated 260% increase in recharge rates for the same amount of work.

- The retention of a centrally organised service but devolved Legal Service is not considered to be an option in terms of expense or effective management of resources.

8.2 Improvement Options

8.2.1 Issues to be dealt with at a corporate level

The following options are based on the assumption that, as a matter of corporate choice the Council wishes to maintain specialised legal advice in support of legal matters generally and corporate governance in particular, or whether, in order to reduce the cost of legal services, some discretionary activities that involve legal work are dropped altogether.

8.2.2 Workload Management Issues

Due to the increased cost that would be incurred (ie 260%) major outsourcing of legal services is not seen as an option.

Two alternative options present themselves as to productivity:

- Increase the number of managers (see profile on page 58) to achieve the desired profile in terms of managers:other lawyers.
- Reduce the levels of other lawyers (and support staff) leaving the number of managers unchanged to achieve the desired management ratio. This option would require a reduction in the number of matter types undertaken internally as it is impractical to reduce work over all cases generally and still retain the skill sets required.

Both options would allow the quality issues identified to be addressed.

The first option would be cost neutral whereas the second option would increase costs, because of the need to outsource, unless certain matter types were dropped completely as a matter of local corporate choice

Partnering is seen as a solution as and when specific major projects occur, where these bring in both significant additional workload and requirement for specialist skills that cannot be resourced internally.

Devolved legal services are not considered to be an option in terms of expense or effective management of resources

8.2.3 Trading Arrangements

Reorganise trading arrangements to either a “block sum” or below the line model, in support of:

- Organisational separation for managing corporate legal work (with compliance) recognising that there may be latent demand for corporate legal advice. Given the links with compliance and standards this should also address the role of the Monitoring Officer and Deputy Monitoring Officer
- Additional developmental activity to address quality issues identified on an “invest to save” basis and to promote flexibility/critical mass
- Creating head room for proactive work (to include support to clients who wish to become more self sustaining)

There may be some cost implications. It should be expected that staff progress through the career grade to reflect skills/flexibility although there should be savings on recruitment and the benefit of more immediate succession on vacancy. There may be a need for an additional lawyer(s) to meet increased demand for corporate / compliance/ standards work.

8.2.4 Continuous Professional Development

Increase professional training provided to staff in order to:

- Increase work flexibility of staff
- Improve workload management and customer care
- Develop a potential resource of future professionally qualified staff in house

8.2.5 Internal Recharges

Appraisal of why the internal recharges to Legal Services for ICT appear relatively high.

8.2.6 Management Issues

- Improve management of queue and flow of work once in legal services
- Target administrative resource more effectively to address quality issues raised
- Develop available benchmarking data and review productivity targets/realisation to meet upper quartile of available comparators within one/two years

9. Draft Improvement Plan

Improvement	The delivery of corporate legal work				
	Task	Implications	Improvement Outcomes	Action Plan	Target Completion
Option 1	Retain the present scope/level of corporate legal work	Assuming no extra accommodation requirements – none.	No improvements in service provision to corporate	t.b.a.	
Option 2	Revisit corporate imperatives about advice on reports and attendance at committees/ cabinet to follow the general presumption that this should no longer be required but may be commissioned as part of legal trading services	<p>May result in a saving to current level of expenditure on corporate legal advice.</p> <p>Risk – may have insurance implication</p> <p>Loss of current level 4 for corporate governance arrangements. May have funding implications in the long term</p> <p>Risk of cost arising from unawareness of legal implications e.g. claims, cost of re-doing work and increased cost of contentious legal work</p>	Deterioration in corporate governance arrangements	t.b.a.	

Improvement	The delivery of corporate legal work				
<p>Option 3 (Recommended)</p>	<p>Enhance the resource available for corporate/compliance legal advice</p> <p>3a. Trading arrangements – options for change</p> <ul style="list-style-type: none"> • Block sum arrangement or • Below the line arrangement <p>3b. Organisational change – the need for this should be explored</p>	<p>Can be contained with proposed estimates for next year. Staffing increase required. £40,000 increase to corporate. Overall cost will increase.</p> <p>3a. Block sum/below the line arrangements may result in a small saving in administrative time. May realise small efficiency saving or contribute to workflow/client care outcomes</p> <p>3b. Could be contained within current rates or an insignificant increase (subject to successful implementation of re-balancing option).</p> <p>Decrease in overall client spend on traded legal service</p>	<p>Improved working relations leading to reduction in complaints</p> <p>Decrease in overall, client spend on traded legal services (through facilitating early identification of compliance requirements)</p> <p>Maintenance of high "score" on corporate governance for legal implications</p> <p>Risk</p> <p>If there is a significant increase in the demand for this service a block sum or below the line accounting arrangement places the cost of resourcing this on the service and not on clients on a "pay as you go" basis.</p> <p>Role of Monitoring Officer</p> <p>The Head of Legal Services is presently the Deputy Monitoring Officer. The Local Government Act 2003 provides for a more formal role for the Deputy Monitoring Officer exercising functions allocated by the Monitoring Officer and functions around standards.</p>	<p>t.b.a.</p>	

Improvement	Re-balancing of resources to improve ideal skills profile				
	Task	Implications	Improvement Outcomes	Action Plan	Target Completion
Option 1 (Recommended)	<p>Rebalance existing workforce to get closer to ideal skills profile.</p> <p>Additional posts required:</p> <p style="padding-left: 40px;">3 senior management level specialists</p> <p style="padding-left: 40px;">5 team clerical assistants</p> <p>Posts to be lost:</p> <p style="padding-left: 40px;">1 principal level officer</p> <p style="padding-left: 40px;">1 legal officer</p>	<p>Cost of undertaking Appendix R review.</p> <p>Possibility of redundancies if existing staff not offered opportunity/time to develop and compete for new vacancies arising from review.</p> <p>Estimated increase in staff costs of £143,000.</p> <p>1% efficiency saving to clients in long term.</p> <p>Capacity to undertake proactive work through freed up management time (estimated £40,000).</p>	<p>Available benchmarking for efficiency (chargeable hours target) time taken on casework and workload (productivity) to be in upper quartile of available comparators in 2 years.</p> <p>Reduction in complaints about delays in Legal Services.</p> <p>Average cost of case to clients to reduce by 1% once resources available.</p> <p>Anticipated reduction to client in overall cost of legal work through increase in proactive work done.</p> <p>Evidence of client satisfaction with support / consultancy role of lawyers.</p>	<p>Review and expand skills/workload exercise</p> <p>Scope organisational review</p> <p>Carry out organisational review</p> <p>New profile operational either</p> <p>"Big Bang" (assumes that the new posts are recruited to) or</p> <p>"Incremental" (assumes internal progression/ natural wastage)</p>	<p>Feb 04</p> <p>May 04</p> <p>t.b.c.</p> <p>t.b.a.</p> <p>t.b.a.</p>

Improvement Objective	Re-balancing of resources to improve ideal skills profile.				
Option 2	Outsource work to meet ideal skills profile.	<p>Cost of procurement.</p> <p>Costs of contract administration/ongoing monitoring (£35,000 - £70,000).</p> <p>Externalisation costs of approx £530,000.</p>	Reduction in complaints about delays from clients.	<p>Review and expand skills/workload exercise</p> <p>Determine package for outsourcing</p> <p>Scope organisational review if necessary</p> <p>Establish contract monitoring post/s.</p> <p>Carry out organisation review if necessary.</p> <p>Recruit to contract monitoring posts.</p> <p>Consultation with affected clients.</p> <p>Outsourcing</p> <p>Contract start</p>	<p>Feb 04</p> <p>May 04</p> <p>May 04</p> <p>t.b.a.</p> <p>t.b.a.</p> <p>t.b.a.</p> <p>t.b.a.</p> <p>t.b.a.</p>

Improvement Objective	To develop and grow staff with the objective of increasing work flexibility and the overall resource (a "critical mass")				
	Task	Implications	Improvement Outcomes	Action Plan	Target Completion
Option 1	Stay as are	No growing room for staff. Recruitment and retention difficulties. Reduced flexibility of the service provision.	No significant change in service provision.	t.b.a.	
Option 2 (Recommended)	Further develop career grade	Cost of developing staff	Increase in recruitment and retention of legal staff Critical mass of legal expertise developed in-house. Greater flexibility in service provision.	t.b.a.	
Option 3 (Recommended)	Paying for development of solicitors/legal officers.	Additional cost to clients.	Greater flexibility in service provision. Increase in knowledge base of clients issues within Legal. Critical mass of legal expertise developed in-house.	t.b.a.	

Improvement	Review of internal recharges to Legal Services				
	Task	Implications	Improvement Outcomes	Action Plan	Target Completion
Option 1 (Recommended)	Review of all internal recharges to Legal Services	Cost of reviewing recharges and obtaining benchmarking information	Substantiation of level of internal recharges. Possible reduction in internal recharges to Legal (marginal cost reduction to clients in future years)	Consultancy commission to review recharges	July 04 (to tie in with Tags process)

Only 1 option proposed

Improvement	To improve the management and flow of work once in Legal Services (assumes current Debt work ringfenced out to separate cost centre following Debt Review)				
	Task	Implications	Improvement Outcomes	Action Plan	Target Completion
Option 1 (Recommended)	Review of Practice Support services. Improved client reporting: <ul style="list-style-type: none"> • Receipt of matters • Initial feedback (request for further particulars/instructions) • Execution of key stages in accordance with performance criteria Solcase development (e.g. escalation facilities/text integration/digital dictation) Time/efficiency study for selected cases	To be contained within value of removal of subsidising effect to Debt Teams (estimated to be £11,000 per annum) Cost of admin review No redundancy costs anticipated Cost of Solcase development	Improve client reporting Improve productivity Estimated savings on total cost of cases to client (value unknown)	Short consultancy commission (resource to do work) Consultation with clients Solcase implementation / development Training Scoping for Practice Support review (if required) Review of Practice Support	Mar 04 Ongoing Ongoing Ongoing Dec 03 Mar 04

Only 1 option proposed