

Somerset West and Taunton Council

Executive – 23 September 2020

Shared Legal Service

This matter is the responsibility of the Portfolio Holder for Corporate Resources, Cllr Ross Henley

Report Author: Amy Tregellas, Governance Manager and Monitoring Officer

1.0 Executive Summary / Purpose of the Report

- 1.1 Somerset's four District Councils are currently working collaboratively to explore the developing of a business case for a shared Legal service.
- 1.2 The business case will propose a new service delivery model for the legal function across all four authorities. Each authority would retain strategic oversight (including retaining the statutory role of the Monitoring Officer) of their respective legal function, but other elements of the legal function would be pooled between the authorities.
- 1.3 The purpose of this report is to seek Executive approval to explore the establishment of sharing legal services between Mendip District Council (MDC), Somerset West and Taunton Council (SWT), South Somerset District Council (SSDC) and Sedgemoor District Council (SDC).
- 1.4 This proposal is complimentary to the District Councils' bid to create two Unitary Authorities in Somerset.
- 1.5 MDC currently hosts a shared legal service in partnership with SWT. This arrangement has been in place since 1 April 2015 with a five year Inter-Authority Agreement (IAA). The original arrangement was due to expire on the 31 March 2020, but by agreement has been extended for a further year until 31 March 2021.
- 1.6 The current MDC shared legal service offers ad hoc support and resources to SSDC and in relation to two partnership projects, to SDC.
- 1.7 SDC also provides legal support to other local authorities in Somerset (both District and Town/Parish).
- 1.8 In light of the expiry of MDC's agreement with SWT in March 2021, the opportunity has been taken by officers to explore the potential of establishing a shared legal service to serve the requirements of all four District Councils subject to the proposal receiving

political endorsement through the formal governance arrangements of each of the four authorities.

- 1.9 If the Executive approves the recommendations, further work will be undertaken by the Councils to develop a business case for collaboration and an options appraisal for the different models of delivery.
- 1.10 The options considered in respect to a sharing of legal services will take into account the requirements of each authority (and its' respective constitution and corporate priorities) whilst considering the advantage of combined and shared services.
- 1.11 The outcome of this work to develop a business case and options appraisal will be brought back to a future meeting of the Executive.

2.0 Recommendations

2.1 The Executive is asked to:

- 1. Note the contents of this report.
- 2. Authorise the establishment of a project team to work on the development of a business case and options appraisal for the sharing of legal services between Mendip District Council, Somerset West and Taunton Council, South Somerset District Council and Sedgemoor District Council.
- 3. Authorise the Director of Internal Operations or her delegated representative, following consultation with the Districts' Unitary Programme Board and Unitary Steering Group, to take any and all decisions as deemed necessary to enable the business case and options appraisal to be developed to include, without limitation, finalising, approving and signing Heads of Terms and engaging any external advisers.
- 4. Agree a contribution of up to £5K to fund the Councils one quarter share in relation to the engagement of any external advisors.
- 5. Authorise the Director of Internal Operations or her delegated representative to review the progressing of the shared legal services project in the event that Central Government decide to proceed with one Unitary Authority for Somerset

3.0 Risk Assessment

- 3.1 A full risk and opportunities register will be developed and presented as part of the business case. At this point in time, Officers are only requesting permission to develop a business case.

4.0 Background and Full details of the Report

- 4.1 Robust legal advice is fundamental to the successful delivery of front line services to our customers and communities and the operation of the Council. This report seeks authority to investigate the sharing of legal services between Mendip District Council (MDC), Somerset West and Taunton Council (SWT), South Somerset District Council (SSDC) and Sedgemoor District Council (SDC). Pending approval of the recommendations outlined in this Executive Paper, the Council will work collaboratively

with the other Councils to develop Heads of Terms and a business case for a new shared legal service, including an options appraisal of the different delivery models.

- 4.2 The business case and options appraisal will be brought back to a future meeting of the Cabinet/Executive for consideration.
- 4.3 Since 1 April 2015, Somerset West and Taunton Council has been in a shared legal service with Mendip District Council (who have hosted the shared service). The shared legal service also provides support and resources to South Somerset District Council (SSDC) and in relation to two shared projects, Sedgemoor District Council (SDC).
- 4.4 SDC also provides legal services to other local authorities in Somerset (District and Town/Parish).
- 4.5 As the agreement for the shared legal service between SWT and MDC is due to expire in March 2021, the opportunity has been taken to consider a countywide legal services partnership between the four District Council's in Somerset to serve the requirements of all District Councils as well as any future proposed local government model that would serve the County of Somerset.
- 4.6 The operation of the existing MDC/SWT shared legal service is governed by an Inter-Authority Agreement entered into by the parties. The initial term of these shared arrangements was due to conclude on 31 March 2020, but MDC and SWT have agreed to extend this by one year whilst future options for the delivery of shared legal services are considered, especially within the context of the changes that have occurred in the local government environment since 2015, for example where complex commercial transactions have become the norm rather than the exception.
- 4.7 It is proposed that all four District Councils collectively consider the options to establish whether there is a case for a four Council shared quality legal service to promote co-operation between the authorities, create greater resilience, and achieve savings through economies of scale. In order to do this, a business case will need to be prepared, including an options appraisal for different delivery models and legal structures.
- 4.8 This approach is complimentary to, and will align with any future model of local government that sees two unitary authorities serving the County of Somerset. The Director of Internal Operations or her delegated representative will therefore consult with the Districts' Unitary Programme Board and Unitary Steering Group made up of the Leaders and Chief Executives of the four District Councils to ensure that any proposals arising from the business plan are in line with the Districts' bid for two unitary authorities.
- 4.9 This business case will need to take account of service needs, public procurement law and the external regulatory framework for the delivery of legal services. The main focus of a new shared service will be on delivery of a quality legal service back to the District Councils, but the business case will also seek to understand the scope for trading beyond the District Councils in providing a legal service to City, Town and Parish Councils, charities and other public sector bodies beyond the Somerset boundary as well as, if appropriate, current and future private sector businesses and organisations. The delivery of legal services is subject to external regulation by the SRA (The Solicitors Regulatory Authority).

- 4.10 Discussions are at an early stage but high level Heads of Terms are in preparation. These Heads of Terms are being prepared collaboratively by the four District Councils.

Options Considered

- 4.11 Approval of the recommendations listed would allow all options to be considered through a business case which will be presented to the Executive of each District Council in a future report.
- 4.12 The Council could choose not to collaborate with the other District Councils or MDC and SWT could seek to refresh the scope and remit of the existing Inter-Authority Agreement, but this would mean that not all options could be fully considered before making a decision on the future of legal services delivery.

Recommendations

- 4.13 The Executive is asked to:
1. Note the contents of this report.
 2. Authorise the development of a business case and options appraisal for shared legal services in collaboration with Somerset West and Taunton Council, South Somerset District Council and Sedgemoor District Council.
 3. Authorise (senior officer title), following consultation with the Districts Unitary Programme Board and Unitary Steering Group, to take any and all decisions as deemed necessary to enable the business case and options appraisal to be developed to include, without limitation, finalising, approving and signing the Heads of Terms and engaging any external advisers.
 4. Agree a contribution of up to £5K to fund the Councils' one quarter share in relation to the engagement of any external advisors.
 5. Authorise [insert title of senior officer] to review the progressing of the shared legal services project in the event that Central Government decide to proceed with one Unitary Authority for Somerset.

Reasons for recommendations

- 4.14 Approval of the recommendations will enable the Council to further investigate the different options available for the future delivery of its legal services function. This is a vital business support function that enables the Council to deliver its' frontline services and corporate priorities and progress the collaborative working agenda, irrespective of the Governments' decision in regard to Unitary Council(s) for Somerset.

5.0 Links to Corporate Strategy

- 5.1 The Council's legal function is an essential facilitator of the delivery of the Council's Corporate Priorities.
- 5.2 In addition, sharing a Legal Service will enable the Council to deliver excellence in the way it conducts its business.

6.0 Finance / Resource Implications

- 6.1 Any change to the current shared service will have financial implications (including set up costs) for the Council and these will be explored in the business case.
- 6.2 If the recommendations in this report are approved, the development of the business case (including the joint engagement of external advisers) will be managed within a budget. The Executive are, therefore being invited to agree a contribution of £5K representing a one quarter share of the costs of appointing any external advisors. Each Council to contribute an equal share.
- 6.3 Value for money will be considered as part of the development of the business case.

7.0 Legal Implications

- 7.1 The Councils have the power to establish, participate in and purchase from a shared legal service. The exact legal structure/delivery model will be considered as part of the business case. The Council's relevant powers include the General Power of Competence under Section 1 of the Localism Act 2011. The application of the Council's powers will be considered further in the business case.
- 7.2 Any purchases by the Council must comply with the Public Contracts Regulations 2015 and the Council's contracts standing orders.
- 7.3 The delivery of legal services is subject to external regulation. This will be considered further as part of the business case development.

8.0 Climate and Sustainability Implications

- 8.1 There are no direct climate change implications, however any new service will, where possible, ensure that services are delivered with minimal environmental impact. For example, meetings will be carried out virtually where possible and a paperless approach will be taken. The shared service will adopt any other necessary carbon reduction initiatives to serve the existing corporate priorities in relation to the climate emergency agenda for each Council.

9.0 Safeguarding and/or Community Safety Implications

- 9.1 None arising from this report

10.0 Equality and Diversity Implications

- 10.1 An Equalities Impact Assessment will be undertaken when the business case is developed and prior to any decision to approve the business case.

11.0 Social Value Implications

- 11.1 None arising from this report

12.0 Partnership Implications

12.1 Robust legal advice is fundamental to the successful delivery of frontline services to our customers, communities and the operation of the Council. Approving the recommendations set out in this report will enable the Council to explore the most efficient and effective options for the delivery of a quality and sustainable legal service in line with the four District Council's working collaboratively or through the formation of unitary authorities.

13.0 Health and Wellbeing Implications

13.1 None arising from this report

14.0 Asset Management Implications

14.1 None arising from this report

15.0 Data Protection Implications

15.1 None arising from this report

16.0 Consultation Implications

16.1 None arising from this report

Scrutiny/Executive Comments / Recommendation(s)

This report is to agree that investigations take place for a shared legal service. The business case would go through the appropriate democratic pathway for approval, when that stage in the process is reached.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Executive – Yes**
- **Full Council – No**

Reporting Frequency: Ad-hoc

Contact Officers

Name	Amy Tregellas	Alison North
Direct Dial	01823 785034	01823 217518
Email	a.tregellas@somersetwestandtaunton.gov.uk	a.north@somersetwestandtaunton.gov.uk