

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Corporate Services

To: Corporate and Efficient Governance Committee

Subject: Legal Services Competitiveness Review

1. Purpose

- 1.1 To advise on the completion of the Legal Services Competitiveness Review - Financial Benchmarking and Customer Survey stages and to advise on future steps to ensure service development and improvement.

2. Background

- 2.1 Legal Services was selected to be one of the 5 Services within Corporate Services to be asked to conduct a Competitiveness Review in 2009 /10.
- 2.2 This review followed upon Best Value Performance Management and Planning Audit of Legal Services in 2002 and a successful Best Value Strategic Review of Legal Services concluding in August 2003.
- 2.3 At its meeting of 26th May 2010, Corporate and Efficient Governance Committee noted the services within Corporate Services identified for review included Legal Services and programme for all reviews was submitted and noted.

3. Main Issues

- 3.1 Due to the non-standard nature of local authority Legal Services and the fact that there is no mature Legal Benchmarking group for Scottish Local Authorities with data and quality the review has focussed firstly on identifying relevant financial benchmarks against which the performance of Legal Services could be measured, and latterly on client satisfaction survey. These are discussed below.
- 3.2 Financial Benchmarking
 - 3.2.1 A small pilot benchmarking exercise conducted under the auspices of the Society of Local Authority Lawyers & Administrators in Scotland (SOLAR) and Audit Scotland last year but it has to date not been rolled out and at the time of writing it is not clear when it may be pursued more generally.
 - 3.2.2 There is a mature financial benchmark for the private sector in the form of the *Law Society of Scotland Cost of Time Survey*, which is conducted annually. This survey was previously used to determine the nationally recommended "Value of the Unit", however this particular measure was discontinued and it now reports the Cost of Time for fee earners based on questionnaire responses from private sector firms.

3.3 Financial Benchmarking Methodology

- 3.3.1 As the Legal Services and Administrative Services budgets have are combined it was necessary to determine a method for disaggregation.
- 3.3.2 In examining the data provided by Finance Services it three possible disaggregation methods were identified – one which allocated costs on headcount, one on combined salaries and a hybrid of the two. It was determined that the hybrid model represented the most accurate cost model for the service and was adopted for the purposes of the review.
- 3.3.3 It is understood that a small pilot benchmarking exercise conducted under the auspices of the Society of Local Authority Lawyers & Administrators in Scotland (SOLAR) and Audit Scotland last year, adopted an efficiency based on an assumed chargeable working day of 5.5 hrs averaged out over the year. This equates to an efficiency in the region of 78.6%. In the absence of any alternative data, it is suggested that this is probably a relatively robust figure, although alternative figures were also considered..
- 3.3.4 The “cost of time” is then derived by dividing the total allocated costs of providing the service by the total chargeable time, producing an hourly rate.
- 3.3.5 As noted above, the principal source of Benchmarking Data used has been the Law Society of Scotland Cost of Time Survey for 2009. It has a number of measures in relation to size of firm / location, comparisons based on our demographics and equivalent size compared to private sector firms have been considered.
- 3.3.6 However, in part due to the non-standard nature of the nature business conducted by Legal Services, its wide diversity and the underlying business support model which differs from the common private practice “transaction rate”, it would have been necessary to compare ourselves with a spread of locations and firm sizes (i.e. we are small but more often deal with the type of work which could only be conducted by larger firms). Accordingly the most direct comparison to the “blended rate” approach which we require to adopt to meet the Council’s diverse demands is the “All Solicitor” rate identified in the report.. This provides a cost of time averaged out over the profession and represents the estimated minimum blended charge per hour for a firm to cover its costs. It must be noted that this does not represent a recommended fee, but is seen as the minimum needed to cover expenses and provide a salary. The 2009 “All Solicitors” rate was £140 per hour. In reality, the experience of the Council where we have met external solicitors fees dealing with particular areas is that the actual fees are significantly in excess of this minimum.
- 3.3.7 Recent rates from firms the Council has engaged on a variety of work range from £220 p/h for a partner to £144 for a basic grade solicitor (generally 1-2 years qualified). From our direct experience, there appears to be no drop off in fee levels despite the current downturn.

- 3.3.8 The figure for West Dunbartonshire's In-house provision, operating at 78.6% efficiency (the measure understood to be adopted by the SOLAR pilot) and assuming the hybrid costing model referred to above, is £42 per hour.
- 3.3.9 In reality therefore, the in-house Legal Services team operate at less than one third of the cost in the marketplace (where such a marketplace exists – there being certain areas of work undertaken in-house where there is no equivalent provision in private sector).
- 3.3.10 Whilst direct comparisons with other local authorities are not currently available, it is understood from one of the one authority who participated in the pilot referred to above, that their rate per hour was the lowest at £39 at a 78.6% efficiency. It is also understood that the average figure for the group was in the region of just under £50 per hour. It cannot currently be confirmed that the methodology is 100% comparable, however given methodology we have used is based on robust assumptions and the data provided by Finance in the form of the Revenue Estimates and the provisional outturns, it is believed that we can assume that we are broadly comparable.
- 3.3.11 In terms of internal comparators, this cost is below the DLO rate of £50ph which, allowing for the rate of return, makes the figures approximately comparable.
- 3.4 Questionnaire Responses and Performance Measures
- 3.4.1 A customer satisfaction questionnaire (See appendix 1) was circulated in September / October to directors, heads of service and the Valuation Joint Board seeking to identify the nature of the service users' contact with Legal Services, their satisfaction with the services provided and, importantly, to highlight areas where the Service could be improved.
- 3.4.2 The survey was re-circulated in December and January, however to date only a handful of responses have been received. Whilst the low numbers do not at present allow an extrapolation of overall satisfaction responses are on the whole generally supportive of the Value of the Service though there have also been some areas identified where the Service needs to communicate more effectively with client and ensure that expectations are better addressed.
- 3.4.3 It is intended that further returns are pursued and that the survey becomes an biennial event, allowing a mapping of improvement against targets which will be set in follow up sessions with survey respondents.
- 3.4.4 These targets, together with those improvements to be set by Legal Services own staff on an annual basis will form the basis for the development of a series of Service Performance Indicators directly linked to meeting client needs over the coming months and years.
- 3.4.5 Existing performance and improvement initiatives such as maintenance of a full PDP programme for staff, retention of Investors in People and the application of PSIF will be the focus of a drive for further improvements .

3.4.6 Additionally relevant performance indicators and benchmarks arising from national Legal Services Benchmarks will be adopted when these become available.

3.5 Improving Value- Purchased Legal Services

3.5.1 At present external legal services are purchased on a largely ad-hoc basis to meet specific needs. The lack of a structured approach to date has reflected the fact that to date, with a few notable exceptions, the external services we have sought have tended to be either required at short notice (eg defence of Court of Session actions), identified as being of benefit to the authority because of shared subject matter with other authorities (often in long term employment issues) or best served by a local market where competition was limited.

3.5.2 The anticipated expansion in major projects and an increased focus on structured procurement will see an increased demand in specialist legal advice being provided externally, and it is recognised that the opportunity exists to achieve better value for the Council through the establishment of a series of panels (effectively pre-advertised select contractors lists) with both basic rates set annually and the capacity for individual tenders for specific areas of work where this best serves the Council's requirements.

3.5.3 Finally European Procurement Rules have now been extended to the provision of legal services and where the value of individual contracts dictate, European Procurement processes will be followed for individual Projects (eg Housing Stock Transfer).

4. People Implications

4.1 If the recommendations are accepted there would be no significant implications for staff other than a renewed commitment to addressing staff development and performance needs within the framework offered by PDP, Investors in People and developing an improvement plan through the use of Public Sector Improvement Framework (PSIF).

5. Financial Implications

5.1 As will be noted the provision of services on an in-house basis would appear to offer the most competitive model, with a few areas requiring support from external specialist providers. This model appears to offer both the flexibility the Council requires and, on current workload, at least six figure savings over outsourcing, assuming there was an available market.

6. Risk Analysis

6.1 Failure to address and ensure the Competitiveness of Council services risks adverse Audit comment and failure to achieve value for money for the Council and the inhabitants of West Dunbartonshire.

7. Equalities Impact

- 7.1 No significant equalities issues associated with this report were identified in an Equalities Impact screening.

8. Conclusion and Recommendations

- 8.1 Whilst relevant comparative data is currently limited to a national survey of private legal firms and anecdotal evidence of small scale public sector benchmarking exercise, it would appear that West Dunbartonshire Legal Services are several times cheaper than the most conservative private sector comparator in terms of cost of service delivery, and broadly comparable with rates in other local authorities.
- 8.2 Customer satisfaction surveys indicate a broad satisfaction, with some excellent responses, but also some areas where work requires to be done to ensure that satisfaction is consistently high.
- 8.3 Plans are in place to drive further value from purchased external legal services and indeed from internal service provision through a commitment to participating in future Public Sector Benchmarking and through improvement actions driven by learning from client feedback and self assessment.
- 8.4 Members are asked to note the findings of the review.

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Wards Affected: All
Appendices: Appendix 1 – Form of Survey
Background Papers: Law Society of Scotland: Benchmarks and Cost of Time
The 2009 Survey of Legal Practices in Scotland

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