

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

TO: Overview & Scrutiny Committee	REPORT NUMBER: JOS/21/13
FROM: Leaders of the Councils	DATE OF MEETING: 22.11.2021
OFFICER: Emily Yule	KEY DECISION REF NO. NA

LEGAL SERVICE

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide the Overview & Scrutiny Committee with updated information about the operation of the Council's in-house Legal Service which is shared with West Suffolk Council in accordance with S.113 of the Local Government Act 1972 to enable members to determine whether the shared service arrangement is value for money.

2. RECOMMENDATIONS

- 2.1 That the contents of the report and presentation to the Overview & Scrutiny Committee be noted.
- 2.2 The Committee may make further recommendations as it deems appropriate.

3. KEY INFORMATION

- 3.1 Prior to 01 November 2016 Babergh & Mid Suffolk District Council's in-house legal service was part of the shared service arrangement under which the two authorities still operate. On the 01 November 2016 the shared service arrangement was extended to include the in-house legal service for Forest Heath District Council and St Edmundsbury Borough Council which was also operating under a shared service arrangement until the two authorities were succeeded by West Suffolk Council. These arrangements are permitted in accordance with S.113 of the Local Government Act 1972 which is the same legislation that permits Babergh District Council to have a shared arrangement with Mid Suffolk District Council.

Budget allocation

- 3.2 The legal service is the Councils' in-house service and therefore operates under the same arrangements as other services for Babergh or Mid Suffolk District Council. It therefore receives an annual budget based on staffing costs and on costs with smaller allocations for training, equipment, fees, etc. On the 01 November 2016, the budget for the legal service across the four authorities totalled £923,000 of which 57% was Babergh and Mid Suffolk's, leading to an agreed basis that the legal service would be shared on a 57% Babergh & Mid Suffolk and 43% Forest Heath and St Edmundsbury basis for the first two years. Thereafter the split is based on the share of legal work carried out by the legal service as determined from data available from the case management system purchased in 2017. The overall budget for providing the in-house service will continue to be based on staffing costs and on costs but, if

West Suffolk Council is instructing the legal service more than Babergh and Mid Suffolk Councils or vice versa then the contributions payable by the Councils will be adjusted accordingly.

- 3.3 Ongoing reviews of the work data by the Legal Service Steering Group from the case management system has confirmed that the original budget split has not required any change to date but a further review is due to take place at the next meeting of the Steering Group in December 2021.

Management Structure

- 3.4 The operation of the legal service is overseen by the Legal Service Steering Group made up of the Assistant Director Law and Governance, Emily Yule, for Babergh and Mid Suffolk and the Director HR, Governance and Regulatory, Jennifer Eves, for West Suffolk. The Steering Group meets with the Service Manager and finance business partner quarterly to review the performance of the legal service and the budget position.
- 3.5 The legal service is managed by the Service Manager (Legal & Governance) and is supported by Legal Business Partners in the following specialisms: planning, licensing/litigation and commercial/property who each line-manage their own teams and form part of the legal management team. Each team includes qualified lawyers, legal assistants and are supported by the technical support team. The staff are employed by the relevant authority for which the role was established. The service is currently made up of 9 officers employed by Babergh or Mid Suffolk and 14 employed by West Suffolk Council each working under their own employing authority's terms and conditions. A copy of the current structure is attached at appendix 1 and information about the service is attached at appendix 2.
- 3.6 At the time of writing this report the service currently has three officers working on a career pathway (2 from legal assistant to lawyer and 1 from technical support officer to legal assistant) and one legal apprentice. The service has one vacancy for a commercial property lawyer which is being advertised and which has generated some interest and has also recently recruited another commercial property lawyer to the service who will start in January 2022.

Financial Performance

- 3.7 The Steering Group and the Service Manager continue to work closely with the finance business partners for each Council to ensure the service performs within budget, identify savings and identify areas where income may be obtained to offset the budget.
- 3.8 The table below sets out the budget for the legal services prior to the shared service arrangement in 2016 against the current budget. Included within the budget is agency staff spend and the second table shows how this has reduced:

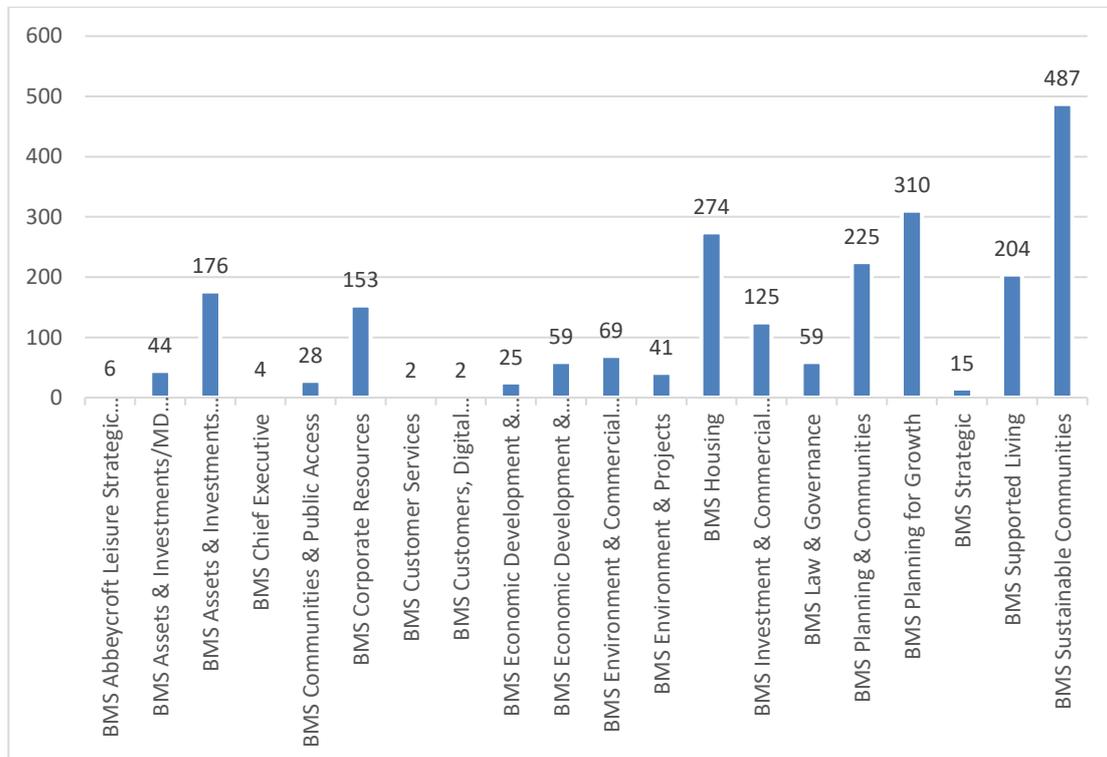
Authority	Budget: 2015/16	Budget 2020/21
Babergh District Council	£333,103	£315,185
Mid Suffolk District Council	£340,253	£298,374

West Suffolk Council (FHDC & SEBC)	£442,000	£388,000
Total Budget	£673,356	£613,559

3.9 As with all other services of the Councils, the budget is made up of employee salary and oncosts, with smaller allocations for training requirements, fees and other disbursements such as court fees and land registry fees. The service also receives income for work undertaken such as fees for completing commercial leases or debt recovery/prosecution costs awarded.

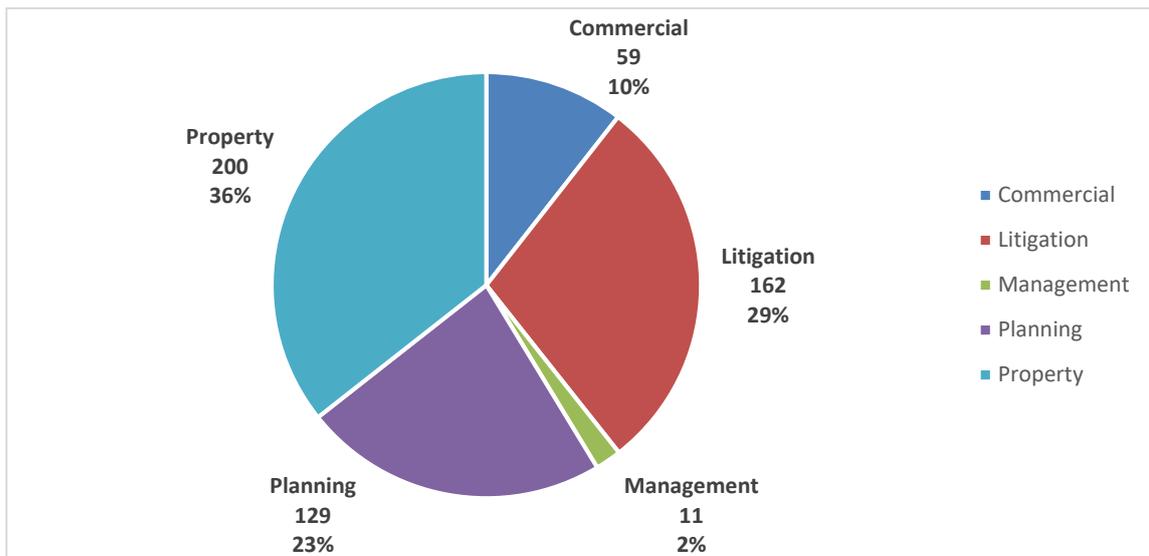
Work undertaken

3.10 As the in-house legal service for the three authorities, instructions are received from across every department of the Councils as can be seen in the graph below. Unfortunately due to the legal service being an in-house service, it is unable to offer legal advice to third parties such as parish/town councils, members of the public, charities.



3.11 A new matter is opened on the case management system each time a new instruction is received if the instruction will take more than ½ an hour to complete, i.e. it isn't a quick, one-off query. Queries which take less than ½ an hour are recorded in a general file and these are not included in the figures below. The service is currently working on 561 separate matters for Babergh and Mid Suffolk District Councils and 562 for West Suffolk Council. Unfortunately, the case management system has just two customer code matters so there is only one customer code for Babergh and Mid Suffolk and one for West Suffolk. However, changes are currently being made to the case management system so we can identify those matters which relate to Babergh District Council separately to those relating to Mid Suffolk District Council moving

forward. The chart below shows the number of open instructions from Babergh and Mid Suffolk and how they are split across the three teams within the service:



3.12 As stated in paragraph 3.10 above, the number of instructions received does not equate to the work require on each instruction, and a complex instruction may require the completion of several legal documents of a specialist nature whereas a straightforward instruction may be completed quite quickly. In the circumstances we created a complexity score for each new instruction:

COMPLEXITY	Description	TIME			
		1	2	3	4
4	Very complex issues with significant consequence for the council (financial/corporate/reputational). Task usually undertaken by a senior member of the team with sufficient post qualification experience.	4	5	6	7
3	Reasonably complex area of law. Some in-depth legal knowledge or research required. Task usually undertaken by a legally qualified or sufficiently experienced member of the team	3	4	5	6
2	Reasonably simple task and/or undertaken on a regular basis. Basic knowledge required to undertake task. Typically carried out by a non-qualified member of the team with sufficient legal experience.	2	3	4	5
1	Little or no research required and/or can normally be carried out by a member of the support team without direct supervision.	1	2	3	4
		1	2	3	4
	Quick tasks to turnaround (up to a week) and a one-person task.		May take more than one week to undertake tasks	Likely to take some time (up to about 3 months) to complete with input required. May require the input of more than one team member.	Likely to take over three months to complete/resolve and require the input of two or more team members.
	TIME				

- 3.13 Of the open matters currently on the case management system 74% of Babergh and Mid Suffolk matters have a complexity score of 6 or above whereas for West Suffolk Council 73% have a complexity score of 3 or below.
- 3.14 There are still areas where external legal advice is sought but these are in areas where employing an in-house specialist would not be cost effective due to the highly specialist and/or technical nature of the advice sought, e.g. employment advice or defending/seeking a judicial review.
- 3.15 There are occasions when the workload becomes so high that short-term external assistance is required such as when there are vacancies in the team or if a team has more cases than are manageable in-house and the case is urgent. Such outsourcing will only take place with the agreement of the Steering Group and, where possible at zero cost to the instructing authority, e.g. the completion of S.106 Agreements, the cost of which are met by the developer.

Continuity and Flexibility

- 3.16 Having a shared legal service enables the Councils to benefit from having a larger team than they would usually have access to enabling continuity of service and succession planning. The size of the service enables lawyers to become specialists in their field reducing the need to seek external advice unless it is so specialist that it would not be cost effective to employ that specialism to the service.
- 3.17 The service receives instructions on a variety of matters each day via a service mailbox and a technical support officer will then work with the relevant business partner to determine who within the team is able to undertake that piece of work. This decision is based on the complexity of the instruction and the time scale in which it is required to be completed alongside the volume of matters assigned to each officer. Some examples of a typical instruction and steps taken can be found at appendix 3.
- 3.18 In order to provide a continuity of service for instructing officers and members, specific roles may be assigned to particular members of the service, e.g. attending development control committee, however each member of the service is required to complete and maintain a skills audit which enables the service manager and team leaders to ascertain where additional training may be required within a team to ensure there is a continuity of service should an officer become absent for any period of time. An example of a skills audit can be found at appendix 4.

4. LINKS TO CORPORATE PLAN

- 4.1 This review is most closely linked to the Health of the Organisation strand of the Corporate Plan. However, as a support service the legal team provide cross-cutting support and contribute to the delivery of the Corporate Plan in all areas.

5. FINANCIAL IMPLICATIONS

There are no financial implications relating to this report, however the financial performance of the Legal Service could impact on the Councils' budget outturn.

6. LEGAL IMPLICATIONS

- 6.1 There are no direct legal implications arising from this report; however it is imperative that the Councils have a high performing legal service in order to fulfil their statutory obligations and to deliver the Corporate Plan.

7. RISK MANAGEMENT

- 7.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No 14 – The Councils may be perceived to be untrustworthy and have a poor reputation. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
If the legal service is not effective and efficient the Councils could fail to comply with legislation and miss opportunities.	2 – Unlikely	3 - Bad	The performance of the legal service is monitored by the steering group and report back to the respective councils.
Exposure to financial and reputational losses if the legal service is not available to advise on ways to mitigate risks.	2 – Unlikely	3 – Bad	An in-house legal service is available at all times to support the councils in advising on risks and providing advice on how to mitigate such risks

8. CONSULTATIONS

- 8.1 This report has been prepared in consultation with other members of the Shared Legal Service steering group.

9. EQUALITY ANALYSIS

- 9.1 Equality Impact Assessment (EIA) not required. There are no direct equality impacts arising from this report.

10. ENVIRONMENTAL IMPLICATIONS

- 10.1 There are no Environmental Implications from carrying out the review of the legal service.

11. APPENDICES

Title	Location
(a) Appendix 1 - Current structure	Attached
(b) Appendix 2 – Service information	Attached

(c) Appendix 3 – Instructions and examples	Attached
(d) Appendix 4 – Example of a skills audit	Attached

12. REPORT AUTHORS

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