

**BOLSOVER DISTRICT
COUNCIL**

**IMPROVEMENT SCRUTINY
COMMITTEE**

**EFFICIENCIES, SAVINGS AND
VALUE FOR MONEY
SCRUTINY REVIEW**

LEGAL DEPARTMENT

21st November 2011

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Foreword of Councillor Hilary Gilmour Chair of the Improvement Scrutiny Committee

It is a pleasure to present this review report on behalf of the Improvement Scrutiny Committee. It details the findings, conclusions and recommendations from the committee on the review of Legal Services.

I would like to give our thanks to the Legal Services for their information and transparency throughout this sensitive review.

I would like to say a special thank you to Claire Millington for her professionalism, guidance and her outstanding ability as our Scrutiny Officer.

Thank you to Abby Brownsword, Democratic Services Officer for her commitment.

Finally, thank you to the members of the Improvement Scrutiny Committee for their commitment and involvement in this scrutiny review.

1. Introduction

With the Council still to find further savings in the next few years, it was considered timely to review specific areas with a view to identifying what savings have been made, what further savings could be found and whether the service provides the authority with value for money.

The Council is taking this issue seriously and has dedicated a Portfolio Holder, Councillor Duncan McGregor to oversee budgets and savings.

The Legal Department was identified as the highest priority for elected Members at the Annual Scrutiny Conference and the review commenced in August 2011.

Throughout the review, the Committee kept in mind that the Strategic Alliance between Bolsover and North East Derbyshire District Councils aimed to reduce costs and the Council's would look at whether some of the costs of providing services could be shared, although the authorities would keep their political, geographical and administrative independence.

The Improvement Scrutiny Committee has identified six recommendations in accordance with the scope of the review. Good practice and efficiencies have also been identified and are detailed in the 'key findings' section of the report.

It is hoped that the recommendations made within this report will assist the authority in finding further efficiencies and savings, whilst identifying areas where there is potential to bring in extra income.

2. Recommendations

Recommendation 1

That through the appropriate phase of the Strategic Alliance, the role of the Monitoring officer be reviewed to ensure that the role is carried out in the most efficient way for the authority and the advantages/disadvantages of having a shared Monitoring Officer between Bolsover and North East Derbyshire District Councils be considered.

(Please refer to paragraph 6.8 for background information)

Recommendation 2

That the Authority, through senior management supports the Land Charges team in negotiating a reduction in the fee taken from Derbyshire County Council for each search completed, currently £21.00 and secure this as quickly as possible.

(Please refer to paragraph 6.9 for background information)

Recommendation 3

That Legal Services explore appropriate opportunities to promote their services to Parish Councils and other potential public sector customers, which could result in an increased income for the authority.

At this time, the Legal Team should also review their hourly rate, currently £50.00 per hour, to ensure that it is as competitive - even with regulatory constraints in place - and in comparison to the private and other public sector organisations.

(Please refer to paragraph 6.10 for background information)

Recommendation 4

That the requirement for attendance of a member of the Legal Team to non-regulatory meetings be considered to ensure that the most efficient working practices are in place.

(Please refer to paragraph 6.11 for background information)

Recommendation 5

That the Legal Team approach neighbouring authorities with a view to providing external services and assistance with work where capacity allowed, in the same way that a service was currently provided to Derbyshire Dales District Council.

(Please refer to paragraph 6.12 for background information)

Recommendation 6

That senior management give consideration to including Legal within the next round of service reviews with North East Derbyshire District Council. The opportunity should be taken to review the service sooner rather than later as the Service Review process could follow where the Scrutiny Review had finished. This would ensure that any savings would be identified as soon as possible, ensuring that the service was efficient and providing value for money.

(Please refer to paragraph 6.13 for background information)

3. Scope of Review

The review considered the following issues;

- Savings identified/made in the last year
- Further savings that could be made
- Efficiencies in the service
- Value for money of the service
- Whether the authority can generate income from the service

The Committee comprised of the following Members,

Cllr Hilary Gilmour (Chair)

Cllr Jim Smith (Vice-Chair)

Cllr Toni Bennett

Cllr Rose Bowler

Cllr Pauline Bowmer

Cllr Ray Brooks

Cllr Jim Clifton

Cllr Terry Cook

Cllr Ray Heffer

Cllr Rita Turner

Support to the Committee was provided by the Scrutiny Officer and the Democratic Services Officer.

4. Method of Review

- 4.1 The Committee met on 3 occasions to consider the scope of the review, key issues they wanted to discuss, the people they wished to interview and to carry out their investigations.
- 4.2 The Committee interviewed four officers from the Legal Department and contacted 9 neighbouring authorities to ask questions on how other legal departments were set up and how they carried out their work.

Attached at **Appendix 1** is a list of stakeholders interviewed and at **Appendix 2** is the benchmarking results and summary.

4.3 Equality and Diversity

Within the process of the review the panel have taken into account the impact of equalities and have not identified any negative impact.

5. Evidence

5.1 The following documents were considered as part of the review:

- Legal Services Department Briefing paper and case study
- Legal Services Department staffing structure
- Employment Tribunals 2007-2011 (details of external services provided and costs involved)
- Extracts from private sector quotes for negotiating a compromise agreement and an employment related investigation.
- Breakdown of estimated hourly rate – Jim Fieldsend – Senior Principal Solicitor
- Details of work undertaken on behalf of Derbyshire Dales District Council.
- Medium Term Financial Plan - Budget Book 2011/12
- Draft - Legal Department Service Plan
- Legal Services Internal Satisfaction Survey Report 2011
- Final report – review of expenditure within PPMG1's remit – September 2009 (Legal Department budget)
- Final report – Scrutiny review of fees and charges applied by Bolsover District Council – September 2009 (Land Charges)

6. Key Findings

Strengths

6.1 Over the past year, the Legal section had identified savings which have included;

- Reduction in the cost of search fees – Land Charges
- Reduction of staff – Licensing and Land Charges
- Disestablishment of the Trainee Solicitor Post – Legal
- Reduction in what the section subscribes to – savings to the subscription budget through all discretionary subscriptions
- Identifying free training where possible – although Solicitors must complete a mandatory number training hours per year (Continuing Professional Development – CPD) the legal section at the time of the review had not spent any money on training this year.
- Where the team was required to pay for training, they would attempt to negotiate a deal, e.g. 2 for 1.

6.2 The Committee were advised that employment tribunals in the past had been contracted out at a cost of £16,203.40 (from 2008 – 2011 for 9 Tribunals) as there was not sufficient expertise within the team to deal with in-house. Had the team dealt with these Tribunals themselves it would have been at an estimated cost of £4,000 - £5,000. To avoid further expense in future, one of the Principal Solicitors is undertaking training in order to keep this work in-house. Information suggested that claims from employees would continue to increase as there was no cost to the employee to submit a claim, therefore the authority needs to be prepared to deal with these issues in a cost effective way.

Ensuring the team had the necessary skills and expertise would result in good advice and prevent additional costs.

6.3 The benchmarking exercise carried out by members of the Committee highlighted that the support for Parish Councils offered by authorities across Derbyshire differed significantly from that given by the team at Bolsover, with most authorities giving little or no support.

Members felt that Bolsover excelled at the support offered to Parish Councils and that this should continue.

6.4 The team provided support to Derbyshire Dales District Council on a negotiated rate of £50.00 per hour. Derbyshire Dales only has one solicitor and puts a lot of work out to external solicitors. The team were limited in the profit that it could make. At the time of writing the report, the Committee were advised that since the end of 2010, £1,605.00 income had been generated.

The work received from Derbyshire Dales was absorbed into the existing workloads of the two Principal Solicitors and were not lengthy cases. The extra work had not affected the capacity of the team.

- 6.5 Bolsover District Council Legal Services were a member of East Midlands Law Share. There was no fee to be a member and should an external contractor be required for an issue, members received a preferential rate as follows;

Solicitor - £185.00 per hour
Trainee Solicitor - £163.00 per hour
PA/Secretary - £98.00 per hour
(Bolsover's hourly rate - £50.00 per hour)

East Midlands Law Share also provides free training for members and the legal team confirmed that they did take advantage of all free training offered.

- 6.6 The team work closely with other authorities to share ideas and have on occasion borrowed a member of staff with particular expertise with reciprocal arrangements in place.

As a result of the Strategic Alliance, the team felt that they were working closer with the legal team at North East Derbyshire District Council.

- 6.7 Land Charges are particularly susceptible to competitors as local authorities have statutory regulations which they are required to adhere to. Private companies challenge what local authorities do. Despite this fact, 70-80% of the market is currently held by Bolsover District Council's Land Charges team and this is down to the hard work of the team, assisted by the Government's removal of the Home Information Pack (HIP) Scheme. Members of the team have been proactive in contacting solicitors in order to hold a bigger share of the market over the private search companies.

Although the authority had reduced the cost of search fees, they were now receiving a larger share of the market which resulted in an increased income. There were statutory limits for charges and the authority was required to be cost neutral (2009 charging regulations).

Members of the Committee were advised that the Land Charges team were performing well compared to neighbouring authorities in Derbyshire. They were the cheapest and had a request turnaround time of 3 days.

Areas for Improvement

- 6.8 It was clear from the benchmarking exercise that there was no precedent for the appointment of Monitoring Officer and Deputy Monitoring Officer in terms of position held within the authority, experience or qualifications. The roles in the authorities in Derbyshire were filled by differently qualified persons – Solicitors and non-Solicitors. Whilst it was appreciated that the Monitoring Officer was a

Statutory Role, it would be worthwhile considering how the role could be carried out most efficiently.

Whilst considering the role of the Monitoring Officer, Members were also of the opinion that the duties and day to day role carried out by the Monitoring Officer be considered to ensure that the authority received the most efficient use of the Monitoring Officer's time and whether some tasks currently carried out by the Monitoring Officer could be more appropriately carried out by another officer reporting to the Monitoring Officer, for example, checking all minutes produced by the authority.

According to the information provided by the Legal Department, the Solicitor to the Council and Monitoring Officer role included;

- Managing Legal Services Department (includes Legal and Democratic Services) and directing its work
- The Council's Statutory Monitoring Officer and chief legal advisor, ensuring that the Council, its Members and Officers act within proper legal and ethical frameworks
- 'Qualified Person' under the Freedom of Information Act 2000
- Overseeing the administration and conduct of elections on behalf of the returning officer
- Member of Senior Management Team (Monitoring Officer Role)¹

The Committee was also advised that the Monitoring Officer oversaw complaints in relation to the Code of Conduct and ensured that the Council made decisions responsibly and within its powers.

6.9 The Land Charges team were currently trying to negotiate a reduction in the amount of each search fee taken by Derbyshire County Council, currently £21.00, in order to further reduce the cost and capture an even larger share of the market. Members felt that the authority should support the team in negotiating a reduction with Derbyshire County Council and secure this as quickly as possible.

6.10 There may be opportunities for the Legal Team in terms of promoting their services to Parish Councils, for example, on conveyancing and employment issues. Compared to private solicitors, the team felt that they could offer a competitive price, and extra income for the authority.

Members of the authority who were also Parish Councillors could approach the Team and receive advice and support on Parish matters. Whilst this service was appreciated by all Members, it was felt that Parish Councils would be willing to pay for these services, as they would have been charged should they have taken advice from a private solicitor. Parish matters could include simple questions to complex and sensitive employment issues, all of which were being dealt with free of

¹ This statement was correct at the time of writing the report however, this is no longer the case, Senior Management Team has now become the Strategic Alliance Management Team and the Monitoring Officer does not have a role in this team.

charge by the authority's Legal Team. Training sessions were also provided at no cost to the Parish Council.

Members felt that at £50.00 per hour, the Legal Team were currently underselling themselves however did appreciate that this was due to being restricted to only charging enough to cover costs. Once the Localism Bill came into force, the Legal Team should review its hourly rate to a more appropriate figure, whilst still being competitive in comparison to the private sector.

- 6.11 The benchmarking exercise also highlighted that the attendance of legal officers and solicitors at non-regulatory meetings differed significantly. Again, Members requested that the requirement for attendance of a member of the Legal Team to non-regulatory meetings be reconsidered to ensure that the most efficient working practices were in place and the team was providing value for money.

In most authorities, Solicitors or Legal Officers attended the regulatory committees, Planning, Licensing and Standards.

- 6.12 Members noted the good practice and pro-active approach in the Legal Team in providing assistance to Derbyshire Dales. When asked whether there was any opportunity to carry out work for other authorities, Members were advised that other neighbouring authorities had a legal department similar to that of Bolsover District Council and therefore there wouldn't be any work to pass on. It was however highlighted in the benchmarking exercise that Amber Valley, Erewash and High Peak Borough Councils all occasionally contracted work out for cases where their officers did not have the required specialism and there may be an opportunity for the legal team at Bolsover District Council to provide a service to these authorities where capacity permitted.

- 6.13 Members of the Committee felt that as the Legal Service would eventually be the subject of a Service Review with North East Derbyshire District Council through the Strategic Alliance, the opportunity should be taken to review the service sooner rather than later as the Service Review process could follow where the Scrutiny Review had finished. This would ensure that any savings would be identified as soon as possible, ensuring that the service was efficient and providing value for money.

7. Conclusions

The introduction of the Localism Bill may bring about many opportunities for the Authority, but regardless of this, there are potential opportunities that would allow the Legal Team to provide legal services to a greater number of appropriate clients, subject to capacity of the team. In comparison to other teams across Derbyshire County, a larger percentage of Bolsover's Legal Team are qualified Solicitors or Lawyers whereas other authorities tended to have less legally qualified staff and more administration staff to provide support. This would suggest that the team was in a good position to prepare for and take advantage of the changes that the Localism Bill might bring.

Members of the Improvement Scrutiny Committee undertook a benchmarking exercise, contacting 9 authorities in Derbyshire (by telephone). Members asked the same questions of each authority relating to resources, working practices and structures. Due to the differences in approaches to the management of their services, it was difficult to draw direct comparisons. It was possible to draw some conclusions, which have been raised within the report.

Members were asked to consider the question of outsourcing early on in their review and whether this was an avenue that should be explored. Benefits of outsourcing included savings on training, legal know how, best practice sharing and legal surgeries. One particular provider who worked with other local authorities quoted that their target was to never go above £150.00 per hour on a fixed fee arrangement. Having heard from the Legal Team that they were a Member of East Midlands Law Share, and therefore had access to best practice, etc and that the hourly rate for the Senior Principal Solicitor was £50.00 per hour, the Committee concluded that there would be no benefit to the authority in investigating the possibility of outsourcing any further as part of the Scrutiny Review, particularly when the Strategic Alliance presented further opportunities for sharing working practices and arrangements.

Stakeholders

Councillor Duncan McGregor	Portfolio Holder for Corporate Efficiencies
Wes Lumley	Joint Chief Executive
John Brooks	Director of Resources
Sarah Sternberg	Solicitor to the Council
Jim Fieldsend	Senior Principal Solicitor
Alan Turner	Legal and Standards Officer
Geoff Allcock	Licensing/Enforcement Officer
Pauline Redfearn	Legal and Land Charges Officer
Amber Valley Borough Council	
Chesterfield Borough Council	
Derbyshire County Council	
Derbyshire Dales District Council	
Erewash Borough Council	
High Peak Borough Council	
Mansfield District Council	
North East Derbyshire District Council	
South Derbyshire District Council	

Summary report on benchmarking exercise

The Elected Members of the Improvement Scrutiny Committee undertook a benchmarking exercise by contacting (by telephone) 9 similar local authorities within the region. Members asked the same questions of each authority relating to costs, resources and practices.

Due to the differences in approaches to the management of their services it is difficult to draw direct comparisons but it has been possible to draw conclusions around 5 key areas.

These are;

- I. The role of Monitoring Officer is filled by differently qualified persons – Solicitors and Non-solicitors.
- II. The number of Officers and Solicitors differ regardless whether functions like Licensing and Land Charges are carried out by Legal or by other services.
- III. Most of the authorities questioned as part of the benchmarking have in-house Legal Services.
- IV. The Legal Services support for Parish Councils differs significantly from that offered by Bolsover; most give little or no support.
- V. Attendance of Legal Officers and Solicitors at regulatory and non-regulatory meetings differs significantly.

	How many officers	How many are Solicitors? What about MO?	Budget	Is all work done in house? – If not – who do you contract work out to?	Do you do work for others? What is the hourly rate?	Which Services does the team support? Any others?	How do you deal with enforcement cases?	Do you support Parish Councils?	Do your Solicitors attend all regulatory committees? What about non-reg. committees?	Which depts do Licensing and Land Charges come under?
Amber Valley	7 - 4 Full time and 3 Part time	1 MO is Chief Executive	£340,000 includes £70,000 provision for external legal services /barristers fees, etc.	Most – we do use different external services depending on the issue or specialism, e.g. employment issues or major planning disputes, etc.	No. We do support one Parish Council	ALL	We deal with all Court action in house.	Only provide advice if required.	Yes – Solicitor attends Planning, Licensing and Standards. CEO attends Scrutiny and Council	Licensing – Democratic Services Land Charges – CEO
Chesterfield	6	4 Including Monitoring Officer and Deputy Monitoring Officer	Not known	Yes.	No.	ALL except revenues which is outsourced (collections)		No	Yes Don't attend non-regulatory committees	Licensing – Environmental Health Land Charges – Legal Services
Derbyshire County Council	69.5 FTE (78 people)	30.4 FTE (32 people) including the Monitoring Officer	Legal Services 2011/12 – £2,530,151 gross, £2,145,313 net	Not all work is done in house. Some work is undertaken by external barristers and solicitors. We have undertaken a Child Care Counsel Tender exercise and are members of East Midlands Lawshare.	We do some work for other local authorities based on our own internal rates. Charges are agreed with each local authority. Our typical solicitor's hourly rate is £70.00.	We support all county council functions.	We work closely with client departments from the outset of enforcement matters.	Over recent years we've worked for 5 parish councils. Areas of work include general conveyancing rights of way and possession proceedings re: travellers.	Yes (Reg.) Solicitors attend all of the Council's committee meetings with the exception of Scrutiny Committee. However, the Scrutiny function is part of the Legal & Democratic Services Division.	Licensing – N/A Land Charges – N/A

Derbyshire Dales	4 2 full time/2 part time	1	No – budget is shared with Democratic Services – no separate legal budget	Some work is carried out by Bolsover District Council – we are also part of East Midlands Law Share.	No.	ALL – housing is an ALMO	Passed early on.	We have 74 Parishes so we don't support them.	(Reg.) as and when required. (Non-reg) as and when required.	Licensing – Committee Services Directorate Land Charges – Legal
Erewash	5 - Legal Exec and 2 P/T admin ass.	2 Solicitors Borough Solicitor is MO Head of Democratic Services is DMO	£249,000	Occasionally we pass on work on Planning areas and HR/Equal Pay issues.	None at all.	ALL except housing (don't have housing stock) we do cover any homelessness issues.	Advise on enforcement and take cases on for prosecution.	We don't.	All regulatory committees. Don't attend non- regulatory committees as routine.	Licensing – Operational Services Land Charges – Planning
High Peak	5	2 Solicitors, 2 Legal Executives and one Trainee Executive Director of Customer Services is Monitoring Officer.	Can't say	Yes – occasionally we use external services for expert advice where a case is unique or specialist. Equal Pay claims						Licensing – Land Charges -
Mansfield	14	6.5	Not known	Mostly in house – rare exceptions.	Would consider, dependant on the issue. Hourly rate unknown.	ALL	Advice is given by legal if necessary. A member of the tem would attend at a stage during court action dependant on the case.	Services not needed – only 1 parish.	A Legal Officer attends but not always a Solicitor. (regulatory) Officer from legal attends Scrutiny.	Licensing – Legal Land Charges – Legal
North East Derbyshire	6	3 – Monitoring Officer is	£222,098.00 which includes £40,000	We don't deal with employment issues – pass to HR	We provide a legal service to Rykneld	ALL services plus Freedom of Information	Passed cases from the outset –	We don't. We took the view that we	Planning – only when required. Solicitor always	Licensing – Environmental Services

		Assistant Director, Governance (no legal qualifications) Deputy MO is Principal Solicitor.	income from Rykneld Homes (ALMO)		Homes. We used to do a small amount of work for Peak Park Authority but this has stopped since they had a change in Head of Legal. (Rate unknown)	requests.	sometimes provide advice and consider documents and suggest amendments – see them right through to court proceedings.	weren't insured by the Law Society to provide legal advice to Parish Councils.	attends Licensing and MO attends Standards. We don't attend other committees unless asked to attend for a specific item – not in a support/legal advice role.	Land Charges – Planning
South Derbyshire	3	2 Lawyers and one Monitoring Officer	Not able to answer	Yes	No	ALL	Yes	No support for Parish Councils	(Reg) – Only when required. (Non-reg) – only when required.	Licensing – Environmental Health Land Charges – Legal