

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	CABINET – 4 <sup>th</sup> JULY 2022
Report Number	AGENDA ITEM 12
Subject	LEGAL SERVICES COMMISSIONING REVIEW
Wards affected	ALL
Accountable member	Cllr Joe Harris, Leader Email: Joe.Harris@cotswold.gov.uk
Accountable officer	Jenny Poole, Deputy Chief Executive Email: Jenny.Poole@cotswold.gov.uk
Summary/Purpose	To report the outcome of a commissioning review of the Council's legal service.
Annexes	Annex A – Biography of Michael Graham, independent person Annex B - Evaluation matrix Your Legal Services (in-house team) Annex C – Evaluation matrix One Legal, including One Legal proposal Annex D – Proposal from Your Legal Services Annex E – Presentation from Your Legal Services Annex F – Presentation from One Legal Annex G – Views of the independent person supporting the commissioning review
Recommendation/s	<p><i>a) To consider the evaluation of the proposals from Your Legal Services and One Legal;</i></p> <p><i>b) To consider the Deputy Chief Executive's proposal that the Council's legal service continues to be provided by Your Legal Service</i></p> <p><i>c) To support a review of the service for economy, efficiency and effectiveness; and</i></p> <p><i>d) To support the formalisation of the shared service under a Collaboration Agreement and Section 101 agreements.</i></p>
Corporate priorities	The review of legal services relates to the priority of “delivering our services to the highest standards” and the principle of “providing value for money for our residents and businesses by using our resources wisely and investing in the district's fabric and future”.
Key Decision	YES
Exempt	YES – Annexes B, C & D are exempt as they contain commercially sensitive data on the cost of service provision. Under <i>Schedule 12A</i> “Any terms proposed or to be proposed by or to the authority in the course of negotiations

	<i>for a contract for the acquisition or disposal of property or the supply of goods or services” applies to the contents of this report.</i>
Consultees/ Consultation	As this is an existing shared service, the Leadership Teams and Leaders of West Oxfordshire District Council and Forest of Dean District Council have been engaged in the commissioning review. In addition members of the Appointments panel were invited to attend the presentations delivered by both Your Legal Service and One Legal as part of the review process.
Executive Summary	<p>Currently the Council is part of a shared legal service with the Forest of Dean and West Oxfordshire District Councils and the existing Group Manager (Interim Head of Legal Services) manages the team who provide legal support and advice to all three Councils. The Service operates on an informal footing with all legal staff being made available by and to the other participants on a co-operative and collaborative basis. The staff are however retained by their employing authority for ‘pay and rations’ purposes.</p> <p>Whilst the current shared service arrangement has met the existing needs of the Council, the Administration felt that a move into a larger, more established partnership, which already provides services to other Councils across Gloucestershire, could better meet the Council’s needs.</p> <p>The One Legal partnership (a shared legal service comprising Cheltenham, Tewkesbury, Gloucester City and Stroud councils) offers legal advisory and support services across a variety of areas of public sector law and practice.</p> <p>In a report taken to Council on 15th July 2020, it was resolved that the Interim Chief Executive would “negotiate a business case regarding future service provision” and approach One Legal with a view to negotiating a business case to join that partnership and would present a business case outlining the costs and benefits associated with a One Legal proposal.</p> <p>The Deputy Chief Executive has engaged with the in-house team, “Your Legal Team” and One Legal to complete an evaluation of the two options. The main objective of the review being to ensure that Cotswold District Council has access to resilient, cost effective legal services in the medium to long term given its ambitious Corporate Plan. An independent person, Michael Graham from Reading Borough Council, has supported the review.</p> <p>The evaluation process was based upon 30% price of the service and 70% on quality of service provision. Both Your Legal Team and One Legal were asked to respond to a set of standard questions. One Legal responded by completing the evaluation spreadsheet. Your Legal Team provided a written proposal.</p> <p>As part of the process, Your Legal Team and One Legal both gave presentations to a panel, summarising their respective proposals to a meeting of Officers and Members from all three partner Authorities and the Independent Person supporting the evaluation.</p> <p>Following the presentations, a number of follow up questions were posed and the subsequent answers were considered in the final evaluation scores.</p>

It is clear from the Your Legal Team proposal and presentation that the shared service has evolved over time and that each partner Council now benefits equally from the resources available and funding needs to be addressed so that each partner Council is paying its fair share.

One Legal stated that they would not wish to provide a legal service to West Oxfordshire District Council *“Unfortunately we are not in a position at this time to consider this work. We are very keen to consolidate the legal service provided to the people of Gloucestershire before we consider working for authorities further afield.”* A move to One Legal will therefore mean that the current in-house team will need to be split and there will be a loss of expertise in the team that would transfer to One Legal.

One Legal did not provide a cost for the provision of legal services, stating that *“This has to be subject to a detailed business case prepared between us based on the service required and with accurate financial advice”* and *“Data will be collated in the new case management system to ascertain time spent on legal advice for each Council. This will be done over a three year period to allow for peaks and troughs to be accounted for.”* These responses were followed up with One Legal and the following response was received *“Put simply, the Council(s) joining the partnership should transfer sufficient resource both human and financial to fund its day-to-day legal service, with any additional demand being charged separately as extraordinary work.”*. A further follow up question asked for clarity on the provision of the Deputy Monitoring Officer role. One Legal have advised they are unable to provide this facility, which would mean the Council needed to resource this role as an additional cost.

The One Legal score for ‘cost’ reflects the uncertainty of the cost of the legal service when it transfers to One Legal, fragmentation of the in-house team which will lead to a loss of experience currently available to the Council, the risk of negotiation over work which is “extraordinary”, the additional fees arising from charges for extraordinary work and the additional cost for sourcing a Deputy Monitoring Officer.

The Your Legal Team proposal includes an increased contribution to overhead of 20%. However, detail and justification of this increase to overheads was not explained in the proposal and therefore needs to be explored as part of a detailed service review. The proposal did explain that there is an equal allocation of resources to each of the partner councils. An equal split of costs amounts to around £200,000 per Council. When compared to the current Council contributions, this Council would reduce its contribution by £18,000, West Oxfordshire District Council would reduce its contribution by £14,000 and the Forest of Dean District Council would increase its contribution by £32,000.

The Your Legal Service arrangements are currently based upon informal arrangements. The financial contributions which reflect the way the service now operates need to be incorporated within the legal documents which will

underpin the service. The documents should include a Collaboration Agreement and S.101 arrangements.

The final evaluation scores, including both cost and quality scores, were One Legal 64/100 and Your Legal Team 70/100.

It is proposed that the Your Legal Services team continue to provide legal services to the Council for the following reasons:

- Provision of the Deputy Monitoring Officer role will continue, providing resilience for the Council without an additional cost.
- Potential savings of £18,000 per annum through the formalisation of the shared service and a fairer sharing of costs.
- Skills and experience within the current team will be maintained as there will no requirement to fragment the team, unless either Forest of Dean District Council or West Oxfordshire District Council decide to commission legal services from an alternative supplier.

A service review should be carried out to ensure that the legal team are performing appropriate work, at the appropriate level, and are using systems and processes which optimise economy, efficiency and effectiveness. An important part of the review is to determine the appropriate resourcing for the team. This will need to address the growth in resources requested by the Your Legal Team proposal. It is suggested that this review be overseen (project sponsor) by the Chief Executive and managed (project manager) by the Council's Monitoring Officer, in conjunction with the Publica Group Manager for Organisational Development and Transformation.

If Council decides to continue with Your Legal Services as its legal services provider, the Interim Head of Legal Services post holder will become the permanent Head of Legal Services and will be responsible for delivering the service review.

## **I. BACKGROUND**

- 1.1. Currently the Council is part of a shared legal service with the Forest of Dean and West Oxfordshire District Councils and the existing Interim Head of Legal Services manages the team who provide legal support and advice to all three Councils.
- 1.2. The One Legal partnership (a shared legal service comprising Cheltenham, Tewkesbury, Gloucester City and Stroud councils) offers legal advisory and support services across a variety of areas of public sector law and practice.
- 1.3. Whilst the current shared service arrangement has met the existing needs of the Council, the administration felt that a move into a larger, more established partnership, which already provides services to other councils across Gloucestershire, could better meet the Council's needs.
- 1.4. In a report taken to Council on 15th July 2020, it was resolved that the Interim Chief Executive would approach One Legal with a view to negotiating a business case to join that partnership and would present a business case outlining the costs and benefits associated with a One Legal proposal, with the aim to establish this new relationship at the start of the 2021/22 municipal year.
- 1.5. Unfortunately for a number of reasons, predominately around changes of members of key staff involved in this process, the above timescales have slipped. The Deputy Chief Executive has engaged with the in-house team and One Legal to complete an evaluation of the two options. An independent person, Michael Graham from Reading Borough Council, has supported the review. A biography of Mr. Graham is included at Annex A. Mr Graham has experience of supporting and assisting Councils looking at the review of their legal services, in a 'critical friend capacity'. Most recently this was assisting Stroud DC in their legal services review in 2019. The outcome of this options appraisal is now being reported back to enable Members to take an informed decision on the future of legal services provision.

## **2. MAIN POINTS**

- 2.1. Given the ambitions of the Council and the direction of travel of local government funding with increased budgetary challenges and constraints, there is a compelling need for councils to explore alternative options for delivering services and increasing revenue. In addition it is sensible for councils to consider how greater resilience can be built in to service delivery. This, in turn, will require innovative approaches to the way councils work which may include partnerships and consideration of initiatives for commercial opportunities. The Council may need to look at ways of maintaining service provision by generating revenue through charging and trading. It will also be necessary to seek to control and influence third-party spend through strategic procurement and contract negotiation. An effective Legal Services function is essential to the success of any new initiatives. However, as well as dealing with the normal day to day legal work, which has not decreased, local authority legal services are now expected to carry out or commission more complex legal work. This brings new challenges, and a modern legal service must grow and adapt to meet those challenges.
- 2.2. The impact of financial challenges and limited available resources means that it is often harder to provide a specialised legal service upon which councils can rely. To compound

the situation, councils struggle to recruit and retain legal staff and, for a district council, this is normally a particular issue in key specialist areas such as planning, commercial property, and contracts.

- 2.3. Local authority lawyers must be solution-focused and work in a way which is strategic, business focussed and with a facilitative approach to enable new ways of working which are both ethically and legally defensible.
- 2.4. With these considerations in mind this report will:
  - Set out the purpose of the Legal Services function
  - Outline the current service provision at Cotswold District Council, Forest of Dean District Council and West Oxfordshire District Council
  - Provide an illustration of the cost of Legal Services to the Council
  - Present the outcome of the evaluation of the two service delivery options, and
  - Propose the next steps for the service review.

### **3. RATIONALE FOR THE REVIEW AND CONTEXT**

- 3.1. Legal Services is no different to any other type of service in relation to the benefits of undertaking periodic reviews of service provision. A service review would normally consider whether the service was fit for purpose, resilient and providing value for money. Reviews are normally carried out because of specific issues. In this case, the catalyst for review and the resolution to approach One Legal relate to concerns over existing lack of resilience, a need to future proof service delivery and minimising external spend as far as possible. Given the current arrangement, the needs of the partner councils inevitably fall to be considered as part of this review.
- 3.2. The main objective of the review is to ensure that Cotswold District Council has access to resilient, cost effective legal services in the medium to long term given its ambitious Corporate Plan.
- 3.3. Often key service review considerations are cost, (notably whether the cost of the service could be reduced through rationalisation of service provision, driving out waste in processes and avoiding external legal spend) and quality (client satisfaction timely and accurate advice, resilient in terms of anticipated or potential future issues).
- 3.4. Cost reduction is not the primary driver of this review. Whilst there may be potential collateral benefits of cost saving either by effective workforce planning or economies of scale leading to a reduction of external legal spend and identification of efficiencies in working practices, the key drivers are instead around creating resilience and looking to 'future proof' service delivery. The benefits of being part of a broader multi-faceted legal service such as One Legal, could also create opportunities for career development and broaden horizons.
- 3.5. A local authority Legal Services function should be effective in ensuring that the Council and its interests are protected by providing the legal, corporate, and constitutional support that the Authority regularly and routinely needs. In short, it provides assurance that the Council is acting legally and within the scope of its powers.
- 3.6. The majority of lawyers working in local government operate in similar roles. On a day-to-day basis, in addition to carrying out operational work, a Legal Services provision provides

strategic, reputational, and risk-based advice to the organisation. Legal Services ensure regulatory compliance and the delivery of traditional transactional legal services such as conveyancing, prosecutions, and planning advice, for example. Lawyers tend to specialise quickly in their careers, and it can be a challenge to find lawyers who are more generalist (which a district council needs) and can diversify and work competently across a range of legal disciplines.

3.7. This lack of diversity, particularly in a small organisation, can increase the need to commission external often costly advice from the private sector when capacity or competency in a particular area of law is needed. However whilst it can be successfully minimised, it is almost impossible to avoid an element of commissioning of external legal advice. There will always be occasions when external legal advice will be needed.

3.8. Examples of when it may be necessary to commission external legal advice are:

- Advocacy in the Higher Courts, Tribunals, and Inquiries
- A second opinion is required
- Potentially sensitive matters including where investigations of Senior Officers or Members are involved
- Major projects are undertaken and there are likely to be skills or capacity issues
- Specialist expertise is required e.g. in defamation, tax, competition, State Aid and other specialist advice not usually available to a Local Authority
- The private sector can offer flexibility, price certainty, speed of delivery by marshalling and employing resources for a particular task which is not possible in the public sector

3.9. The Legal Services function should aspire to deliver its core purpose with:

- A clear focus on customer outcomes
- A facilitative approach based on risk-awareness - not risk aversion
- An in-house private practice approach to service delivery and standards whilst maintaining a public sector ethos
- Assurance of efficiency of process and provision of service

#### **4. Shared Service arrangements**

4.1. Local authorities have always had the legal power to make use of different forms of service delivery. Sharing may take place between neighbouring authorities or non-neighbouring authorities and between different types of authorities (e.g. county and district councils). Shared services may be provided informally (as per the current arrangement) or they may be jointly outsourced. Governance of shared services can take place via a Joint Committee between the participating Authorities, or simply through agreements between the executives of the participating Authorities. The current shared service arrangement is informal and no legal/formal agreement is in place, which does present some risk.

4.2. Shared service arrangements are operated on a cost sharing basis, with an agreed mechanism for sharing any resulting savings or surplus income. This is normally documented in an Inter-Authority or Collaboration Agreement. Shared services may

operate for the whole or part of legal services and an authority may concurrently provide legal services even if it has entered a shared services arrangement.

4.3. The key reasons for considering a shared service arrangement commonly seen in other councils include:

- Greater range and depth of services available at a single point, with less need for onward referral
- Work which is currently outsourced being done by the legal team at a reduced hourly rate
- Managing changing workload requirements more effectively due to the greater number of staff
- Improved ability to plan work efficiently, with a wider population of staff
- Improved ability to manage peaks and troughs in workload
- Increased viability of employing specialists – e.g. employment, contracts lawyers, as the demand across a wider client base is likely to make it financially sound. This will reduce the cost of external services
- Attracting and keeping the best staff, through the greater opportunity for career progression within a larger department
- Reduced overheads – a larger department needs to fund only one law library & case management system, the per capita training cost is cheaper with volume, overall space usage is generally less (leading to reduced overhead allocations).

4.4. Councils do not need to be geographical neighbours to share services. There are examples of services being shared between district councils in different counties. Home working and video conferencing have demonstrated that physical geography is far less of an issue that it once was in relation to sharing services.

## **5. Monitoring Officer**

5.1. It is important to note the distinction between the day to day activity and employment of Legal Services staff and the Council's Monitoring Officer. The Council must designate one of its officers as the Monitoring Officer. The role of the Monitoring Officer is to ensure good governance and decision making and to avoid the potential for maladministration and Judicial Review of Council decisions. The Monitoring Officer also has responsibility for ethical conduct and to deal with any complaints under the Code of Conduct for elected members. The Monitoring Officer role is carried out by an officer working as part of each Council's Local Management Team, with the Legal Services Manager fulfilling the role of Deputy Monitoring Officer. The partner councils have made their own arrangements in relation to Monitoring Officers.

5.2. Each Council has appointed its own Monitoring Officer, there are no indications any of the Councils will want to deviate from this approach. One Legal have advised that it is not part of their business model to provide the Monitoring Officer function, for the above reasons. The role of Monitoring Officer will not therefore form part of this review. However, the provision of the Deputy Monitoring Officer does form part of the evaluation.



## **6. Current Legal Services provision.**

- 6.1. The current service model for Legal Services is an in-house service shared with Forest of Dean District Council and West Oxfordshire District Council. External support is commissioned where and when needed. This consists of instruction to solicitors, barristers and trusted interims where necessary to provide services that can't be delivered by existing staff. As a support service, the primary objective for Legal Services is to enable the Council to achieve its delivery plans and deliver its priorities together with supporting internal clients in the discharge of their functions and achieve their policies and objectives whilst ensuring legality and probity.
- 6.2. The Service operates on an informal footing with all legal staff being made available by and to the other participants on a co-operative and collaborative basis. The staff are however retained by their employing authority for 'pay and rations' purposes as detailed below.
- 6.3. A mutual co-dependency has developed between the councils with each reliant on the other for legal service provision.
- 6.4. This report references the shared service team, as a collective, not the team employed specifically by Cotswold District Council. None of the partner Councils would be able to easily revert back to a single in house service without substantial investment. It should further be noted that, for the duration of the shared service, staff costs have been split equally between Cotswold District Council and West Oxfordshire District Council only. Forest of Dean pays only for the staff it employs and does not contribute to the costs of legal officers employed by Cotswold District Council or West Oxfordshire District Council. It is clear from the Your Legal Team proposal and presentation that the shared service has evolved over time and that each partner Council now benefits equally from the resources available. As the service has evolved, the financial contribution from each Council needs to be adjusted to reflect the current arrangements. This means that the Forest of Dean District Council should increase its financial contribution and both Cotswold and West Oxfordshire District Councils should reduce their contributions. Further information is contained within the Financial Implications section of this report.
- 6.5. The team has been organised into specialist hubs to increase resilience and flexibility and seeks to provide centres of excellence taking advantage of the pooling of knowledge and experience. It is firmly focussed on providing a helpful and excellent service to the councils and professional advice is provided on the full range of core legal services (contentious and non-contentious business) relative to a district council.
- 6.6. The service delivers the following legal services:
  - Advisory work – provision of advice on most aspects of law relative to day-to-day legal work in a District Council
  - Property and related transactions
  - Infrastructure support – Planning, Rights of Way, Footpaths
  - Procurement and Contract advice and drafting
  - Litigation and dispute resolution
  - Prosecution / Regulatory
  - Drafting legal documents

- Negotiation
- Advocacy
- Corporate Governance (though this is mostly provided by the Monitoring Officer)
- Committee work

## **7. Contentious business**

7.1. Colleagues carry out all the work in this area of practice covering both criminal and civil proceedings. The team conduct advocacy at Courts and Tribunals, draft documents, and proceedings, carry out negotiation, analyse queries from client departments and provide advice and training. As one would expect, certain members of the team conduct advocacy in Criminal and Civil matters. One member of the team wishes to gain a Higher Rights of Audience qualification which, if attained, would permit that colleague to represent the Council in the higher courts and possibly Inquiries which would save the need always to instruct Counsel. Specific areas of work covered are:

- Housing advice, homelessness advice
- Gypsy/Traveller incursions
- Prosecutions
- Licensing
- Bankruptcy/Insolvency
- Contractual disputes
- Property disputes
- Debt Recovery
- Planning Enforcement

## **8. Non-contentious business**

- Asset management work including Leases, renewal Leases, Licences to Occupy, Alter, Assign or Underlet, Deeds of Variation and Surrenders
- Acquisitions and disposals of land and buildings
- General advice on property matters
- Right to Buy transactions
- Planning

8.1. There is no dedicated legal services administrative support. Some limited administrative support is provided by Publica.

## **9. One legal**

9.1. One Legal was launched in November 2009, the shared legal service between Cheltenham and Tewkesbury Councils with Gloucester City and most recently Stroud District joining in 2020. One Legal is a larger shared service and therefore has access to a greater pool of expertise and skills than could be retained individually by the four partners, which enables One Legal to successfully support the varied and complex legal work arising from the Councils' challenging business agendas.

- 9.2. The shared arrangement operates under a section 101 agreement whereby the Councils agreed to the discharge of their legal function by One Legal. Tewkesbury Borough Council hosts the service and is the main office location for One Legal staff.
- 9.3. One Legal's governance is provided by a Joint Monitoring and Liaison Group (JMLG) that consists of 2 Members, 1 Client Officer each from each partner council and the One Legal Finance Officer. The group meets 4 times per year. The JMLG oversees the performance of the shared service and receives reports as necessary to properly challenge and monitor the performance of One Legal on behalf of the Councils.
- 9.4. One Legal currently has 36 permanent members of staff and provides legal services across contracts and procurement, property and land transactions, planning, environmental, housing, licensing, leisure and culture, information management, corporate governance and elections.
- 9.5. One Legal also undertakes legal support ("Extraordinary Work") for one-off projects, Planning Inquiries (Hearings for 2 days or more), major contracts e.g. development / redevelopment and other work identified in consultation with senior managers. When commissioning Extraordinary Work, a separate amount is payable.
- 9.6. In addition to its partner councils, One Legal provides legal support to partners including Cheltenham Borough Homes, Ubico, Gloucestershire Constabulary, and Gloucester City Homes. One Legal charges third parties when undertaking legal work for them
- 9.7. One Legal say that their focus is "*to provide an excellent legal service to all clients across our public sector client base*" and that they do this "*by blending commercial values with public sector requirements to deliver a cost effective, progressive service*".

## 10. EVALUATION OF THE TWO PROPOSALS

- 10.1. The Deputy Chief Executive has carried out an evaluation process based upon 30% price of the service and 70% on quality of service provision. Both Your Legal Team and One Legal were provided with details of the employment and supplies and services costs of the current in-house service to help them provide informed responses to the cost of service provision.
- 10.2. Each shared service was asked to respond to a set of standard questions. The response from both teams are attached at Annexes B to D, together with the comments of the Deputy Chief Executive and the scoring applied to each question. One Legal responded by completing the evaluation spreadsheet. Your Legal Team provided a written proposal which is attached at Annex D.
- 10.3. As part of the process, Your Legal Team and One Legal both gave presentations to a panel, summarising their respective proposals to a meeting of Officers and Members from all three partner Authorities and the Independent Person supporting the evaluation. Copies of the presentation slides are included at Annex E and F.
- 10.4. Following the presentations, a number of follow up questions were posed and the subsequent answers were considered in the final evaluation scores.
- 10.5. It is clear from the Your Legal Team proposal and presentation that the shared service has evolved over time and that each partner Council now benefits equally from the resources available. As the service has evolved, the financial contribution from each Council now needs to be adjusted to reflect the current arrangements. The Forest of Dean District

Council is currently subsidised by around £32,000 year - £18,000 by this Council and £14,000 by West Oxfordshire District Council.

- 10.6. The Your Legal Services proposal included an increase in corporate overheads of 20% and a desire for additional resources. The cost evaluation reflects the additional 20% overhead cost but does not reflect the desirable increase in resources. Should the Your Legal Team proposal be the preferred supplier the request for additional overhead funding needs to be explored further. This would best be done as part of a detailed service review seeking ensure the maximum efficiency of the service. Such a service review should be built into the process if this option was decided to be most preferable.
- 10.7. One Legal stated that they would not wish to provide a legal service to West Oxfordshire District Council *"Unfortunately we are not in a position at this time to consider this work. We are very keen to consolidate the legal service provided to the people of Gloucestershire before we consider working for authorities further afield."* A move to One Legal will therefore mean that the current in-house team will need to be split and there will be a loss of expertise in the team that would transfer to One Legal.
- 10.8. One Legal did not provide a cost for the provision of legal services, stating that *"This has to be subject to a detailed business case prepared between us based on the service required and with accurate financial advice"* and *"Data will be collated in the new case management system to ascertain time spent on legal advice for each Council. This will be done over a three year period to allow for peaks and troughs to be accounted for."* These responses were followed up with One Legal and the following response was received *"Put simply, the Council(s) joining the partnership should transfer sufficient resource both human and financial to fund its day-to-day legal service, with any additional demand being charged separately as extraordinary work."* A further follow up question asked for clarity on the provision of the Deputy Monitoring Officer role. One Legal have advised they are unable to provide this facility, which would mean the Council needed to resource this role as an additional cost.
- 10.9. The One Legal score for 'cost' reflects the uncertainty of the cost of the legal service when it transfers to One Legal, fragmentation of the in-house team which will lead to a loss of experience currently available to the Council, the risk of negotiation over work which is "extraordinary", the additional fees arising from charges for extraordinary work and the additional cost for sourcing a Deputy Monitoring Officer.
- 10.10. The views of the Independent Person are included at Annex G. The key points for considerations are that both One Legal and Your Legal Services currently operate a traditional demand led legal service. A service review is required regardless of which legal services provider the Council appoints. The review will need to ensure that legal team are performing appropriate work, at the appropriate level and are using systems and processes which optimise economy, efficiency and effectiveness.

## II. FINANCIAL IMPLICATIONS

### Cost of Current Service

- II.1. The partner Council contributions to the cost of the shared service team, is summarised below. The contributions are based upon pay and grading changes which come in to full effect from April 2023 and current provision for supplies and services costs.

	Cotswold District Council	West Oxfordshire District Council	Forest of Dean District Council
Contribution	£217,429	£213,478	£167,383

- II.2. As One Legal have advised they would not wish to provide a service to West Oxfordshire District Council and have more broadly stated that the cost of service provision “*has to be subject to a detailed business case prepared between us based on the service required and with accurate financial advice*” and “*Data will be collated in the new case management system to ascertain time spent on legal advice for each Council. This will be done over a three year period to allow for peaks and troughs to be accounted for.*” Clearly costings, even if indicative, are an essential part of any options appraisal. As such, the costs associated with the legal service provided by One Legal is unclear and cannot be compared to the baseline position above. This has made it difficult to score One Legal against the ‘cost’ criteria (see below).
- II.3. The Your Legal Team proposal includes an increased contribution to overhead of 20%. However, detail and justification of this increase to overheads was not explained in the proposal and therefore needs to be explored as part of a detailed service review. The proposal did explain that there is an equal allocation of resources to each of the partner councils. The table below compares the current Council contributions, against an equal split of costs:

	Cotswold District Council	West Oxfordshire District Council	Forest of Dean District Council
Current Contribution	£217,429	£213,478	£167,383
Equal contribution	£199,430	£199,430	£199,430
Growth/(Saving)	(£17,999)	(£14,048)	£32,047

- II.4. The Your Legal Service arrangements are currently based upon informal arrangements. The financial contributions which reflect the way the service now operates need to be incorporated within the legal documents which will underpin the service. The documents should include a Collaboration Agreement and S.101 arrangements. This will drive out the savings in the table above.
- II.5. If the service review confirms that investment is required in Your Legal Team resources, the financial impact for each partner Council is set out below:

	Cotswold District Council	West Oxfordshire District Council	Forest of Dean District Council
Current Contribution	£217,429	£213,478	£167,383
Your Legal Team Proposed cost	£239,330	£239,330	£239,330
Growth	£21,901	£25,852	£71,947

### External legal costs

11.6. The main items of external legal costs include court fees and external legal advice commissioned by legal services or directly by service areas.

11.7. A summary of external legal costs for the period 2018/19 to 2021/22 is set out below:

External Legal Costs 2018/19 - 2021/22 - Actual Spend						
	2018/19	2019/20	2020/21	2021/22	Total	Average (2019/20 - 21/22)
	£	£	£	£	£	
Cotswold District Council	39,661	43,772	34,633	44,663	162,728	41,022
West Oxfordshire District Council	33,657	11,399	16,348	19,612	81,016	15,786
Forest of Dean District Council*	84,758	40,034	35,461	36,330	196,583	37,275
	158,076	95,204	86,442	100,605	440,327	94,084
*Forest Locum Solicitor	77,225	22,146	0	0	99,371	7,382
Forest Other External Costs	7,533	17,888	35,461	36,330	97,212	29,893
	84,758	40,034	35,461	36,330	196,583	37,275

11.8. In order to ensure that external legal costs are managed it is important that the legal team control the commissioning of external legal advice. This needs to form part of a service review of legal services with a view to reducing spend on external legal advice.

## 12. OUTCOME OF EVALUATION AND CONCLUSION

12.1. The final evaluation scores are shown below:

	One Legal	Your Legal Team
Cost	7/30	19/30
Quality	57/70	51/70
<b>Total</b>	<b>64/100</b>	<b>70/100</b>

12.2. It is proposed that the Your Legal Services team continue to provide legal services to the Council for the following reasons:

- Provision of the Deputy Monitoring Officer role will continue, providing resilience for the Council without an additional cost.
- Potential savings of £18,000 per annum through the formalisation of the shared service and a fairer sharing of costs.
- Skills and experience within the current team will be maintained as there will be no requirement to fragment the team, unless either Forest of Dean District Council or West Oxfordshire District Council decide to commission legal services from an alternative supplier.

12.3. A service review should be carried out to ensure that the legal team are performing appropriate work, at the appropriate level, and are using systems and processes which optimise economy, efficiency and effectiveness. An important part of the review is to determine the appropriate resourcing for the team. This will need to address the growth in resources requested by the Your Legal Team proposal. It is suggested that this review be overseen (project sponsor) by the Chief Executive and managed (project manager) by the Council's Monitoring Officer, in conjunction with the recently created new post of Publica Group Manager for Organisational Development and Transformation, once this post holder is in place.

### **13. NEXT STEPS**

13.1. The provision of legal services is an essential and council wide. As such, the Cabinet are asked to consider this report and the recommendation to continue to use the in-house legal team under the branding of "Your Legal Team".

13.2. Once the service provider has been determined, engagement needs to continue with the Forest of Dean District Council and West Oxfordshire District Council while they complete their own commissioning review of legal services. Once these reviews are complete a project will need to commence to formalise the partnership which will include addressing any Human Resource changes and the entering into a formal partnership through a Collaboration Agreement and Section 101 arrangements.

13.3. A service review will also be essential to ensure that legal services are provided in the most economical, efficient and effective way for the Council. The Interim Head of Legal Services will become the permanent Head of Legal Services and will be responsible for delivering the service review.

### **14. LEGAL IMPLICATIONS**

14.1. Once the service provider has been determined, the legal documents which underpin the shared service, such as a Collaboration Agreement and Section 101 arrangements will need to be completed.

### **15. RISK ASSESSMENT**

- 15.1. A decision to transfer to One Legal would leave the Council with uncertainty on the cost of legal services both in the short and medium term, while One Legal collate data on demand for the service and the resources required to support the demand.
- 15.2. A move to One Legal risks an increase to external legal costs as economies of scale in the current shared service are lost due to a fragmentation of the staff base. A process will need to be followed so that staff supporting West Oxfordshire District Council are employed by that Council rather than being part of the shared service.
- 15.3. Retaining the in-house legal service may miss the opportunity of accessing a wider skill set which is available in One Legal. However, this could be mitigated by the Your Legal Team working with One Legal to source additional skills or capacity when necessary.

## **16. EQUALITIES IMPACT**

- 16.1. No negative effect on different service users, customers or staff is expected from the implementation of the recommendations in this report.

## **17. ECOLOGICAL AND CLIMATE EMERGENCY IMPLICATIONS**

- 17.1. None identified from this report.

## **18. ALTERNATIVE OPTIONS**

- 18.1. The Council could widen the scope of partners for the provision of legal services through a formal procurement process. It is proposed that work is carried out with the Your Legal Services team to ensure that the service is operating as efficiently as possible. A further commissioning review can be considered in a few years once the efficiency work has been completed, the service has embedded the new ways of working and performance can be compared to the Council's expectations at that point in time.

## **19. BACKGROUND PAPERS**

- 19.1. None.

(END)