

	<p align="center">Financial Performance and Contracts Committee</p> <p align="center">19 June 2019</p>
<p align="center">Title</p>	<p>Legal Services</p>
<p align="center">Report of</p>	<p>Director (Commercial and IT Services)</p>
<p align="center">Wards</p>	<p>All</p>
<p align="center">Status</p>	<p>Public</p>
<p align="center">Urgent</p>	<p>No</p>
<p align="center">Key</p>	<p>No</p>
<p align="center">Enclosures</p>	<p>None</p>
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Summary

This report updates the Committee with the current position of the Council's Legal Services delivered through an Inter Authority Agreement by Harrow and Barnet Public Law – HBPL.

Officers Recommendations

1. That the Committee notes the report and completion of the revised Inter Authority Agreement with Harrow.
2. That the Committee notes the overview of the performance and financial position.

1. WHY THIS REPORT IS NEEDED

- 1.1 At its meeting on 17 December 2018, under Agenda Item 8, Performance of Back Office Functions – Legal Services, the Financial Performance and Contracts Committee agreed that HBPL will be included in future monitoring reports to the Committee.

2. REASONS FOR RECOMMENDATIONS

2.1 Background

- 2.1.1 Committee noted at the 17 December meeting that the Council had agreed to extend the Inter Authority Agreement with Harrow for a further period of five years until 1 September 2022. Committee also noted that a proposed revised Agreement was in negotiation.
- 2.1.2 Discussions have now concluded, and agreement reached on key changes recommended relating to the method of charging which alter from hours of work 'estimated' to hours of work completed and a revision to the hourly rate to allow a contingency fund to be developed.
- 2.1.3 A revised Inter Authority Agreement (IAA) has now been signed and sealed by both Barnet and Harrow. As previously reported, this includes revised TUPE arrangements at the end of the Agreement; the revised method of charging; revised termination and exit arrangements; ongoing Pension Liabilities; revised reporting and monitoring arrangements; and updated terms to reflect legislative changes such as the European Union General Data Protection Regulation.
- 2.1.4 The previous contract ended 31st August 2017 and the revised contract, although signed and sealed in March 2019 is backdated to commence 1st January 2018 and ends 31st August 2022. Notice of termination of the new revised contract can be given 30 months following the commencement date and effective one year later. It is suggested that next year consideration will need to be given to the options relating to the re-procurement of the contract from September 2022.

2.2 Performance

- 2.2.1 Under the IAA the Council pays for the hours worked by lawyers within HBPL at a fixed rate. In addition, HBPL pass on the costs of all matters referred on by them to external Barristers and Solicitors plus fees.
- 2.2.2 It should be noted that both Barnet Homes and Regional Enterprises (Capita Re) have separate Service Level Agreements with HBPL for legal work which relates to their own contractual obligations. These are monitored and paid for separately and do not form part of this report.

2.2.3 The enhanced quarterly reporting under the revised IAA allows more fine-grained monthly reports on overall number of hours worked with breakdown by work type; cost of disbursements; volume of new instructions; number of open matters; number of matters closed with total hours charged for each matter; and cost of external Barristers and Solicitors.

2.2.4 The gross total cost of legal services including external barrister and solicitor costs acting for the council for the year immediately prior to the IAA (i.e. 2016/17) was £4.2m.

2.2.5 The breakdown for actual costs in 2017/18 compared to 2018/19 is:

HARROW & BARNET PUBLIC LAW 2017/18/19									
Department	Costs	Costs	Costs	Costs	Costs	Fees	Fees	Totals	Totals
	Annual	Annual	Annual	Annual	Annual	Annual	Annual	Gross	Gross
	2017/18	2018/19	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18	2018/19
	HBPL	HBPL	HBPL	Barrister/Solr	Barrister/Solr			Actual	Actual
	Actual	Estimated	Actual						
Family Services	980,000	1,200,000	1,160,000	360,000	460,000	60,000	150,000	1,400,000	1,770,000
Adult Services	195,000	140,000	210,000	4,000	20,000	15,000	20,000	214,000	250,000
Environment	92,000	62,000	89,000	7,000	5,000	2,000	2,000	101,000	96,000
Assurance	156,000	160,000	143,000	43,000	22,000	1,000	3,000	200,000	168,000
Commercial Services	95,000	100,000	76,000	75,000	620,000	2,000	2,000	172,000	698,000
Housing GF (BH)	133,000	170,000	163,000	16,000	17,000	39,000	2,000	188,000	182,000
Housing Regen (HRA)	218,000	145,000	166,000	130,000	20,000	25,000	24,000	373,000	210,000
RE: Planning/Regulatory	266,000	320,000	285,000	45,000	77,000	5,000	5,000	316,000	367,000
CE: Education	46,000	62,000	107,000	2,000	34,000	2,000	2,000	50,000	143,000
CSG: Property Services	291,000	380,000	382,000	42,000	1,000	5,000	7,000	338,000	390,000
CSG: Resources	85,000	150,000	120,000	74,000	13,000	6,000	7,000	165,000	140,000
Public Health		12,000	12,000						12,000
Totals Gross 2017/18	2,557,000			798,000		162,000		3,517,000	
Estimated Gross 18/19		2,901,000	2,913,000		1,289,000		224,000		4,426,000

NB: these figures do not include income and other adjustments and do not represent the final budget position

2.2.6 Detailed performance information including an analysis of expenditure is supplied to all Departments quarterly by the Council's Chief Legal Advisor & Monitoring Officer.

2.2.7 A summary of performance by Department for the year ending 31st March 2019, based on the performance data and discussions between Department Leads and the Council's Chief Legal Advisor & Monitoring Officer:

2.2.8 Family Services

By far the largest user of legal services. The number of instructions for legal work is down 15% compared with the previous year but gross legal costs are up 20% due to some very complex child protection cases and associated Barrister fees. Unit costs for each main type of legal work appear to demonstrate good value but will be subject to further examination. Overall performance is considered to be good.

2.2.9 Adult Services

Demand for legal work is up slightly (from 131 to 156 matters per year) and

unsurprisingly therefore overall legal costs are also up slightly. Unit costs for each main type of legal work appear to demonstrate good value. Overall performance is considered to be good.

2.2.10 Environment Services

Demand for legal work is slightly down compared with the previous year and unsurprisingly therefore overall legal costs are down slightly. Unit costs for each main type of legal work appear to demonstrate good value. Overall performance is considered to be good.

2.2.11 Assurance

Demand for legal work is slightly down compared with the previous year and unsurprisingly therefore overall legal costs are down slightly. Unit costs for each main type of legal work appear to demonstrate good value. Overall performance is considered to be good.

2.2.12 Education (Cambridge Education)

Demand for legal work has doubled when compared with the previous year due to the increase in Special Education Needs Tribunal cases as a consequence overall legal costs have significantly increased. An explanation for the increase in Tribunal legal cases is currently being sought. Unit costs for each main type of legal work appear to demonstrate good value. Overall performance is considered to be good.

2.2.13 Commercial Services

Legal advice work has mainly (90% by value) been carried out by Barristers and private law firms. Performance is good. The unit rate for private firms is more than double the HBPL unit rate.

2.2.14 Housing Options

Legal work carried out for Barnet Homes relating to Homeless services but paid for by the Council. Demand for legal work is up slightly (from 127 to 147 matters per year) and unsurprisingly therefore overall legal costs are also up slightly. Housing possessions matters have increased by 40% from 83 in 2017/18 to 117 in 2018/19. Unit costs for each main type of legal work appear to demonstrate good value. Overall performance is considered to be good.

2.2.15 Development and Regulatory Services

Legal work carried out for Re but paid for by the Council covers planning, regulatory services and property regeneration. As set out in the exempt report.

2.2.16 CSG (Capita)

Legal work carried out for the Customer Services Group covers property, finance, human resource back office functions. As set out in the exempt report.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 None.

4. POST DECISION IMPLEMENTATION

4.1 Officers will continue to work with HBPL to strengthen monitoring and address performance and quality issues.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Robust budget, performance and risk monitoring are essential to ensure that there are adequate and appropriately directed resources to support delivery and achievement of council priorities and targets as set out in the Corporate Plan.

5.1.2 Relevant council strategies and policies include the following:

- Corporate Plan 2015-2020
- Corporate Plan - 2016/17, 2017/18 and 2018/19 Addendums

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 There are no staffing ICT or property implications.

5.3 Social Value

5.3.1 None in the context of this report.

5.4 Legal and Constitutional References

5.4.1 The council's Constitution, Article 7 Committees, Forums, Working Groups and Partnerships, sets out the functions of the Financial Performance and Contracts Committee as being responsible for the oversight and scrutiny of:

- The overall financial performance of the council
- The performance of services other than those which are the responsibility of the: Adults & Safeguarding Committee; Assets, Regeneration & Growth Committee; Children, Education & Safeguarding Committee; Community Leadership & Libraries Committee; Environment Committee; or Housing Committee
- The council's major strategic contracts including (but not limited to):
 - Analysis of performance
 - Contract variations
 - Undertaking deep dives to review specific issues
 - Monitoring the trading position and financial stability of external providers

- Making recommendations to the Policy & Resources Committee and/or theme committees on issues arising from the scrutiny of external providers
- At the request of the Policy & Resources Committee and/or theme committees consider matters relating to contract or supplier performance and other issues and making recommendations to the referring committee
- To consider any decisions of the West London Economic Prosperity Board which have been called in, in accordance with this Article.

5.5 Risk Management

5.5.1 The council has an established approach to risk management, which is set out in the Risk Management Framework. All risks are reviewed on a quarterly basis (as a minimum) and the corporate risk register (comprising strategic and high-level service/joint risks) is reported to Policy and Resources Committee as part of the quarterly Strategic Performance Report.

5.5.2 There were no high level (scoring 15+) risks linked to this service in Q4 2018/19.

5.6 Equalities and Diversity

5.6.1 The Equality Act 2010 requires organisations exercising public functions to demonstrate that due regard has been paid to equalities in:

- Elimination of unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advancement of equality of opportunity between people from different groups.
- Fostering of good relations between people from different groups.

5.6.2 The Equality Act 2010 identifies the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership, pregnancy and maternity; race; religion or belief; sex and sexual orientation.

5.6.3 In order to assist in meeting the duty the council will:

- Try to understand the diversity of our customers to improve our services.
- Consider the impact of our decisions on different groups to ensure they are fair.
- Mainstream equalities into business and financial planning and integrating equalities into everything we do.
- Learn more about Barnet's diverse communities by engaging with them.

This is also what we expect of our partners.

5.6.4 This is set out in the council's Equalities Policy together with our strategic Equalities Objective - as set out in the Corporate Plan - that citizens will be treated equally with understanding and respect; have equal opportunities and receive quality services provided to best value principles.

5.7 Corporate Parenting

5.7.1 This section does not apply to this report.

5.8 Consultation and Engagement

5.8.1 Not applicable.

5.9 Insight

5.9.1 Not applicable.

6 BACKGROUND PAPERS

6.1 Minutes of Financial Performance and Contracts Committee on 17 December 2018: [Agenda for Financial Performance and Contracts Committee on Monday 17th December, 2018, 7.00 pm](#)