

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 7 March 2016

Portfolio:	Policy and Resources
Subject:	Southampton and Fareham Legal Services Partnership
Report of:	Head of Democratic Services
Strategy/Policy:	Corporate Strategy
Corporate Objective:	Dynamic, Prudent and Progressive Council

Purpose:

This report provides an update on the Southampton and Fareham Legal Services Partnership and asks the Executive to consider extending the existing arrangements for a further five year period.

Executive summary:

At its meeting on 8 March 2011, the Executive resolved to enter into a shared service arrangement with Southampton City Council to share a Solicitor to the Council and a comprehensive legal service for a period of five years with the option to extend this for a further five years.

Due to the success of the Partnership and following detailed discussions between senior officers of both councils, it is now proposed that the Southampton and Fareham Legal Services Partnership be extended with a revised and updated Deed of Delegation.

Recommendation/Recommended Option:

That the Executive agrees:

- (a) to continue the partnership arrangements for the Southampton and Fareham Legal Services Partnership for a further period of 5 years, with an option to extend the partnership for another 5 years; and
- (b) to delegate authority to the Chief Executive Officer after consultation with the Executive Leader to enter into such arrangements as are necessary and on such terms as are reasonable.

Reason:

To continue to provide a robust and resilient legal service at an affordable cost to Fareham Borough Council.

Cost of proposals:

The partnership is delivered within the existing budget set for the delivery of a legal service.

Background papers:

File of correspondence * Exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Reference papers:

Report to Executive 11 October 2010 – Financial Pressures Facing the Council

Report to Executive 8 March 2011 – Proposed Shared Provisions of Legal Services with Southampton City Council

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Executive Briefing Paper

Date:	7 March 2016
Subject:	Southampton and Fareham Legal Services Partnership
Briefing by:	Head of Democratic Services
Portfolio:	Policy and Resources

INTRODUCTION

1. The efficiency and transformation agendas continue to encourage the development and provision of shared services between councils including the delivery of services through collaboration and partnership working.
2. At the meetings of the Executive on 11 October 2010 and 8 March 2011 reports were presented setting out the opportunity and benefits of a shared legal service which would contribute to the necessary efficiency savings and give greater resilience.
3. It was also noted that developing a new shared service would build upon the collaborative and partnership working reflected by the very successful Fareham and Gosport Building Control Partnership as well as the Fareham and Gosport CCTV Partnership. Both partnerships have delivered efficiencies and savings in the way the service is operated and delivered.
4. More recently, the Council has also formalised a shared service agreement with Gosport Borough Council for the delivery of an Environmental Health Partnership. This arrangement has been in development since January 2011 when the two councils agreed to operate with a Shared Head of Service for Environmental Health.
5. At the March 2011 meeting it was resolved that:
 - (a) Fareham Borough Council enter into Shared Service arrangements with Southampton City Council to share a Solicitor to the Council and comprehensive legal service for a period of five years with the option to extend this for a further five years; and
 - (b) Authority is delegated to the Chief Executive Officer after consultation with the Executive Leader to enter into such arrangements as are necessary and on such terms as are reasonable.

PERFORMANCE OF THE PARTNERSHIP

6. This partnership continues to operate extremely well and has proven to be of financial and operational benefit to Fareham Borough Council.
7. The ability of the partnership to support FBC's major projects such as Welborne, Daedalus and Holly Hill Leisure Centre has given added resilience and assurance to the strategic development of these major projects, including the affordability and expedient access to counsel advice and external legal expertise when needed. Originally employment law advice and support for the Information Governance functions were excluded but over the period of the SLA these have now become part of the overall core service as required.
8. It was originally envisaged that a solicitor or senior legal officer would be present at the Civic Offices in Fareham on a daily basis to provide legal information, advice and guidance being provided on a rota basis with different specialist advice being available on various days of the week.
9. This element of the shared service has been under regular review as the service has become embedded and in accordance with the original terms has been reduced due to a diminished level of demand for a physical and constant legal presence. Currently the Solicitor to the Council ordinarily spends one day a week at Fareham's offices, this is supplemented by his deputy together with the Planning Solicitor being present one day a week at least as required. This flexible approach works well and is cost effective given that most business and contact is conducted remotely via email or the phone. Solicitors continue to attend meetings, including Council, the Executive, Licensing and Planning Committees and at the Civic Offices as and when required.
10. Additionally, the Southampton and Fareham Legal Services Partnership was "Highly Commended" at the Lawyers in Local Government Annual Legal Awards in November 2015 in the Development of the Legal Team category. The Partnership's innovative work offers opportunities to local young people from non-traditional or disadvantaged backgrounds to further their legal career. Working with local Universities and Colleges, the Partnership offers 4 x 40 week placements, a Modern Apprenticeship and two shorter placements under the Pathways to Law Programme and Santander Graduate Placement Programme.

COST EFFECTIVENESS

11. For the financial year 2010/11, the cost of providing an in-house legal service was £322,600. The predicted cost to Fareham Borough Council for the first year of the partnership in 2011/12 was forecast to be £239,000. The actual comparable cost (excluding counsel fees, additional external solicitors' fees and disbursements) was £228,205.
12. The fees for each year have been adjusted and are consistently within the Service Level Agreement figures as set out in the Executive report of 8 March 2011 and based on an expected number of chargeable hours (set at 5,160 hours pa). Whilst all authorities have been subject to budget reductions, Fareham Borough Council is guaranteed to receive the service by virtue of having the partnership agreement in place.
13. Over the 5 year period of the partnership, the predicted hours has proven to be reasonably accurate with some fluctuations of increased usage and decreased usage from time to time. The benefit of operating a retained number of hours of resource over

a year is that it enables the partnership to be managed flexibly and strategically with retained resource hours being diverted to work on major projects such as Daedalus and Welborne without incurring additional fees unless specialist advice is required.

PROPOSED EXTENSION OF THE PARTNERSHIP

14. Section 101 Local Government Act 1972 permits authorities to delegate to another authority the ability to lawfully carry out functions on its behalf.
15. The Deed of Delegation agreement will be updated to reflect changes of key personnel for Fareham Borough Council with the Head of Democratic Services fulfilling the role of Client Manager and with the removal of the original staffing transfer arrangements.
16. Following a review of the partnership arrangements, it is intended that the following additional review/break clauses be added to the agreement:
 - (a) Change of personnel by Southampton City Council resulting in a change of Solicitor to the Council. As this post is a Chief Officer position with the current incumbent employed by Southampton City Council, Fareham's Chief Executive Officer would expect to be consulted should this arise, albeit it is not anticipated in the near future. It is recognised that ultimately it is an operational appointment matter for Southampton's elected members but it is considered only reasonable that Fareham be consulted regarding such a key senior officer appointment; and
 - (b) Affordability clause enabling Fareham to reduce the number of hours of committed spend in the event of extreme financial pressures affecting Fareham's ability to meet its budget requirements. Whilst this situation is unlikely to arise it would be prudent in a time of unprecedented change to include it. Should this scenario arise there may be TUPE (Transfer of Undertakings - Protection of Employment) implications.

CONCLUSION

17. In the view of the Chief Executive Officer and key Fareham Borough Council officers it is recommended that the partnership be extended. It is an exemplar of joint working, is efficient, cost effective and achieves the Council's corporate objectives.
18. The alternative would be to terminate the arrangement and
 - (i) bring the service back in house, or
 - (ii) seek an alternative partner.

Neither of these options have sufficient merit to warrant further exploration.

Enquiries:

For further information on this report please contact Leigh Usher Ext 4553