

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 01 March 2021

Portfolio:	Policy and Resources
Subject:	Southampton and Fareham Legal Services Partnership Review
Report of:	Head of Democratic Services
Corporate Priorities:	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 an interim two-year period.

Executive summary:

Due to the success of the Partnership and following detailed discussions between senior officers of both Councils, it is proposed that the Southampton and Fareham Legal Services Partnership be extended. Following the resource challenges experienced by both Councils during 2020 in response to the Covid-19 pandemic, it is suggested that a full review of the partnership be carried out during the two-year period, which may result in a revised and updated Deed of Delegation, should the recommendation be to continue with the partnership.

Recommendation

It is recommended that the Executive agrees:

- (a) to continue the partnership arrangements for the Southampton and Fareham Legal Services Partnership for an interim period of two years, with a full review of the partnership to be carried out by March 2023, which may result in a revised and updated Deed of Delegation; and
- (b) to delegate authority to the Chief Executive Officer following 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

Report to Executive 7 March 2016 – Southampton and Fareham Legal Services Partnership

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Executive Briefing Paper

Date:	01 March 2021
Subject:	Southampton and Fareham Legal Services Partnership Review
Briefing by:	Head of Democratic Services
Portfolio:	Policy and Resources

INTRODUCTION

1. 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.
2. Following a review carried out in 2016, the Executive resolved to extend the partnership by the additional 5 years and included 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.
3. With the current agreement reaching the end of the approved period, it is necessary to consider the appropriate next steps for the partnership.

PERFORMANCE OF THE PARTNERSHIP

4. This partnership continues to operate extremely well and has proven to be of financial and operational benefit to Fareham Borough Council.

5. The ability of the partnership to support FBC's major projects such as Welborne, Daedalus and the remodelling opportunity for Ferneham Hall to provide a busy community arts and entertainment 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.
6. The work of the Southampton and Fareham Legal Partnership has been integral in driving forward the success of these major projects for Fareham Borough Council and will continue to provide the reliable and crucial legal advice to enable these complex work streams to deliver successful outcomes.
7. As part of the initial agreement, 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.
8. With the challenges faced by both Councils during the Covid-19 pandemic and especially during the periods of lockdown, the working arrangements have necessarily been modified to enable as much flexibility as possible with solicitors attending virtual meetings via Microsoft Teams and being available for consultation by telephone and email. Throughout this remote working, Solicitors continue to attend meetings, including Council, the Executive, Licensing and Planning Committees as and when required.
9. The Southampton and Fareham Legal Services Partnership has received a number of plaudits and awards during its 10 years. It was "Highly Commended" at the Lawyers in Local Government (LLG) Annual Legal Awards in November 2015 in the Development of the Legal Team category. In 2017, the partnership was named Project Team of the Year at the LLG annual awards in recognition of the work carried out in supporting innovative projects such as Welborne Garden Village.
10. In 2018, the partnership won the coveted title of National Legal Team of the Year in the top award at the LLG annual awards. At the same event, the legal team was also awarded Runner Up in the Litigation Team of the Year category. And in 2020, the partnership was again shortlisted as a finalist in the top category of National Legal Team of the Year.

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. Since then, the fees for each year have been monitored and occasionally adjusted with an uplift to cover rising costs in salary and are based on an expected number of chargeable hours. 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. The costs over the last five years can be seen in the table below:

Year	Amount
2019-20	£378,509
2018-19	£366,467
2017-18	£296,835
2016-17	£278,750
2015-16	£282,608

14. Over the last five years of the partnership, the actual number of resource hours requested by Fareham has increased due to the complexity of some of the projects being worked on and the volume of work being carried out. In response to this, the Chief Executive's Management Team identified additional budget to cover two extra FTE (full time equivalent) posts which were recruited to work within the partnership. Southampton City Council remain the employer for these additional posts with the Service Level Agreement being adjusted to reflect the equivalent additional hours being devoted to cover Fareham work.
15. The costs given in the table at paragraph 13 do not include legal fees associated with work instructed directly to external solicitors, which is arranged via the legal partnership. Payments for this work are monitored separately and there is an ongoing focus to reduce the external fees by bringing that legal work back in house to be dealt with by the legal partnership, resulting in an overall reduction in costs.

PROPOSED EXTENSION OF THE PARTNERSHIP

16. Section 101 Local Government Act 1972 permits authorities to delegate to another authority the ability to lawfully carry out functions on its behalf.
17. The Deed of Delegation agreement will be subject to the review proposed to be carried out over the next 2 years and the outcome of the review will be reported to the Executive.

CONCLUSION

18. In the view of the Chief Executive Officer and key Fareham Borough Council officers it is recommended that the partnership be extended for an interim two year period.
19. It is an exemplar of joint working, is efficient, cost effective and achieves the Council's corporate objectives.

Enquiries:

For further information on this report please contact Leigh Usher (01329 824553)