

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 06 March 2023

Portfolio:	Policy and Resources
Subject:	Southampton and Fareham Legal 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 renewing the arrangements for a 10 year period with an option to extend for a further five years.

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. The agreement was extended again for a 2 year period in 2021 to enable a full review of the service to be carried out. The Partnership is therefore due for renewal by April 2023.

Due to the ongoing 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 renewed with a revised and updated Deed of Delegation.

Recommendation/Recommended Option:

It is recommended that the Executive agrees:

- (a) to continue the partnership arrangements for the Southampton and Fareham Legal Services Partnership for a further period of 10 years, with an option to extend the partnership for another 5 years;
- (b) to note that the partnership has been extended to include Havant Borough Council and is therefore referred to as the Southampton, Fareham and Havant Legal Partnership; and
- (c) 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.

Confidential Appendix A:

Deed of Delegation for Provision of Legal Services between Southampton City Council and Fareham Borough Council *

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

Background papers:

File of correspondence *

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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

Report to Executive 1 March 2021 - Southampton and Fareham Legal Services Partnership Review

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date:	06 March 2023
Subject:	Southampton and Fareham Legal 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. Following the significant resource challenges experienced by both Councils during 2020 in response to the Covid-19 pandemic, it was suggested that a full review of the partnership be carried out during the following 2 year period, which would allow sufficient time for a revised and updated Deed of Delegation to be drawn up, should the recommendation be to continue with the partnership. This approach was agreed by the Executive on 1 March 2021.

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 Garden Village, Solent Airport at Daedalus, Solent Enterprise Zone, IFA2, Fareham Live and the regeneration of Fareham Town 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. The Southampton and Fareham Legal Services Partnership has received numerous 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.
8. 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.
9. During 2022, Havant Borough Council approached Southampton City Council to explore the possibility of joining the legal partnership in order to engage the Southampton Legal team to carry out Havant's legal caseload.
10. The particulars of the arrangement between Southampton and Havant is subject to a separate deed of delegation between the two organisations which does not affect the agreement between Fareham and Southampton.
11. The expansion of the Partnership to include Havant Borough Council will provide further resilience for all three Councils in terms of access to and availability of experienced and highly skilled in-house legal support at a time when the external legal market is at an all-time high, impacting adversely on recruitment and retention of staff in highly competitive fields.
12. The Executive is asked to note that the Partnership has been extended to include Havant Borough Council and is therefore to be referred to in future as the Southampton, Fareham and Havant Legal Partnership.

FINANCIAL IMPLICATIONS

13. For the financial year 2010-11, the cost of providing an in-house legal service directly employed by Fareham Borough Council 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.

14. 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.
15. The costs over the last five years can be seen in the table below:

Year	Amount
2021-22	£430,831
2020-21	£420,648
2019-20	£378,509
2018-19	£366,467
2017-18	£296,835

16. Over the last five years of the partnership, the 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.
17. The costs given in the table at paragraph 15 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.

REVIEW OF THE PARTNERSHIP ARRANGEMENTS

18. In order to monitor caseloads and instructions, quarterly legal service review meetings are carried out where the relevant service Director and Heads of Service meet with the Head of Legal Partnerships, who is responsible for the day to day management of the work of the partnership and Fareham's Client Manager. At these meetings, upcoming projects are identified to ensure that appropriate resources can be allocated to meet required timescales, especially in the high volume work areas of Planning, Property and Housing. It also provides an opportunity to resolve any case specific issues which ensures that improvements are made to the instructions given or to the carrying out of instructions for all future legal work.
19. In carrying out her appointed role as the Client Manager for Fareham, the Head of Democratic Services has conducted a review of the effectiveness of the partnership and has interviewed the Chief Executive Officer and all Directors to seek feedback and opinions.
20. There is a consistent view that the partnership is operating effectively and that the work

carried out by our colleagues in the Legal team is not only of a high standard but has developed over the years to provide insightful advice which has positively affected Fareham's approach and work on some of its complex projects as well as other regular work which contributes to achieving our corporate objectives.

21. The review of the partnership has resulted in a request for some minor amendments to the Deed of Delegation, which forms the working agreement between the two Councils.
22. The updated Deed of Delegation is shown at confidential Appendix A and includes the following revised elements:
 - To further strengthen the clause added in 2016 (as shown in paragraph 2(a) above), the review should come into effect in the event that the current incumbents of the two most senior roles employed by Southampton City Council (i.e. Fareham's Solicitor to the Council, and the Partnership Service Lead and Deputy Solicitor to the Council) are both removed, either by Southampton City Council or by the individuals' own wishes, within one calendar year of each other. In this event, Fareham Borough Council would expect to be consulted on the replacement of the postholders via the Chief Executive or other designated officer.
 - To add a review point to the clause added in 2016 (as shown in paragraph 2(b) above) to specifically to assess the effectiveness of the core hours allocation and to monitor the level of work being instructed. This assumes that both Councils will need the ability to react quickly to budget pressures over the period of the partnership agreement.

CONCLUSION

23. Section 101 of the Local Government Act 1972 permits authorities to delegate to another authority the ability to lawfully carry out functions on its behalf. The operation of the Partnership will be subject to the Solicitors Regulation Authority.
24. Both Councils are required to give 1 years notice of any decision to terminate the service or intention not to renew in order to facilitate the transfer of instructions and staff.
25. Following this internal review of the Southampton and Fareham Legal Partnership, it is recommended that the partnership be extended for a 10 year period with an option to extend for a further 5 years.
26. 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