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**REPORT TO: MORAY COUNCIL ON 12 MAY 2021**

**SUBJECT: LEGAL SERVICES STAFF RESOURCES**

**BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND ORGANISATIONAL DEVELOPMENT)**

**1. REASON FOR REPORT**

- 1.1 To consider staffing resources within Legal Services and seek approval for an additional resources to support delivery of priority work.
- 1.2 This report is submitted to Committee in terms of Section II (25) of the Council's Scheme of Administration relating approval of revenue expenditure.

**2. RECOMMENDATION**

- 2.1 It is recommended that the Council approves additional revenue budget within Legal Services of up to £54,000 to establish the post of Solicitor on Grade 9 in order to meet increased service demand.**

**3. BACKGROUND**

- 3.1 Following the Council's approval of the 2018/2019 budget on 27 February 2019 (para 7 of the minute refers) savings of £109,000 were agreed from within the total legal services budget of £700,000 to be delivered through a staffing restructure.

The aim of the restructure was to reduce the proportion of senior posts within the service whilst maintaining operational effectiveness. This resulted in a total reduction of numbers within the team from 12 fte to 10.5 fte.

<b>Before</b>		<b>After</b>	
Legal Service Mgr	2	Legal Service Mgr	1
Senior Solicitor	4	Senior Solicitor	3
Solicitor	4	Solicitor	4.5
Paralegal	2	Paralegal	2
Total	12 fte	Total	10.5 fte

- 3.2 As part of the re-structure some work areas were identified to be reduced or de-prioritised due to the overall reduction in staffing establishment:
- Routine comment on every committee report

- Routine officer attendance at Committee
- Work for IJB given the body was set up and all constitutional documents were in place
- Lower value work (for example some lease documentation and roads orders) being pushed back to service departments
- Acceptance of greater legal risk in some areas

3.3 Despite the measures in paragraph 3.2 there has been a marked increase in the volume of work requiring to be dealt with by legal services in other areas:

- Work undertaken by the Head of Service has been pushed down due to expansion of the Head of Service role following a wider management restructure in September 2019.
- Complex community asset transfers through leases and disposals, common good and trust work.
- Support for corporate projects such as ELC expansion, new build schools and Growth Deal.
- Supporting the move of Children's Services into the IJB.
- Covid response and recovery with increase in licensing and support for planning and industrial activity.
- Employment grievance/disciplinary/appeal cases
- Industrial lease work due to increase in industrial estate portfolio.
- Property sales due to asset rationalisation
- Several high profile windfarm Inquiries which the Council is required to participate in.
- High value personal injury/damages claims
- Assisting with Child Abuse Inquiry

3.4 Whilst some of the areas in 3.3 may be transient, and whilst Legal Services would normally manage peaks and troughs in workflow through prioritisation there is a general upward trend in volume and complexity which is causing increased workload pressure on staff. This workload pressure has been exacerbated by a number of staffing issues including high staff turnover (with resulting loss of experience) and absence through illness.

3.5 It is considered that the service structure agreed in February 2019 (one Legal Service Manager with 3 legal teams led by Senior Solicitors) was fit for purpose when implemented. However, the developing work since then has led to issues over the capacity of the service to cope with the increasing volume and complexity of work and of service resilience.

3.6 Legal Services has tried to tackle this workload pressure as follows:

- **Build up knowledge of new staff** so they become more effective
- **Stopping/de-prioritisation.** It has not been feasible to identify any further areas of work which can be stopped. Work has been de-prioritised where possible but this is beginning to create some backlogs. For example progress on the Trust Reorganisation has slowed down and this has been picked up by external audit.
- **An increased amount of work has been outsourced.** It is normally just the more complex areas of work, where there is insufficient internal experience, where outsourcing is used. It is generally cheaper to carry

out work in house and monitoring the outsourcing of work can itself take up time. However more recently work which could have been carried out internally has been outsourced due to the service being unable to handle the volume of work in the required timescales.

In the past 4 years the value of legal work\* carried out externally is:

Year	17/18	18/19	19/20	20/21
Value outsourced	£29,350	£34,200	£53,550	£31,950**

\*The cost of windfarm inquiries has not been included in these figures. These costs tend to be very high and are unavoidable.

\*\*There is unbilled work in progress estimated at around £20,000.

- 3.7 Despite the measures in 3.6 above current staffing levels are insufficient to meet demand. The current position is not sustainable in the longer term and is having a detrimental impact on staff with unsustainably long working hours and increased absence. The effects of absence compound the issue. Staffing capacity is also having a detrimental effect on the ability of Legal Services to support other services where their input to various projects is vital.
- 3.8 Given these pressures it is considered that additional internal staffing resource of 1 fte Solicitor is merited to meet demand and to reduce the value of work being outsourced. An alternative would be to outsource more work but this is not a cost effective or efficient solution for work which could be undertaken by council employees at a lower cost, providing more flexibility and resilience and enabling expertise to be built in house for future work.

#### **4. PROPOSALS**

- 4.1 It is proposed that additional revenue budget is allocated to legal services to enable the appointment of 1fte Solicitor to increase staffing resources at or below solicitor grade to create capacity and to reduce the reliance on outsourcing.
- 4.2 It is proposed to monitor the balance of work carried out internally versus work outsourced as a Performance Indicator (PI) to ensure that the Council continues to be as efficient as possible. In doing this it must be accepted that there will always be an element of specialised legal work that must be outsourced.

#### **5. SUMMARY OF IMPLICATIONS**

##### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The Council requires a mixture of statutory, transactional and advice based legal services to deliver its objectives in LOIP and Corporate Plan. The workload of the Legal Services section is prioritised according to the priorities with these plans.

**(b) Policy and Legal**

Decisions on budget require approval of full council. The establishment of posts at the level proposed is delegated to the Head of HR and ICT.

**(c) Financial implications.**

Corporate Management Team Additional Expenditure Warning:

When the Council approved the budget for 2021/22 on 3 March 2021 (paragraph 3 of the Minute refers) it balanced only by using one-off financial flexibilities. The indicative 3 year budget showed a likely requirement to continue to make significant savings in future years. All financial decisions must be made in this context and only essential additional expenditure should be agreed in the course of the year. In making this determination the committee should consider whether the financial risk to the Council of incurring additional expenditure outweighs the risk to the Council of not incurring that expenditure, as set out in the risk section below and whether a decision on funding could reasonably be deferred until the budget for future years is approved.

The cost of additional staffing would require an additional allocation of £54,000 from the Council's revenue budget. Part of this cost will be offset by a reduction in outsourcing costs as more work will be undertaken in house

**(d) Risk Implications**

Workload pressures within Legal Services are having an impact on frontline services leading to critical functions and processes being adversely affected through delay, unacceptable risk and potential for financial and reputational loss.

**(e) Staffing Implications**

Outlined in para 3.6 and 3.7 above. As well as the resultant need to outsource work there is also evidence of an unsustainable impact on existing staff through unsustainable working hours and increased absence due to work related stress.

**(f) Property**

There are no property implications arising directly from this report.

**(g) Equalities/Socio Economic Impact**

None

**(h) Consultations**

The Corporate Management Team, Chief Financial Officer and the Legal Services Manager have all been consulted.

**6. CONCLUSION**

**6.1 Workload pressures within Legal Services are having an impact on frontline services leading to critical functions and processes being**

**adversely affected, unacceptable risk and potential for financial and reputational loss. They are also having an unacceptable impact on the wellbeing of existing staff.**

- 6.2 Given these pressures it is considered that additional internal staffing resource of a full-time Solicitor is merited. An alternative would be to outsource more work but this is not a cost effective or efficient solution for work which could be undertaken by Council employees.**

Author of Report: Alasdair McEachan

Background Papers:

Ref: