

## Executive Decision Making by an Officer with Delegated Powers

Decision to be taken by: Robert Ayliffe, Monitoring Officer and Director of Policy, Performance and Governance

Pursuant to an Authorisation from: the Council's Scheme of Delegation

Decision Category Number	Function, duty or power to be delegated	Appropriate Officer	Consultation under paragraph 5.4
GEN1	To enter into any contract for works and the supply of goods and services.	Chief Executive, Executive Director, Director, Assistant Director or Heads of Service or equivalent in relation to their service areas.	Relevant Cabinet Member for decisions with financial implications in excess of £250,000

Report title: Procurement of Legal Services

<p><b>The decision</b></p>	<p>To:</p> <ol style="list-style-type: none"> <li>1. Approve the calling-off/commissioning of legal services from third party lawyers during financial year 2024/2025 in circumstances where demand for in-house legal services exceeds available resource or where specialist legal advice is required in niche areas of practice; and</li> <li>2. Delegate authority to the Assistant Director of Legal Services (and those council officers authorised by her) to call-off/commission such legal services as and when required,</li> </ol> <p>subject to the financial restrictions set out in the Resource Implications section of this report.</p>
<p><b>Background Documents</b></p>	
<p><b>Reasons for the decision</b></p>	<p>To enable:</p> <ol style="list-style-type: none"> <li>1. the Council to engage third parties to provide legal services in circumstances where demand for internal legal services exceeds available resource or where specialist legal advice is required in niche areas of practice.</li> <li>2. the Council to take advantage of competitive fee rates for specialist legal work provided by external law firms.</li> </ol>

	<p>3. the Council’s Legal Services department to take advantage of any “added value” services (for example training seminars, library facilities, precedent banks) that may be made available by law firms appointed by the council under framework arrangements.</p>
<p><b>Resource implications</b></p>	<p>No budget changes are proposed in connection with this proposal. Legal costs associated with the appointment of third-party legal advisors will be reported through the Extraordinary Legal Services Cost Centre or appropriate budget code e.g. SEN matters.</p> <p>The combined aggregate value of all legal fees that will be incurred (though not necessarily invoiced) during financial year 2024-2025 in instructing such third-party legal advisors shall not exceed £499,999.</p> <p>No fees will be payable by the council for utilising or being a member of any third-party legal advisors’ framework agreement.</p>
<p><b>Who has been consulted?</b></p>	<p>Cllr Lynden Stowe – Cabinet Member Finance and Change</p> <p>Finance</p> <p>Strategic Procurement</p>
<p><b>What were their comments?</b></p> <p>Finance and Strategic Procurement agree with the proposal to commission external legal services.</p> <p>Cllr Stowe fully supports the decision to commission external legal services as set out in this paper.</p>	
<p><b>Background/Context</b></p> <ol style="list-style-type: none"> <li>1. Legal Services require, on occasion, the ability to outsource legal matters to third party legal advisors where demand for in-house legal services exceeds available resource or specialist legal advice is required in niche areas of practice.</li> <li>2. Since 2019 the council’s Legal Services department has called-off such legal services from third party legal advisers using a framework agreement operated by the legal consortium of circa 246 members (the majority being local authorities) known as EM Lawshare. This has allowed the council’s Legal Services department to quickly and efficiently commission legal advice at pre-agreed below market rates and to also access free training opportunities from ten law firms.</li> <li>3. The Legal Services department also intends to call-off legal services from third party legal advisers using alternative frameworks (for example, the NEPO (North East Procurement Organisation) Framework) and also other local authority commercial legal services departments given that this will provide GCC with a wider range of external legal advisers to choose from, thereby providing greater continuity of cover and experience/expertise.</li> </ol>	

4. Legal Services are looking to work with or already have worked with the following external legal support, however this list is not exhaustive. The call off arrangements with the external legal providers below are subject to agreed competitive fees/rates.
5. The council is already an associate member of NEPO (North East Procurement Organisation which was established in 1976) who work in partnership with North East councils and the wider public sector to ensure public sector spending delivers value and drives positive outcomes. NEPO offers a professional services framework for the provision of legal advice. The framework consists of thirty law firms.
6. Warwickshire Legal Services (“WLS”) operates as a commercial business within Warwickshire County Council. Their in-house legal team offer services to external public sector clients and partner bodies. GCC’s Legal Services department has received support from WLS in respect of a number of child safeguarding cases.
7. Leeds City Council offers a specialist employment advice and representation service. GCC Legal Services currently does not have an in-house employment lawyer and therefore requires support on employment matters when required. Discussions have been undertaken with Leeds City Council to obtain support in this area.
8. GCC Legal Services consider that by widening the scope of provision for external legal support to include the above additional call-off solutions will provide the council with the following benefits: -
  - The ability to call-off/commission legal services with the added benefit of an increased pool of legal firms/local authority legal services advisors.
  - Free training programmes (where applicable)
  - Free legal helplines (where offered)
  - Emergency out of hours support
  - Access to legal library and document precedent for legal documents (where offered)
  - A forum to share experiences and documentation between local authorities (where applicable).

#### **Alternative options considered and why they were rejected**

1. For the council to commission external solicitors’ advice on a piecemeal basis at undiscounted market rates. This option was rejected on cost saving grounds.
2. For the council to undertake a procurement exercise to set up its own panel of solicitors for the provision of legal advice. This option was rejected on the basis that such a procurement exercise would not offer the economies of scale offered by multi-client framework agreements. Moreover, the procurement process would be time consuming and expensive and would not guarantee access to the same wide range of law firms that are available under pre-existing frameworks, nor would it offer the ability to work with other local authority legal service providers.

## Risk Analysis

If the council does not retain the ability to call-off/commission legal services from third party lawyers or other local authority commercial legal services: -

1. It will be less able to respond to matters requiring urgent attention where there is insufficient internal legal resource or to matters requiring niche/specialist legal advice.
2. It would risk paying higher legal fees than the discounted rates available under framework agreements (for example EM Lawshare and NEPO) given that legal services procured outside such frameworks would not benefit from the joint purchasing power of multiple local authorities.
3. It would risk paying higher legal fees than the below market fee rates offered by other local authorities' commercial legal services departments.

## Equalities considerations

The proposed decision will have no direct or indirect effect on those members of community who have a protected characteristic.

## Has an Equality Impact Assessment been completed? No

*If 'Yes', please see attached the signed Equality Impact Assessment.*

**Has any conflict of interest been declared by any Cabinet Member consulted on the decision?**

*The council's Monitoring Officer should be consulted, in the first instance, if any conflict of interest is declared by a Cabinet Member.*

**If any conflict of interest declared, was a dispensation granted by the Audit and Governance Committee of the Council?**

No

Date of dispensation:

**Does this decision report form or any supporting papers provided contain confidential or exempt information?**

*(Refer to Democratic Services Unit for advice if necessary)*

No

*If Yes, please provide details of document(s) that are confidential or exempt*

**Does this decision need to be published on the GCC website?**

*(Refer to guidance on "Executive Decisions taken by Officers").*

Yes

In coming to this decision I have given due and full regard to the requirements of the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 (“the Act”) by reference to the law itself.

Having fully considered all available information, I have decided to reject any alternative options and take the recommended decision(s), for the reasons set out in this report.



Signed:

Name: Rob Ayliffe

Title: Director of Policy, Performance and Governance

Date: 4 June 2024

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