

NEWTON ABBOT TOWN COUNCIL**REPORT TO:** Policy & Resources Committee**DATE:** 14th February 2024**REPORT AUTHOR:** Town Clerk**REPORT TITLE:** Legal Support**AGENDA ITEM No.:** 8**1. PURPOSE**

This report is to provide additional information arising from my report to the Committee in October 2023 and to request authority to engage a company to provide the Council with general legal support on a retainer basis.

2. IMPLICATIONS

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| 1. Legal | None. |
| 2. Financial | None directly from this report. |
| 3. Policy | None. A budget has been included in the 2024/24 accounts. |
| 4. Property | None. |
| 5. Personnel | None. |

3. BACKGROUND

3.1 The Council has up to this point relied upon its staff, and particularly the Clerks to deal with legal issues as required. In addition, specialist legal services of a local solicitor have been commissioned, especially with regard to conveyancing.

3.2 With the environment in which local government operates becoming more litigious, an example of which is the current allotments dispute, it is considered prudent to engage legal support services for staff and the Council. The availability of timely legal advice will not only support staff in their everyday duties, but will clearly safeguard the Council from future challenge from those who feel adversely affected by Council decisions, either where an incident has taken place or that professional legal advice had been received prior to decisions being taken.

4. CURRENT SITUATION

4.1 I have approached a number of legal practices locally and further afield to identify the services offered. I have also consulted my local Clerk colleagues to obtain a view as to what services they commission. It became clear very quickly that there was a common thread of one local practice that many use. It was also clear that very few practices offered a total solution, with most councils having to engage more than one provider.

4.2 There are many practices offering a specialised service, mainly human resources and/or health and safety. It is not considered necessary for the Council to engage these specialist services exclusively, as such support is offered by South West Councils of which the council is a member, NALC and the Society of Local Council Clerks.

4.3 A practice that has offices in Exeter, Teignmouth and Newton Abbot has submitted an offer which I consider the Council should consider, as follows:-

Legal Support

- A fixed fee which gives unlimited legal advice for the duration of the retainer and allows budgetary certainty.
- Access to a one stop legal shop with expert lawyers able to advise on all the legal problems which the council is likely to encounter.
- Discounted hourly rates for work which falls outside the retainer – these rates are normally only available to bulk purchasers of external legal advice.
- Speed of access – a separate telephone number is provided which by-passes the switchboard and goes straight to team members.
- Clear advice – some lawyers advise only in highly technical terms or give equivocal and unhelpful advice. The Council would be warned of any risks and receive give clear user-friendly advice and recommended solutions to any problem which to achieve the goals identified.
- Consistency – speaking to the same person every time (other than holidays or other occasional absences), to ensure consistency of advice.
- Pragmatic, commercial advice – where there is a dispute a realistic view of prospects and the information needed to allow members to take an informed decision.

4.4 Example of the subjects of advice that can be sought:-

- Every type of general enquiry ranging from management of allotments, churchyards, playparks, public toilets, dealings with different types of community associations, through to advising on leases and licences for third party organisations using council assets.
- Template agreements for a range of situations for the Council to populate, and which can then be reviewed and formally signed off.
- Employment law issues regarding staff, and disputes between councillors (to the extent that such are susceptible of resolution).
- Subject Access Requests, and also on Freedom of Information Requests particularly when they are tending towards vexatious.
- Advise on the use which can be made of CIL arising from large developments, on tendering processes and tender document sets, and on disputes with major contractors.

4.5 It was suggested at the October 2023 meeting that consideration should be given to purchasing legal services jointly by a number of councils. As the offer is bespoke for each council and is discounted based on being a Devon local council, there were no providers offering such aggregated services nor would there be any real financial benefit.

5. OPTIONS

5.1 Do Nothing. Continue as in the past. I feel that could be a considerable risk that for the cost would be unnecessary.

5.2 Agree to appoint the preferred provider at a cost within the budget agreed for 2024/25.

5.3 Continue to search for alternative providers. I feel I have exhausted that approach.

6. CONCLUSION

6.1 As explained to the Committee in October 2023 the Council currently operates without legal support in regard to health & safety, legal advice and human resources.

Legal Support

6.2 While the Council has managed to date, the Council is requested to agree to consider engaging a provider specialising in legal support for Councils. Many Councils pay a retainer for legal support. The provider would in addition to providing legal advice as set out in 4.4 above, could peruse the Councils risk assessments, policies and procedures and offer a totally professional opinion.

7. RECOMMENDATION(S)

that the Clerk be herby authorised to engage a provider of legal services as reported to the Committee.

P A Rowe
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