



**NORTH HERTFORDSHIRE DISTRICT COUNCIL**

**The 2017/18 Service Plan for Legal Services**

**February 2016**

The service plan is a key component of NHDC's Corporate Business Planning Process. It supports the delivery of the Corporate Plan, and the delivery of the day to day business activities of the Council, within agreed budgets.

These plans, specific to each service cannot be written in isolation. The Senior Management Team works together to identify areas where synergy, cross authority working or additional skills or temporary resource may be required to deliver an individual project. The service plans will provide the detailed actions which ensure delivery of the priorities.

The Council has three new Objectives from 2016/17 that form the basis of the corporate business planning process. These will be the areas on which the Council will concentrate resources and activities for delivery.

Actions arising from the corporate business planning process will feed into personal objectives for individual members of staff via appraisals and 1:1 meetings. The clear lines of responsibility, outcomes and target dates will be monitored as part of the Council's project governance and performance management reporting.

As part of the Corporate Business Strategy, this service plan should also outline any service area that Corporate Board have indicated will be subject to review in 2017/18.

The following are descriptions of the Council's Objectives:-

## **Objectives**

- **Attractive & Thriving**  
**To work with our partners to provide an attractive and safe environment for our residents, where diversity is welcomed and the disadvantaged are supported**
- **Prosper & Protect**  
**To promote sustainable growth within our district to ensure economic and social opportunities exist for our communities, whilst remaining mindful of our cultural and physical heritage**
- **Responsive & Efficient**  
**To ensure that the Council delivers cost effective and necessary services to our residents that are responsive to developing need and financial constraints**

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## **1. INTRODUCING THE SERVICE**

**Head of Service /Corporate Manager: Anthony Roche**

**Executive Member(s): Leader of the Council**

**Service Managers: 1**

**Number of FTE's: 8**

### **1.1 The purpose of the Team**

The Legal team primarily supports other teams in the delivery of Council services although it has its own statutory responsibilities in the Monitoring Officer function. Legal Services is a comprehensive service dealing with a wide range of legal issues across a broad spectrum of law, as well as applying problem solving skills generally to support projects and solve issues.

The purpose of Legal Services is to provide legal skills (advice, advocacy, negotiation and drafting) in the following areas:

Corporate governance:

- interpretation and advice on the Member's code of conduct, including drafting code of conduct and other policies regulating Member conduct
- management of complaints against members, including initial assessment of complaint
- monitoring of the Constitution
- maintaining and monitoring the gifts and hospitality, conflicts of interest and sub-delegations registers
- advising on officer conduct
- implementing the whistleblowing and anti-bribery policies on behalf of the Council
- training members and officers in governance issues
- monitoring probity and ethics in administration of Council functions
- investigation and advice on compliance issues
- attendance at Statutory Officer's group
- attendance at other corporate groups
- attendance at Cabinet
- attendance at Council
- advising on implementation of new legislation

Contract & procurement

- advice on application of EU rules and Regulations
- drafting PQQ's, ITT's and OJEU notices
- drawing up selection and evaluation criteria
- evaluating tenders
- drafting and negotiating contracts (service contracts, IT contracts & construction contracts)
- responding to legal challenges
- advising on breach of contract
- advice on outsourcing and TUPE
- shared services
- attendance at Contracts and Procurement Group
- Working closely with procurement, in particular on the drafting of the Council's Contract and Procurement Rules
- advising on Community Right to Bid

Planning

- drafting section 106 agreements
- advice on all aspects of development
- advice on local development framework
- planning inquiries
- drafting enforcement notices and taking action to enforce (including injunctions)
- advising on compulsory purchase orders
- advising on regeneration projects
- advice upon affordable housing
- attending Planning Committee

#### Licensing

- advising members and officers on all licensing matters
- attending licensing hearings
- advising upon all Council licensing policies

#### Information Law

- monitoring use of RIPA
- advising on data protection and FOI requests
- advising on and drafting information sharing protocols
- advising on Environmental Information Regulations
- advising on publication schemes
- attendance at Enforcement Forum

#### Property

- purchases and sales of land
- drafting commercial leases
- drafting licences
- dealing with assignments
- advising on village green matters
- undertaking property litigation
- attendance at the Housing Development Group
- mortgage redemption work
- advice on legal structure for complex property transactions
- S278 Agreements/S38 Agreements
- reports on title
- advice on land held in trust/charitable trust
- wayleaves/easements
- advising on Assets of Community Value

#### Litigation

- housing benefit prosecutions
- environmental prosecutions
- advice on criminal and civil procedure
- injunctions
- judicial review
- debt recovery

#### Employment

- providing employment advice
- advice on TUPE
- advising on and drafting contracts of employment
- revisions to policies
- terminations of employment and compromise agreements

#### Housing

- advice on housing policies
- Conducting litigation in appeals against homelessness decisions

Waste

- advising on and drafting waste collection contracts
- advising on joint authority working

Car parking

- advising on the making of car parking orders  
drafting contracts for the provision of car parking services

**1.2 How the service links to our Objectives**

The service areas link with the Objectives in the following ways:-

<b>Service Area</b>	<b>Category*</b>	<b>Objective</b>	<b>Link to Objective</b>
Legal Services	Discretionary Core Statutory/mandatory	Attractive and thriving	The Legal Team provides essential advice and support in the areas of corporate governance, contract, procurement, town and country planning, compulsory purchase, property and road traffic law. This includes: <ul style="list-style-type: none"> <li>• North Herts Museum Service Project</li> <li>• Advise Hitchin Town Hall Gymnasium Trust</li> <li>• Managing the use and development of council buildings and assets</li> <li>• Involvement on Corporate Groups</li> </ul>
Legal Services	Discretionary Core Statutory/mandatory	Prosper and protect	The Legal team is involved with the local development framework. Legal Services provides advice and assistance on the process around the development plan documents and the local plans for neighbouring authorities and their potential impact on NHDC.  Legal Services advises on section 106 agreements, this supports sustainable development and the delivery of affordable local housing.  Advice in relation to overage

			<p>agreements and clawback provisions is provided in relation to land disposals. The team will support the work of the property investment company the Council is seeking to establish</p> <p>Legal Services supports the delivery of the green space strategy, this may include Land Agreements, s278 Agreements, wayleaves and easements.</p>
Legal Services	Discretionary Core Statutory/mandatory	Responsive and efficient	<p>Legal Services advises on the contractual elements of all the Council's major procurements, eg the Waste Collection contract.</p> <p>Actively engaged with the Two Tier Working (Hertfordshire) and Public Law Partnership (Herts, Essex, Sussex) projects which have included joint procurement opportunities, resulting in savings to subscriptions. This has also given us access to a market place for undertaking legal work on behalf of other authorities, generating an income for the Council. Anthony Roche will be vice-Chair of PLP for 2017/18.</p> <p>Legal Services works with other departments across the Council to support and improve shared services and new ways of working projects.</p> <p>One of the aims of the team in 2017/18 continues to be maximising the amount of income we receive from fee earning work, both for NHDC and for other authorities. The income target has increased again as a budget proposal.</p>

**\*Category**

**Statutory/Mandatory** – NHDC has a statutory duty to provide this service

**Discretionary Core** – NHDC has the power to provide this service. It either supports the delivery of front line services or generates a net income for NHDC.

**Discretionary non core** – Discretionary services that do not directly support any other front-line Council service.

### **1.3 Budget**

The budget for this service area for 17/18 is attached as Appendix C

## **2. WHERE ARE WE NOW?**

Baseline assessment of service

### **2.1 Performance Profile**

Due to the nature of the work undertaken Legal Services does not have any performance indicators. This approach is reviewed and considered on an annual basis.

### **2.2 Public Perception**

Legal Services as an internal support service takes its primary customer base as the internal services/clients to whom it provides the service. Legal Services places considerable emphasis on providing a pragmatic and customer focused service.

The Service has received very positive feedback from

### **2.3 Key achievements and outcomes from 2016/17**

<b>Action</b>	<b>Output</b>	<b>Outcome</b>
Maximising income from legal work	Increase income generated by legal services	Income target achieved in 2016/17 with a surplus achieved. Target for 2017/18 has increased by £10k
To provide effective and pragmatic legal advice in relation to the Councils function	A high quality legal service for the Council	Feedback from service areas and external customers on performance of individuals and the team collectively is very positive
Review department processes (including workflows), procedures and performance	Ensure Legal Services is operating as efficiently as possible, minimise risk of errors	New office manual implemented, investigations undertaken into case management systems, legal library reviewed and historic material destroyed
Monitoring Officer	Effective Corporate Governance; Council operates lawfully and with sound ethics, probity and governance	A number of governance policies reviewed, including new guidance on outside bodies, guidance on code of conduct and complaints processes

*The following actions were not delivered in 2016/17 and will be carried forward into the 2017/18 action plan*

<b>Action</b>	<b>Original Due Date</b>	<b>Revised Due Date</b>
Support delivery of the Council's corporate objectives eg capital programme and service led projects – some of the projects eg Waste, NHLC, HTH, Office Accommodation continue into 2016/17	Various	Various
Byelaws review	December 2016	December 2017

### **2.4 External Reviews**

There have been no External Reviews of Legal Services.

### **3. WHERE DO WE NEED TO BE?**

Legal Services benefits from a highly skilled and dedicated team that has proven its ability to be proactive, customer focused and flexible in supporting high profile projects operating to tight deadlines. The team receives very positive feedback from internal clients. We start 2017/18 with a strong team in place.

Legal Services will continue to need to focus on balancing and prioritising high and varied workloads. As a support service to other frontline services, instructions can be unpredictable. Receipt of other urgent instructions may mean that work needs to be reprioritised. The challenge remains to provide advice and assistance to the high profile and urgent projects whilst also being able to progress the other more routine legal work that Legal Services is instructed on.

To a large extent the workload of the team cannot be predicted from one year to the next. The workload comprises advice and assistance on achieving

- Priorities for the District key projects (service section driven)
- Statutory service provision (largely service section driven)
- Corporate performance improvements (driven by the performance regime)
- Probity and ethical monitoring
- Legal challenges
- New legislation

The difficulty in achieving a successful balance is that these have competing priorities. Statutory service provision, probity and ethical monitoring and dealing with legal challenges are essential for the service to resource because of the financial and reputational risks that arise if not dealt with appropriately. Meeting, or assisting service sections to meet corporate priorities is also considered to be an essential requirement for the Service as it enables the Council to achieve its promises to the people it serves. Performance improvements are identified and implemented throughout the year.

The impact of the changes introduced by the Localism Act continue to be monitored, in particular Assets of Community Value has created a sizeable stream of new work and the changes to the standards regime have impacted on the nature of Monitoring Officer work.

There will also need to be ongoing reviews of processes and procedures to ensure maximum efficiency. Significant work was undertaken in this respect in 2015/16 and 2016/17 and this work will continue in 2017/18.

Legal Services continues to explore relevant opportunities that may become available through new ways of working including Shared Services and Partnership Working. This includes Public Law Partnership, which is a loose collaboration of the legal departments of authorities in Essex, Hertfordshire, Cambridgeshire and Sussex. There are links continuing with other Council's throughout Hertfordshire as part of the Two Tier working explorations, and these remain helpful in considering how legal provision can be maintained as a robust supply. Through these arrangements the team has been undertaking fee earning work for St Albans DC and East Herts DC as part of Hertfordshire First – HCC and NHDC being given first opportunity for work from the other district councils in Hertfordshire. Legal Services remains mindful that there needs to be demonstrable benefits associated with any such partner arrangements, given the current comparative strength of the team compared to neighbouring authorities.

The team's main budgets have not been subject to efficiencies in 2017/18, but the team is committed to identifying and reducing all unnecessary spend. During much of 2016/17 the team had an additional agency lawyer in order to support wider corporate projects. It is intended to try to further reduce the spend on agency staff, but this is of course dependant on circumstances and the level of caseloads across the team is being carefully monitored in order to ensure capacity is available to support the work of NHDC whilst also generating income from work for other

authorities. The team starts the year with all roles filled. An objective for the year will be to minimise the use of agency staff. Following a project started in 2015/16 to identify potential income generating opportunities, the team will seek to exceed a newly increased target of £35,000 for fee earning work (£15k from NHDC work, £20k from work for other authorities).

Our aim throughout delivery of any service is that it should be inclusive. In order to ensure this and as is required of the Authority and ensuring we fulfil the requirements placed on us through the Equalities Act 2010, officers will be required to

- complete an Equality Analysis each time a proposal is made which changes the manner in which a service is delivered, where a project costs in excess of £50,000 (excluding utility contracts) or affects more than two wards
- Evidence of that assessment and its findings will be referred to and available as a 'background paper' for any report requiring a decision by members, so that the impact and its risks can be fully considered before recommendations for change or adoption are agreed.
- The positive **and** negative impacts of such analysis will be provided *in summary only* within the committee report using the standard report template available from the Committee Services section.
- The report must also be approved by a member of the corporate Policy Team in order to ensure it fulfils the requirements of the Equality Duty, 'that members are fully informed and aware of equality implications at the time they make a decision'.

From January 2013, under Public Services (Social Value) Act 2012, local authorities were required to capture the 'social value' of their investment into local projects. Two comparative projects may have the same financial value, but it is the value to the local community, community groups or individuals which needs to be captured and reflected more accurately in order to better inform decision making; this should therefore be built into individual service plans, and the individual projects reflected within them. The corporate Policy team will be able to advise further if help is required.

In order to mitigate risks or improve governance arrangements the service needs to :-

- Complete agreed internal audit actions
- Ensure all documentation and IT records comply with the retention policy
- Continue to review corporate governance policies and procedures in a timely manner
- Ensure the correct processes and procedures are in place when undertaking fee earning work

SWOT/PESTLE analysis has shown the following weaknesses/threats that the service will address by:-

- There has previously been an identified and longstanding issue around workloads and a potential lack of resilience in Legal Services. The team is currently fully staffed and operated for much of 2016/17 with an additional lawyer in order to support corporate projects and facilitate fee earning work. This will be monitored on an ongoing basis and addressed in the following ways:
  - Continue ongoing review of processes and procedures within Legal Services to maximise efficiency
  - Continue ongoing review of workflows and work allocation within Legal Services to maximise internal robustness
  - Continue to explore, where suitable, potential arrangements:
    - on an individual basis with another Council where possible
    - in relation to the Two Tier working across Hertfordshire collectively
    - Public Law Partnership
    - Regional collaboration or shared services
- Procedures and challenges faced by DMS and Information@Work. This will be monitored on an ongoing basis and addressed in the following ways:

- Working with IT to support the specific needs that Legal Services has and maximising the capabilities of the systems
- Continue to explore whether alternative systems may be more appropriate for the needs of the service area

- **HOW DO WE GET THERE?**

This is the framework for action, with clear indications of what needs to be done, by when and who is responsible for doing them.

#### **4.1 Detailed action plans**

The main actions and planned outcomes are outlined in the Service Action Plan. This includes the improvements required to service delivery identified by external reviews, internal audits, risk management and Assurance actions, legislative changes as well as key projects. It has been colour coded to show why the action is required.

This service plan predominantly focuses on actions to be delivered in 2017/18 but certain actions that impact on the service beyond this timeframe have been included with milestones to indicate the anticipated delivery date.

These need to be living plans, with performance, milestones and targets updated regularly, in the context of team meetings as well as during appraisals and 1:1's.

**The Service Action Plan is attached as Appendix A.**

#### **4.2 Risk & Opportunities**

Actions to mitigate risks thereby ensuring the delivery of projects by reducing threats to service delivery, are included within the Service Action Plan. The threats that will prevent the service from achieving targets have been identified and recorded.

Opportunities which may present themselves could include existing or emerging service sharing arrangements, or sharing parts of a service, especially going forward – and how will the benefits of those opportunities be measured?

## **5. HOW DO WE KNOW WE ARE THERE?**

Accurate and reliable information is important to ensure the Council can measure how well it is achieving its goals. The information held by the Service is accurate, reliable, timely, consistent, relevant, secure and of high quality to meet the needs of our partners, residents and fulfil audit and inspection requirements.

Progress against the Corporate Plan will be reported to Overview & Scrutiny Committee

Budget monitoring reports are submitted to Cabinet on a quarterly basis and include information on our key financial health indicators.

In preparing the Service Plan local performance indicators have been considered and their continuing use reviewed and/or new indicators have been introduced with details shown in Section 2.

The performance measures for each of the Service indicators have been reviewed by the Executive Member and relevant Heads of Service. The risks to the achievement of the targets are evaluated and where necessary entered onto the Risk Register held on Covalent.

Performance against indicators is reported quarterly to the Overview & Scrutiny Committee. Where performance is below target Heads of Service/Corporate Managers are required to provide information as to what action is being taken to remedy the situation in order that members can review proposals for improving performance levels.

Every member of staff has an annual appraisal when individual performance is reviewed against individual objectives linked to the service plan. In addition, managers are required to have a formal appraisal review every 6 months. This ensures delivery against the service plan is kept on track.

The Council's Top Risks are reported to the Finance, Audit and Risk Committee to ensure that key risks are being identified and managed.

## **6. ASSURANCE FRAMEWORK**

The Council has an assurance framework to map the Council's priorities to risks, controls and assurances. An essential part of this framework is a Management Assurance Statement that is completed by all Heads of Service and Corporate Managers.

This Assurance Statement is a critical review of the service area against the Council's Local Code of Corporate governance and provides evidence for the Annual Governance Statement published with the Council's Annual Accounts.

The Head of Service/ Corporate Manager's Assurance Statement is attached as Appendix B.

**The following appendices for your Service area must be included;**

- A. Service Action Plan**
- B. Assurance Statement**
- C. Budget for 17/18**