

Report of City Solicitor
Report to Director of Resources and Housing
Date: 8 April 2019

Subject: Legal Services Role Harmonisation

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. Pay grades within legal services are not comparable with legal posts within Procurement & Commercial Services, or with similar professional posts within the Council or with similar roles in private practice and local government.
2. Associated with the above, legal services is currently experiencing an unprecedented level of vacancies.

Recommendations

The Director of Resources & Housing is requested to give approval to:

- Subject to the exceptions listed, increase the pay grade of all posts in legal services to the pay grade outlined in Column 2 of the Table set out at paragraph 3.3 of this report.
- Update the job descriptions following the benchmarking exercise so we are more attractive in the labour market
- Approve recruitment both internally and externally (if required) to vacant positions and subsequent back filling of vacancies where relevant.

1. Purpose of this report

- 1.1 This report sets out findings in respect of a job comparison exercise relating to posts within legal services together with the costs of harmonising grades in line with similar job roles both across the Council and externally.

2. Background information

- 2.1 Following a recent restructure of the former PPPU Service, it became apparent that pay grades within legal services are not in line with similar legal posts within Procurement & Commercial Services, similar professional posts across the Council or similar roles across other Local Authorities and externally.
- 2.2 In addition to but associated with the above, legal services are currently experiencing an unprecedented level of vacancies at 16.8% (Budgeted vacancy factors in other professional support services are typically 5% to 6%). This is primarily due to two factors, (i) staff leaving the Council to take up similar roles for increased pay and (ii) the inability to recruit people with the required knowledge and experience to vacant posts at the grade offered.

3. Main issues

- 3.1 An extensive, high level exercise has been undertaken jointly by legal services and HR to ascertain the extent of the known disparity. This involved comparing job descriptions and associated grades/salaries of posts of all levels within legal services with others, both internal and external to the Council.
- 3.2 The conclusions of the exercise are that, with the exception of a number of specific posts, a disparity does exist in that the posts from S01 and above, in legal services, are graded at least one grade less than comparators. In particular, there was clear evidence that roles requiring both case work and management responsibilities attracted a far higher salary than is currently offered within legal services (e.g. Service team leaders are in the main graded at P06 whereas comparators attracted a salary equivalent to at least Dir 45%). See comparison table at Appendix B.
- 3.3 However, P06 posts without management responsibility and responsible for case work only were found to be consistent with similar roles across the Council and other local authorities. Similarly C3 and S02 posts were also on par with other posts of that grade across the Council. S01 posts were found to be consistent with S02 grades. Further the job descriptions relating to the P06 (team leader) and P04 posts within the housing disrepair team have been determined to be in direct comparison with other posts on the same grade and so these posts will not be subject to the required increase in grade. A recruitment exercise for these posts is underway. The full results of the comparison exercise are set out below:

Grade of Post in	Grade of post with	Number of posts	Number of
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Legal Services	similar duties and responsibilities across council and externally	FTE	people
B1, B3, C1 and C3	B1, B3, C1 and C3 (i.e. no change)	19.9	22
S01 and S01/S02	S02	9.72	10
S02	S02 (i.e. no change)	9.2	11
P01, P01/P02 and P02	P04	2.86	3
P03	P04	3.6	5
P04 (business management & Housing disrepair team)	P04	3	3
P04	P06	6	6
P04/5	P06	19.5	21
P05	P06	1	1
P06 (no management responsibility)	P06	4.5	5
P06 (housing disrepair team leader)	P06	1	1
P06 (with management responsibility)	Dir 45%	6	6
Dir 40%	Dir 45%	4	4
Dir 45%	Dir 52.5%	4	4
Dir 52.5%	Dir 60%	2	2

- 3.4 This situation is having a detrimental effect on retention and recruitment which is resulting in increased costs for the Service and the Council. There is evidence of an increased number of staff leaving the Service to take up similar roles outside of the Council for increased pay or alternatively leaving for less responsible roles for the same pay.
- 3.5 The disparities concluded by the above comparison exercise reflect exactly the posts to which legal services is experiencing real difficulties in recruiting to vacant posts. Recruitment exercises are regularly unsuccessful either because few, if any, applications are received in respect of vacant posts or often the standard of applications received falls short of our requirements which results in repeated recruitment exercises. This is particularly evident in higher level posts e.g. P04-P06. Further, these exercises have revealed that applicants applying for higher grade posts e.g. P04 have the experience and knowledge more associated with the role and responsibilities of an S02 post within legal services.

- 3.6 The problems in retaining and recruiting within the Service is not only impacting upon Service delivery, it is also impacting on staff morale and most recently there is evidence of work related stress given the need for existing staff to do more pending successful recruitment.
- 3.7 In addition, the time resource required to progress recruitment is increasing with the number of vacancies creating the need to reprioritise work accordingly. There are currently 15 vacant posts across the Service. The cost of an advert is approximately £ 3-4.5k although these are amalgamated where there is more than one vacancy. In the last 18 months around 34 vacancies have been advertised (including re advertising). The recruitment process is extremely resource intensive and more so where a new post or regrade is involved. On average, recruiting to a vacant post requires approximately 21 – 40 hours of senior officer time (from seeking approval to appointment). As an example, in respect of the number of vacant posts outlined above (34) this amounts to between 714 - 1360 hours of resource which could have been redirected to other chargeable work.
- 3.8 In order to respond to and mitigate these impacts, it has been necessary to both recruit locums (where they are available) and outsource work. These costs (set out in paragraph 4.3.1 below) and impacts are likely to continue in the absence of an intervention.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The initial proposals were developed following discussions with the Director of Resources and Housing, HR and finance. The proposal has also been shared with the appropriate Executive Member.
- 4.1.2 Consultation has been undertaken with the Trade Unions on 10th December 2018 and 30th January 2019, UNITE, Unison and GMB were represented at both meetings.
- 4.1.3 All staff were invited to a consultation meeting on the 12th December where trade union colleagues were also invited to attend. UNITE and Unison convenors were in attendance. GMB were unable to attend but their details were shared at the meeting. FAQ's were produced for staff and shared at the meeting, trade union contact details were also shared on this document.
- 4.1.4 During the consultation process concerns were raised by staff and Trade Unions in relation to equity in terms of the most senior in the service obtaining a pay rise and the junior staff not obtaining an increase and this having an impact on staff morale. It was also raised the staff and the unions felt that the benchmarking exercise was unclear and hard to follow.
- 4.1.5 It was raised about evidence of people leaving for other jobs at the same responsibility but with increased pay, this was discussed on the meeting on the 30th January 2019 where examples were shared.
- 4.1.6 The job descriptions were discussed at both consultation meetings where it was confirmed the intention to refresh the job descriptions following the benchmarking exercise and two new responsibilities were inserted. The additions are to contribute to income generation and work flexibly across the service as needed. The refresh is anticipated to make the jobs more desirable in the labour market.

4.1.7 Concerns were also raised about the qualifications table within the service, it was confirmed this would be updated to reflect the new grades and what qualification each requires.

4.2 Equality and diversity / cohesion and integration

4.2.1 An equality and diversity impact assessment is attached as an appendix C to this document.

4.3 Resources and value for money

4.3.1 The cost of these proposals (including increments and vacant posts to be filled) is £206k in 2019/20. However, by being able to successfully recruit to current vacancies with the revised grades outlined above, it is anticipated that legal services will be able to revert to retaining work in house. This in turn will allow savings in wider external legal costs across the Council to be achieved as the current level of outsourcing of work is reduced.

4.3.2 In 2017/18 approximately £250k was spent on external legal costs due to a lack of available of resources within legal services and to date in 2018/19 the equivalent figure is £200k. It would be in this area where the service would work with Directorates to reduce the level of external spend which would provide the necessary funding for this proposal.

4.3.3 The cost of a locum amounts to up to twice the cost of an employee (£40-£50 p/hr compared to £26 p/hr for a P04) and the cost of outsourcing, using framework rates, is 3 times more costly than internal resource. Both of these options as an alternative to internal resource have a detrimental and unsustainable impact of the Service and wider corporate budget. For example, expenditure on locums in 17/18 as a direct result of vacancies within legal services was £61,977 and in 18/19 to end of August was £47,770. Whilst this is currently being funded from the slippage in the service salary budget, it does not represent value for money.

4.3.4 In light of the above, a costing exercise has been undertaken on the basis that the grades of all posts across the Service being increased as set out in the Table in paragraph 3.3 above, subject to specified exclusions. In circumstances where an increase in grade will not result in a spinal column increase an increase in pay will not be triggered until 6 months following the regrade when the post holder will benefit from an increment increase.

4.3.5 On the basis of the above, Table 1 of Appendix A outlines the maximum cost, over the next two years, of this proposal. The costings were based on an assumption that any increase would commence from 1 October 2018, and that all posts will be graded as set out in column 2 of the Table in paragraph 3.3. However, as a reasonable time needs to be allowed for consultation with trade unions, increases will only commence from 1 February 2019 at the earliest, and therefore the actual cost in 2018/19 will be very small, and will certainly be less than £39K.

4.3.6 If the recommendation is implemented both the cashable and non-cashable savings identified in Tables 2 and 3 of Appendix A would be realised. These more than offset the cost of implementing the recommendation. Budget adjustments will be made to reflect the saving on external legal spend which would otherwise have occurred, and therefore the net effect to legal services' budget will be zero. It is also likely that

some additional savings will be achieved by the deletion of a Head of Service post in Democratic Services, (which is unconnected to the proposals in this report).

4.4 Legal implications, access to information, and call-in

4.4.1 This decision is not eligible for call in

4.5 Risk management

4.5.1 There is a risk of an adverse reaction from the teams or post holders not included in the realignment that could feel excluded from the benefits. However, the usual practice in legal services is to try and fill vacancies internally, and all members of staff are actively encouraged to pursue development activities to equip themselves for promotion opportunities. The service has a workforce plan to develop internal staff for future promotions which incorporates using the apprenticeship levy to upskill our staff through legal apprenticeships. For example 5 members of staff have recently started legal apprenticeships, and 3 managers are about to start management apprenticeships. As a result, there has been a significant number of recent internal promotions at all levels of legal services, including from B and C graded posts to SO graded posts, and from SO graded posts to PO graded posts. It is anticipated therefore, that the majority of staff will regard the realignment as providing further career opportunities for them in the future.

4.5.2 Not aligning our service to the benchmarked job descriptions leaves a risk of continued turnover for external opportunities and inability to recruit due to inappropriate experience of candidates. In turn, this would lead to continuing, high levels of external spend, and difficulties with deploying the appropriate level of resources to projects quickly and effectively.

4.5.3 Following the benchmarking the job descriptions have been refreshed to be more attractive in the labour market and staff will receive a variation to contract letter that they will need to accept. The job descriptions will incorporate two new duties (i) to contribute directly to external income generation; and (ii) to work flexibly across the service as and when required. Anyone not wishing to accept the variation to contract letter will remain on their current job description and grade.

5. Conclusions

5.1 It is clear that the grade of a large number of posts within legal services do not compare with similar posts both within and external to the Council. There is a disparity of approximately one grade. There is evidence that the situation is having a direct and detrimental impact on retention and recruitment to posts within the Service and the response to dealing with that has a negative impact on the Service and corporate budget.

5.2 The cost of increasing grades as set out in Table 1 will facilitate both retention and recruitment of staff as well as addressing any potential equality issues as set out in the Appendix 3. It will also contribute to mitigating the known work related stress within the Service. Whilst the cost of implementing the recommendations cannot be met from the legal services budget unless the identified net cost (£206k) is injected as growth, based on the level of external spend in directorates, savings can be realised as a result of this implementation (identified in Table 2), which make the

recommendations self-financing at a Council wide level. In addition, non cashable savings and increased value for money when compared to the alternative of the status quo (as identified in Table 3) will also be realised.

6. Recommendations

- 6.1.1 The Director of Resources & Housing is requested to give approval to:
- 6.1.2 Subject to the exceptions listed, increase the pay grade of all posts in legal services to the pay grade outlined in Column 2 of the Table set out at paragraph 3.3 of this report.
- 6.1.3 Update the job descriptions following the benchmarking exercise so we are more attractive in the labour market
- 6.1.4 Approve recruitment both internally and externally (if required) to vacant positions and subsequent back filling of vacancies where relevant.

Appendix A

Table 1

	Cost of Increase of grade of all posts on structure to those set out in Column 2 of table in para 3.3 £000
2018/19	78 (based on 1.10.2018 implementation date) or 39k w.e.f. 1/1/2019*
2019/20	206
*existing vacancies can only be filled from 1.2.2018, and there will be a period of time before appointments are made, therefore actual cost will be less than 39k, and can be funded from existing slippage.	

Table 2

Corporate Cashable Savings	Spend in 2017/18 £	Spend 18/19* £
Cost of outsourcing work as a result of vacancies/pending successful recruitment	248,726	199,576
Cost of repeated recruitment adverts.	3- 4500 per advert	
TOTAL		

*To end August

Table 3

Corporate Non Cashable Savings/value for money	
Cost of officer time spent in respect of recruitment	£1870 – 3560 per recruitment
Reduction in cost of locums currently employed to cover: posts which are vacant and difficult to recruit to; and/or vacant post pending recruitment which can take up to 4 months to progress to advert. .	In terms of value for money an employee represents half the cost of a locum, provides consistency for client Service and increases Service stability.
Increased staff retention	
Reduction in vacancies	
Reduced pressure on existing staff workloads and known work related stress	
Increased staff morale	

