

From: Paul Carter, Leader of the Council
Bryan Sweetland, Cabinet Member for Commercial and Traded Service
Geoff Wild, Director of Governance and Law

To: Policy and Resources Cabinet Committee
19 September 2014

Subject: **Facing the Challenge – Legal Services Review – Update Report**

Classification: **Appendices Exempt**

Past Pathway of Paper: N/A

Future Pathway of Paper: N/A

Electoral Division: All

Summary: This report seeks to update the Policy and Resources Cabinet Committee on the current direction of travel in respect of the Facing the Challenge Review for Legal Services.

Recommendation(s):

The Committee is asked to consider and note the current proposals and progress in respect of the Legal Services Facing the Challenge Review.

1. Introduction

- 1.1 Legal Services was considered as part of the 'Facing the Challenge: Delivering Better Outcomes' Phase 1 review process. A key part of the initial activity included desk research and informal market engagement to inform a detailed options appraisal and Outline Business Case. The primary objective was to identify a potential solution that was "better, cheaper and more profitable" than the current in-house Legal Services model.
- 1.2 An Outline Business Case was presented to the Transformation Advisory Group (TAG) in March 2014. The recommendation was to progress with an option to seek a commercial partner to form a joint venture (JV), and then to apply to the Solicitors Regulation Authority (SRA) for a licence to operate a legal practice under the Alternative Business Structure (ABS) arrangements.
- 1.3 The intention would be for the JV/ABS to not only undertake KCC's legal work, but also to benefit from work streams supplied by the partner and to

trade in the wider market, unlike the current in-house model, which is not permitted to trade other than with a limited number of public sector bodies.

This will provide the following potential benefits:

- The opportunity for sustainable growth and for KCC to have an interest in an appreciating asset
- An increased income stream for KCC
- Recurring savings on the cost of the annual KCC legal spend

1.4 Further work on market engagement and financial analysis was undertaken, culminating in a Case to Proceed to Procurement being presented to TAG on 29 July 2014.

1.5 TAG considered this document and recommended it be passed through the agreed tiers of engagement and to move to implementing a formal procurement process to secure a commercial partner to form the JV/ABS.

2. Financial Implications

2.1 Please see *Appendix A* which is exempt.

3. The Review process

3.1. A full independent review of the options available to KCC for the future delivery of Legal Services was undertaken, which included a market engagement exercise to validate assumptions and confirm the results of the earlier desk research. Detailed work has also taken place on financial projections, clarifying both income and expenditure assumptions, and testing these against the results of the market engagement.

3.2 A Prior Information Notice (PIN) was published on the KCC Procurement Portal on 8 April 2014, inviting expressions of interest in the opportunity of working with KCC to develop a new delivery model for Legal Services.

3.3 The responding suppliers were all invited to attend individual supplier fact-finding meetings and were provided with an information pack and briefing note. It was made clear that this was not part of a formal procurement process and the outcomes of the meetings would not form part of any future OJEU procurement or give the attendees any advantage in any future tender evaluation.

3.4 Five organisations accepted and the meetings were held on 21 and 22 May and 8 July 2014. Please see *Appendix B* which is exempt.

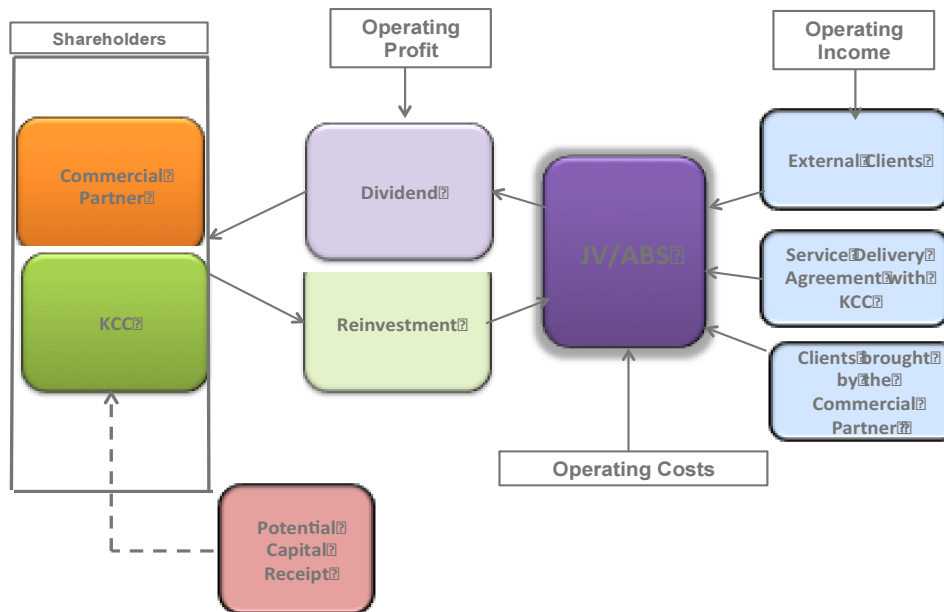
3.6 The responses from the various organisations suggest that they can bring significant added value to the current successful in-house legal team through:

- Investment
- Introduction of work streams
- Marketing and business development

- Access to wider markets

4. Proposed operating model

4.1 The proposed high level operating model is shown below:



5. Consideration of Risks

- 5.1. A full risk assessment has been undertaken (*Appendix C* which is exempt) and the risk register will be regularly reviewed as part of the on-going procurement process to ensure that risk levels are re-assessed and minimised, with any additional risks identified and included. This will also provide a baseline risk register for the implementation of a JV/ABS with a commercial partner.
- 5.2 While the JV/ABS option carries a number of risks to KCC, and is a major step change from the current delivery model, it also brings a significant opportunity for growth from trading in the wider market, income generation, cost saving and reputation building. KCC already has a reputation as a leading innovator in the field of legal services and the “brand” will attract interest from a large number of potential commercial partners and clients.
- 5.4 The risks of continuing with the current delivery model rest primarily with the projected reduction in the volume of work from KCC service teams, particularly as service areas for internal and external clients are moved to new delivery models where the internal legal team may not be instructed or permitted to provide legal advice. It is likely that the financial return to the Council will correspondingly reduce. A significant reduction in size of the unit would also lead to a loss of economies of scale and hinder the unit’s ability to retain specialist lawyers.

6. Procurement process and key milestones

- 6.1 On 4 September 2014, TAG confirmed that a full Competitive Dialogue procurement process and timeline will apply, including a Pre-Qualification Questionnaire (PQQ).

Key Milestone	Indicative Timetable
Case to proceed to procurement fully approved through all tiers of engagement	Mid-September 2014
Procurement commences using the Competitive Dialogue process	Late September 2014
Competitive dialogue process takes place	December 2014 – February 2015
Preferred supplier identified	Late April 2015
Contract Award	June 2015
JV/ABS fully operational (ABS licence application process – approx. 6 months)	Late 2015

7. Recommendation(s)

Recommendation(s):

The Committee is asked to consider and note the current proposals and progress in respect of the Legal Services Facing the Challenge Review.

8. Background Documents

None

9. Contact details

Report Author:

- Gilli Galloway Procurement Programme Manager - Facing the Challenge Team
- Gilli.galloway@kent.gov.uk