



**CROYDON**

# Final Internal Audit Report

## Legal Services Model

### February 2020

**Distribution:** Executive Director of Resources and Monitoring Officer (Final only)  
Director of Law and Governance  
Legal Service Business Manager

Assurance Level	Identified Issues	
Substantial Assurance	Priority 1	1
	Priority 2	3
	Priority 3	3

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Please refer to the Statement of Responsibility in Appendix 3 of this report for further information about responsibilities, limitations and confidentiality.

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## 1. Introduction

- 1.1 There is a need for a high quality, cost effective legal service which can respond to financial challenges and evolving needs. The new Legal Services model has been implemented to effect this through a combination of insourcing certain areas of work whilst maintaining a gatekeeper role for all external legal instructions. A new provider has been contracted for all external legal instructions for a period of five years, with an option to extend for a further two years.
- 1.2 The Legal Services team provides a range of services across the Council. The three in-house teams comprise of specialist solicitors, advocates and legal assistants, with an in-depth understanding of the Council's functioning, values and responsibilities.
- 1.3 The new Legal Service model went live in January 2018 and Service Level Agreements were finalised in April 2018. Key Performance Indicators were agreed in June 2018. This audit commenced in July 2018, and was therefore carried out very early in the implementation of the new process.
- 1.4 The objectives, methodology and scope are contained in the Audit Terms of Reference at Appendix 1.

## 2. Key Issues

### Priority 1 Issues

After a matter has been allocated externally, Instructing Officers are able to view all other matters allocated to Browne Jacobson (**Issue 1**).

### Priority 2 Issues

Acknowledgement e-mails on receipt of requests for legal services were not evidenced for nine out of 10 cases sampled (**Issue 2**).

There was one instance out of 10 requests sampled, where there was no evidence that the request had been authorised for progression (**Issue 3**).

Client Care memos were not always sent within the target of three working days (**Issue 4**).

Priority 3 issues are included under item 4 below.

3. Actions and Key Findings/Rationale

<b><u>Control Area 2: Legal Services Requests</u></b>						
<b>Priority</b>	<b>Action Proposed by Management</b>	<b>Detailed Finding/Rationale – Issue 1</b>				
1	<p>This was resolved immediately upon being highlighted.</p> <p>It should be noted that the issue was caused by incorrect SharePoint permissions and was not in line with the requested legal model.</p>	<p>The Data Protection Act 2018 requires that personal information is kept appropriately secure.</p> <p>Following a review of the SharePoint site when a request had been allocated to Browne Jacobson, an instructing officer was able to view all matters that had been allocated to Browne Jacobson even those submitted by other instructing officers, some of which are sensitive in nature and included personal information.</p> <p>Legal Services Requests often contain sensitive and personal information and should only be viewable by the instructing officer. Where other officers are able to view this information, there is a risk that sensitive information may be viewed by inappropriate officers which may cause operational issues for the Council.</p>				
	<table border="1"> <thead> <tr> <th><b>Responsible officer</b></th> <th><b>Deadline</b></th> </tr> </thead> <tbody> <tr> <td>N/a</td> <td>Implemented</td> </tr> </tbody> </table>	<b>Responsible officer</b>	<b>Deadline</b>	N/a	Implemented	
<b>Responsible officer</b>	<b>Deadline</b>					
N/a	Implemented					

<b><u>Control Area 2: Legal Services Requests</u></b>						
<b>Priority</b>	<b>Action Proposed by Management</b>	<b>Detailed Finding/Rationale – Issue 2</b>				
2	SharePoint now sends acknowledgments automatically once a request has been submitted.	<p>According to the Legal Services service level agreement, acknowledgments of submitted requests should be sent to the client within one working day.</p> <p>Examination of a sample of 10 legal service requests from a total of 639 requests covering the period April 2018 until July 2018, identified that in nine cases there was no evidence that an acknowledgement had been sent from the centralised legal business services inbox.</p> <p>The Legal Assistant advised that acknowledgement for these nine cases were likely sent from personal inboxes as there was an original issue with defaulting to personal email addresses that the team was not aware of in early stages. This had been addressed but it was not possible to cross-reference all 9 inboxes.</p>				
	<table border="1"> <thead> <tr> <th><b>Responsible officer</b></th> <th><b>Deadline</b></th> </tr> </thead> <tbody> <tr> <td>N/a</td> <td>Implemented</td> </tr> </tbody> </table>	<b>Responsible officer</b>	<b>Deadline</b>	N/a	Implemented	<p>Where cases are not acknowledged, there is a risk that business areas do not think their request has been received and may re-submit. This can cause extra work for both the Legal Services team and the business unit.</p>
<b>Responsible officer</b>	<b>Deadline</b>					
N/a	Implemented					

<b><u>Control Area 2: Legal Services Requests</u></b>						
<b>Priority</b>	<b>Action Proposed by Management</b>	<b>Detailed Finding/Rationale – Issue 3</b>				
2	All matters not ticked as authorised are rejected by the team	<p>Requests should be authorised by an instructing officer. This helps ensure that appropriate budget holders are aware of the expenses to be incurred and that legal requests are proportionate and necessary. Requests do not need to be submitted by an instructing officer, but a tick box must be marked to confirm that they have approved the request.</p> <p>Examination of a sample of 10 legal requests covering the period April 2018 until July 2018, identified that in one case the request had not been marked as approved by an instructing officer.</p> <p>It was explained that, ‘Legal cannot verify that the authorisation is obtained and this is for the instructing services to ensure that their officers are compliant. Any risk is limited by the fact that PO’s will be sent for authorisation to instructing officers in any event on external cases.’</p>				
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<b>Responsible officer</b>	<b>Deadline</b>					
N/a	Implemented					

<b><u>Control Area 3: Allocation of Requests</u></b>						
<b>Priority</b>	<b>Action Proposed by Management</b>	<b>Detailed Finding/Rationale – Issue 4</b>				
2	The Client Care memo has been completed and has been sent to staff confirming that they are to use it when opening files. Workflows are being programmed where it will not be possible to open a file without sending this memo, but in the interim there is a reliance on fee earners to ensure these are sent.	<p>The service level agreement states that a client care memo should be sent within three working days following the request being allocated.</p> <p>A sample of 10 legal requests covering the period April 2018 to July 2018 was selected. Nine of these cases did not have a client care memo or case plan on file, sent within three working days as per the Service Level Agreement. Memos should contain important information about how the request will be handled and complaints procedures etc. which is important for internal clients to be aware of.</p> <p>The Legal Business Manager advised that care memos were still in development.</p> <p>Where a client care memo is not in place, there is a risk of duplication of work in addition to a strain on resources where information on cases is not readily available.</p>				
	<table border="1"> <thead> <tr> <th><b>Responsible officer</b></th> <th><b>Deadline</b></th> </tr> </thead> <tbody> <tr> <td>Director of Law and Governance</td> <td>31 July 2020</td> </tr> </tbody> </table>	<b>Responsible officer</b>	<b>Deadline</b>	Director of Law and Governance	31 July 2020	
<b>Responsible officer</b>	<b>Deadline</b>					
Director of Law and Governance	31 July 2020					

**4. Priority 3 Issues**

Action proposed by management	Findings
<p>1) Review dates will be added to documents and reviewed annually. Longer term goals are to complete a schedule of policies and procedures and compile these into an office manual.</p>	<p>Policies, procedures and guidance should be dated on creation with the review date detailed.</p> <p>Two process guides were in place for the Legal Services team, namely ‘Practice Note – Statements’ and ‘Practice Note for Gateway Processes’. Neither of these processes had a creation date or a review date.</p> <p>Where dates are not documented on processes, there is a risk that the processes are out of date and not due to be updated on a regular basis. Staff may therefore follow out of date practices.</p>
<p>2) This is not necessary for internal work.</p> <p>However, should external work be taken on, these checks will be built into workflows when these are created. These will be created on a team by team basis.</p>	<p>A conflict of interest check should be held for each new case that is opened. This helps ensure that the Council is protected from reproach and can evidence that potential conflicts have been considered.</p> <p>A sample of 10 legal cases was tested. There was no evidence of any records held confirming a conflict of interest check had been carried out by the fee earner.</p> <p>The Legal Business Manager advised that fee earners are not required to undertake a conflict of interest check, but going forwards, this is being considered to be added to the case management system.</p> <p>Where a conflicts of interest check has not been undertaken on the fee earner, there is a risk that cases will be pushed forwards for legal action which should not be.</p>
<p>3) Some info was outstanding for Q1 internally. Q1 reporting was delayed so now Q1 and Q2 reporting will be completed in November. Feedback can now be provided through SharePoint when a request is closed and can be retrospective back to January 2018.</p>	<p>Key Performance Indicators (KPIs) should be used to ensure that the Legal Services team meet their targets.</p> <p>There are currently KPIs that have been put in place and in a spreadsheet, but are yet to be completed and reported on.</p> <p>Where KPIs are not used, there is a risk that Legal Services do not perform to the optimum.</p>



## TERMS OF REFERENCE

### Legal Services Model

#### 1. INTRODUCTION

- 1.1 There is a need for a high quality, cost effective legal service which can respond to financial challenges and evolving needs. The new Legal Services model has been implemented to effect this through a combination of insourcing certain areas of work whilst maintaining a gatekeeper role for all external legal instructions. A new provider has been contracted for all external legal instructions for a period of five years, with an option to extend for a further two years.
- 1.2 As part of the agreed 2018/19 Internal Audit Plan, an internal audit of the new Legal Services model was identified to be undertaken.

#### 2. OBJECTIVES AND METHOD

- 2.1 The overall audit objective is to provide an objective independent opinion on the adequacy and effectiveness of controls / processes.
- 2.2 The audit will for each controls / process being considered:
- Walkthrough the processes to consider the key controls;
  - Conduct sample testing of the identified key controls, and
  - Report on these accordingly.

#### 1. SCOPE





- 3.1 This audit will examine the Council's arrangements in relation to Legal Services inception, allocation, monitoring, invoicing and budgetary control, and will include the following areas:

Control Areas/Risks	Issues Identified		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Legislative, Organisational and Management Requirements	0	0	1
Legal Services Requests	1	2	0
Allocation of Requests	0	1	1
Monitoring and Reporting of Progress	0	0	1
Invoicing and Recharges	0	0	0
Budgetary Control	0	0	0
<b>TOTAL</b>	<b>1</b>	<b>3</b>	<b>3</b>

## DEFINITIONS FOR AUDIT OPINIONS AND IDENTIFIED ISSUES

In order to assist management in using our reports:

We categorise our **audit assurance opinion** according to our overall assessment of the risk management system, effectiveness of the controls in place and the level of compliance with these controls and the action being taken to remedy significant findings or weaknesses.

	Full Assurance	There is a sound system of control designed to achieve the system objectives and the controls are consistently applied.
	Substantial Assurance	While there is basically a sound system of control to achieve the system objectives, there are weaknesses in the design or level of non-compliance which may put this achievement at risk.
	Limited Assurance	There are significant weaknesses in key areas of system controls and/or non-compliance that puts achieving the system objectives at risk.
	No Assurance	Controls are non-existent or weak and/or there are high levels of non-compliance, leaving the system open to the high risk of error or abuse which could result in financial loss and/or reputational damage.

Priorities assigned to identified issues are based on the following criteria:

<b>Priority 1 (High)</b>	Fundamental control weaknesses that require the immediate attention of management to mitigate significant exposure to risk.
<b>Priority 2 (Medium)</b>	Control weakness that represent an exposure to risk and require timely action.
<b>Priority 3 (Low)</b>	Although control weaknesses are considered to be relatively minor and low risk, action to address still provides an opportunity for improvement. May also apply to areas considered to be of best practice.

## STATEMENT OF RESPONSIBILITY

We take responsibility to the London Borough of Croydon for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

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