



To: CORPORATE SERVICES		Subject: LEGAL SERVICES BENCHMARKING	
From: HEAD OF LEGAL SERVICES			
Date: 17 August 2007	Ref: JM/JMB		

1. Introduction

This Report has been prepared to advise Members about the Legal Services Benchmarking exercise carried out by the former Head of Legal Services before his retirement on 31 March 2007. The purpose of the benchmarking exercise was to compare legal services provided to this Council with other authorities' legal services.

2. Background

Historically, there has been a lack of material on Legal Services within Scottish Local Authorities with which to conduct benchmarking exercises. The Society of Local Authority Lawyers and Administrators set up a Legal Benchmarking Group but it produced only one rather complex report on notional hourly rates which was not received with very much confidence. The group has not met for a number of years.

For the purposes of the exercise conducted by the former Head of Legal Services all Scottish local authorities were invited to participate. A questionnaire was formulated seeking to draw out a range of information to enable both quantitative and descriptive material to be analysed. Seven authorities completed the questionnaire which was rather disappointing. However, two of our closest comparator authorities (**Councils 1 and 2**) in terms of population completed the questionnaire so the benchmarking exercise has considerable value. In England and Wales, the Audit Commission undertakes Best Value Reviews for Legal Services. The opportunity has been taken to extract information from recent reviews of a Welsh and an English authority.

3. Benchmarking Exercise Participants

The Scottish local authorities participating in this exercise have been labelled Councils 1 – 7, in order of population for the purposes of this Report and the Welsh and English authorities have been labelled Councils 8 and 9.

4.1 Results and Analysis

	AV.	1	NL	2	3	4	5	6	7	8	9
Population		350k	323k	305k	120k	114k	91k	89k	87k	116k	157k
Total Council Employees		24.3k	18.4k	16.5k	6.9k	5.9k	5.8k	4.5k	5.1k	7.7k	7k
Ratio of Employees to Population	17.5	14	18	18	17	19	16	20	17	15	22
Council Employees F.T.E.'s		17.9k	14.7k	16.5k	6.9k	5.9k	5.8k	4.6k	5.1k	n/a	n/a
Ratio of F.T.E.'s to Population	22	20	22	22	22	24	19	23	23	n/a	n/a

There are few significant variations in the ratio of council employees to the population of the Council areas. When Full Time Equivalents are used, the ratio for **Council 1** comes back nearer to the average indicating that a higher proportion of part-time staff are employed.

	1	NL	2	3	4	5	6	7	8	9
Legal Services Employees										
Professional	24	29	34.5	16	11	11	8.5	16	12	
Administrative	10	14	17	10	3	12	2	3		
Clerical	14	23	17	14	4	3	2	4		
Total	48	64	68.5	40	18	26	12.5	23		45

The number of staff employed is not an indicator of best value in itself. This is because of a number of factors

- **Out-sourcing**

Council 1 has fewer solicitors than North Lanarkshire but, as will be shown later, out-source more work.

- **Service Provision**

It is also not known whether any other Council employs dedicated staff to service the Anti Social Behaviour Task Force funded by the Scottish Executive. North Lanarkshire employs two solicitors and one administrative officer to provide services to the Task Force.

- **Legal Service Delivery Structure**

Council 2 employs significantly more solicitors than either Council 1 or North Lanarkshire and this may be on account of their legal service being delivered on a partly de-centralised basis, there being separate legal units in other Services of **Council 2** as well as the corporate core servicing the other departments in a more traditional way.

- **Client Demands**

The number of solicitors employed can also be predicated on the demands made by the service departments for legal services. For example, for two councils of similar population one may have significantly greater areas of social deprivation than the other with a consequent need for a greater level of legal service to the Social Work department.

- **Partnership Working**

Similarly the number of solicitors employed can depend on how active a council is in the fields of community planning, the ownership of limited companies, participation in trusts, and other innovative governance arrangements.

If we look at the Number of solicitors and legal services staff as a whole in the context of the population and the total number of council employees we see the following results.

	AV.	1	NL	2	3	4	5	6	7	8	9
Ratio of solicitors to population	7732	14583	11138	8841	7500	10364	8309	10471	5438	9667	n/a
Rank Order		1	2	6	8	4	7	3	9	5	n/a
Ratio of solicitors to employees	515	1016	635	478	431	543	535	535	319	642	n/a
Rank Order		1	2	7	8	4	5=	5=	9	3	n/a
Ratio of all legal staff to population	4749	7292	5047	4453	3000	6333	3515	7120	3783	n/a	3489
Rank Order		1	4	5	8	3	6	2	7	n/a	9
Ratio of all legal staff to employees	273	508	288	241	172	332	226	364	222	n/a	9
Rank Order		1	4	5	8	3	6	2	7	n/a	9

This places the Council 4th in rank order out of the ten councils measured, putting North Lanarkshire ahead of **Council 2** but behind **Council 1**. Council 1 scores well on account of its large number of employees and relatively fewer numbers of legal staff. Additionally, their pay structure has rates, especially for middle-managers which are considered to be below market rates, particularly in West Central Scotland. On the other hand, **Councils 1**

and 2 out-source a greater proportion of work, particularly litigation and insurance work which North Lanarkshire handle in-house with the costs being met from the Insurance Fund. The effect can be seen in the following tables for which only **Councils 1 and 2** are used to benchmark on account of their roughly equivalent size.

	COUNCIL 1	NORTH LANARKSHIRE	COUNCIL 2
Gross Legal Costs	£2,991,000	£3,526,079	£4,346,491
Income	£622,000	£1,157,200	£941,500
Net Legal Costs	£2,369,000	£2,368,879	£3,404,991

When expenditure is off-set against income, North Lanarkshire has the least expensive cost base, very similar to Council 1 but with these two considerably lower than Council 2. When these figures are applied to the population and the total number of council employees, the following results are found.

	COUNCIL 1	NORTH LANARKSHIRE	COUNCIL 2
Cost per resident	£6.77	£7.33	£11.16
Rank order	1	2	3
Cost per employee	£97	£129	£206
Rank order	1	2	3

Once again Council 1 and North Lanarkshire are relatively similar but both are considerably less expensive than Council 2.

4.2 Cost comparisons and Out-sourcing

Councils were asked what types of work were out-sourced on a regular basis and what the costs were for 2005/06. The information and figures provided were sparse and sporadic. Nevertheless they are produced in the table below. What is known from research carried out independently from the benchmarking exercise is that very few types of council undertake the legal work connected to their insurance claims in-house. Primarily this comes about from whether or not they insure or alternatively self-insure. When councils contract out all their insurance claims work, it is normally the insurance company who engages private sector legal firms to represent the local authority in court. Since North Lanarkshire Council effectively self-insures, the opportunity has been taken to handle in-house the legal work associated with insurance claims. This has led to a culture where Legal Services attempts to settle genuine claims at as early a stage as possible rather than take claims to the door of the court thereby maximising legal costs. The costs charged by Legal Services to the Insurance Fund are regularly audited by our independent claims handlers.

The information provided by the other councils produced the following results;

	1	NL	2	4	5	7
Types of out-sourced work	Litigation Conveyancing	Sheriff Court Agency	Commercial Work Litigation Insurance claims Employment Tribunals	Equal Pay	Insurance Claims Building Contracts	Planning Employment Trusts Procurement
Amount of work	£53,000	£20,000	£170,000	?	?	£15,000

North Lanarkshire therefore out-sources very little work which is seen to represent a value for money. Every year the Law Society of Scotland produces a Cost of Time Survey. This survey produces an hourly rate which is calculated to be the average cost of an employed solicitor in private practice is £110 per hour. Other rates which the Council are charged by private firms range as follows;

- Partner £150 to £250 per hour say £200
- Associate £120 to £180 per hour say £150
- Assistant £80 to £120 per hour say £100

Working with the following assumptions;

Chargeable hours per day (7 x 0.75) 5.25

Working days per annum (30 days holidays) 230

The cost of out-sourcing all legal work at average rates would be £4,226,250

The cost of using the Law Society's cost of time rate would be £3,851,925

The actual in-house cost is

Head of Service = Partner

Chief and Principal Solicitors = Associates

Solicitors = Assistants

Cost of Legal Service is £2,368,879
Actual Chargeable Rate is £67 per hour

On these assumptions the following results are benchmarked

	1	NL	2	3	4	5	6	7	8	9
Rate per hour	£81	£67	£81	£49	£44	£54	£71	£49	£40	£82

On these figures, North Lanarkshire compare favourably against our two main comparators Councils 1 and 2 recording a charge out rate of £67 per hour as against £ 81 per hour for the other two.

4.3 Service Delivery

For this part of the benchmarking exercise, being more descriptive in nature, it was felt more appropriate to concentrate the analysis on Councils 1 and 2. No other council comes close in terms of population, council employees and the number of solicitors employed.

North Lanarkshire delivers its services from the central location of the Civic Centre, Motherwell except for some administrative and clerical staff servicing the District Court in Coatbridge and staff servicing the District Court and the Safety Camera Collections Unit both situated at Bron Way, Cumbernauld. Solicitors work under the supervision of three Chief Solicitors, (elsewhere in Scotland usually described as Legal Managers) responsible for Litigation and Advice, Property and Commercial and District Courts and Licensing. They in turn report to the Head of Legal Services who, in addition to managing the service and dealing with some of the more complex or controversial issues, provides a strategic overview for the service. There is a clear career path within the organisational structure with a Principal Solicitor grade interposed between the Chief Solicitor and the basic Solicitor grade.

Council 1 delivers its services under the strategic direction of a so-termed Legal Services Manager who, despite the title, has chief officer status. Below this there are four Team Leaders with further higher grade Solicitor posts above the basic Solicitor grade. Again, as with North Lanarkshire and **Council 2**, there is a clear career path. The legal teams, from the available information, are distributed around the council area reflecting the headquarters of the old region and district councils. The four legal teams comprise Conveyancing and Contracts, Litigation and Advice, Planning and Environment, and Regulation, Licensing and District Courts.

Council 2 delivers its services on a partly devolved basis. Some Solicitors are located within the other services. Solicitors provide operational service to these Services under the supervision of a Legal Manager who in turn reports to a non-legal Head of Support within the Service (or Resource as it is termed). There is a District Courts, Licensing and Registration Section which operates from four District Court locations and nine registration offices. Finally there is a Core Legal section. This provides operational services to the rest of the Resources units within the Council and provides a strategic legal service overview to the legal units within the other Services. There is also a clear career path with Legal Advisers interposed between the Legal Managers and the basic Solicitor grade.

From the other smaller councils questioned, all legal services were provided centrally. No authority thought it likely that their council would move to a devolved service provision. With regard to placing the provision of legal services on the shared services agenda, responses were equally divided between "possibly" and "unlikely". No council replied "probably".

The conclusion which is drawn from this part of the benchmarking exercise is that organisational structures have clearly developed to reflect local circumstances both historic and current. It is not proposed to alter the delivery structure provision of legal services in North Lanarkshire.

4.4 Council House Sales

Within North Lanarkshire, the Tenants Rights Transactions (Council House Sales) processes have under-gone a Best Value Review. Nevertheless an opportunity was taken in the benchmarking exercise to seek further information from other councils. There is, of course, a statutory performance indicator being the per centage of houses sold within 26 weeks. The Scottish Executive concedes that there are factors outwith the control of Legal Services

or even the councils which affect the performance indicator. Nevertheless they consider that it is as good a way as any available to measure the performance of authorities against each other. The figures obtained below are for 2005/06.

	1	NL	2	3	4	5	6	7	AV
Sales	834	1078	849	460	212	250	120	170	
% in 26 weeks	86%	84%	96%	63%	73%	42%	86%	88%	77%
Rank Order	4	5	1	7	6	8	3	2	
Charge to HRA		560k	424k		173k		45k		
Cost per Sale		£519	£500		£816		£378		

The first thing to notice is that North Lanarkshire are selling more houses than any other council which is not surprising since they have the largest housing stock. **Council 2** is also completing more sales within the 26 week target than any other council. This might be accounted for because they have a dedicated team for council house sales. Over the past few years sales have dropped markedly in Council 2's area. It may be that if they have retained the same number of staff within their sales unit they should be able to process the sales more quickly.

Council 1 also have a dedicated unit and, like **Council 2** is composed of a number of para-legal staff supervised and supported by a qualified solicitor. North Lanarkshire also have para-legal staff who handle the administration of the process from receipt of application to the issue of the offer. Thereafter the conveyancing is handled by qualified solicitors rather than by experienced para-legal staff working under supervision. Initial findings from the North Lanarkshire best value review indicates that the solicitors in the Property and Commercial section have been under pressure from the large land sales programme to obtain receipts within specific financial years. This has diverted resources from the house sales process and is reflected in the small drop in the statutory performance indicator and consequently the council's rank order in house sales performance. A switch to providing this service by increasing the part played by para-legals rather than solicitors is recommended following upon the best value review .

4.5 Performance and Quality

In an earlier table showing the rank order of the cost of legal services per resident, Councils 8 and 9 ranked first and tenth (of 10). However, that statistic only tells one part of the story. The Audit Commission in England and Wales conducts Best Value Reviews of councils' legal services. In their report on Council 8 their assessment was "**a fair service that has poor prospects for improvement**". In their report on **Council 9** their assessment was "**a good service that has promising prospects for improvement**". Obviously the cost of the service is not everything, quality and customer satisfaction are essential elements. Councils were asked if customer or client surveys or questionnaires were carried out, if performance information was regularly reported to committee, whether the legal service had any quality accreditation and whether any best value reviews had been carried out recently. These questions produced the following results.

	1	NL	2	3	4	5	6	7
Client Surveys	No	Yes	Yes	Yes	No	Yes	Yes	Yes
Report Performance	Annual	Quarterly	Starting Soon	Yes	No	Yes	Yes	Yes
Quality Accreditation	IIP	IIP	IIP Chartermark in Court	No	No	IIP	?	No
Best Value Reviews	No	Yes	Yes	No	No	No	Yes	No

North Lanarkshire compares favourably with the benchmarking group, having in place all the factors questioned. There are a number of areas of work where quality and performance are measured.

- Legal Services shares in the IIP Accreditation for the former Administration Department as a whole.
- Performance reports are presented to the General Purposes Committee on a quarterly basis. Statutory Performance Indicators and other non-statutory indicators are reported monthly and quarterly to the Chief Executive's Department who collate and report the information on a Council-wide basis.
- There has been a best value review on tenants rights transactions in addition to this benchmarking exercise.
- Legal Services issue customer satisfaction questionnaires to council house purchasers and to persons who report complaints to our Civic Government Enforcement Team. For the period April to December 2006, 2% of respondents were dissatisfied with the Council House Sales process and that was in relation to boundary disputes or to the distribution of garden ground rather than the legal process
- In 2000 and again in 2005, Legal Services conducted a Survey with all its client departments. The results were very encouraging, showing high levels of satisfaction with the service and with ratings mostly improving between the 2000 and the 2005 surveys. A quote from the Chief Executive was particularly welcome when he said **"Overall I believe the legal service has developed over recent years very positively and I greatly value the quality of advice provided often dealing with very challenging situations."**

In addition to a range of detailed questions, the survey asked clients to score Legal Services on a list of matters. The scoring system was as follows;

- 1 Very well, exceptional service
- 2 Well, good service
- 3 Satisfactory
- 4 Barely acceptable, could do better
- 5 Poorly, must improve

	2000	2005
Quality of advice	1.9	1.9
Promptness	2.1	2.3
Clarity of advice	1.9	1.9
Overall value for money	2.3	2.0
Ease of access to advice	2.0	1.9
Information about progress	2.3	2.3
Quality of representation	1.8	1.8
Expertise in relevant areas of law	1.9	1.9
Commercial awareness	2.3	2.0
Political awareness	2.3	1.9
Knowledge of corporate rules	2.3	1.8
Ability to work with other departments	1.9	1.9
Availability	2.1	2.2
Knowledge of client department	2.3	1.9

5. Conclusions

The first conclusion from this exercise is that benchmarking is not well developed within Scottish local authority legal services. It is hoped that the distribution of this information back to the participating authorities and others will stimulate interest in collating and sharing information.

Overall it is clear that analysing the information from Councils 1 and 2 in particular who, along with ourselves, form a distinct group in terms of population, has yielded the more interesting results. Perhaps for the future it would be more productive to concentrate on developing more sophisticated comparators with those two authorities.

North Lanarkshire Legal Services performs well in relation to the other authorities. The ratio of solicitors to population and also to North Lanarkshire employees ranks second overall. While there is no doubt that economies of scale could be a factor as against smaller authorities, the cost of the service per resident is significantly better than the figure for Council 2. While the cost per resident is slightly lower for Council 1 on account of having fewer solicitors, that is at the expense of a lower income stream because the insurance legal work is outsourced whereas it is handled in-house in North Lanarkshire. Nevertheless, the hourly charge-out rate for fee-earners is 17% lower in North Lanarkshire than for Councils 1 and 2. It is noticeable that Council 2 employs more solicitors than North Lanarkshire and one must draw the conclusion that the partly de-centralised structure has an important bearing. While there will no doubt be some advantages which Council 2 can advance, it does not appear to be a cost efficient organisational structure. Given the satisfaction levels for the legal service in North Lanarkshire demonstrated by the client satisfaction surveys, it is recommended that the existing centralised service delivery be maintained.

The Council House Sales service is performing well, consistently maintaining a top quartile position in the rank order of the Statutory Performance Indicator. The service also appears to be delivered at a competitive cost from the limited comparative information available. However, it is clear that the service delivery structure, using solely professional legal staff for the conveyancing element of the process, is against the norm. The Report on the Best Value Review examines the position in more detail but it is fair to say that with the maturity of our procedures and in the development of the latest I.T. system there is an opportunity to move towards the delivery of the service by a predominantly para-legal workforce.

6 Recommendations

- a) To note the outcome of the exercise and the contents of this report.
- b) Share the benchmarking information with the participating Scottish Councils to encourage and promote a benchmarking culture in local authority legal services and initiate regular reviews
- c) To continue the practice of a mixed delivery of a centralised in-house service coupled with appropriate out-sourcing depending on operational needs and required expertise. This practice will provide a secondary advantage of regular market testing of the quality and cost of out-sourced services.



June Murray
Head of Legal Services

Members seeking further information on the contents of this report are asked to contact June Murray, Head of Legal Services on extension 2554.