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| <b>Committee(s):</b><br>Efficiency and Performance Sub (Finance) Committee  | <b>Dated:</b><br>18.02.2022 |
| <b>Subjects:</b><br>1. Comptroller & City Solicitors Department<br>Internal Trading Account Evaluation<br>2. Proposal to deliver unidentified savings | <b>Public</b>               |
| <b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>   | All                         |
| <b>Does this proposal require extra revenue and/or capital spending?</b>  | <b>N</b>                    |
| <b>If so, how much?</b>   | <b>£</b>                    |
| <b>What is the source of Funding?</b>   | <b>N/A</b>                  |
| <b>Has this Funding Source been agreed with the Chamberlain's Department?</b>   | <b>N/A</b>                  |
| <b>Report of: Michael Cogher</b>  | <b>For Decision</b>         |
| <b>Report author:</b><br>Nick Senior, Comptroller & City Solicitors<br>Department   |                             |

### Summary

An internal trading account arrangement for Comptroller and City Solicitors Department (C&CS) was approved Finance Committee on 20<sup>th</sup> February 2018 and commenced in April 2019. This report examines and evaluates the effectiveness of trading account and makes recommendations for further refinement of the arrangement principally to change the trading account or adopt an alternative budget arrangement that enables the C&CS service resource to expand and contract flexibly in response to and in anticipation of demand increases and decreases.

C&CS has an unallocated savings target of £357,000, under its TOM proposals the service will increase lawyer chargeable hours targets to improve efficiency and productivity commencing in April 2022, the additional chargeable hours will generate £200,000 of additional income. The report proposes that the remaining £157,000 of savings will be achieved by increasing the charge rates for Lawyers and Chief Lawyers, Lawyer rates will still be lower than the London Boroughs Legal Alliance (LBLA) average and Chief Lawyer rates will match the LBLA average for this level of officer.

## **Recommendation(s)**

Members are requested to:

1. Approve the proposal for the development and deployment of a revised internal trading account mechanism and budgeting arrangement for the provision of all internal legal services by the Comptroller and City Solicitors department.
2. Approve the proposal for the delivery of the remaining C&CS unallocated savings of £157k.

## **Main Report**

### **Background**

1. The Efficiency and Performance Sub (Finance) Committee of 16.07.2021 requested a follow up report on the C&CS Trading Account and on the departments proposals for the delivery of unallocated savings of £357k.
2. The development of an internal trading account arrangement for Comptroller and City Solicitors Department(C&CS) was approved Finance Committee on 20.02.2019 and commenced in April 2019.
3. This report examines and evaluates the strengths and weaknesses of the C&CS trading account as is and measures the performance against the original objectives detailed in the Finance Committee report.
4. C&CS currently has an unallocated savings target of £357,000 the delivery of which can only be achieved by either staff reductions which would result in increased costs of legal support due to the necessity to outsource work to private sector suppliers, or by increasing the chargeable hours targets to improve efficiency and by increasing the lawyer hourly rates which will increase internal income.

### **Current Position**

5. The C&CS trading account has been operational for nearly three full financial years, a sufficient period for an evaluation of the strengths, weaknesses, opportunities and threats associated with the arrangement as summarised in Appendix 1. A summary of the key issues follows.
6. The trading account has brought greater transparency to the recharge process, the previous Central Support Cost mechanism was at best opaque, direct charging to client budgets has brought improved transparency of the costs of legal advice and support and the distribution and type of demand across the Corporation. It has enabled departments to assess the impact of legal support spend directly on their budgets which supported by a more rigorous instruction process requiring manager sign off has arguably controlled the rise in demand

for legal support. It has enabled C&CS to develop improved business intelligence particularly in relation to demand for legal support by legal function and to manage and plan lawyer resource.

7. Direct charging for services coupled with more robust monitoring of lawyer chargeable hours has incentivised lawyers to record their chargeable time on the C&CS case management system more diligently resulting in greater focus on chargeable work and improved efficiency and performance.
8. The key aim of the trading account at the outset as approved by Finance Committee was to manage and control demand for in-house legal advice and support, whether this has been successful is difficult to establish as demand has increased both for business as-usual legal work and for legal support on major projects e.g. work on Barking Power station and the markets re-location project.

The increase in demand is evidenced by the total number of annual lawyer chargeable hours in the last three years as summarised below, though indicative of increased demand it is also a result of increased insourcing of legal work using additional fixed-term contract staff.

|                      |              |
|----------------------|--------------|
| 2019/2020            | 42,628 hours |
| 2020/2021            | 44,219 hours |
| 2021/2022 (forecast) | 44,300 hours |

It is evident from the above that the trading account has not reduced the demand for legal advice and support though it may have limited the increase though there is no hard data to support this.

9. Implementing and operating the C&CS trading account has created an additional administrative burden which did not previously exist. Guidance on the processes associated with the trading was issued to client departments at the outset and has been refreshed and repeated subsequently but the administrative burden remains and has been exacerbated by operational issues that have arisen and in summary these are:
  - A new more rigorous instruction process that requires a cost centre for C&CS to charge to, instructing officers are often not aware of the instruction process requirements or the appropriate budget cost centre this problem is particularly acute in departments where there is a high staff turnover.
  - The process of preparing bi-monthly charge reports that are distributed to and reviewed by client departments are often amended and revised including often time-consuming correction of cost centre miscoding.
  - Additional transactional work undertaken by Chamberlains Department loading the trading account charges onto the general ledger and subsequent corrective actions in relation to incorrect cost centres.
  - Retrospective corrective action where miscoding's come to light later down the line resulting in additional transactional work.

Analysis of the opportunity costs across client departments has not been undertaken but has certainly impacted particularly in high usage departments such as City Surveyors. In C&CS the management and administration of the trading account requires 30 hours per month at grade H and 15 hours per month at grade D at a cost of £26,000 per annum, feedback from City Surveyors a major client indicates a similar additional annual cost of supporting the trading account.

Feedback from some client departments indicates that additional workloads have diverted resource away from other key business priorities for example income saving and generating activity and is viewed as a distraction with limited benefit to the business and at a time when resources are reducing.

10. The Finance Committee report of 20.02.2019 recommended that:

‘Should the demand for additional work continue to grow within legal services there will be a point at which a step-change of demand necessitates the need to employ more staff to meet demand. Such an increase to the legal services establishment will follow the usual approval process through Establishment Committee supported by a business case demonstrating that the cost can be met from income. The risk of a decline in demand and a commensurate fall in income will be borne by the Comptroller and City Solicitor’.

The C&CS trading account model as deployed is sub-optimal in that the C&CS legal function is still tied to the traditional City model of fixed Local and Central risk budgets thereby neutralising the potential benefits of a flexible trading account.

C&CS has a policy of in-sourcing legal expertise particularly in relation to major projects, legal experts on fixed term contracts are sourced rather than outsourcing the work to expensive law firms resulting in significant cost savings to the City.

This arrangement is currently not properly accounted for a situation that requires redress in support of the following TOM objectives:

- Align activity and resources to our corporate outcomes
- Build competence and capability to deliver our Corporate Plan
- Supports an agile organisation through flexible enablement of legal expertise
- Enable us to respond to, and be proactive in anticipating, changes in the external context

11. The main risk identified at the outset of the implementation of the trading account arises from the desire to reduce demand for legal services. This could have resulted result in legal advice not being sought when it is required which results in the increased risk of reputational damage, a potential legal dispute and/or financial penalty.

There is no evidence to suggest that client departments have reduced the call on legal support to control budgets though with a vigorous budget savings programme going forward this might become an issue.

12. In relation to the C&CS unallocated savings target of £357,000, given that the C&CS local risk budget comprises £4,600,000 employee costs and £290,000 supplies and services costs the options for delivering the savings are limited to a reduction in employee costs which would result in increased costs of legal support due to the necessity to outsource legal work, or to improved internal efficiencies and or increased lawyer charge rates.

## **Options**

1. Continue with the trading account and fixed central and local risk budgets as is which is a sub optimal arrangement as detailed in paragraph 10 above.
2. Terminate the trading account arrangement and revert to a fixed central and local risk budget which would result in a fixed legal resource base and the necessity of outsource legal work at much greater cost to the Corporation.
3. Revise the trading account arrangement or develop an alternative budget arrangement that enables the service to expand and contract its lawyer resource in response to and anticipation of demand increases and decreases, would support an agile enabling legal service.
4. Continue to carry the local risk budget unallocated savings target forward or deliver the savings as proposed below.

## **Proposals**

1. In collaboration with the Chamberlains department, it is proposed to revise the trading account arrangement or deploy an alternative budget arrangement that enables the service to expand and contract in response to and anticipation of demand increases and decreases. This will enable C&CS to deliver a more agile demand-based service by insourcing legal work using contract staff to respond to volume spikes or to work on major projects, this approach will control spend on legal support given that the alternative is to outsource work at much higher cost. It is acknowledged that it will still be necessary to outsource some legal work where the in-house team lacks the specialist expertise required or cannot procure contract staff with the appropriate expertise.
2. C&CS currently has an unallocated savings target of £357,000. The C&CS TOM report approved by Establishment Committee on 12.05.2021 included a proposal to increase lawyer chargeable hours targets from 1200 to 1260 hours per annum and Chief Lawyer targets to 1080 to 1130 hours the new target hours will bring the C&CS targets in line with the London Boroughs Legal Alliance (LBLA) benchmarked average among local authority legal departments. This increased efficiency will deliver £200,000 of additional income through the trading account.

It is proposed that the remaining £157,000 savings are achieved by increasing the Chief Lawyer charge rates from the current £110 per hour to £118 per hour and Lawyer rates from £87 to £90 this will bring the Chief Lawyer rate into line with the current LBLA benchmarked rate average, the lawyer rates will still be lower than the LBLA average, this proposal will deliver the required additional internal income though will impact on client budgets.

The LBLA benchmark lawyer rates and chargeable hours targets and the C&CS proposed changes are summarised in Appendix 2.

## **Corporate & Strategic Implications**

### **Strategic implications**

None.

### **Financial implications**

The proposal to achieve £157,000 savings by increasing the hourly rates of lawyers and Chief Lawyers will impact on client budgets due to increased charges for legal support.

### **Resource implications**

No additional resource implications.

### **Legal implications**

None.

### **Risk implications**

None

### **Equalities implications**

None.

### **Climate implications**

None.

### **Security implications**

None.

## **Appendices**

Appendix 1 - C&CS Trading Account SWOT analysis

Appendix 2 - LBLA Benchmark data – hourly rates and targets

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