

Committee of the Whole (Working Session) Report

DATE: Wednesday, June 05, 2019

WARD(S): ALL

**TITLE: LEGAL SERVICES UPDATE REPORT – IN RESPONSE TO
INTERNAL AUDIT RECOMMENDATIONS**

FROM:

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ACTION: FOR INFORMATION

Purpose

This report provides Council with management's action plan in response to the recommendations identified in the Legal Services Internal Audit Report, dated March 4, 2019. This report outlines each recommendation in terms of the actions completed to date and proposed actions and timelines.

Report Highlights

- The organization is now well positioned to reevaluate the strategic role of Legal Services in partnership with all departments across the organization.
- The new City Solicitor has partnered with the Office of Transformation and Strategy to develop a workplan and deliver on key actions in order to address each recommendation.
- Actions to address each of the recommendations are currently being implemented with further proposed actions planned for implementation into 2020.
- Under the leadership of the new City Solicitor who started in her position on May 6, 2019, management is committed to develop and implement actions which will mitigate the identified risks and address the recommendations of the internal audit.

Recommendations

1. That the Legal Services Update Report in response to the Internal Audit recommendations be received.

Background

The Internal Audit Report on the Audit of Legal Services was presented to the Finance, Administration and Audit Committee on March 4, 2019.

The audit scope included the Legal Services department related activities that occurred from January 2017 to December 2018. The Real Estate department was out of scope for the purposes of the audit.

The objective of the audit was to evaluate the adequacy and effectiveness of the internal controls, processes and procedures in place to mitigate the business risks associated with services provided by the Legal Services department.

Since the March 2019 audit report, the new City Solicitor has been hired and started her role on May 6, 2019. The City Solicitor and the Legal Services department have partnered with the Office of Transformation and Strategy to develop an assessment process and workplan to review, develop and implement actions toward addressing all the recommendations as indicated in the internal audit report.

Previous Reports/Authority

[Internal Audit Report - Legal Services Audit](#)

Analysis and Options

The following outlines each of the seven areas of recommendations from the internal audit report and the management action plan to address each recommendation. The actions are outlined based on current activities to be completed in 2019 and future / longer term actions to be completed in 2020 (where applicable). Attachment #1 provides a summary overview of the management action plan Workplan.

Recommendation # 1

Reevaluate the Strategic Role of Legal Services to Better Support Corporate Objectives and Decision Making

- *Reevaluate the strategic role, objectives, responsibilities and accountability of Legal Services to better support corporate objectives, client departments and informed decision making.*

- *Operationally position the Legal Services department in a manner that will allow it to best support the City's strategic vision, client departments and corporate objectives.*

Management Action Plan

With the recruitment of the new City Solicitor as of May 6, 2019, the organization is now well positioned to reevaluate the strategic role of Legal Services in partnership with all departments across the organization. The position of City Solicitor is a key leadership role within the senior management structure and plays an integral role in the organization meeting its strategic directions and priorities for service excellence.

Actions completed to date:

- The City Solicitor recruitment was completed with the new City Solicitor having started on May 6, 2019.
- The City Solicitor now reports directly to the City Manager position.
- The City Solicitor is a member of the corporate management team and therefore integrally involved in strategic planning, strategic priority setting and decision-making.

Actions to be completed by Q4 2019:

- The City Solicitor will lead her team through a process of strategic visioning, service modelling, business planning, client relationship management, clarification of roles and responsibilities, and development of a legal services governance framework to guide the work of the department.

Recommendation # 2

Determine the Optimal Level of Resources, Staff Complement and Composition of the Legal Services Department

- *Develop formal forecasting mechanisms to help establish what the anticipated needs will be for Legal Services.*
- *Determine what the ideal composition of the Legal Services department should be in order to effectively and efficiently achieve its corporate mandate and develop and implementation plan, if required.*
- *Conduct an analysis regarding the nature and reoccurrence of the work being assigned to external counsel to ensure that the City is getting best value for money.*
- *Coordinate the use of all external counsel through the Legal Services department.*

Management Action Plan

In conjunction with the new strategic direction setting, vision and service model identified in Recommendation #1, the City Solicitor will assess optimal levels of resourcing, organization composition, skill requirements, workload requirements and client needs. Addressing the work of the Legal Services department will be managed through a rationalized approach to efficiently and effectively optimize internal resources as well as the appropriate utilization of external resources where required. This assessment will also include a review of the department's budget (in conjunction with the 2020 budget process) and ensure workload requirements and projected demands are met with the most effective resourcing and organizational composition.

Actions to be completed by Q4 2019:

- The new City Solicitor has been engaging with client departments to gain a deeper understanding of current and future needs for the purposes of developing a forecasting mechanism. Such efforts are expected to continue through Q3 2019.
- A current state analysis is underway to understand the existing composition and budget requirements of the Legal Services department and the present use of external counsel.
- As part of the new governance and service model (which responds to Recommendation #1) the use and criteria for use of external counsel will be managed centrally through the Legal Services department.
- A new Request for Proposal (RFP) for external legal services will be issued shortly with the intent to identify a roster of highly qualified external legal counsel/law firms to provide legal services to the City at locked down, competitive rates.
- The Legal Services department is currently working through its business planning processes.
- The City Solicitor is currently reviewing the organizational structure, resource requirements, skills and competencies and updating job descriptions where applicable. Vacancies will be filled according to the identified needs from this review.

Recommendation # 3

Acquire the Appropriate Tools and Resources to Improve Department Planning, Business Processes and Service Delivery

- *Implement a time docketing system to manage and track resources within the Legal Services department.*

- *Work with corporate partners to submit a proposal to obtain the resources necessary to acquire and implement an appropriate case management information system, based on a comprehensive needs assessment.*
- *Develop file documentation standards outlining templates, naming conventions, checklists and supporting procedures for each practice group.*

Management Action Plan

Utilization of tools and technologies to enable better planning, resource allocation and to assist in process improvements to ensure optimized efficiency and effectiveness are essential to the success of the department.

The Legal Services department's approach to the assessment and acquisition of tools and technologies will be aligned with the foundational business transformation and process improvement work that will be conducted. As current processes are reviewed and reengineered where required, Legal Services will look for opportunities to leverage existing tools and technologies within the current year. This will allow Legal Services to address some of the current gaps in managing documents and cases with minimal implementation time and cost. Longer term solutions will also be reviewed and assessed and acquired; subject to budget approval.

Actions to be completed by Q4 2019:

- To support performance measurement and the forecasting mechanism for client needs, Legal Services will proceed with the procurement and implementation of a time docketing system and will begin sourcing a technology solution effective immediately.
- The current file management processes (classification, naming conventions, access, retrieval, permissions) are being reviewed to optimize clarity in current file management approaches.
- The file management process improvements will be further enhanced by utilizing existing technologies within the corporation (e.g. SharePoint sites, Teams Sites), pending the procurement of a more fulsome legal document management system.
- Business requirements are currently being developed for a legal services Document Management System (DMS). Legal Services will work with the Office of the Chief Information Officer and Procurement Services to develop the requirements and solicitation documents for a new DMS, subject to Council's approval of budget.

Actions to be completed in 2020:

- Q1 2020 – The time docketing system will be implemented.
- Q1 2020 – The file documentation standards and enhanced processes will be implemented as an interim solution until a new Document Management System is procured (subject to Council's approval of funding).
- Q4 2020 – The Document Management System will be procured and implemented, contingent on budget approvals for 2020.

Recommendation # 4

Establish Department Policy and Procedures and Update Job Descriptions

- *Comprehensive policies, procedures and related internal controls should be clearly documented, periodically reviewed and updated.*
- *Job descriptions be updated to reflect appropriate roles and responsibilities.*

Management Action Plan

In conjunction with the new strategic direction setting, vision and service model identified in Recommendation #1, the City Solicitor will undertake a review of policies and procedures and internal controls. The review of policies, procedures and internal controls will enhance current approaches and documentation and ensure a more robust set of processes and procedures which are well documented, established within the internal controls and well understood by the department's clients and partners across the organization.

In conjunction with the optimization of resourcing levels and organizational design identified in Recommendation #2, the review of skills and competency requirements will lead to a review and update of all job descriptions in conjunction with the Office of the Chief Human Resources Officer.

Actions to be completed in 2019:

- A review of existing departmental policies, procedures and internal controls has begun.
- A prioritized number of policies, procedures and internal controls are being identified for review and revision by Q4 2019, with a next set of priority areas to be completed in 2020.
- A current state review of job descriptions is underway.
- The assessment of job descriptions will reflect the results of the work to be conducted in the above recommendations. Any revisions to job descriptions, roles and responsibilities must align with the departmental strategy and service model.

Actions to be completed in 2020:

- Q4 2020 – Completion of review and enhancement to all policies, procedures and internal controls.

Recommendation # 5

Develop Key Performance Indicators (KPIs)

- *Develop quantifiable KPIs that reflect the critical success factors of the department.*

Management Action Plan

Currently, a new Business Planning process and a new Corporate Performance Measurement program are in progress throughout the organization including the Legal Services department. As such, Legal Services is working with the Office of Transformation and Strategy to develop its business plan, identify its key performance measures and develop a set of relevant key performance indicators (KPIs) to help guide the department's work and provide data for better governance and decision making.

Actions to be completed in 2019:

- Legal Services staff are currently participating in business planning working sessions to identify departmental objectives and business planning priorities.
- Legal Services staff will be participating in corporate performance measurement working sessions and training to develop performance measures and KPIs which are aligned to business planning objectives.
- As is the case for the entire organization, a set of KPIs and Legal Services department performance scorecard will be developed.

Actions to be completed in 2020:

- Q4 2020 – Based on the business plan priorities and corporate performance measures and KPIs developed in 2019, data will be collected in 2020 for the entire organization as well as the Legal Services department, with a full scorecard reporting by the end of 2020.

Recommendation # 6

Develop a Formal Intake Process and Service Level Agreements with Client Departments

- *Implement a formal intake process to assist with internal resource assignment and case management.*
- *Develop risk-based service level agreements with the client department which defines:*

- *The services the Legal Department will provide and the required level or standard for those services.*
- *An ongoing reporting mechanism for measuring the expected performance standards.*

Management Action Plan

In conjunction with the management action plan in response to Recommendation #4 (which will address policies, procedures and internal controls), the intake process will be reviewed as one of the priority areas for business process improvement.

A current state analysis of departmental structures and how to best provide the appropriate level of risk-based legal services to client departments, is underway. The results of this analysis will support the development of a Portfolio Assignment strategy to address the intake of requests coming into the Legal Services department.

Each department will be provided with a single point of contact at Legal Services to be their main point of contact for all matters. The legal counsel who receives the inquiry will then involve other team members as necessary. The City Solicitor will be the main point of contact for Mayor and Members of Council and the corporate management team.

In addition, the corporation is developing an Enterprise Risk Management program within the Office of Transformation and Strategy. A risk-based approach will be utilized to assess priorities and legal services requirements to meet client needs.

Actions to be completed by Q4 2019:

- The overall service delivery model review is currently underway (as per Recommendation #1).
- Starting in July 2019, the Legal Services department will move to a portfolio based resourcing structure to better service client needs from across the organization, optimize the intake approach and to effectively allocate resources.
- A more in-depth review, taking into account the specific nature of the business requirements for each department, will be conducted to identify the most suitable intake format and processes to support those requirements (e.g. development of applicable checklists).
- Legal Services will work with the Office of Transformation and Strategy to create an overall risk-based service level approach on intake and service delivery.

Recommendation # 7

Establish Guidelines for Penalty Negotiations and Reductions

- *Establish guidelines for penalty negotiations based on consultation with By-law & Compliance, Licensing & Permit Services and an analysis of trends in previous cases.*
- *Reporting should be developed to analyze trends in Penalty Notices issues versus penalties paid*

Management Action Plan

A current state analysis is underway to gain a more comprehensive view of the fine determination process, penalty types and amounts. This analysis will also tie into the discussions with client departments on business needs and forecasting.

Actions to be completed by Q4 2019:

- Conduct current state analysis and benchmarking of approaches by other GTA municipalities with respect to their administrative penalty systems.

Actions to be completed by Q4 2020:

- Develop an action plan to address the administrative penalty processes based on legal requirements, existing practices and best practices across the GTA, and implement accordingly.

Financial Impact

With the exception of the Document Management System, the majority of recommendations and corresponding management actions can be implemented within current department budget allocation. This includes approximately \$5,000 per year for the time docketing system.

The Legal Services department's approach to the assessment and acquisition of tools and technologies will be aligned with the foundational business transformation and process improvement work that will be conducted. As current processes are reviewed and reengineered where required, Legal Services will look for opportunities to leverage existing tools and technologies within the current year. This will allow Legal Services to address some of the current gaps in capturing time, managing documents and cases with minimal implementation time and cost, on an interim basis.

Longer term solutions will also be reviewed, assessed and acquired, subject to budget approval. A solution for a legal services document management system is estimated to range from \$350,000 to \$500,000.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

The Legal Services department is responding to the recommendations from the internal audit reported to the Finance, Administration and Audit Committee on March 4, 2019.

A workplan has been developed and actions are underway in response to the recommendations. As the new City Solicitor started her role on May 6, 2019, this is an opportune time for new leadership and direction setting for the department.

Recommendations will be addressed in 2019 and into 2020 with the ultimate goal of improving the adequacy and effectiveness of the internal controls, processes, and procedures and mitigating risks associated with the services provided by the Legal Services department.

For more information, please contact: Wendy Law, City Solicitor, extension 8700 and/or Kathy Kestides, Director Office of Transformation and Strategy, extension 8412.

Attachments

1. Legal Services Workplan – In Response to Internal Audit Recommendations

Prepared by

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