

Date: 2022-06-27

Subject: Request for Full Time Labour and Employment Lawyer Staff Complement

Contact: Diana Soos, Commissioner, Legislative Services
Cynthia Ogbarmey-Tetteh, (A) Director, Human Resources

Report Number: Legislative Services-2022-741

Recommendations:

1. **THAT** the report titled “Position Request for Full Time Labour and Employment Lawyer” to the Council meeting of July 6, 2022 be received;
2. **THAT** Council approve one (1) permanent full-time Legal Counsel, Labour and Employment Law to advise on a wide array of labour and employment issues including but not limited to human rights, occupational health and safety, internal workplace investigations, labour relations, collective agreements and grievances, for a total annual budget of approximately \$200,000;
3. **THAT** the costs associated with a permanent, full-time Legal Counsel, Labour and Employment Law be included in the 2023 operating budget submission, with a net zero increase to the tax base, subject to Council approval.

Overview:

- **Currently the City’s Human Resources department retains law firms on a case-by-case basis for labour and employment legal counsel at considerable cost.**
- **The addition of a labour and employment lawyer in Legal Services will allow the department to provide expert advice and support to HR for labour and employment related issues more quickly and cost effectively. It is estimated that bringing this service in-house will result in a minimum 3-fold increase in the amount of legal support provided to HR for the same costs that they currently incur obtaining the services externally.**

- **The cost of the additional position will be offset through a budget transfer from the HR Division Legal Account to the Legal Services Division.**

Background:

The Labour and Employment (L&E) Legal Counsel role advises on a wide array of labour and employment issues including but not limited to human rights, occupational health and safety, internal workplace investigations, labour relations, collective agreements and grievances. Currently, the City does not have in-house L&E legal counsel, rather those matters are referred to external firms who provide legal counsel on behalf of the City.

Human Resources does budget for professional legal services but, as indicated in the table below, HR Division Legal Account spending has exceeded budgeted amount each year from 2017 through 2021.

Year	2017	2018	2019	2020	2021	2022 YTD
Budget	\$322,000	\$322,000	\$322,000	\$322,000	\$322,000	\$322,000
Actual	\$445,693	\$334,062	\$420,363	\$448,867	\$391,854	\$200,845*
Variance	(\$123,693)	(\$12,062)	(\$98,363)	(\$126,867)	(\$69,854)	\$121,155

*As of June 12, 2022

Current Situation:

Analysis of the current labour and employment legal counsel gap in Legal Services, in conjunction with HR, has identified an economic and financial opportunity for the City through the addition of a L&E lawyer. Recruitment of a L&E lawyer will provide numerous benefits to the City.

Reduced cost as compared to hiring external legal counsel. Market research suggests labour and employment lawyers charge between \$300 and \$1500 per hour depending on experience and location whereas an in-house L&E lawyer would cost approximately \$120 per hour. This translates not only into a reduction in per hour costs but substantially increases the capacity for the City. As an example, assuming \$200,000 in annual labour and employment legal related expenditures:

	Cost per hour	Capacity in days
City legal counsel	\$120	238
External legal counsel	\$300	95

Improved compliance with labour and employment related legal requirements including policy advice. The L&E legal counsel would review labour and employment related

policies for compliance with associated legal precedent and/or other legislation. This represents both a value added benefit and also means of ensuring legal compliance.

Consistency of advice on similar labour and employment matters. There is a potential for varied advice on similar matters from different law firms as external law firms review files on a case-by-case basis whereas the L&E legal counsel will utilize findings from comparative files.

Improved efficiencies. The City will have legal support on staff versus having to procure external legal support. Further, Legal Services will manage external legal support (when required) including procurement of external counsel and confirmation of billings. This will allow HR to focus on human resources services.

Corporate Implications:

Financial Implications:

This initiative will require one full-time, permanent Legal Counsel, Labour and Employment Law at a cost of approximately \$200,000 annually (inclusive of benefits and WSIB). The financial impact will be incorporated in the 2023 budget submission through a compensation adjustment, pending Council approval.

The costs of the position will be reflected in the Legal Services Division and fully offset with a reduction to the Legal services account (Account # 201113) in the Human Resources Division for a net zero increase to the tax base in the 2023 budget submission.

Other Implications: *nil*

Term of Council Priorities:

This report achieves the priority of a Well-Run City.

Conclusion:

Historical trends indicate there is an ongoing and consistent requirement for L&E legal support within the City. In the absence of in-house L&E legal counsel the City has retained the services of external legal firms as required. A dedicated L&E lawyer in Legal Services will allow the department to provide staff with expert labour and employment advice, will reduce costs, increase capacity, and improve efficiency and consistency.

Authored by:

Sean Skinkle

Advisor, Special Project, Legislative
Services

Reviewed by:

Cynthia Ogbarmey-Tetteh

Acting Director, Human Resources

Reviewed and Approved by:

Diana Soos

Commissioner, Legislative Services