



## LEADER AND LEAD MEMBER FOR STRATEGIC MANAGEMENT AND ECONOMIC DEVELOPMENT

**DECISIONS** to be made by the Leader and Lead Cabinet Member for Strategic Management and Economic Development, Councillor Keith Glazier

**THURSDAY, 21 JANUARY 2016 AT 2.00 PM**

**CC1, COUNTY HALL, LEWES**

### **AGENDA**

- 1 Decisions made by the Leader and Lead Cabinet Member on 3 November 2015  
(Pages 3 - 4)
- 2 Disclosure of Interests  
Disclosure by all Members present of personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- 3 Urgent items  
Notification of any items which the Lead Member considers urgent and proposes to take at the appropriate part of the agenda.
- 4 Establishment of a shared legal service (Pages 5 - 36)  
Report by the Assistant Chief Executive
- 5 Delegations in relation to executive functions (Pages 37 - 42)  
Report by the Chief Executive
- 6 Any urgent items previously notified under agenda item 3

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13 January 2016

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## LEAD MEMBER FOR STRATEGIC MANAGEMENT AND ECONOMIC DEVELOPMENT

DECISIONS made by the Lead Member for Strategic Management and Economic Development, Councillor Keith Glazier, on 3 November 2015 at County Hall, Lewes

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Councillor Simmons spoke on items 4 and 5 (see minute numbers 19 and 20)

### 16 DECISIONS MADE BY THE LEAD CABINET MEMBER ON 15 SEPTEMBER 2015

16.1 Councillor Glazier approved as a correct record the minutes of the meeting held on 15 September 2015.

### 17 DISCLOSURE OF INTERESTS

17.1 Councillor Simmons declared a personal non prejudicial interest in item 5 (minute number 20) as a Director of Sea Change Sussex.

### 18 REPORTS

18.1 Reports referred to in the minutes below are contained in the minute book.

### 19 DELEGATION IN RESPECT OF EXECUTIVE FUNCTIONS

19.1 The Leader and Lead Member considered a report by the Chief Executive, which proposed the following amendments to the delegation of executive functions.

Function	Current Cabinet Portfolio	Proposed Cabinet Portfolio
Culture	Community Services	Economy
Trading Standards	Economy	Community Services
Road Safety	Transport and Environment	Community Services
Emergency Planning	Transport and Environment	Community Services
Gypsies and Travellers	Transport and Environment	Community Services

### DECISIONS

19.2 RESOLVED to amend the Cabinet portfolios as set out above.

### Reasons

19.3 The Leader is responsible for appointing members of the Cabinet and determining the content of portfolios assigned to Cabinet members. The agreed changes align portfolios in the interests of efficiency.

20 LOCAL GROWTH FUND - RE-PROFILE AND RE-ALLOCATION OF SPEND IN 2015/16

20.1 The Lead Member considered a report by the Director of Communities, Economy and Transport.

DECISIONS

20.2 RESOLVED to (1) agree to re-profile the South East Local Enterprise Partnership's Local Growth Fund allocation within the agreed arrangements under the South East Local Enterprise Partnership Accountability and Assurance Framework;

(2) agree that all the available funding is re-allocated in 2015/16 on approved priority East Sussex schemes that are able to be brought forward for spend in this financial year;

(3) agree that the S151 Officer recommend to South East Local Enterprise Partnership's Local Growth Board for East Sussex (Team East Sussex) under its 'advisory capacity' to formally agree the variation under the Local Accountability arrangements; and

(4) delegate authority to the S151 Officer to take any further actions required to enable the request for variation to be taken to the South East Local Enterprise Partnership Accountability Board for approval on 13 November 2015.

Reasons

20.3 It is important for the County Council and Team East Sussex to take full advantage of the flexibility available in the re-allocation of the funding to drive forward economic growth. There is a total of £7.35m now available to reallocate in this financial year to approved schemes. The Government is clear that the Local Growth Fund monies should be spent in the year in which it is allocated.

**Report to:** The Leader  
**Date:** 21 January 2015  
**Report by:** Assistant Chief Executive  
**Title:** Establishment of a Shared Legal Service  
**Purpose:** To set out proposals for the development of – a shared legal service between Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council

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The Leader is recommended to agree:

- 1. To the creation of a new Legal Services partnership arrangement with Brighton & Hove City Council, Surrey County Council and West Sussex County Council to be known as Orbis Public Law with effect from 1 April 2016;**
  - 2. To the establishment of a Joint Committee as the governing body for Orbis Public Law to oversee the discharge of the Council's Legal Services function;**
  - 3. To approve the attached Terms of Reference for the Joint Committee and to appoint Councillor Elkin, Lead Member for Resources, to the Committee;**
  - 4. That a Business Case be developed for an Alternative Business Structure, in the form of a Limited Company approved by the Solicitor Regulation Authority, and to delegate authority to the Chief Executive to establish such an ABS if they consider it appropriate; and**
  - 5. To delegate authority to the Chief Executive to take any action they consider appropriate to give effect to, or in consequence of the above recommendations, including (but not limited to), agreeing and entering into the Articles of Association, shareholder agreement and the Inter Authority Agreement.**
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## **1. Background**

1.1 Brighton & Hove City Council (BHCC), East Sussex County Council (ESCC), Surrey County Council (SCC) and West Sussex County Council (WSCC) have been working together to develop a single legal service to provide legal services to each of the four constituent authorities and the wider public sector.

1.2 The close partnership between ESCC and SCC over the last three years, initially through South East Business Services and then, following the Cabinet decision of 10 March 2015 to establish a partnership with Surrey County Council under the auspices of a Joint Committee in relation to a number of functions, including Legal Services, through Orbis, has led to a strengthening of the working relationship between the two Councils' legal teams. Building on complementary similarities, the teams now regularly share knowledge and expertise. This partnership has developed into the concept of a single Legal Service operating under the umbrella of the Orbis partnership.

1.3 Over recent months the concept of Orbis Public Law has evolved with two new partners. Relationships with the BHCC legal team have always been good and their inclusion in the wider Orbis partnership means they are a natural addition to Orbis Public Law. The extension of the partnership to include West Sussex County Council comes through existing strong relationships and partnership working at a senior level. The combined service creates a strong geographical block within which Orbis Public Law can operate and reach out to other clients.

1.4 The legal services net budget for the four constituent authorities is £9.4m with an additional spend of £2m on advocacy and specialist advice. Around £1.5m of external income is generated each year. The combined workforce will be an estimated 230 staff including 130 solicitors.

1.5 All four authorities face similar issues: increasing financial challenges and fewer resources mean it is harder to recruit and retain lawyers and specialist staff. Individually, authorities have limited resilience and resort to buying in expensive specialist advice and support. Historically, legal teams have always carried out some external work for other public bodies. This brings in extra revenue and helps to keep the cost of the service down for Councils. However, opportunities are hard to maximise when resources are stretched.

1.6 Working together and increasing the overall size of the single service brings many advantages:

- increased resilience and flexibility;
- a reduction in the overall cost of the service through economies of scale;
- creation of a sustainable model with the ability to grow and develop;
- increased efficiency and reduced duplication;
- areas of excellence and expertise;
- increased staff development opportunities;
- ability to recruit and retain staff more easily; and
- better opportunities to generate more external income.

## **2. Vision**

2.1 The Vision for Orbis Public law is for “a single, resilient, sustainable cost effective legal service with a public service ethos with an ability and ambition to grow”, with an aim to

- deliver a 10% saving over three years for each of the four constituent authorities;
- create a resilient, flexible single Legal Service with a critical mass of expertise; and
- provide a quality, cost effective service for our customers.

## **3. Business Case proposal**

3.1 BHCC, ESCC, SCC and WSCC propose to create a single service partnership to deliver legal services to all four authorities and sell legal services to other public sector bodies. The proposal is made following an options appraisal and a jointly prepared business case (Appendix 1).

3.2 The preferred option is to create Orbis Public Law as a single service partnership under the management of a Joint Committee. This is a relatively straightforward and familiar model to adopt. Members would still have control over arrangements and staff would remain employed by their existing Council. A Joint Committee would mirror arrangements for the wider Orbis partnership though some changes would be necessary to accommodate four partners rather than the three in Orbis. The partners will also enter into an Inter Authority Agreement which will set out the basis and terms of the partnership, and the arrangement for making officers available to each other.

3.3 A key part of the proposal is the ability to trade and generate external income. Since the introduction of the Legal Services Act 2007 it has been possible for law firms to be owned by non-lawyers and non-legal businesses; these are known as ‘Alternative Business Structures’ or ‘ABS’. An ABS is a limited company subject to normal company regulations with an additional requirement that they are licensed and regulated by the Solicitors’ Regulation Authority to conduct legal business. It is proposed to set up an ABS to work alongside Orbis Public Law through which legal services could be provided for public bodies beyond the core service provided to the Councils.

3.4 It is a fundamental premise that the high standard of service currently provided to our own Councils will be maintained. We will be well placed to work with other public and third sector partners to give them

greater resilience, provide them with additional expertise and reduce their cost of legal services while generating income for the shared service and reducing the net cost to the constituent Councils. The business case attached to this report provides further details.

#### **4. Financial Implications**

4.1 By working together, the four Councils will be able to realise savings in excess of those achievable in isolation, whilst still delivering a good service to our authorities. The single Legal Service aims to achieve a saving of 10% of net operating costs of each of the constituent Councils by 2019/20; this means a total saving of £160k for East Sussex and for the partnership a saving of around £940,000. Savings will be delivered through economies of scale, sharing of resources (such as a Law library), reducing external spend on advocacy and specialist advice, streamlining management and right-sizing the team. Set up costs will be met from existing budgets.

4.2 The partners have agreed key principles in relation to financial arrangements. Broadly, decisions required in relation to investment, cost apportionment and savings, will be based on the principles established by the wider Orbis partnership and will be set out in the Inter Authority Agreement which will underpin the arrangement between the Councils.

#### **5. Risk management**

5.1 The Councils anticipate that the arrangements will remain in place on an indefinite basis. There is a risk therefore that there may be significant changes to each Council which impacts upon the service that is required to be delivered by a single service through a Joint Committee. Governance arrangements will need to recognise that this may be happen. Further risks and mitigating actions are explained in the business case.

#### **6. Conclusion and Recommendations**

6.1 It is therefore recommended that the Leader agree to the establishment of a Joint Committee as the governing body for the shared service, the proposed terms of reference that are attached at appendix 2, and to appoint the Lead Member for Resources to the Joint Committee.

6.2 It is also recommended that a business case be developed for the establishment of an ABS in the form of a limited company, and that the Chief Executive be delegated authority to establish such a structure following consideration of the business case.

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Local Members: All  
Background documents: None

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## **Business case for the formation of a single Legal Service for Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council**

### **1. Executive summary**

1.1 Brighton & Hove City Council (BHCC), East Sussex County Council (ESCC), Surrey County Council (SCC), and West Sussex County Council (WSCC) are working together to establish a single Legal Service to provide legal services to the four constituent authorities and the wider public sector. The proposed single Legal Service builds on the good work of the Orbis business partnership between ESCC and SCC, which was formalised in April 2015. Plans have also been shaped by preliminary work between ESCC and SCC Legal Service teams to share knowledge and expertise.

1.2 It is proposed to establish a separate Legal Service under the Orbis umbrella which will be known and branded as 'Orbis Public Law' with a Vision to be:

***A single, resilient, sustainable cost effective legal service with a public service ethos with an ability and ambition to grow***

1.3 The objectives of the proposed single service will be to:

- enhance the quality of service to our current customers;
- increase resilience and flexibility;
- reduce the overall cost of the service through economies of scale;
- create a sustainable model with the ability to grow and develop;
- increase efficiency and reduce duplication;
- establish areas of excellence;
- increase staff development opportunities;
- recruit and retain staff more easily; and
- provide opportunities to generate more external income.

1.4 The single Legal Service will be created by combining the resources of all four Legal Service teams. This would give a set-up operational budget of £10.7m<sup>1</sup> and a total workforce of 232 staff including 130 solicitors. A practice on this scale would become a public service market leader and create a critical mass of expertise. Importantly, the single practice would be underpinned by a public service ethos with the ability to provide efficiencies to the constituent Councils and the wider public sector, thereby playing its part to help protect front line services.

1.5 This report considers the advantages and disadvantages of four different operating models and concludes that a Joint Committee for the single shared legal service is the preferred option. This will ensure all partners have equal control and participation. It also mirrors the wider Orbis proposals which some Members and officers are familiar with.

1.6 Alongside this, we propose developing and processing an application for Orbis Public law Ltd as an Alternative Business Structure (ABS). The ABS would be a separate legal entity regulated by the Solicitors' Regulation Authority (SRA) which would provide a vehicle to trade more widely than existing regulatory powers allow and generate income to enable the single service to reduce reliance on budgets from the constituent Councils, ultimately reducing the cost of legal services they require.

1.7 This paper sets out the business case for a single Legal Service and includes:

- the reasons for proposing a single service;
- background information;
- the benefits for each partner authority;
- options for operating models;
- governance arrangements;
- design principles; and
- programme management.

1.8 This business case needs to be considered and approved by the Cabinets or relevant committees of each of the four constituent Councils. If approval is given to the broad principles, it is recommended that:

- a Joint Committee is set up for Orbis Public Law; and
- a) a business case is developed for Orbis Public Law Ltd as an ABS to work alongside the Joint Committee model.

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<sup>1</sup> Excluding spend on external advocacy and specialist advice

## **2. Why are we doing this?**

2.1 There is a compelling need for Councils to explore more radical options for delivering services. Options may include greater partnership working (with both the private and public sector), shared services and alternative business structures. Each of the four Council's legal teams face similar issues. Increasing financial challenges and fewer resources means that it is harder to provide a quality, and often specialised, legal service that Councils rely upon. Individually, each Council struggles to recruit and retain legal staff. This is a particular issue in key specialist areas, such as commercial areas of property and contracts.

2.2 There has been an increase in demand for legal support to enable our Councils to be more creative in facilitating procurement and contractual arrangements on the terms that are the most advantageous to each Council. This requires specialist knowledge and experience which is not always readily available in house, and has to be procured externally. This has cost implications for each Council and is frequently a budget pressure.

2.3 Legal Services have considerable experience of always generating income, however income strategies have not always been well developed. Income arises from a range of sources including s106 agreements, legal fees, third party charges for agreements, ad hoc advice arrangements to other public sector organisations and more formal arrangements. With greater pressures on budgets authorities legal services are looking at ways of maximising income to ease budget pressures. However, for a sole Council to generate income, on a material scale, without detriment to its in-house provision, would require significant investment in new capacity to be able to sell in the market.

## **3. Background information**

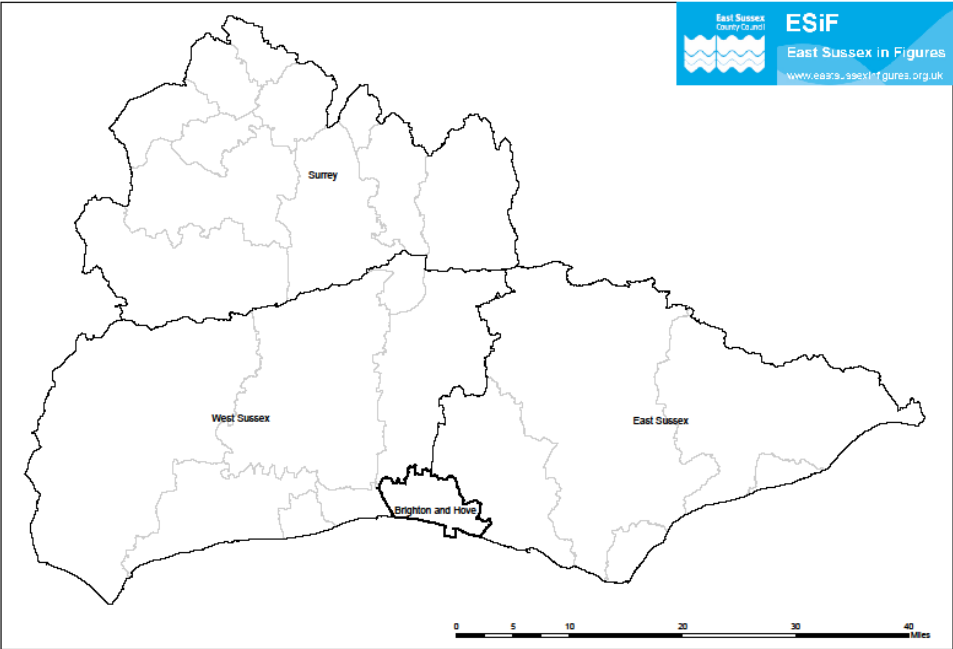
3.1 BHCC, ESCC, SCC and WSCC are all forward thinking and innovative Councils with a clear ambition to improve efficiency and deliver good quality, affordable services for all our residents. Each authority has a strong track record of delivering through partnership with others. The Orbis partnership between ESCC and SCC has already established an effective working relationship across transactional and professional business services. Orbis was formalised April 2015 and incorporates Human Resources and organisational development, Property Services, Technology and Information, Procurement, Finance and business operations. The partnership is governed by a Joint Committee. In December 2015, BHCC decided to become the third Orbis partner for all these services, subject to due diligence.

3.2 The Orbis partnership, and its expansion to include BHCC, provides a strong framework from which Orbis Public Law can benefit. There has always been a good relationship between the four legal teams. Closer working between ESCC and SCC over the last three years has led to a strengthening of the link between the two legal teams. Relationships have always been good with the BHCC legal team and its inclusion in the wider Orbis makes it a natural partner for Orbis Public Law.

3.3 The addition of WSCC, as a fourth partner, is a further reasoned progression. ESCC, SCC and WSCC are three major partners in 'the Three Southern Counties' (3SC) devolution bid which

was submitted to the Local Government Secretary in September 2015. The bid includes a strong commitment to build and develop opportunities for service transformation and this proposal contributes to the delivery of that ambition. This clear commitment to work together supports the inclusion of WSCC into a wider shared legal service model. Bringing WSCC in Orbis Public Law also makes sense geographically providing a significant area within South East England in which Orbis Public Law can serve the public through its Councils and potentially reach out for additional work (Figure 1). The range of public service partners that already work with the four local authorities will provide a core group of potential beneficiaries of a dedicated public sector legal service.

**Figure 1 Extent of Orbis Public Law**



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3.4 Legal Services currently form part of each organisation’s corporate governance structure. They have a key role in terms of service delivery: keeping vulnerable people safe, providing support to ensure the delivery of efficient and effective front line services and ensuring robust and appropriate corporate governance at a time of change and great challenge. The teams also deliver services to other public service organisations, including schools, the police and fire and rescue services.

3.5 Legal services manage a significant operational budget on behalf of each Council with a total operational budget of £10.7m per annum (excluding spend on external advocacy and specialist advice). As with all service areas within the four Councils, each Legal Services team has been challenged to reduce the costs of delivery; savings have already been taken by each Council from their 2015/16 budgets. The net budget to deliver core services has yet to be confirmed through a due diligence process; more work will be required in this area and to identify what the core service will look like.

**Table 1 Legal Services indicative budgets 2016/17**

*For consistency, each authority's spend on advocacy and specialist advice has been excluded. The net revenue budget is net of external income only.*

	<b>Gross Revenue budget £</b>	<b>Net revenue budget £</b>
BHCC	2,480,000	2,127,000
ESCC	1,983,000	1,602,000
SCC	3,558,000	3,231,000
WSCC	2,647,000	2,276,000
<b>Total</b>	<b>10,668,000</b>	<b>9,236,000</b>

Notes:

**BHCC** data is 2015/16 forecast outturn.

**SCC** – excludes Information Governance team

**WSCC** data based on 2016/17 staffing and 2015/16 June forecast report for non-staffing. The budget does not include year end adjustments such as for law library, case management systems etc. Staffing costs may be understated because some support is provided from a central Capital contract and the income figure of £370k may include income which does not relate to Legal Services.

3.6 In addition, the four authorities spend around £2m per annum on external legal advice. Legal Services hold the budget for this specialist support at the of the Councils.

3.7 Each Legal Services team has a broadly comparable structure of different practice areas including social care, litigation, property, employment, highways and planning. The teams are led by a Head of Service, Director or Chief Officer who fulfils the authority's Monitoring Officer role. The range of work carried out by each Legal Service team is similar although BHCC is also responsible for the full range of District and Borough functions. A full list is shown at Appendix 1.

3.8 In April 2016 the combined service will employ an estimated 232 staff at a total budgeted cost for 2016/17 of £9.9m (Table 2).

**Table 2 Estimated staff numbers 1 April 2016 (fte) and 2016/17 full year cost**

	<b>Solicitors fte</b>	<b>Paralegals fte</b>	<b>Support staff fte</b>	<b>Total staff fte</b>	<b>Total estimated staff cost 2016/17 £</b>
BHCC	30.9	8.9	5.0	44.8	2,178,000
ESCC	17.2	16.8	12.0	46.0	1,773,000
SCC	44.8	12.0	15.4	72.2	3,371,000
WSCC	37.6	24.6	8.0	69.2	2,561,000
<b>Total</b>	<b>130.5</b>	<b>62.3</b>	<b>40.4</b>	<b>232.2</b>	<b>9,883,000</b>

Notes:

Excludes Head of Service/Directors/Chief Officer

Paralegals: Legal Officers and Assistants: Support Staff: Practice Manager, admin assts and secretarial support

ESCC - budget includes £170k for agency staff

WSCC – additional support staff are supplied through the Council's Capita contract (these are not included in the Table)

3.9 The four Legal Services teams currently generate around £1.5m in external income by providing services to other public sector organisations. The main areas are:

- Schools and academies<sup>2</sup>
- S106 agreement work
- Other local authorities and public bodies
- Trusts and minor authorities
- Grant lease and license fees
- Recovery of court costs
- Commercial projects

#### **4. Benefits of a Single Service**

4.1 Each of the four Councils recognises that a single service solution would provide an opportunity to address the main challenges they face. Establishing a single service across three County Councils and one unitary authority provides an opportunity to create a legal service collaboration on a significant scale with an ability to influence the public sector legal services market. Importantly the service will have a public sector ethos with the ability to provide efficiencies to the constituent councils and the wider public sector, thereby playing its part to help protect front line services.

4.2 The benefits of the proposed single service will be to:

##### **a) Increase resilience and flexibility**

A larger pool of staff will provide capacity to meet workflow demands across the four authorities. The shared service will benefit from a greater combined knowledge and an increased pool of specialists and will be better placed to respond to peaks and troughs in workload. Resources would be deployed in the optimal way, reducing the need to buy in more expensive external options whilst not compromising the quality and level of service currently enjoyed by the respective authorities.

##### **b) Reduce the overall cost of legal support**

The single service would aim to achieve a 10% reduction in costs over three years from 2016/17. This would be achieved by:

###### **i. generating more external income**

Increased capacity and expertise would provide opportunities to market and sell services to other public bodies. This would generate additional income and reduce the net cost of the single service.

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<sup>2</sup> Not all external

**ii. reducing external spend on advocacy and specialist advice**

The development of practice areas, greater capacity and increased flexibility, will reduce dependency on external providers. A number of the partners have the same court catchment areas; increased cooperation will enable more in house coverage and a consequential reduction in spend on external counsel.

**iii. Streamlining management and right-sizing the team**

The larger single service will provide opportunities to restructure management roles and responsibilities, reduce staff through natural wastage and recruit new legal staff at a level appropriate to the skills required.

**iv. Increasing efficiency and reducing duplication.**

Costs will be further reduced through economies of scale. For example:

- the service will only require one law library and one case management system.
- training costs per head could be reduced through greater volume.
- the service would benefit from increased purchasing power.
- time would be saved by providing single advice on issues common to all the Councils.

**c) Establish areas of excellence**

Consistent demand across the Councils in specialist areas of practice, where demand from individual councils previously has been sporadic, will justify investment in training lawyers in those practice areas. This will:

- i. create centres of excellence;
- ii. broaden capacity;
- iii. reduce the need for external spend;
- iv. enhance the ability to provide a service to other public sector organisations; and
- v. provide opportunities for staff development.

**d) Increase staff development opportunities**

A bigger service will enable staff to gain expertise in a greater range of practice areas and with a larger range of customers. This will enable staff to develop and progress, ensuring better retention of ambitious and able people.

**e) Recruit and retain staff more easily**

A larger and more diverse client base, and the ability to undertake a greater range of work for a leading market player, will be attractive to candidates. The scale of the service mean there will be more opportunities for staff to develop and progress in their careers. Jointly, ESCC and SCC have already recruited four new trainees.

## **f) Create a sustainable model with the ability to grow and develop**

Greater resilience, the creation of centres of excellence, the ability to invest and market presence will enable the provision of a comprehensive service to a range of public service organisations. Over time, the single service has potential to be a public service market leader.

### **5. Vision and ambition**

5.1 Our vision is for:

***A single, resilient, sustainable cost effective legal service with a public service ethos with an ability and ambition to grow***

5.2 Our ambition is to:

- deliver a 10% saving over three years for each of the four constituent authorities;
- create a resilient, flexible single Legal Services with a critical mass of expertise; and
- provide a quality, cost effective service for our customers.

5.3 It is a fundamental premise that we will maintain the high standard of service that is currently provided to our own Councils. A shared service, on the scale proposed, will be well placed to provide a comprehensive, specialist and cost effective service to other public and third sector partners. This will give them greater resilience, provide them with additional expertise and reduce their cost of legal services while generating income for the shared service and reducing the net cost to the constituent Councils.

5.4 Our vision and ambition for the Service is underpinned by eight design principles:

- deliver against savings targets for constituent authorities
- integrate the service – one legal practice, multiple locations
- focus on enabling and adding value to the customer
- share knowledge and reduce duplication
- future proof the Partnership
- maximise organisational self-sufficiency and resilience
- develop and operate with a commercial mind-set
- exploit technology to improve performance and manage caseloads

### **6. The future for Legal Services**

6.1 In order to create the way forward described in this plan, we have considered a range of potential options. These are described below.



### **a) Maintain current arrangement**

This would mean retaining the current approach to the delivery of legal services in each of the four Councils. Some co-operation and sharing is already happening between ESCC and SCC and this would continue and grow across all partners. However, there are risks to resilience in each of the services and additional pressures already mean that locums or agency staff are being used, or work is being put out to external providers with consequent cost implications.

Each Legal Service has delivered its own savings and efficiency improvements over a period of years and it is increasingly difficult to find additional savings without potentially weakening the service. The ability to make efficiencies through economies of scale are limited. Services do not have spare capacity. To enable them to generate income, and with increasing pressure on budgets it is unlikely that the status quo can be maintained. Based on what has been achieved to date between ESCC and SCC, this option would not fully exploit the greater potential that four Councils have working together.

### **b) Outsource the service**

Each Council could outsource its legal support to a commercial provider or (more likely) to a number of providers, possibly through a managed service contract. This would mean that Councils only pay for the service they need and there would be no built in staff costs. Additional benefits, and a better overall price, may be possible if all four Councils outsourced their legal services.

However, there is not a developed market of providers for the full range of services local authorities require and it is likely that multiple contracts would be needed. An EU procurement process would be required to demonstrate value for money and a reduced cost. Procurement would involve a substantial piece of work over a period of months, delaying any potential benefits and would be likely to involve a TUPE transfer of staff to a new provider(s). It is unlikely that external providers would agree a fixed price or fees because Legal Services are primarily demand led and both volumes and complexity are notoriously difficult to predict. Hourly rates are the preferred charging model for most legal service providers

Councils would need to retain a Monitoring Officer who would be the first call for advice and support, and the influence and support that in-house legal team provides to each authority should not under-estimated. This often extends well beyond purely legal advice, for example in terms of policy and softer decision making.

Previous tendering exercises across all participating Councils that have consistently demonstrated that the cost of external providers is greater than in-house provision. Outsourcing the service would not generate income which would help reduce costs further.

## **7. Options for a shared legal service**

7.1 Local Authorities working together is a well established approach and will enable us to achieve efficiency gains whilst continuing to provide the high level of service that we currently deliver to our Councils and other partners. A shared service will achieve the Vision and objectives that have been set out earlier, and will result in an overall reduction in the cost of the service. This is the preferred model.

7.2 A number of structures could be used to deliver a shared legal service. Local authorities are able to discharge their functions through a committee, a sub-committee, an officer or by any other local authority (Part VI, Local Government Act 1972). A shared legal service could therefore be managed in the following ways:

### **Option 1 – Joint Committee model**

7.3 Ss101 and 102 LGA 1972 set out the power for local authorities to delegate a function to a joint committee. S102 LGA 1972 allows two or more local authorities to appoint a joint committee:

- To discharge any function of the appointing authorities (s102(1)); and
- To advise on the discharge of any function of the appointing authorities (s102(4)).

7.4 The appointing authorities are free to determine the number of members of a joint committee, their term of office and the area within which the committee are to exercise their authority. The authorities can also include persons who are not members of the appointing authorities as co-opted members of the joint committee. The authorities can agree how the expenses of the joint committee will be accounted for.

### **Advantages of a Joint Committee model**

- Joint Committees permit the authorities to retain member-level control over the arrangements, which may be attractive politically.
- Joint Committees are scheduled employers to the Local Government Pension Scheme, enabling staff to be ring fenced for pension purposes. This allows the partners to determine the actual cost of the arrangements and their respective contributions more accurately.
- The committee model of governance is familiar for local authorities.
- It is a relatively straightforward model to establish and non-threatening to staff as it does not involve a transfer of employment.

### **Disadvantages of Joint Committee model**

- This model is potentially less scalable than other models as the constitution of the Joint Committee would potentially need to be reviewed with each new Partner.

- A Joint Committee has no corporate status and cannot hold property or enter into contracts. Any contracts will have to be entered into by one or more of the Partner authorities directly. The Joint Committee would need to make provision for sharing the benefit and burden of such contracts.
- As the Joint Committee cannot employ staff directly it can mean cultural change is slower to achieve.

### **Staffing issues in a Joint Committee model**

7.5 Staff remain employed by their current employer in this model. New employees are employed by one of the Councils. Under s113 LGA 1972 the partner authorities can agree to make their staff available to the other authorities. Consultation with staff would be required prior to entering a s113 agreement. The due diligence exercise will determine the process for deciding which Council becomes the employer for new posts and posts shared with the partners.

7.6 In order to achieve integration, and to ensure that the benefits of being a shared service are realised, secondments could be considered, for example at manager level or for specific teams, to develop an integrated team and/or centres of excellence.

7.7 In this model there is no new employer or corporate structure to define the new service. This means the launch as a new service would require other strategies to achieve a cultural change and to practically run the services as a genuinely single shared service.

### **Current Solicitors' Regulation Authority (SRA) issues with a Joint Committee Model**

7.8 Under a Joint Committee model, the authorities would be able to provide legal services to each other and to other public bodies. In respect of work undertaken for each other, procurement rules would not apply. 'Public bodies' are defined in the Local Authority Goods and Services Act 1970 and include many of the organisations the Councils would be interested in providing services to, such as Clinical Commissioning Groups (CCGs) and academies. Trading with these bodies under the Act can generate a profit.

7.9 Solicitors' Regulation Authority (SRA) Practice Rule 4.15 currently supports local authorities providing advice to such public bodies – it sets out that *'If you are employed in local government, you may act (a) for another organisation...to whom the employer is statutorily empowered to provide legal services.'* This is subject to a number of conditions set out at Rule 4.15 (b)-(g)). For example, in relation to charities, a requirement that the objects of the charity relate wholly or partly to the employers area.

7.10 However, in relation to other types of external work, the Legal Services Act 2007 and the SRA Practice Framework Rules prohibit in-house local authority solicitors from providing 'reserved legal activities' (broadly advocacy, litigation and conveyancing) to 'the public or a section of the public'. To the extent that the shared legal service wishes to provide 'reserved legal activities' to 'the public or a section of the public', (there is currently a lack of clarity about what constitutes 'public' ) it must be authorised and regulated as a solicitors' practice. This can be achieved by providing the service through an Alternative Business Structure (see Option 4).

Alternatively, a waiver could be sought to act for bodies that are currently excluded. This has been an uncertain and lengthy process to date. This would particularly effect our legal services' ability to provide legal support to Council services should they be outsourced.

7.11 The situation looks set to become yet more complex and more restrictive for in-house local authority legal teams. Recent changes may have the effect of limiting the work that can be undertaken by local authority legal teams for other public bodies to 'unreserved' legal work, which would exclude us from providing core services such as litigation, conveyancing and court advocacy.

### **Option 2 - Lead Authority Model**

7.12 S101 (1) LGA 1972 allows a local authority to delegate the delivery of a function to another local authority. This would therefore enable the authorities to appoint a 'lead' to take responsibility for delivering the function on behalf of the other authorities. Each authority then commissions the service from the lead authority. An inter authority agreement/delegation agreement is required to govern the shared service.

#### **Advantages of a Lead Authority Model**

- This model provides clarity of direction for the new legal practice. One authority is responsible for the structure and establishment of the new service. The service is delivered and managed within the decision making framework of the lead authority. A clear, visible, change with clear leadership.

#### **Disadvantages of a Lead Authority Model**

- Procurement rules will apply if the model creates a commercial arrangement between the lead authority and the Councils to which it provides legal services.
- This model could be viewed as one authority taking control, or as a loss of control by other authorities which both staff and Members may be uncomfortable with.
- In this arrangement the balance of risk between the lead authority and its partner Councils would need to be evenly distributed and would require managing through a robust agreement, which itself would increase the risk of the arrangement being perceived as a commercial one.

#### **Staffing issues in a Lead Authority Model**

7.13 Staff would either TUPE to the lead authority or could be seconded. A formal consultation process would be required. Staff from the lead authority would then be made available to the other authorities under Section 113 LGA 1972, enabling all partner authorities to delegate decisions to them as if they were their own staff.

## **Current and future SRA issues with the Lead authority Model**

7.14 The same SRA restrictions apply to this shared services model as to the Joint Committee Model.

### **Option 3 - Putting officers at the disposal of another authority**

7.15 S113 of the Local Government Act 1972 enables the placing of staff of local authorities at the disposal of other local authorities. In order to utilise this option, an authority needs to enter into an agreement with another authority for the purpose of placing one or more of their staff at the disposal of the other for the purpose of carrying out their functions on such terms as the authorities may agree.

#### **Advantages of a s113 only arrangement**

- Such an arrangement would be simple and quick to implement.
- There would be minimum upheaval for staff.
- There would not be a need to delegate functions, which may be attractive to Members and reduces the risk carried by any one authority.

#### **Disadvantages of a s113 only arrangement**

- A risk arising from using this legal power is that it might damage the commitment on all sides to the shared service and restrict the opportunity for change and development that will be needed going forward. It would be challenging to achieve more than a very informal collaboration with this approach - for example passing work to each other when over-stretched, sharing training and office space.
- The SRA limitations would be the same as for the Joint Committee and Lead Authority Models – ie not able to pursue external work for the public or a section of the public and, possibly if the SRA rules change, not able to work for other public bodies.

### **Option 4 - Alternative Business Structures**

7.16 Since the introduction of the Legal Services Act 2007 it has been possible for law firms to be owned by non-lawyers and non-legal businesses. These are known as 'Alternative Business Structures' or 'ABS' and must be licensed by the SRA.

7.17 An ABS is a limited company subject to normal company regulations. There is an additional requirement that they are regulated by the SRA to conduct legal business. The licensing procedure is designed to ensure that the owners of the ABS are fit and proper persons to own a legal business and that the procedures in place to fund the company mirror those of a conventional legal practice, with the object of protecting clients and money. A local authority shared service ABS could be jointly owned by each of the constituent Councils but would need

to comply with propriety controls set out by the SRA. The practice would have to be managed by fit and proper persons as defined and approved by the SRA.

7.18 One important feature of an ABS is the requirement to put in place full regulatory requirements which do not currently apply to in-house legal services. These regulatory requirements are likely to incur extra costs through the additional resourcing for compliance requirements and include:-

- Anti-money laundering rules and procedures;
- Holding client money - full compliance with the Solicitors' Accounts Rules including separate banking arrangements;
- Stricter conflict requirements;
- Broader insurance and indemnity;
- Requirement to appoint Compliance Officer for Legal Practice (COLP) and Compliance Officer for Finance and Administration (COFA); and
- Strict reporting and accountability arrangements to the regulator.

7.19 Prior to setting up an ABS the Councils would need to approve a business case and meet SRA requirements.

### **Staffing implications of an ABS model**

7.20 An ABS can directly employ staff and, depending on how legal work is performed, may also include staff transferring under TUPE from the Councils. Another option is for some staff to transfer to the ABS whilst others remain employed by the Councils, but provide services to the ABS for which the ABS is charged. It is not proposed that the ABS will directly employ any staff but that the Councils make available professional and support staff to enable the ABS to perform the legal work it has been given.

### **Advantages of an ABS**

- Although it is a form of outsourcing, the Councils would retain some control over the ABS.
- An ABS can provide a full range of legal services to an unlimited range of people and organisations – ie avoiding both the current and potential future SRA complications of the other shared service models. This may mean increased revenue income.
- An ABS would create a brand/identity in the market. This could attract business and make the ABS an attractive proposition for staff, assisting with recruitment and retention issues.
- A company structure limits risk away from the Council.

## Disadvantages of an ABS

- The regulation requirements and need for marketing would result in additional costs, increasing process and reducing the viability of the service.
- There are increased set up costs and time required would be longer than other models, creating the potential for loss of momentum.
- A robust business case would need to demonstrate that the start-up, setup and running costs would be outweighed by increased income from a wider market.
- If the main rationale is to target public service third party work, the ABS would need to tender for that work and may need to tender for parent authority work where Teckal<sup>3</sup> exemption does not apply. For this reason one option is to form an ABS only for the work undertaken on behalf of third parties, rather than for the Councils' work – retaining the rest in-house. This is the model that Essex CC has recently adopted.
- There is a tax/VAT liability which would not be incurred with other models. An ABS would pay corporation tax and be required to recover VAT in the way that other commercial organisations do.
- Time, financial investment and resources would be required for the set up with no guarantee that the SRA will grant a licence.

## 8. Preferred option

8.1 After considering advantages and disadvantages, the preferred option is:

- b) a Joint Committee model for the shared legal service; and
- c) development of the business case for Orbis Public Law Ltd as an ABS to work alongside the Joint Committee model.

8.2 The ABS will enable the shared service to work for anyone and appears to fit with the current thinking of the SRA.

## 9. Delivery principles

9.1 The development of Orbis Public Law will mean an ambitious programme of change to bring together four legal services in one single integrated service with a common culture, based on public service values underpinned by efficient, agile and modern business practices and thinking. Achieving this will not be without its challenges. This section sets out some key principles about how the single service will develop over time.

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<sup>3</sup> 'Teckal exemption' An exemption whereby an authority does not need to run a procurement procedure to give a contract to a legally separate but substantively 'in-house' provider.

**a) Leadership**

Strong and clear leadership is key to the successful delivery of the single service. Given the involvement of four partners, a common sense of direction and purpose is vital. This can best be achieved through clearly defined project objectives and clarity of roles and responsibilities.

**b) Culture**

Each Council recognises the need for a change of culture in the way that services are delivered, how we work together and how we respond to the demands of our customers. Ongoing engagement with staff and customers will be required across the practice to develop a shared culture. We need to recognise the different systems and practices in place, learn from what works well and manage our clients' expectations.

**c) An organic process**

Bringing together four different practices into one will not be achieved overnight. We need to recognise that this is a journey which will involve good liaison and communication both with staff and customers. Different aspects of the service are likely to develop through incremental steps and at a different pace. This model is well illustrated in a 5Cs model. As an example, ESCC and SCC practice areas are already working at the cooperation stage, largely achieved through goodwill and the understanding that develops from getting to know each other.



**d) Valuing our staff**

A change programme on this scale can be unsettling and challenging for staff. We will keep staff informed through regular communication, value their input and support them through the process. A number of externally led Change Management sessions have already been held which many officers have attended. They have been well received, providing staff with an opportunity to think differently and meet colleagues from other partner authorities.

**e) Monitoring Officers**

Each of the four partner authorities currently has a lawyer as Monitoring Officer at Head of Service, Director or Chief Officer level. It is appropriate that these officers and the statutory Monitoring Officer role remain outside the partnership and play a key role in directing, commissioning and overseeing work from the single service.



**f) Structure of the single service**

A revised management and practice structure will be necessary to achieve efficiencies and economies of scale. Various models will be considered. It is proposed that a new management team will be appointed to oversee a service-wide restructuring; this will take place within the first year. It is likely that there will be salary pressures on key senior roles which may be operating across a larger single practice.

**g) Practice leadership**

The single service will demand a high standard of leadership. The senior management team will need to share the Vision and possess the right range of managerial, commercial, innovation, change management and people skills necessary to deliver the new service.

**h) Conflicts of interest**

Arrangements will need to be made to ensure that any conflict of interest between the partner authorities is identified and addressed appropriately. The nomination of a locality manager at each site may be appropriate to facilitate this. This may not be a dedicated post but a role attached to a manager.

**i) Client demand management**

There will need to be a cultural shift in how our customers (primarily Council services) target and access legal advice. This may require standardising instruction pro-formas and enabling our customers to undertake more work themselves and be less reliant on legal support.

**j) Workflow**

A workflow portal or system will be necessary to ensure that all requests for work from our customers are prioritised, allocated to the most appropriate officer and dealt with efficiently and in a timely manner.

**k) Case Management platform**

In order for workflow to be efficient, seamless and co-ordinated, it is vital that one case management system is in place and used in the same way by staff working at all locations. Norwel is being used by SCC, has just been introduced at ESCC and is to be procured by BHCC. This will be the default case management system.

**l) Simplify, standardise, harmonise**

In order to maximise efficiencies and work well as a new team, it is important to learn from each other, make best use of what works well to create a simple, standardised operating environment.

## **10. Financial benefits and implementation costs**

10.1 Orbis Public Law will deliver benefits to the constituent Councils by combining resources to deliver economies of scale and build resilience. Spending on external resources can be reduced and additional capacity created, by removing duplication, streamlining management structures, making new appointments at an appropriate level for the work and from improving processes. The new single service will make financial savings whilst at the same time:

- investing in modern systems and working practices;
- building on our developing relationships and creating greater strength through partnering ; and
- retaining and developing our talented people.

10.2 The single service will be the mechanism to deliver and potentially exceed the existing target savings included within the Medium Term Financial Plan Savings of all four Councils. We estimate that the savings achievable from the proposed single service (through reducing costs and generating income) will be 10% of the combined net operational budget of the service. This means savings of around £920,000 per annum by year four (2019/20).

10.3 Achieving savings will require investment. Common technology and processes, such as Norwel (already in place at ESCC and SCC), will be needed to ensure seamless delivery of service. Some additional resource will be required to manage delivery of the programme, support organisational change and develop new ways of working; this will be met from existing budgets. Subject to the establishment of an ABS trading arm, investment will also be required to develop a service offering, market the service and spend time on networking.

## **11. Financial arrangements**

11.1 The financial arrangements of the single service, such as decisions required in relation to the sharing of investment, cost apportionment and savings, will be based on the proportionate size of each founding partner. The 'operational budget' of the single service will be the combined gross revenue budget for the in-house legal service of each of the four constituent authorities at 1 April 2016.

11.2 The amount that each authority contributes at 1 April 2016 must be sufficient that, at the start of the single service, each constituent authority could reasonably deliver a Legal Service at the standard previously supplied to their Council. This means that any savings each authority can reasonably make prior to 1 April 2016, can be taken by that authority alone. Thereafter, any savings become savings of the single service and will be managed accordingly.

11.3 The activities of the single service will be responsive to each Council's strategies and priorities, and to structural changes, including those driven by legislative change. Therefore, the financial arrangements will recognise that the sharing of costs will be subject to similar considerations. The single service will prepare and update the Operational Budget requirement on an annual basis, and seek approval from each council as part of the medium term planning process of each Council. The proportionate contribution from each partner may change over

time in accordance with changes in priorities or in light of structural changes within each Council

11.4 The methodology used to determine the appropriate apportionment of costs between the four partners will be developed using the same principles as those used in the Orbis partnership. All parties recognise that this methodology will need to be fair and transparent, take into account changes in demand and will be underpinned by a proportionate level of management information to support the mechanism.

11.5 From 1 April 2016, the cost of investment and implementation will be shared in accordance with the cost-sharing methodology. We recognise that there may be exceptions to this principle, particularly if one party has already invested in technology which has delivered benefits and therefore savings have been recognised already in appropriate budgets.

11.6 The broad principles underpinning the financial arrangement have been agreed by the four partners; a proportionate balance between risk and reward and a transparent approach to the sharing of costs and investment required. The broad principles will be further developed in a more detailed business plan report which will also include practical arrangements and implications of the partnership, including the frequency of financial monitoring reporting to each Council and treatment of in-year variances.

## **12. Programme management**

12.1 Over the coming months more work needs to be done to deliver our Vision. This work is being led by an Orbis Public Law Programme Board comprising the four Legal Services Head of Service/Directors/Chief officer with representatives from each authority. The Programme Board meets once a month and is responsible for:

- delivering the Vision and objectives of the shared service;
- ensuring that the programme is adequately resourced and managed; and
- that regular reports are made to each Council's Chief Executive.

12.2 A Programme Manager will report progress to the Board and highlight any concerns in terms of progress or resources against the timeline.

12.3 Six work streams have been set up to drive the necessary change.

<b>Work stream</b>	<b>Focus on:</b>
Governance and organisational structure	Developing a single service operating model Working with the Solicitors Regulatory Authority (SRA) framework Operational and management structure Constitution, terms of reference of the operating model Procurement issues - standardising Standing Orders HR/Employment issues
Staff	Communications Change Management Staff consultation Staff welfare
Work flow and customer perspective. Practice Management	Developing standardised working practices Communication and liaison with customers Aligning office manuals and practice procedures Case Management system (Norwel)
IT	System infrastructure and long term alignment of all systems
Finance	Budget alignment Principles of cost sharing and savings
Alternative Business Structure	Assessing the market for potential customers Preparation of ABS business case

### **13. Equality implications**

13.1 At this point there are no identified equality implications in terms of establishing a single Legal Service. There may, however, be equality implications around whatever model is adopted for the service. We recognise that there may need to be a Pay and Workforce Strategy to underpin a proposed operating model. Equality and Diversity principles will be fed into the design of Orbis Public Law.

### **14. Risk Assessment**

14.1 The Councils anticipate that the arrangements will remain in place on an indefinite basis. There is a risk therefore that there may be significant changes to each Council which impacts upon the services that are required to be delivered by a single service. Governance arrangements will need to recognise that this may be the case.

14.2 Establishing the partnership and implementing the organisational, process and technology changes required to deliver the Vision and achieve target savings may impact on the provision of services to each Council – both in terms of supporting ‘Business as Usual’ activities and providing strategic advisory support for wider transformational change within each Council. The partnership will work with each Council to develop a high-level timetable of change to minimise any adverse impact.

14.3 It is important for all the partners to be on the same IT operating platform. There is a risk to the operational management of the shared service if this does not happen on a timely basis. In particular, SCC currently uses Lotus Notes for email and other functions but needs to be on a Microsoft product so that the case management system (which relies on email) can be used in the same way by all partners. We are working closely with the Orbis IT team to ensure this is prioritised.

14.4 Creating a partnership by simultaneously bringing together four Legal Services of this size is unprecedented. Working together on the scale proposed in the single service could mean there are conflicts of interest, or the practice could become unwieldy to manage. There need to be clarity about the finite size of the shared service and how practical it is to bring in additional partners, particularly in the short-term.

14.5 There is a risk that the partnership does not deliver the full extent of the savings set out in this business case. The four partner Councils recognise that the first year of operation will be a 'start-up' phase and that careful consideration will need to be given to growth.

14.6 The organisational, process and technology changes required, together with concerns about job security as changes to management are made, may have an adverse impact on staff morale and increase turnover. The single service partners will ensure that communication, consultation and engagement remain a priority for the programme. Staff will be involved in developing the organisational design which will help to emphasise that the single service will lead to enhanced opportunities for staff and a strengthening of internal skills.

**Appendix 1 Orbis Public Law – Common work areas**

<b>Work Area</b>	<b>ESCC</b>	<b>SCC</b>	<b>BHCC</b>	<b>WSCC</b>
<b><u>Litigation</u></b>				
Civil Claims against the Council and others (excluding Highways Claims)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Civil Claims (Highways)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Debt Collection	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Prosecutions	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Miscellaneous Civil Litigation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Judicial Review Claims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b><u>Employment</u></b>				
Employment Advice and Tribunals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Employment Advice to Members Appeals Panels	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
TUPE and Pensions transfers for outsourced services	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b><u>Education</u></b>				
SEND Tribunals and pre-tribunal advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Miscellaneous Education Advice e.g. Exclusions, Transport, Admissions	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Academy Conversions (Commercial Transfer Agreements)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b><u>Information</u></b>				
Information Governance Advice and representation at Information Tribunals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
LGO Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Freedom of Information and Data Protection Advice and FOI decision reviews	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

<b>Planning</b>				
Planning Agreements	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Miscellaneous County Planning Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Determination of Village Green Claims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Registration of Common Land	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Enforcement Notices	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Listed Buildings & Conservation Area Advice	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Assets of Community Value Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Advice on Building Control	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Attendance at Planning Committee	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Highways and Environment</b>				
Highway Agreements	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Highways Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Flood and Drainage Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rights of Way and Village Green Advice (but not determination of claims)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
General Environmental Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Traffic Orders	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Property</b>				
Commercial Leases / Licences	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other leases including agricultural	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Freehold acquisitions and disposals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Compulsory Purchase	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Registration of Property Charges for Adult Social Care	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Property Transfer for Pension Fund	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b><u>Contracts and Procurement</u></b>				
Contracts	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Procurement	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Advise Member Advisory Procurement Board	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Advise to LEP as Accountable body	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b><u>Children</u></b>				
Care Proceedings including pre-proceedings and advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
EPOs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Adoption Advice and Opposing Applications for Leave	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Miscellaneous advice e.g. care leavers, no recourse to public funds, disclosure and LA involvement in private law cases	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b><u>Adults</u></b>				
Adult Protection Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Court of Protection Proceedings	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Mental Health Advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Ordinary Residence Claims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b><u>Major Commercial Projects</u></b>				
Development Agreements	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Academy Conversions (Development Agreements, Design & Build Contracts, Land Assembly Issues)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Site Assemblies	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b><u>Licencing</u></b>				
Licencing Advice /Appeals/Enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



(To include: Alcohol, gambling, Taxis, Sex Establishments)				
Highway Licencing Advice /Appeals/Enforcement (To include: A Boards, Tables & Chairs, hoardings, Skips, Scaffolding)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b><u>Other</u></b>				
Local Government Law e.g. Powers, Committees etc.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Local Government Advice to include: Advice on Elections and support to the Returning Officer Constitution and Support to the Constitution Working Group	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Standards-To include conduct of Investigations & Advice to Member Panels	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Governance Advice (e.g. Whistle Blowing/Conflict of Interests)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HMO Advice /Appeals/Enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Environmental Health Advice /Appeals/Enforcement (To include: Noise, Nuisance, smoking)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leasehold Enforcement (Managed Properties)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Advice on Pension Schemes	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Management of Council's insurance and insurance broker services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Housing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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# Orbis Public Law Joint Committee Terms of Reference

## Membership:

1. The Committee shall comprise of Members appointed by the constituent authorities. Currently Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council (“the Councils”). Each authority shall appoint one Member to the Committee in accordance with its constitution.
2. Each Council’s Leader (or in the case of Brighton & Hove City Council, the Council) may appoint one substitute Member to attend meetings of the Joint Committee, should an appointed member of the Committee be unavailable or unable to attend a meeting of the Joint Committee. A substitute Member attending in the absence of an appointed member will have full voting rights.

## Terms of Reference:

The Orbis Public Law Joint Committee will:

1. Oversee the delivery of the services delivered jointly through the Orbis Public Law partnership of the Councils (‘OPL’).
2. Recommend proposals to meet the annual budget for OPL, set by each of the Councils.
3. Approve the OPL Business Plan and performance measures.
4. Monitor the OPL Business Plan and performance of OPL.
5. Make recommendations to the constituent authorities regarding revisions to the Terms of Reference of the Orbis Public Law Joint Committee.

## Meetings of the Committee:

The Orbis Public Law Joint Committee will meet on four occasions a year, unless a different number of meetings is determined by the Committee

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Report to: **Leader and Lead Cabinet Member for Strategic Management and Economic Development**

Date: **21 January 2016**

By: **Chief Executive**

Title of report: **Delegations in relation to Executive Functions**

Purpose of report: **To consider delegations in relation to executive functions and Cabinet portfolios.**

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**RECOMMENDATIONS:** The Leader is recommended to consider any changes he wishes to make in relation to the Cabinet portfolios set out in Appendix 1

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## **1 Background Information**

1.1 At the Council meeting in May 2015, the Leader of the Council presented his report in relation to the delegation of executive functions including those allocated to Cabinet Members. The Leader agreed to a number of changes to portfolios at a meeting on 3 November 2015. A copy of the Leader's report, including the changes agreed in November, is attached at Appendix 1.

1.2 Consideration has been given to the scope of the Cabinet portfolios in relation to Children's Services and it is proposed that the following change be made:

<b>Function</b>	<b>Current Cabinet Portfolio</b>	<b>Proposed Cabinet Portfolio</b>
Special Educational Needs	Children and Families	Learning and School Effectiveness

1.3 If this proposal is agreed, it is suggested that the name of the Cabinet portfolio be changed from 'Learning and School Effectiveness' to 'Education and Inclusion, Special Educational Needs and Disability' to reflect the scope of the revised portfolio.

1.4 The proposed changes have no impact on the arrangements for scrutiny committees or their terms of reference.

## **2 Conclusion and Reason for Recommendation**

2.1 The Leader is responsible for appointing members of the Cabinet and determining the content of portfolios assigned to Cabinet Members. The Leader can review portfolio content at any point during the year. Having reviewed the Cabinet portfolios it is recommended that the portfolios of Cabinet Members be changed as set out in paragraph 1.2 above in order to align portfolios in the interests of efficiency. In addition, it is proposed that the Learning and School Effectiveness portfolio be renamed as set out in paragraph 1.3 in order to better describe the revised portfolio.

**BECKY SHAW**  
**Chief Executive**

Contact Officer: Andy Cottell      Tel No. 01273 481955

Local Member: All

BACKGROUND DOCUMENTS: County Council Constitution

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**Delegations approved by the Leader of the Council – 12 May 2015  
Amended 3 November 2015**

(a) *names of the County Councillors appointed to the Cabinet*

The Cabinet comprises the following members

<b>Portfolio</b>	<b>Appointment</b>
Strategic Management and Economic Development	Councillor Keith Glazier
Resources	Councillor David Elkin
Community Services	Councillor Chris Dowling
Economy	Councillor Rupert Simmons
Transport and Environment	Councillor Carl Maynard
Adults Social Care	Councillor Bill Bentley
Children and Families (designated statutory Lead Member for Children's Services)	Councillor Sylvia Tidy
Learning and School Effectiveness	Councillor Nick Bennett

(b) *the extent of any authority delegated to cabinet members individually as portfolio holders is set out in the Constitution of the County Council and below.*

In overall terms the areas of responsibility for each portfolio holder includes the following (subject to any subsequent amendment by the Leader at his discretion) principal services to be interpreted broadly. In accordance with the wishes of the Leader, principle services are not to be construed restrictively. In the event of any doubt in connection to a decision made by a Lead Member, the Leader confirms that he has delegated full executive authority to that decision maker:

Portfolio	Scope
Strategic Management and Economic Development	<ul style="list-style-type: none"> <li>• Chairing and managing the executive and its work</li> <li>• Overall strategy and policy for the Council</li> <li>• Principal service area responsibilities: Communications Economic Development/LEP Policy and Performance Public Health Equalities South East Seven Partnership Democratic Services all ancillary activities</li> </ul>
Resources	<ul style="list-style-type: none"> <li>• Strategy and policy for all corporate resources matters</li> <li>• Principal service area responsibilities: Financial Management Property asset management Risk management Procurement Internal audit ICT Personnel and Training Legal all ancillary activities</li> </ul>
Community Services	<ul style="list-style-type: none"> <li>• Strategy and policy for all Community Services matters</li> <li>• Principal service area responsibilities: Archives and records Coroner services Libraries Registration Services Strategic Partnerships Voluntary Sector Road safety Emergency Planning Gypsies and travellers Trading Standards  all ancillary activities</li> </ul>



Economy	<ul style="list-style-type: none"> <li>• Strategy and policy for all economic development and regeneration projects and all ancillary activities</li> <li>• Principal service area responsibilities Culture</li> </ul>
Transport and Environment	<ul style="list-style-type: none"> <li>• Strategy and policy for all Transport and Environmental matters</li> <li>• Principal service area responsibilities: Operational services Planning and developmental control Transport strategy a Environmental and waste strategy all ancillary activities</li> </ul>
Adult Social Care	<ul style="list-style-type: none"> <li>• Strategy and policy for all Adult Social Care and Community Safety matters</li> <li>• Principal service area responsibilities: Services for vulnerable adults including older people, learning disability, physical disability, mental health and all ancillary activities Community Safety</li> </ul>
Children and Families	<ul style="list-style-type: none"> <li>• Overall strategy and policy for all Children's Services (social care) matters</li> <li>• Principal service area responsibilities: Child protection and family support Fostering and adoption for children Residential care for children Other aspects of social care for children Special educational needs Youth justice Youth service all ancillary activities</li> </ul>

Learning and School Effectiveness	<ul style="list-style-type: none"> <li>• Strategy and policy for all Children's Services (education) matters</li> <li>• Principal service area responsibilities: Quality and standards in educational establishments School admissions and transport Early years and childcare School organisation and place planning all ancillary activities</li> </ul>
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*(c) appointment to the position of Deputy Leader*

Councillor Elkin to be appointed Deputy Leader of the County Council

*(d) the terms of reference and constitution of the Cabinet and any executive committees together with the names of cabinet members appointed to them*

Delegations to each of these positions will remain as currently set out in the Constitution of the Council

*(e) the nature and extent of any delegation of executive functions to local committees*

There is no delegation of executive functions to local committees

*(f) the nature and extent of any delegation to officers*

The delegations of executive functions to Officers will be as set out in the Constitution. The delegations to Officers can be viewed via the following link: <http://www.eastsussex.gov.uk/yourcouncil/about/keydocuments/constitution/> or alternatively hard copies are available at County Hall, Lewes (please contact Andy Cottell – 01273 481955)

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Councillor Keith Glazier  
Leader of the Council

12 May 2015  
Amended 3 November 2015